



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

January 12, 1983

J. Lewis Cromer, Esq.
Richland County Attorney
P. O. Box 192
Columbia, South Carolina 29202

Dear Mr. Cromer:

This is in reference to the proposed change in the number of members of the county council from eleven to seven for Richland County, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was received on November 12, 1982, and supplemented on November 16, December 20, and December 22, 1982. In accordance with your request, expedited consideration has been given this submission pursuant to the Procedures for the Administration of Section 5 (28 C.F.R. 51.32), in order to provide you with a response prior to the referendum election scheduled for January 18, 1983.

Under Section 5 of the Voting Rights Act, the submitting jurisdiction bears the burden of showing that the submitted changes have neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also 28 C.F.R. 51.39(e). In order to show the absence of a racially discriminatory effect, the jurisdiction must demonstrate that the proposed changes will not lead to "a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise." Beer v. United States, 425 U.S. 130, 141 (1976).

We have given careful consideration to the information you have submitted, as well as that provided by other interested parties. In our review of the potential effect of the proposed change we have considered, as the courts suggest, the electoral circumstances that actually exist in the county. See City of Rome v. United States, 472 F. Supp. 221, 247 (D. D.C. 1979), aff'd, 446 U.S. 156 (1980). In doing so, we find that election returns provided by the county for county council elections

held since 1976 indicate that presently blacks have been elected to two of the eleven council seats under the existing plan--one in those years when six seats are filled and one when five seats are filled. We find further that black candidates receive most of their support from the black citizens of the county. See Washington v. Finlay, 664 F.2d 913, 918 (4th Cir. 1981). Thus, it would appear that blacks have an existing realistic opportunity for electing candidates of their choice to at least two of the eleven seats on the council.


On the other hand, our analysis shows that, with one explainable exception, blacks have never won with a standing higher than fourth among the winning candidates. With the level of racial bloc voting that seems to exist in Richland County, it would appear that if the number of positions on the council is reduced to seven, with the members being elected on a staggered 5/2 basis as proposed, blacks likely would be able to elect no more than one candidate of their choice to the county council.

Under these circumstances, I am unable to conclude, as I must under the Voting Rights Act, that the proposed reduction in the size of the Richland County Council is not retrogressive. Accordingly, I must, on behalf of the Attorney General, interpose an objection to the proposed change.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the change in number of members has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.44) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the proposed reduction in the number of members of the Richland County Council legally unenforceable. See also 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Richland County plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Sandra S. Coleman (202-724-6718), Deputy Director of the Section 5 Unit of the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds". The signature is fluid and cursive, with a large initial "W" and "R".

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division