



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

DEC 29 1986

Mr. James H. Zorn, Jr.  
Bamberg County Administrator  
P. O. Drawer 149  
Bamberg, South Carolina 29003

Dear Mr. Zorn:

This refers to the procedures for conducting the August 5, 1986, special primary vacancy election, including the election schedule, for the Democratic Party in Bamberg 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. We received the information to complete your submission on October 30, 1986.

We have considered carefully all of the materials provided by you in support of your submission along with information available to us from other interested parties. We note that from the day the election was called until the holding of the August 5, 1986, primary election, there were only twenty-one days for potential candidates to qualify, organize contributors and volunteers, mount a campaign and mobilize potential voters. We are also aware that because of the abbreviated election schedule state law did not allow the registration books to be opened to provide for additional registration opportunities.

In addition, the results of the last regularly scheduled elections in Commissioner District 4 show that the Party was aware or should have been aware prior to adopting the proposed election schedule that the black candidate who lost that election by a narrow margin would be the most likely potential candidate for the vacancy created by the resignation of the District 4 incumbent this year. Furthermore, it would appear that the special primary election schedule is clearly at odds with state law requirements, which seem to mandate a minimum of eleven weeks from the occurrence of the vacancy to the holding of the primary. In fact, in this instance the election was held prior to the actual occurrence of the vacancy. No legitimate nonracial

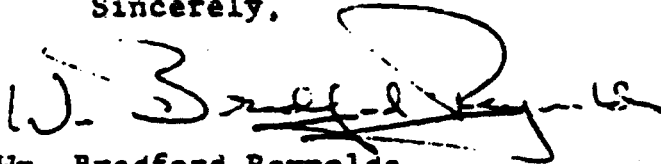
reason has been provided as to why the election was held under such circumstances, which seem clearly to have disadvantaged the minority candidate who, as one might have expected, emerged as the candidate of the black voters' choice.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the procedures for conducting the special primary election, including the election schedule.

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 these changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. In addition, Section 51.44 of the guidelines permits you to request that the Attorney General 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 special primary election and election schedule legally unenforceable. 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 the Bamberg County Democratic Party plans to take with respect to this matter. If you have any questions, feel free to call Sandra S. Coleman (202-724-6718), Director of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division