



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

17 JUL 1981

Perkins Wilson, Esq.
Assistant Attorney General
Supreme Court Building
1101 East Broad Street
Richmond, Virginia 23219

Dear Mr. Wilson:

This is in reference to the reapportionment of the Virginia Senate by Chapter 2, 1981 Acts of the General Assembly (Special Session), submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on May 19, 1981.

We have given careful consideration to the materials you have submitted, as well as information and comments of other interested parties and information contained in other Department files. On the basis of our review, the Attorney General does not interpose any objection to the Senate reapportionment except with respect to the districts discussed below.

At the outset, we note that on May 7, 1971, the Attorney General found it necessary to interpose an objection to the division line between Senate districts 5 and 6 in the City of Norfolk. At that time the Department concluded that "[t]he division of Senate districts 5 and 6, which divides concentrations of Negro voters, appears contorted and does not conform to natural boundaries", while more natural boundaries appeared feasible, which would have avoided such an adverse effect on the black voting strength. As a result of that objection the 1971 legislation was amended to relocate the boundary between districts 5 and 6 in such a way as to eliminate substantially the bifurcation of black concentrations in the city. As so modified, the plan was precleared on August 13, 1971.

The precleared plan was not implemented because of the lack of accurate data regarding the residence of Naval personnel. Instead, the federal court ordered an interim plan combining districts 5, 6, and 7 into one multi-member district. That plan was to stay in effect until the General Assembly enacted a single-member district plan consistent with legal requirements. See Mahon v. Howell, 410 U.S. 315 (1973).

Our current analysis shows that one of the most striking elements of the plan presently under submission is the similarity of its characteristics to those of the plan objected to in 1971 insofar as districts 5 and 6 are concerned. Our inquiry has revealed that the boundary between districts 5 and 6 in the 1981 plan cuts through the black community in such a way that neither district has more than a 37-percent black population. At the same time, our analysis shows that the Senate rejected an alternative configuration which would have combined contiguous black neighborhoods, producing a district in which black persons would have constituted a majority. There is substantial information that this choice of district lines was made with the full awareness and expectation that it would fragment the black electorate and create two majority white districts.

In its consideration of the current plan, the Virginia Senate was aware that in 1971 the Attorney General had found it necessary to interpose an objection to the then proposed configuration of districts 5 and 6 because those lines appeared unnecessarily to fragment concentrations of black voters, and that that objection had been overcome by the reconstruction of those districts in a way which did not divide the black concentration in the southern part of the city. The Commonwealth has presented no plausible non-racial justification for its choice of district lines in Norfolk, strikingly similar to the unacceptable 1971 plan.

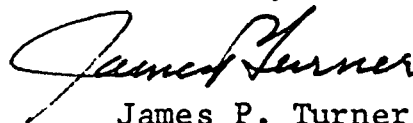
Under these circumstances I am unable to conclude, as I must under the Voting Rights Act, that the presently proposed district lines within Norfolk were drawn without any discriminatory racial purpose or effect. Accordingly, I must, on behalf of the Attorney General, interpose an objection to Chapter 2, 1981 Acts of the Virginia General Assembly (Special Session) insofar as districts 5 and 6 of the plan are concerned.

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 this change has neither the purpose nor the effect of

denying or abridging the right to vote on account of race, color or membership in a language minority group. In addition, the Procedures for the Administration of Section 5 (Section 51.44, 46 Fed. Reg. 878) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the reapportionment of the Virginia Senate legally unenforceable with respect to the districts in question.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter of the course of action the State of Virginia plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Carl W. Gabel (202-724-7439), Director of the Section 5 Unit of the Voting Section.

Sincerely,

A handwritten signature in cursive script that reads "James P. Turner". The signature is written in dark ink and is positioned above the typed name.

James P. Turner
Acting Assistant Attorney General
Civil Rights Division