



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

1 MAR 1982

John F. Kay, Jr., Esq.  
Mays, Valentine, Davenport & Moore  
P.O. Box 1122  
Richmond, Virginia 23208

Dear Mr. Kay:

This is in reference to Chapter 68 of the 1981 Acts of the Virginia General Assembly, which transfers to the Petersburg City Council authority for redistricting, and to Petersburg City Ordinance No. 8191, which realigns the councilmanic districts and changes certain voting precinct boundaries and polling place locations for the City of Petersburg, Virginia, 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 December 31, 1981.

With respect to the transfer of authority by Chapter 68, the Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. We caution to add, further, as acknowledged in the submission of the change, that Chapter 68 is in the character of enabling legislation only, and that each actual alteration of district boundaries will be subject to the preclearance requirements of Section 5.

We turn next to Ordinance No. 8191, which in fact changes the boundaries of the city's councilmanic districts. In the course of our analysis of this change we have studied the materials and comments submitted by you as well as those presented by a number of other interested parties, and have reviewed relevant decisions of the federal courts. By its terms, Section 5 places on the submitting authority

the burden of proving that a proposed change is free of any racially discriminatory purpose or effect. The Voting Rights Act proscribes any change which would "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); and "[a]n official action... taken for the purpose of discriminating against Negroes on account of their race has no legitimacy at all under our constitution or under the statute." City of Richmond v. United States, 422 U.S. 358, 378 (1975).

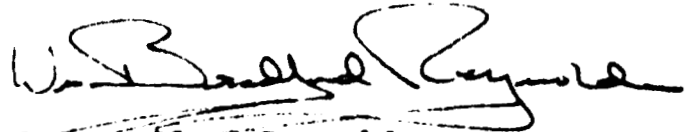
Applying these principles to your submission, we note that the proposed plan lowers the black proportion in District 1 from 69.6% to 61.5% and from 71.2% to 61.6% in District 4, and that such a diminution was intended by the white city council majority so as to increase white voting strength in those districts. Our analysis indicates that the proposed plan would, in fact, accomplish the intended effect of significantly diminishing the opportunity of black voters to elect candidates of their choice and lead to an actual decline in black representation. Under these circumstances, and in light of other statements by white councilmembers, who comprise a majority of the council, we are unable to conclude that the proposed change is free of racial discrimination as required by the Act. Accordingly I must, on behalf of the Attorney General, interpose an objection to Petersburg Ordinance No. 8191 which realigns the city's councilmanic districts and concomitantly adjusts voting precincts and polling places.

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 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, 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 proposed redistricting legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the City of Petersburg plans to take with respect to this matter. If you have any questions con-

cerning this letter, please feel free to call Carl W. Gabel (202-724-8388), 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 "B".

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division