



Civil Rights Division

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U.S. DISTRICT COURT
N.D. OF ALABAMA

Office of the Assistant Attorney General

Washington, D.C. 20530

6 MAY 1982

Honorable Charles A. Graddick
Attorney General
State of Alabama
Montgomery, Alabama 36130

Dear Mr. Attorney General:

This is in reference to the reapportionment of the Alabama Legislature by Act 81-1049 of the Second Special Session of the 1981 Alabama Legislature, 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 completed on April 2, 1982.

We have given careful consideration to the materials you have submitted, as well as comments and information provided by a number of other interested parties, and relevant decisions of the federal courts. Under Section 5, the submitting authority must show that a change does not have a discriminatory purpose and would 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); see also, City of Richmond v. United States, 422 U.S. 358 (1975).

Applying these principles to Act 81-1049, we note first that the proposed redistricting plan clearly would lead to a retrogression in the position of black voters. For instance, the plan reduces the number of Jefferson County house districts with black majorities from seven to six and also reduces black influence in one of the six remaining districts through the unnecessary reconfiguration of existing district 49; the number of house districts in the western "black belt" with black voting age majorities would decrease from five to one (and in the remaining one the majority declines); the black

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majority in house district 46 (Tuscaloosa) would be reduced significantly; the black proportion in house district 65 would decline substantially; and the plan would reduce the black proportion in all of the ten urban house districts with current black populations of over 25 percent, thus systematically reducing the influence which black voters in these districts now enjoy. Because of the peculiar affinity between house and senate districts in the plan, these reductions within house districts concomitantly reduce black majorities or influence in their respective senate districts. Since these reductions do not appear to have been necessary to any legitimate governmental interest, we are unable to conclude that they are free of the racial purpose and effect proscribed by Section 5.

In addition, it appears that senate districts in Mobile were reconfigured so as to "pack" black population into district 33 with a resulting reduction of black influence in district 35. At the same time, and in a seemingly inconsistent approach, the plan neglects to combine black areas within Montgomery so as to allow a black majority senate district there. Accordingly, without any offsetting increase in black influence or opportunities elsewhere, as in Montgomery, for example, we are unable to conclude that the reconfiguration of Mobile senate districts would not have a retrogressive effect.

We note further that the proposed reapportionment divides what appears to be an unnecessarily large number of counties along census enumeration district lines with the effect of fragmenting a large number of existing voting precincts or beats. The existing plan, ordered in 1972 by Sims v. Amos, 336 F. Supp. 924 (M.D. Ala. 1972), necessitated similar divisions and the concomitant reassignment of large numbers of voters. Based on the significant difficulties involved in the two year effort to implement the Sims plan, the absence of any effective corrective measures adopted since that time, and factors noted in the course of our observation of elections in Alabama, we are unable to conclude that Act 81-1049 can be implemented without serious danger of discriminating against black voters in counties and districts with substantial black populations. A final barrier to implementation is the failure of the Act to assign Montgomery census tract 6 with 3,764 persons, 91% of whom are black, to any district.

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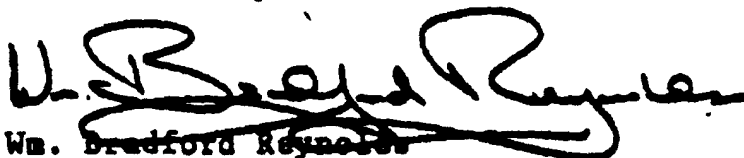
Under all of these circumstances, therefore, we are unable to conclude that the proposed plan meets the Section 5 burden. Accordingly, I must, on behalf of the Attorney General, interpose an objection to the reapportionment of the Alabama Legislature by Act 81-1049, Second Special Session of 1981.

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 reapportionment of the Alabama Legislature by Act 81-1049 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 State of Alabama 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.

We are aware that there is now pending litigation concerning the state legislative redistricting. Burton v. Hobbie, C.A. No. 81-617-N (M.D. Ala.) I am taking the liberty of providing a copy of this letter to the Court in light of our desire to be of any assistance we can.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General .
Civil Rights Division