JUN 26 1977

Mr. Hoyt H. Whelchel, Jr.
Whelchel, Whelchel & Carlton
Attorneys at Law
26 Second Avenue, S.W.
Moultrie, Georgia 31768

Dear Mr. Whelchel:

This is in reference to Act Nos. 277 (H.B. 436) 1965 Georgia General Assembly and 1448 (H.B. 2081) 1972 Georgia General Assembly, amending the Charter of the City of Moultrie to provide a majority vote requirement in the City mayoral and councilmanic elections and changes in corporate limits and in terms of office of the mayor and council, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on April 27, 1977.

In regard to Section 4 of Act No. 1448, which provides for a change in dates of the terms of office of the mayor and council, the Attorney General does not interpose any objection. 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.

I understand that you informed Mr. Joseph Sappey of my staff in a telephone conversation that the annexations which have occurred in Moultrie since 1972 will be submitted in the near future. Therefore, the Attorney General at this time will make no determination regarding the changes in corporate limits to the City of Moultrie.

In regard to Section 5 of Act No. 277 (1965) and Section 2 of Act No. 1448 (1972), which provide for a majority vote requirement in City mayoral and councilmanic elections, we have given careful consideration to the information furnished by you, as well as demographic data, the decision in Cross v. Baxter, C.A. No. 76-20 (M.D. Ga. May 10, 1977), and information furnished by other interested parties. Our analysis reveals that blacks constitute approximately 35 percent of the population in Moultrie, that no blacks were elected to the city council until the majority vote requirement was removed, and that bloc voting along racial lines may exist.

Recent court decisions, to which we feel obligated to give great weight, suggest that in the context of an at-large election system a majority vote requirement may have the effect of abridging minority voting rights. See White v. Regester, 412 U.S. 755, 766-67 (1973); Zimmer v. McKeithen, 485 F. 2d 1297, 1305 (5th Cir. 1973), aff'd "without approval of the constitutional views expressed by the Court of Appeals" sub nom. East Carroll School Board v. Marshall, 424 U.S. 636 (1976); and Kirksey v. Board of Supervisors of Hinds County, No. 75-2212 (5th Cir. May 31, 1977), slip opinion at 8.

On the basis of our analysis, we are unable to conclude, as we must under the Voting Rights Act, that the majority vote requirement will not have a racially discriminatory effect on the conduct of elections in Moultrie. Accordingly, on behalf of the Attorney General I must interpose an objection to the implementation of the change to electing city council positions by majority requirement.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the District Court for the District of Columbia that this change does not have the purpose and will not have the effect of denying or abridging the

right to vote on account of race or color. In addition, our guidelines (28 C.F.R. Sections 51.21, 51.23, and 51.24) permit reconsideration of the objection should you have new information bearing on the matter. However, until such time as the objection may be withdrawn or a judgment from the District of Columbia Court obtained, the legal effect of the objection by the Attorney General is to make the change to the majority vote requirement unenforceable.

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division