



Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

JUL 6 1981

James C. Owen, Jr., Esq.
Beck, Coddard, Owen & Murray
Suite 401, Commercial Bank &
Trust Company Building
Post Office Box 116
Griffin, Georgia 30224

Dear Mr. Owen:

This is in reference to Act No. 933 (H.B. No. 1127 (1972)), which provided for a May 30, 1972, referendum election and which altered the method of election for the Griffin-Spalding County Board of Education in Spalding County, Georgia. The changes in the electoral system, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973, include the abolishment of the two multi-member election districts and their attendant residency districts and the establishment of a numbered posts system. Your submission was completed on May 5, 1981.

With regard to the May 30, 1972, referendum election, 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.

With regard to the changes in the election method provided by Act No. 933 (H.B. No. 1127 (1972)), the Attorney General is unable to reach a similar conclusion.

Under Section 5, the District has the burden of proving that the changes in question do not result in a retrogression in the position of black voters in the electoral process. See Beer v. United States, 425 U.S. 130 (1976). We have given careful consideration to the information you

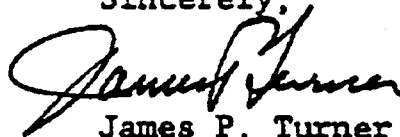
have provided as well as to comments and information provided by other interested parties. In addition to evidence of a general pattern of racially polarized voting in Griffin-Spalding County Board of Education elections, we have noted that no black candidate has ever defeated a white candidate for election to the school board. Our analysis reveals, however, that had the 1976 election been conducted according to the election system in existence prior to 1972, the black candidate likely would have prevailed since she received over 52 percent of the votes cast in the city, which comprised one of the two previously existing multi-member districts. We also have been presented with and have considered evidence that since the change from residency districts to numbered posts in 1972, no candidate residing in the formerly existing residency district with a predominantly black population has achieved election to the Board, except in the one instance where no white candidate contested the position. In addition, residency districts provided the black community, particularly in former District 2 of the city, with the potential to influence the selection of candidates likely to be responsive to their interests. The elimination of the residency districts removed this potential influence.

Under these circumstances we are unable to conclude, as we must under Section 5, that the changes in the method of election occasioned by Act No. 933 do not have a racially discriminatory purpose or effect. Accordingly, I must, on behalf of the Attorney General, interpose an objection to the changes in the method of election provided for in Act No. 933.

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 neither have 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 Court is obtained, the effect of the objection by the Attorney General is to make Act No. 933 (H.B. No. 1127 (1972)) legally unenforceable.

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 Griffin-Spalding Board of Education 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, appearing to read "James P. Turner".

James P. Turner
Acting Assistant Attorney General
Civil Rights Division