



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

December 17, 1985

C. Robert Melton, Esq.
City Attorney
P. O. Box 733
Forsyth, Georgia 31029

Dear Mr. Melton:

This refers to the elimination of party primaries; the adoption of majority vote and numbered post requirements for primary and general elections; the election date change; and the thirteen annexations to the City of Forsyth in Monroe County, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submissions on October 18, 1985.

We have considered carefully the information you have provided, as well as comments and information from other interested parties. With regard to the elimination of party primaries, the election date change, and the Chevron (December 4, 1984), Mann (April 16, 1985), and the Ricketson, Jr. (August 6, 1985), annexations, the Attorney General does not interpose any objections. 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 changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.48).

With respect to the remaining changes, our analysis of election returns indicates that there appears to exist a pattern of racially polarized voting in city elections which has operated to limit black political access in the context of the city's at-large election system, particularly as it has been altered by the imposition of numbered posts and a majority vote requirement. The success of two black candidates in atypical special elections is not inconsistent with this conclusion. In addition, in two regular elections minority candidates received the highest number of votes cast in the initial election and would have won

with a plurality of votes under the preexisting system. Under the submitted change to a majority requirement, however, each lost in a racially polarized runoff. Similarly, use of the designated posts system decreases the potential for minority voters to elect candidates of their choice in an at-large election.

As to the annexations, our analysis shows that, with the exception of the three listed above, the addition of these areas would reduce the city's minority population by two percent and eliminate the slight black population majority that had recently developed in the city. In view of the city's at-large election system and the racial bloc voting which seems to exist, the addition of these ten areas would serve to perpetuate and enhance an electoral system which restricts minority voting potential. See City of Richmond v. United States, 422 U.S. 358 (1975).

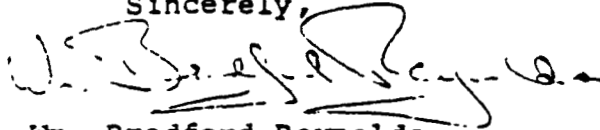
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also 28 C.F.R. 51.39(e). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained with respect to the majority vote and numbered post requirements or the ten specified annexations. Therefore, on behalf of the Attorney General, I must object to these changes.

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 have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, Section 51.44 of the guidelines permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the majority vote, numbered posts, and the ten annexations legally unenforceable insofar as they affect voting. 28 C.F.R. 51.9.

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 Forsyth plans to take with respect to this

matter. If you have any questions, feel free to call John Tanner (202-724-6718), Attorney/Reviewer of the Section 5 Unit of the Voting Section.

Sincerely,

A handwritten signature in cursive script, appearing to read "Wm. Bradford Reynolds". The signature is written in dark ink and is positioned above the typed name.

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division