

SEP 19 1978

Mr. Thomas W. Thomas  
Thomas, Pughing, Goldsmith  
and Folks  
Attorney at Law  
Post Office Box 947  
Lancaster, South Carolina 29720

Dear Mr. Thomas:

This is in reference to the majority vote requirement and run-off election procedures for the City of Lancaster, Lancaster County, South Carolina, contained in Ordinances 76-16 and 77-27, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on July 21, 1978.

We have given careful consideration to the information furnished by you as well as Bureau of the Census data and information and comments from other interested parties. Our analysis reveals that blacks constitute a substantial proportion of the population of the City of Lancaster, that the city council is elected at-large, and that bloc voting along racial lines appears to exist. Under these circumstances, recent court decisions, to which we feel obligated to give great weight, indicate that a majority vote requirement could have the potential for abridging minority voting rights. See White v. Regester, 412 U.S. 755, 766-67 (1973), Linnar v. McKeithen, 485 F.2d 1297, 1305 (5th Cir. 1973), aff'd sub nom. East Carroll Parish School Board v. Marshall 424 U.S. 636 (1975); Devitt v. Sides, 571 F.2d 209 (5th Cir. 1978).

Section 5 of the Voting Rights Act places upon the submitting authority the burden of proving that a submitted change in voting practice and procedure does not have a racially discriminatory purpose or effect. (See Georgia v. United States, 411 U.S. 526 (1973) - 28 C.F.R. 51.19.)

because of the potential for diluting black voting strength inherent in the use of a majority vote requirement under circumstances such as exist in Lancaster and because the city had advanced no compelling reason for its use, we are unable to conclude that the burden of proof has been sustained and that the imposition of the majority requirement, in the context of an at-large election system, will not have a racially discriminatory effect. Accordingly, on behalf of the Attorney General, I must interpose an objection to the majority vote requirement contained in Ordinances 76-16 and 77-27.

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 or color. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.21(b) and (c), 51.23, and 51.24) 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 obtained, the effect of the Attorney General's objection is to make the change to the majority vote requirement legally unenforceable.

Finally, it appears from the information you have provided that the majority vote requirement provided by Ordinance 76-16 was in force for the December 1976 election. Please inform us within ten days of your receipt of this letter whether this information is correct and, if it is, what steps the City of Lancaster intends to take to remedy this violation of Section 5. For example, will a special election be held concurrent with the December 5, 1978 general election to fill the remainder of the terms for the positions filled in violation of Section 5 in 1976? Also, please inform us at the same time whether the December 5, 1978 election will be held with a plurality vote sufficient for election.

Sincerely,

Drew S. Days III  
Assistant Attorney General  
Civil Rights Division