



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

September 27, 1991

Mr. James W. Martin
Secretary/Treasurer
Bienville Parish Police Jury
P. O. Box 479
Arcadia, Louisiana 71001

Dear Mr. Martin:

-- This refers to the 1991 police jury redistricting, the establishment of three additional polling places, and five polling place changes for Bienville Parish, Louisiana, 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 response to our request for additional information on July 29, 1991.

The Attorney General does not interpose any objection to the polling place changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

With respect to the 1991 redistricting plan, however, we cannot reach the same conclusion. At the outset, we note that at the time the parish made its redistricting decision, two potential plans were before the police jury for consideration: one plan, which ultimately was adopted, includes two districts in which blacks constitute a majority of the total population, voting age population, and registered voters; in the other plan blacks would constitute such a majority in three districts. We understand that this alternative plan is generally favored by the black community in the parish and, indeed, in light of the apparent pattern of polarized voting in the parish, this plan would appear more fairly to reflect black voting strength in the parish.

The parish offers two reasons for rejecting the alternative approach. First, it is asserted that the parish citizenry opposed the alternative, but little information is offered to support this claim. Second, it is averred that the alternative plan would not add meaningfully to the electoral opportunity of black voters because the black percentage of the total population in the third black majority district (District 7) would not satisfy the so-called "65 percent rule," which the parish attributes to the Department of Justice. Of course, this Department has assiduously disavowed the use of any such mechanistic measurement of electoral opportunity and, quite understandably, the parish offers no citation to any formulation or promulgation of such a rule by us. Moreover, the parish has not consistently applied any 65 percent criterion, contending that the proposed plan's reduction in the black population percentage in District 3 from 65 to 61 percent is inconsequential.

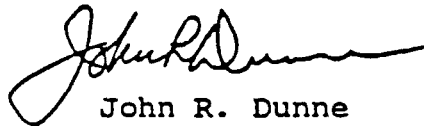
Another factor which seemingly limits the number of minority districts is the decision not to split existing precincts, as has been done in many other post-1990 parish redistrictings in Louisiana. Our analysis reveals that such an approach would produce a number of reasonable alternatives which would reflect more adequately minority voting strength in the parish.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the 1991 redistricting plan.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed 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, you may 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 1991, redistricting plan continues to be legally unenforceable. Clark v. Roemer, 59 U.S.L.W. 4583 (U.S. June 3, 1991); 28 C.F.R. 51.10 and 51.45.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Bienville Parish plans to take concerning this matter. If you have any questions, you should call Mark A. Posner (202-307-1388), an attorney in the Voting Section.

Sincerely,

A handwritten signature in cursive script, appearing to read "John R. Dunne".

John R. Dunne
Assistant Attorney General
Civil Rights Division