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EMERGENCY MANAGERS - MICHIGAN

Phillips v. Snyder

United States Court of Appeals, Sixth Circuit - September 12, 2016 - F.3d - 2016 WL 4728026

Voters and local elected officials from areas with emergency managers brought action challenging the constitutionality of Michigan's Local Financial Stability and Choice Act, a statute allowing for the temporary appointment of an emergency manager for a municipality or public school system facing financial crisis.

The United States District Court granted defendants' motion to dismiss, and plaintiffs appealed.

The Court of Appeals held that:

- Plaintiffs had standing to bring action;
- Voters do not have a substantive due process right to vote for the individuals exercising legislative power at the local level;
- Claims brought under the Guarantee Clause are nonjusticiable political questions;
- The Act did not violate the Equal Protection Clause;
- Section 2 of the Voting Rights Act (VRA) did not provide plaintiffs an avenue for recovery;
- The enactment of the Act was not an instance of viewpoint discrimination; and
- The Act did not violate the Thirteenth Amendment.

Voters and local elected officials from areas with emergency managers had standing to challenge constitutionality of Michigan's Local Financial Stability and Choice Act, a statute allowing for temporary appointment of emergency managers for municipalities or public school systems facing financial crisis. Cities and school districts in which plaintiffs lived were under emergency managers when complaint was filed, such that they allegedly suffered constitutional deprivations that residents elsewhere did not suffer, that is, "concrete and particularized" injuries that affected them in personal and individualized ways, injury was ongoing and thus actual and imminent as opposed to conjectural or hypothetical, alleged deprivations would be redressed by decision favorable to plaintiffs, and though cities were no longer governed by emergency managers, they were now governed by receivership transition advisory boards (TABs) provided for by Act, which limited powers of local elected officials.

Voters do not have a substantive due process right to vote for the individuals exercising legislative power at the local level; rather, states have "absolute discretion" in allocating powers to their political subdivisions and therefore to the officers running those subdivisions, and so may allocate the powers of subsidiary bodies among elected and non-elected leaders and policymakers.

Claims brought under the Guarantee Clause are nonjusticiable political questions; it is up to the political branches of the federal government to determine whether a state has met its federal constitutional obligation to maintain a republican form of government.

Michigan's Local Financial Stability and Choice Act, a statute allowing for the temporary

appointment of an emergency manager for a municipality or public school system facing financial crisis, did not violate the Equal Protection Clause. The Act, which gave vast powers to emergency managers to deal with the problems of financially distressed localities, was rationally related to the legitimate legislative purpose of improving the financial situation of a distressed locality.

Michigan's Local Financial Stability and Choice Act, allowing for temporary appointment of emergency managers for municipalities or public school systems facing financial crisis, did not violate the Equal Protection Clause by discriminating against entities already having "emergency financial managers" (EFM) from prior statute. Although, under the Act, EFM appointed under prior statute who was still serving when Act took effect was deemed to be emergency manager under the Act, was subject to Act's 18-month provision, and would effectively remain in place longer than emergency manager who was appointed for first time under new law, this different treatment was justified, as 18-month limitation on removal was rational because managers in place before Act took effect had much less power, giving them time to adjust to new, broad powers was legitimate interest, and giving them same 18 months as other emergency managers to work with those powers was rationally related to that interest.

In assessing equal protection challenge to Michigan's Local Financial Stability and Choice Act, which allowed for temporary appointment of emergency managers for municipalities or public school systems facing financial crisis, there was no basis for applying stricter scrutiny than rational basis review. Although plaintiffs challenging Act argued that statute violated the Equal Protection Clause by denying their right to vote and by conditioning their vote on wealth, Act did not in fact impair their right to vote, as it did not remove local elected officials but simply vested the powers of the local government in an emergency manager, plaintiffs did not show that they had been denied the right to vote on equal footing within their respective jurisdictions, and Act's alleged wealth discrimination, without the involvement of some other fundamental right or suspect category, did not require scrutiny any closer than rational basis scrutiny.

Section 2 of the Voting Rights Act (VRA) does not cover appointive systems and, thus, did not provide an avenue for recovery for plaintiffs challenging Michigan's Local Financial Stability and Choice Act, a statute allowing for temporary appointment of emergency managers for municipalities or public school systems facing financial crisis. Case was not one involving a voting qualification or prerequisite to voting or standard, practice, or procedure resulting in the denial of a right to vote.

Michigan's Local Financial Stability and Choice Act, a statute allowing for temporary appointment of emergency managers for municipalities or public school systems facing financial crisis, did not violate the Thirteenth Amendment. Plaintiffs did not challenge the label of "financial emergency" attached to their localities, and there was no sufficiently direct connection to race in the Act that could amount to something comparable to the odious practice the Thirteenth Amendment was designed to eradicate, but, instead, the state's remedy for financially endangered communities, which was passed by state-elected bodies for which African-Americans had a constitutionally protected equal right to vote, and was facially entirely neutral with respect to race, was far removed from being a "badge" of the extraordinary evil of slavery.

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