

COURT OF APPEALS OF MARYLAND

Reed v. McKeldin, 207 Md. 553

115 A.2d 281 (1955) · No. No. 30, October Term, 1955 (Adv.) · Decided October 30, 2001

SUMMARY

The Maryland Court of Appeals considered whether the Governor had constitutional authority to appoint two additional Associate Judges to the Supreme Bench of Baltimore City before the scheduled 1956 election. The court held that Chapter 269 of the Acts of 1955 created vacancies upon its effective date and that Article 4, Section 5 of the Maryland Constitution authorized the Governor to make the appointments. The decree upholding the statute and dismissing the complaint was affirmed.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Delaplaine, J.; Brune, C.J.; Collins, J.; Henderson, J.; Hammond, J.
JURISDICTION	Maryland
DECIDED	October 30, 2001
DOCKET	No. 30, October Term, 1955 (Adv.)
DISPOSITION	affirmed
PROCEDURAL POSTURE	A Baltimore taxpayer brought a declaratory and injunctive action in the Circuit Court of Baltimore City challenging the Governor's constitutional authority to appoint two additional Associate Judges of the Supreme Bench of Baltimore City before the scheduled 1956 election. The circuit court declared the statute constitutional and dismissed the bill; the taxpayer appealed.
STANDARD OF REVIEW	De novo review of the constitutional interpretation and validity of the statute.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	William L. Reed v. Theodore R. McKeldin, Governor of Maryland

TOPICS

- constitutional law
- statutory interpretation
- legislative intent
- declaratory judgment
- equitable relief

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Article 4, section 5 of the Maryland Constitution authorized the Governor to appoint judges to newly created judicial offices on the Supreme Bench of Baltimore City before the first election for those offices.
2. Whether Chapter 269 of the Acts of 1955 was constitutional insofar as it authorized the Governor to make the initial appointments.

HOLDINGS

1. Article 4, section 5 of the Maryland Constitution authorizes the Governor to appoint qualified persons to newly created judicial offices, including the two additional Associate Judge positions created by Chapter 269 of the Acts of 1955, until the election and qualification of successors.

KEY QUOTATIONS

“It is a cardinal rule of construction that where the text of a constitutional provision is not ambiguous, the Court, in construing it, is not at liberty to search for its meaning beyond the Constitution itself.” (560-561)

“But we think there can be no question of the rule accepted by the great weight of authority that when a statute establishes an office, a vacancy exists when the statute takes effect, unless its language imports futurity of selection.” (563)

“For the reasons we have given, we hold that the Governor has the constitutional power to appoint the two additional Associate Judges of the Supreme Bench, as provided by the statute.” (564)

FACTUAL BACKGROUND

Chapter 269 of the Acts of 1955 amended the Baltimore City Charter to create two additional Associate Judge positions on the Supreme Bench of Baltimore City. The statute provided that the judges would initially be selected under Article 4, section 5 of the Maryland Constitution and thereafter elected by Baltimore voters in November 1956. William L. Reed, a Baltimore citizen and taxpayer, alleged that the Governor lacked constitutional authority to make the initial appointments and sought a declaration and injunction before the appointments occurred.

PROCEDURAL HISTORY

The Circuit Court of Baltimore City entered a decree on May 24, 1955, declaring Chapter 269 of the Acts of 1955 constitutional insofar as it authorized the Governor to appoint the two additional judges effective June 1, 1955, and dismissed the complaint. The Court of Appeals of Maryland advanced the appeal because of its public importance and affirmed the decree with costs.

DISPOSITION

affirmed

CASES CITED

- Pressman v. State Tax Commission, 204 Md. 78, 84, 102 A.2d 821 (1954)
- Baltimore Retail Liquor Package Stores Ass'n v. Board of License Commissioners, 171 Md. 426, 429, 189 A. 209, 109 A.L.R. 1253 (1936)
- Masson v. Reindollar, 193 Md. 683, 69 A.2d 482 (1950)
- Johns Hopkins University v. Williams, 199 Md. 382, 86 A.2d 892 (1952)
- Manly v. State, 7 Md. 135, 147
- Groome v. Gwinn, 43 Md. 572, 624
- Beall v. State, 131 Md. 669, 676-677, 103 A. 99
- Johnson v. Duke, 180 Md. 434, 440, 24 A.2d 304 (1943)
- Hillman v. Boone, 190 Md. 606, 610, 59 A.2d 506 (1948)
- Opinion of Justices (Matter of State Auditor), 45 N.H. 590
- Walsh v. Commonwealth, 89 Pa. 419, 33 Am. Rep. 771
- People ex rel. Snyder v. Hylan, 212 N.Y. 236, 106 N.E. 89

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