

Analysis of the Emergency Manager Legislation and its impact on Detroit

By Jo Ann Watson

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First and foremost, Public Act 4 which is the Act enabling the Emergency Manager implementation, is in clear violation of the United States Constitution on at least 3 levels:

- Article 1, Section 10 states in part: "No State shall enter into any...Law impairing the Obligation of Contracts"
- Article 4, Section 4: "The United States shall guarantee to every State in this Union a Republican form of Government and shall protect each of them against Invasion...."
- 14th Amendment, Section 1: "All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State herein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection.

Public Act 4 allows an Emergency Manager to invalidate union contracts, strips away the rights of local citizens to select their own leadership, and the imposition of the Emergency Manager in Michigan has impacted 50% of the African Americans in the State of Michigan which poses a disproportionate impact on Voting Rights.

RESPONSE 1

Thus far, a barrier-breaking communique has been authored by Congressman John Conyers, Jr. to U. S. Attorney General Eric Holder calling for an investigation and possible intervention into the application of Public Act 4 in Michigan based upon the Constitutional breaches previously referenced. In addition, Congressman Conyers has been joined by Congressman Hansen Clarke, Congressman Gary Peters, U. S. Senator Carl Levin, U. S. Senator Debbie Stabenow, U. S. Senator Sander Levin, 55 members of the Democratic Caucus State Representatives and State Senators of the State of Michigan, 8 members of the Detroit City Council; and other office holders who have declared their opposition to an Emergency Manager appointment in Detroit- with many requesting a meeting with Governor Rick Snyder, and calling for a halt to Emergency Manager impositions in the future.

RESPONSE 2

A lawsuit challenging Public Act 4 as a violation of the Michigan State Constitution was filed on June 22, 2011 with a 'Dream Team' of attorneys including the Sugar Law Center of the National Lawyer's Guild; Famed Constitutional Attorneys Bill Goodman and Julie Hurwitz, the Center for Constitutional Rights, Attorney Herbert Sanders of Michigan AFSCME Council 25, Attorney Richard Mack of Miller Cohen, PC, among others; who represent 28 plaintiffs who hail from across the State of Michigan, encompassing Benton Harbor, Grand Rapids, Pontiac, Flint, Detroit and other locales. Governor's Snyder's immediate response to this historic lawsuit was to send a message to the Michigan Supreme Court asking for a ruling which would remove the case from the normal process of discovery, trial and adjudication. The Court did not respond to the Governor's request to date; and the case is making its way through the Justice System slowly.

RESPONSE 3

In addition, Brandon Jessup has founded Michigan Forward, and has been at the forefront of a statewide campaign to gather thousands of signatures to repeal Public Act 4. Michigan Forward

has worked closely with labor activists, grassroots organizers, Civil Rights Organizations like the NAACP and Rainbow Push to promote the petitions which will immediately repeal Public Act 4, once the signatures have been certified-and bring the matter to the electorate for a vote in a referendum. The Governor's response to the apparent looming victory of the petition-drive has been an attempt to re-legislate Public Act 4-and somehow render a new law which is petition-proof and lawsuit-proof; and this attempt to deny constitutional due process is underway at this printing!

Meanwhile, the attempts by many to treat the Emergency Manager issue in Detroit as a budgetary response to address myriad budget crises; is inconsistent with the irrefutable evidence that Emergency Managers imposed on entities like the Detroit Public Schools have not arrested deficits-they have sharply increased deficits, and decreased the quality of services. At the onset of the Detroit Public Schools takeover by the State of Michigan, the District boasted a \$93 million dollar surplus; and more than 100,000 students-in sharp contrast to the \$300 million dollar deficit and the 55,000 students of 2012 with now empty schools becoming a new frontier for uncapped charter schools feeding from the public trough.

RESPONSE 4

We thank God for the thousands who have come together to declare "We Will Not Be Moved by an Emergency Manager" and who are sending messages to President Barack Obama and U. S. Attorney General Eric Holder to support Congressman Conyers' call for investigation and intervention; we are grateful to the young leaders who are driving the Petition campaign to repeal Public Act 4; we are heartened by the 28 plaintiffs who are suing the State of Michigan in the landmark legal case led by the Sugar Law Center to demand Constitutional protections and equal rights for all citizens in this State; we fully support the door-to-door education campaign being conducted by We the People and activists to take critical information about the Emergency Manager Law and the dangers posed to the citizens all over this State with outreach efforts over the next several Saturdays; we are affirmed by the Clergy, Citizens, Union leaders and members, Progressive Media, and Legal Experts who have donated time, talent and resources to insure Victory in this protracted struggle.

Finally, as we come to grips with the reality that fully two-thirds of the States in the USA have legislated some form of Voter Suppression policy, according to Ben Jealous of the National NAACP, clearly Public Act 4 is not just significant in Michigan. This is a part of a national agenda to place a 'chilling' effect on the potential electorate of 2012; and the campaign to re-elect President Barack Obama. Just as poll taxes, and voter disenfranchisement was the order of the day during the Jim Crow era; so are the thinly veiled laws to allegedly address non-existent voter fraud, and the laws to eliminate same day voter-registration, and laws requiring multiple I.D.'s posing deliberate barriers and dis-incentives to participation in the electoral franchise that is guaranteed to every American citizen. Public Act 4 joins the infamous litany of racist, repressive, right-wing, undemocratic policies that challenge the very framework of the Constitution of the United States.

With regard to resolving the City's financial ills, these are the recommendations I have offered to the Mayor, the Council, via resolutions and via public discourse:

- \$226.3 million dollars in debt service which is annually paid via the City's general fund should be re-negotiated immediately by experts who are armed with the forbearance,

extensions and the bail-outs availed to the Financial institutions and Wall Street during the Federal Bail Outs

- \$399.3 million dollars of debt service based on water and transportation department bonds must be immediately re-negotiated using the principles cited earlier
- The water department is valued at \$10 billion dollars based upon an appraisal ordered by Federal Judge Feikens years ago, and that asset provides important collateral which has not been leveraged
- Immediately upon the imposition of an Emergency Manager OR a Consent Agreement \$400 million would immediately be forfeited by the City of Detroit because of a SWAP agreement entered into during a previous Administration the banks would declare a default on the agreement and they would be entitled to collect forthwith
- The City of Detroit, with the help of President Barack Obama, should immediately bring the Auto industry to the table and demand an investment in the City which has been their home; and the City which stood with them during the recent Federal Bailout, and during the near bankruptcy of Chrysler during the era of Mayor Coleman A. Young. At minimum, the industry should finance the resources to insure rapid transit in the region-along with rapid busses-because there will not be the desired economic surge in the Region or the State without rapid transit.
- The City experienced 67,000 bank foreclosures from 2005 to 2009-20% of the household mortgages and two-thirds of those foreclosed properties are vacant, blighted, and are decimating the neighborhoods of a City that had the **LOWEST FORECLOSURE RATE OF ANY METROPOLITAN COMMUNITY AS RECENTLY AS 1996!** The banks which are responsible for the foreclosure epidemic via predatory sub-prime loan schemes must be held accountable legally and economically for the restoration of this City once hailed as the 'beacon of Democracy' for its role in harnessing military vehicles for the World War.
- The City must drastically revise its insurance coverage, as nearly \$300 million has been doled out to one provider-which is neither sustainable nor sound. There are fiscally healthy alternatives which should be imposed immediately.
- The State must pay its long-owed debt to the City. The \$220 million is actually \$580 million when we include the income taxes the City has not collected as it has lived up to the agreement initiated by the State and then Governor John Engler. Further, the State's use of \$2 billion dollars in ARRA funds routed by President Barack Obama should have been routed to the most economically distressed City -the largest City in the State; rather than used to address the State of Michigan's budget deficit.
- A critical look at Governmental Debt in American reveals that U. S. Treasurer Alexander Hamilton authorized Debt Service with the support of the Executive Branch and the Legislative Branch to cover the enormity of debt catalyzed by the Revolutionary War. Years later, the largest Federal Debt Service was a direct consequence of the costs related to the U. S. Civil War; (one interesting side note: the War of 1812 was subsidized by profits earned from governmental proceeds of the Trans Atlantic Slave Trade); so the much-discussed debt in Detroit, is eclipsed by the long-term debt of the State of Michigan, which is over-shadowed by the \$14 trillion dollar debt of the United States of America; which is completely obscured by the \$777 trillion dollar debt of Reparations owed to the descendants of Africa whose Ancestors were kidnapped at gunpoint forced into ships and forced to endure horrific cruelty, tortures and terrors for

246 years with the USA economy in the South and the North, benefiting as Slave Trade profits were instrumental in launching insurance companies like Aetna, Universities like Brown, Wall Street firms like Lehman Brothers and financial institutions like Bank of America. How ironic for the most African of America's major cities to be declared vulnerable due to a debt-crisis perpetrated by the very entities who owe the biggest debt to Africans.