

CITIZENS LEAGUE
530 Syndicate Building
Minneapolis, MN 55402
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May 20, 1981

MEMORANDUM

TO: Members Community Information Committee

SUBJECT: Shakopee appeal of tax-base sharing law

As you may know, the Minnesota Tax Court on February 12, 1981, upheld the constitutionality of the metropolitan tax base-sharing (fiscal disparities) law. The challenge had been brought by the City of Shakopee which contended the law's effects were hostile and oppressive on that city.

Shakopee appealed the Tax Court's decision to the Minnesota Supreme Court. A pre-trial conference was held on Wednesday, May 20, 1981 before Justice Simonet.

During the pre-trial conference, Rod Krass, Attorney for Shakopee, stated frankly to the Judge that Shakopee's objective is not just to have the law declared hostile and oppressive as it applies to Shakopee but that the Supreme Court's original decision in September, 1974, upholding the constitutionality of the law be overturned. Krass stated during the pre-trial conference that the original decision was 4-3, with two members of the Court not voting, and that many members of the Court which made that decision no longer are sitting. Thus, Krass said, he's going to work hard to make this case a rehearing on the entire question of the constitutionality of the law.

According to Bill Donohue, Special Assistant Attorney General, who attended the pre-trial conference, Simonet did not challenge Krass' desire to place the entire future of the law on trial. Apparently Simonet did say that Krass would have to show why the Court should go through the entire question of the constitutionality of the law again.

(By the way, you might want to know how it is that Shakopee's challenge has gotten this far, given the fact that the decision apparently was made in 1974. The 1974 case was decided prospectively, and there was language in the decision which indicated that it wouldn't necessarily be a ruling factor for someone who later might challenge the law as it actually was applied to them. That is precisely what happened. In 1975 Shakopee challenged the law, based on the taxes as actually levied on Shakopee property owners. The challenge finally came to trial in April 1980, with the Tax Court's decision coming last February).

Donohue said that Krass also told the Court today that Shakopee is going to try to get several cities to submit Amicus Curiae briefs to support Shakopee's case.

J. E. L.

As a result of Krass' comments, Donohue called the Citizens League to ask if we would consider submitting an Amicus brief to support the State. Donohue said efforts probably also will be made to get some cities to submit Amicus briefs on the State's side, too. In the 1974 case, as you may remember, the League submitted an Amicus brief supporting the law.

Amicus briefs in support of the State must be ready by about late August to mid-September, Donohue said. The Court said the Amicus briefs must be submitted at the same time as the petitioners and defendants submit their briefs.

Current members of the Court are, Sheran, Simonet, Scott, Otis, Wahl, Peterson, Amdahl, Todd and Yetka.

Otis is the only remaining member of the Court who was part of the 4-3 majority. Otis wrote the majority opinion in the 1974 case. Peterson and Yetka are the two remaining Justices who voted no in that case. Scott and Todd were on the Court, but abstained. Sheran joined the Court during the deliveration on the case and took no part. Scott abstained because as Hennepin County Attorney he had been associated with an effort to overturn the law.