

DELEGATE CASE: They might. I do not know what the court would hold any more than you do, but if the property were zoned for heavy industrial use, if the general character of the neighborhood all around it were built up with a factory, if the property were in the middle of a very densely populated area, if the property had been — if they were on file in the county clerk's office, a subdivision plat on the property was already to go, the plat had been subdivided, if the property — if this land owner that you are referring to had never had any contact with the property at all, all of these things would come into play and it would be the Court's judgment on the sum total of all of them which would permit a judgment.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: As I understand it, each one or any one of those items that you have just listed could be determinative of the classification or the exclusion from the classification of this particular tract of ground?

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Not determinative, Delegate Clagett, but one of the things that could be taken into consideration.

You see, we really are dealing here with a somewhat esoteric concept in which there are no answers. That is what we are trying to drive to. In a negligence case, either the driver is either negligent or he is not. These are absolutes. But in the tax field to have a finding of fact there are many different facets to it which may be found, and what I am saying to you is that just as in the question of fair market value of closely held corporate shares, there is no one fact which is controlling; at least that is what we are driving at: no one fact may be controlling.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: Then do I understand you correctly that what you are doing here in this effort as set forth in section 8.02 is to substitute those tests for the tests that the court has determined exist in Article 43 of the present Constitution, namely, being actively devoted.

DELEGATE CASE: That is correct.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: And these objective tests would be determined by whom? By the State Department of Assessments and Taxation, or by act of the General Assembly.

DELEGATE CASE: The objective tests would be or could be determined by the General Assembly. The General Assembly could, after determining certain broad tests, delegate to its administrative agency the power to write regulations which would fill in the missing areas. This is the way it is usually done.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: Then we would be back in the very situation that I think you described so clearly to us yesterday, where the department could establish various objective tests, some nineteen, I believe you mentioned yesterday.

DELEGATE CASE: Twenty-nine.

DELEGATE CLAGETT: Twenty-nine—well, that would be more — and yet the Court of Appeals came along and said that those twenty-nine were excess if the land itself were actively employed for the purposes of agriculture.

DELEGATE CASE: That is correct. This has been sort of a long-winded colloquy between us, which I have enjoyed, but let me say this — I think what you are getting to is the question does the committee recommendation seek to overrule the Alsop case? And the answer is, yes.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: I think I understand what we have there.

DELEGATE CASE: Of course you know the reason for this. It is not because the Committee feels that it is desirable to overrule or to change a result of the Court of Appeals, but rather to provide or to make sure as far as it can be humanly possible to be made sure that speculators and land investors do not get the benefit of a tax law that is supposed to be designed for the bona fide farmer.

THE CHAIRMAN: Delegate Clagett, before you go to another section, may the Chair interrupt just to button down the last answer of Delegate Case?

As the Chairman understands, the overruling of the Alsop case is intended to be accomplished by the use of the words in the end of section 8.02 in line 8, "as prescribed by law."

DELEGATE CASE: That is correct.

DELEGATE CLAGETT: That means by act of the General Assembly. Going to section 8.02(1), first sentence, "The State shall prescribe and administer uniform