

Libertarian Party of Wisconsin v. Thompson

199 Wis.2d 790 (1996)

This case began and ended in the Wisconsin Supreme Court; the Court took original action rather than sitting (as it normally does) as an appellate court. The case illustrates the restrictions the state Constitution places on private laws and laws contracting public debt. While the Court has shot down taxes collected for a specific purpose in other cases, it unanimously found here that Wisconsin Act 56, which created a tax in five counties to raise money for a new Milwaukee Brewers stadium, served a legitimate public purpose by encouraging economic development and tourism and reducing unemployment. Justice William A. Bablitch wrote the majority opinion for the Court. Chief Justice Shirley S. Abrahamson did not take part in the decision.

Governor Tommy G. Thompson filed an original action in the Court asking it to declare the statute constitutional. The Libertarian Party, which had previously begun an action in opposition to the Stadium Act (1995 Wisconsin Act 56^{*}) in Milwaukee County Circuit Court, was added to this case.

The Libertarian Party (the petitioner) argued that the Stadium Act violated the Wisconsin Constitution in 15 separate ways. The Court considered only those alleged violations which it determined might have merit.

The petitioners claimed the statute provided for a private law, which, they said, violated Wisconsin Constitution Article IV^{**} by creating a tax that applied only to five counties and exempting the stadium from property taxes. The Court ruled that the statute “contains classifications which are open, germane, and relate to true differences between the entities being classified,” and therefore, did not create a private tax law.

The petitioner also argued that the Stadium Act did not serve a valid public purpose as provided under Article VIII^{***} of the Wisconsin Constitution. The Court found that the Act’s purpose was to “encourag[e] economic development and tourism, by reducing unemployment and by bringing needed capital into the state for the benefit and welfare of people throughout the state,” which it determined was a valid public purpose. Furthermore, the Court determined that the Act did not violate the municipal debt limitation or pledge state credit.

11/97

* 1995 Wisconsin Act 56, known as the Stadium Act, provides for “the creation of local professional baseball park districts to include any county within the state with a population in excess of 500,000 and all counties that are contiguous to the county and not already included in a different district....A district is empowered to construct and operate professional baseball park facilities, although the initial construction costs of the facility may not exceed \$250 million.”

** Wisconsin Constitution Article IV, Section 32: “The legislature may provide by general law for the treatment of any subject for which lawmaking is prohibited by section 31 of this article. Subject to reasonable classifications, such laws shall be uniform in their operation throughout the state.”

*** Wisconsin Constitution Article VIII, Sections 4 and 7(2): “The state shall never contract any public debt except... (t) o acquire, construct, develop, extend, enlarge or improve land, waters, property, highways, railways, buildings, equipment or facilities for public purposes.”