

No. 21900 -- In re: The Petition of Maple Meadow Mining Company
for Relief From Real Property Assessment for the Tax
Year 1992

Neely, J., dissenting:

The majority opinion summarizes the issue in this case
as follows:

In this case, Maple Meadow begins by contending that the 1992 assessment of its natural resources property is in violation of W. Va. Code, 11-1C-7(d) [1990] and the Raleigh County valuation plan. Maple Meadow asserts that this section gives the county assessor the option of either placing changes in property value on the property books at sixty percent of value or phasing in any increases in value as discovered as a result of the reappraisal of the three-year reappraisal period; further, if the county assessor chooses the phase-in option, the county assessor must also phase in any increases in the property that the tax commissioner is responsible for appraising in "like manner." Maple Meadow argues, that because the county assessor elected to use the phase-in option on all other real property within the county, the county assessor must also assess Maple Meadow's natural resources property in the same manner. Thus, Maple Meadow asks that the county assessor be required to follow the county's valuation plan in compliance with W. Va. Code, 11-1C-7(d) [1990] so that Maple Meadow is treated the same as all other Raleigh County real property owners.

Maple Meadow is obviously right.

To the extent that there is authentic jurisprudential content to the equal protection clause of U. S. Constitution, amend. XIV (as opposed to result-oriented politics, which is what we usually get in law) and its state counterparts, particularly W. Va. Const., Art. 10, § 1, that content is the proposition that minorities are best protected when majorities are prohibited from singling them out for special, unfavorable legal treatment. In this case, big non-voting mineral-owning corporations were singled out for a good beating: to-wit, their assessments were raised immediately while local voting residents had the three-year grace period over which their assessments slowly rose. If ever there were an isolated, insular minority, it has to be persons of property who, at least theoretically, deserve as much constitutional protection as blacks, women, persons with disabilities, native Americans, Eskimos, and opponents of West Virginia University football. Furthermore, W. Va. Const., Art. 10, § 1 says: ". . . taxation shall be equal and uniform throughout the State, and all property, both real and personal, shall be taxed in proportion to its value . . ." In re: U. S. Steel Corp., 165 W. Va. 373, 268 S.E.2d 128 (1980).

Maple Meadow and other mineral owners were singled out because they have lots of money and no votes. Nonetheless, it is entities like Maple Meadow that provide the jobs that are so scarce

in West Virginia and on which West Virginia depends. That, unfortunately, is always the way it is with the rich-- they actually do something useful-- which is why we have restrained ourselves from lining them up against the wall and mowing them down with machine guns. Third World countries haven't completely figured all of this out, which is why residents of Third World countries frequently resort to eating one another faute de mieux.

Inconvenient as equal protection may be at times, it is a rubric under which golden-egg-laying geese are protected from wholesale slaughter. Therefore, I dissent.