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IN THE SUPREME COURT OF THE STATE OF MONTANA

No. 12309

THE STATE OF MONTANA, et rel. WILLIAM F. CASHMORE, M.D.,
and STANLEY C. BURGER,
THE STATE OF MONTANA, ex rel. WILLIAM F. CASHMORE, M.D.,
and STANLEY C. BURGER, Relators,

Relators,

-vs-

FORREST H. ANDERSON, as Governor of the State of Montana,
FORREST H. ANDERSON, as Governor of the State of Montana,
Respondent.

ADDENDUM TO MEMORANDUM IN SUPPORT
OF OBJECTIONS TO PETITIONS

ADDENDUM TO MEMORANDUM

IN SUPPORT OF

OBJECTIONS TO PETITIONS.

On September 15, 1972, relator Stanley C. Burger
filed with this court a document titled, "Addendum to
Petition for Rehearing". Respondents, by this addendum,
continue to rely on their Objections to Petitions for
Rehearing filed on September 11, 1972.

Argument.

Petitioner Burger's Addendum should
be denied by this court for the reasons indicated
in paragraphs 1 through 3 of respondent's Memorandum in Support of
Objections to Petition.

Relator relies heavily on the older case of State ex
rel. Woods v. Tooker, 15 Mont. 8, 37 P. 840 (1894). In
the Tooker case a constitutional amendment was proposed
and voted upon, but had not met the specific publication

FILED
SEP 21 1972
Thomas J. Kearney
CLERK OF SUPREME COURT
STATE OF MONTANA

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IN THE SUPREME COURT OF THE STATE OF MONTANA
No. 12309
THE STATE OF MONTANA, ex rel. WILLIAM F. CASHMORE, M.D.,
and STANLEY C. BURGER,

Relators,

-vs-

FORREST H. ANDERSON, as Governor of the State of Montana,
Respondent.

ADDENDUM TO MEMORANDUM IN SUPPORT
OF OBJECTIONS TO PETITIONS

Introduction.

On September 15, 1972, relator Stanley C. Burger
filed with this court a document titled, "Addendum to
Petition for Rehearing". Respondents, by this addendum,
continue to rely on their Objections to Petitions for
Rehearing filed on September 11, 1972.

Argument.

Petitioner Burger's Addendum should be summarily
denied by this court for the reasons indicated on pages
1 through 3 of respondent's Memorandum in Support of
Objections to Petition.

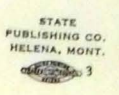
Relator relies heavily on the older case of State ex
rel. Woods v. Tooker, 15 Mont. 8, 37 P. 840 (1894). In
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1 requirements of Article XIX, section 9, Constitution of
 2 Montana. The court interpreted a clear constitutional
 3 provision and said in effect: "The provision is clear,
 4 and as it is a constitutional provision it is mandatory."
 5 In the matter at bar, the constitutional provision is at
 6 most ambiguous. This court properly determined what the
 7 ambiguous provision means, using proper rules of inter-
 8 pretation. This court then applied the constitutional
 9 provision under consideration as is required by the Tooker
 10 decision. The effect of the court's action is: The
 11 provision is ambiguous. The provision is interpreted to
 12 determine the meaning of the framers. After proper
 13 interpretation, the provision is mandatory. (The consti-
 14 tution must receive a majority of valid votes cast thereon
 15 before passage.)
 16 Respondent agrees that the Tooker decision is binding
 17 as to the application of clear constitutional requirements
 18 and as to the application of ambiguous constitutional
 19 requirements upon determination of the meaning of the
 20 ambiguous requirement. Respondents submit, however, that
 21 the decision is not in point in the interpretation of an
 22 ambiguous constitutional provision.

23 Respectfully submitted this 21st day of September,
 24 1972.

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DATED this 21st day of September, 1972.

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