

2-24-33

110

ENROLLED BILL

(REGULAR SESSION, 1933)

House Bill No. 110

(By Mr. Randolph)

Passed February 22, 1933

In Effect From Passage

Originated in the..... passage

Takes effect.....

Original in the.....

Clerk of the House of Delegates.

Clerk.

CORRECTLY ENROLLED

Chairman Senate Committee.

Chairman House Committee.

ENROLLED BILL

(H. B. No. 110)

[Passed February 22, 1933; in effect from passage.]

AN ACT to amend and reenact sections two, three, four, five, six and eight, article one, chapter fifty-three of the code of West Virginia, one thousand nine hundred thirty-one, relating to proceedings in prohibition and mandamus.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five, six and eight, article one, chapter fifty-three of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 2. Jurisdiction of writs of mandamus and prohibition, (except cases whereof cognizance has been taken by the supreme court of appeals or a judge thereof in vacation) shall be in the circuit court of the county in which the record or proceeding is to which the writ relates. A rule to show cause as

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D. H. Jones

Chairman House Committee.

Chairman Senate Committee.

2 [Enrolled H. B. No. 110

6 hereinafter provided for may be issued by a judge of a circuit
7 court or of the supreme court of appeals in vacation. A writ
8 peremptory may be awarded by a circuit court or a judge there-
9 of in vacation, or by the supreme court of appeals in term.

Sec. 3. Application for a writ of mandamus or a writ of pro-
2 hibition shall be on verified petition.

Sec. 4. The petition shall state plainly and concisely the
2 grounds of the application, concluding with a prayer for the
3 writ.

Sec. 5. The court or judge to whom the petition in mandamus
2 or prohibition is presented shall, if the petition makes a prima
3 facie case, issue a rule against the defendant to show cause why
4 the writ prayed for should not be awarded. A copy of the peti-
5 tion shall accompany service of the rule. Such rule shall be
6 returnable at a time to be fixed by the court or judge.

Sec. 6. If the defendant appear and make defense, such de-
2 fense may be by demurrer, or answer on oath, to the petition,
3 or both, such answer to be subject to demurrer by the petitioner
4 or relator. Reply may be made when proper. The court or
5 judge may permit amendments as in other cases.

Sec. 8. The writ peremptory shall be awarded or denied ac-

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James A. Henry

Chairman Senate Committee.

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2 cording to the law and facts of the case, and with or without

3 costs, as the court or judge may determine.

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James A. Smith
Chairman Senate Committee.

B. M. Stiner
Speaker of the House of Delegates.

Geo. L. Wallace
Clerk of the House of Delegates.

R. G. Mainwaring
President of the Senate.

Amos D. Smith
Clerk of the Senate.

James L. Smith
Chairman House Committee.

The within is... *Approved* ...

this... *25* ... day of... *February* ..., 1933.

McCarley
Governor.

Filed in the office of the Secretary of State
of West Virginia FEB 25 1933
GEORGE W. SHARP,
Secretary of State.