

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949

ENROLLED

SENATE BILL No. 255

(By Mr. Wylie)

PASSED March 11 1949

In Effect July 1, 1949 Passage



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AN ACT to establish a court of limited jurisdiction within the
county of Wyoming, to be known and designated as the
“Criminal Court of Wyoming County,” and prescribing the
limitations therefor.

Be it enacted by the Legislature of West Virginia:

Section 1. A court of limited jurisdiction is hereby
2 established within and for the county of Wyoming, to
3 be held and presided over by a judge to be selected as
4 hereinafter provided, which court shall be named and
5 designated as the “Criminal Court of Wyoming County.”

Sec. 2. The court shall have exclusive jurisdiction with-
2 in the county of Wyoming concurrent with the circuit
3 court of Wyoming county, in all criminal causes, both

4 misdemeanor and felony, subject to the right of appeal
5 to the circuit court of Wyoming county, as hereinafter
6 provided.

Sec. 3. The judge of said court shall be a resident mem-
2 ber of the bar of Wyoming county and shall have the
3 same qualifications as a circuit judge. A judge shall be
4 elected for said court at the general election in this state
5 to be held on Tuesday after the first Monday in Novem-
6 ber, one thousand nine hundred fifty and every eight
7 years thereafter, to be held by the legal voters of said
8 county. His term of office shall be for eight years be-
9 ginning on the first day of January next succeeding said
10 election, and he shall, except as herein otherwise pro-
11 vided, be subject to the laws in force governing circuit
12 judges.

Sec. 4. All powers and jurisdiction conferred by law
2 upon circuit courts in the trial of criminal cases and pro-
3 ceedings, and the modes and procedures authorized there-
4 in, within the county of Wyoming, are hereby conferred
5 upon and shall be exercised by the criminal court of
6 Wyoming county, and the judge of said court shall have

7 the same powers in vacation as are now, or may here-
8 after be, conferred upon the judge of the circuit court of
9 Wyoming county in respect of cases, matters and pro-
10 ceedings within the jurisdiction of said criminal court.

Sec. 5. The said criminal court shall have the same
2 powers to punish for contempt as are conferred by law
3 upon the circuit court.

Sec. 6. The county court of Wyoming county shall
2 provide all record books and other books and stationery
3 that may be necessary, and likewise a seal for said crim-
4 inal court. Full faith and credit shall be given to the
5 records of said court and to the certificate of its judge or
6 clerk, whether the seal of said court be affixed thereto
7 or not, in like manner and with like effect as if the same
8 were recorded in the circuit court, or certificate of the
9 judge or clerk of the circuit court similiarly authenti-
10 cated.

Sec. 7. The clerk of the circuit court of Wyoming
2 county shall be ex officio clerk of the criminal court and
3 perform the duties thereof, and shall charge the same
4 fees for the same services as are now allowed by law

5 for similar services to the clerk of the circuit court, and
6 in the discharge of his duties as clerk of the criminal
7 court he shall be subject to all statutes relating to the
8 clerk of the circuit court. Process and orders of the
9 court, in the exercise of its jurisdiction, shall be signed
10 by the clerk thereof and be directed to the sheriffs of
11 the proper counties wherein the same are to be executed,
12 and they shall be executed in like manner, and with the
13 same effect, as process issuing from the circuit court of
14 said county. The clerk of the Circuit Court shall not
15 receive any additional personal compensation for these
16 services, except that prescribed as his salary as clerk of
17 the circuit court of said county by the statutes that may
18 now or hereafter be in effect.

Sec. 8. The said judge for his services shall receive six
2 thousand dollars per annum, which shall be paid monthly,
3 in equal instalments, from the county treasury of Wy-
4 oming county.

Sec. 9. The sheriff shall be allowed the same compen-
2 sation for attendance upon said court as is now allowed
3 for attendance upon the circuit court, and the court bail-

4 iff of the circuit court shall be the bailiff of the criminal
5 court.

Sec. 10. There shall be four terms of said court held in
2 each year, commencing on the fourth Monday of Febru-
3 ary, fourth Monday of May, fourth Monday of August,
4 and the fourth Monday of November. Adjourned and
5 special terms of court may be called and held as pre-
6 scribed for special and adjourned terms of the circuit
7 court.

Sec. 11. Said terms of said court shall be held in Pine-
2 ville, in the county of Wyoming, at the courthouse there-
3 of.

Sec. 12. The sheriff of Wyoming county and the sher-
2 iffs of the several counties of the state shall, by them-
3 selves or their deputies, execute all process of said court,
4 or issued by the clerk thereof, directed to them, respec-
5 tively, and all process emanating from said court or is-
6 sued by the clerk thereof shall be directed to and exe-
7 cuted by them in the same manner as is provided by law
8 as to process issuing from the circuit court or its clerk,
9 and the sheriff of Wyoming county shall perform the

10 same duties and services for the criminal court of Wy-
11 oming county as he now by law is required to perform
12 for the circuit court of said county, and in the execu-
13 tion of process, rules and orders of said court the said
14 officer shall have the same powers and rights, be subject
15 to the same liabilities, govern themselves by the same
16 rules and principles of law and the statutes of the state,
17 and be entitled to the same fees, as though the process
18 issued from the circuit court of said county.

Sec. 13. The grand jurors and the petit jurors for said
2 court shall be chosen and empaneled in the same manner
3 as they are chosen and empaneled in the circuit court,
4 and shall receive the same compensation, subject to
5 amendments of state laws involving the pay of jurors
6 in felony cases.

Sec. 14. If the judge of said court in his judgment, can-
2 not properly preside at the hearing of any case pending
3 therein, said case may, in his discretion, be certified to,
4 and the original papers together with the copy of orders
5 of said court, filed in the circuit court of said county, and
6 the case shall be docketed therein and proceeded with

7 therein, as though the case had originally been brought
8 and proceedings therein had in the circuit court. When
9 for any cause the judge of said criminal court is incapable
10 of acting or is absent, a special judge may be elected in
11 the same manner as a special judge for the circuit
12 court, and he be governed in all respects so far as ap-
13 plicable by the laws governing special judges in the cir-
14 cuit court, and shall be allowed fifteen dollars a day for
15 said services, to be paid out of the county treasury of
16 Wyoming county.

Sec. 15. Appeals may be allowed, and writs of error
2 and supersedeas awarded to the judgments, decrees and
3 orders of said court by the circuit court of said county,
4 or the judge thereof in vacation, in the following cases:

5 (1) In any criminal case wherein the right of appeal
6 would have been had to the supreme court of West Vir-
7 ginia should the trial have been held in the circuit court
8 of Wyoming county.

9 (2) In any case where there is an order granting a new
10 trial or rehearing, and in such cases an appeal may be

11 taken from the order without waiting for said new trial
12 or rehearing to be had.

Sec. 16. Any person who is a party to any such con-
2 troversy wishing to obtain an appeal, or writ of error in
3 the cases named in the foregoing section may present to
4 the circuit court of Wyoming county, or the judge thereof
5 in vacation, a petition therefor and chapter fifty-eight
6 of the code of West Virginia, insofar as it concerns ap-
7 peals from court of record of limited jurisdiction shall,
8 so far as applicable, govern the proceedings of such ap-
9 peal, or writ of error as to the duties of the petitioner and
10 the said court and clerk thereof: *Provided, however,* That
11 such petition shall be heard and determined upon the
12 original papers of the cause and the recorded orders and
13 decrees in lieu of a transcript thereof, and in case of oral
14 testimony having been taken in the case, a transcript
15 thereof, duly certified by the stenographer, or other per-
16 sons taking the same, shall be held and treated as part of
17 the original papers, and the court may likewise consider
18 an agreed statement of facts, and in case the evidence in
19 the trial below was not taken down and preserved, a

20 certificate of facts made by the judge of the criminal court
21 may be considered.

Sec. 17. Every appeal, or writ of error from said court
2 shall be docketed in the circuit court of Wyoming county
3 and shall be proceeded within the same manner as ap-
4 peals, or writs of error are proceeded in, heard and de-
5 termined in the supreme court of appeals. Rules govern-
6 ing the procedure in these matters shall be promulgated
7 by said circuit court.

Sec. 18. In a case wherein the appeal or writ of error is
2 to the circuit court, and the court or judge thereof deems
3 the judgment or order plainly right, and rejects it on this
4 ground, if the order or rejectment so state, no further
5 petition shall afterwards be presented for the same pur-
6 pose, but the petition and order of rejectment with tran-
7 script of the record may be presented to the supreme court
8 of appeals, or judges thereof in vacation, for an appeal
9 from said order of rejectment, if the matter is one of which
10 said supreme court of appeals has jurisdiction, and, if
11 allowed, the same proceedings may be had thereon as if

12 the same was a petition originally from the circuit court
13 of said county to the supreme court of appeals.

Sec. 19. The said circuit court, where an appeal, writ
2 of error or supersedeas has been allowed by the said court
3 or the judge thereof in vacation, shall, upon the hearing
4 thereof, affirm said judgment or order, if there be no er-
5 ror therein prejudicial to the appellant, or reverse the
6 same whole or in part if erroneous, and if reversed, re-
7 mand the same back to said criminal court to be further
8 proceeded with and finally determined: *Provided, how-*
9 *ever,* That from any action of the circuit court in affirming
10 or reversing any order or judgment of the criminal court
11 an appeal or writ of error shall lie to the supreme court of
12 appeals.

Sec. 20. If the office of judge of said court be contested,
2 the contest shall be held and determined in the same
3 manner as the election of judges of the circuit court are
4 determined.

Sec. 21. If from any cause the office of judge of said
2 court shall become vacated, the vacancy shall be filled in

3 the same manner as in the case of vacancy in the office
4 of judge of the circuit court.

Sec. 22. The judge of said court may be removed from
2 office for the same reasons and in the same manner as
3 judges of the circuit court.

Sec. 23. In the taxation of costs in said court, the clerk
2 and court shall be governed by the same rules and pro-
3 visions of law as are provided for the circuit court.

Sec. 24. Chapter fifty-one of the code of West Virginia
2 shall apply to the criminal court of Wyoming county in
3 the same manner and to the same extent that it does to
4 the circuit courts of the state, within the scope and pur-
5 pose of this act.

Sec. 25. Chapters sixty-one and sixty-two of the code
2 of West Virginia shall apply to the criminal court of Wy-
3 oming county and to the judge thereof in vacation, in the
4 same manner and to the same extent as to the circuit court
5 of Wyoming county or the judge thereof in vacation, and
6 the same powers may be exercised within the county of
7 Wyoming by said court and the judge thereof in vacation,

8 as are now exercised by the circuit court of said county
9 provided for in said chapters.

Sec. 26. The criminal court of Wyoming county and
2 the judge thereof in vacation shall, concurrent with the
3 supreme court of appeals, circuit court of said county, or
4 any judge of either of said courts in vacation, grant a writ
5 of habeas corpus, ad subjiciendum, as provided in chapter
6 fifty-three of the code of West Virginia, and all the pro-
7 visions of said chapter shall be applicable thereto, and
8 the same shall be governed as herein provided.

Sec. 27. Chapter fifty-two of the code of West Virginia
2 shall apply to said criminal court as it now applies to the
3 circuit court of said county, within the scope and limit of
4 this act.

Sec. 28. The West Virginia reports and bound acts of
2 the Legislature shall be delivered to the said judge of said
3 court, in the same manner as they are required to be de-
4 livered to the circuit courts of this state.

Sec. 29. Within sixty days from the effective date of
2 this act, the governor shall appoint a judge for said crim-
3 inal court, who shall act until the next general election, at

4 which time his successor shall be elected. The judge ap-
5 pointed shall hold the first term of court on the fourth
6 Monday in August one thousand nine hundred forty-nine.

Sec. 30. The judge of the criminal court of Wyoming
2 county is hereby authorized to employ a court reporter,
3 and the county court shall fix and pay the salary of such
4 court reporter.

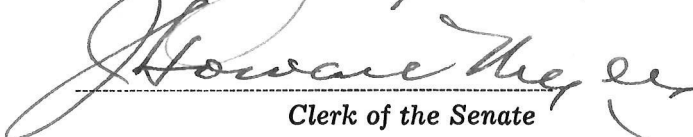
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

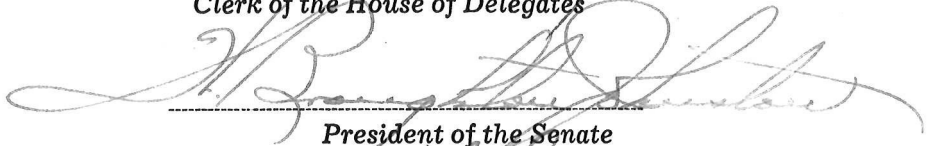

Chairman House Committee

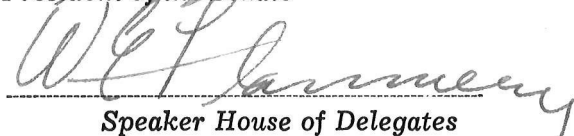
Originated in the Senate.

Takes effect July 1, 1949 passage.

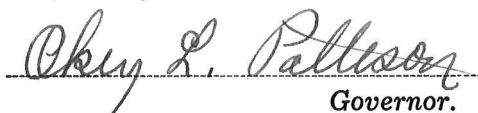

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within approved this the 17th
day of March, 1949.


Governor.

Filed in the Office of the Secretary of State
of West Virginia

MAR 18 1949
D. PITT O'BRIEN,
SECRETARY OF STATE