

**IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA**

**JOHN F. RIST, III,**

**Petitioner,**

**v.**

**In Mandamus/Prohibition  
No. 99-2497**

**HONORABLE CECIL H. UNDERWOOD,  
Governor of West Virginia, and  
ROBERT S. KISS,**

**Respondents.**

**STATE OF WEST VIRGINIA EX REL. RICHARD A. ROBB, *et al.*,**

**Petitioners,**

**v.**

**In Mandamus  
No. 99-2562**

**CECIL H. UNDERWOOD,  
Governor of the State of West Virginia, and  
ROBERT S. KISS,**

**Respondents.**

**SUPPLEMENTAL BRIEF OF THE WEST VIRGINIA LEGISLATURE  
AS AMICUS CURIAE IN SUPPORT OF THE RESPONDENTS**

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This supplemental brief is written to address the issue of ripeness.

Amici would direct the attention of the Court to the case of *McGraw v. Willis*, 323 S.E.2d 600, 174 W.Va. 118 (1984).

The facts of the case were as follows: The general election in November 1984 brought

forth the rumor that the Governor of West Virginia, John D. Rockefeller IV, newly elected United States Senator, would resign the governorship early to take his Senate seat on January 3, 1985--the commencement of the United States Senate's term. This possibility confronted West Virginia with the question of who would serve as interim governor because West Virginia would not inaugurate her governor until January 14, 1985.

Although Governor Rockefeller has emphatically denied any intention to vacate his office prematurely, the petition in this case was filed before the Governor's announcement and, *because it is foreseeable that the question of succession may surface again, the case is ripe for adjudication.* [Emphasis added.]

The case is similar to the instant case in that they involve a case of constitutional interpretation, and it is foreseeable that the question may surface again.

Respectfully submitted,  
Darrell E. Holmes and  
Gregory M. Gray, Movants  
By Counsel

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**CERTIFICATE OF SERVICE**

I, M. E. "Mike" Mowery, counsel for Darrell E. Holmes and Gregory M. Gray, do hereby certify that service of the attached "Brief of the West Virginia Legislature as Amicus Curiae in Support of the Respondents" was had up on the persons listed below by filing true copies thereof in the United States mail, postage prepaid, addressed as follows:

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All of which was done this eighteenth day of October, 1999.

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