

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

NO. 101494

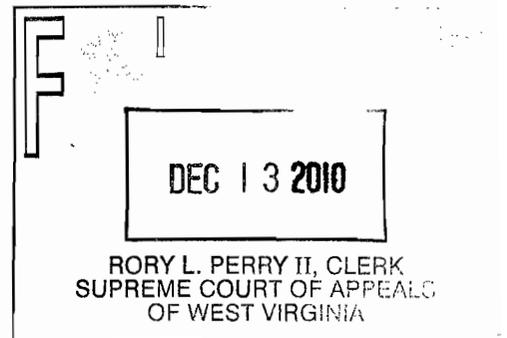
STATE OF WEST VIRGINIA  
ex rel, WEST VIRGINIA CITIZEN  
ACTION GROUP

*Petitioner,*

vs.

*EARL RAY TOMBLIN, President  
of the West Virginia Senate,  
RICHARD THOMPSON, Speaker  
of the West Virginia House of  
Delegates, and NATALIE E.  
TENNANT, Secretary of the  
State of West Virginia,*

*Respondents.*



MOTION OF THE CHRISTIAN PATRIOTIC FRONT TO FILE  
A BRIEF AS AMICUS CURIAE PURSUANT TO RULE 19 OF  
THE RULES OF APPELLATE PROCEDURE

*The Christian Patriotic Front (hereinafter "Front") is an unincorporated secular institute organized in accordance with the provisions of the Second Vatican Council. It is not, however, directly affiliated with the Roman Catholic Church. Its West Virginia business registration number is 0000-3640.*

*The Front has no objection to (Acting)<sup>1</sup> Governor Earl Ray Tomblin serving in that capacity until the next "regular" election cycle. The Front believes that it was ill-advised to conduct partisan primary elections to fill the vacancy created by the passing of Honorable Robert C. Byrd. That election, however, was authorized by statute. Here, the petitioners seek to create a "remedy" out of whole cloth.*

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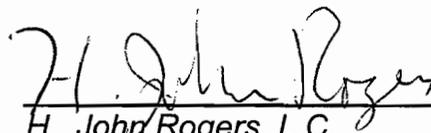
<sup>1</sup>The press usually refers to him as Acting Governor Tomblin, whereas the office telephone is answered "Governor Tomblin's office." The Front does not favor the use of the word "Acting" since it seems to connote a diminution of power.

*The only effect on the body politick was to replace a Manchin "clone" with the "real thing". More importantly, this bit of empire building by then-Governor Manchin could have easily cost we Democrats a further diminution of our Congressional delegation.*

*Although the Front abhors the politics of (Acting) Governor Tomblin, viewing him as the minion of the coal barons and gamblers<sup>2</sup>, the Front views him as the humblest governor to serve since William C. Marland<sup>3</sup> (1953-1997). Therefore, the Front neither favors nor opposes a gubernatorial candidacy in the premises.*

*Consequently, if permitted to file a brief, the Front would oppose a second "special" election and permit (acting) Governor Tomblin to serve until the next regular election. However, if Tomblin elects to continue as Governor, the Front would ask that he be mandated to resign from the State Senate within 24 hours. Any other conclusion would entirely violate the concept of "separation of powers".<sup>4</sup>*

*Respectfully,*



*H. John Rogers, L.C.  
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<sup>2</sup> See the Charleston Gazette on Monday, November 29, 2010, listing those who were to attend a fund raising party for Governor Tomblin.

<sup>3</sup> The Front's collective memory stretches back to then-candidate Marland's appearance at Folsom in Wetzel County and later on Main Street in New Martinsville.

<sup>4</sup> Article V of our Constitution requires the three "departments" to be "separate and distinct." Consequently, the Front would suggest that Mr. Tomblin can no more serve as Governor, acting or otherwise, while he is a member of much less President of the State Senate than he could fill in for Chief Justice Davis on this Honorable Court. See generally section "Separation of Powers" Hall, the Oxford Companion to the Supreme Court, p. 244 et seq.

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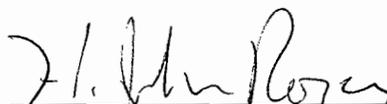
EARL RAY TOMBLIN, *President*  
of the West Virginia Senate,  
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of the West Virginia House of  
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TENNANT, *Secretary of the*  
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CERTIFICATE OF SERVICE

I do hereby certify that I mailed true copies of the foregoing MOTION TO FILE BRIEF AS AMICUS CURIAE PURSUANT TO RULE 19 OF THE RULES OF APPELLATE PROCEDURE to the respondents by addressing the same to Legal Counsel for Earl Ray Tomblin, Richard Thompson and Natalie E. Tennant at their offices, Capitol Building, Charleston, West Virginia 75305.

Given under my hand this 10th day of December, 2010.



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