ENROLLED BILL

Regular Session

SENATE BILL NO. 174

By Mr. Jones

PASSED March 10, 1933

IN EFFECT from PASSAGE
ENROLLED BILL

(S. B. No. 174)

[Passed March 10, 1933; in effect from passage.]

AN ACT to provide for a convention to pass on the amendment to the constitution of the United States providing for the repeal of the eighteenth article of amendment to the constitution and the prohibition of the transportation or importation into any state, territory or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof proposed by the congress for ratification by conventions in the several states.

Be it enacted by the Legislature of West Virginia:

Section 1. The congress of the United States having pro-

posed an amendment to the constitution of the United States

providing for the repeal of the eighteenth article of amendment
4 to the constitution and the prohibition of the transportation or
5 importation into any state, territory or possession of the
6 United States for delivery or use therein of intoxicating liquors
7 in violation of the laws thereof to be ratified by conventions in
8 the several states, a special election for the purpose of electing
9 delegates to such convention in this state is hereby called and
10 shall be held on Tuesday the twenty-seventh day of June, one
11 thousand nine hundred thirty-three.

Sec. 2. At such election all persons qualified to vote for
2 members of the legislature shall be entitled to vote.

Sec. 3. Except as in this act otherwise provided such elec-
2 tion shall be conducted and the results thereof ascertained and
3 certified in the same manner as in the case of the election of
4 presidential electors in this state, and all provisions of the laws
5 of this state relative to elections except so far as inconsistent
6 with this act are hereby made applicable to such election. The
7 county court of each county shall appoint for each precinct in
8 such county three commissioners of election, and no more and
9 no poll clerks, for the special election hereby called, and at
10 least one commissioner shall be known to the court to be for
11 ratification and one shall be so known to be against ratification.
12 The commissioners shall designate two of their number, one
13 known to be for ratification and one known to be against rati-
14 fication, as poll clerks, who shall perform all duties of poll
15 clerks as well as commissioners at such election. Each commis-
16 sioner of election shall receive one dollar for each day actually
17 employed instead of the compensation provided by statute,
18 which compensation shall be allowed and paid by the county
19 court upon application within ten days after the day of election
20 by the person entitled thereto, attested by the commissioners
21 of election, and not otherwise. The registrars for the perform-
22 ane of their duties under section ten of article two of chapter
23 three of the code in connection with such special election shall
24 receive one dollar per day instead of the compensation pro-
25 vided by statute, and the clerk of each county court shall fur-
26 nish to the election commissioners of the respective voting
27 precincts one of the registration books filed with him instead
28 of a certified list of voters.

Sec. 4. The number of delegates to be chosen to such con-
2 vention shall be twenty, who shall be citizens and residents
3 of the state, and shall be elected by the vote of the state at
4 large.
Sec. 5. Nominations of candidates for the office of delegate to the convention shall be made as follows:

The Democratic state executive committee and the Republican state executive committee shall each nominate ten persons who shall have signed a written pledge in triplicate to vote in such convention for ratification of the amendment and filed one counterpart thereof with the secretary of state of West Virginia and two with the secretary of such committee, and ten persons who shall have signed a written pledge in triplicate to vote in such convention against ratification of the amendment, and filed one counterpart thereof with the secretary of state of West Virginia and two with the secretary of such committee. In each group of ten each congressional district of the state shall be represented by at least one and not more than two residents thereof. No person shall be nominated by either committee who shall not have filed counterparts of a written pledge as aforesaid on or before the fifteenth day of April, one thousand nine hundred thirty-three, and nominations shall be made by said committees, respectively, and a certificate thereof, showing under separate and distinguishing headings the list of the ten nominees pledged to vote for ratification and
The ten nominees pledged to vote against ratification, forwarded to the secretary of state of West Virginia, with one counter-part of the pledge of each person so nominated, on or before the first day of May, one thousand nine hundred thirty-three. The twenty persons so nominated, ten by each of said committees, pledged to vote for ratification, shall be the candidates favoring ratification of the amendment, and the twenty persons so nominated, ten by each of said committees, pledged to vote against ratification of the amendment, shall be the candidates opposing ratification. If a vacancy shall occur in any nomination so made, from death, withdrawal or other cause, the vacancy shall be filled and the name of the candidate certified by the state executive committee which made the original nomination, or the chairman thereof, as the ease may be, according to the provisions of chapter three, article four, section twenty-three of the West Virginia code of one thousand nine hundred thirty-one, and the nominee to fill such vacancy shall be chosen from among persons who shall have filed with such committee a pledge similar to the pledge filed by the original nominee. If either committee shall fail to make and file nominations as hereinbefore provided on or before the first day of May, one
thousand nine hundred thirty-three, the secretary of state shall
on or before the tenth day of May, one thousand nine hundred
thirty-three, make up the lists, which such committee should
have made, of ten nominees pledged to vote for ratification
and ten pledged to vote against ratification, according to the
counterpart pledges filed with the secretary of such committee
and the secretary of state, drawing names by lot in any case
where there shall be more than one person eligible for either
list resident in any congressional district, and if when a nomi-
nation for either list shall have been made from each congres-
sional district there shall remain more than four persons eligi-
ble for such list. And the lists so made up by the secretary
of state shall be held and serve the same purposes as if made
up by such committee failing to do its duty hereunder. If a
vacancy shall occur in any nomination so made by the secre-
tary of state, he shall fill the vacancy, drawing the name by
lot if there remain more than one person eligible for the list in
which the vacancy shall have occurred who shall have filed
counterparts of a written pledge as aforesaid.

Unpledged candidates for the office of delegate to the con-
vention may be nominated by petition and not otherwise. A
64 single petition may nominate any number of nominees, not
65 exceeding the total number of delegates to be elected, shall
66 be signed by not less than two hundred voters, shall show the
67 residence of each signer thereof and shall have attached the
68 promise in writing of each nominee therein named that he will
69 remain unpledged. The twenty nominees, whose nominating
70 petitions have respectively been signed by the largest number
71 of voters, ties to be decided by lot drawn by the secretary of
72 state, shall be the unpledged candidates. If a vacancy shall
73 occur in any nomination so made it shall be filled by the desig-
74 nation by the secretary of state of the remaining nominee whose
75 nominating petitions filed with the secretary of state as afore-
76 said shall have been signed by the largest number of voters,
77 a tie to be decided by lot drawn as aforesaid.

Sec. 6. The election shall be by ballot which shall first state
2 the substance of the proposed amendment, followed by appro-
3 priate instructions to the voter and containing perpendicular
4 columns of equal width, headed respectively in plain type,
5 "For Ratification", "Against Ratification" and "Unpledged".
6 In the column headed "For Ratification" shall be placed the
7 names of the candidates nominated as in favor of ratification.
8 In the column headed "Against Ratification" shall be placed
9 the names of the candidates nominated as against ratification.
10 In the column headed "Unpledged" shall be placed the names
11 of the candidates nominated as unpledged. The voter shall
12 indicate his choice by making one or more cross-marks in the
13 appropriate spaces provided on the ballot. No ballot shall be
13 held void because any such cross-mark is irregular in character.
15 The ballot shall be so arranged that the voter may, by making
16 a single cross-mark, vote for the entire group of nominees
17 whose names are comprised in any column, and shall be in
18 substantially the following form:
19 PROPOSED AMENDMENT TO THE CONSTITUTION
20 OF THE UNITED STATES.
21 Delegates to the Convention to Ratify the
22 Proposed Amendment.
23 The congress has proposed an amendment to the constitution
24 of the United States which provides:
25 "Section 1. The eighteenth article of amendment to the
26 constitution of the United States is hereby repealed".
27 "Sec. 2. The transportation or importation into any state,
28 territory, or possession of the United States for delivery or use
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29 therein of intoxicating liquors, in violation of the laws thereof,
30 is hereby prohibited’.

31 The congress has also proposed that the said amendment
32 shall be ratified by convention in the states.

33 INSTRUCTIONS TO VOTERS.

34 Do not vote for more than twenty (20) candidates.

35 To vote for all candidates in favor of Ratification or for all
36 candidates against Ratification, or for all candidates Unpledged,
37 make a cross-mark in the CIRCLE at the head of the list of
38 candidates for whom you wish to vote. If you do this, make
39 no other mark.

40 To vote for an individual candidate make a cross-mark in
41 the SQUARE at the left of the name.

42 For Ratification  Against Ratification  Unpledged

43 □ John Doe  □ Charles Coe  □ Peter Roe

44 □ Richard Poe  □ Thomas Moe  □ James Defoe

Sec. 7. The twenty nominees who shall receive the highest
2 number of votes shall be the delegates to the convention. If
3 there shall be a vacancy in the convention caused by the death
4 or disability of any delegate or any other cause, the same
5 shall be filled by appointment by the majority vote of the
6 delegates comprising the group in which such delegate was
7 included and if the membership of the convention contains no
8 other delegate of that group, shall be filled by the governor.
9 If any nominee shall die before such special election without
10 a nomination having been made to fill the vacancy thus created
11 as hereinbefore provided, and if the remaining members of the
12 group of candidates in which such decedent was included shall
13 be elected, such death shall create a vacancy in the convention
14 within the meaning of this act and no other candidate shall
15 be held as elected at such election in the place of such decedent.

Sec. 8. The delegates to the convention shall meet at the
2 Capitol on the twenty-eighth day after their election at twelve
3 election, noon, and shall thereupon constitute a convention to
4 pass upon the question of whether or not the proposed amend-
5 ment shall be ratified. It shall be called to order by the oldest
6 delegate present.

Sec. 9. The convention shall be the judge of the election
2 and qualification of its members; and shall have power to elect
3 its president, secretary and other officers, and to adopt its own
4 rules.
Sec. 10. The convention shall keep a journal of its proceedings, in which shall be recorded the vote of each delegate on the question of ratification of the proposed amendment. Upon final adjournment the journal, having been duly verified by the president and secretary of the convention, shall be filed with the secretary of state.

Sec. 11. If the convention shall agree, by vote of a majority of the total number of delegates, to the ratification of the proposed amendment, a certificate to that effect shall be executed by the president and secretary of the convention and transmitted to the secretary of state of the state of West Virginia, who shall transmit the certificate under the great seal of the state to the secretary of state of the United States.

Sec. 12. Each delegate to the convention shall receive ten dollars for his compensation and in addition mileage at the same rate as members of the legislature receive. And for the expenses of the convention the sum of one thousand dollars, or so much thereof as is necessary, shall be appropriated payable out of the state treasury from moneys not otherwise appropriated.

Sec. 13. If congress shall take action effective before the
2 date of such convention prescribing the manner in which con-
3 ventions to vote upon the ratification of said amendment shall
4 be constituted, and shall not except from the provisions of such
5 statute or resolution such states as may theretofore have pro-
6 vided for constituting such conventions, this act shall be in-
7 operative, and no expense, or no further expense, as the case
8 may be, shall be incurred pursuant hereto, but such expense,
9 if any, as shall have been lawfully incurred pursuant hereto
10 shall be paid according to law.
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Speaker of the House of Delegates.

Clerk of the House of Delegates.

President of the Senate.

Clerk of the Senate.

The within is.................................................................

this.............day of................................................,..., 1933.

Governor.

File in the office of the Secretary of State

of West Virginia...MAR 18 1933

Wm. S. O'Brien,
Secretary of State