

Rec., Mar. 11, 1933

174

ENROLLED BILL

Regular Session

SENATE BILL NO. 174

By Mr.

Jones

PASSED

March 10,

1933

IN EFFECT

from

PASSAGE

Originating in the..... Takes effect..... Passage.

Clerk of the House of Delegates.

CORRECTLY ENROLLED

Chairman Senate Committee.

Chairman House Committee.

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 proposed an amendment to the constitution of the United States providing for the repeal of the eighteenth article of amendment

Anna D. Hyatt

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

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.

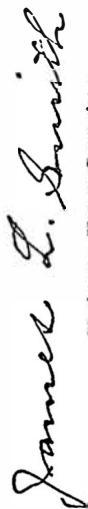
Sec. 3. Except as in this act otherwise provided such elec-
2 tion shall be conducted and the results thereof ascertained and
3 certified in the same manner as in the case of the election of
4 presidential electors in this state, and all provisions of the laws
5 of this state relative to elections except 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.



Chairman Senate Committee.



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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 ance 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.

James L. Smith
 Chairman House Committee.

Wm. A. Hyatt
 Chairman Senate Committee.

Sec. 5. Nominations of candidates for the office of delegate

2 to the convention shall be made as follows:

3 The Democratic state executive committee and the Repub-
 4 lican state executive committee shall each nominate ten per-
 5 sons who shall have signed a written pledge in triplicate to
 6 vote in such convention for ratification of the amendment and
 7 filed one counterpart thereof with the secretary of state of
 8 West Virginia and two with the secretary of such committee,
 9 and ten persons who shall have signed a written pledge in
 10 triplicate to vote in such convention against ratification of the
 11 amendment, and filed one counterpart thereof with the secre-
 12 tary of state of West Virginia and two with the secretary of
 13 such committee. In each group of ten each congressional dis-
 14 trict of the state shall be represented by at least one and not
 15 more than two residents thereof. No person shall be nominated
 16 by either committee who shall not have filed counterparts of a
 17 written pledge as aforesaid on or before the fifteenth day of
 18 April, one thousand nine hundred thirty-three, and nominations
 19 shall be made by said committees, respectively, and a certificate
 20 thereof, showing under separate and distinguishing headings
 21 the list of the ten nominees pledged to vote for ratification and

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Chairman House Committee.

Thomas A. Hyre
Chairman Senate Committee.

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22 the ten nominees pledged to vote against ratification, forwarded
 23 to the secretary of state of West Virginia, with one counter-
 24 part of the pledge of each person so nominated, on or before
 25 the first day of May, one thousand nine hundred thirty-three.
 26 The twenty persons so nominated, ten by each of said commit-
 27 tees, pledged to vote for ratification, shall be the candidates
 28 favoring ratification of the amendment, and the twenty persons
 29 so nominated, ten by each of said committees, pledged to vote
 30 against ratification of the amendment, shall be the candidates
 31 opposing ratification. If a vacancy shall occur in any nomina-
 32 tion so made, from death, withdrawal or other cause, the va-
 33 cancy shall be filled and the name of the candidate certified by
 34 the state executive committee which made the original nomina-
 35 tion, or the chairman thereof, as the case may be, according
 36 to the provisions of chapter three, article four, section twenty-
 37 three of the West Virginia code of one thousand nine hundred
 38 thirty-one, and the nominee to fill such vacancy shall be chosen
 39 from among persons who shall have filed with such committee
 40 a pledge similar to the pledge filed by the original nominee.
 41 If either committee shall fail to make and file nominations
 42 as hereinbefore provided on or before the first day of May, one

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Chairman House Committee.

43 thousand nine hundred thirty-three, the secretary of state shall
44 on or before the tenth day of May, one thousand nine hundred
45 thirty-three, make up the lists, which such committee should
46 have made, of ten nominees pledged to vote for ratification
47 and ten pledged to vote against ratification, according to the
48 counterpart pledges filed with the secretary of such committee
49 and the secretary of state, drawing names by lot in any case
50 where there shall be more than one person eligible for either
51 list resident in any congressional district, and if when a nomi-
52 nation for either list shall have been made from each congres-
53 sional district there shall remain more than four persons eligi-
54 ble for such list. And the lists so made up by the secretary
55 of state shall be held and serve the same purposes as if made
56 up by such committee failing to do its duty hereunder. If a
57 vacancy shall occur in any nomination so made by the secre-
58 tary of state, he shall fill the vacancy, drawing the name by
59 lot if there remain more than one person eligible for the list in
60 which the vacancy shall have occurred who shall have filed
61 counterparts of a written pledge as aforesaid.
62 Unpledged candidates for the office of delegate to the con-
63 vention may be nominated by petition and not otherwise. A

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Chairman Senate Committee.

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Chairman House Committee.

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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.

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Chairman House Committee.

Henry A. Hyman
Chairman Senate Committee.

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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D. Hyman

Chairman Senate Committee.

James L. Smith

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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

John A. Boyer
Chairman Senate Committee.

James L. Smith
Chairman House Committee.

James L. Smith
Chairman House Committee.

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.

James D. Byrnes

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

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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

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James L. Smith

Chairman House Committee.

Henry

A. Hyatt

Chairman Senate Committee.

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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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Chairman Senate Committee.

Wm. S. O'Brien
Speaker of the House of Delegates.

Geo. S. Lee
Clerk of the House of Delegates.

A. G. M. Atkins
President of the Senate.

Robert A. Maly
Clerk of the Senate.

The within is.....

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

Filed in the office of the Secretary of State
of West Virginia.

MAR 18 1933

Wm. S. O'BRIEN,
Secretary of State

Governor.