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Columbus, Ohio, April 4, 1944

Mr. Charles H. Hubbell
2000 Mars Avenue, Lakewood, Ohio

Dear Sir:

There has been submitted for my examination a written petition purporting to be signed by more than one hundred electors of the state, proposing a law by initiative petition, together with a summary thereof. Such proposed act, omitting the title, reads as follows:

"Be it enacted by the People of the State of Ohio:

Section 1. It shall be lawful and permitted to sell or to offer for sale intoxicating liquor, or to keep, maintain or operate a hotel, inn, tavern, house, room or place where intoxicating liquor is sold or offered for sale; provided that, within the preceding fifteen months, the judge of the probate court, in his sole and absolute discretion, shall have granted a license therefor, and provided such license shall not have expired or been revoked or cancelled.

Section 2. It shall be unlawful and prohibited to sell or to offer for sale any intoxicating liquor, or to keep, maintain or operate any hotel, inn, tavern, house, room or place where any intoxicating liquor is sold or offered for sale, unless, within the preceding fifteen months, the judge of the probate court, in his sole and absolute discretion, shall have granted a license therefor, and unless such license shall be unexpired, unrevoked and uncanceled; excepting that no license shall be required by the seller for the sale of intoxicating liquor at wholesale to any buyer to whom a license shall have been granted or transferred, provided the license of said buyer shall not have expired or been revoked or cancelled.

Section 3. Excepting as hereinafter in this act provided, no license shall be granted or transferred to any person other than a citizen of the United States of temperate habits and good moral character. No license shall be granted or transferred to any person who has previously been convicted of any felony, and any license shall immediately become void and be revoked and cancelled if the person to whom it shall have been granted or transferred shall be convicted of any felony.

Section 4. The judge of the probate court, in his sole and absolute discretion, may, at any time, declare, as to all or any part of the county in which he has jurisdiction, such restrictions, in the way of local option or otherwise, as he may see fit; and, in

addition to the restrictions set forth in this act, may impose on any one or more licensees, as a condition precedent to the receiving or retaining of a license, such further restrictions as he may see fit. The judge of the probate court, in his sole and absolute discretion, may, at any time, revoke or cancel any license.

Section 5. With the approval of the judge of the probate court, a license may be granted or transferred to, and be retained by any corporation or partnership, provided none of the directors or officers of the corporation or none of the partners in the partnership shall be or become ineligible for a license, but not otherwise.

Section 6. With the approval of the judge of the probate court, the license of any deceased licensee may be assigned or transferred to his executor or administrator, who may thereafter exercise all the rights and privileges of the deceased licensee. With the approval of the judge of the probate court, the license of any other licensee may be assigned or transferred, and the assignee or transferee may thereafter exercise all the rights and privileges of the assignor or transferrer. The rights and privileges of such executor, administrators, assignees and transferees shall terminate upon the expiration of the license granted to the original licensee, and such executors, administrators, assignees and transferees shall always be subject to the same conditions, restrictions and regulations as original licensees, or to such other conditions, restrictions and regulations as may be imposed upon them or upon any of them by the judge of the probate court.

Section 7. No license shall be granted for more than twelve months from a date fixed by rule or standing order of the probate court. The judge of the probate court shall fix by rule or standing order a time at which a hearing shall be held on applications for licenses. At the time fixed for said hearing all persons making applications for licenses and all persons objecting thereto may be heard in person or by petition, remonstrance or counsel.

Section 8. No license shall be granted to any corporation, partnership or other person, unless, at least sixty days before the time fixed for said hearing, it or he shall file in the probate court its or his application therefor and shall pay to the clerk of said court such amount of money as may be required to cover the costs and expenses in connection with said hearing; excepting that a license may be granted to the executor or administrator of a deceased applicant.

Section 9. The clerk of the probate court shall, at the expense of the applicants, cause to be published three times in each of two newspapers in the county a list containing the names of all applicants for licenses and the places for which applications

have been made. In the case of corporations or partnerships such list shall set forth the names of all directors and officers and of all partners, respectively. The first such publication in each newspaper shall be not less than fifteen days or more than thirty days before the date fixed for said hearing. During the period of six months next after the date upon which this act becomes effective, the judge of the probate court may waive any or all of the provisions as to time set forth in Section 7, Section 8 or Section 9 of this act, excepting the provision in said Section 7 as to the maximum period for which a license may be granted.

Section 10. Upon the granting of any license, the licensee shall pay to the county treasurer a license fee in such amount as shall be fixed in each particular case by the judge of the probate court. The judge of the probate court, in his sole and absolute discretion, may fix license fees of varying amounts for different licensees or for different locations.

Section 11. The jurisdiction of the judge of the probate court in each county in the state shall be confined to the county for which he shall have been elected or appointed, excepting that no license for any place shall be granted or transferred without the concurrence and approval of the judge of the probate court for each county, any part of the area of which is less than one mile from said place or less than one mile from any point inside the corporate limits of the municipality, if any, within which said place is located. No judge of any probate court shall, under any circumstances, be required to assign any reason or cause for any official act of commission or omission under the authority of this act, and the jurisdiction of the judge of the probate court shall be exclusive and final and not subject to appeal or review.

Section 12. No tax or no license fee, other than as set forth in this act, shall be imposed upon the sale of intoxicating liquor. No public officer, board or commission, other than the judge of the probate court, shall have any power to grant licenses or permits for the sale of intoxicating liquor or to regulate the sale of intoxicating liquor; excepting that nothing contained in this act shall be construed to limit or restrict the usual and customary powers and duties of the police officers of this state or of any political subdivision thereof.

Section 13. When used in this act, the term 'intoxicating liquor' shall be construed to include alcohol, brandy, whisky, rum, gin, beer, ale, porter, wine and any spirituous, vinous, malt, distilled, brewed or fermented liquor, liquid or compound, by whatever name called, containing more than three and two-tenths per centum of alcohol by weight.

Section 14. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or in-

valid for any reason by any court of competent jurisdiction, such judgment shall not invalidate, impair or affect the remainder of this act, which shall remain in full force and effect.

Section 15. This act shall be known as and may be cited as the Hubbell Liquor Control Law."

The summary submitted reads as follows:

(1) The proposed law provides that it shall be lawful and permitted to sell or to offer for sale intoxicating liquor, or to keep, maintain or operate a hotel, inn, tavern, house, room or place where intoxicating liquor is sold or offered for sale, provided the judge of the probate court shall have granted a license therefor.

(2) Further the proposed law provides that it shall be unlawful and prohibited to sell or to offer for sale any intoxicating liquor, or to keep, maintain or operate any hotel, inn, tavern, house, room or place where any intoxicating liquor is sold or offered for sale, unless the judge of the probate court shall have granted a license therefor, excepting that no license shall be required by the seller for the wholesaling of intoxicating liquor to any buyer to whom a license shall have been granted or transferred.

(3) Further the proposed law provides that no license shall be granted to certain classes of persons.

(4) Further the proposed law provides that the judge of the probate court may declare, as to all or any part of the county in which he has jurisdiction, such restrictions, in the way of local option or otherwise, as he may see fit; and, in addition to the restrictions set forth in the proposed law, may impose on any one or more licensees such further restrictions as he may see fit, and may revoke or cancel any license.

(5) Further the proposed law provides that licenses may be granted or transferred to corporations or partnerships under certain conditions.

(6) Further the proposed law provides that licenses may be assigned or transferred under certain conditions.

(7-8-9) Further the proposed law provides that no license shall be granted for more than twelve months; and provides for the requirements and procedure for the granting of licenses, including the advance publication of applicants' names and the places for license.

(10) Further the proposed law provides for the payment

of license fees of amounts to be fixed in each particular case by the judge of the probate court.

(11) Further the proposed law defines the jurisdiction of the judge of the probate court in each county; provides that no judge of any probate court shall be required to assign any reason or cause for any official act; and provides that the jurisdiction of the judge of the probate court shall be exclusive and final and not subject to appeal or review.

(12) Further the proposed law provides that no tax or no license fee, other than as set forth in the proposed law, shall be imposed upon the sale of intoxicating liquor, and that no public officer, board or commission, other than the judge of the probate court, shall have any power to grant licenses or permits for the sale of intoxicating liquor, or to regulate the sale of intoxicating liquor, excepting that nothing contained in the proposed law shall limit or restrict the usual and customary powers and duties of police officers.

(13) Further the proposed law defines the term 'intoxicating liquor'.

(14) Further the proposed law contains a saving clause.

(15) And further the proposed law provides that it shall be known as and may be cited as the Hubbell Liquor Control Law."

Upon examination of such act and the summary, I am of the opinion that the foregoing summary is a fair and truthful statement of the proposed law and pursuant to the duties imposed upon me under provisions of Section 4785-175 of the General Code, I hereby certify the above summary is a fair and truthful statement of the proposed initiative law.

Respectfully,

THOMAS J. HERBERT

Attorney General