

TO MAKE INAPPLICABLE IN PUERTO RICO AND VIRGIN ISLANDS CERTAIN LAWS RELATING TO INTOXICATING LIQUOR

JANUARY 9, 1934.—Referred to the House Calendar and ordered to be printed

Mr. McDUFFIE, from the Committee on Insular Affairs, submitted the following

REPORT

[To accompany H.R. 6574]

The Committee on Insular Affairs, to whom was referred the bill (H.R. 6574) to make inapplicable in Puerto Rico and the Virgin Islands certain Federal laws relating to intoxicating liquors, having had the same under consideration, reports it back to the House without amendment and recommends that the bill do pass.

The purpose of this bill is to remove the restrictions in Federal prohibition laws imposed upon Puerto Rico and the Virgin Islands so that their local police power may be exercised to prohibit or regulate, as these possessions choose, the intoxicating liquor traffic within their own borders. This action is consistent with the repeal of the eighteenth amendment by the twenty-first amendment, which turned back to the States the power to prohibit or regulate intoxicants.

Section 1 of the bill relates to Puerto Rico and removes the prohibition on intoxicants contained in its organic act. Since the Attorney General has ruled that the National Prohibition Act is still in force in places over which the Federal Government has power, found in provisions of the Constitution other than the eighteenth amendment, to regulate intoxicants, it is necessary to nullify the effect of the National Prohibition Act so that that act will not stand in the way of whatever legislation the insular legislature proposes.

Paragraph 814 of the Tariff Act of 1930 prohibits importation of articles containing alcohol dutiable under schedule 8 of that act except in pursuance of a permit issued by the Commissioner of Industrial Alcohol. Since doubt has been expressed with respect to the enforceability of this provision (see Joint Hearings Before the Committee on Ways and Means and the Committee on Finance on Tax on Intoxicating Liquors, pp. 323-324), your committee deems it

wise to remove this uncertainty by expressly eliminating the applicability of this provision to Puerto Rico.

The act of March 20, 1933, which authorized the manufacture and sale of beverages containing 3.2 percent of alcohol or less, contained regulatory features with respect to such beverages which, by their terms, might be construed to apply to Puerto Rico. Consistently with the policy of permitting Puerto Rico to manage its internal affairs in this matter, your committee recommends the express limitation of the application of this act in Puerto Rico.

This bill in nowise relates to the taxation in Puerto Rico of liquors under Federal law, to taxation in the United States of imported liquors from Puerto Rico, or to industrial alcohol regulation. These matters are more properly within the jurisdiction of other committees, which prepare legislation relating to the entire United States. It might be pointed out, however, that the provisions of the Webb-Kenyon Act, prohibiting shipment of intoxicants into dry jurisdictions apply to Puerto Rico and are not changed by this bill.

Section 2 of the bill relates to the Virgin Islands and the general observations made with respect to Puerto Rico in this report apply to that possession as well. Since no prohibition law is contained in the organic act of the Virgin Islands and since the tariff act and the beer act do not apply therein, it is not necessary to amend such acts in this bill.

It is believed that this bill, if enacted, will restore to these possessions autonomy in what is a local matter and will bring prosperity to certain of their industries and needed revenue to their treasuries.

The following is respectfully suggested to the House for its consideration:

SECTION 37 OF THE ORGANIC ACT OF PUERTO RICO, RELATING TO THE LEGISLATIVE AUTHORITY OF THE POSSESSION

SEC. 37. That the legislative authority herein provided shall extend to all matters of a legislative character not locally inapplicable, including power to create, consolidate, and reorganize the municipalities so far as may be necessary, and to provide and repeal laws and ordinances therefor; also the power to alter, amend, modify, or repeal any or all laws and ordinances of every character now in force in Puerto Rico or municipality or district thereof insofar as such alteration, amendment, modification, or repeal may be consistent with the provisions of this act.

POLICE POWER OF THE PUERTO RICAN LEGISLATURE

An excerpt from the opinion of the Circuit Court of Appeals in the case of *Camunas et al. v. Porto Rico Ry., Light & Power Co.* ([1921], 272 Fed. 924, 928).

By section 37, the legislature is given broad and inclusive powers:

"The legislative authority herein provided shall extend to all matters of a legislative character not locally inapplicable, including power to create, consolidate, and reorganize the municipalities so far as may be necessary, and to provide and repeal laws and ordinances therefor; also the power to alter, amend, modify, or repeal any or all laws and ordinances of every character now in force in Porto Rico or municipality or district thereof in so far as such alteration, amendment, modification, or repeal may be consistent with the provisions of this act."

Manifestly this grant of power is nearly, perhaps quite, the equivalent of the power of a State legislature to enact all laws not inconsistent with the Federal or State constitution. The organic act is the practical equivalent of a State constitution. The fact that it remains subject to amendment or repeal by Congress is for present purposes immaterial. In that regard, Congress stands as to Puerto Rico in the place of the people of a State, acting directly or indirectly through a constitutional convention.

By section 58, all inconsistent laws are repealed, and all existing, consistent laws are retained, until the legislature shall be new and consistent legislation otherwise provide. It reads as follows:

"All laws or parts of laws applicable to Puerto Rico not in conflict with any of the provisions of this act, including the laws relating to tariffs, customs, and duties on importations into Puerto Rico prescribed by the act of Congress entitled, 'An act temporarily to provide revenues and a civil government for Puerto Rico, and for other purposes', approved April 12, 1900, are hereby continued in effect and all laws and parts of laws inconsistent with the provisions of this act are hereby repealed."

That Congress intended the Puerto Rican Legislature to have full police powers is apparent, not only from the language of section 37, supra, but expressed in emphatic form in the following provision in section 2—the section containing the bill of rights:

"Nothing contained in this act shall be construed to limit the power of the legislature to enact laws for the protection of the lives, health, or safety of employees."

TWENTIETH PARAGRAPH OF SECTION 2 OF THE ORGANIC ACT OF PUERTO RICO,
APPROVED MARCH 2, 1917

That one year after the approval of this act and thereafter it shall be unlawful to import, manufacture, sell, or give away, or to expose for sale or gift any intoxicating drink or drug: *Provided*, That the legislature may authorize and regulate importation, manufacture, and sale of said liquors and drugs for medicinal, sacramental, industrial, and scientific uses only. The penalty for violations of this provision with reference to intoxicants shall be a fine of not less than \$25 for the first offense, and for second and subsequent offenses a fine of not less than \$50 and imprisonment for not less than one month or more than one year: *And provided further*, That at any general election within five years after the approval of this act this provision may, upon petition of not less than ten per centum of the qualified electors of Porto Rico, be submitted to a vote of the qualified electors of Porto Rico, and if a majority of all the qualified electors of Porto Rico voting upon such question shall vote to repeal this provision, it shall thereafter not be in force and effect; otherwise it shall be in full force and effect.



The accompanying bill carries appropriations for the Executive Order and for the sundry independent establishments of the Government, excepting the Farm Credit Administration, which has been authorized by the Federal Reserve Act for the Department of Agriculture, and which is now being organized by the Department of Agriculture. The independent establishment of the Public Buildings and Grounds Commission, which is now being organized by the Department of the Interior, is also included in the bill. The fact that several of the independent establishments of the Government are included in the bill is not intended to imply that they are to be transferred to and consolidated with the Department of the Interior, as is included in the accompanying bill. The following have been transferred to the Department of the Interior pursuant to Executive Order No. 8166, dated June 20, 1917:

To the Department of the Interior:

- Federal Board for Vocational Education
- Mount Rushmore National Memorial Commission
- Office of Public Buildings and Public Parks of the National Capital and the Public Buildings Commissioner for the same
- Office of National Parks, Buildings, and Reservations

To the Department of Commerce:

- United States Shipping Board

