

DISCHARGING MORE EFFECTIVELY THE OBLIGATIONS OF THE
UNITED STATES UNDER CERTAIN TREATIES BY PROVIDING
FOR DOMESTIC CONTROL OF THE PRODUCTION AND DISTRI-
BUTION OF THE OPIUM POPPY AND ITS PRODUCTS

NOVEMBER 30, 1942.—Ordered to be printed

Mr. GEORGE, from the Committee on Finance, submitted the following

R E P O R T

[To accompany H. R. 7568]

The Committee on Finance, to whom was referred the bill (H. R. 7568) to discharge more effectively the obligations of the United States under certain treaties relating to the manufacture and distribution of narcotic drugs, by providing for domestic control of the production and distribution of the opium poppy and its products, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendments are as follows:

Page 6, line 11, strike out the period and add the following:

: *Provided, however,* That nothing contained in this Act shall be construed as requiring the Secretary of the Treasury to issue or renew any license or licenses under the provisions of this Act.

Page 9, line 3, strike out the word "require" and insert in lieu thereof the following: "will not be met by importation or licensed production".

Page 10, lines 15 and 16, strike out the following: "or knowingly violates any regulation made, prescribed, and published hereunder".

NECESSITY FOR PROPOSED LEGISLATION

Under the International Opium Convention of 1912 this Government undertook, with some 60 other world powers, to bring about the suppression of the abuse of narcotic drugs, by suitable measures, and by the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931, a further obligation was assumed to limit the manufacture of narcotics to those quantities necessary for use as such for medical and scientific needs.

Opium to provide for our medical and scientific needs has been imported from the Near East. The importation, manufacture, and distribution of opium and opium products have been carried out under the Narcotic Drugs Import and Export Act (U. S. C., title 21, secs. 171-185), and the Harrison Narcotic Act (U. S. C., title 26, secs. 2550-2564, 3220-3228).

Recently, however, the production of the opium poppy, which is the source of opium, has been started in certain parts of the United States for the purpose of obtaining poppy seeds for bakery purposes. Your committee has been advised that morphine in a form readily adaptable to abusive use may be, and has been, obtained from the pods or capsules of such poppies by a comparatively simple process. Existing laws, however, do not permit Federal control of the growth of the opium poppy.

The most effective method of controlling the drug traffic is to strike at the source of supply, rather than wait until the drugs become scattered in the illicit market. Under the bill as drawn, it will be unlawful to produce opium poppies or to manufacture opium or opium products from opium poppies except under proper license from the Secretary of the Treasury.

The present World War has made the importation of opium uncertain and has increased our needs and our prospective needs. Opium products are indispensable for medicinal purposes. The need, of course, increases in time of war. It is necessary, therefore, that the United States be assured of a sustained supply of narcotic drugs.

If the United States should not be able to obtain adequate supplies of raw opium from abroad, it would be necessary that this country resort to domestic production of the opium poppy to furnish morphine and other derivatives to supply military and civilian needs. The bill therefore provides for the production of opium poppies and the manufacture of opium and opium products by licensees under Government supervision. The bill, as amended, also provides that whenever the Secretary of the Treasury is of the opinion that the medical and scientific needs of the Nation will not be met by importation or licensed production it shall be his duty to provide for the production of the opium poppy, the manufacture of opium or opium products, and the distribution of opium poppy seed, opium poppies, opium, or opium products by the United States Government.

EXPLANATION OF PROPOSED AMENDMENTS

Section 6 of the bill authorizes the issuance of licenses by the Secretary of the Treasury, and your committee has recommended a proviso to section 6 (d), providing that nothing contained in the bill shall be construed to require the Secretary of the Treasury to issue or renew any license or licenses under the provisions of the bill. This is a clarifying amendment.

Section 10 (a) of the bill as referred to your committee makes it the duty of the Secretary of the Treasury to provide for Government production of the opium poppy and the manufacture of opium or opium products "whenever in his opinion the medical and scientific needs of the Nation require". It is recommended that this be changed to become operative whenever in the opinion of the Secretary of the Treasury "the medical and scientific needs of the Nation will not be

met by importation or licensed production". Your committee believe that the Government should not engage commercially in the production of the opium poppy or the manufacture of opium or opium products unless the Secretary of the Treasury is of the opinion that the medical and scientific needs of the Nation will not be adequately and satisfactorily supplied by importation or by licensed production.

Section 13 (a) of the bill provides penalties for violation of the provisions of the bill or for knowingly violating regulations issued thereunder. Your committee believe that penalties for violation of the provisions of the bill afford adequate sanctions for enforcement and therefore recommend that the provision making violation of a regulation a felony be stricken.

For the further information of the Senate there is attached hereto and made a part of this report a letter to the President of the Senate under the date of March 20, 1942, from the Acting Secretary of the Treasury, transmitting a draft of the proposed legislation and outlining the intent and purposes of the proposal, as follows:

THE SECRETARY OF THE TREASURY,
Washington, March 20, 1942.

THE PRESIDENT OF THE SENATE.

SIR: There is transmitted herewith a draft of a proposed bill to discharge more effectively the obligations of the United States under certain treaties relating to the manufacture and distribution of narcotic drugs, by providing for domestic control of the production and distribution of the opium poppy and its products, and for other purposes.

The major purposes of this proposed legislation may be briefly summarized as follows: (1) To control the domestic production of the opium poppy; and (2) to insure an adequate supply of narcotic drugs for medical purposes in case of national emergency.

This Government is committed to the policy that the use of narcotic drugs be limited to those necessary for medical and scientific purposes. Under the International Opium Convention of 1912 the United States undertook, with some 59 other world powers, to bring about the suppression of the abuse of narcotic drugs, by suitable measures, and by the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931, a further obligation was assumed to limit the manufacture of narcotics to those quantities necessary for use as such for medical and scientific needs. The national legislation and the administrative measures adopted have been directed toward the faithful observance of these obligations.

During the past year there has been an alarming development in that in some sections of the country there has been planted a rather large acreage in opium poppies. Existing laws, being revenue measures, do not permit an effective control of the growth of opium poppies. It has been found that morphine in a form readily adaptable to abusive use may be, and has been, obtained from the ripe pods or capsules of such poppies by a comparatively simple process. The proposed legislation would provide an effective weapon with which to combat by preventive measures this abusive use of narcotic drugs.

All opium for the manufacture of narcotic drugs to supply the medical and scientific needs of the country has heretofore been imported, principally from the Balkans. Present international conditions make it increasingly difficult to obtain this opium, and if the supply is shut off, it will become necessary for the United States to produce its own supply. The proposed bill authorizes such production under strict Government supervision, insuring that there will be no diversion for abusive use.

There follows a more detailed explanation of each of the major provisions of the proposed bill:

- (1) Section 1 states the purpose of the proposed bill.
- (2) Section 2 defines the terms "person," "produce or production," "opium poppy," "opium," and "opium products."
- (3) Section 3 of the proposed bill makes unlawful the production of the opium poppy except under a license duly issued by the Secretary of the Treasury.

(4) Section 4 of the proposed bill makes unlawful the purchase or obtaining of the opium poppy except by persons holding a license from the Secretary of the Treasury. It is further made unlawful to sell, transfer, convey an interest in, or give away the opium poppy to an unlicensed person, except as provided in section 7, relating to poppy seed.

This section further provides that it shall be unlawful to manufacture opium products except under a license issued by the Secretary of the Treasury.

(5) Section 5 of the proposed bill makes unlawful the shipment of opium poppies except by licensed persons, with an exception in favor of common carriers engaged in transporting opium poppies pursuant to an agreement with a person duly licensed. A further exception is provided in favor of employees of licensed persons acting within the scope of their employment.

(6) Section 6 of the proposed bill provides for application to the Secretary of the Treasury for a license to produce the opium poppy or to manufacture opium or opium products, and prescribes the qualifications to be met and upon the consideration of which the Secretary may determine whether a license should be issued.

The section provides that such licenses shall be effective for 1 year, may be renewed, at the discretion of the Secretary of the Treasury, for a like period, and such licenses shall be limited to such number, localities, and areas as the Secretary of the Treasury shall determine to be appropriate to supply the medical and scientific needs of the United States for opium products, with due regard for reasonable reserves.

The Secretary of the Treasury may revoke or refuse to renew any license issued under the proposed bill if, after due notice and opportunity for hearing, he finds such action to be in the public interest, or finds that the licensee has failed to maintain the requisite qualifications.

(7) Section 7 of the proposed bill makes it unlawful to sell, transfer, convey any interest in, or give away opium poppy seed for the purpose of opium poppy production, except to a licensee. It is also made unlawful for an unlicensed person to purchase or obtain opium poppy seed for opium poppy production.

The section further provides that seed obtained from opium poppies produced by licensed producers may be sold or transferred by such licensees to unlicensed persons, and may thereafter be resold or transferred, for ultimate consumption as a spice seed or for the manufacture of oil.

(8) Section 8 provides for the seizure, forfeiture, and disposition by the Government of opium poppies produced or otherwise obtained in violation of the provisions of the proposed bill.

(9) Section 9 provides expressly that nothing in the proposed bill shall be construed to repeal any provision of the Internal Revenue Code, except that the provisions of the Internal Revenue Code relating to stamp tax, order forms, occupational tax, etc., shall not apply to the production, sale, or transfer of opium poppies, when such opium poppies are lawfully produced, sold, or transferred by licensees under the proposed bill, in conformity with the provisions of the proposed bill.

The proposed bill further provides that nothing therein shall be construed to repeal any provision of the Narcotic Drugs Import and Export Act, as amended (U. S. C., title 21, secs. 171-184).

Such amount of opium as is necessary to supply the medical and scientific needs of the United States is now imported under the provisions of the Narcotic Drugs Import and Export Act. In the event of production of opium poppies in this country, the proposed bill provides that the Secretary of the Treasury may correspondingly further restrict the importation of opium, or prohibit its importation entirely.

(10) This section of the proposed bill imposes upon the Secretary of the Treasury the duty, whenever in his opinion the medical and scientific needs of the Nation require, of providing for the production of the opium poppy, for the manufacture of opium, or opium products, and for the proper distribution of opium poppy seed, opium poppies, opium or opium products by the United States Government. The duty thus imposed may be carried out either directly or through and with the approval of the head of any agency of the Government, including any Government-owned or controlled corporation. This section provides the machinery through which the Government may insure an adequate supply of narcotic drugs, in the event it should become impossible to obtain opium from abroad.

The section also exempts officials of the Treasury Department from the provisions of the proposed bill when such officials are, in the performance of their

official duties and within the scope of their authority, engaged in any of the businesses or activities described in the proposed bill, and exempts other officials of the United States Government when authorized by the Secretary of the Treasury to engage in any such businesses or activities.

Moreover, the provisions of the proposed bill are made inapplicable by this section to persons who grow opium poppies for ornamental purposes in a private flower garden or in a public botanical garden.

(11) Section 11 authorizes the Secretary of the Treasury to prescribe all necessary rules and regulations, and to confer or impose any of the rights, privileges, powers, and duties conferred or imposed upon him upon such officers or employees of the Treasury Department as he shall designate or appoint.

The section also imposes upon other departments, bureaus, and independent establishments, when requested by the Secretary of the Treasury, the duty of furnishing such assistance as will aid in carrying out the provisions of the proposed bill.

(12) Section 12 provides that the proposed bill shall apply to the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the Canal Zone, Puerto Rico, and the other insular possessions of the United States.

(13) Section 13 provides penalties for violation of the provisions of the proposed bill and for making a false statement in any application for a license.

(14) Section 14 provides that it shall not be necessary to negative any exemptions set forth in the proposed bill in any complaint, information, indictment, or other writ or proceeding laid or brought under the proposed bill, and the burden of proof of any such exemption shall be upon the defendant. Failure by the defendant to produce an appropriate license is presumptive evidence that such defendant is not duly licensed under the proposed bill.

(15) Section 15 provides that if any provision of the proposed bill be held invalid, the validity of the remainder of the proposed bill shall not be affected thereby.

(16) Section 16 provides for the effective date of the proposed bill.

(17) Section 17 provides that the proposed bill may be cited as the "Opium Poppy Control Act of 1942."

It would be appreciated if you would lay the attached proposed bill before the Senate. A similar bill has been transmitted to the Speaker of the House of Representatives.

This Department has been advised by the Bureau of the Budget that there would be no objection to the submission of this proposed legislation to the Congress.

Very truly yours,

HERBERT B. GASTON,
Acting Secretary of the Treasury.

There also is attached and made a part of this report a letter to the chairman of the Finance Committee under the date of November 17, 1942, from the Secretary of War, recommending passage of the proposed legislation, as follows:

WAR DEPARTMENT,
Washington, November 17, 1942.

Hon. WALTER F. GEORGE,
*Chairman, Committee on Finance,
United States Senate.*

DEAR SENATOR GEORGE: The War Department favors enactment of S. 2405, Seventy-seventh Congress, to discharge more effectively the obligations of the United States under certain treaties relating to the manufacture and distribution of narcotic drugs, by providing for domestic control of the production and distribution of the opium poppy and its products, and for other purposes.

The purposes of this measure are—

(1) To enable the United States to discharge more effectively its obligations under the International Opium Convention of 1912, which relates to the control of raw opium, and the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931;

(2) To protect the public health;

(3) To regulate interstate and foreign commerce in opium and opium products;

(4) To safeguard the revenues derived from opium and opium products;

(5) To prevent diversion of opium for unauthorized purposes by authorizing its production only under Government control and supervision; and

(6) To insure an adequate supply of narcotic drugs for medical and scientific purposes.

By the International Opium Convention of 1912, the United States, with some 60 other world powers, is obligated to aid in the suppression of the abusive use of narcotic drugs. Under the Limitation Convention of 1931, which was ratified by the United States in 1932 and proclaimed by the President July 10, 1933, this Nation assumed further obligations with respect to limiting the manufacture of narcotics to quantities necessary for medical and scientific needs.

The Narcotic Drugs Import and Export Act, approved February 9, 1909, as amended (35 Stat. 614; 21 U. S. C. 171-185), limits the importation of narcotics, including opium and opium products, to such quantities as the Commissioner of Narcotics finds necessary to provide for medical and legitimate uses only, and prohibits the exportation of such narcotics except under stringent regulations and only to countries which have ratified and become parties to the International Opium Convention of 1912.

The Harrison Narcotic Act, approved December 17, 1914, as amended (38 Stat. 785; 26 U. S. C. 2550-2564 and 3220-3228), requires the registration of importers, manufacturers, producers, compounders, dealers, dispensers, and distributors of opium or opium products and the payment by each of a specified occupational tax.

Under that act, a producer is one who produces for sale or distribution any of the narcotic drugs enumerated therein.

There seems to be no existing statute, however, which regulates the growing of the opium poppy in this country, as distinguished from the preparation or production of the narcotic from the raw material.

Opium poppy seeds do not contain narcotics and are widely used for flavoring and decorating bakery products, such as bread and rolls. Such seeds heretofore have been imported freely from European countries in considerable quantities. Due to war conditions, this product is no longer available for commercial use. Considerable impetus to the growing of poppies in this country has followed the domestic shortage of seeds, with the resulting danger of the spreading of illicit distribution of poppy stems and pods, from which a morphine solution used by addicts for the satisfaction of their cravings may be produced by the simple process of boiling.

The War Department is interested primarily in the production of opium and opium products for medical and scientific uses, since it is not charged by law with any responsibility for suppressing, controlling, or regulating opium production, distribution, or use. For these reasons it is not deemed appropriate for this Department to present in this report an analysis of S. 2405, section by section.

Opium and its derivatives have been classified by the War and Navy Departments as critical and strategic materials because they are indispensable in relieving the pain and suffering of the wounded. Since casualties may result to civilians in this country from bombing attacks, the necessity of maintaining a sufficient supply of this drug is not confined to the armed forces.

Accordingly, the War Department favors encouraging the domestic production of the opium poppy, not only for the purpose of providing sufficient quantities of narcotics but for the production in commercial quantities of poppy seeds for flavoring and decorating bakery products. It is not believed wise, however, to encourage production of the opium poppy at the risk of spreading drug addiction. Proper legislative safeguards and controls are deemed essential. It is believed that these are adequately provided for by the proposed legislation.

Individual rights to grow poppies in private flower gardens or in public botanical gardens for ornamental purposes would be protected by section 9 (c) of the bill, which provides that none of the prohibitions contained in the measure shall apply to such growers.

The War Department is unable to estimate the fiscal effect of enactment of S. 2405, but believes that any expense connected therewith would be compensated for by the benefits which would result therefrom.

The Bureau of the Budget advises that there is no objection to the submission of this report to the committee.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

This legislation has been recommended to the Congress by the Treasury Department and has the approval of the Bureau of the Budget. Your committee believe that the legislation is meritorious and recommend its passage with amendments.