

The original documents are located in Box 21, folder “1975/01/04 S1083 Amend Law Relating to Explosives” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

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APPROVED
JAN 4 - 1975

ACTION

THE WHITE HOUSE
WASHINGTON

Last Day: January 4

January 2, 1974

Posted 1/4/75
To ARCHIVES
1/6/75

MEMORANDUM FOR: THE PRESIDENT

FROM: KEN COLE

SUBJECT: Enrolled Bill S. 1083
Amend Law Relating to Explosives

Attached for your consideration is S. 1083, sponsored by Senator Bayh, which would increase the present five pound exemption for individual possession of black powder to 50 pounds so long as it is to be used for sporting, cultural or recreational activities.

ARGUMENTS FOR VETO

Treasury and Justice oppose the legislation on the grounds that the five pound limit is necessary for law enforcement and public safety purposes. Justice reports that black powder is used in over half the non-military bombings and that the increased exemption would result in the non-regulated, continued use of black powder by criminal elements -- but takes a "no objection" position because of Treasury's ability to regulate sales. Treasury recommends veto based on their inability to regulate storage of black powder and because they believe this legislation would undermine effective enforcement of the explosives provisions of the Organized Crime Control Act of 1970.



The black powder exemption is viewed by many as a bellwether on the larger issue of firearm regulation: Bayh's sponsorship coincided with his reelection effort and was an attempt to offset his gun regulation efforts in the previous Session. Justice points out major problems with the legislation, but Saxbe (a renown shotgun marksman) could not bring himself to recommend veto. Treasury's position is basically the gut feeling that the Government ought not to be expanding exemptions when the real need is for further regulation in light of the constantly increasing number of bombing incidents.

ARGUMENTS FOR SIGNING

Black powder is widely used in antique firearms and cannons, and enthusiasts argue the present five pound exemption is inadequate for their needs.

Areeda argues that Treasury's stated position is inadequate to support a veto. Since Treasury has not established that veto is the only way to reduce the risk of unsafe handling, Areeda recommends approval.

Paul O'Neill provides you with additional background information in his enrolled bill report (Tab A).

RECOMMENDATIONS

Approval

Areeda
Baroody

Disapproval

Treasury
Friedersdorf
O'Neill
Cole

No Objection

Justice

DECISION: S. 1083

Sign (Tab C)

A handwritten signature in black ink, appearing to be 'JAC' or similar, written over a horizontal line.

Pocket Veto _____

(Sign memorandum of
disapproval at Tab B)

THE WHITE HOUSE

WASHINGTON

January 4, 1975

MEMORANDUM FOR: THE PRESIDENT

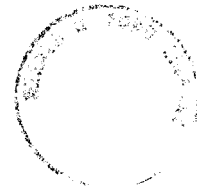
FROM: JACK MARSH

I spoke with Phil Areeda about the Black Powder Bill and I am impressed by the points he made as to why this should be signed.

As you are aware, the public attitude is probably inclined toward a veto. However, there is considerable merit in this legislation. The fact that Justice has no objection from the criminal standpoint carries great weight.

The principal people affected by the limitations are hobbyists who use this in muzzel shooting, etc.

There was tremendous interest generated in support of this legislation on the Hill and I understand it passed the Senate by a vote of 78 to 8. There must have been no real opposition in the House because it apparently passed without a role call. The bill is backed by the nationwide sports groups and the same people who oppose gun control.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 28 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1083 - Amend law relating to
explosives
Sponsor - Sen. Bayh (D) Indiana

Last Day for Action

January 4, 1975 - Saturday

Purpose

To amend the laws relating to black powder.

Agency Recommendations

Office of Management and Budget	Disapproval (Memorandum of disapproval attached)
Department of the Treasury	Disapproval (Memorandum of disapproval attached)
Department of Justice	No objection

Discussion

The Organized Crime Control Act presently regulates the importation, manufacture, distribution and storage of explosive materials. Quantities of black powder not in excess of five pounds are not subject to regulation. The enrolled bill would increase the exemption up to 50 pounds, so long as the black powder is used for sporting, cultural or recreational activities.

Black powder is widely used in antique firearms. The House and Senate Judiciary Committees' reports indicate that public witnesses representing sporting, cultural and recreational organizations supported the legislation or filed supporting statements. These included the North-South Skirmish Association, the Ohio Gun Collectors Association, the National Rifle Association, and the National Muzzle Loading Rifle Association. Justice



and Treasury opposed the legislation, arguing that existing controls were necessary for law enforcement, justified for the public safety, and did not substantially inconvenience legitimate users of black powder.

In its report on the bill, the House Committee comments:

"The current five-pound exemption is replaced by a provision exempting only commercially manufactured black powder in quantities not to exceed fifty pounds, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms. Thus the new exemption would be limited to the circumstances presented to the Committee -- i.e., the lawful sporting user who can use only high-grade, commercially-manufactured black powder in his activities. The bill, therefore, is intended to provide legislative relief tailored to the specific problem presented by the sportsman.

* * *

"The Committee also wishes to stress that the bill will not unduly disrupt the regulatory scheme established under regulations by ATF. The regulations need only be modified so that retailers will be required to keep records of their sales of black powder under the new exemption. Moreover, it is the expectation of the Committee that ATF will promulgate regulations and establish forms to require sporting users to identify themselves on purchase of black powder. Moreover, such ATF regulations could require that a purchaser-sportsman certify by affidavit that he intends to use the black powder for sporting, recreational or cultural purposes. Such a regulatory scheme would identify the purchasers of black powder and would aid in the enforcement of the law and prosecution of violators."

In its report, the Senate Committee comments:

"The Committee believes that the use of explosives to damage property, intimidate, injure, or kill people must be punished swiftly and severely, as provided by present law. However, the Committee recognizes the legitimate sporting purposes of



commercially manufactured black powder and igniters, such as percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches and friction primers. These materials are used by thousands of law-abiding Americans in muzzle-loading rifles and other devices, such as small cannons, which are antiques or replicas of antiques. Because of the present restrictions on black powder, these citizens are seriously hampered in the enjoyment of recreational and competitive activities. The Committee believes that the Congress never intended to inhibit these sportsmen and other legitimate users from obtaining the black powder needed to participate in the antique shooting sports and other related recreational and cultural activities, and recommends that this measure be adopted."

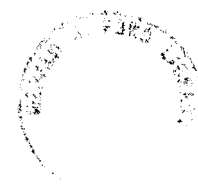
In its views letter on the enrolled bill, Justice indicates it has no objection to approval on the assumption that the Bureau of Alcohol, Tobacco, and Firearms would:

"...regulate the sale of black powder by establishing forms and requiring purchasers to identify themselves... Our discussions with the Bureau of Alcohol, Tobacco and Firearms indicate that such a regulatory scheme will be promulgated by that agency. It is only for this reason that we do not object to approval of this bill."

Treasury in its views letter indicates that the bill would "undermine the effective enforcement of Title XI of the Organized Crime Control Act of 1970." Treasury further states that they are "particularly concerned with the fact that persons possessing up to fifty pounds of black powder...would not be required to store this explosive material in accordance with standards prescribed... This fact could lead to innumerable serious safety hazards..." It believes that the present five-pound exemption is adequate to meet legitimate users' needs.

The basic issue here is one of public safety. The two law enforcement agencies testified or reported against the bill on the grounds that the public safety would be adversely affected but were unable to persuade the committees, apparently because of a lack of supporting data.

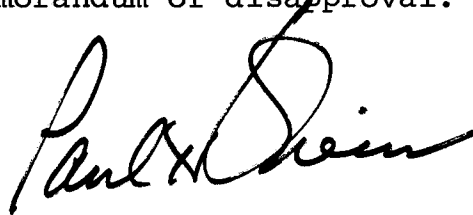
Treasury continues to oppose the bill on public safety grounds and recommends your disapproval. Even though it was unable to persuade the committees, we believe its views and conclusions



on the vital issue of safety should be given great weight, particularly when contrasted with the views of the special interest groups concerned with the bill. We also have taken note of the views of Senator Kennedy who opposed the legislation; those views are printed on pages 13-15 of the Senate report.

Treasury would be the agency principally responsible for implementing the provisions of the enrolled bill and they state that it would undermine the effective enforcement of the law. We have no independent basis for recommending otherwise and accordingly, we concur in their veto recommendation.

We have prepared the attached somewhat edited and shortened version of Treasury's draft of a memorandum of disapproval.

A handwritten signature in cursive script, appearing to read "Paul H. Stein".

Enclosures

Acting

Director

MEMORANDUM OF DISAPPROVAL

I have today withheld my approval from S. 1083 which would amend existing law relating to the regulation of explosives.

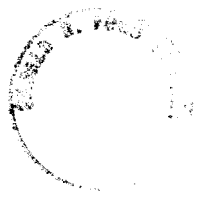
Specifically, existing law exempts from regulation black powder in quantities not to exceed five pounds. S. 1083 would exempt commercially manufactured black powder in quantities not to exceed fifty pounds, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or certain antique devices.

I am troubled by the public safety aspects of the bill -- in particular the section under which a person possessing up to fifty pounds of explosive black powder could store it without regard to regulations issued by the Secretary of the Treasury pursuant to Title XI of the Organized Crime Control Act of 1970. This could lead to serious national safety problems.

I am advised that the present five-pound exemption is adequate to meet the needs of legitimate users. The additional exemption would not, as some have suggested, alleviate the scarcity of black powder.

Therefore, in the interest of public safety and effective law enforcement, I have concluded that S. 1083 would not be in the public interest.

THE WHITE HOUSE,



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

To
W. Andrews
12-28-74

DEC 28 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1083 - Amend law relating to
 explosives
 Sponsor - Sen. Bayh (D) Indiana

Last Day for Action

January 4, 1975 - Saturday

Purpose

To amend the laws relating to black powder.

Agency Recommendations

Office of Management and Budget

Disapproval (Memorandum
of disapproval attached)

Department of the Treasury

Disapproval (Memorandum
of disapproval attached)

Department of Justice

No objection

Discussion

The Organized Crime Control Act presently regulates the importation, manufacture, distribution and storage of explosive materials. Quantities of black powder not in excess of five pounds are not subject to regulation. The enrolled bill would increase the exemption up to 50 pounds, so long as the black powder is used for sporting, cultural or recreational activities.

Black powder is widely used in antique firearms. The House and Senate Judiciary Committees' reports indicate that public witnesses representing sporting, cultural and recreational organizations supported the legislation or filed supporting statements. These included the North-South Skirmish Association, the Ohio Gun Collectors Association, the National Rifle Association, and the National Muzzle Loading Rifle Association. Justice



MEMORANDUM OF DISAPPROVAL

I have today withheld my approval from S. 1083 which would amend existing law relating to the regulation of explosives.

Specifically, existing law exempts from regulation black powder in quantities not to exceed five pounds. S. 1083 would exempt commercially manufactured black powder in quantities not to exceed fifty pounds, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or certain antique devices.

I am ~~concerned about~~ ^{troubled by} the public safety aspects of the bill, ~~and~~ ⁱⁿ particular ~~concerned that~~ ^{The action words which} a person possessing up to fifty pounds ^{explosives} of black powder ~~for the purposes enumerated~~ ^{could store it without regard to} ~~in the bill would not be required to store this highly unstable explosive material in accordance with regulations issued by the Secretary of the Treasury pursuant to Title XI of the Organized Crime Control Act of 1970. This could lead to serious safety hazards throughout the Nation.~~ ^{national problems.}

I am advised that the present five-pound exemption is adequate to meet the needs of legitimate users, ~~and that the~~ ^{The} additional exemption would not, as some have suggested, alleviate the scarcity of black powder, ~~which legitimate black powder users face.~~

Therefore, in the interest of public safety and effective law enforcement, I have concluded that S. 1083 would not be in the public interest.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 893

Date: December 28, 1974

Time: 7:00 p.m.

FOR ACTION: Geoff Shepard
Max Friedersdorf
Phil Areeda
Paul Theis

cc (for information): Warren Hendriks
Jerry Jones
Jack Marsh

gc 12/30/74 *ou* *MS*

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 30

Time: 1:00 p.m.

SUBJECT:

Enrolled Bill S. 1083 - Amend law relating to explosives

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

1974 DEC 30 AM 8 44

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren A. ...
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 893

Date: December 28, 1974

Time: 7:00 p.m.

FOR ACTION: Geoff Shepard
Max Friedersdorf *veto*
Phil Areeda *2197*
Paul Theis ✓

cc (for information): Warren Hendriks
Jerry Jones
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 30

Time: 1:00 p.m.

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___ Draft Remarks

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K. R. COLE, JR.
For the President

THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR: WARREN HENDRIKS
FROM: *Max L. Friedersdorf* MAX L. FRIEDERSDORF
SUBJECT: Action Memorandum - Log No. 893
Enrolled Bill S. 1083

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment



Department of Justice
Washington, D.C. 20530

DEC 23 1974

Honorable Roy L. Ash
Director, Office of Management and Budget
Washington, D.C. 20503

Re: Enrolled Bill - S. 1083

Dear Mr. Ash:

In compliance with your request, I have examined a facsimile of the Enrolled Bill S.1083, "to amend certain provisions of Federal Law relating to explosives."

During the legislative hearings pertaining to this bill, the Department of Justice continually expressed its concern over the impact that S. 1083 would have upon the enforcement of the provisions of Title 18, Chapter 40, United States Code, relating to the importation, manufacture, distribution and storage of explosive materials. S. 1083, as reported by the Senate, would have allowed nearly unlimited purchasing of black powder, thereby increasing its use by the criminal element as a filler ingredient in the manufacture of explosive devices. Black powder was the explosive filler ingredient in 129 of a total 249 nonmilitary blast and fragmentation explosive devices reported during the period of January 1, 1974 through June 30, 1974, according to figures compiled by the National Bomb Data Center. These figures, coupled with the increasingly easy availability of black powder, led the Department of Justice to the conclusion that S. 1083 would result in the non-regulated, continued use of black powder by the criminal element.

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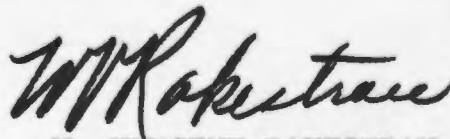
However, the House Report on S. 1083 indicates that Congress expects the Bureau of Alcohol, Tobacco and Firearms to regulate the sale of black powder by establishing forms and requiring purchasers to identify themselves.

"Moreover, it is the expectation of the Committee that ATF will promulgate regulations and establish forms to require sporting users to identify themselves on purchase of black powder. Moreover, such ATF regulations could require that a purchaser-sportsman certify by affidavit that he intends to use the black powder for sporting, recreational or cultural purposes. Such a regulatory scheme would identify the purchasers of black powder and would aid in the enforcement of the law and prosecution of violators." (House of Representatives, Report Number 93-1570, p.5).

Our discussions with the Bureau of Alcohol, Tobacco and Firearms indicate that such a regulatory scheme will be promulgated by that agency. It is only for this reason that we do not object to approval of this bill.

Accordingly, the Department of Justice has no objection to Executive approval of this bill.

Sincerely,



W. VINCENT RAKESTRAW
Assistant Attorney General

THE WHITE HOUSE

WASHINGTON

December 30, 1974

MEMORANDUM FOR: PHILLIP AREEDA

FROM: KEN LAZARUS

SUBJECT: Enrolled Bill S. 1083 -
Amend Law Relating
to Explosives

The memorandum and supporting documents on the referenced bill do not recite the arguments supporting approval of the measure. These may be outlined as follows:

1. Commercial black powder ceilings are inapposite of the problem of criminal bombings. (a) The components of commercial black powder can be purchased lawfully in unrestricted amounts and easily converted into explosives. (b) Although 18% of criminal bombings involve the utilization of black powder, almost all of these cases involve privately produced black powder, the components of which are purchased lawfully in unrestricted amounts. (c) Even a five-pound limitation does not discourage the utilization of commercial black powder for incendiary devices - pipe bombs do not require more than five pounds of the explosive.
2. The five-pound limitation is not adequate to meet the expressed needs of cannon and muskett sportsman. (a) Under current regulations, the five-pound limit prohibits a group of sportsman from transporting in the aggregate more than five pounds in a common vehicle. (b) One cannon shot involves the use of approximately one pound of powder. Half-day muskett skirmishes often require fifteen pounds of powder per person.
3. Realistic concerns over safe storage ^{might}~~can~~ be met under separate authority. Although there are currently no restrictions on personal

storage of black powder, gasoline, nitric fertilizers and other volatile substances, the Product Safety Commission ^{may be} empowered to promulgate needed regulations.

~~4. Bicentennial interests. There will be an increased public interest in events requiring black powder during the upcoming bicentennial celebration.~~





THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

DEC 24 1974

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative
Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of S. 1083, "To amend certain provisions of Federal law relating to explosives."

The enrolled enactment would amend section 845(a)(5) of title 18 United States Code (relating to exemptions from certain provisions of Federal law relating to explosives), which section presently exempts black powder in quantities not to exceed five pounds, to exempt commercially manufactured black powder in quantities not to exceed fifty pounds, and certain explosive devices, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or certain antique devices. It would also amend the definition of destructive device in the Gun Control Act of 1968 to exclude a rifle which the owner intends to use solely for recreational or cultural purposes.

The Treasury Department opposes this legislation. We are particularly concerned with the fact that persons possessing up to fifty pounds of black powder for the purposes enumerated in the bill would not be required to store this explosive material in accordance with the standards prescribed in 26 C.F.R. §§ 181.161 - 181.200, which regulations were promulgated pursuant to 18 U.S.C. §§ 842(j) and 847. This fact could lead to innumerable serious safety hazards throughout the nation. Furthermore, we believe that the present five pounds exemption is adequate to meet the needs of legitimate users. The additional exemption would not alleviate

the scarcity of black powder which legitimate users face. Finally, we believe the bill would undermine the effective enforcement of Title XI of the Organized Crime Control Act of 1970.

Therefore, in view of final adjournment of the 93rd Congress, the Department recommends that the enrolled enactment not be signed by the President. In that regard, a draft statement for issuance by the President is enclosed.

Sincerely yours,



Richard L. Hubbard
General Counsel

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 893

Date: December 28, 1974

Time: 7:00 p.m.

FOR ACTION: Geoff Shepard
Max Friedersdorf
Phil Arceda
Paul Theis

cc (for information): Warren Hendriks
Jerry Jones
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 30

Time: 1:00 p.m.

SUBJECT:

Enrolled Bill S. 1083 - Amend law relating to explosives

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

The Treasury letter does not make an adequate case for veto. Since Justice is satisfied on the crime front (and see point #1 of Lazzarus memo) the Treasury argument comes down to the question of safe handling and does not establish that veto is the only way to reduce the risk of unsafe handling. Sign.

P. Arceda

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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Warren R. Hendriks
For the President

THE WHITE HOUSE

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Warren R. Hendriks
For the President

AMENDMENTS OF 1973 TO FEDERAL LAWS RELATING TO EXPLOSIVES

JUNE 28 (legislative day, JUNE 25), 1973.—Ordered to be printed

Mr. BAYH, from the Committee on the Judiciary,
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 1083]

The Committee on the Judiciary, to which was referred the bill (S. 1083) to amend certain provisions of Federal law relating to explosives, having considered the bill, reports favorably on it, with an amendment in the nature of a substitute, and recommends that the bill, as amended, pass.

AMENDMENT

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as "Amendments of 1973 to Federal Law Relating to Explosives".

Sec. 101. Section 845(a) of title 18 of the United States Code (relating to exemptions from certain provisions of Federal law relating to explosives) is amended by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) Commercially manufactured black powder, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational or cultural purposes in antique firearms as defined in section 921(a) (16) of title 18 of the United States Code, or in antique devices as exempted from the term 'destructive device' in section 921(a) (4) of title 18 of the United States Code; and".

Sec. 102. Section 921(a) (4) of title 18 of the United States Code is amended by inserting after the word "sporting" in the last sentence the following: ", recreational or cultural".

PURPOSE OF THE COMMITTEE BILL

The bill, S. 1083, with an amendment in the nature of a substitute, is designed to exempt black powder and certain igniters used in antique weapons from the regulatory provisions of Title XI of the Organized Crime Control Act of 1970 (P.L. 91-452, 84 Stat. 958). As originally introduced by Senator Bayh, the bill removed the licensing, permit, transportation, and storage restrictions from commercially manufactured black powder and certain igniters intended to be used solely for sporting purposes. The Committee amendment extends the black powder and igniter exemption to include not only sporting purposes but also cultural and recreational purposes in the definition of the permissible uses of these materials. Its purpose is to permit the unrestricted use of commercially manufactured black powder in antique firearms, as defined in Title IV, State Firearms Control Assistance, of the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 62 Stat. 743), and in antique devices, such as small, muzzle-loading cannons, as exempted from the term "destructive device" in the Gun Control Act of 1968 (P.L. 90-618, 82 Stat. 1214).

LEGISLATIVE HISTORY

The issue of black powder regulation is not new to this Committee or to the Senate. In the 91st Congress, Senators McClellan and Hruska introduced a bill, S. 3650, to strengthen the Federal laws concerning the illegal use, transportation, and possession of explosives. During consideration of this measure, the Committee recognized the overly-broad scope of its provisions with regard to ammunition and materials used for sporting purposes. The Committee Report on S. 3650 notes that:

* * * the broad scope of the bill as originally introduced would have resulted in needlessly penalizing law abiding sportsmen who, because of the expense involved in purchasing ammunition and as a hobby, hand load their own shells to be used for legitimate sporting purposes. In addition, over 10,000 of our citizens legitimately use black powder, smokeless powder, primers and percussion caps in connection with sporting activities involving muzzle loaded rifles and other guns. To meet this problem, Senator Schweiker (cosponsored by 27 other Senators) introduced amendment No. 728 to S. 3650 (See 116 Cong. Rec. S. 9559 (daily ed. June 23, 1970)), and others contacted the subcommittee. Consequently, language has been added to the bill that would exempt from its coverage these kinds of legitimate sporting activities. (Senate Report 91-1215, 91st Cong., 2d. Sess., pp. 8-9 (1970)).

While Senator Schweiker's amendment (No. 728) referred to in the Committee report provided an exemption for black powder in amounts not to exceed six pounds for use for lawful sporting purposes, the bill as reported by the Committee contained a complete exemption for black powder by excluding small arms ammunition and components intended for use therein from the definition of explosive.

The Senate accepted without debate the Committee amendments and adopted the bill by a vote of 68-0 on October 8, 1970. However, both Houses passed separate bills, with the Senate finally adopting the House version which did not give adequate recognition to the use of black powder for sporting purposes. Thus, despite the language of the explosives law as finally enacted, the legislative history of this important measure clearly indicates that the Senate thoroughly considered the issue of exempting black powder for sporting purposes and acted favorably upon such an exemption.

On March 1, 1973, Senator Bayh introduced S. 1083. The Subcommittee on Criminal Laws and Procedures, of which Senator McClellan is Chairman, reported this bill, with an amendment in the nature of a substitute (discussed above), to the full Committee on June 1, 1973. Because of certain questions raised in Subcommittee about the bill, full Committee hearings were conducted on June 12, 1973, chaired by Senator Bayh on behalf of Chairman Eastland. On June 20, 1973, the Committee reported the bill without further amendment.

NEED FOR LEGISLATION

The use of antique firearms and replicas of antique rifles and cannons is an integral part of the sporting, cultural and recreational life of this country. Muzzle-loading rifles are used at meets throughout the nation by organizations such as the National Muzzle Loading Rifle Association and the North-South Skirmish Association. These include both team and individual competitions using various types of Civil War weapons and other antique firearms. Antique or replica muzzle-loading cannons are also used nationwide by various civic, Boy Scouts, and veterans groups in a variety of ceremonies, including flag-raising, centennial, sesquicentennial, and Fourth of July celebrations. Moreover, they are used by symphony orchestras in the performance of classical music, such as Tchaikovsky's "1812 Overture." In addition, replicas are manufactured for historical groups and associations for use on historical restorative projects throughout the country.

Under present Federal law, the purchase, possession, storage and transportation of black powder in amounts larger than five pounds as well as certain igniters are subject to extensive regulation, resulting in serious hardships for the many thousands of Americans who use these materials for recreational, cultural, and sporting purposes. The Committee bill would remove these burdens without affecting in any way the strict criminal penalties for the misuse of explosives including black powder and igniters.

The Committee believes that the use of explosives to damage property, intimidate, injure, or kill people must be punished swiftly and severely, as provided by present law. However, the Committee recognizes the legitimate sporting purposes of commercially manufactured black powder and igniters, such as percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches and friction primers. These materials are used by thousands of law-abiding Americans in muzzle-loading rifles and other devices, such as small cannons, which are antiques or replicas of antiques. Because of the present restrictions on black powder, these citizens are seriously hampered in the

enjoyment of recreational and competitive activities. The Committee believes that the Congress never intended to inhibit these sportsmen and other legitimate users from obtaining the black powder needed to participate in the antique shooting sports and other related recreational and cultural activities, and recommends that this measure be adopted.

HEARINGS ON THE COMMITTEE BILL

On June 12, 1973, the Committee conducted hearings on S. 1083, as reported by the Subcommittee on Criminal Laws and Procedures. Eight witnesses testified, representing sporting, cultural, and recreational organizations which use black powder as an integral part of their activities. The Administration was represented by three witnesses from the Alcohol, Tobacco and Firearms Bureau of the Treasury Department and by three witnesses from the Justice Department. All of the public witnesses agreed that the present restrictions on black powder and certain igniters imposed excessive burdens on those who participate in the antique shooting sports and in cultural and historical activities involving antique weapons. These witnesses urged the enactment of the Committee bill in order to ensure the future of these activities, which they believe are an essential part of the cultural and sporting heritage of this country. The Administration witnesses opposed removing the present restrictions on black powder, arguing that these restrictions are necessary to law enforcement efforts to curtail bombing incidents.

Public Witnesses

The National Muzzle Loading Rifle Association, an American heritage shooter-sportsman organization of over 17,500 members, was represented by Lt. Col. Vaughn K. Goodwin, the President, and the Honorable Gary Butler, a member of the Board of Directors. They testified about the difficulties created by the present restrictions on black powder, particularly for the participants in their National Matches. Because of the amount of black powder needed per shot, five pounds of black powder, which is exempted under present law, is inadequate for two days competition with muzzle loading shotguns or large bore rifles. Furthermore, the types of antique weapons their members use require the finest shooting grade of commercially manufactured black powder propellant. As a result of the regulations imposed on the distribution of black powder under the 1970 law, dealers are no longer willing to sell black powder, which formerly was carried as a courtesy item. Thus, the availability of high grade propellant has been drastically reduced while the price per pound has sky-rocketed—from \$1.50 per pound in 1970 to \$7.00 per pound today. Lt. Col. Goodwin and Mr. Butler urged the enactment of the Committee bill:

This exemption would remove the restriction on the black powder shooting sportsman and place the burden where it should be on the criminal bomber. This exemption would permit the honest citizen shooter to obtain his commercial black powder propellant without harassment, and provide an inducement to domestic production of sporting grades of black

powder. * * * Above all we urge the passage of this exemption to keep alive this truly American heritage sport of muzzle loading shooting.

The Indiana Sportsmen's Council was represented by Mr. J. Paul Barnett, the Northern Vice President, and Mr. Al Cors, Jr., the Southern Vice President. They testified that the present restrictions on black powder have critically endangered the survival of the antique shooting sports. As Mr. Cors told the Committee,

The sportsman finds himself in a position where he can buy five pounds of black powder under the law but he can't find an ounce because the law has driven the retailers out of the powder business. * * * The sportsman and the public have found that even their safety has been threatened by the law as many shooters have found out the hard way that homemade black powder and smokeless powder are extremely dangerous substitutes for sporting black powder.

These witnesses also pointed out that while black powder is involved in only a small percentage (about 3%) of reported bombings, the person intent on using black powder for criminal purposes can make his own black powder from easily obtainable, inexpensive, and completely exempt materials—sulfur, saltpeter, and charcoal. Moreover, readily available materials, such as gasoline and ammonium nitrate fertilizer, which are subject to a user intent exemption under the Federal explosives law, have a much higher incidence in criminal activities.

Mr. Barnett, a manufacturer of replicas of antique ordnance, described the difficulties he has experienced since the adoption of the black powder restrictions in obtaining the high quality black powder needed to fire antique cannons in symphonic performances, such as Tchaikovsky's "1812 Overture." Not only is an adequate supply virtually unobtainable, but the quality of the black powder is also uncertain. As a result, cultural activities involving the use of antique weapons, which are enjoyed by many thousands of Americans, have been severely impeded. Mr. Barnett concluded that "the law has crushed the lame but workable system of supply on which antique sportsmen have had to depend for more than a generation. There are many honorable people now out of supplies, or facing vastly multiplied prices in order to obtain bare amounts. There are no such bombers."

The additional views to this report contend that the resumed domestic commercial production of black powder will supply amounts more than adequate to meet the needs of sportsmen. Mr. Dale Lamb, Vice President and Treasurer of Gearhart-Owen Industries, informed the Committee that his company plans to produce 300,000 pounds of black powder for sporting purposes in the next twelve months, rather than the one million pounds cited in the additional views. Furthermore, the President of Gearhart-Owen Industries, Mr. Harrold D. Owen, in a letter of June 18, 1973, to Mr. J. P. Barnett, Vice President of the Indiana Sportsmen's Council, states that:

But the greatest access problems among sportsmen lie nearer field level, which is precisely where it is least possible for us to assist. That is where the sportsmen's traditional sys-

tem of courtesy dealers and mutual assistance has always played such an important part.

In the continued disruption of that system by the Organized Crime Control Act of 1970, widespread field-level shortages and inflated prices will remain substantially unremedied by resumed production.

Under the proposed exemption, the traditional system of sporting supply could be revived to the benefit of sportsmen.

Application of the proposed exemption only to commercially manufactured black powder is a particularly good feature, since it does close a present loophole allowing easy clandestine access through the simple expedient of home manufacture.

We support the efforts of your organization and others to get the five pound limit lifted for legitimate sporting use of commercially manufactured black powder.

The Committee concludes that although sporting grade black powder will soon be manufactured domestically, this fact will neither materially affect the limited availability of commercially manufactured black powder to the sportsman nor will it substantially reduce the inflated prices.

Mr. Richard Corrigan, President of the North-South Skirmish Association, testified that more than 100,000 Americans participate in the antique shooting sports, although many do not belong to any formal shooting sports organizations. He told the Committee that cultural, recreational, and sporting activities involving commercially manufactured black powder are seriously endangered by the existing restrictions on black powder. Addressing himself to the question of the criminal misuse of black powder, Mr. Corrigan testified that:

* * * Information obtained from the Bomb Data Center of the International Association of Chiefs of Police reveals that during the period of July 1, 1970 through December 31, 1971, there were 3,841 bomb devices employed by terrorists in the United States. Of this number only 149 used what is termed "blackpowder!" Those who collected the data did not differentiate between "home-made blackpowder," which any of us can make from readily available sources, and the scarce shooting grades, thus it can not be asserted that our propellant alone is the bomb filler. In fact, the 149 cases of black powder bomb filler out of nearly four thousand bomb devices clearly establishes the infrequent use of this substance called blackpowder—home-made or commercial—as a bomb filler and provides ample justification for amending Title XI * * *. It is futile and grossly unfair to restrict the "life-blood" of black powder shooting sports in the fact of evidence which demonstrates the infrequent use of any form of black powder (home-made or shooting grades) for bomb filler.

In addition to discussing the difficulties in obtaining high quality black powder described by earlier witnesses, Mr. Corrigan pointed out that the permit options available to black powder users are in fact complicated, confusing, and, for the most part, unworkable:

* * * Worse yet, they are a "Catch-22!" To purchase in quantities over five pounds one must have a permit. Before he can obtain a permit, however, he must have a magazine which has to be constructed to exacting specifications and personally inspected by an ATF agent. Should he comply with the above, he still may be greatly constrained. While there are several permits, only a dealer's permit allows him to sell or give propellant to anyone, even if they are members of his immediate family or shooting club. Those who assert that the present law is workable are obviously those who do not seek to purchase or to use blackpowder propellant.

Mr. Corrigan, on behalf of his organization and the many thousands of Americans who participate in the antique shooting sports, urged the Congress to enact the Committee bill.

The National Rifle Association was represented by Dr. C. R. Guter-muth, President, accompanied by Mr. Jack Basil, Manager of the NRA Legislative Information Service, and Col. E. H. Harrison, Senior Technical Adviser. Dr. Guter-muth testified that the NRA numbers among its more than a million members many thousands of muzzle-loading shooters who pursue their sport on the target range, in the hunting field, and in historic shooting events. The NRA strongly supports the proposed exemption of commercially manufactured black powder because "the future of countless numbers of organized and unorganized muzzle-loading shooters hangs in the balance because of the present severe restrictions of the federal explosives law of 1970." Dr. Guter-muth pointed out that many materials which present a far greater hazard than black powder are easily available, in abundant supply, and are not covered by the federal explosives law. He cited in particular gasoline, cleaning solvents, bleaching powders, and ammonium nitrate fertilizer, which was used to blow up the mathematics research building at the University of Wisconsin a few years ago. Dr. Guter-muth concluded that enforcement of existing criminal laws governing the misuse of black powder provides a far more appropriate method of curtailing bombing incidents than the present severe regulatory restrictions imposed on those who need commercially manufactured black powder for legitimate sporting, cultural, and recreational purposes.

Administration Witnesses

The Administration was represented by Mr. Rex Davis, Director of the Bureau of Alcohol, Tobacco, and Firearms, Department of Treasury, accompanied by Mr. Robert Dexter, Explosive Enforcement Analyst, and Mr. Marvin Dessler, Chief Counsel's Office; and by Mr. Malcolm Hawk, Acting Associate Deputy Attorney General, accompanied by Mr. John Kane, Criminal Division, and Mr. Jim Bentzer, Legislative Affairs Division, Department of Justice. These witnesses opposed enactment of the Committee bill on the grounds that the existing regulatory restrictions on commercially manufactured black powder are necessary to law enforcement efforts to curtail bombings and that the present five pound exemption for black powder adequately protects the interests of sportsmen.

While Mr. Davis testified to the ATF criminal enforcement accomplishments under Title XI of the Organized Crime Control Act of 1970, he was unable to cite figures regarding the specific number of cases involving commercially manufactured black powder forwarded to the Justice Department for violations of licensing, permit, storage, and record-keeping requirements of Title XI. In fact, Mr. Davis testified that "ATF does not keep statistics on the actual number of cases brought and convictions obtained under Title XI which involve black powder because such statistics have little or no impact in the law enforcement area." Mr. Hawk was also unable to supply statistics on the number of cases prosecuted by the Justice Department and convictions obtained for violations of the regulatory provisions of Title XI involving black powder. Consequently, the Committee believes that the Administration's position that these regulatory provisions are necessary to curtail black powder bombings cannot be substantiated. Indeed, all the evidence would indicate that the few black powder bombs reported are made from home-made black powder. In light of the fact that commercially manufactured black powder is so difficult to obtain, it is highly probable that persons intent on using black powder to make bombs resort to home manufacture of black powder. Regulation of home-made black powder will not be affected by the Committee bill.

As Senator Bayh, the acting Committee Chairman, explained to the Administration witnesses, the Committee bill does not propose the removal of all restrictions on black powder. It does not affect the criminal penalties for criminal misuse of black powder under Section 844, nor does it exempt black powder from the Department of Transportation Regulations issued pursuant to Section 834 of Title 18. Neither does S. 1083 affect in any way Title II of the National Firearms Act (Section 5861 of Title 26). State laws regarding the possession, purchase, storage, and use of black powder would also be unaffected by S. 1083.

Mr. Davis cited statistics maintained by the ATF Bureau relative to the types of explosives used in bombing incidents in order to show that black powder bombs present a substantial threat to the public safety. These figures show that in Fiscal Year 1972, 100 black powder bombs were reported, and in Fiscal 1973, 79 black powder bombs were reported. In both years, black powder bombs represented 18% of the total number of bombs reported. Mr. Hawk also referred to these statistics in his testimony. Nevertheless, these statistics do not distinguish between commercially manufactured and home-made black powder bombs. As noted above, the Committee believes that these bombings involve home-made black powder.

Moreover, these statistics vary considerably from those supplied by the National Bomb Data Center study, which was conducted from July 1970 through February 1972 by the International Association of Chiefs of Police. This study was based on newspaper reports of bombings and field reports from law enforcement personnel, including FBI and ATF agents. According to their reports, during the period July 1, 1971 through February 28, 1972, a total of 66 black powder bombs were reported out of a total of 1,634 bombs, or about 4.04%. These statistics, too, do not distinguish between home-made and commercially manufactured black powder.

The representatives of both the Treasury Department and the Justice Department testified that the regulatory laws governing black powder in amounts greater than five pounds are useful in keeping commercially manufactured black powder out of the hands of criminals. However, as noted above, neither Department has statistical evidence to substantiate this position, nor do they maintain data on the number of commercially manufactured black powder bombs which contain five pounds of black powder or less—amounts which are exempt from the existing law. They also indicated that permitting free access to commercially manufactured black powder would make more likely its destructive use.

However, a comparison of the number of bombings reported by the National Bomb Data Center for the eight month period preceding the effective date of the Title XI regulatory provisions governing black powder (February 12, 1971) with the eight month period following the effective date shows that the number of black powder bombs increased, as did the total number of bombs. Thus, during the period July 1, 1970 through February 28, 1971, the Center recorded 50 black powder bombs out of a total 1,261 bombs. During the following eight month period, March 1, 1971 through November 30, 1971, 71 black powder bombs were recorded out of a total 1,918 bombs. These figures do not bear out the argument of the Administration witnesses that the regulatory provisions serve to prevent the destructive use of commercially manufactured black powder.

CONCLUSION

The Committee recommends that the regulatory restrictions imposed by Title XI of the Organized Crime Control Act of 1970 on commercially manufactured black powder and certain igniters used in antique weapons for cultural, sporting, or recreational purposes, be removed, as proposed in the Committee bill.

Costs

The Committee estimates that there would be no costs incurred by enactment of the Committee bill.

SECTION-BY-SECTION ANALYSIS

Section 101 amends section 845(a) of title 18 of the United States Code (relating to exemptions from certain provisions of Federal law relating to explosives) by inserting new language in paragraph (5) to clearly exempt commercially manufactured black powder, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational or cultural purposes in antique firearms or in certain antique devices.

Section 102 amends section 921(a)(4) of title 18 of the United States Code by the addition of language to exempt from the term "destructive device" antique devices such as small, muzzle-loading cannons used for recreational and cultural purposes.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

CHAPTER 40.—IMPORTATION, MANUFACTURE, DISTRIBUTION AND STORAGE OF EXPLOSIVE MATERIALS

* * * * *

§ 845. Exceptions; relief from disabilities

(a) Except in the case of subsections (d), (e), (f), (g), (h), and (i) of section 844 of this title, this chapter shall not apply to:

(1) any aspect of the transportation of explosive materials via railroad, water, highway, or air which are regulated by the United States Department of Transportation and agencies thereof;

(2) the use of explosive materials in medicines and medicinal agents in the forms prescribed by the official United States Pharmacopeia, or the National Formulary;

(3) the transportation, shipment, receipt, or importation of explosive materials for delivery to any agency of the United States or to any State or political subdivision thereof;

(4) small arms ammunition and components thereof;

[(5) black powder in quantities not to exceed five pounds; and]

(5) *commercially manufactured black powder, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational or cultural purposes in antique firearms as defined in section 921(a)(16) of title 18 of the United States Code, or in antique devices as exempted from the term "destructive device" in section 921(a)(4) of title 18 of the United States Code; and*

(6) the manufacture under the regulations of the military department of the United States of explosive materials for, or their distribution to or storage or possession by the military or naval services or other agencies of the United States; or to arsenals, navy yards, depots, or other establishments owned by, or operated by or on behalf of, the United States.

* * * * *

CHAPTER 44.—FIREARMS

§ 921. Definitions

(a) As used in this chapter—

* * * * *

(4) The term "destructive device" means—

* * * * *

The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684 (2), 4685, or 4686 of title 10; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, *recreational or cultural* purposes.

* * * * *

ADDITIONAL VIEWS OF SENATOR KENNEDY

In 1970 Congress enacted Title XI of the Organized Crime Control Act. The stated purpose of Congress in enacting Title XI was to reduce the hazard to persons and property arising from misuse and unsafe or insecure storage of explosive materials. Exempt from Title XI was the licensing, transportation and storage of up to 5 lbs. of black powder. This exemption was made in deference to the sporting users of black powder.

Earlier this month hearings were held on S. 1083, a bill to exempt black powder from the permit, licensing and storage provisions of Title XI of the Organized Crime Control Act. It is my firm belief that the exemptions for black powder now in effect, under Title XI are sufficient to adequately meet the needs of those persons who want to use black powder for legitimate sporting purposes.

I am aware of the efforts of groups like the National Muzzle Loading Rifle Association and the North-South Skirmish Association in holding reenactments of battles of the Revolutionary period and other historical and cultural programs. It is not my purpose in opposing S. 1083, to cause undue hardship or harassment to those who pursue their recreational or cultural endeavors in this manner. Indeed, that is not the intent of Title XI. The intent of that law is to restrict the availability of large quantities of a very unreliable explosive.

It has been argued by some, who support this amendment, that since black powder is so unreliable as an explosive it is not sought after as a blasting agent by terrorists and bombers. This is not the case.

The Alcohol, Tobacco and Firearms Bureau of the Department of the Treasury maintains statistics about bombing incidents and the type of explosive used. According to the Department between July 1, 1971 and June 30, 1972, there were a total of 542 explosive bombings in the United States. Black powder bombs were used in 18% or 100 of these cases. Subsequently, between July 1, 1972 and May 31, 1973, 409 explosive bombings, were reported and 79 of these or (18%) were caused by black powder bombs. These bombing incidents, both malicious and accidental, occurred in every type of community in our society, from explosions in high schools to the planned ambush of police officers answering a call for help, to the planned assassination of two men in a car and the accidental maiming of a 15 year old boy. All of this destruction and suffering was caused by the so-called harmless black powder. How many more incidents could be added to the list if this dangerous explosive were once again exempted from licensing, storage and transport regulation.

Another argument leveled at those who would like to see dangerous explosives strictly controlled, contends that 5 lbs. of black powder is not a sufficient amount to meet the needs of some sportsmen. According to ATF's statistics a person shooting a medium bore firearm can get

approximately 440 shots from 5 lbs. of black powder. Cannons require varying amounts depending on the model and size but there are approximately 20 shots per 5 lb. canister.

I believe the 5 lb. limit adequately meets the needs of the average recreational sportsman. There are, however, some enthusiasts who shoot muzzle loading weapons in competition matches and other events that would require an excess of 5 lbs. of black powder. When users desire to acquire or transport black powder in quantities exceeding 5 lbs., a user-limited permit may be obtained if the user fills out a proper application and meets the necessary qualifications. These qualifications prohibit the sale of black powder to persons under 21, fugitives under indictment for a crime and those who are mentally deranged or drug addicted.

The fee for the users license is not restrictive. If the user wants the permit for a single transaction the fee is \$2.00. The user may also apply for a yearly permit which is \$20.00 for the first year and \$10.00 annually for each renewal.

Proponents of S. 1083 also complain about the regulations concerning the storage of black powder. As stated in Title XI, there are no storage regulations placed on black powder in quantities of less than 5 lbs. The regulations concerning the storage of black powder in excess of 5 lbs. are essential because of the instability of the explosive. This of course does not mean the less that 5 lbs. of black powder is not extremely dangerous. According to ATF: "black powder is a mass detonating explosive most of which can be expected to explode virtually instantaneously when a small portion is subjected to fire, to severe concussion or impact, to the impulse of an initiating agent, or to the effect of a considerable discharge of energy from without. Such an explosion will normally cause severe structural damage to adjacent objects or simultaneous detonation of other separated ammunition and explosive if stored sufficiently close to the initially exploding material. The untrustworthiness of black powder cannot be overemphasized."

For the safety of the persons directly associated with the use of black powder as well as the safety of the public in general, it is essential that we maintain at least the present regulations for storing large amounts of this dangerous explosive. Storage of black powder in excess of 5 lbs. must meet federal standards. Title XI requires that black powder in excess of 5 lbs. may be stored in a building, a tunnel, a dug-out, a box, a trailer or semi-trailer or other mobile facility which is resistant to fire, weather and theft. These regulations are based on mere common sense and in no way can be construed as being overly restrictive. To exempt the storage of large amounts of this explosive from any regulations, as S. 1083 would have us do, would subject the public to unnecessary fear and anxiety for the safety of their lives and property.

The most common argument used by proponents of S. 1083 is that the enactment of Title XI has severely reduced the production and availability of commercial black powder. While there has been a substantial reduction in the production of commercial black powder the reduction was well under way before enactment of Title XI. After an explosion at the DuPont plant in Moosic P.A. in 1971, the company decided to restore the facility only to fulfill a military contract.

The DuPont black powder plant has since been sold to the Gearhart-Owens Co. I contacted the plant manager and he assured me that the production of commercial black powder is underway and will be available to authorized persons beginning sometime in July, 1973. The company expects to produce approximately one million lbs. of black powder per year. This huge amount is more than adequate to supply the needs of sportsmen requiring commercially produced black powder. I was also told that the powder would be selling from between \$1 and \$2.50 a lb. depending on the quality. This would bring price of powder down to pre-1971 standards.

At a time when there is a public mandate to control the use of instruments of death and destruction, we should not repeal existing laws that protect the welfare of society.

Title XI is a necessary provision of the Organized Crime Control Act of 1970. If Title XI prevents the maiming of one innocent child, it is well worth the slight inconvenience it may cause a few sportsmen. I firmly believe that Title XI is in the best interest of the American people and must not be repealed.

○

AMENDMENTS OF 1974 TO FEDERAL LAWS RELATING TO EXPLOSIVES

DECEMBER 11, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 1083]

The Committee on the Judiciary, to whom was referred the bill (S. 1083) to amend certain provisions of Federal law relating to explosives, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

On the first page, line 10, insert "in quantities not to exceed fifty pounds" after "powder" and before the comma.

PURPOSE

The purpose of the legislation is to exempt commercially manufactured black powder and certain igniters intended to be used for sporting, recreational or cultural purposes in antique weapons from the regulatory provisions on explosives contained in Title XI of the Organized Crime Control Act of 1970 (P.L. 91-452, 84 Stat. 958; codified Title 18, Ch. 40). Further, the bill removes the exemption in current law on all black powder in amounts not exceeding five pounds. Thus the bill permits unrestricted purchase and use for sporting, recreational and cultural purposes of commercially manufactured black powder in amounts not exceeding fifty pounds in antique firearms as defined in Title IV for the firearms control assistance of the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 62 Stat. 743), and in antique devices, such as small, muzzle-loading cannons, as exempted from the term "destructive devices" in the Gun Control Act of 1968 (P.L. 90-618, 82 Stat. 1214).

STATEMENT

LEGISLATIVE HISTORY

In the first instance, S. 1083 is the product of the Senate Committee on the Judiciary. The bill passed the Senate on July 16, 1973.

In the House of Representatives, Mr. Fish, and Mr. Cohen introduced bills (H.R. 14018 and H.R. 14442) identical to S. 1083 as passed by the Senate. The Subcommittee on Crime of the House Committee on the Judiciary, to which these bills were referred, received a number of written statements from a variety of organizations and government agencies interested in the legislation. Statements in support of the legislation were received from the North-South Skirmish Association, the Ohio Gun Collectors Association, the National Rifle Association, and representatives of a number of sporting groups. Statements in opposition were received from the Department of Justice, the Bureau of Alcohol, Tobacco and Firearms (ATF) of the Department of the Treasury and the Institute of Makers of Explosives. After a detailed study of the written statements submitted for the record, the Subcommittee offered the opportunity to the opposing federal agencies to testify on the bills. On November 26, 1974, Mr. Rex Davis, Director of ATF, appeared before the Subcommittee and presented his statement in opposition to the bill.

On December 10, the Subcommittee favorably reported the bill to the full Committee with an amendment limiting the exemption to fifty pounds of commercially manufactured black powder. Subsequently, the Committee ordered the bill favorably reported to the full House.

ISSUES

The issue of black powder presents a conflict between unnecessary regulation of lawful activities of the citizens, and *bona fide* restriction of hazardous substances. In 1970 with the passage of the Organized Crime Control Act containing restrictions on the manufacture, transportation, storage, possession and use of black powder, the activities of sportsmen throughout the country were severely restricted. These sportsmen engage in the use of antique firearms and replicas of antique rifles and cannons in a variety of sporting, cultural and recreational events. Muzzle-loading rifles are used at target shooting meets throughout the country which include both team and individual competition. Various types of civil war weapons and other antique firearms are used in these meets by the participants who dress in costumes of revolutionary and civil war days and attempt to relive a rich part of the cultural life of our nation. Moreover, antique weapons and cannons are used nationwide by a variety of civic groups in various ceremonies such as flag raisings, centennial celebrations, Fourth of July celebrations and even performances of classical music, such as Tchaikovsky's "1812 Overture".

Under the Organized Crime Control Act of 1970, the restrictions of black powder in amounts exceeding five pounds created serious hardships to such sportsmen and cultural enthusiasts. First it must be noted that sportsmen can only use commercially-manufactured black powder which is of sufficiently high quality and uniformity to allow safe operation of their antique weapons. Purchases of sufficient quantities of black powder for target competitions or other cultural events cannot be made without great inconvenience and substantial expense because of the factors of time, distance, frequency of use and the limit on black powder available for purchase. Since the passage of the Organized Crime Control Act, the sources of black powder have all

but vanished for the sportsman. Until recently, there was no domestic manufacturer of the high-grade black powder needed for muzzle-loading rifles. Most users of black powder have been dependent on an informal system of distribution, including gun shops, hardware shops, cooperatives and other "courtesy suppliers", who order and stock limited amounts of the propellant as a service rather than for profit. Because of the permit limitations and fees, and the costs of constructing elaborate magazines for limited storage, most courtesy suppliers of the substance ceased to handle black powder. This in turn has caused the prices of black powder to increase significantly, in some cases five to seven times that at which it retailed prior to the effective date of the Crime Control Act.

Moreover, the interstate prohibitions of the Act have only compounded existing problems. As the statements received by the Committee make clear, shooters must travel great distances to obtain quantities of black powder for use in competitive matches. However, because of the limitations in the quantity of black powder permitted to be possessed, these shooters are limited in the amounts which they can purchase and transport. These inconveniences have had a serious impact on lawful activities of sportsmen. Unless remedied, the restrictions would have an unnecessarily restrictive effect on the historical reenactments, pageants and shooting matches to be held in conjunction with the forthcoming celebration of the two-hundredth anniversary of the American Revolution. Richard Corrigan, the National Commander of the North-South Skirmish Association, described this situation as ". . . ironic in several respects. First, our nation won its independence through the use of the very same type of black powder firearms that we now term antiques and which modern-day shooters fire in historically oriented recreation. Secondly, 'the shots heard round the world' were fired during a clash between Colonists and British soldiers, marching to seize stores of black powder and other munitions stored by the Colonists." The statement of Mr. Corrigan emphasizes the unique place of black powder in the history of the United States. Unless the justification for restrictions of this substance are strong and well-presented, the Committee believes that those restrictions as they affect the activities of law-abiding citizens should be tempered.

As was made quite clear during the hearings, the arguments advanced by ATF are not sufficient to justify the virtual total prohibition on the purchase of black powder under current law.

Of course, the Committee recognizes that the black powder is an explosive substance which can be dangerous, if not properly handled. Nevertheless, the Committee believes that ATF and the Department of Justice failed to provide information to support their contention that the virtual ban on black powder caused by the Organized Crime Control Act should be continued. Prior to the reception of written statements, the Subcommittee studied with care the Senate hearing record and took special note of the failure of the interested federal agencies to provide sufficient statistical information on criminal or accidental misuse of black powder.¹ It was the hope that, after the

¹ See, esp. Hearing on Black Powder (S. 1083) before Committee on the Judiciary, United States Senate (93rd Cong., 1st Sess.), pp. 116-131, 144.

passage of more than a year since the Senate hearings, these statistics would be available and presented to the Subcommittee on Crime in support of the arguments against the black powder bills. Unfortunately, no such statistics were forthcoming and, indeed, during the testimony received by the Subcommittee, the Director stated that no such statistical comprehensive information was compiled.²

In addition, the information supplied by ATF tends to support the conclusion that even the current law is ineffective in preventing criminal misuse of black powder. For fiscal years 1972 and 1973, black powder accounted for 21 percent of all bombings; and for the first nine months of fiscal 1974, it accounted for 14 percent of bombings.

However, all these bombs contained less than five pounds of black powder, the amount currently exempted from the law. Moreover, no information was offered to show how many black powder bombs were made from homemade black powder, as opposed to commercial manufactured black powder. The Committee therefore believes that the arguments against the limited change contemplated by the bill were not sufficient to prevent its passage.

NEEDS OF SAFETY

The Committee recognizes that, as a potentially dangerous explosive substance, black powder must remain under restrictions that permit only the experienced, law-abiding user to obtain it. The Committee recognizes that uncontrolled access to black powder by any person should not be permitted. Therefore, it is the intention of this legislation to permit only sportsmen and other cultural or recreational enthusiasts who are aware of the dangers of black powder, and who are experienced enough to handle them, to purchase it.

To accomplish this purpose, the bill operates in two ways: First, it would remove the current five-pound exemption from the existing regulatory scheme. The current exemption allows any person to obtain or possess up to five pounds of black powder, notwithstanding the possibility that it may be intended for criminal misuse. The current exemption also allows possession of either homemade or commercially-manufactured black powder. Thus, under present law, a bomber could make up to five pounds of black powder from easily-obtainable laboratory chemicals, and he would not be subject to regulation or prosecution. The removal of this exemption is therefore deemed by the Committee to enhance the federal regulatory scheme.

The current five-pound exemption is replaced by a provision exempting only commercially manufactured black powder in quantities not to exceed fifty pounds, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms. Thus the new exemption would be limited to the circumstances presented to the Committee—i.e. the lawful sporting user who can use only high-grade, commercially-manufactured black powder in his activities. The bill, therefore, is intended to provide legislative relief tailored to the specific problem presented by the sportsman.

² See, Hearings on Black Powder, before Subcommittee on Crime, Committee on the Judiciary, United States House of Representatives (98rd Cong., 2d Sess.).

OTHER REGULATIONS UNDISTURBED

The Committee stresses that the bill applies only to the consumer—i.e. the sportsman user of commercially-manufactured black powder. Other provisions of law which govern the commercial use of black powder remain undisturbed by this legislation. Under regulations adopted by the Occupational Safety and Health Administration (29 C.F.R. § 1910.109), pursuant to the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. § 651 et seq.), explosives are very strictly regulated in “workplaces” wherein “employment is performed” (29 U.S.C. 653). This statutory or regulatory scheme governing such places of employment are not affected by this bill. Thus manufacturers, wholesalers and retailers of commercially manufactured black powder would remain under strict regulation.

In addition, the regulations promulgated by the Interstate Commerce Commission under section 834 of title 18 of the United States Code would remain in force. Thus, transporters of black powder in interstate commerce would still be regulated.

Finally, all the criminal penalties set forth in chapter 40 of title 18 for illegal use of black powder are not changed by this legislation.

TREASURY REGULATIONS

The Committee also wishes to stress that the bill will not unduly disrupt the regulatory scheme established under regulations by ATF. The regulations need only be modified so that retailers will be required to keep records of their sales of black powder under the new exemption. Moreover, it is the expectation of the Committee that ATF will promulgate regulations and establish forms to require sporting users to identify themselves on purchase of black powder. Moreover, such ATF regulations could require that a purchaser-sportsman certify by affidavit that he intends to use the black powder for sporting, recreational or cultural purposes. Such a regulatory scheme would identify the purchasers of black powder and would aid in the enforcement of the law and prosecution of violators.

COMMITTEE AMENDMENTS

FIFTY-POUND LIMITATION

S. 1083 as passed by the Senate would have permitted sportsmen to purchase unlimited quantities of black powder. The Subcommittee felt that the broad exemption of S. 1083 was unnecessary to accommodate the needs of the sportsman user, and that fifty pounds of black powder was an amount sufficient for sporting, cultural or recreational use. Therefore, in the interests of retaining the federal regulatory scheme of explosives intact, the Subcommittee and Committee, at the original suggestion of John Conyers, Jr., Chairman of the Subcommittee, adopted an amendment restricting the exemption to fifty pounds. Based on the statements received from the various witnesses, it was the conclusion of the Subcommittee that the fifty-pound quantity was

sufficient to enable the sportsman to practice his hobby without unnecessary difficulty, but was not so large so as to interfere with the regulatory, investigative and enforcement responsibilities of ATF against persons who might seek to obtain black powder for improper purposes or in dangerously large quantities. Thus, a reasonable balance was struck between the needs of sportsmen users and the interests of federal law enforcement.

COMMITTEE APPROVAL

On December 11, 1974, by voice vote, a quorum being present, the Committee on the Judiciary voted to favorably recommend S. 1083, as amended, to the full House.

COST OF THE LEGISLATION

Enactment of S. 1083 will entail no cost to the Government of the United States.

SECTION BY SECTION ANALYSIS

Section 101 amends section 845(a) of title 18 of the United States Code (relating to exemptions from certain provisions of Federal law relating to explosives) by inserting new language in paragraph (5) to clearly exempt commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational or cultural purposes in antique firearms or in certain antique devices.

Section 102 amends section 921(a)(4) of title 18 of the United States Code by the addition of language to exempt from the term "destructive device" antique such as small, muzzle-loading cannons used for recreational and cultural purposes.

DEPARTMENTAL COMMUNICATION

The following is attached to this Report and made a part thereof:

STATEMENT OF W. VINCENT RAKESTRAW, ASSISTANT ATTORNEY
GENERAL, OFFICE OF LEGISLATIVE AFFAIRS

Mr. Chairman and Members of the Committee, I am pleased to appear here today to present the views of the Department of Justice concerning S. 1083. This bill would amend the current Federal laws relating to explosives by exempting commercially manufactured black powder and certain igniters used in antique weapons or devices from the licensing and permit provisions of Title XI of the Organized Crime Control Act of 1970 (P.L. 91-452, 84 Stat. 958). The bill would also expand the exemption in the definition of "destructive device" in 18 U.S.C. 921 to include a device which the owner intends to use solely for recreational or cultural purposes.

The Department of Justice, both in a letter of April 19, 1973 to Chairman McClellan of the Senate Judiciary Subcommittee on Criminal Laws and Procedures and in testimony on June 12, 1973

before the Senate Judiciary Committee, opposed S. 1083. As I will explain today, the Department continues to oppose this measure.

It is understood that the purpose of S. 1083 is to remove the burdens which hamper persons who engage in many recreational, cultural and competitive activities using black powder. We appreciate that the present law does cause these lawful users some inconveniences. Nevertheless, we believe that current law strikes a proper balance between the needs of law enforcement agencies and the needs of legitimate users of black powder.

The Federal government has supported controls on the channels of commerce in black powder because this substance is a dangerous explosive and has often been used by bombers and anarchists. As you know, the rash of bombings in the late 1960s was a prominent cause for the enactment of Title XI of P.L. 91-452, which provides Federal regulations regarding explosive materials. Black powder, which has been often used in making bombs by filling a lead pipe with this substance, was one of the explosives so controlled.

The law today recognizes the needs for sportsmen and others who have lawful needs for black powder by exempting from the controls amounts of up to five pounds. Further, legitimate users may obtain greater amounts after first obtaining a low cost user-limited permit. The Congress, in enacting P.L. 91-452, stated that the purpose of Title XI was not "to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, storage, or use of explosive materials for industrial, mining, agricultural or other lawful purposes, or to provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title." We believe that the present black powder restrictions are compatible with this stated purpose and that the minimal restrictions on lawful users are justified.

We do not keep statistics in such a manner as would enable us to determine the number of investigations, prosecutions or convictions for illegal possession or storage of black powder. It is likely that the number, if available, would be small. That does not mean, however, that the black powder controls do not play a significant role in the protection of our society.

During the period January 1, 1974 to July 1, 1974 the National Bomb Data Center received reports on 140 explosive devices in which the explosive filler was black powder. Of the 143 pipe bombs reported to the Center 37 utilized a filler of black powder. While it cannot be determined how these statistics would vary if there were a change in the black powder control law, I do believe that the completely unregulated availability of black powder in all amounts would result in a significant increase in the unlawful use of this substance.

A further goal of Title XI is to reduce the hazards inherent in the storage of potentially destructive explosive materials. Black powder is such a material and unsafe or insecure storage of large quantities of black powder could have dire consequences. S. 1083 would exempt black powder, in all quantities, from the reasonable storage requirements that have been developed under Title XI.

In summary, we acknowledge that some burdens are placed on lawful users of black powder, but believe that the existing controls are necessary and justified for the common good.

STATEMENT OF REX D. DAVIS, DIRECTOR, DEPARTMENT OF THE TREASURY, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Mr. Chairman and members of the Committee. I am Rex D. Davis, Director of the Bureau of Alcohol, Tobacco and Firearms, Treasury Department. I am here in response to your request to give the views of the Treasury Department on S. 1083. I am accompanied by Robert Dexter, Chief of our Explosives Technology Branch, and Marvin Dessler from our Chief Counsel's Office.

You have available my testimony before the Senate Judiciary Subcommittee to Investigate Juvenile Delinquency on this bill, so there is no reason to read it here. We opposed the legislation at that time, and we have not changed our position.

I would like to take a few minutes to more or less recap our testimony before the Senate Subcommittee, and then expand on a phase of the black powder issue that has not been given the attention which we think it deserves—its storage.

Basically, we feel that Title XI, Regulation of Explosives, is sound legislation. It has given us the tools by which we have attacked the criminal misuse of explosive materials, and that includes everything from labor-related bombings to the illegal production of fireworks. While we have no specific incidents to cite, we feel sure our increased pressure on the licensed dealers and users of explosive materials to bring their storage facilities up to par has thwarted many attempts to steal dynamite and other explosives. It is our sound belief that whatever action Congress takes in relation to S. 1083, it must make sure that it doesn't cut into or reduce the means by which we keep explosive materials out of the hands of the criminal.

We will admit that all of the pipe bombs using black powder during the past year could have been made from black powder purchased in quantities of five pounds or less—the amount now exempted by the law. But at the same time, we cannot overlook the fact that perhaps the amount of black powder which can be purchased without a permit may have restricted the sizes of bombs as well as their numbers. A total lifting of the restrictions on black powder could mean we would begin to experience more destruction through the use of bigger bombs. We realize this is only speculation, but in law enforcement work we sometimes have to engage in speculation in order to be prepared to handle what later becomes fact.

As we pointed out in our testimony last year, the real problem, insofar as the legitimate black powder user is concerned, lies in the fact that black powder just isn't being made in this country for commercial purposes. The lack of supply has worked a hardship on their ability to acquire black powder where and when they want it, and at prices which they feel they can afford to pay.

While black powder is one of the oldest, and at one time was the most generally used explosive material in commercial work, its use today is limited to the manufacture of fireworks, military pyrotech-

ics, and sporting events. This is due to the discovery of dynamite and other superior commercial explosives. I would like to emphasize that the discontinuance of manufacture was not the result of its regulation by Title XI, but because of the hazard of manufacture in comparison to its cost.

To a certain degree, part of the problem does lie with the Federal laws regulating explosives since it requires the dealer to maintain certain storage facilities if he is to deal in explosives. Many of the dealers, who handled black powder as a courtesy service to their customers prior to enactment of Title XI, have discontinued the item rather than be bothered with meeting the present storage requirements. Prior to the effective date of Title XI, these dealers had a free hand in where and how they stored their supply of black powder.

The present recordkeeping requirements of Title XI enable us to identify those persons who have purchased more than five pounds of black powder, and inspect their premises to make sure they are in compliance with the regulations on storage. Now if the restrictions on black powder are removed, dealers and users will once again be able to stock whatever black powder they can find on the open market in sufficient quantities without being concerned with storage other than the restrictions imposed by the Occupational Safety and Health Administration of the Department of Labor.

And this is what truly concerns me. Storage of black powder without restrictions represents a threat to the community which I think must be considered in the Committee's deliberations on this proposed legislation.

The untrustworthiness of black powder cannot be over-emphasized. It is the most treacherous explosive material used today, and is regarded as the worst explosive hazard. Its high degree of accidental explosive hazard is attributable to its great sensitivity to ignition by flame, incandescent particles, or electric spark.

Black powder is a generic term applied to low explosive materials which are an intimate mixture of potassium nitrate, sulfur and charcoal. Classified as a low explosive, black powder can be expected to deflagrate. This means over a relatively sustained period of time, it will burn in comparison to a detonating explosive which decomposes almost instantaneously. The effect of true deflagration under confinement, however, is an explosion. The pressure, rate of reaction and temperature increases when confined, causing a transition to an explosion.

Black powder can be expected to mass detonate virtually instantaneously when a small portion is subject to fire, to severe concussion or impact, to impulse of an initiating agent, or to the effect of a considerable discharge of energy from lightning. Such an explosion will normally result in extensive damage to structures adjacent to the explosion or will cause simultaneous detonation of other explosives or ignition of other combustibles if they are sufficiently close to the exploding material.

I have a short film on the sensitivity of black powder which Mr. Dexter and his staff made and which I would like to show the Committee at the close of my testimony. While our tests on the effect of impact on black powder did not produce any results, I have had access

to the results of impact tests on black powder conducted by ITT Research Institute which show that black powder will, under certain conditions, ignite upon impact. The other sensitivity tests, which Mr. Dexter will explain during the showing of the film, speak for themselves and will, I think, support my concern over storage of this product.

As a result of these tests and the advice of those on my staff who are knowledgeable in the field of explosives, it is my contention that black powder is a significant danger to public safety for two reasons: (1) Individuals purchasing black powder usually are not aware of the dangers involved in its use, transportation and storage. (2) The storage of black powder will normally be in the users' residence, probably with no regard for compatibility to surrounding materials such as paint, household cleaners, electrical fixtures, or to its potential ignition.

Personally speaking, I would be extremely uneasy if I knew that my next door neighbor had a 50 pound keg of black powder sitting on his garage floor fifty feet from my bedroom.

To support our position on storage, I think we need only to look at the military requirements for storage of black powder. We are all aware of how safety-conscious the military is, and their requirements for the storage of black powder is far more stringent than that which the current Federal law requires. I am not proposing that we tighten up on our storage regulations, but I point this out as an example of how the military view this substance. If they think it is that dangerous—and they are in a dangerous occupation—then we ought to also.

The removal of all restrictions on black powder if it is to be used for sporting purposes means also the removal of all storage requirements for this dangerous substance. I do not think such a move would be in the best interest of the public. It seems to me that those who advocate it have failed to give sufficient thought on how it might affect their fellow-man.

I would like to be able to find a solution to the problems of the muzzle loaders and black powder shooters. I have had two very important meetings during the last eight months with Mr. Richard Corrigan of the North-South Skirmish Association during which we explored ways that we both might be satisfied with the law.

But when I receive reports from our field agents that the cause of an explosion in an illegal fireworks plant was black powder, and several persons are injured or dead, I cannot bring myself to sponsor or support a lowering of the storage requirements for black powder. I can only envision similar incidents in the residential areas where, through an accident, a heavy volume of black powder is set off and unsuspecting neighbors suffer the consequences.

On November 8, 1974, the United Press International wire service carried the following story: "An explosion leveled a black powder plant Thursday, killing two employees and scattering men and debris over a mile of sagebrush country. An eyewitness said the narrow, three-story steel building 'just disappeared' after the blast. Owners of the plant, Western Technology Corporation, could not be reached, but a spokesman for a customer of the plant, Green River Rifle Works, said there could have been as much as 1,000 pounds of powder in the building."

As is usual in such explosions, the persons who could tell why the explosion occurred are both dead. Our agents investigating the explosion report that the two men were making black powder. They had finished the screening process and were starting to bring water back to the mill for the wetting process. The electrical power to the mill was discovered to be off at the time of the explosion. The company water truck was about 50 feet from the point of explosion and was badly damaged. The ignition switch was in an "on" position. Our agents are looking at the possibility that static electricity from the clothing of the men or an electrical charge of some type from the truck caused the powder to ignite.

This concludes my testimony, Mr. Chairman, and I would like to show our short film at this point. It takes approximately 15 minutes and will be narrated by Mr. Dexter. Upon its conclusion, I will respond to any questions which the Committee might have in relation to my testimony or the subject of black powder which they feel I, or my staff, might be able to answer. Thank you.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italics*, existing law in which no change is proposed is shown in roman) :

TITLE 18, UNITED STATES CODE

CHAPTER 40.—IMPORTATION, MANUFACTURE, DISTRIBUTION, AND STORAGE OF EXPLOSIVE MATERIALS

§ 845. Exceptions; relief from disabilities.

- (a) Except in the case of subsections (d), (e), (f), (g), (h), and (i) of section 844 of this title, this chapter shall not apply to:
- (1) any aspect of the transportation of explosive materials via railroad, water, highway, or air which are regulated by the United States Department of Transportation and agencies thereof;
 - (2) the use of explosive materials in medicines and medicinal agents in the forms prescribed by the official United States Pharmacopeia, or the National Formulary;
 - (3) the transportation, shipment, receipt, or importation of explosive materials for delivery to any agency of the United States or to any State or political subdivision thereof;
 - (4) small arms ammunition and components thereof;
 - (5) black powder in quantities not to exceed five pounds; and
 - (6) *commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural pur-*

poses in antique firearms as defined in section 921(a)(16) of title 18 of the United States Code, or in antique devices as exempted from the term "destructive device" in section 921(a)(4) of title 18 of the United States Code; and

(6) the manufacture under the regulation of the military department of the United States of explosive materials for, or their distribution to or storage or possession by the military or naval services or other agencies of the United States; or to arsenals, navy yards, depots, or other establishments owned by, or operated by or on behalf of the United States.

(b) A person who had been indicted or convicted of a crime punishable by imprisonment for a term exceeding one year may make application to the Secretary for relief from the disabilities imposed by this chapter with respect to engaging in the business of importing, manufacturing, or dealing in explosive materials, or the purchase of explosive materials, and incurred by reason of such indictment or conviction, and the Secretary may grant such relief if it is established to his satisfaction that the circumstances regarding the indictment or conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief will not be contrary to the public interest. A licensee or permittee who makes application for relief from the disabilities incurred under this chapter by reason of indictment or conviction, shall not be barred by such indictment or conviction from further operations under his license or permit pending final action on an application for relief filed pursuant to this section.

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CHAPTER 44.—FIREARMS

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§ 921. Definitions.

(a) As used in this chapter—

(1) * * *

(4) The term "destructive device" means—

(A) any explosive, incendiary, or poison gas—

(i) bomb,

(ii) grenade,

(iii) rocket having a propellant charge of more than four ounces,

(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,

(v) mine, or

(vi) device similar to any of the devices described in the preceding clauses;

(B) any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projec-

tile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

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Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To amend certain provisions of Federal law relating to explosives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "Amendments of 1973 to Federal Law Relating to Explosives".

SEC. 101. Section 845(a) of title 18 of the United States Code (relating to exemptions from certain provisions of Federal law relating to explosives) is amended by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in section 921(a)(16) of title 18 of the United States Code, or in antique devices as exempted from the term 'destructive device' in section 921(a)(4) of title 18 of the United States Code; and".

SEC. 102. Section 921(a)(4) of title 18 of the United States Code is amended by inserting after the word "sporting" in the last sentence the following: ", recreational or cultural".

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

December 24, 1974

Dear Mr. Director:

The following bills were received at the White House on December 24th:

- | | | | |
|-----------------|------------------|--------------|--------------|
| S.J. Res. 40 ✓ | S. 3481 ✓ | H.R. 8958 ✓ | H.R. 14600 ✓ |
| S.J. Res. 133 ✓ | S. 3548 ✓ | H.R. 8981 ✓ | H.R. 14689 ✓ |
| S.J. Res. 262 ✓ | S. 3934 ✓ | H.R. 9182 ✓ | H.R. 14718 ✓ |
| S. 251 ✓ | S. 3943 ✓ | H.R. 9199 ✓ | H.R. 15173 ✓ |
| S. 356 ✓ | S. 3976 ✓ | H.R. 9588 ✓ | H.R. 15223 ✓ |
| S. 521 ✓ | S. 4073 ✓ | H.R. 9654 ✓ | H.R. 15229 ✓ |
| S. 544 ✓ | S. 4206 ✓ | H.R. 10212 ✓ | H.R. 15322 ✓ |
| S. 663 ✓ | H.J. Res. 1178 ✓ | H.R. 10701 ✓ | H.R. 15977 ✓ |
| S. 754 ✓ | H.J. Res. 1180 ✓ | H.R. 10710 ✓ | H.R. 16045 ✓ |
| S. 1017 ✓ | H.R. 421 ✓ | H.R. 10827 ✓ | H.R. 16215 ✓ |
| S. 1083 ✓ | H.R. 1715 ✓ | H.R. 11144 ✓ | H.R. 16596 ✓ |
| S. 1296 ✓ | H.R. 1820 ✓ | H.R. 11273 ✓ | H.R. 16925 ✓ |
| S. 1418 ✓ | H.R. 2208 ✓ | H.R. 11796 ✓ | H.R. 17010 ✓ |
| S. 2149 ✓ | H.R. 2933 ✓ | H.R. 11802 ✓ | H.R. 17045 ✓ |
| S. 2446 ✓ | H.R. 3203 ✓ | H.R. 11847 ✓ | H.R. 17085 ✓ |
| S. 2807 ✓ | H.R. 3339 ✓ | H.R. 11897 ✓ | H.R. 17468 ✓ |
| S. 2854 ✓ | H.R. 5264 ✓ | H.R. 12044 ✓ | H.R. 17558 ✓ |
| S. 2888 ✓ | H.R. 5463 ✓ | H.R. 12113 ✓ | H.R. 17597 ✓ |
| S. 2994 ✓ | H.R. 5773 ✓ | H.R. 12427 ✓ | H.R. 17628 ✓ |
| S. 3022 ✓ | H.R. 7599 ✓ | H.R. 12884 ✓ | H.R. 17655 ✓ |
| S. 3289 ✓ | H.R. 7684 ✓ | H.R. 13022 ✓ | |
| S. 3358 ✓ | H.R. 7767 ✓ | H.R. 13296 ✓ | |
| S. 3359 ✓ | H.R. 8214 ✓ | H.R. 13869 ✓ | |
| S. 3394 ✓ | H.R. 8322 ✓ | H.R. 14449 ✓ | |
| S. 3433 ✓ | H.R. 8591 ✓ | H.R. 14461 ✓ | |

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.