

LEGISLATIVE COUNSEL

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FILE COPY
**CONSULAR CONVENTION WITH THE
SOVIET UNION**

HEARINGS
BEFORE THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE
NINETIETH CONGRESS
FIRST SESSION
ON
EXECUTIVE D, 88TH CONGRESS, 2D SESSION

JANUARY 23; FEBRUARY 3 AND 17, 1967



Printed for the use of the Committee on Foreign Relations

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1967

73-968

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CONSULAR CONVENTION WITH THE SOVIET UNION
(Executive D, 88th Cong., 2d Sess.)

MONDAY, JANUARY 23, 1967

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice at 10:05 a.m., in room 318, Old Senate Office Building, Senator J. W. Fulbright (chairman) presiding.

Present: Senators Fulbright, Sparkman, Mansfield, Morse, Lausche, Church, Dodd, Clark, Pell, Hickenlooper, Aiken, Carlson, Williams, Mundt, Case, and Cooper.

Also present: Senator McGee.

The CHAIRMAN. The committee will come to order.

We are meeting this morning to hear the Honorable Dean Rusk, Secretary of State, and the Honorable Nicholas deB. Katzenbach, Under Secretary of State, testify on the proposed consular convention with the Soviet Union. They are accompanied by the Honorable Foy Kohler, Deputy Under Secretary of State for Political Affairs and, as you know, former Ambassador to the Soviet Union, and the Honorable Leonard Meeker, State Department legal adviser.

I wish to insert in the record at this point a letter from Mr. J. Edgar Hoover in response to a letter, or an invitation, from me to appear before the committee, together with a copy of a letter from the Secretary of State to Mr. Hoover and Mr. Hoover's reply. They will be made a part of the record and give, I think fairly clearly, the position of the Director of the FBI. Also to be made a part of the record is a letter from Assistant Secretary of State MacArthur, together with some statistics relating to the other countries that would be affected by the proposed consular treaty.

(The letters referred to follow:)

JANUARY 19, 1967.

Hon. J. EDGAR HOOVER,
Director, Federal Bureau of Investigation,
Washington, D.C.

DEAR MR. HOOVER: The Committee on Foreign Relations has scheduled a public hearing at 10:00 o'clock on Monday, January 23, in Room 318, Senate Office Building, on the Consular Convention with the Soviet Union (Ex. D, 88th Cong., 2d sess.). Several Members of the Committee have expressed an interest in your views with respect to this Convention, particularly in the light of your testimony before a Subcommittee of the House Committee on Appropriations in March, 1965.

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The purpose of this letter, therefore, is to invite you to appear before us, together with Secretary Rusk and other witnesses from the Executive Branch on Monday morning so that we may explore your views further.

Sincerely yours,

J. W. FULBRIGHT, *Chairman.*

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., January 20, 1967.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: I have your letter of January 19, 1967, inviting me to appear before the Committee on Foreign Relations of the Senate on Monday, January 23, 1967.

While I, of course, desire to be helpful in any matter of mutual interest, I must of necessity refer you to the Acting Attorney General, who quite properly is the ranking member of the Department of Justice to pass on matters of legislation.

Frankly, the subject of your referenced letter—the matter of a Consular Convention with the Soviet Union—has been a chief item of correspondence between Secretary of State Rusk and me. I advised Mr. Rusk on September 16, 1966, in answer to his letter of September 14, 1966, that he was basically correct in his assumption that rather than my opposing a Consular Treaty, I had pointed out to a House Appropriations Subcommittee the possibilities of an increased problem of internal security proportionate to the number of consulates to be established. I did not imply that this problem could not be handled by the Federal Bureau of Investigation. My testimony before this Subcommittee occurred prior to such legislation being considered by the Congress.

My views today are, of course, the same as those expressed in my letter to Mr. Rusk of September 16, 1966. An appearance before your Committee would result in my testifying to the same views. For your convenience, a copy of Mr. Rusk's letter to me and my reply will be found attached to this letter.

Sincerely yours,

J. EDGAR HOOVER.

THE SECRETARY OF STATE,
Washington, September 14, 1966.

Hon. J. EDGAR HOOVER,
Director, Federal Bureau of Investigation.

DEAR MR. HOOVER: I am writing with reference to the Consular Convention with the USSR now pending before the Senate. On August 3, 1965 the Committee on Foreign Relations reported favorably on this Convention. Five members of the Committee filed dissenting views, and some other Senators later expressed reservations about the Convention. The concern of the dissenting Committee members and of other Senators apparently stemmed in large part from your testimony before a Subcommittee of the House Committee on Appropriations on March 4, 1965. In that hearing you stated "our Government is about to allow (the Soviet Union) to establish consulates in many parts of the country which, of course, will make our work more difficult."

Your statement was widely interpreted as one of opposition to the proposed treaty. I did not so interpret it. I thought, rather, that you were merely pointing out that any such agreement necessarily results in an increased problem of internal security proportionate to the number of Soviet consulates actually established, without, of course, implying that the problem could not be handled by the FBI. I assume also that you were not expressing any judgment as to the relative value of countervailing advantages for the United States and American citizens under the Convention. As you know from my testimony before the Foreign Relations Committee, the Administration attaches importance to the Convention and considers that it would afford markedly increased protection to large numbers of Americans who visit the USSR as tourists or on business or under the exchange program.

In this connection, I might mention that the coming into force of the Consular Convention would not confer any right on either Government to establish consulates in the territory of the other country except with the latter's consent.

We would expect initially to see established perhaps one consulate in each country, on a basis of reciprocity. The number of consular officers who would enjoy immunity by virtue of the Convention would be only 8 to 10 in a consulate; thus the number of additional Soviet officials with immunity who would be stationed in this country as a result of the Consular Convention would be minimal in comparison with the large number already here. For example, there are currently 6,310 persons attached to foreign embassies in Washington who enjoy diplomatic immunity; of these, Soviet Bloc nationals number 487, including 205 USSR representatives. In New York the number of representatives to the United Nations possessing diplomatic immunity is currently 1,458; of these 264 are Soviet Bloc nationals, including 116 USSR representatives.

Moreover, the Consular Convention accords to the receiving state the right to agree to or withhold acceptance of individual consular officers. Similarly, the receiving state may require the departure of any accredited consular officer whom it no longer wishes to receive.

I should appreciate greatly your confirming my understanding of your viewpoint, as this could have a significant bearing on the attitude and action of the Senate concerning this Consular Convention.

Sincerely yours,

DEAN RUSK.

FEDERAL BUREAU OF INVESTIGATION,
U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., September 16, 1966.

Hon. DEAN RUSK,
The Secretary of State, Washington, D.C.

DEAR MR. RUSK: I have your letter dated September 14, 1966, and find, upon closely examining the contents, that you are basically correct with respect to your interpretation of my testimony before a Subcommittee of the House Committee on Appropriations as of March 4, 1965.

The facts as mentioned in the second paragraph of your letter are, therefore, correctly stated.

Sincerely yours,

J. EDGAR HOOVER.

DEPARTMENT OF STATE,
Washington, January 20, 1967.

Hon. J. W. FULBRIGHT,
*Chairman, Foreign Relations Committee,
U.S. Senate.*

DEAR MR. CHAIRMAN: During the January 16, 1967 appearance of Secretary Rusk before the Foreign Relations Committee, Senators Morse and Hickenlooper raised several questions concerning the consular convention between the United States and the Soviet Union. In particular, clarification was requested upon the relationship of the criminal immunity provision in Article 19 of that Convention with other American consular agreements having the so-called most-favored-nation provision.

The United States has thirty-five agreements presently in force with other states requiring this country to afford most-favored-nation treatment to consular officers and occasionally, to consular employees of those states. A list of these thirty-five states is given as an enclosure to this letter. Based upon a recent survey, twenty-seven of those states have consular establishments in the United States, and include approximately 577 entitled consular personnel. A list of these states and tabulation of the number of consular personnel each has in the United States is also given as an enclosure to this letter. The criminal immunity provision contained in Article 19 of the US-USSR consular convention would be applicable to those personnel should the sending state concerned agree to give reciprocal treatment to American consular officers and employees assigned there. Our Embassies in those twenty-seven states were requested to give their assessment as to whether most-favored-nation treatment would actually be sought on a reciprocal basis. The replies indicated that at most eleven states would probably request such treatment, and that approximately 290 of their foreign consular officers and employees in the United States would be affected.

Should the US-USSR consular convention be ratified, the United States might allow on a reciprocal basis the opening of one Soviet consulate in this country. It is estimated that such a Soviet consulate would have fifteen or

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Based upon the above figures, it is our best estimate that a total of 305 foreign consular officers and employees could enjoy full criminal immunity stemming from the entry into force of the US-USSR consular convention. This figure needs to be compared with the estimate of 9400 foreign diplomatic officers and employees and members of their families presently entitled to full diplomatic immunity in the United States. I am enclosing a breakdown of this figure as well.

It is our conclusion that there is no ground for concern arising from the most-favored-nation aspect of Article 19 of the Convention. First, the numbers of persons affected are small. Second, the protections made a part of the US-USSR convention would apply reciprocally in the case of countries requesting most-favored-nation treatment. You will recall that as a receiving state we have the right to declare consular personnel *persona non grata*. We have also the right to screen all nominees for foreign consular assignments in advance, and to utilize the same visa screening process and customs controls as would be applied to Soviet diplomatic personnel. Finally, we have found from experience that foreign consular personnel in the United States are involved only very rarely in actions raising the possibility of criminal prosecution.

If I may provide additional information on this matter, please let me know.
Sincerely yours,

DOUGLAS MACARTHUR II,
Assistant Secretary for Congressional Relations.

Enclosures.

[Enclosure 1]

LIST OF STATES HAVING MOST-FAVORED-NATION PROVISIONS IN AGREEMENTS WITH THE UNITED STATES

| | | |
|------------|----------|--------------|
| Argentina | Germany | Paraguay |
| Austria | Greece | Philippines |
| Belgium | Honduras | Rumania |
| Bolivia | Iran | Saudi Arabia |
| Colombia | Ireland | Spain |
| Costa Rica | Italy | Sweden |
| Cuba | Latvia | Switzerland |
| Denmark | Liberia | Thailand |
| Estonia | Mexico | Yemen |
| Ethiopia | Morocco | Yugoslavia |
| Finland | Nepal | Zanzibar |
| France | Norway | |

[Enclosure 2]

POSSIBLE MOST-FAVORED-NATION COVERAGE OF STATES WITH CONSULAR ESTABLISHMENTS IN THE UNITED STATES

| Country | Total consular personnel | Possible most-favored-nation coverage based upon American Embassy estimates | Country | Total consular personnel | Possible most-favored-nation coverage based upon American Embassy estimates |
|------------|--------------------------|---|-------------|--------------------------|---|
| Argentina | 18 | | Italy | 151 | 151 |
| Austria | 3 | 3 | Liberia | 5 | 5 |
| Belgium | 15 | 15 | Mexico | 58 | |
| Bolivia | 3 | | Norway | 17 | |
| Colombia | 33 | | Paraguay | 2 | 2 |
| Costa Rica | 9 | 9 | Philippines | 28 | 28 |
| Denmark | 16 | | Rumania | 0 | |
| Ethiopia | 0 | | Spain | 14 | |
| Finland | 7 | | Sweden | 15 | |
| France | 44 | | Switzerland | 22 | 22 |
| Germany | 41 | | Thailand | 0 | |
| Greece | 9 | | Yugoslavia | 13 | |
| Honduras | 10 | 10 | | | |
| Iran | 15 | 15 | Total | 577 | 290 |
| Ireland | 30 | 30 | | | |

[Enclosure 3]

PERSONS PRESENTLY ENJOYING DIPLOMATIC IMMUNITY IN THE UNITED STATES

There are approximately 9,400 persons presently enjoying full diplomatic immunity in the United States. Full diplomatic immunity is construed to include immunity from both the civil and criminal jurisdiction of the United States. The figure of 9,400 is broken down as follows:

| | |
|--|-------|
| (1) Diplomatic officers and employees and members of their families attached to embassies and legations in Washington..... | 6,600 |
| (2) Members of delegations to the United Nations and members of their families..... | 2,200 |
| (3) Members of delegations to the Organization of American States and members of their families..... | 300 |
| (4) Members of the North Atlantic Treaty Organization Standing Group and members of their families..... | 300 |

COMMITTEE HEARINGS

The CHAIRMAN. Secretary Rusk was originally scheduled to appear today in open session to discuss our foreign policy generally and prospects in the coming year. At the request of the administration, the committee has postponed that hearing to permit the Secretary to testify on the consular convention.

As I previously announced, the committee will begin next week a series of public hearings on the responsibilities of the United States as a world power. On Monday, January 30, Ambassador George F. Kennan will discuss the Communist world in 1967; former Ambassador Edwin O. Reischauer will appear on Tuesday, January 31. His subject will be Asia, the Pacific and the United States.

Before the Secretary and the Under Secretary proceed with their statements, I will briefly review the legislative history of the consular convention.

LEGISLATIVE HISTORY OF THE CONSULAR CONVENTION

The convention was signed in Moscow on June 1, 1964, and was submitted to the Senate on June 12 of that year. This committee held an executive hearing on July 12, 1965, to hear the testimony of the State Department Legal Adviser, Mr. Meeker, and the Acting Assistant Secretary of State for European Affairs, Mr. Richard Davis. A public hearing was then held on July 30, 1965, at which Secretary Rusk and Mr. Meeker testified. The committee considered the convention in executive session on August 3, 1965, and decided by voice vote to order the convention reported favorably to the Senate. Minority views, opposing the convention, were submitted by five members of the committee. The convention was not taken up in the Senate itself.

There has been considerable public interest in the convention. It is regarded by some as a threat to the security of the United States. Others consider that it provides badly needed increased protection for American visitors to the Soviet Union and for any American officials who may be assigned there in the future if consulates are established.

We are pleased to have the Secretary and the Under Secretary of State with us this morning to present the arguments in favor of ratifying the convention. I hope that in their statements, and in the ques-

tions that follow, they will also discuss the objections that have been voiced to the convention.

(The text of the consular convention appears on page 283 of the appendix.)

The CHAIRMAN. Mr. Secretary.

STATEMENT OF HON. DEAN RUSK, SECRETARY OF STATE, ACCOMPANIED BY HON. NICHOLAS deB. KATZENBACH, UNDER SECRETARY OF STATE; HON. FOY D. KOHLER, DEPUTY UNDER SECRETARY OF STATE FOR POLITICAL AFFAIRS; AND HON. LEONARD C. MEEKER, LEGAL ADVISER

Secretary RUSK. Thank you very much, Mr. Chairman and distinguished Senators.

I am very happy to have a chance today to discuss the consular convention and to urge the committee and the Senate to act favorably on this consular convention with the Soviet Union.

This convention was proposed by the United States.

It is a step carried to agreement in 1964 after five years of painstaking effort.

It is a step proposed and endorsed by three administrations representing both political parties.

The committee will recall that the negotiations were undertaken while Mr. Herter was Secretary of State during the presidency of President Eisenhower. They were continued through the presidency of President Kennedy, and brought to a conclusion under President Johnson.

It is a step reported favorably by this committee 18 months ago.

It is a step, we believe, which at little cost would be very much in the national interest.

MISUNDERSTANDINGS ABOUT TREATY

Why then has the Senate not so far acted on this treaty? I believe this has been largely because of certain misunderstandings.

There are a number of detailed aspects of the convention, which the committee explored at length in 1965, and in a certain sense I would wish to refer to the presentations made at that time and, perhaps, to incorporate some of that testimony in what I say today.

You may wish to raise these aspects, however, with the two distinguished gentlemen who have come here with me: Under Secretary of State Katzenbach, who can discuss these questions with the expertise of a former Attorney General, and Ambassador Foy Kohler, now Deputy Under Secretary of State, who can respond from his long experience as Ambassador in Moscow. As you indicated, Mr. Chairman, it was Ambassador Kohler who negotiated and was instructed to sign this convention in Moscow in 1964.

But whatever the details of the convention, I would like to spend a few minutes discussing a single, simple, central fact of this matter—a fact which has been misunderstood.

CONSULAR CONVENTION WITH THE SOVIET UNION

BASIC PURPOSE OF CONVENTION IS PROTECTION FOR AMERICANS IN THE SOVIET UNION

It has been argued—and widely thought—that the purpose of this convention is to authorize the opening of consulates by both countries. That is not its basic purpose. What this convention is primarily intended to do, immediately upon going into effect, is to permit the United States promptly to protect and assist its citizens when they are arrested and detained in the Soviet Union.

Even if no consulates were ever to be opened by the two countries, this convention would give American citizens in the Soviet Union more rights than any Soviet citizen possesses—rights which any Soviet citizen already has in our open society without such a treaty.

The importance of this result would be considerable, both quantitatively and qualitatively. It must not be underestimated.

UNITED STATES AND SOVIET TRAVELERS

Quantitatively, the importance of the protections this convention would afford to Americans increases every year. The number of Soviet tourists and visitors to this country is small and has remained fairly constant in the past five years. It was about 900 in 1962 and it was about 900 in 1966. But the number of American tourists and visitors in the Soviet Union has increased steadily during the same period. In 1962, 10,000 American travelers went to the Soviet Union. In 1966, there were 18,000; and I would wish, if the committee is willing, to supply the figures for the record on that.

The CHAIRMAN. Yes. Without objection they will all be included. (The figures referred to follow:)

| | U.S. travelers to U.S.S.R. | | Soviet travelers to United States | |
|-----------|--------------------------------------|-------------------|-----------------------------------|-------------------|
| | Tourist (approximately) ¹ | Exchange visitors | Tourists | Exchange visitors |
| 1962..... | 9,000 | 1,161 | 77 | 952 |
| 1963..... | 10,000 | 537 | 140 | 589 |
| 1964..... | 15,000 | 874 | 204 | 646 |
| 1965..... | 17,000 | 916 | 114 | 832 |
| 1966..... | 18,000 | 23,074 | 106 | 786 |

¹ No exact count is available of the number of U.S. tourists visiting the Soviet Union, so the figures in this 1st column are approximate. You will notice that we have revised upward, from 12,000 to 15,000 our 1964 estimates in this category. This we did after checking data from all available sources, including Soviet sources as well as our own Passport Office.

² The sharp increase in U.S. exchange visitors to the U.S.S.R. in 1966 was largely attributable to heavy U.S. attendance at a number of major international conferences.

Secretary Rusk. In 1966, for example, there were 15,000 tourists and some 3,000 exchange visitors, a sharp increase in exchange visitors due to a substantial number of international meetings that had been held in 1966 in the Soviet Union.

The convention thus would benefit both countries, but on simply a numerical basis—comparing 900 of their people visiting with us and 18,000 of our own people visiting with them, it is more valuable to the United States.

PROTECTION FOR AMERICAN CITIZENS IN THE SOVIET UNION

At least as important, however, is the qualitative argument—the fact that this convention would allow the United States to take protective action in those incidents when American citizens have been detained for long periods with little or delayed assistance from their Government.

To those accustomed to the vigilance of American courts in protecting the right of arrested individuals, it is jarring to recognize that, under Soviet law, access to an arrested person can be refused while the case is under investigation—for a period of weeks or even longer, up to nine months.

There is not even a present requirement that the United States must be notified of an arrest.

Such treatment is not only unjust by our standards but must have wounding impact on the individuals involved. Surely such incidents have serious public impact in this country. Without rules of the kind this convention would provide, the arrest of an individual quickly becomes an international incident.

CASES OF AMERICANS ARRESTED

That I am not exaggerating is evident from recalling even briefly a few of the recent cases. One was the case of the RB-47 flyers in 1960 and 1961. Another was the case of Professor Barghoorn, whose arrest in 1963 we learned of only after twelve days, and whom we were never permitted to see in prison.

Another was the tragic 1965 case of Newcomb Mott, in which 9 days elapsed before any American official was allowed access to him, and then only for one hour. Only three other consular meetings were allowed in the next ten weeks prior to trial. Mott was sentenced to 18 months in prison. Apparently in a state of despondency, very likely related to the isolation in which he had been held, he died shortly afterward in circumstances that have yet not been fully explained.

Thomas Dawson, a Peace Corps volunteer, was apprehended by Soviet border guards on September 11, 1966, while gathering seashells barefoot near the Soviet-Iranian border. Our Embassy was never notified of his arrest and it was not until September 20 that consular access was accorded.

And the most recent instance, which is still unresolved, is that of the arrest of Buel Ray Wortham and Craddock Matthew Gilmour on October 1, 1966, for currency violations and theft.

In just the 30 months since this convention was signed, we know of at least 20 cases where Americans have been detained by the Soviet police. Some of these Americans acted foolishly—or worse. Some committed acts which are regarded as criminal under Soviet but not American law, some apparently committed acts which would be criminal in both countries. In none of these cases did the Soviet authorities adhere to the standards of notification and access provided for by this convention.

I cannot assure you, Mr. Chairman, that if this consular convention had been in force, we could have prevented the tragic outcome of the Mott case or prevented these other Americans from being jailed. But

the standards provided by this convention would have greatly assisted us in our efforts to assure them the protection that is normal among most states.

ELIMINATION OF NEED FOR HIGH-LEVEL DIPLOMACY

Equally important, this convention could well have eliminated the need for the United States to make repeated representations at very high political levels, in order to secure even late and limited access to our citizens.

The rights of international due process which this convention would provide would be available without question, without delay, and without the need for continuous and insistent high-level diplomacy. They should be accorded as a matter of course, and we would expect that under this convention.

MAXIMUM PROTECTION AND ASSISTANCE FOR AMERICAN CITIZENS

That goal—the maximum possible protection and assistance for American citizens on a regular and routine basis—is our central purpose in this convention, a purpose about which I cannot imagine any serious question.

May I add that, if there are channels by which such cases can be handled on a routine basis, that it is itself a protection against the intrusion of the type of prestige consideration that makes the solution of the cases even more difficult.

REESTABLISHMENT OF CONSULATES NOT AUTHORIZED IN CONVENTION

This convention is not necessary, Mr. Chairman, to authorize the reestablishment of consulates between the United States and the Soviet Union. The President's foreign policy responsibilities under the Constitution already give him the authority to permit the establishment of foreign consulates in this country.

That is an authority which has been acted on repeatedly, not only with a number of other countries, but specifically with the Soviet Union. Soviet consulates were established in New York and San Francisco in 1934 and in Los Angeles in 1937. The United States established a consulate in Vladivostok in 1941 and was prepared to open another in Leningrad in 1948, when both countries withdrew their consuls.

What this convention would do, however, through its various technical protections, is to provide the basis on which we believe we could prudently reestablish consulates on a reciprocal basis.

CONTEMPLATED CONSULATE IN LENINGRAD

Given these protections, we would like to open a consulate with 10 or 15 American employees, probably in Leningrad, to provide better protection for our citizens in the Soviet Union. In return, we would be expected to permit the Soviets to open a parallel consulate in a comparable American city.

It is not true, Mr. Chairman, that we contemplate opening a large number of consulates in both countries as a result of this convention.

10 CONSULAR CONVENTION WITH THE SOVIET UNION

We ourselves have felt that it would be useful and important for the United States, if possible to have a consulate in Leningrad with its rapidly growing number of American tourists. Leningrad is a very attractive city for them. They go there in very substantial numbers. Those members of the committee who have been there can understand why. The Soviet Union has restored Leningrad as one of the great historical European cities. Its Hermitage art collection is one of the most interesting and most splendid art collections in the world, and so we have a good deal—and expect to continue to have a good deal—of consular business in Leningrad in the period ahead.

RISK OF ESPIONAGE NOT INCREASED BY THIS CONVENTION

Some have expressed the fear that a comparable Soviet consulate in the United States, coupled with the reciprocal criminal immunity provisions of the convention, would encourage Soviet espionage and subversion. They have argued that this danger outweighs the benefits which the convention might bring to the United States.

The possibility they fear must not be ignored, but I do not see how this consular convention can add significantly to the risk of espionage. Let me outline my reason for these conclusions:

First, the anticipated increase in the number of Soviet personnel in this country is small. At present, there are 1,018 Soviet citizens in this country, 452 of them with diplomatic immunity. Our Soviet consulate would add only ten or fifteen.

I should point out that this figure of 452 includes both Soviet diplomats assigned to the Embassy in Washington, and Soviet personnel with diplomatic immunity at the United Nations.

The CHAIRMAN. Do you happen to have the breakdown?

Secretary RUSK. Yes, sir. We will furnish it for the record. We have it with us.

The CHAIRMAN. Please do that.

(The information referred to follows:)

CONSULAR CONVENTION WITH THE SOVIET UNION

"Immunity" status of Soviet officials in the United States on July 1, 1966

| | Embassy | | | | U.N. mission | | | | Embassy | U.N. mission | Total |
|------------------------|----------|----------------------|-----------|-----------------------|--------------|----------------------|-----------|-----------------------|---------|--------------|-------|
| | Officers | Officers' dependents | Employees | Employees' dependents | Officers | Officers' dependents | Employees | Employees' dependents | | | |
| Diplomatic immunity | 67 | 89 | 80 | 72 | 53 | 77 | 76 | 82 | 236 | 216 | 452 |
| No diplomatic immunity | | | | | | | | | 72 | 82 | 154 |

Secretary RUSK. Second, the immunity provisions of this convention would give these added representatives no exemptions which Soviet diplomatic personnel do not already have—and in fact would provide less, since they would not be immune from civil action in matters not connected with their official duties.

Third, we are all aware of the excellent work of the Federal Bureau of Investigation in controlling possible espionage by foreign representatives and agents in this country over the years. I believe they can cope with a few more—a belief with which, as you know, Mr. J. Edgar Hoover, is in basic agreement. Our confidence in the FBI's work in this field reduces even further the already small risk involved in the establishment of such a Soviet office.

EFFECT ON OTHER U.S. BILATERAL CONVENTIONS

Fourth, adoption of the criminal immunity provision in this convention could affect bilateral agreements with 27 other countries and could result in similar immunity for some 290 consular personnel—none of them from bloc countries. But this is not a large number when compared with the total of 9,400 persons in the United States with full diplomatic immunity. Nor is it a dangerous precedent. According to a State Department survey, between 1939 and 1964 there were eleven consular officers charged with crimes. Five of these were for traffic offenses. Two of the 11 were convicted.

I might also say on this point, Mr. Chairman, that several of the other countries who have a most-favored-nation privilege with us with respect to such matters either have negotiated or are negotiating their own bilateral consular arrangements with the Soviet Union. For example, Britain and Japan have just announced those, and we understand the French are discussing the same subject.

The CHAIRMAN. Similar to ours?

Secretary RUSK. Not identical.

The CHAIRMAN. Similar.

Secretary RUSK. But I think the relevant point is that those countries who have their own bilateral consular treaties with the Soviet Union would be unlikely to ask us to change our arrangements on a most-favored-nation basis, because they are taking care of their own needs in another way.

Fifth, under the convention, all persons enjoying immunity are under a duty to respect the receiving country's laws, including traffic laws. To enforce this obligation, the convention expressly provides for the unrestricted right to declare an individual *persona non grata*.

I have discussed, Mr. Chairman, the merits of the convention. Like every other treaty, this convention must, of course, be judged on its merits. However, we should be mindful, too, of its place in our overall relations with the Soviet Union.

EXPANDING CONTACTS WITH SOVIET UNION

As President Johnson said in his state of the Union message to the Congress.

Our objective is not to continue the cold war, but to end it.

I should like to reiterate our national policy of expanding our contacts with the U.S.S.R. so as to end the mutual isolation of our two

societies. Increased contacts can reduce misunderstandings between our two countries, and lead, in time, to international cooperation in areas where we are able to find common interests and mutual advantage, even though there might exist very important and sharp and sometimes even dangerous differences between us.

Mr. Chairman, I firmly believe this convention would serve our national interests. It would support and promote important objectives of our foreign policy. More tangibly, it would substantially strengthen the capacity of the United States to protect a large and increasing number of its citizens who travel to the Soviet Union. And I believe that this practical gain justifies support of the convention by those who may not share our view about larger objectives.

In practice, the possible risks of espionage and of enlarged criminal immunity are both small and controllable.

In short, Mr. Chairman, the committee and Senate approval of this consular convention would benefit the Nation and our citizens, and I strongly urge your support.

Thank you very much for this privilege of making this short statement, sir.

The CHAIRMAN. Thank you, Mr. Secretary.

EFFECT OF SENATE DISAPPROVAL OF CONVENTION

What do you think would be the effect if the Senate refused to ratify the convention?

Secretary RUSK. I think in the first instance we would continue to be limited in the protections which we can afford to our own citizens traveling in the Soviet Union.

Our citizens, as you know, feel that they ought to have the maximum freedom to travel, and the Supreme Court has reinforced that feeling on their part as to the right of citizens to travel.

But wherever our citizens travel, there is an obligation on the part of the U.S. Government to offer them protection—and even where the citizens travel into areas where we are not represented, and even when citizens themselves say, “Oh, we will not ask for protection, we waive any interest in protection, we take our own risks.” Nevertheless, when they get in trouble, both they and their families and you gentlemen here, expect us to do everything we possibly can to give them protection.

The obligations of a government to its citizens are not something that can be waived by citizens, and are not something that the government can take lightly.

So I would suggest, Mr. Chairman, that we need this to protect our citizens.

Secondly, I do think that it is important that we find ways to try to bring these vexatious cases under better management and control so that they can be handled as a matter of agreement and handled as a matter of consular arrangements rather than have each case become a matter of the highest controversy and feeling between the two governments at the very top. And we would feel, therefore, if the Senate refused to pass this, that it would set us back in an effort to solve some problems that are a constant irritation to the relations between our two countries.

CONVICTIONS OF TWO FOREIGN CONSULAR OFFICERS

The CHAIRMAN. You mentioned that one of the areas of concern is the question of immunity. I was rather surprised by the figures that you gave that only two foreign consular officials have been convicted. Were those traffic violations for which they were convicted or more serious crimes?

Secretary RUSK. May I just take a look at my table on that?

The CHAIRMAN. You say:

Five of these were for traffic offenses and two of the 11 were convicted.

Secretary RUSK. In 1960, by the U.S. District Court of the Southern District of Florida, a consul general of the Dominican Republic was tried under conspiracy—conspiracy under Federal law—to bribe and smuggle. He was convicted and given five years' probation.

In 1958 there was a trial of a consul of Guatemala for fraud. He was convicted in the district court but appealed, and in that case his status as a consul was apparently not made a part of the proceedings. But those are the two cases my records show we were able to find.

The CHAIRMAN. Well, it is rather a good record.

CASE OF BUELL RAY WORTHAM

You mentioned one case, of course, in which I have a very special interest because the young man comes from my State, Buell Ray Wortham. He was tried and convicted in Russia. It has been well publicized. I will not go into the details. But in any case this consular convention would have made the problems of our Embassy much easier in the initial stages. The final outcome of the conduct of the trial was not objectionable. There have been differences of opinion as to the severity of the sentence. That is another matter.

Secretary RUSK. Yes. Mr. Wortham's case is now under appeal, and I would want to be a little guarded myself as to what I would say about it. He is out on bail, and his case is under appeal. But under this convention, you see, we would be notified of his arrest, within from one to three days after his arrest, and we would have consular access to him within two to four days after his arrest.

The CHAIRMAN. I only mention it in passing.

DEFINITION OF "BLOC" COUNTRIES

You do refer to bloc countries. I was a little interested in the words, "bloc countries." Who constitutes the bloc? Is Yugoslavia part of the bloc?

Secretary RUSK. That word is somewhat anachronistic, Mr. Chairman. Perhaps it was not the most happy word.

The CHAIRMAN. I think we might drop that word for the moment, do you not? That bloc is becoming a little unglued in places, is it not?

Secretary RUSK. That is correct, sir.

The CHAIRMAN. I think it would be a little difficult to define it very accurately at the moment.

Senator Sparkman, do you have any questions?

Senator SPARKMAN. Very, very briefly.

BEGINNING OF NEGOTIATIONS ON TREATY

Mr. Secretary, you say that the convention was proposed by the United States. When did the United States first propose this? When did negotiations start?

Secretary RUSK. My understanding, and Ambassador Kohler can refresh my memory on this, is that Secretary Herter proposed to the Soviet Union that we undertake negotiations on this subject in 1959.

SOVIET CONSULAR CONVENTIONS WITH OTHER COUNTRIES

Senator SPARKMAN. Does this convention differ from the consular conventions that the Soviet Union has with other Western countries?

Secretary RUSK. We do not have the full text of all those at the present moment, sir. There is some discussion still going on with certain other countries. I understand the British text is public, and in the case of the British text, my understanding is that it is very similar to ours on questions of immunity, except that families of consular officers and employees are included. In other words, it is somewhat broader than this particular convention.

Senator SPARKMAN. It is broader than this one.

Secretary RUSK. The Japanese text, I think, is public and is the same as the British.

Senator SPARKMAN. How long have those conventions been in effect, do you know?

Secretary RUSK. They have been completed since we last presented this convention to you, sir. May I put the exact dates in the record?

Senator SPARKMAN. Yes, I would be very glad for you to do that. (The information referred to follows:)

Japanese-Soviet convention: signed July 29, 1966.

British-Soviet convention: signed December 2, 1965.

PREVIOUS EXCHANGE OF CONSULATES WITH SOVIET UNION

Senator SPARKMAN. You mentioned that prior to 1948 there were Soviet consular officers in the United States, and we had consular offices in the Soviet Union; is that right?

Secretary RUSK. That is correct, sir.

You will recall—and this we discussed in our earlier hearing—that an employee of a Soviet consulate in New York jumped out of the window, and the conduct of the consul at that time was such that we asked that he be withdrawn. The Soviet Union then closed its consulates, its three that it had in this country, and we closed our consulate in Vladivostok.

Senator SPARKMAN. Was that the woman who jumped out?

Secretary RUSK. That is right. That was Madam Kasenkina.

Senator SPARKMAN. That was the incident that led up to the closing of the consulates.

Secretary RUSK. That is correct.

Senator SPARKMAN. You said you had authority since 1948?

NEW SECURITY AND IMMUNITY ARRANGEMENTS

Secretary RUSK. We have that authority today, but the arrangements would not be the arrangements in this consular convention if we exchanged consulates today.

Senator SPARKMAN. I notice you made that point. Actually the authority exists, but the thing that does not exist, that you are trying to tie in with it, is a better security arrangement for our people traveling in Russia.

Secretary RUSK. That is correct, sir. The two things that would not be there if we were to try to open a consulate in each country today would be the provisions in this convention for immediate access to our citizens who might be held in the Soviet Union—that, to me, is the overriding and the most important element in this convention—and, secondly, the provisions for certain of the immunities which this convention would provide if we did open a consulate.

Senator SPARKMAN. As you may imagine, we are getting a good many telegrams and letters regarding this at the present time, and reference is made in many of them to the great number of consular offices that would be opened in this country, and the great number of Russians that would be brought in.

PLANS FOR AN ADDITIONAL CONSULATE

Just what is anticipated with reference to opening a consulate?

Secretary RUSK. Our thought at the present time was that we would like at some point to discuss with the Soviet Union opening up one consulate in each country. At the present time consular services are provided by consular sections of the Embassies, their Embassy in Washington, our Embassy in Moscow.

We have a considerable interest in having consular services available in Leningrad, for example. And they then would presumably have access to a consulate in some comparable city in this country. Those things have not been determined. They have been discussed in a preliminary way. There is no agreement, and, as I indicated to this committee when we had our last hearing on this subject, we would, of course, be in consultation with the committee before taking such a step.

Even if we were to conclude agreements providing for one additional consulate in each country tomorrow, this would add, perhaps, ten to twelve Soviet employees covered by this agreement. The same on our side in Leningrad, and that personnel would be subject to our agreement to their admission to perform this function, and our ability to declare them persona non grata, and to ask them to leave. And this would be ten or twelve in addition to several hundred that are already here on that basis.

Senator SPARKMAN. In other words, you would have the same control over the personnel that you have over those coming to their embassy now.

Secretary RUSK. Or to the United Nations when they violate American laws, if they violate American laws.

Senator SPARKMAN. I believe that is all, Mr. Chairman.

The CHAIRMAN. Senator Hickenlooper.

Senator HICKENLOOPER. Thank you, Mr. Chairman.

GRANTING OF IMMUNITY TO CONSULAR OFFICERS AND EMPLOYEES

Mr. Secretary, have we ever in the history of diplomacy, so far as you know, granted immunity to consular officials and employees of the sending country? Has that been a custom?

Secretary RUSK. I think the granting of a certain immunity to consular employees is new in this treaty. When we thought about it, the principal question to us was: is such immunity valuable for the United States—if it were extended to Americans in our consulate in the Soviet Union.

We felt the answer to that was, yes. This would only be possible if we granted similar immunity to their people here. We took a look at their problems on that.

Senator HICKENLOOPER. Why was it considered necessary to grant immunity to their employees?

Secretary RUSK. The problems of the convention include the protection of officials and citizens in each—officials and citizens in each other's country. We felt that in the case of consular personnel, the extension of immunities to nationals of the sending country—that would be Soviet employees in the United States, and United States employees in the Soviet Union—would be of advantage in carrying out the purposes of the consular convention.

NO RECIPROCAL EMPLOYMENT OF LOCAL NATIONALS IN EMBASSIES

Senator HICKENLOOPER. Do the Russians employ any American nationals in this country in their diplomatic mission here?

Secretary RUSK. It is my understanding that they do not, sir.

Senator HICKENLOOPER. Do we employ Russian nationals?

Secretary RUSK. In Moscow?

Senator HICKENLOOPER. In Moscow.

Secretary RUSK. I wonder if I could ask Ambassador Kohler to comment on that, and if so, which ones, what type.

Mr. KOHLER. On a contract basis, Senator, we employ quite a number of Soviet nationals in the Embassy in Moscow; about 125.

Senator HICKENLOOPER. What do you mean on a contract basis?

Mr. KOHLER. Just that.

Senator HICKENLOOPER. What do they do under the contract, build buildings?

Mr. KOHLER. No. They are chauffeurs, for the most part, service personnel, charwomen, cleaners, some translators.

Senator HICKENLOOPER. But they are in a position to look and listen. They will not have any Americans in their Embassy here who are in a position to look and listen.

Secretary RUSK. They work, Senator, in the unclassified section of the Embassy.

Senator HICKENLOOPER. It has been my impression, from what I read in the papers, that there is no place in our Embassy at Moscow that is secure.

Secretary RUSK. We had better go into that under other circumstances, Senator. I think I would not completely agree with that.

Senator HICKENLOOPER. So we are permitting them to bring in additional people into this country with criminal immunity, that is, with immunity from criminal prosecution, while we employ in Russia a lot of Russians, and they do not employ any Americans here. Is that not rather inward-looking on their part?

Secretary RUSK. Oh, yes, sir. I think that historically that country has been inward-looking, and it is not to me very surprising that it would be that way.

We do have already in this country some 452 Soviet officials with diplomatic immunity, and a consulate would add, perhaps, ten to fifteen to that number.

MOST-FAVORED-NATION CLAUSE IN OTHER CONSULAR TREATIES

Senator HICKENLOOPER. I believe in connection therein, as stated in the letter which Ambassador MacArthur wrote to Chairman Fulbright on January 20 about this matter, and I am quoting from the second paragraph:

. . . A list of these 35 states—

Those are the 35 states that, as I understand it, have the most-favored-nation clauses in their treaties with the United States—

A list of 35 states is given as an enclosure to this letter.

That list is attached as an enclosure. He further states as follows:

Based upon a recent survey, 27 of those states have consular establishments in the United States, and include approximately 577 entitled consular personnel.

If they demand equal treatment that would not only enlarge the immunity numbers from, let us say, ten to fifteen which might be included in one Russian consulate, if that is all they established, but it would include immunity from arrest and prosecution to at least 577 in the consulates of the 27 countries which are already in this country. There are some countries which do not have consulates in this country, but could establish them, isn't that true?

RECIPROCITY IN IMMUNITY ARRANGEMENTS WITH OTHER COUNTRIES

Secretary RUSK. That is correct, sir, and there are some that have consulates in this country that have a most-favored-nation provision, but we judge they would not exercise it because they would not wish to extend reciprocity to us in this matter.

Senator HICKENLOOPER. That is a guess at the moment, is it not? That is an opinion at the moment. Next year or the year after they could change their minds and say, "All right, we will reciprocally extend this immunity to give our people immunity from prosecution."

Secretary RUSK. It is somewhat more than a guess. We have discussed that with our embassies in those countries, and some have discussed that matter with their host countries.

Nevertheless, it would be fair to say, as far as the strictly legal basis is concerned, that these countries could at some time in the future ask for it, providing they were willing to give us the reciprocity. We know some of them are not interested in this kind of reciprocity.

Senator HICKENLOOPER. We are getting a little away from the point, at least I assume we are. They may say today they are not interested in this reciprocity nor in this immunity situation. But who knows, in a lot of these countries they could have new governments six months from now or three months from now or a year from now, and change their minds on it and say, "Now we want to take advantage of this." They would have the right to do that, would they not?

Secretary RUSK. They would, sir. That is as a matter of law, but, if you look at the list of the countries you will see that the majority

of them are countries with long-established diplomatic systems and practices of their own, and we would not suppose that we would be deluged with requests for extension of their present arrangements with us.

We have estimated that perhaps 290 additional individuals might be covered if the countries moved to invoke this procedure, but we have no information that they wish to do so.

IMMUNITY PROVISION AND OTHER BILATERAL AGREEMENTS

Senator HICKENLOOPER. Then could you clear up my understanding between Ambassador MacArthur's letter of January 20, 1967 to Chairman Fulbright, and your statement of today when you say:

Adoption of the criminal immunity provision in this Convention could affect bilateral agreements with 27 other countries and could result in similar immunity for 290 consular personnel.

That is your statement.

Now, undoubtedly it is the same statement. I just do not understand it, but in Ambassador MacArthur's letter he says—

Based upon a recent survey 27 of those States having consular establishments in the United States and include approximately 577 entitled consular personnel.

Now, there is quite a discrepancy there between 290 consular personnel and 577. That may not be fatal, but I just do not understand it.

Secretary RUSK. We have said, in Mr. MacArthur's letter, that our Embassies in those 27 states were requested to give their assessment as to whether most-favored-nation treatment would be actually sought on a reciprocal basis. The replies indicated that at most, eleven states would probably request such treatment, and approximately 290 of their foreign consular officers and employees in the United States would be affected. That is column 2 in the enclosure to Ambassador MacArthur's letter, and that was the figure that I used because that is our best assessment as to what this, in fact, would be.

REASON FOR IMMUNITY PROVISION UNCLEAR

Senator HICKENLOOPER. I am in thorough agreement with the advantages which a consular treaty of this kind would have, namely, to allow visitation by our people to our nationals in Russia, or any other country, who are put in jail or charged with crime, incarcerated some place. I can understand the advantage of being able to see those people and being able to help them and extend the assistance of the United States.

But since this treaty was first presented to us, I have not been able to understand why, in the formulation of this treaty, it was necessary to extend this immunity provision which, I think, is a very bad precedent. Why extend it to the nationals of the country who are merely employees of the consulate.

I think the Russians in this country bring their own chauffeurs, their own maids, their own janitors, everybody. There is no reason to believe that the consulate would not do the same thing as the

Embassy does. I have been searching for something because I think there is an advantage in having this treaty. But I think there is a disadvantage. I think there is a dangerous and unwarranted precedent also in this treaty. I do not know why we entered into a treaty of this kind that goes that far.

Secretary RUSK. Well, Senator, we would expect, if a consulate were opened in each country, that the numbers, the total involved, would be ten to fifteen; and that number would include employees and consular officials in the usual sense.

Now, how they would balance those among consular officers and employees would be for them to decide, as it would be for us to decide in the Soviet Union. Each country would have the privilege of not accepting the other's list in a matter of that sort; that is, they would have to come in with approval.

Senator HICKENLOOPER. I understand that. I understand that a lot of people come into this country and I do not know why we approve them, but international comity seems to indicate that they should be approved and, therefore, they are approved and get into this country.

Now we are probably, I think, enlarging the situs of the infection in many ways. I probably am a little adamant about this thing. You and I have talked about this two or three times. I think you are convinced. But it is very difficult to convince me otherwise on this matter.

Secretary RUSK. Senator, I think that actually it comes to the point—as you say, we have discussed it—as to whether there is a genuine reciprocal advantage flowing to us in this arrangement that to us is at least as important as the advantage that the other side might get from this arrangement.

Senator HICKENLOOPER. I could see some persuasive justification, perhaps, for saying that the consular official himself and his immediate family might be entitled to immunity. I do not know that I would go along with that necessarily, but I can see a lot of persuasive arguments in that.

But to include all and sundry who come in the baggage train with him from the sending country is something I just do not see.

SOVIETS ORIGINATED PROPOSAL FOR IMMUNITY PROVISION

Now, could you tell us who insisted on this unrestricted immunity for all the personnel? Did we insist on it or did the Russians?

Secretary RUSK. I think it might be well for Ambassador Kohler, who was in the negotiation, to comment on that. But I would say that, when the matter came up, we felt the advantage to having this immunity for our people in the Soviet Union was at least as important to us as this might have been to the other side.

Ambassador Kohler, how did it come up?

Mr. KOHLER. Senator, the original proposal came up from the Soviet side during the course of the negotiations. I may be a bit subjective on this, but personally I was a great proponent of this, and I urged the Department to consider this even though it is a change from traditional practice.

The formula in the convention would mean that American officers and American clerks and employees going to an American consulate in the Soviet Union would have the same status as those who would be in

and serve in the Embassy now. I think it is desirable, very desirable, that they have such protections.

EMBASSY EMPLOYEES AND CONSULAR EMPLOYEES

Senator HICKENLOOPER. Is there any reason why employees of the Embassy cannot be assigned to, and do the occasional necessary work for the consulate, and retain their immunity?

Mr. KOHLER. They would not be in the same geographic location though, Senator.

Senator HICKENLOOPER. Well, is that bad?

Mr. KOHLER. I think it is very bad. I have a personal assistant or a secretary, who obviously knows as much about the work as I do. I think it is desirable that she be protected—as I am protected if I am serving in Leningrad.

Senator HICKENLOOPER. We have a certain number of personnel in the Embassy in Moscow and they have diplomatic immunity.

Mr. KOHLER. All Americans serving in the Embassy in Moscow have diplomatic immunity.

Senator HICKENLOOPER. All right.

If you have a consulate in Leningrad, can't you assign periodically from time to time some of that personnel to help out with the work of the consulate in Leningrad and give the consul immunity without having the reciprocal extension of immunity to all personnel?

Mr. KOHLER. No, sir. There are specific provisions in this treaty that cover this point. It is possible to assign someone from the Embassy in Moscow to, let us say, a consulate general in Leningrad. In that case, during the period of service in Leningrad, he comes under the terms of this treaty. And this can only be done by agreement, because all personnel assigned must be approved by the receiving government.

CONSULAR PROTECTION FOR AMERICAN CITIZENS

Senator HICKENLOOPER. If he has immunity only while in Moscow, how does he gain anything under the terms of the treaty which gives him immunity?

Mr. KOHLER. It also gives him rights and privileges in terms of his work in protecting American citizens and being able to advance their interests.

Secretary RUSK. Mr. Chairman, without this convention those people would not have access to American citizens who might be arrested by the Soviet Union.

Senator LAUSCHIE. Mr. Chairman?

The CHAIRMAN. The Senator from Ohio.

OPERATION OF THE TEN-MINUTE RULE

Senator LAUSCHIE. I reluctantly raise this point of order, but it was raised by Senator Hickenlooper earlier. He has used more than ten minutes, and I would like to know whether in these hearings those of us who rank low in membership will have to wait with the passing of time, while certain of our members use more than the ten minutes usually allocated.

Are we operating under the ten-minute rule?

The CHAIRMAN. No, sir; we are not.

Senator LAUSCHE. Why not?

The CHAIRMAN. We are not operating under it.

Senator HICKENLOOPER. In order to keep peace and harmony in the committee I hereby surrender the rest of my time, Mr. Chairman, and you may pass it on to other members.

Senator LAUSCHE. Who has decided we are not operating under the ten-minute rule?

The CHAIRMAN. The chairman decided it.

I think the Senator from Ohio is out of order. The Senator from Iowa may proceed.

Senator HICKENLOOPER. No. I believe in peace and harmony in the committee.

Senator LAUSCHE. I am sorry to have interrupted the Senator from Iowa.

The CHAIRMAN. The Senator is out of order. We are proceeding in exactly the same manner as we proceeded last Monday.

Senator LAUSCHE. We are proceeding in a manner completely contrary to all of the proceedings that we have had in open meetings since I have been in this Senate. The ten-minute rule has prevailed constantly. Today it is changed by the chairman and that is arrogating a rather powerful force to himself. [Laughter.]

The CHAIRMAN. That is an example of the arrogance of power. [Laughter.]

Senator HICKENLOOPER. Mr. Chairman, if I may say just one thing, I would like to say that the chairman did not tell me, I raised the same question last Monday, and the chairman told me specifically that we were not operating under the ten-minute rule then, and he did not want to for a while.

The CHAIRMAN. We did not and there was no complaint at that time.

Senator LAUSCHE. That is not a good excuse for the elimination of it.

The CHAIRMAN. I wonder if the Senator would allow the committee to proceed.

Senator LAUSCHE. I will yield to the statement that I am out of order, but I will want this subject brought up in closed session so that there can be a determination by the entire body and not solely by the chairman. I know that he knows a lot, and that he is, to a substantial degree, impeccable and infallible.

The CHAIRMAN. I thank the Senator. [Laughter.]

Senator LAUSCHE. But I still want to bring this up.

The CHAIRMAN. Senator Mansfield?

Senator MANSFIELD. Mr. Chairman, first may I say that you are the chairman of this committee, and unless agreements are entered into you have the authority to determine how long each member shall speak.

I ask that my questions be answered briefly and that I be gavelled down at the end of ten minutes.

NO DIPLOMATIC PROTECTION FOR U.S. EMPLOYEES OF FOREIGN EMBASSIES

Mr. Secretary, do U.S. employees of foreign embassies in this country have diplomatic protection?

Secretary RUSK. U.S. employees of foreign embassies in this country are not entitled to diplomatic immunity.

TREATY NEGOTIATIONS BEGAN IN 1959

Senator MANSFIELD. Now, I believe in response to a question raised by Senator Sparkman you stated that negotiations covering this convention began in 1959.

Secretary RUSK. That is correct, sir.

Senator MANSFIELD. In other words, this convention has met with the approval of President Eisenhower, former President John F. Kennedy, and President Johnson.

Secretary RUSK. President Eisenhower's administration initiated the negotiations. They had not been concluded while he was President, so that I could not say that he had an opportunity to see the final draft. But the idea for such a consular convention and its main items were before him, his administration, and they initiated the discussions.

RATIFICATION IS TO THE ADVANTAGE OF THE UNITED STATES

Senator MANSFIELD. You have indicated quite strongly that ratification of this convention would be to our advantage.

Secretary RUSK. Yes, sir.

SENATORIAL PROTECTION IN THE U.S.S.R.

Senator MANSFIELD. When Senators go to the U.S.S.R. what protection do we have?

Secretary RUSK. You have no special protection as Senators, except that I think the Soviet Union would be rather more hospitable to you than they would be to ordinary tourists. But at the present time, under Soviet law, they could seize a Senator and during a period of investigation keep him without access of an American consul for nine months or more.

Senator MANSFIELD. In other words, this convention would give us some protection as well as other citizens.

Secretary RUSK. Yes, sir.

Senator MANSFIELD. Don't you think that other citizens should be given as much protection as Senators?

Secretary RUSK. Yes, sir; I do.

Senator MANSFIELD. Now, Mr. Secretary, it is my understanding that consular offices can be opened in the United States now without this convention.

Secretary RUSK. That is correct, sir. Under the circumstances that would obtain under existing law in the two countries.

Senator MANSFIELD. One or two more questions.

RATIO OF AMERICAN TO SOVIET TOURISTS

It is my understanding that there are 20 times as many American tourists going to the U.S.S.R. as there are Soviet citizens coming to this country.

Secretary RUSK. That is correct, sir.

Senator MANSFIELD. So it would mean that this level in tourism, which seems to be going up all the time, would and should have some

added protection through the inauguration of a consulate or consulates as the times call for.

Secretary RUSK. That is our very strong view, Senator.

NEWCOMB MOTT CASE

Senator MANSFIELD. Mr. Mott, a citizen of Massachusetts, I believe, was taken into custody by the Soviet police because he inadvertently crossed into the Soviet Union from Norway, I believe, a year or two ago.

Secretary RUSK. That is correct.

Senator MANSFIELD. After being held in custody, as I recall it, he was being transported from a place in the north down to Leningrad or Moscow, and during the course of that trip he committed suicide.

Would it not have been possible that had we had a consulate at Leningrad at that time that Mr. Mott might be alive today?

Secretary RUSK. It is entirely possible, sir. For nine days they held Mr. Mott without allowing an American official to see him, and then only for one hour. There were three other consular meetings with him in the ten weeks prior to trial, and this is not the standard of protection we would like to be able to offer.

Senator MANSFIELD. But had you had this convention in operation, the consulate at Leningrad, if there were one there, would have had access to him in a far shorter period of time. His needs would have been looked after more carefully. He would have been given the protection and the immunity under this convention which would apply to all citizens, and he might be alive today.

Secretary RUSK. That is entirely possible, sir. Certainly under this convention we would have been entitled to notification of his arrest from within one to three days, and entitled to a consular visit within two to four days after his arrest.

Senator MANSFIELD. I thank you. That is all, Mr. Chairman.

The CHAIRMAN. Senator Aiken.

REASON FOR INCREASE IN AMERICAN TOURISM TO RUSSIA

Senator AIKEN. Mr. Secretary, what is the particular appeal of Russia which has resulted in such an increase of American tourists visiting that country in the last four or five years?

Secretary RUSK. I think, Senator, that one reason is that it is a country—and this is true of some of the other Eastern European countries—to which American tourists have not been accustomed to going in the past. It is a new country to most of them.

And there are things there which American tourists would like to see, if possible. For example, I think they would find the Kremlin establishment itself interesting in Moscow. I think they would find the Heritage Museum in Leningrad a fascinating place to visit. I think this was the opening of a possibility that was not there before, and offers the usual kinds of things that are of great interest to traveling Americans.

Senator AIKEN. What sort of Americans travel there?

Secretary RUSK. I would think a cross section from the point of view of social status or wealth or profession or activities back here at home. It is a general cross section.

Senator AIKEN. Particularly those who can afford to go one way or another get to Moscow.

Secretary RUSK. That is, of course, the first requirement. They have to be able to pay their way.

LITTLE PRIVATE SOVIET TRAVEL TO THE UNITED STATES

Senator AIKEN. Is it because they cannot afford to come here or because their Government does not let them come here that we do not have many Russian visitors?

Secretary RUSK. We have hoped that they would send more tourists to this country. I think it is both a matter of foreign exchange and a matter of their not being as open as we are about these matters.

We have had increasing numbers of Soviet citizens coming here on delegations to international meetings and for exchange programs. But there is very little private tourism in the usual sense between the Soviet Union and the United States from their direction.

Senator AIKEN. With the average wage in Russia being, shall we say, about \$100 a month, that would not permit them to stay long in America even if they got here, would it?

Secretary RUSK. I think it would be much more difficult for them, for large numbers of their people, to travel on their own private resources.

AMERICANS IN TROUBLE WITH THE SOVIET LAW

Senator AIKEN. You have given us the figure of about 18,000 Americans having visited Russia in 1966. How many of those 18,000 Americans got in trouble with the Russian law?

Secretary RUSK. During 1966? May I just pause a moment? About a half dozen cases, Senator, have come to the official attention of the Government.

I think I would have to say that tourists in many countries fall into minor infractions of local law in a variety of ways, just as they do here, and I suspect that there are a number of cases which did arise which we never heard of: the Soviet Union simply brushed it aside and let those people depart.

Senator AIKEN. Out of the 18,000 people who visited Russia, only 18 ran afoul of the law.

Secretary RUSK. I think I have cited since we signed this convention about 20.

Senator AIKEN. Mr. Katzenbach, tell us of the about 18,000 Americans who stayed in this country, how many ran afoul of the law? [Laughter.]

Mr. KATZENBACH. It would be difficult to have the same cross section as far as wealth is concerned. But as far as viewpoint is concerned, I would say on your crime rate it would not be very different than that.

Senator AIKEN. You mean not very different from the tourists abroad?

Mr. KATZENBACH. On those figures you would be taking 20 out of about some 40,000, I suppose, of those who ran afoul of the law in a fairly serious sense, you would not run to much more than 20 on that figure. I think running afoul of the law in terms of traffic tickets or parking tickets, might run to a slightly higher percentage.

Senator AIKEN. Some of the troubles in Russia were not much more serious than, well, maybe a little more serious than, parking violations, but not much more serious than taking hotel towels in America would be.

Mr. KATZENBACH. There are differences here, Senator, between Soviet law and the law of the United States, just as there are in other countries which tourists go to, and difference in attitude sometimes with respect to that law as to how serious they take offense about something that would not be a serious offense in this country, and that would be true of other countries as well.

Senator AIKEN. What is it, fear or respect which makes Americans act better in foreign countries?

Secretary RUSK. We call the attention of our tourists to taking seriously local regulations about such things as exchange of currency, to stay away from the black market. And I would not advise American citizens going to the Soviet Union to take towels out of hotels—or iron bears, for that matter—because they take a more severe view of that in the Soviet Union than American hotels would.

“BLOC” COUNTRY CONSULATES IN THIS COUNTRY

Senator AIKEN. Mr. Secretary, you refer to the bloc countries, whether that is the right term or not, the bloc countries of East Germany, Poland, Czechoslovakia, and others. Do they have consulates in this country?

Secretary RUSK. Poland. In an official sense Poland has a consulate in Chicago, but otherwise they conduct their consular business out of consular sections of their embassies here in Washington.

Senator AIKEN. I suppose the terms of this consular treaty apply to those other countries, too?

Secretary RUSK. No, sir. It would be bilateral between us and the Soviet Union. Before such arrangements would apply to them we would have to negotiate special arrangements.

Senator AIKEN. Do you think they would have to get the consent of Russia before they could establish consulates in this country?

Secretary RUSK. I would think that if they attempted to negotiate with us a convention similar to that we would have with the Soviet Union, they would probably have no trouble getting permission. They would probably not even ask for it.

SOVIET FORCES IN EASTERN EUROPE

Senator AIKEN. We talk about the Russians maintaining large forces of men and tanks and so forth in these bloc countries, if that is the name for them. Do you think that they maintain these strong forces in, shall we say, Poland and Hungary to be ready to launch an attack on the West or do they maintain those strong forces there to make sure that the countries where they are stationed do not get out from under their domination, similar to Hungary in 1956?

Secretary RUSK. I would think there are mixed reasons, and more than one reason, for the deployment of their forces.

I think that they, by and large, have their forces there in relation to the situation between the Warsaw Pact and the NATO countries.

But I would not dispute the possibility there may be other things in their minds.

Senator AIKEN. They did suppress the Hungarian revolution.

Secretary RUSK. That is correct, sir.

Senator AIKEN. And we did not offer to help at all.

Secretary RUSK. That is right, sir.

Senator AIKEN. That is all.

LIBERTY LETTER AGAINST CONSULAR TREATY

Senator MORSE. Mr. Secretary, I hold in my hand a brochure issued under date of January 1967 called the Liberty Letter. It is a representation from an organization generally known in the Congress as the Liberty Lobby. I ask your consent that it be published in the record at this point.

The CHAIRMAN. Without objection it will be inserted.
(The document referred to follows:)

[Liberty Letter, Washington, D.C., January 1967]

CONSULAR TREATY TO ALLOW SOVIET AGENTS IN YOUR CITY

ACTION NECESSARY NOW TO STOP KATZENBACH PLAN

The Johnson Administration plan to allow Soviet spy nests in American cities is with us again after being repulsed by a horrified public outcry in 1965.

With their unrelenting drive for a socialized America slowed down by the 1966 election returns, the Administration planners are now turning their full attention to what they call "building bridges" to the Communist enemy. In the forefront of this appeasement drive will be an all-out effort to ratify the notorious "Consular Treaty."

Consulates maintained by free nations are offices where normal commercial and tourist business is conducted. But, as pointed out by FBI Director, J. Edgar Hoover, the main function of a Soviet consulate is espionage.

If the Consular Treaty is ratified by the Senate, American consulates in the Soviet Union will be busily occupied with increasing trade with the enemy, while Russian weapons are being used to kill and maim American boys in Vietnam.

Soviet consulates in this country will be busily engaged in dispatching spies throughout America. And, by the terms of Article 19 of the Treaty, these spies will be immune from prosecution by any American authority, State or Federal.

According to FBI information given to Sen. Thomas Dodd, more than 400 Soviet espionage and intelligence agents would be assigned to proposed consulates in New York, Chicago, Detroit and Los Angeles.

The spectre of this Soviet fifth column, operating with impunity in every part of the country, caused patriots to flood the Senate with an unprecedented amount of protest mail in 1965, appealing for the defeat of the Treaty. This public demand, inspired by Liberty Lobby, was so great that the Senate leadership backed away from its plan to bring the Consular Treaty up for a vote.

The drive to secure ratification of the "Soviet Spy" treaty is being led by Nicholas Katzenbach, who was moved from the Justice Department to his present post of Undersecretary of State as part of the President's program for "friendship" with the enemy. What better way to begin his new career than to press for ratification of a treaty which J. Edgar Hoover has called "a cherished goal for the Soviet intelligence services?" (Testimony of J. Edgar Hoover before the House Appropriations Committee, March 4, 1965.)

The Senate Foreign Relations Committee, headed by Senator Fulbright, is very likely to report the Consular Treaty to the Senate floor early in the upcoming session of Congress.

There are men in the Senate who recognize the danger to our national security posed by this treaty. If you give them enough support now, you can stop the Consular Treaty.

WHAT YOU CAN DO

Write or wire your two Senators now.

Tell them you feel that a vote for the Consular Treaty would be a breach of faith with our boys in Vietnam, where Russian arms are killing Americans.

Tell them that you are concerned about the possibility of Soviet espionage, agents being given freedom to operate in American cities.

Tell them that you do not want Soviet spies living and working in our cities.

Tell them that you and your neighbors would find it very hard to understand how any Senator could ignore the warning J. Edgar Hoover gave in his testimony before the House Appropriations Committee.

Warn your friends and neighbors of the dangers hidden in the Consular Treaty, and encourage them to write or wire their Senators.

Remember, your influence counts . . . use it!

Senator MORSE. The headline is:

Consular Treaty to Allow Soviet Agents in Your City. Action Necessary Now to Stop Katzenbach Plan. The Johnson Administration plan to allow Soviet spy nests in American cities is with us again after being repulsed by a horrified public outcry in 1965.

Similar extremist statements permeate the document.

STATE DEPARTMENT MEMORANDUM OF COMMENT ON LIBERTY LETTER

I think it is one thing for the Department of State to make a comment or an answer to it on its own initiative, but it is quite another thing for them to reply to the committee. I would like to make a request, Mr. Secretary, and I should think Mr. Katzenbach would be the most appropriate official to answer it. I think it would be helpful if you would agree to file with us a memorandum commenting upon the contents of this statement, because it is a statement that will have wide circulation, not only within Congress, but throughout the country. Although I grant that its extremism speaks for itself, nevertheless not all people take that objective attitude toward such a document.

Secretary RUSK. I understand, sir.

Senator MORSE. And, therefore, Mr. Chairman, I would respectfully request that the State Department file a memorandum of comment on this document.

The CHAIRMAN. You will be glad to do that?

Secretary RUSK. We are prepared to do that, Mr. Chairman, and we will try to do so with suitable restraint.

(The memorandum referred to follows:)

Liberty Letter Number 71, dated January 1967, raises several questions about the proposed Consular Convention between the US and the USSR. To assist people in making up their own minds we shall quote the Letter's allegations with respect to each question and set beside them the Administration's understanding of the matter.

1. *Whose idea is the Convention?*

What the Liberty Letter Says:

"Action Necessary NOW to Stop Katzenbach Plan.

"The drive to secure ratification of the 'Soviet Spy' treaty is being led by Nicholas Katzenbach, who was moved from the Justice Department to his present post as Undersecretary of State as part of the President's program for 'friendship' with the enemy."

What the History of the Convention Shows:

Former Secretary of State Christian Herter first proposed a consular convention to Soviet Foreign Minister Gromyko when Premier Khrushchev met with President Eisenhower at Camp David in 1959. The Kennedy and Johnson Administrations have since approved the step-by-step process by which the treaty

now before the Senate was negotiated. President Johnson most recently called for its approval in his State of the Union Message on January 11, 1967.

The primary purpose of the Convention is to provide for the protection of American citizens traveling in the Soviet Union. This protection, which comes into being whether or not we ever open a consulate in the Soviet Union, involves the requirement that the Soviet Government must notify our Embassy whenever an American has been taken into custody, give access to him within a short period of time, and given continuing access to him thereafter. Soviet nationals in the United States already have ample protection under our Constitution.

2. *How many additional Soviet officials would be stationed in the United States as a result of the Convention?*

What the Liberty Letter Says:

"Consular Treaty to Allow Soviet Agents in Your City.

"According to FBI information given to Sen. Thomas Dodd, more than 400 Soviet espionage and intelligence agents would be assigned to proposed consulates in New York, Chicago, Detroit and Los Angeles."

What the Convention Provides:

The Convention itself permits not a single additional Soviet official to be stationed in the United States. Only if a consulate was actually established would consular officials of the Soviet Government be allowed to reside in this country.

Neither the Johnson Administration nor the Kennedy Administration ever considered letting the Soviets establish consulates whenever or wherever they wish. The Consular Convention provides that a Soviet consulate can be opened only if the US Government approves. Such approval could only follow separate negotiations with the Soviet Government.

When and if we do decide that our national interest requires opening of an American consulate somewhere in the USSR we would consider opening negotiations with the USSR that could lead to each country establishing one consulate in the territory of the other. We would be prepared to send 10 to 15 Americans to an American consulate in the USSR. If the Soviet Union were to accept such a proposal, it would then be allowed to send an equivalent number of persons to a consulate here. (The USSR now has over 1,000 people stationed in the United States). In any event, this is in the future. We have had no formal discussions with the Soviets about the opening of consulates and no such discussions are now being planned. Moreover, Secretary Rusk has stated he will consult with the Senate Foreign Relations Committee before any such negotiations, and seek the advice of state and local officials concerned before permitting the Soviets to open a consulate.

If we permitted the opening of a Soviet consulate in the United States, its staff would be subject to the same travel controls applied to Soviet personnel at the Soviet Embassy in Washington and at the Soviet Mission to the UN in New York. They are now excluded from some 25 per cent of the United States, including those areas where sensitive defense installations are located. They must notify us 48 hours in advance of any trip taking them more than 25 miles from the city where they are stationed, and we can refuse permission for such a trip without providing any explanations.

In summary, this treaty has nothing to do with letting Soviet citizens into this country. It does not authorize, propose, suggest, provide for, permit or require the opening of a single United States consulate in the Soviet Union or a single Soviet consulate in the United States.

3. *What is the danger of espionage created by this Convention?*

What the Liberty Letter Says:

"Soviet consulates in this country will be busily engaged in dispatching spies throughout America. And, by the terms of Article 19 of the Treaty, these spies will be immune from prosecution by any American authority, State or Federal."

What the Convention Provides:

If a Soviet consulate is ever opened, the 10 to 15 Soviet consular officials concerned, like the 452 Soviet diplomats and members of their families now in this country, would be entitled to immunity from criminal prosecution. Unlike the diplomats, consular officials would not be immune from civil suits relating to their private acts. The families of the consular officials, unlike the families of diplomats stationed here, would not be immune from either civil or criminal prosecution. Any suggestion that simply because of criminal immunity the

activities of 10 to 15 known Soviet officials could not be effectively controlled, in the same way that the activities of the much larger number of Soviet diplomats are now controlled, ignores the history of the FBI's work in the counter-intelligence field.

Moreover, the Consular Convention contains specific provisions to guard our internal security. We would have the opportunity to screen each Soviet consular official before letting him into this country. State and local authorities could investigate and observe his activities if we let him in. These provisions are particularly important in view of the fact that our investigative agencies tell us that it is easier to observe a known person with a fixed address than it is to identify and observe a faceless agent. If any official's actions were considered improper or if we had any other reason for wanting him out of the country, we would expel him without explanation. In addition, we could order the consulate closed. Finally we could terminate the Convention itself on six months' notice.

Most important of all, the Convention's provisions on immunity from criminal jurisdiction are considered to be of definite benefit to the United States. Should we decide to open a consulate in the USSR, we would have to protect the Americans we would send there from harassment and arbitrary arrest by the Soviet police. Since 1946, 31 American employees at our Embassy in Moscow have been expelled from the USSR, most of them on allegations of espionage. Without the shield of diplomatic immunity, these Americans could have been jailed and severely punished on trumped-up charges. Critics of the Convention must consider whether they would really wish to see Americans assigned to posts in the USSR without the protection of immunity from criminal jurisdiction.

4. *Will the Convention lead to an increase in trade with the Soviet Union?*

What the Liberty Letter Says:

"If the Consular Treaty is ratified by the Senate, American consulates in the Soviet Union will be busily occupied with increasing trade with the enemy, while Russian weapons are being used to kill and maim American boys in Vietnam."

What the Convention Provides:

The Consular Convention is wholly separate from the issue of our trade policy with the Soviet Union and says nothing on that question.

If and when an American consulate were ever opened in the USSR, it could be called upon to look after the interests of American businessmen trading with Soviet firms, as well as other US interests, but it could do little trade promotion work. It is the Soviet trading monopolies in Moscow which buy from abroad, and they generally deal directly with American traders either in Moscow or through their commercial representatives in this country.

5. *Could a Soviet consulate in the United States become a safe haven for fugitives from justice?*

What the Liberty Letters Says:

A cartoon in the Liberty Letter shows a Soviet consulate with a sign on the door—"Warning to Police—Forbidden by Federal Law to Enter in Pursuit of Murderers, Kidnappers or Spies."

What the Convention Provides:

Should a Soviet consulate ever be opened in the United States, its premises, like all diplomatic establishments in the United States, including the Soviet Embassy and the Soviet Mission to the United Nations, could not be entered without permission. A US consulate in the USSR would of course enjoy the same protection. As a practical matter, the United States would take the necessary diplomatic steps to obtain removal from the Soviet consulate of any person who had taken refuge in it. In no event could the individual be removed from the United States without the permission of the United States Government and of local authorities.

SAFEGUARD PROVISIONS IN TREATY

Senator MORSE. Mr. Secretary, speaking about a hypothetical case now, let's assume that a consulate is established or consulates are

established, and let us assume that the Russians do participate in a course of conduct that we consider to be misconduct, and they are caught engaging in espionage and other violations which we do not think can be countenanced by us.

Will you tell the committee what provisions contained in this convention permit withdrawal from the arrangement.

Secretary Rusk. Yes, Senator.

In the first place, as far as individuals are concerned, we can require their removal from the country. There is no question about that.

Secondly, if we become dissatisfied with the consular agreement, we can bring it to an end by notification. It would terminate six months after notification.

If necessary, from a security point of view, we can impose certain limitations on the movements of these people. We, as you know, already do that in some areas.

Quite frankly, Senator, the problem of espionage is not a problem of 10 to 15 additional consular officers here. It is a far more sophisticated and complicated question than that. I have no doubt myself that the FBI can fully take care of any small increment of a problem that might arise from our establishing a consulate.

Senator MORSE. I asked the question to elicit that answer because I knew there was no other answer you could give. I think it is very vital because of the fear arguments that are going to be stirred up in this country if we do not meet them head-on. As your answer points out, there are checks throughout this convention that protect our national interest in the event that Russia should follow a course of subversive action—which I think is perfectly absurd to assume she would follow because it could not be in her interest to do so. Were Russia guilty of a course of action of misconduct on her part, our people are protected by the checks that are written into the convention itself. That is true, it is not?

Secretary Rusk. That is correct, sir; and, further, at the end of the day, one can always close up the consulate if there is a major infringement.

FEAR ABOUT TREATY IN THE COUNTRY QUESTIONED

But, may I just comment briefly, sir, on the question of fear.

I do not get the impression—of course you gentlemen get more letters than I do on this particular subject, I suspect—but I do not get the impression that there is a widespread fear around the country on this. We have had expressions of interest from some cities, a number of cities, saying they would like to have a foreign consulate in their city, and one or two people down here at this end of Pennsylvania Avenue have said they hoped such a consulate might be in their neighborhood. But I do not get the impression there is a general fear about what 10 or 15 or more people might do in this country.

EFFECT ON RIGHT OF ASYLUM

Senator MORSE. Mr. Secretary, does the convention in any way codify the existing rights of asylum?

Secretary Rusk. It does not affect political asylum at all. It does not change that in any way.

EFFECT ON TAX EXEMPTIONS

Senator MORSE. Does the convention change in any way or grant increased rights in respect to tax exemptions?

Secretary RUSK. May I ask the legal adviser to comment on that?

Senator MORSE. Yes.

Mr. MEEKER. Senator, in articles 22 and 23 the tax exemption provisions of the convention are set forth. The changes which they would make are basically with respect to taxes imposed by the states.

Under the Federal income tax, consular officials would be exempted anyway on their official salaries by virtue of provisions of U.S. statutes.

Some of the larger states which have consulates in their cities have comparable exemptions in their income tax laws. But in cases where a state does not provide an exemption for income tax on a consul's salary, this convention would make a difference. It would provide an exemption.

The same thing is true in a few other limited situations such as, for example, a consular officer dying in the United States while assigned here as a consul. His personal effects and property which he had with him in this country as a consul would be exempt from inheritance taxation by virtue of this convention.

Senator PELL. Would the Senator yield on the question of asylum?

Senator MORSE. Yes.

RIGHT OF POLITICAL ASYLUM

Senator PELL. It would seem to me under article 17, the right of asylum is extended because until now under international law only the consular archives are inviolable. Under this treaty the residence of the head of the establishment, and the consulate establishment itself, are inviolate.

Mr. MEEKER. Senator Pell, this is a standard provision which appears in our other consular convention. The fact that law enforcement officers of the receiving state are now allowed to enter the premises without having given their consent, does not in any sense mean that the consul is permitted by international law or by agreement between the two countries to retain asylees in the consulate regardless of the circumstances.

In other words, this convention leaves us where we were before, namely, any right of political asylum which the United States does not recognize is not granted by this convention.

Senator PELL. I will return to that in my time.

TAX IMMUNITY PROVISION SIMILAR TO THOSE IN OTHER CONSULAR CONVENTIONS

Mr. KATZENBACH. Could I add just one brief point, Senator? The provisions in this consular treaty with respect to tax immunity and those types of provisions are virtually boilerplate of other similar consular conventions with other countries, and are quite customary not only with respect to this country but in international law generally.

ADMINISTRATION OF AMERICAN CRIMINAL JUSTICE

Senator MORSE. Mr. Secretary, some of my mail indicates confusion on the part of the writers in regard to the sovereign rights of the United States in this country and the sovereign rights of Russia in Russia to enforce their laws, criminal as well as civil.

Except for the immunity provision, the limitations of which you have already discussed, if a Russian tourist is in the United States, is there anything in the convention that prevents the administration of American criminal justice in regard to that person as an individual?

Secretary RUSK. No, sir; there is nothing at all in it. We would, under this convention, give them notification of arrest within one to three days and give consular access in two to four days, but we do that anyhow, and we would like to get that reciprocally from the other side.

PROVISIONS FOR NOTIFICATION AND CONSULAR ACCESS

Senator MORSE. The same is true with regard to an American tourist in Russia. They have jurisdiction to proceed to arrest him and to try him, but the convention does set out some very basic procedural guarantees that at least we think are pretty vital from our heritage of Anglo-Saxon justice in order to protect the individual from the application to him of what we term police-state procedures.

Secretary RUSK. That is correct, sir. The provision for notification and for consular access is utterly fundamental if we are to give our citizens traveling in the Soviet Union any adequate protection.

Senator MORSE. Two more questions and I am through.

QUESTION OF RESTRICTING NUMBER OF SOVIET CONSULATES AND PERSONNEL

You have spoken several times about our original plan to have one Russian consulate and one American consulate in the respective countries, and you have referred to the figure ten to eleven persons.

Is there anything in the convention that prevents Russia, if she establishes a consulate, to have more than 10, 11, 25, or 30 personnel, if she wanted to? Is the number restricted in the convention?

Secretary RUSK. Article 2, paragraphs 5 and 6 make it clear that the receiving country, would have the privilege of denying individuals or numbers that we did not wish to accept.

Senator MORSE. And they have the same reciprocal right?

Secretary RUSK. That is correct, sir.

Senator MORSE. I think that is so important, Mr. Secretary, because part of the propaganda to which I referred seeks to give the impression that this opens a floodgate and Russia not only can establish whatever number of consulates she wants to—which I have already pointed out is not true—but any number of personnel she wants to. What I want to stress in my colloquy with you is that this convention has written in it check after check protecting the interests of the Government of our country and our people from just such allegations as have been presented to us.

CONSULATES MAY BROADEN OPPORTUNITIES FOR DIPLOMATIC
INTERCOURSE

My final question, Mr. Secretary, goes to the whole foreign policy program of seeking to develop, or at least increasing, the diplomatic intercourse between our country and Russia, and other countries behind the curtain, and increasing our economic and cultural intercourse with them, greater exchange in the field of tourism and so on. Do you feel that the establishment in the first instance of a consulate apiece is going to broaden the opportunities for an intensification of diplomatic intercourse between the two countries?

My final comment by way of a question to you is do you think that ratification of this convention on the part of the Senate of the United States would be an inducement to improving and expanding our diplomatic intercourse with the Soviet Union?

Secretary RUSK. This is one of its important purposes, Senator. There are some who feel that the subject of this convention is not very important in the presence of some large and even dangerous issues with the Soviet Union. We are under no illusions about the difficulties of these problems. I am reminded of a phrase Dr. Raymond Fosdick used: he referred to spinning the infinite of threads that bind peace together.

Here is a thread, here is a thread that might help us to resolve some of these issues on the basis of understanding and agreement rather than confrontation and hostility.

We would hope, sir, that, if we can regulate these questions of individuals and get them out of the range of the most inflammatory and excitable prestige considerations between the two governments, that would help to open the way for putting relations on a more normal basis.

May I illustrate, Mr. Chairman, if I could have just a moment on this, illustrate it with the purposes of protocol. One hundred fifty years ago ambassadors would be fighting in the streets in London to see who would step forward first in a particular process. Now, the purpose of protocol is to answer automatically a lot of those questions which would otherwise cause great disturbance. If we can get the adequate protection for citizens in the Soviet Union on a normal, routine businesslike basis, so that it does not represent an engagement between the Premier of the Soviet Union and the President of the United States every time somebody gets arrested, this is a move in a very constructive and proper direction.

Senator MORSE. I would like to illustrate it and then I will close with another example. You are a much better witness than I am because you knew all the details. I knew some of them in my capacity at the time as chairman of the subcommittee on Latin American Affairs. How well I remember those tense critical hours in October 1962 when the world, in my judgment, was on the verge of a possible nuclear war. It was accessibility through existing diplomatic channels and those from the United Nations to Moscow which made it possible for the conversations that you know very well contributed greatly to the success of the President of the United States in saving the world from what could have been a great nuclear holocaust. In the propaganda already afloat against this convention is a proposal that we not extend relations, but had better take a long look as to whether or not

we don't already have too many with Russia, and with other countries behind the Iron Curtain.

I think a step even though it may appear to some to be small is very much worthwhile taking.

Senator MORSE. Thank you very much.

The CHAIRMAN. Senator Carlson?

PRESENT RESTRICTIONS AGAINST SOVIET CITIZENS TRAVELING IN THE UNITED STATES

Senator CARLSON. Mr. Secretary, as I gather from your testimony here this morning, the principal concern of the State Department and our Nation in regard to this consular treaty is to open up further communications, not necessarily to open up consular offices in the Soviet Union, or the Soviet Union here. What are some of the restrictions we have presently against travel of Soviet citizens in the United States?

Secretary RUSK. Well, we have very open permission for American citizens to visit the Soviet Union, and the other countries of Eastern Europe. That really basically turns on who is entitled to a passport; and a citizen who is entitled to a passport has our permission to visit the Soviet Union.

As you know, there are certain limitations on the issuance of passports. It has been a matter of some litigation, too. But we would like to extend those contacts.

One of the reasons, Senator, is that we believe that free, open societies need not fear peaceful competition with the types of societies you find in Eastern Europe, and that we ought to break down some of the walls that separate us rather than have them built up further. But I would say that the overriding interest we have in this particular consular treaty is to give us better opportunities to offer usual protection to Americans who might find themselves in difficulty in the Soviet Union.

In the case of opening of consulates, we have not contemplated in any event more than perhaps one in each country, and we have not even begun discussions on that with the Soviet Union, as to whether and when and where such might be done.

The overriding purpose is the matter of access and protection for American citizens.

Senator CARLSON. What are some of the restrictions that we in the United States have on the travel of citizens of the Soviet Union?

Secretary RUSK. Well, there are certain area restrictions in both countries. In the Soviet Union there are certain areas where American citizens cannot travel—American citizens or officials—and we have similar areas in this country. Otherwise, in the absence of other requirements under our immigration and nationality laws, we are pretty liberal in our issuance of visas to Soviet tourists who want to come here. Even so, the number is very limited.

INCREASED TRAVEL BETWEEN THE TWO COUNTRIES

Senator CARLSON. My point is, could not increased travel between the two countries be arranged through negotiation rather than to enter into this consular treaty?

Secretary RUSK. Well, we feel, sir, we need a stronger legal base having to do with access to our citizens in the Soviet Union, and we see no way of getting that except on the basis of the treaty relationship with the Soviet Union giving us those provisions, because, for example, under present Soviet law in the absence of a treaty, they would not be able to extend to our citizens some of the protections that are included in the convention. They don't extend those to their own citizens, for example. So that we feel that it is important to have a legal basis so that there can be a clear understanding on each side as to what is required, and to try to get these matters into a more routine framework of handling rather than let each case be a highly sensitive political issue between the two countries.

Senator CARLSON. As you state, we have been rather generous in our restrictions, although there are some, on travel of citizens of the Soviet Union in this country.

In 1965 the Soviet Union held a trade fair in Kansas City, and it was not only well received, it was well attended. I think the citizens of the middle west appreciated the Soviet Union bringing its trade fair to Kansas City. Therefore, we do not have restrictions that prohibit or prevent the Soviet Union from travel although there are restrictions which I am familiar with and you in the State Department have been cooperative on one or two occasions in helping where, I thought rightfully so, in securing the travel of some of the citizens that were restricted.

SOVIET UNION HAS NOT RATIFIED THE CONVENTION

Has the Soviet Union ratified this convention?

Secretary RUSK. They have not, sir.

Senator CARLSON. If they have not, is there any question they might not do so if we ratified it?

Secretary RUSK. We have no reason to think they would not ratify it. I think, because of the differences in our procedure, they are waiting for us—to see whether the Senate will give us permission to ratify.

CONFLICT WITH FEDERAL OR STATE LAWS

Senator CARLSON. Does the convention override any Federal or state laws?

Secretary RUSK. May I ask my lawyer that, sir?

Mr. MEEKER. Senator, the convention would supersede state laws only in those areas where consular conventions have traditionally done so. This would be in those few and relatively not very important cases of tax exemption to which I referred in the answer to Senator Morse's question.

In regard to another matter in which the legal profession has been interested, namely the administration of decedents' estates, this convention would not supersede any state laws, and indeed it expressly provides that the activities of consuls would be undertaken in conformity with state laws.

Senator CARLSON. Based on that statement, then, assuming that a consulate was established in a state that had some restrictive laws on taxation and other matters, would this consular arrangement with the

Soviet Union and their consulate in a state be different than previously entered into agreements for other consulates?

Mr. MEEKER. No, sir, it would not. It would be the same.

Secretary RUSK. And I think, sir, that we would in any event wish to discuss with the governor of the state and the mayor of the city whether or not they saw any problem about opening a Soviet consulate in their areas.

Senator CARLSON. I think that would be very important, because it could have some effect, particularly from a tax and tax exemption standpoint.

Secretary RUSK. Right.

Senator CARLSON. Having served as a Governor myself, I am interested in knowing if a Governor objected to the establishment of a consulate, what would happen?

Secretary RUSK. Well, I wouldn't want to make a categorical commitment, Senator, because there are some constitutional issues involved in that that I am not prepared to abandon one way or the other, but I wouldn't think that we would press to put a consulate in a city that would find it unwelcome or a state that would find it unwelcome.

We know there are others that would welcome it.

FUTURE AMENDMENTS TO TREATY WOULD REQUIRE SENATE APPROVAL

Senator CARLSON. Assuming that the consular treaty is ratified by the Senate in regard to future amendments associated between the State Department and the Soviet Union, would they be subject to the advice and consent of the Senate?

Secretary RUSK. Any amendment to this consular convention would require the approval of the Senate before it could take effect.

Senator CARLSON. That is all, Mr. Chairman.

The CHAIRMAN. Senator Lausche?

QUESTION OF IMMUNITY OF CONSULAR OFFICIALS FROM PROSECUTION

Senator LAUSCHE. Mr. Rusk, I want to direct your attention first to the purpose of exploring the provisions of article 19. That article deals with immunities accorded to consular officers and their employees from obedience to criminal statutes and otherwise.

My first question is, are the officials and the employees of the ambassador's office in Washington fully immune from prosecution for all criminal cases, whether they are misdemeanors or felonies?

Secretary RUSK. They are, sir.

Senator LAUSCHE. Thus this treaty will not at all affect that situation?

Secretary RUSK. That is correct, sir. And this treaty does not make consular officers immune to civil suits except those arising out of the performance of official functions.

QUESTION OF IMMUNITY OF CONSULAR OFFICIALS FROM PROSECUTION

Senator LAUSCHE. No. two in the past, have the consular offices and their employees been wholly immune from prosecution, both for felonies and misdemeanors?

Secretary RUSK. Foreign consulates in this country?

Senator LAUSCHE. Yes.

Secretary RUSK. Would you comment on that?

Mr. MEEKER. Senator, foreign—

Senator LAUSCHE. I wish you would answer "yes" or "no" to begin with so the record will be clear.

Mr. MEEKER. They have been immune with respect to misdemeanors only if a treaty grants them this immunity.

Senator LAUSCHE. All right. Then they are not immune from prosecution for felonies?

Mr. MEEKER. That is correct.

TREATY WOULD PROVIDE IMMUNITY IN ALL CRIMINAL VIOLATIONS

Senator LAUSCHE. This treaty will make consular officers and all employees who are nationals of the sending country immune from criminal prosecution in all criminal violations?

Mr. MEEKER. That is correct.

Secretary RUSK. That is correct, sir. That is, those individuals who are accepted for us by entry to perform the function.

Senator LAUSCHE. Under existing law immunity was granted from prosecution only in cases of misdemeanors or as sometimes said violations which do not carry a penalty of imprisonment of over one year.

Mr. KATZENBACH. Could I make a very brief comment on that, Senator?

Senator LAUSCHE. Yes; if you will, please.

Mr. KATZENBACH. It would be true today that diplomatic officials of our country or Soviet officials here, performing what normally are consular services would retain their existing diplomatic immunity without the treaty.

Senator LAUSCHE. Consular officers and employees of the consular establishment who are nationals of the sending state shall enjoy immunity from the criminal jurisdiction of the receiving state. That means they are immune from prosecution in all cases, whether it is the equivalent of a purpose to destroy our Government, whether it is murder, burglary, rape, the violation of a traffic ordinance or anything else; is that correct?

Mr. KATZENBACH. Yes, sir; that is absolutely correct.

Senator LAUSCHE. Why has this change been made?

Secretary RUSK. Well, first, Senator, let me say that this immunity does not constitute a license to commit crime.

Article 28 says "without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving state, including traffic regulations."

And the record of criminal acts by those who enjoy diplomatic immunity over the last 40, 50 years shows this is not, has not been, a serious problem.

I will put some statistics in on that particular subject.

I think that the desire here was to put the consular officers, employees of a consular establishment, say in Leningrad, on the same basis in this regard as are the Embassy officials who now exercise consular functions for us as a part of the Embassy.

IMMUNITY EXTENDED TO CONSULAR OFFICES FOR FIRST TIME

Senator LAUSCHE. In the history of our country, have we ever granted immunity of this character?

Mr. KATZENBACH. For a consular officer or employee?

Senator LAUSCHE. Yes.

Mr. KATZENBACH. To those who have carried out consular functions as members of Embassies, but I think this is the first time we have extended it specifically to officers and employees of consulates.

CRIMINAL IMMUNITY PROVISION WAS PROPOSED BY SOVIETS

Senator LAUSCHE. Was this provision included in the proposed treaty that was submitted by our country or was it only accepted after Russia said it would not sign the treaty unless complete immunity were granted?

Mr. KATZENBACH. Mr. Kohler, would you comment on that?

Senator LAUSCHE. Mr. Kohler can answer that, I think.

Mr. KOHLER. This provision was originally put forward during the final course of the negotiations by the Soviet side.

Senator LAUSCHE. It was proposed by the Soviets?

Mr. KOHLER. Yes, sir.

Senator LAUSCHE. And it wasn't included in our proposal originally?

Mr. KOHLER. That is correct, sir.

Senator LAUSCHE. And isn't it a fact that the Soviets say, "Unless you grant complete immunity we will not further discuss the subject."

Secretary RUSK. Senator, the question didn't come up in that form.

Senator LAUSCHE. How did it come up?

Secretary RUSK. Because when we looked at this proposal and looked at the reciprocal advantage to us in having the same arrangements for our people in the Soviet Union, we felt that this would be a constructive thing to do from the point of view of our own interests. Otherwise we could have said "No, let's don't have any consular convention."

We could establish consulates under existing law. But what we would not have would be those protections for Americans, both special protection for American officials working in the Soviet Union and the notification and access protection with respect to American private citizens traveling in the Soviet Union.

Senator LAUSCHE. I have been using quite a bit of time.

MOST-FAVORED-NATION CLAUSE IN OTHER TREATIES

Under the most-favored-nation clause how many other nations will be entitled to this same immunity? I know Rumania and Yugoslavia will be entitled to it. How many will be?

Secretary RUSK. In Mr. MacArthur's letter he pointed out there are 35 agreements presently in force which would require us to give most-favored-nation treatment on a point of this sort, on a reciprocal basis.

Senator LAUSCHE. Which are what we call the captive nations, and which are the satellite nations that would become entitled to the same treatment.

Secretary RUSK. The only countries of Eastern Europe who are among those would be Rumania and then Yugoslavia.

ARTICLE 11 RELATING TO GUARDIANS AND TRUSTEES

Senator LAUSCHE. I want to direct your attention to article 11, which Senator Carlson dealt with briefly:

A consular officer may recommend to the courts or to the competent authorities of the receiving state appropriate persons to act in the capacity of guardians or trustees for citizens of the sending state or for the property of such citizens when this property is left without supervision.

Does that language mean that the sending state, the consular office, will be allowed to dictate who shall be the guardian, the executor, or the administrator or the trustee of an estate?

Mr. KATZENBACH. No, Senator, it doesn't.

Senator LAUSCHE. Why doesn't it?

Mr. KATZENBACH. Because it has to have the approval of the court, Senator.

Senator LAUSCHE. All right.

Now, listen to this. I read further from the language. You say it must have the approval of the court.

Mr. KATZENBACH. Yes, sir.

Senator LAUSCHE (reading):

In the event that the court or competent authorities consider that the recommended candidate is for some reason unacceptable, the consular officer may propose a new candidate.

Doesn't that mean that the consular officer in the end will determine who the trustee, executor, administrator, or guardian shall be?

Mr. KATZENBACH. In accordance with law.

Senator LAUSCHE. Then it might go on interminably where the consul would recommend, the court would reject, the consul would recommend and the court would reject.

I think you are correct in that, but it is a rather deplorable situation that might arise.

Mr. KATZENBACH. No, sir, because the court, I think, in those events could simply appoint, I don't think there is anything in here that does any more than give the consul the opportunity to suggest a name. If that is unacceptable, to suggest one other name. If that is unacceptable to the court, the court could appoint anyone that it chooses in its discretion to do so.

MFN TREATMENT FOR HUNGARY, CZECHOSLOVAKIA, AND BULGARIA

Senator LAUSCHE. Mr. Rusk, in the event you enter into diplomatic relations with Hungary, Czechoslovakia, Bulgaria, will those nations become, under the most-favored-nation principle, entitled to immunity provisions?

Secretary RUSK. No. We have diplomatic relations with those countries. They would not be entitled to most-favored-nation treatment under this convention.

Senator LAUSCHE. Why not?

Secretary RUSK. I mentioned Rumania and Yugoslavia.

Senator LAUSCHE. Why not?

Secretary RUSK. Because we don't have an agreement with them providing most-favored-nation agreements.

Senator LAUSCHE. That is all.

Thank you very much.

The CHAIRMAN. Senator Mundt?

TREATY VIEWED IN FRAMEWORK OF WORLD AFFAIRS TODAY

Senator MUNDT. Mr. Secretary, I wish that I could, knowing you, share your feeling we were discussing this treaty in an atmosphere of sweetness and light so far as Russia is concerned, but I think realistically we should consider this treaty in terms of the framework of world affairs as they exist today.

If all we had was the cold war going on with the U.S.S.R. I think that would be one set of circumstances.

But what we have actually is a war going on today in Vietnam in which the Russians are supplying virtually all, if not all, of the sophisticated weapons which are killing American boys every day of the year. Just about the time that the agitation developed again for the approval of this treaty we read in the newspapers that the U.S.S.R. has supplied another hundred new Migs to be used against our boys out of Hanoi.

So I think we have to recognize this framework. The last two times you appeared before this committee sitting where you are now in this room, as I recall, was, one, to make a very eloquent and persuasive appeal for why the American policy was correct in not recognizing Red China now or admitting her to the U.N. now. The other was to make an equally persuasive appeal as to why it would be injurious to the free world and to America if we would lose the war to communism in Vietnam.

With those facts staring us in the face, it would seem to me that the presentation of this treaty now is at best a masterpiece of bad timing, because I don't believe that conditions have changed sufficiently so we can go back and allude to this as just a treaty with a country with which we are establishing a détente, without any tangible evidence as to what is involved in that détente.

So within that framework, I want to ask my questions, unless you disagree with the framework of world affairs as I have summarized them.

TREATY IS AN EFFORT TO PUT RELATIONS WITH SOVIETS ON A PEACEFUL BASIS

Secretary RUSK. Senator, I would make a comment on it because we must admit there are some very important and dangerous questions that still are unresolved between us and the Soviet Union.

I would hope that we could make steady progress on those larger questions of which you spoke, but I think it is also important for us to try to find those points at which we can put relations on a more normal and peaceful basis wherever possible.

This is one of those. We hope very much that there will be before you shortly a space treaty which we believe would be in the interests of peace and, specifically, in the interests of the United States.

President Johnson took the initiative to press for that earlier last year, and we were pleased that those negotiations succeeded in the United Nations.

Now in one sense, Senator, one could make the argument that, if our relations with the Soviet Union have their difficulties, it is all the more important that we have opportunity to give our own citizens traveling in the Soviet Union adequate protection. I do not look upon this treaty as conferring a favor upon the Soviet Union. This is a reciprocal treaty which provides us a chance to give more adequate protection to our own citizens in the Soviet Union. I think, on a direct reciprocal basis, there are very substantial advantages in this for us particularly because we have far more citizens traveling in the Soviet Union than they do here, and since their laws in some respects are somewhat different than ours, and their approach to law may be somewhat more severe than ours on certain kinds of offenses, for example, in trading in currency, for example, to which tourists all over the world seem somehow to be addicted.

But we do believe that despite some of the difficulties which you refer to—serious difficulties—it is in the interest of the United States to proceed with this convention.

Senator MUNDT. I don't want to dwell on that except I think the word "difficulties" is unusually mild as a description of a country which is sending sophisticated weapons to Vietnam which are killing American boys. I think it is a little more than I would attribute to the word "difficulties."

ADVANTAGES TO THE UNITED STATES IN TREATY QUESTIONED

But let's go to your major argument which, if I understand it, is that this is to the advantage of the United States, one, because it would give better protection to American citizens in Russia, who are or have been arrested by the Russians, and two, it would give us an opportunity to open a consulate in Leningrad, and the second reason doesn't have much appeal to me.

I have been in Leningrad, I have flown from Moscow to Leningrad. How long does it take, Mr. Ambassador?

Mr. KOHLER. About an hour and a half.

Senator MUNDT. About an hour and a half. I thought it was two hours, but they have speeded up, I suppose, transportation. An hour and a half.

I see no advantage to be gained except to save an hour and a half whether a consulate or office in Leningrad is available to see U.S. citizens or whether you send somebody from Moscow where we have an Embassy to make an intercession.

Secretary RUSK. Senator, the overriding interest we have in this consular convention is in the protection it gives to American citizens traveling in the Soviet Union with regard to notification of any arrest and immediate consular access by consular officials.

The question of whether or not we establish a consulate in each country on a reciprocal basis is largely a matter of administrative convenience to ourselves and to substantial numbers of Americans who might be traveling in a particular area. And we do know large numbers of our tourists do wish to travel in Leningrad.

The same thing occurs in other countries. But the most important element is the additional protection it gives to the growing number of American citizens traveling in the Soviet Union.

CREDIBILITY GAP CREATED

Senator MUNDT. I want to get to a major question now because when there is a credibility gap—I hear much about a credibility gap in this town but I never hear about one with Secretary Rusk. You have been very forthright and I admire you for it. I think, however, there is an oversight or misstatement in your presentation which would create a credibility gap if we permitted it to go unchallenged.

You say:

... 9,400 persons in the United States with full diplomatic immunity.

Soviet bloc countries, and I do understand what you mean by a bloc country. You say this is not a dangerous precedent.

According to a State Department survey, between 1939 and 1964 there were 11 consular officers charged with crimes. Five of these were for traffic offenses. Two of the 11 were convicted.

It just happened that about the time you were making this presentation I was reading the report of the Director of the FBI on January 5, 1967, through Acting Attorney General Ramsey Clark in which he listed specific offenses much greater than this by diplomatic personnel from Iron Curtain countries occurring in 1966 alone which would more than offset the minor ones.

But before you answer I want you to have the full picture before you.

Secretary RUSK. Senator, these figures here refer to consular officers. They do not involve diplomatic officers who already have the immunities we were talking about. These are consular officers because this has to do with consulates.

Senator MUNDT. I want to get the whole picture before you.

May I ask, Mr. Chairman, do we have in the record the exchange of letters between Secretary Rusk and Mr. Hoover?

The CHAIRMAN. I put them in at the beginning.

CORRESPONDENCE BETWEEN J. EDGAR HOOVER AND SENATOR MUNDT

Senator MUNDT. I ask unanimous consent at this time if I may put in the record a letter which I wrote to J. Edgar Hoover on January 21 subsequent to that exchange of letters and a letter received by me from J. Edgar Hoover.

The CHAIRMAN. Without objection.
(The letters referred to follow:)

JANUARY 21, 1967.

Mr. J. EDGAR HOOVER,
Director, Federal Bureau of Investigation,
Washington, D.C.

DEAR EDGAR: I am both concerned and confused over the various interpretations being given to your reply to the letter written you by Secretary of State Rusk on September 14 with regard to the position of the FBI on the probable consequences likely to result from ratification of the Consular Treaty now before the United States Senate. Inasmuch as I am one of the five Senators alluded to by Secretary Rusk's letter as having in mind your testimony of March 4, 1965 when we signed our minority report, I am understandably eager to know your precise position because the whole matter is now again before our Senate Committee on Foreign Relations. Hearings will begin next Monday morning.

It was my interpretation of your views and testimony when I helped prepare the Minority Views which we signed that you were not counseling the Congress on all possible ramifications of the so-called Consular Treaty but that as the

Director of the FBI charged with protecting the internal security of the United States you were very properly pointing out the increased dangers and likelihood of subversive actions by foreign communists if they were brought to this country in increased numbers and granted extended immunity. That was my interpretation of your views and it remains so today and I see nothing in the exchange of letters between Secretary Rusk and you which either indicates you have changed your views as presented to the House Appropriations Subcommittee on March 4 or that you are retracting the warning signs which you flashed about the probability of increased challenges to our security here in the United States which would "make our (the FBI's) work more difficult". Was I in error in my original interpretation of your testimony or in the way I continue to interpret it today?

Specifically may I inquire of you:

1) Have you in any way changed your views or has any evidence developed since your testimony of March 4, 1965 to make you change your mind about your testimony concerning subversive actions by communist diplomats as you related it and the fact that added communist diplomatic personnel in our midst with extended immunities would necessarily "make your work more difficult" in meeting the responsibilities of the FBI?

2) Since March 4, 1965, has there been a cessation of attempts by communist diplomatic personnel in this country to engage in acts of subversion or attempted espionage? Do these efforts still continue? Can you supply me a list of these attempts as they are available for public information, segregated by calendar years, over the past six to ten years?

Finally, Edgar, let me say that as I read the exchange of letters between you and Secretary Rusk, I feel you have reiterated precisely the interpretation which I placed on your testimony at the time I helped prepare our Minority Views for the Senate Committee on Foreign Relations in 1965, but due to the very much expanded and inclusive interpretations being placed upon these letters by some others, I would like to receive from you a reply to this letter and the questions presented so that there can be no misunderstanding on the part of any who are concerned.

Since our Senate Hearings on the Consular Treaty begin on Monday morning, I would deeply appreciate it if you could have your reply delivered by hand by Monday noon if this is possible; if not, the earlier I receive the letter the better opportunity we shall have to keep the record straight and clear.

With warmest personal regards, I am,

Cordially yours,

KARL E. MUNDT,
U.S. Senator.

FEDERAL BUREAU OF INVESTIGATION,
U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., January 23, 1967.

Hon. KARL E. MUNDT,
U.S. Senate, Washington, D.C.

DEAR KARL: I have received your letter of January 21, 1967, in which you advised that you are concerned and confused over the various interpretations being given to my letter of September 16, 1966, to Secretary of State Rusk, "with regard to the position of the FBI on the probable consequences likely to result from ratification of the Consular Treaty now before the United States Senate."

It should be clearly understood that the FBI is the investigative arm of the Department of Justice and, as such, it is our responsibility to gather and report facts. The FBI is not a policy-making agency and we do not express opinions. Since 1924, when I became its Director, the FBI has refrained from injecting itself into the area of legislation. The Consular Convention between the Soviet Union and the United States, which is now before the United States Senate, is no exception to this long-standing rule.

Because the Consular Convention does involve considerations which have a direct bearing upon the responsibilities of the FBI, I appreciate your interest in requesting the following facts from me. Again I emphasize that the FBI is not recommending a course of action or expressing an opinion.

You specifically inquired whether I had changed my views or whether any evidence has developed to make me change my mind about my testimony of March 4, 1965. The answer is an unequivocal no.

During my testimony before a subcommittee of the House Appropriations Committee on March 4, 1965, I called attention to the fact that the establishment of Soviet consulates in this country, "of course, will make our work more difficult." At no point in my March, 1965, testimony—nor following the release of that testimony by the House Appropriations Committee in May, 1965—did I state or imply that the Consular Convention would impose any additional burdens of responsibility upon the FBI that we are incapable of handling. Nor did I express any opinion concerning the matter of ratification. The simple fact is that the work of the FBI in combating Soviet-directed espionage activities in this country has increased through the years commensurate with the increase in Soviet representation here. I can also state without equivocation that communist-bloc diplomatic establishments in this country serve as focal points for intelligence operations.

You inquired whether, since March 4, 1965, there has been a cessation of attempts by communist diplomatic personnel in this country to engage in acts of subversion or attempted espionage. The answer again is an unequivocal no.

You asked whether these efforts by communist diplomatic personnel still continue. They most certainly do. Representatives of the KGB (Soviet Committee of State Security) and the GRU (Soviet Military Intelligence Service), comprising a large segment of the Soviet diplomatic corps in the United States, are conducting an intensive campaign aimed at the most sensitive data regarding our scientific and technical developments, our military and defense programs and the future plans of our Government.

You requested that you be supplied with a list of attempts by communist diplomatic personnel to engage in acts of subversion or attempted espionage as they are available for public information, segregated by calendar years over the past six to ten years. In accordance with your request, there is attached a list of Soviet officials stationed in this country who have been arrested or expelled from the United States since January 1, 1957.

With every good wish,
 Sincerely,

J. EDGAR HOOVER.

SOVIET OFFICIALS STATIONED IN THE UNITED STATES WHO HAVE BEEN ARRESTED
 OR EXPELLED SINCE JANUARY 1, 1957

| <i>Name</i> | <i>Date</i> |
|--|----------------|
| Aleksey R. R. Malinin, Employee, Soviet Embassy, Washington, D.C. | Oct. 31, 1966 |
| Valentin A. Revin, Third Secretary, Soviet Embassy, Washington, D.C. | Sept. 1, 1966 |
| Stefan M. Kirsanov, First Secretary, Soviet Embassy, Washington, D.C. | June 1, 1965 |
| Boris V. Karpovich, Counselor, Soviet Embassy, Washington, D.C. | Jan. 7, 1965 |
| Vladimir P. Grechanin, Assistant Military Attaché, Washington, D.C. | Dec. 14, 1964 |
| Aleksandr V. Udalov, Assistant Air Attaché, Washington, D.C. | Dec. 14, 1964 |
| Vasily V. Zadylinsky, Military Attaché, Washington, D.C. | Dec. 14, 1964 |
| Vladimir I. Olenov, Employee, Soviet United Nations Mission, New York City | Oct. 30, 1963 |
| Yuri A. Romashin, Third Secretary, Soviet United Nations Mission, New York City | Oct. 30, 1963 |
| Gleb A. Pavlov, Attaché, Soviet United Nations Mission, New York City | Oct. 30, 1963 |
| Igor A. Ivanov, Chauffeur, Amtorg Trading Corporation, New York City | Oct. 29, 1963 |
| Ivan D. Egorov, Employee, United Nations Secretariat, New York City | Oct. 11, 1963 |
| Aleksandra I. Egorova, Wife of Ivan D. Egorov | Oct. 11, 1963 |
| Gennadiy G. Sevastyanov, Attaché, Soviet Embassy, Washington, D.C. | July 1, 1963 |
| Yevgeni M. Prokhorov, Second Secretary, Soviet United Nations Mission, New York City | Sept. 29, 1962 |
| Ivan Y. Vyrodov, Third Secretary, Soviet United Nations Mission, New York City | Sept. 29, 1962 |
| Yuri V. Zaitsev, Attaché, Soviet Embassy, Washington, D.C. | Aug. 3, 1962 |

CONSULAR CONVENTION WITH THE SOVIET UNION

SOVIET OFFICIALS STATIONED IN THE UNITED STATES WHO HAVE BEEN ARRESTED
OR EXPELLED SINCE JANUARY 1, 1957—Continued

| <i>Name</i> | <i>Date</i> |
|---|---------------|
| Igor Y. Melekh, Employee, United Nations Secretariat, New York City----- | Mar. 24, 1961 |
| Valentin M. Ivanov, First Secretary, Soviet Embassy, Washington, D.C----- | Aug. 13, 1960 |
| Peter Y. Ezhov, Third Secretary, Soviet Embassy, Washington, D.C----- | July 22, 1960 |
| Vadim A. Kirilyuk, Employee, United Nations Secretariat, New York City----- | Dec. 17, 1959 |
| Yevgeniy A. Zaoztrovstev, Second Secretary, Soviet Embassy, Washington, D.C----- | May 13, 1959 |
| Kirill S. Doronkin, Employee, United Nations Secretariat, New York City----- | Jan. 15, 1959 |
| Nikolai I. Kurochkin, Third Secretary, Soviet Embassy, Washington, D.C----- | June 6, 1958 |
| Gennadiy F. Mashkantsev, Employee, Soviet Embassy, Washington, D.C----- | Apr. 17, 1957 |
| Vladimir A. Grusha, First Secretary, Soviet Mission to the United Nations, New York City----- | Mar. 25, 1957 |
| Vasily M. Molev, Employee, Soviet Embassy, Washington, D.C----- | Jan. 25, 1957 |
| Yuri P. Krylov, Assistant Military Attaché, Washington, D.C----- | Jan. 14, 1957 |

Senator MUNDT. I will comment on them briefly. I will put the whole letters in the record.

I started out by saying to Mr. Hoover:

I am both concerned and confused about the various interpretations being given to your reply to the letter written you by Secretary Rusk on September 14 with regard to the position of the F.B.I. on the probable consequences likely to result from the ratification of the Consular Treaty now before the United States Senate.

I was intrigued by the fact that the Director made his reply in less than 25 percent of the words in replying to your letter that you took in writing to him. It looked a little bit terse and perhaps inadequate but in any event having read his report to which he alluded to, I asked him to set out in a report more specifically his position.

SUBVERSIVE ACTION BY COMMUNIST DIPLOMATIC PERSONNEL

Specifically I said I would like to have the answers to two questions; No. One:

Have you in any way changed your views or has any evidence developed since your testimony of March 4, 1965—

which was in the House committee—

to make you change your mind about your testimony concerning subversive actions by communist diplomats as you related it and the fact that added communist diplomatic personnel in our midst—

granted, not felonies as well as misdemeanors—

would necessarily "make your work more difficult" in meeting the responsibilities of the F.B.I.

The second one is:

CESSATION OF ESPIONAGE ATTEMPTS BY COMMUNIST DIPLOMATIC PERSONNEL

Since March 4, 1965, has there been a cessation of attempts by communist diplomatic personnel in this country to engage in acts of subversion or attempted espionage—

I was looking for this elusive détente which you have mentioned, Mr. Secretary.

Do these efforts still continue? Can you supply me a list of those attempts as they are available for public information, segregated by calendar years, over the past six to ten years.

That is from my letter which I have put in the record.
The answer came in this morning:

I have received your letter of January 21, 1967, in which you advised that you are concerned and confused over the various interpretations being given to my letter to Secretary Rusk.

It should be clearly understood that the F.B.I. is the investigative arm of the Department of Justice and, as such, it is our responsibility to gather and report facts. The F.B.I. is not a policy-making agency and we do not express opinions. Since 1924, when I became its Director, the F.B.I. has refrained from injecting itself into the area of legislation. The Consular Convention between the Soviet Union and the United States which is now before the United States Senate is no exception to this long standing rule.

To that extent he says in his reply to you, you will recall, that he was in basic agreement with your interpretation.

MR. HOOVER'S 1965 TESTIMONY

Now, getting down to the facts that I have asked him for:

Because the consular convention does involve considerations which have a direct bearing upon the responsibilities of the F.B.I., I appreciate your interest in requesting the following facts from me. Again I emphasize that the F.B.I. is not recommending a course of action or expressing an opinion.

You specifically inquired whether I had changed by views or whether any evidence has developed to make me change my mind about my testimony of March 4, 1965. The answer is an unequivocal no.

I asked that question not because you, in any way, at any time, misrepresented that exchange of letters to us, Mr. Secretary, but many editorials, many columnists, many commentators have roamed far afield in their interpretation of the implications of the Director's answer to you.

I quote again from the letter:

During my testimony before a subcommittee of the House Appropriations Committee on March 4, 1965, I called attention to the fact that the establishment of Soviet consulates in this country, "of course, will make our work more difficult."

That is in quotation marks from what he has said before the House Committee on Appropriations.

—At no time in my March 1965 testimony—nor following the release of that testimony by the House Appropriations Committee in May 1965—did I state or imply that the Consular Convention would impose any additional burdens of responsibility upon the F.B.I. that we are incapable of handling. Nor did I express any opinion concerning the matter of ratification. The simple fact is that the work of the F.B.I. in combating the Soviet-directed espionage activities in this country has increased through the years commensurate with the increase in Soviet representation here. I can also state without equivocation that communist-bloc diplomatic establishments in this country serve as focal points for intelligence operations.

You inquired whether, since March 5, 1965, there has been a cessation of attempts by communist diplomatic personnel in this country to engage in acts of subversion or attempted espionage.

I was again searching for that elusive détente which you have alluded to but which you have never identified by specific act.

Quoting again from the Hoover letter:

of State Security) and the GRU. (Soviet Military Intelligence Service), comprising a large segment of the Soviet diplomatic corps in the United States, are conducting an intensive campaign aimed at the most sensitive data regarding our scientific and technical developments, our military and defense programs and the future plans of our government.

SOVIET OFFICIALS ARRESTED IN AND EXPELLED FROM THE UNITED STATES

You requested that you be supplied with a list of attempts by communist diplomatic personnel to engage in acts of subversion or attempted espionage as they are available for public information, segregated by calendar years over the past six to ten years. In accordance with your request, there is attached a list of Soviet officials stationed in this country who have been arrested or expelled from the United States since January 1, 1957.

With every good wish,
Sincerely,

J. EDGAR HOOVER.

Now, I call attention to this statement because I didn't want a credibility gap to develop between you and me in which you say again:

Nor is it a dangerous precedent. According to a State Department survey between 1939—

please note the year, 1939, that is a long period of time—

and 1964, there were 11 consular officers charged with crimes. Five of these were for traffic offenses; two of the 11 were convicted.

I hold in my hand the list of Soviet officials stationed in the United States who have been arrested or expelled since January 1, 1957, not going back to 1939. From 1957 down through 1966.

Secretary RUSK. That includes diplomatic personnel and not just consular personnel, I gather, Senator. Is that correct?

Senator MUNDT. I think that is correct.

Including quite a few of them in 1966.

Secretary RUSK. May I ask, are any consular personnel on that list at all? I just wonder if it is dealing with the same subject.

Senator MUNDT. I will give you the titles.

One is an employee, third secretary of the Soviet Embassy, counselor, Soviet Embassy; assistant military attaché.

Of course they are not going to be located in consular offices we have not permitted to open as yet. But they are the same kind of people employed by the same government, following the same pattern of performance which J. Edgar Hoover says is to induce whoever diplomatically represents the U.S.S.R. to participate in intelligence efforts.

You would not deny that, would you, Mr. Secretary? You wouldn't deny that every consular officer, every diplomatic personnel from Russia, is at least potentially a Russian espionage agent? You wouldn't deny that?

Secretary RUSK. It is a matter to which we have to be alert.

Senator MUNDT. You wouldn't deny it?

Secretary RUSK. No.

Senator MUNDT. So the question you ask may be all right as far as classifications are concerned and I am perfectly willing to agree with you that consular officers who are not yet here, because we don't have any consular offices opened as yet, have committed not any crimes but those who are here have committed 28 of them. Twenty-eight of them have been expelled or arrested between 1957 and 1966, not just 11 that

were committed from 1939 to 1964. So I think you will agree also that left unchallenged your statement gives the wrong implication, I wanted to eliminate that credibility gap.

Secretary RUSK. May I comment on that?

Senator MUNDT. The floor is yours.

QUESTION OF CONSULAR OFFENSES

Secretary RUSK. That 11 has to do with consulates of all nations during this period and—they were referring to consular officers.

If I may say so, the question you directed to the Director of the FBI and his reply had to do with the existing situation basically, that is, it discussed the problem we already have under existing arrangements with the Soviet Union and other countries.

Senator MUNDT. Right.

Secretary RUSK. Now, we are talking about what the effect of this consular convention would be on that and other problems. And I would suggest that, when the Director of the FBI indicates that this consular convention would not create problems that he could not adequately handle, that he is saying, since I would suppose we are talking about one consulate as a possibility in each country—

Senator MUNDT. To start with.

Secretary RUSK. If ten or fifteen consular officers and employees are located somewhere in this country, the FBI, perhaps with some additional personnel, could take care of the problem on the same basis on which it is being taken care of now.

ABILITY OF FBI TO COPE WITH ADDITIONAL SOVIET PERSONNEL

Senator MUNDT. I quite agree and if it leads to consular office No. 2 which it should and would under your proposal and another 15 comes in I think they can cope with that. In fact if you open them up on the west coast as you well may be asked to do if this thing prevails, if we open them all up, and we add 1,000 or 2,000 more consular officers, I quite agree the FBI with additional personnel can cope with it, but at what cost and at what expense and for what purpose simply because you have had 18 people who have been arrested over on that side, some of them an hour and a half away from Moscow, where we have diplomatic personnel that you can fly over there at much less expense than opening up a consular office to intercede if such intercession is in fact going to be meaningful.

CASE OF ANGUS WARD

We did not find it meaningful in Vladivostok when Angus Ward was —

Secretary RUSK. That was a period when consular relations were bad, and we would like to get them sorted out on a basis of understanding between the countries.

Senator MUNDT. The answer is it did not work.

Secretary RUSK. We did not have the convention for Angus Ward.

Senator MUNDT. And it did not work.

I wanted that to go in the record primarily because I think it is very important in our deliberations but especially because what I read in what you gave me, gave me a wrong impression. You do not intend

to leave wrong impressions, that I do know, because you are forthright and candid, and I wanted to correct the record, and I think we now have the record set clear.

You were talking about consular offices which are not here, not opened up yet, and I am talking about communist diplomats who were here operating on 16th Street in Washington, D.C.

Secretary RUSK. Senator, you and I, neither of us, wants to give a wrong impression.

Senator MUNDT. That is right.

Secretary RUSK. The statistics you have in your reply from Mr. Hoover have to do with the framework of existing diplomatic relations. What I am talking about is what the effect would be if we opened up an additional consulate, one in each country. But I have also made the point that to us the important thing is not the question of opening up the consulates, it is getting the additional protections for American citizens in the Soviet Union with respect to notification and consular access.

Senator MUNDT. We do not get very much for very many in return for letting them bring in return fifteen more espionage agents.

OPENING UP OF ADDITIONAL CONSULATES

At the beginning did you say in your statement or am I wrong, I think you said if you have this consular treaty you will not have to come back to this committee for permission to open up additional consulates. The President has the plenary power.

Secretary RUSK. Senator, for that we do not need to have this consular treaty at all. We can do it this afternoon.

Senator MUNDT. I know you do not, but you want to do it for reciprocal and other reasons but if you get what you ask for now, you will not come back to the Congress and say to this committee, "May we have also one additional Russian consulate now in San Francisco and Los Angeles and El Paso and Kansas City and Minneapolis." That you can do once this is established.

We are not talking about the possible limitation applying only to one consulate office. We are talking about whatever the President might decide to do with his constitutional authority in opening up new offices.

Secretary RUSK. Well, as a matter of fact, in terms of numbers of consulates, that still is a matter that is open today under existing constitutional legal arrangements.

Senator MUNDT. Under entirely different terms as to how they function than if you have this consular treaty.

Secretary RUSK. We have never discussed or even considered the matter of strewing consulates all over the Soviet Union and the United States. We are talking about the advantages of opening up one consulate in each country. I said I would be prepared to come back and discuss this matter before this committee before action were taken on it. We are not discussing it with the Soviet Union at the moment. That is a matter which is to be considered a possible additional step after we get the basic protections that we feel are important, that are written here in this consular convention.

Senator MUNDT. This treaty, however, sets up an entirely different set of rules for a different kind of ball game as far as exchange of consular offices is concerned.

Secretary RUSK. But on a reciprocal basis.

Senator MUNDT. It does for me.
Secretary RUSK. On a reciprocal basis.

EXERCISE OF COMMITTEE OPINION ON WISDOM OF CONSULATES

Senator MUNDT. The President can do it or you can do it acting as his emissary without coming to this committee, so if this committee wants to make a determination as to whether it is now in the interests of the United States, given the framework of world conditions under which we discussed this matter, whether that is wise to open up the possibility of an unlimited number of consular offices depending upon the judgment of the executive, if we are going to have anything to say about it, we had better say it now.

Senator CASE. Would the Senator yield?

Senator MUNDT. After the Secretary answers the question.

Secretary RUSK. Senator, under the present situation, we can open up additional consulates.

Senator MUNDT. But in the new ball park with a new set of rules we would be out of the picture now.

Senator RUSK. No, sir, you are not.

Senator MUNDT. After we set the rules up, we are out of the picture.

Secretary RUSK. No, sir, no more than usual in the sense that the President has certain authority now.

Senator MUNDT. Now.

Secretary RUSK. He would have authority if you approved this convention to establish consulates. He would have it in either case.

Senator MUNDT. That is right.

Secretary RUSK. I have said to the committee that, when we get to the point of discussing opening up a consulate in each country, I would be down to consult with your committee on the subject, but the constitutional position remains what it has been all along.

Senator MUNDT. I just want to get clear in the record. I am not talking about what will happen, but talking about the powers of this committee, our power, to be sure that there are not numerous consular offices established in this country, under the new set of rules on that matter, the congressional power must be exercised now or never.

Secretary RUSK. No, sir.

Senator MUNDT. Once the new set of rules is approved by ratification of the treaty, then the Executive from then on into perpetuity has the authority to set up as many consular offices as it wants to under this new set of rules.

Secretary RUSK. It would have authority to act under the law just as it has now, and presumably it would exercise that authority in consultation with the key committees involved, as we have in the past.

FURTHER COMMITTEE HEARINGS

Senator MUNDT. I have a great many more questions. I am not sure whether we are operating under the ten-minute rule or not. I am sure, however, I have taken more than my ten minutes, and I think I should yield to my colleagues.

I would hope, Mr. Chairman, on a matter of this significance and importance that we would have the Secretary back until all members

of the committee have had a chance to ask those reasonable questions they might want to propound.

Senator CASE. Would the Senator yield?

The CHAIRMAN. Yes, there will be a meeting tomorrow, but not on this subject. But it can be opened again if the committee wishes to.

Senator MUNDT. We have not completed the questions.

The CHAIRMAN. There is no desire to rush through. Everyone is to be satisfied he has had an opportunity to question the Secretary.

Senator MUNDT. In fairness to my colleagues, I will yield but I wish to interrogate the Secretary on other aspects.

The CHAIRMAN. I think that could be arranged.

Senator MUNDT. I yield.

Senator CASE. I just want to make one point, if I may, on the Senator's questions.

The CHAIRMAN. Yes.

EXTENT OF TREATY ENCOURAGING ADDITIONAL CONSULATES

Senator CASE. Related to this question, the extent to which this will lead to a great multiplication of consular officers both here and abroad, I think, is the question of the effect of the convention on inducing us to do that. I am in general accord with the great desirability of establishing the protection of American citizens abroad in Russia and other places on a reciprocal basis with the countries involved. But I am rather surprised that the rights of Americans to have their representatives have access to them, the rights of Americans to have their country's officials notified when they are arrested and so forth, are not generally established. They are only established in reference to a consular establishment.

Suppose we have no consular establishment set up with Russia following this treaty, will none of these rights come into existence?

The CHAIRMAN. Yes.

MATTER OF CONSULAR DISTRICTS IS UNCLEAR

Senator CASE. I would like to have the treaty interpreted, because I do not want to have these rights of Americans that we are seeking to establish in Russia rest on any such flimsy basis as their being in a consular district—

Secretary RUSK. Oh, no.

Senator CASE (continuing). At the time. But if you read the treaty, I do not find that this is very clear. I, therefore, suggest maybe there will be pressure to create consular districts all over, in every country, in order to make Americans' rights secure.

Secretary RUSK. Senator, I appreciate the question. It makes it possible to clarify that point.

The consular convention would apply throughout the Soviet Union and would provide for consular access throughout the Soviet Union.

Senator CASE. It says within his district.

Secretary RUSK. That would have to do. If we established a consulate in Leningrad, then the Leningrad consular district would have to be defined.

Senator CASE. Would have to be defined to include all Russia.

Secretary RUSK. No, sir, because we have an embassy in Moscow

which has consular functions to perform, and presumably the Moscow Embassy would deal with this matter in all parts of the Soviet Union.

Senator CASE. This is not as clear to me as I would like. In article 12 it says, "A consular officer shall have the right within his district to meet with," and so forth, "any national," and the same pattern of language applies in section 2 of article 12 in regard to notification, section 3 in regard to visit and communication, and in article 13 in regard to a consular officer having access to vessels, and of course in the protocol, which sets out these specific times which shall be reasonable for notification by one country for the arrest of a national of another, and access of the latter's representative to that national.

Secretary RUSK. Well, Senator, it is customary in consular arrangements, where there is not a single consular district for the entire country, as is now the case with us in the Soviet Union, to have consulates which have known and designated areas of responsibilities. For example, a consul in New Orleans would cover states A, B, C, and D, so that everyone knows where the normal points of contact are for the transaction of business.

If we established a consulate, we would expect that it would be given a certain area of responsibility geographically for the convenience of American citizens traveling there, and we would then continue with the Embassy to cover the rest of the country. This is normal.

Article 29 points out that the rights and obligations of consular officers provided for in the present convention also apply to members of the diplomatic staff of the diplomatic mission of the contracting parties charged with the performance of consular functions in the diplomatic mission and who have been notified to be in a consular capacity to foreign affairs ministries.

Senator CASE. I do understand that section. It is not as clear as I would like to have it, and it still does not clear up the matter of a consular district.

Suppose this convention is ratified by both countries, and it comes into force but no consular districts or no consular offices are set up for some time. Would its benefits in regard to access, notification and whatnot be applicable in Russia and in the United States? We would follow this anyway, presumably, but who would be the consular officer or who would get notice of something that happened, not in Moscow, not in Leningrad, but in Vladivostok or somewhere else? Would this apply to the whole country?

Secretary RUSK. The rights with respect to notification and consular visitation would become immediately applicable with the exchange of ratifications of this treaty. All of the Soviet Union would be in the consular district of Moscow served by our Embassy in Moscow.

Senator CASE. I just wanted to have that very clear, because read narrowly this suggests the other way and I could not see why you talked about rights of Americans as vast as this being related only to a consular office.

Secretary RUSK. No, it is customary where there would be more than one consulate in a country that they determine in consultation with the host country what the geographical areas of responsibility of their respective consulates would be.

Senator CASE. Thank you.
The CHAIRMAN. Senator Pell.
Senator PELL. Thank you, Mr. Chairman.

EMBASSY PERSONNEL WHO HAVE BEEN EXPELLED FROM THE UNITED STATES
AND FROM THE SOVIET UNION

As I understand it, the Senator from South Dakota has submitted for the record a list of the officials in the Soviet Embassy in Washington, not assigned to the U.N., who have been expelled over a period of time.

Senator MUNDT. Not my list, it is the list of the FBI.

Senator PELL. Right, the list furnished by the FBI.

Senator MUNDT. I do not know whether it is U.N. people, but if you go through the list, each one is identified as you will find.

Senator PELL. I think we are only concerned with those stationed at the Embassy, not the U.N. The U.N. is a different problem. Would you agree on that, sir?

Senator MUNDT. Well, I would assume that they have the same diplomatic immunities in the U.N. as they have, but I will yield to the Secretary on that.

Secretary RUSK. We have the breakdown of figures between those employed in the U.N. and the Soviet mission in the U.N.

Senator MUNDT. The question is whether there is any difference in the diplomatic immunity as applied to Russians in the U.N. as distinguished from 16th Street.

Secretary RUSK. Where it is available, it is the same.

Senator PELL. I would like to ask the Secretary to submit for the committee a list of American officials in Moscow who have been expelled over the same period of time.

(The material referred to follows:)

American officials stationed at the U.S. Embassy in Moscow who have been expelled since Jan. 1, 1946¹ (total, 31)

| <i>Name</i> | <i>Date</i> |
|--|---------------|
| Lt. Robert Dreher, Assistant naval attaché..... | Apr. 26, 1948 |
| George F. Kennan, American Ambassador..... | Oct. 3, 1952 |
| Lt. Col. Howard L. Felchlin, assistant Army attaché..... | July 3, 1954 |
| Maj. Walter McKinney, assistant air attaché..... | Do. |
| Mrs. Karl E. Sommerlatte (wife of second secretary)..... | Oct. 26, 1954 |
| Lt. Col. John S. Benson, assistant Army attaché..... | May 7, 1955 |
| Capt. Walter Mule, assistant Army attaché..... | Do. |
| Capt. William R. Stroud, assistant Army attaché..... | Do. |
| Maj. Hubert E. Tansey, assistant Army attaché..... | Jan. 30, 1957 |
| Capt. Charles W. Stockell, assistant Army attaché..... | Do. |
| Capt. Paul R. Uffelman, assistant naval attaché..... | Feb. 7, 1957 |
| Lt. William S. Lewis, assistant naval attaché..... | Do. |
| Martin S. Bowe, attaché..... | May 7, 1957 |
| John A. Baker, second secretary..... | May 14, 1958 |
| Russell A. Langelle, attaché..... | Oct. 16, 1959 |
| Col. Edwin M. Kirton, air attaché..... | Aug. 10, 1960 |
| George P. Winters, attaché..... | Aug. 26, 1960 |
| Maj. Irving T. McDonald, assistant air attaché..... | Nov. 21, 1960 |
| Comd. Raymond D. Smith, assistant naval attaché..... | Oct. 5, 1962 |
| Kermit S. Midthun, first secretary..... | Oct. 12, 1962 |
| Richard C. Jacob, secretary-archivist..... | Nov. 4, 1962 |

American officials stationed at the U.S. Embassy in Moscow who have been expelled since Jan. 1, 1946¹ (total 31)—Continued

| | |
|---|----------------|
| William C. Jones, second secretary----- | May 13, 1963 |
| Capt. Alexie Davison, assistant air attaché----- | Do. |
| Rodney Carlson, attaché----- | Do. |
| Hugh Montgomery, attaché----- | Do. |
| Col. George Aubrey, Army attaché----- | Dec. 15, 1964 |
| Lt. Col. Karl Liewer, assistant Army attaché----- | Do. |
| Maj. James Smith, assistant air attaché----- | Do. |
| Richard Stolz, first secretary----- | Jan. 26, 1965 |
| Norris D. Garnett, attaché----- | May 11, 1965 |
| Donald K. Lesh, second secretary----- | Sept. 12, 1966 |

¹The Soviet Government normally has stated that American diplomats are expelled for alleged "Activities inconsistent with their status as accredited diplomats."

In this connection, when we come to comparing the establishment of Soviet consular offices in our country and in their country, I am reminded a little bit of the old adage of what is sauce for the goose is sauce for the gander, and I would think that, while it cannot be discussed in an open meeting, the views of the Director of Central Intelligence Agency are different from those of Mr. Hoover.

RIGHTS OF ACCESS SPELLED OUT

Is not basically this convention an extension of the Vienna Convention of 1963, the only differences being the rights of access are spelled out and there is an extension of criminal immunities.

Secretary RUSK. The right of notification.

Senator PELL. Right, rights of access.

Secretary RUSK. That is correct.

ISSUANCE OF EXEQUATURS

Senator PELL. Another technical question. Why is it under the convention that an exequatur is issued only to the head of the consular establishment and not the vice-consuls as in all countries?

Mr. KATZENBACH. It has been customary for many countries under the same long periods of international law that you are talking about.

Senator PELL. You will find in most countries that exequaturs get issued to all members of a consular establishment, vice consuls and consuls.

Mr. KATZENBACH. It is the Soviet practice on this. I do not know there is significance to it, Senator.

Senator PELL. There is a difference, I guess, in the Soviet Union. This convention would not apply to honorary consulates, is that correct?

Secretary RUSK. No, it would not.

RIGHT OF ASYLUM IN A CONSULAR BUILDING

Senator PELL. To return to the question of Senator Morse but on my own time, it would seem to me, and I think it is a good think, that this convention does modify the present rights of asylum in

a consular building. The reason I say that is drawn from my own personal, somewhat bitter, experience when I had an interpreter while I was in the Foreign Service who had been badly beaten up and tortured and returned to me. I thought the local officials wanted to pick him up again, but I had no right of asylum nor did I have any building with that right of asylum, so we put a sign marked "consular archives" on our door which seemed to serve the purpose of preventing the police from coming in and extracting him.

This treaty, I am glad to see, gives some sort of immunity to the residence and the office of a consul, is that not correct?

Secretary RUSK. I would like the legal adviser to comment on that, if I may, sir.

Senator PELL. Thank you.

Mr. MEEKER. Senator, the treaty provides, as you have pointed out, in article 17, for inviolability of archives and buildings. This, however, does not entitle the sending state to provide political asylum to anybody at all.

Now, if there were present in a consular building someone who had taken refuge there, this would have to be then discussed between the sending state and the receiving state as to what would happen.

The United States takes a view of asylum which is different from the view taken by some countries, the view being that asylum may be afforded in a situation of immediate danger to life and limb, but this is different from the right of political asylum which is asserted to exist in some countries particularly in Latin America. This convention does not bear at all on the question of the rights and duties between the sending state and the receiving state in regard to asylum.

RIGHT OF CONSUL TO PROVIDE ASYLUM

Senator PELL. Extending the question of Senator Morse's, and asking you for an answer to the specific, am I not correct in saying that without this treaty being signed, if the consul, the man in charge of the establishment, chooses to give asylum to a resident of the receiving country, could not the local police come in and pull him out? Under this convention the police could not do so, and I submit this is an extension and a good one.

Mr. MEEKER. It would be true under the convention, which it is not true now, that the building would be inviolable, but this again is different from the question of whether the sending state is entitled vis-a-vis the host state to give asylum.

Senator PELL. Granted, but there is an extension of the right of consul if he wished to do it under this convention, and I applaud it. I am just trying to pin you down on this.

Secretary RUSK. But how long that right could be sustained in the relations between the two governments in those cases where we ourselves, for example, do not provide certain kinds of protections to the citizens of the host country is something that would be settled on the basis of issues not arising under this convention.

Senator PELL. Understood. But I still submit there is an extension not of the right of asylum, but the right of the freedom of the consul to give it if he wants to. Would that not be correct?

Mr. MEEKER. Senator, I think you are pointing out a practical circumstance which we all recognize.

Senator PELL. I have been through those circumstances twice, that is why they are vivid in my mind.

Mr. MEEKER. That is, if there is a building which by treaty is inviolable, more time will be taken before the receiving country, the host state, does something about it. But ultimately, of course, and in fact in a rather short period of time, the receiving country can close up the consulate if it is unsatisfied with the conduct of the consul.

Senator PELL. Correct.

Mr. MEEKER. That is made clear by article 2 of this convention.

Senator PELL. When that happens there is no possible way the man could be taken from the building across the border. Then, the local government could pick him up at that time. But until that consulate is closed and taken over, the police could not come in, correct?

Secretary RUSK. Correct.

Mr. MEEKER. Those results flow from the provisions on inviolability and they are not the result of any new obligations in regard to asylum that either country is taking on.

Senator PELL. I am not a lawyer and I can see your point, but will you agree with me that the fact is that the local police cannot go out and pull out this poor fellow as long as the consul wishes the police not to do so and the consul has his valid *exequatur*.

Mr. MEEKER. That is correct.

Senator PELL. Thank you.

RATIFICATION OF TREATY URGED

Along this general line, I would like to applaud the Secretary for pressing ratification of this convention. I was a vice consul behind the Iron Curtain for a year. I go back behind the Iron Curtain every couple of years, and was back just a month ago. I know from my own experience half my employees were either arrested or fled when the Communists took over. I had a man who worked as my chauffeur who was beaten to death. These things are not happening to the same extent now as the system cools off a bit behind the curtain, but the necessity for this treaty is very real.

Speaking as a former vice consul who has myself suffered a certain amount, because of not having some of these rights, I would hope immensely that the treaty would be ratified. I think it would be far more to the interests of the United States, to our citizens abroad who get abused far more than do Soviet's citizens. All told I think it should be ratified.

I came across one case in Eastern Europe where a man had been in jail for two months and we had not been notified about it, since the receiving government had no obligation to do so. If this treaty had been in effect with that particular country, we would have known within two days. If we can take early action in such cases, the brainwashing and the treatment that is given to people when they have no access and feel completely alone, would it not be so effective, and prisoners would be more able to stand up on their own feet and not admit to a brainwashed confession.

Along this line, why are we not pursuing similar treaties with other Eastern European countries?

Secretary RUSK. I think, sir, we had better see what the Senate would do with this one.

The CHAIRMAN. That is right.

Secretary RUSK. We have treaties with Rumania and Yugoslavia, and I would think—

Senator PELL. Not consular ones. Consular conventions?

Secretary RUSK. Most-favored-nation arrangements in treaties of friendship, commerce, and navigation dating from the 19th century.

Senator PELL. But the beauty of this treaty is that it extends immunities and it also extends the rights of access.

Secretary RUSK. We do not have a treaty that is on all fours with this one on those points; that is correct, sir.

Senator PELL. Just as one man in the Senate and Congress, I guess, who has had more experience in this and felt more strongly on it, and suffered more because of not having it, I very much support its ratification.

TOWING AWAY DIPLOMATIC CARS IN NEW YORK CITY

Finally, and I do not mean to be flip, but what will be the effect of the ratification of this treaty on Mayor Lindsay's policy of towing cars in New York City?

Secretary RUSK. Well, we expect diplomatic personnel and consular personnel to comply with the laws of the country, including traffic laws. Now, somewhere between that proposition and diplomatic immunity there is certain room for necessary maneuver. But we have been moving in very hard on this to the point where we have been getting reciprocal action from some of our friends abroad with respect to traffic parking tickets for our own people. But I think we have had more understanding of this from the diplomatic and consular community in the last two years or so, and I hope we can find an answer to it.

Senator PELL. And in conclusion, to me one of the most important things as well as the matter of access, is this question of inviolability, because the nervous strain on the poor fellow who is a consul with a feeling that the local police can go in not only covertly but overtly is not a pleasant one.

Secretary RUSK. Mr. Chairman, it seems to me it has been very valuable to have the observations of the distinguished Senator based upon his daily operations in the field where these matters are of daily concern, and I want to thank Senator Pell for his observations on that matter.

The CHAIRMAN. Senator Cooper?

NO ESTABLISHMENT OF CONSULATES WITHOUT AGREEMENT OF STATE DEPARTMENT

Senator COOPER. Mr. Secretary, I think it is correct to say that the opposition to the ratification of this convention is based chiefly upon the idea that it would give the opportunity to the Soviet Union to expand its espionage activity. I get that from my mail and from certain articles and newspapers.

I think there is a belief that, a proper belief, that there will be many consulates established without any limitations on personnel. You have already said that, but I think it would be good to summarize that no consulate can be established without agreement of the State Department, is that correct?

Secretary RUSK. That is correct, sir.

Senator COOPER. And the number of personnel agreed to by the State Department.

Secretary RUSK. And the numbers must be agreed to and the individuals must be agreed to.

Senator COOPER. And specific persons who are officials and employees must be agreed to by the State Department.

Secretary RUSK. That is correct, sir.

Senator COOPER. And any time under this convention, if the State Department so desires, without giving any reason, it can declare that a certain person or official is not acceptable.

Secretary RUSK. That is correct, sir. We can send individuals home. We can terminate the agreement on six months' notice, or we can simply close the consulate in extreme cases.

QUESTION OF ADDITIONAL BURDEN OF SECURITY

Senator COOPER. Then while there is the possibility for increased activity, you do not consider it enlarging or making more radically different the situation as it exists today.

Secretary RUSK. No, sir, this is not in any serious sense a significant addition to the problem that already exists with respect to the large number of those who, as a matter of general international practice, have diplomatic immunities, and the procedures which are available to foreign governments of all types in an open society such as ours, to get information about this society. I think the problem of espionage is perhaps more important outside of the framework of something of this sort than it is in this framework, because these are announced people who are alerted to everybody as people who are going to be gathering information—that is one of the duties of a consulate.

Our own consulate, if we had one in Leningrad, would be reporting on the activities that are going on in the general Leningrad area, economic and otherwise.

So I would think that the problem of an additional burden to the security of the country is absolutely minimal here in relation to the problems we have otherwise. And we are fully equipped to deal with those problems if they should arise.

CONVENTION DOES NOT EXTEND IMMUNITY TO FAMILIES OF OFFICERS AND EMPLOYEES

Senator COOPER. The convention does not mention specifically the families of officials or employees with respect to immunity.

Secretary RUSK. That is correct, sir. This does not cover families. It is interesting that in the British and in the Japanese agreements families are included. We felt that it was important to work this out on the basis of those who are carrying the official functions but we did not ourselves extend it to include families.

Senator COOPER. Would you consider that would cause any difficulty when immunity is granted to employees, chauffeurs and cooks?

Secretary RUSK. I do not recall that we have ever had any problems with respect to families. If there is action taken by the other side with respect to diplomatic officers, it is usually against the officer, not against the family. I think this is something which has not arisen to cause us concern.

Senator COOPER. I have been very much impressed by your argument for the advantages of this convention, particularly with respect to notification of persons held in detention to right of access.

RIGHT OF NOTIFICATION APPLICABLE IN ALL AREAS OF U.S.S.R.

Now, I think Senator Case raised a very important question and that is to be sure that this right of communication, the right of notification, would apply to any American national any place in the Soviet Union.

Secretary RUSK. There is no question whatsoever about that, sir, none whatever.

Senator COOPER. It is not limited to the consular district.

Secretary RUSK. Not at all, sir, because our Embassy in Moscow now has jurisdictional coverage for our proposes of the entire Soviet Union. The difficulty is that we do not have the right under treaty of having the notification and the access that we would like to have, and this would extend that to the entire country.

RIGHT OF ACCESS ON A CONTINUING BASIS

Senator COOPER. I think it is important also to point out that paragraph 3 of the protocol provides that the right of access shall be accorded on a continuing basis. Do you interpret that as I would that it would not just be limited to one visit by consular authority but, if necessary, that there could be a continuing access to one held in detention, that is, on a reasonable basis?

Secretary RUSK. This is very important to us, Senator, because we do not want to have a situation where one consular visit completes the right. We want this access at all times.

RIGHTS OF NOTIFICATION AND ACCESS

Senator COOPER. Now, these convention rights, these procedural rights to which Senator Morse referred and you concur, would they be rights that even a Soviet citizen would not enjoy?

Secretary RUSK. Particularly with respect to notification and access. They can arrest a citizen of the Soviet Union and hold him during the investigation without bringing him to the courts or publicly doing anything about it while he is under investigation. It would not be possible with respect to an American citizen under this agreement.

Senator COOPER. I was sure Ambassador Kohler would say this but I think it would be natural in a discussion between the Ambassador and the representatives of the Soviet Union on these questions of detention of our nationals without right of communication or without right of notification that we must not exacerbate our relations with the Soviet Union and the United States. What is your judgment about that? You have had to discuss these matters with the Soviets.

Mr. KOHLER. Yes, and we discussed this particular section at great

length, and in terms of the Soviet police and juridical system, it is a major breakthrough because their practice has always been that the person is held incommunicado during a period of what they call an investigation which can be almost indefinite in duration so this requires a modification of Soviet law and procedures, and it has been of such interest that a number of other countries immediately after we concluded this consular convention, the British, the Japanese, and the Italians, immediately wanted to take advantage of this breakthrough to negotiate similar agreements.

Secretary RUSK. With the Soviet Union.

Mr. KOHLER. With the Soviet Union.

Mr. KATZENBACH. If I may add to that, Senator this is something we cannot and do not do within this country where anybody is entitled immediately to access to the outside, to a friend, to a lawyer, and so forth.

Senator COOPER. I think it is easy for us to sit here and consider what might be happening to an American national detained in the Soviet Union, but I think it is an awful position for him to be in not to have any rights of communication and access, and I think this holds great hope.

ACCESS HERETOFORE HAS REQUIRED EFFORTS ON HIGHEST DIPLOMATIC
LEVEL

Secretary RUSK. And, Senator, contacts are very important in one element I mentioned briefly earlier. During the period in which I have occupied my present chair, the very effort to get consular access to Americans in the Soviet Union has required attention at the very top of Government on more than one occasion. Now, when you elevate these questions to that level, considerations of political prestige in character intrude and make the problem more difficult, perhaps for both sides, to resolve. Whereas if this could be dealt with at a lower level in terms of known treaty obligations, then these problems, I think, could be settled more easily and more readily because they do not become major issues of controversy between two great nations.

Senator COOPER. That is all, Mr. Chairman.

CONTINUATION OF MEETING

The CHAIRMAN. Mr. Secretary, can you stay a bit longer? I think we can finish up entirely and not have to have a second meeting.

Secretary RUSK. Mr. Chairman, I have a rather important luncheon commitment with some foreign guests of the Congress.

The CHAIRMAN. I know what your deadline is.

Secretary RUSK. Perhaps I could stay another five or ten minutes or so but Mr. Katzenbach would be able to continue.

The CHAIRMAN. I would like to ask Mr. Katzenbach particularly a couple of questions. Would you be content to have the Secretary stay now, then excuse him and go on with the others, Senator Mundt?

Senator MUNDT. I think so. I could finish in ten minutes.

The CHAIRMAN. It would save another meeting. Go ahead.

TOURISTS AND EXCHANGE VISITORS FROM EASTERN EUROPEAN COUNTRIES

Senator MUNDT. To complete the record, Mr. Secretary, would you supply in addition to what you have placed in the record of

the tourist and exchange visitors from the Soviet Union, will you supplement that by including also tourist and exchange visitors during the same period of time from the other bloc countries?

Secretary RUSK. Yes, sir, we will do our best to do that and promptly.

(The information referred to follows:)

Tourists and exchange visitors from Eastern European countries, 1962-66¹

| | Fiscal years | | | | |
|------------------------|--------------|-------|-------|-------|-------|
| | 1962 | 1963 | 1964 | 1965 | 1966 |
| Bulgaria: | | | | | |
| Tourists..... | 58 | 80 | 110 | 92 | 144 |
| Exchange visitors..... | 25 | 19 | 93 | 13 | 71 |
| Czechoslovakia: | | | | | |
| Tourists..... | 293 | 408 | 1,806 | 2,642 | 2,230 |
| Exchange visitors..... | 64 | 124 | 201 | 331 | 575 |
| Hungary: | | | | | |
| Tourists..... | 260 | 2,018 | 4,446 | 4,047 | 2,916 |
| Exchange visitors..... | 72 | 48 | 89 | 144 | 270 |
| Poland: | | | | | |
| Tourists..... | 1,306 | 1,976 | 2,270 | 2,822 | 3,324 |
| Exchange visitors..... | 499 | 360 | 472 | 475 | 475 |
| Rumania: | | | | | |
| Tourists..... | 75 | 107 | 112 | 323 | 259 |
| Exchange visitors..... | 35 | 99 | 34 | 34 | 165 |

¹ Since figures are not readily available for the past 6 months of calendar year 1966, fiscal years have been used throughout.

The CHAIRMAN. I want to identify the bloc.

Senator MUNDT. He and I understand it. You have a little different interpretation. [Laughter.]

I will be content with his interpretation of the bloc countries.

The CHAIRMAN. He said it was an anachronism when I asked him what it was.

Senator MUNDT. But he used it.

The CHAIRMAN. I agree.

QUESTION OF APPROVAL BY THREE ADMINISTRATIONS

Senator MUNDT. So as to clarify the record, if I understand it correctly, somebody stated around the table this had been approved by Eisenhower, Kennedy, and Johnson. If I understand the record correctly, these discussions on the problems were initiated under the Eisenhower administration.

Secretary RUSK. That is correct, sir.

Senator MUNDT. They were not consummated then however, so the Eisenhower administration said neither yes nor no on the section of the consular treaty before us.

Secretary RUSK. No, it is President Johnson who presents it to the Senate for its approval.

Senator MUNDT. I understand, but you said three administrations approved it.

Secretary RUSK. The principal issues were attitudes of the U.S. Government, the reasons behind the request in 1959 to start negotiations on this subject. There was a draft then available of a possible convention.

Senator MUNDT. I understand and I wanted—

Secretary RUSK. There was a draft available of a possible convention.

Senator MUNDT. It was changed of course.
Secretary RUSK. In the process, yes, sir.

IS VLADIVOSTOK OFF LIMITS TO AMERICAN TOURISTS?

Senator MUNDT. Senator Case brought up an interesting point. If I understand your answer to him, if we get this consular treaty, we are going to have really two consular offices, Leningrad for the Leningrad consular district, and our Embassy in Moscow will cover the rest of the Soviet Union.

Secretary RUSK. That is right.

Senator MUNDT. Is Vladivostok off limits and out of bounds for an American traveler?

Mr. KOHLER. Vladivostok is today a closed city. There is a new commercial port some 200 kilometers from Vladivostok, which is now the new terminus of the Trans Siberian Railway, and which is open to foreigners, and which I have myself visited.

Senator MUNDT. How about Kiev?

Mr. KOHLER. Quite open.

TREATY PROVIDES CONSULAR ACCESS

Senator MUNDT. Let's take Kiev, then.

Suppose an American citizen gets in trouble in Kiev. He is just where he is now as far as having diplomatic assistance is concerned, because Leningrad would not serve that, I presume. Moscow would serve it.

Secretary RUSK. That is correct, sir. But without this treaty that American citizen would not have the benefit of the notification and access rights that this treaty would provide.

Senator MUNDT. He would not have that?

Secretary RUSK. That is correct, sir.

Senator MUNDT. But he would continue to be served from Moscow. So the treaty with a consulate opening up only in Leningrad, service would still be available to American citizens on about the same basis as we would have now except we would have one consulate in Leningrad.

Secretary RUSK. I am not sure that I understand your point, Senator.

Senator MUNDT. If the treaty did not provide for opening up new consular offices, if the treaty provided solely for these rights of interrogation, access to prisoners, there would be no change except those aspects you have discussed with us today.

Secretary RUSK. The treaty itself, Senator, that is before you makes no provision for the opening up of consulates as such. What it does do is provide certain principles that would obtain should do so.

Senator MUNDT. Right.

Secretary RUSK. So, in voting for this treaty, you would not by that vote vote to open up new consulates.

GOVERNMENTS WHO MIGHT REQUEST MOST-FAVORED-NATION TREATMENT

Senator MUNDT. Does the figure 290, as you list on your statement, does that represent the total number of personnel from the 27 other countries with which we now have consular offices, having the most-favored-nations clause or is that dealing only—

Secretary RUSK. No. That is in the second enclosure of Mr. MacArthur's letter. Those represent the numbers of those who might be expected to come to us and say, "We would like to have reciprocal arrangements on a most-favored-nation basis."

Senator MUNDT. That is your "guesstimate."

Secretary RUSK. Well, it is based upon sober estimates made by our Embassies abroad and by us in the Department.

Senator MUNDT. Correct. But it is not a firm figure, is it?

Secretary RUSK. No. We have not negotiated this with other governments.

Senator MUNDT. Yes.

DECISION TO HAVE RUSSIAN NATIONALS EMPLOYED AT U.S. EMBASSY
IN MOSCOW

I am curious about a point raised by Senator Hickenlooper that has disturbed me for a long time. That is, why is it that charwomen, cleaners, chauffeurs, employees generally in the American embassy in Moscow are Russian nationals, and, therefore, Communists, whereas in this country employees of the same category in the Russian Embassy are Russian nationals and likewise Communists. Is that a bad judgment on our part or an economy move or is that something which the Soviets insist upon?

Secretary RUSK. It is not an insistence of theirs. There are budgetary reasons for that. We also make arrangements inside the Embassy where that is not a relevant factor in relation to the classified operations of the Embassy. I think that in closed session some time Ambassador Kohler could go over that with the committee, so you can see what is involved there.

Senator MUNDT. I would like to because I recall very vividly that charwomen are not always the innocent kibitzers to affairs of state that they sometimes appear to be. At the time we were cracking the Alger Hiss case it was the evidence provided by a charwoman or messenger in the custodial service that helped in solving that very difficult situation between Whitaker Chambers and Alger Hiss. So sometimes diplomats are not as prudent as they might be in what they drop in the wastebasket. Charwomen can be quite important.

Secretary RUSK. This is dealt with. In the section of the Embassy in which they do their charring classified or restricted information is not handled.

Senator MUNDT. In short, it is your testimony if we wanted to, as Americans, insist upon our personnel in our embassy in Moscow being Americans we could do it all through the Embassy?

Secretary RUSK. No problem as far as the Soviet Union is concerned.

Senator MUNDT. This is the decision we made?

Secretary RUSK. That is correct, sir.

HONORING OF DIPLOMATIC IMMUNITY BY BLOC COUNTRIES

Senator MUNDT. Do you know of any cases where diplomatic immunity has not been honored by bloc countries?

Secretary RUSK. We have, of course, diplomatic officers sent away from the country under persona non grata proceedings. I think there

were one or two cases with people of diplomatic immunity where they were searched on a train or something of that sort before it was established they had diplomatic immunity. We have these kinds of problems in our own country where police officers arrest a man who says he is an Ambassador and police officers say, "Well, I am not so sure of that," and sometimes it takes a little time to establish it.

Senator PELL. Or, if the Secretary will yield, where you can be hauled into a local police station, as happened with me one time, until you can establish your immunity.

Secretary RUSK. That is correct. But in a sense I do not know of any that have occurred.

Senator MUNDT. You have not?

Secretary RUSK. That is right. We will check the record on this and see. We have had one or two cases of this sort in other countries.

Senator MUNDT. Yes, because one or two have been reported to me, but they might not be violations of diplomatic immunity. They might be something else, but I would like to have a categorical answer from you, and I think we should search the records first.

(The information referred to follows:)

Violations of Diplomatic Immunity in the USSR and Eastern Europe

1. KHABAROVSK INCIDENT—SEPTEMBER 1964

During the night of September 28, 1964, fifteen Soviet officials forcibly entered hotel rooms in Khabarovsk occupied by three US military attachés and one British military attaché who were on a trip through Siberia. The US officers, attached to our Embassy in Moscow, were Colonel George Aubrey, USA, Lt. Col. Karl Liewer, USA and Major James F. Smith, USAF. The Soviet officials made thorough searches of the rooms and the personal effects of the officers, confiscating some of their personal effects, including photographic equipment, films and notebooks. Despite insistent demands, Colonel Aubrey was refused permission to telephone to the American Embassy in Moscow.

The U.S. Government protested most vigorously this violation of the diplomatic immunity of these three officers, lodging protests with the Soviet Foreign Ministry in Moscow and with Soviet Ambassador Dobrynin in Washington. The Soviets replied that the officers were engaged in activities incompatible with their diplomatic status, charged them with espionage and ordered them expelled.

The US Government rejected the Soviet charge that these officers were engaged in espionage.

2. WARSAW INCIDENT—APRIL 1966

Two US service attachés were stopped by uniformed Polish militia near Warsaw while returning from a field trip in April 1966. Despite having displayed diplomatic credentials upon request, they were denied permission to proceed. After spending nine hours in their vehicle awaiting permission to continue their journey, the two officers were seized, driven to a nearby militia station, and detained for a half-hour before release.

RESPONSIBILITY FOR ADDED POLICE PROTECTION

If additional police protection is required, and presumably it would be with new Communist consular offices opened up in this country, would the Federal Government provide that or would the local mayor or the city provide that?

Secretary RUSK. Well, I do not know that extra police in terms of local police would be required if you opened a consulate with 10 or 12 people or 15 people. That would be for the local authorities to determine.

66 CONSULAR CONVENTION WITH THE SOVIET UNION

In the case of special demonstrations and things of that sort, they normally would call in reinforcements in any event, rather than just the man on the beat. There could be some problems of that sort.

Senator MUNDT. And that would be the responsibility of the local police?

Secretary RUSK. That is right, and there might be some additional assistance required from the FBI, but those are matters that can be taken up in the appropriate committees.

Senator MUNDT. In a situation where people are marching in front of a consulate, might this not raise some serious problems, as we have had happen to us by stones being thrown into our library windows, and so forth, in different countries, but it does create a potential law enforcement problem, which would be the responsibility of the local police?

Secretary RUSK. This would be if such a problem arises, there would be that responsibility.

Senator MUNDT. I think I have taken my ten minutes.

Secretary RUSK. Mr. Chairman, I do very much appreciate the readiness of the committee to receive me this morning to talk further about this consular convention.

ADVANTAGES OF ESTABLISHING LEGAL BASIS FOR NEGOTIATION OF PROBLEMS

The President and I both feel it is very important for us to proceed promptly to ratify this convention. It would help considerably to reduce unnecessary tensions between ourselves and the Soviet Union by getting certain kinds of problems well understood on a legal basis between us and to make it possible to resolve a number of these inevitable minor issues that come along on a lower level and not have them become a matter of the highest political issue between the two Governments.

We understand that there are some real problems between our two Governments, but we feel we must continue to chip away at them and try to find points in which we can reduce tension rather than have every little difference between us blow up into a major issue, not only between Governments but between the two public opinions in our respective countries.

I think this gives us important protections in the Soviet Union. I think that the burden, if any, which it places upon our own situation here is a minimal burden, and I would think that prompt ratification of this treaty would be a very constructive development in our total foreign relations at this point.

The CHAIRMAN. Would you allow one minute for the Senator from Pennsylvania?

Senator CLARK. Thank you, Mr. Chairman.

SUPPORT FOR CONSULAR TREATY

Mr. Secretary, I think you have made a very convincing statement in support of this treaty. In my opinion, the treaty is in the national interest, and I shall support it not only in the committee but on the floor.

I have no questions. Thank you very much.
Secretary RUSK. Thank you very much, Senator Clark.
The CHAIRMAN. We will excuse the Secretary, but I want to ask the Under Secretary a few questions. Perhaps Mr. Kohler could stay a few minutes longer.

EFFECT OF TREATY'S SUCCESS ON EAST-WEST RELATIONS

Mr. Secretary, in this morning's issue of the New York Times is an editorial. I won't read it all, but I will put it in the record. I want to read one or two sentences from it, and then ask a question. I do this in view of the fact that you were so recently the distinguished Attorney General of this country before you came to the State Department, and you have, therefore, I think, a rather unusual qualification to comment upon this aspect of this matter.
(The editorial referred to follows:)

[From the New York Times, Jan. 23, 1967]

CLEAR IT WITH HOOVER

Even after publication of the curious correspondence between Secretary of State Rusk and J. Edgar Hoover, it is far from certain that the Administration will be able to override the veto Mr. Hoover has hitherto exercised against the long-stalled Soviet-American consular treaty.

There can be few, if any, precedents for the spectacle that correspondence presents: the Secretary of State, in effect, asking a Federal police official of sub-Cabinet rank to stop blocking United States foreign policy, and then receiving a reply so cryptic and ungracious that it can only further encourage opponents of the Administration policy. It is a reminder of the magnitude of Mr. Hoover's power, with implications that go far beyond the immediate issue.

The fate of the consular treaty is crucial, and the Senate Foreign Relations Committee has acted wisely in altering its schedule to give priority to the treaty's consideration. Ratification means more than normalizing Soviet-American diplomatic relations and providing badly needed additional protection to American citizens traveling in the Soviet Union. What happens to the treaty will foreshadow the probable outcome of the rest of the Administration's constructive program for trying to improve relations with Moscow.

If the consular pact cannot be ratified, then the East-West trade bill is probably dead and the space treaty may have been still-born. The entire direction of American foreign policy toward the Soviet Union at an extraordinarily critical moment in world history is at stake.

I shall read part of the editorial as follows:

What happens to the treaty will foreshadow the probable outcome of the rest of the Administration's constructive program for trying to improve relations with Moscow.

If the consular pact cannot be ratified, then the East-West trade bill is probably dead and the space treaty may have been still-born. The entire direction of American foreign policy toward the Soviet Union at an extraordinarily critical moment in world history is at stake.

Personally I agree with that statement, but I wanted to address it to you. I think you might interpret the significance of the letters which have been put in the record and the statements made by the Director of the Federal Bureau of Investigation, which was part of the Department of Justice which you headed for some three years.

I wonder if you would care to explain this to the committee and interpret it for the benefit of the committee and the country because I believe this is the really critical element in this whole thing.

CONSULAR CONVENTION WITH THE SOVIET UNION

BUILDING BRIDGES WITH THE SOVIET UNION

Mr. KATZENBACH. Let me approach it, if I may, Senator, in three ways. I do think that this is important in terms of our relationships with the Soviet Union in terms of trying to find areas of accommodation and agreement where there is an advantage to each side in this, and where it is the judgment of the President, by and with the advice and consent of the Senate, that the advantage to the American side of this is sufficient to warrant concluding this treaty.

So I do think it is related in this sense to finding areas of accommodation, building bridges, anything else you wish to call it, and as the Secretary so eloquently said, getting rid of problems that otherwise become problems of involvement at a high level, so I think that is important.

PROTECTION GRANTED TO AMERICANS IN SOVIET UNION

Let me say, secondly, if none of those considerations were present, if we had no particular interest in any of those things, this treaty would still be a good treaty to ratify from the U.S. point of view. So you could be totally opposed to any kind of East-West rapprochement, the building of bridges, anything of that kind, and still in good conscience vote for the treaty that will enable us to give some protection to a large number of American citizens who are traveling within the Soviet Union, rights that they presently do not have and rights which they have in this country as a matter of our own Constitution, law, and practice.

So I would say, whether or not you accepted that premise, it would be a good treaty to ratify in order to protect Americans traveling in the Soviet Union, and I put a very high degree of importance to fulfilling those rights and those obligations with respect to American citizens traveling abroad, particularly when I think the trend will be to have an increased number with the direct air service, and I would expect that to further increase.

The CHAIRMAN. If we have the air treaty there will be many more tourists in Russia.

Mr. KATZENBACH. I would predict that this would continue to increase as it has increased, and I think that would be a factor in increasing it, so we can expect more Americans traveling in the Soviet Union and therefore to give greater importance to our being able to protect them.

Now, let me go to the third aspect of that.

CRIMINAL IMMUNITY PROVISION

If there is an argument to the extent that there is opposition to this treaty, I think it has been based upon the fact that personnel assigned to consulates, if consulates should be opened, would acquire an immunity from criminal jurisdiction, and that is correct, and that is a fact. I think that has to be looked at in the context of the total problem.

I agree, I agree with everything that Mr. Hoover said in that letter. I think the record indicates that espionage activities have from time to time been conducted in the manner described by Mr. Hoover. Certainly it was my experience as Attorney General that this occurred.

When those espionage activities are conducted, if there is diplomatic immunity, then the result is that all we can do is the *persona non grata* procedure, and there is no punishment involved. It does not make the espionage activities any different than they would be with or without the immunity, but it does mean in terms of your capacity to punish them, that is gone and it is interesting to note that not all of the espionage activities which have been conducted with Soviet espionage here have been conducted by the people who had diplomatic immunity.

In fact, in two of the more recent cases, the Egorov and the Ivanov case, at least those two people were not entitled to diplomatic immunity. So it is not only people with diplomatic immunity who may conduct acts of espionage.

ESPIONAGE ACTIVITIES

Senator MORSE. May I interrupt to say that also everything you said about Russian espionage also involves American espionage abroad in Russia and elsewhere.

Mr. KATZENBACH. We are entitled to the same immunities that they would be entitled to in this country, that is certainly correct.

Senator MORSE. If Russia had a director of an FBI he probably would give a similar report.

Mr. KATZENBACH. If I can carry on in that, there are presently here and in New York some 452—

Senator MORSE. I assume silence means consent to my question.

Mr. KATZENBACH. The rights are absolutely reciprocal, and if the activities were reciprocal the same rights would apply.

The CHAIRMAN. You are not implying that we do not carry on espionage activities, are you?

Mr. KATZENBACH. Well, it is the normal duty to report various intelligence.

The CHAIRMAN. Every country does, does it not? Certainly every major country has its normal espionage.

Mr. KATZENBACH. Has its intelligence.

Senator MORSE. I support it and vote for millions of dollars for it every year.

The CHAIRMAN. As long as we are living in such a world, everybody has to do it.

Mr. KATZENBACH. In terms of what is the additional threat to the security involved in this, and I think for this purpose one should assume that any personnel who have this immunity, as well as people who do not have this immunity, might be engaged in espionage activities, I mean to start on that assumption, whether they are or not, they might be, and they would have diplomatic immunity.

There are presently 452 persons in the United States who can travel to the same parts of the United States which any consular officials would be permitted to travel to, who are entitled to that immunity.

The CHAIRMAN. From Russia?

Mr. KATZENBACH. Yes, sir.

The CHAIRMAN. There are many others.

Mr. KATZENBACH. We start with that, plus any other people who come in, any tourists who come in, anybody else who might be engaged who would not have the immunity. There are presently that many.

CONSULAR CONVENTION WITH THE SOVIET UNION

ONE ADDITIONAL CONSULATE CONTEMPLATED

All that is contemplated under this, and even that might not come to pass, is as the Secretary described, the possibility of opening a consulate which we could open, whether or not this agreement applied. But if this agreement were ratified, people would have diplomatic immunity, if we did consent to the opening of the consulate, both their people here and our people there. All that has been contemplated over the foreseeable future has been the possibility of one additional consulate in this country, and one additional consulate of ours in theirs. This would have ten to fifteen people added to it.

RISK OF ESPIONAGE NOT APPRECIABLY INCREASED

Therefore, the risk of additional espionage of those ten to fifteen people with diplomatic immunity should be viewed in the context of 452 people who presently have it, so you are going conceivably from 452, if this should come to pass, to 467, which does not seem to be a tremendous increment from the point of view of security, and I would add one more thing to that, and it is it would be entirely possible for that 452 to go to 467 or 480 or 490 without this agreement simply by adding to the list of people entitled to diplomatic immunity now, which is a matter of the basis on which we deal with the Soviet Union.

If it were contemplated that hundreds of consulates would be opened—and I cannot imagine why we would need hundreds of consulates in the Soviet Union—but if that were contemplated with an additional 2,000 Americans with diplomatic immunity going to Soviet Russia, and an additional 2,000 from Soviet Russia coming here, then the order of the problem and the magnitude of the problem would be an entirely different thing.

But I cannot, frankly it is incredible to me, conceive of how we would use 2,000 consular officials in the Soviet Union. That would be almost as many consulate officials as there are tourists, and in the Soviet case it would be twice as many consular officials as there are Russians traveling in the United States.

EXCHANGE OF CONSULAR OFFICIALS REQUIRES APPROVAL

Senator MORSE. If the Chairman will permit me to point out just for emphasis what the Secretary said, however, that nails this right down. They cannot send consular officials over without our approval, and we cannot send them over there without their approval, so there is your check.

Mr. KATZENBACH. Yes, sir; and the only reason that this could happen would be because we want to open consulates all over the U.S.S.R. and put a great many people there, because it is strictly reciprocal. Only if we wanted to do that and saw a major advantage to the United States doing that, would the problem even occur as far as Soviet consulates in this country are concerned.

FBI AFFECTED BY INCREASE OF COMMUNISTS IN THIS COUNTRY

The CHAIRMAN. Perhaps you do not care to pursue this, but I am trying to interpret the attitude of the Director of the FBI.

It seemed to me implicit in his statement that the question of political judgment, as to whether a particular treaty is made or not, is not within his jurisdiction. "It is not for me to say when I am asked," as he was, about the effect upon his agency, and when he goes before an appropriations committee and, naturally, I think most agencies like to get all the appropriations they think they need, and the only logical answer is, "Yes, I will need more agents and, therefore, more appropriations."

I do not wish to misinterpret it, but this was the reason given to me by some of my colleagues why they thought the action on this treaty should be deferred. They did not tell me they were opposed to it. They thought it should be deferred for further consideration.

My own feeling is that Mr. Hoover was not trying to usurp the jurisdiction of the State Department and the President. He was simply stating a fact that if you had one consulate and you had only one more man, he would probably need some additional surveillance, perhaps, or one more man, commensurate with whatever the increase is.

From your point of view, do you wish to comment on that, as you are familiar with the procedures of the Federal Bureau of Investigation?

Mr. KATZENBACH. That is correct, that is absolutely correct, Mr. Chairman, and I think that is borne out not only by his correspondence here but it is also borne out by his conduct, high conduct, of his office over a period of years, and I have talked personally on this. He said he never took a position with regard to the treaty pro or con, nor would he. As far as factual information is concerned he would point out simply, as he did in his letter to Senator Mundt, which I say I accept, point one, that espionage activities have been conducted out of the Soviet Embassy in this country.

Point two, they have been conducted, for the most part, but not exclusively, with respect to people who have diplomatic immunity.

And, third, that any increase of personnel anywhere with a similar immunity, raises a problem.

Fourth, he can cope with that problem, and I do not think anybody on this committee or in the country would doubt the FBI's capacity to do so.

The CHAIRMAN. Carried to its logical conclusion, it would greatly decrease the duties and responsibilities of the Department of Justice if we do not have any foreigners at all in this country in any diplomatic agency, would it not?

Mr. KATZENBACH. Yes, sir. It would be a lot easier if we did not have certain citizens.

The CHAIRMAN. I suppose any one of them is a potential threat to intelligence-gathering, but if we did not have any people, Russians or others, with whom we have a cold war, it would be easier, so he could truthfully testify it would be easier, it would be better for his agency if we had none at all, would it not?

Mr. KATZENBACH. That is correct, Mr. Chairman. The Secretary made a point there which I think is worth reemphasizing. We live in an open society. A great deal of material can be gathered in this country, a great deal of material that would be regarded as high security in a more closed society is public information and public

knowledge in this country and available to any foreign tourist, traveler, diplomat, or any one else. Whereas reciprocally on this point, it is far more difficult—Mr. Kohler could bear me out—to gather information within a closed society that does not have the hundreds and thousands of newspapers, and with their hundreds and thousands of sources of information, the technical magazines, all of this which occurs in a free society. I am glad that it does occur, but it certainly gives an intelligence advantage to anybody who lives in a more closed society.

Senator MUNDT. Mr. Chairman, may I ask a question?

The CHAIRMAN. I have one more question to ask of Mr. Kohler and then I will yield.

QUESTION OF ASSIGNING EMBASSY PERSONNEL TO LENINGRAD TEMPORARILY

There was one point I thought that was not quite tied down in your response to Senator Hickenlooper. He seemed to suggest that there would be no problem for you to assign personnel with immunity out of the Embassy in Moscow to at least temporary duty in Leningrad. Could you clarify this? Why couldn't you?

Mr. KATZENBACH. Yes.

The CHAIRMAN. Either one of you. I thought Mr. Kohler would be more familiar with the matter but if you wish to, you may comment.

Mr. KOHLER. No, that is not possible because that involves—

The CHAIRMAN. Make it clear why it is not. Senator Hickenlooper raised a question, and it was not clear to me why you cannot take ten people out of your Embassy in Moscow and staff a consulate in Leningrad.

Mr. KOHLER. Well, the answer is really very simple because we cannot set up another office in the Soviet Union without the Soviet Government's permission.

The CHAIRMAN. So you just could not have one.

Mr. KOHLER. That is right.

Now, it is quite possible for us to send an officer to Leningrad or to another city to see a man. But he cannot set up business in that city.

Mr. KATZENBACH. Nor at the moment may he know that man is in trouble with no notification or no access.

Senator MORSE. That is the important point.

The CHAIRMAN. That is the important point. I just wanted to clarify that.

EXTENSION OF DIPLOMATIC IMMUNITY TO SOVIET PERSONNEL HERE

Senator MUNDT. I need a little more enlightenment, Mr. Secretary, on how this will operate in terms of this unusual, and, to my way of thinking, unwise, double standard which we operate under, according to Mr. Kohler at our initiative, whereby we employ Soviet personnel in our embassy at certain levels, and they at the same time insist on employing Soviet personnel over here.

My question is how far down in the present circumstances in the list of jobs that they have here on 16th Street in their Embassy is diplomatic immunity presently extended to the Soviet personnel employed by them at low-level jobs?

Mr. KOHLER. All officers and employees of Soviet nationality. The same is true—

Senator MUNDT. Even to the charwoman, is that right?

Mr. KOHLER. Yes.

Senator MUNDT. If they are Soviet personnel.

Mr. KOHLER. It includes their service personnel if they are of Soviet nationality. In the same way all of our personnel in Moscow are protected under an understanding between us.

Senator MUNDT. So as of now every Soviet citizen employed by the Soviet Embassy has diplomatic immunity.

Mr. KOHLER. Yes.

Senator MUNDT. Right?

Mr. KOHLER. That is correct, sir.

Senator MUNDT. And that would be extended if we opened up consular offices, all Soviet personnel at any level that they happen to include in whatever number they brought over?

Mr. KATZENBACH. Which we would agree to in advance, and which would be reciprocal with the number of people that we had there, which I think is important.

IMPACT OF TREATY ON SOVIET PERSONNEL IN U.S. EMBASSY IN MOSCOW

Senator MUNDT. Right. I come to that next point. If it is important, and I want to know why, because they are employing their own—we are employing, their personnel, their nationals in our embassy. Now, what impact would this consular treaty have on them? Would it make any difference whatsoever?

Mr. KOHLER. On which, now?

Senator MUNDT. On the Soviet personnel working in our American Embassy or consular office?

Mr. KOHLER. None whatsoever.

Senator MUNDT. It would not make any change. The consular treaty does not have any impact on them whatsoever?

Mr. KOHLER. No.

Senator MUNDT. Now, if there are Americans working for the Soviet diplomatic people over here, and maybe there are none, maybe it is just entirely Soviet personnel, would it have any impact on them?

Mr. KATZENBACH. No, it would not, Senator. The immunity—I assume you are referring to the immunity provisions of this?

Senator MUNDT. Right.

Mr. KATZENBACH. They apply only to nationals of the sending state, and they do not apply to American nationals and they do not apply to any other foreigners. If the Soviet Embassy were to hire a French chef it would not apply to him.

Senator MUNDT. Just their own people.

Mr. KATZENBACH. Yes, sir.

Senator MUNDT. Just their own people.

I wish you would state a little more, Mr. Kohler, as to why you consider it for us, other than for budgetary reasons, why we rely on Soviet personnel, as we do, in our Embassy in Moscow.

Mr. KOHLER. Senator, not exactly. We are aware—this is a controllable problem from the point of view of what I gather is in your mind.

Senator MUNDT. The danger of leaks is what I am talking about, danger of leaks.

Mr. KOHLER. That is right. This is under control. I beg you to believe we have had a great deal of experience in this. It is a deliberate, pondered decision.

LISTENING DEVICE IN U.S. SEAL IN MOSCOW EMBASSY

Senator MUNDT. I do not think this was during your service in Moscow, but I can recall sitting in the Senate Appropriations Committee when they brought in a great seal of the United States which was in the office of our Ambassador over there, which was placed there by some of the Soviet personnel with a listening device which had been operating for some considerable length of time before we even discovered it. I do not believe that an American citizen employed in an embassy over there—I would hope not—would install that kind of a listening device, but I can well imagine that is one of the functions of the Soviet personnel allegedly serving our diplomatic mission over there. Remember that?

Mr. KOHLER. Very well. I have seen that seal many times.

Senator MUNDT. It looks rather innocent when you look at it. It is not what it appears to be.

Mr. KOHLER. But I do beg you to believe there are many details of this question I could not go into at a public session, but it is a problem that we are aware of and it is a controllable problem, and the Embassy in Moscow is able to operate with the required security.

Senator MUNDT. Well, I would hope so. But the control on that occasion came a little late in terms of the operating functioning of that seal as it had been changed. Right?

Mr. KOHLER. There are places which you assume are insecure, let me say.

Senator MUNDT. That would have to include the Ambassador's office.

Mr. KOHLER. This was not in the Ambassador's office in the Embassy. This particular seal of which we are talking was in his study in his residence which is not regarded, I may say, as a secure area.

Mr. KATZENBACH. I remember many years ago, Senator, when I was taken as a prisoner of war up to a questioning camp, and there was an Italian guard there who had lived 17 years in Boston, and he was good enough to point out to me that there was a bug in the ceiling of this particular room where I was staying. I found it very useful to express some of my more private views that I would have found difficult to have expressed face to face as to how I regarded the general situation and the conduct of the war at that point. [Laughter.]

Senator MUNDT. I quite agree with you, but I very much doubt that any of the Soviet personnel in our Embassy in Moscow would be quite that cooperative to tell you in advance. That is all, Mr. Chairman.

The CHAIRMAN. Senator Morse, do you have any questions?

EVALUATION OF MR. HOOVER'S COMMUNICATION

Senator MORSE. I want to thank Mr. Katzenbach and Mr. Kohler. I think they have made a good case for the treaty, and I particularly appreciate your evaluation of Mr. Hoover's communication and the material contained therein. I agree with you. I think it is very helpful.

I may say that the Director of the KGB in Moscow would probably make exactly the same points. That is just the way international relations are going to exist for some time until we can work out a détente.

GENERAL PROBLEM OF IMMUNITY

The CHAIRMAN. There was one point, I do not think it is particularly important, but while you are here I would like to make the record as complete as I can. I was rather surprised at the small number of violations of law that were cited by the Secretary earlier, and only two convictions, was it not, in eleven? Would you elaborate a bit on this.

Mr. KATZENBACH. No. The question had been raised, Senator, as to whether or not other countries, taking advantage of the most-favored-nation clause, should they wish to do it, would raise an additional problem of immunity.

Now, in the first place, those countries that have most-favored-nation clause, would get most-favored-nation treatment in this respect, they are friendly countries, so that is not an espionage problem in the sense we have been discussing it heretofore.

In the second place, we thought it relevant to that inquiry to find out how much difficulty consuls had been in with respect to the law when they did not have diplomatic immunity, to see how much immunity you would be giving them.

Looking at those consuls from the friendly countries, we found only the eleven difficulties that they had gotten into over a period of time, and it was for that reason, and it was not with relevance to the espionage not with relevance to the Iron Curtain, not with relevance to any of that, but with relevance to most-favored-nation treatment with other countries, we wanted to find out how much immunity one was giving because this can be important.

There are problems with immunity, not from the espionage sense, but from other points of view. We have them ourselves.

WAIVING IMMUNITY

The CHAIRMAN. It is a great temptation to do a little smuggling if you have immunity, is it not?

Mr. KATZENBACH. I think it should be, but I would not expect that from our Foreign Service personnel, and those entitled to it. But if a husband shoots a wife one can waive the immunity. I mean the Government can waive the immunity, otherwise it may be impossible to get the witnesses, and so forth, to try the case. So there are problems of plain ordinary common law crimes going unpunished that come with immunity, even though the Government can waive that, and governments have from time to time waived that.

The CHAIRMAN. You mean that when a Government has nationals who have committed a crime even under this treaty, it may waive immunity in certain cases?

Mr. KATZENBACH. Yes. They may if they are satisfied with the fairness of the procedures and with the guilt of the person, and so forth. The immunity is not a personal immunity. It is an immunity that the Government possesses and which the Government can waive.

MUTUAL EXPULSIONS

The CHAIRMAN. Are a number of those explained by mutual expulsions? I have seen cases where one side expels someone, and the other one does it more or less in retaliation regardless of the particular individual's conduct. Has that not happened?

Mr. KATZENBACH. It is a fact, Mr. Chairman, whenever we declare a Soviet diplomat persona non grata because he has been engaged in espionage activities, one of the people in the Embassy at Moscow is within a short time declared persona non grata.

The CHAIRMAN. Does it work only that way? Do we ever retaliate if they throw one of ours out, by throwing one of theirs out?

Mr. KATZENBACH. In cases that I am familiar with or have anything to do with, they have run the other way.

The CHAIRMAN. The matter of crime, I would guess, has not been a very major one. The most irritating are the traffic violations, are they not?

Mr. KATZENBACH. Yes, and they are irritating. I think most embassies here, just as our personnel abroad, do take seriously complying with the laws of the host country.

The CHAIRMAN. Except for traffic violations.

Mr. KATZENBACH. Traffic violations have caused a very special problem. Sometimes the location of the consulates and embassies further aggravates the problem, and in a city like New York almost everybody seems to take some chance on double parking, in my experience.

Senator MORSE. We have problems not only with diplomats but with Members of Congress.

The CHAIRMAN. Oh, no, you would say that. [Laughter.]

Mr. KATZENBACH. I think you are more of an expert on that than I am, Senator. [Laughter.]

The CHAIRMAN. Do we have anything further you would like to add? If not, thank you very much. We will adjourn until tomorrow morning when we will have another hearing.

(Whereupon, at 1:25 p.m., the hearing was adjourned.)

CONSULAR CONVENTION WITH THE SOVIET UNION
(Executive D, 88th Cong., 2d Sess.)

FRIDAY, FEBRUARY 3, 1967

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to recess at 10 a.m., in room 4221, New Senate Office Building, Senator J. W. Fulbright (chairman) presiding.

Present: Senators Fulbright, Sparkman, Mansfield, Morse, Gore, Symington, Dodd, Clark, Pell, McCarthy, Hickenlooper, Aiken, Carlson, Mundt, Case, and Cooper.

The CHAIRMAN. The committee will come to order.

We are meeting today to continue public hearings on the proposed consular convention with the Soviet Union.

Our last open hearing on the convention was January 23, when the Secretary of State Dean Rusk, the Under Secretary Nicholas Katzenbach, the Deputy Under Secretary Foy Kohler, and the Department's Legal Adviser Leonard Meeker testified.

Our witnesses today are Mr. W. B. Hicks, Jr., executive secretary of Liberty Lobby; Mr. Warren H. MacDonald, director of research of the American Legion; and Prof. Lev E. Dobriansky, president of the Ukrainian Congress Committee of America, Inc.

Professor Dobriansky has been invited to testify at the request of Senator Karl Mundt of the committee, and Senator Mundt has also asked me to call Mr. Herald E. Stringer, national legislative director of the American Legion as the first witness. Mr. Stringer, will you come forward please?

I believe, Mr. Stringer, you requested to be heard by the committee. Did you not?

INTRODUCTION OF WITNESS

Mr. STRINGER. I am just here to present our witness, Mr. Chairman. The CHAIRMAN. Who is your witness?

Mr. STRINGER. Mr. MacDonald is our witness.

The CHAIRMAN. Mr. Warren H. MacDonald, director of research of the American Legion.

Mr. MacDonald, we are very pleased to have you.

Mr. STRINGER. May I, for the record, state my name. It is Herald E. Stringer, director of legislation for the American Legion, and I want to express the appreciation of the American Legion for the opportunity to be heard.

Our witness this morning, Mr. Chairman, is Warren H. MacDonald. Mr. MacDonald is director of research for the American Legion, and

he also provides staff services for our foreign relations commission. He is here with me and prepared to testify.

The CHAIRMAN. All right, sir.

Mr. MacDonald, you may proceed, sir. Do you have a written statement?

Mr. MacDonald. I do, sir.

The CHAIRMAN. All right. Will you proceed, sir?

Mr. MacDonald, just for the record, please state very briefly—we all know what the American Legion is—but state for the record how many members you have.

Mr. MacDonald. Yes, sir. As a matter of fact, that is referred to in the third paragraph.

The CHAIRMAN. Is that in your statement?

Mr. MacDonald. Yes, sir.

The CHAIRMAN. All right. I did not see it.

**STATEMENT OF WARREN H. MacDonald, DIRECTOR OF RESEARCH,
THE AMERICAN LEGION**

Mr. MacDonald. We are most grateful to you for providing us this opportunity to present the views of the American Legion on the pending consular convention between the United States and the Soviet Union.

The Legal Adviser of the Department of State has defined a consular convention as "a treaty in which the contracting powers regulate the activities and functions of consular establishments and their officers and employees." This bilateral consular convention, with protocol, was signed in Moscow on June 1, 1964, and eleven days thereafter was transmitted to the Senate of the United States by President Johnson, with the recommendation that the Senate give early advice and consent to its ratification. The subsequent legislative history of "Executive D" is well known to the members of this committee.

AMERICAN LEGION OPPOSES TREATY

The American Legion is opposed to U.S. ratification of this treaty with the Soviet Union. This position was established through resolutions adopted by our annual national conventions in 1964, 1965, and 1966. Those conventions were comprised of approximately 3,000 delegates, coming from every state and representing the more than 2½ million American war veterans who are members of our organization.

This treaty raises a variety of issues. We think the more important of these are:

One. Is it consistent with overall U.S. foreign policy to enter into an agreement of this nature with a communist power that is—at the same time—providing massive military assistance to a third party with which the United States is engaged in combat?

Two. Is it in the interest of the United States to permit the reestablishment of consulates in major American cities by a government which has as its primary objective the subversion of the Government and people of the United States?

Three. Is the treaty itself sound in all respects?

Four. Will all of the predictable or possible consequences of ratification be of benefit to the United States?

We are convinced that all four of these questions should be answered in the negative. Thus, we oppose the treaty on principle and because we believe certain of its provisions—specifically, those contained in Article 19, section 2—would, if given effect, be both an unwise precedent and an unnecessary threat to the internal security of the United States.

In the more than 2½ years this treaty has been before the Senate, most opponents of ratification have emphasized the dangers of the “diplomatic immunity” clause in Article 19, section 2, while the proponents have emphasized the gains to be derived from the “notification and access” clauses in Article 12, sections 2 and 3. It is our feeling, that even if the Soviets were to comply fully with the “notification and access” provisions, this otherwise desirable objective would not be worth the risks inherent in Article 19.

Lately, the leading proponents have expressed the thought that the delay in Senate action is due largely to misunderstanding about the treaty among both opponents and supporters of ratification. In this connection, great stress is placed on the fact that the treaty itself is not an agreement to establish any consulates anywhere. On January 25, 1967, the Department of State’s press and radio briefing put the point as follows:

The Consular Convention does not authorize, propose, suggest, provide for, or require the opening of a single United States Consulate in the Soviet Union, or a single Soviet Consulate in the United States. It does not permit the Soviets to send a single extra person to this country, nor does it let us send anyone to the Soviet Union.

True enough, but we do not think the opponents have been confused in this regard, and we do not think the Department’s explanation will mislead anyone into believing that ratification would not result in the establishment of Soviet consulates in the United States.

RUSK EXPRESSES HOPE THAT U.S. AND U.S.S.R. WILL EXCHANGE CONSULATES

The Secretary of State made clear in his testimony to this committee, both in July 1965 and on January 23 of this year, that—following ratification by both parties—the United States does hope to open a consulate, probably in Leningrad; and, in return, we would permit the Soviets to open a parallel consulate in a comparable American city. Although the Soviet Union previously maintained consulates in New York, San Francisco, and Los Angeles, it is currently speculated that the Soviets are now interested in Chicago as the site of their initial consulate to be opened pursuant to this treaty.

The Secretary also pointed out that, as to the opening of such a Soviet consulate, this treaty is unnecessary because the President already has authority, under his foreign policy responsibilities, to permit the establishment of foreign consulates in this country even in the absence of a consular convention. Poland, for example, has a consulate in Chicago although a consular convention with that communist country has been in the negotiating stage for some time.

On the other hand, Secretary Rusk indicated that the consular convention under consideration here would provide the legal framework on which the administration believes it could prudently reestablish Soviet consulates in the United States, on a reciprocal basis.

BASIC PURPOSE OF TREATY

Nevertheless, from the State Department's point of view, the basic purpose of this treaty is not the authorization of the opening of consulates in both countries. Rather, it is said that the primary intention of the treaty is "To permit the United States promptly to protect and assist its citizens when they are arrested and detained in the Soviet Union."

Considering the unfortunate case of Newcomb Mott and those of numerous other Americans who have been arrested in the Soviet Union, the American Legion earnestly wishes that this goal of the State Department soon might be realized. We do not necessarily agree, though, that this is the basic purpose of the treaty. In fact, we think it is not. Instead, it is but the primary reason why its U.S. proponents want it ratified.

If I might digress, we do not want to add to the confusion that has been injected into this issue, but there is a difference between the purposes of this treaty and the reasons why some people want it ratified.

Also, we fear that the treaty would not be a guarantee of attainment of that desired goal and, in any event, we think other considerations make the goal (assuming Soviet compliance) too costly.

This committee, and the Senate generally, must look at every treaty submitted for its consideration from the viewpoint of not only the United States, but that of the other party or parties as well. What does the other side have to gain? On balance, is the United States getting as much as it gives? And, when the other side is a communist government, we think the Senate is entitled to view the treaty's provisions in the light of both the record and the intentions of communists generally.

What is the purpose of this consular convention from the viewpoint of the Kremlin?

WHAT THE U.S.S.R. HAS TO GAIN BY TREATY

It seems obvious to us that the purpose of this treaty from the Soviet side is exactly the opposite from that expressed by its U.S. proponents. To the Soviets, we think the main purpose of this treaty definitely is to reestablish their consulates in this country, with a new and unusual rule to apply to all of its agents posted to those consulates; that is, absolute protection against prosecution by the United States for any crimes committed by them, including the crime of espionage against the United States. This is the intent of Article 19, section 2, to the Soviets.

The treaty's provisions regarding "notification and access" in arrest cases—that is, Article 12—are hardly the purpose of the treaty from the Soviet viewpoint. Those are simply what they gave up—on paper, at least—to gain new islands of diplomatic immunity in America's industrial and transportation heartland.

If this were not true, the Soviet negotiators would have had no interest in the treaty. They definitely would not have troubled themselves if the document were to have been restricted to the provisions of its Article 12 and the protocol related thereto. They had nothing to gain in that regard; we have always given them prompt notification.

about and unrestricted access to any of their nationals whom we have arrested here. To them, the extension of full and absolute diplomatic immunity to their consular officers is the quid pro quo which outweighs the concession they made, on notification and access, as to our nationals arrested in their country. Communists have never been known to enter into an agreement with non-communists which they did not expect to be of greater advantage to them.

IMMUNITY CLAUSE—ARTICLE 19

We infer from the available public record that it was the Soviet negotiators who initially raised the matter of full diplomatic immunity for purposes of this consular convention. (See committee's print of hearing, July 30, 1965, p. 30.) The provisions of full diplomatic immunity for all consular officers has not been a part of our general practice. It was not a feature of our consular convention with Japan, which entered into force on August 1, 1964, and which, we assume, was negotiated at about the same time as the pending convention with the Soviet Union. More significantly, it was not made a feature of the multilateral Vienna Convention on Consular Relations which was signed by a U.S. representative, and by the representatives of 31 other nations, on April 24, 1963. Representatives of 20 additional nations have since added their signatures, making a total of 52 signatories.

I will refer further to the multilateral Vienna Convention on Consular Relations in another connection. At this point, I only wish to stress the point that its immunity provisions, set forth in Article 41 thereof, follow the usual and traditional rule; that is, consular officers shall not be liable to arrest or detention (in the receiving state) "except in the case of a grave crime and pursuant to a decision by the competent judicial authority." Consulates have demonstrated that they can perform their proper functions without the cloak of full diplomatic immunity for their employees.

Article 19(2) of the pending treaty with the Soviet Union provides, on the other hand, as follows:

Consular officers and employees of the consular establishment who are nationals of the sending state shall enjoy immunity from the criminal jurisdiction of the receiving state.

Thus, under this rule, if a Soviet consular officer, posted in Chicago, for instance, commits or attempts to commit a serious crime, our only recourse is to demand his expulsion. This is true no matter how monstrous the offense, and no matter how vital its bearing on our national security. And, however often we declare a Soviet official *persona non grata*, we may be sure the Soviet Government will soon thereafter demand the recall from that country of a comparable U.S. official. Under this treaty, reasons for such action need not be given; but, in previous cases of this nature, it has been Soviet practice to make, and to publicize widely, false spy charges against the U.S. official concerned. (This game of diplomatic tit-for-tat can have, temporarily at least, a disruptive influence on a mission's efficiency. We should not unnecessarily take steps that would surely serve to increase its incidence.)

CONTENTION THAT SOVIETS WILL USE CONSULATE FOR INTELLIGENCE AND
PROPAGANDA

With regard to the immunity provisions of the treaty, Senator Cotton of New Hampshire has observed that the Soviets negotiated this consular convention—

not as a bilateral pact for improving Soviet-American relations, but as a cold war maneuver to enhance and expand the intelligence gathering network of the U.S.S.R.

We too, are satisfied that the Soviets have every intention of utilizing any consulates they establish here as centers for espionage and subversion.

The Soviet intelligence services have regularly used that Government's diplomatic and other establishments in this country as bases from which to carry on their espionage activities. These activities are known to increase in proportion to the number of Soviet representatives here.

Those who recall the previous abuse by the Soviets of their consular privileges in this country fear that this treaty will provide Soviet agents with increased opportunities for the intimidation, extortion, bribery, blackmail, or even the kidnaping or murder, of persons living here but who have relatives or property in the Soviet Union.

At a minimum, new Soviet consulates in any of our major cities will facilitate the securing, by communist "consular officers," of all manner of technological data which could serve to promote the Soviet Union's warmaking potential. Also, these consulates would doubtless be used as centers for the distribution of communist propaganda, aimed primarily, we feel sure, at the more receptive elements on our college campuses.

The counterargument to much of the foregoing is that we would be enabled, through our new consulates outside of Moscow, to gain equivalent benefits in terms of information about their society. This is unconvincing. The Soviets are still operating a closed society in which it remains extremely difficult for an American official to make any contacts or secure any information not previously sanctioned by Soviet officials.

I might digress here to point out also that while the treaty itself does not speak to the matter of travel restrictions, we do understand that those restrictions would be applicable in the case of both our new consular officers there and their consular officers here.

The city of Leningrad, while it is not off limits, all of the areas surrounding that city is off limits.

Furthermore, we could be sure that whatever "premises" the Soviets helped us acquire for our consulates, in accordance with Article 5, these would be thoroughly "bugged" with the latest in electronic listening devices, just as has been the case in all offices we occupy in communist countries.

APPLICATION OF MOST-FAVORED-NATION PROVISIONS

We stated earlier that we believe the diplomatic immunity provisions of this treaty establish, for the United States at least, an unwise precedent. We may soon find that other countries, with which we have a consular treaty that contains the so-called most-favored nation

clause, will request extension of the greater immunity protection to their consular employees in this country. While this would be reciprocal in its application, the spread of this new rule on a haphazard, bilateral basis could well work to our detriment.

It is our understanding that as many as 33 existing consular treaties between the United States and other countries include most-favored-nation provisions. The State Department has estimated that if all of these countries exercised their option, we would be extending criminal immunity in this country to an additional 400 or more foreign nationals.

The countries involved include Communist Rumania and Yugoslavia. While Rumania now has no consulates in this country—other than its consular section in its Washington embassy—it might—following the lead of the Soviet Union—seek to establish one or more, with full diplomatic immunity as would be Rumania's privilege under the most-favored-nation-rule. Also, Yugoslavia now operates a number of consulates in this country, as was dramatically brought to our attention last Sunday morning. These are in New York, San Francisco, Chicago, and Pittsburgh, in addition to their combined consular staff in Washington. We may soon find that we will have a great deal more than only ten or fifteen new communist agents in this country with full diplomatic immunity.

Poland already has a consulate in Chicago. Following the model of our treaty with the Soviet Union, that country could be expected to seek to complete negotiations on a similar consular convention with us. And, considering our "bridge building" advances to the other communist countries of Eastern Europe, all of them may shortly be seeking consulates here, with the same immunity provisions.

NOTIFICATION AND ACCESS PROVISION NOT AVAILABLE THROUGH
MOST-FAVORED-NATION CLAUSE

But where the most-favored-nation clause is applied, we will not necessarily gain back the quid pro quo we received in our negotiations with the Soviet Union. Whereas, were there exchanged the "diplomatic immunity" provisions for the "notification and access" provisions, the same exchange would not be applicable in the case of a third country asking for the diplomatic immunity privileges for its consular officials. All we could get back then is reciprocity on that score alone. This is an important consideration in the case of the communist countries of Rumania and Yugoslavia.

The same disadvantageous development might occur in the case of several non-communist countries which do not provide our consular officers with ready access to our nationals when they have been arrested. Italy and a number of other countries, the laws of which have been derived from the Roman code, hold their prisoners incommunicado until completion of investigation. In Mexico this can go on for as long as 18 months. Our consular officials are barred from seeing imprisoned Americans under such circumstances, just as they have been in the Soviet Union and most other communist countries.

The United States has been unable to secure "notification and access" rights from Italy and several others with similar laws. Yet, we have a consular treaty with Italy that includes a most-favored-

nation clause. Thus, if this consular convention with the Soviet Union is ratified, we may be asked by Italy to extend to its consular officers here the diplomatic immunity provisions of Article 19, but we will not get the "notification and access" provisions of Article 12 in return.

The CHAIRMAN. Why? How do you reach that conclusion?

Mr. MACDONALD. Because this treaty, sir, is between the United States and the Soviet Union. The notification and access privileges are in that treaty. We have no such rights in Italy.

The CHAIRMAN. But they are reciprocal. In that treaty they are entirely reciprocal.

CAN ITALY CLAIM PRIVILEGES CONTAINED IN PROPOSED CONSULAR TREATY?

Mr. MACDONALD. The reciprocity, sir, would go to the matter of diplomatic immunity. We have not been able to get reciprocity from Italy and other non-communist countries on this matter of notification and access.

But I am just pointing out here that with their most-favored-nation privilege they can come to us and claim the diplomatic—

The CHAIRMAN. They might claim it, but you do not think they would get it, do you?

Mr. MACDONALD. Yes, sir.

The CHAIRMAN. They can claim anything they like.

Mr. MACDONALD. Yes, sir.

The CHAIRMAN. Do you know of any precedent where they have claimed and obtained a nonreciprocal advantage?

Mr. MACDONALD. Sir, the reciprocity would be on diplomatic immunity privileges. We would under the most-favored-nation rule give in on that point just as we did in the case of Russia.

The CHAIRMAN. You think, then, that they could pick and choose whatever part they wanted of this agreement and demand its reciprocity?

Mr. MACDONALD. Sir, our treaty with Italy does not now have the diplomatic immunity privilege in it. It does not have notification and access in it. It does have a most-favored-nation clause which means that if they look to this treaty after its ratification and say to the United States, "You have given to the Soviet Union a privilege you have not given to us, we demand it," the most-favored-nation clause requires we do so. The reciprocity is only on that point. It has nothing to do—

The CHAIRMAN. Go ahead. I did not mean to interrupt you. I do not believe it is, but that is all right.

Senator HICKENLOOPER. Italy would have to grant the same immunity to our people.

Mr. MACDONALD. Diplomatic immunity only, sir.

Senator HICKENLOOPER. They would have to grant diplomatic immunity to our consular officers. It would be a reciprocal exchange of diplomatic rights.

Mr. MACDONALD. Agreed on that point.

Senator HICKENLOOPER. I want to clear it up. I am not arguing with you.

Mr. MACDONALD. It has nothing to do with the access and notification provision.

We have been trying for 12 years to negotiate that with Italy, but if they, under the most-favored-nation clause, come to us on this treaty, it won't have anything to do with notification and access.

The CHAIRMAN. It is your theory that in any treaty they could pick and choose those provisions which they like and ignore all other provisions?

Mr. MACDONALD. Sir, this treaty between us and the Soviet Union is a treaty only between us and the Soviet Union and not between us and Italy.

POSSIBLE INFLUENCE OF TREATY IN LATIN AMERICA AND OTHER AREAS

Should these new immunity provisions spread generally, due to the precedent of this consular convention, they will eventually facilitate the spread of the Soviet Union's subversive influence almost everywhere. Others have pointed out with logic that our friends in Latin America would have difficulty in resisting the establishment of Soviet consulates in their cities, once the barrier to their reestablishment in this hemisphere is broken, through ratification of this treaty.

It is not difficult to imagine how the communists would turn this to their advantage, especially when armed with full diplomatic protection for all their agents in Latin America. Surely the establishment of Soviet consulates there would result in intensified political warfare throughout that continent. Castro would get a large boost in his plans to export his (and the Soviets') brand of revolution.

While our Government may well be enabled to cope with a small to moderate increase in communist agents here, are we certain that the intelligence services of the developing countries can do so? It is questions such as this that have caused so many opponents of the consular convention, and its special immunity provisions, to wonder if we are not about to open a door which we will not be able to close.

NOTIFICATION AND ACCESS—ARTICLE 12

Turning briefly to the "notification and access" provisions of Article 12, we think it pertinent to point out that these—even if scrupulously observed by the Soviet Union—cannot of themselves eliminate the frictions which arise when that country wrongfully, or for frivolous reasons arrests an American citizen, and charges him with crimes out of all proportion to his acts. No amount of notification and access will make such cases mere administrative matters, as has been suggested in arguments for the treaty. And, prompt notification plus full access do not necessarily spell freedom for the individual concerned. Furthermore, it can be expected that the Soviets—if they apply the provisions at all—will deny that they cover "dual nationals"; that is, persons who were born in the Soviet Union (or any other communist country) and who subsequently acquired American citizenship through naturalization.

We are not certain, either, that Article 12 would become applicable immediately upon ratification by both parties, as the proponents indicate would be the case, and without regard to the opening of consulates here. We do not think the language of the article in question (or the treaty as a whole) is all that clear on the point. There is leeway, perhaps, for a different interpretation. At any rate, if the Soviets were

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to be delayed in getting what they want out of the treaty—more agents in America with more protection—they certainly would not honor Article 12 indefinitely.

Nevertheless, the Soviets have had ample time to demonstrate good faith with regard to Article 12. In his January 23 appearance before this committee, Secretary Rusk reported that—

In just the 30 months since the convention was signed, we know of at least 20 cases where Americans have been detained by the Soviet police * * * In none of these cases did the Soviet authorities adhere to the standards of notification and access provided for by this convention.

He might also have brought into account in that connection the infamous handling of the Kazan-Komarek case in which there was obvious Soviet complicity to get that man back into the hands of the Czechs.

NUMBER OF THOSE VISITING UNITED STATES AND U.S.S.R.

Before leaving this particular area I would like also to digress in order to comment on the, what I call the, numbers game that has been brought into the argument for ratification.

It has been pointed out that while only some 900 Soviets visit this country annually, that we have over 18,000 Americans traveling in Russia and that, therefore, we are going to gain so much more. This is specious reasoning, in my opinion. Those 900 Soviets over here are in no danger. They should not even be given consideration in this connection.

We are thinking of the 18,000. But, if those 18,000—of those 18,000, how many are affected? In recent years it has been on an average of just under one a month that are arrested. They are not arresting 18,000.

Senator SYMINGTON. Are you saying you do not want protection for American citizens who go to Russia?

Mr. MACDONALD. I am saying we do want protection.

Senator SYMINGTON. But I thought you implied the opposite.

Mr. MACDONALD. No. I have said repeatedly here, Senator Symington, we are all for that. We just think we are giving up too much to get it.

Senator MANSFIELD. Mr. Chairman, may I say that I got the impression that the man who is now testifying stated that the 900 Soviet citizens over here are in no danger and, by implication, the 18,000 American citizens who travel to the Soviet Union are in danger?

Mr. MACDONALD. Sir, if I may clarify the point.

Senator SYMINGTON. I think you ought to clarify it.

Mr. MACDONALD. I will, sir.

Senator SYMINGTON. I certainly got the same impression as the Majority Leader.

Mr. MACDONALD. Yes, sir.

Now, it has been said that because only 900 Soviets come here and 18,000 Americans go there, we are getting greater advantage out of the notification and access provisions.

But those 900, as to the 900, we are giving notification and access on any of those whom we might arrest. So you cannot balance 900 and 18,000 here. But when you look to the 18,000, that is a rather large figure to be using in this argument.

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As I say, they have been arresting only something of an average of 11 per year, 11, not 18,000. There is what we are talking about.

PROTECTION OF AMERICAN VISITORS

Senator SYMINGTON. All we are trying to do is protect the 18,000 visitors who go to Russia.

Senator MANSFIELD. American visitors.

Senator SYMINGTON. Yes.

Mr. MACDONALD. We are trying to gain access rights for anyone arrested, anyone arrested.

Senator MANSFIELD. Mr. Chairman, may I make a statement?

The CHAIRMAN. Senator Mansfield, the Majority Leader.

Senator MANSFIELD. It is my understanding that if this protection is not given to these visitors, they will be subject to Soviet law just as Soviet citizens here are subject to American law under the Constitution. But under the Soviet system of law, they can be held incommunicado up to nine months. Do you or do you not want to see that Americans are given as much protection as possible in a closed society?

Mr. MACDONALD. The American Legion earnestly hopes that can be brought about.

Senator MANSFIELD. That is what we are trying to do in this consular convention.

Mr. MACDONALD. Our counterargument, sir, is that we are giving up too much to get that.

Senator MANSFIELD. I cannot follow your argument.

Mr. MACDONALD. I think, further, sir, that we would not necessarily get that protection we seek.

Senator MANSFIELD. How would you propose that the American citizens get that protection?

Mr. MACDONALD. Well, it has been pointed out that we should have demanded it years ago on the basis of reciprocity alone. I am not saying that would have worked. We are not getting it in many of the countries with which we have friendly relations, from Italy, for example, from Mexico—

Senator MANSFIELD. We are not considering Italy.

Mr. MACDONALD. Yes, sir.

Senator MANSFIELD. We are considering a U.S.S.R.-United States consular convention—

Mr. MACDONALD. Yes, sir; I understand.

Senator MANSFIELD (continuing). And what I am interested in is the protection of Americans who are sent to the Soviet Union to represent us, and that American citizens have access to a consulate which will see to it that they will be given consideration within one to four days rather than at the end of a possible nine months of being held incommunicado.

Mr. MACDONALD. Senator Mansfield—

Senator MANSFIELD. I am certain that you would desire the same thing.

Mr. MACDONALD. We do, sir, and our testimony states that. But we think there are reservations which ought to be brought into this consideration, and I have several of them referred to in the testimony.

Senator SYMINGTON. You say the American Legion. Did you have a vote of members of the American Legion over the entire United States, on this subject?

Mr. MACDONALD. We adopted a resolution at our national convention, and that has been given wide circulation.

Senator SYMINGTON. I can say this. You do not speak for a lot of the members of the American Legion. That I am sure of.

Mr. MACDONALD. I think I speak for the majority, sir.

Senator SYMINGTON. If they knew all the facts, I would not agree.

The CHAIRMAN. Will you continue, Mr. MacDonald?

Mr. MACDONALD. Yes, sir.

The Soviets have also failed to take the first step toward ratification of this treaty. The Presidium has the power to ratify at its discretion and it can be called into session at any time. It obviously is awaiting U.S. Senate action.

Before leaving this subject, we think it of interest to compare the language of Article 12—

ORIGIN OF UNITED STATES-U.S.S.R. CONSULAR CONVENTION

Senator MANSFIELD. Mr. Chairman, may I ask a question there?

You mention the fact that the Presidium has, as yet, not acted. Who initiated this proposal?

Mr. MACDONALD. I do not know whether we went to them first on the question of consulates.

Senator MANSFIELD. We initiated the proposal, and it is my understanding that it was initiated at the time that President Eisenhower was the Chief of State of this country. Mr. Nixon was the Vice President of this country. I understand that it had some sort of genesis from the so-called "kitchen debate" between Mr. Khrushchev and Mr. Nixon in Moscow, and I believe that the initiation was conducted under the aegis of the then Secretary of State, the now deceased and former colleague of ours, Mr. Christian Herter.

Senator HICKENLOOPER. Mr. Chairman, let us just keep the record straight on this. The proposals for a consular convention between Russia and the United States—or the Soviet Union and the United States—were instituted by President Roosevelt in 1933 in the Litvinov papers.

Mr. MACDONALD. Yes, sir.

Senator MANSFIELD. Mr. Chairman, may I be heard again? This particular consular convention was started in the Eisenhower administration.

Senator CASE. Mr. Chairman, would the Senator yield just for a moment?

Thank you, Mr. Chairman. If I may just have a word, it is my understanding that the proposal made by the Americans, even in this particular case, and I happen to favor this treaty, related not to the matter of diplomatic immunity of consular personnel but rather to the other parts of the treaty.

Now, I think we are really engaged in a lot of childishness when we do not talk about the substance of the thing rather than who is responsible. I think this is a good treaty and ought to be ratified, and I think whoever is responsible for it should take credit for it, and I am very happy that the Republicans had a hand in it.

Senator MANSFIELD. I am delighted, for what I was trying to do was to give credit where credit was due.

Senator CASE. Beware of the credit coming from Montana.

The CHAIRMAN. I am sure we can straighten out the precise steps taken in regard to this treaty, and we will see that that is done. I will ask the staff, together with the legal counsel, and Mr. MacDonald, to straighten out that situation.

(See "Chronology: U.S.-U.S.S.R. Consular and Diplomatic Relations, 1933-1967" which was enclosed in the letter from Ambassador Douglas MacArthur to Mr. Carl Marcy dated February 14, 1967, which appears on page 293 of the appendix.)

Will you proceed to get your testimony over so that we can go on to some questions.

Mr. MACDONALD. Yes, sir.

COMPARISON OF ACCESS AND NOTIFICATION PROVISIONS IN PROPOSED TREATY
AND VIENNA CONVENTION ON CONSULAR RELATIONS

Before leaving this subject, we think it of interest to compare the language of Article 12 of this treaty with the comparable provisions of the earlier mentioned Vienna Convention on Consular Relations. The latter seem much more detailed and explicit and, therefore would seem to be more desirable from the U.S. point of view. The document in which they appear was signed by a U.S. representative more than a year prior to the signing of the United States-Soviet Consular Convention. Many other nations have also endorsed the Vienna Convention.

(The comparable provisions follow:)

EXCERPT FROM CONSULAR CONVENTION WITH SOVIET UNION

ARTICLE 12

1. A consular officer shall have the right within his district to meet with, communicate with, assist, and advise any national of the sending state and, where necessary, arrange for legal assistance for him. The receiving state shall in no way restrict the access of nationals of the sending state to its consular establishments.

2. The appropriate authorities of the receiving state shall immediately inform a consular officer of the sending state about the arrest or detention in other form of a national of the sending state.

3. A consular officer of the sending state shall have the right without delay to visit and communicate with a national of the sending state who is under arrest or otherwise detained in custody or is serving a sentence of imprisonment. The rights referred to in this paragraph shall be exercised in conformity with the laws and regulations of the receiving state, subject to the proviso, however, that the said laws and regulations must not nullify these rights.

EXCERPTS FROM VIENNA CONVENTION ON CONSULAR RELATIONS

ARTICLE 36

Communication and contact with nationals of the sending State

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

(a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;

(b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within

its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this sub-paragraph;

(c) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

2. The rights referred to in paragraph 1 of this Article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this Article are intended.

QUESTION OF WHY VIENNA CONVENTION HAS NOT BEEN REFERRED TO
SENATE

We are curious, of course, as to why the Vienna Convention has not been submitted to the Senate for consideration. It was prepared by a conference called under auspices of the United Nations, with 84 polities participating. Representatives of 32 of these, including the United States, signed the convention on April 24, 1963; and, representatives of 20 more signed it subsequently. The Vienna Convention on Consular Relations will enter into force on the 30th day following the date of deposit of the 22d instrument of ratifications or accession with the Secretary General of the United Nations.

At present, we understand that 21 nations, or only one short of the required number, have deposited such instruments with the United Nations Secretary General. Yet, the document has not been brought before this body for formal study.

We raise the question of the Vienna Convention because it appears to be a far more comprehensive treaty than the bilateral one before you, and it does appear to contain even better notification and access provisions. (It does not, however, provide for a specified number of days in which notification and access is to take place, as does the protocol affixed to the United States-Soviet treaty).

The American Legion has not made a formal study of or taken a position on the Vienna Convention. Tentatively, it would appear to be a step in the right direction to have one basic consular convention, to which the United States and most other nations could adhere. Then, when this committee is asked to pass judgment on a bilateral consular treaty, such as the one now before you, it could do so against the background of the basic treaty on the subject. Special consular agreements between the United States and another country could be weighed against a generally accepted standard. Also, assuming the terms of the Vienna Convention to be otherwise agreeable to the United States, we wonder if our Government should not lend its prestige to that document so as to help insure its wider acceptance among nations. This would tend to advance the cause of international law and order, an avowed objective of U.S. foreign policy.

AMERICAN LEGION'S REASONS FOR OPPOSITION TO PROPOSED TREATY

The American Legion believes there are many reasons why the Senate should not advise and consent to the ratification of this consular convention with the Soviet Union. We have dealt largely, above, with what we considered to be a technical defect in the treaty; namely, that Article 19 would provide the communist "consular" agents in America with a license to spy.

Going beyond the terms of the treaty itself, however, we are satisfied that its ratification would in no way produce a meaningful improvement in U.S.-U.S.S.R. relations or a true abatement of tensions between us; it would not serve to increase normal trade between the two countries, assuming—but not agreeing—this to be a desirable objective at this time.

On the other hand, ratification would tend to increase unduly the Soviets' prestige among the uncommitted nations; it would tend to enhance their capacity for the spread of communism; it would add greatly to the complications and costs of combating Soviet-directed intelligence activities here; and, it could place in jeopardy our policy of nonrecognition of the Soviets' forceful takeover of Estonia, Latvia, and Lithuania. Meanwhile, the Soviet Union has failed to settle its debts with the United States and has failed to make proper arrangements regarding the property rights of American citizens who are former nationals of the U.S.S.R.

However valid the foregoing reasons for nonratification of this treaty, there is—in the final analysis—one overriding, all-important reason that must not be ignored.

"DOUBLE-STANDARD" POLICY TOWARD SOVIET UNION

The American Legion insists that this is not the time to be entering upon courses of interaction which give the appearance that we are in peaceful partnership with the Soviet Union.

Senator SYMINGTON. Does that mean that you want to give the impression to the world that we are anxious for a nonpeaceful relationship with the Soviet Union which would lead to a war, possibly a nuclear war?

Mr. MACDONALD. No, Senator Symington. It only means that, as I state subsequently in my statement, they are at great odds with us today over the Vietnam question. They are pouring the war materials into the other side, and they are saying to us—

Senator SYMINGTON. We ourselves have sold a good many billion dollars of war equipment all over the world ourselves in recent years, have we not?

Mr. MACDONALD. Yes, sir.

QUESTION OF SOVIET AID TO NORTH VIETNAM

That country's leaders have made perfectly clear that they are in the Vietnam conflict to stay. When Soviet President Podgorny commenced his state visit to Italy, less than ten days ago, he declared blatantly that—

The Soviet Union is giving and will continue to give * * * North Vietnam ever-growing aid until the full triumph of the just cause for which the Vietnamese people are struggling.

The U.S. News & World Report distributed last week documents the massive nature and value of the vital war supplies now flowing, in ever-increasing amounts, from the Soviet bloc countries to North Vietnam (article entitled "Russia: The Enemy in Vietnam?").

Russian-made and perhaps Russian-manned missiles and guns are killing American flyers almost daily. Lately, there have been reports of Russian mines planted in the ship channel leading into Saigon. The Soviets have a radar and communications vessel in the Tonkin Gulf, monitoring our carrier activities there and providing timely warning to the gun and missile crews, and the MIG pilots of North Vietnam.

Mr. Chairman and members, both our free world allies and our communist enemies interpret our double-standard policy toward the Soviet Union as a sign of weakness, if not confusion. Britain, France, and West Germany have told us bluntly that if the United States sees fit to increase trade with the Soviet bloc, they can see no reason not to trade with Red China, and Cuba, in addition to the rest of the communist world.

WESTERN TRADE WITH RED BLOC

Senator SYMINGTON. Mr. Chairman, I do not want to interrupt, but doesn't the witness understand that the British for over ten years have been trading with Red China?

Mr. MacDONALD. I do, sir.

Senator SYMINGTON. And so have the French with communist countries, and so have the West Germans.

Mr. MacDONALD. I do.

Senator SYMINGTON. Then why do you say that, if we see fit to trade with the Soviet bloc they will start trading with the Red Chinese? They are trading with the Chinese, plenty.

Mr. MacDONALD. Yes, and I would like to make the point that they are following through in this connection today with deals that are detrimental to our best interests, both in Red China and in Cuba.

The CHAIRMAN. Mr. MacDonald, please finish your statement. Could you confine it as much as possible to the treaty and not to the Vietnam war?

Mr. MacDONALD. Yes, sir.

Senator MUNDT. Point of order, Mr. Chairman. I do not think you should blame the witness.

The CHAIRMAN. I am not blaming him. I am trying to help him get through with his statement.

Senator MUNDT. If the committee members would extend the courtesy to the witness of permitting him to finish—certainly you cannot blame the witness when he tries to respond to questions put to him by members of the committee.

The CHAIRMAN. I do not blame the witness. I want him to finish his statement. I will plead with the members of the committee to allow the witness to complete his statement.

Go ahead, Mr. MacDonald.

Mr. MacDONALD. And they are following through with large deals, involving materials and technical know-how, which have distorted the term "strategic" beyond repair. And, this trend seemingly was sanctioned by our Government when it recently removed 400 "non-strategic" items from what had been a "strategic" list, unilaterally maintained by the United States.

U.S. POLICY SEEN AS INCONSISTENT

Yes, there is bewilderment among large segments of the American public today. It is due, we believe, to the concern and confusion that is caused by the glaring and frequently incomprehensible inconsistencies in U.S. approaches to the Communist world.

What is worse, our fighting forces in Vietnam do not understand why our official policy is to increase trade with the Soviets and their satellites. Our men there know full well—often from bitter personal experience—that the Soviets are backing to the hilt the enemy they face daily.

It is true that the morale among our troops in Vietnam is outstanding. But many of the men there with whom we have had contact, both personally and through correspondence, are puzzled and disturbed by what they consider to be an illogical and dangerous East-West policy on the part of their Government. They are being asked by that Government to bear the brunt of its policies in the "hot war" with communism; they need to know that its "cold war" policies are equally realistic and that both have the same objective.

The American Legion respectfully urges that this committee not act favorably on the pending consular convention with the Soviet Union.

The CHAIRMAN. Thank you, Mr. MacDonald.
I will try to move along.

STEPS AIMED AT RELAXING TENSIONS CAN BE MISINTERPRETED

It is fair to say, Mr MacDonald, in view of your statement, that the American Legion's primary objection is to our foreign policy in general with regard to Soviet Union? You are opposed to steps toward relaxation of tensions?

Mr. MACDONALD. I am opposed to steps—

The CHAIRMAN. To any steps?

Mr. MACDONALD. No, sir. We are not opposed to any steps. I am opposed to steps which are being interpreted wrongly, perhaps wrongly, by both the public in America, by our allies around the world, even perhaps by the communists; and misinterpreted by our men in Vietnam. They are being misinterpreted.

The CHAIRMAN. Maybe they are misinterpreted. But do you admit that it is possible that such a thing as this treaty or others could bring about more normal relations and the ending of the war in Vietnam?

Mr. MACDONALD. I do not agree that this would serve—

The CHAIRMAN. You do not agree?

Mr. MACDONALD. I do not agree that this would serve to bring about that condition. I would like to see that condition come about. This treaty, under those circumstances, could be a good treaty.

The CHAIRMAN. Are there any steps designed to normalize our relations with the Soviet Union that are now being taken or that are currently under consideration that you approve of?

NATURE OF SOVIET FOREIGN POLICY

Mr. MACDONALD. Well, I would have to first point out that the Soviet foreign policy is a very realistic one. It is consistent in all its parts and it is always in keeping with current circumstances.

The CHAIRMAN. That is, of course, a matter for debate. I would not want it to pass that I believed the Soviets are supermen—

Mr. MACDONALD. I did not get to answer the question.

The CHAIRMAN (continuing). And everything they do is successful. I do not agree with that at all.

Mr. MACDONALD. Successful—I did not say that.

The CHAIRMAN. Realistic, then, if you like.

Mr. MACDONALD. Realistic; yes, sir.

The CHAIRMAN. All right, realistic. I do not know what you mean by realistic.

Mr. MACDONALD. If I may finish my answer: they are telling us today there can be no relaxation of tensions under any circumstances until we give up in Vietnam.

The CHAIRMAN. I would take it, then, that you feel it is untimely to make any moves, particularly this move, toward a normalization of our relations with the Soviet Union.

Mr. MACDONALD. I think it is untimely to make this particular move.

The CHAIRMAN. What do you think about trading with them?

Mr. MACDONALD. Trading of a type that is now under consideration at this time; yes, sir.

The CHAIRMAN. It seems to me there is very little for us to talk about, in view of the overall position that you are just against any kind of change. It is not just this treaty that you oppose, in other words, it is any move—I suppose you would call it any friendly move—toward the Russians. Is that correct?

Mr. MACDONALD. Well, you have to understand the position I have tried to express here, what we do in a friendly way is misinterpreted among our public, it is misinterpreted among our men in Vietnam, misinterpreted by our allies, misinterpreted by the communists. They, in turn, are not looking at these moves as moves to bring about a rapprochement.

SOVIETS SHARE INTEREST IN AVOIDING NUCLEAR WAR

The CHAIRMAN. How do you know that? I mean, is it inconceivable to you that the Russians might be interested in avoiding a nuclear war with us?

Mr. MACDONALD. Absolutely they are. They are very anxious to avoid a nuclear war with us. Very anxious to avoid a nuclear war with us.

The CHAIRMAN. Well, it is inconceivable that they think that this kind of a treaty, which we requested them to enter into—I am informed that they did not initiate this treaty—I think you stated that, didn't you, or someone else.

Senator MANSFIELD. I did.

The CHAIRMAN. The Majority Leader did. Is it inconceivable to you that they might believe that this treaty might improve the possibilities of avoiding a nuclear war with us?

Mr. MACDONALD. No, sir.

The CHAIRMAN. You seem to assume that this and every other move they make is designed only either to spy upon us or to undermine us. This might well be the case. But what bothers me is your generalization, which seems to me to make almost irrelevant any discussion of

the treaty itself. You are against any move in the direction in which this treaty is designed to move.

Mr. MACDONALD. Senator Fulbright, I did not say it quite that way.

The CHAIRMAN. Well, I am trying to elicit just what you do mean by it.

Mr. MACDONALD. Well, fine. That would, perhaps, require me to go back over materials that I have stated in my testimony.

The CHAIRMAN. I hope you don't do that.

If I am wrong, can't you, without going all the way back, correct whatever I said that was a misinterpretation of what you said?

AMERICAN LEGION'S ATTITUDE TOWARD COMMUNISM

Mr. MACDONALD. Yes, sir. Let me preface my answer with the fact that, in my personal opinion, and I believe in the opinion or the approach that the American Legion has taken for nearly 50 years on the subject of communism, that there is no move, friendly or otherwise, that this country can make toward that country that will in any way bring about the end of the dilemma—

The CHAIRMAN. Normalization.

Do you feel that there has been no change in the character of the countries in Eastern Europe or of Russia—either in their internal characteristics or in their attitudes toward the western countries, particularly toward the United States—in the last 30 years?

Mr. MACDONALD. Sir, that is a lot of questions for me to answer, but let me answer it this way: There have been changes in the Russian society, there have been changes in the East European society, but communist governments are still in control.

The CHAIRMAN. Well, do you think all communists governments are alike?

Mr. MACDONALD. No, sir; I do not. I am not one who looks at the various communist parties around the world as one monolithic structure. The newspapers make it evident they are not today.

The CHAIRMAN. Then what was the significance of saying they are all controlled by communists if they are all different?

Mr. MACDONALD. Those individual governments are all controlled by communists. A good handful of them, a very healthy handful of them, are controlled out of the Kremlin.

The CHAIRMAN. Which ones are controlled by the Kremlin?

Mr. MACDONALD. Czechoslovakia, Poland, Hungary, Bulgaria, Rumania, and, to some degree, Yugoslavia. Also, Cuba.

The CHAIRMAN. I do not know, Mr. MacDonald—I am interested in the question raised by the Senator from Missouri about whether or not you represent the thinking of the clear majority of the American Legion with regard to our overall posture vis-à-vis the Soviet Union. It seems to me this question is far more serious than what you think about this particular treaty.

I suppose we can get along with or without the treaty. I personally think it is a very minor step toward relaxation of this tension. I would like to liquidate the cold war insofar as I can, and I had thought that there were slight changes toward more friendly relations with the Soviet Union since the time of Stalin, for example, ten years ago.

But I gather from you, if you speak for the American Legion, that this is not so—that it is not your view.

Mr. MACDONALD. I am speaking for the American Legion today on the American Legion's views on the consular treaty.

The CHAIRMAN. But the overriding reason for your position on the treaty, I gather from your statement, is your overall attitude toward the Soviet Union. The consular treaty is a minor matter.

Mr. MACDONALD. Yes, toward the Soviet Union today.

AMERICAN LEGION OPPOSES EAST-WEST TRADE

The CHAIRMAN. I would think you would not approve of East-West trade. Is that correct?

Mr. MACDONALD. That is correct.

The CHAIRMAN. And you would certainly not approve, I would think, of the air agreement, because it surely gives the impression of our wanting to encourage greater exchange of people, trade, and tourism. If we enter into that trade agreement, thousands more Americans will be exposed to danger in a country without the protection provided under this treaty.

Mr. MACDONALD. Mr. Chairman, the American Legion has not taken a specific position on the air agreement, but we have taken a position year in and year out on the subject of East-West trade.

The CHAIRMAN. I do not want to pursue it further, but am I correct in saying that those things—the air agreement and East-West trade—would appear to be inconsistent with your attitude, or the overriding consideration as you put it, toward the Soviet Union?

Mr. MACDONALD. Yes, sir, and its attitude toward us.

The CHAIRMAN. That is true. I do not see that it is necessary or productive for me to try to pursue specific provisions of this treaty. You are just against it.

Mr. MACDONALD. Well, we did——

The CHAIRMAN. You are just against it, period.

Mr. MACDONALD. We did develop——

The CHAIRMAN. I know you did, in detail.

Mr. MACDONALD. Technicalities which we think are flaws.

CAPITALISTS MAKE AGREEMENTS TO THEIR DISADVANTAGE

The CHAIRMAN. One statement you made which aroused my curiosity was:

Communists have never been known to enter into an agreement with non-Communists which they did not expect to be of greater advantage to them.

I just wonder, do capitalists customarily make agreements which they know to be to their disadvantage?

Mr. MACDONALD. Some governments representing capitalists have.

The CHAIRMAN. Knowingly? Which governments? Do you mean our Government?

Mr. MACDONALD. In this connection, yes, sir.

The CHAIRMAN. Do you think our Government is so improvident that it goes about doing things to its own disadvantage?

Mr. MACDONALD. Well, now, I did use the term here "greater advantage." I think our Government goes about it very fairly and tries to get a balanced treaty.

The CHAIRMAN. Senator Sparkman.

MEMBERS OF AMERICAN LEGION NOT BOUND BY OFFICIAL VIEW

Senator SPARKMAN. Mr. MacDonald, of course what you are saying represents the official view of the American Legion toward the convention, does it not?

Mr. MACDONALD. Yes, sir.

Senator SPARKMAN. You do not contend that individual members are bound by this view, do you?

Mr. MACDONALD. No, sir; oh, no, sir.

Senator SPARKMAN. I happen to be a member of the American Legion, and I am sure there are several others around this table who are also. You surely expect the individual members to exercise their own judgment.

Mr. MACDONALD. I do, sir.

Senator SPARKMAN. It seems to me that in addition to Senator Fulbright's line of questioning concerning our general relationship with Russia, there is another point that you have made about the advantages as balanced against the disadvantages.

In fact, it seems to me that that imbalance was really what led to your reservations as far as this treaty is concerned—aside from general principles and attitudes—is that right, sir?

Mr. MACDONALD. Yes, sir.

LEGION ADMITS PART OF TREATY IS DESIRABLE

Senator SPARKMAN. Do you admit that the part of the treaty which grants access and assistance to Americans traveling in Russia is good?

Mr. MACDONALD. Very desirable objectives, if not too costly to get.

Senator SPARKMAN. You contend that the other part of the treaty—the part which would grant immunity to a limited number of Russians in this country, should additional consulates be opened—is the counterweight which is bad.

Mr. MACDONALD. Yes, sir, and it would not necessarily be a limited number.

Senator SPARKMAN. I said, "should additional." What was it you said?

Mr. MACDONALD. It would not necessarily be the "10 or 15" that have been spoken about.

NUMBER OF FOREIGN DIPLOMATIC PERSONNEL IN THE UNITED STATES WHO
HAVE FULL IMMUNITY

Senator SPARKMAN. Do you know how many Soviet citizens here in Washington connected with the Embassy have full immunity?

Mr. MACDONALD. I have the figures here. I do not have them in my head, on top of my head.

Senator SPARKMAN. According to my information there are 452 in the United States—not just in the Embassy here, but also in New York at the United Nations.

Mr. MACDONALD. Yes, sir.

Senator SPARKMAN. Do you know how many persons there are in the United States from all of the countries in the world who have full diplomatic immunity?

Mr. MACDONALD. I am generally aware of the magnitude of it.

Senator SPARKMAN. About 9,400, I understand, throughout the United States.

Mr. MACDONALD. Yes, sir.

Senator SPARKMAN. If there were one more consulate opened, according to testimony given to us, there would be ten or fifteen additional persons.

Mr. MACDONALD. One more consulate, yes, sir.

TREATY DOES NOT ESTABLISH CONSULATE, BUT STEP IS CONTEMPLATED

Senator SPARKMAN. One more. Of course you realize, and I believe you said this in your paper, that the President has the authority to open additional consulates without any treaty.

Mr. MACDONALD. Yes, sir. We have one here from Poland.

Senator SPARKMAN. Yes.

Mr. MACDONALD. With no treaty.

Senator SPARKMAN. Yes. So I presume you would be willing to concede that we need not expect a great number to be opened since he has had this right all the time and has not opened any.

Mr. MACDONALD. Well, sir, I think that the Secretary of State clarified this when he said that we looked at this treaty as a legal framework upon which we may prudently reestablish a Soviet consulate in this country.

Senator SPARKMAN. But he also said that they contemplated only one, that we did not want but one in Russia. That would be in Leningrad.

Mr. MACDONALD. Yes, sir.

Senator SPARKMAN. And that certainly we would not grant to the Soviets any more in this country than we had in their country.

Mr. MACDONALD. Well, I do not know. Under the Litvinov agreement, the Soviets opened two here in 1934, another in 1937 and, as I understand the record, they did not permit us to get one until 1941, and then only in order to help them with the program euphemistically called lend-lease.

Senator SPARKMAN. I am not going back to that. I am going back to the testimony that Secretary Rusk gave here.

Mr. MACDONALD. Yes, sir.

Senator SPARKMAN. And I believe he said in that, did he not, that we only wanted one in Russia—in Leningrad—and that there would not be established in this country any more for the Russians than we had in Russia.

Mr. MACDONALD. Yes, sir.

Senator SPARKMAN. Well, that is what I am going by now.

Mr. MACDONALD. I understand that the State Department is going to insist on strict reciprocity on this score.

Senator SPARKMAN. Yes.

Mr. MACDONALD. On the other hand, sir, if I may—

Senator GORE. Would the Senator yield?

Senator SPARKMAN. Yes.

QUESTION OF RECIPROCITY

Senator GORE. Because this question of reciprocity has been referred to here so frequently, I undertook to try to clarify it, and I have a statement just delivered to me by the Legal Adviser of the State De-

partment, if the Senator would be willing for me to read it.

Senator SPARKMAN. Yes.

Senator GORE. This is a memorandum from Mr. Meeker, Legal Adviser of the Department of State:

Many U.S. bilateral consular treaties having the so-called most-favored-nation clause specifically require reciprocity before such clause takes effect. Other earlier U.S. treaties do not have such a condition of reciprocity. The Department of State has, however, for many years made reciprocity a prerequisite for according most-favored-nation treatment with regard to these earlier treaties. Concerning the possible most-favored-nation application of Article 19 of the U.S.-U.S.S.R. convention, the Department of State will specifically require a written advance assurance of reciprocity prior to according most-favored-nation treatment to entitled consular officers and employees.

QUESTIONS IN DECIDING ON HOW TO VOTE ON TREATY

Senator SPARKMAN. Thank you.

Let me conclude with just this: It seems to me that there are just two questions which we ought to turn over in our minds in deciding how we should vote on this: first, whether or not the advantages of having protection for the great numbers of Americans traveling in Russia outweigh the disadvantages of having a relatively small number of Russians in this country who would have complete immunity; and, second, whether or not we believe that we ought to be willing to take any steps leading toward better relations with countries that have Communist governments.

Is that a fair statement?

Mr. MACDONALD. Yes, sir, I think it is a fair statement. We have said in our statement here that the imbalance in this treaty and its consequences outweigh the merits of ratification.

Senator SPARKMAN. Yes, I realize that, and I say that is a question each one of us has to answer for himself.

Mr. MACDONALD. Yes, sir.

Senator SPARKMAN. And the second thing is the relationship with communist countries.

Mr. MACDONALD. Yes.

Senator SPARKMAN. That is all, Mr. Chairman.

The CHAIRMAN. Senator Hickenlooper.

LITVINOV AGREEMENTS PROVIDED FOR NOTIFICATION AND ACCESS

Senator HICKENLOOPER. Mr. MacDonald, as you pointed out, I think, one of the important and, perhaps, vital sections of this proposed treaty is the section concerning notification and visitation for nationals of the sending country who are apprehended in the receiving country where the consulate is located.

We have accorded that right to Russian nationals in this country and the nationals of every other country when they are apprehended and put in prison.

Are you aware that the Russians agreed in 1933 to accord American nationals that same privilege and have never complied with it?

Mr. MACDONALD. Yes, sir.

Senator HICKENLOOPER. In the Litvinov agreements.

Mr. MACDONALD. Yes, sir. I have a large book there that goes into it.

Senator HICKENLOOPER. I can read you the exact language if it would help in the record. I wonder if we have any reason to believe

now that they would comply with their word as expressed in the form of a treaty any more than they complied with what was in the solemn agreements they made in order to get U.S. recognition in 1933?

Mr. MACDONALD. I know of none.

Senator HICKENLOOPER. Now, the argument is made that Mr. Litvinov said as follows, addressing a letter to President Franklin Roosevelt. This is dated November 16, 1933:

MY DEAR MR.. PRESIDENT: Following our conversations I have the honor to inform you that the Soviet Government is prepared to include in a consular convention to be negotiated immediately following the establishment of relations between our two countries provisions in which the nationals of the United States shall be granted rights with reference to legal protection which shall not be less favorable than those enjoyed in the Union of Soviet Socialist Republics by the nationals of the nation most favored in this respect.

Now, the argument is made that the key word in this is it will be "included" in a consular convention which was never accomplished. The letter continues as follows:

Furthermore, I desire to state that such rights will be granted to American nationals immediately upon the establishment of relations between our two countries.

In other words, he does not say we will wait until the consular convention is adopted, but we will establish it immediately if you will just recognize Russia.

That is the connotation of the letter.

Then he calls attention to Article 11, and the protocol of Article 11, of the agreement concerning conditions of residence, and business and legal protection in general concluded between Germany and the Union of Soviet Socialist Republics on October 12, 1925.

He incorporates, by reference, the provisions of protection for nationals and notification and visitation contained in those agreements, and implies "that is what we will do with you immediately"—not upon the conclusion of a consular treaty, but immediately upon recognition and resumption of relations.

PROVISIONS NEVER CARRIED OUT—THEY BROKE THEIR WORD

So far as I know, they never kept their word on that at all, and I wonder if there is any reason to think that they would keep it more in this treaty than before. They gave their word at that time and abrogated it repeatedly ever since.

Mr. MACDONALD. I believe not.

Senator HICKENLOOPER. Are you aware that a great amount of comment has been heard around the country concerning the test-ban treaty?

Mr. MACDONALD. Yes, sir.

Senator HICKENLOOPER. Are you aware that the Russians have violated their treaty more than once since they entered into it?

Mr. MACDONALD. I have not a personal knowledge on that, but I have seen comment to this effect in the newspapers.

Senator HICKENLOOPER. The violations have occurred especially with respect to setting off explosions underground which vent debris into the atmosphere which can drift over another country.

One wonders, after examples of this kind, whether or not they con-

sider a treaty a scrap of paper—or agreements of this kind scraps of paper—such as the German Kaiser did before World War I.

Mr. MACDONALD. The record suggests so.

Senator HICKENLOOPER. Well, it is a very troublesome problem. If we could devise some way of assuring that we would have notification and rights of visitation in connection with American citizens who are apprehended in Russia, I think it would be a very fine thing.

FELONY IMMUNITY PROVISION

But it is difficult for me to understand in my mind the reason for this immunity. Why did we agree to the felony immunity? As far as I know, we did not ask for it. It was not in our proposals to the Russians. They asked for it.

We have granted misdemeanor immunity and other immunities. But it is possible that this provision may open a Pandora's box through the most-favored-nation clauses in various treaties, and I am frankly troubled.

It has been charged, by various people who are not informed, that I have made up my mind one way or the other on this treaty. That is not true. I have not taken a position on this treaty, but I am concerned about it. I do not believe in being "pollyannaish" about the Russians changing their coats too much. I think we have been fooled before on many, many occasions. We have made repeated overtures to the Russians over the years for comity, friendship, and cooperation in the best interests of humanity and of the world of peace, and we have been getting cavalier treatment in return.

I see no real evidence that they are acting differently at this moment. This treaty may be a good thing, and it may not be a good thing. I do not know.

Thank you very much, Mr. Chairman.

The CHAIRMAN. The Senator from Montana.

FREE WORLD TRADE WITH COMMUNIST BLOC

Senator MANSFIELD. Mr. MacDonald, in your statement you say:

Both our free world allies and our Communist enemies interpret our double-standard policy toward the Soviet Union as a sign of weakness—

This, I must say, interpolating, is news to me—
if not confusion.

It is also news to me that—

Britain, France, and Germany have told us bluntly that if the United States sees fit to increase trade with the Soviet bloc they can see no reason not to trade with Red China and Cuba in addition to the rest of the Communist world.

Is it not a fact that France, West Germany, and Britain are today trading with the Communist bloc?

Mr. MACDONALD. That is a fact, and, as a matter of fact, the British have always traded with Red China. Perhaps we did not draw out exactly the point we wished to make. I am talking particularly about such deals that are going on today as a steel mill to China, a fertilizer plant to Cuba, buses to Cuba, all over the specific objections of this country.

They are saying back to us, "Well, if you want to trade more with Red China and its satellites, if you want"——

Senator MANSFIELD. We are prohibited by law from trading with Red China in any shape, degree, or form.

Mr. MACDONALD. We are. I intended to say Russia and its satellites.

Senator MANSFIELD. Yes, we are. I know of no attempts being made to increase trade in any degree with China, and I would point out that France and West Germany are carrying on trading activities with China. You say Britain is, and I will take your word for it. In addition, Britain has in the past year entered into a \$25 million contract with the government of Castro; and West Germany in the last year—through a consortium of \$150 million—entered into a \$150 million deal to build a rolling mill in China.

As far as trade is concerned, our trade with all the Soviet bloc, I believe, amounts to less than one percent of our total trade, and if by chance the East-West trade bill—which you brought into this testimony, and has nothing to do with the consular convention—goes into operation, I would not anticipate that that act would increase our trade to any appreciable degree. I would hope however, that if it does become a reality, it would bring about a greater demand—on the part of the communist citizen in the street and on the farm—for capitalistic goods, and ideas usually go with goods.

“THE NUMBERS GAME”—A GAMBLE

Now, this treaty, as I understand it, was started in 1959. This is the particular matter which we are discussing specifically. You have used the term “the numbers game.” I found it a little disparaging when you mentioned it—but the more I think about it the more I like it, because it was used in relation to the 18,000 U.S. citizens who visited the Soviet Union last year, and the less than 1,000 Soviet citizens who visited the United States this year. So you get the 18-to-1 ratio.

The use of the term “numbers game” usually comes up in connection with gambling, does it not?

Mr. MACDONALD. Yes, sir, and I regret that you thought that I was disparaging your remarks on the subject.

Senator MANSFIELD. Maybe you are right, because we may be gambling with some of those 18,000 U.S. citizens who will visit the Soviet Union this year and in the years to come. The figure seems to be increasing all the time.

Mr. MACDONALD. About eleven of them on the average are arrested.

Senator MANSFIELD. All right. But those eleven are subject to Soviet laws, and if those laws are enforced, it means, of course that those who are arrested can be held incommunicado for nine months. That is a gamble which would, at least in part, I think, be overcome by this convention—and may I say that I speak as a member of the American Legion also. I happen to have been a seaman, second class in the First World War—not very high, but at least high enough to have a voice in the membership.

Soviet consular employees and Soviet citizens in this country are given—both in the case of those having first diplomatic immunity or embassy employees, and in the case of the Soviet citizens—the same rights as an American citizen has under the laws of this country and the Constitution of the United States. Is that correct?

Mr. MACDONALD. Yes, sir.

RECIPROcity OF LAW HANDICAPS U.S. CITIZENS IN U.S.S.R.

Senator MANSFIELD. The U.S. citizens in the Soviet Union are now subject to Soviet laws just as Soviet citizens are. That is a form of reciprocity in which each country evidently or supposedly reflects the laws of the other. But, as a matter of fact, is it not true that as far as the U.S. citizen in the Soviet Union is concerned, being placed on the same basis or status as a Soviet citizen, he is handicapped because he is subject to being held incommunicado up to three months.

Mr. MACDONALD. Yes, sir.

Senator MANSFIELD. It appears to me that this is a form of reciprocity which should be overcome, and that any person who is interested in protecting as fully as possible the rights of American citizens, fellow citizens, abroad, should consider with some degree of interest, at least, the fact that the proposed consular convention will give to U.S. citizens in the Soviet Union not the rights now held by Soviet citizens to which U.S. citizens are entitled, but better rights through the fact that they would have access to the members of the Embassy or the consulate, if one is established, and only one is under consideration. Wouldn't that be a point in favor of this convention?

Mr. MACDONALD. It is the only point I know of.

Senator MANSFIELD. It is.

SHOULD STAFF OF CONSULATE OF ONLY THE CONSUL HAVE DIPLOMATIC IMMUNITY?

Now, if perchance the President established a consulate in the Soviet Union—and he has that right right now and has had it for years—would you be in favor of having a consulate established in which, perhaps, just the consul himself would be entitled to diplomatic immunity or protection, and the rest of the staff—such as the secretary who takes notes of a confidential nature, and others who might comprise the ten-to-fifteen staff—would be subject to Soviet law? Are they entitled to protection?

Mr. MACDONALD. Wouldn't that depend on our agreement with Russia?

Senator MANSFIELD. Are they entitled to protection?

Mr. MACDONALD. There are no Soviet consulates here now so if you are asking—

Senator MANSFIELD. I said "if."

Mr. MACDONALD. Yes. If one is established, treaty or no, would the head of that office be entitled? Yes, I think so.

Senator MANSFIELD. No, I did not say that, Mr. MacDonald. I said that if a consulate were established in the Soviet Union, and if the consul alone had diplomatic immunity, do you think it advisable that the rest of the staff—the private confidential secretary and the other ten to fifteen members—should not be given that immunity as well? Do you think it advisable that they should be made subject to Soviet law, and, perhaps, pressures?

Mr. MACDONALD. Well, the tradition is that, and the history is that, consulates have operated very well for centuries without this unusual rule of full diplomatic immunity for all employees.

Now, I am not saying that in itself is a good or bad idea. Perhaps

when the world comes to a better order we might be able to say it's a good idea, although not necessarily one that is essential.

Senator MANSFIELD. Mr. MacDonald, I find it a little difficult to follow you. But if I understood you correctly you express little or no interest in diplomatic immunity being given to consular employees apart from the consul, if he has diplomatic immunity, of the United States, in seeing that they are protected. You say it has worked out fine, is that correct?

Mr. MACDONALD. I did say that consulates have traditionally performed their proper functions quite well without full diplomatic immunity for employees.

Senator MANSFIELD. In the Soviet Union?

Mr. MACDONALD. Yes, sir. I do not know of any trouble we had in that regard with our employees in the one consulate we once had there in Vladivostok.

Senator MANSFIELD. Then if the President, on the basis of his authority and responsibility, were to set up a consulate in the Soviet Union at, say, Leningrad, or some other place, you would be willing to see the consul himself be given diplomatic immunity and protection, but you would not favor protection being given to the ten to fifteen other employees of the consulate, some of whom may be handling very confidential and secret documents?

Mr. MACDONALD. I did not say that and I do not believe our statement says that.

Senator MANSFIELD. What would you say? Would you be in favor of that, or do you think they all should be given diplomatic immunity?

Mr. MACDONALD. Sir, we are referring today to the treaty itself.

Senator MANSFIELD. We are indeed.

Mr. MACDONALD. We have said in our statement we are not for that provision, that diplomatic immunity extension with Russia today—at this time.

Senator MANSFIELD. You are in favor, then, if a consulate is established, that all U.S. employees comprising the staff be given diplomatic immunity and protection?

Mr. MACDONALD. I have not spoken to that point.

Senator MANSFIELD. That is in the convention. Are you in favor of it or not?

Mr. MACDONALD. I am not in favor of ratification of this treaty because of the diplomatic immunity and all the consequences that can flow from it.

Senator MANSFIELD. Mr. MacDonald, I stated, and you have admitted, that the President has the authority to set up consulates if he so desires.

Mr. MACDONALD. We state that in our paper.

WHO SHOULD HAVE IMMUNITY IF CONSULATES ARE ESTABLISHED?

Senator MANSFIELD. If he goes ahead and sets up a consulate on a quid pro quo basis which will give Soviet members of the consulate staff in this country full protection under American laws and the Constitution, like any other American citizen, you would not then be in favor of giving the particular special type protection which comes from diplomatic immunity to U.S. employees of a similar consulate in the Soviet Union?

Mr. MACDONALD. Sir, I think our position here today does not have to reach that issue.

Senator MANSFIELD. This is in the convention.

Mr. MACDONALD. What we do not want now—we do not now want consulates, reciprocity or not, today with Russia.

Senator MANSFIELD. If there is going to be a consulate, let me say it for the fourth time, the President has the right to establish one—

Mr. MACDONALD. We state that in here.

Senator MANSFIELD. Do you want those U.S. members of that American consulate to have the special protection guaranteed by diplomatic immunity?

Mr. MACDONALD. I will answer that on a personal basis at this time. I have not spoken to it before. I have not given it any thought before, but I will answer if they are going to have it here, we should have it there.

Senator MANSFIELD. Well, the answer is "Yes"—if they get it here, we should have it there. That is just what the convention says, and would you be in favor of this convention which gives American citizens the right in Russia to have better protection than Soviet citizens there by means of access to a consulate or an embassy?

Mr. MACDONALD. We are very much in favor of that goal if it is not too costly.

Senator MANSFIELD. What do you mean by "not too costly?"

Mr. MACDONALD. I thought we had drawn that out in the statement, sir. I will go over it again.

Senator MANSFIELD. Would you do it hastily?

Mr. MACDONALD. Yes, sir.

DIPLOMATIC IMMUNITY PROVISION

The diplomatic immunity provision is a quid pro quo in this case. We think it is too much to give to Russia and the other Communist countries that would come into it at this time.

Senator MANSFIELD. We are only considering one particular convention applicable to one particular country. The cost relative to it, a question which you raised but which has not yet been answered, would be minimal as far as the protective rights are concerned.

I think Mr. Hoover could very well take care of the situation and, may I say in that respect, that I think Mr. Hoover's letters are very applicable. They were in answer to specific questions. Mr. Hoover recognizes that he is not a policymaker. He is there to carry out policy. I certainly have enough confidence in Mr. Hoover—just as much, if not more than I have in the KGB, which is the Soviet internal security police, in looking after the interests of this country if and when a consulate were established.

But in addition to the protection, diplomatic immunity, given to the members of the consulate staff, if a consulate is established—I must repeat that, and which you think should be given to them—would you agree that this special consideration, the right of access and so forth, should be given to American citizens who travel in the Soviet Union?

Mr. MACDONALD. I will repeat, we think that is a very desirable objective if not too costly.

Senator MANSFIELD. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Aiken.

CORPORATION HEADS VISIT EASTERN EUROPE TO INCREASE TRADE

Senator AIKEN. Mr. MacDonald, I am not going to use much time. You may recall that last fall the heads of 20 to 30 of the largest corporations in this country—the biggest capitalists we have—made a trip through Eastern Europe for the purpose, as they said, of creating a friendlier feeling between that area and the United States and looking to an increase in trade between the two areas. This group was headed by Henry Luce of Time-Life magazines. I do not remember the names of all the corporations but they were the largest in this country, including Goodyear Tire & Rubber, Ford Motor Co., and others. I think two or three of the largest banks were also represented on the trip.

Would you say that their objective and their trip was not in the best interests of the United States?

Mr. MACDONALD. The American Legion thinks any people-to-people exchange is very much in the best interests of the United States. But to have—

Senator AIKEN. They were seeking to increase trade.

Mr. MACDONALD. But to have a group of business interested travelers to that country, I think we know that they will be talking not to comparable businessmen in Russia. I do not know of any there. They would be talking with the representatives of the communist government of Russia, and with its government trading organization. And I would like again to stress, Senator Aiken, that I personally do not think there is any such means of increasing friendliness—in the way we understand that between individuals—between the U.S. Government and the communist government of Russia.

Even if occasionally it appears that they are interested in something we have got, even if it occasionally appears that they are making moves and noises that we might sometimes call a thaw, it has nothing, in my judgment, to do with the overall end product of communism; namely, the communization of the world.

Now, for that reason I look with some degree of skepticism about moves which our people here, government or otherwise, are making and taking and advocating about friendlier relations with their communist-government counterparts.

Senator AIKEN. That was the express purpose of the trip, as I understand it.

Mr. MACDONALD. I know.

Senator AIKEN. Mr. Luce has never been considered exactly a radical in world affairs.

Mr. MACDONALD. No, sir, Senator.

Senator AIKEN. The countries they visited were communist countries which have so-called communist governments, although they have been adopting quite a few capitalistic ideas recently.

Mr. MACDONALD. Wisely so.

Senator AIKEN. But you do not think do you, that these people would venture on a program which would be harmful to the country or to the form of government which has enabled them to become the heads of billion-dollar corporations?

Mr. MACDONALD. I think they would not intend to.

Senator AIKEN. You think they may be mistaken?

Mr. MACDONALD. I think that perhaps they are mistaken in the notion that more trade between their corporations and Russia is going to be in the long run in the best interests of the U.S. Government and its people.

DOES EASTERN EUROPE TRADE WITH U.S. LESSEN ITS DEPENDENCY ON U.S.S.R. ?

Senator AIKEN. Has it ever occurred to you that our unwillingness to trade with some of the countries in Eastern Europe has been largely responsible for their being so dependent on Russia? If we can loosen their ties with Russia economically, isn't there a chance that the loosening of political ties will follow?

Mr. MACDONALD. I do not believe so, and it would take some time to develop my answer to that point, but let me state first that it was not the United States that established the COMECON arrangement. The Kremlin established that.

Senator AIKEN. Yes.

Well, I leave it to you to convince Mr. Luce because it was he who arranged this party, as I understand it, and took all the top officers of Time-Life with him, as well as the heads of, perhaps, 20 billion-dollar corporations. If they are not billion-dollar corporations, they are pretty close to it.

I think that economically we are getting very international in our views, even though we may not be politically. Our economic problems seem to be knocking the political barriers pretty flat in some areas of the world.

That is all, Mr. Chairman.

(The article regarding the visit of the executives follows:)

[From the New York Times, Oct. 21, 1966]

TWENTY-FOUR U.S. EXECUTIVES VISITING RED BLOC; SEEK TO STIMULATE TRADE IN FIVE-COUNTRY TOUR

Executives of 24 American corporations departed yesterday on a tour of five East European nations to open the door to potential trade.

The tour, organized by Time magazine, will take the group to Hungary, Rumania, Czechoslovakia, Poland and Yugoslavia. The participants will pay their own way beyond the cost of flying.

The importance of the trip was enhanced recently by the Johnson Administration's decision to liberalize trade with Eastern Europe. Administration officials will receive a report on the prospects of expanding financial and trade relations when the delegation flies from Belgrade to Washington on Nov. 1.

The following Time executives are accompanying the delegation: Bernard M. Auer, the publisher; James A. Linen, president; Andrew Heiskell, chairman of the board; Henry R. Luce, editorial chairman; Hedley W. Donovan, editor in chief; Lawrence E. Laybourne, assistant publisher; Otto Fuerbringer, managing editor; Champ Clark, senior editor, and Robert C. Gordon, advertising director.

TO SEE, LISTEN AND TALK

Members of the delegation have made it clear that their intention is not to propose any modification of United States policy but to see and be seen, to listen and talk. It is expected that they will be received by the heads of state and other officials.

John L. Loeb, senior partner of Carl M. Loeb, Rhoades & Co., who is in the delegation, said:

"I am confident that the trip could definitely further the Administration's recently stated policy of increasing trade with Eastern Europe."

The delegation, he said, plans to explore possibilities of expanding financial and commercial relations and to develop better understanding of American industry.

Among the business leaders in the delegation, in addition to Mr. Loeb, are John L. Atwood, president, North American Aviation, Inc.; Eugene N. Beesley, president, Eli Lilly & Co.; James H. Binger, chairman, Honeywell Inc.; William Blackie, chairman, the Caterpillar Tractor Company; Edgar M. Bronfman, president, Joseph E. Seagram & Sons, Inc.; Joseph F. Cullman 3d, president, Philip Morris Inc., and Russell DeYoung, chairman, the Goodyear Tire and Rubber Company.

Also, A. P. Fontaine, chairman, the Bendix Corporation; Henry Ford 2d, chairman of the board of the Ford Motor Company; Keith Funston, president of the New York Stock Exchange; Gordon Grand, president, Olin Mathieson Chemical Corporation; John D. Harper, president of the Aluminum Company of America; Robert S. Ingersoll, chairman, the Borg-Warner Corporation; George A. Murphy, chairman, Irving Trust Company; Robert S. Oelman, chairman, National Cash Register Company; Frank Pace Jr., president, International Executive Service Corporation, and S. Warner Pach, president, Gillette Safety Razor Company.

OTHERS IN DELEGATION

Also, Henry R. Roberts, president, Connecticut General Life Insurance Company; Willard F. Rockwell Jr., president, Rockwell-Standard Corporation; C. William Verity Jr., president, Armco Steel Corporation; Leslie H. Warner, president, General Telephone and Electronics Corporation; Rawleigh Warner Jr., president, Mobil Oil Corporation, and Kendrick R. Wilson Jr., chairman, Avco Corporation.

In addition to the business leaders and Time magazine executives, the delegation includes Dr. Alexander Heard, chancellor of Vanderbilt University, and Whitney M. Young Jr., executive director of the National Urban League.

The group is traveling on a jet chartered by Time.

Mr. Auer recalled that the magazine had sponsored two similar trips in the past—one to the Soviet Union in 1963 and another to Southeast Asia in 1965.

Mr. Auer said all the participants shared the expenses beyond the cost of the aircraft. He said that the magazine hoped the journey would offer "information and insight into countries that were once part of a monolithic bloc but now appear to be moving toward considerable autonomy."

Senator MORSE. Mr. Chairman, I would just like to make a statement for the record to the witness in telling him how sorry I was in not getting here sooner than now. I have been serving as the acting chairman at the hearing on mine safety, a series of nominations, and I have just finished those hearings. I have not had an opportunity to read the testimony, but I shall with great care. I want to express my appreciation for your being here.

That is all.

The CHAIRMAN. Senator Gore.

Senator GORE. I pass.

The CHAIRMAN. Senator Symington.

Senator SYMINGTON. Thank you, Mr. Chairman.

ALIGNMENTS OF COUNTRIES CHANGE

You brought up the question of trade. Who, would you say, were the three greatest enemies the United States had in World War II? Would you say Japan, Germany, and Italy?

Mr. MACDONALD. That is correct, sir.

Senator SYMINGTON. And today are they not as good friends as we have, along with Great Britain?

Mr. MACDONALD. Yes, sir, as good.

Senator SYMINGTON. Would you say that in World War II probably two of the three best friends we had—well, you see my point. Things change. The positions of various countries change.

Mr. MACDONALD. Yes, sir.

Senator SYMINGTON. Today China, formerly an ally of ours, is now considered an enemy, and France, our oldest ally, is now working against us, politically and economically. Correct?

Mr. MACDONALD. Very much so.

Senator SYMINGTON. Therefore, there could be a change in these governments which would make it reasonable for us to consider a country like Soviet Russia, under this new leadership, in a somewhat different manner, would it not?

Mr. MACDONALD. It would be possible.

Senator SYMINGTON. The German Government presently is doing everything it can to improve its relationship with the Russians. That is correct, is it not?

Mr. MACDONALD. It would seem so.

Senator SYMINGTON. And the same thing is true of the French, is it not?

Mr. MACDONALD. I think so. Yes, sir.

Senator SYMINGTON. And the same thing is also true of Japan and Italy, is it not?

Mr. MACDONALD. Yes, sir.

Senator SYMINGTON. So if we follow this policy of rigid intransigence with respect to our relations with the Russians (a) we are doing something different from all other developed countries of the free world; and (b) we could eventually find ourselves alone in the world, could we not?

Mr. MACDONALD. Well, may I develop my answer?

Senator SYMINGTON. Certainly.

TRADE AND OUR FOREIGN POLICY

Mr. MACDONALD. I would say, first of all, that we do not necessarily make up our foreign policy on the basis of what our allies are doing. I regret what they are doing.

Senator SYMINGTON. But you do think it is reasonably important in the nuclear age to have some friends?

Mr. MACDONALD. Yes, sir. But on the question of trade, sir, in my judgment, trade itself is not going to generate necessarily the kind of rapprochement we truly want. Trade will simply generate trade.

You mentioned Germany and Italy. They were massive partners, trading partners with all the countries back in 1939 or just before 1939, massive trading partners with all the people with whom they were soon to fight a war. We were massive traders with Japan. What did this get us? We have never been a massive trader with Russia. We have never had a war with Russia.

Senator SYMINGTON. Well, I am not sure I follow you, but as long as we have gotten into trade, which we probably do not agree on, either, inasmuch as every other country in the free world except the United States has tremendously increased its gold and its total reserves, and we have lost half of ours in the last ten years, I believe we ought to take a fresh new look at trade also.

We went over the fact that you say, if the United States sees fit to increase trade with the Soviet bloc, other countries can see no reason why not to trade with Red China and Cuba and the rest of the communist world.

I asked the Secretary of the Treasury in an open hearing if there any country in the free world he knew of any developed country

that was not doing its best to sell everything it could except sophisticated war materials, behind the Iron Curtain. He said he knew of no country. I asked the Secretary of Commerce the same question. He said the only developed country not doing its best to sell everything it could behind the Iron Curtain, except sophisticated war material, was the United States.

EFFECT OF A NUCLEAR EXCHANGE

Have you heard estimates of the number of people who would be killed if we had a nuclear exchange with any country?

Mr. MACDONALD. Yes, sir.

Senator SYMINGTON. What was the figure you heard?

Mr. MACDONALD. The specific figure?

Senator SYMINGTON. Yes.

Mr. MACDONALD. It depends on how many cities are hit, I am sure but I think there was some talk of better than half of our current population, perhaps as many as 150 million.

Senator SYMINGTON. The minimum figure of Americans I have heard that would be killed if the Russians attacked us, or we attacked the Russians, would be 70 million.

That being true, from the standpoint of our obligation to future generations, don't you think we ought to do our best to reach more understanding with these people?

Mr. MACDONALD. I think we ought to bring about a true world order.

Senator SYMINGTON. Incidentally, I am a member of the American Legion, too.

Mr. MACDONALD. We are proud of that, sir.

Senator SYMINGTON. And I have two sons who are members, one a disabled veteran.

Mr. MACDONALD. Yes, sir.

Senator SYMINGTON. I am thinking about their children as we pursue this discussion.

WHAT SHOULD OUR POLICY BE TOWARD THOSE WHO TRADE WITH CHINA AND HELP OUR ENEMY IN VIETNAM?

The fact is that the Russians are making ammunition that could harm our boys in South Vietnam. You would not break off relations with France today, would you?

Mr. MACDONALD. Perhaps not break off relations, but I think we might ask for our Government to take a little harder look at the way Mr. De Gaulle is undermining our best interest.

Senator SYMINGTON. You would think about breaking them off if they—the French—did not stop shipping arms to North Vietnam.

Mr. MACDONALD. I did not reach that far.

Senator SYMINGTON. I thought you implied that. Were you thinking of it?

Mr. MACDONALD. That would be part of the consideration, perhaps.

Senator SYMINGTON. Would you break off relations with Germany also selling heavy quantities of material to China?

Mr. MACDONALD. No, sir.

Senator SYMINGTON. Would you break off relations with Great Britain, who has moved her ships into Haiphong harbor with materials?

Mr. MACDONALD. I would not break off relations with them, but I would tell them personally; you are asking me if I were Secretary of State, I think, are you not?

Senator SYMINGTON. That is right.

Mr. MACDONALD. I would very quickly tell them to knock off the Cuban deal and get their Hong Kong ships out of the Haiphong trade, and if they do not, we will reverse our position on the Rhodesian matter.

Senator SYMINGTON. Well, let us assume we have told them that, I think it is a fair assumption. Then they tell us, which I believe they have done, that is just too bad, that they are going to continue to do business with these countries whether we like it or not.

Mr. MACDONALD. Yes, sir.

Senator SYMINGTON. Then would you break off relations?

Mr. MACDONALD. No, sir.

Senator SYMINGTON. So you would not break off relations with any of the countries shipping goods to harm our boys in South Vietnam, but you would not take any steps to improve our relationship with Russia because they are—

Mr. MACDONALD. Sir, I am sorry, if you are saying I would not break off relations with countries doing their best to harm our boys in Vietnam, yes, I would. But that was not the question you put to me.

Senator SYMINGTON. Have you been to Vietnam lately?

Mr. MACDONALD. I have, sir, in December.

Senator SYMINGTON. Were you impressed by the degree the French are working against us in Vietnam?

Mr. MACDONALD. Yes, sir; and I think the basis of the trouble there is the way France exploited that country.

Senator SYMINGTON. Then you would break off relations with France?

Mr. MACDONALD. No, sir.

Senator SYMINGTON. I just cannot follow you.

When people write me about this treaty, I tell those who write: "There are more than three times as many American visitors to the Soviet Union now than there were when this treaty was proposed under the Eisenhower administration in 1959." That is done to show it is a bipartisan matter.

PRIMARY PURPOSE OF CONSULAR CONVENTION

"The primary purpose, then, as now, is to protect and assist Americans visiting the Soviet Union." You would agree that is the purpose, would you not?

Mr. MACDONALD. That is not the purpose of a consular treaty. That is the reason why our State Department and other proponents want it ratified.

Senator SYMINGTON. Then you think the State Department is not telling the truth when they say that is the primary purpose?

Mr. MACDONALD. No, sir—only, I think it is a semantic problem. The purpose of a consular treaty, as the Legal Adviser himself said, it is a treaty in which the contracting powers regulate the activities and functions of consular establishments.

Now, the reason why the proponents want this treaty is something else again.

Senator SYMINGTON. Now I say in my letter :

As you may know, an accused person in the Soviet Union is not permitted to consult with a lawyer or anyone during the period of investigation which can last for nine months. Under this treaty, which would afford an American citizen arrested in the Soviet Union a higher degree of protection than that enjoyed by a Soviet citizen, in from one to three days United States officials must be notified of the arrest of an American and visits by American officials with the arrested American would be guaranteed.

Is that correct, as you understand it?

Mr. MACDONALD. That is what the treaty says, and the protocol; yes, sir. But notification and access is not freedom for that individual. It would not have—if we had had prompt notification in Newcomb Mott's case, and full access, we would not necessarily have kept him from dying under mysterious circumstances.

Senator SYMINGTON (reading) :

The treaty does not itself provide for the opening of consular offices in each country. It simply provides the legal framework for their operation if they are opened. Under the proposed convention, the receiving country has the right to approve the number and the persons in the consular office.

That is correct, is it not?

Mr. MACDONALD. That is correct.

Senator SYMINGTON (reading) :

The consular officials and employees are granted immunity from the receiving country's criminal but not civil laws. It should be borne in mind that, after admission, a Soviet consular officer or employee is subject to being declared persona non grata and expelled from the United States.

Is that correct?

Mr. MACDONALD. That is correct.

Senator SYMINGTON (reading) :

Secretary of State Dean Rusk has stated that, should the treaty be ratified by both the United States and the Soviet Union, the United States would contemplate the opening of one consular office with 10 to 15 persons. If that occurred, similarly the Soviet Union could open one consulate here to which would be assigned 10 to 15 nationals.

Would you agree with that?

Mr. MACDONALD. That is the record; yes, sir, my understanding of the record.

ABILITY OF FBI TO HANDLE ADDITIONAL SOVIETS HERE

Senator SYMINGTON (reading) :

It is my understanding that Mr. J. Edgar Hoover, for whom I have high respect, does not take a position on this treaty pro or con, —

Is that your understanding?

Mr. MACDONALD. I understand that the Acting Attorney General said that his department was not competent professionally or officially to pass on that.

Senator SYMINGTON (reading) :

and [that Mr. Hoover] has given assurance that the FBI is fully capable of handling any additional work created by the small increase of potential espionage agents.

Would you agree with that?

Mr. MACDONALD. I have every confidence that the FBI can, assuming a higher staff and at more cost, keep up with the ten or fifteen if that's all it happens to be. I do not know the ratio of agents it takes.

Senator SYMINGTON. Suppose it is 30 or 40, do you think we could do it then?

Mr. MACDONALD. I am not privy to the operations of the FBI in this regard.

Senator SYMINGTON. Well, I would say that if that is the way you feel about it, my confidence in Mr. Hoover's capacity is considerably greater than yours.

Mr. MACDONALD. You misinterpreted my remark. I have great confidence in him.

Senator SYMINGTON. But I asked if you thought he could handle 30 or 40 more Soviets in this country in the same efficient fashion he handles the hundreds of them who are presently in this country.

Mr. MACDONALD. I do not know the ratio it takes, the ratio of FBI agents it takes, to Soviet intelligence agents in this country.

Senator SYMINGTON. Have you ever known Mr. Hoover to request anything from the Congress he did not get in the last 25 years?

Mr. MACDONALD. No, sir.

Senator SYMINGTON. Do you think if he felt he needed more people he would come up here and ask for them?

Mr. MACDONALD. Yes, sir.

Senator SYMINGTON. Therefore, then you do think he could handle any additional Russian agents up to 30 or 40 the Soviets put in here?

Mr. MACDONALD. Yes, sir. I think it is a costly and an unnecessary step to take.

Senator SYMINGTON. What is costly?

Mr. MACDONALD. The additional agents.

Senator SYMINGTON. You mean fifteen additional Soviets would be costly and unnecessary to us, or to Mr. Hoover?

Mr. MACDONALD. To us—well, to all of us, yes.

Senator SYMINGTON. As a taxpayer, you would not want to pay to see these people watched by the FBI?

Mr. MACDONALD. If they are brought into the country, which the American Legion opposes—then the taxpayer is going to have to bear that burden, and we would be for it.

FBI BUDGET ESTIMATES AND APPROPRIATIONS

The CHAIRMAN. I would like to insert in the record of the hearing the Federal Bureau of Investigation's budget estimates for the years 1958 through 1967 and a listing of the appropriations voted for Federal Bureau of Investigation during the same years. It is interesting to note that in every instance except one the Federal Bureau of Investigation's budgetary requests have been granted without change. The one exception was a supplementary request in 1963 for \$5,500,000. The actual appropriation made was \$5,225,000.

I might also observe that the appropriations for the Federal Bureau of Investigation were \$101,450,000 for 1958 and \$175,465,000 for 1967.

114 CONSULAR CONVENTION WITH THE SOVIET UNION

| ESTIMATES | | APPROPRIATIONS | |
|--|-------------------------|------------------------|-------------------------|
| 1958----- | \$101,450,000 | 1958----- | \$101,450,000 |
| 1958 Pay Act Supp----- | 4,112,000 | 1958 Pay Act Supp----- | 4,112,000 |
| 1959----- | 102,500,000 | 1959----- | 102,500,000 |
| H. Doc. 58----- | 9,611,000 | Supp. (2d 1959)----- | 9,611,000 |
| 1960----- | 114,600,000 | 1960----- | 114,600,000 |
| 1961----- | 118,000,000 | 1961----- | 118,000,000 |
| Supp. (Inc'd pay, H. Doc. 58)----- | 7,550,000 | Supp. (3d 1961)----- | 7,550,000 |
| 1962----- | 127,216,000 | 1962----- | 127,216,000 |
| 1963----- | 130,700,000 | 1963----- | 130,700,000 |
| Supp. (Inc'd pay, H. Doc. 63)----- | 5,500,000 | Supp. (1963)----- | 5,225,000 |
| 1964----- | 146,900,000 | 1964----- | 146,900,000 |
| 1965----- | 150,445,000 | 1965----- | 150,445,000 |
| Supp. (H. Doc. 80)----- | ¹ 10,635,000 | Supp. (2d 1965)----- | ¹ 10,635,000 |
| 1966----- | 165,365,000 | 1966----- | 165,365,000 |
| Supp. (Inc'd pay, H. Doc. 405)----- | 3,735,000 | Supp. (2d 1966)----- | 3,735,000 |
| 1967----- | 175,465,000 | 1967----- | 175,465,000 |

¹ Includes \$5,605,000 for increased pay costs.

POSSIBLE EFFECT OF TREATY ON VIETNAM WAR

Senator SYMINGTON. Do you know how much the South Vietnamese war is costing us a month?

Mr. MACDONALD. Well, it is increasing constantly, but it is running around \$2 billion a month today.

Senator SYMINGTON. I think you are about a half billion per month short.

Mr. MACDONALD. I am going by the administration figures, \$22 billion a year.

Senator SYMINGTON. Well, I am not quite sure the lower figure is right. It isn't according to the Senate Appropriations Committee staff (reading:)

Of the 1,000 Soviet citizens residing in the United States today, 452 have diplomatic immunity. I believe the FBI can be responsible for 10 or 15 more.

The rights in this proposed treaty are reciprocal; and it is interesting to note that last year, whereas 900 Soviet tourists and exchange visitors travelled here, 18,000 travelled in the Soviet Union.

Mr. MACDONALD. Yes, sir.

Senator SYMINGTON (reading):

It is indeed unfortunate that this proposed treaty comes before the American people at a time when the Soviet Union is supplying materials and weapons used in Vietnam against American military forces. But we do not see how the refusal of the United States to ratify this treaty could, in any way, affect Soviet activity in Vietnam.

Would you agree with that?

Mr. MACDONALD. It would not affect them.

Senator SYMINGTON (reading):

If its ratification would affect our military efforts out there, I do not believe it would have been brought to the Senate.

There are a great many areas of disagreement which exist in the world today; and I believe it important to increase areas of agreement which could serve the interests of the United States as well as other countries.

Would you agree to that?

Mr. MACDONALD. Sir, no, not at this time. If we are talking about the specifics of this particular treaty or the trade act, because to the

men in Vietnam and to a wide segment of the American public, they simply do not understand this.

Senator SYMINGTON. Who does not understand what?

Mr. MACDONALD. The American public and many men in Vietnam. They do not understand why we want these little things that we think or we hope—

Senator SYMINGTON. Little what?

Mr. MACDONALD. These treaties, agreements, that we think—I say “little,”—put that in quotation marks—in comparison with the massive attempts that the Soviet Union is making and is doing to help North Vietnam.

These are minor things in that connection, and they would not bring about friendlier relations, they would not bring about an end of the Soviet Union's help to North Vietnam.

PURPOSE OF OUR DIPLOMACY—TO FIND AREAS OF AGREEMENT

Senator SYMINGTON. I said I believed it important to increase areas of agreement. Does your answer mean you think it important to increase areas of disagreement? I am being sincere, not asking the question in any snide fashion at all.

Mr. MACDONALD. I understand.

Senator SYMINGTON. Would our diplomacy continue to foment suspicion and distrust among the two nuclear countries, when we know what a nuclear exchange would do? Or should we sit down and say, “We probably don't agree with a lot of things you think, and you don't agree with a lot of things we think, but let's see whether we can have a little closer understanding, so we don't blow the world up.”

Isn't that a fair way to look at things?

Mr. MACDONALD. We have been trying to get an arrangement with them and an understanding with them ever since they got their nuclear capability.

Senator SYMINGTON. Mr. MacDonald, your testimony worries me a great deal. I have spent the last 26 years of my life trying to attain a strong America so we can have a free America. To find the representative of the largest organization of veterans, of which I am a member, actively opposing any better relationship with the one country in the world that could very seriously hurt the United States I must say worries me a lot.

Thank you.

Senator SPARKMAN (presiding). Senator Carlson.

MEMBERSHIP IN AMERICAN LEGION

Senator CARLSON. Mr. MacDonald, I have noticed that it seems to be necessary to at least present one's membership or familiarity with the American Legion before getting too far into the questioning. In order to get the record started correctly, I want to state that I helped organize the Davies-Crook Post No. 76 in 1919, and during all these years my membership has been current. I have been proud of the American Legion, of its representation and of its organization.

I was not here at the time you read your paper, but I have read it since coming into the committee room. I shall not interrogate you because you have already answered many questions.

I just want to state that I personally think you and the American Legion have rendered a real service this morning by calling attention to some of the difficulties in the proposed treaty.

TREATY MUST BE ANALYZED

There are good provisions in this treaty and there are bad provisions. But I have the feeling if this treaty cannot stand the light of day, we ought to analyze it paragraph by paragraph; and after we have analyzed it, if we think it is in the interests of this Nation, we should support it, and if we do not, then we should oppose it.

I feel rather badly about the situation when we have such important matters before this committee, it seems as though when there is opposition to a proposal—not just this one but others—we may have to approve it without a thorough analysis. I think that is an unfortunate situation. I just want to say I appreciate very much your appearance here. Thank you very much.

Mr. MACDONALD. Thank you, Senator.

Senator SPARKMAN. Senator Dodd?

Senator DODD. Thank you, Mr. Chairman.

I want to say to you, Mr. MacDonald, that I think you have been a very good witness and have shown great restraint and patience.

NUMBER OF VISITORS FROM UNITED STATES TO U.S.S.R. AND
NUMBER OF ARRESTS MADE

I want to be sure I understand all the aspects of your testimony. You have used the figures 900 and 18,000. The former is the figure of the number of Soviet citizens that visited the United States last year. I take it the latter is the figure of the number of American citizens who visited the Soviet Union.

Do you have any figures to show, say, over the last five years, how many Americans visited the Soviet Union and how many were arrested?

Mr. MACDONALD. Senator, the figures, the estimated figures, of Americans visiting the Soviet Union over the past five years, I believe, accompanied Secretary Rusk's statement on January 23. They are rising, and the current estimate is 18,000. But as to the arrest cases, he himself stated that just in the 30 months since this treaty was signed in Moscow there have been at least 20 cases.

Senator DODD. Twenty?

Mr. MACDONALD. Twenty cases, or roughly eleven a year.

Senator DODD. In 30 months?

Mr. MACDONALD. Yes, sir.

Senator DODD. How many Soviet citizens were arrested in this country in the same period?

Mr. MACDONALD. I do not have the figure, but even if all 900 of them had been arrested, they would have had their consular officers who would have had prompt notification and prompt access.

Senator DODD. I understand that, but I thought you might have some figures.

REVIEW OF PREVIOUS QUESTIONS ASKED WITNESS

Now, you were asked a question about whether or not we were selling weapons. I believe you were asked whether or not we were selling weapons to countries around the world?

Mr. MACDONALD. I understand we are.

Senator DODD. I do not recall what your answer was in detail. Are we selling any weapons to any country engaged in aggression?

Mr. MACDONALD. Not to my knowledge. In fact, I think it is our policy not to.

Senator DODD. You were also asked if you were aware of the fact that we are trading with Japan and West Germany and Italy, and they are now our friends but they were our enemies in World War II.

The question suggests that situations change. Is that how you understood it?

Mr. MACDONALD. That was my understanding.

Senator DODD. Well, they did change, did they not?

Mr. MACDONALD. Yes.

Senator DODD. And it took a dreadful war to change them and the objectives of those countries have all been changed, haven't they?

Mr. MACDONALD. Yes, sir.

Senator DODD. They no longer are seeking our destruction, are they?

Mr. MACDONALD. No, Sir.

Senator DODD. I would think this might be an important point, wouldn't you?

Mr. MACDONALD. I agree.

Senator DODD. And we might add, or would you agree that we might add, that when our enemies change that is the time for us to change?

Mr. MACDONALD. That is the time.

Senator DODD. You were asked if you favored breaking relations with France and West Germany and Great Britain. You remember you were asked that question?

Mr. MACDONALD. Yes, sir; I do.

Senator DODD. I understand your answer was that you were not in a position to make that decision.

Mr. MACDONALD. That is correct, sir.

Senator DODD. I think that is a competent answer to that question.

Mr. MACDONALD. Thank you.

Senator DODD. I have observed from what I have read and from what I have heard that we are constantly reminded that the opening of one consulate or maybe two would involve no more than fifteen persons, and then I heard a figure as high as, perhaps, 40. How would you feel about fifteen? How would you feel about 40? I take it you have no way of making a judgment as to what numerically the influence or hazard would be with respect to us on a number basis?

Mr. MACDONALD. Not specifically, but I think we can get it in a number of ways.

COUNTRIES TO WHICH MOST-FAVORED-NATION PROVISION APPLIES

Senator DODD. Am I right in understanding that if the treaty or agreement were ratified that all other countries with whom we have most-favored-nation agreements can ask for the same set of arrangements?

Mr. MACDONALD. And get it on the basis of reciprocity.

Senator DODD. And get it.

Do you have any idea how many other communist countries would be involved?

Mr. MACDONALD. Communist countries?

Senator DODD. Yes.

Mr. MACDONALD. Well, first of all, we have Yugoslavia, with at least four consulates in this country today outside of Washington. They would be involved.

We have a consular treaty with them containing the most-favored-nation clause. So, right away, we would get beyond ten or fifteen additional.

Poland has a consulate in Chicago. I do not know how many employees it has. We do not now have a consular treaty with Poland, but it is in the negotiating stage. You can be assured, I think, that Poland would very quickly follow the suit of its leader and its consular employees in Chicago would be added to the ten or fifteen.

Senator DODD. Can I help you to save time? I was only trying to get an idea, roughly and in general, how many more consular people, possibly, we would have from communist countries in this country.

Mr. MACDONALD. I do not know specifically, but it is a considerable number, a considerable number, far above fifteen.

Senator DODD. Would it run into the hundreds?

Mr. MACDONALD. Well, the Secretary of State has testified that if all 33 nations asked for the most-favored-nation treatment we would right away go well above—correction, we would go above 400. How many of those would be communists I am not prepared to state at this time, but I foresee that other communist countries will join in the trend and seek such a treaty with the United States.

Senator DODD. I think that is an important matter to take into consideration when we are talking about the numbers that are possibly involved.

Mr. MACDONALD. Yes, sir.

Senator DODD. If it is possible that there would be hundreds, I think that we ought to know it.

Mr. MACDONALD. Yes, sir. In this case it is, and it gets into a question of costs and personnel of our countersurveillance.

CHANGE TOWARD WEST ON PART OF THE SOVIET UNION

Senator DODD. I take it that your view is that, insofar as you know, there has been no fundamental change in the attitude of the Soviet Union toward the United States or the free world?

Mr. MACDONALD. I know of no fundamental change. I have every reason to believe that there is no such change—

Senator DODD. But you recognize that—

Mr. MACDONALD (continuing). In the Government.

Senator DODD (continuing). There are always shifts and changes. At one time or another, for several reasons—

Mr. MACDONALD. Yes, sir.

Senator DODD (continuing). They are not able to maintain the same degree of harsh discipline, for example, in their own society. They have to give a little here and there, make moves of all kinds.

Mr. MACDONALD. Yes, sir.

If I may, sir, I liken it—I liken the changes we have spoken of in these communist societies as the changes that we see constantly going on in the population of a prison.

Senator DODD. Well, the point I want to get clear so that I can understand it is just that.

Do I understand that you would say that if they will give us some indication of some real change we will be more than happy to meet them more than halfway?

Mr. MACDONALD. Yes, sir. Let them tear down the Berlin wall; let them withdraw their support to North Vietnam; let them come to a real agreement on the German question.

Senator DODD. I am glad you testified. I say again, as I said at the opening, I think you have been a good witness. Obviously, you have spent some time on this. I read your paper before I come in.

Mr. MACDONALD. Thank you, sir.

Senator DODD. I think there will be a lot more said on it before we are through. Yours ought to be a very helpful piece of testimony for all those interested in arriving at an objective and fair judgment on the best position for the United States of America.

Mr. MACDONALD. Thank you.

Senator SPARKMAN. Senator MORSE.

Senator MORSE. Mr. Chairman, Senator Mundt has just motioned to me that I take a minute for I have an emergency call here that takes me to the floor on an amendment, to which I am a party. I want to say, Mr. MacDonald, that since coming into the room I have read your statement, and I think it is a very able presentation of the advocacy against the treaty, and it deserves the careful consideration of the committee, which it will receive, irrespective of what our present views are as we have expressed them publicly.

I would like, with the Senator's permission, to insert in the record—the chairman tells me it has not been inserted in the record—the President's statement yesterday at his press conference in support of the treaty.

(The document referred to follows:)

THE PRESIDENT'S NEWS CONFERENCE OF FEBRUARY 2, 1967

CONSULAR CONVENTION WITH THE U.S.S.R.

The PRESIDENT. Good afternoon, ladies and gentlemen.

I have been asked to give a statement about the Consular Convention that is pending before the United States Senate.

I should like to say very briefly that I hope the Senate will give its advice and consent to the proposed convention with the U.S.S.R. I feel very strongly that the ratification of this treaty is very much in our national interest. I feel this way for two principal reasons:

First, we need this treaty to protect the 18,000 American citizens who each year travel from this country to the Soviet Union. The convention requires immediate notification to us whenever an American citizen is arrested in the Soviet Union. It insures our right to visit that citizen within 4 days, and as often thereafter as is desirable.

We think that we need these rights to help to protect American citizens. These are rights which the Soviet citizens already have who travel in this country, because they are guaranteed by our Constitution.

Second, the convention does not require the opening of consulates in this country or in the Soviet Union. It does provide that should any such consulate be opened, the officials would have diplomatic immunity.

The Secretary of State informs me that no negotiations for consulates are underway and that the most that he can envision in the foreseeable future is

the opening of one consulate in each country, to be manned by from 10 to 15 people.

There are presently 452 Soviet officials in the United States who have diplomatic immunity. If an additional consulate were opened, and if another 10 were added to the 452, Mr. Hoover has assured me that this small increment would raise no problems which the FBI cannot effectively and efficiently deal with.

In short, I think we very much need this convention to protect American interests, and to protect American citizens abroad. In my judgment, it raises no problem with respect to our national security. Therefore, I hope very much that the Senate, in its wisdom, after full debate, will see fit to ratify it.

THE ISSUE AT STAKE

Senator MORSE. I want the record to show that the public policy issues raised by the Senator from Missouri, Mr. Symington, express my viewpoint in that I think the decision we have to make is in determining what we think would be in the best national interests of our country, approval or disapproval of the treaty. I happen to think that very sincere and honest men can differ, as you differ with those of us at the present time, and I plan to vote for the treaty.

To me that is the issue, and as representatives here in the Senate, we have to come to honest independence of judgment of what will best promote and support the national interests.

I think to date the President and the Secretary of State and the administration witnesses, would receive my verdict as a legislative juror.

VIENNA CONVENTION ON CONSULAR RELATIONS: BLANKET VERSUS BILATERAL ARRANGEMENTS

But there is one part of your statement I want to make very clear, and comment on. You say:

Before leaving this subject, we think it of interest to compare the language of Article 12 of this treaty with the comparable provisions of the earlier mentioned Vienna Convention on Consular Relations.

Then you go on to say:

We are curious, of course, as to why the Vienna Convention has not been submitted to the Senate for consideration.

I want the record to show that if I had the choice to make as to what our consular arrangements would be, it would be a ratification of the Vienna Convention pending before the United Nations. But I have been around here long enough to be realistic enough to know that it is not before us, and it is not going to be before us for some time. I do not know when it will, if ever.

I would like to see us pressing for action in the United Nations on the Vienna Convention, as I think we ought to press for some other actions before the United Nations.

Mr. MacDONALD. Sir, if I may—

Senator MORSE. If I may finish this sentence—We are put in this position, however, in which we have this provision before us for a vote up or a vote down. Although I would prefer first to have a general uniform consular understanding among the nations who are members of the United Nations, I know we are not going to get it. Therefore, I cannot evade my responsibility of voting on this consular treaty, and unless the hearings show justification for changing my

mind, I am going to stand with the point of view expressed by the Senator from Missouri and vote for the treaty.

Mr. MACDONALD. If I may just comment on the Vienna Convention, sir, only one more country has to turn in its papers of ratification to the Secretary General, and that convention will be an effective convention for 22 nations, at least, and I assume that one more will come in. There were 52 signatories. If it is a good treaty, I regret the United States is not among the first 22.

Senator MORSE. Well, I have already made clear that I would prefer a uniform—shall I say, blanket—consular policy to the continuation of bilateral arrangements. But we are confronted with a bilateral arrangement with the President and Secretary of State advancing arguments that I think at the present time cause me, as a legislative juror, so to speak, to render my verdict in favor of the Administration.

I want to thank the Senator from South Dakota. I am sorry I have to go to the floor for the Clark-Morse amendment.

Senator SPARKMAN. Senator Mundt.

Senator MUNDT. Thank you.

We all confront the problem that there is an amendment on the floor that is coming up now under a time-limit arrangement.

AMERICAN LEGION'S POSITION ON TREATY IS CONSISTENT

First of all, though, let me say I join in the congratulations extended to you by other members of the committee for rendering not only a concise and, to me, most convincing statement, but also one which reflects a rather consistent viewpoint.

It seems noteworthy to me to mention on behalf of the American Legion that they have three times, in three national conventions officially come out against the ratification.

Mr. MACDONALD. That is correct, sir.

Senator MUNDT. This is not some Johnny-come-lately viewpoint that recently has been arrived at by the American Legion.

Mr. MACDONALD. No, sir. It is, of course, possible that many Legionnaires do not agree with this position but certainly not the majority.

Senator MUNDT. I would not expect them to because in 2½ million members, we would not want to have a monolithic society in the Legion, as we would not want to anywhere else.

There is also a considerable body of Legionnaires who, if they had not liked what you had done the first time, could have objected the second time.

Mr. MACDONALD. Right.

Senator MUNDT. And if they did not like it after you had twice passed and ratified it in a national convention, they had a third opportunity to express disapproval, but again they approved it.

Mr. MACDONALD. Right.

Senator MUNDT. So if there is anything to be said about consistency, here is a fine example of a consistent stand taken by the Legion in three national conventions.

Mr. MACDONALD. As I might add, sir, it is consistent with all of the positions the American Legion has taken throughout the years on East-West relations.

SOVIETS FIRST PROPOSED IMMUNITY PROVISION

Senator MUNDT. Correct. I think that is absolutely sustained by the record. So far it has not been brought out very clearly, but I think it should be made clear here, that you were asked a great many questions about whether or not the immunity provision was important in providing protection, and it was suggested that, perhaps, this immunity thing was contrived by President Eisenhower. The record should be clear from the testimony of the Secretary of State that whoever proposed whatever was proposed to the Eisenhower administration, proposed a consular treaty which did not have these immunity provisions to which you object.

The second point that is clear from the record and from the testimony of the Secretary of State is that the suggestion for extending the immunity, for the first time in American history, to include felonies came from the Russians and not from us.

Mr. MACDONALD. The record is clear on that point.

Senator MUNDT. I do not think anybody is going to allege that President Eisenhower is a Russian. This was not his suggestion. It did not come from him. But whatever its merits or demerits, it is a proposal that the communists wanted to get into a treaty for the first time, for reasons best known to them, and I presume pretty closely associated with the reason which you attributed to them.

WHY HAS STATE DEPARTMENT NOT SUBMITTED VIENNA CONVENTION TO SENATE?

On this Vienna Convention, I am curious, too, as to why the State Department elected to send down this special and unusual consular treaty with Russia, instead of sending down for our consideration the Vienna Convention.

If we had the votes that would have made it effective multilaterally, I wonder why they singled this out, singled out this bilateral treaty, with its most-favored-nation clause whereby we lose control of our situation in other countries once we adopt it for one.

Why do you think the State Department did not send down the Vienna Convention?

Mr. MACDONALD. Frankly, I am baffled as to why the State Department has not seen fit to ask the President of the United States to transmit that Vienna Convention to this Senate. It was signed more than a year before this bilateral convention was signed, and it has been my observation that the internationalists among our foreign policy advisers always rush to support anything of this nature which has been brought about under the aegis of the United Nations. In this case, the U.S. Government appears to have no plan to bring that convention before you.

Senator MUNDT. You are the first witness to raise that question, and I agree with Senator Morse it is a very significant question. I think we will have to pursue it with the Department of State to try to find out why they put that one in cold storage and instead bring to us directly one connected with the Soviets.

WILL SOVIET UNION RATIFY PROPOSED CONVENTION?

You mentioned that Russia, although they have the means available to do so, has not ratified this treaty. Would you care to comment on

what you believe the chances are for ratification of this pact or why they have been dragging their heels?

Mr. MACDONALD. You mean, sir, do I feel that they might not ratify this?

Senator MUNDT. Yes.

Mr. MACDONALD. Well, this is just a personal observation, but I strongly and seriously doubt that the Presidium will proceed to ratify this document under the current world circumstances. We must keep in mind that this treaty was in the negotiating stage supposedly from 1959 until 1964, and was signed on June 1, 1964.

Now, at that time our presence in Vietnam was minimal. We were in an advisory capacity, and even by 1964 we had only had, well, at most, 20,000 to 25,000 people in that country, these valiant young men out in small villages. The Vietcong could have overrun them at any time. They were no threat to the communist intentions to take over Vietnam. We were not threatening to send airplanes over a sister socialist state at that time.

But the picture has changed greatly since then. The Russians have gotten their back up over this Vietnam problem. I think there was a time when they were somewhat embarrassed about it, and wished it would dry up and go away, but today I believe they have gotten their back up over it. As the President of the Soviet Union said in Italy the other day, they are in there to stay: "We are going to keep on increasing aid to North Vietnam until that side wins."

SOVIET FOREIGN POLICY IS CONSISTENT

Now, I mentioned earlier that the Soviet foreign policy is always a realistic one, consistent in all its parts and always in keeping with current events.

They have told our new Ambassador to Moscow quite recently—and they have repeated this on their English language broadcasts, and it has been reported through Pravda—that there can be no relaxation of tensions in this world today until the United States gives up in Vietnam. Now, I believe Moscow when it says that. They are realistic on this type of thing.

This document you have before you is not going to create anything except, hopefully, the notification and access in Russia for us, and, certainly, full diplomatic immunity for more of their agents in this country. That is all it is going to create.

Senator MUNDT. Well, I would feel a lot more comfortable about considering this treaty instead of the Vienna Convention, had the Soviets ratified it. But what we are actually being asked to do is, not to ratify a treaty which has been agreed to by the other side, but to sign an official supplication to the U.S.S.R. that we are willing to make another concession, "and will you come along." Isn't it possible we are going to be kind of embarrassed in the eyes of the world if, having done that, they say, "Oh, no"?

Mr. MACDONALD. Greatly embarrassed.

Of course, the Presidium can play this one either way. They can either let it lie on the table there until they think the time is right or they can take an opportunity, if the propaganda value is big enough, to slap the U.S. Senate or the United States by failing to ratify it.

Senator MUNDT. I agree with you that the Presidium—and they are a rather compliant body—can ratify it at any time. They do not have obstructionists and obstreperous Senators there who sign minority re-

before they are voted on. Even with the Texas arm twisting we have not become too compliant over here. It is a little more difficult to whip something through the Senate than it is to push something through the Presidium. I have wondered about it many times, and I am trying to find out from the State Department why the Presidium has not acted, why they have not gone through with their ratification.

WHEN WILL ARTICLE 12 GO INTO EFFECT?

I think maybe you have shed some light on that situation. I noticed in your statement that you say: "There is leeway, perhaps, for a different interpretation," as to when article 12 of the proposed convention is to become effective. Would you care to elaborate on that?

Mr. MACDONALD. My feelings as to why they might not put Article 12 into immediate effect, sir?

Senator MUNDT. Yes.

Mr. MACDONALD. I would be pleased to answer that. But with the Chairman's permission, I would like that answer to be off the record.

Senator MUNDT. Mr. Chairman, it is going to be a little bit difficult to have an off-the-record answer with as many people as we have in the room. May I respectfully request unanimous consent that the witness be permitted to prepare a statement on that question and for us to consider it in executive session?

The CHAIRMAN. Well, most certainly he may. He does not need unanimous consent, but without objection, he may. We will receive any statement.

Senator MUNDT. We cannot rely, perhaps, on all newspapermen here to—maybe I can eliminate the word "perhaps," but we have a lot of people who are our guests who do not understand what off the record means. Who knows who is in the audience. Maybe the Tass representative is here, and I do not think that we should let them have an answer. So if that would be satisfactory to you, I think that would be the way to handle it.

Mr. MACDONALD. Yes, sir; and I will try to get it to the Chairman by Monday at the latest.

Senator MUNDT. The Chairman, I am sure, will circulate it to the committee under our usual rule, with a little pink classified slip, and we shall look forward to getting the answer.

(The letter referred to appears in the committee files.)

QUESTION OF WHEN TO HEAR OTHER WITNESSES

Senator MUNDT. Mr. Chairman, I would like to inquire. I have quite a few more questions, but I am in rather a dilemma because, at the request of the Chairman, transmitted to me by Dr. Marcy, he said that he did not think that the Legion testimony would consume the full morning. It has been most comprehensive and interesting, and the members of the committee have asked many questions, so it has gone longer than we anticipated. But following that request, I invited Dr. Dobriansky, whom you mentioned at the beginning of the hearing, from Georgetown University, to testify in the waning hours of the morning session. To do so he had to cancel a couple of classes, deferring them until early afternoon. I would inquire only whether

you think we will have time to hear Dr. Dobriansky this morning so he could get back to his classwork.

The CHAIRMAN. Well, I thought it would be better to proceed to Mr. Hicks at this time and, perhaps, we could dispose of him, and take Dr. Dobriansky another time. You have quite a list, I think. You have not given them to me yet, but you have some other witnesses to be heard at a later time, do you not?

Senator MUNDT. Yes. I would like to call some other witnesses, but I do not think there will be time to hear Dr. Dobriansky in that list.

The CHAIRMAN. Well, it has taken more time than we thought. I cannot control the time that has been taken.

Senator MUNDT. I am perfectly willing to desist with the rest of my questions. He has only an eight-page statement, and maybe we can call him and let him go back to his classes, otherwise he will have to cancel the classes.

The CHAIRMAN. Dr. Dobriansky and Mr. Hicks also requested to come. We can let them both go over until later, if you would like.

Senator MUNDT. There is not much of a committee representation here, and there is a rollcall coming up quite soon.

The CHAIRMAN. Then I think we had better postpone both of them. Are you ready to dismiss Mr. MacDonald?

Senator SPARKMAN. Senator Pell has not had a chance to ask questions, Mr. Chairman.

Senator MUNDT. May I complete my questioning? Then I will yield to you.

AMERICAN LEGION RESOLUTIONS ON CONSULAR CONVENTION

Senator SPARKMAN. I wanted to ask—did you place in the record copies of the resolutions by the American Legion?

Mr. MACDONALD. I have copies of all three of the resolutions adopted on the subject by the American Legion.

Senator SPARKMAN. Don't you think it would be well to place them in the record?

Mr. MACDONALD. I would be happy to. I will leave them with the committee clerk.

(The resolutions referred to appear on page 319 of the appendix.)

WHO HAS RATIFIED THE VIENNA CONVENTION?

Senator SPARKMAN. Let me ask this question, if I may. Did the Soviet Union sign the Vienna consular convention?

Mr. MACDONALD. Sir, the Soviet Union and all other communist countries, with the exception of, let's say, with the exception of China, North Vietnam and North Korea, participated. They were among the 84 polities which sat around the table in Vienna and worked out the terms of the Vienna conference. They signed what was called the act, which incorporated the document.

Senator SPARKMAN. But have they signed in the sense of depositing the papers?

Mr. MACDONALD. No, sir—one communist country has ratified it, one.

Senator SPARKMAN. I thought you said 21?

Mr. MACDONALD. Twenty-one countries have ratified. One communist country is included among them.

Senator SPARKMAN. One communist country?

Mr. MACDONALD. Yes.

Senator SPARKMAN. Thank you. That is all I want to know.

Senator MUNDT. Mr. Chairman, I would like to discuss with you just one other aspect.

RESCHEDULING OF OTHER WITNESSES

The CHAIRMAN. Before you proceed, is it all right then to say that both Mr. Hicks and Dr. Dobriansky will go over until the 17th of February?

Senator MUNDT. Dr. Dobriansky is acceptable. I had nothing to do with inviting Mr. Hicks.

The CHAIRMAN. They asked to be invited.

Senator MUNDT. Dr. Dobriansky was asked—I was asked to invite him. I apologize to you, Doctor. You can go back to your classroom, but we will call you.

Thank you.

The CHAIRMAN. Well, Mr. Hicks—is Mr. Hicks here?

Mr. HICKS. Yes, sir.

The CHAIRMAN. Is it all right with you to go over until the 17th?

Mr. HICKS. Fine; yes, sir.

Senator MUNDT. Mr. Chairman, I do not think we are going to have time on the 17th. You have asked me to supply witnesses.

The CHAIRMAN. That will be our next day. Then if I may, we will go over to the 18th.

Senator MUNDT. I just do not want to be shortchanged in our witnesses.

The CHAIRMAN. It may be a week, for all I know.

Senator MUNDT. Those of us on the committee who have some doubts and some reservations on the treaty have been asked to supply some witnesses to present the other side.

You, sir, are the witness invited by the full committee. But those of us who have some doubts have been asked to bring in some witnesses and we have them arranged for the 17th. They do not include Mr. Hicks and they did not include Dr. Dobriansky because they were to testify today. Dr. Dobriansky, who is one of our witnesses, will be called in again, and Mr. Hicks who was called by the committee will be called by the Chairman at any time the Chairman desires it, in conformance with his authority.

SOLDIERS IN VIETNAM DON'T UNDERSTAND POLICY

I just want to pursue one other line of questioning. I raised the question with the Secretary of State when he first came before us about the nature of the timing of this particular proposal, because that has disturbed me greatly.

I get many letters, and I am sure my colleagues do, from the boys in Vietnam, many of them just simply sort of throwing up their hands as to what this war is all about if, at the same time, they are being asked to fight, we are talking about increasing trade with the nation

which is supplying the weapons which are making their tasks more difficult and killing many of their buddies. They do not understand either what the impact is going to be on the morale of their South Vietnamese buddies, the Thais, the Koreans, and the Filipinos, and the rest who are fighting with us, if while we are arrayed against the arms of the Russians and the communists of Vietnam, they are reading in the paper that we are sort of cozying up to Russia. They read that we are signing a treaty which is going to give the Russians complete immunity, even for felonies, in this country if they can get attached to a consular office. To me it is a very serious problem in the psychological aspects of trying to win a war.

If we are not trying to win it, that is one thing. I have supported the Administration in this war on the assumption that they did not want to fight it forever, but if the idea is to do everything possible to help the enemy to prolong the war, that is a horse of another color.

You raised that question very appropriately. You very appropriately tied the consular agreement in with East-West trade, as have the editors of the New York Times, and as are some of those who are supporting most articulately this treaty.

East-West trade expansion is to me an even more serious blow at the boys in Vietnam and our chances of winning the war or shortening it than this is, but they are all in the same category.

I notice you have a statement in which you say that our fighting forces in Vietnam do not understand why our official policy is to increase trade with the Soviets and satellites. You said earlier you could not understand why we were moving in the direction of embracing a treaty which, at most, is not going to do very much for anybody, and on the other hand, can only prolong the war and increase the casualty lists in Vietnam.

MORALE IS HIGH, BUT TROOPS ARE PUZZLED

Now, I will ask you a question based on your statement that our fighting forces in Vietnam do not understand this. Do you base that statement on your knowledge of human psychology or have you been there and talked with them? On what do you base it?

Mr. MacDONALD. Well, sir, I essentially base it not on the knowledge of human psychology, but I base it on personal experience and the correspondence I am receiving today in my office here. I have been to Vietnam three times in the past 18 months and as recently as December. The American Legion is constantly inquiring there as to the morale of our fighting forces. Are we doing everything for them we should be doing to help them win that war?

I am happy to report that the morale is excellent there, it is outstanding, but they are puzzled, they are baffled, and disturbed about what they hear from back home about the moves their Government is making or attempting to make to bring about a peaceful partnership with the government that is sending the missiles, the airplanes, the anti-aircraft guns, and whatnot, and is forcing the satellites to do the same. They do not understand that. They are concerned. They ask us about it. I do not have an answer for them. I say, "I cannot answer your question."

Senator MUNDT. Do you understand it yourself?

Mr. MacDONALD. No, sir, I do not.

Senator MUNDT. I cannot understand it. I have tried hard and I have tried to get the State Department to explain it. If they understand it themselves, they refuse to give us this explanation.

Mr. MACDONALD. Yes, sir. This could lead to a breakdown in the great morale we have got out there. I have a letter right here with me which is typical:

"I just returned"—this is just last month—"from a tour in South Vietnam serving with the U.S. Air Force. North Vietnam does not have the facilities to support a war such as they are in. They are receiving a lot of aid from Eastern Europe, China, and Russia. Any trade with these countries is helping to kill our soldiers regardless of what the administration says."

This is typical, and I do not have an answer for them, Senator.

Senator MUNDT. Well, how can you answer that? How can you build an argument that will attempt to refute the fact that when you trade and supply economic assets and the sinews of a viable economy to a country, which admittedly and publicly is supplying every sophisticated weapon employed by your enemy to kill your boys, how can you deny any trade, whatever it is—any kind of civilian goods makes no difference—because then you release the military industrial complex which otherwise would have to supply the civilian goods.

Mr. MACDONALD. Not only is that true—

SITUATION OF VIETNAM WAR IS UNIQUE IN OUR HISTORY

Senator MUNDT. Do you recall any other war in American history in which we have tried to feed and fight the enemy at the same time?

Mr. MACDONALD. No, sir. There may have been some—

Senator MUNDT. I used to teach history in college. I always hate to say that in the presence of my beloved friend who was a college university president. I am sure he would never have employed me, by the way.

But I thought I was a fairly good teacher. I read a lot of books. I went to school and got advanced degrees, and I thought I knew something about history. I cannot find another single instance in our whole history of America where we have ever, in the middle of a war, been advocating a policy of making the enemy stronger by supplying additional aid.

Now, this is bloody nonsense to me. It is one way to prolong the war forever. If this administration or anybody else believes that they can induce Americans to support a policy of prolonging the war forever, I think they are mistaken.

Mr. MACDONALD. The American Legion agrees.

Senator MUNDT. While this particular treaty does not set up East-West trade, it is the key to the door to unlock the next attack on our troops over there. We have got to be thinking about them. Are we going to play a numbers game? I will put the 18,000 civilians traveling for pleasure or profit in Russia against 500,000 American boys endangering themselves in fighting for freedom, whose job we make more difficult because we are doing things in wartime which in peacetime might be considered an altogether different thing, but actions which now are directly related to somebody's idea that we should prolong the war. I am happy that the American Legion, comprised of veterans, comes up and speaks forthrightly.

I think the best way for you to let our doubting colleagues know whether you speak for the American Legion or not is to have the posts of the Legion speak to the Members of the Congress.

That is all, Mr. Chairman.

The CHAIRMAN. Any other questions? How long do you wish to go on, Senator Pell?

Senator PELL. About eight minutes.

VIENNA CONVENTION ON CONSULAR RELATIONS

I think that the point that is raised as to why the Vienna Convention has not been sent up for ratification is a good point, and I would like to request the chairman to ask the Department of State to send up to us a memorandum stating why the Vienna Convention has not been submitted for ratification, a short chronology of Soviet-United States consular relations, and also, if the Department has not already done so, an outline of the differences between the Vienna Consular Convention of 1963, and the proposed treaty with the Soviet Union. These replies could all be part of the record.

The CHAIRMAN. Yes. The staff will get that information. The Vienna Convention has not been sent up, as you know.

Senator PELL. Thank you, sir. Thank you very much.

(The information referred to appears on page 293 of the appendix.)

RELATIVE DIFFICULTIES OF ESPIONAGE IN UNITED STATES AND SOVIET UNION

Senator PELL (presiding). I have several short questions which I do not think will take much time. Would you say, Mr. MacDonald, that espionage is more difficult in a closed society or in an open society?

Mr. MACDONALD. In a closed society, I am sure.

Senator PELL. That would be correct.

The Soviet Union has a more closed society than we do, does it not?

Mr. MACDONALD. It does, as I understand it.

Senator PELL. Hence, from the viewpoint of successfully developing information, or of espionage, where would immunity be more important? Would it be more important for American agents to have immunity in Russia or for Russians to have it in America?

Mr. MACDONALD. Russians in America.

Senator PELL. Why do you feel that, having just said that espionage was more difficult in Russia?

Mr. MACDONALD. They want their agents back.

Senator PELL. We do, too.

In this connection, if the Soviet citizen is arrested in our country, does he have access to his consul as a matter of right and courtesy?

Mr. MACDONALD. Yes; he does.

Senator PELL. If an American citizen is arrested in the Soviet Union, does he have that right?

Mr. MACDONALD. No, sir.

Senator PELL. Therefore, without even going into numbers, and your figures were absolutely correct, about 20 arrests were made in this period out of 18,000 travelers—

Mr. MACDONALD. Sir, if I may make—it is only about eleven out of the 18,000.

Senator PELL. I thought it was 20.

Mr. MACDONALD. Twenty since June 1, 1964.

Senator PELL. Right. But in which country would it be more advantageous to have access written into the law, if one considers the question from the viewpoint of the traveler—in the Soviet Union or in the United States?

Mr. MACDONALD. Russia.

Senator PELL. They already have this right. We do not.

Mr. MACDONALD. They gain nothing on this point. This is our hoped-for gain out of this treaty.

Senator PELL. That is right. In this connection, speaking from somewhat bitter personal experience, having been arrested behind the curtain and having been a vice consul, and having regretted not having these immunities, and having had employees, one of whom was beaten to death, and one who was injured, I feel rather strongly in a personal way about this. Aren't the chances of being arrested in the Soviet Union far greater than they are here, because of the wider definition of what they characterize as crime, for example, economic espionage? I have had constituents even arrested for taking a picture of Red Square.

Mr. MACDONALD. That is right.

Senator PELL. Correct.

IMPROVEMENT OF UNITED STATES-U.S.S.R. RELATIONS TO OUR ADVANTAGE

Then, finally, another point that I think should be a matter of record, and I could not understand your reply to Mr. Symington, is this: Do you believe that it is to our advantage or disadvantage to improve relations with the Soviet Union?

Mr. MACDONALD. Very much to our advantage.

Senator PELL. Thank you.

Mr. MACDONALD. How we go about it—I do not think this is one way.

Senator PELL. Right.

Now, if it is to our advantage, and I would agree with you in that, when a citizen is arrested, and we also both agree apparently that the chances of an American being arrested in Russia are greater than the chances of a Russian being arrested in America, when a citizen is arrested is it better to have this problem resolved as a matter of administrative procedure on a local consular level? Having been a vice consul, I know how we would handle such a case so that it would not go up to a government level. This is what would happen if this treaty were in force. Or would it be better not to have a treaty in force which would mean that the only way you could spring a citizen would be to go on a government-to-government level?

Mr. MACDONALD. But, Senator Pell, what do you mean by the term "resolved"?

Senator PELL. Get the man freed.

Mr. MACDONALD. No, but notification and access does not spell freedom.

Senator PELL. They do mean, first of all, that we know about it. I was in one country in Eastern Europe where a man had been in jail for two months, and we did not know it. He had not been permitted to notify us. This is the sort of thing we would get under this treaty.

Mr. MACDONALD. You would get notification but not necessarily freedom.

Senator PELL. Right. But I think you would find the problems would be resolved if you had a consul with the right of access. You can handle these things better if you do not have to go from the ambassador to the chief of government, which is the alternative.

Mr. MACDONALD. Well, I would have to bow to your judgment on that, and your experience.

Senator PELL. I just recall in my own case the feeling of utter frustration when I had an American citizen being beaten up, trying to be forced to implicate our Government, and I was not able to get to him. The longer it takes to get to him, the less is his resolution and the more likely he is to crumble. It is terribly important, to keep from being implicated, to get to the man quickly and let him know you stand behind him.

Mr. MACDONALD. But I do not know that this treaty is going to keep them from beating up our prisoners.

Senator PELL. It makes it far less likely if you have access within 48 to 96 hours. And I also am glad to add that this brutality is less now than it was when I was stationed in that part of the world 20 years ago. I respect your opinion very much, but in this particular instance I would not be in agreement.

LEGION BELIEVES DISADVANTAGES OUTWEIGH ADVANTAGES

Mr. MACDONALD. Well, I wanted the record to show clearly, Senator Pell, that the American Legion earnestly desires this particular end result, but we think this is not the time to enter into this treaty. We think that we are giving up, in this treaty, that which outweighs that which we hope to get.

We are speaking, perhaps, unless the figure increases or decreases, we are speaking perhaps of eleven arrest cases annually out of 18,000 tourists.

How many of these eleven are dual nationals, how many of them Kazan-Komareks, in which the Soviet Union is going to enter into complicity with a sister communist state? I just think that we are not going to get out of this treaty, even if they give full compliance on notification and access, enough to outweigh its obvious disadvantages and its potential disadvantages.

Senator MUNDT. Will the acting chairman yield for a question?

Senator PELL. Certainly.

ANALYSIS OF CASE IN CZECHOSLOVAKIA

Senator MUNDT. You mentioned the recent Czechoslovakian case, where an American citizen, whom the communists might consider of dual nationality, because he came from one of their countries, took a flight and the end result was that the Russians delivered him to the Czechoslovakians. There he had access to Americans, and they came in and talked to him. They had two at the prison trial, but he is still sentenced to jail for eight years. I think you are the first witness who has pointed out there is a difference between notification and freedom.

We had notification in Czechoslovakia, but the poor fellow went to jail anyway.

Mr. MACDONALD. Sir, if I may, it took us some little time and trouble to get that access.

Senator MUNDT. Right.

Senator PELL. Right. I think the record should show that the real villain in the piece was the Soviet security service which engaged in complicity with the Czech security service. But the fact of the matter that the individual was involved in border running was not disputed. I think the record will show that part of the original charge was complicity in murder. I think that his sentence from the viewpoint of straight law was not altogether unjust.

Mr. MACDONALD. If I may comment on one point more on the case, I do not know which came first, the official notification from the Czechs or the news we got of it by the individual's wife getting to someone else to let our consulate know.

Senator PELL. I believe we learned from a fellow passenger on the plane who reported his arrest. We have not concentrated enough on the complicity of the two security services, and that is the real—

RUSSIANS HAVE OTHER DEVICES—OUR DIVIDENDS ARE SMALL

Senator MUNDT. What I am pointing out is that the Russians have found other devices for achieving the results which they want, which are not going to be inhibited because some consular officer comes in and has a conference in the jailhouse with some American. We can go back to the era of brutality, and if you say it has stopped—you don't say it has stopped, do you?

Senator PELL. It is attenuated.

Senator MUNDT. If it is attenuated, fine. And if it has not been, after the consular official leaves, the clerk goes in and says, "What did you tell that guy? Come on, what did you tell him?" You have not solved a great big problem by notification, and they can still rig the trial and still go ahead with their so-called concept of justice.

We get very small, very minute dividends, I think. Mr. MacDonald is correct in what we get. But it is very small compared to all these broad ramifications of the impact on the war and in the psychology of our lives, the psychology of our men, and even the psychology of the Russians to say, "Why should we stop shipping materials, these fellows will still make a treaty with us?"

Senator PELL. But we are not talking about arms; we are talking about the consular convention.

Senator MUNDT. But I am talking about the entire framework.

Senator PELL. The Senator from Kentucky.

Senator COOPER. First, I would like to say to Mr. MacDonald that while I support this convention, you have made a very forthright statement of the American Legion's position, and I think the American Legion has been right on many occasions.

I remember in the twenties or thirties the American Legion was pleading for at least a minimum defense for this country and for its security. You recall at the time its members were called warmongers, but I think it is very possible that if their recommendations had been adopted then, World II might have been shorter in duration.

But I will vote for the convention.

CONSEQUENCES OF CONVENTION

I would say further that while the State Department has maintained that only one consulate would be opened, there might be only ten or fifteen Soviet persons who would come into the United States because of the convention, I think it is possible that if the convention should prove fruitful, more offices might be opened and more Soviet personnel might enter this country.

Now, assuming that, do you actually fear that our intelligence agency, the FBI, will not be able to cope with any new opportunities for espionage if the consulates were opened that these officials might present?

Mr. MACDONALD. I do not disagree with that, given the necessary budgets and ratio of personnel. I do not know what the ratio is of FBI agents to one espionage agent.

Senator COOPER. I think Mr. Hoover would be the last person to say that he would not be able to cope with a situation like that.

Mr. MACDONALD. I agree.

Senator MUNDT. In the letter in the record he pointed out that he would need more men.

WHAT STEPS CAN WE TAKE TO EASE TENSIONS?

Senator COOPER. I go on to my second point, which, I think, is the most important one in the consideration of the convention.

You have stated in your testimony that the Legion does not believe that ratification of the convention would produce a meaningful improvement in United States-U.S.S.R. relations, or the abatement of tensions between us.

I suppose no one can predict what its consequences would be, but, as the Chairman stated, I think this is a very mild and a very small step. And I would like to ask, if we do not take this step, what steps could we undertake which would reduce tensions between the U.S.S.R. and the United States? If we are not willing to do this, are there any other steps that we are willing to take?

Mr. MACDONALD. Frankly, my answer to this, of course, would have to go far afield, and I am not truly competent to give a comprehensive answer to that. But I would say that, in principle, the first step would be for the U.S. Government to give to the communist world and the world generally in its foreign policy, in its approach to East-West relations, the feelings of the American public.

Let us stop the communist advance; and let us make clear to communists in general that all of our approaches to them—at every level, at every place in the world—are going to be hard, resolute, and inflexible on that point.

Senator COOPER. Of course, I must hold a viewpoint that if we are not willing to make some step—a very small step, such as proposed in this convention—I do not know what step we could take.

PRESIDENT EISENHOWER SUPPORTS TREATY

I do not know that it has been mentioned in the hearing, but I think it is important to note that, according to the press today, former President Eisenhower has declared his support for the convention. I think

this would substantiate the statements that have been made that during his administration there was support for this convention. And as a man who has had large experience in war and as President of the United States, I think his judgment has value. Would you agree with that?

Mr. MACDONALD. Well, the American Legion and I personally have great admiration for the former President and our World War II leader, but we feel it is still possible for us to disagree with him on a point such as this.

(President Eisenhower's statement is as follows:)

CONSULAR CONVENTION STATEMENT BY FORMER PRESIDENT DWIGHT D. EISENHOWER, FEBRUARY 2, 1967

Replying to questions concerning my opinion as to the value of a Consular Convention with the U.S.S.R., I cite these items from the record:

At the Geneva Summit Conference in 1955 I pointed out to the Soviet Leaders that there existed unnecessary restrictions on the flow between us of ideas and I suggest that the barriers which now impede opportunities of people to travel anywhere in the world for peaceful, friendly purposes, be lowered.

In July of 1959 Vice President Nixon touched on this subject with Mr. Kozlov, Deputy Premier of the Soviet Union, and suggested that the United States establish a consulate in Leningrad with the Soviets establishing one in New York.

When Chairman Khrushchev visited me at Camp David in September 1959, Secretary of State Herter renewed this proposal to Foreign Minister Gromyko and also suggested that a Consular Convention be negotiated. Such a convention was completed and signed in 1964.

I have not changed my belief that such a convention is in our national interest; that it will not impair our national security; that it should enlarge our opportunities to learn more about the Soviet people, and that it is necessary to assure better protection for the many thousands of Americans who visit the Soviet Union each year.

Senator COOPER. That is correct.

Well, that is all I want to ask, Mr. Chairman.

Thank you very much.

Senator PELL. Thank you.

CLARIFICATION OF KAZAN-KOMAREK CASE

I would like to make sure that the record is correct in one regard. I am informed that the complicity in murder charge was not used against Mr. Kazan. He was convicted, finally, of so-called antistate espionage activities which would lead one to hope that the Czechoslovak Government, which is so interested in improving relations, would see its way clear to expelling him or letting him leave. It remains to be seen whether they mean what they say about improving relations, or whether they want to continue their present intransigent position.

I would like to congratulate Mr. MacDonald on a very fine presentation. You have been patient, diplomatic, and truthful, and I think the Legion should be proud of having sent you up here to maintain your position.

As you can see, we all have rather strong ideas on either one side or the other. Nobody is in between on this one. I congratulate the Legion on having you as its representative and on your statement.

Before we close, I would like to have inserted in the record correspondence with has come to the committee since our last meeting on January 23. This includes another letter from the Liberty Lobby; correspondence between Acting Attorney General Ramsey Clark and Senator Fulbright regarding the appearance of Mr. Hoover before the committee; and two letters from Assistant Secretary MacArthur explaining the Department's position on questions which have been raised about the treaty.

(The letters referred to follow:)

LIBERTY LOBBY,
San Francisco, Calif., January 24, 1967.

HON. J. WILLIAM FULBRIGHT,
Senate Office Building,
Washington, D.C.

DEAR SENATOR FULBRIGHT: I note that you are quoted in the newspapers as saying that you have finally decided, after three years, that Liberty Lobby need not be heard by the Senate Foreign Relations Committee on the subject of the Soviet Consular Convention because our "views are well known."

The purpose of this letter is to bring to your attention certain facts which Liberty Lobby would have brought out in public hearings, had you ever held public hearings, which you have not done. (Presumably, you do agree with the distinction between "open" hearings and "public" hearings as defined by publications of the Congress.)

Since you have decided that we need not be heard, and that the numerous other groups and organizations which have asked to be heard in public hearings need not be heard, I draw your attention to a matter which would otherwise have been brought before your committee: That is, the subject of Article 19 of the proposed treaty, which would grant "Diplomatic Immunity" to consular personnel and their baggage and property.

The true facts about the diplomatic immunity in the proposed treaty have yet to be brought to Senate attention. Senate ratification of this treaty would enable the Soviet Union to import A-Bombs into this country in wholesale lots and would nullify any anti-missile system we might ultimately adopt.

The fact is, that Article 19 of the treaty would allow Atomic Bombs, up to one-half Kiloton in size, to be brought into the nation's major cities undetected, under cover of "diplomatic immunity."

In classified bulletins, the FBI and the Customs Bureau have already described such weapons, under production since 1960 by the Soviet Union, as "ADM's"—Atomic Demolition Munitions—"which could be concealed," according to the directives, "within diplomatic pouches of Soviet diplomats."

For your information, Senator Fulbright, this type of A-Bomb is manufactured by the Soviet Union in suitcase-size, ranging from the smallest, a 70-pound, eighteen-inch weapon, with the power of 100 tons of TNT; to the largest, a two-suitcase model, with the power of more than 500 tons of TNT.

Under the proposed Soviet Consular Convention, I might note, the FBI and Customs Bureau will be forbidden by treaty law from inspecting any "Diplomatic Pouch" of the Soviet Union.

No wonder this treaty was described by FBI Director J. Edgar Hoover as a "cherished goal of the Soviet Intelligence services," and no wonder that in his recent letter to Secretary Rusk he has confined himself to a disclaimer of attempted policymaking.

Rusk has made an all-out effort to convince the Senate that Hoover has "changed his position" on the Soviet Consular Treaty. This is not true. Hoover has never taken a position on policy-matters. He simply voiced what he knew of the Soviet opinion of the Consular Treaty, and his letter to Karl Mundt of the Foreign Relations Committee makes it quite clear that he has not changed his mind on the matter.

I hope this letter will change *your* mind, however, on the subject of holding true public hearings on the Soviet Consular Convention.

Sincerely,

W. B. HICKS, JR., Executive Secretary.

JANUARY 25, 1967.

HON. RAMSEY CLARK,
*The Acting Attorney General,
Department of Justice,
Washington, D.C.*

DEAR MR. CLARK: As you know, the Committee on Foreign Relations is now considering the proposed Consular Convention with the Soviet Union. There has been considerable discussion in the Committee about the views of Mr. J. Edgar Hoover, the Director of the Federal Bureau of Investigation. Mr. Hoover has expressed an opinion on certain facts relevant to the proposed Convention in letters to Secretary Rusk dated September 16, 1966, and to Senator Karl E. Mundt dated January 23, 1967.

Because Mr. Hoover's views have attracted considerable attention, I wrote him on January 19, 1967 and invited him to appear before the Committee on Monday, January 23. As you know, he replied on January 20 saying: "While I, of course, desire to be helpful in any matter of mutual interest, I must of necessity refer you to the Acting Attorney General, who quite properly is the ranking member of the Department of Justice to pass on matters of legislation."

At the request of the Committee on Foreign Relations, I am therefore writing to ask that you request Mr. Hoover to appear before the Committee at a mutually convenient time.

Sincerely yours,

J. W. FULBRIGHT, *Chairman.*

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., January 27, 1967.

HON. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U. S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your letter of January 25 has been reviewed with Mr. Hoover. After careful consideration, Mr. Hoover and I have reached the following conclusions.

The primary purpose of the Consular Convention with the Soviet Union is protection for and assistance to United States citizens in the event they are arrested or otherwise detained while in the Soviet Union. While this purpose is obviously a matter of great national importance in the field of foreign relations, the means of implementing it is a subject clearly beyond the competence of this Department and its officials.

Though the Convention is not necessary to authorize the establishment of Soviet consulates in the United States, the power to do this being lodged by the Constitution in the President, an issue that may appropriately be considered in connection with ratification of the Convention is whether the establishment of one or more consulates by the Soviet Union in the United States poses any threat to our internal security.

We need only refer to the numbers involved to show that this proposal would not add significantly to the problems of protecting our internal security. In 1966, there were approximately 900 Soviet tourists and exchange visitors who travelled in the United States. This compares with more than 18,000 United States citizens who travelled in the Soviet Union. In addition, there are at the present more than 1,000 citizens of the Soviet Union residing in our country, of whom 452 have diplomatic immunity. The one Soviet consulate which might be opened under the Convention would add only 10 or 15 Soviet citizens having immunity.

While adding any number of potential espionage agents of course makes a commensurate increase in the work of the FBI, the Bureau is fully capable of handling such additional work. The contemplated number of Soviet officials would not place an undue burden on the FBI.

Because the FBI is an investigative agency which since 1924 has not injected itself into the area of legislation, because the proposal under consideration is foreign to the competence of this Department with the limited exception noted, and because as to that exception the impact on our responsibilities is minimal, we do not believe that Mr. Hoover, by appearing before your committee, could add to what has been said here and in Mr. Hoover's earlier letters which are before the Committee.

In spite of these considerations, I would not hesitate to request Mr. Hoover to testify if he thought his testimony could add to your deliberations. He does

not, since, as he said in his letter to you of January 20, he could state only the same views expressed in his correspondence.

If I can be of further assistance, please advise.

Sincerely,

RAMSEY CLARK,
Acting Attorney General.

DEPARTMENT OF STATE,
Washington, January 27, 1967.

DEAR SENATOR: There has been a good deal of misunderstanding about the US-Soviet Consular Convention which is now pending before the Senate Foreign Relations Committee. To clear up such misunderstandings, we have issued a statement which I am enclosing in view of the general interest in this important matter.

The statement makes clear that the Consular Convention does not authorize, propose, suggest, provide for, or require the opening of a single United States Consulate in the Soviet Union, or a single Soviet Consulate in the United States. It does not permit the Soviets to send a single extra person to this country, nor does it let us send anyone to the Soviet Union.

What it does do is to provide that we will be notified of arrests of American citizens within one to three days, and allowed to see them within two to four days. As matters now stand, arrested persons can be held incommunicado until the investigation by the Soviet authorities is completed and this can take up to nine months or more. Last year we had 18,000 U.S. citizens visiting the Soviet Union and the number will increase. The Soviets, on the other hand, had only about 900 of their citizens visiting our country. We earnestly believe, therefore, that the balance of advantage in this Convention lies heavily with us and that it will give us the tools we need to protect American citizens traveling in the Soviet Union.

I also attach a more comprehensive but still brief statement on the purposes and effects of the Convention which I hope you will find useful. If you have any further questions about the Consular Convention, please don't hesitate to let me know as I would be glad to arrange a briefing on this matter for you.

Sincerely,

DOUGLAS MACARTHUR II,
Assistant Secretary for Congressional Relations.

STATEMENT ON THE US-USSR CONSULAR CONVENTION

Following up on Secretary Rusk's testimony on the US-USSR Consular Convention before the Senate Foreign Relations Committee on January 23, I would like to try to clear up a persistent misunderstanding about this agreement. And I might add that this misunderstanding is common among both opponents and supporters of ratification.

The Consular Convention does not authorize, propose, suggest, provide for, or require the opening of a single United States Consulate in the Soviet Union, or a single Soviet Consulate in the United States. It does not permit the Soviets to send a single extra person to this country, nor does it let us send anyone to the Soviet Union.

What it does do is to provide ground rules for the protection of American citizens in the Soviet Union, and Soviet citizens in the United States.

These ground rules, which represent major concessions by the Soviet Government, specify that we will be notified of the arrest of an American citizen within one to three days, and allowed to see him within two to four days. As a matter of routine, we grant these rights not only to Americans, but to all foreigners arrested in the United States. But, in the Soviet Union, even the Soviet citizens enjoy no such rights. They are held incommunicado until the investigation of the crime is completed; and this investigation can take nine months, or more.

These ground rules go into effect the minute the Treaty is ratified, without regard to the separate question of opening consulates. The officers attached to the Consular Section of our Embassy in Moscow will enjoy notification and access rights under this Treaty the moment both parties ratify it. Thus, tying the idea of opening consulates to the idea of approving this Convention confuses the issue. The issue is do we need better tools to help us protect Americans who get into trouble in the USSR. The answer is clearly yes.

THE UNITED STATES-SOVIET CONSULAR CONVENTION

We believe that ratification of the US-USSR Consular Convention is clearly in the national interest and, on balance, more valuable to the United States than to the Soviet Union. This Convention is part of our balanced strategy for peace, aimed at limiting the areas of disagreement in our relations with the USSR while we are resisting communist aggression wherever it occurs.

During the Eisenhower Administration, Secretary of State Christian Herter suggested to Soviet Foreign Minister Gromyko that a bilateral Consular Convention be negotiated and first drafts were exchanged. Negotiations were completed in 1964. President Johnson called for prompt Senate approval of this agreement in both his October 7, 1966 speech in New York and his January 10, 1967 State of the Union message.

This Convention will permit this Government to assist and protect more effectively the 18,000 or more American citizens who annually travel in the USSR. If a citizen of either country is detained or arrested, the Convention requires that the embassy or consulate of that citizen's country be notified within three days and that access to the prisoner by a consular official be granted within four days. These provisions will come into force when the treaty is ratified.

Without the protection of such an agreement, Americans have frequently been isolated in Soviet prisons for long periods and kept from contact with American Embassy consular officers. One, Newcomb Mott, died in Soviet hands under these circumstances.

The treaty does not provide for the opening of consulates. Approval of the Convention has no bearing on this question, since under the Constitution the President can agree to reciprocal opening of consulates in the U.S. and the USSR at any time.

There are no formal proposals or plans pending for the opening of separate consular offices of either country in the other. If at a later date it was decided to be appropriate to open one outside the respective capitals, it would be the subject of careful negotiation on a strict *quid-pro-quo* basis. Such an office would probably involve 10 to 15 Americans in the Soviet Union, with the Soviets permitted to send the same number here. In accordance with Secretary Rusk's statement before the Senate Foreign Relations Committee, we would plan to consult that body and the state and local officials of the community to be affected, before concluding such an agreement. While, as noted, such an arrangement would be reciprocal, the fact that the Soviet Society is a closed one while the United States is open, and that the U.S. citizens needing service and protection while travelling in the Soviet Union far outnumber Soviet citizens with like needs in the U.S., indicate that the balance of advantage would be on our side.

This Convention gives full immunity from criminal jurisdiction to consular officers and employees of both countries. We would not send American officials or clerical employees to serve in the USSR without this protection. Since 1946, 31 Americans at our Embassy in Moscow have been expelled by the Soviets, most often on allegations of espionage. Without immunity consular employees could be jailed or suffer even harsher punishment on similar trumped-up charges. Furthermore, action against American consular personnel serving in the Soviet Union without diplomatic immunity could be a temptation to Soviet authorities whenever a Soviet citizen was arrested in this country for espionage. Other governments similarly protect their officials and clerical employees in the USSR; the British and the Japanese recently negotiated consular conventions with the Soviet Union containing immunity provisions modeled after those in the US-USSR agreement.

The opening of one Soviet consulate in the U.S. would not materially affect our internal security. The number of Soviet citizens now enjoying immunity, 452, would be increased by only 10 or 15 persons. We have the right under the treaty to screen the personnel of such an office before agreeing to their assignment. We are also authorized by the treaty to prevent them from travelling to sensitive areas in the country and to expel them if they prove to be undesirable. We could close a Soviet consulate in the U.S. whenever we wished, and we could cancel the Consular Convention on six month's notice.

DEPARTMENT OF STATE,
Washington, February 2, 1967.

Hon. J. W. FULBRIGHT,
Chairman, Foreign Relations Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I know that there has been considerable interest in whether the US-USSR Consular Convention now before your Committee would have any effect on our position and policy concerning the Baltic States and other peoples aspiring to freedom. There has apparently been some misunderstanding of these points and I should like to attempt to clarify our position on them for the record.

The United States Government has consistently refused to recognize the forcible annexation of Estonia, Latvia and Lithuania into the Soviet Union. We continue to recognize the diplomatic and consular representatives of the last free governments of these countries. The ratification of this Convention would in no way change our policy in this respect. Neither would the eventual opening of an American consulate in the USSR and the demarcation of consular districts, which, as you know, are not required by this treaty. Recognition of the incorporation of Estonia, Latvia and Lithuania into the USSR would, like all cases of diplomatic recognition, require a positive statement or positive act by the United States. This Convention contains no such statement and provides for no such act.

Whether or not this Convention is approved, if an American citizen should be arrested or detained in the Baltic States we would have the inescapable obligation of trying to make arrangements for his protection through the Ministry of Foreign Affairs of the USSR, including access by an American consular officer. While fortunately no Americans have been detained in the Baltic States in the recent past, this has been our policy over the years. It will continue to be our policy whether or not this treaty is approved.

Some have argued that this treaty should be rejected because it would confirm or approve the Soviet Government's domination over the non-Russian peoples of the USSR. It is United States policy to support the just aspirations of all the peoples of the world and to look forward to the day when all will be able to express these aspirations freely. The ratification of this treaty will not change this policy—any more than did the signing of the more than 105 other bilateral and multilateral agreements which we have entered into with the USSR.

Should the further public hearings on this Convention raise further questions about its provisions I would be glad of the opportunity to attempt to answer them.

Sincerely yours,

DOUGLAS MACARTHUR II,
Assistant Secretary for Congressional Relations.

Senator HICKENLOOPER. I would also like to have inserted in the record, when it is received, a letter from Ambassador MacArthur in response to a question I raised about the effect of the immunities provision of the consular convention if the convention were ratified and subsequently terminated.

(The letter referred to follows:)

FEBRUARY 24, 1967.

Hon. BOURKE B. HICKENLOOPER,
U.S. Senate.

DEAR SENATOR HICKENLOOPER: You have raised the following question concerning the immunities clause of the US-USSR Consular Convention (Article 19) when read in connection with most-favored-nation provisions contained in treaties with other countries: In the event that the US-USSR Consular Convention should be terminated pursuant to Article 30, paragraph 2 of the Convention, would other countries with which the United States has a most-favored-nation provision in regard to treatment of consular personnel be able still to claim the level of treatment, in regard to consular immunities, provided for in Article 19 of the US-USSR Consular Convention?

CONSULAR CONVENTION WITH THE SOVIET UNION

The answer to this question is, no. In the event of the termination of the Convention with the USSR, the Soviet Union would no longer be the most favored nation in this respect, and other countries would not be able to base a claim on the level of treatment accorded by Article 19 of the US-USSR Convention.

If I can be of any further assistance, please do not hesitate to call on me.

Sincerely yours,

DOUGLAS MACARTHUR II,
Assistant Secretary for Congressional Relations.

Senator PELL. The hearings are now recessed, until the call of the Chairman. There will be an opportunity for further witnesses later. (Whereupon, at 12:55 p.m., the committee adjourned, subject to the call of the Chairman.)

CONSULAR CONVENTION WITH THE SOVIET UNION
(Executive D, 88th Cong., 2d Sess.)

FRIDAY, FEBRUARY 17, 1967

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to recess, at 10 a.m., in room 4221, New Senate Office Building, Senator J. W. Fulbright (chairman) presiding.

Present: Senators Fulbright, Sparkman, Lausche, Symington, McCarthy, Carlson, Mundt, and Case.

The CHAIRMAN. The committee will come to order.

The Committee on Foreign Relations is meeting this morning to continue to hear testimony on the proposed consular convention with the Soviet Union.

At this point I would like to insert a pertinent letter to all committee members from Assistant Secretary MacArthur.

(The letter referred to follows:)

DEPARTMENT OF STATE,
ASSISTANT SECRETARY,
February 6, 1967.

DEAR SENATOR: In view of the great interest in the projected US-USSR Consular Convention, and some misunderstanding about its purpose and workings, we have prepared a question-and-answer information sheet you may find useful in responding to inquiries from your constituents as well as others. A copy is enclosed, and I shall be happy to supply further copies upon request. Please do not hesitate to call on me if I can give you any further information or answer any other questions.

Sincerely,

DOUGLAS MACARTHUR II,
Assistant Secretary for Congressional Relations.

UNITED STATES-U.S.S.R. CONSULAR CONVENTION
QUESTIONS AND ANSWERS

1. *What was the historical origin of the Convention?*

When we first established relations with the USSR in 1933 an exchange of letters between President Roosevelt and Soviet Foreign Minister Litvinov stated that it had been agreed that a consular convention would be negotiated "immediately following the establishment of relations between our two countries." Other problems intervened, however, and negotiations were never begun.

It was President Eisenhower's proposal at the 1955 Geneva Summit Conference for "concrete steps" to lower "the barriers which now impede the opportunities of people to travel anywhere in the world" and subsequent relaxation by the Bulganin-Khrushchev regime of tight Stalinist controls which led to greatly increased American travel to the USSR and to the realization that we needed to protect U.S. citizens by negotiating an explicit consular convention with the Soviet Union. At the Camp David talks in 1959, Secretary of State Christian Herter proposed such a treaty to Soviet Foreign Minister Gromyko. Drafts

were exchanged in early 1960 but there was little further activity because of subsequent strains in US-Soviet relations until September 1963 when formal negotiations began in Moscow. After 8 months of hard negotiations, the Convention was signed on June 1, 1964 and submitted to the Senate by President Johnson on June 12, 1964.

2. What is the basic purpose of the Convention?

We need this treaty to secure rights for Americans in the Soviet Union that they do not now have. Under present Soviet law Soviet citizens and foreigners alike can be held incommunicado for nine months or more during investigation of a criminal charge. The Consular Convention contains major concessions by the USSR. It specifies that U.S. officials will be notified immediately (within 1-3 days) when an American citizen is arrested or detained in the USSR and it stipulates that these officials will have rights of visitation without delay (within 2-4 days) and on a continuing basis thereafter.

3. Why do we need additional protection for American citizens?

Because increasing numbers of them travel to the Soviet Union and the number which encounters difficulties rises proportionally. Between 1962 and 1966 the number of Americans travelling to the USSR rose by 50% to 18,000, while the number of Soviet travelers remained static at about 900 per year. Since the Convention was signed in 1964, more than 20 arrests or detentions of American citizens in the USSR have come to our attention. In none of these cases have we been notified of the incident or allowed to visit the American within a reasonable period and certainly not within the time limits specified in this treaty. Meanwhile, our own constitutional system and democratic society automatically provide Soviet travelers here with protections similar to those our travelers would obtain from the convention.

Without the protection of such an agreement, Americans have frequently been isolated in Soviet prisons for long periods and kept from contact with American Embassy consular officers. One, Newcomb Mott, died in Soviet hands under these circumstances. During periods of strained US-USSR relations such as the present Soviet treatment of Americans accused of violating their law is likely to be harsher than usual.

4. Does the Convention provide for the opening of new Soviet consulates in the US?

No. It does not authorize, propose, suggest, provide for or require the opening of a single US consulate in the USSR or a single Soviet consulate in the US. It does not permit the Soviets to send a single extra person to this country nor does it let us send anyone to the USSR. What it does do is to provide ground rules for the protection of American citizens in the USSR—ground rules which we badly need.

Under the Constitution, the President's approval is all that is needed to permit foreign governments to establish consulates in the US. Between 1934 and 1948 there were three Soviet consulates in the US and an American consulate in the USSR, though there was no US-USSR consular agreement in force.

5. Why do we grant Soviet consular officers immunity from our criminal jurisdiction?

Because we believe it is vital to have the same protection for American consular officers and clerical employees in the USSR. Since 1946, 31 Americans at our Embassy in Moscow have been expelled by the Soviets, most often on allegations of espionage. Without immunity our consular employees could be jailed or suffer even harsher punishment on similar trumped-up charges. Furthermore, action against American consular personnel serving in the USSR without immunity could be a temptation to Soviet authorities whenever a Soviet citizen is arrested in this country for espionage. Other governments similarly protect their officials and clerical employees in the USSR; the British and the Japanese recently negotiated consular conventions with the Soviet Union containing immunity provisions modeled after those in the US-USSR agreement.

6. Is it right to extend this immunity to clerical employees as well?

We believe that the American secretaries, file clerks and communications and administrative personnel whom we might send to a consulate in the USSR need and deserve the protection of immunity as much if not more than the consular officers. Clerical employees we would send to a consulate in the Soviet Union would often be young women and it would be both unfair and from a security

point of view unwise to give them less protection than we give our experienced officers.

Of course, the Soviets would not be allowed to station a staff of Soviet nationals at a consulate in the US larger than the number of Americans we send to the USSR. If we send a staff of 10 to the USSR the Soviets may have a total of ten here.

7. *What is the prospect for the reciprocal opening of consular offices?*

There are no formal proposals or plans pending for the opening of separate consular offices of either country in the other. If at a later date it was decided to be appropriate to open one outside the respective capitals, it would be the subject of careful negotiation on a strict quid-pro-quo basis. Such an office would probably involve 10 to 15 Americans in the Soviet Union, with the Soviets permitted to send the same number here. In accordance with Secretary Rusk's statement before the Senate Foreign Relations Committee, we would plan to consult that body and the state and local officials of the community to be affected, before concluding such an agreement. While, as noted, such an arrangement would be reciprocal, the fact that the Soviet society is a closed one while the United States is open, and that the U.S. citizens needing service and protection while traveling in the Soviet Union far outnumber Soviet citizens with like needs in the U.S., indicate that the balance of advantage would be on our side.

8. *If a Soviet consulate were eventually opened would it represent a threat to the security of the US?*

The opening of one Soviet consulate in the US would not materially affect our internal security. The number of Soviet citizens now enjoying immunity, 452, would be increased by only 10 or 15 persons. We have the right under the treaty to screen the personnel of such an office before agreeing to their assignment. We are also authorized by the treaty to prevent them from travelling to sensitive areas in the country and to expel them if they prove to be undesirable. We could close a Soviet consulate in the US whenever we wished, and we could cancel the Consular Convention on six months' notice. Both Acting Attorney General Ramsey Clark and FBI Director Hoover have stated that 10 to 15 additional Soviet officials in this country would not place an undue burden on their organizations.

9. *What effect will the immunity provisions have on our agreements with other countries? Would immunities received by the Soviets be automatically extended under MFN clauses to other countries?*

We have 35 agreements in force with other countries which require us, on the basis of reciprocity, to extend most favored nation treatment to consular officers and occasionally consular employees. A recent survey shows that 27 of these countries have consular offices here with about 577 personnel. Should these countries agree to grant immunity from criminal jurisdiction to the 424 American consular officers and employees stationed there, we would have to extend the same treatment to their people here. All twenty-seven of these countries can be described as either friendly or neutral.

Our Embassies in these 27 countries were asked to estimate whether their host country would ask for most favored nation treatment—and give it to us in return. The replies indicated that at most 11 might make such requests, with 290 officers and employees. Assuming that we eventually decide to open a consulate in the USSR with 15 people, we would permit the opening of a Soviet consulate with 15 people here. In this case a total of 305 foreign consular officers and employees would be affected. This compares with the estimate of 9400 foreign diplomatic officers, members of their families and employees who now enjoy full diplomatic immunity in the US.

10. *What do other countries do about their consular relations with the USSR?*

Prior to the negotiation of the US-USSR convention the Federal Republic of Germany and Austria were the only non-communist countries which had consular treaties with the USSR. Neither of these treaties contained firm guarantees on notification and access similar to those in the US-USSR treaty.

Since 1965 the French, Finns, British, Japanese and Italians have negotiated consular conventions with the USSR. The British and Japanese conventions are modeled after the US treaty both in the guarantees on notification and access and in the immunities provision. Of the non-communist countries, India and Turkey have consulates in the USSR. Italy, Japan and Finland hope to open consulates soon.

11. *What effect does the convention have on estate and tax matters in the US?*

The estate and tax provisions of this convention are the same as those in other consular conventions which the US has negotiated recently. The United States made no concessions about estates in this convention. In the negotiations the Soviet Government attempted to obtain wide powers for its consular officials in the settlement of estates of American citizens where a Soviet citizen is a beneficiary, or in the settlement of estates of Soviet citizens who die in the United States. The Soviet Government did not obtain these powers.

The convention provides that consuls can play a role in the settlement of estates *only if permissible under the existing applicable local law*. If the convention is ratified, therefore, the laws of the individual states would continue, as they do now, to govern the extent to which a Soviet consul can play a part in the settlement of an estate.

This convention, like many others to which the US is a party, exempts the consular personnel of the sending state from Federal and State taxes with certain exceptions. Also, property used for a consulate or as residences for consular and diplomatic personnel would be exempt from real estate taxes. This is normal international practice.

12. *In view of the Soviet record of treaty violations, how can you make them observe this one? And what can be done if they don't?*

It is true that, particularly in the Stalin years, the Soviet Union violated a number of international agreements and treaties. A careful study of serious violations can be found in "Background Information on the Soviet Union in International Relations" prepared by the Department of State in 1961.

Despite its earlier record of repeated violations of international obligations, the Soviet Union is party to a number of multilateral and bilateral agreements which it has not been accused of violating. There may have been infractions of some of these agreements, but the Soviet Government can be said to have generally found it to be in its interest to live up to them. Among the most important of these agreements are the Austrian State Treaty (1955), the Antarctic Treaty (1959) and the Limited Nuclear Test Ban Treaty (1963).

Treaties between sovereign governments are negotiated on the basis of mutual self-interest, not as rewards for good behavior or as evidences of good faith. We believe there are areas where the US and Soviet interests coincide, though these areas must be carefully delineated and explored before arriving at any agreement. The Limited Test Ban Treaty, the Treaty on Outer Space which we have just signed, and the treaty on the non-proliferation of nuclear weapons which is now under discussion are examples of agreements covering such areas. Each of these agreements either has built-in safeguards or is self-enforcing. The consular treaty is no exception—it is carefully drafted to provide full protection against abuse.

Should the Soviet Union violate the terms of this agreement we could suspend it or, with six months notice, terminate it. Should a Soviet consulate be opened in this country and should its personnel violate our laws or the standards of behavior we would expect, we could expel them or close the consulate.

13. *Does the Convention prejudice the position of subject peoples incorporated against their will into the Soviet Union?*

No, it does not. The United States Government has never recognized the forcible annexation of Estonia, Latvia, and Lithuania. Ratification of this convention would in no way change our policy in this respect, nor would any subsequent opening of a consulate or demarcation of a consular district. Recognition of incorporation of states into the Soviet Union would require a positive statement or act by the United States. The convention contains no such statement and provides for no such act. It is United States policy to support the just aspirations of all peoples of the world and to look forward to the day when all will be able to express these aspirations freely. The ratification of this treaty will not change this policy—any more than did the signing of more than 105 other bilateral and multilateral agreements which we have entered into with the U.S.S.R.

The CHAIRMAN. Our first witness today is Dr. Lev E. Dobriansky of the National Captive Nations Committee.

Good Morning, Doctor.

**STATEMENT OF LEV E. DOBRIANSKY, CHAIRMAN, NATIONAL
CAPTIVE NATIONS COMMITTEE**

Mr. DOBRIANSKY. Good morning.

My name is Lev E. Dobriansky. I am chairman of the National Captive Nations Committee. The committee is a coordinating educational group here in Washington that was founded on the basis of the Captive Nations Week resolution passed by Congress in July 1959, and one of its prime functions, in association with roughly about 35 local committees throughout the country, is the observance of Captive Nations Week each year, the third week of July, in addition to offering educational advice on issues pertaining to any and all the captive nations.

OPPOSITION TO CONSULAR TREATY

Mr. Chairman and distinguished members, I am most grateful for this opportunity to testify in opposition to Senate ratification of the United States-U.S.S.R. Consular Convention. My statement addresses itself by way of refutation to every salient argument that has been advanced in favor of the treaty, and it raises several additional objections to it, along with a little-known contradiction in State Department thinking regarding our relations with the Soviet Union. On the scale of careful politico-diplomatic calculation the treaty definitely does not rest on a quid pro quo basis—indeed, it exposes us to a grave net disadvantage and grants a windfall to imperio-colonialist Moscow—and, from a positive viewpoint, should be replaced by a concrete alternative which, on net balance, really upholds the principle of reciprocity and mutual advantage.

Contrary to the remarks of Secretary Rusk and others, this treaty is far more than just another consular convention. We're not dealing in arrangements with Zambia or Chad; instead, we're dealing with the power and survival base of the entire Red empire which challenges us on every major continent and, considering its relatively inferior resources, has done a historically phenomenal job, in the instant time of 50 years, to negate the principles of national independence and freedom. It would be naive of us to consider and evaluate this treaty merely in the vacuum of "little difference" from other consular conventions. For, in content, it contains an unusual diplomatic immunity privilege that no other existing convention does and, in terms of political and security ramifications and implication, it stands uniquely alone with all the net disadvantage it would heap upon us. In short, the treaty cannot be considered in void of realities both within the U.S.S.R. and here, the cold war struggle itself, as well as principle and even morality, Vietnam, the East-West trade issue, and our own serious politico-cultural gap in understanding the Soviet Union.

MISUNDERSTANDINGS ABOUT THE U.S.S.R.

By its own textual evidence the treaty is a pitiful product of this gap in our knowledge and understanding of the U.S.S.R. Though it wasn't consummated then, it is a vestigial remain of the thirties when similar illusions were generated in this country about the great transformation and economic changes taking place in the U.S.S.R. about "the great Soviet experiment" in what was and, in some quarters, still is foolishly called "Russia," about the "good Communists" in America

who join in humanitarian projects and work for "world peace," and about increased trade and understanding with "Russia," which was one of the illusory arguments in support of diplomatic relations with this empire-state. This vestigial remain was revived in the fifties, when an overabundance of lipservice and timidity caused a realistic policy to remain stillborn, and now is being pressed for acceptance under the shopworn vagaries of "windows in Russia," "mutual understanding," "improving communications" and "normalizing relations."

The basic, ideational structure of the treaty is not new, in fact it is stale, unimaginative, maladjusted to evolving reality, and highly disadvantageous to us, both politically and morally. The treaty is based on the archaic, preconceptual notion that the U.S.S.R. is "Russia," and its branch principle of consularism, extended to Leningrad today but tomorrow, once general Senate consent is in the pocket, to Riga or Odessa or Tbilisi or even Tashkent, defies the multinational, governmental reality of the U.S.S.R. and plays neatly into colonialist Moscow's hands. Though well known to some scholars long before, one would think that the massive disclosures of World War II about the deep and invincible multinational drives for independence and freedom by the captive non-Russian nations in the U.S.S.R. would have made some imprint on the framers of this treaty. Indeed, they might have even profited from the Senate's own study in 1965. "The Soviet Empire," and have deduced to what extent this treaty really places its blessings on Soviet Russian imperio-colonialism within the U.S.S.R., truly an imperium in imperio.

LEGAL INVALIDITY

Clearly reflecting this false, conceptual structure of the treaty are the patent expressions in its very contents. The treaty is studded with the notion of a Soviet national, a Homo Sovieticus or Red Moscow's equivalent of "Russian." Throughout you read "a national of the sending state," the "national flag of the sending state," "the national coat-of-arms of the sending state" and so forth. Mr. Chairman, if you will permit me the lingual luxury of some Brooklynese, there ain't no such political animal in existence as a Soviet national or a national of the Soviet Union. Nor are there such objects in existence as a "national flag" of the U.S.S.R. or a "national coat-of-arms" of the U.S.S.R. These concepts are applicable to the United States, which is a nation-state, but they are myths as concerns the U.S.S.R. which is an empire-state made up of numerous captive, national republics. Whoever wrote up this treaty either has never read the U.S.S.R. Constitution, the plethora of official pronouncements on Russian/non-Russian relations, and the United Nations' output of both Ukrainian and Byelorussian delegations or, if he has, then is vulnerable to a number of conjectures, one of which is the impress of outmoded preconceptions.

In logic and reason this fact alone invalidates this convention. Because of its gross misrepresentation of the other party, if such a contract were brought into a court of law, one doesn't have to be a lawyer to know what the judge's decision would be. Mythical beings and objects would scarcely be deserving of serious judicial thought, and the contract would be thrown out of court. So, here, you as Senators and some also as lawyers are asked to judge this contract, this

treaty. Can you in rational conscience agree to a treaty that in its very wordage and concept entertains mythical objects?

This is not a matter of mere semantics. Words have meaning, and in an issue as serious as this, in time they can have tragic meaning for us and also for half of the population of the U.S.S.R. Let there be no mistake about it, such mythmaking on our part, as that gratuitously proffered, serves Moscow well in its dual policy of projecting a Soviet national, a "Soviet" like an "American," and accomplishing its cultural and other types of genocide of the non-Russian nations. Of course Moscow welcomes this treaty and its fantastic conceptual contents, even to the extent of making a so-called concession regarding the arrest of Americans in the Soviet Union, for the treaty is in essence a diplomatic affirmation of Moscow's imperium in imperio and an encouragement for its subtle, genocidal policies.

BRANCH CONSULARISM: ONE COUNTRY MYTH

Reinforcing and reflecting the underlying myth that the U.S.S.R. is a nation-state is the branch principle of consularism, the instrument that supposedly attests to the "national" integrality of the U.S.S.R. Aside from the utter legal defectiveness of the treaty, State Department spokesmen make a great point of the distinction between the treaty, with even greater emphasis on the touted notification and access provision, and the subject of further negotiations for the location of consulates. This is more for the easy sale of the treaty and its ratification, evading objections on grounds of non-Russian nations in the U.S.S.R., than serving any real, intellectual point. For obviously, on the basis of the conceptual framework of the treaty as shown here, negotiations will go beyond Leningrad to Odessa and so forth where Americans, after all, travel, too. In fact, a ratified treaty would justify such further negotiations, logically forcing them into such non-Russian national directions regardless of the forms of national sovereignty involved in each and every non-Russian republic.

Mr. Rusk is on record admitting that a dilemma would arise if consulates were set up in the Baltic Republics. But there would be a similar dilemma with reference to other non-Russian republics—not in terms of recognizing the free locations of the Baltic nations are refusing to recognize the latter's forced incorporation into the U.S.S.R., but in equally important terms of recognizing the distinctive national identities and historical credentials of these nations and refusing to reduce them to a populational and territorial expression deserving of only a consulate, a branch office of our Moscow Embassy. In two cases, the dilemma would be legal with our complete recognition of original charter members of the United Nations, Soviet Ukraine and Soviet Byelorussia; in all cases, the dilemma would be politico-moral when, on the one hand, our leaders talk about "friendship with all peoples"—"the fifth and most important principle of our foreign policy is support of national independence * * * the right of each people to govern themselves and to shape their own institutions. We follow this principle by encouraging the end of colonial rule"—and, on the other hand, they would enforce a treaty that conceptually and instrumentally undermines this "most important principle of our foreign policy."

Mr. Chairman, a perfect example of the State Department's double-talk and double standards of behavior, I think, is provided in point 13 of the questions and answers sent, I presume, to each Senator on February 6 by Mr. MacArthur of the Department. It not only contradicts the testimony already given by Secretary of State Rusk, and its admission that a dilemma would arise, but also, in my opinion, demonstrates again the psycho-political incompetence of some in the Department.

ADDITIONAL DISADVANTAGES

In addition to these basic intellectual, legal, political, and moral aspects of the treaty, there are the security, economic, and general diplomatic features. Let's examine each briefly but essentially. Aside from the superficial selling point of protecting U.S. citizens in the U.S.S.R., much is made of the so-called Russian concession on notification and access. But is it really a concession? It is as much a concession as a thief giving up stolen property. This civilized provision should have been demanded long ago on the purely diplomatic, ambassadorial level, on the very basis of the Roosevelt-Litvinov agreements of November 1933 that legally have remained in force to this day and upon which, I am given to understand, we have made a number of Supreme Court decisions—a number of Supreme Court decisions have been based. I repeat, on the very basis of the Roosevelt-Litvinov agreements of November 1933 that legally have remained in force to this very day. Applying this principle, there's no net gain in here, as the treaty's proponents would have us believe. If we really believe in this principle of reciprocity, we should press for this provision now, at long last, within the present context of our diplomatic relations with the U.S.S.R., and without paying the heavy price of net disadvantage in the convention. This treaty is clearly a sham performance of improving relations. Our right to the protection of American citizens was established in the executive agreements of 1933, and even aside from all this clear legalism, it should be strongly emphasized that notification and access do not afford real complete protection to our citizens no matter how many consulates we seek to establish. Arbitrary arrest can easily continue, and brainwashing, in fact, can even be accomplished within three days and with ease.

Moreover, there is no guarantee in this make-believe concession that important U.S. citizens might not be arrested and held incommunicado by the Russians indirectly, namely by the police in Poland, Czechoslovakia, and elsewhere in the outer empire. They work through their associates in other spheres of activity; they can make fitting arrangements for this type of activity, economic, political, et cetera. They can make fitting arrangements for this type of activity. It is not the aggregate number of Americans who travel to the U.S.S.R. that is important, the few important Americans for them in given circumstances is what counts, and this business can be undertaken on neighboring terrain.

We are also told that risks of espionage have to be assumed in our open society. Life is full of risks, but we don't recklessly assume them without, rationally, seeking the realization of net gain and advantage. In the narrow context of espionage activity alone, and although spying is a two-way street, only a relative disadvantage would be our lot here. One does not have to be a FBI agent to arrive at this estimate

when one considers the dominant facts that exceptionally well spy-trained Russians would enjoy a larger pond to fish in here than we there. Also, to merely cite that no more than 10 or 15 Russian consular officers would be here overlooks the coefficient of their spy effectiveness. Even in the broader context of the treaty's analysis, there is no sufficient aggregate advantage to offset this particular disadvantage.

IMMUNITY PROVISION

The risks not only of espionage but also of coercion, bribery, blackmail of American citizens with relatives in the U.S.S.R. some of which the Rumanians have been engaged in, and even sundry political warfare tactics directed against ethnic groups here are accentuated by the most gratuitous provision in the treaty of diplomatic immunity for crimes beyond misdemeanors. Even our friends and allies don't enjoy this privilege and, as admitted by the State Department, this privilege would be sought by others on a most-favored-nation basis, including other totalitarian Red governments. Guided by the Department's testimonies on these points, if I am correct in all of this, then trading for the so-called concession on notification and access our real concessions of politically slighting the captive non-Russian nations in the U.S.S.R., granting diplomatic immunity to consular officers, and accepting greater risks of espionage and political warfare activity in our open society renders the treaty a bum deal.

The current shell game of manipulating figures—10 or 15 or 20 Russian consular personnel in this country—not only misleads the public as to the qualitative determinants of effective espionage (it took only a handful of spies to rob us of our atomic secrets for the expedition of totalitarian Russian nuclearity) and the mentioned most-favored-nation sieve but also conceals the fact that a Senate confirmation of this treaty would open up a Pandora's Box of Soviet Russian pressure against every free government in Latin America.

The immediate objective would be similar consular conventions; the ultimate objective would be a really intensified political warfare in the area with a network of consulates as the prime instrument. This is a time when many of our own officials have been warning us to expect stepped up Red subversion throughout the continent. In the misplaced spirit of "easing tensions," "normalizing relations," "pursuing peace" and other homiletical spurities, what Latin American government could refuse the request for a consulate after the supposed leader of the free world has extended this benefit to the rulers of the Kremlin. Beginning with 10 or 15 here we may well end up with several hundred additional Russian operatives in the hemisphere—and cloaked with diplomatic immunity.

Concerning the economic aspect, Mr. Rusk has argued that the treaty would contribute to "increasing trade between our two countries." In 1965 I appeared before this committee on the East-West trade issue and stressed the dangers of repeating our economic errors of the twenties and thirties in regard to the Soviet Union. This isn't the place to elaborate on them again except to say that as a trade wedge the treaty may have as much commercial value, not to speak of other values, as the expectations nourished by the British who today are accusing Moscow of renegeing on its promises to buy more British goods, the purchases last year being lower than in 1963. As to other

values it appears quite irrational to really aid the U.S.S.R. economy through trade while it chiefly supports the Red totalitarian ally in Hanoi to decimate Americans.

NEED FOR MORE WINDOWS IN SOVIET UNION QUESTIONED

Finally, in support of the treaty we have heard about the inadequacy of our Embassy in Moscow, the need for mutual understanding, normalizing relations, improving communications, opening up more windows in Russia, and pursuing the goal of peace. Good intentions and objectives are oftentimes marred and, in time, liquidated by imprudent means, lipserviced principles, and timid accommodation. It is interesting that for years the Department has opposed the proposal for direct diplomatic relations with Byelorussia and Ukraine because it would mean more communists here and yet today, now, the Department is prepared to allow for more through the consular medium. The net advantage of having this kind of window in the Soviet Union—in Byelorussia, Ukraine, Armenia, and even Kazakh Turkestan; in Minsk, Kiev, Yerevan, and Alma Ata, respectively—is that all the good intentions and objectives mentioned would have the chance of being realized, all the glaring defects of the consular treaty would not exist, and all the accruing illusions about “communism” tagged on an old broken-down record of the thirties would quickly dissipate. Aiming our diplomatic efforts at the captive non-Russian nations in the U.S.S.R., which is even accommodated by the U.S.S.R. Constitution, is a new, fresh, more realistic alternative that this committee should positively and constructively explore. Broken-down records about “changes in communism,” consulates in Russia, understanding through trade and other familiar tunes of the thirties will not enable us to cope with the ever-widening penetrations of Soviet Russian imperio-colonialism in the free world, including even our own hemisphere. These penetrations are systematically executed through and by leaps over our Maginot wall of containment.

Marx, who in the last century had keener insights into the historic process of Russian expansionism, both overt and covert, than some of our experts have today, left us one which deserves our sober contemplation:

The prestige of Russian diplomacy and the renown of Russia's military strength can be maintained far more easily and securely in peace than in war * * *. A system of intimidation is far less expensive than actual warfare.

Very frankly, Senators, if in some degree you are intimidated by Soviet Russian nuclearity, at that in part launched by espionage in the forties, while Moscow was our great “democratic” ally, if, for whatever reason, you don't give a hoot about the freedom aspirations of some 120 million non-Russians in the U.S.S.R.; if you want, albeit inadvertently, to lend your support to the perpetuation of Soviet Russian imperio-colonialism and, as so many of our leaders in the past, to become the unsuspecting guardians of Moscow's imperium in imperio; if, in your conscience, you believe that American citizens will really be “protected” in the U.S.S.R. and that this treaty is not a sham performance in “building bridges of understanding;” if you think the floodgates would not be opened to disproportionate Russian espionage and political warfare in our hemisphere; if perhaps you're striving for

another Russo-American alliance—an empire and a democracy, this time against the so-called yellow peril—to insure the grounds of our chief enemy and in inevitable time to undermine the grounds of our national security and independence, then you have no choice but to vote for this anachronism of the thirties. If not on each and all of these relevant points, your right choice is to reject it, consider my proposed alternative in tune with the sixties, and also call for a thorough review of U.S. policy toward the U.S.S.R., a sort of a great debate, one which we have never had in our history and for which I offer this proposed resolution to any of you who might be interested. It's as simple as this: this treaty is both a symbol of our politico-culture lag in relation to the multinational empire-state of the U.S.S.R. and a gift to colonialist Moscow's psycho-political strategy and war against the free world.

Mr. Chairman, I take it, Senator Sparkman, you are occupying the Chair. This concludes my statement, and at this point, for the further elaboration of the arguments advanced here, I request the inclusion into the record of the hearings of my more comprehensive article entitled "Ten Reasons Against the U.S.-U.S.S.R. Consular Convention," and also an article on "Historical Lessons in Totalitarian Trade," dealing with background material concerning East-West trade and, of course, the relationship between this consular treaty and the East-West trade issue.

Senator SPARKMAN (presiding). Without objection those will be included, and also the resolution which you have at the end of your statement.

Mr. DOBRIANSKY. Yes, please.

Senator SPARKMAN. Fine.

(The material referred to appears on pages 323 and 332, respectively in the appendix.)

FEASIBILITY OF DIPLOMATIC RELATIONS WITH THE UKRAINE AND
BYELORUSSIA

Senator SPARKMAN. I should like to ask you a very few questions, Doctor. One thing you mention in your statement concerns the matter of diplomatic relations with the Ukraine and Byelorussia. Would you favor such relations and do you intend to suggest that they are feasible?

Mr. DOBRIANSKY. Yes, definitely. I favored them for some time.

Senator, you have to look at the framework in which I am analyzing all of this; namely, I am concerned about espionage. But there are other aspects, and I think in the treatment of a treaty of this sort, as indeed in any issue with the Soviet Union, one has to give proper weight to each factor and strive, if you will, toward evaluation leading toward a net balance to our advantage. In this connection, I have emphasized the political, the moral, and so on.

Now, my main point here is that the State Department, for the longest time, actually since 1953 when this was considered on the House side, and as approved unanimously by Mrs. Bolton's subcommittee, ready to be taken before the House Foreign Affairs Committee, when Mr. Chipperfield was chairman of the committee, the State Department argued consistently that this would mean more commu-

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nist missions here, more communists in the United States, and leading to more spy work.

Now, here we have a consular treaty which has these obvious legal and, I would say, psycho-political and moral defects, and it is using the same argument in favor of the consular treaty.

Well, you cannot have it both ways.

WOULD MOSCOW ACCEPT IT?

Now, the second point one might raise, and oftentimes it is raised, namely, would Moscow accept it?

Well, first of all, we have never tried it. The British did by record, not what the conversations were backstage, and that was back in 1946 or 1947. We never tried it. And yet this is accommodated by the U.S.S.R. Constitution, I believe, provision 18(a) in which each of these national republics can enter into direct diplomatic relations with other countries and, as a consequence, I feel that if we should try it, then we put them definitely on the defensive. If they are truly interested in furthering peaceful coexistence, in having real mutual understanding between the American people, and not this political entity of 200 million Russians, because there are no 200 million Russians in the universe, no less in the Soviet Union, but with all of these different nations within the U.S.S.R.

Now, finally, let me say this: You have what appears to me, and I think I have enough international lawyers to back me up on this, we are in a legal mess of some sort here in this sense, that we both de facto and de jure recognize the representatives of the Ukraine and Byelorussia in the U.N.

Mr. Goldberg, day in and day out symbolizes, personifies, that recognition.

While we are doing that up in the U.N. and elsewhere in international conferences, here we are coming off with a consular instrument that, in a sense, degrades these nations within the U.S.S.R., and that is my point, and I think it is a point that should be considered as a concrete alternative to this defective treaty.

CAPTIVE NON-RUSSIAN NATIONS IN THE U.S.S.R.

Senator SPARKMAN. Also in your statement you refer to the captive non-Russian nations in the U.S.S.R. Which are those nations?

Mr. DOBRIANSKY. These would be all the nations, for example, starting with Latvia, Estonia, Lithuania, then we proceed on to Byelorussia, the Ukraine, Armenia, Azerbaijan, Georgia, even some of the North Caucasian area, those that, I would say, in Central Asia, Turkestan, despite the fact that Moscow has divided that area into five republics. And I would even talk in terms of the peoples in the Urals, although the Washington Post and other organs are still not familiar with that concept.

But it is a thing that is in history and going all the way back to World War I.

Now, these are non-Russian peoples. They constitute roughly over half in terms of some statistical analyses, in terms of others, approximately half of the population in the U.S.S.R.

Senator SPARKMAN. The non-Russian peoples would be about half?

Mr. DOBRIANSKY. That is right.

Senator SPARKMAN. Would you include White Russia?

Mr. DOBRIANSKY. Byelorussia. Yes, indeed.

Senator SPARKMAN. Kazakh?

Mr. DOBRIANSKY. Yes. There we have a problem. Yes, I would include Kazakh. There are representatives of this area of Kazakh in this country, and many parts of the Middle East, who have fought for independence. May I say this, Senator, it brings to mind the very wonderful statement, in my opinion—it is about the best on record—in the United Nations that was issued by our Ambassador Stevenson back in November, November 25, 1961, in which he, in that statement, covers all the independent drives on the part of these various peoples and nations within the U.S.S.R.

INCORPORATION OF REPUBLICS INTO THE U.S.S.R.

Senator SPARKMAN. How did they become incorporated—and I am not referring to the Baltic States, but these others that you have named—into the U.S.S.R.?

Mr. DOBRIANSKY. Forcibly, in the same way that the Baltic States were, practically 20 years later.

Now, in most—

Senator SPARKMAN. Was it as part of the revolution?

Mr. DOBRIANSKY. No. You did not have the establishment of the Soviet Union until 1922–23. But when Soviet Russia or the R.S.F.S.R. was established with Lenin at the head, there was recognition, either formal or informal, given to many of these independent national republics, the Ukrainian Republic, Byelorussia, Armenia, Georgia, and various others.

Senator SPARKMAN. You say recognition. Recognition by whom?

Mr. DOBRIANSKY. By the commissariat back in December 1917 led by Mr. Lenin.

Senator SPARKMAN. Did they go in one by one or collectively?

Mr. DOBRIANSKY. No. I am saying there was that recognition given to these independent states.

Senator SPARKMAN. Yes.

Mr. DOBRIANSKY. Now, following them, each of these was knocked off on a divide-and-conquer principle so that you had the Red army overtaking in time Byelorussia, the area of the Ukraine, these were Sovietized, and the fiction of their independence was still maintained. Now, for example, I think it was in the Treaty of Riga you had three signatories; namely, Soviet Russia, one; Poland, two; and Soviet Ukraine, three. Then after the period of Sovietization, roughly 1920 to 1922, they were brought in forcibly into the new entity called the Union of Soviet Socialist Republics.

AREA OF THE "RED EMPIRE"

Senator SPARKMAN. When you speak of the Red empire, do you mean to include all of these nations?

Mr. DOBRIANSKY. Well, this is the inner sphere. I speak of the imperium in imperio; namely, that this is the basic empire, the inner empire.

Then you have the outer one, taking those, of course, that were brought under the influence and domination of Moscow since World War II to the present, including Cuba.

POLITICO-CULTURAL GAP IN UNDERSTANDING THE SOVIET UNION

Senator SPARKMAN. You make reference in the beginning of your statement to our own serious politico-cultural gap in understanding the Soviet Union. Would you elaborate some on that? Just explain what you mean.

Mr. DOBRIANSKY. Well, taking the point that I made, this gap, one could look at it in this fashion.

If one simply, let us say, reads the Roosevelt-Litvinov papers back in the thirties, you have the same narrow preconceptions with regard to the Soviet Union that are being expressed today and being reflected by this treaty; namely, we have a number of our people and they are unfortunately on record where they look upon the population in the U.S.S.R. as though you had 235 million Russians.

Now, that is a misconception. Here you have a misconception that, in turn, weighs heavily, if you will, on contracts such as this, and numerous others not to speak, if you will, of our considerations governing our psycho-political strategy in relation to the U.S.S.R.

GEORGIA HAS A LONG HISTORY

A second point, namely, a lack of appreciation of the histories of these respective non-Russian nations in the U.S.S.R. meaning the striving on the part of many of these people—now, take Georgia, for example. Georgia was a nation and a state long before, let us say, the Christian era, long before there was any Russia, long before there was a Ukraine or any other area in the U.S.S.R.

Now, this is a long tradition, people with their own language, with their own culture, and the like.

There is not sufficient appreciation there. I think you recall, Senator, when was it, 1962, 1963—there are many other examples I could cite, but let us use this one—when Benny Goodman and his troupe went to Georgia under a cultural exchange agreement operation. They were briefed by people in our State Department and the like. When they went to Tbilisi, one of the girls thought she would ingratiate the group into the good favor of the Georgian people, and started singing in Russian. Well, all hell broke out, pandemonium, and they did not know what struck them. They thought they were showing the very gracious, the good old warm American temperament and the fact was that it was considered an insult by the Georgians to be addressed to them in a language fundamentally of their captor. Someone should have informed them and briefed them that the people in Georgia speak Georgian and not Russian.

Well, there are other cases, of course. Vice President Nixon, as you know, during the "kitchen debate," and I could cite many others.

In the proposed resolution that I have here there are quotes by our leaders—I am not citing who the people are—but each quote actually signifies a very fundamental misconception, outlook toward this entity which I have contended is our basic enemy.

Senator SPARKMAN. Thank you very much.

Senator CARLSON.

Senator CARLSON. Mr. Chairman, I was late getting in, and did not hear Dr. Dobriansky's statement. I am reading it now, and I shall yield.

Senator SPARKMAN. Senator Mundt.

Senator CARLSON. I shall pass to Senator Mundt.

Senator MUNDT. Thank you, Mr. Chairman.

Thank you, Doctor, for a very illuminating statement and for injecting into the discussions some new elements which have not heretofore been brought to the attention of the committee, and most certainly not to the attention of the country.

Before I begin my questioning I would like to insert at this point in the record correspondence I have had with the Department of State.

(The correspondence referred to follows:)

JANUARY 28, 1967.

HON. DEAN RUSK,
*Secretary of State, Department of State,
Washington, D.C.*

DEAR MR. SECRETARY: In connection with the proposed consular convention with the Soviet Union, it has come to my attention that President Roosevelt and Soviet Foreign Minister Litvinov had an exchange of letters on November 16, 1933, which seems to me to bear on the consular convention now before the Senate.

Mr. Litvinov, in his letter to President Roosevelt said:

"Following our conversations I have the honor to inform you that the Soviet Government is prepared to include in a consular convention to be negotiated immediately following the establishment of relations between our two countries provisions in which nationals of the United States shall be granted rights with reference to legal protection which shall not be less favorable than those enjoyed in the Union of Soviet Socialist Republics by nationals of the nation most favored in this respect. Furthermore, I desire to state that such rights will be granted to American nationals immediately upon the establishment of relations between our two countries.

"In this connection I have the honor to call to your attention Article 11 and the Protocol to Article 11, of the Agreement Concerning Conditions of Residence and Business and Legal Protection in General concluded between Germany and the Union of Soviet Socialist Republics on October 12, 1925."

Article 11 and the Protocol to Article 11 were then quoted in Mr. Litvinov's letter as follows:

"Each of the Contracting Parties undertakes to adopt the necessary measures to inform the consul of the other Party as soon as possible whenever a national of the country which he represents is arrested in his district.

"The same procedure shall apply if a prisoner is transferred from one place of detention to another.

"1. The Consul shall be notified either by a communication from the person arrested or by the authorities themselves direct. Such communications shall be made within a period not exceeding seven times twenty-four hours, and in large towns, including capitals of districts, within a period not exceeding three times twenty-four hours.

"2. In places of detention of all kinds, requests made by consular representatives to visit nationals of their country under arrest, or to have them visited by their representatives, shall be granted without delay. The consular representative shall not be entitled to require officials of the courts or prisons to withdraw during his interview with the person under arrest."

President Roosevelt replied, also on November 16:

"I thank you for your letter of November 16, 1933, informing me that the Soviet Government is prepared to grant to nationals of the United States rights with reference to legal protection not less favorable than those enjoyed in the Union of Soviet Socialist Republics by nationals of the nation most favored in this respect. I have noted the provisions of the treaty and protocol concluded between Germany and the Union of Soviet Socialist Republics on October 12, 1925.

"I am glad that nationals of the United States will enjoy the protection afforded by these instruments immediately upon the establishment of relations between our countries and I am fully prepared to negotiate a consular convention covering these subjects as soon as practicable."

I would appreciate the Department's reply to the following questions :

(1) Did the Soviet Union grant American nationals the rights contained in Article 11 and the Protocol to Article 11, cited above, "immediately upon the establishment of relations" between the two countries?

(2) Isn't the Soviet Union still legally obliged to grant these rights?

(3) If not, why not?

Looking forward to hearing from you, I am, with best wishes,

Cordially yours,

KARL E. MUNDT, *U.S. Senator.*

ASSISTANT SECRETARY OF STATE,
Washington, February 3, 1967.

HON. KARL E. MUNDT,
U.S. Senate, Washington, D.C.

DEAR SENATOR MUNDT: The Secretary has asked me to reply to your letter of January 23, 1967, regarding the proposed Consular Convention with the Soviet Union, in which you inquire about the exchange of letters between President Roosevelt and Soviet Foreign Minister Litvinoff on November 16, 1933.

Mr. Litvinoff's letter to President Roosevelt opened with a statement that the Soviet Union was prepared to grant "in a consular convention to be negotiated *immediately* following the establishment of relations between our two countries" rights of consular protection to American nationals no less favorable than those enjoyed in the USSR by nationals of the nation most favored in this respect. The Litvinoff letter then stated that such rights would be granted to American nationals as soon as diplomatic relations were established. This latter affirmation was a unilateral undertaking, given in the stated expectation that a consular convention on the same subject would be "immediately" negotiated as stipulated earlier in the Litvinoff letter. However, no consular convention between the two countries was concluded until they signed the 1964 Convention now pending before the Senate.

In the early period following the establishment of diplomatic relations in 1933, the Soviet Union's application of the Litvinoff affirmation was entirely unsatisfactory to the United States. Several cases occurred in which American citizens were arrested and the Soviets refused to afford consular notification or access on what we considered to be the most-favored-nation basis. In these cases we made energetic protests to the Soviet Union. We pointed out that the Soviet-German Agreement of 1925 provided for notification within three to seven days and for access "without delay", and that these provisions were applicable to American nationals as a result of the Litvinoff affirmation. However, the Soviets took the position that notification and access did not become operative until the "investigation" of cases had been completed. We ascertained that the Soviet Government was applying this interpretation to German nationals in exactly the same fashion. Thus the most-favored-nation treatment was unsatisfactory from our viewpoint. The issues of notification and access are definitively resolved by the 1964 Consular Convention and its Protocol, which make clear that notification and access must be accorded within four days "from the time of arrest or detention."

It should also be noted that the Soviet-German Agreement of 1925 did not survive the war and up until the time of signing the US-USSR Convention of 1964, the specific provisions in the German Agreement for consular notification and access had not been repeated in any other treaty from whose provisions the United States could claim the most-favored-nation treatment pledged by Mr. Litvinoff.

The legal deficiencies of the Litvinoff Agreement were among the reasons that led the Department to decide that the time had come to conclude a treaty containing clear and unequivocal provisions giving us the rights of notification and access in cases of Americans arrested in the Soviet Union. These provisions are essential if American citizens traveling in the Soviet Union are to be afforded the consular protection that they deserve. Naturally we would watch

the implementation of the Convention with the utmost care to assure that the obligations set forth in it are being carried out by the Soviet Union.

If I can be of further assistance, please do not hesitate to let me know.

Sincerely yours,

DOUGLAS MACARTHUR II,
Assistant Secretary for Congressional Relations.

FEBRUARY 7, 1967.

Hon. DEAN RUSK,
*Secretary of State,
Department of State, Washington, D.C.*

DEAR DEAN: In reading the January 30 issue of *U.S. News & World Report*, I was disturbed when I read the article entitled "Russia: The Enemy in Vietnam?"

In this article, which was evidently written by an editor of *U.S. News & World Report* stationed in Saigon, there are statements made to the effect that it is the Russians who are furnishing the needed materials to the North Vietnamese which makes it possible for them to continue their war effort. Therefore, I am enclosing a copy of the article with this letter and would appreciate having your comments on it and the questions which I am setting forth below.

1. Is it true as stated that "It is the Russians, however, who are furnishing the real sinews for major and prolonged war." I would like to have any comments you care to make with regard to this statement.

2. Is it true that "The Russians now are investing close to 1 billion dollars a year in the war." Is this a correct figure or is it more or is it less?

3. Is it true that "Most of the trucks that move the needed supplies from North to South Vietnam, for example, come from Russia or her satellites." If it is true, I would appreciate any documentary evidence or figures on truck supplies which you could provide me.

4. Is it true that "Many of the automatic weapons that we capture from North Vietnamese troops are of Russian manufacture." I would like to have any statement or documentary evidence that you would have on this allegation.

5. Is it true that "Most of our plane losses have resulted from the use of Soviet Russia's antiaircraft guns, missiles or MIG jet fighters."

6. Is it true that "Soviet aid to North Vietnam trickled along at an average yearly rate of 35 million dollars until early in 1965, when, even before U.S. began bombing in the North, the Russians started moving in a big way—with SAM antiaircraft missiles, jet fighters, military vehicles, oil, other paraphernalia of war."

7. Is the statement true that "Almost 1,000 SAM's have been fired at U.S. Planes. These Soviet Missiles, launched by Russian-trained crews, have themselves destroyed 30 U.S. planes and contributed in a large measure to an over-all loss in the North of more than 460 U.S. planes." If the figure is different and larger or perhaps less, I would appreciate having any information which you would provide me.

8. Is the statement true that "Cost to the Russians in spent missiles: about 25 million dollars. Cost to the U.S. in planes alone: more than 1 billion dollars."

9. Is the statement true "The North Vietnamese landscape is also studded with conventional antiaircraft positions, about 6,000 in all. The original antiaircraft system was installed by the Chinese. Now bigger guns are coming in. They are Russian." I would appreciate having any additional comments you would care to make about this statement.

10. Is the statement true that "The North Vietnamese Air Force now consists of 75 to 100 fighter planes and a handful of light bombers supplied by the Soviet Union. About one fifth of the force are the most up-to-date MIG-21s; the remainder, MIG-15s and MIG-17s. The MIG's are replaced by the Russians as they are lost in the fighting." I would appreciate having any information on this statement which might supplement it and give me up-to-date information on your estimate of what might be plane support or any kind to the North Vietnamese from the Soviet Union.

11. Is the statement true that "There are upward of 2,000 Russian technicians working at air bases and at SAM sites. North Vietnamese pilots are trained in Russia and supervised by Soviet fliers when they return to Hanoi."

12. Is the statement true that "Within the past few months, the Russians have taught North Vietnamese to man approximately 350 SAM missiles and an estimated 3,000 antiaircraft guns."

13. Would you please comment on the statement "For the first time, Soviet helicopters are being spotted in North Vietnam. Russian cargo aircraft are also making an appearance."

14. Please advise me as to whether or not it is true that "The North Vietnamese war machine runs almost entirely on Russian oil. In the past 18 months, the Russians shipped in 300,000 metric tons." The statement goes on, "Last month alone, the Soviets shipped nearly 25,000 metric tons of gasoline and oil into Haiphong." Since this article is January 30th, that must refer to the month of December, 1966.

15. The article states that "The Russians use ships to transport 80 percent of their aid to North Vietnam." It further states that "All told, the Russians are said to be delivering 80,000 tons of goods a month to Hanoi." Is this statement factual and I would appreciate having any comments on it.

16. The article states that "The Soviet ships going to Haiphong carry not only civilian goods, as the Reds insist, but jet aircraft, SAM's radar gear and anti-aircraft guns." I would appreciate having your comments on this statement.

17. The article states that "Tonnage by sea from all sources—Russia, China, East Europe and non-Communist countries—was estimated at 2 million tons in 1966. Of that, the Russian share was estimated at half the total, Red China's about one fourth." I would appreciate any information which you could provide me as to the accuracy of that statement.

Thanking you for your kind consideration and assuring you I would appreciate hearing from you at your earliest convenience in response to the questions I have posed and any other comments which you might care to make about allegations and statements in this article, I am, with best wishes,

Cordially yours,

KARL E. MUNDT,
U.S. Senator.

FEBRUARY 15, 1967.

Hon. KARL E. MUNDT,
U.S. Senate, Washington, D.C.

DEAR SENATOR MUNDT: Secretary Rusk has asked me to reply to your letter of February 7 concerning the article in *US News & World Report* on "Russia: The Enemy in Vietnam?" which discusses the effect of Soviet aid in supporting the North Vietnamese war effort.

It is correct, as the *US News & World Report* article indicates, that the USSR has over the past several years supplied North Vietnam with a modern air defense system, as well as other military equipment. In addition, the USSR continues to send North Vietnam a wide range of industrial and economic aid, including petroleum and motor vehicles. Although most of the Soviet aid goes to North Vietnam by sea, all available information indicates that almost all of the major military equipment, such as air defense equipment, has been and is being sent by rail across the Chinese mainland.

Although I am unable to answer in detail in an unclassified letter the specific questions you have raised about the details of Soviet aid, I would be pleased to arrange an oral briefing for you on these subjects.

Please let me know if the Department can be of any further assistance to you.
Sincerely,

DOUGLAS MACARTHUR II,
Assistant Secretary for Congressional Relations.

FEBRUARY 10, 1967.

Hon. DEAN RUSK,
*Secretary of State,
Department of State, Washington, D.C.*

DEAR DEAN: In discussions relative to the Consular Convention with the Soviet Union, a question has arisen with regard to the application of the most favored nation rule in the case of a third country should the pending treaty be ratified.

It is my understanding that there are in force a number of bilateral consular treaties between the United States and other governments in which there are most favored nation clauses. If another such government seeks to exercise its most favored nation rights, in order to gain for its consular employees in this country the special immunity provisions of Article 19 of the pending treaty, does that government have to accept all of the terms of our bilateral treaty with the Soviet

Union, or would it only be required to reciprocate as to the diplomatic immunity provisions alone? More specifically, would the third country in such instance be required to accept the terms of Article 12 (and the related protocol) as a condition to our extending to its consular employees the immunity protection of Article 19.

There seems to be some confusion on this matter, although it appears to me that it would be well-covered by established international law and usage. Because of the confusion, however, I would appreciate an answer from you regarding this as soon as possible.

Thanking you in advance for your consideration on this matter, I am,

Cordially yours,

KARL E. MUNDT, *U.S. Senator.*

DEPARTMENT OF STATE,
Washington, February 17, 1967.

Hon. KARL E. MUNDT,
U.S. Senate, Washington, D.C.

DEAR SENATOR MUNDT: The Secretary has asked me to reply to your letter of February 10, 1967, concerning the application of most-favored-nation clauses in consular treaties in the event the proposed US-USSR Consular Convention is ratified.

Specifically, you inquired if a third country seeking to exercise its most-favored-nation rights, in order to gain for its consular officials in the United States the immunity provided in Article 19 of the US-USSR Consular Convention, must reciprocate with regard to all other provisions of that Convention or merely with regard to the immunity article alone.

While one most-favored-nation clause differs from another, it is safe to generalize that established international law and practice require reciprocal treatment from the third country only with regard to the subject matter on which most-favored-nation treatment is sought. Thus, should the US-USSR Consular Convention enter into force, the United States will honor requests from those foreign governments with which we have in force treaties containing the most-favored-nation provision, with respect to the privileges and immunities to be accorded consular personnel, for full immunity of such persons from the criminal jurisdiction of the United States. Such requests will require prior written assurances of reciprocity for comparable American consular personnel in the country concerned. The United States will also require that the procedures contained in Articles 2(3) and (6) of the Convention be observed. The screening procedures contemplated by these paragraphs require advance approval of the United States prior to the appointment of a head of a consular establishment, and advance notification concerning the appointment of all other consular employees.

You also inquired whether the most-favored-nation would be required to accept the terms of Article 12 and the related Protocol of the US-USSR Consular Convention as a prerequisite to obtaining the Article 19 criminal immunity for its consular personnel. As indicated above, the answer is no. In this connection you will be interested to know that our experience with respect to notification and access in the countries which are in a position to seek most-favored-nation treatment establishes that there is no general need for the type of notification and access provisions which we have in the US-USSR Consular Convention.

If the Department can be of any further assistance, please let me know.

Sincerely yours,

DOUGLAS MACARTHUR II,
Assistant Secretary for Congressional Relations.

EFFECT OF TREATY RATIFICATION ON CAPTIVE NATIONS

Senator MUNDT. As I read your statement, the arguments under the heading, "Branch Consularism," you state your belief in that ratification of this treaty would have a very serious impact on the captive nations which are now reluctantly part of this Soviet empire. Is that correct?

Mr. DOBRIANSKY. No question about it, sir, in a way of what you might call a diplomatic degradation of their national being.

Senator MUNDT. Congress has frequently in years past adopted resolutions of sympathy and understanding and encouragement to the captive nations and set up Captive Nations Week and things of that type.

Would this, in effect, be a sort of repudiation of those resolutions if we were now to ratify a treaty which would tend to permanentize their reluctant position of servitude in the Russian empire?

Mr. DOBRIANSKY. I fear so, sir; and, as a matter of fact, it even smacks, unfortunately, of some semblance of hypocrisy saying one thing from one end of the mouth and doing something else from the other.

Senator MUNDT. You say it would indicate that during the debate and our vote we should decide one way or the other. That there is no need to chuck the captive nations under the chin and say, "We are good friends of yours," and, at the next moment, freeze them into perpetuity and into a situation whereby we recognize that all of their diplomatic contacts are to be handled by the Soviets.

Mr. DOBRIANSKY. Right.

Senator MUNDT. It seems to me that kind of hypocrisy of voting them good wishes one day and then denying them any chance for any hope of receiving American encouragement for ultimate liberation the next day certainly cannot make very much sense to them if they are as intelligent as I believe them to be.

Mr. DOBRIANSKY. Yes.

NOTIFICATION AND ACCESS RIGHTS OBTAINABLE MANY YEARS AGO

Senator MUNDT. You stress a point which has been mentioned quite frequently to me by visitors who have come into my office and expressed disenchantment with this ratification process.

They have said, and you seem to affirm the fact, that insofar as reciprocity is concerned, and insofar as our having access and contact with the Americans who are arrested over there, that if this is important, there is nothing in the world to have prevented us from getting it many, many years ago, except a refusal on our part to stand up and demand reciprocity because those are conditions we have granted Russian nationals in our country since time immemorial. Is that correct?

Mr. DOBRIANSKY. That is correct.

Senator MUNDT. You have made a study of that. You are sure that that can be done?

Mr. DOBRIANSKY. Yes. At least the legal basis for it one finds very specifically, for example, in the Litvinov letter to President Roosevelt, November 16, 1933, in which he, and this is quite explicit, and in which he states, to quote:

Furthermore, I desire to state that such rights will be guaranteed to American nationals immediately upon the establishment of relations between our two countries.

Now, Mr. MacArthur, in the questions and answers that he sent to the Senators, points out that this had to do, according to him, with the possibility of having a consular convention between the U.S.S.R. and the United States at that time.

Well, there is a reference to it. But here Litvinov explicitly states, "Once we have diplomatic relations, that from this point on, whether

you have a consular convention or no," and one was not consummated, "that you have the protection of American nationals," and there were many violations, I understand, in that period.

The other important thing is we have had Supreme Court decisions based, if you will, on the legality in these exchanges.

RECIPROCITY IN DIPLOMATIC RELATIONS

Senator MUNDT. It would seem to me over and beyond that, that it is implicit in the very interchange of diplomatic recognition and diplomatic representatives that there is the right to demand reciprocity. I cannot conceive of one nation—to wit, the United States—saying to another nation—the U.S.S.R.—“we are going to have diplomatic exchanges. You send an Ambassador over here and you have an Embassy. We send one over there and we have an Embassy. Under these rules any time you want to you can lock our people up and we will not ask you to let us talk to them, but over on our side, your people can roam around, and if we lock them up, we are going to let you insist on talking to them.”

It does not make any sense to me that we do not have a rule of reciprocity in this whole business of diplomatic relationships unless you have a very weak attitude on the part of this country which perpetually appeases the position of the Russians simply because they come from a different political culture.

Mr. DOBRIANSKY. Well, Senator, I thought that I made that point rather clear. That actually is the way we behaved toward this thing called the Soviet Union over the past roughly 45 years, both economically, politically, even, I would say, intellectually. It would almost seem that we have become the guardians of their particular empire, and this is another illustration, another symbol of this easy accession, if you will, to the primary Russian interests.

Senator MUNDT. Of course, in this particular case we have this whole reciprocal arrangement buttressed and fortified by the Litvinov exchange of letters.

Mr. DOBRIANSKY. Yes.

Senator MUNDT. So if a promise or a treaty from Russia is binding on Russia, it is binding in that regard.

ABROGATION OF LITVINOV AGREEMENT

Now, the position of the State Department is that this was abrogated by the Russians at some time, and so we have asked them to submit to us the date and the communication by which it was abrogated.

I don't know, Mr. Chairman, if that answer has been received from the State Department? Have we had it?

Mr. MARCY. I am sorry. There has been no inquiry on that, if you are speaking of the date of the abrogation.

Senator MUNDT. There have been inquiries and public hearings, and if there is still any doubt about it, I again make this in the nature of an inquiry. It has been done before. It has been done on the floor of the Senate, and it has been done in private communications. I think this committee is entitled to know if it was, in fact, abrogated,

and by what kind of written communication, signed by whom and dated when. I don't like all these vagaries about it. So we will consider this an inquiry.

Senator SPARKMAN. Would you restate the inquiry just the way you want in put to the State Department?

Senator MUNDT. Yes. I would like to know on what date the Russians abrogated this Litvinov agreement, and to have the text of the communication by which it was abrogated, because I doubt very much that it was done by long-distance telephone.

Senator SPARKMAN. We will make that inquiry and get that information for the record.

Senator MUNDT. Thank you. If there is a misunderstanding on the part of the State Department, this certainly should clear it up.

Senator SPARKMAN. There has been correspondence.

Senator MUNDT. Yes. I have had correspondence all around the point, but I have never gotten an answer as to the date or who wrote the communication and what was said on it.

Senator SPARKMAN. Very well.

(The information referred to follows:)

FEBRUARY 23, 1967.

Hon. DOUGLAS MACARTHUR II,
Assistant Secretary of State for Congressional Relations,
Washington, D.C.

DEAR MR. SECRETARY: During the hearing on February 17 on the proposed Consular Convention with the Soviet Union, Senator Mundt stated: "I would like to know on what date the Russians abrogated this Litvinov Agreement, and have the text of the communication by which it was abrogated, because I doubt very much that it was done by long distance telephone."

Senator Sparkman, Acting Chairman of the Committee, replied: "We will make that inquiry and get that information for the record."

We would appreciate having the information Senator Mundt requested as soon as possible.

Sincerely yours,

CARL MARCY.

DEPARTMENT OF STATE,
Washington

Hon. CARL MARCY,
Chief of Staff, Foreign Relations Committee, U.S. Senate, Washington, D.C.

DEAR MR. MARCY: Thank you for your letter of February 23, 1967, in which you pass on the Foreign Relations Committee's inquiry as to when and by what communication the "Litvinoff agreement" of 1933 was abrogated by the Soviet Union. Your reference presumably is to Foreign Minister Litvinoff's letter to President Roosevelt of November 16, 1933, in which the Soviet Union promised unilaterally to extend to American nationals the provisions for consular notification and access contained in the Soviet-German Agreement Concerning Conditions of Residence and Business and Legal Protection of October 12, 1925. I am attaching a copy of Mr. Litvinoff's letter which included the pertinent extracts from the Soviet-German Agreement of 1925.

The Soviet-German Agreement was never, to our knowledge, formally abrogated. It ceased to have effect, however, upon the outbreak of armed hostilities between the two countries during World War II, when each country withdrew its diplomatic and consular personnel. After the war, and the occupation and division of Germany, the pre-war Soviet-German Agreement was not revived. Instead the Soviet Union negotiated new Consular Treaties with both the Federal Republic of Germany and the so-called "German Democratic Republic"—neither of which contain any guarantees of consular notification or access to arrested nationals. I am attaching a copy of Article 17 of the Soviet Agreement of 1958 with the Federal Republic of Germany.

The post-war legal situation with respect to consular protection of American citizens in the Soviet Union, prior to the 1964 signature of the U.S.-U.S.S.R. Consular convention now pending before the Senate, may thus be summarized

as one in which there were no Soviet treaties in force to which the Litvinoff most-favored-nation pledge could attach. This was one of the reasons that persuaded the Department to negotiate the 1964 Convention, containing as it does clear and explicit guarantees of consular notification and access.

The Litvinoff pledge itself, for what it was worth, has also never been formally withdrawn. However Mr. Litvinoff's letter linked the Soviet pledge to the stated expectation that the two countries would "immediately" negotiate a consular convention on the same subject. As you know, this expectation was not fulfilled since no convention was negotiated to agreement until more than thirty years later. The Soviets have long been in the position plausibly to maintain that the Litvinoff pledge was merely an interim undertaking which lapsed upon the failure of the parties "immediately" to negotiate a consular convention.

The legal deficiencies of the "Litvinoff agreement" were among the reasons persuading the Department that the time had come to conclude a treaty containing clear and unequivocal provisions giving us the rights of notification and access in cases of Americans arrested in the Soviet Union. These provisions are essential if American citizens traveling in the Soviet Union are to be afforded the consular protection they deserve. The 1964 Consular Convention and its Protocol achieve this purpose by making it unambiguously clear that notification and access must be granted within four days from the time of arrest or detention of an American national and on a continuing basis thereafter.

If I can be of further assistance, please do not hesitate to let me know.
Sincerely yours,

DOUGLAS MACARTHUR II,
Assistant Secretary for Congressional Relations.

WASHINGTON, November 16, 1933.

MR. FRANKLIN D. ROOSEVELT,
*President of the United States of America,
The White House.*

MY DEAR MR. PRESIDENT: Following our conversations I have the honor to inform you that the Soviet Government is prepared to include in a consular convention to be negotiated immediately following the establishment of relations between our two countries provisions in which nationals of the United States shall be granted rights with reference to legal protection which shall not be less favorable than those enjoyed in the Union of Soviet Socialist Republics by nationals of the nation most favored in this respect. Furthermore, I desire to state that such rights will be granted to American nationals immediately upon the establishment of relations between our two countries.

In this connection I have the honor to call to your attention Article 11 and the Protocol to Article 11, of the Agreement Concerning Conditions of Residence and Business and Legal Protection in General concluded between Germany and the Union of Soviet Socialist Republics on October 12, 1925.

ARTICLE 11

Each of the Contracting Parties undertakes to adopt the necessary measures to inform the consul of the other Party as soon as possible whenever a national of the country which he represents is arrested in his district.

The same procedure shall apply if a prisoner is transferred from one place of detention to another.

FINAL PROTOCOL

Ad Article 11

1. The Consul shall be notified either by a communication from the person arrested or by the authorities themselves direct. Such communications shall be made within a period not exceeding seven times twenty-four hours, and in large towns, including capitals of districts, within a period not exceeding three times twenty-four hours.

2. In places of detention of all kinds, requests made by consular representatives to visit nationals of their country under arrest, or to have them visited by their representatives, shall be granted without delay. The consular representative

shall not be entitled to require officials of the courts or prisons to withdraw during his interview with the person under arrest.

I am, my dear Mr. President,

Very sincerely yours,

MAXIM LITVINOFF,

People's Commissar for Foreign Affairs, Union of Soviet Socialist Republics.

CONSULAR TREATY BETWEEN THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE FEDERAL REPUBLIC OF GERMANY. SIGNED AT BONN, ON 25 APRIL 1958 (UN TREATY SERIES No. 4832)

ARTICLE 17

1. In the performance of his official duties, a consul may apply to the competent local authorities of his consular district and may make representations to them concerning violations of the rights and interests of his State and its citizens and of legal persons which have their head offices in the sending State and are constituted in accordance with its laws.

2. If the consul's representations are not taken into account or if it proves to be the case that authorities outside the consular district are concerned in the matter, the question shall be settled through the diplomatic channel.

AMERICANS OF EASTERN EUROPEAN BACKGROUND

Senator MUNDT. Doctor, you make a point on which I wish you would elaborate somewhat where you say "the risks are not only of espionage," and which we have discussed, and we have had the testimony of J. Edgar Hoover in that regard, and I think we all understand his position on that. You go on to other points not only of espionage, but coercion, bribery, and blackmail of American citizens with relatives in the U.S.S.R., some of which activities the Rumanians have engaged in.

I do not happen to have in my particular state many of the citizens who have relatives in the U.S.S.R. This is a matter which had not been brought to my attention. Would you elaborate on that a little bit?

Mr. DOBRIANSKY. Yes. My main point here, being the psychopolitical aspect of this, now in connection, let us say, with the Rumanians, and I think this has not been brought out sufficiently, in the public arena where, through their diplomatic personnel here, would contact Americans of Rumanian background, let us say, in the area of Cleveland, and after the contact is made, they find out the financial standing of these individuals, also whether they have relations in Rumania, they proceed to build up this whole case, and then we get into the matter of bribery and some blackmail.

I understand in this case that hundreds of thousands of dollars have been passed. "If you want your relative out of Rumania, you have to pay."

Well, this same thing can be done in connection with any of these relatives that Americans have in the U.S.S.R.

And Americans, let us say, of Lithuanian background or of Estonian background or of Ukrainian background may be approached in this same way, and when one considers the Hungarian foreign exchange position or Rumania and practically every other part of the Red empire, including the U.S.S.R. they could really have a heyday along these lines.

There is this aspect that I have not explored, but I should imagine that the committee would, and that is simply not being satisfied with

the statement given by Mr. MacArthur in one paragraph or two, but to consult with lawyers who have had problems, let us say, in the State of Pennsylvania, with the U.S.S.R. concerning legacies, and the rumor that goes about is that there are many Americans of Russian background in California who have left possibly millions of dollars, and these are things that can be easily tapped, it could be tapped, within the present structure, but it would be facilitated if you had the development of these consulates and Moscow, in turn, would be encouraged to really take advantage of us.

Then a third, which I think is very important, and I will give a specific illustration, as many of you Senators know, for example, by virtue of what the Congress did, a statue was set up here in Washington, the Shevchenko statue, to show our feelings, if you will, toward the Ukrainian people, and the like.

Now, they have come here through their cultural exchange people. They are highly selected. No group comes, whether it is a full group, folk dancing, or, let us say, whether it is a journalistic group, without having the use of the proverbial KGB guide, and we have noticed over the past 2, 2½ years where their objective is to infiltrate the churches, Catholic and also Orthodox, to infiltrate highly anti-communist ethnic groups here in the United States, and largely in the North and Southwest, in the State above yours, North Dakota, where there are quite a number of organizations along these lines, and the whole intention there is really to undermine this anti-communist position. Now, this is actually part of their strategy and they will be able to even benefit and even certainly make use of a treaty of this sort, as I stated, a diplomatic degradation with regard to the people of Ukraine, and that would apply to those of Byelorussia and the like.

VISIT FROM ORTHODOX PRIESTS

Senator MUNDT. I was interested in what you said about these Orthodox priests, because I had a visit in my office with two Orthodox priests who desired to testify to the fact that they had been impounded by people, presently with diplomatic immunity in the United States, to utilize the influence of their high office in the Orthodox Church to pull their congregations in the direction of the Russian position. I would very much have liked to have called them as witnesses, but as we have only one day allotted to present the witnesses in opposition, there is no time unless somebody out of the goodness of his heart decides to prolong his discussion a little bit so that other witnesses can be heard. They are available to testify.

I have no personal knowledge of them, but they appear to be good, devout Christians, and they were quite disturbed about what they considered to be an utterly unwarranted and unjustified encroachment upon their functions as ministers of the Gospel.

OPPOSITION WITNESSES

Senator SPARKMAN. Would the Senator yield for a suggestion? The Senator said only one day had been allotted for the opposition. Of course, this is the second day, the Senator realizes.

Senator MUNDT. Let me make it very clear; one day was allotted to those of us who have some questions about the ratification to call witnesses. The only other witness in opposition, I believe, so far has been the American Legion which was called by the committee.

Senator SYMINGTON. Mr. Chairman.

Senator SPARKMAN. It does not seem to me that it matters who calls a witness in opposition. I just wanted the record to show that this is the second day of opposition witnesses.

Senator MUNDT. Will the Senator agree it was a day and a witness?

Senator SPARKMAN. I think the record ought to show this is the second day. In fact, it is the second day Dr. Dobriansky has been in attendance.

LIBERTY LOBBY ADVERTISEMENT

Senator SYMINGTON. Mr. Chairman, as long as this question has come up, an advertisement has been run in my State, I understand, by the Liberty Lobby.

I plan to leave town if possible this afternoon. As a result of this advertisement, I have had letters which congratulated me for taking a position on this treaty which is not the position I have taken. Therefore, if it is in order, as a matter of personal privilege, after this gentleman leaves the witness stand, I would like the Liberty Lobby witness called.

Senator MUNDT. Mr. Chairman, I object to that. We have been pushed around about as much as I think you should push around people who have been allocated today. The Liberty Lobby has not been called by those of us who are seeking to oppose the ratification of this treaty. It is not one of our witnesses. It was called by the Chairman. He made it clear in the public record, and he made it clear in the announcement.

I just think we ought to decide that if you do not want to hear the opposition that we have arranged, say so, and not try to railroad this. If you are going to hear it, let us hear it with the arrangement that was set up.

Senator SYMINGTON. Let me say to my able friend from South Dakota, I did not and do not know who called the witnesses, nor do I know whether or not you called the Liberty Lobby.

Senator MUNDT. To have the record perfectly clear, the Chairman called it. I did not. I asked specifically that it not be called on the day we had witnesses.

Senator SYMINGTON. I did not know that.

Senator MUNDT. I brought it up.

Senator SYMINGTON. I left the Joint Economic Committee to come to this hearing. Here is an advertisement, "The Communist Next Door," which it would appear that I signed, along with my colleague, Senator Long.

The name of the Liberty Lobby is not at the end of the advertisement. My name is. These ads appeared in the Kansas City Times and in the St. Louis Globe-Democrat. The article I am inserting in the record is from the St. Louis Globe-Democrat.

(The advertisement referred to follows:)

ADVERTISEMENT

ADVERTISEMENT

The Communists Next Door

REFUGEES FROM COMMUNISM ARE NEVER FREE FROM FEAR. EVEN HERE IN AMERICA, SOVIET SECRET POLICE CARRY OUT THEIR CAMPAIGN OF TERROR. YEARS AGO, THE SOVIETS HAD HEAD-QUARTERS OR CONSULATES IN OUR MAJOR CITIES...

IN 1948 A KIDNAPPED REFUGEE HELD PRISONER IN THE SOVIET'S NEW YORK CONSULATE MADE A BOLD LEAP FROM THE THIRD FLOOR. TO OKSANA KASENKINA FREEDOM WAS PRECIOUS. IT WAS WORTH TAKING THE CHANCE!

THE SOVIET AGENTS TRIED DESPERATELY TO DRAG HER BACK INSIDE BUT A NEW YORK POLICE-MAN USED FORCE TO PREVENT HER RECAPTURE...

AN OUTRAGED AMERICA DEMANDED THAT SOVIET CONSULATES IN NEW YORK, LOS ANGELES AND SAN FRANCISCO BE CLOSED. UNDER MOUNTING PRESSURE THE U.S. STATE DEPARTMENT KICKED THE REDS OUT!

BY JUNE, 1964 THE HORROR OF THE KASENKINA CASE HAD BEEN FORGOTTEN BY U.S. STATE DEPARTMENT OFFICIALS. THEY SIGNED WITH THE REDS A SOVIET CONSULAR TREATY... AN AGREEMENT TO OPEN NEW CONSULATES IN THE U.S.A.!

IN MARCH OF 1965, J. EDGAR HOOVER, HEAD OF THE FBI, TESTIFIED BEFORE A CONGRESSIONAL SUB-COMMITTEE THAT SIGNING OF THE SOVIET CONSULAR TREATY WAS "A CHERISHED GOAL OF THE SOVIET INTELLIGENCE SERVICES"...

HOOVER'S WARNING WAS IGNORED. SENATOR FULBRIGHT, CHAIRMAN OF THE FOREIGN RELATIONS COMMITTEE, APPROVED THE TREATY AND IN AUGUST, 1965 ASKED FOR A VOTE BY THE SENATE...

AT THAT TIME, THE PATRIOTIC ACTION-PUBLICATION LIBERTY LETTERS ALERTED ITS 170,000 SUBSCRIBERS TO FLOOD THE SENATE WITH PROTESTS AGAINST THE TREATY. SENATE LEADER MIKE MANSFIELD SENSED THAT THE TREATY COULD NOT BE RATIFIED, HE RETURNED IT TO FULBRIGHT'S COMMITTEE.

LIBERTY LETTERS, 32-YEAR * 300 INDEPENDENCE AVENUE, WASHINGTON, D.C.

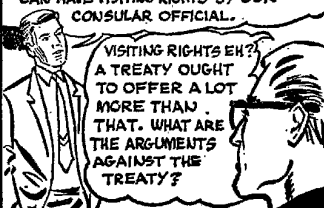


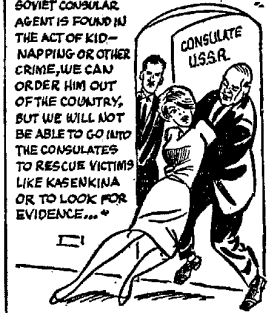




SENATOR, I'M FROM THE STATE DEPARTMENT. WE NEED YOUR VOTE ON THE SOVIET CONSULAR TREATY! IN FACT, WE MUST HAVE YOUR VOTE!

BY JANUARY, 1967, PRESSURE BY THE ADMINISTRATION WAS MOUNTING ON THE SENATE TO APPROVE THE TREATY!

TODAY, THE ADMINISTRATION IS DETERMINED THAT THE TREATY BE BROUGHT TO A VOTE. SENATORS NEED TO KNOW ALL THE FACTS BEFORE MAKING THEIR DECISION...

AS MY LEGISLATIVE AID, WHAT CAN YOU TELL ME ABOUT THIS CONSULAR TREATY?

FIRST OF ALL, SENATOR, THE STATE DEPARTMENT SAYS THE TREATY WILL PROTECT AMERICANS VACATIONING IN RUSSIA AND BUSINESSMEN SELLING TO THE REDS... IF THEY ARE ARRESTED!

| | | | |
|--|--|---|---|
| <p>THE PROTECTION DOESN'T GUARANTEE A FAIR TRIAL, OR CONSTITUTIONAL RIGHTS, OF COURSE, OR THE REDS WOULDN'T HAVE AGREED TO IT. THE TREATY DOES PROVIDE THAT AMERICAN VACATIONERS OR SALESMEN IMPRISONED IN RUSSIA CAN HAVE VISITING RIGHTS BY OUR CONSULAR OFFICIAL.</p> <p>VISITING RIGHTS EH? A TREATY OUGHT TO OFFER A LOT MORE THAN THAT. WHAT ARE THE ARGUMENTS AGAINST THE TREATY?</p>  | <p>THE MOST OBVIOUS DANGER FROM THE TREATY IS PROVISION FOR DIPLOMATIC IMMUNITY. TREATY OPPONENTS POINT OUT THAT TO GIVE SOVIET PERSONNEL COMPLETE IMMUNITY FROM ARREST IS TO INVITE AN INCREASE IN RED ESPIONAGE ... EVEN SABOTAGE... SINCE THE TREATY FORBIDS INSPECTION OF ANY BAGGAGE OR EQUIPMENT BROUGHT IN AS "DIPLOMATIC POUCH?"</p>  | <p>"BECAUSE OF THE DIPLOMATIC IMMUNITY GRANTED UNDER ARTICLE 19 OF THE TREATY, SOVIET AGENTS WOULD BE ABLE TO SMUGGLE INTO OUR CITIES ATOMIC DEMOLITION INFLAMMATIONS (ADMI'S) WHICH THEY ARE NOW MAKING..."</p> <p>...SUITCASE-SIZED A-BOMBS WEIGHING TO LBS. OR MORE, AND HIGHLY DESTRUCTIVE, CAN BE SCATTERED THROUGHOUT THE U.S.A.!"</p>  | <p>"IN THE EVENT A SOVIET CONSULAR AGENT IS FOUND IN THE ACT OF KIDNAPPING OR OTHER CRIME, WE CAN ORDER HIM OUT OF THE COUNTRY, BUT WE WILL NOT BE ABLE TO GO INTO THE CONSULATES TO RESCUE VICTIMS LIKE KASENKINA OR TO LOOK FOR EVIDENCE..."</p>  |
| <p>WE HAVE A LETTER FROM THE STATE DEPARTMENT SAYING THE TREATY DOESN'T PROVIDE FOR THE OPENING OF ANY NEW CONSULATES. BUT ARTICLE 2 CLEARLY PROVIDES FOR THE OPENING OF CONSULATES.</p> <p>THEY'RE ALSO SAYING THAT J. EDGAR HOOVER HAS RETRACTED HIS STATEMENT THAT THE CONSULAR TREATY WAS A GOAL OF THE SOVIET INTELLIGENCE. IS THAT TRUE?</p>  | <p>I HAVE SENATOR MUNDT'S OFFICE ON THE LINE. THEY HAVE A WRITTEN STATEMENT FROM MR. HOOVER FLATLY STATING THAT HE HASN'T CHANGED HIS MIND AT ALL! AND HE MADE IT CLEAR THAT HE DOESN'T TAKE ANY POSITION ON POLICY!</p>  | <p>ONE MORE THING ABOUT THAT "DIPLOMATIC IMMUNITY" CLAUSE IN THIS TREATY. WE ALREADY HAVE TREATIES WITH 33 NATIONS ... AND NOT ONE OF THEM PROVIDES "IMMUNITY!"</p> <p>IN OTHER WORDS, THIS IS SOMETHING SPECIAL WE'RE AGREEING TO FOR THE SOVIETS?</p>  | <p>HMM... SHALL I TAKE THE STATE DEPARTMENT'S WORD FOR THIS CONSULAR TREATY AND VOTE FOR IT... OR SHOULD I CONSIDER ALL THE OTHER EVIDENCE AND VOTE AGAINST IT? I'D LIKE TO KNOW WHAT THE FOLKS BACK HOME WANT ME TO DO!</p> <p>HOW ABOUT IT, FOLKS?</p> <p>Help YOUR 2 Senators by letting them know how YOU feel about the Soviet Consular Treaty! There isn't much time, so WRITE TODAY! To:</p> <p>HON. S. STIMMINGTON Senate Office Bldg Washington, D. C.</p> <p>AND</p> <p>HON. EDWARD LONG Senate Office Bldg Washington, D. C.</p>  |

Senator SYMINGTON. As a result, I have two letters here, one from two young ladies who work for the company I formerly was connected with, who said they read "my" advertisement and agreed with me.

I have another letter here from a lady who says, "Thank you for your advertisement, 'The Communists Next Door'."

I do not know who called whom. If the Senator from South Dakota does not want the Liberty Lobby called so I can state I do not agree with the conclusions of the advertisement, that is all right with me, and I will go back to the hearings of the Joint Economic Committee.

Senator MUNDT. Do you want to interrupt the witness to bring the Liberty Lobby in? If you do, go ahead.

Senator SYMINGTON. No. I have had this opportunity to say what I wanted about this advertisement, and am sorry they are calling anybody you do not want in opposition to the treaty, and would ask unanimous consent to have a letter I have been writing on the treaty inserted at this point in the record.

Senator SPARKMAN. Without objection, that will be done.
(The letter referred to follows:)

U.S. SENATE,
Washington, D.C.

Acknowledging your letter in regard to the consular treaty with the Soviet Union now pending in the Senate Foreign Relations Committee, it appears that opposition to this proposal arises from a misunderstanding of its provisions and purposes and overlooks the advantages to the United States.

There are more than three times as many American visitors to the Soviet Union now than there were when this treaty was proposed under the Eisenhower Administration in 1959. The primary purpose, then as now, is to protect and assist Americans visiting the Soviet Union.

As you may know, an accused person in the Soviet Union is not permitted to consult with a lawyer or anyone during the period of investigation which can last for nine months. Under this treaty, which would afford an American citizen arrested in the Soviet Union a higher degree of protection than that enjoyed by a Soviet citizen, in from one to three days United States officials must be notified of the arrest of an American and visits by American officials with the arrested American would be guaranteed.

The treaty does not itself provide for the opening of consular offices in each country. It simply provides a legal framework for their operation if they are opened. Under the proposed convention, the receiving country has the right to approve the number and the persons in the consular office. The consular officials and employees are granted immunity from the receiving country's criminal but not civil laws. It should be borne in mind that, after admission, a Soviet consular officer or employee is subject to being declared persona non grata and expelled from the United States.

Secretary of State Dean Rush has stated that, should the treaty be ratified by both the United States and the Soviet Union, the United States would contemplate the opening of one consular office with 10 to 15 persons. If that occurred, similarly the Soviet Union could open one consulate here to which would be assigned 10 to 15 Soviet nationals.

It is my understanding that J. Edgar Hoover, for whom I have high respect, does not take a position on this treaty pro or con; and has given assurance that the FBI is fully capable of handling any additional work created by the small increase of potential espionage agents.

Of the 1,000 Soviet citizens residing in the United States today, 452 have diplomatic immunity. I believe the FBI can also be responsible for 10 or 15 more.

The rights in this proposed treaty are reciprocal; and it is interesting to note that last year, whereas 900 Soviet tourists and exchange visitors travelled in the United States, 18,000 of our citizens travelled in the Soviet Union.

It is indeed unfortunate that this proposed treaty comes before the American people at a time when the Soviet Union is supplying materials and weapons used in Vietnam against American military forces. But we do not see how the refusal of the United States to ratify this treaty could, in any way, affect Soviet activities

in Vietnam. If its ratification would affect our military efforts out there, I do not believe it would have been brought to the Senate.

There are a great many areas of disagreement which exist in the world today; and I believe it important to increase areas of agreement which could serve the interests of the United States as well as other countries.

In our open society, Americans have a right to travel and they expect the protection of their government. I would hope that protection could be afforded on an orderly, legal basis, without every arrest in the Soviet Union requiring high level negotiations between officials in each government, thereby creating an incident which could be perilous in the shrunken but nuclear world in which we live today.

Sincerely,

STUART SYMINGTON.

INVITATION TO THE LIBERTY LOBBY

Senator MUNDT. May I say to my friend that I think the Chairman has insisted that they call the Liberty Lobby. I think he had it before and it did not testify. He wants it today. The Chairman is going to have it his way because he is the chairman of the committee.

Senator SYMINGTON. May I say to my friend that this is the first time I knew that they were the Chairman's witness, not your witness. I promise you one thing, they are not my witness.

Senator SPARKMAN. Before Senator Symington goes, I want to say just this. I am sorry our chairman is not here at the moment. I know nothing about who called the Liberty Lobby. Of course, I know what the general practice of this committee is. It is to invite people who are in opposition to come and state their case, and I assume that that course has been followed here.

Now that does not mean that any one particular member has the exclusive right to invite witnesses on one side or the other. A request is usually channeled through the chairman as a matter of committee procedure, and I am sure that the procedure was followed.

May I say just this, though: I have no interest in who is called when. But I was a little surprised this morning when I looked at the list of witnesses and saw that Dr. Dobriansky was not first, because he was here the other day and waited his time through, and that Mr. Hicks had been shoved down to the bottom when, as a matter of fact, he was due, as I recall, to follow Dr. Dobriansky or perhaps the second one after him the other day.

But I have no interest one way or the other as to the order in which witnesses are taken.

CONSULAR CONVENTIONS WITH LATIN AMERICAN COUNTRIES

Senator MUNDT. Proceeding, Doctor, I think you finished your discussion of the last item where you stressed the point that you feel if the United States breaks precedent and grants a treaty with complete diplomatic immunity for espionage, murder or any kind of crime whatsoever, that this could well spread to Latin American countries and other areas of the world which may not be as well equipped with an agency such as the Federal Bureau of Investigation and police forces all over the country to protect against espionage.

I take it you think we would be establishing sort of a Gresham's law of diplomacy whereby the worst practices would become the common practices?

Mr. DOBRIANSKY. Very well put, Senator. It is a new point.

Senator MUNDT. It is a new point. But I think it has merit because quite obviously if they are able to sell the "bum deal" which you suggest, to us, they should be able to sell it to others, especially having established these precedents.

I think I have just one other question.

Mr. DOBRIANSKY. Let me say on that point, Senator, that is not a point that has been sufficiently stressed in this whole discussion, and I have followed this carefully, not only here in Washington but elsewhere in the country where they use the numbers, the 10, 15.

That does not close up that whole case because actually, as I stated, a Pandora's Box is being opened here, and I cannot visualize any free Latin American government resisting Russian requests for similar consular conventions in their areas and for the setup of these consulates, so that you can have a mushroom here of Russian espionage throughout the entire hemisphere at the very time when I know that you are well acquainted, and the other Senators are, with the type of psycho-political subversive activity that is emanating out of Havana, and we saw one example of it in the Dominican Republic where the various parties were backed up by a trio working in union; namely, Moscow, Peking, and Havana, to overthrow the Government there. Now this is the nature of planning and other areas.

Now this kind of diplomatic, in effect a diplomatic medium can be instrumentally used by the Russians for their further penetration throughout all of Latin America.

NO GUARANTEE OF FREEDOM FOR PRISONER

Senator MUNDT. And for all of this, I suppose, that is what you have in mind as a "bum deal," as you call it—and for all of this, it seems to me if you accept every conceivable, demonstrable, tangible advantage that the State Department alleges as coming as a result of the treaty, we do not get very much because, after all, what we are going to get is the privilege to visit a prisoner. It does not say we are going to set the prisoner free.

There is a lot of difference, it seems to us, between freeing a prisoner and letting us look at him, and letting us talk to him.

In fact, if what we hear about the brainwashing and whiplashing and punishing is true, it seems to me you are going to aggravate the problems of the prisoner because of his talking to an American rather than to alleviate them.

There is nothing in this treaty that says they have to set him free, and that they have to follow the system of American jurisprudence. You can look at him, maybe talk to him once or twice, but that is less than nothing. There is nothing set up to get the prisoner out, and that would seem to me is what I would want to have if I were a prisoner. I would like to be on the other side of the cage, not just looking through the bars.

Mr. DOBRIANSKY. Senator, I thought I made this clear going from step to step, even from the preconceptions, the assumptions on which this treaty is based, and evaluating as best one can each factor, and we wind up really with a grave, I would say, grave net disadvantage, and I did not use this for any journalistic appeal referring to the

treaty as a "bum deal." This is actually on a scale of psycho-diplomatic-politico calculation, a result which is a net disadvantage to us.

TREATY IS A NET DISADVANTAGE TO US

Now I have no fear, let us say, as some might have, in connection with espionage. There is going to be espionage, there has been in the whole history of the growth of the Russian empire. That is one of their main instruments, and as a consequence, whether we have this or not there will be an intensification of espionage.

Now that is a two-way street, and I indicated that would be to some disadvantage to us.

Now if there were something of advantage to us to offset this morally, politically, and in every other respect, then you would have some ground. But instead, in an analysis of the treaty, one finds even graver political and moral disadvantages, and to me, my judgment, the most important thing in connection with the Soviet Union and with the cold war conflict is the paramilitary, the psycho-politico, and I would even say this, Senator, as an American citizen, I just cannot see that time and time again we are going to be suckered into such situations, whether economic, diplomatic, political, and the like, fundamentally, ultimately, I would say, because of this psycho-political, cultural lag that I speak of, not knowing the enemy in terms of his weaknesses and in terms of his strengths, completely.

THE SOVIET UNION IS SUPPLYING OUR ENEMY IN VIETNAM

Senator MUNDT. It looks to me very much like somebody has suckered us into something because there are some advantages we would like to get from Russia. We could have insisted on some kind of a quid pro quo which would be meaningful.

An example of this would have been, if we could have induced them to quit sending, as they are now doing, all of these sophisticated weapons to the communists in North Vietnam which have been used in killing our boys who are flying over there. That casualty list is getting pretty long, and any step taken to prolong that war is going to lose the support of this particular Senator, I am going to assure you of that. Certainly you are not going to shorten the war when you are increasing the particular trade which I am most concerned about than as to the claims of it being an advantage. I am more concerned about this than any other part of the treaty.

You quoted Dean Rusk including the trade between our two countries. Why, in heaven's name, should we increase the exportation of supplies to a country which admittedly on the record is supplying to our enemy in North Vietnam the weapons that are killing American kids, over 10,000 of whom are already gone?

Mr. DOBRIANSKY. Well, I used the polite term "irrational."

Senator MUNDT. I wish you would explain that. You are a college professor. Explain that to me. I cannot understand it.

Mr. DOBRIANSKY. I cannot. I have a tough job explaining the irrationality of it to my college students, because they are impressed by some of the statements that are made in the newspapers and the like.

But I want this to be made clear, even if we were not in the quagmire of South Vietnam, I mean aside from it, and yet it is a valid

point that you bring up, but taking the treaty as it is in terms of the general framework of our relations toward the U.S.S.R., you still wind up with a grave net disadvantage, and it only aggravates the situation when we do know that the main support to Hanoi and the totalitarian regime there is the East European and largely, if you will, the U.S.S.R.

Senator MUNDT. Well, I appreciate your testimony. I think it has brought in some interesting new points.

Mr. DOBRIANSKY. Thank you, sir.

TRADE WEDGE

Senator MUNDT. This trade wedge disturbs me a great deal. I just got back from spending three days in South Dakota, and several mothers and fathers of boys in Vietnam talked with me. They simply cannot understand an insane policy which says that we ought to send even more supplies to them so they can send even more weapons to North Vietnam, so they can kill even more American kids.

They seem to have some passion for bombing. That is all they can think of. If you don't negotiate, you bomb. Why not try to figure out some way to curtail the shipments of supplies to Russia? If they did not send 200 MIGs, if they cut it down to 100, we would have 5,000 more American boys alive today.

I think this policy is utterly insane at this time. In peacetime, it is bad enough. But at least we can live with it.

But when tied up with the announced fact that they are using this as a wedge to increase trade with a country with whom we are at war—as far as its industries is concerned, as far as its economy is concerned, as far as the undeniable, demonstrable fact that the weapons that are most effective in killing Americans in Vietnam are exclusively from Russia, somebody, it seems to me, ought to point out why are we so interested in strengthening the power of the communists to kill American boys.

That, to me, is a much more meaningful issue than this bombing passion which we have. Bomb one day, negotiate the next day; bomb one day, negotiate the next day; the same old bloody merry-go-round week after week, year after year, with no effort at leadership to get to the source of the trouble. That is the fact that a country which cannot even manufacture its own arms is being supplied by the people we would now embrace in a treaty which, at best, is of doubtful advantage to us even during peacetime.

REVIEW OF U.S. RELATIONS WITH THE U.S.S.R.

Mr. DOBRIANSKY. Well, Senator, I agree with you, wholly, and it is for that reason, you see, that I have proposed, and I think possibly you should consider, the matter of having a full, thorough review of U.S. relations with the U.S.S.R.

I know of no such thorough review over the years, and whether during the 1930s and also in the 1950s, no issue I think, has been brought up to stimulate, to precipitate, a review of that sort, and there are people who could be called down here, so-called Russian experts, to give their views, and others, their own views, in connection with the

strategy of the Russians within this inner empire, and to show its implications over time, if you will, for the United States.

On the economic side, anyone looking into the immense contributions made by our own economy and our own business, our capital and our labor back in the 1920s and 1930s, laying the industrial foundations for the Soviet Union, to which there has been tribute by Mr. Khrushchev, there are statements in which he says, "We are eternally indebted to the United States for the contributions made at that time," and building up what? A monster that in this time and over the past 20 years has been threatening the very foundations of our own independence and our own security, and will continue to.

Now this would be the economic strand or the economic sector in the kind of thorough review that I suggested here. There are many other facets, including the diplomatic, the cultural, and so on, to show really what they are up to.

Senator MUNDT. I think your suggestion to have a good, clear, careful, comprehensive study of our relationships with Russia and the communist world is good. I think it is long overdue. I think it has a lot of merit.

We are now in the process of doing that intermittently with Red China. I think it is good. I think it has merit. We ought to know more about it. We ought to know more about the Russians.

Certainly, if the best product secret diplomacy can bring out is this treaty, I am for going to open diplomacy and covenants openly arrived at, because I think this is a bad blunder arrived at by somebody in secrecy.

Senator SPARKMAN. Senator Lausche. I assumed you were through, Senator?

Senator MUNDT. Yes.

IMMUNITY PROVISION

Senator LAUSCHE. I want to explore two phases of this problem, Dr. Dobriansky: one, the context of the treaty; two, the impact that adoption of the treaty will have upon the minds of millions of people in Europe who anxiously are awaiting the day of emancipation from communist domination, and I will proceed with the first phase.

It is your understanding that heretofore treaties of this type granted immunity from criminal prosecution only to the staff of the ambassadorial office in Washington. Is that correct?

Dr. DOBRIANSKY. That is correct.

Senator LAUSCHE. This treaty will allow the establishment of consular officers and will extend the immunity to the consul and to all the employees of the consular office?

Dr. DOBRIANSKY. That is correct.

Senator LAUSCHE. It is also your understanding that immunity against criminal prosecution for offenders in the consular office will embrace not only misdemeanors but also felonies?

Dr. DOBRIANSKY. That is correct.

Senator LAUSCHE. What do you understand to be embraced in the term "felonies?" What are the worst types of offenses which could be committed by employees of the consular office which would be exempted from criminal prosecution?

Mr. DOBRIANSKY. I would even go so far as to think of murder and assassination, not to speak, if you will, as I indicated here, of bribery, blackmail, crimes of that nature.

Senator LAUSCHE. A felony in law is defined to be an offense which normally carries a sentence of imprisonment of one year or more.

Mr. DOBRIANSKY. Yes.

Senator LAUSCHE. If felonies are immune from prosecution and a felony is what I have just indicated it to be, then the whole gamut of criminal offenses would be immunized from prosecution under this treaty. Is that your understanding?

Mr. DOBRIANSKY. That is my understanding.

NOTIFICATION AND ACCESS PROVISIONS

Senator LAUSCHE. Now, the argument is made that by granting immunity for all types of offenses we are to profit.

Mr. DOBRIANSKY. How? How, sir?

Senator LAUSCHE. Well, we had 18,074 nationals of the United States in Russia in 1966 while Russia had 892 nationals in the United States. The proportion would be about 20 to 1.

I assume that the argument is that we would profit most because for every one offender on the part of Russia we will have 20 potential offenders on the part of the United States.

Would you analyze that argument, please.

Mr. DOBRIANSKY. Well, I alluded to it in terms of this numbers game.

Of course, the matter of diplomatic immunity does not apply to the 18,000, 20,000 you speak of, but rather to presumably our consular officers in consulates set up in Leningrad and the like.

Now, the other point here is this, that actually when one looks at the 20,000 or 18,000, a good percentage—

Senator LAUSCHE. May I stop you at that point?

Mr. DOBRIANSKY. Yes.

Senator LAUSCHE. There is in the consular treaty a provision that the moment a national of Russia in the United States or of the United States in Russia is put under arrest there must be notification given to the sending country.

Mr. DOBRIANSKY. Right.

Senator LAUSCHE. And the opportunity to interview.

Mr. DOBRIANSKY. Yes.

Senator LAUSCHE. That, for this reason we will benefit primarily in this question of criminal prosecution.

Now, go ahead.

Mr. DOBRIANSKY. The point that I had already made in the statement, Senator, is that we have had that right right along. This is not a real concession, and it is based on the Litvinov, what they call the Litvinov assignment.

Now, we have not pressed for the exercise of that right.

Then, the other point I think that has to be emphasized is that despite the fact that notification and access will be given one to three days, that does not mean that Americans are really and completely protected. You still can have arbitrary arrests, and it is also conceivable that an American traveling in the Soviet Union arbitrarily

arrested could be subjected, depending on his worth for them, subjected, if you will, to brainwashing within the one to three days.

KINDS OF TOURISTS VISITING EACH COUNTRY

Now, the other point that you made, which I did not have a chance to explain here; namely, the 18,000, a good percentage of the 18,000 that go there are tourists; they have seen other parts of the world, Latin-America, et cetera. They have to satisfy their curiosity to go to the Soviet Union.

The 250 that come here that are highly selected, whether they are students, professors from the Soviet Union—

Senator LAUSCHE. May I be given an opportunity to hear this witness?

The CHAIRMAN (presiding). I don't know how you can help but hear him.

Senator LAUSCHE. I can hear you more than I can hear him.

The CHAIRMAN. Well, it is more interesting.

Mr. DOBRIANSKY. I will try to be audible.

But my point is that with regard to the qualitative significance of the one group; namely, the 250 here, whether they are professors, students, they have got designated tasks, specially in the way of information and data gathering.

Many of those that we send there—and I know quite a number who have gone to the Soviet Union, they may be interested from a simple cultural point of view, an interest in Suvarov, maybe writing a thesis on Suvarov, and the like, all in terms of the cold war context, purely innocuous and really nonessential—so that to simply say 18,000 there and 200 here on this basis, and then to draw from this ratio that we will gain more, does not follow.

WOULD TREATY ENCOURAGE TRAVEL TO SOVIET UNION

Senator LAUSCHE. Do you believe that the adoption of this treaty would operate as an encouragement for more of our citizens to go to Russia because they would have greater criminal protection and that, therefore, it would be to our benefit and interest to have more of them go there?

Mr. DOBRIANSKY. Not at all.

I think as the result of the discussion about this, that on the basis of the continued risks, even if this treaty were ratified, they are not protected against arbitrary arrests. They are not protected against, let us say, short-term brainwashing despite the notification and access provision.

I would say that they would even be—there would even be a more emphasized warning that you go to the Soviet Union at your own risk, considering the barbaric institutions that prevail there.

Senator LAUSCHE. Let us assume that it would be an inducement and an encouragement to go there. Would you advise that we follow this course and encourage our citizens to go as tourists to Russia?

Mr. DOBRIANSKY. Well, in principle, I certainly do. I have never opposed the cultural exchange principle provided it is done unlim- itedly, without management, control of figures for one purpose or

another on the part of the Red regimes, and that is what they are doing.

If we can think in terms, let us say, of transplanting not only non-Russians from the U.S.S.R., youth and the like, but also Russians, a million here, and give us the opportunity of sending a million there with easy travel from Riga all the way over to Vladivostok anywhere, I am all for it.

SOVIET PROMISE ON ELECTIONS IN SATELLITE COUNTRIES

Senator LAUSCHE. I will get into the second phase of what I wanted to question you about.

In which of the treaties toward the end of World War II was it declared that all of the people in Eastern Europe and those nations, and those lands that were involved in war, should have the right to openly in free elections choose their governments? Was it in the Potsdam or Yalta, do you recall?

Mr. DOBRIANSKY. I believe we have it in the Teheran.

Senator LAUSCHE. Teheran.

Mr. DOBRIANSKY. And repeated at Yalta.

Senator LAUSCHE. What was the language that was used in that understanding?

Mr. DOBRIANSKY. I do not recall specifically, Senator, but it refers to precisely what I just said. Open—

Senator LAUSCHE. Open and free elections.

Mr. DOBRIANSKY (continuing). Elections, definitely, and it was on the basis of that promise that our people went ahead and pursued the so-called alliance.

Senator LAUSCHE. All right.

Were there any open and free elections in any of the satellite nations of Europe?

Mr. DOBRIANSKY. Not at all. Instead you have had techniques employed there that the communists employ in Vietnam, classical techniques.

Senator LAUSCHE. Will you identify the satellite nations, the people of which anticipated that they would have the right to choose their governments in open, free elections?

Mr. DOBRIANSKY. Yes. Poland, Rumania, Bulgaria, Hungary, Czechoslovakia, and also for that matter—well, it was not applied to it, but by implication to the three Baltic nations, despite the—

Senator LAUSCHE. That is Latvia, Estonia, and Lithuania.

Mr. DOBRIANSKY. Yes, that is correct.

Senator LAUSCHE. This is a matter of opinion. What do you believe are the dreams and hopes of those people about the right to eventually choose their own type of government?

Mr. DOBRIANSKY. The hopes and dreams are steadfast. There are many indications right along of that, but the main thing is to have the mainstay of democracy and freedom; namely, the United States, to buttress those hopes and aspirations on the part of all these people, and I think it is most important in the same way that, for their purposes communists constantly make a distinction between government and people.

We should constantly distinguish between the captive nations involved, as against the Red regime. Unfortunately, we do not. We

speak of communist nations, and there are no communist nations including, let us say, the Russian. There are communists or Red states ruled, if you will, by totalitarian groups, namely, the Communist Party.

CAPTIVE NATIONS

Senator LAUSCHE. You mentioned Ukraina. How many Ukrainians are there in the Russian—

Mr. DOBRIANSKY. You mean, in the Soviet Union?

Senator LAUSCHE. Yes.

Mr. DOBRIANSKY. Roughly, 43 to 45 million.

Senator LAUSCHE. Your background is Ukrainian, is it not?

Mr. DOBRIANSKY. Well, yes. But don't hold that against me, Senator.

Senator LAUSCHE. I respect the Ukrainian people, and you know it.

In your opinion, is it the dream of Ukrainians that they shall eventually become emancipated from communist domination?

Mr. DOBRIANSKY. No question about it. They have fought for this longer than those in the satellite area, and that not only goes for Ukrainians but, as I indicated earlier, Senator, I do not believe you were here, as found in the Adlai Stevenson memorandum of 1961, in which he enumerates many other peoples, many other nations, in what is now the Soviet Union that have now for 40, 45, 50 years striven for this very thing of liberation and independence and freedom.

Senator LAUSCHE. What about the Byelorussians, the White Russians?

Mr. DOBRIANSKY. The same thing, and that applies even to the Moslem Turkish peoples within the U.S.S.R., and these are facts that, as I stated, tend to be brushed under the rug and, as a result largely of the perpetuated misconceptions that we have of the realities within the U.S.S.R.

Senator LAUSCHE. Now, Byelorussia and the Ukraine are captive nations. Is that correct?

Mr. DOBRIANSKY. That is correct.

SATELLITE NATIONS

Senator LAUSCHE. Getting back to the satellite nations, what about Hungary eventually wanting to be liberated from the yoke of communism?

Mr. DOBRIANSKY. A steadfast hope, a dream, and also a cold war manifesting itself between the people and the Kadar regime.

To the extent that we hope the Kadar regime, it is to that extent against the freedom aspiration of the nation, the people itself.

Senator LAUSCHE. What about the East Germans?

Mr. DOBRIANSKY. The same thing.

Senator LAUSCHE. Does the fact that they are breaking through walls hazarding their lives to the bullets of the guards, trying to get back into West Germany, indicate a desire to be free from communist domination?

Mr. DOBRIANSKY. No question about it. That was one reason for the erection of the wall.

Senator LAUSCHE. What is your appraisal of the Czechoslovak mental state on this subject?

Mr. DOBRIANSKY. It is pretty much the same, despite the changes, economic and others, within Czechoslovakia.

I think the important thing over the past few years has been the intensification of Slovak nationalism within the Czechoslovak state, and the willingness on the part of the Red Czechs to facilitate in the hope, if you will, of strengthening the state as much as possible.

IMPACT OF TREATY RATIFICATION ON THESE NATIONS

Senator LAUSCHE. What, in your opinion, will be the impact upon the thinking of those people if this consular treaty is approved and subsequently followed by other actions which might well be construed to be an indication that their hopes and aspirations are destroyed?

Mr. DOBRIANSKY. My opinion, as I stated in the presentation, Senator, is that the results would be gravely adverse and, in a graver way, meaning that certainly with regard to Byelorussians, Ukrainians, and indeed, other non-Russians within the U.S.S.R., this would be construed as a definite degradation of their national sovereignty, if by that we mean the various expressions of the will of the people to be distinct from—you have that, as I indicated, statement that words have meaning. After all, it was a set of words, was it not, peace, land, bread, back in 1917 that started a good deal of this, and you have words in Vietnam, you have words, if you will, throughout Latin America.

Well, in this case, there are words here that certainly ignore completely the distinctive national beings within the U.S.S.R., and we are really facilitating the very ideological thing that the Russians would like to accomplish, the Homo Sovieticus.

If you were a Ukrainian or Byelorussian or Armenian, or anyone else in the Soviet Union, you would feel, well, there is no hope to be gotten from the United States.

In connection with the others in central Europe it would mean insofar as this is used as a trade wedge, the hope of liberalizing trade, beefing up the economies of the various Red states there, too, the effect can only be adverse, meaning to the people who cherish freedom and national independence.

KOSYGIN PRESS CONFERENCE

Senator LAUSCHE. What do you observe as having happened in Russia to show that its earlier declarations of conquering the world have come to an end, and they have changed in their purposes?

Mr. DOBRIANSKY. I follow this rather closely, and I am oftentimes amazed by some expressions even made probably, well, have been, at this table and in this room.

I know of no surcease with regard to their global intentions. A Kosygin, a Brezhnev, continues to talk in terms of supporting wars of national liberation in various parts of the world.

They certainly show their willingness to implement it, as, for example, in the Middle East, in Latin America, in Asia. The objective, quite clearly, is still there.

Senator LAUSCHE. Did you hear Kosygin last Thursday morning in his one-hour press conference?

Mr. DOBRIANSKY. No. I am afraid I was asleep at the time. I did not have the opportunity, sir.

Senator LAUSCHE. Do you know what position he took with respect to the U.S. involvement in South Vietnam?

Mr. DOBRIANSKY. Yes, from what I read in the paper.

Senator LAUSCHE. Well, that is, he said that the United States was the aggressor.

Mr. DOBRIANSKY. Yes.

Senator LAUSCHE. That we were bombing North Vietnam, a sovereign nation, and destroying innocent lives unlawfully.

Do you understand that he said that in substance?

Mr. DOBRIANSKY. Yes, sir.

Senator LAUSCHE. And that he then said that we should permanently and unconditionally quit the bombing without calling upon North Vietnam to quit sending military equipment and troops into South Vietnam?

Mr. DOBRIANSKY. Yes.

Senator LAUSCHE. I listened carefully to what he had to say. I wanted to keep my mind open about this consular treaty, and I was hoping that he would give some indication of a purpose to bring about peace and a purpose to speak one kind word for the United States, but he did not.

Mr. DOBRIANSKY. That is correct.

Senator LAUSCHE. He repeated, word for word, the Ho Chi Minh argument.

SENATOR LAUSCHE'S FLOOR STATEMENT

Now, on Thursday afternoon I made this statement on the floor of the Senate:

How far are we to open the doors and engage in normal intercourse with them (Russia) commercially and socially, after the Consular Treaty has been adopted? I still have not closed my mind against giving support to it, but Russia could help by ceasing its condemnation of the United States; cease hurling epithets and labeling us as imperialists wanting to exploit the resources and the human beings of other areas of the world; cease issuing declarations such as the one it made in Havana.

By way of interpolation, in Havana, it led the movement and the declaration was made there that they would fight us in South America, Africa, and Asia.

Getting back:

Cease issuing declarations such as the one it made in Havana, in its condemnation of the United States, that they were going to fight us in South America, Africa, and in the Far East.

And, finally—

cease sending equipment to South Vietnam, equipment which is being use to kill our boys.

IS THERE A NEW SOVIET APPROACH TO WORLD PROBLEMS

It has been stated in this room by witnesses that with the new generation of Russians not steeped in the philosophy of Stalin, that there is a new concept and an approach to world problems. May I ask your interpretation and analysis of that claim.

Mr. DOBRIANSKY. Well, first of all, I would love to know what the content of that new approach is. There are many things within the U.S.S.R. today that one may class as re-Stalinizing. For example, in the economic area, under Kosygin and Brezhnev, you had the reformation of your ministries, economic centralism even going beyond Stalin in that respect. That is not brought out.

There is also the continuation of many arrests, political arrests, not only of poets but of workers and of students. These names are furnishable.

Much of the data that I speak of here are even broadcasted. We have an institute for the study of the U.S.S.R. in Munich; Radio Liberty carries on, monitors what goes on, let us say, in the Soviet Union. Actually when we speak of change, of course, we are all changing, and the Soviet Union prior to Stalin, during Stalin, and after Stalin has also changed, but there is a difference that we always have to draw between substantial change and accidental change, and there have not been any substantial changes in the Soviet Union.

ARE TITO'S SPEECHES THREATENING?

Senator LAUSCHE. I will move into another subject or field. Tito is supposed to be our best friend of all the Governments which have a communist basis. Being our best friend, it would be well to look at what he says as a communist about our country.

I have a letter here from the Department of State answering a letter that I addressed to it concerning statements made by Tito about the United States. Now then, this letter states that a plenary meeting of the Central Committee of the League of Communists of Yugoslavia was held in Belgrade on February 25 to 26 and March 11, 1966. In his speech on February 25 opening the meeting, Tito said the following:

Comrades, grave excesses are taking place in the world today. The situation is far from good, it is troubled. You read what is hapening. The class enemy personified by imperialists and the capitalist bourgeois class is on the offensive all over. In some places, he relies on money, or on coups, in others, on gradual ideologica infiltration, etc. And he is extremely active.

Then later in his speech concluding this meeting, he stated:

As you know, the international situation has recently become extremely aggravated. The atmosphere in the world is full of electricity, and various excesses may occur at any moment. Capitalism and imperialism have undertaken their full offensive to regain their positions. For this reason it is no wonder that all this has an effect on our country, which has numerous contacts with other countries.

He then visited Rumania, and at a luncheon in Rumania on April 18, he said:

Unfortunately, this détente has not been achieved in other parts of the world. On the contrary, the situation is steadily worsening and new dangerous hotbeds of conflict spelling a serious threat to world peace and security have appeared of late, especially in Asia and Africa. By their unscrupulous intervention in the internal affairs of independent countries, the imperialist and neocolonialist forces try to halt progressive development in the world and to stifle the people's aspirations for liberty, independence, and equal rights. The most telling example in this respect is the war in Vietnam where, by a most brutal use of foreign armed forces an attempt is being made to prevent the Vietnamese people from deciding their own destinies and ways of development.

I have other quotations but I will not read them.

Do you know if anywhere the Russian Kosygin, the Russian Brezhnev, or others have spoken in any way less offensive to the United States than these statements?

Mr. DOBRIANSKY. I have not. But, as you know, Senator, I have always regarded Mr. Tito as the ace diplomatic broker for the Red empire. He has played that role, and he will continue to play that role, and I think we are deluding ourselves, and have been for some time, in not recognizing that any product of many of these schools, and I speak of cold war schools, in the Soviet Union and elsewhere, will naturally hew to this line, and we cannot hope for any reformation.

They have not maintained these schools for literally 30, 35 years, with probably about 175,000 sleepers, professionally revolutionaries parked in various parts of the world for nothing, and I am quite sure even here in the United States, waiting for the opportune time.

Senator LAUSCHE. All right.

SHOULD WE SEEK A NEW COURSE OF AMITY WITH THE COMMUNISTS?

Now, I want to give you my thinking. We have not succeeded in building bridges leading to amity with the communists. I am seeking some agency that will achieve amity, and I am deeply wondering if the course which we have followed in the past, having failed, we ought not to adopt a new course and see if this consular treaty might be the beginning.

Let me hear your view.

Mr. DOBRIANSKY. The consular treaty, the beginning of the new course?

Senator LAUSCHE. Of a new course that may—

Mr. DOBRIANSKY. On the contrary, Senator. My chief point here is that this is an old broken-down record of the thirties. They were picking up a thread that was left in the thirties, revived at the end of the fifties for want of a really new course of action toward the Red empire, and now being advanced, and I indicated here the mass of misconceptions and most notably the fact that we have nothing but a complete net disadvantage in pursuing this.

But there is the new course that I have indicated here; namely, if we want this mutual understanding with people, with nations, if we want amity, well, there is a chance, let us say, of establishing direct diplomatic relations with Ukraine, Byelorussia, and even with a few more within the U.S.S.R. It would be a hell of a more solid investment than what we have been making, if you will, through other lines over the years, and really what is this, getting at the source of the problem which confronts us in one manifestation or another, let us say, in Vietnam, the Dominican Republic, maybe tomorrow in the Guatemala and elsewhere.

Senator LAUSCHE. I conclude: anyone who says that the evidence on this issue is all black or all white and easily discernable for the rendition of a simple, easy judgment does not know what he is talking about. The evidence is gray, and you can take one side or the other, and begin making a case, and I get sick and tired of people dogmatically and in a doctrinaire way saying there is only one way out.

That is all I have to say.

The CHAIRMAN. Anything else? Do you have anything further to say, Mr. Dobriansky?

Mr. DOBRIANSKY. Hopefully, Mr. Chairman, that you would ask me a question.

RECONCILIATION WITH THE COMMUNIST WORLD

The CHAIRMAN. You have been before this committee many times before. I am thoroughly familiar with your views. You are a great illustration of the difficulty this country has in developing a foreign policy. This country has welcomed people from all over the world. Each one has a legitimate interest in his own area. This situation exists not only in your area but the Far East and the Middle East. I have great sympathy for the people of your homeland in the same way that I have for the people of the Senator from Ohio's homeland. I have great sympathy with the beliefs they have. But I also have great sympathy with the troubles and difficulties of the United States. I think that is our problem.

You always appear whenever this sort of matter comes up, and our members ask you because you are extremely intelligent, and you are very articulate, and I respect your talents.

I am only saying that you can cause us great difficulty because to you there is only one logical conclusion, as there is to others: that you never try to reconcile differences with the communist world.

I disagree with this conclusion because I think it can lead only to a nuclear war.

As little as I approve of the practices which you outlined today, and on many occasions I have disapproved of them as much as you do, the question is how do we make any progress toward resolving this trouble. I do not think you make progress by having a war. These are the considerations that are involved.

I do not think anyone who approves of the consular agreement approves of the practices you have outlined with great precision this morning. Nobody approves of tyranny—I should not say nobody—I do not think anyone in this committee does.

The question is what you do about it? Do we just continue to escalate the cold war and finally have a showdown of force? That is the traditional way to do it.

So I do not argue with what you say about what has happened in the last five years. You are very competent to outline all of the tragic happenings that have taken place in the last five years. We could make a similar case with respect to the Germans, but for reasons of which I approve, we have had a reconciliation with the Germans.

The Fascists had many characteristics that I do not think you approve of either. The same was true of the Japanese. In a way, perhaps, it is unfortunate that this treaty has come up. It is a small matter, a very small matter, but here it is, and it has become a symbol far beyond its own significance.

But I do not wish to argue with you about the facts as to what has happened. I only question the validity of the future course of the country. If we are going to continue to maintain and increase the intensity of the cold war, I think it can result only in a tragic third world war.

Thank you very much. We are very pleased to have had you.

Mr. DOBRIANSKY. I am also pleased to be with you, Mr. Chairman.

The CHAIRMAN. You are an excellent witness, and I would not for a moment question your competence.

INDIVIDUAL INTERESTS IN THE MAKING OF U.S. FOREIGN POLICY

Mr. DOBRIANSKY. There is an inaccurate assumption here. My homeland is in the United States. I was born in New York City, sir, and I am not speaking for the Ukraine; I am not speaking for Russia or China. I am speaking as an American.

The CHAIRMAN. Just a moment ago the Senator from Ohio said your people were from Ukraine, and you said, "Don't hold this against me." I assumed this was an acknowledgement that your ancestors came from the Ukraine. If that is not correct, make the correction.

Mr. DOBRIANSKY. My ancestors—

The CHAIRMAN. You have a feeling for them, and I respect them. They are a very great people. In the same way I respect the feelings of many of my Zionist friends. For they are good people, and goodness knows the Zionists have made a great contribution. I still think their foreign policy interests should be distinguished from ours, not that we do not take them into consideration, but I do not think we are correct in following blindly the policies of the Government of Israel.

I can say the same of a number of others.

Thank you very much.

Senator LAUSCHE. I hope the chairman has not implied that any person with a foreign ancestry, born in the United States, is less devoted to his country than those who have a long range of background here.

The CHAIRMAN. The Senator has not implied it at all. The Senator has implied that sometimes they are overly eager in their earnestness to protect the United States.

Senator LAUSCHE. He did not imply that.

The CHAIRMAN. It is somewhat similar to what has been often said about converted Catholics. Those who have been converted recently in their old age become much more Catholic than the Pope.

I have noticed the same thing with some other people, but that is not a matter under consideration before the committee right at the moment.

Thank you very much.

Senator LAUSCHE. I do not concede that those born in the Ozark Mountains have any greater devotion to their country than those born out on East 61st Street and St. Clair Avenue in Cleveland.

The CHAIRMAN. The Senator completely misses the point. As usual, he completely misses it. It is not a question of devotion to the country. It is a question of wisdom in trying to protect the country's interests. That is the question, and I thoroughly disagree with your highly emotional approach to this problem.

Senator LAUSCHE. I observe the the comment which the chairman made in the middle of his statement. Don't think I did not, and don't think that I did not feel that it was probably intended as an implied charge that individuals with a recent background in the United States cannot have any devotion to this country.

The CHAIRMAN. Well, the Senator misinterprets, as he usually does. That is not correct interpretation.

Senator LAUSCHE. I am glad to hear it.

The CHAIRMAN. However, it is quite true that none of us can be free of our ancestry or our experiences. I do not deny that problems of the Ozark Mountains and of Arkansas have a very great influence in my position. I would not for a moment deny it.

WE SHOULD HAVE AN AMERICAN FOREIGN POLICY

I made the observation as to foreign policy. We are supposed to be one country insofar as our relations with the rest of the world are concerned and it should be an American foreign policy rather than a succession of policies that accommodate or are unduly influenced by particular interests within the country.

Within our own country we accommodate such interests through our political institutions, of course. Each of us represents a State. The Senator from Ohio certainly won't deny that he looks after the interests of Ohio in the best way he can. But these considerations do not quite apply and work the same way when we are talking about U.S. foreign policy toward the rest of the world. I think the observation is quite appropriate insofar as this treaty is concerned, because, as I said, I recognize the interests of the people who are characterized here as captive nations.

I suppose if you want to go that far, we are holding Texas in subjection, too, because we took her from Mexico, but I do not think we want to go into that.

I do not know how long a nation becomes captive or ceases to be—

Mr. DOBRIANSKY. I do not know that there is any significant problem about this, Senator.

The CHAIRMAN. I do not know that there is either.

WHEN THE UKRAINE BECAME CAPTIVE

Mr. DOBRIANSKY. I could immediately state, let us say, since you want to use Ukraine here, in 1920 it became captive. It was under the domination of the Red army.

The CHAIRMAN. I do not mean when it became captive. How long does it have to be captive?

Mr. DOBRIANSKY. And it has continued to be captive right down to the present day. When will it stop being captive?

The CHAIRMAN. Yes.

Mr. DOBRIANSKY. Namely, when it is given the opportunity to declare its own independence and without the domination of a foreign power, meaning Moscow, and at the same time, let us say any communist Party within.

The CHAIRMAN. Well, that is another subject. Thank you very much. You have been a very good witness.

Mr. DOBRIANSKY. Thank you.

Mr. Reporter, there are several letters here from various people some opposing and some approving this treaty that have come to the committee, and I will ask that they be put in the record at the proper time.

(The letters referred to appear as material submitted for the record. See page 260.)

Senator MUNDT. Mr. Chairman, may I say that Admiral Arleigh Burke prepared his statement in opposition to the consular treaty. He is not going to be able to testify today, so I ask that his statement, prepared for the committee, also be inserted in the record.

The CHAIRMAN. Without objection, so ordered.
(The letter referred to follows:)

WASHINGTON, D.C., *February 13, 1967.*

HON. KARL E. MUNDT,
United States Senate,
Washington, D.C.

DEAR SENATOR MUNDT: In compliance with your request I am submitting a statement of my views on the United States-Soviet Consular Convention submitted to the Senate for advice and consent to ratification on 12 June 1964.

The major arguments offered to justify ratification of the convention include:

- 1) It will advance the cause of peace by fostering new understanding between the Soviets and ourselves, and thereby it will decrease world tensions.
- 2) American consulates in major Soviet cities would enable the United States to afford better protection to our citizens traveling in the USSR.
- 3) It would permit United States government officials to gain more knowledge of Soviet activities, procedures, and way of life.
- 4) It will enhance the prestige of the United States and gain goodwill among the nations of the world.
- 5) It will help widen the rift between the USSR and Red China.

Throughout the last decade the United States government has demonstrated its desire for peace in the world innumerable times. We have made repeated offers to the Soviet Union to increase mutual understanding and to lessen the tensions in the world. In this hopeful spirit we have made many substantial concessions to the Soviet Union in the expectation that these would encourage matching concessions.

Repeatedly our hopes have been thwarted. It is difficult to see how the establishment of scattered consular offices will break this one-sided pattern or prompt the Soviets to respond to overtures they have previously ignored.

In the face of our conciliatory gestures the Soviet Union has consistently maintained its professed ambition to communize the world, and has continued to make frequent statements attacking the United States and heightening the tensions between the two countries.

Our goal of peace for the world is most admirable, but our ceaseless attempt to obtain the goodwill of the USSR and the approbation of the rest of the world by yielding unmatched concessions has not measurably advanced our goal. The attitude of the Soviets remains unchanged, and the United States has not thereby gained the approval or support of other nations. However, we may well have endangered the respect of the USSR and other nations, which is the basis of prestige.

The Soviets are notorious for failing to abide by the many treaties they have signed. What evidence supports the belief that they will change in regard to this treaty?

Among civilized nations it is common practice to notify other nations when their nationals are being detained. However, no treaty in the past has deterred the Soviets from acting in totally uncivilized fashion and brutally serving their own ends in the diplomatic area. Is there any reason to expect a change in their actions?

A treaty such as the proposed convention should provide an expanded opportunity for both nations to learn more about the internal life of the other nation. The espionage activities of Soviet diplomatic personnel in the United States throughout the years indicate how the Soviets are likely to exploit this opportunity.

On the other hand, the tight restrictions on our representatives already stationed in the USSR, which deny them freedom of movement and access to information presumably would be imposed on the consular personnel. Of what advantage is it to admit additional Soviet personnel to our free society in exchange for the admission of additional personnel to their closely policed society?

As for the argument that the treaty will spread global goodwill, the other nations' reactions should cease to dominate the consideration of what is best for this country. Other countries have demonstrated a signal lack of interest in supporting the United States except when it is to their direct advantage.

The rift between the USSR and Red China will not be affected one way or the other by the fate of this treaty. The recriminations, the riots, the embassy incidents, the press attacks between Red China and the USSR spring from causes wholly unrelated to this treaty.

More important, the USSR has been and is now supplying most of the war material used by the North Vietnamese. The Soviets have recently declared that this supply will be increased. In short, they are supporting the aggression of the North Vietnamese against South Vietnam—an aggression which the United States has committed itself to stop.

While the USSR encourages and supplies aggression in the world, it is incongruous that the United States should at the same time avidly seek a treaty containing clear disadvantages and potential dangers in the hope that this gesture will somehow pacify and civilize the aggressor.

Sincerely yours,

ARLEIGH BURKE.

The CHAIRMAN. The next witness is Mr. S. Houston Lay, director, international law program of the American Bar Foundation. Mr. Lay, do you have a prepared statement?

**STATEMENT OF S. HOUSTON LAY, DIRECTOR, INTERNATIONAL
LAW PROGRAM OF THE AMERICAN BAR FOUNDATION**

Mr. LAY. Yes, I have, sir.

The CHAIRMAN. Do you wish to read it or insert it in the record and summarize it for us?

Mr. LAY. I will read it and interpolate some as I go through if I may.

The CHAIRMAN. How long will it take?

Mr. LAY. About 10 or 15 minutes.

The CHAIRMAN. All right, proceed.

Mr. LAY. I am honored to be invited to appear before this distinguished committee which is considering whether or not to give its advice and consent to the very important U.S.-U.S.S.R. Consular Convention.

I am a lawyer serving as director of the international law program of the American Bar Foundation since 1962. From the end of World War II until 1962 I served in the Department of State and in the U.S. diplomatic service. For a period of about 4½ years while in the Office of the Legal Adviser of the Department of State my duties included participation in the drafting and negotiation of consular conventions. I also worked in the Office of Special Consular Services for awhile, where I had duties in connection with the operations of the Department under the consular conventions that we had in force. I presently hold the rank of commander in the Naval Reserve and during World War II served for about four years with main duty assignments being with North Atlantic convoys and the amphibious forces in the Pacific. I have not served at any time in the Soviet Union.

WITNESS TESTIFIES FOR SELF ONLY

I would like to make it clear that I speak only for myself and do not represent any organization or group.

The CHAIRMAN. You do not speak for the bar association. I thought you did.

Mr. LAY. No, sir. I am speaking only for myself. The bar association and the bar foundation, so far as I know, have not taken a posi-

tion on the consular convention. If so, I am not their representative for that purpose.

The CHAIRMAN. I am sorry. I just misunderstood the note of the staff.

Mr. LAY. Well, the note indicates my present position.

The CHAIRMAN. What is it?

Mr. LAY. In civilian life, but I am not here representing any organization.

The CHAIRMAN. I see.

Mr. LAY. And because of what has gone on before in connection with Senator Symington's comments about the Liberty Lobby, I believe it was, I wish to emphasize that I am in no way connected with or sympathetic with that organization. I know so very little about it that I would not care in any way to be associated with it. [Laughter.]

The CHAIRMAN. Does the same go for the bar association?

Mr. LAY. No, sir. I am rather proud of the bar association.

This committee has already made an extensive study of the United States-U.S.S.R. Consular Convention, and you have already received a great deal of testimony about the impact of approval or nonapproval of the treaty on overall United States-U.S.S.R. relations, and on the prospects for a lasting peace. Also, I know that you have received a considerable amount of information about the assistance the treaty may be expected to give or not to give in opening up the closed Soviet social system. My comments, therefore, will be restricted primarily to some of the more technical legal aspects of the treaty, and I hope to invite your attention to some of the items and factors entering into the price which we would pay if the treaty is approved. The committee, of course, must decide that the price is one which is in the overall interests of the United States to pay, and if the approval of the treaty would, in fact, result in an improvement of the relations with Russia to the advantage of the United States.

OTHER U.S.S.R. CONSULAR CONVENTIONS

I believe that the committee is aware of the fact that the United Kingdom, Great Britain, and Japan have both signed almost identical treaties, consular conventions, with the U.S.S.R. But, to the best of my knowledge, these treaties have not yet been brought into force. They are in many respects very, very similar. Some of the language is identical.

The U.S.S.R. has a number of consular conventions with its satellite countries. None of the consular conventions which it has with satellite countries have anywhere near the detail of the United States-U.S.S.R. Consular Convention and, as you know, the United States has consular conventions with a great many other countries.

I believe the Department of State has furnished to you a list of those countries which do include some of the satellite countries.

The proposed consular convention is in words and form reciprocal in the granting of rights and benefits. I call your attention to the fact that the treaty, the proposed treaty, does not authorize opening any consular establishment in either country. Arrangements must be negotiated individually within the framework of the treaty for each establishment opened, and thus there is no assurance that any consular establishment would be opened if the treaty is ratified. The

granting of exequaturs, once the decision is made to open consular establishments in the two countries, is also discretionary. In our open society it is very easy for the U.S.S.R to have a very complete intelligence report on any and all members of our Foreign Service, and while we have rather good intelligence services, the closed Russian society makes it difficult, if not impossible, to obtain the same kind of detailed information about Soviet officers proposed for assignment to a consular establishment in the United States. On this point, because of the difference in the social structure of our countries, we would be at a disadvantage.

PERSONA NON GRATA SYSTEM

The treaty provides that consular personnel may be declared persona non grata without any explanation, replacing the customary consular devices of withdrawing the exequatur. This is a change in terminology rather than substance from the usual practice. The consular convention which has been signed between the United Kingdom and Russia, or the U.S.S.R., does have a term for withdrawal of the exequatur in place of the persona non grata language. The convention between Japan and Russia has language which is more similar to the persona non grata, although it says they may be declared unwelcome or undesirable, something of that sort. I think the difference there is probably one of the problem of translation from the Japanese into the English language. The U.S.S.R. has regularly used the persona non grata system with diplomatic personnel as a retaliatory device if someone is excluded from Russia—or if somebody is excluded from a consulate or an Embassy in some other country—they promptly exclude someone from the country's Embassy in Russia as a retaliatory matter.

The provision, if used properly, can be reciprocal, in fact as well as in language.

In United States-U.S.S.R. relations the requirement that all consular personnel be nationals of the sending state is undoubtedly desirable as eliminating a possible source of friction. However, there remains some problems as to a person with dual nationality, or persons whom the Soviets might claim as having Soviet nationality as well as American nationality. This question is not resolved by the convention.

ZONING PROBLEMS AND REAL PROPERTY OWNERSHIP

The language of the convention with reference to the obligation of the receiving state to facilitate the acquisition of premises necessary for a consular establishment and its personnel is reciprocal in language and identical with the Vienna Consular Convention and the Vienna Diplomatic Convention. Since the acquisitions must be in accordance with the laws of the receiving states, there must be taken into consideration the sharply different economic and legal structure of the United States and the U.S.S.R. In the United States compliance with zoning rules, which apply to everyone equally, are about the only problems which the Soviets may expect to encounter. I think all of you are familiar with the fact that the zoning rules in Washington did recently prevent the Soviets from establishing their Embassy in a residential area of Northwest Washington. The Soviets

have reciprocated by preventing the United States from acquiring satisfactory new Embassy facilities in Moscow. I do not believe that problem has yet been resolved. Soviet rules of ownership of real property are such that it is highly unlikely that the United States will receive reciprocity in fact in the ownership of consular premises. The Soviets have shown an indication to make available existing buildings, and I think the record is very clear that any building made available to the United States by the Soviet Union will be well equipped with Soviet-installed monitoring equipment.

FUNCTIONS OF CONSULAR PERSONNEL

Articles 7 through 15 of the convention set forth the functions which may be performed by consular personnel. However, as part of this, the Soviet view of the collection of economic information is well known, and it is quite probable that any American officers successful in obtaining any useful but unpublished economic information or, for that matter, information of any kind about the Soviet society would be declared persona non grata immediately. In the open society of the United States there would be very little risk of being declared persona non grata except if strategic defense information was involved. Soviet prosecution for economic espionage, as they refer to it, has long existed, and was the subject of the Roosevelt-Litvinov exchange in 1933 in connection with U.S. recognition of Russia at that time.

ADMINISTRATION OF ESTATES

The United States-U.S.S.R. treaty provisions with reference to the administration of estates are in language reciprocal, but not in fact, although the whole matter of administration of estates is made subject to the laws of the receiving state. Under the Soviet economic system, however, very little of value other than personal items are inherited, whereas in the United States even with the graduated inheritance taxes, estates of very great value may be passed by inheritance. So far as I know there are no reliable statistics on this problem, but I have seen estimates that it is possible that the Department of State can furnish you with something better than I have, but I have seen estimates that as much as \$100 million might be transmitted to Russia, while only a very few million at most would come to the United States, if the assets of pending estates were freely transmitted.

Approval of this treaty would not require American courts to release assets to the Soviet Union, but it would give the Soviets added respectability and an argument likely to be persuasive in a great many instances. There is also no assurance that the language of the treaty notwithstanding that any fund released to Soviet beneficiaries would, in fact, reach them since artificial exchange rates, taxes, service charges are customary, the requirement of receipts and proofs are not considered to be very effective. Given the great difference in the socioeconomic structure of the United States and U.S.S.R., language could be formulated only with substantial difficulty which would provide for reciprocity in fact. Language could probably be drafted which would allow only the types of things inheritable, in fact, under the Soviet system or the value of such items to be transmitted to Russia from the

United States. But this would be cumbersome, difficult, and would require rather great research in which the Soviets would not likely cooperate. Whether or not the Soviets would agree to any such language as this is not known, as it would also almost certainly interfere with their foreign currency controls which, as you know, are very, very rigid and transmissions of assets of estates are ordinarily of necessity made through government agencies to the recipients in the Soviet Union.

NOTIFICATION AND ACCESS PROVISIONS

The proposed convention and protocol contain rather specific language relating to the right of the consular officer to be informed of and to visit his nationals under arrest or detention. The almost identical language is contained in both the British and the Japanese consular conventions which have been signed with Russia. About everything possible has been done by way of language to make certain of the accessibility of any American in prison. There again, is raised the rather serious problems of persons with dual nationalities. In the past, Russia has claimed that persons with dual nationality while in Russia were not to be considered American citizens, and this has been used in the past, and I see no reason to think that it might not be used continuously in the future.

DEFINITION OF TERM "DUAL NATIONALITY"

Senator LAUSCHIE. Will you define the term "dual nationality"?

Mr. LAY. A person who is a citizen of more than one country at the same time under the laws of the two countries. That is, we may consider the person a citizen of the United States; Russia may consider him a citizen of the Soviet Union, and there is nothing we can do to prevent the Russians, the Soviet Government, from so doing.

RELEASE OF PRISONER NOT GUARANTEED

However, even if you got across this problem of visiting the prisoner and obtaining legal representation, that provides no assurance of either a fair or speedy trial, and there is no guarantee whatever that the prisoner would be released on bail. I did see some reference to a suggestion that the convention would provide such a benefit. It does no such thing.

The only rights guaranteed by the convention are the rights of the consular officer to be notified and to visit.

There is little reason to believe that the Soviets who were very adept in finding ways to avoid the clear intent of the 1933 Litvinov commitments to again avoid the very explicit terms contained in the new version of the consular relationships. There is little reason to believe that they cannot again find a rationale to avoid the terms if they wish, and if they fail to find a rationale to avoid the terms of the treaty then it is only necessary to refer to Senate Document 125 of the 84th Congress, 2d session, for a listing of Soviet treaty breaches from 1917 through 1956. The 1959 list of additional breaches may be found in the Department of State Soviet Affairs Note No. 233 of August 10, 1959, and there are probably more recent partial lists which have been prepared

by the Department of State. While the Soviet Union has a new Prime Minister, there does not appear to be any reason to believe that his basic policy regarding the sanctity of treaties has changed appreciably.

Experience would seem to indicate that American tourists in the Soviet Union will receive such treatment as suits the Soviet purpose from time to time, and if the consular convention is not approved, I think it is not unreasonable to expect that the Soviets may hold some of our tourists incommunicado for awhile in spite of the Litvinov exchange, which I believe is still in force, to show us how much better things might have been if the treaty had been approved.

LITVINOV CORRESPONDENCE

I would like to make a couple of comments about the Litvinov exchange of 1933. To the best of my knowledge, and I am very happy to have heard Senator Mundt this morning request clarification of the point from the Department of State, but to the best of my knowledge, the Litvinov exchange is still in force. There is some confusion involved in that the Litvinov exchange makes reference to a consular convention between the Soviet Union and Germany, which consular convention was suspended or terminated as the result of World War II. The termination of the consular convention between Germany and the Soviet Union, to the best of my knowledge, has nothing to do with the continued full force and effect of the exchange, the Litvinov exchange between the United States and Russia which was a part of and is a continuing part of the recognition relationships between the United States and Russia. The Litvinov exchange of 1933 provided for most-favored-nation treatment of U.S. nationals, and although contemplating the immediate negotiation of a consular convention also stipulated that "such rights will be granted to American nationals immediately upon the establishment of relations between our two countries." Thus a very good, strong legal argument can be made that the Litvinov exchange, in addition to the most-favored-nation provision incorporated by reference the language of the Soviet-German consular convention, and that commitment to the U.S. nationals thereafter existed and exists now whether or not the German convention was terminated.

So far as I know, there has not been any official action terminating the Litvinov agreement, but as I say, Senator Mundt has requested the Department of State for an official response on that point.

It is very true that matters of this nature are very frequently resolved more on a political than legal ground, and I will say that very clearly in the U.S.-U.S.S.R. consular convention, a determined effort has been made to close the loopholes that existed or that were invented by the Soviets in connection with the protection rights, the access rights, noted in that exchange.

I have previously mentioned that the British and Japanese consular conventions both contain almost identical language. If these conventions are brought into force, and if the Litvinov exchange of notes are still in force as I believe to be the fact, then the most-favored-nation provision contained in the Litvinov agreement would, I believe, inure to the benefit of the United States without our having to sign a new consular convention or bring a new consular convention into force.

This is a rather technical point, but I believe that it is nonetheless entirely accurate.

Articles 13, 14, and 15 of the U.S.-U.S.S.R. consular convention relating to shipping are quite well drafted and I think are probably superior for American purposes to the conventions that we have with Japan, and I am speaking of the United States-Japanese consular convention at the moment, which I think gives a little bit too much authority to the consular officers to the exclusion of the local police authorities of the port in case of any serious difficulty.

IMMUNITY PROVISION

The immunity of consular premises and personnel probably has received more attention than any other part of the convention, and there are others who are probably more expert in this field than I. I would like to point out that in recent years the United States has tended, where foreign relations are at all sensitive, to treat consular personnel in much the same manner as diplomatic personnel. I believe that the Department of State has furnished you with a list of the instances where prosecution, criminal prosecution, has been brought against consular personnel. The number is somewhat limited. An example of the type of situation where the behavior of the consular officer was treated as though he were a member of the diplomatic corps is involved in the 1948 Kasenkina case—I don't know the correct pronunciation of that. You will recall she was the Rumanian schoolteacher who jumped out of the window of the Soviet consular establishment in New York, and after a very sharp series of exchanges between the Soviets and the U.S. consular, relationships were terminated, in effect declaring the Soviet consular officer in New York persona non grata. Thus, to some degree, the language of the draft would formalize what has been done in the past and what may be done in the future anyway. However, it would eliminate from the discretionary area the right of the United States to bring criminal action in case of a serious offense such as involving espionage or murder or any of the major offenses.

OPERATION OF RADIO STATIONS

Consular communications are ordinarily inviolable but the language of the U.S.-U.S.S.R. draft includes words "making use of all ordinary means of communications." The British-Soviet draft uses the words "making use of all ordinary means of public communication." Under international law consulates may not operate their own radio stations except with the approval of the receiving state. In the United States a few years ago I believe we have had a provision of law enacted under which on a reciprocal basis the United States may allow or does allow consular and diplomatic establishments to operate their own radio stations. This had been going on unofficially, I believe, for some time before that, and the legislation was regularizing the procedure. However, under the draft convention which you gentlemen are considering I suggest that the Soviets may claim that the language quoted above constitutes an agreement on the part of the United States to operate their own station. This would be a matter of negotiations, a matter of argument, and you may wish to inquire of the Federal Communica-

tions Commission or of the Department of State as to whether this point was, in fact, discussed at all during the negotiations. I have not had access to the minutes of the negotiations and do not know on this. If the Soviets utilized a radio station on the basis suggested, they could not reasonably object if the United States did the same thing, and how serious a problem this would be—this would present—is open to question. Radio messages can be monitored as easily as cable messages and everything of importance would be in crypt so that it would be a matter of breaking codes the same as it is if the communications are sent over public carriers, communications carriers.

PROPERTY TAX EXEMPTIONS

Because of the difference in the economic structure of the United States and the U.S.S.R., the provisions relating to property tax exemptions are not reciprocal, in fact, and the advantage would be to the Soviet Union. In this instance, I am speaking of the exemptions, tax exemptions, for property acquired for purposes of the consular establishment. Language could probably be devised which would give reciprocity, in fact, and it is entirely possible that in the detailed negotiations looking to the opening of individual consular establishments that this matter could be worked out. The amounts involved are comparatively not large, but the task of negotiating the amounts on an individual basis each time the question arises is time consuming and an annoying source of friction. It can also be used as a delaying tactic. I think the Department of State's Office of Foreign Buildings overseas can give rather detailed information about these problems if you wish to pursue it. Problems of exchange rate differentials would also make advance agreement highly desirable on the matter of tax exemptions. As I read the personal tax and customs exemptions provisions in the convention I do not believe that these would present very much of a problem, and are reasonably reciprocal, in fact, if they are fairly administered.

Authorizations for travel restrictions contained in the conventions would be much more easily enforced in the Soviet Union than in the United States, although the United States could, if it wished to spend enough on security forces, and wished to adopt tactics of a police state, have reciprocity, in fact.

NO MOST-FAVORED-NATION PROVISION

The proposed consular convention does not include a most-favored-nation provision as many consular conventions to which the United States is a party to, and as is true in the Litvinov exchange. Thus neither the United States nor Russia can, under the proposed convention, take advantage of the provisions of other consular treaties, if the present proposal is approved and supersedes the Litvinov commitments.

I have already referred to the fact that I believe under the Litvinov agreements if the British and Japanese consular treaties with the Soviets are approved that we could take advantage of those. Other consular conventions as I have mentioned that the Soviets have with our allies are much less specific in terms, and the only other most-

favoured-nation provision that I found was in a consular convention with Russia—although I did not make a complete search—was in the convention that the Soviets have with Australia, and the most-favored-nation provision there was limited only to rather limited aspects of tax exemptions.

The CHAIRMAN. Mr. Lay, I wonder if you could bring your testimony to a close. You have been 35 minutes and have wandered far afield from your written statement.

Mr. LAY. All right, sir.

The CHAIRMAN. Can't you close this up so we can have a question or two?

Mr. LAY. All right.

The CHAIRMAN. The whole thing will be put in the record of the hearings, but you went far beyond the written statement.

Mr. LAY. I indicated I would interpolate from my written statement.

The CHAIRMAN. But you also indicated you would take 15 minutes and you took 35.

Senator LAUSCHE.

(The prepared statement of Mr. Lay appears on page 342 of the appendix.)

PROPERTY GUARDIAN PROVISION AND STATE LAWS

Senator LAUSCHE. Will article 11 and its proposed provisions supersede existing domestic State laws relating to the powers of our State courts to appoint trustees or guardians for citizens of Russia or for property belonging to a citizen of Russia?

Mr. LAY. The overall provisions of the consular convention relating to the administration of the estates, is stated to be subject to the laws of the receiving State. However, the language of article 11 does go rather far, and my own feeling is that the Russians would have an extremely good argument to insist that their nominee be accepted by the court.

Senator LAUSCHE. My question is, Will the adoption of this treaty substitute through the provisions of article 11 the laws that have been adopted by the various States of the United States, directing the courts how guardians and trustees shall be appointed?

Mr. LAY. Under our Constitution treaties are the supreme law of the land, and where there is a variation in the treaty and a variation in the law of a State, if the treaty is within the Constitutional power of the United States to enact, it does supersede the law of the State, yes.

Senator LAUSCHE. You still haven't answered my question. You have read the language. Will this treaty's provisions become dominant in directing the court how it shall select a guardian or trustee?

Mr. LAY. To this limited extent I believe that it will.

Senator LAUSCHE. Yes. The treaty says that the consul may recommend a trustee or guardian, and if the court doesn't appoint that trustee or guardian, recommended by the Russian consul, the consul can then send in a second name, and that can go on without termination.

Mr. LAY. This appears to be true and to this extent it would appear to me that the consular convention would supersede the normal authority of the State courts to control completely the administration of the estates.

Senator LAUSCHE. Please put in the record at this point Article 11 of the proposed treaty.

(The Article referred to follows:)

ARTICLE 11

A consular officer may recommend to the courts or to other competent authorities of the receiving state appropriate persons to act in the capacity of guardians or trustees for citizens of the sending state or for the property of such citizens when this property is left without supervision.

In the event that the court or competent authorities consider that the recommended candidate is for some reason unacceptable, the consular officer may propose a new candidate.

EFFECT OF MOST-FAVORED-NATION PROVISION ON CONSULATES OF SATELLITE NATIONS

Senator LAUSCHE. Now, this question: if this treaty is adopted, will the principle of most-favored-nation become operative requiring the United States to allow the satellite nations of Europe to likewise have consular offices assigned to them?

Mr. LAY. So far as we have consular conventions with other countries in Eastern Europe, satellite countries, and to the extent that those consular treaties have a most-favored-nation provision in them the answer is yes, and we do have consular conventions with some of the satellite countries.

Senator LAUSCHE. I think that is all.

The CHAIRMAN. Senator Mundt.

REASON FOR WITNESS' WISH TO TESTIFY

Senator MUNDT. Thank you for your testimony, Mr. Lay, because you bring us some very interesting information from the standpoint of not only a lawyer, but of one who has been a State Department official. You're the first State Department official who has come in and given us this careful analysis of the treaty.

I wonder if you would care to tell us how you decided to testify in spite of the old school ties that usually prevail among State Department people.

Mr. LAY. I am wearing the old school tie from the senior foreign affairs seminar. I am no longer with the Department of State, as you know. I received a telephone call asking me if I would come in and testify, and I was aware of the fact that my testimony might not be entirely pleasing to some of my former colleagues in the Department of State, but I feel that my loyalty is to the United States rather than to the Department of State.

The CHAIRMAN. Who called you?

Senator MUNDT. It is a very commendable statement, may I say.

Mr. LAY. If there is any distinction between that, which I hope that there is not.

Senator MUNDT. I don't either, but I hope the principle you have enunciated becomes standing operating procedure—I think that is where the loyalties do belong.

The CHAIRMAN. Will the Senator yield. Who called you to come testify?

Mr. LAY. I received a telegram from your committee, sir, asking me if I would come in and testify.

The CHAIRMAN. I thought you said a telephone call.

Mr. LAY. I did have a telephone call also, but—

The CHAIRMAN. Whom did you talk to?

Mr. LAY. The telephone call was from Mr. Ruddy of Senator Mundt's staff. And the telegram that I have is from Mr. Arthur Kuhl, chief clerk of your committee, I believe.

Senator MUNDT. The telephone call was for the purpose—

The CHAIRMAN. That is all right. I thought you had received a call from the State Department. You had a call from Senator Mundt's office inviting you to come.

Mr. LAY. I had a telegram to come.

The CHAIRMAN. That was setting the day.

Senator MUNDT. The telephone call was to determine his availability and the date.

Mr. LAY. The date of the cable is February 9.

The CHAIRMAN. We invited all those Senator Mundt asked us to invite. There is no mystery about it. You said "I had a call" without saying from whom.

Mr. LAY. All right, I am sorry.

The CHAIRMAN. I don't know why you didn't say who had called.

Mr. LAY. I'm sorry.

Senator MUNDT. All right.

HAS UNITED STATES EVER GRANTED IMMUNITY PROVISIONS BEFORE?

Have we ever given these immunity provisions, on your knowledge of the State Department, say to England—this same kind of total immunity?

Mr. LAY. No, sir, we have not. We were thinking of negotiating the consular convention with England at the time of the *Kasenikina* case and the language of the consular convention that we have with England represents the concern that we had for the type of situation that we foresaw a possibility of developing.

Senator MUNDT. Have we ever given these total immunities to a good friend like Canada?

Mr. LAY. We have not, not for consular personnel. We have never given it, to the best of my knowledge, we have never given the total immunity to any other consular people.

Senator MUNDT. In brief then, these total immunities we now propose to grant to Russia have never been granted to any of our allies or our friends in the Western World.

Mr. LAY. They have not been.

ROOSEVELT-LITVINOV EXCHANGE OF LETTERS

Senator MUNDT. Mr. Chairman, I wonder whether we have placed the exchange of letters between Litvinov and President Roosevelt in the record? It's been alluded to a great many times and I think our colleagues would like to have the text in the record.

The CHAIRMAN. If they are not, the staff will see that they are. I have read them here in some of the documents before us.

Senator MUNDT. Senator Hickenlooper brought them up. I think it would be good to have the whole text.

The CHAIRMAN. If they are not already in, we will put them in.
(The exchange of letters referred to follows:)

President Roosevelt to the Soviet Commissar for Foreign Affairs (Litvinov)

WASHINGTON, November 16, 1933.

MY DEAR MR. LITVINOV: I am very happy to inform you that as a result of our conversations the Government of the United States has decided to establish normal diplomatic relations with the Government of the Union of Soviet Socialist Republics and to exchange ambassadors.

I trust that the relations now established between our peoples may forever remain normal and friendly, and that our nations henceforth may cooperate for their mutual benefit and for the preservation of the peace of the world.

FRANKLIN D. ROOSEVELT.

The Soviet Commissar for Foreign Affairs (Litvinov) to President Roosevelt

WASHINGTON, November 16, 1933.

MY DEAR MR. PRESIDENT: I am very happy to inform you that the Government of the Union of Soviet Socialist Republics is glad to establish normal diplomatic relations with the Government of the United States and to exchange ambassadors.

I, too, share the hope that the relations now established between our peoples may forever remain normal and friendly, and that our nations henceforth may cooperate for their mutual benefit and for the preservation of the peace of the world.

I am [etc.]

MAXIM LITVINOFF.

The Soviet Commissar for Foreign Affairs (Litvinov) to President Roosevelt

WASHINGTON, November 16, 1933.

MY DEAR MR. PRESIDENT: I have the honor to inform you that coincident with the establishment of diplomatic relations between our two Governments it will be the fixed policy of the Government of the Union of Soviet Socialist Republics:

1. To respect scrupulously the indisputable right of the United States to order its own life within its own jurisdiction in its own way and to refrain from interfering in any manner in the internal affairs of the United States, its territories or possessions.

2. To refrain, and to restrain all persons in government service and all organizations of the Government or under its direct or indirect control, including the organizations in receipt of any financial assistance from it, from any act overt or covert liable in any way whatsoever to injure the tranquillity, prosperity, order, or security of the whole or any part of the United States, its territories or possessions, and in particular, from any act tending to incite or encourage armed intervention, or any agitation or propaganda having as an aim, the violation of the territorial integrity of the United States, its territories or possessions, or the bringing about by force of a change in the political or social order of the whole or any part of the United States, its territories or possessions.

3. Not to permit the formation or residence on its territory of any organization or group—and to prevent the activity on its territory of any organization or group, or of representatives or officials of any organization or group—which makes claim to be the Government of, or makes attempt upon the territorial integrity of, the United States, its territories or possessions; not to form, subsidize, support or permit on its territory military organizations or groups having the aim of armed struggle against the United States, its territories or possessions, and to prevent any recruiting on behalf of such organizations and groups.

4. Not to permit the formation or residence on its territory of any organization or group—and to prevent the activity on its territory of any organization or group, or of representatives or officials of any organization or group—which has

as an aim the overthrow or the preparation for the overthrow of, or the bringing about by force of a change in, the political or social order of the whole or any part of the United States, its territories or possessions.

I am [etc.]

MAXIM LITVINOFF.

President Roosevelt to the Soviet Commissar for Foreign Affairs (Litvinov)

WASHINGTON, November 16, 1933.

MY DEAR MR. LITVINOV: I am glad to have received the assurance expressed in your note to me of this date that it will be the fixed policy of the Government of the Union of Soviet Socialist Republics:

[Here follows repetition of the four numbered paragraphs in Mr. Litvinov's note printed *supra*.]

It will be the fixed policy of the Executive of the United States within the limits of the powers conferred by the Constitution and the laws of the United States to adhere reciprocally to the engagements above expressed.

I am [etc.]

FRANKLIN D. ROOSEVELT.

President Roosevelt to the Soviet Commissar for Foreign Affairs (Litvinov)

WASHINGTON, November 16, 1933.

MY DEAR MR. LITVINOV: As I have told you in our recent conversations, it is my expectation that after the establishment of normal relations between our two countries many Americans will wish to reside temporarily or permanently within the territory of the Union of Soviet Socialist Republics, and I am deeply concerned that they should enjoy in all respects the same freedom of conscience and religious liberty which they enjoy at home.

As you well know, the Government of the United States, since the foundation of the Republic, has always striven to protect its nationals, at home and abroad, in the free exercise of liberty of conscience and religious worship, and from all disability or persecution on account of their religious faith or worship. And I need scarcely point out that the rights enumerated below are those enjoyed in the United States by all citizens and foreign nationals and by American nationals in all the major countries of the world.

The Government of the United States, therefore, will expect that nationals of the United States of America within the territory of the Union of Soviet Socialist Republics will be allowed to conduct without annoyance or molestation of any kind religious services and rites of a ceremonial nature, including baptismal, confirmation, communion, marriage and burial rites in the English language, or in any other language which is customarily used in the practice of the religious faith to which they belong, in churches, houses, or other buildings appropriate for such service, which they will be given the right and opportunity to lease, erect or maintain in convenient situations.

We will expect that nationals of the United States will have the right to collect from their co-religionists and to receive from abroad voluntary offerings for religious purposes; that they will be entitled without restriction to impart religious instruction to their children, either singly or in groups, or to have such instruction imparted by persons whom they may employ for such purpose; that they will be given and protected in the right to bury their dead according to their religious customs in suitable and convenient places established for that purpose, and given the right and opportunity to lease, lay out, occupy and maintain such burial grounds subject to reasonable sanitary laws and regulations.

We will expect that religious groups or congregations composed of nationals of the United States of America in the territory of the Union of Soviet Socialist Republics will be given the right to have their spiritual needs ministered to by clergymen, priests, rabbis or other ecclesiastical functionaries who are nationals of the United States of America, and that such clergymen, priests, rabbis or other ecclesiastical functionaries will be protected from all disability or persecution and will not be denied entry into the territory of the Soviet Union because of their ecclesiastical status.

I am [etc.]

FRANKLIN D. ROOSEVELT.

The Soviet Commissar for Foreign Affairs (Litvinov) to President Roosevelt

WASHINGTON, November 16, 1933.

MY DEAR MR. PRESIDENT: In reply to your letter of November 16, 1933, I have the honor to inform you that the Government of the Union of Soviet Socialist Republics as a fixed policy accords the nationals of the United States within the territory of the Union of Soviet Socialist Republics the following rights referred to by you:

1. The right to "free exercise of liberty of conscience and religious worship" and protection "from all disability or persecution on account of their religious faith or worship".

This right is supported by the following laws and regulations existing in the various republics of the Union:

Every person may profess any religion or none. All restrictions of rights connected with the profession of any belief whatsoever, or with the non-profession of any belief, are annulled. (Decree of Jan. 23, 1918, art. 3.)

Within the confines of the Soviet Union it is prohibited to issue any local laws or regulations restricting or limiting freedom of conscience, or establishing privileges or preferential rights of any kind based upon the religious profession of any person. (Decree of Jan. 23, 1918, art. 2.)

2. The right to "conduct without annoyance or molestation of any kind religious services and rites of a ceremonial nature".

This right is supported by the following laws:

A free performance of religious rites is guaranteed as long as it does not interfere with public order and is not accompanied by interference with the rights of citizens of the Soviet Union. Local authorities possess the right in such cases to adopt all necessary measures to preserve public order and safety. (Decree of Jan. 23, 1918, art. 5.)

Interference with the performance of religious rites, in so far as they do not endanger public order and are not accompanied by infringements on the rights of others is punishable by compulsory labour for a period up to six months. (Criminal Code, art. 127.)

3. "The right and opportunity to lease, erect or maintain in convenient situations" churches, houses or other buildings appropriate for religious purposes.

This right is supported by the following laws and regulations:

Believers belonging to a religious society with the object of making provision for their requirements in the matter of religion may lease under contract, free of charge, from the Sub-District or District Executive Committee or from the Town Soviet, special buildings for the purpose of worship and objects intended exclusively for the purposes of their cult. (Decree of April 8, 1929, art. 10.)

Furthermore, believers who have formed a religious society or a group of believers may use for religious meetings other buildings which have been placed at their disposal on lease by private persons or by local Soviets and Executive Committees. All rules established for houses of worship are applicable to these buildings. Contracts for the use of such buildings shall be concluded by individual believers who will be held responsible for their execution. In addition, these buildings must comply with the sanitary and technical building regulations. (Decree of April 8, 1929, art. 10.)

The place of worship and religious property shall be handed over for the use of believers forming a religious society under a contract concluded in the name of the competent District Executive Committee or Town Soviet by the competent administrative department or branch, or directly by the Sub-District Executive Committee. (Decree of April 8, 1929, art. 15.)

The construction of new places of worship may take place at the desire of religious societies provided that the usual technical building regulations and special regulations laid down by the People's Commissariat for Internal Affairs are observed. (Decree of April 8, 1929, art. 45.)

4. "The right to collect from their co-religionists . . .⁸⁵ voluntary offerings for religious purposes."

This right is supported by the following law:

Members of groups of believers and religious societies may raise subscriptions among themselves and collect voluntary offerings, both in the

⁸⁵ Omission indicated in the original.

place of worship itself and outside it, but only amongst the members of the religious association concerned and only for purposes connected with the upkeep of the place of worship and the religious property, for the engagement of ministers of religion and for the expenses of their executive body. Any form of forced contribution in aid of religious associations is punishable under the Criminal Code. (Decree of April 8, 1929, art. 54.)

5. Right to "impart religious instruction to their children either singly or in groups or to have such instruction imparted by persons whom they may employ for such purposes."

This right is supported by the following law :

The school is separated from the Church. Instruction in religious doctrines is not permitted in any governmental and common schools, nor in private teaching institutions where general subjects are taught. Persons may give or receive religious instruction in a private manner. (Decree of Jan. 23, 1918, art. 9.)

Furthermore, the Soviet Government is prepared to include in a consular convention to be negotiated immediately following the establishment of relations between our two countries provisions in which nationals of the United States shall be granted rights with reference to freedom of conscience and the free exercise of religion which shall not be less favorable than those enjoyed in the Union of Soviet Socialist Republics by nationals of the nation most favored in this respect. In this connection, I have the honor to call to your attention Article 9 of the Treaty between Germany and the Union of Soviet Socialist Republics, signed at Moscow October 12, 1925, which reads as follows :

"Nationals of each of the Contracting Parties . . . shall be entitled to hold religious services in churches, houses or other buildings, rented, according to the laws of the country, in their national language or in any other language which is customary in their religion. They shall be entitled to bury their dead in accordance with their religious practice in burial-grounds established and maintained by them with the approval of the competent authorities, so long as they comply with the police regulations of the other Party in respect of buildings and public health."

Furthermore, I desire to state that the rights specified in the above paragraphs will be granted to American nationals immediately upon the establishment of relations between our two countries.

Finally, I have the honor to inform you that the Government of the Union of Soviet Socialist Republics, while reserving to itself the right of refusing visas to Americans desiring to enter the Union of Soviet Socialist Republics on personal grounds, does not intend to base such refusals on the fact of such persons having an ecclesiastical status.

I am [etc.]

MAXIM LITVINOFF.

The Soviet Commissar for Foreign Affairs (Litvinov) to President Roosevelt

WASHINGTON, November 16, 1933.

MY DEAR MR. PRESIDENT: Following our conversations I have the honor to inform you that the Soviet Government is prepared to include in a consular convention to be negotiated immediately following the establishment of relations between our two countries provisions in which nationals of the United States shall be granted rights with reference to legal protection which shall not be less favorable than those enjoyed in the Union of Soviet Socialist Republics by nationals of the nation most favored in this respect. Furthermore, I desire to state that such rights will be granted to American nationals immediately upon the establishment of relations between our two countries.

In this connection I have the honor to call to your attention Article 11 and the Protocol to Article 11, of the Agreement Concerning Conditions of Residence and Business and Legal Protection in General concluded between Germany and the Union of Soviet Socialist Republics on October 12, 1925.

ARTICLE 11

Each of the Contracting Parties undertakes to adopt the necessary measures to inform the consul of the other Party as soon as possible whenever a national of the country which he represents is arrested in his district.

³⁰ Omission indicated in the original letter

The same procedure shall apply if a prisoner is transferred from one place of detention to another.

FINAL PROTOCOL

Ad Article 11.

1. The consul shall be notified either by a communication from the person arrested or by the authorities themselves direct. Such communications shall be made within a period not exceeding seven times twenty-four hours, and in large towns, including capitals of districts, within a period not exceeding three times twenty-four hours.

2. In places of detention of all kinds, requests made by consular representatives to visit nationals of their country under arrest, or to have them visited by their representatives, shall be granted without delay. The consular representative shall not be entitled to require officials of the courts or prisons to withdraw during his interview with the person under arrest.

I am [etc.]

MAXIM LITVINOFF.

*President Roosevelt to the Soviet Commissar for Foreign Affairs
(LITVINOV)*

WASHINGTON, November 16, 1933.

MY DEAR MR. LITVINOV: I thank you for your letter of November 16, 1933, informing me that the Soviet Government is prepared to grant to nationals of the United States rights with reference to legal protection no less favorable than those enjoyed in the Union of Soviet Socialist Republics by nationals of the nation most favored in this respect. I have noticed the provisions of the treaty and protocol concluded between Germany and the Union of Soviet Socialist Republics on October 12, 1925.

I am glad that nationals of the United States will enjoy the protection afforded by these instruments immediately upon the establishment of relations between our countries and I am fully prepared to negotiate a consular convention covering these subjects as soon as practicable. Let me add that American diplomatic and consular officers in the Soviet Union will be zealous in guarding the rights of American nationals, particularly the right to a fair, public, and speedy trial and the right to be represented by counsel of their choice. We shall expect that the nearest American diplomatic or consular officer shall be notified immediately of any arrest or detention of an American national, and that he shall promptly be afforded the opportunity to communicate and converse with such national.

I am [etc.]

FRANKLIN D. ROOSEVELT.

Statement by the Soviet Commissar for Foreign Affairs (Litvinov)

[WASHINGTON, November 16, 1933.]

In reply to a question of the President in regard to prosecutions for economic espionage, Mr. Litvinov gave the following explanation:

"The widespread opinion that the dissemination of economic information from the Union of Soviet Socialist Republics is allowed only in so far as this information has been published in newspapers or magazines, is erroneous. The right to obtain economic information is limited in the Union of Soviet Socialist Republics, as in other countries, only in the case of business and production secrets and in the case of the employment of forbidden methods (bribery, theft, fraud, etc.) to obtain such information. The category of business and production secrets naturally includes the official economic plans, in so far as they have not been made public, but not individual reports concerning the production conditions and the general conditions of individual enterprises.

"The Union of Soviet Socialist Republics has also no reason to complicate or hinder the critical examination of its economic organization. It naturally follows from this that every one has the right to talk about economic matters or to receive information about such matters in the Union, in so far as the information for which he has asked or which has been imparted to him is not such as may not, on the basis of special regulations issued by responsible of-

officials or by the appropriate state enterprises, be made known to outsiders. (This principle applies primarily to information concerning economic trends and tendencies.)"

The Soviet Commissar for Foreign Affairs (Litvinov) to President Roosevelt

WASHINGTON, November 16, 1933.

MY DEAR MR. PRESIDENT: Following our conversations I have the honor to inform you that the Government of the Union of Soviet Socialist Republics agrees that, preparatory to a final settlement of the claims and counter claims between the Governments of the Union of Soviet Socialist Republics and the United States of America and the claims of their nationals, the Government of the Union of Soviet Socialist Republics will not take any steps to enforce any decisions of courts or initiate any new litigations for the amounts admitted to be due or that may be found to be due it as the successor of prior Governments of Russia, or otherwise, from American nationals, including corporations, companies, partnerships, or associations, and also the claim against the United States of the Russian Volunteer Fleet, now in litigation in the United States Court of Claims, and will not object to such amounts being assigned and does hereby release and assign all such amounts to the Government of the United States, the Government of the Union of Soviet Socialist Republics to be duly notified in each case of any amount realized by the Government of the United States from such release and assignment.

The Government of the Union of Soviet Socialist Republics further agrees, preparatory to the settlement referred to above not to make any claim with respect to:

(a) judgments rendered or that may be rendered by American courts in so far as they relate to property, or rights, or interests therein, in which the Union of Soviet Socialist Republics or its nationals may have had or may claim to have an interest; or

(b) acts done or settlements made by or with the Government of the United States, or public officials in the United States, or its nationals, relating to property, credits, or obligations of any Government of Russia or nationals thereof.

I am [etc.]

MAXIM LITVINOFF.

President Roosevelt to the Soviet Commissar for Foreign Affairs (Litvinov)

WASHINGTON, November 16, 1933.

MY DEAR MR. LITVINOV: I am happy to acknowledge the receipt of your letter of November 16, 1933, in which you state that:

[Here follows quotation of statement made by Mr. Litvinov in his note printed *supra*.]

I am glad to have these undertakings by your Government and I shall be please to notify your Government in each case of any amount realized by the Government of the United States from the release and assignment to it of the amounts admitted to be due, or that may be found to be due, the Government of the Union of Soviet Socialist Republics, and of the amount that may be found to be due on the claim of the Russian Volunteer Fleet.

I am [etc.]

FRANKLIN D. ROOSEVELT.

The Soviet Commissar for Foreign Affairs (Litvinov) to President Roosevelt

WASHINGTON, November 16, 1933.

MY DEAR MR. PRESIDENT: I have the honor to inform you that, following our conversations and following my examination of certain documents of the years 1918 to 1921 relating to the attitude of the American Government toward the expedition into Siberia, the operations there of foreign military forces and the inviolability of the territory of the Union of Soviet Socialist Republics, the

Government of the Union of Soviet Socialist Republics agrees that it will waive any and all claims of whatsoever character arising out of activities of military forces of the United States in Siberia, or assistance to military forces in Siberia subsequent to January 1, 1918, and that such claims shall be regarded as finally settled and disposed of by this agreement.

I am [etc.]

MAXIM LITVINOFF.

Joint Statement by President Roosevelt and the Soviet Commissar for Foreign Affairs (Litvinov), November 16, 1933²⁷

In addition to the agreements which we have signed today, there has taken place an exchange of views with regard to methods of settling all outstanding questions of indebtedness and claims that permits us to hope for a speedy and satisfactory solution of these questions which both our Governments desire to have out of the way as soon as possible.

Mr. Litvinov will remain in Washington for several days for further discussions.

NO ASSURANCE OF RELEASE OF PRISONERS

Senator MUNDT. Some people, some writers, some radio commentators and others seem to feel that the terms of this consular treaty actually provide for the release of American citizens held by the Soviets. Is this even remotely involved in the consular treaty?

Mr. LAY. It is not; no, sir. There is no provision in the consular treaty which would give any assurance whatever that any American citizen arrested would be released. There is a provision that if lived up to would give the consular officer the right to see.

Senator MUNDT. I think the witness from the American Legion made that very clear, the difference between consultation and release, but I wanted to get it from you because of your background of experience in the State Department.

NOTIFICATION AND ACCESS PROVISIONS

You dwell, and other witnesses have dwelled, a good deal, on this most favored nation clause and there seems to be some confusion as to how that would operate. Because of your background I want to ask you about a certain point which has come up in earlier testimony.

You are aware, I know, that some countries have notification and access provisions as unfavorable from the standpoint of the United States as those which prevail in Russia. I have in mind, for example, Italy.

Mr. LAY. Yes.

Senator MUNDT. If this convention is ratified and Italy were to ask for most-favored-nation treatment, as they could do, under our agreement with them and with regard to the immunity in article 19, would the United States be able to claim that the notification and access provisions of article 12 of the United States-Soviet Union Consular Convention applies to Americans in Italy, or would Italy be allowed to pick and choose, so to speak, as to when such concessions would be granted.

Mr. LAY. Normally, the application of the most-favored-nation provision is an individual item by item basis rather than on a treaty as a whole, and the answer specifically would be that I think that Italy and other countries would be able to pick and choose. They would pick

²⁷ Issued by the White House as a press release, November 17, 1933.

the items which would be of most benefit to them and ask for MFN treatment on that and would keep silent on the items which would be adverse to their desires.

Senator MUNDT. Would that not be conceivably disadvantageous to the United States?

Mr. LAY. Yes.

VALIDITY OF ROOSEVELT-LITVINOV AGREEMENTS

Senator MUNDT. You indicated that the 1933 Roosevelt-Litvinov agreement which we have discussed a great deal and which we are now going to have in the record, might still be in effect. I agree with you because we certainly have not had from the State Department as yet a response as to any abrogation in writing. I requested it and I guess we will get some kind of reply. Do you know of any instances when this agreement has been relied on, either by Russia or the United States, any particular cases which may have occurred?

Mr. LAY. I cannot give you citations to specific items, but the answer is, yes.

Senator MUNDT. There are cases.

Mr. LAY. Yes, there are cases and there have been cases before the Supreme Court where the Litvinov agreements were cited as being valid and authority for the action requested and taken.

Senator MUNDT. So unless there has been some specific cutoff date or abrogation, those conditions would still prevail.

Mr. LAY. Yes, sir.

SOVIET CONSULAR CONVENTIONS WITH JAPAN AND THE U.K.

Senator MUNDT. My final question: If the agreement is still in effect, which we would have to assume until we get evidence to the contrary, and if either the United Kingdom-Russian Consular Convention, or the Japanese-Russian Consular Convention, both of which you mentioned, should become effective, then we could claim most-favored-nation treatment under those, could we not?

Mr. LAY. Yes, sir. If they are brought to effect, I believe that we could claim most-favored-nation treatment under those.

Senator MUNDT. So that if, in fact, there are operative agreements containing these provisions, which are between the United Kingdom and the U.S.S.R. or between Japan and the U.S.S.R., we would receive automatically, without signing a new treaty, these advantages which are spelled out by this treaty because of the close similarity of the three different treaties.

Mr. LAY. On a reciprocal basis, if we asked for the benefit we would have to extend the same benefit on item by item basis, I believe is the normal rule.

Senator MUNDT. It would seem to follow from that then that if, in fact, the Russians will maintain treaty obligations, and you have cited sources where we can find out their record of past performance in that area, but if in fact there is a new attitude and they will maintain treaty agreements, since they already have them there, and we have the most favored nations, we have already obtained all of the advantages on a reciprocal basis that we could obtain if we ratified this one.

Mr. LAY. Provided either the United Kingdom-Soviet Consular Convention or the Japanese-Soviet Consular Convention is brought into force.

Senator MUNDT. That is correct. So that I see nothing to be gained even with the State Department's arguments by rewriting the whole thing. The test is going to be, does the Russia of today maintain its treaty obligations, or is its rather long and sordid record of treaty violations going to be continued?

Mr. LAY. I think that is correct; yes, sir.

Senator MUNDT. Thank you very much, Mr. Chairman.

Thank you for very enlightening testimony, Mr. Lay.

The CHAIRMAN. Thank you, Mr. Lay.

We will adjourn until 2:30.

(Whereupon, at 12:45 p.m., the committee recessed until 2:30 p.m. of the same day.)

AFTERNOON SESSION

Present: Senators Fulbright (presiding), McCarthy, and Mundt.

The CHAIRMAN. The committee will come to order.

The next witness is Mr. Richard V. Allen, Hoover Institute, Stanford University. Do you have a prepared statement, Mr. Allen?

STATEMENT OF RICHARD V. ALLEN, HOOVER INSTITUTE,
STANFORD UNIVERSITY

Mr. ALLEN. I do, Senator Fulbright. It will be relatively brief, it will be between 15 and 20 minutes.

The CHAIRMAN. Do you wish to read it?

Mr. ALLEN. Yes.

My name is Richard Allen. I am senior staff member of the Hoover Institution on War, Revolution & Peace, Stanford University, and serve in that capacity as editor of the Yearbook on International Communist Affairs.

For your convenience, Senator, I have included a biographic sketch which I will submit for the record.

The CHAIRMAN. All right. It will be inserted.

(The biographic data referred to follows:)

Richard V. Allen is Senior Staff Member of the Hoover Institution on War, Revolution and Peace, Stanford University, and Editor of its *Yearbook on International Communist Affairs*. Previously he was Research Principal at the Center for Strategic Studies, Georgetown University, and Chairman of the Center's Study Program on Communism. Currently he is a Research Associate of both the Center for Strategic Studies and the Institute of International Studies, University of South Carolina. He has been guest professor at several colleges and universities.

He has studied at the University of Notre Dame and the University of Munich in Germany. Among his publications are: *National Security: Political, Military, and Economic Strategies in the Decade Ahead* (New York: Praeger, 1963); *East-West Trade: Its Strategic Implications* (Washington: The Center for Strategic Studies, 1964); and *Peace or Peaceful Coexistence?* (Chicago: American Bar Association, 1966). He is the co-author of a forthcoming textbook entitled *Democracy and Communism: Theory and Action* (Princeton: D. Van Nostrand, 1967). He has also contributed articles and reviews to various symposia, magazines, and newspapers.

His specialty is Communist affairs, and the relationship between theory and practice in Marxism-Leninism.

PROPOSED TREATY NOT AN ISOLATED AGREEMENT

Mr. ALLEN. Mr. Chairman, it seems clear that if the proposed consular convention between the United States and the Soviet Union had come before the Senate as an isolated agreement and had the international situation been more stable, it would be confronted with far fewer difficulties and would have attracted considerably less attention. Given at least the appearance of better conditions generally, the convention could, I think, quite easily receive the approval of the Senate.

But it has become quite obvious that it is not an isolated agreement. On the contrary, it is part of a package of proposals, the bulk of which—and, I might add, the most difficult of which—are yet to come. That this is the case is abundantly clear from the statements of both administration and Senate spokesmen, not to mention those of the President himself. In his January State of the Union message, Mr. Johnson linked in the same sentence an appeal for approval of the consular convention and a call to the Congress “to help our foreign and commercial trade policies by passing an East-West trade bill.” A few paragraphs earlier in that same message, the President topped his list of recent steps designed “not to continue the cold war, but to end it” by citing the United Nations agreement on the “peaceful uses of outer space.”

TREATY VIEWED IN CONTEXT OF WORLD SITUATION

And what of present conditions, international and domestic? At a time when we are confronted with a direct military challenge of Communist origin in southeast Asia, the Senate is asked to give its approval to agreements negotiated with the principal patron and ally of the source of that challenge. It is not surprising that substantial public opposition to the measure has surfaced and is now being communicated to individual Members of the Senate and in some cases to the Members of the House of Representatives. What is surprising are the methods which some proponents of the consular convention use to rebuff, and in some instances even discredit, those who oppose it.

I must say that I consider degrading and insulting any attempt to group all the opponents of the consular convention under one single heading as “rightwing extremists and fanatics” as has been the case in some published media. Equally reprehensible are the attempts to group proponents in the categories of “appeasers,” “pro-Communists,” and “fellow travelers.” In this context I would disassociate myself from any and all attacks on the integrity and loyalty of our elected and appointed officials, including those of the Department of State. Anyone who believes that low-level polemics of this kind serve to clarify the issues involved is badly mistaken.

It is certainly within the prerogatives of an informed citizen to support or oppose any measure on the basis of information available to him. I believe that sterile “anticommunism” as a goal in itself has impeded our comprehension of the overall Communist challenge. But opposition to communism, which is sometimes unfortunately equated with “anticommunism,” is, in my opinion, completely justified on the basis of our historical experience, including that of the present day.

The real crux of the matter in the consideration of this convention and in other measures related to it is this: Has the Communist movement undergone a process of disintegration, and has it given up its demands for a world reorganized according to the dictates of its

ideology? Is the Soviet Union prepared to assume a more moderate role in world affairs, and will it now begin to conduct its affairs, especially its affairs with the United States, on the basis of candor, mutual respect, and nonintervention? In short, have things changed fundamentally, and are agreements such as the one now before the Senate a reflection of these changes? Before pursuing these questions, Mr. Chairman, I should like to comment specifically on the convention itself.

PROVISIONS RELATING TO PROTECTION OF AMERICAN CITIZENS

It is my impression that major emphasis has been given to the provisions relating to protection of U.S. citizens who travel in the Soviet Union. Since some 18,000 Americans currently visit the Soviet Union every year, and less than 1,000 Soviet citizens come to the United States, it is argued that the mathematical probability for more effective protection of our own citizens yields to us the greater advantage. Some have pointed out that, under the proposed convention, U.S. citizens would enjoy rights which Soviet citizens do not enjoy. That is not a very persuasive justification just in itself for approval of the measure.

However, some are apparently under the impression that the protocol to the treaty defining the rights of access to arrested nationals also provides for their release within the same time period. Indeed, this point was made by a Senator on the floor of the U.S. Senate. This is not the case at all. The convention stipulates only that consular officials will have access to a detained national within 2 to 4 days of the arrest or detention, and that access to the detained national "shall be accorded on a continuing basis." It is worth pointing out that the provision for access "on a continuing basis," as it is put, is in itself defective, because the wording is not clear. What does "continuing basis" mean? Once a day, once a week, once a month? As a matter of record, we have been imprecise in treaties before, and have regretted the imprecision at a later date. The provisions relating to access to detained nations will certainly not, at least in my judgment, serve as a deterrent to arrests by the Soviet police and security agencies.

ARREST OF PROFESSOR BARGHOORN

Perhaps you will recall the case of Prof. Frederick Barghoorn of Yale University. Professor Barghoorn was arrested on an espionage charge in Moscow on October 31, 1963. He was accosted by Soviet security agents in the vicinity of the Metropole Hotel after an unidentified person passed a sheaf of papers to him. It was not until November 12, 13 days later, that an official announcement of the arrest was made. And, although he was arrested in the presence of the chauffeur of the American Embassy, the chauffeur (a Soviet citizen), it might be added, apparently chose not to report the incident to U.S. officials. Upon his release, Professor Barghoorn made the interesting remark that:

Under Soviet law one can be accused of conducting intelligence activity merely by walking down the street, especially if one has hostile intentions against the Soviet State—hostile, that is, in the opinion of the appropriate authorities.

It was only after President Kennedy ordered the postponement of a new cultural exchange agreement and stated publicly that the incident might reflect the policy of détente with the Soviet Union that

Soviet authorities released him. Similarly, in the more recent Kazan-Komarek case, the Czechs effected the release of a U.S. citizen only after visas were denied Czechs wishing to visit the United States, and only after it was hinted that credits for purchases in this country would not be extended by the Export-Import Bank.

KAZAN-KOMAREK CASE

By the same token, we should not overlook the complicity of the Soviet Government in the Kazan-Komarek case. It was the Soviet Union which diverted a scheduled international aircraft to facilitate the seizure of an American citizen. Did the Soviet Union pause to consider that such an action might damage the case of the consular convention which it knew would shortly be before the U.S. Senate? Apparently not.

The point is that this convention is not going to deter Communist governments from falsely arresting U.S. citizens on trumped-up "espionage" charges. Professor Barghoorn was arrested in Moscow, where we have a full-staffed Embassy capable of dealing with such incidents. He was released because of pressure from Washington and a threat to postpone or cancel certain things which the Soviets wanted. Likewise, Mr. Kazan-Komarek was arrested in Prague, where we also have an embassy, and was released only because the Czechs feared that we would actually go ahead with our threat to cancel commercial credits.

SOVIET INTELLIGENCE OPERATIONS

Now, far more attention has been given to the possibilities that this convention will enhance Soviet intelligence capabilities in this country. I do not think there is any question that Soviet intelligence operations will benefit if consulates are established, and I base this conclusion on what is generally known about the intelligence apparatus of the U.S.S.R. Nor do I have reason to doubt that the presence of some U.S. consular officials in a Soviet city will add to our own knowledge of current Soviet affairs. But I suspect that, given the nature of Soviet society—that is to say, a police state which has always maintained an extremely strict internal security apparatus aimed as much at its own citizens as at foreigners—we will benefit less from such an arrangement than will the Soviets. The argument that ours will be the greater advantage assumes that American consular agents and other officials will have approximately the same access to Soviet citizens and their sources of information as Soviet agents presumably will have to U.S. citizens. That assumption is patently unrealistic. It is underscored in a report to this committee by Senator Clark, a report entitled "East of the Elbe," published January 23 of this year, and it says, and I quote:

Unfortunately, our Embassy officials stationed in Communist countries are not so well received. It is one thing to be a visitor passing through Prague, Moscow, or Bucharest. It is quite another thing to live in one of these countries as an American official. In the latter case, normal social contacts are either highly restricted by the host government or inhibited by the latent danger of attracting the unfavorable attention of the authorities.

That quote is from a document of this committee.

However, I do not claim competence to discuss in great detail the question of internal security in the United States. The record of Soviet performance throughout the world is generally known, and has recently been described in a book known as "The Penkovsky Papers."

One Senator has pointed out quite correctly on the floor of the Senate that real espionage agents—that is, deep-cover agents—do not operate openly from diplomatic and consular establishments. But we should not fail, I think, to consider the question of whether the presence of one or more Soviet consulates would increase the organizational efficiency of the Soviet espionage apparatus.

In the end, of course, it will be for our own internal security officials to decide whether the expansion of Soviet intelligence operations constitutes a manageable problem. It is my understanding that this issue is still under consideration.

Another point of interest relating to the convention is the provision of article 2, paragraph 2, stipulating that consular officers shall be entitled to further the development of commercial, economic, cultural, and scientific relations. Would this include the right for us to establish libraries and dissemination centers for books, articles, pamphlets, and other printed information pertaining to life in the United States? Would an interested Soviet citizen be able to read U.S. newspapers at an American consulate? And if he were able to do so, would he be discouraged from doing it regularly? What would be within the rights of Soviet consular officials in the United States in this respect? What would they be allowed to distribute?

With your permission, Mr. Chairman, before concluding my statement, I would like to return to the broader considerations governing my views of the instrument now before this committee.

INTERNAL AND EXTERNAL PROBLEMS OF U.S.S.R.

There is a widespread opinion that the Soviet Union is now embroiled in overwhelming domestic and foreign problems, and that these problems have gradually forced the Soviet leaders to steer a "more realistic and pragmatic" path in dealings with their own people and with the world. Many hold that the Cuban missile crisis of October 1962 was the great watershed of American-Soviet relations.

It is argued that the dispute between the Soviet Union and Communist China, coupled with the so-called polycentric process in Eastern Europe, has caused the Soviet leaders to make new assumptions about the West in general, and about the United States in particular. Some, observing certain readjustments and reorganizations in the Soviet and East European Communist states, and in their economies, go so far as to argue that these countries are "becoming capitalistic." There are even some who go beyond these positions to argue that the United States and the Soviet Union are on a "convergence footing," and that it is only a matter of time before the two nations will perceive that commonly held interests will more or less "force" them to act together to preserve world peace.

I think it is certainly true that the form of the Soviet threat to the United States and, for that matter, to Western Europe, has changed. But it is, in my judgment, an error to say that its nature has changed. It is also true that there have been changes within the Soviet Union, and that on first glance they appear to constitute "liberalization." In

fact, there have not yet been introduced in the Soviet Union (or in the "polycentric" East European States) institutional guarantees for a real liberalization, which would of course include a free press and the right to hold free elections. I think any study of democracy would agree that such guarantees must be made permanent before one can speak of true liberalism.

CLASS STRUGGLE OF TWO "OPPOSED SYSTEMS"

While we in the West speak of conciliation with, and change within, the Soviet Union, the Soviet leadership constantly reaffirms that the goals of the two "opposed systems," as they care to put it, are absolutely irreconcilable. Typical of this constant reaffirmation is the statement made by Leonid Brezhnev just 2 weeks ago on the "Current Tasks of the Young Communist League." In that major speech he said, and I quote:

We must not overlook the fact that we are living at a time of bitter class struggle of two worlds—the world of socialism and the world of capitalism. In the field of ideology, as in other fields of our relations with the world of capitalism, socialism is in a state of historic offensive, capitalism [is] on the defensive.

He also said, and I quote:

We regard ourselves part and parcel of the world system of socialism, a detachment of the world army of fighters for freedom . . . [and] for the victory of socialism and communism all over the world.

As one who observes the activities of the international Communist movement, on a professional and a regular basis, I find this statement in accord with the traditional foreign policy of the Soviet Union, and in accord with its historical and oft-repeated goals. It is a matter of record that the Soviet Union has shifted, but intensified, its strategic operations directed against the United States, which is regarded as the principal "enemy." It is also a matter of record that the Communist movement itself has expanded rather than contracted. They are of direct concern to this committee and to both branches of Congress. Fourteen Communist states exercise governmental power, 40 operate clandestinely, and 36 function "legally." The overwhelming majority of these Communist parties, it should be pointed out, support the Soviet Union and its policies.

TRICONTINENTAL MOVEMENT

In the past 10 years, and despite the differences between the Soviets and the Chinese, the Communist movement has undergone a degree of consolidation, and the strategic emphasis has shifted to the underdeveloped world. Most striking evidence for this statement is the so-called tricontinental movement established in Havana in January 1966, and referred to by Senator Lausche this morning. It has been a source of astonishment to me that virtually no official attention has been given to the tricontinental movement. These developments are of direct concern to this committee and to both branches of Congress. They relate to the consideration of our overall foreign policy, as well as to the consideration of pacts such as the consular convention.

The available evidence shows that the Soviet Union is making a substantial commitment in Latin America through this Havana-based or-

ganization. That commitment is to a broad-based revolutionary struggle, including armed struggle. As the Pravda editorial of December 7, 1966, put it:

It has been shown that the securing of a peaceful international atmosphere increased the opportunity for the victorious development of the class struggle by the proletariat and the struggle by the oppressed peoples for their social and national liberation in any form, including through national liberation wars.

If we ignore the standard Communist cliches in this statement, we will see that the Soviet Union clearly sides with the program for subversion and armed insurrection which comes under the heading of "national liberation warfare," and which is the essence of the "tricontinental movement."

It was in this spirit that the Vietcong representative in Havana, Nguyen Duc Van, said in an interview on January 5 of this year:

Within a short time there will not be just one Vietnam, but many Vietnams, and the Yankees will not be able to handle so many attacks at the same time.

Moreover, Mr. Chairman, the ink was barely dry on Resolution 2131 of the United Nations General Assembly, that is the resolution adopted on December 21, 1965, which declares the inadmissibility of intervention in the domestic affairs of a state, when it was openly and clearly violated by the Soviet Union through the latter's leading role in the Tricontinental Conference of Havana. There is incontrovertible evidence to support this statement.

DIALOG WITH THE COMMUNIST WORLD

Thus, when we speak of the "dialog" with the Communist world, we should keep in mind that the Communists, including the Soviet Union, have one language for the industrialized West and another for the rest of the world. Which of these diametrically opposed approaches should we take as genuine and sincere?

The assumptions underlying the process of "bridge building" to the East are, in my view, not in accord with present realities. The record shows that the Soviet Union and its allies do not enter into agreements, such as the one before this committee, on the basis of good faith. Instead of genuine bridges with a two-way traffic, the Soviet Union, it appears, seeks a temporary escape hatch which will provide a measure of security and stability while it achieves certain other goals—most notably an expansion of its power and influence throughout the world, hopefully with Western assistance.

The Consular Convention, as a part of the "package" of agreements which form the basis for "building bridges" is, under present conditions, clearly premature.

The CHAIRMAN. Senator Mundt.

Senator MUNDT. Thank you, Mr. Allen, for a very impressive statement and for coming across the continent to share your knowledge and your judgments with this committee.

I am going to place in the Congressional Record today your full statement so that all of our colleagues will have an opportunity to examine it and so that those who read the Congressional Record will also have an opportunity to read it.

You stated that the Soviet Union violated a resolution of the United Nations Assembly, I think you used the phrase "before the ink was

barely dry," and that "there was incontrovertible evidence to support that statement." I wonder if you would elaborate on that a little bit, because that goes to the question which is before our committee and which is before the Senate, as to how reliable the Soviets would be, in effect, if a treaty were consummated.

U.N. RESOLUTION 2131

MR. ALLEN. Yes. The reference was, of course, to the United Nations' Resolution 2131, which was passed with, I believe, the unanimous approval of most of the member states of the United Nations, provided clearly and outlawed clearly, I should say the interference in the affairs of one state by another. That was on December 21, 1965.

From January 3 to 15, 1966, the Tricontinental Conference was held in Havana. The Tricontinental Conference, in my judgment, is the most important meeting of Communist parties since the 81st party meeting of November 1960. You may recall, Senator Mundt, that the November 1960 meeting resulted in the famous January 6, 1961, speech of Khrushchev, which President Kennedy read approximately 1 year later, and which, according to an article in Time magazine, he dubbed as "a virtual Red blueprint for world domination."

This meeting was of equal importance because it reflects, in my judgment, the shift of Soviet strategy from direct threats to Western European, Western industrialized countries to the underdeveloped world, where without having to take over individual countries in imperialist fashion, the Soviet Union seeks to manipulate sometimes legitimate, sometimes not legitimate, dissent and discord among natives of other countries.

OAS RESOLUTION

The OAS is on record in its resolution of February 2, condemning the Soviet participation in the Tricontinental Conference. The OAS resolution specifically states that the Soviet Union is culpable in this respect along with Communist China, Cuba, and certain other countries.

The Tricontinental Conference has been declared by the Organization of American States with full American participation, as a new stake in the consolidation of Communist strategy, one which is aimed at interfering in the domestic affairs of Latin America as well as Asia and African countries. And at this point, rather than elaborate more on that, although I am certainly prepared to, Senator Mundt, I offer for the record a five-page press release dated November 28, 1966, from the Organization of American States which gives in great detail the information that you request. And may I just take one more additional point?

Senator MUNDT. I ask, Mr. Chairman, that that statement may appear at this point in his remarks.

The CHAIRMAN. Without objection.
(The document referred to follows:)

NOVEMBER 28, 1966.

SPECIAL OAS COMMITTEE RECOMMENDS MEASURES AGAINST COMMUNISM

WASHINGTON, D.C. (PAU)—The Council of the Organization of American States (OAS) approved a resolution expressing its thanks for the report sub-

mitted by its Special Committee responsible for study of the First Tricontinental Conference and its projections, and resolved to transmit the report to the member states and to authorize the Secretary General of the OAS to send it to the Secretary-General of the United Nations.

The resolution also urges the member states, on the basis of the Committee's recommendations and in accordance with their respective national constitutions and laws, to take the measures necessary to counteract the policy of intervention and aggression emanating from the Havana conference.

The Special Committee of the OAS Council concluded that the Tricontinental Conference marks a new stage in communist world strategy, with the creation of permanent organizations aimed primarily at providing support to armed subversive movements, in order to bring about the overthrow of existing governments and establish communist governments dependent upon extracontinental communist powers.

The Special Committee, presided over by Ambassador Juan Bautista de Lavalle of Peru, was established in accordance with Resolution II of the Eighth Meeting of Consultation, held in Punta del Este, Uruguay, in January 1962. That resolution requested the Council "to maintain all necessary vigilance, for the purpose of warning against any acts of aggression, subversion, or other dangers to peace and security, or the preparation of such acts, resulting from the continued intervention of Sino-Soviet powers in this hemisphere, and to make recommendations to the governments of the member states with respect thereto." Other Committee members are the representatives of Argentina, Colombia, the Dominican Republic, El Salvador, Guatemala, Panama, and the United States.

The study states that the Conference was "inspired, organized, and directed at the initiative and with the active support of the governments of the Soviet Union, Communist China, and Cuba, together with other communist governments and certain noncommunist governments cooperating with this movement."

The interest of these governments in the Conference the study adds, "was demonstrated by the composition of their delegations, which were made up of government officials, representatives of official parties, and other persons intimately connected with these governments . . ." Of the 82 delegations attending the Conference, the most numerous and active were those of Cuba (41 members), the Soviet Union (40), Communist China (34), and the United Arab Republic (21).

The permanent organizations cited by the study are the Afro-Asian-Latin American Peoples' Solidarity Organization (AALAPSO), with its Executive Secretariat and a planned "Liberation Committee," and the Latin American Solidarity Organization (LASO), with its Organizing Committee, all based in Havana, which were created for the purpose of fomenting, assisting, and coordinating subversive movements, with the participation of "national committees" in each country. The report also mentions the Second Tricontinental Conference, scheduled to meet in Cairo in 1968, in order to formalize the definitive structure of the AALAPSO.

The study states that aid provided by the Soviet Union, Communist China, and other communist countries to these subversive movements, with Cuba as the principal base in this hemisphere, is nothing new; what is new is "the declaration of this interventionist policy, so openly expressed; the identification of major targets and final objectives, so clearly stated; and even more important, the creation of an organization to give this effort an aspect of tricontinental support and to serve as a coordinating body, not only for the assistance provided, but also for directing the various subversive movements in the form of a united struggle on the three continents." It describes this movement and the Conference as "a new instrument of communist imperialism. . ."

The aggressive and interventionist character of the Conference, the study continues, is revealed by the "strong attacks against numerous free countries on all continents and against many international organizations," such as the Organization of American States (OAS), the United Nations (UN), the "Organisation Commune Africaine et Malagache" (OCAM), the North Atlantic Treaty Organization (NATO), the Southeast Asia Treaty Organization (SEATO), the European Common Market, the Alliance for Progress, the World Bank (IBRD), the International Monetary Fund (IMF) and the Inter-American Development Bank (IDB). The study also cites 24 countries in the Western Hemisphere, 19 in Africa, 16 in Asia and the Pacific, and 12 in Europe, a total of 71 independent countries attacked and condemned by resolutions of the Tricontinental Conference.

The study adds that the interventionist character of the Conference is also manifested by the "open incitation to rebellion and the exhortation that all types

of support—moral, political, financial and material, including the supplying of arms and munitions—be provided to armed and subversive movements on the three continents, with special emphasis on . . . Latin America . . .”

The participation in the Tricontinental Conference of official or officially sponsored delegations from member countries of the United Nations, it continues, “constitutes a flagrant violation of the principles of the United Nations Charter, and especially of the principle of nonintervention reaffirmed in Resolution 2131 (XX) of the United Nations General Assembly . . .” Likewise, the continued official or semi-official participation of these countries in AALAPSO and of Cuba in LASO constitute violations of the same principle.

With regard to Cuba, the study observes that the Government of Cuba “has officially assumed its responsibility in the activities carried on from that capital by the new organization of the international communist movement to overthrow independent governments of member states of the Organization of American States and of the United Nations,” and that that nation “continues to be the principal focus and agent in the subversive and interventionist campaign sponsored by the communist powers against member states of the OAS,” thus acting to promote intervention and aggression.

In its study the Committee makes a number of recommendations regarding the Tricontinental Conference, such as careful vigilance over the activities of AALAPSO, LASO, and their respective executive committees, and over the formation of the “national committees” of the two organizations in each country, in order to counteract their actions.

It further recommends that the member governments of the OAS should consider possible additional representations they could make with respect to those countries that had official or officially sponsored delegations at the Tricontinental Conference, in order to insist that “they do not persist in violation of Resolution 2131 (XX) of the United Nations General Assembly”—referring to the principle of nonintervention—through their participation in the activities of the Tricontinental Organization, including the Executive Secretariat and the planned “Liberation Committee” of AALAPSO, as well as the Second Tricontinental Conference, which will meet in Cairo.

It recommends that the governments should renew their efforts to secure the cooperation of friendly non-member states in the application of the measures against the Government of Cuba concerning the suspension of trade with and sea transportation to Cuba, approved at the Ninth Meeting of Consultation of Ministers of Foreign Affairs; it encourages the governments of member states of the OAS to strengthen their internal security in order to confront communist-inspired subversion and insurgency, and recommends that they should continue to be vigilant in the application of the measures directed against aggression and subversion arising from the continuing interventions in the hemisphere by the Soviet Union, Communist China, and their allies, and especially the measures directed against the Government of Cuba, approved at the Eighth and Ninth Meetings of Consultation of Ministers of Foreign Affairs.

In additions to the foregoing recommendations, the study suggests that the governments of member states that face serious problems of actual or potential communist-inspired insurrection should undertake programs of subregional cooperation with neighboring countries that share their problems, particularly for the exchange of information and experience and the coordination of activities in border areas, taking into account the existing system of cooperation among the Central American countries and Panama.

It also recommends measures to prevent the movement of subversives between member countries and Cuba and other communist countries, including those persons traveling through third countries, and that the governments take measures to prevent the movement to their respective countries of funds, propaganda, and arms coming from Cuba and other communist countries.

It adds that the governments should insist that the communist countries cease their broadcasts inciting the peoples of this hemisphere to subversion and insurrection. These broadcasts originate in the Soviet Union, Cuba, and other communist countries, and include programs in Spanish, Portuguese and Quechua.

Finally, it recommends that in view of the aims enunciated at the Tricontinental Conference, the governments adopt strict measures of reciprocity with respect to the presence and activities in their territories of diplomatic agents, as well as technicians, experts and other persons from the communist countries.

In addition to its conclusions and recommendations, the study contains chapters on the background, the Conference itself, and subsequent developments and

activities, emphasizing the establishment of the permanent organizations mentioned. As an example of these subsequent developments it refers to a news release from the Executive Secretariat of AALAPSO dated November 18, 1966, announcing the receipt of favorable replies from the governments of North Korea and Cuba with respect to the establishment in their territories of schools for training political cadres for revolutionary movements in three continents.

OAS REPORT ON TRICONTINENTAL CONFERENCE

Mr. ALLEN. If I may make one expansion on that. There exists from the OAS a 500-page statement on the Tricontinental Conference, which again to my great astonishment was not covered by the major news media of this country. Perhaps because it was 500 pages long, they were rather repelled by it.

It is a document which in great detail gives the concrete evidence of the complicity of the Soviet Union and Communist China and Cuba and other Communist states along with certain other revolutionary movements in interfering in the internal domestic affairs of the states of this hemisphere. I would like to stress again that the United States signed that resolution, the United States participated in the study of the Tricontinental Conference, and the Ambassador, Sol Linowitz, has his signature affixed to the document, as well as the signatures of others, and I very seriously doubt that many in this country even know what the Tricontinental Conference is, much less appreciate its significance.

Senator MUNDT. I am grateful that you brought this document into the discussion. As far as I know, it has not been mentioned by any of the other witnesses, either representing the State Department or representing other students and interested citizens who have commented about that.

I know a little bit about that Conference, having come across it myself, but it seems to me that it's almost impossible to consider a consular treaty of this kind as though we were living in a vacuum and as though it had no impact on the world generally, or as though the communist thrust was not still in being. I have tried my best to find the evidences of what some of our friends refer to as a détente between the communist world and the free world. I wish I could find it. I wish it were there.

I have asked over and over again for a list of particulars. If they would just list three or four elements or one of something tangible. It is a happy phrase, I wish it existed. If it existed, I think a consular treaty of this kind would be considered under completely different circumstances from the kind of world which you have described in your statement, and in which you have produced several, from among a great many which could have been selected, specific, outright, direct up-to-date statements from the Soviet leaders concerning their continuing antipathy toward our way of life, and their continued efforts in the direction of trying to subvert the developed countries or any other country where they can proceed.

It looks to me almost as though the leaders of the free world are condemned by some kind of plague every quarter of a century to have some dictator or some aggressive power write out a blueprint and tell us what they are going to do and we ignore it. We had that experience with Hitler in "Mein Kampf."

There are few surprises to the students of history of what Hitler would do with his power when he built it up. He told us in his book

and we ignored it. He made it in all his bellicose speeches and we ignored it.

WORK FOR A GENUINE DÉTENTE

Here it is again, in black and white. When we talk about a détente here is evidence; here is what they are saying, here is what they propose to do. They back it up by tangible actions, military actions, aggressive actions, espionage actions, sabotage actions. So when you list the actions against détente, it is long and melancholy.

When you ask particulars about the détente you get nothing in the specifics, and I take it that, as a student of history and political science, and of international affairs, working in that great Hoover Institute in Stanford University, that you see no reason why we should give any credence at all to what the Soviets now tell us in specific terms and in what they now provide in forms of tangible actions.

Mr. ALLEN. Senator, if I may answer that in a roundabout fashion. I think that there are agreements that we could seek with the Soviet Union that would be mutually profitable. I am not one of those who feels that we should turn, return to the tense days of the cold war in order to escalate tension, nor do I incidentally think that the alternative to packages of proposals such as those that are now before the Senate and coming before the Senate, need be war.

I would say that on balance, and it may perhaps sound like a statement of a Philistine, that very little has changed in the fundamental nature of the American-Soviet confrontation. I think there is a détente, Senator, if you gage the détente, if you measure the détente, from the time framework of the Stalin era and the very, very tense days of the cold war, I think that a genuine détente is something that we should work for to the utmost of our own ability.

DÉTENTE MUST BE TWO-WAY STREET

A détente must be a two-way street. There must be a mutual relaxation. What strikes me in my regular observation of Communist affairs on a global basis, and as one who consumes the information which the staff produces—a staff highly skilled and trained to read and observe Communist affairs—it is my own judgment that the Soviets have shifted strategic emphasis and have realized that in a certain sense we are more prone to listen to those arguments which tend to reinforce our own desires. They are also prone to use a language of a completely different scope internally and for the consumption of the rest of the world, to which I alluded in my statement.

I don't doubt that professional attention is very carefully riveted to the complex of Soviet information available to us today, but the public attention has been shifted from this domestic language as it were, that Communist leaders use among themselves, and to their allies around the world, to the more peaceful and the more reasonable statements which would tend to reinforce it, if you will, the prejudices, and I use the word advisedly, that we have.

We want peace. There is absolutely no question about that. But peace on the basis of the general Soviet strategic framework is clearly an impossibility.

In my judgment, we tend to ignore the coy and critical statements made by Soviet leaders too, again to domestic audiences and to foreign audiences and concentrate more on reading between the lines.

Now I, for one, do not believe that the Soviet Union is capable of subverting anyone, anywhere, any place, at any time, for any reason. Wars of national liberation, which I considered to be the principal strategic threat to the United States over the long haul, can frequently be started in places and times not of our own choosing. The quotation from the Vietcong representative in Havana that "there will soon be many Vietnams and the Yankees won't be able to handle so many attacks at one time" of course has to be taken with a grain of salt.

Declaratory statements by the Communists in and of themselves may be filled with cliches, but they are the recorded and open statements of Soviet and Communist leaders, and to that extent we must give them some credence. We must examine the total and composite framework.

So with that long and aroundabout answer, I would come back to your specific question and say that in my judgment very little has changed and that the Communists feel that the struggle against imperialism, and by "imperialism," they understand the United States principally and its allies, has intensified and will continue to intensify and still they speak of victory, a very meaningful victory, a victory over a thoroughly vanguished enemy—in this case the enemy happens to be us.

It is within that framework that I question agreements such as the one before the Senate, and the ones to which this agreement, the consular convention is inextricably linked.

CHARACTER OF SOVIET TERMINOLOGY

Senator MUNDT. That is one of our big problems, of course, the doubletalk and language, the double-meaning language, that the Soviets apply.

I have visited your remarkable and comprehensive library in the Hoover Institute on the Stanford campus. I suspect it is the largest in the world dealing with the problem of communism and probably the largest in the world dealing with the problem of nazism. I have been in that locked room that you have to enter where they virtually sew up all your pockets and make you hold your hands high, in order to see the original copy of "Mein Kampf." You see some other highly illuminating documentary evidence about what these people say and have done in terms of world aggression.

What do you mean when you say that the Soviet Union has one language for the industrial West, that is us, and another language for the rest of the world? Is it true that the same words mean different words to different people when they use them because some of the language that the Communists apply in diplomatic circles is as innocent sounding as the speech of an American politician before a Rotary Club. But sometimes they don't have close correlation with the facts in the case.

Mr. ALLEN. Senator, I would agree that there is a kind of double-talk. There is a very precise and quite an elaborate complex body of terminology that is habitually used in Communist communications. It is true that they do use the same words in some respects, in some instances in communications to and with us, and the same words among their allies and among their domestic sources of strength.

Those words have diametrically opposed meanings, and it is those words which we should study. Now, in the language of the consular convention, to be quite specific about the matter before us today, I do not see any indication of the presence of typical Communist cliches. Perhaps on another reading I would find such. But I think that the language of diplomacy in this instance is relatively clear. That is not the whole case, however. The whole case is the much broader context in which we must consider this particular document.

I would take a speech of Brezhnev or Kosygin, or for that matter any other leading Communist spokesman to be equally valid, if not more valid, than the language used by Soviet diplomats. I might say that I was a bit surprised that, to my knowledge thus far, no information from the Soviet Union, that is, to the Soviet view of diplomacy and consular practice, have been included in the hearings.

There exists at least one volume on this subject, which has been translated by the U.S. Government and which might be a very good source of information for those Senators who are seeking to make up their mind now on which way they will vote on the consular convention. It is quite explicit in there, in this handbook for diplomats and consular officials that the process of diplomacy is part of the ongoing struggle against the West, and that this struggle has entered a new stage.

The book I referred to is called "The Diplomat and Consul" and is published by the official publishing house in the Soviet Union in 1965. Translations of the book are available and I will provide a reference for the record if so desired.

DIFFERENT MEANINGS OF "PEACEFUL COEXISTENCE"

But to the question of language, I would say, to take a simple phrase in which I have done a considerable amount of investigation, "peaceful coexistence." I have no doubt that the overwhelming majority of the people of the world who understand the words "peaceful coexistence" understand it to mean "live and let live—what's yours is yours and what's mine is mine, and I won't interfere in your affairs and don't you interfere in mine. And the relationship that I have with you will be governed by candor and mutual respect and honesty, and the same should go for you."

But for the Soviets, and for Communists generally, the phrase "peaceful coexistence" has a fantastically different connotation. It is by admission of the Soviets themselves—and huge tomes have been written on this—a complex and subtle strategic doctrine, an umbrella doctrine, as it were, which will provide the framework for the ongoing struggle against imperialism—that is us—without resorting to a direct confrontation between the two nations, that is the United States and the Soviet Union.

All things short of nuclear war can take place, according to Khrushchev's classical definition under the umbrella strategy of peaceful coexistence. It would be, I think, highly advisable for us to review with great care and consideration the overall matrix of Soviet foreign policy, particularly when dealing with the instruments that are now, or will come, before the Senate.

FORM AND NATURE OF SOVIET THREAT

Senator MUNDT. You mentioned in your statement that the form of the Soviet threat changed, but the nature of it had not changed. Will you be more specific about what you had in mind?

Mr. ALLEN. By that, I mean to say that certainly, for example, the threat to Western Europe, the direct military threat has subsided somewhat, at least superficially it has. For that reason the nations of Western Europe, including France and now to some extent Germany, feel that it is possible to work toward some kind of understanding with Eastern Europe, perhaps some concrete and self-enforcing agreements.

The nature of sayings, perhaps to refer to philosophical terminology, or as Aristotle says "That which makes it what it is and not something else"—the fundamental aspect of the confrontation between the Soviet Union and the United States has not changed. For our part, we would like to change and those who advocate the policies of building bridges to the East, operate under the assumption that its nature, that is, the nature of the confrontation has changed. I don't quarrel with their right to argue along those lines.

What I say is that there is again incontrovertible evidence to prove the opposite. It is unfortunate that some of us get our terms mixed up when debating these issues which are of vital national interest. They bear directly on our national security, on our strategic interests for the long haul.

Those that advocate the building of bridges to the East in the form of this agreement which we are discussing here today, and other agreements, feel that the Soviet Union has changed. They feel that it is moving in a more pragmatic direction. Some of them, as I mentioned, even feel that the Soviet Union is becoming capitalistic as are some of its allies, formerly known as the satellite countries. Some of them feel, as I mentioned, too, that we are on a virtual convergence footing with the Soviet Union, and if we can just hold on long enough so as not to engage in a major conflict—a direct confrontation with the Soviet Union—that things will tend to work themselves out, hopefully, by the kind of agreements which are being proposed to the Congress of the United States.

The Soviets have given every indication that all of this is wishful thinking. Now it may be that I am entirely mistaken, and that I have been reading too much into the declaratory statements of the Soviet Union and its allies, condemned as I am to consume their material on a regular basis every day, every week, every month, but I don't think so. I think that the record is pretty clear on this.

MISINTERPRETATION OF TREATY BY AMERICAN CITIZENS

Senator MUNDT. I was glad that you stressed the fact that this consular treaty is presumed to contain advantages and to obtain for American citizens rights which many Americans seem to misinterpret, judging by my mail and judging from my visitations around the country. There is a misconception that this consular treaty would provide somehow for the release of American citizens who are imprisoned, properly or improperly by the Soviets.

You mention the fact that such is definitely not the case. What is your impression? Do you think that this false concept is pretty widespread among our fellow citizens? Do you think that they believe they are getting more than the consular treaty even remotely suggests?

Mr. ALLEN. Yes, sir; I have that impression. In recent discussions with numerous private citizens in various parts of the country, I have gained the impression that they feel the consular treaty somehow provides for the actual release of citizens who are detained for one reason or another in the Soviet Union. As a matter of fact, that statement was made by one Senator on the floor of the Senate, and if I may quote it to you, it is at page S1167 of the Record of January 31, 1967, quoting Senator Scott:

Under this Convention he would have more rights than Soviet citizens.

"He," meaning, of course, the American citizen.

He would be entitled to a lawyer and entitled to be sprung from the pokey in three days.

That is simply not the case as I read the treaty, and perhaps, if I am mistaken or in error in this, I should be corrected. But I have the impression, as I said, that many feel that this consular convention will actually provide for the release of our citizens once they are detained. I have no doubt that access to our nationals will be a benefit under any circumstances. I think it is something that doesn't require a consular convention. With the approval of two-thirds of the Senate, or some think that could be done by normal civilized procedures and perhaps customary international law, merely by an agreement or through the form of an agreement by heads of state or by an executive agreement could be accomplished quite nicely.

So I do not view the protocol pertaining to access as a concession at all. Besides, I mentioned that it was very imprecise. I appreciate the fact that our negotiators were very diligent to spell out the time period within which we would have access to arrested nationals. But I would not appreciate the phrase "continuing basis"; it means nothing. It has, as far as I know and I am not a lawyer, no meaning in international law, and I would for one, like to see the phrase "continuing basis" spelled out much more precisely. The Soviets could argue by a continuing basis "You saw him last month" or "You saw him last year" for that matter.

I don't think this phrase in the convention itself will be a deterrent to the arrest of our citizens.

WOULD TREATY SET DANGEROUS PRECEDENTS?

Senator MUNDT. In view of the fact that the Soviet Union is not maintaining consular establishments elsewhere in this hemisphere, specifically Latin America, because you have dealt at considerable length about Latin America in your statement, and taking into consideration the role that the Soviets have played in stirring up difficulties in Latin America, do you think that the approval of this convention could lead to dangerous precedents and increased likelihood of additional Soviet penetration into the Latin American Republics?

Mr. ALLEN. Well, I would answer that this way: It is the business of the Latin American States themselves to establish whatever consular arrangements they wish with the Soviet Union and with Eastern

Europe and with Communist China for that matter. That is their business entirely.

I would say that, yes, the convention would provide a somewhat dangerous precedent.

Now, on the question of internal subversion in this country, I think I indicated pretty clearly that while not being an expert on the subject, that does not worry me too much. It does not seem to me to be an unmanageable task to watch an additional 10, 15, 20, or 50 Soviet citizens. It simply costs more money. It can be done, and we have proved it could be done in the past.

But in less stable governments, as the members of this committee well know, in countries of Africa and specifically Latin America, the presence of large delegations can lead to direct action that is highly unfavorable to our own security.

I cite the instance of Burundi. One can cite the instance of Tanzania or even the Island of Zanzibar itself, where the presence of a large Communist delegation during the revolution of 1964 proved, I should say by the consensus of difficulties of the specialists itself in the problem or people who knew anything about it at all, to be the decisive factor. So in that sense it is a dangerous precedent because it might allow for the rapid expansion of Soviet intelligence agents in Latin America who could at critical times and under circumstances not of our own choosing, force us into some very, very unpleasant situations.

Now, again whether or not we ratify or rather the Senate approves and the President ratifies this consular convention, we may be faced with that problem in Latin America and we must be aware of it.

PROSPECT FOR WARS OF NATIONAL LIBERATION IN LATIN AMERICA

If I may reiterate my own concern here, I would say this, the prospects for wars of national liberation in Latin America seem to be on the increase. I wonder how many of the members of this committee or of the Senate know that a separate liberation organization has been created for Puerto Rico, for example.

Now, I am not going to say that because the Tricontinental Conference with the complicity of the Soviet Union has established a liberation committee for Puerto Rico or that there will be a war of national liberation in Puerto Rico within 10 years. But, had I or anyone else appeared before this committee 10 years ago, and said that within 10 years there may well be a Communist base 90 miles off the coast of Florida, well perhaps I or anyone else who would have said it might have been laughed at. So we have to prepare for these contingencies.

There are critical times coming, for example, in Puerto Rico. There will be a referendum this summer. It will be an interesting situation to see if there is any direct Communist involvement at that time or any direct Communist involvement to the extent that they will try to stir up mass agitation among the people.

Again, I am not predicting such occurrence but I think any strategy properly defined would be prepared to meet all contingencies and it is this, I should say it is in this respect that I consider the assumptions of bridgeting to the East to be on relatively shaky ground because we are not, in my judgment, prepared to consider all the contingencies, all the options, all the alternatives.

ASSUMPTIONS UNDERLYING BRIDGEBUILDING POLICY

Senator MUNDT. Just one additional question and that grows out of your immediate statement that you just made about the bridgebuilding, because you dwell on it in your statement in considerable detail, and that is about the relationship between the consular convention and the East-West trade bill which the administration said it is going to send down as a sequel to this if it is ratified. They are all part and parcel of this so-called program of bridgebuilding, and you said that the assumptions underlying the bridgebuilding policy are not in accord with present realities in the world. I wish you would elaborate on that.

Mr. ALLEN. The present realities as I understand them involve the continuation at least on the part of the Soviet Union, and to that extent it is an unilateral of cold war policies. On the one hand the Soviet Union says it wants to liquidate the cold war. Incidentally, I want to liquidate the cold war and I am sure every member of this committee does, too.

On the other hand, it follows policies diametrically opposed to a genuine liquidation of the cold war which means to liquidate the causes of the cold war, not the effects and not just the symptoms.

I think that the consular convention, the space treaty which will shortly be before the Senate, and the East-West trade bill constitute the important package of the bridgebuilding policy which the President and others have advocated. I think that in all fairness the Senate should not be asked to give its approval to any one of these measures in isolation. That since they all bear fundamentally on our relationship with the Soviet Union and with the Communist world generally, that they should be voted upon only after each has been investigated through carefully planned opened hearings.

COMPLETE EXAMINATION OF RELATED AGREEMENTS

If we are not able in this year, and perhaps not even in the foreseeable future, to have a complete review and examination of our past policies toward the Soviet Union, and the options and alternatives for future policies, then I think that these three agreements taken together should be considered, first in committee hearings, then in extensive floor debate, and voted upon one after the other.

That may be in direct violation of Senate procedure and perhaps I have no business making that recommendation, but it seems clear to me that many people do not make the relationship between these individual items. I think it is important that we do make them.

In a speech on the Senate floor, Senator Mansfield entitled his address "The Consular Convention and the East-West Trade Bill." So they are clearly linked, and if I were a Senator, I would feel it somewhat unfair if I were forced to vote on each of these issues in isolation without being allowed to make the strategic policy relationship that necessarily binds all of the agreements.

Senator MUNDT. I think it can be said, at least in justice to the administration, that every Senator who runs or reads should know that this connection is there. You are quite right that the Majority Leader made it very clear and the President made it very clear in

his State of the Union address. Dean Rusk has made it very clear in his appearances before us.

Certainly, we cannot consider these in isolation. The consular treaty has been referred to as the key in the lock which will open the door to expanded East-West trade, so I think we should take into consideration the expanding East-West trade during this era of war advantages or disadvantages. Does it prolong the war? Does it shorten the war? Does it increase the capacity of the enemy to hang on in North Vietnam or does it decrease its capacity? They are part of the same package and I am glad that you emphasized that. Since these facts are out, every Senator should consider the ramifications of the whole package and not try to hide behind any flimsy pretense that the consular treaty stands off by itself, that it is not part of the whole chain of circumstance.

You heard Dr. Dobriansky this morning, did you?

Mr. ALLEN. I heard portions of his testimony.

EXPLORATORY HEARINGS ON EAST-WEST RELATIONSHIP SUGGESTED

Senator MUNDT. I wonder if you heard him make a suggestion which I thought was very intriguing—that perhaps this committee could serve a great public service by having rather than this, an exploratory hearing on the whole problem of East-West relationships vis-a-vis Russia and Eastern Europe. We are doing that off and on in connection with China. I wonder if you think that his suggestion that perhaps it might be time to take a look at history and remember realities in terms of Russia vis-a-vis the United States, to see whether we couldn't come up with some practical workable steps which might lead to a détente, which might less the tensions rather than these gestures of appeasement which seemingly get us nowhere.

Mr. ALLEN. I would say Senator, this is a question of 1967, and the future. We are not living in the days of Lenin. We are not living in the days of Stalin. We are living in different days. Various bodies of the various committees of the Senate and of the House, have investigated the historical record in great detail.

I would, for one, suggest that if we are to be involved in a new set of hearings concerning East-West relations, I would be disappointed if such hearings would dwell on the past historical record. It's a matter of fact that the Soviet Union controls many captive nations today. I regret that.

HEARINGS SHOULD COVER RECENT PAST, PRESENT AND FUTURE POLICIES

I would much rather see, personally speaking, a review of the recent past, perhaps to include only the Khrushchev era, and the era of Kosygin and Brezhnev. And I would like to see future models of world development unfolded so that Senators who are themselves specialists in various aspects of international affairs would have drawn for them by specialists in the field who maintain a professional interest, various possibilities and contingencies with which we will be faced in the future.

Again, I don't want to overemphasize this, but I have no personal ax to grind. I find it unfortunate that the Soviet Union holds sway

over the eastern European countries. It is my own position we should do everything we can within reason, and within present realities to win them away from the Soviet Union.

I believe that our policy toward the Soviet Union should be to convert them and not to defeat them by, say, nuclear war as some more extreme proponents have suggested. But this review, as I see it, would be one of the very recent past so that the time of committee members, which is short enough as it is, and others who are concerned with these affairs would not have to go back over the record, which has clearly been established and which materials could be incorporated in such a review.

But the recent past, and by that I mean 1956, from the time of the 20th Party Conference of the Communist Party of the Soviet Union to the present, and then beyond. And that, in my judgment, would be a unique and lasting contribution to the study of foreign affairs.

Senator MUNDT. Thank you very much.

That is all, Mr. Chairman.

The CHAIRMAN. I have one question.

Mr. Allen, you are representing the Hoover Institute formally and officially.

Mr. ALLEN. No, Senator Fulbright, I represent myself.

The CHAIRMAN. Who do you represent?

Mr. ALLEN. I represent myself only. I am not speaking for the Hoover Institution or for Stanford University at all.

The CHAIRMAN. You are speaking for yourself.

Mr. ALLEN. That is correct.

LONGTIME INTEREST IN COMMUNISM

The CHAIRMAN. And this matter of communism has been a matter of interest to you for some time, I take it.

Mr. ALLEN. I beg your pardon?

The CHAIRMAN. This matter of communism has been a matter of interest to you for some time.

Mr. ALLEN. Yes, sir. I have written, I have published and have been a student of Communist affairs on a full-time basis for a number of years. The current function is one of perhaps some interest to you. For the first time, the attempt is now being made at the Hoover Institution to record on an annual basis in one volume, for the benefit of not only Senators and Congressmen, but students and newspaper commentators and others, the yearly activities of the 90 Communist Parties now operating around the world.

I think that research and writing in many respects has suffered from overspecialization, some have put it this way, to the extent that we are not able to see the forest for the trees. The degree of coordination in the international Communist movement is often overlooked.

The CHAIRMAN. I wonder if I might ask you one other question?

Mr. ALLEN. Yes, sir.

The CHAIRMAN. You stated:

In the end it will be for our own internal security officials to decide whether the expansion of Soviet intelligence operations constitutes a manageable problem. It is my understanding that this issue is still under consideration.

You're aware, aren't you, that President Johnson on February 2 said that J. Edgar Hoover had assured him that a small increment in the number of additional Soviet officials who would come to the United States if the Soviet consulates were open and I quote, "would raise no problems which the FBI cannot effectively and efficiently deal with."

Mr. ALLEN. I am aware of that statement.

The CHAIRMAN. Do you doubt the statement? You do not think Mr. Hoover is accurate.

Mr. ALLEN. Do I doubt the statement? Of course, I don't doubt the statement.

The CHAIRMAN. I mean do you think Mr. Hoover is in error. Do you think he is in error and that this constitutes an unmanageable problem?

Mr. ALLEN. No, as a matter of fact, I answered that directly in response to Senator Mundt's question. Of course, I do not.

The matter is, however, still under consideration, as I understand it by some Senators, and to that extent it is still open to consideration. Now whether all of the Members of the Senate are satisfied on this particular issue or not, I am not prepared to say, but as I read the Congressional Record, and news reports it seems that there is a continuing interest in this problem of, if you will, espionage and internal security.

The CHAIRMAN. Thank you very much, Mr. Allen.

In view of the length of time that these witnesses take, I think we would be warranted now in taking Mr. Hicks. Mr. Allen took a full hour for his testimony and I believe Mr. Hicks has been invited here by the committee, having requested that he appear.

Mr. Hicks, will you come forward, please. Mr. Hicks, whom do you represent?

STATEMENT OF W. B. HICKS, EXECUTIVE SECRETARY, LIBERTY LOBBY

Mr. HICKS. Well, Mr. Chairman, I am here today to represent the position of the Liberty Lobby.

The CHAIRMAN. Are you an official of that organization?

Mr. HICKS. Yes, sir. I am the executive secretary.

The CHAIRMAN. What kind of an organization is that? Is it a lobbying organization? Is that its purpose?

Mr. HICKS. Not in the strict technical sense, Mr. Chairman. As you know, I have appeared before your committee many times.

The CHAIRMAN. No, I wasn't aware of that. How many times?

Mr. HICKS. Oh, I would say at least four, possibly six occasions.

The CHAIRMAN. When did you last appear?

Mr. HICKS. I don't recall exactly, sir, but I think it probably was in connection with Arms Control and Disarmament Agency considerations. It might have been foreign aid.

The CHAIRMAN. If you don't recall, you surely wouldn't expect me to recall off hand, would you?

Mr. HICKS. No, sir, but I didn't mean that you should recall the specific occasion.

INTENT OF AD PLACED BY LIBERTY LOBBY

The CHAIRMAN. Tell me, Mr. Hicks, you have had a great deal to say about this; that is, your organization has. Were you here this morning when Senator Symington raised the question of the ad that you have been putting in the papers?

Mr. HICKS. Yes, sir, I was here.

The CHAIRMAN. How do you excuse or explain putting in an ad without having it signed, and making it appear that it was put in by the Senator?

Mr. HICKS. Well, sir, I disagree with that interpretation. There is no attempt made, and I don't believe that any unbiased observer could say that that ad looked like it was placed by a Senator of the United States.

The CHAIRMAN. Well I have one here before me which does not identify that you paid for it, and this would lead an ordinary person to believe that it was inserted at the request of the Senators. Have you seen these ads?

Mr. HICKS. Yes, sir. In fact, in some places it was not paid for by us. In other places it has been. In some places it is identified as being paid for by us, and in others it is not because the newspaper did not require it to be so identified.

Now our address is located in that ad, but as a part of the text. But even so, Senator Fulbright, I think you will see that in the last panel of that ad, which is the only place I can think of where there might be any reason to connect the ad with a Senator, it says:

Well, how about it, folks? Why not help your two Senators by letting them know how you feel about the Soviet Consular Treaty. Write to Honorable . . . and Honorable . . .

giving the names of two Senators.

The CHAIRMAN. That is right.

Mr. HICKS. I don't see how anyone could assume that that meant that the Senators were themselves placing the ad.

The CHAIRMAN. Didn't Mr. Symington read to you letters from his constituents saying that "I saw your ad in the paper and I agree with it."?

Mr. HICKS. Senator, I think this just illustrates—

The CHAIRMAN. How quickly people read.

Mr. HICKS. Yes, sir.

The CHAIRMAN. And how easily fooled they are.

Mr. HICKS. Yes, Sir.

The CHAIRMAN. That is right, and you're a past master at it too, aren't you.

Mr. HICKS. No, sir. That intent was not there, and as I say, wherever the newspaper asked us to place our name and address, we did. Our reason for not doing so in all cases was to avoid any charge of commercialism in connection with this ad. We considered this a public opinion operation, a means of trying to get public opinion centered on the consular treaty, not on Liberty Lobby, and for that reason we did not try to make an appeal for donations or to place our

names prominently in connection with the ad, although our address is contained, inside the text.

The CHAIRMAN. What is the purpose of the little note which says: "Liberty Letter \$2 a year, 300 Indiana Avenue SE., Washington." That is in the text, not at the bottom of the page.

Mr. HICKS. Right, sir, and that was to—

The CHAIRMAN. A suggestion that they send \$2.

Mr. HICKS. That they subscribe to the Liberty Letter, yes, sir.

LIBERTY LOBBY REGISTERED AS A LOBBYING ORGANIZATION

The CHAIRMAN. Are you registered as a lobbying organization under the Federal registration lobbying act?

Mr. HICKS. Yes, sir, we are.

The CHAIRMAN. Were you registered last year?

Mr. HICKS. We filed our reports last year; yes, sir.

The CHAIRMAN. When?

Mr. HICKS. In March, as I recall.

The CHAIRMAN. That was for 1965, wasn't it?

Mr. HICKS. Yes, sir.

The CHAIRMAN. That was late, wasn't it?

Mr. HICKS. Sir, those reports require detailed accounting figures. Our accounting system is such that each year we file in March for the previous year.

The CHAIRMAN. Well, they are not in very much detail.

MEMBERSHIP OF ORGANIZATION

How many members do you have?

Mr. HICKS. Sir, we have two classes or two categories of persons who are associated with the Liberty Lobby. One category being our subscribers who are not members of our organization. We have some 170,000 subscribers.

Senator McCARTHY. Are these paid subscriptions, paid by the individual subscriber?

Mr. HICKS. Yes, sir, with few exceptions—there may be as many as 20,000 who are given gift subscriptions paid for by other subscribers.

We do have one category of membership which is on our board of policy. Where we have some 10,000 board of policy memberships.

FUNCTION OF "BOARD OF POLICY"

The CHAIRMAN. What does that mean? What does a "board of policy" mean?

Mr. HICKS. It is the groups which determine the positions which Liberty Lobby is to take on the issues.

The CHAIRMAN. How do they do that?

Mr. HICKS. By mail ballot. So far this year, for the first time since we started our expanded board of policy, we held a national convention at which time the people who attended that convention, not as delegates but just voluntarily, voted on issues to be submitted, new issues to be submitted to the entire board of policy by mail for a vote by the entire board.

Senator McCARTHY. Were any of the issues proposed turned down?

Mr. HICKS. Well, we haven't submitted the issues that were proposed by our convention this year. I assume that some of those will be turned down.

Senator McCARTHY. How about the past record. Is this the first time you have tried it? Don't they usually endorse all the issues you submit to them?

Mr. HICKS. Well, that is not exactly true, sir. In cases where there are multiple choices for positions to take, for example, in the case of the electoral college reform where we submitted multiple choices, four choices: no change, the administration proposal, the Mundt plan, and the Smathers-Holland plan, all four different proposals, in that case, the Mundt plan carried by a not very large majority.

Senator McCARTHY. Reform for electoral college. Do you find if you use Senator Mundt's name in a question, it generally gets a good response?

Mr. HICKS. I beg your pardon, sir.

Senator McCARTHY. I said, do you find if you identify Senator Mundt with the proposal, that it generally gets a good response from the policy board?

Mr. HICKS. This is the only occasion I can think of in which Senator Mundt's name was attached to one of the proposals. This is a specific proposal.

Senator McCARTHY. Or the name of any other Senator.

Mr. HICKS. We identified the proportional representation plan as being a proposal, I believe we identified it as being a proposal of Senator Smathers. It lost. We do explain or did explain in this case what each plan contained.

Senator McCARTHY. When you give them one choice, when you say are you for it or against it, without multiple choices, is it true generally this board approves what you put to them? They are either all for it or all against it generally.

Mr. HICKS. Generally speaking, sir, we have had some appreciable and tie votes, that is where there might be as many as a thousand votes against a particular position, and 9,000 for, like this, but ordinarily not.

SOURCE OF INCOME FOR ORGANIZATION

The CHAIRMAN. What are the sources of the Liberty Lobby's funds. Does that all come from the letters?

Mr. HICKS. No, sir. We obtain some of our funds from the sale of pamphlets. A big part of our funds come in small donations and by small I mean a hundred dollars or less, averaging about probably \$5 or \$6 per contributor per year.

The CHAIRMAN. I am sorry, I was diverted. Would you repeat that?

Mr. HICKS. That a good portion of the funds that allow us to continue our operation come in the form of small contributions, and by "small" I mean less than \$100 ordinarily, with an average of probably from around \$5 or \$6 per year per contributor.

The CHAIRMAN. What is your total income?

Mr. HICKS. In the vicinity of \$400,000 annually.

The CHAIRMAN. Are you tax exempt?

Mr. HICKS. No, sir.

AIM OF LIBERTY LOBBY

The CHAIRMAN. What would you say is the principal aim of the Liberty Lobby? What is it?

Mr. HICKS. To get people to exercise their constitutional right of petitioning the Congress. While I make appearances before committees in their name, and I have probably made some 35 appearances—

WITNESS NOT REGISTERED AS INDIVIDUAL LOBBYIST

The CHAIRMAN. Are you a registered lobbyist?

Mr. HICKS. I appear for Liberty Lobby as an employee of the organization.

The CHAIRMAN. Are you the registered lobbyist?

Mr. HICKS. No, sir, I sign the reports but we register Liberty Lobby, so that others may appear in its name.

The CHAIRMAN. Well, do any others appear?

Mr. HICKS. Occasionally, sir, when there is a particularly technical subject at hand, we will have someone who is a recognized expert on that particular subject appear.

The CHAIRMAN. Does the Liberty Lobby itself have a registered lobbyist? Whether you or anybody else.

Mr. HICKS. No, sir. The organization is registered; no individual.

The CHAIRMAN. I thought the law required some person to be registered as representing even an organization.

Mr. HICKS. Well, I am not aware of that, sir. The organization does file its reports with the Clerk of the House.

APPEARANCE OF WITNESS BEFORE COMMITTEES

The CHAIRMAN. Did you testify on any act other than the consular treaty or did you appear against the consular treaty last year? Two years ago, I guess it was.

Mr. HICKS. I am sure there were no hearings for public witnesses held.

The CHAIRMAN. It was two years ago.

Mr. HICKS. So we did not appear. We applied to appear, but there were no public hearings held.

The CHAIRMAN. On what matter did you say you appeared last year?

Mr. HICKS. Before this committee, as I recall, it was foreign aid.

The CHAIRMAN. Any other committee?

Mr. HICKS. Well there were so many, sir. I appeared some 15 times last year, at least 13 times before Senate and House committees. Some 15 or 16 times the year before that.

The CHAIRMAN. Do you wish to read your paper?

Mr. HICKS. Yes, sir.

POSITION OF ORGANIZATION

Mr. Chairman and members of the committee, I am W. B. Hicks, Jr., executive secretary of the Liberty Lobby. I appear today to oppose the Soviet Consular Convention in the name of the 170,000 subscribers to the Liberty Letter, our monthly legislative report. I have been authorized to take this position by our board of policy which, at the

moment, is made up of some 10,000 of our subscribers who have joined our board of policy in order to take a more active role in the Liberty Lobby. Our board of policy has voted overwhelmingly to support a pro-American foreign policy and it is our belief that this treaty with the Soviet Union fails to meet that standard.

We will restrict our testimony on the treaty to a summary of the arguments and counterarguments for and against the treaty, as they are currently being presented by the State Department, the press, in letters from Senators to their constituents, and by those actively opposing the treaty.

First, the arguments put forward in support of the treaty, each followed by the counterargument of the opposition.

The CHAIRMAN. Mr. Hicks, will you pardon me a moment?

Mr. HICKS. Yes, sir.

The CHAIRMAN. We have just had word they are unable to get a quorum on the floor. We will recess for about eight minutes and then we will come back. We have to go over to make a quorum.

Mr. HICKS. Very good, sir.

(Whereupon, a short recess was taken, after which the hearing was resumed.)

The CHAIRMAN. The committee will come to order.

INSERTION OF ADVERTISEMENT IN NEWSPAPERS

Mr. Hicks, will you proceed? Before you do, Mr. Hicks, I would like to know in how many newspapers you inserted this ad in the form of a cartoon?

Mr. HICKS. Some 31 daily newspapers to date.

The CHAIRMAN. What was the cost of inserting those ads?

Mr. HICKS. In the vicinity of \$20,000, possibly \$22,000.

The CHAIRMAN. Can you explain why in some cases the ad says "Paid for by Liberty Lobby, W. B. Hicks, Jr., executive secretary," and in others there is no attribution?

Mr. HICKS. Newspaper policy is the only explanation I can think of.

The CHAIRMAN. It was not at your request?

Mr. HICKS. I beg your pardon?

The CHAIRMAN. It was not at your request.

Mr. HICKS. No, sir; we furnished the information to those newspapers that felt that it should have a sponsorship line. It was included in all our insertion orders, but it was only put in if the newspaper followed this as policy.

The CHAIRMAN. It was discretionary with the newspaper as to whether it was attributed.

Mr. HICKS. Yes, sir.

The CHAIRMAN. Maybe not in all States but in my State political ads are required by law to be attributed to someone; someone must take responsibility for the ad.

Mr. HICKS. I think it is possible that in this case, sir, that the newspapers felt that since no candidate was involved, that it might not be a political ad. Now I am not certain of this, but this reasoning may have prevailed.

The CHAIRMAN. All right. Proceed.

ARGUMENTS PRO AND CON

Mr. Hicks. First are the arguments put forward in support of the treaty, each followed by the counterargument of the opposition:

1. Argument: If ratified, the convention would bring important and immediate benefits to the 18,000 or more American citizens who travel to the U.S.S.R. each year.

Counterargument: The only benefit to the ordinary American traveler in the Soviet Union would be access to American consular offices in the limited number of cities in the U.S.S.R. where consulates may be established. According to the State Department, only one such location—Leningrad—is now contemplated. Travelers in any other cities would not be aided unless they happened to be arrested. Since June of 1964, when the treaty was signed, only 20 Americans have been arrested by the Soviet Union. The benefits of this treaty would apply to these 20 but not to the 18,000 per year claimed by the State Department.

2. Argument: The treaty will protect Americans arrested by the Soviet Union.

Counterargument: The protection offered by the treaty consists solely of visiting rights by consular officials. There are no concessions by the Soviets to American standards of justice. There is no provision for jury trial. There is no provision against self-incrimination. There is no provision for facing one's accuser. There is no provision against cruel or unusual punishment. Contrary to the statement on the Senate floor of one supporter of the treaty, there is no provision for release of a prisoner.

ACCESS TO AMERICAN PRISONERS

3. Argument: The treaty offers an unusual (for the Soviet Union) right of access to American prisoners by consular officials.

Counterargument: The right of notification and access to arrested Americans within 4 days of their confinement is unusual only in the Soviet Union. This right of access has always been granted by the United States and most other civilized nations. In fact, at the time the United States recognized the Soviet Union over 30 years ago, the Soviet Government promised the immediate implementation of this right of access. This promise was never carried out.

4. Argument: If this right of access had been in effect, Newcomb Mott—the American who died while imprisoned in the U.S.S.R. last year—might still be alive.

Counterargument: This argument is based on the assumption that Newcomb Mott committed suicide in a fit of despair. There is just as much reason to believe that he was murdered by fellow prisoners on his prison train. Further, it assumed that Mott's despair resulted from lack of contact with Americans rather than the circumstances of his trial and prospective "punishment."

In a more recent case, that of Mr. Kazan, no protection at all would have been forthcoming under the proposed treaty because the Soviets turned him over to a Czechoslovakian court for trial. Nothing in the treaty would prevent the Soviets from adopting this procedure as a standard practice to avoid the access provisions of the treaty if it is ratified.

IMMUNITY

5. Argument: American personnel who serve as officers and employees in any consulates we may establish in the U.S.S.R. must have the protection of diplomatic immunity offered by this treaty.

Counterargument: This argument assumes that the necessity for American consulates and personnel is taken for granted. Therefore, its validity depends entirely on first proving the necessity for additional U.S. diplomatic offices in the Soviet Union.

6. Argument: American consulates in the Soviet Union will offer valuable "windows" on the "closed society" of the U.S.S.R.

Counterargument: Diplomatic officials who have served in the Soviet Union have complained of the extensive restrictions placed upon their movement and activities by the Soviet Government. The very fact that the Soviet Union is a "closed society" necessarily means that useful observations are most difficult to obtain for our personnel there than for Soviet personnel stationed in the United States. It follows that we would obtain little useful information in comparison to what the Soviets would gain by having offices in cities in this Nation where they are presently not allowed to operate.

In addition, the difficulties of maintaining security in an American consulate in the U.S.S.R.—against "bugging" and other electronic devices—might in fact make our consulate more of a "window" on our diplomatic operations for the Soviets.

ESTABLISHMENT OF CONSULATES

7. Argument: The convention does not provide for the opening of consulates, either in the United States or in the U.S.S.R. It provides for no new Soviet personnel in this country.

Counterargument: This argument is pure sophistry, beneath the dignity of even the State Department. Immediately following article 1 of the treaty, which contains a definition of terms, follows the title of the next five articles: "Opening of consular establishments, appointment of consular officers and employees," and the content of articles 2 through 6 is devoted to the provisions under which the State Department and the Soviet Union are to establish consulates and appoint consular personnel. The treaty does not in fact actually open any new consulates, but if ratified by the Senate, it gives the State Department a "blank check" to open an unlimited number of consulates with no further consultation of the Senate.

8. Argument: Consulates could be opened whether or not the present convention is ratified.

Counterargument: The obvious reply to this argument is: Why then the need for including consulates in this treaty? Obviously there is something contained in this treaty that cannot otherwise be obtained. That "something" is certainly not the right of "notification and access" because this right is provided to an even greater degree by the provisions of the Vienna Convention on Consular Relations signed on April 24, 1963, by the United States, and which has now been signed by a total of 52 nations. The Vienna Convention needs only one more ratification to become effective but has never been sent to the Senate by our State Department to be ratified.

Opponents of the treaty believe that the necessity for this treaty from the State Department point of view is simply the desire of the State Department to exempt Soviet consular personnel from the laws of the United States, which could not be done without Senate ratification of a treaty.

NUMBER OF SOVIET PERSONNEL FORESEEN

9. Argument: The number of Soviet consular personnel would be limited to 12 or 15 per consulate and would not greatly increase the total number of Soviet personnel enjoying diplomatic immunity.

Counterargument: First, there is no numerical limitation contained in the treaty itself. Thus, what the State Department foresees as the number of personnel involved may well prove inaccurate in actual practice. Again, this treaty is a "blank check" to the State Department and once ratified, the Senate will have no further control over its implementation.

Further, there is the factor of the "most favored nation" clauses that exist in consular conventions currently in force with other nations, including some Communist nations. These clauses will go into effect if this treaty is ratified, entitling hundreds of consular personnel already here to full diplomatic immunity. In his testimony before the Senate Foreign Relations Committee, Secretary Rusk stated: "If all of them exercise that option, our estimate is that approximately 400 officers and employees could be involved."

10. Argument: We will be protected against the activities of Soviet personnel because of the power to "expel" Soviet consular officials.

Counterargument: The power to send a Soviet official home if he commits a crime such as bribery, extortion, blackmail, kidnapping or murder is hardly a protection.

11. Argument: We will gain just as much from "diplomatic immunity" as the Soviets.

Counterargument: This argument assumes that our personnel in the Soviet Union will have identical purposes and functions with those of Soviet personnel in the United States. J. Edgar Hoover has testified that:

Involving the great bulk of their official personnel in intelligence activity in one way or another, the Soviets utilize to the fullest extent possible any and all official means . . . as transmission belts to carry additional intelligence personnel into this country.

If this is the purpose and function of our diplomatic personnel in the Soviet Union, then this treaty should be properly referred to as a "spy exchange program."

We should also consider the fact that while the Soviet will be given access to tens of thousands of refugees from communism, many of whom have relatives behind the Iron Curtain, and who are subject to extortion and blackmail there is no such body of refugees from the West inside the Soviet Union on whom our officials would practice extortion and blackmail. Hence, there will be no reciprocity on this point.

J. EDGAR HOOVER'S ATTITUDE TOWARD TREATY

12. Argument: J. Edgar Hoover has agreed that the advantages which would accrue to the United States by entering into such a treaty outweigh any disadvantages.

Counterargument: In a letter to Senator Karl Mundt of January 23, 1967, Hoover stated:

The FBI is not a policy-making agency and we do not express opinions. Since 1924, when I became its Director, the FBI has refrained from injecting itself into the area of legislation. The Consular Convention between the Soviet Union and the United States which is now before the United States Senate is no exception to this long-standing rule.

13. Argument: In a letter to Secretary of State Dean Rusk, J. Edgar Hoover withdrew his opposition to the treaty.

Counter-argument: As is clear from the above quotation, J. Edgar Hoover never "opposed" the treaty in the first place. He merely reported the facts as he knew them before the House Appropriations Subcommittee.

At that time he stated that—

A cherished goal of the Soviet intelligence services was realized when the United States signed an agreement with the Soviet Union on June 1, 1964, providing for the reciprocal establishment of consulates in our respective countries. One Soviet intelligence officer in commenting on the agreement spoke of the wonderful opportunity this presented his service and that it would enable the Soviets to enhance their intelligence operations.

In the letter to Senator Mundt referred to above, Mr. Hoover stated:

You specifically inquired whether I had changed my views or whether any evidence has developed to make me change my mind about my testimony of March 4, 1965. The answer is an unequivocal no.

CAN THE FBI COPE WITH INCREASE OF RUSSIAN PERSONNEL?

14. Argument: The FBI can cope with any increase of espionage arising from the establishment of Soviet consulates.

Counterargument: The FBI and the other counterintelligence agencies have never been 100 percent effective in the control of espionage. The history of the cold war is replete with examples of Soviet espionage activities that have succeeded in yielding some of our most important secrets to the U.S.S.R.

One of the most important of these cases was the theft of the secrets of the atomic bomb, which gave the Soviet Union the weapon without which there could be no cold war. The Oppenheimer hearings of the Atomic Energy Commission revealed that the command post of the Berkeley-based spy ring that delivered the A-bomb to the Soviets was located in the consulate of the Soviet Union in San Francisco.

In addition, it should be noted that this Soviet consulate was able to function as a spy center without the special benefits of consular inviolability and immunity contained in this treaty.

In fact, considering the provisions of this treaty against any inspection of Soviet equipment and baggage brought into the United States for shipment to consulates, it is obvious that there is no way, short of violating the treaty laws of the United States, for the FBI to detect the importation of anything, from narcotics to A-bombs, so long as it is marked "Diplomatic Pouch." Furthermore, should a shipment of narcotics be detected, there is no way to prevent its delivery short of abrogating article 18(2) of the treaty.

REDUCTION OF TENSIONS WITH RUSSIA

15. Argument: Ratification of this treaty will lead to reduced tensions between the United States and the Soviet Union.

Counterargument: There are numerous ways in which the establishment of consulates in both countries could lead to an increase rather than a decrease of tension between the two nations. Any serious incident involving a violation of our consular establishment or the immunity of our consular personnel, whether by accident or design, could lead to outraged demands by the American people that the treaty be nullified.

On the other hand, any act of a Soviet official, accidental or otherwise, which might inflame American public opinion, could have the same result. In addition, acts of revenge or agitation by refugee groups in this country against Soviet consulates—such as the recent bombing of the Yugoslav consulates—could add to the “tensions” between our countries.

16. Argument: An important part of the whole exercise of diplomacy these days is to isolate the Vietnam war, to maintain as good relations as possible between the United States and the Soviet Union during a tense period.

Counterargument: The “isolation” of the Vietnam war would seem to require of the Soviet bloc that they cease to supply the enemy there. Yet Poland alone has 10 cargo vessels carrying Soviet-bloc weapons to North Vietnam on a full-time basis, and Soviet leaders have proclaimed their full support of the Hanoi efforts to subjugate South Vietnam.

ARGUMENTS AGAINST THE TREATY

The principal arguments against the ratification of this treaty are:

1. Argument: 350,000 Americans per day are involuntarily risking arbitrary loss of blood, limb, and life by Soviet weapons in Vietnam, in comparison to the 12,000 or 18,000 per year who are voluntarily risking arbitrary arrest in the Soviet Union.

Beside this comparison, all other arguments for and against this treaty pale in significance in the minds of the American people.

Counterargument: This is all the more reason why we must “build bridges” to the Soviet Union at this time.

2. Argument: The Soviet Union cannot be trusted to adhere to any agreement, unless it offers them more than it offers the other party. It should be noted that this Soviet consular convention was signed for the Soviets by Andrei Gromyko, the same man who was accused by President Kennedy of deliberately lying to him about the missiles sent to Cuba in 1962.

Counterargument: If the Soviets violate this treaty, it can be considered void, and, in any case, can be canceled with 6 months notice.

3. Argument: One of the results of this treaty will be to increase trade with the enemy in Vietnam, by way of the Soviet Union.

Counterargument: Those who make this objection apparently base it on the fact that the convention states that consular officers of the two countries will be entitled—

to further the development of commercial, economic, cultural and scientific relations . . . between the two countries.

This is the kind of phrase which is found in all consular conventions and agreements which the United States has signed with other countries in the 20th century. It does not mean that there will be any

change in the nature of our trade with the Soviet Union in so-called strategic items.

SOVIET DIPLOMATS ARE INTELLIGENCE AGENTS

4. Argument: It is clearly established that Soviet diplomatic officials are secret policemen or intelligence agents first, and diplomats second. Besides the Hoover testimony on this point, there is the statement of Oleg Penkovskiy, who was the second-ranking agent of the GRU itself, who said:

In a Soviet consulate, almost 100 percent of the personnel are KGB, with one or two GRU officers included (Penkovskiy Papers).

Counterargument: This treaty offers advantages to us that are worth the risks of additional Soviet intelligence agents being stationed in the consulates.

5. Argument: Soviet KGB agents are not simply ordinary spies who gather information, they are also trained assassins, equipped with special weapons and poisons to make their victims appear to have died naturally, or by suicide. In addition, they have used their consular positions in the past to extort information from refugees, blackmail security risks and even to kidnap those whom they consider dangerous to them, such as the case of Oksana Kasenkina, and, perhaps, Povl Bang-Jensen.

Counterargument: There have been no recent cases of this nature, and again, this treaty offers advantages to us that are worth the risks.

6. Argument: We have a moral obligation to all those who have sought and received asylum from communism by coming to America, not to allow the establishment of privileged Communist sanctuaries here, from which they can be terrorized anew by their former enemies.

Counterargument: When they come to this country, it is up to them to accept the rules and regulations of America and not spend their time agitating hate against the countries from which they came (Congressional Record, Jan. 31, 1967, p. S1171).

7. Argument: The provisions for "diplomatic immunity" contained in this treaty are unique for a consular convention. We have such conventions with more than 30 other nations, and none of them provide immunity for felonies. Why should we provide something special for the Soviets?

Counterargument: This point was not in our original draft because it is not a part of our general practice. But when the matter was raised by the Soviets, we gave it close examination. We felt that in view of the special circumstances of the character of the two societies that it would be advantageous to us to go ahead on this basis.

REITERATION OF ARGUMENT AGAINST TREATY

Mr. Chairman, I will close this statement with a reiteration of the argument against this treaty for which there is no satisfactory counterargument.

The Soviet Union is supplying its ally in North Vietnam with the only weapon that can shoot down the aircraft being flown by American pilots who represent the cream of our air forces. These Soviet anti-aircraft missiles are maintained—probably even manned—by the

Soviet "technicians" to whom the Soviet press has referred as "fighting shoulder to shoulder with the Vietnamese people."

It might be well for the Senate to give some consideration in the case of this treaty to the remarks of your colleagues in the other House of Congress, where in recent weeks there have been expressions of grave concern on the general subject of our revelations with the Soviet Union as well as the specific subject of this consular convention. One Congressman who represents a city where it is proposed to locate a Soviet consulate has expressed his fear that the reaction of his constituents who have lost dear ones to Soviet Russian terrorism might be so violent as to create a dangerous situation for the cause of international peace. Another highly respected member of the House Foreign Affairs Committee has decried the fact that this consular treaty is proposed while Soviet ammunition, fired from almost all types of Russian-made guns, is killing and maiming Americans in Vietnam.

And in closing, I refer you to the remark of a Member of Congress who arose to inform the House just days ago that his own son, a lieutenant in Vietnam, had just become the victim of a Soviet weapon.

Mr. Chairman, the House of Representatives, as a cross section of the American people, may be taken as a reliable gauge of the current attitude of the people toward the Soviet Union. There are arguments and answers to all the reasons for and against this treaty, except in the case of this argument. What answer can a Senator give to the bereaved parent or wife of an American who has been deprived of his right to life by the acts of the criminal government to whom this treaty seeks to build a "bridge"?

Thank you.

APOLOGY SHOULD BE MADE TO ADMINISTRATION

Senator McCARTHY (presiding). Mr. Hicks, I really think you ought to apologize to the administration for your last argument. I think there are many points you have raised along through your presentation which we really ought to consider. But to make the kind of charge that you imply in your last statement really does not do justice to the rest of your testimony, which I think we should take seriously.

Mr. HICKS. You do not believe, sir—

Senator McCARTHY. But to say that the great argument against the ratification of this consular convention is what you present in the last paragraph I think really undermines and weakens what was, I think, a reasonably objective case up to this point.

Mr. HICKS. Well, sir, I would agree with you about the difference between the emotionalism and the objectivity in the two cases. I would point out though that the people of this Nation react emotionally to questions of this nature. This argument is an argument which is inescapable as much as we might wish to be more logical about it, as I have tried to be throughout the rest of the testimony. It is inescapable that the emotional response of the people today will not allow for the passage of this treaty.

PUBLIC RESPONSE TO TREATY QUESTIONED

Senator McCARTHY. Well, how do you know what the emotional response will be? How do you have that kind of sense as to how the people are going to respond? I have a constituency of 3.5 million

people. I have not seen any evidence of prospective panic over the ratification of this consular treaty. Yet you come in here and make a forecast as to what is going to happen. Do you read spirits in some way?

Mr. HICKS. No, sir. I judge from my mail, from the mail which I know that the Senate is getting on this, and, as I pointed out very specifically in this closing passage, from the reaction of Members of the House of Representatives, who admittedly have no say over this treaty, and properly so under the Constitution, but who are expressing what I believe to be valid feelings based on what they know their constituents feel.

Senator McCARTHY. You quote what, three Members of the House?

Mr. HICKS. Yes, sir.

Senator McCARTHY. And then you go back from that, and I think you said a majority of 10,000 members of your board authorized you to speak for 170,000 subscribers.

Mr. HICKS. Yes, sir.

Senator McCARTHY. How do you work out the arithmetical ratios in this which somehow build up to a point where you can speak because three House Members in a sense speak for 10,000 members who in turn speak for 170,000, and all of this great power suddenly concentrates in you here before this committee.

Mr. HICKS. Sir, I am somewhat confused by your question.

Senator McCARTHY. I am confused by your statements. You have to ask a confused question when you are trying to get some understanding of what I think is a rather confused and unclear statement.

Mr. HICKS. I believe, sir, that I have made it clear that I recognize and, in fact, presented as such, the closing point as being an emotional point, not a logical point of necessity, not necessarily one that is based on cold reason. But it is a valid point, and this is borne out by the fact that members of this committee have made eloquent statements along those exact lines without challenge by their fellow members of the committee.

I fear that the Senate greatly overlooks in many cases the power of this emotion in connection with this treaty.

POTENTIAL PUBLIC DISTURBANCE IF TREATY APPROVED

Senator McCARTHY. Well, then the real point you want to make is here is a kind of warning as to what may happen in the country if this consular treaty is ratified. You are not really concerned as to whether we even look closely at what you call the rational or logical or objective arguments because these are so unimportant in contrast with the potential danger of some kind of public uprising and disturbance if we ratified this treaty.

Mr. HICKS. I think, sir, that this last is purely a political prediction, that, in other words, I wanted to bring to this committee, if possible, my feeling, which is buttressed by the feeling of others with whom I have spoken who have their fingers, so to speak, on the pulse of the people, that while this treaty might be ratified, and there be no immediate reaction on the part of the people, that in the long run if it leads to an increase of trade with the Soviet Union, and the Soviet Union continues its intransigent stand in North Vietnam, it could become politically dangerous, and I believe that is the sum total of the reason for my putting this final point in.

Senator McCARTHY. Thank you very much, Mr. Hicks.
Mr. HICKS. Yes, sir.

LIBERTY LOBBY'S REGISTRATION WITH CONGRESS

Senator McCARTHY. I submit for the record a memorandum from Norvill Jones, a member of the committee staff.
(The memorandum referred to follows.)

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
February 10, 1967.

Memorandum to: Senator Fulbright.
From: Norvill Jones.

Subject: Liberty Lobby's Registration with Congress.

The Liberty Lobby first filed a Lobby Report with the Secretary of the Senate on March 6, 1961. Subsequent reports were filed quarterly for 1962, 1963 and 1965. There is no record of Lobby Reports for 1964 and 1966.

Section 267 of the Federal Registration of Lobbying Act of 1946 requires each registrant to file a report between the first and tenth day of each calendar quarter. The 1965 reports were filed by the Secretary of the Senate in March 1966.

In its Lobby Report for 1965 the Liberty Lobby stated that it would maintain indefinite legislative interest in "anti-Communist legislation and concern with passage of conservative pro-American legislation." To promote these ends, it published the journal *Liberty Letter*. Liberty Lobby enjoys second class mail privileges. Its declared average circulation for 1966 was 192,000 of which 174,294 was paid.

The financial statements for the year 1965 give the following information:

| | | |
|---------------------|-------|---------|
| The first quarter: | | |
| Receipts | ----- | \$9,084 |
| Expenditures | ----- | 6,495 |
| The second quarter: | | |
| Receipts | ----- | 12,031 |
| Expenditures | ----- | 11,446 |
| The third quarter: | | |
| Receipts | ----- | 15,842 |
| Expenditures | ----- | 7,813 |
| The fourth quarter: | | |
| Receipts | ----- | 6,465 |
| Expenditures | ----- | 15,540 |
| Total receipts | ----- | 43,423 |
| Total expenditures | ----- | 41,260 |

It was pointed out in these financial statements that "expenditures listed are 10 percent of the actual receipts and expenditures based on our being a multi-purpose organization." Thus, Liberty Lobby's total receipts for 1965 were \$434,230 and its total expenditures for that year were \$412,600.

Senator McCARTHY. We will hear Mr. Anthony Rudis, the national president of the Lithuanian American Council.

Mr. Rudis, will you identify yourself for the record and prepare your testimony? Will you identify yourself, Mr. Rudis?

STATEMENT OF ANTHONY J. RUDIS, NATIONAL PRESIDENT,
LITHUANIAN AMERICAN COUNCIL

Mr. RUDIS. My name is Anthony J. Rudis, and I am speaking here today on behalf of the Lithuanian American Council as international president. It is an organization formed in 1940.

I am the owner of a business, a steel fabricating plant, the Rockville Engineering Co.

I served in an advisory capacity to Congressman Charles Kersten of Wisconsin, who was chairman of a select committee to investigate communist aggression in the Baltic States in 1953.

I belong to a number of other commercial organizations, on their foreign trade committees in a business manner.

Senator McCARTHY. Very well.

Mr. RUDIS. I have a memorandum of the Lithuanian American Council to the Senate Foreign Relations Committee on the subject of the United States of America and the Union of Soviet Socialist Republics Consular Convention.

BACKGROUND OF LITHUANIAN AMERICAN COUNCIL

The Lithuanian American Council is a nationwide organization composed of Americans of Lithuanian descent, representing one million American Lithuanians and their national and patriotic organizations in the United States directly and local societies and clubs through its chapters in major cities.

It was formed in 1940, to safeguard American interests, to alert the Western World to the evils of communism, and for the restoration of justice and freedom to the people of Lithuania. We have followed the communist activities of aggression and territorial conquest from the time of the forced occupation of the Baltic countries in 1940, when the Soviets murdered or banished into exile hundreds of thousands of Baltic people, to their progression in world conquest on through Cuba, Latin America, and Asia. We are seriously mindful of Lenin's words:

We will first take Eastern Europe, then the masses of Asia. We will surround the United States which will be the last bastion of capitalism. We will not have to attack. It will fall like overripe fruit into our hands.

Our primary aim is to be of help to the American Government and its bodies. We have first and foremost in mind our country, the United States of America. As the Lithuanian American Council, in the interests of humanity and justice, we are speaking for and in behalf of the Lithuanian people who are not able to speak for themselves and for the thousands of Lithuanian exiles here in the United States.

Being of Lithuanian descent, whose families and kin have lived and died under the terrors of Soviet occupation, we are well aware of Russia's methods and the system under which she operates and under which treaties are drawn up. We respectfully come before you to present certain facts as we know them to exist. We submit the following:

ARGUMENTS AGAINST RATIFICATION OF PROPOSED TREATY

1. We have carefully read the text of the proposed consular convention and find there are serious omissions and vague generalities. The later implementation of these can be harmful to the United States and to our worldwide prestige. We will undoubtedly be forced to comply in the fullest sense to what the Soviet Union meant.

2. It is too simple to dismiss the argument with reassurance that this treaty does not at all affect the Baltic countries whose independence the United States recognizes apart from the Soviet Union. We make direct reference to the U.S. official position as stated in the U.S. Department of State publication, "Status of the World's Nations" (ex-

hibits No. 4), which is part of our prepared presentation from which I quote:

In the early part of World War II, three other sovereign states, Estonia, Latvia and Lithuania, were forcibly incorporated into the Soviet Union.

The incorporation of the Baltic States into the Soviet Union is not recognized by the U.S. Government. The United States recognizes, furthermore, the diplomatic and consular representatives of the last three governments of Estonia, Latvia and Lithuania as the accredited representatives of those countries.

That is the U.S. Department of State, Geographical Bulletin No. 2, May 1965, pages 1 and 9.

3. We also refer to the U.S. official position as stated in the book, "Treaties in Force January 1, 1966":

The United States has not recognized the incorporation of Estonia, Latvia and Lithuania into the Union of Soviet Socialist Republics. The Department of State regards treaties between the United States and those countries as continuing in force (Department of State Publication 8042).

4. This consular convention states it is between the United States of America and the Union of Soviet Socialist Republics. This could be interpreted by the Soviet Union as applying to the 16 nations declared by them as "the Union of Soviet Socialist Republics."

This consular convention does not take exception to the Baltic States by any reference, direct or indirect. In the absence of any reference, this could be the area the Soviets would insist was covered by their law of August 7, 1940, which is in direct conflict with the U.S. official position.

By the law of August 7, 1940, the Supreme Council of the Soviet Union made constitutional changes whereby these countries (Lithuania, Latvia, Estonia) became the 14th, 15th, and 16th constituent republics in the Soviet Union (Digest of International Law, Vol. 5, page 940). (See exhibit B for laws of incorporation.) (The Digest is published by the State Department.)

5. Articles 7 to 12. Should the convention now under consideration be ratified, the Soviets would in all probability use every device to interpret it as including Lithuania, Latvia, and Estonia, thereby directly contravening the official policy and firm stand of the United States regarding these States. These articles are susceptible to such misleading interpretation. The Soviets would claim the nationals of Lithuania, Latvia, and Estonia as "nationals" of the Soviet Union under Soviet laws. The Soviets might therefore want, and try, to register these "nationals," and demand information of and about them. (Copies of Soviet decrees to this effect, exhibits 1 and 2.)

POWER OF ATTORNEY

6. Article 8 might be considered by Soviet officers as being applicable to powers of attorney and/or other documents issued in Lithuania, Latvia, and Estonia. During past years, Soviet officials have used various tactics to try to overcome the effects of official nonrecognition, particularly in estate matters. The recent Mitzkel estate (see exhibit 3) may be mentioned as a typical case. In this instance the surrogate court concluded that the power of attorney is invalid because the fatal defect "stems from the covert intervention and direct control exercised by a Soviet official body in its procurement and the attempt to accomplish indirectly what may not be accomplished directly; namely, Soviet representation of nationals of the Baltic countries." In connection

therewith, the Department of State, in March 1948, issued a circular letter to the Governors of the then 48 States which reads as follows:

There have recently come to the Department's attention several cases in which a person acting as attorney for the consul general of the U.S.S.R. in New York City claimed the right in behalf of nonresident Latvians, Estonians, and Lithuanians to receipt for their distributive shares derived from estates in process of probate.

The Department has never recognized the incorporation of Latvia, Estonia, and Lithuania into the Soviet Union and consequently does not regard Soviet consular officers or their attorneys as having any right to act on behalf of nonresident Latvia, Estonian, or Lithuanian nationals with respect to distributive shares owing them from estates of persons dying in the United States. In the case of Latvia and Estonian nationals such right has been reserved to consular officers of the respective countries by article XXV of the Treaty of Friendship, Commerce, and Consular Rights of 1928 between the United States and Latvia (45 Stat. 241) article XXIV of the Treaty of Friendship, Commerce, and Consular Rights between the United States and Estonia (44 Stat. 2379). Moreover, even in absence of applicable treaty provisions, the Department does not consider that Soviet consular officers have the right to represent nationals of a third country, whether residing in the United States or elsewhere, without that country's consent. It is respectfully requested that you advise the courts of our state having to do with probate proceedings of the position of the Department with respect to the incorporation of the Baltic States into the Soviet Union and that you request them in considering the validity of powers of attorney given by persons of the Baltic States to Soviet officials in the United States or their attorneys to give appropriate consideration to this Department position of non-recognition of Soviet sovereignty in Latvia, Estonia, and Lithuania (Congressional Record, Vol. 94 (1948), p. 6795).

CONSULAR OFFICERS

7. Article 3 states:

Consular officers may be nationals only of the sending state.

This is a point that needs a great deal of clarification for the reasons here earlier stated.

Article 1, paragraphs 4 and 5, would enable the Soviet Union to staff its consulates with countless so-called trainees and a variety of so-called employees.

Under article 19 these Soviet employees would be immune from criminal jurisdiction. Under these articles, as well as article 7, paragraph 2, the Soviets are granted a wide-open door to subversion and espionage. The field for subversive activities could be very broad and diversified, and the harassment and intimidation of exiles and the immigrant community would be extended.

8. I have an example:

During 1966, the rector of Vilnius University, Prof. J. Kubilius, spent a number of months in Chicago, under an "educational exchange program," as he put it. He said he was an exchange teacher at the University of Chicago. He made contacts with a number of intellectuals in the Lithuanian community, informing them that things have changed in Lithuania and they could return and visit their families and homes. Attached exhibit C is a photocopy of a newspaper clipping of one meeting with a group of Lithuanian exiles at which the invited people asked that this meeting be kept secret because they did not want to jeopardize the safety of their families. After agreeing to a "closed meeting," Mr. Kubilius announced that he would have to make a report to his superiors on the meeting and give the names of the people attending. He later took a photograph of these people.

Example:

9. Since May 1962 Mr. Vytautas Zenkevicius has been the second secretary of the Russian Embassy in Washington. Before him, Mr. Laurynas Kapocius occupied this post for a period of 5 years. They, and others, have been known to travel throughout the United States to keep the exiles intimidated and divided, and I refer to you exhibit E supporting that. They have been reported to use persuasion, coercion, and possibly blackmail. They have incited fear for the safety of families left behind. News clippings, exhibit D, report trips these individuals have made to Chicago, contacting Lithuanian people and making propaganda speeches.

Two copies of a Communist newspaper titled "Homeland" are attached wherein—and I would like to turn these two over, because they are the only two I have, to the committee—wherein they spell out the success of their stay there. One is headed up—the headline here is one Mr. Kapocius is now the—is mentioned as the Presidium of the "Cultural Exchange Program With Overseas Lithuanians." His headline states "Coexistence Will Be More Fruitful." That is the headline and the story there covers the fact that he has spent much time in the United States. This is in the Lithuanian language and anywhere that the story is followed with the word "Jac" it means—which would mean the United States of America.

And they speak of their great success and that they have made tremendous inroads here in America.

Under article 7, should the convention be ratified, we will then experience an intensified and larger staff under the guise of cultural exchange and other titles, for more concentrated intimidation of our new U.S. citizens. These are precise cases in point as to what would happen when additional consular offices are established.

LITHUANIA'S TREATIES WITH THE SOVIET UNION

10. Lithuania's experience is a telling example and definite proof of the fact that Soviet-subscribed treaties are unreliable and treacherous—in reality Trojan horses—and to the Soviets mean only what Lenin told his disciples:

Treaties, like pie crusts, are made to be broken.

The Soviet Union had three solemn and important treaties with Lithuania, namely: the treaties of peace, of nonaggression, and of mutual assistance (see exhibit A). All three treaties provided for one another's state sovereignty and independence, for territorial integrity and inviolability, and for the principle of nonintervention in the domestic affairs of the other state. In flagrant disregard of all these solemn pledges the Soviet Union intervened in the domestic affairs of Lithuania, forcibly seized and annexed the country—violating her sovereignty and territorial integrity—and still holds and exploits Lithuania, and continues her efforts to efface and to colonize the country, using various devious processes and predatory activities. Map of the Baltic States—and I wish to exhibit the map that is part of our testimony here—is a map of August 12, 1920, that refers to also the territorial boundaries as agreed to under the various treaties here in the upper left-hand corner between Lithuania and the U.S.S.R.

We feel, point 11, that this consular convention, as now worded, could conflict with the official treaty of the United States with the Baltic

states, as stated in U.S. official publication, "Treaties in Force"—a list of treaties and other international agreements of the United States, in force on January 1, 1966 (Department of State Publication No. 8042, pp. 122-123), and I have a copy, and I would like to present this to the committee so that they may incorporate that officially into your record as to what I referred to.

(The list referred to follows:)

U.S. TREATIES WITH LITHUANIA

The United States has not recognized the incorporation of Estonia, Latvia, and Lithuania into the Union of Soviet Socialist Republics. The Department of State regards treaties between the United States and those countries as continuing in force.

Customs:

Arrangement regarding reciprocal privileges for consular officers to import articles free of duty for their personal use.

Exchanges of notes at Washington July 28, September 17 and 19, and October 4, 1934; entered into force October 4, 1934; operative October 15, 1934.

Extradition:

Treaty of extradition.

Signed at Kaunas April 9, 1924; entered into force August 23, 1924.

43 Stat. 1835; TS 699; IV Trenwith 4424; 51 LNTS 191.

Supplementary extradition treaty.

Signed at Washington May 17, 1934; entered into force January 8, 1935.

49 Stat. 3077; TS 879; IV Trenwith 4434; 157 LNTS 441.

Finance:

Agreement for the funding of the debt of Lithuania to the United States.

Signed at Washington September 22, 1924; operative June 15, 1924.

Treasury Department print.

Amendment: June 9, 1932 (Treasury Department print).

Nationality:

Treaty defining liability for military service and other acts of allegiance of naturalized persons and persons born with double nationality.

Signed at Kaunas October 18, 1937; entered into force July 20, 1938.

53 Stat. 1569; TS 936; 191 LNTS 351.

Pacific Settlement of Disputes:

Arbitration treaty.

Signed at Washington November 14, 1928; entered into force January 20, 1930.

46 Stat. 2457; TS 809; IV Trenwith 4431; 100 LNTS 111.

Treaty of conciliation.

Signed at Washington November 14, 1928; entered into force January 20, 1930.

46 Stat. 2459; TS 810; IV Trenwith 4433; 100 LNTS 117.

Postal Matters:

Convention for the exchange of money orders.

Signed at Washington April 10 and at Kaunas July 30, 1923; operative October 15, 1923.

Amendments:

May 26 and June 13, 1934.

June 11 and 28, 1934.

Parcel post agreement.

Signed at Kaunas December 4 and at Washington December 28, 1939; operative February 1, 1940.

54 Stat. 2021; Post Office Department print; 202 LNTS 381.

Trade and Commerce:¹

Agreement according mutual unconditional most-favored-nation treatment in customs matters.

Exchange of notes at Washington December 23, 1925; entered into force July 10, 1926. TS 742; IV Trenwith 4428; 54 LNTS 377.

¹ Application of controls to trade between the United States and Lithuania while that country is under Soviet domination or control was acquiesced in by the Minister of Lithuania in Washington in a note dated July 11, 1951, to the Secretary of State.

Trade Marks:

Agreement relating to the registration of trade-marks.
Exchange of notes at Riga September 14, 1929 and at Kaunas October 11, 1929; entered into force October 11, 1929.

Visas:

Arrangement for the reciprocal waiver of passport visa fees for nonimmigrants.
Exchange of notes at Washington April 17, 1937; entered into force April 17, 1937; operative May 1, 1937.

Mr. RUDIS. Point 12. Bearing in mind the acts of the Soviet Union against the Baltic countries, the Lithuanian American Council, in the name of one million Americans of Lithuanian origin, most respectfully requests the U.S. Senate Foreign Relations Committee to reject ratification of the consular convention between the United States of America and the Union of Soviet Socialist Republics.

Respectfully submitted.

ANTHONY J. RUDIS.

HISTORY OF LITHUANIAN NATION

I would like to add one more page here as a historical preface so that you could have a bit of groundwork on the Baltic countries with your kind permission.

The Baltic countries of Lithuania, Latvia, and Estonia are not new political formations. The Lithuanians, the Letts—Latvians as they are now called—and the Estonians occupied the Baltic region before written history began.

The Chronicle Annales, Quedlinburgenses, of the year 1009 A.D. first mentions Lithuania. History tells us the Lithuanians had formed an official nation-state in 1253 when their King, Mindaugas, was crowned.

Prof. Clarence Manning of Columbia University has given the following characterization of Lithuania during the Middle Ages:

The Lithuanians had established a powerful and independent state in Europe during the Middle Ages. They were able to check the German drive to the east for centuries. They protected Europe against Mongols and Tartars. They furnished a power and a government behind which the Eastern Slavs could live in peace and safety with a freedom that was unknown in Muscovite Russia. They blessed their subjects with more human freedom than in the neighboring countries. They encouraged education and toleration and they played their part in the general development of European civilization (Introduction to C. R. Jurgela, "History of the Lithuanian Nation," New York: Lithuanian Cultural Institute, 1948, page 9).

Lithuania comprises an area of 26,500 square miles and had a population of 3,042,863 in 1939. Latvia comprises 25,000 square miles with a population of 1,900,000. Estonia comprises 18,357 square miles with a population of 1,126,400.

Lithuania's desire for justice to all men resulted in the Statutes of Lithuania, published in 1529. It is important to note that this was the first code of laws published in Europe since the time of Justin the Great. It was 15 years in the making. This code of laws was adopted by other eastern European countries and was used up to the 19th century.

I have a copy of this that is over 200 years old for exhibit to the committee if it would care to see the copy of the Statute and Code of Laws of Lithuania that was published at that time.

Planned invasions subsequently reduced Lithuania, and it fell to Russia in 1795. Subjection to Russia came to an end in 1915.

The Lithuanian state was reestablished on February 16, 1918. On September 22, 1921, Lithuania was admitted into the League of Nations. During 1922 the United States, Great Britain, France, Italy, and Japan formally recognized Lithuania de jure.

Thank you very much.

(Of the exhibits referred to above, 1, 2, 3, 4 A, B and E appear in the appendix; and C-1, C-2, D-1, D-2, and related material appear in the committee files.)

Senator McCARTHY. Senator Mundt?

Senator MUNDT. Thank you for your statement.

I have in my hand, Mr. Chairman, a clipping from the Washington Post of February 17 reporting a social event here in Washington which seems to bear out what Mr. Rudis has told us about the functioning and operating of consular offices and a Lithuanian legation here in Washington. It is a short item and I ask that it be printed in the record.

Senator McCARTHY. Without objection.

(The article referred to follows:)

[From the Washington Post, Feb. 17, 1967]

INDEPENDENCE GONE, BUT THE PARTY GOES ON

The flag, the costumes, the old recipes, the quaint dolls were all lovingly taken out for Lithuanian Independence Day at the Lithuanian Legation.

Never mind that Lithuania was made part of the Soviet Union 27 years ago. The year to keep in mind is 1918 when independence was declared.

The Charge d'Affaires of Lithuania and Mrs. Joseph Kajeckas, she in national costume, gave their annual reception for the Lithuanian community in Washington and members of the diplomatic corps.

The Secretary of State sent his annual letter of congratulations on the holiday and best wishes for the future.

"United States support of the Lithuanian people's just aspirations for freedom and independence is reflected clearly in our refusal to recognize the forcible incorporation of your country into the Soviet Union and in the warm sympathy manifested by the American people in the Lithuanian cause," Secretary Rusk wrote.

"In continuing to look resolutely toward a free and independent existence, the Lithuanian people both here and abroad have established a firm foundation for the hope of free men everywhere that the goal of Lithuanian national self-determination will ultimately be realized."

To the young girls who wear Lithuanian traditional dress to the party each year, Lithuanian independence is an old family idea, supported by little anecdotes and stories from their older relatives.

IMPACT OF TREATY ON STATUS OF BALTIC STATES

Senator MUNDT. Mr. Rudis, you make the same point that several other witnesses made earlier today about the fact that signing and ratifying and approving this consular treaty would have some impact on the status of the Baltic States and their desire to cease being captive nations and to become free and independent members of the society of nations.

Why is it that you fear that the U.S. nonrecognition of the Baltic States is in jeopardy if we sign this treaty and ratify it?

Mr. RUDIS. After we received a copy of this text and read it and found no references direct or indirect taking any exceptions, it brought

to my mind a very serious conversation I had with the late Father E. A. Conway, who established the Research Center for Priests at Creighton University. He called me from Washington to Chicago because he was a member, I believe, of some of the advisory committees to the administration, and that was at the time of the atomic test ban treaties that were being discussed in Moscow, and he said:

Tony, prepare yourself for a shock. One of the conditions that are being pressed upon the Americans by the Russians is that the Baltic question be disposed of as rapidly and painlessly as possible as a condition to their test ban treaties.

As to the source of his information I do not know, but the station in life that he had a Jesuit priest and the research center that he had established as his work in the past in the field of peace and international relations I regard very highly and respected. It is that statement that comes to mind in the light of no reference whatever in spite of our glowing presentations that we still recognize the Baltic States, but, as we know, that in the legal parlance you believe what you see that is written and if it is not written you cannot inject an interpretation of what someone is saying or thinking. The writing speaks for itself.

Senator MUNDT. The Office of the Legal Adviser of the State Department says that the consular convention, if it is ratified and enters into force, would not have any effect on our consistent and emphatic appeals, and refusal to recognize the illegal annexation of Lithuania, Latvia, and Estonia by the Soviet Government. I take it that you disagree with that statement of the legal counsel of the Department of State. I would like to know why.

Mr. RUDIS. Well, we disagree with the statement that he presented. I have a copy of such a statement that he addressed to Senator Hugh Scott. As I read it here, and I apply again the American principle, the democratic approach of openness and a two way street, if the question of the Baltic States is not in jeopardy and the Americans so feel, and if the State Department so feels, it was just very simple to incorporate it into the consular convention. However, there was no objection made that the consular convention is being drawn up with the Union of Soviet Socialist Republics just as the Soviet Socialist Republics have drawn up the convention from their point of view with the United States of America. They drew it up with 50 States, not with 36 or 48. They drew it up with 50, and therefore in the future any argument that America might present against the Soviets we suspect would be rebutted with the fact that the convention is with all States, and the same thing applies to theirs. It is with all 16 and we feel this is a serious omission.

EFFECT ON CITIZENS OF LITHUANIAN ORIGIN

Senator MUNDT. Is it your feeling that if this consular treaty were ratified and became operative, that a Lithuanian citizen, Lithuanian subject or person who has not yet attained American citizenship, a Lithuanian living in this country falling within the toils of the law, that the Soviet consul would then claim the right to intercede in his behalf and to represent him under the treaty rather than to have him represented, as I presume he would be now, by your ordinary legations?

Mr. RUDIS. His representation, I believe, in the record, as I show it here in the past, depending on the particular case and the person at

hand, I presume they would be selected, but in estate matters they have even up until this date intervened and have tried to represent, especially when there was litigation on estate matters where there is money involved.

What might happen in the event of a felony or a misdemeanor, I do not know, whether they would or not. They might disavow them completely, and it is hard to say.

HISTORY OF BALTIC STATES

Senator MUNDT. I was interested in your historical preface of the long history of these three Baltic countries. Did the Governments of Lithuania and the other two Baltic States, Estonia and Latvia, cooperate with the Soviet Government at the time of the first takeover?

Mr. RUDIS. No, they did not.

Senator MUNDT. Was an appeasement government in charge at that time?

Mr. RUDIS. No, they did not. As a matter of fact, the Lithuanian people protested very strongly that they were against any such incorporation, and that is the reason that as of today the Lithuanian people do not have what is called a satellite government. The Lithuanian people historically show that the short period of independence that they did enjoy had made tremendous gains, and that is in their own internal life. I recently prepared a talk to the Chicago Council on Foreign Relations that brings out this point on the progress made in a democratic manner, and it is entitled up here as "Russia's Baltic Window on Europe," and of course since you bring it up at this point I would like to offer it to you as part of the record about Lithuania and the historical past.

Senator MUNDT. All right, Mr. Chairman?

Senator McCARTHY. Without objection.

(The document referred to appears on page 372 of the appendix.)

NO QUISLINGS IN BALTIC STATES

Senator MUNDT. Just one other question: Do I understand then there never were any Lithuanian or Estonian or Baltic State quislings at the time of this takeover? This had to be forced on them from the outside. They were not able to infiltrate or influence the governments of these three countries at the time to sort of sell out their countrymen to communism.

Mr. RUDIS. That is right. They did not have a quisling. They had the movements within the country, we will say, of subversive elements, but they did not have a quisling that would sell the country out, as we have known it from World War II that occurred in other countries. This was forced upon them because in the state of war, the occupation from one side and from another, the confusion within the population, it was quite easy for the Soviets to give the Lithuanians an ultimatum based on the treaties that they had just concluded for this mutual assistance, and they insisted, "We want to base Russian soldiers on your soil." When they moved across the borders to the far borders and stayed and said, "No, we want a subservient government," and that was the end of it, and they handpicked the few Lithuanian people who were active subversives within the country.

RUSSIAN PRESENCE IN LITHUANIA

Senator MUNDT. Do the Russians actually maintain a presence through political commissars, military troops—in these countries now to enforce their will?

Mr. RUDIS. Yes, they do. All of the top posts are held by Russians, and the individuals who may have titles—in some instances that may be Lithuanians—do not make any decisions whatever without the consent of the Russians, even to the point of internal and cultural functions that take place in the country. I have a letter here that I duplicated that shows to what extent they have gone. It is in the Lithuanian language and I would like to read it and translate it to you, just a part of it or a line of it, and this comes from a priest, a Father Anthony Sabaliauskas, a missionary who resides in Cedar Lake, Ind. It comes from his brother who is also a priest in Lithuania.

In one line that I have underscored here he said:

The cultural minister of Ruginius whose name is Vilniuje, Lithuania has offered him the chance to visit his brother here in America and other relatives—and then further in his letter he states that—in letting him leave the country it is with the condition that his fare be paid with money received from the United States.

So that is a clear-cut indication that here would be a man that should have money if he is a priest, his parishioners would naturally give him a little purse to come to America, yet they stipulate, "Get your money from America to make your trip in both directions," and we know, too, in correspondence with the families of the exiles that still live there their concern more is for food, shelter, and clothing than it is for visiting other countries.

We do not see where and how this consular convention can increase any ties, any relations between our two countries because they do not have the physical, the money, the wherewithal to travel, and in visiting with one of the exiles in Germany four years ago, she spoke that it took her many years to leave Lithuania. They let her out because she had some German ancestry, and the cost of a cardboard suitcase was one month's wages. So if a cardboard suitcase cost one month's wages, you can imagine how long it would take for someone to earn the fare to come to America.

Senator MUNDT. Thank you very much.

That is all, Mr. Chairman.

WOULD TREATY PREJUDICE THE INDEPENDENCE OF THE BALTIC STATES?

Senator McCARTHY. I have one question, Mr. Rudis. Is there anything in this convention which you think would prejudice the independence which the United States now does attribute to the three Baltic States, any more than the other conventions and treaties that we have ratified between the United States and Russia?

Mr. RUDIS. Yes.

Senator McCARTHY. There are something like 105 treaties and conventions.

Mr. RUDIS. Yes.

Senator McCARTHY. Is there anything in particular in this one which would set it apart from or would distinguish it from the others and prejudice this recognition which is your concern and mine?

Mr. RUDIS. Yes, we are directly prejudiced, Mr. Chairman, in this sense, that your convention is drawn up with the U.S.S.R.

Senator McCARTHY. Are not all the others? That is my point. Is this one any different from the other conventions, the test ban treaty, for example, or is this just another one added to the other hundred? That is what I want to know.

Mr. RUDIS. The test ban treaty, Mr. Chairman, I am not aware of. This concerns the countries and the consular convention as it will represent people.

Senator McCARTHY. I understand that, but I think you will find all of our agreements with the Russians in conventions are agreements with the U.S.S.R., and that this is not any different in terms of the language or the designation of country with which the agreement is to be made. That is my question. Is it different?

Mr. RUDIS. It is different to this extent, that they include the 14th, 15th, and 16th republics, Latvia, Lithuania, and Estonia that they incorporate.

Senator McCARTHY. The Russians do, but we have never made a distinction in other treaties or conventions saying this includes all the Soviet republics excepting these three. We have always said that separately from the treaties and agreements. My question is, Is there anything in the language of this convention which would in any way indicate we were accepting the inclusion of these three republics which was not in the language or which was an exception in the language of earlier conventions. This is my point; or is it simply: here is another convention and you object to it because this interpretation might be put on it even though we have never accepted this interpretation with reference to previous treaties and conventions?

Mr. RUDIS. I had not read the other conventions, Mr. Chairman, and I look at this one at its face value for what it is, and the other serious point that we say does affect our position is the staffing of the consular offices with the nationals of the sending state. If America says we do not recognize the Baltic States as part of the Soviet Union and if the Russians send a Lithuanian, a Baltic citizen, to be one of the staff members, what will America do to not accept that individual. We do not spell it out. There is the area that we find the Americans will find their difficulty in this particular convention.

SITUATION IF SOVIET CONSULAR REPRESENTATIVE WERE A LITHUANIAN

Senator McCARTHY. If this were to happen and we should refuse to accept him as a proper representative of Russia, then your point of distinction would be greatly strengthened, would it not?

Mr. RUDIS. That is true.

Senator McCARTHY. So that you might really benefit, your independence might be more clearly established if the convention were entered into and they sent a Lithuanian over and we said, "He is not a Russian, he is a Lithuanian, he is not a Russian," and then he might come under this convention. I think you might have more to gain for an independent and free Lithuania from this convention if we act consistently, as we have, I understand in the past in dealing with Lithuanian citizens in this country, than you have to gain by the non-acceptance of it.

Mr. RUDIS. Well, if we maintain the sequence that we have. However, we are not in the enforcing end of it here in America here, our people are not. We refer again to the individual Zenkevicius who is now a member of the Soviet Embassy. If this applies, the national representation, if that applies today to the present arrangements we have with the Soviets, then Mr. Vytautas Zenkevicius is not allowed to be in America, yet no one has questioned it or tolerated it. We know we have reported this to the State Department, yet he is tolerated and is here.

Senator McCARTHY. If this is already the practice, then you would be no worse off than you are now.

Mr. RUDIS. We say if it is the practice, it has been condoned by the Americans if it is part of it now. We have reported it now.

Senator McCARTHY. I understand, but it is not affected now by this convention if it is already a practice before this convention has been ratified.

Mr. RUDIS. Well, the convention, we called that to the attention of the committee that people like Mr. Zenkevicius have gone through the community and may have disrupted the normal pattern of life as we know it here in the States by their actions and by their persuasions and by their propagandizing and we feel that this is where you are going to expand it.

If we felt in the past that agitation by the communists supposedly had occurred, we think that after this convention gives them blanket approval, that will be a very small exercise in Berkeley compared to what you will see in the future.

WOULD IT BE IMPROPER TO HAVE AN AMERICAN CONSULATE IN ONE OF THE
BAL TIC COUNTRIES?

Senator McCARTHY. One other question. Just to have you—I am sure you make your position clear on this—if we were to ratify this, Treaty, would it be your view that it would be entirely improper to ask for a consulate in any one of the Baltic countries?

Mr. RUDIS. It would be improper to have a consul in any of the Baltic countries.

Senator McCARTHY. No, a consulate in any of the Baltic countries.

Mr. RUDIS. That is right.

Senator McCARTHY. It would be.

Mr. RUDIS. It would be very improper.

Senator McCARTHY. I just wanted that for the record. Thank you very much. Thank you very much.

Mr. RUDIS. Thank you very kindly.

Senator McCARTHY. Mr. John Huminik. Will you identify yourself and the organization you represent?

STATEMENT OF JOHN HUMINIK, JR., CAMP SPRINGS, MD.

Mr. HUMINIK. This testimony, incidentally, is going to be very brief. It will be the briefest of the day, and I am sure you will appreciate that.

BACKGROUND OF WITNESS

Mr. Chairman and members of the Foreign Relations Committee, my name is John Huminik, Jr., and I was born in Washington, D.C.,

on June 25, 1935. My father was born in Russia and came to the United States at the age of 2, and my mother was born in Chicago of Russian parents. I attended school in Washington, graduating from Anacostia High School in June of 1953. I have served 12 years in the Air National Guard and the Army Reserve, attaining the rank of first lieutenant before my honorable discharge in December 1966.

By way of additional background information, I would like to point out that by profession I am a scientist and businessman. I have been associated with the defense industry in and around the city of Washington in the capacity of engineer, scientist, and corporation officer. Presently I am a consultant on metallurgical and welding technology. In addition, I am chairman of the board of Chemprox Corp., a small chemical manufacturing corporation. I have published a technical book and 19 technical papers. I served as chairman of the American Welding Society's Washington section, 1961-62, and as chairman of the Washington chapter of the American Society for Metals, 1965-66.

EXPERIENCE AS COUNTERESPIONAGE AGENT

I am here today to speak on my experience with Soviet diplomats during the period from summer 1961 until fall of 1966. I would like to outline certain facts of my relationship with six diplomats of the U.S.S.R., so that this committee can better understand the Soviet espionage situation as it is today—not 10 or 20 years ago.

I was a counterspy for the FBI until September 1, 1966, when my most recent Soviet boss, Valentin A. Revin, was declared persona non grata by the U.S. Department of State.

I was first approached by Soviet diplomats at a meeting of the American Society for Metals here in Washington, D.C. This meeting was held at the headquarters building of the American Association of University Women which is located only a few blocks from the Department of State. The Soviets, over a period of months, utilizing interrogation and skillful evaluation techniques, sought to determine if I would work for them.

Later they spun a web of intrigue which was to entrap me and bring me solidly into their spy network, which was operating out of the scientific division of the Embassy. In spite of their elaborate precautions, they did not determine that I was reporting their every move to the FBI.

During the past five years I have acted as a counterespionage agent under the auspices of the Federal Bureau of Investigation. My work in this capacity was conducted in this city of Washington, D.C., where the Soviet Union maintains an Embassy. I am speaking today about six Soviet citizens, whose work in this country I know something about. The six that I know were more interested in developing espionage operations than in legitimate diplomatic work. It appeared to me they had received intensive espionage training before they arrived in the United States.

SOVIET ESPIONAGE AGENTS

For example, on June 23, 1964, Mr. Vladimir P. Boutenko, assistant commercial counselor of the Soviet Embassy asked me to obtain for him all necessary papers required to apply for and obtain a job with

the U.S. Government, including any necessary supporting documents, surely a strange request for a consular official. I asked him if he was trying to get a Government job. His answer, "No; not me, but my boss would like to know about these things."

Mr. Boutenko apparently controls certain Soviet espionage activities.

Another Soviet, Dr. Sergei Stupar, the scientific counselor for the Embassy and the head of its scientific division, in 1964 asked me to outline in detail how a U.S. corporation is formed and operated, an extraordinary request for a high-ranking scientist and diplomat. He also requested technical scientific information. Dr. Stupar on the night of April 13, 1964, in the cocktail lounge of the Hamilton Hotel, suggested that I have relatives in the Georgian part of Russia. I feel he would have utilized these relatives for blackmail purposes if I acknowledged their existence in Russia. Up to this time they had exerted great energy to establish a connection, I believe.

During the night of March 9, 1964, another embassy official Vladimir M. Zorov, a third secretary, told me that his country would willingly pay for classified information. He also said the Soviet Union takes care of its friends—and also its enemies. Mr. Zorov stated in these exact words, "Mr. Huminik, my country is prepared to pay very well for all kinds of special information."

Another diplomat, Mr. Aleksandr N. Izvekov, third secretary of the Soviet Embassy, usually accompanied Dr. Stupar whom I mentioned earlier. Mr. Izvekov assisted Dr. Stupar in his interrogation and evaluation of me during the years 1962 and 1963. Mr. Izvekov was, in my opinion, a skilled intelligence agent.

ALEKSEY MALININ—ANOTHER AGENT

Another important Soviet citizen in this country was Aleksey R. Malinin, whom I first met on March 18, 1964, at a meeting of the American Welding Society. His calling card said he was an assistant commercial counselor of the Soviet Embassy. During the dinner preceding the meeting, Mr. Malinin told me he had been in England before coming to the United States and was an expert in welding equipment. This diplomat was, on November 1, 1966, just a few months ago, declared persona non grata for conspiring with U.S. Air Force Sgt. Herbert W. Boeckenhaupt to commit espionage. At the same time, one William Mulvena was arrested by Scotland Yard as being the go-between for Malinin and Sergeant Boeckenhaupt.

The sixth and last Soviet diplomat whom I wish to talk about today is Valentin A. Revin, the assistant to the Scientific Counselor of the Soviet Embassy, here in Washington also. Valentin Revin, approximately 34 years old, first entered the United States as an exchange student in 1958. He attended the University of California at Berkeley to study nuclear physics. In the summer of 1959 he served as an interpreter at the Soviet exhibition in New York and was later assigned to the Embassy in Washington. During the period of March 22, 1965, until he was declared persona non grata by the Department of State on September 1, 1966, five months ago, he proved to me and the Federal Bureau of Investigation that his only intention in this country was to steal as much defense and space information as possible. He was intensely interested in the Surveyor Moon probe. Valentin

Revin paid me thousands of dollars to induce me to betray the United States. He gave me an expensive wristwatch, and paid for an expensive camera. The camera was for the purpose of photographing large quantities of classified and difficult-to-obtain information. Valentin Revin's efforts were thwarted by the FBI. He was expelled five months ago.

SOVIET ESPIONAGE ACTIVITIES

The danger of Soviet espionage is real. They are seeking classified technological information which will allow them to make shortcuts in their own research and development efforts. They seek as much military information as they can obtain and they also seek to meet as many potentially useful people as possible, especially people of Russian ancestry. Therefore, cities with a large concentration of Slavic people and an established defense or industrial complex would be most desirable from their point of view for a consulate.

That is the end of my testimony.

Senator McCARTHY. Senator Mundt?

Senator MUNDT. Let me thank you first of all, Mr. Huminik. We seldom get a citizen in private life who volunteers out of patriotic motivations to come and go through the ordeal of a senatorial hearing, and I want to congratulate you for offering your services in this connection because we have been dealing with a great deal of theories up to now and here we have a man who has been on the receiving end of these espionage activities and a man who has had considerable experience as an undercover agent for the FBI. I would like to probe your mind a little bit as to just how these fellows operate because Secretary Rusk himself has said if we have 15 new people come in as a consulate representation in the consular office in Chicago or Cleveland or wherever, it would be a safe assumption to assume they are 15 KGB operators or espionage agents. So we recognize the fact.

SKILL OF SOVIET AGENTS IN OBTAINING INFORMATION

Now, how well trained are these Soviet diplomats in the art and science of espionage? You have had contact with six of them at least; you had contacts over a period of years. How do you evaluate them to a person who understands how our system operates, the FBI? How competent are these fellows? Are they apt to succeed, would you think?

Mr. HUMINIK. I would say the Soviet diplomat who has espionage duties, he is very skilled. He is skilled in all the methods of collecting information. I do not want to say all of their activities are illegal. There are legal intelligence activities going on where you gather public information and send it back. All nations do. I am talking about the illegal part, the part that they are taking information that has a classification of "secret" or "confidential" or "for official use only."

They are skillful in that they know how to get the information in certain ways. They also know about being tailed by the FBI. They have told me on several occasions they can tell when they are being tailed, and how they can shake a tail. I can give you an example of how a person can shake a tail. I am not speaking of the competence or incompetence of the FBI in following them. I am speaking about technique.

One technique. A Soviet could be driving a car. He could drive around the city for several hours in different ends of the city, then pull into a hotel parking lot, leave his car, walk into the hotel lobby, take an elevator upstairs for several floors, go off, walk down from that floor, take an exit back through the lobby or through some other exit, and into a taxicab, and then he would arrange maybe changing taxicabs several times until he would meet whoever he was going to meet for some evil purpose.

NUMBER OF EXTRA FBI AGENTS NEEDED

Senator MUNDT. We have the written testimony of J. Edgar Hoover that he believes, and he stated it in public hearings, that the FBI can cope with the problem of the 15 additional potential espionage agents that would come in with each consular officer. He implies it would be a considerable extra expense and involve extra personnel and that it cannot be a hundred percent foolproof. Sometimes after the fact we apprehend the agent.

From your knowledge and your experience, what would you say it would require? How many extra FBI agents would we have to have, let us say in the city of Chicago, if they moved in 15 consular officers, each with the intent to become an espionage agent?

Mr. HUMINIK. Well, it is difficult for me to comment on Mr. Hoover's opinion as to how many agents we would need.

Senator MUNDT. You cannot give us his opinion; I want your opinion. We have not had him as a witness.

Mr. HUMINIK. In my opinion it would take several agents at least to watch any one man if you are going to watch him for some time, because your agent has to sleep. He is not a machine, and you do not know when a Soviet agent is going to operate, middle of the night, early in the morning, or when. He is very skillful, remember. This Soviet agent is not anybody's fool, and I would think that would take a number of agents.

For example—just for me to pull out a number if I was staffing an office, to cope with, say, 15 possible intelligence agents from the Soviet Union—I would probably have 75 agents available. I do not know, maybe this is too many, but certainly it costs plenty of money to run your cars around following these people and watching, sitting on street corners and things like this.

Senator MUNDT. Well, that is the only way to have a sure and a foolproof defense mechanism and I think the FBI has the capability of doing it.

Mr. HUMINIK. Oh, yes.

Senator MUNDT. Given the manpower and the men, I agree with Hoover on that. But the only way to be certain is to keep them under constant surveillance.

Mr. HUMINIK. That is right.

Senator MUNDT. Watching them 20 hours a day does not guarantee they will not be working mischief on you the other four.

Mr. HUMINIK. That is right.

Senator MUNDT. So it is a big job.

Mr. HUMINIK. That is right.

Senator MUNDT. You were dealing with these fellows on a pretty intimate basis, quite obviously because they did not discover that you were a counteragent until it became in the public interest for you to surface.

Were you working with them during the period of this serious Cuban crisis?

Mr. HUMINIK. Oh, yes, yes, I was working with them.

Senator MUNDT. What was their reaction? Did you get any reaction? Did they let on what they felt about this or anything at all?

Mr. HUMINIK. It was an interesting reaction. They said, "Well, you are a scientist and we are scientists and we are not really interested in political things like what is going on in Cuba." And they felt like it is something we do not have to become concerned with, him and I, in other words. Dr. Stupar, the scientific counselor, was the one I am speaking of.

CITIES WHERE SOVIETS WOULD LIKE CONSULAR OFFICES ESTABLISHED

Senator MUNDT. Did you get any reading from your numerous conferences with them as to what cities, from an espionage viewpoint, they felt might be more helpful to the Russians and therefore might be on their map as to locations where they would like to have consular offices?

Mr. HUMINIK. Well, we never discussed consular offices, of course, but I know they like to go to big cities—San Francisco, Chicago, Los Angeles. They always went to big cities for meetings, technical meetings, that they attended, and I think in general they would favor these because it is easier to get lost in cities and this is the way the espionage agent has to operate, he has to get lost from his surveillance before he can function.

Senator MUNDT. He is not much of a country boy.

Mr. HUMINIK. That is right.

PROTECTION OF AMERICAN CITIZEN QUESTIONED

Senator MUNDT. From your knowledge of the working mind of these members of the espionage apparatus of the Government of Russia how much actual protection do you think an American citizen would receive overseas by virtue of the pledge and the promise in the treaty that he could be visited by his consular office on a more or less continuing basis?

Mr. HUMINIK. My thought, knowing how the KGB operates, is that if they want to grab somebody and gag him and haul him off, even if it is in the block of the Embassy, they are going to do it and not tell anybody about it. I cannot really speak on what they are going to do, but I know they feel that whatever means are necessary is its own justification and that if it is better to prevent somebody from talking with his own people, then they will do it.

Senator MUNDT. You mention that in an open society—and we all know that—that any Soviet citizen, whether he is a Soviet spy or not, picks up a lot of interesting information and helpful information. Certainly he could learn how an American corporation is organized through questions similar to those asked you, but when they start

offering you thousands of dollars, expensive wristwatches, and cameras, that must be for some type of information not generally available in publications of this country.

SOVIETS SEEK CLASSIFIED TECHNICAL INFORMATION

What kind of information do they seek when they do that?

Mr. HUMINIK. Well, they are generally seeking classified technological information, information of a process. For example, one thing that Dr. Stupar had asked for was information on the oxygen process for making steel that was being established in Chicago around 1962 and 1963. He wanted the details of pressures, the size of the pipe, everything, not just that it is there. He wanted details of a technical nature.

They wanted military R. & D. type contract reports that were classified on developments of new materials and things. They generally would be interested in things that would help them build better weapons systems or electronic detection systems and things like this.

A lot of this information is classified that I cannot speak of.

Senator MUNDT. I think that is all, Mr. Huminik. I want to express to you, as one member of the committee, appreciation for rendering a public service for which you can get no positive reward except perhaps the plaudits of fellow citizens who are disturbed by this, and I hope it does not bring you any unhappy sequels or consequences from any source.

Mr. HUMINIK. Thank you, Senator.

Senator McCARTHY. Mr. Huminik, perhaps you cannot answer this. Did you go to the FBI after you were approached by the persons or were you with the FBI before?

Mr. HUMINIK. No, I was never an employee of the FBI.

Senator McCARTHY. I do not mean an employee, but involved with them beforehand.

Mr. HUMINIK. No, I was never involved.

Senator McCARTHY. It was after the Russians came to you.

Mr. HUMINIK. After the Russians talked to me; yes, sir.

Senator McCARTHY. I see.

COMPETENCE OF FBI TO HANDLE EXTRA SOVIETS

I must say after hearing your testimony, I feel better about the capacity of the FBI to deal with the Russians than I felt after hearing earlier reports about concern of the FBI with the possibility of having 15 more possible Russian spies in the United States.

If we try to weigh this thing out in terms of their spies and ours, CIA versus whatever one of their agencies may be operating over here, or whichever more than one of them may be operating, you see that then as a question as to whether our CIA is more competent in getting information despite their secret service than our FBI is on the defensive against their spies.

Mr. HUMINIK. Well, my only comment here is that they—their people know if they help the Americans that the consequences are usually assassination or imprisonment, and over in Russia, I would assume, I do not know but from a lot of information that I have, if a

Russian citizen talks to an American diplomat for any reason, it is going to be too bad, especially if it is a clandestine meeting.

DIFFICULTY OF OBTAINING INFORMATION IN THE SOVIET UNION

Senator McCARTHY. You think it is much more difficult for us to get inside information.

Mr. HUMINIK. I would say definitely we are going to have a harder time with them than they here. For instance, even here they watch their own diplomats. When one diplomat would be meeting with me, another one would be watching us.

Senator McCARTHY. Do we not watch our diplomats in Russia?

Mr. HUMINIK. I do not know. I do not know anything about our CIA.

Senator McCARTHY. Do you think we should?

Mr. HUMINIK. I do not know.

Senator McCARTHY. You do not think—you do not know whether we should?

Mr. HUMINIK. I do not think we have to watch our diplomats. I assume they are loyal to the United States.

Senator McCARTHY. Then the point of their watching theirs, it does not balance off against our watching ours.

Mr. HUMINIK. They are watching their diplomats I think to make sure they remain loyal to the Soviet Union.

Senator McCARTHY. I have no further questions. Thank you very much.

This adjourns the hearing. If there is any additional information anyone wishes to submit, we will include it in the record.

(Whereupon, at 5:35 p.m., the committee was adjourned.)

STATEMENTS AND LETTERS SUBMITTED FOR THE RECORD

UNITED AUTO WORKERS,
OFFICE OF THE PRESIDENT,
Detroit, Mich., February 2, 1967.

Senator J. W. FULBRIGHT,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR FULBRIGHT: Herewith please find a copy of the resolution voted today by the International Executive Board of the UAW, urging Senate approval of the Consular Convention with the Soviet Union. We strongly support the view of President Johnson that this Convention merits your vote. It can be of immediate advantage to Americans in the Soviet Union, and it will serve the long-term purpose of relaxing world tensions and moving toward the mutual understanding which must be the foundation of a just and enduring peace.

Respectfully yours,

WALTER P. REUTHER.

UAW INTERNATIONAL EXECUTIVE BOARD STATEMENT ON U.S.-SOVIET CONSULAR
TREATY, ADOPTED FEBRUARY 2, 1967

In his State of the Union Message delivered on January 10, 1967, President Johnson declared: "Our objective is not to continue the cold war, but to end it." The President outlined a number of steps already undertaken to avoid "both the acts and the rhetoric of the cold war" in our relations with the Soviet Union and to move toward a relaxation of world tensions and greater mutual understanding in the interests of world peace. Among these steps were the United Nations agreement on the peaceful uses of outer space and provisions for closer cultural and commercial ties with the Soviet Union and other eastern European countries.

A further step toward these desirable goals, specifically requested by the President, is Senate ratification of the consular convention signed by the United States and the Soviet Union on June 12, 1964. We call upon members of the Senate to approve this agreement promptly, resisting misguided attempts either to reject it outright or to condemn it by holding out for modifications which would in effect mean re-negotiation.

The United States would obtain immediate advantages through ratification of this consular treaty, for it contains provisions which would tend to minimize the uncertainty and arbitrariness which, on occasion, have marked Russian treatment of Americans arrested and detained in the Soviet Union. Under the convention now before the Senate, American officials would be assured of prompt notification and prompt access to the Americans detained in such cases. Secretary of State Rusk has pointed out that by placing such problems of detention in routine channels and taking them out of the charged atmosphere of high-level, face-saving diplomacy, the treaty would facilitate their prompt settlement. Considering the personal anxiety and tragedy and public tensions generated in recent years by such detentions, these provisions alone would justify approval of the agreement.

Yet there are additional and perhaps larger advantages. Throughout the course of our troubled relationship with the Soviet Union, we have properly extolled the strength of our open society and deplored the closed and suspicious nature of the Soviet regime. We have condemned the Iron Curtain lowered across Europe and the "wall of shame" thrown up by the Communists through the heart of Berlin. There can, in fact, be little doubt that by the very nature of our two societies, we have been more open to the Soviets than they have been to us; they have been able, therefore, to learn more about us than we have been able to learn about them. The consular treaty could go far toward redressing this imbalance, by giving us new opportunities to obtain greater understanding of Soviet life and society.

The treaty, as the State Department has pointed out, contains built-in assurances against abuse. Soviet consular employees would be screened in the U.S. before taking up their duties. They could be sent home at our discretion. They would be subject to travel restrictions determined by the United States, and if there were any abuse, the treaty itself could be terminated on six months notice.

Even if no consular offices at all were opened, other provisions of the treaty would still offer greater protection to American nationals studying, traveling or doing business in the Soviet Union.

In this, as in every instance when our relationship with the Soviet Union is under consideration, we face fundamental alternatives: we can build walls or bridges. We can seek a prolongation of tension and conflict, or we can follow paths leading to honorable accommodation to our mutual advantage. And in this as in other instances, the risks of building bridges are negligible and the possible benefits are great. Secretary Rusk has emphasized that the danger of espionage in this instance would be "both small and controllable." And he has said that it would be "very much in the national interest" for the Senate to approve the treaty.

Considering its immediate and longer-term advantages, therefore, there is every reason why the American people should ask their Senators to approve this treaty and to reject the scare tactics of those who continue to live in the past and who would condemn younger generations of Americans and Russians to live in perpetual hostility, when common sense impels us to build the foundations of a more peaceful future. We call upon the U.S. Senate, in the national interest and in support of President Johnson's peaceful initiative, to approve the consular convention with the Soviet Union.

STATEMENT ON EXECUTIVE D, 88TH CONGRESS, CONSULAR CONVENTION WITH THE
SOVIET UNION BY THE AMERICAN VETERANS COMMITTEE

The American Veterans Committee, an organization of veterans of World Wars I, II, the Korean Conflict, and the Vietnam Conflict, favors the ratification of the consular convention between the United States and the Soviet Union and urges that the Senate give its consent.

We believe that the security of the United States will be enhanced by a normalization of relations in the Soviet Union such as is envisaged by this convention. The providing of machinery for the regular handling of matters affecting American citizens in the Soviet Union, with adequate protection for the American officials involved, appears to us a forward-looking step which follows naturally from the many efforts, public and private, for wider cultural and personal contact between Americans and Russians. Such efforts, particularly at a time of ideological disunity among communist nations, are important in breaking barriers to understanding.

The possible adverse effects to American interests which might be caused by the presence of Soviet consular officers in the United States or by an expansion in the number of Soviet visitors appear well within the capacity of American law enforcement authorities to contain and should not deter prompt ratification.

The years have shown that coexistence with the Union of Soviet Socialist Republics is not only possible, but is also a necessity, if the world is to remain at peace. This must be our *modus vivendi* for the foreseeable future. Every step should be taken to enhance, improve, and expand the spheres of coexistence whether by more frequent cultural exchanges, increased travel by the United States citizens to the Soviet Union and the satellite countries, expanded trade beyond the Iron Curtain, or others. If we follow this policy and practice, we shall find the areas of agreement becoming wider and the differences, narrower. The inevitable result, where people meet people, is that the government of the Soviet Union will no longer be able to insulate the Russians from the ways of the free world and disregard the yearnings of the Russian citizenry—which we believe to be the same as ours—for a world at peace and for good will to other peoples of the earth.

Respectfully submitted.

ANDREW E. RICE,
*Chairman, International Affairs Commission, American Veterans
Committee (AVC, Inc.).*

STATEMENT IN SUPPORT OF SENATE APPROVAL OF U.S.-U.S.S.R. CONSULAR CONVENTION BY EDWARD F. SNYDER ON BEHALF OF THE FRIENDS COMMITTEE ON NATIONAL LEGISLATION

We wish to record our support for the Consular Convention between the United States and the U.S.S.R., and express our hope that the Senate will give its advice and consent to the ratification of this Convention.

While the subject matter of the Convention is modest and represents only a minimal step toward more friendly relations between our two countries, its ratification is important.

If approved it would be the first bilateral treaty between the U.S. and the U.S.S.R. While consulates have in the past been set up in the United States and the Soviet Union without such an agreement, the provisions of this Convention would provide specific rights of notification and access in Article 12 and the protocol which are new and important. These provisions would help assure the growing number of tourists of help where needed. Moreover, the Convention goes into considerable detail on a number of technical issues. There is advantage in agreeing so far as possible on such procedures, thus reducing the areas of uncertainty and potential friction.

We have in the past stated, and we continue to believe, that restrictions on travel of Soviet personnel in the United States should not be on a tit for tat basis. The fact that the Soviet Union restricts travel by U.S. officials in the U.S.S.R. should not lead our country to place similar areas off limits in the United States. Doing so has created the demeaning situation in which Soviet officials have been prevented from visiting nearby Maryland seashores on hot summer days. We believe that the leadership role of our nation requires it to set standards which it feels are right and proper, and not base its actions on a reciprocal basis where the results are often patently absurd. Thus we are sorry to note that the principle of reciprocity is continued in this agreement. While we oppose such provisions, we believe on balance that the advantages of this Convention far outweigh any disadvantages, and we urge that it be speedily approved.

We would hope that this step, along with the agreement on the Moscow-New York air route, will be followed by other more far reaching steps, such as a treaty to prevent the spread of nuclear weapons, and measures to increase trade in nonstrategic goods. The possibility of such progress would, of course, be greatly enhanced if the tragic conflict in Vietnam could be brought to a speedy conclusion.

LEAGUE OF WOMEN VOTERS SUPPORTS CONSULAR TREATY

WASHINGTON, D.C., February 6.—The League of Women Voters went on record today as supporting ratification of the long-pending consular treaty with the Soviet Union.

In letters to Chairman J. William Fulbright and other members of the Senate Foreign Relations Committee, national League president Mrs. Robert J. Stuart said negotiations of this treaty with the U.S.S.R. represent a "significant step toward easing tensions between the East and West" and she expressed League members' dismay over the tremendous amount of opposition which has arisen over U.S. ratification.

After intensive study two years ago, the League came out for relaxing trade restrictions between the United States and the U.S.S.R. and other Communist nations in Eastern Europe and for flexibility in formulating policy so as to allow for executive discretion and adaptations to meet changing conditions which can affect our over-all foreign policy aims.

And it is precisely this language which Mrs. Stuart used in her letter: "Failure to ratify the treaty would seriously impede such future constructive efforts for trying to improve relations with the U.S.S.R. and the Eastern European nations as gradual expansion of East-West trade relations and * * * would indicate an unwillingness on the part of the United States to respond to changing conditions in Eastern Europe and in the Soviet Union."

A copy of Mrs. Stuart's letter is attached.

FEBRUARY 6, 1967.

Hon. _____,
Senate Office Building,
Washington, D.C.

MY DEAR SENATOR _____: The League of Women Voters would like to express its dismay over the flurry of opposition which has arisen over U.S. ratification of the consular convention with the Soviet Union and go on record as supporting ratification of the consular treaty.

In our view U.S. negotiations of this treaty with the U.S.S.R. represent a significant step toward easing tensions between the East and West. Senate failure to ratify the treaty would seriously impede such future constructive efforts for trying to improve relations with the U.S.S.R. and the Eastern European nations as gradual expansion of East-West trade relations. Refusal to ratify this reciprocal treaty to make trade and travel easier for both U.S. and Soviet citizens also would indicate an unwillingness on the part of the United States to respond to changing conditions in Eastern Europe and in the Soviet Union.

Sincerely,

Mrs. ROBERT J. STUART, *President.*

THE UNIVERSITY OF MICHIGAN,
DEPARTMENT OF MATHEMATICS,
Ann Arbor, Mich., February 6, 1967.

SENATOR WILLIAM FULBRIGHT,
Chairman, Senate Foreign Relations Committee,
Senate Office Building,
Washington, D.C.

DEAR SENATOR FULBRIGHT: I herewith offer my testimony in favor of ratification of the consular treaty with the U.S.S.R.

From August 1, 1960, to June 6, 1961, and again from March 1, 1965, to August 17, 1965, I was an exchange professor, accompanied by my family, in the U.S.S.R. under the auspices of the U.S.-U.S.S.R. Cultural Exchange Agreement. My experiences provide strong motivation for support of the treaty.

In 1960-61 U.S. Embassy officials in Moscow aided us in all kinds of negotiations with the Soviet bureaucracy. Visiting scholars in Leningrad and in the Crimea made much less satisfactory living arrangements for lack of diplomatic assistance. To be specific: we obtained a four room apartment because of the vigorous assistance of the Cultural Attaché. My wife and four children and I had been lodged in a minus one hundredth class hotel by the Soviet Academy of Sciences with no kitchen privileges and no adequate restaurant available in the neighborhood. In Leningrad we would not have survived and would have been forced to ask to leave the country.

Again in 1965 the officials of our Moscow Embassy were extremely helpful to us. On the other hand, on an automobile trip to Leningrad in April of 1965, I met with continual harassment by Soviet authorities. I feared arrest after being evicted by the KGB from a Russian's home I had visited upon his invitation. I would have given a great deal for the advice of a U.S. consular official at that point. When we departed via the port of Leningrad in August we met with great, unexplainable difficulties in loading our baggage and car. These would have dissolved, I am sure, upon the inquiry of a U.S. consular official into the situation. You cannot imagine—even though your service to our country in Washington is of many years—the degree of bureaucratic complications in the U.S.S.R. and the effect a simple paper with the eagle of the U.S.A. and “to whom it may concern, how do you do” on it has in overcoming them. The presence of a U.S. consul in Leningrad in August 1960, April 1965, and August 1965 would have saved me and my family from much fright and unpleasantness. I am convinced it would have made the difference between a successful visit and a disastrous one for any American family attempting to spend several months in Leningrad.

As to the scientific side of an exchange visit, I can testify that a visiting American scholar in the U.S.S.R. is at the mercy of unscrupulous Soviet power when he negotiates to travel from his home base to other points in the U.S.S.R. without the help of the U.S. Embassy. If his home base is several hundred miles from Moscow, that help is necessarily almost nonexistent.

I plea from my heart and in the name of reason on behalf of future exchange professors and their families for the ratification of the Consular Treaty. I would be grateful, Mr. Senator, if my remarks could be spread upon the record of your Committee. I should be happy to testify in person if you judge it could help.

Sincerely yours,

NICHOLAS D. KAZARINOFF,
Professor of Mathematics.

STATEMENT OF PROF. ROMAN SMAL-STOCKI OF CATHOLIC UNIVERSITY, EXECUTIVE MEMBER, UKRAINIAN CONGRESS COMMITTEE OF AMERICA

Mr. Chairman and distinguished members, permit me to make the following remarks to this committee concerning the ratification of this treaty:

1. It is argued that this treaty will be a protection and benefaction of the Soviets to American tourists while travelling in the Soviet Union.

FACTS

A. When the United States recognized the Soviet Union in 1933, diplomatic instruments were exchanged between the Soviet Ambassador Maxim Litvinov and President Franklin D. Roosevelt. Among other things, the Soviet Union pledged that any American citizen arrested in the Soviet Union would have access to the U.S. Foreign Service Officers and representation by an American lawyer if he so desired.

On the basis of the above, the Consular Treaty, as a protection for American tourists is without any justification because United States Citizens are already so protected. Any violation of the rights of U.S. citizens while in the USSR must be ascribed to the Soviet government. The real protection of American citizens in the Soviet Union depends upon the good will of the Soviet government.

B. "Tourism". There are two connotations: Soviet and American. Any American who can pay for his ticket can go wherever he wishes. Soviet tourism in the American sense does not exist. A Soviet tourist is one who is sent by his government, who may travel only because his government orders him to do so. If my information is correct, there are around 17 to 18 thousand Americans visiting the Soviet Union annually. Soviet Union "tourists" to the U.S. (not counting the cultural exchanges) amount to around 200. Does this small number of Soviet "tourists" warrant the establishment of at least 4 Soviet Consulates in the U.S.? Why the number of people needed to staff these new Consulates would probably exceed the number of Soviet tourists! In my opinion, this Muscovite line of argument for the Consular Treaty makes no sense at all.

2. The Soviet government was never and is not today interested in true tourism or real, free cultural exchanges of independent intellectuals or real "people to people" bridges. All tourists inside the Soviet Union are subordinated to the "Intourist" Agency. This is a well known Soviet intelligence Agency.

Therefore, Soviet insistence on special consulates in the U.S. is using "tourism" as a smokescreen only. Actually, in my opinion, they have ulterior motives which are strictly political.

It is important that the Senate grasp these aims and evaluate them from the point of view of the principles of American foreign policy.

3. This Consular Treaty, though proposed by the United States, would aid the Soviet Government toward solving an internal Soviet security problem brought on by Russian imperialism. It is directed primarily against Ukrainian sovereignty and the sovereignty of all non-Russian Union Republics. Ukraine's geopolitical location was and is a spring-board for Russian imperialist expansion towards the west into and through Czechoslovakia, and the south into and through Rumania, Bulgaria, the Caucasus and Turkey. It is directed in the long run against all non-Russian nationalities in the Soviet Union which as "Captive Nations" are the Irish problems inside the Soviet Union and a constant danger for Russian Communist imperialism and colonialism.

What does this have to do with the Consular Treaty? Exactly this, and please follow my reasoning: The Soviet Union, to which Ukraine, Byelorussia and all other non-Russian Union Republics belong, describes itself in article 13 of its Constitution as follows: "The Union of Soviet Socialist Republics is a federal

state, formed on the basis of a voluntary union of equal Soviet Socialist Republics."

Article 17 of this same Constitution grants: "The right freely to secede from the USSR to every Union Republic."

Article 18a states that "Each Union Republic has the right to enter into direct relations with foreign states and to conclude agreements and exchange diplomatic and consular representatives with them."

Besides this, I point out that Ukraine and Byelorussia enjoy a special status in the Soviet Union because they are recognized as founding members of the United Nations—that is to say, they are recognized as Sovereign States by all the founding members of the United Nations, including the United States.

As such (Sovereign States) Soviet Ukraine and Soviet Byelorussia are entitled to carry on their own international diplomatic relations, to have their own embassies and legations. With such Sovereign rights, Ukraine and Byelorussia became members of the U.N.; and the Soviet government, together with all the signatories of the United Nations Charter, stated its determination:

"To reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

"to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained and

"to promote social progress, and better standards of life in larger freedom."

Further, the Soviet Government pledged to Ukraine and Byelorussia, by means of this charter: "to practice tolerance and live together in peace with one another as good neighbors, and to unite our strength to maintain international peace and security * * *."

In the First Chapter "Purposes and Principles" articles 2, 3 and 4, the Soviet Government pledged to Ukraine and Byelorussia, both inside and outside the Soviet Union: (2) "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take appropriate measures to strengthen universal peace;

(3) "to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion; and

(4) "to be a center of harmonizing the actions of nations in the attainment of these common ends."

All these rights, granted to Ukraine and Byelorussia in such solemn manner in the U.N. Charter by the Soviet Government are today, and have been for the past twenty years, violated in spirit and letter of the law. The best illustration of what has happened to Ukraine and Byelorussia is to be seen in the fate suffered by the Jews in the Soviet Union. Their plight and treatment has corresponded since Tsarist times, to that of all the non-Russian nationalities in the Russian Empire.

I understand that America is a partner and signatory of the U.N. Charter and is therefore also pledged to protect the rights of the U.N. Member nations, Ukraine and Byelorussia. The U.S. has a moral obligation to defend these rights in the name of the U.N. Charter and International Law. In this regard the Congress of the U.S. has a memorable record in the "Captive Nations Resolution."

Such is the background of the Consular Treaty through which Soviet Russian imperialism wishes to force the U.S. to become a partner with her in the violation of the U.N. Charter, the Atlantic Charter and the sovereign rights of Ukraine and Byelorussia.

An explanation for this Russian Communist policy is that she will not grant Soviet Ukraine and Soviet Byelorussia real diplomatic and political equality because all other non-Russian Union Republics will desire and demand the same equality from and with the imperialist Russian Federated Socialist Soviet Republic. This would lead to the liquidation of Russian Communist imperialism and to a gradual liberalization and democratization of the Soviet Union.

Therefore, Russian Imperialism cannot but most willingly accept our State Department's proffer of this Consular Treaty as an instrument for the "Protec-

tion of American tourists" in the Soviet Union, for it is also in fact an instrument of Russian imperialism not to grant equality and sovereignty to Ukraine and Byelorussia with the Russian Federated Socialist Soviet Republic. If this Consular Treaty is adopted, the United States, the most powerful nation in the world will have thus recognized the new Russian Red Empire and will have thus established a precedent and pattern for other powers to discriminate against Ukraine, Byelorussia and all other non-Russian Union Republics, including occupied Estonia, Latvia, Lithuania.

Both the U.N. and the U.S. are well aware of what is happening in Rhodesia and South Africa but they do not want to notice how Russian imperialism acts in the Soviet Union.

4. Besides these hidden political aims which Russian Imperialist Communism uses in its continuous fight against the non-Russians, including the Jews and their legitimate human and national rights and aspirations, this Consular Treaty constitutes a grave security risk for our country. About this problem the Honorable J. Edgar Hoover has already spoken.

Nevertheless, it is my duty to warn this Committee concerning the hidden aims in this field. The new Soviet Consulates proposed by this Consular Treaty would necessarily have to be located in our large cities, where the greatest concentrations of Americans of Slavic and especially Ukrainian and Russian origin are living, namely, Chicago, New York, Detroit, Los Angeles. Apparently Moscow is preparing a new NeoPanslavism for the U.S. The official Polish, Czechoslovak, Bulgarian, Yugoslavian agencies in the U.S. will no doubt fully cooperate with Moscow in this respect.

The Russian Orthodox Church in the U.S.A. is already split. One group recognizes the Patriarch of Moscow who is an obedient instrument of the Soviet Communist dictatorship and Russian Imperialism.

The special extra-territorial privileges granted the Soviet Consulates and their staffs also represents a great security risk. For example, even those who committed a felony are to be granted diplomatic immunity. What kind of a person does the Soviet government intend to send to this country as a consular official if they have included even the possibility of a felon being sent here? Will they really be the apostles of friendship, tourism, goodwill, or will they be the skilled operators of a Cosa Nostra Communistica, better known in Europe as Murder Incorporated?

If this is allowed to happen, all other nations who have consulates in the U.S. will have been relegated to a second-class status because none of them will have this special superior privilege granted to the Soviet Union consulates, i.e. unless we allow for most-favored nation clauses. Will such discrimination help our popularity among our allies and friends? I doubt it.

5. In the event that this Consular Treaty is ratified as is, be prepared, gentlemen, for the following psychological and political consequences:

(a) Up to now, the world believes that the U.S. wants peace and friendship with all the peoples of the world. Ratification of the treaty will prove, however, that we want peace and friendship only with the Imperialist Russians who constitute, within the Soviet Union, not even half the population. Our relationship toward the non-Russian nationalities within the Soviet Union will be understood to be the same as the Muscovite Jim Crow practices.

(b) World opinion believes that America stood and stands for freedom, justice, human dignity and self-determination of peoples. By ratifying this treaty, America will become the sponsor of Russian imperial centralism as against the polycentralism demanded by the non-Russian nations. Thus America will achieve the doubtful honor of becoming, together with the Russian Communists, a co-jailer of the non-Russian oppressed nationalities, including the Jews.

Communist Moscow, in its conduct of the cold war, wants nothing more than to blur and smear the image of the U.S. before the whole world. Americans should not help the enemy achieve this character assassination of their own nation by approving this Consular Treaty.

(c) The Soviet government, through the mouths of all of its representatives, continues to play the role of an idealistic champion of the rights of all colonial peoples to independence and self-determination in Asia, Africa and Latin America. America, by ratifying this Consular Treaty, will make herself co-responsible for the discrimination and colonial status of all the non-Russian countries in the Soviet Union.

(d) This Consular Treaty reserves a special discrimination, even brutal punishment for Ukraine, the first victim of Russian Communism and for half a century the leader of the resistance of all non-Russian nationalities inside the Soviet Union against Russian imperialism. Ukraine's modern nationalism was formed and shaped by the Bard, Taras Shevchenko, whose monument adorns our capital, Washington, D.C. More than a century ago he proclaimed that "Washington's new and just law", that is, the principles of our Declaration of Independence, was the ideal of the Ukraine. Even today, every child of school age in Soviet Ukraine knows this slogan by heart. The Ukrainian revolution of 1917 was in fact a continuation in Eastern Europe of the American revolution. The Soviet Union itself was formed by the aggressions of Russian Communist Imperialism. The genocide of 5,000,000 peasants, according to Stalin's personal statement to Churchill, was an attempt to break the Ukrainian resistance to Moscow. It is interesting to note Stalin's motivation in demanding U.N. membership for Ukraine, namely, that Russia must make a concession to "Ukrainian nationalism".

Thus, whereas the Communist dictator Stalin brought Ukraine into the United Nations as a Sovereign State, now American democrats, would by virtue of ratifying this Consular Treaty, violate her sovereignty and degrade her to the level of a colony of Russian imperialism.

Thus does Moscow strive to fabricate, for home consumption in Ukraine, an image of America as an evil power, as a power which is against a free Ukraine and against the freedom of all the Captive Nations. In the mind of the Russians, this evil image of America must be created by Americans themselves. The plan is ingenious, and I always respect the Cleverness of the Muscovite specialists in psychological warfare. But my advice to our American statesmen is do not help Russian Communist imperialism suffocate the flame of freedom in the Soviet Union.

(e) Such a ratification would naturally create a bitterness among all Americans of Ukrainian descent, especially those fighting in Vietnam. There is a group of officers and enlisted men decorated for bravery, while another group is listed among the losses. They were killed and wounded by Soviet arms and Soviet ammunition and it will be very difficult to explain to all American citizens how this hostile Soviet government can be blessed by such a Consular Treaty.

From the Muscovite point of view, the aim of this Consular Treaty is to cure all Ukrainians, both in and out of the Soviet Union, of all their illusions about the nation of Washington and Jefferson, and to prove that all of the principles for which America stands—freedom, justice, self-determination, that all of these are simply empty phrases, bereft of any meaning. The aim of this treaty, I repeat, is to form a new image of America for Ukrainians and all non-Russian captive nations, an image of an ugly Yankee trampling with his feet on the rights of all the colonial peoples of the Soviet Empire.

(f) It is completely clear that Communist Russian Imperialism (which has not been able till now to digest the Captive Nations resolution), wants the American Senate to discriminate against these Captive Nations by ratifying this Consular Treaty and to publicly kow-tow before Russian Imperialism and colonialism in the name of the principle "business is business."

(g) Summing up the intentions of the Russian partner of this Consular Treaty and explaining what implications it has, I regard this Consular Treaty as a further assist to an ingenious plan of the Soviet Union and of Moscow to achieve a full ideological victory over America and her ideas.

The ratification of this treaty by our Senate would mean a further ideological capitulation of America and another victory for Russian Communist imperialism and the principle that might and terror is right.

The Consular Treaty is immoral and unjust. If the Soviet government wants to end the Cold War and to do so immediately, all it has to do is faithfully respect the principles of the U.N. Charter within her own borders and implement the already existing provisions for the protection of American citizens. Relations between the two countries will improve overnight. Let us be done with bowing and scraping and excusing and overlooking. Let the Russians live up to all of the agreements they have scrapped so many times over, instead of trying to make fools of the government and people of the United States.

ALABAMA CONSERVATIVE COUNCIL,
Birmingham, Ala., February 7, 1967.

Senator FULBRIGHT,
Senate Foreign Relations Committee,
Washington, D.C.

DEAR SENATOR FULBRIGHT: In response to my telegram to you asking for a hearing before your committee you asked that I send a statement to be put in the record of the committee.

Enclosed in our statement. We thank you for this opportunity.

Thanking you for your attention, I am

Sincerely,

Dr. W. K. ALLBRITTON, Jr.,
Cochairman of Publicity Committee.

GENTLEMEN: We are deeply concerned with the favorable reports that the Consular Treaty now pending before your committee has been receiving. The American people are being told apparently that the purposes of this is to extend the "bridge" for business, economic, and social relations between Russia and America. They are being told that there is nothing in the treaty that required the "opening" of any consular establishments. Senator Fulbright has pointed to the advantage that it will bring to the ten thousand American tourists in Russia.

We have written and received a copy of the Consular Treaty. We find it might be said technically that it simply establishes guide lines for the opening of consular establishments. The treaty would be meaningless if it were not in fact contemplating to open such consular establishments.

Article two clearly contemplates the opening of consular establishments. Article four would require America to take necessary measures in order that a consular officers may carry out his duties and enjoy the rights and privileges and immunities provided by this consul. Article five requires the receiving state to facilitate the acquisition of property for a consular establishment.

It is actually not being frank, candid, or even honest with the American people to say that the passage of this treaty does not contemplate the opening of consular establishments in cities throughout this land.

It seems strange to us that while American boys are being called upon to defend against Communist aggression in Viet Nam, and even unto death that we should consider protecting tourists (fifteen or even twenty thousand) or that we should endorse trading with those who are shooting at our boys. The day has long past when warfare is limited to the exchange of rifle shots. Armies not only travel on their stomachs, but on the technological advantages and the economic strength of a country. It is inconceivable to me that we could view favorably supporting the enemy by trade. It is equally inconceivable that we could consider jeopardizing America by espionage, and endangering further the lives of boys in Viet Nam to protect fifteen thousand tourists who actually have no business there any way, at least none that America should risk war about.

We object to the appointment of consulars in major cities, and consular establishments whose officers, employees, and couriers shall be immune from search, seizure and criminal prosecution (Article 19), whose consul archives are inviolable at all times (Article 17). The buildings and lands used for the purposes of the consular establishments shall be inviolable (Article 17).

Communication systems including the right to use code, diplomatic couriers and diplomatic pouches when bearing a visible external mark of its official character shall be inviolable (Article 18).

We object and agree with J. Edgar Hoover that this will (1) encourage espionage, (2) encourage criminal practices, (3) coordinate riots, demonstrations, and revolutions throughout America.

Not only will the activities of espionage agents under the cloak of consulars or employees expedited in the gaining of information or in the communication of information, but it is entirely conceivable that the violent acts of espionage could be accomplished through consular establishments.

If you but think to illustrate that a diplomatic pouch containing narcotics incendiary or bombs, etc, under Article thirteen could be transported in a vessel

bearing the Russian flag to any port in America and be received by a consul under Article thirteen and fourteen "delivered to an establishment" and at no point of this journey would the F.B.I. or any other law enforcement agency have any right to search and seize the people involved or the goods. It would only be detected if a consular officer, agent or employee would attempt to distribute it. This is asking entirely too much of the F.B.I. or any other law enforcement agency and it will subject the American people needlessly to undue espionage activities.

The same transaction could take place under Article fifteen dealing with aircrafts.

The trade and traffic of narcotics has become so extensive that even the United Nations has taken note of it. Certainly in America it is becoming a threat to our young people. Evidence abounds that narcotics have been existent in Communist provoked demonstrations, both in the South and across the length and breadth of the nation. We do not think it idle pipe dreaming to speculate that Communist espionage would follow this route when they have not hesitated in the past.

Almost every section of our land within the past three or four years has experienced a riot or demonstration. The Congress's attention was called by J. Edgar Hoover that Communist activities are involved in these demonstrations. The placing of fifteen or twenty or even as has been suggested sixty establishments across this land with secret code communications, diplomatic couriers carrying diplomatic pouches that are not subject to search or seizure could certainly coordinate to an alarming degree these demonstrations and riots. The detection of this by the F.B.I. or any other law enforcement agency in the face of these rights, privileges and immunities is an impossible task.

We are just tax-paying citizens who love America, and it strains our imagination and what little common sense we have to see the logic to grant these privileges to the enemy for the purpose of trading with the enemy.

We find it increasingly difficult when we are aware that the President and the United Nations Ambassador with the advice, consent or respect of consulting the Congress, has issued an unconstitutional boycott against a country that has never fired at American boys and never failed to support Christian American principles and ideas, namely, Rhodesia. To take these asinine risks to us is unthinkable.

There are two interesting things under Article seven, Consular Functions. There are seven duties set out. The seventh section is the interesting one, namely, "To perform other official consular functions entrusted to him by the sending state if they are not contrary to the laws of the receiving state." An American consul following American orders to propagandize in Russia would be in violation of the Russian law which forbids the teaching of Capitalism, Americanism and Christianity, while a Russian consul acting under orders from Russia to propagandize for Communism, conceivably could do so, and not be contrary to the laws of America.

We would like the definition of the word "national" to gain a greater insight under Article ten dealing with the consular's right upon the death of a national to collect personal property and send the property back to the relatives and the homeland of the "national". We are not aware that any sizeable number of Americans have gone to Russia and built businesses and gained estates, but we are aware that there are better than two million Russians who have come to America and profited in this land. We ask, are they considered nationals, and under Section three would a consul be entitled "to receive for transmission to a national of the sending state who is not a resident of the receiving state any money or property to which such national is entitled as a consequence of the death of another person, including shares in an estate, payments made pursuant to workmen's compensation laws, pension and social benefits systems in general, and proceeds of insurance policies." As stated we would like a clarification of that and fail to see its benefit.

However, our primary concern is that we feel that for a mess of pottage this Consular Treaty will subject this country to extreme exposure of espionage, crime, revolution, and subversion. We are opposed to the Consular Treaty.

DEFENDERS OF THE AMERICAN CONSTITUTION INC.,
Springfield, Va., February 10, 1967.

Hon. J. W. FULBRIGHT,
*Chairman, Senate Foreign Relations Committee,
U.S. Senate, Washington, D.C.*

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE: It is with sincere appreciation that I thank the Chairman and the members of the Committee for their telegram of the 27th January, 1967, advising me that the Committee would, "receive a written statement of our views on the Consular Convention with the Soviet Union for incorporation into the record". I also thank the Committee for their graciousness in extending the date for the submission of this statement from the 8th to the 14th of February, 1967.

I speak for the Defenders of the American Constitution, Inc., an organization of patriotic people that was founded some 15 years ago and of which, Lt. General P. A. del Valle is the President, and one of its founders.

With apologies in advance for any unintended discourtesy, the Defenders of the American Constitution state, that for good and sufficient reason, they do not look with favor upon the proposed consular convention with the USSR.

Indeed, after limited but careful study, we are of the opinion that the Senate Foreign Relations Committee, under the spur of the Administration, has moved so fast, and so far, and so silently, in the matter of an earlier unpublicized change in our foreign policy, that it is now quite impossible not to raise grave and serious doubts with regard to the wisdom of the present proposal.

For this reason we have the temerity to respectfully recommend that no further attempt be made to secure the ratification of the Senate to the proposed consular convention until such time an appropriate committee of the Congress has first thoroughly and openly determined the logic of the proposal and the reason why the American people are reacting in so angry and frustrated a manner over such a seemingly routine and simple matter as the opening of but one consular office.

As a result of our study we have concluded that it is possible the reason, or cause of public resentment, may be found to rest on the unseemly haste and sudden pressure by the Administration to enact passage of the treaty, and the suspicion that behind this haste there is something much more significant than the consular treaty. It is clear that the need for a consular office stems from the President's so far unchallenged call for increased trade with the USSR, and which trade, in turn, is today challenged by our organization for two elementary reasons. First, our need for trade with the USSR should be debated before debating the consular treaty because if the trade bill were defeated, there would be no need for a consular treaty. And second, the little heard of trade Bill is apparently rooted in some new, and so far unannounced, change in our foreign policy relationship with the USSR.

In this regard, the Senate Majority Leader may have unwittingly performed a notable service when he appealed to the Senate on the 1st of February to disregard "misinformed" letter writers, and to "support the consular treaty with Russia", and to "pass the President's proposed East-West trade act". The Senate leader also complained that he had not received one letter in support of the treaty, and a Vermont senator claimed that most of the anti-treaty mail appeared to have a common source of inspiration because the letters started out, "I am confused", or, "We are confused". One may well wonder if it is the letter writing people who are really confused, or some one else.

Neither the President, nor the Senate Majority Leader, are all-knowing and all-powerful. Under our Constitution, the power, and the knowledge to wield the power, rests in the people. If vital facts have been withheld from the people, as it now appears to have been, they have every right to say they are "confused". They may have suddenly become aware that, because of the way the news is sometimes "managed", they no longer had the certain knowledge with which to apply their power intelligently and, as most polite people do, they chose to hide their frustration and anger under the guise of being "confused".

We hope to be forgiven when we say that we do not think it really is the people who are confused and misinformed so much as it is the Administration which has been misinformed about a lot of things, including the probable reaction of the people to the proposed legalizing of the furnishing of aid and comfort to an enemy who continues, day by day, to be responsible for the spilling of American blood. Somehow it does not seem to get through to the Administration that the Moscow government is the real adversary of the United States.

Especially now in Viet Nam where billions of dollars of USSR war planes, missiles and Russian technicians are responsible for the killing and wounding of thousands of Americans. We think it is the Administration which is confused by the near violent reaction of the people to the attempt that is being made to foist upon them a so far unpublished and irrational foreign policy that, when the pieces and bits of the news are put together, reveals the pattern of a near fait accompli: The union in principle of the two most important military societies in the world. Indeed, as a result of this clearly impending unholy union, some people are already bracing themselves for the shock of seeing an extant shadowy creation of Marxist Socialism come to life in the form of a singular world government. A government wherein the nations of the world are each to become a reorganized and integral part of an integrated whole, and with the expectation that the whole will live forever after in the peaceful coexistence of its parts under a supposedly benign dictatorship of one man. Most likely a Russian or an American.

The foregoing is *not* fantasy. The Hon. George F. Kennan, when testifying before the Foreign Relations Committee on the 30th January, 1967, stated that, "the unity of the Communist bloc is a matter of the past" and that we can now adjust our relations by "peaceful means" with the USSR, and that Communist China is "as ugly and menacing" to us as was "Lenin's Russia to the Yugoslav regime and the Italian Communist Party which present no greater problems to the United States than—many regimes or parties that do not call themselves communist at all".

With due regard for the reputation of Mr. Kennan, we believe that his statement, "the unity of the Communist bloc is a matter of the past"—meaning Lenin's Russia", is so astonishing and world shaking that either the public press is unable to grasp the significance of what it means now that Communism is dead, or else, the press, itself, has dismissed it as unbelievable.

However, the disintegration of Leninism and Stalinism, if true, does not account for the status of pre 1917 Communism, commonly called Marxist Socialism. Are we to believe that Marx and his Communist Manifesto, the bible of all Socialism, is still alive and is not a threat to Christian civilization and the American way of life, and that we can adjust our relations by "peaceful means" with the USSR through Socialism? Or is it perhaps that the USSR is now emerging as a capitalist nation anxious to join the "common market" and engage in competition with the free world?

Whether the USSR is Socialist, Communist or Capitalist, are we to look forward to cooperating with the USSR in the destruction of the "ugly and menacing" Chinese Communists and perhaps restore Chiang Kai-shek and his 15 million people to the mainland for the purpose of organizing a socialist or capitalist but peaceful society of China? If so, whose troops and treasure would be consumed in the process?

Further, Mr. Kennan's reference to the "Yugoslav regime and the Italian Communist Party" presenting no greater problem to the United States than many regimes and parties that are not called Communist is rather unfortunate. Italy has never been a member nation of the USSR and the selection of Togliatti's Italian Communist Party, as an example, instead of Gus Hall's American Communist Party, immediately raises a perhaps false impression that an attempt was made to create an illusion that Communism is something that exists in distant lands, such as Italy, but not here in the United States. As to how much of a problem the Yugoslav regime is to the United States, the public record speaks for itself. A very small part of that record follows in the form of excerpts from the news of about 15, 10, and 5 years ago, as well as one recent item, in order to judge what changes, if any, have occurred over the years. e.g.:

Washington Daily News, January 28, 1952: A series of six articles by David Snell based on an extremely scarce unexpurgated edition of Stalin's "Marxism and the National and Colonial Question" laid out the plan of conquest of the West through the back door of Asia and the Middle East. The plan conceived of the secession of Yugoslavia, and Yugoslavia did secede as a "territorial autonomy" in June 1948. A year earlier a famous "X" article in the magazine *Foreign Affairs* projected for the U.S. a "Policy of firm Containment" which killed a developing "Policy of Liberation" that was then beginning to arise out of the ashes of our "Policy of Appeasement". Mr. Kennan wrote that, "our demands on Russian policy should be put forward in such a manner as to leave the way open for a compliance not too detrimental to Russian prestige."

Washington Daily News, January 2, 1954: "Malenkov and Tito called secret allies—this after the West had invested a half billion dollars in Tito."

Chicago Tribune, June 14, 1956: "One billion dollars from U.S. to woo Yugoslavia from Russia."

The Washington Post, January 25, 1957: "Invitation to Tito (to visit Washington) strongly protested."

New York Times, October 16, 1961: "Eisenhower backed sale of Jets and training of pilots (for Yugoslavia) to forestall Soviet aid to Tito."

The Washington Star, October 15, 1961: "Kennedy asks policy study of U.S. aid to Yugoslavia"—an expenditure of 4 billion dollars in loans, aid and sales to Yugoslavia since 1949 was involved in the study.

The Washington Post, November 11, 1961: "Coast Guard warns Jets-to-Tito foes"—a California group calling itself "Patriots Unlimited" threatened to blockade and halt the shipment of Jet fighters to Yugoslavia.

Washington Daily News, October 27, 1961: "Tito was quoted as saying there were no differences between Soviet and Yugoslav varieties of Communism as to their ultimate aims. The dispute concerned only the means by which those ends should be achieved".

And after more of the same over the intervening years, and after an investment of billions of American tax dollars, and after the opening of a half dozen Yugoslavian consular offices in the United States—that may also covertly serve the special interests of the Kremlin and the USSR, we read:

The Washington Star, February 6, 1967: "President Tito returned home yesterday from visits to the Soviet Union and Hungary. His purpose was reported to be the mending of relations between the Yugoslav Communist Party and the parties of the Soviet Union and Hungary."

From the foregoing recapitulation, with special attention to the continuing largess of the United States on the one hand, and the continuing arrogance and uncertainty of Tito on the other hand, we challenge anyone in the United States to do more than guess which way Tito would jump, or if he would stand still as a "neutral", if the chips were down and the diplomatic relations between the United States and the USSR were broken. No one can rationally argue that it would make no difference which way Tito jumped under such conditions, because if that were true, there would be no point to our continuing any further with the support of Tito.

Our past and continuing experiences with Yugoslavia raises the question of how much greater a calculated risk with the vastly larger and ever so much more complex USSR? How many years of trade and aid, and how many billion tax dollars, and how many USSR consular offices, before we, the people are bled white and our treasury is bare of all except for an accumulation of promissory notes? Or is the treasury already bare and the time has come to risk "Big Business", the goose that lays the golden egg in America, to see if the goose can lay at least some little eggs in the nests of the USSR, in accordance with an East-West trade agreement.

If it is true, as Mr. Kennan says, that Lenin-Stalin Communism no longer exists, and if it is true, as Mr. Drew Pearson recently asserted, that Mr. Johnson has become convinced that the only way to bring peace in the world is to insure it by the two strongest powers in the world, then there can be no question but that a new national policy, a "Policy of Accommodation", closely related to the earlier discarded "Policy of Appeasement" is in the making. This could be both heart-rending and tragic in its many implications, if true. However, we have not yet seen any hard incontestable evidence that either Mr. Kennan or Mr. Pearson are correct in this instance, and the people are yet to be heard from.

In conclusion, the Defenders of the American Constitution respectfully recommend to the Chairman and Members of the Senate Foreign Relations Committee, that if our recommendation on page 1 is not accepted, the Committee take such action as may be appropriate in the interest of good government to:

1. Cause an official proclamation to be published as will state the policy position of the United States with regard to Marxist Socialism, a foreign and atheistic philosophy that is unalterably opposed to and destructive of the concepts of the Constitution of the United States and the American way of life.

2. Cause an official proclamation to be published of what changes have been made, or are to be made this year, to the current United States Policy of Containment of Communism.

3. Reopen, if closed, and publicize and hold public hearings on the proposal by the President to authorize increased trade with Communist countries.

4. Postpone the hearings now being held on the proposed Consular Convention with the USSR pending a thorough analysis of the proposal in light of (a) our

costly experiences with Yugoslavia; (b) our military experiences with the USSR in Viet Nam; and (c) the determination of the people's will on increased trade with the enemy (3 above).

Again we thank the Committee for their courtesy. We are appreciative of the fact that our view will not necessarily be as politically popular as we might like it to be. However, it is an honest view given without fear or favor.

MATTHEW P. McKEON,
Executive Vice President.

JEWISH WAR VETERANS OF THE UNITED STATES OF AMERICA,
Washington, D.C., February 13, 1967.

HON. JAMES W. FULBRIGHT,
*Chairman, Foreign Relations Committee,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: We should greatly appreciate the inclusion of the attached statement in the record of the Foreign Relations Committee hearings on the Consular Treaty between the United States and the Soviet Union.

Thank you for your kind consideration.

Respectfully,

FELIX M. PUTTFERMAN,
National Legislative Director.

CONSULAR TREATY BETWEEN U.S. AND U.S.S.R.

By unanimous action of the National Policy Committee of the Jewish War Veterans of the United States of America on February 4, 1967 at Boston, Massachusetts, a motion was approved to support and urge U.S. Senate ratification of the Consular Treaty between the United States and the Union of Soviet Socialist Republics.

The Jewish War Veterans considers such affirmative action by the Senate as a prudent measure to protect citizens of the United States without unduly endangering the national security.

We are ever mindful of the need for vigilance against subversion. We are all too aware of the aggressive posture of Communism in many parts of the world. We resent the rank discrimination practiced against our brother Jews in the Soviet Union. Yet, we are hopeful that mutuality between the two great world powers on this relatively simple matter may lead to further good faith negotiations on more important issues, the resolve of which are crucial to the achievement of a peaceful and secure world.

As the nation's oldest active war veterans organization, we consider ratification of the Consular Treaty by the Senate an act squarely in the national interest today as well as for the long run.

CATHOLIC WAR VETERANS,
Washington, D.C.

Several weeks ago our organization requested permission to express our views on the Consular Convention to the members of the Committee on Foreign Relations.

Since seeking permission one of our fellow veterans organization testified on this question, and our membership was very surprised to see their position abused as it was, because their views are the same as ours. Therefore, we ask your permission to submit this statement for your consideration.

Opposes the Consular Convention

Our organization is opposed to the ratification of this treaty. Our position was established by resolutions which were adopted at our 1964-65-66 national conventions.

Is this treaty necessary?

What is really the primary purpose of this convention? Is it, as Secretary Rusk has indicated "promoting the legal framework on which the administration believes it can prudently re-establish Soviet consulates on our shores?" Or is it to permit the United States to promptly protect and assist its citizens when-

ever they are arrested and/or detained in Soviet Russia? How it can be held that this treaty is in the national interest is beyond our ken.

If it is the latter, why this treaty? Isn't it a fact one of the provisions agreed upon prior to our recognizing the Soviet Union in 1933 was "each of the contracting parties undertaken to adopt the necessary measures to inform the consul of the other party as soon as possible whenever a national of the country which he represents is arrested in his district. The consul shall be notified either by a communication from the person arrested or by the authorities themselves direct. Such communication shall be made within a period of four days." Since November 16, 1966, our country has treated this as a binding document. If it is the former, the President does not need a treaty to take such action for the power is already encompassed in the President's constitutional responsibilities for foreign relations. Why do we have to re-establish procedures already in operation?

Are the pressures for the approval of this treaty caused by a push for trade with the Soviets? This treaty would permit the Russians to establish offices in all of our key port cities under the guise of consulates. The basic purpose of a consulate is to strengthen and expedite trade. This will place Soviet representatives on our many ports on the east, west and southern coasts and our free enterprise system will permit them a tremendous advantage in trading with American firms. We would not receive similar benefits under the Soviet system of trading, and it is very questionable as to just what "freedom of movement" our consulates in similar Russian cities would have.

Article 12 of Consular Treaty

There have been many statements made in regards to this particular article that are somewhat misleading. This article only provides for a consular officer to arrange for legal assistance for the individual detained. It does not provide for a trial by jury, or gives the individual the right to face his accuser, or does it provide for a fair and impartial trust. It is our contention Soviet Russia will never grant the above to an individual accused of an offense in their land.

Article 19—Section 2

Total immunity—both misdemeanors and felonies. Why? Never before has such immunity been granted. We cannot understand why our country would want to grant total immunity to the one nation that has on many occasions stated "we will bury you." Is it not a fact that consular officials are not classified as diplomats and therefore have never been granted the immunity of criminal prosecution under our laws? Opening up of our cities to Russian consulates would permit these officials to operate in espionage or fifth column activities within this country. We all know that throughout past years every consular officer has been really an espionage agent. By granting total immunity, we are telling the one nation, who would love to destroy our way of life—"Here it is fellows. You have a free hand to carry out your assignment."

If total immunity is granted to Soviet Russia, what will happen concerning our other consular treaties? Will they also be granted the same?

What has the Soviet nation done in regard to this proposed treaty? Nothing—the only thing the Soviet Union has done since this treaty was signed is to continue to violate the original provisions of 1933. Some twenty individuals have been arrested, detained, found guilty, imprisoned, deported.

There has been a lot of testimony and statements "We must show good faith in regards to this proposed treaty." How can the individual American do this? On one hand we are being told by ratifying this treaty we will help to ease the cold war. While on the other hand, the Soviet nation is not only continuing to violate our treaty of 1933 but also they are helping to expand the war of bullets in Vietnam—continuing to increase the dangerous situation in Cuba, only 90 miles from our southern shores.

How can you convince the mothers, dads, the wives and children our fellow Americans who have died for the cause of freedom to favor a ratification of this proposed treaty?

Thank you.

MARTIN G. RILEY,
National Commander.
ROBERT T. O'LEARY,
Past National Commander,
Legislative Officer.

NATIONAL SOCIETY DAUGHTERS OF THE AMERICAN REVOLUTION,
Washington, D.C., February 17, 1967.

STATEMENT OF MRS. FREDERICK GRISWOLD, JR., CHAIRMAN, NATIONAL DEFENSE COMMITTEE, NATIONAL SOCIETY, DAUGHTERS OF THE AMERICAN REVOLUTION, IN OPPOSITION TO THE CONSULAR CONVENTION BETWEEN THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA

This statement is submitted on behalf of the National Society, Daughters of the American Revolution, in accordance with the following Resolution adopted at its annual Continental Congress held in Washington, D.C., April 18-22, 1966.

CONSULAR CONVENTION (TREATY)

Whereas the United States Senate Internal Security Subcommittee warns that ratification by the United States Senate of the proposed Consular Convention (treaty) with Soviet Russia would sanction centers of espionage and subversion by allowing establishment of Soviet consulates in our major cities, granting unlimited exemption from criminal jurisdiction for all Soviet consular officials and employees; and

Whereas the Director of the Federal Bureau of Investigation points out that the great majority of the 800 communist-bloc official personnel, already stationed in the United States, protected by immunity from prosecution, have engaged in intelligence assignments; and

Whereas it has been charged that the agreement contains unprecedented concessions to the communists, while, with the increasingly precarious political situation in Latin America, ratification would, by example, lead to further communist diplomatic establishments throughout this hemisphere; and

Whereas five members of the Senate Foreign Relations Committee also charged that ratification will result in unlimited immunity for the consular personnel of 27 other countries with which we have consular conventions, including Communist Romania and Yugoslavia;

Resolved, That the National Society, Daughters of the American Revolution, oppose this self-defeating agreement and urge rejection of the proposed Consular Convention as an unwarranted risk to hemispheric defense and national security.

This Resolution was reaffirmed by vote of the Executive Committee in session January 30, 1967. Upon request to the Clerk of the Senate Foreign Relations Committee for the President General or her representative to testify before the Committee Hearings on the Consular Treaty, it was suggested that a written statement would be accepted. The views of the National Society, Daughters of the American Revolution, are herewith submitted for inclusion in the record.

After reviewing the United States-Soviet Consular Convention, the National Society, Daughters of the American Revolution, was concerned with the provisions and serious implications of this pact. Shortly after it was signed in 1964, Senator Everett Dirksen pointed out that the "agreement contains an unprecedented concession to the Soviet Union." He added, "Now the Senate is going to be asked to ratify an agreement which will increase Soviet espionage and clothe it with immunity from prosecution."

While the Convention does not specifically provide for the setting up of any consulates, it does define the formal and legal basis for the supposedly reciprocal opening of consulates within the two countries. If the establishment of such installations were not definitely contemplated, there would be no purpose served by such an agreement.

Proponents of the Treaty claim that the some 18,000 citizens of the United States who travel to the Soviet Union each year should be protected by our Government in case of misadventure or arrest. However, based upon past performances, there is no certainty that the mere opening of one or more United States consulates in the Soviet Union could afford such protection. It might be more prudent to warn American citizens against travel in an unfriendly land, rather than to endanger many times that number of citizens within our Country by the presence of duly accredited Soviet officials in our cities. On the other hand the consistent record of harassment and restriction accorded United States Embassy personnel in the Soviet Union, the wire tapping and listening devices used by the Soviets in United States Embassy offices and residences, and the use of spies placed as servants within United States installations, do not bode well for the treatment of additional United States representatives in the Soviet Union.

Soviet representatives ensconced within their consulates in the United States, protected by our laws, would have further opportunities for espionage and subversive activities. With Aeroflot planes flying on regular schedules in and out of the United States in accordance with the agreement concluded last fall, the opportunities afforded for the transmission of vital information are almost unlimited. The granting of complete diplomatic immunity, including criminal prosecution, to all Soviet consular personnel and their families adds to the inherent dangers of such a pact, and grants to our sworn enemies prerogatives not enjoyed by representatives of friendly nations presently having consulates within our borders. It would not be unreasonable for these other nations to demand similar privileges if this Treaty is ratified. The opening of Soviet consulates in the United States would add to their prestige and probably their demand for similar installations in other countries of the Western Hemisphere, where there are now no such Soviet offices.

It has been stated repeatedly by those who favor this Treaty that through the establishment of Soviet consulates in the United States better relations and more trade can be stimulated. Why should we encourage trade with the Soviets and their communist satellites which would strengthen their economies? These very countries are sending supplies of all kinds including vast materiel of war to Vietnam. Their ships ply regularly between the communist ports of embarkation and the ports of North Vietnam. This continuous flow of the sinews of war in increasing quantities, now reported to be 80,000 tons of goods a month, is contributing to the mounting toll in American lives. How can any loyal American consider enhancing the prestige and promoting trade with the accomplices of an enemy against whom we ask our sons to risk their lives?

It should be obvious that the Soviets would not agree to any pact from which they did not plan to benefit in their design for world domination and enslavement. On the other hand, numerous United States representatives appear to believe that the Soviet Union is mellowing. Nothing could be further from the truth for the intent of their "peaceful coexistence" propaganda has been spelled out many times by their leaders.

Lenin and Stalin both suggested long ago that their doctrine of "peaceful coexistence" would become useful. They envisaged the time when communism would no longer be encircled by Capitalism, but quite the reverse, as is now the case, with the tentacles of communism spread out over the entire world. "At such a time," Stalin said, "if the proletariat is victorious in capitalist countries * * * a path of peaceful coexistence is quite possible for certain capitalist countries whose capitalists will consider it expedient to voluntarily make substantial concessions to the proletariat." At the Communist World Congress in 1956, Khrushchev declared that such a time had come and that "the final victory of socialism is fully and unconditionally assured." Thus, the present negotiations for further diplomatic representation and increased trade are part of our cooperation with what the Soviets consider the mopping up stages of their drive toward a world-wide communist victory.

During nearly fifty years since the establishment of the Soviet State following the Bolshevik revolution, the duplicity and williness of the communists have been demonstrated frequently. Their entire history shows a disregard for every moral standard of the civilized world, with a succession of crimes against humanity including enslavement, torture, murder, forged documents, stolen secrets, and broken agreements. Stalin wrote, "A diplomat's word must have no relation to action, otherwise what kind of diplomacy is it? Words are one thing, action another. Good words are a mask for bad deeds." With such a record why should it be assumed that this or any convention or treaty will be more than another scrap of paper? When the first United States-Soviet agreement was signed whereby the United States recognized the Soviet regime, the pact was being violated at the moment of the signing. A United States congressional study of Soviet agreements made in 1959 disclosed that in some 2000 compacts executed by the Soviets with noncommunist governments, virtually every pledge had been violated; the few remaining unbroken were either to the advantage of the communists or they had not yet found it expedient to break them. In 1964 the Senate Internal Security Subcommittee stated, "It is futile to direct one's efforts toward adding to the accumulation of documents which have been signed and violated by the USSR and other Communist countries."

So long as we continue to believe that the communists really want "peace" in the same sense that we desire it, we will continue to lose. In fact their plan of "peaceful coexistence" is but a form of war waged against us and what remains

of the free world—a war of protracted conflict waged through politics, economics, science, psychology, diplomacy, and war itself, closely integrated in the conduct of Soviet foreign policy. Instead of trying to reason with them and making one concession after another, we should resist their calculated deceit, put an end to appeasement and use the might of the United States to oppose this deadly menace to all free men.

Since we regard the pending Consular Convention as another arm of the Soviet-Communist menace reaching into our midst, we urge its rejection.

ENID HALL GRISWOLD
(Mrs. FREDERICK GRISWOLD, Jr.,)

National Chairman, National Defense Committee.

STATEMENT OF MRS. ERNEST W. HOWARD, AMERICAN COALITION OF PATRIOTIC SOCIETIES

Mr. Chairman, I am Mrs. Ernest W. Howard, Director Public Relations of the American Coalition of Patriotic Societies, Inc., with offices at 1028 Connecticut Avenue, N. W., Washington, D. C. 20036. The American Coalition of Patriotic Societies has approximately one hundred associated civic, patriotic and fraternal organizations, with a membership approaching three million persons.

At the Thirty-seventh Annual Conference of the American Coalition of Patriotic Societies, held in Washington, D. C., on February 10, 1966, twenty Resolutions were adopted, all of which pertain to the welfare and security of our country.

Resolution No. 2. reads as follows:

“Resolved, That the American Coalition of Patriotic Societies petitions the Senate of the United States to: Oppose the Consular Convention between the United States and the USSR as contributing to even wider spread of espionage on the part of Soviet officials.”

Our times are times of unbelief, due to so many adolescent answers to the mature and vital questions regarding the security of our country and welfare of its citizens.

In interpreting the proposed treaty, one must never lose sight of the fact that its application to the USSR means, that the holder of a U. S. passport voluntarily surrenders himself to the laws of that closed Society, which of necessity, from the USSR standpoint, must be severely restrictive. And again, violation of their law automatically subjects the American citizen to the onerous provisions of their judicial system, only vaguely understood by the victim, and brings into play the weight of diplomatic pressure, which, of late, appears to be used as a source of propaganda for the furtherance of Soviet aims, always at the cost and loss of American prestige.

This inherent weakness in the argument for the treaty's ratification, must be faced honestly by the proponents, and the people must understand that there is no such thing as mutual advantage in the treaty's application, because a closed society (for its own protection) cannot afford to extend advantages to American interests, which the Soviet interests now enjoy, in our *open* society.

Failure to know the true nature of the USSR has made the past twenty-five years the most costly in our national life. From the days of Lenin, and continuing through the regime of Stalin, Khrushchev, and to date, the Soviet Union has pursued its aim of dominating the world through Communism. There are few Americans today who are unaware that they and their nation are among the prime targets of Soviet Communism, however, what some may not grasp clearly is the Soviet Union's indirect attack upon their security.

Lenin has said in his “Left-Wing Communism, an Infantile Disorder,” Vol. X, page 93-96-100-1013, “We must resort to all sorts of stratagems, maneuvers, illegal methods, evasions and subterfuges, only so as to get into the trade unions, to remain in them, and to carry on Communist work within them at all costs.”

In the June 12, 1964, Edition of the Chicago Tribune, Senator Dirksen (Illinois) predicted, “The Russian-American Consular treaty would receive a rough reception in the Senate.” He said, “The agreement contains an unprecedented concession to the Soviet Union. Although Russian Consular officers, to be opened under the agreement in such cities as New York, Chicago and San Francisco, are concerned principally with trade, and their officials and employees do not enjoy diplomatic immunity, the Soviet Union demanded such immunity. Officials may

not be prosecuted for crimes, including espionage. Now the Senate is going to be asked to ratify an agreement which will increase Soviet espionage and clothe it with immunity from prosecution."

The very fact that the ratification of such a treaty is being considered by the U.S. Senate is incomprehensible, what with American soldiers being killed and wounded in Viet Nam today, with weapons supplied by the Soviet Union; and there are twenty-eight Soviet officials stationed in the United States having been arrested or expelled since January 1, 1957! Mr. Chairman, Whose side are we on?

It is evident that we find ourselves in the deplorable condition we are in today because of the weakness of our American Foreign Policy, which is geared to "Peaceful Coexistence" (alias "Appeasement") which was first enunciated by Lenin in his decree of October 26, 1917, echoed by Stalin, and subsequently repeated by Khrushchev.—The leaders of the Kremlin drink a toast to Coexistence!

Mr. Chairman, we would remind those who have sworn to protect our country from all enemies, both foreign and domestic, to remember Czechoslovakia. The history of Czechoslovakia is the history of every government that tried to coexist or cooperate with the Communists. Peaceful coexistence is clearly identified as a communistic myth, and it is impossible to coexist with an aggressive criminal conspiracy dedicated to the destruction of civilization and the enslavement of all mankind.

The internal security of the United States must not be jeopardized by the "lame excuse" of protecting a few curious visitors to the Soviet Union. Therefore, we urge the Senate to refuse the ratification of the present pending USSR-U.S. Consular Convention.

AMERICAN JEWISH CONGRESS,
New York, N.Y., February 16, 1967.

Senator WILLIAM J. FULBRIGHT,
Chairman, Senate Foreign Relations Committee,
Senate Office Building,
Washington, D.C.

DEAR SIR: As Chairman of the Commission on International Affairs of the American Jewish Congress, I respectfully request permission to submit the following statement in support of the proposed consular convention between the United States and the Soviet Union now being considered by this committee, and we ask that our statement be incorporated into the record.

We believe that the wellbeing of every segment of the American people depends ultimately upon the maintenance of international peace and the achievement of more secure relations among the great powers. We believe, moreover, that solutions to the overwhelming problems of international life often start with modest beginnings and that ratification of the pending treaty can provide that kind of first step. The ability to put into effect the normal machinery of international life can facilitate gradual and cautious approaches to those more substantial issues that divide the major nations. Certainly in a world in which credible information is increasingly difficult to obtain, an indispensable mechanism for developing confident relations among nation states is the establishment of unencumbered diplomatic exchange, with all the opportunity for communication and access that it implies.

Regrettably, despite steady increase in the frequency and importance of transactions between the United States and the Soviet Union, diplomatic relations between these two countries from the beginning have been kept minimal to the point of being grudging. Embassies are maintained only in Washington and Moscow, and one additional Soviet embassy is situated in New York to house the U.S.S.R. Mission to the United Nations. Apart from these addresses, neither of these governments is permitted representation anywhere in the vast territories of the other. To be sure, the proposed treaty does not in its terms stipulate the opening of new consular offices but it does clear the way for enlarging and regularizing opportunities for normal consular work.

We are aware that opponents of the measure argue that enactment of the treaty would lead to a significant increase of Soviet subversion. They do so on the

theory that every Soviet diplomat is a spy or a potential spy. The corollary of their view is that the more rigidly we keep any of them out the better off we are. Obviously, the optimum solution would be to render ourselves prophylactically safe by severing relations entirely. Something of this mentality is evident in the demand by some of these same groups that we evict the United Nations because it endangers our national safety by requiring us to grant entry to diplomats from Eastern Europe. The echoes are unmistakable. These are the discredited fears exploited and disseminated by Senator McCarthy and his friends a decade ago.

It is self-evidently preposterous that the minuscule increase of Soviet personnel that might one day be brought to this country to staff consular facilities would constitute any meaningful menace to our domestic safety. Our police forces and intelligence agencies are surely more than competent to maintain proper surveillance over the several dozens of additional Soviet employees that might be required. Indeed, if our counter-intelligence agencies are not equal to this limited additional assignment, then it is this ineptness that must be the focus of our national concern and not the treaty. It must be remembered that under the treaty, just as there will be increased protection for Soviet personnel in the United States, similarly there will be increased protection for American personnel in the Soviet Union. For the record, more American personnel have been expelled for espionage activities in the Soviet Union, than were Soviet personnel for similar reasons here. The risks would be trivial and reciprocal; the benefits would be substantial and universal.

If, as a result of this treaty, new American consular facilities are one day established in the Soviet Union, it can have a salutary effect upon yet another area of vital concern. Soviet Chairman Kosygin recently indicated that his government would allow the emigration of Soviet Jews who seek to be united with their families abroad and would place no obstacles in the way of their departure. Until now, potential applicants who live in distant parts of the Soviet Union and who seek reunification with families in the United States have been deterred by the administrative difficulty of filing with the single American diplomatic installation in Moscow. The creation of new consular offices in various parts of the U.S.S.R. would considerably facilitate the processing of applications and allow a meaningful test of the Soviet pledge to grant exist visas.

The consular treaty symbolizes effort by the United States and the Soviet Union to ameliorate the suspicion and hostility that have so long prevailed in each country. Such modest steps toward rapprochement, especially when they are embodied in a limited agreement intended principally to improve the protection of American citizens abroad, must be encouraged and endorsed if only as a matter of simple national self-interest. Cold war hostilities have embroiled us in two decades of desperate international tension and have brought us to the perilous edge of conflict. It would be tragic if this moment were to be lost and this gesture toward peace frustrated by paranoid anxieties or the distortion of the possibilities that might ensue from the proposed agreement. We cannot allow this first step to be deterred by efforts to resurrect hysterical fears that were outlandish in the 50's and are outrageous now.

We earnestly hope that your committee will endorse and favorably report to the full Committee on Foreign Relations the proposed Executive Deed to regulate consular relations between the United States and the Soviet Union.

Sincerely yours,

JOACHIM PRINZ,
Chairman, Commission on International Affairs.

STATEMENT BY TYRE TAYLOR, GENERAL COUNSEL SOUTHERN STATES INDUSTRIAL COUNCIL IN OPPOSITION TO RATIFICATION OF THE CONSULAR TREATY WITH THE SOVIET UNION, FEBRUARY 16, 1967

The late Chairman of the House Committee on un-American Activities, the Honorable Francis E. Walter, once said:

“* * * The communist objective remains the same: destruction of all free societies, conquest of the world and the enslavement of mankind. The battlefields are every institution and organization of society, including the home, the church, the school and every agency of our government.”

This the Council deeply believes and, believing, would refrain from any act which could strengthen and lend aid and support to communism, whether it operates in Red China, Cuba, or the Soviet Union. For that reason, the Council is unalterably opposed to ratification of the Consular Convention with the Soviet Union.

But you are told by Mr. George F. Kennan and others that the Russians have changed: that they are no longer nine feet tall as we once thought; and that peaceful co-existence—as we understand the term—is now an attainable objective if Uncle Sam would only unbend a bit and stop being so suspicious and stubborn.

Most of the arguments of proponents of ratifications sound considerably less than convincing and how could it be otherwise in the light of what is going on in Vietnam? When Soviet President Podgorny visited Italy recently, he declared:

“The Soviet Union is giving and will continue to give * * * North Vietnam ever growing aid until the full triumph of the just cause for which Vietnamese people are now struggling.”

The U.S. News & World Report of January 30, 1967 commented on the massive nature and volume of the vital supplies now flowing in ever-increasing amounts from the Soviet bloc countries to North Vietnam. The article is appropriately entitled, “Russia: The Enemy in Vietnam?”

In a letter dated January 23, 1967 to Senator Karl Mundt, FBI Director J. Edgar Hoover said (in part):

“* * * The simple fact is that the work of the FBI in combating Soviet-directed espionage activities in this country has increased through the years commensurate with the increase in Soviet representation here. I can also state without equivocation that communist-bloc diplomatic establishments in this country serve as focal points for intelligence operations.

“You inquired whether, since March 4, 1965, there has been a cessation of attempts by communist diplomatic personnel in this country to engage in acts of subversion or attempted espionage. The answer again is an unequivocal no.

“You asked whether these efforts by communist diplomatic personnel still continue. They most certainly do. Representatives of the KGB (Soviet Committee of State Security) and the GRU (Soviet Military Intelligence Service), comprising a large segment of the Soviet diplomatic corps in the United States, are conducting an intensive campaign aimed at the most sensitive data regarding our scientific and technical developments, our military and defense programs and the future plans of our Government.”

Of course, Mr. Hoover is simply stating facts about a situation which, as he says, has a direct bearing upon the responsibilities of the FBI.

The president says that Mr. Hoover “has assured me” that the FBI would be able to handle any increased espionage that might arise from the establishment of a Soviet Consulate in this country. But if it be granted—as we are inclined to grant—that the agency can cope with a small to moderate increase in communist agents here. Why, it may be asked, should the U.S. be compelled to cope with *any* increase? And if it be conceded that our government is strong enough to cope with it, are we certain that the intelligence services of the developing nations can do so?

But it's said we are getting a *quid pro quo* in the form of “notification and access” in the case of U.S. citizens arrested in the Soviet Union: that if this Consular Treaty is ratified, U.S. citizens travelling in Russia, will benefit. Again assuming that this contention may have some validity, what are we giving up to obtain this dubious concession? I say dubious because the Soviet Union operates as a closed society and it would find ways and means to circumvent any provision that did not suit its interests.

We are in all probability giving up a great deal—namely jurisdiction over the personnel of these consulates in the case of all crimes committed by such personnel in this country, including murder and espionage. It is also, we think, not without significance that this full diplomatic immunity provision was put forward and insisted upon by the Soviets.

For these and other reasons we earnestly hope that this treaty will be rejected by the Senate.

Thank you.

NEW YORK, N.Y., February 17, 1967.

Mr. ARTHUR M. KUHL,
Chief Clerk, Senate Foreign Relations Committee,
Washington, D.C.

MY DEAR MR. KUHL: I have your telegram informing me that the committee will receive a written statement in which I express my approval of the Consular Convention with the U.S.S.R.

To express my views in full would necessitate writing a thesis on the subject. I should have preferred an opportunity to appear before the committee to express myself and answer any member's question.

I was in the U.S.S.R. for twenty-three days in August 1966. Everyone I met, who spoke English, including the intourist guides in each city, wants peace. They seem to be afraid of another war. This attitude is general among university students who are the third generation since the revolutionary year, 1917. This generation refuses to accept the tenets of Marx, Engel and Lenin. They were born after 1941. They are only interested in material improvements, especially American automobiles and better and more western style clothing. They also are cynical about the truth in their newspapers and in the radio and television news broadcasts. These young people are in ferment in a quiet manner. They are the despair of the Kremlin leaders. I know because I hear B.B.C. broadcasts. They get through and maybe the Voice of America. This gives them truthful news about what is happening in the world.

If consulates are opened, it means that their latent resistance is going to be helped by the presence of an American flag and the psychological effects of our office.

These consulates will assist more freely—

1. Those who have permission to leave the U.S.S.R.—
 - (a) To join relatives abroad in the United States;
 - (b) To use aeroflat to visit the United States.
2. Citizens of the United States in that city;
3. Foreigners in transit to the United States;
4. Managers of governmental industry in the U.S.S.R. who wish to buy exportable American products since the consulate may be a source of commercial information. Under the U.S.S.R. new economic policies these managers may be given more power to transact business rather than thru Moscow;
5. The Americans in that city and area will be better off with the location of American governmental officials.

If there are those who fear an increase in Russian espionage because of the U.S.S.R. consulate in our country, let me remind them that our country receives the same benefit. I have found that whatever Russians can do, we can do better.

In regard to the fear of war and desire for peace attitude, I should like to relate an experience. I went to a showing of The Siberian Folk Danch Group in The Military Park in Moscow. This is an area where Americans generally do not go since it is twenty-five minutes by bus from Red Square. It was an excellent performance and at least half the audience were soldiers. The others were Russians and I saw a few East Germans. Everyone applauded enthusiastically, each act. However, when one act was dedicated to the comrades in North Vietnam and it depicted Americans bombing, at the end of the act, there was no applause. When I told my Intourist guide, the next day, where I had been, she was surprised and displeased.

I think our Consulate will be another source for the dissemination of American printed matter because visitors may help themselves.

The more motion pictures we are able to distribute for exhibition, and from other western European countries, the more information we may give to Russian audiences. This will encourage discontent with their lack of material comforts. I realize there is an agreement with the Russian Government on this matter but if another American door is opened in the U.S.S.R. more American things will come out to impress the Russian people.

If the Committee may wish to interview me I should be pleased to come to Washington. I may say a great deal more on the subject in answer to questions and because it is easier to expand my point of view in support of the Consular Convention.

I am retired and live at home. I no longer have an office or a secretary, so please excuse my longhand.

Yours respectfully,

GEORGE B. ROBINTON.

STATEMENT IN SUPPORT OF SENATE RATIFICATION OF U.S.-U.S.S.R. CONSULAR
TREATY

(By Rabbi Richard G. Hirsch, Director, Religious Action Center, UAHC, on
Behalf of the Commission on Social Action of Reform Judaism, February 20,
1967)

The Commission on Social Action of Reform Judaism hereby records its support for the Consular Convention between the United States and the U.S.S.R. The Commission is an agency of the Central Conference of American Rabbis and the Union of American Hebrew Congregations with its affiliates: the National Federation of Temple Sisterhoods, the National Federation of Temple Brotherhoods, and the National Federation of Temple Youth.

We urge the Senate to give its advice and consent to the ratification of the Consular Treaty. In our world, so divided by conflicting national ideologies and foreign policies, progress toward peace must be made in small steps. The biblical injunction "Seek peace and pursue it" is fulfilled only when we exploit every opportunity afforded to us. It is in that spirit that the Central Conference of American Rabbis stated in 1963: "We call upon our people to seek out every road by which we can cooperate not alone with the Russians but with all nations hungering for peace and security." It was in that spirit also that the 1965 General Assembly of the Union of American Hebrew Congregations "reaffirms our belief in the necessity of coexistence of all nations and social systems. Coexistence requires a willingness to negotiate issues and to accommodate differences."

We believe that ratification of this treaty would be a small, but significant advance. In setting specific procedures for the establishment of consulates and their mode of operation, the convention would eliminate existing areas of uncertainty, or lack of clarity, and would thereby reduce the potential for misunderstanding and friction between the United States and the Soviet Union.

The treaty would permit our government to give more prompt and effective assistance to Americans in Russia who may be arrested or detained. In the past, these incidents have tended to become "causes celebres" when handled in the atmosphere of tense and competitive diplomacy. As Secretary of State Dean Rusk has testified, the treaty would enable the difficulties which may occur to be handled with greater dispatch as matters of routine, rather than as matters requiring high-level policy decisions.

In addition to our concern as American citizens in the easing of cold war tensions, we have a special interest as Jews. The American Jewish community has been encouraging tourism to Russia as a means of establishing personal contact with our Jewish brethren there. The existence of additional American consulates would facilitate the travels of American citizens and enable us to have closer rapport with fellow Jews who are very much in need of spiritual succor and moral support.

Above all, we urge approval of the consular convention because of its symbolic significance. In recent years, U.S.-U.S.S.R. relations have undergone considerable improvement, as we have come to recognize that perpetual conflict is detrimental both to domestic social and economic development and to the development of a just and peaceful world. In his State of the Union message, President Johnson supported the treaty with these words: "our relations with the Soviet Union and Eastern Europe are also in transition. I have tried to differ quietly and with courtesy, and without venom. Our basic objective is not to continue the cold war, but to end it."

To fail to ratify would constitute a severe retrogression in our efforts to end the cold war. The potential risks to which some opponents of the treaty have called attention are small indeed, compared to the risks which would follow from this failure to ratify. We therefore urge Senate approval of this modest, but vital span linking East and West with bonds of closer association and understanding.

[Ex. D, 88th Cong., 2d sess.]

APPENDIX

1. TEXT OF U.S.-U.S.S.R. CONSULAR CONVENTION TOGETHER WITH PROTOCOL
THERE TO

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING A CONSULAR
CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET
SOCIALIST REPUBLICS, TOGETHER WITH A PROTOCOL RELATING THERETO, SIGNED
AT MOSCOW ON JUNE 1, 1964

THE WHITE HOUSE, June 12, 1964.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a consular convention between the United States of America and the Union of Soviet Socialist Republics, together with a protocol relating thereto, signed at Moscow on June 1, 1964.

I transmit also, for the information of the Senate, the report by the Acting Secretary of State with respect to the convention.

I recommend that the Senate give early and favorable consideration to the convention and protocol submitted herewith and give its advice and consent to their ratification.

LYNDON B. JOHNSON.

(Enclosures: (1) Report of the Acting Secretary of State; (2) consular convention with the Union of Soviet Socialist Republics, with protocol, signed at Moscow June 1, 1964.)

DEPARTMENT OF STATE,
Washington.

THE PRESIDENT,
The White House:

The undersigned, the Acting Secretary of State, has the honor to lay before the President, with a view to its transmission to the Senate to receive the advice and consent of that body to ratification, if the President approves thereof, a consular convention between the United States of America and the Union of Soviet Socialist Republics, together with a protocol relating thereto, signed at Moscow on June 1, 1964.

The convention is the result of intermittent discussions since 1933, preliminary negotiating discussions in 1960, and a continuing series of negotiation sessions since last August. Its provisions, like consular provisions in force between the United States and many other countries, are designed to regulate the consular affairs of each country in the territory of the other country and to formalize, so far as practicable, the understandings of the two countries in regard to the treatment to be accorded consular officials and employees. The convention covers such matters as the status of a consular establishment, the duties and functions of consular officers, and the rights, privileges, and immunities of the consular personnel of each country stationed in the territory of the other country. More specifically, the convention contains provisions relating to definitions (art. 1); opening of consular establishments and appointment of consular officers and employees (arts. 2 through 6); consular functions (arts. 7 through 15); and rights, privileges, and immunities (arts. 16 through 29). The protocol, which constitutes an integral part of the convention, construes and amplifies certain provisions of the convention.

Most of the provisions of the convention are similar in substance to provisions in consular convention between the United States and other countries.

Special reference is made to certain provisions of the convention which represent a significant advance in protection for U.S. citizens in the Soviet Union, as follows:

Article 12, paragraph 2, provides that authorities of the receiving state shall immediately inform a consular officer of the sending state of the arrest or detention in other form of a national of the sending state, and paragraph 1 of the protocol provides that such notification shall take place within 1 to 3 days from the time of arrest or detention, depending on conditions of communication.

Article 12, paragraph 3, provides that a consular officer of the sending state shall have the right without delay to visit and communicate with a national of the sending state who is under arrest or otherwise detained in custody or is serving a sentence of imprisonment, and paragraphs 2 and 3 of the protocol provide

that such rights shall be accorded within 2 to 4 days of the arrest or detention of such national, depending upon his location, and shall be accorded on a continuing basis.

Article 19, paragraph 2, provides that consular officers and employees who are nationals of the sending state shall be immune from the criminal jurisdiction of the receiving state. This paragraph will insure the security of U.S. Government consular personnel in the Soviet Union.

Provisions of the convention other than those to which special reference is made in the preceding paragraphs are similar in substance to provisions in consular conventions between the United States and other countries. For example, article 10 of the convention, which contains provisions regarding competency and authority of consular officers in connection with the settlement of estates, is almost identical to article 6 of the convention with Korea signed on January 8, 1963 (TIAS 5469; S. Ex. B, 88th Cong., 1st sess.), and article 18 of the convention with Japan signed on March 22, 1963 (S. Ex. I, 88th Cong., 1st sess.).

Article 30 provides that the convention shall be subject to ratification, that the ratifications shall be exchanged at Washington, that the convention shall enter into force on the 30th day following such exchange, and that it shall remain in force until 6 months from the date on which one Government informs the other of its desire to terminate it.

It is hoped that the convention will be given favorable consideration by the Senate.

Respectfully submitted.

W. AVERELL HARRIMAN.

(Enclosures: Consular convention with the Union of Soviet Socialist Republics, with protocol, signed at Moscow June 1, 1964.)

CONSULAR CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics,

Desiring to cooperate in strengthening friendly relations and to regulate consular relations between both states,

Have decided to conclude a consular convention and for this purpose have agreed on the following:

DEFINITIONS

ARTICLE 1

For the purpose of the present Convention, the terms introduced hereunder have the following meaning:

(1) "Consular establishment"—means any consulate general, consulate, vice consulate or consular agency;

(2) "Consular district"—means the area assigned to a consular establishment for the exercise of consular functions;

(3) "Head of consular establishment"—means a consul general, consul, vice consul, or consular agent directing the consular establishment;

(4) "Consular officer"—means any person, including the head of the consular establishment, entrusted with the exercise of consular functions. Also included in the definition of "consular officer" are persons assigned to the consular establishment for training in the consular service.

(5) "Employee of the consular establishment"—means any person performing administrative, technical, or service functions in a consular establishment.

OPENING OF CONSULAR ESTABLISHMENTS, APPOINTMENT OF CONSULAR OFFICERS AND EMPLOYEES

ARTICLE 2

1. A consular establishment may be opened in the territory of the receiving state only with that state's consent.

2. The location of a consular establishment and the limits of its consular district will be determined by agreement between the sending and receiving states.

3. Prior to the appointment of a head of a consular establishment, the sending state shall obtain the approval of the receiving state to such an appointment through diplomatic channels.

4. The diplomatic mission of the sending state shall transmit to the foreign affairs ministry of the receiving state a consular commission which shall contain the full name of the head of the consular establishment, his citizenship, his class, the consular district assigned to him, and the seat of the consular establishment.

5. A head of a consular establishment may enter upon the exercise of his duties only after having been recognized in this capacity by the receiving state. Such recognition after the presentation of the commission shall be in the form of a *exequatur* or in another form and shall be free of charge.

6. The full name, function and class of all consular officers other than the head of a consular establishment, and the full name and function of employees of the consular establishment shall be notified in advance by the sending state to the receiving state.

The receiving state shall issue to each consular officer an appropriate document confirming his right to carry out consular functions in the territory of the receiving state.

7. The receiving state may at any time, and without having to explain its decision, notify the sending state through diplomatic channels that any consular officer is *persona non grata* or that any employee of the consular establishment is unacceptable. In such a case the sending state shall accordingly recall such officer or employee of the consular establishment. If the sending state refuses or fails within a reasonable time to carry out its obligations under the present paragraph, the receiving state may refuse to recognize the officer or employee concerned as a member of the consular establishment.

8. With the exception of members of the staff of the diplomatic mission of the sending state, as defined in paragraph (c) of Article 1 of the Vienna Convention on Diplomatic Relations, no national of the sending state already present in the receiving state or in transit thereto may be appointed as a consular officer or employee of the consular establishment.

ARTICLE 3

Consular officers may be nationals only of the sending state.

ARTICLE 4

The receiving state shall take the necessary measures in order that a consular officer may carry out his duties and enjoy the rights, privileges, and immunities provided for in the present Convention and by the laws of the receiving state.

ARTICLE 5

1. The receiving state shall either facilitate the acquisition on its territory, in accordance with its laws and regulations, by the sending state of premises necessary for its consular establishment or assist the latter in obtaining accommodation in some other way.

2. It shall also, where necessary, assist the sending state in obtaining suitable accommodation for the personnel of its consular establishment.

ARTICLE 6

1. If the head of the consular establishment cannot carry out his functions or if the position of head of a consular establishment is vacant, the sending state may empower a consular officer of the same or another consular establishment, or one of the members of the diplomatic staff of its diplomatic mission in the receiving state, to act temporarily as head of the consular establishment. The full name of this person must be transmitted in advance to the foreign affairs ministry of the receiving state.

2. A person empowered to act as temporary head of the consular establishment shall enjoy the rights, privileges and immunities of the head of the consular establishment.

3. When, in accordance with the provisions of paragraph 1 of the present Article, a member of the diplomatic staff of the diplomatic mission of the sending state in the receiving state is designated by the sending state as an acting head of

the consular establishment, he shall continue to enjoy diplomatic privileges and immunities.

CONSULAR FUNCTIONS

ARTICLE 7

A consular officer shall be entitled within his consular district to perform the following functions, and for this purpose may apply orally or in writing to the competent authorities of the consular district:

- (1) To protect the rights and interests of the sending state and its nationals, both individuals and bodies corporate;
- (2) To further the development of commercial, economic, cultural and scientific relations between the sending state and the receiving state and otherwise promote the development of friendly relations between them;
- (3) To register nationals of the sending state, to issue or amend passports and other certificates of identity, and also to issue entry, exit, and transit visas;
- (4) To draw up and record certificates of birth and death of citizens of the sending state taking place in the receiving state, to record marriages and divorces, if both persons entering into marriage or divorce are citizens of the sending state, and also to receive such declarations pertaining to family relationships of a national of the sending state as may be required under the law of the sending state, unless prohibited by the laws of the receiving state;
- (5) To draw up, certify, attest, authenticate, legalize and take other actions which might be necessary to validate any act or document of a legal character, as well as copies thereof, including commercial documents, declarations, registrations, testamentary dispositions, and contracts, upon the application of a national of the sending state, when such document is intended for use outside the territory of the receiving state, and also for any person, when such document is intended for use in the territory of the sending state;
- (6) To translate any acts and documents into the English and Russian languages and to certify to the accuracy of the translations;
- (7) To perform other official consular functions entrusted to him by the sending state if they are not contrary to the laws of the receiving state.

ARTICLE 8

1. The acts and documents specified in paragraph 5 of Article 7 of the present Convention which are drawn up or certified by the consular officer with his official seal affixed, as well as copies, extracts, and translations of such acts and documents certified by him with his official seal affixed, shall be receivable in evidence in the receiving state as official or officially certified acts, documents, copies, translations, or extracts, and shall have the same force and effect as though they were drawn up or certified by the competent authorities or officials of the receiving state; provided that such documents shall have been drawn and executed in conformity with the laws and regulations of the country where they are designed to take effect.

2. The acts, documents, copies, translations, or extracts, enumerated in paragraph 1 of the present Article shall be authenticated if required by the laws of the receiving state when they are presented to the authorities of the receiving state.

ARTICLE 9

If the relevant information is available to the competent authorities of the receiving state, such authorities shall inform the consular establishment of the death of a national of the sending state.

ARTICLE 10

1. In the case of the death of a national of the sending state in the territory of the receiving state, without leaving in the territory of his decease any known heir or testamentary executor, the appropriate local authorities of the receiving state shall as promptly as possible inform a consular officer of the sending state.

2. A consular officer of the sending state may, within the discretion of the appropriate judicial authorities and if permissible under then existing applicable local law in the receiving state:

- (a) take provisional custody of the personal property left by a deceased national of the sending state, provided that the decedent shall have left in

the receiving state no heir or testamentary executor appointed by the decedent to take care of his personal estate; provided that such provisional custody shall be relinquished to a duly appointed administrator;

(b) administer the estate of a deceased national of the sending state who is not a resident of the receiving state at the time of his death, who leaves no testamentary executor, and who leaves in the receiving state no heir, provided that if authorized to administer the estate, the consular officer shall relinquish such administration upon the appointment of another administrator;

(c) represent the interests of a national of the sending state in an estate in the receiving state, provided that such national is not a resident of the receiving state, unless or until such national is otherwise represented: provided, however, that nothing herein shall authorize a consular officer to act as an attorney at law.

3. Unless prohibited by law, a consular officer may, within the discretion of the court, agency, or person making distribution, receive for transmission to a national of the sending state who is not a resident of the receiving state any money or property to which such national is entitled as a consequence of the death of another person, including shares in an estate, payments made pursuant to workmen's compensation laws, pension and social benefits systems in general, and proceeds of insurance policies.

The court, agency, or person making distribution may require that a consular officer comply with conditions laid down with regard to: (a) presenting a power of attorney or other authorization from such nonresident national, (b) furnishing reasonable evidence of the receipt of such money or property by such national, and (c) returning the money or property in the event he is unable to furnish such evidence.

4. Whenever a consular officer shall perform the functions referred to in paragraphs 2 and 3 of this Article, he shall be subject, with respect to the exercise of such functions, to the laws of the receiving state and to the civil jurisdiction of the judicial and administrative authorities of the receiving state in the same manner and to the same extent as a national of the receiving state.

ARTICLE 11

A consular officer may recommend to the courts or to other competent authorities of the receiving state appropriate persons to act in the capacity of guardians or trustees for citizens of the sending state or for the property of such citizens when this property is left without supervision.

In the event that the court or competent authorities consider that the recommended candidate is for some reason unacceptable, the consular officer may propose a new candidate.

ARTICLE 12

1. A consular officer shall have the right within his district to meet with, communicate with, assist, and advise any national of the sending state and, where necessary, arrange for legal assistance for him. The receiving state shall in no way restrict the access of nationals of the sending state to its consular establishments.

2. The appropriate authorities of the receiving state shall immediately inform a consular officer of the sending state about the arrest or detention in other form of a national of the sending state.

3. A consular officer of the sending state shall have the right without delay to visit and communicate with a national of the sending state who is under arrest or otherwise detained in custody or is serving a sentence of imprisonment. The rights referred to in this paragraph shall be exercised in conformity with the laws and regulations of the receiving state, subject to the proviso, however, that the said laws and regulations must not nullify these rights.

ARTICLE 13

1. A consular officer may provide aid and assistance to vessels sailing under the flag of the sending state which have entered a port in his consular district.

2. Without prejudice to the powers of the receiving state, a consular officer may conduct investigations into any incidents which occurred during the voyage on vessels sailing under the flag of the sending state, and may settle disputes of any kind between the master, the officers and the seamen insofar as this may

be authorized by the laws of the sending state. A consular officer may request the assistance of the competent authorities of the receiving state in the performance of such duties.

3. In the event that the courts or other competent authorities of the receiving state intend to take any coercive action on vessels sailing under the flag of the sending state while they are located in the waters of the receiving state, the competent authorities of the receiving state shall, unless it is impractical to do so in view of the urgency of the matter, inform a consular officer of the sending state prior to initiating such action so that the consular officer may be present when the action is taken. Whenever it is impractical to notify a consular officer in advance, the competent authorities of the receiving state shall inform him as soon as possible thereafter of the action taken.

4. Paragraph 3 of this Article shall not apply to customs, passport, and sanitary inspections, or to action taken at the request or with the approval of the master of the vessel.

5. The term "vessel", as used in the present Convention, does not include warships.

ARTICLE 14

If a vessel sailing under the flag of the sending state suffers shipwreck, runs aground, is swept ashore, or suffers any other accident whatever within the territorial limits of the receiving state, the competent authorities of the receiving state shall immediately inform a consular officer and advise him of the measures which they have taken to rescue persons, vessel, and cargo.

The consular officer may provide all kinds of assistance to such a vessel, the members of its crew, and its passengers, as well as take measures in connection with the preservation of the cargo and repair of the ship, or he may request the authorities of the receiving state to take such measures.

The competent authorities of the receiving state shall render the necessary assistance to the consular officer in measures taken by him in connection with the accident to the vessel.

No customs duties shall be levied against a wrecked vessel, its cargo or stores, in the territory of the receiving state, unless they are delivered for use in that state.

If the owner or anyone authorized to act for him is unable to make necessary arrangements in connection with the vessel or its cargo, the consular officer may make such arrangements. The consular officer may under similar circumstances make arrangements in connection with cargo owned by the sending state or any of its nationals and found or brought into port from a wrecked vessel sailing under the flag of any state except a vessel of the receiving state.

ARTICLE 15

Articles 13 and 14, respectively, shall also apply to aircraft.

RIGHTS, PRIVILEGES AND IMMUNITIES

ARTICLE 16

The national flag of the sending state and the consular flag may be flown at the consular establishment, at the residence of the head of the consular establishment, and on his means of transport used by him in the performance of his official duties. The shield with the national coat-of-arms of the sending state and the name of the establishment may also be affixed on the building in which the consular establishment is located.

ARTICLE 17

The consular archives shall be inviolable at all times and wherever they may be. Unofficial papers shall not be kept in the consular archives.

The buildings or parts of buildings and the land ancillary thereto, used for the purposes of the consular establishment and the residence of the head of the consular establishment, shall be inviolable.

The police and other authorities of the receiving state may not enter the building or that part of the building which is used for the purposes of the consular establishment or the residence of the head of the consular establishment without the consent of the head thereof, persons appointed by him, or the head of the diplomatic mission of the sending state.

ARTICLE 18

1. The consular establishment shall have the right to communicate with its Government, with the diplomatic mission and the consular establishments of the sending state in the receiving state, or with other diplomatic missions and consular establishments of the sending state, making use of all ordinary means of communication. In such communications, the consular establishment shall have the right to use code, diplomatic couriers, and the diplomatic pouch. The same fees shall apply to consular establishments in the use of ordinary means of communication as apply to the diplomatic mission of the sending state.

2. The official correspondence of a consular establishment, regardless of what means of communication are used, and the sealed diplomatic pouch bearing visible external marks of its official character, shall be inviolable and not subject to examination or detention by the authorities of the receiving state.

ARTICLE 19

1. Consular officers shall not be subject to the jurisdiction of the receiving state in matters relating to their official activity. The same applies to employees of the consular establishment, if they are nationals of the sending state.

2. Consular officers and employees of the consular establishment who are nationals of the sending state shall enjoy immunity from the criminal jurisdiction of the receiving state.

3. This immunity from the criminal jurisdiction of the receiving state of consular officers and employees of the consular establishment of the sending state may be waived by the sending state. Waiver must always be express.

ARTICLE 20

1. Consular officers and employees of the consular establishment, on the invitation of a court of the receiving state, shall appear in court for witness testimony. Taking measures to compel a consular officer or an employee of the consular establishment who is a national of the sending state to appear in court as a witness and to give witness testimony is not permissible.

2. If a consular officer or an employee of the consular establishment who is a national of the sending state for official reasons or for reasons considered valid according to the laws of the receiving state cannot appear in court, he shall inform the court thereof and give witness testimony on the premises of the consular establishment or in his own abode.

3. Whenever under the laws of the receiving state an oath is required to be taken in court by consular officers and employees of the consular establishment, an affirmation shall be accepted in lieu thereof.

4. Consular officers and employees of the consular establishment may refuse to give witness testimony on facts relating to their official activity.

5. The provisions of paragraphs 1, 2, 3, and 4 shall also apply to proceedings conducted by administrative authorities.

ARTICLE 21

1. Immovable property, situated in the territory of the receiving state, of which the sending state or one or more persons acting in its behalf is the owner or lessee and which is used for diplomatic or consular purposes, including residences for personnel attached to the diplomatic and consular establishments, shall be exempt from taxation of any kind imposed by the receiving state or any of its states or local governments other than such as represent payments for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such charges, duties, and taxes if, under the law of the receiving state, they are payable by the person who contracted with the sending state or with the person acting on its behalf.

ARTICLE 22

A consular officer or employee of a consular establishment, who is not a national of the receiving state and who does not have the status in the receiving state of an alien lawfully admitted for permanent residence, shall be exempt from the payment of all taxes or similar charges of any kind imposed by the receiving state or any of its states or local governments on official emoluments,

salaries, wages, or allowances received by such officer or employee from the sending state in connection with the discharge of his official functions.

ARTICLE 23

1. A consular officer or employee of a consular establishment who is not a national of the receiving state and who does not have the status in the receiving state of an alien lawfully admitted for permanent residence, shall, except as provided in paragraph 2 of this Article, be exempt from the payment of all taxes or similar charges of any kind imposed by the receiving state or any of its states or local governments, for the payment of which the officer or employee of the consular establishment would otherwise be legally liable.

2. The exemption from taxes or charges provided in paragraph 1 of this Article does not apply in respect to taxes or charges upon:

(a) The acquisition or possession of private immovable property located in the receiving state if the persons referred to in paragraph 1 of this Article do not own or lease this property on the behalf of the sending state for the purposes of the consular establishment;

(b) Income received from sources in the receiving state other than as described in Article 22 of the present Convention;

(c) The transfer by gift of property in the receiving state;

(d) The transfer at death, including by inheritance, of property in the receiving state.

3. However, the exemption from taxes or similar charges provided in paragraph 1 of this Article, applies in respect to movable inherited property left after the death of a consular officer or employee of the consular establishment or a member of his family residing with him if they are not nationals of the receiving state or aliens lawfully admitted for permanent residence, and if the property was located in the receiving state exclusively in connection with the sojourn in this state of the deceased as a consular officer or employee of the consular establishment or member of his family residing with him.

ARTICLE 24

A consular officer or employee of a consular establishment and members of his family residing with him who are not nationals of the receiving state and who do not have the status in the receiving state of aliens lawfully admitted for permanent residence, shall be exempt in the receiving state from service in the armed forces and from all other types of compulsory service.

ARTICLE 25

A consular officer or employee of a consular establishment and members of his family residing with him who do not have the status in the receiving state of aliens lawfully admitted for permanent residence, shall be exempt from all obligations under the laws and regulations of the receiving state with regard to the registration of aliens, and obtaining permission to reside, and from compliance with other similar requirements applicable to aliens.

ARTICLE 26

1. The same full exemption from customs duties and internal revenue or other taxes imposed upon or by reason of importation shall apply in the receiving state to all articles, including motor vehicles, imported exclusively for the official use of a consular establishment, as applies to articles imported for the official use of the diplomatic mission of the sending state.

2. Consular officers, and employees of the consular establishment, and members of their families residing with them, who are not nationals of the receiving state, and who do not have the status in the receiving state of aliens lawfully admitted for permanent residence, shall be granted, on the basis of reciprocity, the same exemptions from customs duties and internal revenue or other taxes imposed upon or by reason of importation, as are granted to corresponding personnel of the diplomatic mission of the sending state.

3. For the purpose of paragraph 2 of this Article the term "corresponding personnel of the diplomatic mission" refers to members of the diplomatic staff in the case of consular officers, and to members of the administrative and technical staff in the case of employees of a consular establishment.

ARTICLE 27

Subject to the laws and regulations of the receiving state concerning zones entry into which is prohibited or regulated for reasons of national security, a consular officer shall be permitted to travel freely within the limits of his consular district to carry out his official duties.

ARTICLE 28

Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving state, including traffic regulations.

ARTICLE 29

1. The rights and obligations of consular officers provided for in the present Convention also apply to members of the diplomatic staff of the diplomatic mission of the Contracting Parties charged with the performance of consular functions in the diplomatic mission and who have been notified in a consular capacity to the foreign affairs ministry of the receiving state by the diplomatic mission.

2. Except as provided in paragraph 4 of Article 10 of the present Convention, the performance of consular functions by the persons referred to in paragraph 1 of this Article shall not affect the diplomatic privileges and immunities granted to them as members of the diplomatic mission.

FINAL PROVISIONS

ARTICLE 30

1. The present Convention shall be subject to ratification and shall enter into force on the thirtieth day following the exchange of instruments of ratification, which shall take place in Washington as soon as possible.

2. The Convention shall remain in force until six months from the date on which one of the Contracting Parties informs the other Contracting Party of its desire to terminate its validity.

In witness whereof the Plenipotentiaries of the two Contracting Parties have signed the present Convention and affixed their seals thereto.

Done in Moscow on June 1, 1964 in two copies, each in the English and the Russian language, both texts being equally authentic.

For the Government of the United States of America :

Foy D. KOHLER,

Ambassador of the United States of America to the U.S.S.R.

For the Government of the Union of Soviet Socialist Republics :

A. GROMYKO,

Minister for Foreign Affairs of the Union of Soviet Socialist Republics.

PROTOCOL TO THE CONSULAR CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS

1. It is agreed between the Contracting Parties that the notification of a consular officer of the arrest or detention in other form of a national of the sending state specified in paragraph 2 of Article 12 of the Consular Convention between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics of June 1, 1964, shall take place within one to three days from the time of arrest or detention depending on conditions of communication.

2. It is agreed between the Contracting Parties that the rights specified in paragraph 3 of Article 12 of the Consular Convention of a consular officer to visit and communicate with a national of the sending state who is under arrest or otherwise detained in custody shall be accorded within two to four days of the arrest or detention of such national depending upon his location.

3. It is agreed between the Contracting Parties that the rights specified in paragraph 3 of Article 12 of the Consular Convention of a consular officer to visit and communicate with a national of the sending state who is under arrest or otherwise detained in custody or is serving a sentence of imprisonment shall be accorded on a continuing basis.

The present Protocol constitutes an integral part of the Consular Convention between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics of June 1, 1964.

Done at Moscow on June 1, 1964 in two copies, each in the English and the Russian language, both texts being equally authentic.

For the Government of the United States of America :

Foy D. KOHLER,

Ambassador of the United States of America to the U.S.S.R.

For the Government of the Union of Soviet Socialist Republics :

A. GROMYKO,

Minister for Foreign Affairs of the Union of Soviet Socialist Republics.

2. STATE DEPARTMENT MATERIAL ON VIENNA CONVENTION ON CONSULAR RELATIONS

DEPARTMENT OF STATE,
Washington, February 14, 1967.

MR. CARL MARCY,
Chief of Staff, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR CARL: I am writing in reply to your letter of February 3, 1967, with regard to the request of Senator Claiborne Pell for various background memoranda. These memoranda relate to questions raised at the recent Committee hearing on the Consular Convention between the United States and the Soviet Union.

You first requested that we supply an explanation as to why the 1963 Vienna Convention on Consular Relations has not yet been submitted to the Senate for its advice and consent to ratification. A copy of the Vienna Convention is enclosed for your information.

Since the conclusion of the Vienna Consular Convention on April 24, 1963, only 21 states have ratified or acceded, while 22 ratifications or accessions are required for it to enter into force. These 21 states are Algeria, Costa Rica, Cuba, Dominican Republic, Ecuador, Gabon, Ghana, Kenya, Liechtenstein, Mexico, Nepal, Niger, Philippines, Senegal, Switzerland, Trinidad and Tobago, Tunisia, United Arab Republic, Upper Volta, Venezuela and Yugoslavia. The United States already has bilateral agreements in force containing consular provisions (or the 1928 Havana Consular Agents Convention) with 10 of the 21 states concerned, and has no consulates in 8 of the remaining states. There has accordingly been no pressing need to seek prompt United States ratification of the Convention.

The question of timing of the submission of the Vienna Convention to the Senate also affects our position in bilateral consular conventions presently under negotiation. In this connection the Department has long been pursuing a positive program of negotiating bilateral consular conventions with other countries. In such negotiations each party has different objectives in mind. For example, while a foreign government does not actually need access and notification provisions in the United States due to our Constitutional and legal system, we need such protection in many countries abroad. On the other hand, there are different provisions which foreign governments give priority to obtaining in negotiations with the United States, such as property tax exemptions.

The question of real property tax exemptions is the primary reason why the Department has not yet submitted the Vienna Convention for advice and consent to ratification, pending a determination as to whether we will be able to obtain our requirements in this area through present and subsequent bilateral negotiations.

Article 32(1) of the Convention provides that consular premises and the residence of the career head of the consular post shall be exempt from all national, regional or municipal dues and taxes, other than such as represent payment for specific services rendered. Consular premises are defined in Article 1(j) to mean the building or part of buildings, and the land ancillary thereto, used exclusively for the purposes of the consular post. The United States has no quarrel with this exemption *per se*, for it represents one of the traditional subject matters usually covered in a consular convention.

The difficulty with this article becomes apparent when the amount of diplomatic and consular property held by the United States abroad is compared with similar real property owned by foreign governments in the United States. We have approximately \$300,000,000 worth of such property abroad, far more than foreign governments own in the United States. As a result, one of our more important objectives in bilateral consular convention negotiations is to obtain real property tax exemptions for *all* such Government property abroad, whether diplomatic or consular, including offices, residences, apartment buildings, and libraries. Heretofore this has been fairly easy to accomplish since the great majority of the 50 American states do not provide real property tax exemptions

for foreign consular properties in the absence of a treaty, and foreign governments will provide broad reciprocal treaty exemptions to conserve their dollar balances. Unless the United States first obtains such exemptions by bilateral agreements with countries where we have extensive properties, the Vienna Convention could have the effect of giving the foreign government concerned the totality of the exemptions it requires through Article 32. The United States on the other hand would find many of its properties, especially additional Government-owned residences, libraries, and similar buildings would not be exempted under Article 32, which in effect is limited to two buildings in each city.

This request for background information on submission of the Vienna Consular Convention was prompted by a statement of the American Legion witness that the United States should rely upon the Vienna Consular Convention access and notification provision instead of the comparable provisions in the US-USSR Consular Convention. The witness concluded that if this could be done, it would not be necessary, in effect, for the United States to exchange full immunity from the criminal jurisdiction of Soviet consular officials in the United States for access and notification rights in the Soviet Union. This position of the witness does not take into consideration three overriding facts:

First, the Soviet Union has not signed, ratified, or acceded to the Vienna Consular Convention. Therefore the Vienna Convention would not enter into force between the United States and the Soviet Union even if we promptly ratified it.

Second, Secretary Rusk has made it clear that he would not send American consular officers and employees to the Soviet Union without protecting them fully from arbitrary arrest or detention. The Vienna Consular Convention would not adequately protect our consular personnel in the Soviet Union. For example, under that Convention there could be the likelihood of arrest, trial and conviction of our consular officials as a reprisal in the event Soviet officials were tried and convicted in the United States on legitimate charges.

Third, the access and notification provisions in Article 36 of the Vienna Convention provide only notification of arrest or detention "without delay" and consular access without any indication of timing. These provisions are well below the superior protection accorded by Article 12 and the Protocol of the US-USSR Consular Convention, which provides for notification of arrest or detention within 1 to 3 days and access within 2 to 4 days, and on a continuing basis thereafter. It is our view, confirmed both by our experience under the Litvinov Agreement and recent arrests of U.S. citizens in the Soviet Union, that no less protection than this is required for American citizens travelling in the Soviet Union.

Another related feature of Article 36 of the Vienna Convention is that notification of arrest or detention is only accorded if the national concerned so requests. While this provision would be acceptable in our consular relations with some countries, it is not desirable in our relations with the Soviet Union. It can be envisaged that either there would be cases in which the national was not aware of his right to have the consul notified, or that the Soviet Union would claim that no such request was ever made.

On the basis of past experience we have found that the protection afforded by the access and notification provisions of the Vienna Convention, while adequate for the great majority of states, is neither sufficiently precise nor sufficiently automatic for protecting our citizens in the Soviet Union.

There is also enclosed, at your request, a memorandum which provides a chronology of Soviet-United States diplomatic and consular relations from 1933 to the present.

Finally, Senator Pell requested a comparison of the differences between the "Vienna Convention of 1815, the Vienna Consular Convention of 1964, and the Consular Convention with the Soviet Union."

The so-called 1815 Regulation of Vienna is actually a Protocol concluded by the plenipotentiaries of Austria, Spain, France, Great Britain, Portugal, Prussia, Russia, and Sweden, which was made a part of the Treaty of Paris of March 19, 1815. This Regulation divided into three classes the diplomatic officials of the signatory states, that of ambassadors, legates or nuncios, that of envoys accredited to Sovereigns, and that of charges d'affaire accredited to Ministers of Foreign Affairs. The one amendment to this Regulation, made at Aix-la-Chapelle on November 21, 1818, concerned the diplomatic rank of ministers-resident. Neither text concerned the classification of consular officers, their functions or duties, privileges, or immunities.

With regard to a written comparison of the differences between the other two conventions, I should like to refer the Committee to an earlier State Department memorandum which already had been inserted into a previous Committee document, a copy of which is attached for easy reference. This document, entitled "Comparative Commentary and Analysis" compared in some detail the provisions of the Vienna Consular Convention, the US-USSR Consular Convention and, in addition, the provisions of the recent bilateral Consular Convention between the United States and Japan. This memorandum is printed at page 45 of the Hearing Before the Committee on Foreign Relations, Eighty-Ninth Congress, First Session, on Executive D, 88th Congress, 2d Session, July 30, 1965. Mr. James Lowenstein of your staff indicated that this earlier memorandum would be suitable for reply to the inquiry of Senator Pell.

If I can be of further assistance, please do not hesitate to let me know.

Sincerely yours,

DOUGLAS MACARTHUR II,
Assistant Secretary for Congressional Relations.

Enclosures:

Chronology of U.S.-U.S.S.R. Relations from 1933.
Document—"Comparative Commentary and Analysis".
Vienna Convention on Consular Relations.

Chronology, U.S.-U.S.S.R. Consular and Diplomatic Relations, 1933-67

1933

November 16: Diplomatic relations established between U.S. and U.S.S.R. following exchange of letters between President Roosevelt and Soviet People's Commissar for Foreign Affairs Litvinov (Litvinov Agreement).

In one of these exchanges Roosevelt and Litvinov agreed to immediate negotiation of a bilateral consular convention granting U.S. nationals rights to legal protection not less favorable than those granted to the most favored nation. Furthermore, Litvinov undertook to extend these rights to Americans immediately upon the establishment of diplomatic relations.

November 20: Roosevelt and Litvinov discuss consular convention. Litvinov given copies of several conventions to which U.S. was a party. No further discussion of consular convention took place, as other problems intervened.

1934

April: Soviet Government opens consulates in New York and San Francisco.
May: U.S. Government obtains Soviet agreement "in principle" to opening of consulate in Leningrad but negotiations break down over question of office space and housing.

1937

May 7: Soviet Government permitted to open "vice consulate" in Los Angeles which functioned intermittently thereafter.

1941

January 10: U.S. Consulate General opened in Vladivostok.

1947

May 15: Permission granted to open U.S. consulate in Leningrad.

1948

August 19: Soviet Consul General in New York expelled due to improper activity in Kasenkina case.

August 24: Soviet Government announces intent to close consulates in New York and San Francisco and requests closing of U.S. Consulate in Vladivostok. According to Soviet note, agreement on consulate in Leningrad lost validity. (Soviet consular office in Los Angeles not functioning at time.)

1959

July 1: During Soviet Deputy Premier Kozlov's visit to U.S., Vice President Nixon proposes that U.S. and U.S.S.R. exchange consulates in New York and Leningrad.

September 26: At Camp David Secretary Herter proposed that consulates be exchanged in New York and Leningrad and that a consular convention be negotiated. Mr. Herter said that the U.S. was prepared to enter negotiations quite promptly.

1960

January 4: In response to Herter-Gromyko discussion, Soviet Foreign Ministry presents U.S. Embassy with draft consular treaty for consideration.

April 23: U.S. draft convention handed over to Soviets. Rising tensions and breakdown of Paris summit meeting result in breakoff of preparations for negotiations.

1961

February 28: We informed the Soviet Foreign Ministry that we were ready to open negotiations at the earliest mutually acceptable date.

May 17: The Soviet Foreign Ministry presented extensive comments on our draft convention.

1963

August: Secretary Rusk, in Moscow for the signing of the Test Ban Treaty, raised the question of consular convention negotiations with Gromyko and received a favorable response.

September 26: Negotiation of the Consular Convention began in Moscow.

1964

February 11: Governor Harriman discussed the convention negotiations with certain members of the Senate Foreign Relations Committee.

May 27: The President announced that agreement had been reached on the convention.

June 1: The convention was signed in Moscow by Ambassador Kohler and Gromyko.

June 12: The convention was sent to Senate for advice and consent to ratification.

1965

July 30: Senate Foreign Relations Committee holds public hearings on convention with Secretary Rusk and Mr. Meeker testifying.

August 3: The Senate Foreign Relations Committee reported the convention favorably to the Senate.

1966

October 7: In speech at Idaho Falls, President Johnson urges approval of convention.

1967

January 11: President Johnson calls for ratification of convention in his State of the Union Message.

January 23: Senate Foreign Relations Committee holds public hearing on convention with Secretary Rusk and Under Secretary Katzenbach testifying.

February 2: President Johnson strongly urges approval of convention.

February 3: Senate Foreign Relations Committee holds public hearing on convention with Research Director of American Legion testifying.

February 4: General Eisenhower issues statement supporting convention.

COMPARATIVE COMMENTARY AND ANALYSIS

The Consular Convention with the Soviet Union was signed on June 1, 1964. With few exceptions, hereafter considered, the Convention is similar in substance to other consular conventions previously concluded by the United States with a number of countries. The following commentary and analysis will discuss the principal articles of this Consular Convention, and will indicate whether it differs in substance from the Consular Convention between the United States and Japan, which entered into force on August 1, 1964, and the Vienna Convention on Consular Relations, signed by the United States on April 24, 1963.

A consular convention is a treaty in which the Contracting Parties regulate the activities and functions of consular establishments and their officers and employees. Such conventions provide, in addition, certain privileges and immunities for the consular establishments and their personnel. Privileges and immunities are provided in order to enable the consular officers of each Contracting Party to carry out their consular functions, *inter alia*, to assist and protect their nationals in the territory of the other party, in the manner authorized by the Convention.

The impact of this Convention on state law in the United States is limited to a few matters, such as tax exemptions, in which consular conventions have traditionally affected state law. The Convention would not empower the Federal Government to pass laws in any matters affecting state or local activities which heretofore it did not already possess. The Convention also does not confer any power on consular officers with respect to the practice of law other than in accordance with the requirements of the applicable state law.

Article 1 is a definition of terminology appearing throughout the remaining 30 Articles of the Convention. Comparable articles, with a similar purpose, are found in the Consular Convention with Japan, and in the Vienna Convention on Consular Relations.

Articles 2 through 6 regulate such matters as the opening of consular establishments, the appointment and recognition of consular officers and employees, the nationality of consular officers, and the status of a temporary head of a consular establishment. The Vienna Convention on Consular Relations considers these matters in far greater depth, utilizing Articles 2 through 4 and 6 through 24 to cover the establishment and conduct of consular relations.

Article 2(1), providing that a consular establishment may be opened in the territory of the receiving state only with that state's consent, is of special interest. This provision highlights the actuality that the reciprocal opening of consulates by the United States and the Soviet Union does not automatically follow from the conclusion of this Convention. The entry into force of this Convention will simply provide that such consulates, when and if opened, will perform their respective functions pursuant to an agreed set of rules. Article 4 of the Vienna Convention on Consular Relations and Article 3 of the Consular Convention with Japan contain similar provisions.

Article 2(8) is designed to ensure that no person in the receiving state not already entitled to diplomatic immunity can be appointed as a consular officer or employee and granted full immunity from the criminal jurisdiction pursuant to Article 19(2). No comparable provision is found in the Vienna Convention on Consular Relations or the Consular Convention with Japan, since these conventions do not provide a similar immunity from the local jurisdiction for consular officers.

Article 3, which is a limitation on the nationality of consular officers, must be considered in relation to other provisions of the convention which limit the privileges and immunities to be accorded to consular officers and employees who are either nationals of or permanently resident in the receiving state. Such limitations are found in Articles 19(2), 20(2), 22, 23, 24, 25 and 26. Provisions which have the very same purpose are found in Article 71 of the Vienna Convention on Consular Relations and Article 25 of the Consular Convention with Japan.

Article 5 concerning the acquisition of consular premises is identical to Article 30 of the Vienna Convention on Consular Relations. A more comprehensive related provision may be found in Article 7 of the Consular Convention with Japan.

Articles 7 through 15 set forth the usual consular functions and the obligations and duties of the receiving state with respect thereto. These functions, many of which are included in Article 7, include protecting the rights and interests of the sending state and its nationals, furthering the development of commercial, economic, cultural and scientific relations, the authentication of legal documents, and certifying as to translations. A similar listing of consular functions is found in Section 5 of the Vienna Convention on Consular Relations, while these functions are covered in greater detail in Articles 15 and 17 of the Consular Convention with Japan.

In Article 9 the receiving state undertakes the obligation, if relevant information is available, to inform the consular establishment of the death of a national of the sending state. A similar provision is found in Article 37 of the Vienna Convention on Consular Relations.

In Article 10 the powers of consular officers are outlined with respect to the estates of their deceased nationals, and the transfer of their property. This Article is virtually identical with the estates article contained in the Consular Convention with Japan, with the exception of Paragraph (4) thereof. This Paragraph (4) subjects the consular officer only to the civil jurisdiction of the receiving state, thus conforming with Article 19(2) of the Convention. Article 5(9) of the Vienna Convention on Consular Relations merely indicates a consular officer may safeguard the interests of his nationals in cases of succession, in accordance with the laws and regulations of the receiving state.

Article 12 is one of the most important articles of the Convention. This Article, as supplemented by the Protocol (which is an integral part of the Convention), provides that a consular officer has the right to communicate with, assist, and advise any national of the sending state. The access of such nationals to their consular establishment can in no way be restricted by the receiving state. This Article also provides that the receiving state shall *immediately* inform a consular officer of the sending state about the arrest or detention of a national of the sending state; "immediately" is defined in the Protocol as from one to three days. The Article further provides that a consular officer of the sending state shall *without delay* have the right to visit and communicate with a national of the sending state who is under arrest or otherwise detained or imprisoned; "without delay" is defined as being from two to four days. The Protocol also interprets Article 12 as providing a continuing right of consular access to the national.

Article 36(b) of the Vienna Convention on Consular Relations requires the receiving state to inform the consular post without delay if a national of the sending state is arrested or committed to prison pending trial, or is detained in any other manner, if the national so requests. Article 36(c) of the Vienna Convention on Consular Relations provides consular officers the right to visit their nationals in custody unless the national opposes such a visit. Article 16 of the Japanese Consular Convention likewise requires the receiving state to inform a consular officer of the sending state if one of his nationals is confined awaiting trial or is otherwise detained, if the national so requests. This obligation is to be carried out immediately. The consular officer is given the right to visit his national, without delay.

Articles 13 and 15 cover the customary activities of consular officers in regard to shipping and aviation matters. The Vienna Convention on Consular Relations considers shipping and aviation in an abbreviated fashion, while Articles 19 through 24 of the Japanese Consular Convention regulate these matters in far greater detail.

Articles 16 through 29 set forth the rights, privileges, and immunities pertaining to the consular establishment and to the officers and employees thereof. For example, Article 16 provides that the national flag and shield with the national coat of arms may be displayed. A similar provision is in Article 8 of the Consular Convention with Japan, and in Article 29 of the Vienna Convention on Consular Relations. Article 17 states that the consular establishment and the archives thereof are inviolable *vis-a-vis* receiving state authorities, who may not enter without appropriate approval. Similar inviolability is accorded to the consular archives by Article 33 of the Vienna Convention on Consular Relations and Article 8(3)(b) of the Consular Convention with Japan. Both Article 31(b) of the Vienna Convention on Consular Relations and Article 8(4) of the Consular Convention with Japan provide that, in case of such matters as fire or other disaster requiring prompt protective action, authorities of the receiving state may enter the consular premises. Precedent for the absolute inviolability provision of the Consular Convention with the Soviet Union is found in the 1928 Havana Consular Agents Convention, now in force between the United States and twelve Latin American countries.

Article 18 establishes the right of the consular establishment to have full communication with the Government of the sending state. Article 35 of the Vienna Convention on Consular Relations provides, as does Article 18 of the Soviet Convention, that diplomatic couriers and pouches may be used by consular establishments. While Article 35 of the Vienna Convention on Consular Relations and Article 10 of the Consular Convention with Japan go on at some length in describing the privileges and immunities associated with the consular courier and consular pouch, it is the intent of Article 18 of the Soviet Convention that the rules of customary international law and practice concerning the diplomatic pouch and diplomatic couriers will govern this phase of full consular communication.

Article 19 concerns consular immunities. Article 19(1) is a standard provision in United States consular conventions and provides that consular officers and employees are not subject to the civil jurisdiction of the receiving state in matters relating to their official activities. Whether or not a matter is considered to relate to the official activities of such personnel is a decision for the courts of the receiving state. Article 43(1) of the Vienna Convention on Consular Relations and Article 11(1)(a) of the Consular Convention with Japan provide a similar rule.

Article 19(2) provides full immunity from the criminal jurisdiction of the sending state for consular personnel who are nationals of the sending state. This provision will afford maximum protection to American consular personnel in the Soviet Union against arbitrary police action. On the other hand, three related provisions of the Convention will protect against any abuse of such immunity from criminal jurisdiction. Article 2(7) recognizes, first of all, the right of the receiving state to declare consular personnel *persona non grata*. In this connection, since Article 2(6) requires that all consular officers and employees must be notified to us "in advance," we would be able to screen such persons, and, by means of a *persona non grata action*, eliminate any whom we did not wish to act in a consular capacity clothed with full immunity from criminal jurisdiction. In this respect, Article 28 is also important in that it states a duty for all persons enjoying such immunity to respect the laws and regulations of the receiving state, including traffic regulations.

Second, Article 2(3) specifically provides that the receiving state must give prior approval to the head of the consular post before he assumes his duties. Finally, Article 2(8) provides that the sending state may not appoint as a consular officer or employee a national of the sending state already present in the receiving state unless such official already possesses diplomatic immunity.

The Convention's provisions on immunity from criminal jurisdiction have a potential application, by virtue of Most-Favored-Nation clauses in other treaties, to consular personnel of some 35 other countries. Such Most-Favored-Nation treatment will be operative only if these countries so request *and* agree to provide reciprocal treatment to United States consular personnel in those countries.

The Department has inquired concerning known criminal prosecutions against foreign consular officers in the last 25 years. There has been only one conviction in the 15 cases we have found. At least 10 of the cases (including 6 involving traffic violations) were dismissed because state courts lacked jurisdiction over consular officials by reason of a federal statute—28 U.S.C. 1351. On the basis of this experience, the Department of State concludes that the problem of criminal jurisdiction with respect to consuls is one of readily manageable proportions.

The related provision of the Japanese Consular Convention is Article 11 (1) (b) which provides that a consular officer shall be exempt from arrest or prosecution in the receiving state except when charged with the commission of a crime which, upon conviction, might subject the individual guilty thereof to imprisonment for one year or more. A similar rule is found in Article 41 (1) of the Vienna Convention on Consular Relations which provides that a consular officer shall not be liable to arrest or detention pending trial except in the case of a grave crime.

Article 20 discusses the manner in which consular officers or employees give testimony as witnesses. Testimony is required on all matters except those concerning the official activities of such persons; only the locus of the testimony is made adjustable by the Convention. A similar provision is found in Article 11 (5) of the Consular Convention with Japan.

Articles 21 through 23 provide tax exemptions for lands and buildings of the sending state in the receiving state, as well as certain tax exemptions for consular officers or employees. Articles 12 and 13 of the Consular Convention with Japan, and Articles 32, 49 and 51 of the Vienna Convention on Consular Relations provide for similar tax exemptions.

Articles 24 and 25 provide for consular personnel exemptions from compulsory military service and alien registration. Comparable provisions may be found in Articles 46, 47, and 52 of the Vienna Convention on Consular Relations, and in Article 9 of the Consular Convention with Japan.

Article 26 provides customs privileges for the consular establishment and to consular officers and employees, on the same basis as is granted by the receiving state to the diplomatic mission of the sending state and the personnel thereof. Articles 14 of the Japanese Consular Convention and 50 of the Vienna Convention on Consular Relations provide equivalent privileges with respect to articles imported for the official use of the consular establishment, and for consular officers, while limiting the duty free import privilege of consular employees to articles imported by them at the time of their first installation.

Article 27 authorizes freedom of travel for consular officers, subject to the laws and regulations of the receiving state. Consequently it does not obviate the necessity of compliance with regulations providing for closed or restricted zones and modes of travel. An identical provision is found at Article 34 of the Vienna Convention on Consular Relations.

Article 28 sets forth a duty for consular officers and employees enjoying privileges and immunities to respect the laws and regulations of the receiving state. A similar obligation is contained in Articles 55 (1) of the Vienna Convention on Consular Relations and 26 (3) of the Consular Convention with Japan.

Article 29 relates to the performance of consular functions by diplomatic officers. Like provisions are contained in Article 6 (3) of the Consular Convention with Japan and in Article 70 of the Vienna Convention on Consular Relations.

Article 30 contains the final provisions relating to entry into force of the Convention. Article 27 of the Consular Convention with Japan is similar, while Articles 74 through 79 of the Vienna Convention on Consular Relations contain more extensive and detailed provisions, due to the multilateral nature of the Convention.

UNITED NATIONS GENERAL ASSEMBLY

UNITED NATIONS CONFERENCE ON CONSULAR RELATIONS

23 APRIL 1963

VIENNA CONVENTION ON CONSULAR RELATIONS OF 1963

The States Parties to the present Convention,
Recalling that consular relations have been established between peoples since ancient times,

Having in mind the Purposes and Principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,

Considering that the United Nations Conference on Diplomatic Intercourse and Immunities adopted the Vienna Convention on Diplomatic Relations which was opened for signature on 18 April 1961,

Believing that an international convention on consular relations, privileges and immunities would also contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

Realizing that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of functions by consular posts on behalf of their respective States,

Affirming that the rules of customary international law continue to govern matters not expressly regulated by the provisions of the present Convention,

Have agreed as follows:

Article 1

Definitions

1. For the purposes of the present Convention, the following expressions shall have the meanings hereunder assigned to them:

(a) "consular post" means any consulate-general, consulate, vice-consulate or consular agency;

(b) "consular district" means the area assigned to a consular post for the exercise of consular functions;

(c) "head of consular post" means the person charged with the duty of acting in that capacity;

(d) "consular officer" means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions;

(e) "consular employee" means any person employed in the administrative or technical service of a consular post;

(f) "member of the service staff" means any person employed in the domestic service of a consular post;

(g) "members of the consular post" means consular officers, consular employees and members of the service staff;

(h) "members of the consular staff" means consular officers, other than the head of a consular post, consular employee and members of the service staff;

(i) "member of the private staff" means a person who is employed exclusively in the private service of a member of the consular post;

(j) "consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of the consular post;

(k) "consular archives" includes all the papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers and codes, the card-indexes and any article of furniture intended for their protection or safekeeping.

2. Consular officers are of two categories, namely career consular officers and honorary consular officers. The provisions of Chapter II of the present Convention apply to consular posts headed by career consular officers; the provisions of Chapter III govern consular posts headed by honorary consular officers.

3. The particular status of members of the consular posts who are nationals or permanent residents of the receiving State is governed by Article 71 of the present Convention.

CHAPTER I. CONSULAR RELATIONS IN GENERAL

SECTION I. ESTABLISHMENT AND CONDUCT OF CONSULAR RELATIONS

Article 2

Establishment of consular relations

1. The establishment of consular relations between States takes place by mutual consent.

2. The consent given to the establishment of diplomatic relations between two States implies, unless otherwise stated, consent to the establishment of consular relations.

3. The severance of diplomatic relations shall not *ipso facto* involve the severance of consular relations.

Article 3

Exercise of consular functions

Consular functions are exercised by consular posts. They are also exercised by diplomatic missions in accordance with the provisions of the present Convention.

Article 4

Establishment of a consular post

1. A consular post may be established in the territory of the receiving State only with that State's consent.

2. The seat of the consular post, its classification and the consular district shall be established by the sending State and shall be subject to the approval of the receiving State.

3. Subsequent changes in the seat of the consular post, its classification or the consular district may be made by the sending State only with the consent of the receiving State.

4. The consent of the receiving State shall also be required if a consulate-general or a consulate desires to open a vice-consulate or a consular agency in a locality other than that in which it is itself established.

5. The prior express consent of the receiving State shall also be required for the opening of an office forming part of an existing consular post elsewhere than at the seat thereof.

Article 5

Consular functions

Consular functions consist in:

(a) protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;

(b) furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the present Convention;

(c) ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested;

(d) issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to the sending State;

(e) helping and assisting nationals, both individuals and bodies corporate, of the sending State;

(f) acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State;

(g) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession *mortis cause* in the territory of the receiving State, in accordance with the laws and regulations of the receiving State;

(h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons;

(i) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests;

(j) transmitting judicial and extra-judicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State;

(k) exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews;

(l) extending assistance to vessels and aircraft mentioned in sub-paragraph (k) of this Article, and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the laws and regulations of the sending State;

(m) performing any other functions entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

Article 6

Exercise of consular functions outside the consular district

A consular officer may, in special circumstances, with the consent of the receiving State, exercise his functions outside his consular district.

Article 7

Exercise of consular functions in a third State

The sending State may, after notifying the States concerned, entrust a consular post established in a particular State with the exercise of consular functions in another State, unless there is express objection by one of the States concerned.

Article 8

Exercise of consular functions on behalf of a third State

Upon appropriate notification to the receiving State, a consular post of the sending State may, unless the receiving State objects, exercise consular functions in the receiving State on behalf of a third State.

Article 9

Classes of heads of consular posts

1. Heads of consular posts are divided into four classes, namely:
 - (a) consuls-general;
 - (b) consuls;
 - (c) vice-consuls;
 - (d) consular agents.
2. Paragraph 1 of this Article in no way restricts the right of any of the Contracting Parties to fix the designation of consular officers other than the heads of consular posts.

Article 10

Appointment and admission of heads of consular posts

1. Heads of consular posts are appointed by the sending State and are admitted to the exercise of their functions by the receiving State.
2. Subject to the provisions of the present Convention, the formalities for the appointment and for the admission of the head of a consular post are determined by the laws, regulations and usages of the sending State and of the receiving State respectively.

Article 11

The consular commission or notification of appointment

1. The head of a consular post shall be provided by the sending State with a document, in the form of a commission or similar instrument, made out for each appointment, certifying his capacity and showing, as a general rule, his full name, his category and class, the consular district and the seat of the consular post.
2. The sending State shall transmit the commission or similar instrument through the diplomatic or other appropriate channel to the Government of the State in whose territory the head of a consular post is to exercise his functions.
3. If the receiving State agrees, the sending State may, instead of a commission or similar instrument, send to the receiving State a notification containing the particulars required by paragraph 1 of this Article.

Article 12

The cœquatur

1. The head of a consular post is admitted to the exercise of his functions by an authorization from the receiving State termed an *cœquatur*, whatever the form of this authorization.
2. A State which refuses to grant an *cœquatur* is not obliged to give to the sending State reasons for such refusal.
3. Subject to the provisions of Articles 13 and 15, the head of a consular post shall not enter upon his duties until he has received an *cœquatur*.

Article 13

Provisional admission of heads of consular posts

Pending delivery of the *cœquatur*, the head of a consular post may be admitted on a provisional basis to the exercise of his function. In that case, the provisions of the present Convention shall apply.

Article 14

Notification to the authorities of the consular district

As soon as the head of a consular post is admitted even provisionally to the exercise of his functions, the receiving State shall immediately notify the competent authorities of the consular district. It shall also ensure that the necessary measures are taken to enable the head of a consular post to carry out the duties of his office and to have the benefit of the provisions of the present Convention.

Article 15

Temporary exercise of the functions of the head of a consular post

1. If the head of a consular post is unable to carry out his functions or the position of head of consular post is vacant, an acting head of post may act provisionally as head of the consular post.

2. The full name of the acting head of post shall be notified either by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, or, if he is unable to do so, by any competent authority of the sending State, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry. As a general rule, this notification shall be given in advance. The receiving State may make the admission as acting head of post of a person who is neither a diplomatic agent nor a consular officer of the sending State in the receiving State conditional on its consent.

3. The competent authorities of the receiving State shall afford assistance and protection to the acting head of post. While he is in charge of the post, the provisions of the present Convention shall apply to him on the same basis as to the head of the consular post concerned. The receiving State shall not, however, be obliged to grant to an acting head of post any facility, privilege or immunity which the head of the consular post enjoys only subject to conditions not fulfilled by the acting head of post.

4. When, in the circumstances referred to in paragraph 1 of this Article, a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving State is designated by the sending State as an acting head of post, he shall, if the receiving State does not object thereto, continue to enjoy diplomatic privileges and immunities.

Article 16

Precedence as between heads of consular posts

1. Heads of consular posts shall rank in each class according to the date of the grant of the *exequatur*.

2. If, however, the head of a consular post before obtaining the *exequatur* is admitted to the exercise of his functions provisionally, his precedence shall be determined according to the date of the provisional admission; this precedence shall be maintained after the granting of the *exequatur*.

3. The order of precedence as between two or more heads of consular posts who obtained the *exequatur* or provisional admission on the same date shall be determined according to the dates on which their commissions or similar instruments or the notifications referred to in paragraph 3 of Article 11 were presented to the receiving State.

4. Acting heads of posts shall rank after all heads of consular posts and, as between themselves, they shall rank according to the dates on which they assumed their functions as acting heads of posts as indicated in the notifications given under paragraph 2 of Article 15.

5. Honorary consular officers who are heads of consular posts shall rank in each class after career heads of consular posts, in the order and according to the rules laid down in the foregoing paragraphs.

6. Heads of consular posts shall have precedence over consular officers not having that status.

Article 17

Performance of diplomatic acts by consular officers

1. In a State where the sending State has no diplomatic mission and is not represented by a diplomatic mission of a third State, a consular officer may, with the consent of the receiving State, and without affecting his consular status, be authorized to perform diplomatic acts. The performance of such acts by a consular officer shall not confer upon him any right to claim diplomatic privileges and immunities.

2. A consular officer may, after notification addressed to the receiving State, act as representative of the sending State to any inter-governmental organization. When so acting, he shall be entitled to enjoy any privileges and immunities accorded to such a representative by customary international law or by international agreements, however, in respect of the performance by him of any consular function, he shall not be entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the present Convention.

Article 18

Appointment of the same person by two or more States as a consular officer

Two or more States may, with the consent of the receiving States, appoint the same person as a consular officer in that State.

Article 19

Appointment of members of consular staff

1. Subject to the provisions of Articles 20, 22 and 23, the sending State may freely appoint the members of the consular staff.

2. The full name, category and class of all consular officers, other than the head of a consular post, shall be notified by the sending State to the receiving State in sufficient time for the receiving State, if it so wishes, to exercise its rights under paragraph 3 of Article 23.

3. The sending State may, if required by its laws and regulations, request the receiving State to grant an *exequatur* to a consular officer other than the head of a consular post.

4. The receiving State may, if required by its laws and regulations, grant an *exequatur* to a consular officer other than the head of a consular post.

Article 20

Size of the consular staff

In the absence of an express agreement as to the size of the consular staff, the receiving State may require that the size of the staff be kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the consular district and to the needs of the particular consular post.

Article 21

Precedence as between consular officers of a consular post

The order of precedence as between the consular officers of a consular post and any change thereof shall be notified by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.

Article 22

Nationality of consular officers

1. Consular officers should, in principle, have the nationality of the sending State.

2. Consular officers may not be appointed from among persons having the nationality of the receiving State except with the express consent of that State which may be withdrawn at any time.

3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

Article 23

Persons declared non grata

1. The receiving State may at any time notify the sending State that a consular officer is *persona non grata* or that any other member of the consular staff is not acceptable. In that event, the sending State shall, as the case may be either recall the person concerned or terminate his functions with the consular post.

2. If the sending State refuses or fails within a reasonable time to carry out its obligations under paragraph 1 of this Article, the receiving State may, as the case may be, either withdraw the *exequatur* from the person concerned or cease to consider him as a member of the consular staff.

3. A person appointed as a member of a consular post may be declared unacceptable before arriving in the territory of the receiving States or, if already in the receiving State, before entering on his duties with the consular post. In any such case, the sending State shall withdraw his appointment.

4. In the cases mentioned in paragraphs 1 and 3 of this Article, the receiving State is not obliged to give to the sending State reasons for its decision.

Article 24

Notification to the receiving State of appointments, arrivals and departures

1. The Ministry for Foreign Affairs of the receiving State or the authority designated by that Ministry shall be notified of:

(a) the appointment of members of a consular post, their arrival after appointment to the consular post, their final departure or the termination of their functions and any other changes affecting their status that may occur in the course of their service with the consular post;

(b) the arrival and final departure of a person belonging to the family of a member of a consular post forming part of his household and, where appropriate, the fact that a person becomes or ceases to be such a member of the family.

(c) the arrival and final departure of members of the private staff and, where appropriate, the termination of their service as such;

(d) the engagement and discharge of persons resident in the receiving State as members of a consular post or as members of the private staff entitled to privileges and immunities.

2. When possible, prior notification of arrival and final departure shall also be given.

SECTION II. END OF CONSULAR FUNCTIONS

Article 25

Termination of the functions of a member of a consular post

The functions of a member of a consular post shall come to an end *inter alia*:

(a) on notification by the sending State to the receiving State that his functions have come to an end,

(b) on withdrawal of the *exequatur*;

(c) on notification by the receiving State to the sending State that the receiving State has ceased to consider him as a member of the consular staff.

Article 26

Departure from the territory of the receiving State

The receiving State shall, even in case of armed conflict, grant to members of the consular post and members of the private staff, other than nationals of the receiving State, and to members of their families forming part of their households irrespective of nationality, the necessary time and facilities to enable them to prepare their departure and to leave at the earliest possible moment after the termination of the functions of the members concerned. In particular, it

shall, in case of need, place at their disposal the necessary means of transport for themselves and their property other than property acquired in the receiving State the export of which is prohibited at the time of departure.

Article 27

Protection of consular premises and archives and of the interests of the sending State in exceptional circumstances

1. In the event of the severance of consular relations between two States:
 - (a) the receiving State shall, even in case of armed conflict, respect and protect the consular premises, together with the property of the consular post and the consular archives;
 - (b) the sending State may entrust the custody of the consular premises, together with the property contained therein and the consular archives, to a third State acceptable to the receiving State;
 - (c) the sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.
2. In the event of the temporary or permanent closure of a consular post, the provisions of sub-paragraph (a) of paragraph 1 of this Article shall apply. In addition,
 - (a) If the sending State, although not represented in the receiving State by a diplomatic mission, has another consular post in the territory of that State, that consular post may be entrusted with the custody of the premises of the consular post which has been closed, together with the property contained therein and the consular archives, and, with the consent of the receiving State, with the exercise of consular-functions in the district of that consular post; or
 - (b) if the sending State has no diplomatic mission and no other consular post in the receiving State, the provisions of sub-paragraphs (b) and (c) of paragraph 1 of this Article shall apply.

CHAPTER II. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CONSULAR POSTS, CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

SECTION I. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO A CONSULAR POST

Article 28

Facilities for the work of the consular post

The receiving State shall accord full facilities for the performance of the functions of the consular post.

Article 29

Use of national flag and coat-of-arms

1. The sending State shall have the right to the use of its national flag and coat-of-arms in the receiving State in accordance with the provisions of this Article.
2. The national flag of the sending State may be flown and its coat-of-arms displayed on the building occupied by the consular post and at the entrance door thereof, on the residence of the head of the consular post and on his means of transport when used on official business.
3. In the exercise of the right accorded by this Article, regard shall be had to the laws, regulations and usages of the receiving State.

Article 30

Accommodation

1. The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws and regulations, by the sending State of premises necessary for its consular post or assist the latter in obtaining accommodation in some other way.
2. It shall also, where necessary, assist the consular post in obtaining suitable accommodation for its members.

Article 31

Inviolability of the consular premises

1. Consular premises shall be inviolable to the extent provided in this Article.
2. The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consular post except with the consent of the head of the consular post or of his designee or of the head of the diplomatic mission of the sending State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action.
3. Subject to the provisions of paragraph 2 of this Article, the receiving State is under a special duty to take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.
4. The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any form of requisition for purposes of national defense or public utility. If expropriation is necessary for such purposes, all possible steps shall be taken to avoid impeding the performance of consular functions, and prompt, adequate and effective compensation shall be paid to the sending State.

Article 32

Exemption from taxation of consular premises

1. Consular premises and the residence of the career head of consular post of which the sending State or any person acting on its behalf is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.
2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.

Article 33

Inviolability of the consular archives and documents

The consular archives and documents shall be inviolable at all times and whatever they may be.

Article 34

Freedom of movement

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure freedom of movement and travel in its territory to all members of the consular post.

Article 35

Freedom of communication

1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purpose. In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.
2. The official correspondence of the consular post shall be inviolable. Official correspondence means all correspondence relating to the consular post and its functions.
3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4 of this Article, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this

request is refused by the authorities of the sending State, the bag shall be returned to its place of origin.

4. The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.

5. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. Except with the consent of the receiving State he shall be neither a national of the receiving State, nor, unless he is a national of the sending State, a permanent resident of the receiving State. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State, its diplomatic missions and its consular posts may designate consular couriers *ad hoc*. In such cases the provisions of paragraph 5 of this Article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.

7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consular post may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

Article 36

Communication and contact with nationals of the sending State

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

(a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending States;

(b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this sub-paragraph;

(c) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

2. The rights referred to in paragraph 1 of this Article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this Article are intended.

Article 37

Information in cases of deaths, guardianship or trusteeship, wrecks and air accidents

If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

(a) in the case of the death of a national of the sending State, to inform without delay the consular post in whose district the death occurred;

(b) to inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the in-

terests of a minor or other person lacking full capacity who is a national of the sending State. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments;

(c) if a vessel, having the nationality of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State, or if an aircraft registered in the sending State suffers an accident on the territory of the receiving State, to inform without delay the consular post nearest to the scene of the occurrence.

Article 38

Communication with the authorities of the receiving State

In the exercise of their functions, consular officers may address:

- (a) the competent local authorities of their consular district
- (b) the competent central authorities of the receiving State if and to the extent that this is allowed by the laws, regulations and usages of the receiving State or by the relevant international agreements.

Article 39

Consular fees and charges

1. The consular post may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.

2. The sums collected in the form of the fees and charges referred to in paragraph 1 of this Article, and the receipts for such fees and charges, shall be exempt from all dues and taxes in the receiving State.

SECTION II. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CAREER
CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

Article 40

Protection of consular officers

The receiving State shall treat consular officers with due respect and shall take all appropriate steps to prevent any attack on their person, freedom or dignity.

Article 41

Personal inviolability of consular officers

1. Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority.

2. Except in the case specified in paragraph 1 of this Article, consular officers shall not be committed to prison or liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.

3. If criminal proceedings are instituted against a consular officer, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position and, except in the case specified in paragraph 1 of this Article, in a manner which will hamper the exercise of consular functions as little as possible. When, in the circumstances mentioned in paragraph 1 of this Article, it has become necessary to detain a consular officer, the proceedings against him shall be instituted with the minimum of delay.

Article 42

Notification of arrest, detention or prosecution

In the event of the arrest or detention, pending trial, of a member of the consular staff, or of criminal proceedings being instituted against him, the receiving State shall promptly notify the head of the consular post. Should the latter be himself the object of any such measure, the receiving State shall notify the sending State through the diplomatic channel.

Article 43

Immunity from jurisdiction

1. Consular officers and consular employees shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions.
2. The provisions of paragraph 1 of this Article shall not, however, apply in respect of a civil action either:
 - (a) arising out of a contract concluded by a consular officer or a consular employee in which he did not contract expressly or impliedly as an agent of the sending State; or
 - (b) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

Article 44

Liability to give evidence

1. Members of a consular post may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee or a member of the service staff shall not, except in the cases mentioned in paragraph 3 of this Article, decline to give evidence. If a consular officer should decline to do so, no coercive measure or penalty may be applied to him.
2. The authority requiring the evidence of a consular officer shall avoid interference with the performance of his functions. It may, when possible, take such evidence at his residence or at the consular post or accept a statement from him in writing.
3. Members of a consular post are under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce official correspondence and documents relating thereto. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

Article 45

Waiver of privileges and immunities

1. The sending State may waive, with regard to a member of the consular post, any of the privileges and immunities provided for in Articles 41, 43 and 44.
2. The waiver shall in all cases be express, except as provided in paragraph 3 of this Article, and shall be communicated to the receiving State in writing.
3. The initiation of proceedings by a consular officer or a consular employee in a matter where he might enjoy immunity from jurisdiction under Article 43 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.
4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision; in respect of such measures, a separate waiver shall be necessary.

Article 46

Exemption from registration of aliens and residence permits

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.
2. The provisions of paragraph 1 of this Article shall not, however, apply to any consular employee who is not a permanent employee of the sending State or who carries on any private gainful occupation in the receiving State or to any member of the family of any such employee.

Article 47

Exemption from work permits

1. Members of the consular post shall, with respect to services rendered for the sending State, be exempt from any obligations in regard to work permits imposed

by the laws and regulations of the receiving State concerning the employment of foreign labour.

2. Members of the private staff of consular officers and of consular employees shall, if they do not carry on any other gainful occupation in the receiving State, be exempt from the obligations referred to in paragraph 1 of this Article.

Article 48

Social security exemption

1. Subject to the provisions of paragraph 3 of this Article, members of the consular post with respect to services rendered by them for the sending State, and members of their families forming part of their households, shall be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall apply also to members of the private staff who are in the sole employ of members of the consular post, on condition:

(a) that they are not nationals of or permanently resident in the receiving State, and

(b) that they are covered by the social security provisions which are in force in the sending State or a third State.

3. Members of the consular post who employ persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

Article 49

Exemption from taxation

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

(a) indirect taxes of a kind which are normally incorporated in the price of goods or services;

(b) dues or taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of Article 32;

(c) estate, succession or inheritance duties, and duties on transfers, levied by the receiving State, subject to the provisions of paragraph (b) of Article 51;

(d) dues and taxes on private income, including capital gains, having its source in the receiving State and capital taxes relating to investments made in commercial or financial undertakings in the receiving State;

(e) charges levied for specific services rendered;

(f) registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of Article 32.

2. Members of the service staff shall be exempt from dues and taxes on the wages which they receive for their services.

3. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the laws and regulations of that State impose upon employers concerning the levying of income tax.

Article 50

Exemption from customs duties and inspection

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

(a) articles for the official use of the consular post;

(b) articles for the personal use of a consular officer or members of his family forming part of his household, including articles intended for his establishment. The articles intended for consumption shall not exceed the quantities necessary for direct utilization by the persons concerned.

2. Consular employees shall enjoy the privileges and exemptions specified in paragraph 1 of this Article in respect of articles imported at the time of first installation.

3. Personal baggage accompanying consular officers and members of their families forming part of their households shall be exempt from inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in sub-paragraph (b) of paragraph 1 of this Article, or articles the import or export of which is prohibited by the laws and regulations of the receiving State or which are subject to its quarantine laws and regulations. Such inspection shall be carried out in the presence of the consular officer or member of his family concerned.

Article 51

Estate of a member of the consular post or of a member of his family

In the event of the death of a member of the consular post or of a member of his family forming part of his household, the receiving State:

(a) shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the receiving State the export of which was prohibited at the time of his death;

(b) shall not levy national, regional or municipal estate, succession or inheritance duties, and duties on transfers, on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consular post or as a member of the family of a member of the consular post.

Article 52

Exemption from personal services and contributions

The receiving State shall exempt members of the consular post and members of their families forming part of their households from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 53

Beginning and end of consular privileges and immunities

1. Every member of the consular post shall enjoy the privileges and immunities provided in the present Convention from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when he enters on his duties with the consular post.

2. Members of the family of a member of the consular post forming part of his household and members of his private staff shall receive the privileges and immunities provided in the present Convention from the date from which he enjoys privileges and immunities in accordance with paragraph 1 of this Article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the latest.

3. When the functions of a member of the consular post have come to an end, his privileges and immunities and those of a member of his family forming part of his household or a member of his private staff shall normally cease at the moment when the person concerned leaves the receiving state or on the expiry of a reasonable period in which to do so, whichever is the sooner, but shall subsist until that time, even in case of armed conflict. In the case of the persons referred to in paragraph 2 of this Article, their privileges and immunities shall come to an end when they cease to belong to the household or to be in the service of a member of the consular post provided, however, that if such persons intend leaving the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. However, with respect to acts performed by a consular officer or a consular employee in the exercise of his functions, immunity from jurisdiction shall continue to subsist without limitation of time.

5. In the event of the death of a member of the consular post, the members of his family forming part of his household shall continue to enjoy the privileges and

immunities accorded to them until they leave the receiving State or until the expiry of a reasonable period enabling them to do so, whichever is the sooner.

Article 54

Obligations of third States

1. If a consular officer passes through or is in the territory of a third State, which has granted him a visa if a visa was necessary, while proceeding to take up or return to his post or when returning to the sending State, the third State shall accord to him all immunities provided for by the other Articles of the present Convention as may be required to ensure his transit or return. The same shall apply in the case of any member of his family forming part of his household enjoying such privileges and immunities who are accompanying the consular officer or travelling separately to join him or to return to the sending State.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the transit through their territory of other members of the consular post or of members of their families forming part of their households.

3. Third States shall accord to official correspondence and to other official communications in transit, including messages in code or cipher, the same freedom and protection as the receiving State is bound to accord under the present Convention. They shall accord to consular couriers who have been granted a visa, if a visa was necessary, and to consular bags in transit, the same inviolability and protection as the receiving State is bound to accord under the present Convention.

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and to consular bags, whose presence in the territory of the third State is due to *force majeure*.

Article 55

Respect for the laws and regulations of the receiving State

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

2. The consular premises shall not be used in any manner incompatible with the exercise of consular functions.

3. The provisions of paragraph 2 of this Article shall not exclude the possibility of other institutions or agencies being installed in part of the building in which the consular premises are situated, provided that the premises assigned to them are separate from those used by the consular post. In that event, the said offices shall not, for the purposes of the present Convention, be considered to form part of the consular premises.

Article 56

Insurance against third party risks

Members of the consular post shall comply with any requirement imposed by the laws and regulations of the receiving State in respect of insurance against third party risks arising from the use of any vehicle, vessel or aircraft.

Article 57

Special provisions concerning private gainful occupation

1. Career consular officers shall not carry on for personal profit any professional or commercial activity in the receiving State.

2. Privileges and immunities provided in this Chapter shall not be accorded:
- (a) to consular employees or to members of the service staff who carry on any private gainful occupation in the receiving State;
 - (b) to members of the family of a person referred to in sub-paragraph (a) of this paragraph or to members of his private staff;
 - (c) to members of the family of a member of a consular post who themselves carry on any private gainful occupation in the receiving State.

CHAPTER III. REGIME RELATING TO HONORARY CONSULAR OFFICERS AND
CONSULAR POSTS HEADED BY SUCH OFFICERS

Article 58

General provisions relating to facilities, privileges and immunities

1. Articles 28, 29, 30, 34, 35, 36, 37, 38 and 39, paragraph 3 of Article 54 and paragraphs 2 and 3 of Article 55 shall apply to consular posts headed by an honorary consular officer. In addition, the facilities, privileges and immunities of such consular posts shall be governed by Articles 59, 60, 61 and 62.

2. Articles 42 and 43, paragraph 3 of Article 44, Articles 45 and 53 and paragraph 1 of Article 55 shall apply to honorary consular officers. In addition, the facilities, privileges and immunities of such consular officers shall be governed by Articles 63, 64, 65 66 and 67.

3. Privileges and immunities provided in the present Convention shall not be accorded to members of the family of an honorary consular officer or of a consular employee employed at a consular post headed by an honorary consular officer.

4. The exchange of consular bags between two consular posts headed by honorary consular officers in different States shall not be allowed without the consent of the two receiving States concerned.

Article 59

Protection of the consular premises

The receiving State shall take such steps as may be necessary to protect the consular premises of a consular post headed by an honorary consular officer against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

Article 60

Exemption from taxation of consular premises

1. Consular premises of a consular post headed by an honorary consular officer of which the sending State is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the laws and regulations of the receiving State, they are payable by the person who contracted with the sending State.

Article 61

Inviolability of consular archives and documents

The consular archives and documents of a consular post headed by an honorary consular officer shall be inviolable at all times and wherever they may be, provided that they are kept separate from other papers and documents and, in particular, from the private correspondence of the head of a consular post and of any person working with him, and from the materials, books or documents relating to their profession or trade.

Article 62

Exemption from customs duties

The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of, and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services on the following articles, provided that they are for the official use of a consular post headed by an honorary consular officer: coats-of-arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consular post.

Article 63

Criminal proceedings

If criminal proceedings are instituted against an honorary consular officer, he must appear before the competent authorities. Nevertheless, the proceedings, shall be conducted with the respect due to him by reason of his official position and, except when he is under arrest or detention, in a manner which will hamper the exercise of consular functions as little as possible. When it has become necessary to detain an honorary consular officer, the proceedings against him shall be instituted with the minimum of delay.

Article 64

Protection of honorary consular officers

The receiving State is under a duty to accord to an honorary consular officer such protection as may be required by reason of his official position.

Article 65

Exemption from registration of aliens and residence permits

Honorary consular officers, with the exception of those who carry on for personal profit any professional or commercial activity in the receiving State, shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

Article 66

Exemption from taxation

An honorary consular officer shall be exempt from all dues and taxes on the remuneration and emoluments which he receives from the sending State in respect of the exercise of consular functions.

Article 67

Exemption from personal services and contributions

The receiving State shall exempt honorary consular officers from all personal services and from all public services of any kind whatsoever and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 68

Optional character of the institution of honorary consular officers

Each State is free to decide whether it will appoint or receive honorary consular officers.

CHAPTER IV. GENERAL PROVISIONS

Article 69

Consular agents who are not heads of consular posts

1. Each State is free to decide whether it will establish or admit consular agencies conducted by consular agents not designated as heads of consular post by the sending State.

2. The conditions under which the consular agencies referred to in paragraph 1 of this Article may carry on their activities and the privileges and immunities which may be enjoyed by the consular agents in charge of them shall be determined by agreement between the sending State and the receiving State.

Article 70

Exercise of consular functions by diplomatic missions

1. The provisions of the present Convention apply also, so far as the context permits, to the exercise of consular functions by a diplomatic mission.

2. The names of members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of the consular functions of the mission shall be notified to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.
3. In the exercise of consular functions a diplomatic mission may address:
 - (a) the local authorities of the consular district;
 - (b) the central authorities of the receiving State if this is allowed by the laws, regulations and usages of the receiving State or by relevant international agreements.
4. The privileges and immunities of the members of a diplomatic mission referred to in paragraph 2 of this Article shall continue to be governed by the rules of international law concerning diplomatic relations.

Article 71

Nationals or permanent residents of the receiving State

1. Except in so far as additional facilities, privileges and immunities may be granted by the receiving State, consular officers who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privilege provided in paragraph 3 of Article 44. So far as these consular officers are concerned, the receiving State shall likewise be bound by the obligation laid down in Article 42. If criminal proceedings are instituted against such a consular officer, the proceedings shall, except when he is under arrest or detention, be conducted in a manner which will hamper the exercise of consular functions as little as possible.
2. Other members of the consular post who are nationals of or permanently resident in the receiving State and members of their families, as well as members of the families of consular officers referred to in paragraph 1 of this Article, shall enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the families of members of the consular post and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over those persons in such a way as not to hinder unduly the performance of the functions of the consular post.

Article 72

Non-discrimination

1. In the application of the provisions of the present Convention the receiving State shall not discriminate as between States.
2. However, discrimination shall not be regarded as taking place:
 - (a) where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its consular posts in the sending State;
 - (b) where by custom or agreement States extend to each other more favourable treatment than is required by the provisions of the present Convention.

Article 73

Relationship between the present Convention and other international agreements

1. The provisions of the present Convention shall not affect other international agreements in force as between States parties to them.
2. Nothing in the present Convention shall preclude States from concluding international agreements confirming or supplementing or extending or amplifying the provisions thereof.

CHAPTER V: FINAL PROVISIONS

Article 74

Signature

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows until 31 October 1963 at the Federal Ministry for Foreign Affairs of the Republic of Austria and subsequently, until 31 March 1964, at the United Nations Headquarters in New York.

Article 75

Ratification

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 76

Accession

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in Article 74. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 77

Entry into force

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 78

Notifications by the Secretary-General

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in Article 74:

- (a) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with Articles 74, 75 and 76;
- (b) of the date on which the present Convention will enter into force, in accordance with Article 77.

Article 79

Authentic texts

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in Article 74.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE AT VIENNA, this twenty-fourth day of April, one thousand nine hundred and sixty-three.

3. AMERICAN LEGION RESOLUTIONS

FORTY-SIXTH ANNUAL NATIONAL CONVENTION OF THE AMERICAN LEGION,
DALLAS, TEXAS, SEPTEMBER 22-24, 1964

RESOLUTION NO. 659

Committee: Foreign Relations.

Subject: Oppose U.S.-U.S.S.R. Consular Convention.

Whereas representatives of the United States of America and of the Union of Soviet Socialist Republics signed on June 1, 1964, a consular convention which is now before the Senate of the United States for advice and consent before taking effect; and

Whereas reciprocity, the basis for proper treaty relations, is impossible under U.S.S.R. law because the Government of the U.S. is prohibited from owning its official properties in Russia; and

Whereas the U.S.S.R. has not settled its debts of approximately ten billion dollars to the United States incurred under lend-lease during World War II, and has not paid United States citizens in accordance with international law for their properties seized in Russia; and

Whereas a consular convention would increase the international prestige of the U.S.S.R. in world affairs to the detriment of U.S. relations with its allies: Now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Dallas, Texas, September 22-24, 1964, That the Senate of the United States is urged to reject the U.S.-U.S.S.R. consular convention now pending before it; and be it further

Resolved, That a copy of this resolution be sent to each member of the U.S. Senate for his information.

FORTY-SEVENTH ANNUAL NATIONAL CONVENTION OF THE AMERICAN LEGION,
PORTLAND, OREGON, AUGUST 24-26, 1965

RESOLUTION NO. 238

Committee: Foreign Relations.

Subject: Consular Convention with U.S.S.R. Opposed.

Whereas there was signed, subject to ratification by the Senate of the United States, on June 1, 1964, a treaty between the United States of America and the Soviet Union that would provide a legal framework for the creation and operation of American consulates in the Soviet Union and Soviet consulates in the United States, which treaty was approved by the Senate Foreign Relations Committee on August 3, 1965, by a vote of eight in favor and one opposed; and

Whereas in a March 4, 1965, appearance before the House Appropriations Committee, FBI Director J. Edgar Hoover testified that "a cherished goal of the Soviet intelligence services was realized" when this agreement was signed for the reciprocal establishment of consulates, as attested to by the comment of a Soviet intelligence officer that "it would enable the Soviets to enhance their intelligence operations;" and

Whereas the implementation of such an agreement confirmed by Senate ratification obviously could expose the total security of the United States to the wiles and caprices of Soviet plans for world domination; and

Whereas on August 18, 1965, leaders in the Senate acknowledged that the opposition to the treaty expressed in the testimony by J. Edgar Hoover constitutes the greatest obstacle to Senate ratification, to the end that plans to seek such ratification have now been abandoned for this session of Congress: Now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Portland, Oregon, August 24-26, 1965, That The American Legion wholeheartedly

CONSULAR CONVENTION WITH THE SOVIET UNION

endorses the abandonment by the Senate leadership of plans to seek Senate ratification of the Consular Treaty, as influenced by the serious objections of J. Edgar Hoover; and be it further

Resolved, That The American Legion expresses to the U.S. Department of State and to the Senate of the U.S. its strong objection to any further or future consideration of such a consular treaty between the U.S. and the Soviet Union.

FORTY-EIGHTH ANNUAL NATIONAL CONVENTION OF THE AMERICAN LEGION
WASHINGTON, D.C., AUGUST 30, 31-SEPTEMBER 1, 1966

RESOLUTION NO. 592

Committee: Foreign Relations.

Subject: Consular Convention with U.S.S.R.

Whereas the United States Senate Internal Security Subcommittee warns that ratification by the United States Senate of the proposed Consular Convention (treaty) with Soviet Russia would sanction centers of espionage and subversion by allowing establishment of Soviet consulates in our major cities, and grant unlimited exemption from criminal jurisdiction for all Soviet consular officials and employees; and

Whereas the Director of the Federal Bureau of Investigation has pointed out that the great majority of the communist-bloc official personnel already stationed in the United States have engaged in intelligence assignments: Now, therefore, be it

Resolved by The American Legion in National Convention assembled in Washington, D.C., August 30, 31-September 1, 1966, That The American Legion opposes this self-defeating agreement and urges rejection of the proposed Consular Convention as an unwarranted risk to our national security.

4. RESOLUTION ON REVIEW OF U.S. POLICY TOWARD THE USSR

Providing for a thorough review of U.S. policy toward the USSR.

Whereas in his 1967 State of the Union Message the President declared "the genius of the American political system has always been expressed through creative debate that offers reasonable alternatives"; and

Whereas U.S. policy toward the USSR is most crucial to the issue of global peace or war, and the cumulative evidence of the past two decades, including Greece, Iran, Korea, Cuba, the Congo, the Dominican Republic, and Vietnam, casts a reasonable and heavy doubt on the peace-insuring efficacy of the pursued policy; and

Whereas there has never been a thorough Congressional review of our policy toward the USSR, even at levels below another Great Debate, examining and illuminating questionable preconceptions, arrant conceptual confusion, contradictions to fact and principle, and high-level counter-contradictions that have surrounded this policy; and

Whereas proposed particular measures, such as the U.S.-USSR Consular Convention, U.S.-Soviet trade, cultural exchange agreements, etc., depend for their accurate and proper evaluation on the soundness or no of the underlying assumptions and criteria in the general policy; and

Whereas these assumptions and criteria have been too frequently conveyed by official assertions that are patently contrary to fact and/or principle, and especially at this time deserve to be openly and thoroughly examined; and

Whereas, to cite one example, on the highest level an old, imperial Tsarist Russian usage, albeit fictional to present conditions, has been revived in the thought "The common interests of *the peoples of Russia* and the United States are many"; and

Whereas, by way of further example, the notion expressed by one of our Presidents, "no nation in the history of battle ever suffered more than the Russian suffered in the course of the Second World War", contradicts the facts that the ravaged territories in the USSR were largely non-Russian and the losses of Lithuanians, Latvians, Estonians, Ukrainians, Armenians and other non-Russian nationals were equal if not greater; and

Whereas, in additional contradiction to fact, more than one national leader has voiced the mythical constructions of "200 million Russians" in existence and the USSR as "Russia"; and

Whereas, to mention another apt example, a high-level conception misjudges "areas, such as the Ukraine, Armenia, or Georgia" as constituting "traditional parts of the Soviet Union . . . an historical state", which factually has been in existence for only forty-five years; and

Whereas, in sharp contradiction to this quoted misconception, an outstanding official U.S. statement in the United Nations emphasizes: "An independent Ukrainian Republic was recognized by the Bolsheviks in 1917" and later "with the help of the Red Army, a Ukrainian Soviet Socialist Republic was established and incorporated into the USSR"; also, "In 1920, the Soviet army invaded, and Armenian independence, so long awaited, was snuffed out"; also, "In 1921, the Red Army came to the aid of Communists rebelling against the independent State of Georgia and installed a Soviet regime"; and

Whereas these selected examples of basic confusion, contradictions of reality, and official counter-contradictions are compounded by growing doubts related to operating principles, double-standards, and policy inconsistencies, even at a time when the USSR and its syndicated Red associates supply the totalitarian Red regime in North Vietnam to kill increasing numbers of American defenders of independent South Vietnam; and

Whereas, on the basis of these and numerous other points of evidence, it is not inconceivable that the forthcoming 50th anniversary of the Russian Bolshevik revolution, which gave rise to Soviet Russian imperio-colonialism and its world-wide aggressive ambitions, might elicit in "the spirit of peaceful coexistence" harmful expressions virtually equating this fraudulent revolution with

our own American Revolution and its symbolization of national independence, individual liberty, and freedom; and

Whereas a genuine policy of peaceful coexistence means progressive reciprocity, substantial reduction of barriers year by year, the absence of controlled movements, and intensified understanding between nations in the USSR and the United States, and surcease from indirect provocation in other parts of the Free World, none of which has been realized in the past decade; and

Whereas a policy founded on basic misconceptions, myths, and internal contradictions generates a grand illusion which in the long run can only lead to disastrous results for our independence and national security and certainly, in the short run and with reference to the nations in the USSR, fail to validate the President's declaration in his 1966 State of the Union Message: "The fifth and most important principle of our foreign policy is support of national independence—the right of each people to govern themselves and to shape their own institutions. . . We follow this principle by encouraging the end of colonial rule": Now, therefore, be it

Resolved by the Senate of the United States of America in Congress assembled That a complete and thorough review of U.S. policy toward the U.S.S.R. be undertaken. The review shall be conducted by means of public hearings, designated studies relevant to all essential aspects of the subject, and scheduled symposia consisting of Members of the Senate, representatives of interested areas in our Government, and invited participants from the private sector of our society. The results of this comprehensive review will be made available by publication and other media to the American public. On the basis of the results the Senate shall determine what "reasonable alternatives" exist to our present policy toward the USSR.

NATIONAL CAPTIVE NATIONS COMMITTEE.

5. TEN REASONS AGAINST THE U.S.-U.S.S.R. CONSULAR TREATY

By Lev Dobriansky

There are ten solid reasons why the U.S. Senate should emphatically not ratify the US-USSR Consular Treaty which the Committee on Foreign Relations reported out favorably last August. Most of these reasons were scarcely touched upon in the somewhat superficial public discussion that was precipitated by the committee's sudden action. This condition, however, should be no cause for wonderment. Since the signing of this Second Treaty of Moscow on June 1, 1964, every attempt has been made to keep the convention out of the arena of public discussion as much as possible.¹

When the consummate attempt was made to railroad this seemingly innocuous pact through the Senate, numerous legislators and organizations joined in a strong protest against its blind ratification. Interestingly enough, some of the press distorted this fact into some sort of right-wing opposition. One paper, for example, painted it in terms of a deluge of letters inspired by the "Liberty Lobby and other right-wing organizations," though these groups expressed themselves marginally and in the final phase of last summer's episode.² An editorial in another organ supporting the treaty observed with guarded overtones, "most of the opposition seems to be made up of organized letter-writing members of such ultra-conservative groups as the John Birch Society and the Liberty Lobby."³ Employing this same smear tactic, a third proponent of the convention showed little esteem for the general intelligence of the Senate when it recklessly charged that the Senate was scared off by the Liberty Lobby which "saw to it that the Senators were bombarded with protest letters. . ."⁴

Anyone who has followed closely the developments surrounding the treaty even before it was signed, cannot but view such reporting and editorializing as crassly inaccurate and misleading. As early as March, 1964, the National Captive Nations Committee publicly opposed this pact, three months before it was signed in Moscow.⁵ In June of that year several national ethnic organizations declared their opposition to the pact. When a number of Senators and others joined this growing chorus of bi-partisan protest to the pact's ratification, the chairman of the Foreign Relations Committee decided not to consider the convention until the next Congress.

With the new 89th Congress in being for its first session, periodic inquiries were made as to the scheduling of open, public hearings on the treaty. Some serious discussion of it was being fostered by interested parties.⁶ The consistent reply given to the inquiries was that no hearings were as yet being set.⁷ As late as July the same position was maintained.⁸ In that month, however, citizen groups observing the Seventh Captive Nations Week Observance throughout the nation registered their strong opposition to the treaty, and again the call was raised for public hearings. At about this time it was announced that the Senate Foreign Relations Committee had authorized the chairman to schedule public hearings.⁹ The now-on-now-off treatment caused one committee member to assert that this latest action came "as a complete surprise to me."

Contrary to the quoted press reports and editorials, the opposition to the treaty was markedly cross-sectional, including liberals as well as conservatives, Democrats as well as Republicans. Objectively speaking, the reasons offered by so-

¹ For a detailed background on this see Lev E. Dobriansky, "The Second Treaty of Moscow," *Congressional Record*, February 8, 1964, pp. 2119-2122.

² E. W. Kenworthy, "Rightists Oppose Pact With Soviet," *The New York Times*, August 19, 1965.

³ "The Consular Treaty," *The Evening Star*, August 24, 1965.

⁴ "Scared Off," editorial, *The Washington Post*, August 23, 1965.

⁵ Communication to Chairman of Senate Foreign Relations Committee, March 10, 1964.

⁶ "New Myths, Old Realities," editorial, *The Richmond News Leader*, February 16, 1965.

⁷ E.g. "No Hearings Set On U.S.-Soviet Consular Treaty," *The Evening Star*, February 15, 1965.

⁸ "Senators Delay Consular Pact With Russians," *The Evening Star*, July 12, 1965.

⁹ "Hearings Due On Russian Consular Pact," *The Washington Post*, July 22, 1965.

called ultra-right-wing groups should be evaluated on their own merits rather than substituting for them labels of invidious distinction. The same rule in objective reasoning would apply to any stand taken by their counterparts on the left. Moreover, what was not generally known about the 1964 summer episode was the quiet effort of a concerned Congressman who apprised 57 Senators of the defects in the treaty and even threatened to have the House Foreign Affairs Committee conduct open and fair hearings on the issue.

Examples of the replies to the Congressman's initiative make for perspected reading. Thanking him for his critical observations, one Senator adds, "I have not as yet had an opportunity to study this treaty carefully, but my present inclination is to vote against it." Another prominent Senator states, "You find me in complete agreement with your views on this most important subject. It is my intention not only to vote against the Convention when it is considered by the Senate but to do all that I can to persuade others to vote against it." Concerning the critical material given him, a third Senator reflects the aroused interest of scores of others in the Senate when he comments, "It will help me to better evaluate the Treaty when it comes up for a vote in the Senate."

These facts should be adequate to convince one of the slanted reporting indulged in by a few newspapers that clamored for the treaty's ratification without even open and fair public hearings on the issue. Evidently, they were stunned by the outcome last August and had no other recourse but to wade in the muck of invidious labelism. Now for the ten reasons.

I. NO PUBLIC HEARINGS

Viewing this whole development in all its aspects, any objective observer would have to conclude that the deliberate attempt to preclude open, public hearings on the issue is cause enough for the rejection of the convention. Every significant treaty requiring Senate ratification has been accorded this normal, democratic procedure so that legislators may weigh the various arguments surrounding it. Those who claim that the consular pact is an ordinary and insignificant treaty are either unaware of its basic significance and thus would profit from such hearings or employ this contention to abet the possibility of a blind ratification. By all evidence the proponents of the pact have displayed a morbid fear of public hearings and wide discussion on the issue.

The evidence also shows quite clearly that an attempt was made toward the close of the last session of Congress to railroad the treaty through the Senate. Fortunately, the maneuver was thwarted by the alert action of numerous groups and individuals. For example, in a press release the National Captive Nations Committee called for "open and frank public hearings" on the convention and protested against "the maneuver of ramming this ill-advised and harmful treaty down the throats of our people without fair and open hearings."¹⁰ Representative Edward J. Derwinski of Illinois performed an invaluable service in his persistent charges against the railroading of this treaty.¹¹ A striking editorial in one critical paper began "Details are now at hand concerning the swift railroad job, with Senator Fulbright as chief engineer, which was done to get the Soviet Consular Treaty out of the Senate Foreign Relations Committee some days ago."¹²

Not to have the maneuver appear too crude and arbitrary, the committee heard testimony from Secretary of State Dean Rusk and several State Department associates. The committee print that followed contains all the marks of swift maneuver and haphazard publication. For example, the title of the pamphlet is *Consular Convention With The Soviet Union*, but on page 3 a caption reads "Consular Convention With Russia." If at this stage of American understanding the concepts of Soviet Union and Russia are held to be synonymous, then we are in real trouble with respect to some reasoning on this issue.

To mention another example among the many, the dialogue between the chairman and Senator Hickenlooper makes for absorbing reading. In his opening statement Senator Fulbright lets the cat out of the bag by stating "The committee met in executive session July 20, 1965, to consider the convention and *decided* at that time to take it up formally and submit it to the Senate for its advice and consent."¹³ Senator Hickenlooper follows by stating, "I want to correct a mis-

¹⁰ "Fulbright Urged To Hold Open and Frank Hearings on Consular Convention," August 3, 1965.

¹¹ E.g., William Moore, "Derwinski Hits Plan for Russ Consulates," *Chicago Tribune*, August 10, 1965.

¹² "Normal Relations," *The Richmond News Leader*, August 13, 1965.

¹³ *Consular Convention With The Soviet Union*, Hearing, Committee on Foreign Relations, United States Senate, 1965, p. 1.

understanding. I understood you to say in the opening statement that the committee had decided to submit this to the Senate for confirmation."¹⁴ Contrary to his opening statement, the chairman covers himself by replying "The committee would have to vote on it after we have had *committee hearings*." Then, in the print, the dialogue is interrupted by the insertion of the President's message and the convention itself, and fifteen pages later Senator Fulbright further contradicts his original, plain statement by saying "We had decided to proceed with hearings if the committee so voted. That is what I meant to say."¹⁵ His words scarcely reveal such meaning.

Despite much talk about hearings at this point, only one staged hearing was held. Secretary Rusk was heard on points emphasizing the protection Americans in the USSR would receive, the little difference between this treaty and other consular conventions, the risks of espionage we have to assume in our open society, the inadequacies of our embassy in Moscow, the need for normalizing relations, mutual understanding the improvement of communications, and other equally vague generalities. As the writer stated in a letter criticizing one of our papers, "by virtue of his antiquated and misleading conceptions of the Soviet Union, which even the late Adlai E. Stevenson tactfully repudiated in November 1961, Secretary Rusk can scarcely be regarded as the sole, adequate witness."¹⁶ These salient points in the Rusk testimony will be answered in the remaining reasons against the ratification of the treaty.

How much of all this was pitifully misinterpreted can be gleaned from this statement of a Senator supporting a blind ratification of the pact: "Those writers are ignorant of the fact that hearings were held."¹⁷ The official publication of the committee is accurately titled *Hearing*, but the Senator insists hearings, governmental or public, were held. He also believes the treaty is with Russia. Moreover, some verbal legerdemaine was detected in the distinction drawn between the treaty and the actual opening of consulates. According to the State Department, one shouldn't be too concerned with the treaty because "the question of opening consulates . . . will be the subject to separate negotiations."¹⁸ Why then all these pressure tactics concerning the treaty's ratification? Actually, the formal and legal basis provided by the treaty is most essential to the question of opening consulates. It is also worthwhile to note the haste on the part of the Department in exacting appropriations from Congress for a consulate in Leningrad with several \$500 water coolers, extra bedrooms for single girl secretaries and what have you.¹⁹

Again, this first reason is reason enough to justify a rejection of the treaty. Its proponents apparently fear a full and open examination of it in the public forum. Without open, public hearings, a ratification of the pact would be an arbitrary and blind one. The democratic staging of such hearings would necessitate thoughtful consideration for the nine remaining reasons.

II. A DIPLOMATIC AFFIRMATION OF MOSCOW'S INNER EMPIRE

The second reason for rejecting the treaty is that it constitutes a diplomatic affirmation, a stamp of approval and acceptance of Moscow's inner empire. I'm aware of the fact that most Americans cling to the myth that the Soviet Union is Russia, that the USSR is a country like ours, indeed, that this inner empire of many nations is a nation like ours. One superficial account of last August's episode misleads readers in this fashion, "If ratified, it would be the first bilateral treaty between the two nations."²⁰

We can allow for such ignorance in an ordinary newspaper article, but for our leaders of state to believe that the USSR is a nation is plainly unpardonable. If we should ever lose the Cold War, it would be basically because of this fundamental gap in our understanding of the USSR as an empire-state, a prison house of many captive nations, the inner and basic sphere of the present Soviet Russian Empire. Despite other objectives and purposes, both Napoleon and Hitler lost hot wars in this area of Eastern Europe because of substantially the same gap in understanding.

¹⁴ *Ibid.*, p. 2.

¹⁵ *Ibid.*, p. 17.

¹⁶ "Consular Convention With the U.S.S.R.," *Congressional Record*, August 19, 1965, pp. 20312-30.

¹⁷ "Proposed Consular Convention With Soviet Union More to Advantage of United States Than to Russia," Mr. Young of Ohio, *Congressional Record*, August 17, 1965, p. 19838.

¹⁸ John C. Guthrie, *Communication*, May 14, 1964.

¹⁹ Daniel Rapaport, *UPI* story, May 8, 1965.

²⁰ Murrey Marder, "U.S.-Soviet Treaty," *The Washington Post*, August 20, 1965.

This fallacious notion of the USSR as a "country" and other basic myths are reflected in the convention, which of course cannot but satisfy the propaganda and psychopolitical efforts of Moscow to the utmost. The treaty is founded on the mythical conception that the USSR is a nation-state comparable in character to ours. American consulates in any of the non-Russian nations in the USSR would tangibly reinforce this myth, needlessly abet Russian policies aimed at unifying this primary imperium, and thus nullify any leverage for peace we may have in at least recognizing the freedom goals of the captive non-Russian nations in the USSR.

In the past forty-five years the United States has committed many shortsighted errors bolstering and strengthening this inner empire of Soviet Russia. Ratification of this treaty would add another chapter to this sordid record. In a letter to Senator Fulbright, the writer emphasized this point when he stated, "a blind ratification of the Convention would form another chapter in our long, inept dealings with the Russians and expose us to the charge of being a nation of hypocrites when the President and others proclaim our 'devotion to the just aspirations of all people for national independence and human liberty.' This treaty is a confirmation of Russia's imperio-colonialism within the USSR and further evidence of our diplomatic ineptitude in the Cold War, not to say our grave lack of understanding of America's prime enemy."²¹ In terms of power and ambition, we delude ourselves if we think Peiping rather than Moscow is the prime enemy.

Before taking action on the treaty it would profit each Senator to read a recent official study prepared for one of the Senate's own committees on the empire within the USSR. "Western scholars of Soviet affairs," it observes, "agree on the imperial-colonial character of the USSR."²² Commendable as it is, even this study doesn't cover all aspects of Soviet Russian imperio-colonialism in the USSR. For succinct, deep insights into this inner empire each Senator would do well to read Adlai Stevenson's remarkable memorandum on the subject in the United Nations.²³ After reading these he would have to ask himself, "Could I as a Senator, representing people in a democracy and republic dedicated to principles of national independence and self-determination, vote for a treaty which explicitly and implicitly misrepresents a state and in effect places a stamp of approval on a tyrannical empire?" Each in his own conscience would have to answer this question.

This reason for not ratifying the treaty is basic to all others. It hinges on the most fundamental issue of the contemporary struggle—Soviet Russian imperio-colonialism versus freedom and national independence. It offers us another opportunity to fill in the gap of American understanding of the USSR. The first was Congress' Captive Nations Week Resolution (Public Law 86-90) in 1959, which for the first time recognized the freedom aspirations of all the captive non-Russian nations in the USSR. Ratification of the treaty would contradict the very essence and spirit of that resolution. Also Secretary Rusk and others argue that the treaty would improve communications between the two "countries." Aside from the rudimentary fact that it is hardly within the purview of consular activity to communicate or negotiate between countries, what improvement in communications could be achieved between the U.S. and the many nations in the USSR under a treaty which slights and ignores the presence of all but one of these nations? To our own detriment, the very opposite would be achieved.

III. LEGAL INVALIDITIES OF THE TREATY

A third substantial reason for rejecting the treaty is its numerous legal invalidities. If some of our lawmakers in the Senate still find the second reason difficult to grasp at this point, surely the legal contradictions and invalidities of the pact would fall more readily within their immediate attention. In a court of law any patent misrepresentation of parties to a contract or blatant contradictions to fact would be sufficient to throw the case out of court. The consular treaty is pitted exactly in this situation.

Throughout the text of the treaty one reads about "a national of the sending state."²⁴ This makes sense in the case of the United States, a citizen of a

²¹ *Communication*, August 4, 1965.

²² *The Soviet Empire*, Committee on the Judiciary, 1965, p. 166.

²³ U.S. Ambassador to the United Nations. Memorandum to U.N. Delegations, *The United Nations*, November 25, 1961.

²⁴ E.g., *Consular Convention With The Soviet Union*, p. 8, 9, 10, etc.

nation generally called about the world "an American." Who is the national of the Soviet Union? A Russian, Lithuanian, Georgian and so forth? If language and words have any meaning, a "national" is an individual member of a given nation. On the impregnable basis of all evidence provided by Moscow itself, the Soviet Union is no nation but rather a so-called union of many nations. Legally, there is no such animal as a "Soviet national" other than a fictional image in the minds of some who wallow in the myths of the USSR being a nation or anyone in the USSR—worse still "Russia"—being a "Soviet," which is a council of workers and peasants.

Clearly, if some can extricate themselves from the unreasoned, semantic mess indicated here, they would begin to see that the convention contradicts the very essence of the USSR Constitution, which though largely semantic is nonetheless a nominal compromise with the non-Russian nations in the USSR. By this kind of misrepresentative language the pact violates also the authenticity of every official map of the USSR and contradicts reams of official Moscow pronouncements on the multi-national composition of the USSR. In their desire to reap the psycho-political advantages of the treaty the Muscovite rulers would prostitute anything and, as in everything else, accuse the other party of the perversions. By allowing this to take place we exhibit our own psycho-political immaturity.

Further examples of legal invalidity are, in the case of the Soviet Union, provisions for "the national flag of the sending state" and "the national coat-of-arms of the sending state."²⁵ Of course, in objective circumstance there is no such flag or coat-of-arms for the USSR. Each republic has its own flag and emblem. The flag and coat-of-arms of the USSR shown at any Moscow-established consulate in the United States would be another perversion of fact permitted by the legal invalidity of the treaty.

Speaking of legalities, no one has raised the question of accumulated legacies left by Russian emigres and others in behalf of known or unknown parties in the Soviet Union. How many millions of dollars is colonialist Moscow seeking to acquire under Article 10 of the treaty? The Russians are employing every trick, including "the economic independence of the satellites," to build up their stock of foreign currencies; the treaty is another means. It would be interesting to see what the Department of State can furnish on these accumulated legacies. Mr. Rusk and others vaguely argue that the pact would abet "mutual understanding." With whom? The imperio-colonialists in Moscow? What of the various nations and peoples in the USSR? How would all these allowed perversions and open risks mould our bonds of mutual understanding with them? In the long run, they will prevail, not the ruling Russian totalitarians.

IV. AN AMERICAN ASSIST TO RUSSIFICATION

The fourth objection to the treaty is that its provisions engender an American assist to Russification within and outside the USSR. The provision in the pact for the use of the Russian language to process the fictitious Soviet national is in every sense an inadvertent assist to the well-known Russification policies of Moscow.²⁶ In effect, here too we would be buttressing Moscow's colonialist policy of enforcing the use of the captors' language among the non-Russian nations in the USSR.

Here, too, before he casts his vote on the treaty it would do well for each Senator to scan another recent Congressional study on cultural Russification and linguicide in the USSR.²⁷ Do we want to be placed in the position of confirming and abetting this vicious genocidal tendency further? It is had enough that functional necessity compels us to accede to it on the ambassadorial level, though this could be rectified, too, by a diplomatic alternative of a more realistic nature.

With a premium on verbal generality Mr. Rusk and others argue for the treaty because it would "normalize relations." What are they seeking to normalize? The inner Soviet Russian Empire, Soviet Russian imperio-colonialism, or Moscow's Russification policies? The treaty would abnormally relate us to these ugly phenomena in the seeming position of even accepting them as "normal." Aside from the essential factor of comparative advantage in the Cold War, what

²⁵ *Ibid.*, p. 11.

²⁶ *Ibid.*, p. 8.

²⁷ See *Nations, Peoples, and Countries in the U.S.S.R.*, Study of Population and Immigration Problems, House Committee on the Judiciary, 1964.

a political posture we are asked to assume by ratifying this treaty. The nation of the American revolution and all the perennial principles this implies is urged in the name of normalization to place stamps of diplomatic approval on the worst institutional hallmarks of its basic enemy. Also, what is most curious is that those who talk loudly today about "the liquidation of the Communist monolith," "growing nationalism in Eastern Europe," "a world of diversity," and "good Communists and bad ones" are normally those who, for whatever reasons, stop at the borders of the USSR, the determining inner empire itself, with these supposedly new notions.

V. THE VERY DIFFERENT DIPLOMATIC IMMUNITY

The preceding three reasons for non-ratification of the pact received far less attention last August than the next two. Yet in the broader context of understanding the contemporary struggle, its prime sources of tension and long-run dangers to world peace, they carry greater weight than the next two objections, which by themselves, of course, are adequate to justify non-ratification. It is noteworthy how much more adept and knowledgeable the Chinese Reds are in utilizing essential facts concerning the inner Soviet Russian Empire, Soviet Russian imperio colonialism, Moscow's Russification program, and the captive status of the non-Russian nations in the USSR than we are.²⁸ Their ends are different, but they at least do not accommodate the Russian totalitarians in their worst features.

Contrary to the baseless contention that this consular convention is no different or is even slightly different from other conventions, the pact is very different not only in its relation to our prime enemy in the Cold War but also in its incredible provision of diplomatic immunity to consular personnel for all crimes, including espionage.²⁹ It is sad enough that the treaty's assumptions and contents seriously depreciate our general political posture as a democratic Free World leader, but this provision is an open invitation to Red subversion of our nation. Every other existing convention grants immunity only from punishment for misdemeanors. The reader can now understand why I entitled an article on this subject "The Second Treaty of Moscow." The pact was made to order—in Moscow. Even our allies don't enjoy this unprecedented consular privilege.

In view of the concentrated discussion on this point last August, it is unnecessary to belabor it further. Mr. Leonard C. Meeker, the State Department's legal adviser, admitted in unqualified terms that this immunity from criminal jurisdiction "is not present in other consular conventions to the same extent."³⁰ Mr. Meeker, who is under the illusion that some "Soviet national" animal exists, tried to moderate the immunity provision by pointing out that it "will extend only to those consular officers and employees who are agreed to by the two governments."³¹ As though in actual practice this would make any significant difference.

The views expressed by opponents to the treaty in the Senate Foreign Relations Committee are quite firm on this immunity provision.³² Publicized discussion of the point led many to the conclusion which one Senator put in these words: "It is this last section that is inimical with the best interests of the United States. It is the last section that clearly indicates that this convention was negotiated by the Soviets, not as a bilateral pact for improving Soviet-American relations, but as a cold war maneuver to enhance and expand the intelligence gathering network of the USSR."³³

Mr. Rusk and others argue that the treaty would offer greater protection for Americans touring and visiting in the USSR. This protection argument, covering some 12,000 Americans annually, is supposed to counterbalance the lapse in it as concerns the immunity provision. Much is made of the notification and access provisions regarding arrests. Actually, this so-called Russian concession should have been demanded long ago on the purely ambassadorial level, and should be so demanded on the simple principle of reciprocity. USSR representatives and tourists are accorded the privileges and benefits of our democratic criminal code;

²⁸ See "Sino-Soviet Border Potential Powder Keg," *The Ukrainian Bulletin*, New York, April 1-15, 1965, p. 35.

²⁹ *Consular Convention With The Soviet Union*, p. 12.

³⁰ *Ibid.*, p. 22.

³¹ *Ibid.*, pp. 34-35.

³² *Consular Convention With The Soviet Union*, Minority Views, August 10, 1965.

³³ Senator Norris Cotton, "The Consular Convention With the Soviet Union," *Congressional Record*, August 26, 1965, p. 21185.

pure reciprocal relations would demand the same for our people. To hook the notification and access provisions as a notable Russian "concession" to the consular treaty indicates that our negotiators had already walked into the bear trap. It is as much a concession as a thief giving up stolen property.

VI. INTENSIFIED POLITICAL WARFARE IN THE U.S.

Espionage was the leading word for the next popular objection to the treaty last August. Our FBI Director, J. Edgar Hoover, was quoted at length in support of this criticism. In earlier testimony before the House Appropriations Committee, Mr. Hoover had emphasized that USSR "consulates in many parts of the country . . . will make our work more difficult."³⁴ A later statement by him stressed the following: "One Soviet intelligence officer in commenting on the agreement spoke of the wonderful opportunity this presented his service and that it would enable the Soviets to enhance their intelligence operations."³⁵ So effective were these points that the President subsequently issued a directive to officials to support Administration policies, aiming it particularly at Hoover.³⁶

There are several aspects to this sixth reason for non-ratification that need some clarification. First, though public hearings were barred, it obviously behooved the Foreign Relations Committee to invite Mr. Hoover, as another government witness, to testify on the pact. Surely he is far more qualified to discuss the likely espionage effects of the treaty than is Secretary Rusk. Second, it is certainly no strain on one's imagination to envisage the expanded opportunities for Soviet Russian espionage with consulates ranging cross-country from New York to Chicago and San Francisco.

However, considering the huge spy apparatus now maintained by Moscow in this country, one can rationally allow for only a relatively small increase in overall effectiveness with the presence of consulates. The economic law of diminishing return applies in this field as in others. Doubtless the establishment of consulates would make Hoover's work more difficult, but it is doubtful that the condition as concerns espionage activity would be unmanageable. Moreover, as I argued elsewhere, spying is a two-way street. On the other hand, since alternatives for different diplomatic arrangements exist, there is no reason whatsoever to accommodate the Russians in this risky respect.

Especially is this so when a broader view is taken of Soviet Russian activity in this country. The problem entails more than just espionage. It can best be described as one of intensified political warfare, signs of which have already appeared in civil rights riots, campus agitation, peace demonstrations, overt USSR embassy propaganda on the Watts riot,³⁷ and a variety of actions striking against civil and political authority. Strategically situated consulates would not only be additional spy nests but also active sources of conspiracy, propaganda, blackmail and intimidation against those with relatives in the Red Empire, and media for undermining ethnic and other anti-Communist groups. With the type of immunity offered them, they should make bold efforts along these lines.

Mr. Rusk and others talk glibly about our "open society" and the espionage risks we have to take. They fail to see the broader problem involved here, with longarm ramifications extending to our actions in Viet Nam, the Dominican Republic, and almost everywhere else. Regarding espionage solely, a more naive observation by the Secretary cannot be found than when he testified, "I do hope that the Convention will reduce misunderstandings and particularly be of assistance in not letting private citizens, tourists, businessmen, exchange people, and others get caught up in the atmosphere in which this other type of problem arises."³⁸ Projected into the future, this type of uncritical thinking would virtually guarantee the closing of our open society.

VII. BASIS FOR INTENSIFIED POLITICAL WARFARE IN LATIN AMERICA

Speaking of ramifications emerging from a short-sighted ratification of the treaty, the next four reasons for non-ratification indicate what we can expect from this further appeasement of Soviet Russian desires. It should be evident now to the reader that all of these reasons against ratification are integrally

³⁴ *Consular Convention With The Soviet Union, Minority Views*, p. 2.

³⁵ *Ibid.*

³⁶ "LBJ Policy Edict Tied To Hoover," *The Washington Post*, August 21, 1965.

³⁷ "Top Soviet Intellectuals Castigate U.S. on Riots," *The Washington Post*, August 22, 1965.

³⁸ *Consular Convention With The Soviet Union*, p. 29.

related, though any one is sufficient cause for rejecting the treaty. To the recurring distinction made between the treaty as a body of guidelines for consular activity and the actual establishment of the consulates, which some even suggest the State Department might act upon devoid of any treaty, one can reasonably maintain the virtual inseparability of the two and the political certainty of no consulates if these many reasons, individually, in combination or as an integral whole, lead to a Senate rejection of the pact.

Thus, the seventh reason for non-ratification is that a Senate confirmation of this treaty would open up a Pandora's box of Soviet Russian pressure against every free government in Latin America. The immediate objective would be similar consular conventions; the ultimate objective would be a really intensified political warfare in the area. This at a time when many of our own officials have been warning us to expect stepped-up Red subversion throughout the continent!

Strangely enough, this reason against ratification was scarcely brought up in the August discussion. Few even knew that as of now no USSR consulates exist in the Western Hemisphere. In a cogent rebuttal to a newspaper editorial, Congressman Derwinski stated the case eloquently: "Acquiescence of the United States to Soviet consulates would set an oblivious precedent that would soon find the Communist rules of Moscow spreading their influence in Latin America by means of consular activities. What Latin American government could refuse the request for a consulate after the leader of the free world has extended this benefit to the rulers of the Kremlin?"³⁹

Need more be said on this point of consular proliferation for extended Red subversion in the Western Hemisphere? The ratification of the treaty would create a solid basis for intensified Russian political warfare in Latin America. As in the area of trade with the Red Empire, our lack of firm and consistent policy will be another government's rationalization for its actions under pressure.

VIII. A TRADE WEDGE

Another reason for not ratifying the pact is the obvious use made of this treaty as a diplomatic wedge to liberalize and increase trade with the Soviet Union and the Red Empire in general. Time and time again in his testimony Mr. Rusk spoke of the prospect of "increasing trade between our two countries."⁴⁰ At times it appears this argument of dollars and cents carried more weight with him than the argument of humane protection for Americans in the USSR.

The issue of increased trade with the USSR and the Red Empire is a controversial problem in and of itself. This writer has pointed out in testimony and in emphatic terms that any such liberalized trade would not be the first time the United States has contributed myopically to the economic strengthening of the Soviet Russian Empire—always, of course, in the interests of "peace," "normal relations," "relaxation of tensions" and other self-legitimations.⁴¹ Up to now those seeking such East-West trade have been careful to distinguish between our trading more liberally with the captive states in Central Europe and that with the USSR. The former is supposed to unlatch these Red totalitarian states from the chains of Russian domination, though for years Moscow itself has pursued the Empire policy of division of national labor.

Now, curiously enough, we see Secretary Rusk injecting the trade issue into this consular one with evident abandon of the distinction mentioned above. Our fighting men in South Viet Nam should take great comfort in this switch since economic-trade support of the USSR should in turn bolster Moscow's support of Hanoi for an even more challenging conflict in that area.

The fragmented policy of our government conduces to many blatant contradictions. This tactic of arguing for the treaty on the basis of trade prospects which in turn would facilitate the economic means of Moscow's global cold war operations against our interests is a gem of policy-making fragmentation. Its cause enough to reject the treaty as a trade wedge.

IX. THE MOST-FAVORED-NATION SIEVE

As in the area of trade with the Red Empire, the most-favored-nation sieve exists in consular agreements. This ninth reason for not ratifying the treaty

³⁹ Edward J. Derwinski, "The Consular Treaty," *The Evening Star*, Washington, D.C., August 27, 1965.

⁴⁰ E.g., *Consular Convention With The Soviet Union*, p. 33.

⁴¹ Lev E. Dobriansky, "Five Perspectives on East-West Trade," *East-West Trade*, Hearings, Part II, Senate Committee on Foreign Relations, 1965, pp. 94-104.

was emphasized by several scrutinizing Senators who wisely oppose the extension of the immunity privilege to twenty-seven other nations and states, including Yugoslavia and Rumania.⁴² As they pointed out, as many as 400 consular personnel would be eligible under the treaty and their covering conventions with the most-favored-nation clause for immunity from prosecution for all crimes.

On this point Secretary Rusk affirmed that "others would have the right to raise with us establishing various privileges, but only on a basis of reciprocity."⁴³ It is interesting that this concern for reciprocity shows itself here but not with the protection of American citizens in the USSR on the ambassadorial or full diplomatic level. With this sieve the risks mentioned earlier become all the more magnified. Also, Red governments with no consular agreements at present would seek the inclusion of the most-favored-nation clause in any future conventions.

The snowball effects of the treaty's provisions are thus not difficult to determine. They all point to a substantial net disadvantage for us. Recently, for example, our officials have uttered some tart remarks with regard to Japan's apathy toward the Viet Nam war and its warm behavior toward the Red Empire. Encouraged by our action, Japan, too, is on the road to signing a consular agreement with the USSR.⁴⁴ If in short time it judges the USSR to be a far greater threat to the Free World than Red China could possibly be in the next decade, it would have a self-legitimizing basis for establishing similar and probably closer relations with Peiping.

X. THE BALTIC DILEMMA

A final reason for non-ratification bears on the Baltic dilemma to which the treaty exposes us. This reason is logically a derivative of the second reason we considered, as well as being based on an act of U.S. policy. The United States does not recognize the forced incorporation of Lithuania, Estonia, and Latvia in the USSR. Yet, despite the silent treatment proffered by the State Department's legal counsel, any consular activity in these republics cannot but in practice and in time constitute de facto recognition.⁴⁵ With the allowable establishment of consular districts there, this condition would become crystal clear. At least Secretary Rusk admitted, "We do have a bit of a dilemma there, Senator."⁴⁶

In conclusion, there are many dilemmas, contradictions, and risks posed by this consular convention. From Moscow's viewpoint, as an instrument of the Cold War it is fraught with innumerable advantages—imperial legitimacy, propaganda, legacies, political warfare penetrations, espionage and so forth. Our viewpoint is already so beclouded that many cannot see a real diplomatic alternative to this disadvantageous arrangement which would satisfy most of the reasons given for ratification of the convention, including the inadequacy of our embassy in Moscow, and yet realize a substantial net advantage.

Before alternatives can be examined, the treaty itself should be subjected to full, critical examination. This has not as yet been done. The question is a simple one: blind ratification or open, public hearings?

⁴² *Consular Convention With The Soviet Union*, Minority Views, p. 4.

⁴³ *Consular Convention With The Soviet Union*, p. 23.

⁴⁴ "Japan, Russia Are Negotiating," *Reuters*, Moscow, June 10, 1965.

⁴⁵ *Consular Convention With The Soviet Union*, p. 28.

⁴⁶ *Ibid.*, p. 25.

6. HISTORICAL LESSONS IN TOTALITARIAN TRADE

By Lev E. Dobriansky

Those who cannot remember the past are condemned to repeat it.

Santayana's wise dictum cannot be repeated too often when it comes to present pressures for liberalizing trade with the totalitarian Communist Empire. As are many in Western Europe, a number of circles in the United States are prepared, at whatever cost, to repeat the errors of the not-too-distant past.

Concerning the present, there is no mystery about the needs and goals of all sectors of the Communist Empire: their desperate need for advanced Western technology, their economic deficiency in both capital and consumer goods, their aim in overcoming glaring economic defects for general psycho-political reasons, their requirements of surplus resources destined for intensive and extensive Cold War aggression, and their continuous improvement of space technology and the military machines strewn about the empire. One would think the heavy Russian material commitment in Viet Nam is in itself sufficient cause not only to drop the liberalization idea but also to wage a Free World campaign for curtailed trade with the empire. However, the Bear and his associates have set an economic trap for us, and we are prone to fall into it. The nature and outline of this trap require a separate discussion; our concern here is with certain prominent, historical lessons for the present, drawn from U.S. trade with other imperio-colonialist totalitarian powers.

Research into U.S. trade with the totalitarian states of Japan, Germany, and Italy before World War II discloses several powerful truths which many persons involved in the current discussion of East-West trade do not know or have completely forgotten. The logical period covered is that of the 1930's, after Japan had begun its aggression in Manchuria, Germany had come under Hitler's rule, and Mussolini's Italy had embarked upon its imperialistic adventure in Abyssinia.

The chief focus of attention is on the strategic commodities furnished by the United States through normal export channels to these powers. To some extent imports are also considered since they constitute a source of dollar balances available to the aggressive powers for purchases elsewhere. Strange as it may seem, much of the material presented here was only recently declassified upon my own request. No one had bothered to tap these sources and approach the subject from the angle developed here.

Although no two historical periods or occasions are ever precisely alike, in certain essential respects they can be rationally compared, particularly in terms of the repetition of human error. At this moment we can profit immensely from the 1930's and their historical lessons in totalitarian trade. True, Japan, Germany, and Italy were have-not nations, heavily dependent on trade and raw material imports: on this limited scale the Soviet Union and Communist China are not so dependent. However, Japan, Germany, and Italy were basically nation-states; the Soviet Union and Communist China are fundamentally empire-states, with all the potential disadvantages accruing to such a status.

On the broader scale of an imperialistic Cold War economy, both the Soviet Union and Communist China with the inclusion of their "external satellites" are have-not states in terms of capital, latest technology of a broad spectrum, and even certain strategic raw materials. Significantly, all of these totalitarian states were and are punctuated by self-sufficiency drives and *ersatz* developments. Of supreme importance is the sharp difference between the blunt, crude, aggressive behavior of the earlier totalitarian powers and the studied, subtle political warfare of the present totalitarian states, for whom trade is a vital Cold War instrument.

By way of introductory generalizations, the following selected and only partial data reveal (1) unmistakable U.S. contributions were made to the war economies of Japan, Germany, and even Italy prior to World War II; (2) the

weight of our economic influence was far greater over Japan than over Germany or Italy, though in combination with Great Britain, France, and several Latin American countries our decisive influence could have been exerted over Germany and Italy, too; (3) marked discrepancies exist between the observations and conclusions of several hitherto classified studies and the judgments and decisions of the leadership in the 1930's; (4) a review of the arguments and counterarguments in the 1930's suggests that we are going through another cycle, with a generation that in some areas has forgotten the arguments and lessons of that period as concern trade with imperialistic totalitarian states; and (5) projecting the lessons of the 1930's to the present, we see a need for even tighter controls, since under global Cold War conditions the nature of a strategic good is far more extensive than it was three decades ago. Regarding the last, we are better armed now with certain trade controls, but because of our inadequate grasp of what the Cold War means and involves, we are still unsure about the scope of a "strategic good;" we are vulnerable to helping the enemy today. As will be shown, some executive analysts in the 1930's knew then what the nature of a strategic good meant in relation to an imperialistic totalitarian economy.

U.S. AND THE JAPANESE WAR ECONOMY

The tremendous economic assistance we gave to the Japanese war economy, either directly or indirectly through Manchuria, Korea, or China, suggests the possibility of a striking parallel with the present totalitarian states. The commodities we shipped to Japan and the "yen bloc" enabled Japan to prosecute its wars in Manchuria and China, to liquidate American businesses in those areas, and to prepare for general war. The parallel intimated for today would be our growing economic assistance to the USSR and the "Soviet bloc," enabling this sector of the Communist Empire to intensify its Cold War in targeted areas of the Free World, to negate progressively our foreign aid in many underdeveloped areas, and eventually to squeeze out any American or Western business interests and prepare for the oft-repeated "Communist takeover."

Literally ten years have to be accounted for in our contributions to the build-up of the Japanese war economy. Without controversy or contradiction, one can determine the beginning of this period with Nippon's conquest of Manchuria in 1931. The year marks not only the start of Japan's imperialist advances but also the unfolding of its plans for economic self-sufficiency and a closed economic sphere in the New Order of the Far East.¹ It was the beginning drive for a self-sufficient "yen bloc." With the steady expansion in Japan's industry since 1931, Japanese demands for scrap iron, steel, crude oil, copper, and tin plate increased.² But, as had been shown time and time again, "The most serious weakness in Japan's industrial self-sufficiency insofar as a war economy was concerned was her deficiency in important industrial raw materials, notably iron ore, pig iron, and petroleum products."³

In 1932, Secretary of State Henry L. Stimson sought economic sanctions against Japan, but it was evident that he and other advocates found few allies among the members of the Fourth Estate.⁴ Walter Lippmann, for example, writing in his *New York Herald Tribune* column, "Today and Tomorrow" (March 26, 1932), said of the United States: "It should oppose a one-sided embargo on munitions as inconsistent with the general policy of non-intervention by force." The theme, "Embargo would mean war," ran through all of the opposition, right up until 1940. Lippmann himself changed his tune by 1937, after Roosevelt's Quarantine Address.

Prior to 1932 every year indicated a trade balance in favor of Japan. After 1933 it favored the United States. The depreciation and devaluation of the dollar helped Japan considerably. In 1933-34 it imported larger quantities of machinery of all kinds from the United States and Germany. In 1934 the Japanese Government adopted a Petroleum Industry Law, which placed the industry under close governmental control. As one analyst put it, "Lack of oil reserves was perhaps the most vulnerable aspect of Japan's economy and

¹ Isoshi Asahi, *The Economic Strength of Japan* (Tokyo, 1939), p. 324.

² *Trends in United States-Japanese Trade*, U.S. Department of Commerce, Special Circular No. 333, June 1, 1935.

³ Kate L. Mitchell, *Japan's Industrial Strength* (New York, 1942), p. 26.

⁴ An illuminating record on this in Richard Grigg, *Japanese-American Relations, 1930-1937* (Washington, 1950).

steps were taken early to attempt to overcome this handicap."⁵ For the "Greater East Asia Coprosperity Sphere," the "yen bloc," stockpiling, and war, a top priority was oil. American exports to the end of the decade helped immensely.

Beyond any shadow of doubt, Japan's policy in the 1930's was designed not only to organize production for self-sufficiency and strengthen the military, but also to conquer areas rich in materials which Japan lacked. In the latter half of 1936 and early 1937, marked shortages of pig iron and steel developed. From 1936 on, when cotton accounted for 43% of total Japanese imports from the United States, Japan concentrated on the expansion of industries supplying military necessities and imposed severe restrictions on imports of cotton, wood pulp, and other commodities entering into the production of consumers' goods. Before Pearl Harbor a Commerce Department analyst observed, "Since that year (1936), however, Japan has concentrated on the expansion of its heavy industries at the expense of its export industries, purchasing increasing quantities of scrap iron, steel-mill products, machine tools and petroleum products largely from the United States."⁶ Significant, too, is the fact that after 1936 Japan instituted a statistical blackout on its imports of ore, metals, autos, parts, and the like.

In July, 1937, the Japanese Army moved into China. Through its representatives China raised the question of economic sanctions against Japan but received no support.⁷ Tightening its trade controls, on September 9 Japan passed an Emergency Trade Control Law, intensifying the development of its imperial self-sufficiency program. In that period official and unofficial observations make for interesting reading and reflection. A State Department analysis pointed out, "Although during the first half of 1937 the expansion in U.S. export trade with Japan was inclusive in its scope (with cotton sharing in the general rise), increases were most marked in the metal, iron and steel, petroleum, machinery, and vehicle groups, reflecting the accumulation of stocks of war materials and the government's program of speeding up the development of heavy industries. During the last half of 1937, when selective import controls became effective under conditions of actual war, American exports to Japan showed a predominantly military character."⁸

SOME SELECTED DATA

A Commerce Department analysis then stressed these many points: (1) our trade with Japan for 1937 showed an unusually large expansion over 1936—\$288,378,000, the highest figure since 1920 and an advance of \$84,030,000 or 41.1% compared with 1936; imports increased by 18.8% over 1936, and for the sixth consecutive year the United States enjoyed an export excess with Japan; (2) in 1937, Japan was our third principal export market, accounting for 8.6% of our total export trade; (3) crude materials and semi-manufactures for Japan's expanding industries constituted the bulk of American goods supplied to that country, semi-manufactures about 43.3% of total to Japan, raw materials 32%; (4) scrap iron and steel and tin scrap increased to \$39,278,000 from \$14,177,000 in the previous year, with an equally sizeable increase in tonnage; (5) exports of refined copper jumped from 79,852,000 pounds valued at \$7,293,000 in 1936 to 145,689,000 pounds valued at \$17,997,000 in 1937; (6) these gains plus smaller increases in exports of wire rods, tin plate, scrap copper, and lead brought total exports of metals and manufactures, except machinery and vehicles, up to a value of \$104,423,000 compared with \$28,842,000 in 1936; (7) exports of nonmetallic minerals increased from \$29,769,000 in 1936 to \$44,821,000 in 1937, largely due to heavier shipments of crude oil; and (8) shipments of American machinery and vehicles to Japan assumed large proportions, \$34,202,000 in 1937 compared with \$20,459,000 in 1936, with power-driven metal-working machinery accounting for most of the increase.⁹

⁵ Jerome B. Cohen, *Japan's Economy in War and Reconstruction* (1949), p. 23.

⁶ Victoria C. Hungerford, *Effects on American Economy of an Embargo on Exports to Japan*, Department of Commerce, February 26, 1941.

⁷ Arnold Toynbee, *Survey of International Affairs*, 1937, p. 289.

⁸ *Analyses of United States Import Trade With Japan in 1937*, U.S. Department of State, April 12, 1938.

⁹ *United States Trade With Japan, Including Taiwan and Chosen—1937 Compared with 1936*, U.S. Department of Commerce, 1938.

It is quite evident that analysts in our executive agencies were acutely cognizant of what was then transpiring. To cite another example, State Department papers reveal that :

in 1937 Japan was engaged in building up large stocks of raw materials and materials of a military and heavy industry character. During the latter part of the year 1937 and throughout 1938, Japan was engaged in hostilities in China. The increased imports of Manchuria in 1937 and 1938 from non-Japanese sources were obviously connected with Japan's preparation for an execution of military operations, and the figures for those years warrant no inference that Japan's occupation of Manchuria has more widely opened the doors of commercial opportunity or benefited American enterprise in Manchuria. By administrative measures of a discriminatory character, American business enterprises have been excluded from the field of distribution within Manchuria. Preferences in force, favoring Japanese enterprises, have compelled many American enterprises to withdraw from Manchuria and have discouraged other American enterprises from operating in Manchuria.¹⁰

Meanwhile, as statistics show, U.S. exports of strategic goods to Manchuria increased substantially in this period.

There are many angles from which statistical data may be viewed and evaluated, but in this case the data point largely and conclusively in one direction : Japanese war preparations and our heavy contribution to them. In terms of the percent distribution of U.S. trade with selected Far Eastern countries, Japan ranked second producer of our imports for 1926-30 with 9.4% of the total; by 1937, it ranked third with 6.6% of the total. As concerned our exports to the Far East, Japan ranked fourth for the earlier period, with 5.2% of the total, and third in 1937 with 8.6%. Viewing the subject from the angle of Japan's total volume of imports and exports after the Manchurian crisis, Japan's percentage of imports trade with United States was 36.5% in 1931-32 and 33.6% in 1937, ranking first among selected Far Eastern countries in both periods; its export trade showed the same rank for the two periods, with 32.1% in 1931-32 and 20.8% in 1937.

One fairly accurate, private analysis shows that between 1936 and 1937, U.S. exports to Japan increased by 41%, but a breakdown of the export figures by commodities discloses an increase of about 124% in shipments of war essentials. The American share in Japan's imports of materials essential for war purposes was in 1937 the following: as a percentage of total Japanese imports in copper, 92.9%; automobiles and parts, 91.2%; all oil, 60.5%; pig iron, 41.6%; other iron, 59.7%; machinery and engines, 48.5%; zinc, 20.4%; with a total in the aggregate 54.4%.¹¹ In other words the weight of the U.S. contribution to the war economy of Japan was almost twice what Japan's aggregate figures of imports from the United States indicates.

Some recognition of these dangerous trends was registered in President Roosevelt's Quarantine Speech in 1937. However, by all accounts, the speech was vigorously opposed by major segments of the press and, as we shall see, the President retreated and his Administration shrank from economic measures as had the Hoover Administration in 1931-33. Nevertheless, reports then and many years later continued to relate the same story. One forthright report submitted by a Far Eastern expert in the Department of Commerce stated, "Let us, then, in our realistic interpretation of statistics call Japan's *heavy industries* by their right name—war industries—and let us recognize that our sales of scrap iron and steel are going into aerial bombs for final 'distribution' in China to an unwilling 'consuming public'—the defenseless Chinese civilians, men, women, and children."¹²

When some speak of the "good customers" in the present Red Empire, they should read this report on the "good" Japanese cash customer. Confirming much of this from hindsight, another analyst, in her coverage of Japanese trade from

¹⁰ *Papers Relating to the Foreign Relations of the United States, Japan: 1931-1941* (Washington: U.S. Government Printing Office, 1943), I, 156.

¹¹ Ethel B. Dietrich, *Far Eastern Trade of the United States* (New York, 1940), p. 18.

¹² Bland Calder, *Japan Is a "Good" Cash Customer*, U.S. Department of Commerce, Special Report "E", June 8, 1938.

1937 into the first nine months of 1940, wrote, "During this period, Japan was seriously preparing for war, and its trade figures reflect these preparations."¹³

CONGRESSIONAL AND ADMINISTRATION VIEWS

Certain developments in 1938 shed further light on this whole issue. Congressional restlessness with the existing situation began to appear. For instance, in June, Senator Pope of Idaho spoke out in this vein: "It is just as well . . . for us to recognize the bitter fact that it is America which is supplying 54.4 per cent of the materials absolutely necessary in order that Japan may continue her aggression against China."¹⁴ Figures compiled from the Commerce Department's *Far Eastern Financial Note* (No. 246, January 19, 1938) disclose that the British Empire supplied 17.5% of such materials. The following month, in July, the United States finally initiated a hesitant policy of economic pressure against Japan.

A "moral embargo" was put into effect despite the objections of Ambassador Grew, our representative in Japan. As a matter of fact, until the latter part of 1940, Mr. Grew was against economic sanctions, because they would worsen our relations with the aggressive power and would lead to war.¹⁵ He urged a new commercial treaty with Japan when later the 1911 treaty was scrapped. It was not until September 12, 1940, that in a long dispatch he finally called for stern economic measures.¹⁶ However, in light of the situation a "moral embargo" was scarcely adequate for the purposes intended. Pointing out a fact reiterated by many others, a well-known scholar recently wrote, "With the exception of the 'moral embargo,' which had been in force since the summer of 1938 and which effectively prevented aircraft, aircraft equipment, and aerial bombs from going to Japan from the United States, Japan could still secure from this country all the oil, copper, scrap iron and steel, automotive equipment, and other materials useful to a military machine that it wished."¹⁷ Right up to 1940, Japan maintained its third place in U.S. export trade, yielding its place in that year to France because of the latter's war demands for goods.

Commodity-by-commodity data substantiate what a Department of Commerce report on Japan stated in 1940, that "there has been a greater demand over the past few years for metal-working machinery, petroleum products, iron and steel products, copper and other materials entering into its heavy industries—petroleum and products \$45,290,000 in 1939 amounted to 19.6% of our total exports to Japan; metal-working machinery \$24,578,000 in 1939 and \$23,627,000 in 1938, 1939 being 10.6% of total export value. Also exceeding 1938 values were exports of iron and steel scrap, steel bars and rods, refined copper. . . ." This report merely extended by one year the general conclusion arrived at in an earlier one: "In the past two years Japan has concentrated its efforts on the expansion of heavy industries rather than on the export industries."

On April 27, 1939, the Senate Foreign Relations Committee had before it the Pittman Resolution (S.J. Res. 123), authorizing the President to end trade with Japan. There were a number of such resolutions. Secretary of State Cordell Hull suggested that they be deferred. Senate Resolution 166, submitted by Senator Vandenberg, called for the abrogation of the 1911 commercial treaty in six months. By July 26 the United States notified Japan by formal notice of its intention to terminate the Treaty of Commerce and Navigation on January 26, 1940. Thus, after six months we would be free to control or cease our exports to and imports from Japan. It is noteworthy that at the beginning of 1939 the Secretary of State planned to denounce some sections of the treaty and to substitute for these certain short-run and commercial agreements.¹⁸ There can be no question that expression of Congressional sentiment led to a stronger stand, such as it was.

Even at that, when the Secretary announced our intent to abrogate, there was a degree of equivocation. The Japanese seized upon this and sought a new

¹³ Edythe M. Garber, *Japan's Prewar Foreign Trade*, U.S. Department of Commerce, International Reference Service series, May, 1946, p. 1.

¹⁴ James P. Pope, "Sales of War Materials by the United States to Japan," U.S. Senate, June 8, 1938.

¹⁵ Ambassador Grew to Secretary Hull, *Far Eastern Military Tribunal*, Defense Document No. 1400-U-2, Exhibit No. 58, Reject No. 315.

¹⁶ Anthony Kubek, *Japanese-American Relations 1937-1945* (Washington, 1956), p. 188.

¹⁷ Meredith C. Cameron, *China, Japan and the Powers*, 2d ed. (New York, 1960), p. 483.

¹⁸ Herbert Fels, *The Road to Pearl Harbor* (Princeton, 1950), pp. 21-22.

agreement since Hull intimated some "new consideration" for a treaty. Toward the close of the year, on December 20, 1939, he advised Ambassador Grew that the United States did not wish to enter into negotiation for a new treaty. As indicated earlier, Grew's position was well known then. In October 1939, he stated it as follows: "In both my talks with the President I brought out clearly my view that if we once start sanctions against Japan we must see them through to the end, and the end may conceivably be war." After several months of absence from his post the Ambassador nevertheless expressed America's growing concern when, in an address to the American-Japan Society in Tokyo, he declared, "An effort is being made to establish control, in Japan's own interest, of large areas on the continent of Asia and to impose upon those areas a system of closed economy."²⁰

It is also important to note several other developments at this late hour. A survey of newspaper clippings for the period shows much publicity given to U.S. exports of iron and steel scrap to Japan. With allowances made for item classifications, many papers pointed out that in the years 1933-1941 the United States exported over 10 million tons of iron and steel scrap to Japan. Relying on Department of Commerce estimates at the time, we tabulated the exports for 1936-40 as follows: 1936--1,184,536 tons, 1937--2,140,889, 1938--1,547,617, 1939--2,279,315, 1940--1,079,141, or a total of 8,231,498 tons in this short period of time. Moreover, the Gallup Poll of the day indicated general public opposition to such exports.

Some areas of business also expressed their opposition to these exports. For example, on March 23, 1939, Mr. E. T. Weir, then chairman of the National Steel Corporation, urged a complete stoppage of these exports. The following year, when an embargo was finally ordered on the export of scrap steel, Mr. Weir openly declared on October 15, "It should have been done long ago. The exported scrap that has been permitted thus far has brought inventories of this vital resource to a point where they are dangerously low." On this issue, there was a sharp clash between Weir and Secretary of Interior Ickes when the United States was already in the heat of war with Japan, and accusations of blame and responsibility were rife. Countering the Secretary's accusation that the steel industry was to blame for shipping scrap iron to Japan, Weir demanded from Ickes a public retraction of the charge, maintaining, "It would be natural to expect you to help alibi the shameful record of the Roosevelt Administration which, by permitting the export of millions of tons of scrap steel to Japan, helped Japan prepare for its war against the United States."²¹ Obviously, whoever was to blame, the great wrong had been done.

TOO LATE, TOO LITTLE

Then, and in subsequent years, a favorite argument circulated about to the effect that severe economic restrictions by the United States alone would not have curbed aggressive Japanese designs and actions. In itself the argument is purely speculative, for the restrictions that were imposed came far too late and even then, as additional evidence reveals, they might at least have caused a Japanese withdrawal from China. Furthermore, the argument clearly fails to exonerate us from the undoubtedly substantial contributions we made toward the practical advancement of these designs and aggressions.

Also, in view of our own behavior, it is almost gratuitous to point out the blatant absence of any serious attempt on our part to obtain a collective embargo against Japan. Nothing could be clearer in this respect than the British attitude toward American vacillation in the Far East. As one author discloses, "On September 13 Lothian had told Morgenthau that in view of the delicacy of the situation, neither the Dutch nor British could be expected to antagonize Japan by interfering with the flow of oil from the Indies, unless they were able to count on American support in the Far East."²² This fact was recorded in Secretary of Treasury Morgenthau's diary for September 13, 1940. Applying all this to the present situation, it can be reasonably argued that many are repeating the same argument in relation to East-West trade and are in the process of committing the same mistake.

²⁰ "The Far East," Address by the American Ambassador to Japan, *Department of State Bulletin*, November 11, 1939.

²¹ "Challenges Ickes on Scrap for Japan," *The New York Times*, November 2, 1944.

²² Fels, *op. cit.*, p. 103.

From July 1940 on, the United States proceeded to tighten the economic strings on Japan. A succession of executive orders on licenses for exports ensued, though Secretary of State Hull continued to oppose suggestions for full-scale economic warfare. On July 2, Roosevelt signed the Export Control Act, authorizing the President to license or prohibit exports of essential defense material. By this act Roosevelt issued his first order that day, placing under license all arms and certain basic raw materials like aluminum, specified chemicals, aircraft parts, armour plate, glass, plastics, and machine tools. On July 25, he ordered the same for petroleum products, tetraethyl, lead, iron and steel scrap. An instructive note here is that only two days before, General De Witt, who commanded the military forces on the Pacific Coast, had reported Japanese stockpiling of aviation gasoline and their signing of contracts with American companies for the delivery of 1,200,000 drums of gasoline.²³ Other Presidential orders followed in the remaining months of 1940 and into 1941, but their full application and effect were partly offset by the objections of Sumner Welles, Hull and others, who still felt that they would lead to war.

The war in Europe made Japan even more dependent on the United States. Japanese trade with Germany fell off. Exports to the United States, particularly Japanese raw silk, continued as an important source for Japan's acquisition of dollar balances for the purchase of materials here and elsewhere. According to a Department of Commerce study, in 1940 American exports to Japan of commodities under export license totaled about \$125 million.²⁴ As of February, 1941, the remainder of U.S. exports not under export control included raw cotton, a number of petroleum products, wood pulp, lumber, automobiles, auto parts, and so forth. Meanwhile, numerous memoranda were directed at Japan for interferences with U.S. trade in China. For example, a note delivered by the American Ambassador in Japan to the Japanese Minister for Foreign Affairs stated the case as follows: "I have the honor to refer to the representations made by my Government to the Japanese Government on frequent occasions during the last three years regarding interference with American enterprise and trade in China by the local Japanese authorities, as well as by local regimes under Japanese control. . . . Abundant indications have appeared in the course of recent weeks that the Japanese military authorities intend to institute similar controls over the very important trade of Shanghai."²⁵

Just a few months before Pearl Harbor and the outbreak of American-Japanese hostilities, Roosevelt issued several more executive orders designed to tighten the economic restrictions against Japan. For example, on July 26 he froze all Japanese assets in the United States. On August 1 another order was issued prohibiting exports of wood pulp, metals, manufacturing machinery, and vehicles. Despite the fact that many viewed such sanctions as posing a critical choice for Tokyo between retreat and resistance, Japan soon moved for satisfactory negotiations, even involving its withdrawal from China.²⁶ The United States proved to be indifferent to this move. The Konoye cabinet resigned on October 16. The succeeding Tojo government, though it also sought negotiations, was not prepared to yield easily.

Another illuminating analysis was made that year in the Department of Commerce.²⁷ Most appropriate to our present conditions regarding trade with Communist totalitarian regimes, the study in effect expanded the "strategic good" concept to include supplies for food consumption, clothing, and housing requirements. It showed how substantial our contributions were in these respects. Japan was wholly dependent on cotton and wool imports which the United States supplied. We also supplied the fertilizing material for Japanese food production. And to the pronounced relief of Japanese industry and its necessary diversion of resources, U.S. exports met a good portion of the housing requirements. The analyst did not exaggerate when he stated, "The United States has for many years contributed more to the national economy of Japan than has any other nation."²⁸ He also concluded that as an importer the United States could have seriously disrupted Japan's war economy by denying it approximately

²³ Kubek, *op. cit.*, pp. 185-186.

²⁴ Victoria C. Hungerford, *op. cit.*

²⁵ *Papers Relating to the Foreign Relations of the United States, Japan: 1931-1941*, (1943), II, 883-884.

²⁶ Kubek, *op. cit.*, p. 277.

²⁷ Halleck A. Butts, *Effect on Japan's Economy of an American Embargo on Exports to Japan*. U.S. Department of Commerce, February 26, 1941.

²⁸ *Ibid.*, p. 28.

\$135 million with an embargo on imports of silk aquatic products, tea, toys, and other Japanese goods.

It is quite evident, then, that had we had a firm policy of economic restriction and embargo early in the 1930's, had we as a consequence allied others in this collective effort against imperialistic Japan, had political judgments been based on official economic studies in the executive area itself, the course of developments would have been radically different and war itself could have been staved off between the United States and Japan. This in turn could conceivably have produced entirely different results in Europe. "Generally," as one author puts it, "we failed to appreciate Japan's vulnerability to blockade and the extreme degree of her dependence on imported raw materials."²⁹ He goes on to show how we overestimated Japan's raw material reserves and emphasizes the "fact that Japan's productive machine had come virtually to a standstill by mid-1945 came as a major surprise to U.S. observers who surveyed the scene in Japan immediately after the surrender."³⁰ Progress toward such a standstill in the mid-30's was a real possibility.

Our experience with Japan leading up to Pearl Harbor is sufficient in and of itself to demonstrate the need for a sensible economic policy in dealing with aggressive, imperialistic powers. The irrationality of aiding such powers even in areas beyond the arbitrary limits of "strategic good" definitions becomes more impressive as facts, such as the selected few given above, are carefully reviewed. But, as though this were not enough, the United States also made its economic contributions to the totalitarian economies of Germany and Italy.

U.S.-AXIS TRADE EXTENDED

In the 1930's many observers had insight and foresight as to the road being traveled by Hitler and Mussolini. Looking at their records today, it becomes evident that U.S. economic policy was equally unsound in relation to the imperialist powers of Germany and Italy. To be sure U.S. trade patterns were different in these two cases, and countries such as Great Britain and France could have had a more determinative effect on the two totalitarian European economies if an economic embargo had been imposed. However, if U.S. leadership had been the order of the day, which of course it was not, collective sanctions would have been enormously effective. As it turned out, in the cases of the German and Italian war economies we made our contributions to their development and to world disaster.

About a year and a half after Japan invaded Manchuria, Adolf Hitler became chancellor of Germany, and that country was directed along a new, aggressive course. To be well impressed by the patent discrepancy between that course and our economic relations with Nazified Germany, one should review the rapid succession of aggressive events leading to the outbreak of World War II in September, 1939: (a) 1933—Germany withdrew from the League of Nations, October 14; (b) 1934—with the death of von Hindenberg, on August 2 Hitler consolidated the offices of chancellor and president and became the Fuehrer; (c) 1935—Hitler rejected the Versailles Treaty and German military conscription was ordered on March 10; (d) 1936—March 7, German troops reoccupied the demilitarized Rhineland zone in violation of the Locarno Pact; on November 25, Japan and Germany signed an anti-Comintern pact, to which Italy joined the following year on November 6; (e) 1938—on March 11 Hitler invaded Austria and on September 30, after the Munich conference, he occupied the Sudetenland; and (f) 1939—September 1, Germany, aided by the Stalin pact, declared war on Poland, and World War II began.

From 1933 on, Hitlerian Germany's policy was girded to rearmament, growing self-sufficiency, expansionism, and war. These formed the props of Germany's international economic relations. As one scholar assessed part of the pattern, "Payments made under the civil public works programs were large, but they were nothing compared with the enormous expenditures incident to the rearmament program."³¹ Taking just the period of 1933-36, he added, "Therefore practically the whole of the increase in employment and investment over 1932 has been due to rearmament, strategic roads, and stimulus to industries which are of military importance." The German economic upswing after 1934

²⁹ Cohen, *op. cit.*, p. 48.

³⁰ *Ibid.*, p. 49.

³¹ Kenyon E. Poole, *German Financial Policies 1932-1939* (Cambridge, 1939), pp. 100-101.

was abnormal, as "producers' investment goods," automobiles, and building construction rose violently but current consumption goods remained practically stationary. In the words of another close analyst, "The main line of policy adopted by the government was simple: to channel the increase of production primarily into those industries that were important for the realization of military goals."³²

Confronted by raw material shortages, Germany resorted to all sorts of economic manipulations, including extensive bartering, *ersatz* substitute development, and selective importation, such as seen in the Communist Empire today. Normal foreign trade did not harmonize with a planned war economy. An observer at the time reported accurately when he said, "Yet, the barter system has found recognition and admiration even in the United States."³³ Analyses of reports by German industrial leaders reveal conclusively that Germany could not win a major war because of raw material dependence and relatively low stockpiles.³⁴ On the basis of this, if there had been an Allied embargo early in the period, it would certainly have deeply affected Hitler's war plans. Significant comparisons between Germany's economic posture prior to 1914 and that before 1939 reveal severe shortages in the latter period that Goering's Four Year Plan was supposed to have overcome.³⁵ *Ersatz* production, e.g., producing oil from coal, was another technique used in the plan, and so was the process of selective importation. It is here that the American contribution was made.

This part of the story is well summarized in a paragraph of a very instructive analysis of the period:

*"Many raw materials which are scarce in Germany are being imported in greater quantities than at any time before. During 1929, a year of prosperity, when barter trade was unknown, Germany industry had reached a high level of production. Yet in 1938 Germany had a net import of 30% more iron ore than in 1929, 143% more lead ore, 330% more chrome ore, 50% more copper ore, 140% more nickel ore, 26% more flax, 76% more hemp, and so on. The greater part of these raw material imports is needed for armaments."*³⁶

The author presents aggregate statistics of raw material imports gathered from official German sources.

On the basis of statistical data furnished by our own Department of Commerce it is clear that certain U.S. exports to Nazi Germany in the period of 1933-39 inclusive contributed to the German war machine. They disclose many illuminating facts frequently associated with our trade with Japan but not with Germany. For many of these vital commodities the cumulation of German imports from the United States reached sizable amounts.

Germany ranked high in imports of certain goods exported by us: (a) it ranked high in U.S. exports of gas oil and distillate fuel oil, \$1.1 million in 1935, \$3.5 million in 1936, \$4.4 million in 1937, and \$6.3 million in 1938; (b) it ranked third in U.S. exports of lubricating oil, red and pale, \$3.4 million in 1937, \$2.7 million in 1938, \$2.0 million in 1939; (c) it was second in imports of U.S. lubricating oil, cylinder, bright stocks, \$3.4 million in 1937, \$3.3 million in 1938, and \$2.4 million in 1939; (d) it was second, after Great Britain, in imports of U.S. lubricating oil, refined stocks, \$1.1 million in 1937, \$0.8 million in 1938, and \$0.6 million in 1939; (e) in 1937-38 it was first in imports of miscellaneous U.S. lubricating oils, \$1.4 million in 1937, \$1.7 million in 1938, \$1.1 million in 1939; (f) German imports of U.S. aluminum ingots, scrap and alloys were \$1.2 million in 1937, \$1.7 million in 1938, \$2.0 million in 1939; (g) Germany was top importer of U.S. rubber scrap in 1937 with 28.9 million pounds and second to Japan with 10.1 million in 1938; (h) it ranked high in imports of U.S. refined copper, with 75.0 million pounds in 1937, 148.6 million in 1938, and 42.5 million in 1939; (i) and for imports of U.S. old and scrap copper, Germany outranked Japan in 1937 with 23.7 million pounds, or more than 50% of total U.S. export, 23.6 million or over 50% in 1938, and 11.0 million or about 40% in 1939.

Turning now to Mussolini's Italy, it is well to bear in mind that Mussolini began to flex his muscles in 1935 with the invasion of Ethiopia on October 2; he joined the Anti-Comintern Pact in November, 1937, and the following month, on December 11, Italy gave notice of withdrawal from the League of Nations; in

³² Arthur Schweitzer, *Big Business in the Third Reich* (Bloomington, Ind., 1964), p. 335.

³³ Karl Robert, *Hitler's Counterfeit Reich* (New York, 1941), p. 77.

³⁴ Louis P. Lochner, *Tycoons and Tyrants* (Chicago, 1954), pp. 191-197.

³⁵ Fritz Sternberg, *From Nazi Sources: Why Hitler Can't Win* (New York, 1939), pp. 87-100.

³⁶ Guenter Reimann, *The Vampire Economy* (New York, 1939), pp. 53-54.

1938-39. Italy was in effect an Axis partner. Though on a lower level of economic power, Italy displayed all the characteristic signs of an aggressive totalitarian economy—self-sufficiency, armed strength, and controlled trade. Pertinent to our subject, an Italian fascist publication states it as follows: "In carrying out the commercial policies outlined above the Government avails itself of the organized forces of the Totalitarian State. Thus imports of staples essential to national defense—solid and liquid fuels, iron ore and scrap, non-ferrous ores and metals—are made through special semi-official bodies * * *." ³⁷ Some of these items came in substantial amounts from the United States.

Not generally known is the fact that U.S. foreign economic policy in the 1930's contributed not only to Italy's war economy but also to the undermining of collective sanctions against Italian exports after the invasion of Ethiopia. Economic sanctions went into effect in November, 1935, supported by 52 members of the League of Nations and one non-member, Egypt. They ceased purchases of Italian goods and naturally restricted exports to Italy. "Although it is true," writes one keen analyst, "that while sanctions lasted they failed to achieve their objective, the damage done by them to Italy's international economic position was, nevertheless, considerable."³⁸ He also points out, "It is interesting to note * * * that during sanctions non-sanctionist countries bought 88.7% of Italy's total exports (37% of this going to Germany and 17% to the United States) and sold her 66.4% of her total imports (29% being sold by Germany and 13% by the United States). These figures show clearly that, had Italy not had the support of the non-sanctionist countries (the trade with whom amounted, even before the sanctions, to about 48% of her total foreign commerce), her foreign trade would in all probability have been completely paralyzed by the sanctionist measures."³⁹

As in the case of Germany, a detailed commodity-by-commodity breakdown based on Department of Commerce data shows the strategic materials the United States was shipping to the Italian war economy during this whole prelude to war and even after the outbreak of World War II. From a cumulative, summational viewpoint, these values aggregate substantially over the year. As examples: (a) in 1937 Italy imported 0.2 million tons of U.S. old and scrap copper, in 1938 the figure jumped to 2.6 million tons, and in 1939, 3.9 million tons; (b) in 1939, U.S. exports of ferro-alloy ores to Italy amounted to \$580,749; in 1940 after the outbreak of World War II they increased to \$865,130; (c) Italy lagged behind top-importing Japan in U.S. refined copper exports but surpassed Germany in 1939, importing 41.6 million tons in 1937, 43.7 million tons in 1938, and 56.0 million tons in 1939; (d) Italy's imports of U.S. iron and steel scrap were less than 10% of total U.S. exports in 1937—381,000 tons—but in both 1938-39, they exceeded this percentage, with 435,000 tons in 1938 and 426,000 tons in 1939; (e) similar comparisons and the same tendency apply to Italian imports of U.S. residual fuel oil (257,000 barrels in 1937, 1,201,000 in 1938, and 1,402,000 in 1939) and lubricating oil (28,000 barrels in 1937, 30,000 in 1938, and 68,000 in 1939). And as in the two other cases these are only a few examples.

A CONCLUSION

The lessons of our experiences with aggressive powers before World War II must be understood more than ever now. The totalitarian Communist Empire is a far more insidious and sinister enemy than were any of our World War II adversaries. In the nebulous context of the Cold War the nature of a strategic good far surpasses what was construed as such in the 1930's. The lessons learned then should be firm guidelines for our trade policy toward the Communist Empire now.

³⁷ *Fascist Era, Year XVIII*, Fascist Confederation of Industrialists (Rome, 1939), p. 119.

³⁸ William G. Welk, *Fascist Economic Policy* (Cambridge, 1938), p. 176.

³⁹ *Ibid.*, p. 211.

7. PREPARED STATEMENT OF S. HOUSTON LAY

I am honored to be invited to appear before this distinguished Committee which is considering whether or not to give its consent and advice to the very important US-USSR Consular Convention.

I am a lawyer serving as Director of the International Law Program of the American Bar Foundation since 1962. From the end of World War II until 1962 I served in the Department of State and in the United States Diplomatic Service. For a period of about 4½ years while in the Office of the Legal Adviser of the Department of State my duties included participation in the drafting and negotiation of consular conventions. I presently hold the rank of Commander in the Naval Reserve and during World War II served for about four years with main duty assignments being with North Atlantic convoys and the Amphibious Forces in the Pacific. I have not served in the Soviet Union.

I speak only for myself and do not represent any organization or group.

This Committee has already made an extensive study of the US-USSR Consular Convention and you are doubtless in possession of much better information than I about the impact of approval or non-approval of the treaty on overall US-USSR relations and on the prospects for a lasting peace. Also, I believe you have received a considerable amount of information about the assistance the treaty may be expected to give in opening up the closed Soviet social system. I will therefore restrict my comments to some of the more technical legal aspects of the treaty and invite your attention to some of the factors entering into the price we would pay if the treaty is approved. This Committee must decide if the price is one which it is in the interests of the United States to pay and if approval of the treaty would improve US-USSR relations to the advantage of the U.S.

The treaty is in words and in form reciprocal in the granting of rights and benefits. The treaty does not authorize opening any consular establishment in either country. Arrangements must be negotiated individually within the framework of the treaty for each establishment opened and thus there is no assurance that any consular establishment would be opened under the treaty. Granting of exequaturs is also discretionary. In our open society it is very easy for the USSR to have a very complete intelligence report on any and all members of our Foreign Service. While we have very good intelligence services the closed Russian society makes it difficult if not impossible to obtain the same kind of detailed information about Soviet officers proposed for assignment to a consular establishment in the United States. On this point then we are at a disadvantage.

The treaty provides that consular personnel may be declared persona non grata without explanation, replacing the customary consular devices of withdrawing the exequatur. This is a change in terminology rather than substance from usual practice. The USSR has regularly used the system with diplomatic personnel as a retaliatory device and as a method of reducing the size of a foreign staff. This provision is, if used properly, reciprocal in fact as well as in language.

In US-USSR relations the requirement that all consular personnel be nationals of the sending state is undoubtedly desirable as eliminating a possible source of friction.

The language of the US-USSR consular convention with reference to the obligation of the receiving state to facilitate the acquisition of premises necessary for a consular establishment and its personnel is reciprocal in language and identical with the Vienna Consular and Diplomatic conventions. Since the acquisition must be in accordance with the laws of the receiving state there must be taken into consideration the sharply different economic and legal structures of the US and the USSR. In the United States compliance with zoning rules which apply to everyone equally are about the only problems which the Soviets may expect to encounter. These zoning rules did recently prevent the Soviets from establishing their embassy in a residential area of North West Washington. The Soviets have reciprocated by preventing the United States from acquiring new embassy facilities in Moscow. Soviet rules of ownership of real property are

such that it is highly unlikely that the US will receive reciprocity in fact in the ownership of consular premises. Any buildings made available to the United States by the Soviet Union will come well equipped with Soviet installed monitoring equipment.

Articles 7 through 15 set forth the functions which may be performed by consular personnel. However, the Soviet view of the collection of economic information is well known and it is quite probable that any American officer successful in obtaining much useful unpublished economic information would be declared persona non grata immediately. In the open society of the United States there would be little risk of being declared persona non grata except if strategic defense information was involved. Soviet prosecution for economic "espionage" has long existed and was the subject of a Roosevelt-Litvinoff exchange in 1933 in connection with US recognition of Russia.

The US-USSR treaty provisions with reference to the administration of estates are reciprocal in language but not in fact, although the whole matter of estates is made subject to the laws of the receiving state. Under the Soviet economic system very little of value other than personal items are inherited, whereas in the United States, even with its graduated inheritance taxes, estates of very great value may be passed by inheritance. I know of no reliable statistics but have seen estimates that as much as \$100,000,000 might be transmitted to Russia while only a very few million at most would come to the US if the assets of estates were freely transmitted. Approval of this treaty would not require the courts to release assets to the Soviet Union but it would give the Soviets added respectability and an argument likely to be persuasive in many instances. There is also no assurance, the language of the treaty notwithstanding, that any funds released to Soviet beneficiaries would in fact reach them since artificial exchange rates, taxes, and services charges are customary. The requirements of receipts and proof are not considered to be very effective. Given the great difference in the socio-economic structure of the US and USSR language could be formulated only with difficulty which would provide certain reciprocity in fact. Language could be drafted which would allow only the types of things inheritable in fact under the Soviet system or their value to be transmitted to Russia from the US but this would be cumbersome and difficult and would require careful research in which the Soviets would not likely cooperate. Whether or not the Soviets would agree to the required language is not known as it would interfere with foreign currency controls.

The proposed convention and protocol contain rather specific language relating to the right of the consular officer to be informed of and to visit his nationals under arrest or detention. About everything possible has been done by way of language to make this certain. However, visiting the prisoner and obtaining legal representation provides no assurance of either a fair or speedy trial and the Soviets proved very adept in avoiding the clear intent of the 1933 Litvinoff commitments. There is little reason to believe they cannot again find a rationale to avoid the terms of the new treaty if they wish. If they fail to find a justification it is only necessary to refer to Senate Doc. 125 of the 84th Congress 2nd Sess. for a listing of Soviet treaty breaches from 1917 to 1956. A 1959 list may be found in the Department of State Soviet Affairs Notes, Number 233 of Aug. 10, 1959, and there are probably more recent partial lists which have been prepared by the Department of State. While the Soviet Union has a new Prime Minister there does not appear to be any reason to believe that its basic policy regarding the sanctity of treaties has changed appreciably. Experience would seem to indicate that American tourists in the Soviet Union will receive such treatment as suits Soviet purposes from time to time and if the consular convention is not approved it is not unreasonable to think the Soviets may hold some of our tourists incommunicado for a while, in spite of the Litvinoff exchange, to show how much better things might have been if the treaty had been approved.

The Litvinoff exchange of 1933 provided for MFN treatment of the US nationals and, although contemplating the immediate negotiation of a consular convention, also stipulated that "such rights will be granted to American nationals immediately upon the establishment of relations between our two countries." Thus, a good legal argument can be made that the Litvinoff exchange, in addition to the MFN provision, incorporated by reference to the language of the USSR-German consular convention and that the commitments to the US nationals thereafter existed and exist now whether or not the German convention was terminated. So far as I know the Litvinoff exchange has not been officially terminated but you may wish to ask the Department of State for information about this. These matters are ordinarily resolved more on political than legal grounds and clearly a determined effort has been made in the

US-USSR draft to close loopholes that existed or were made by the USSR in the German convention. The language of the US-USSR Consular Convention is preferable and, as noted above, in international matters decisions are likely to be based on political considerations to at least as great an extent as on legal interpretations. The UK-USSR and the Japanese-USSR Consular Conventions have language on these points very similar to the US-USSR language. I do not know if these conventions are in force.

Articles 13, 14, and 15 of the US-USSR Consular Convention relating to shipping are well drafted and probably superior for our purposes to the US-Japanese Convention.

The immunity of consular premises and personnel has probably received more attention than any other part of the convention and there are others more expert than I on this subject. In recent years the United States has tended, where foreign relations are at all sensitive, to treat consular personnel in much the same manner as diplomatic personnel. The 1948 Kasenkina case is the most outstanding example of this. With or without an immunity provision in a treaty it is quite probable that the Executive Branch of the Government would consider it in the interests of the United States to declare Soviet consular personnel persona non grata rather than prosecute them. Thus, to some degree the language of the draft would formalize what has been done in the past and what would probably be done in the future anyway.

Consular communications are ordinarily inviolable but the language of the US-USSR draft includes the words, "making use of all ordinary means of communications." Under international law consulates may not operate their own radio stations except with the approval of the receiving state. I suggest that the Soviets may claim that the language quoted above constitutes an authorization to operate their own station. I suggest you may wish to inquire of FCC or the Department of State about the US rules on such matters, which I have not researched. If the Soviets utilized a radio station on the basis suggested they could not reasonably object if the United States did also. How serious a problem this would present is open to question. Radio messages can be monitored as easily as cable messages and everything of importance would be encrypted.

Because of the difference in the economic structure of the US and the USSR the provisions relating to property tax exemptions are not reciprocal in fact and the advantage would be to the USSR. Language could probably be devised which would give reciprocity in fact. The amounts involved are comparatively not large but the task of negotiating the amounts on an individual basis each time a question arises is time consuming and an annoying source of friction. It can also be used as a delaying tactic. (The Department of State's Foreign Building Office can give detailed information about these problems. Problems of exchange rate differentials would also make advance agreement advisable. Personal tax and customs exemptions would not likely present a problem and are reasonably reciprocal in fact if fairly administered.

Authorization for travel restrictions would be much more easily enforced in the Soviet Union than in the US although the US could, if it wished to spend enough on security forces, have reciprocity in fact.

The US-USSR proposed consular convention does not include a most favored nation provision as many consular conventions to which the US is a party do and as is true of the Litvinoff notes. Thus, neither the US nor Russia can, under the proposed convention, take advantage of provisions of another consular treaty if the present proposal is approved. If, however, the Litvinoff commitments have not been abandoned or otherwise terminated we could presumably claim the advantages of the recently negotiated UK-USSR and Japanese-USSR Consular Convention. Other USSR consular conventions with its own allies are much less specific in terms. However, the US would be obligated to extend the benefits of this convention to many other countries under existing MFN provisions. I consider it somewhat incongruous that our allies and friends among the nations would have to come to us saying they want the advantages of a treaty we have just negotiated with the Soviet Union, which is a main supplier of support to an enemy with which we are at war. The Department of State has previously supplied you with a list of the countries concerned.

This committee must determine if the anticipated benefits under this proposed convention are greater than the disadvantages. The war in Viet Nam and the general attitude of the Soviet Union toward the United States are important elements to be considered. Whether or not the existence of a treaty such as this would have prevented the break in consular relations in 1948 is very doubtful.

8. EXHIBITS OF THE LITHUANIAN AMERICAN COUNCIL

EXHIBIT No. 1

DECREE OF THE PRESIDIUM OF THE SUPREME SOVIET OF THE SOVIET UNION OF SEPTEMBER 7, 1940, ON THE ACQUISITION OF USSR NATIONALITY BY NATIONALS OF THE LITHUANIAN, LATVIAN AND ESTONIAN SOVIET REPUBLICS. (*Vedomosti*, No. 31, 1940)

(1) In accordance with Section 1, the Law on Nationality of the USSR of August 19, 1938, it is hereby established that nationals of the Lithuanian, Latvian, and Estonian Soviet Socialist Republics shall be USSR nationals from the day when these Republics are received into the USSR.

(2) Nationals of the Lithuanian, Latvian, and Estonian Soviet Socialist Republics who at the time of the promulgation of the present decree are outside of the confines of the USSR and were not deprived of nationality by the Soviet governments of these Republics must register on or before November 1, 1940, as Soviet Nationals at diplomatic missions and consultants of the USSR by means of a personal appearance or by mailing a special application with their passports.

Persons who failed to register as Soviet Nationals at diplomatic missions or consulates of the USSR before November 1, 1940, may obtain nationality of the USSR under general rules in accordance with Section 3 of the Law on Nationality of the USSR.

(3) Persons without nationality who belong to national minorities which, under conditions of political regimes existing in the Lithuanian, Latvian, and Estonian Soviet Socialist Republics prior to the establishment of Soviet power there, could not have acquired Lithuanian, Latvian, or Estonian nationality shall acquire USSR nationality by the procedure provided for in sections 1 and 2 of the present decree.

All other persons without nationality who continuously resided in the territory of the Lithuanian, Latvian, and Estonian Soviet Socialist Republics may acquire USSR nationality under the general rules in accordance with Sec. 3 of the Law on Nationality of the USSR.

(4) Persons deprived of Soviet nationality on the basis of the Decree of the All-Russian Central Committee of the RSFSR Council of People's Commissars of December 15, 1921, and who are at the present time in the territory of the Lithuanian, Latvian, and Estonian Soviet Socialist Republics shall be treated equally with persons without nationality mentioned in the second paragraph of Section 3 of the present decree.

EXHIBIT No. 2

DECREE OF THE SUPREME SOVIET OF THE USSR OF DECEMBER 16, 1947, ON ACQUISITION OF NATIONALITY OF THE USSR BY PERSONS OF LITHUANIAN ETHNIC ORIGIN, INDIGENOUS INHABITANTS OF THE CITY OF KLAIPEDA AND THE DISTRICTS OF KLAIPEDA, SILUTE, AND PAGEGIAL OF THE LITHUANIAN SSR. (*Vedomosti*, No. 1, 1948)

(1) Be it enacted that persons of Lithuanian ethnic origin and indigenous inhabitants of the city of Klaipeda and of the districts of Klaipeda, Silute, and Pagegial of the Lithuanian SSR who were Lithuanian citizens on March 22, 1939, and their children, shall be deemed nationals of the USSR as of January 28, 1945.

(2) Persons mentioned in Section 1 of the present Decrees who were not residing in the city of Klaipeda and in the districts of Klaipeda, Silute, and Pagegial of the Lithuanian SSR on January 28, 1945, but who were temporarily residing outside of the confines of the USSR shall register as Soviet nationals until June 1, 1948, at the diplomatic missions, consulates, or other corresponding

bodies of the USSR in person or by mailing their passport or documents proving the identity of applicant and his permanent residence in the city of Klaipeda and in the districts of Klaipeda, Silute, and Pagegiai of the Lithuanian SSR.

(3) All other persons residing permanently in the city of Klaipeda and in the districts of Klaipeda, Silute, Pagegiai of the Lithuanian SSR may acquire nationality of the USSR under general rules in accordance with Section 3 of the Law on Nationality of the USSR.

NOTE.—The deadline for registration was extended at first until July 1, 1949, and then to July 1, 1950, by subsequent decrees; see *Vedomosti* No. 31, 1948 and No. 47, 1949.

EXHIBIT No. 3

IN THE MATTER OF THE ESTATE OF JOHN MITZKEL, DECEASED; SURROGATE'S COURT, KING'S COUNTY, OCTOBER 15, 1962

Originally the Lithuanian Council appeared for the foreign distributees as nationals of the Republic of Lithuania. Shortly thereafter there was recorded a power of attorney, executed and acknowledged by said distributees before the United States Consul at Moscow, appointing respondents, a New York law firm, as attorneys in fact for them in this estate. * * * If the power of attorney is valid, respondents' notice of appearance likewise is valid, supplanting the authority of the Lithuanian Council to appear for his nations. * * *

The other grounds of attack upon respondents' power of attorney urged by petitioner are more serious. It appears that respondents were first apprised of this estate by their Moscow forwarders, identified as the International Jurists College, a lawyers' collection or guild, more commonly known by the contraction "Iniurcolleguia." It is with this body that respondents conducted all its correspondence, except such as they had in the matter with the Russian Embassy which it represents in this and other courts. At its request they located the estate proceedings and reported their findings, advising it "in view of the difficulties which we have encountered in obtaining recognition for documents executed in Lithuanian S.S.R. to have all documents executed either in Moscow or on the territory of the Byelorussian S.S.R. so that there can be no question of authentication." Decedent's sisters were accordingly brought to Moscow, a distance of about 550 miles from their homes in Lithuania, to execute and acknowledge the power of attorney before the United States Consul. Respondents thereafter received this instrument from "Iniurcolleguia" together with other documents required for the kinship hearings.

It further appears from the record, buttressed by facts of which the court may take judicial notice (Civ. Prac. Act, § 344-a) that "Iniurcolleguia" is a body of Soviet lawyers in Moscow organized and constituted pursuant to a statute under the jurisdiction and control of the U.S.S.R. Ministry of Justice, for the purpose of exclusive representation of Soviet nationals in foreign legal matters. It is, in effect, a bureau of said ministry and an agency of the Soviet Government. * * *

Whatever broader questions the foregoing raises, one determining factor is clear, namely, that behind the scenes the representative of the Lithuanian distributees is "Iniurcolleguia," an agency of the U.S.S.R. Ministry of Justice. In the *Matter of Podols* (N.Y.L.J., May 29, 1961, p. 16, col. 7) in which these respondents by authority of the Russian Embassy appeared for the Lithuanian nationals, this court granted the Attorney General's motion to strike out their notice of appearance, holding that the court may not recognize any act by the U.S.S.R. involving residents of Lithuania in view of United States foreign policy not to recognize the incorporation of Lithuania into the Soviet Union. * * *

This instant application calls for a logical extension of the foregoing ruling. To uphold respondents' power of attorney and notice of appearance on the ground of prima facie validity would not only, in the words of the late Surrogate McGarey in *Matter of Adler* (supra, p. 108) "tacitly recognize the (Soviet) government, invade the domain of the political department, and weaken its position," but would also give sanction to indirect representation of Lithuanian nationality by an agency of the U.S.S.R. which procured their direct representation by attorneys of its own selection. The fact that respondents frequently appear on behalf of the Russian Embassy for Soviet nationals, is more than

incidental: it meshes with unauthorized Soviet representation of Lithuanian nationals. * * *

The fatal defect in their relationship to the Lithuanian distributees based upon the power of attorney running to them stems from the covert intervention and direct control exercised by a Soviet official body in its procurement and the attempt to accomplish representation of nationals of the Baltic countries.

A similar power of attorney to one of the respondents herein was held invalid in the unreported Wisconsin case cited above (*Matter of Anna*). The decision therein recites, inter alia:

"The court takes note that the testimony indicates there is no freedom of choice of an attorney in fact by a Lithuanian national. The power of attorney as filed herein is written in Russian and English; the delegation of power goes to a firm representing the Soviet Embassy in Washington. Dispute exists as to its validity because it was executed under and by way of Russian Law instead of Lithuanian Law before a government official not recognized by the valid Lithuanian Government.

"To recognize the power of attorney would be to disregard the law and give effect to the apparent attempt of the Russian authorities to circumvent the sanctions of the United States against its conquest. * * *"

On the basis of these considerations, the court concluded that "The power of attorney of the Lithuanian distributees running to respondent is invalid and their notice of appearance thereunder is stricken."

Reports of Selected Cases Decided in Courts of the State of New York, James M. Flavin, State Reporter. Vol 36, Miscellaneous Reports 2d Series, Albany, William Press, Inc. 1963, p. 671.

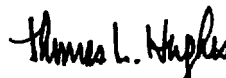
EXHIBIT No. 4

DEPARTMENT OF STATE
THE DIRECTOR OF INTELLIGENCE AND RESEARCH

MEMORANDUM FOR THE SECRETARY OF STATE

This Geographic Bulletin, second in a series prepared by The Geographer, identifies each state in the world that is generally accepted as independent. The information meets the needs of many Government agencies that require an enumeration and the official nomenclature of the countries of the world for use in reports, publications, and forms.

Two names appear for each state: a short form for use on maps, in lists, and for general narration; a long form for more formal usage and for official documents. An appendix gives such details as the area, population, and identification of the capital of each country. Text and notes explain many of the exceptions one finds in the complex pattern of sovereignties throughout the world.


Thomas L. Hughes

Status of the World's Nations

A BRIEF SURVEY

By early 1965 a total of 125 national states were generally accepted as independent in the world community.¹ This number reflects a sharp increase during recent decades: On the eve of World War I, 63 countries were independent (as their status would be evaluated by current criteria); on the eve of World War II, 71 countries were independent.

A fast-changing international situation following each of the world wars fostered the creation of new sovereign states without an equating dissolution of existing ones. In fact, from 1914 to 1963 surprisingly few of the world's sovereign states disappeared permanently. Between the two world wars three states in Europe ceased to exist—Austria-Hungary, Montenegro, and Serbia—but they were replaced by four new states—the approximate areas of modern Austria, Hungary, Czechoslovakia, and Yugoslavia.

In the early part of World War II, three other sovereign states, Estonia, Latvia, and

Lithuania, were forcibly incorporated into the Soviet Union.² Other states disappeared temporarily from the world community during the war, including Austria, Czechoslovakia, and Ethiopia.

As an exceptional situation, Syria in 1958 joined Egypt to constitute a part of the United Arab Republic for 3 years. During that time it did not retain its identity as a separate state. In 1963 the United Arab Republic, Syria, and Iraq sought for a time to form a single state, but in this instance no actual change in sovereign status materialized. For several years Kenya, Uganda, Tanganyika, and Zanzibar have been considering the creation of an East African federation with a single national government. To date these plans have failed to crystallize, but in April 1964 Tanganyika and Zanzibar merged to become a single state. Thus, the world's total number of states was cut by one.

The world's states vary markedly in area, from several of continental propor-

¹ The concept of independence as used in this bulletin means statehood without foreign jurisdiction. The United States has diplomatic relations with 113 of the states listed on pages 4 to 10.

² Estonia, Latvia, and Lithuania are not included in the total of 125 independent states. However, the U.S. Government has not recognized their incorporation into the Soviet Union.

tions to two—Monaco and Vatican City—which are so small as to be measured in acres rather than in square miles. The difference in population is fully as overwhelming, from an estimated 724 million in China to only 1,000 in the Vatican City.

Only 24 states, or about 19 percent of the total, lie in the Western Hemisphere lands. Europe and Asia account for 26 and 23 percent, respectively; Africa for nearly 30 percent. When insular states are identified with the continent of closest association (for example, Cyprus as Asian, Malta as European, Madagascar as African), the distribution of independent states by continents is:

| | |
|-------------------------|----|
| North America | 14 |
| South America | 10 |
| Europe | 32 |
| Asia | 29 |
| Africa | 37 |
| Oceania | 3 |

Three states extend to a second continent: (1) Turkey is Asian, but part of the country is in Europe; (2) the Soviet Union is European, although the larger part, Siberia, is in Asia; and (3) the United Arab Republic is African, but has its extreme northeast corner in Asia.

Another worldwide distribution of states relates them to politico-geographic regions. Any given world region, or bloc, has within it a strong community of interest based principally upon location and its ramifications. As examples, the multiple political entities of the Caribbean or of Southeast Asia are frequently grouped to form a single region within a global perspective. Problems that relate to one country or segment of such a region likely apply to other

countries or segments as well. In fact, broad regions that cut across political lines of administration can be readily recognized as focal areas of international responsibility, tension, and conflict. We thus may block off and look upon groups of countries in the international scene much the same as we block off and regard groups of states within the United States.

The world's states can be grouped into the 13 politico-geographic regions shown in the tabulation on page 3.

Included in the concept of independent states are the micro-states of Europe: Andorra, Liechtenstein, Monaco, San Marino, and Vatican City. Together they cover an area less than a fourth the size of Rhode Island at high tide, and their total population could be seated in about two-thirds of the Pasadena Rose Bowl. Despite this diminutive size, however, each possesses enough sovereignty to qualify as an independent political entity.

The independent states of the world, as viewed by the U.S. Government, encompass (without Antarctica) about 49 million square miles, or 93 percent of the world total, and a population of 3.2 billion, representing more than 98.5 percent of the world's total of some 3.15 billion inhabitants. The remaining less than 50 million people living on 3.1 million square miles represent a diminishing minority of world citizenry. Although this segment of the world's inhabitants live in countries not fully independent, most of them do have the benefit of at least some aspects of independence. The next paragraphs summarize that part of the world which is dependent to at least some degree.

| <i>Politico-geographic region</i> | <i>Number of states</i> |
|--|-------------------------|
| 1. Anglo-America | 2 |
| 2. Caribbean America | 12 |
| 3. South America | 10 |
| 4. Western Europe | 22 |
| 5. Eastern Europe | 19 |
| 6. U.S.S.R | 1 |
| 7. Africa—Sahara and North | 27 |
| 8. Africa—South of the Sahara | 30 |
| 9. Southwest Asia (Middle East) ³ | 12 |
| 10. South Asia | 6 |
| 11. Southeast Asia | 8 |
| 12. Far East | 3 |
| 13. Oceania | 3 |

¹ Estonia, Latvia, and Lithuania are not included.
² Three African states, Chad, Mali, and Niger, extend northward into the Sahara Desert. Culturally, however, they belong in the South-of-the-Sahara category. Conversely, Sudan lies astride the line separating North Africa from the southern segment of the continent, but culturally belongs to the north.
³ The concept of Southwest Asia corresponds to the area generally accepted as the Middle East minus the United Arab Republic in northeastern Africa and Turkey in Europe.

Ten political entities have less than full sovereignty, yet enjoy local autonomy beyond that granted a dependency. Several areas on the Arabian Peninsula near the Persian Gulf, for example, have their own government with the exception of maintaining treaty relations with the United Kingdom. Without benefit of precise definition to cover this situation such states may correctly and realistically be considered as quasi-independent. A list appears later.

A further broad category of political entities encompasses dependent areas of various types. Most of them are "overseas" territories associated in some way with the main body of a state. Twelve sovereign states of the world have within their domain political entities with some degree of dependence: Australia, Denmark, France, India, Netherlands, New Zealand, Norway, Portugal, Spain, South Africa, United Kingdom, and the United States. The status of dependent areas varies from overseas areas with liberal rights for the inhabitants to possessions, such as minor islands scattered in the oceans.

In the Antarctic, the United States recognizes no claim of sovereignty, either for itself or by any other state. Thus, on an official map of Antarctica issued by the U.S. Government a segment of this continent might show territory *claimed* by a state, but would not show it as a territory of that state.

Even the briefest survey of the world's political entities shows that government control over land areas varies widely, from full sovereignty to none whatsoever. This Bulletin is concerned primarily with political entities in which sovereign control stems from the government of the area itself.

INDEPENDENT STATES

Listed here are the short- and long-form names for each of the world's independent states. The short form is commonly used except on official documents or for formal occasions. In a few instances no short form exists; then the long form must serve for all usage. Conversely, a long form may not exist or may seldom be used. Not all of the long forms listed have been approved

by the U.S. Board on Geographic Names. The notes explain departures from regular procedures in the use of names and should be consulted for guidance in exceptional or unique situations.

Supplementary information on the independent states appears in the Appendix on page 15.

| <i>Short form</i> | <i>Long form</i> | <i>Notes</i> |
|-------------------|--|---|
| 1. Afghanistan | Kingdom of Afghanistan | ..... |
| 2. Albania | People's Republic of Albania | Use of the possessive apostrophe is optional; the Department of State, however, uses only that form. |
| 3. Algeria | Democratic and Popular Republic of Algeria | Republic of Algeria is frequently used as the long form. |
| 4. Andorra | ..... | No long form for Andorra exists in English. The official long-form name, <i>Valls d'Andorra</i> , is Catalan. In French, the long form is <i>Les Vallées d'Andorre</i> ; in Spanish, <i>Los Valles de Andorra</i> . |
| 5. Argentina | Argentine Republic | ..... |
| 6. Australia | Commonwealth of Australia | ..... |
| 7. Austria | Federal Republic of Austria | Republic of Austria is also used as the long form. |
| 8. Belgium | Kingdom of Belgium | ..... |
| 9. Bhutan | Kingdom of Bhutan | Article 2 of the Treaty of August 8, 1949 between India and Bhutan reads, "The Government of India undertakes to exercise no interference in the internal administration of Bhutan. On its part the Government of Bhutan agrees to be guided by the advice of the Government of India in regard to its external relations." |
| 10. Bolivia | Republic of Bolivia | ..... |
| 11. Brazil | United States of Brazil | ..... |
| 12. Bulgaria | People's Republic of Bulgaria | Use of the possessive apostrophe is optional; the Department of State, however, uses only that form. |
| 13. Burma | Union of Burma | ..... |

| <i>Short form</i> | <i>Long form</i> | <i>Notes</i> |
|--------------------|---|---|
| 14. Burundi | Kingdom of Burundi | ..... |
| 15. Cambodia | Kingdom of Cambodia | ..... |
| 16. Cameroon | Federal Republic of Cameroon | Former official spelling was Cameroun. During the colonial era, one saw British Cameroons and French Cameroons as names. |
| 17. Canada | ..... | The designation "Dominion of Canada," although officially correct, is rarely used. |
| 18. | Central African Republic | ..... |
| 19. Ceylon | ..... | The designation "Dominion of Ceylon," although officially correct, is rarely used. |
| 20. Chad | Republic of Chad | ..... |
| 21. Chile | Republic of Chile | ..... |
| 22. China | Republic of China | The United States does not recognize the Communist-controlled regime styling itself as "The People's Republic of China," which controls mainland China. |
| 23. Colombia | Republic of Colombia | ..... |
| 24. Congo | Republic of Congo (Brazzaville) | The capital city in parentheses identifies state as being former French Congo rather than former Belgian Congo. |
| 25. Congo | Democratic Republic of the Congo (Léopoldville) | The Democratic Republic of the Congo has a short form which is the same as that for the Republic of Congo. Frequently the context is sufficient to distinguish the countries one from the other. However, a common method of distinguishing the two states is to identify each by the capital city in parentheses after the name, either in its long or short form. |
| 26. Costa Rica | Republic of Costa Rica | ..... |
| 27. Cuba | Republic of Cuba | ..... |
| 28. Cyprus | Republic of Cyprus | ..... |
| 29. Czechoslovakia | Czechoslovak Socialist Republic | The short form is not officially in good standing within the Czechoslovak Socialist Republic. |
| 30. Dahomey | Republic of Dahomey | ..... |
| 31. Denmark | Kingdom of Denmark | ..... |
| 32. | Dominican Republic | ..... |
| 33. Ecuador | Republic of Ecuador | ..... |
| 34. El Salvador | Republic of El Salvador | The definite article, "El," (in Spanish) must be used as an integral part of the name. |
| 35. Ethiopia | Empire of Ethiopia | ..... |
| 36. Finland | Republic of Finland | ..... |
| 37. France | French Republic | ..... |

| <i>Short form</i> | <i>Long form</i> | <i>Notes</i> |
|-------------------|--------------------------------|--|
| 57. Jamaica | ..... | No long form has as yet been designated. |
| 58. Japan | ..... | The long form, Japanese Empire, was officially abolished by the 1947 Constitution. |
| 59. Jordan | Hashemite Kingdom of Jordan | ..... |
| 60. Kenya | Republic of Kenya | Long form adopted in December 1964. |
| 61. Korea | Republic of Korea | The U.S. Government does not recognize the Communist-controlled regime styling itself as "The Democratic People's Republic of Korea" which controls northern Korea. |
| 62. Kuwait | State of Kuwait | By an exchange of notes of June 19, 1961, between the United Kingdom and the State of Kuwait the two governments concurred that the agreement of January 23, 1899, under which the United Kingdom exercised a measure of control over the foreign relations and the disposition of the territory of Kuwait, should be terminated as being inconsistent with the sovereignty and independence of Kuwait. On September 22, 1961, the U.S. Consulate at Kuwait (City) was elevated to embassy status. |
| 63. Laos | Kingdom of Laos | ..... |
| 64. Lebanon | Republic of Lebanon | ..... |
| 65. Liberia | Republic of Liberia | ..... |
| 66. Libya | Kingdom of Libya | ..... |
| 67. Liechtenstein | Principality of Liechtenstein | ..... |
| 68. Luxembourg | Grand Duchy of Luxembourg | ..... |
| 69. Madagascar | Malagasy Republic | Madagascar also refers to the geographic name of the island. Thus, the long form is sometimes preferred to denote Madagascar along with its dependencies as a political entity. |
| 70. Malawi | ..... | New name for former Nyasaland Protectorate. No long form has as yet been designated. |
| 71. Malaysia | ..... | Malaysia is a federation which includes the former State of Singapore, Colony of North Borneo (Sabah), and Colony of Sarawak, as well as the Federation of Malaya. |
| 72. Mali | Republic of Mali | ..... |
| 73. Malta | ..... | No long form has as yet been designated. |
| 74. Mauritania | Islamic Republic of Mauritania | ..... |
| 75. Mexico | United Mexican States | ..... |
| 76. Monaco | Principality of Monaco | ..... |
| 77. Morocco | Kingdom of Morocco | ..... |

| <i>Short form</i> | <i>Long form</i> | <i>Notes</i> |
|---------------------|---|---|
| 78. Muscat and Oman | Sultanate of Muscat and Oman and Dependencies | The United States concluded a Treaty of Amity and Commerce with Muscat in 1833 which has been replaced with the 1958 Treaty of Amity, Economic Relations and Consular Rights. |
| 79. Nepal | Kingdom of Nepal | ..... |
| 80. Netherlands | Kingdom of the Netherlands | The Kingdom of the Netherlands includes Netherlands in Europe, the Netherlands Antilles, and Surinam as integral parts. |
| 81. New Zealand | ..... | The name "Dominion of New Zealand," although officially correct, is rarely used. |
| 82. Nicaragua | Republic of Nicaragua | ..... |
| 83. Niger | Republic of Niger | ..... |
| 84. Nigeria | Federal Republic of Nigeria | ..... |
| 85. Norway | Kingdom of Norway | ..... |
| 86. Pakistan | Islamic Republic of Pakistan | The former name, Republic of Pakistan, specified in the 1962 Constitution, was eliminated in 1964. The present form was also used prior to 1958. |
| 87. Panama | Republic of Panama | ..... |
| 88. Paraguay | Republic of Paraguay | ..... |
| 89. Peru | Republic of Peru | ..... |
| 90. Philippines | Republic of the Philippines | ..... |
| 91. Poland | Polish People's Republic | Use of the apostrophe is optional; the State Department, however, uses only that form. |
| 92. Portugal | Republic of Portugal | ..... |
| 93. Rumania | Rumanian People's Republic | Use of the apostrophe is optional; the State Department, however, uses only that form. |
| 94. Rwanda | Republic of Rwanda | ..... |
| 95. San Marino | Republic of San Marino | ..... |
| 96. Saudi Arabia | Kingdom of Saudi Arabia | ..... |
| 97. Senegal | Republic of Senegal | ..... |
| 98. Sierra Leone | ..... | No long form has as yet been designated. |
| 99. Somalia | Somali Republic | The long form is sometimes preferred for informal use. <i>Somalia</i> was formerly the short form for the Trust Territory of Somaliland. |
| 100. South Africa | Republic of South Africa | Use of the short form is discouraged even though it is widely employed. The long form became effective May 31, 1961. |

| <i>Short form</i> | <i>Long form</i> | <i>Notes</i> |
|--------------------------|--|--|
| 101. Soviet Union | Union of Soviet Socialist Republics | Although Byelorussia (long form, <i>Byelorussian Soviet Socialist Republic</i>) and Ukraine (long form, <i>Ukrainian Soviet Socialist Republic</i>) have status as members of the United Nations, they are regarded by the U.S. Government only as constituent parts of the Soviet Union. The Moldavian SSR, the three Transcaucasian republics, the RSFSR, and the five Central Asian republics are also regarded only as constituent parts of the Soviet Union. The incorporation of the Baltic States into the Soviet Union is not recognized by the U.S. Government. The United States recognizes, furthermore, the diplomatic and consular representatives of the last free governments of Estonia, Latvia, and Lithuania as the accredited representatives of those countries. |
| 102. Spain | (The) Spanish State | ..... |
| 103. Sudan | Republic of the Sudan | ..... |
| 104. Sweden | Kingdom of Sweden | ..... |
| 105. Switzerland | Swiss Confederation | ..... |
| 106. Syria | Syrian Arab Republic | Syria withdrew from the United Arab Republic on September 29, 1961, and was recognized by the United States on October 10, 1961. The short form, <i>Syria</i> , has only recently become officially acceptable. |
| 107. Tanzania | United Republic of Tanzania | Name changed in October 1964 from Tanganyika and Zanzibar (Long form: United Republic of Tanganyika and Zanzibar). |
| 108. Thailand | Kingdom of Thailand | ..... |
| 109. Togo | Republic of Togo | ..... |
| 110. Trinidad and Tobago | ..... | No long form has as yet been designated. |
| 111. Tunisia | Republic of Tunisia | ..... |
| 112. Turkey | Republic of Turkey | ..... |
| 113. Uganda | ..... | No long form has as yet been designated. |
| 114. | United Arab Republic | No short form exists for United Arab Republic, although the initials, U.A.R., may appear on maps. Because of past associations, the name "Egypt" in parentheses often may appear in conjunction with the official name. |
| 115. United Kingdom | United Kingdom of Great Britain and Northern Ireland | ..... |
| 116. United States | United States of America | <i>America</i> is also used as a short form for the United States; <i>American</i> serves to designate an inhabitant of the U.S. and also as an adjective to mean "of the United States." |
| 117. Upper Volta | Republic of Upper Volta | ..... |

| <i>Short form</i> | <i>Long form</i> | <i>Notes</i> |
|--------------------|--|--|
| 118. Uruguay | Oriental Republic of Uruguay | ..... |
| 119. Vatican City | State of the Vatican City | The <i>Holy See</i> is often used interchangeably with <i>Vatican City</i> as a political designation. Specifically, the term has more of an ecclesiastical than political connotation. |
| 120. Venezuela | Republic of Venezuela | ..... |
| 121. Viet-Nam | Republic of Viet-Nam | The U.S. Government does not recognize the Communist-controlled regime styling itself as "The Democratic People's Republic of Vietnam" which controls northern Viet-Nam. Note: <i>Vietnam</i> , as well as <i>Viet-Nam</i> , is a correct spelling for the state; the Department of State uses the latter. |
| 122. Western Samoa | The Independent State of Western Samoa | The long form is the one that appears in the Constitutional Act. |
| 123. Yemen | Yemen Arab Republic | Prior to the establishment of the Yemen Arab Republic in 1962, the official long form used was the Mutawakkilite Kingdom of Yemen. |
| 124. Yugoslavia | Socialist Federal Republic of Yugoslavia | Prior to April 1963 the official long-form name was "Federal People's Republic of Yugoslavia." |
| 125. Zambia | Republic of Zambia | New name for former protectorate of Northern Rhodesia. |

QUASI-INDEPENDENT STATES

Ten political entities discussed and listed in this Bulletin fall into a category intermediate between independent states and dependent areas. Possessing some, but not all, of the qualifications of a sovereign nation, they generally have the attributes of self-rule but do not control their own external affairs.¹ The formula of governmental administration for these political entities may vary broadly from one to another, but for convenience here they are termed "quasi-independent states." However, differences between these states and dependent areas on one end of the scale, and between them and independent states on the other end, may be very slight indeed, so distinctions in some instances require subjective judgment in preparing a realistic and practical classification.

Four such quasi-independent states lie on the periphery of the Arabian Peninsula and have special treaty relations with the United Kingdom. Another four, widely scattered through the Eastern Hemisphere, are also associated with the United Kingdom. Included in this latter group is Tonga, which has special status within the Commonwealth. Related indirectly to the Commonwealth is Sikkim, a protectorate of India in the Himalaya. Subject to the provisions of a 1950 treaty with India, Sikkim enjoys autonomy for internal affairs while the conduct of external relations is

¹ Other characteristics common to this type of entity is dependence upon a metropole country for coinage, stamps, and matters of defense.

reserved to India.² Finally, Puerto Rico enjoys a unique position with respect to the United States. Though termed a commonwealth in English, its status is better identified by the Spanish phrase, "estado libre asociado," translated as "free associated state." The Puerto Rican Government has full jurisdiction over its internal affairs, yet its inhabitants freely migrate to and trade with "continental" United States as American citizens.

Although other political entities are progressing toward independence, they are not necessarily to be considered as quasi-independent in the sense that the term has been used in the two paragraphs above. Their relationship to the sovereign state essentially continues to be that of a dependent entity, either actual or implied. Quasi-independence does not necessarily constitute an intermediate step of a political entity traveling the road from dependence to independence. The tabulation on the next page identifies a group of quasi-independent states that conform to the category as established.

Other political entities could also conceivably be called quasi-independent inasmuch as many of the powers of the sovereign state have passed to the local government. In keeping with the surge of emerging newly independent states during the last few years, metropole countries are re-

² Certain aspects of Sikkim's internal affairs are also subject to Indian control, including the exclusive right of constructing, maintaining, and regulating the use of railways, aerodromes, telephones, and other facilities which have international significance.

laxing their control over remaining dependent areas. For example, in early 1963 the Nyasaland Protectorate was granted self-government by the United Kingdom and in mid-1964 became a fully independent state. Recently the Bahamas were given a new constitution allowing them self-government. Dependent entities, however, commonly lack the experience of administration except at the lower echelons of officialdom, and are without significant traditions of responsibility in the sequence

of major international events. They have not, therefore, been classified as quasi-independent states.

Former dependencies of European states which have been declared integral parts of the metropole country do not qualify as quasi-independent. Random examples would include the Department of Martinique and the Netherlands Antilles in the Caribbean area and the Overseas Province of Mozambique in Africa.

| <i>Name</i> | <i>Identification of local government</i> | <i>Administrative center or capital</i> ¹ |
|---|--|--|
| 1. Aden and the Protectorate of South Arabia. | 1) Federation of South Arabia, consisting of 17 states including, since Jan. 18, 1963, the former Colony of Aden. 2) Unfederated states | Al-Ittihaad ² |
| 2. Bahrain | Sheikhdom | Manama (Al Mānamah) |
| 3. Brunei ³ | Sultanate | Brunei (Town) |
| 4. Maldive Island | Sultanate | Male |
| 5. Puerto Rico | Free associated state | San Juan |
| 6. Qatar | Sheikhdom | Doha (Ad Dawḥah) |
| 7. Sikkim | Ruled by a Maharaja | Gangtok |
| 8. Southern Rhodesia ⁴ | Self-governing colony | Salisbury |
| 9. Tonga | Kingdom | Nukualofa |
| 10. Trucial States | Seven Sheikhdoms | Dubai (Dubayy) ⁵ |

¹ Names of cities in parentheses are approved spellings of the U.S. Board on Geographic Names (BG.N).

² Al-Ittihaad is the capital of the Federation; offices of the protecting state are in Aden, outside the Protectorate.

³ Brunei did not opt in 1963 to join its neighbors, Sarawak and North Borneo (Sabah), in becoming independent as part of Malaysia.

⁴ From 1953 to 1963 Southern Rhodesia formed one of three units in the Federation of Rhodesia and Nyasaland, itself qualifying in many respects as a quasi-independent state until dissolution on December 31, 1963. The colony has dropped "Southern" from its name, but the British Act establishing the original name has not been altered.

⁵ Residence of the British Political Agent for the area.

IRREGULAR CATEGORIES OF POLITICAL AREAS AND REGIMES

Several political areas and regimes acknowledged as such by the U.S. Government defy classification because of a particular status or by virtue of the tradition and historical sequence through which they evolved. Despite their special status these areas frequently appear on maps along with other political entities, at times without distinction by style of type. The more important of them are briefly identified in the following paragraphs.

Palestine

The boundaries of Israel have never been definitely established, with the result that Palestine occasionally has been listed separately. On April 24, 1950, Jordan announced the annexation of that portion of Palestine remaining under Jordanian control after the general Armistice Agreement. Only the United Kingdom recognized this annexation as *de jure*. Other states, including the United States, have accepted the fact of Jordanian control.

Neutral Zones

In a few places neutral zones separate the sovereign territory of states. The two largest of these are on the Arabian Peninsula. In one—an area of 2,000 square miles—Kuwait and Saudi Arabia each enjoy an undivided half interest; in the other—2,640 square miles—Iraq and Saudi Arabia do likewise. The Kuwait-Saudi Arabia neutral zone, with its oil-rich offshore waters, is presently in the process of being

divided between the two countries controlling it jointly. Another neutral zone—a small fraction of a square mile—lies between Spanish and British territory (Gibraltar) in the extreme southern part of the Iberian Peninsula.

Outer Mongolia

Outer Mongolia, a geographic term, generally corresponds in area to the "Mongolian People's Republic." Although admitted as a member by the United Nations on October 27, 1961, Outer Mongolia has not been recognized by the Government of the United States.

Tibet

The United States has regarded Tibet historically as being autonomous under Chinese suzerainty.

The West Indies Federation

The progress of The West Indies federation toward independence as a single state was halted in 1961 by the decision of Jamaica, followed in 1962 by the decision of Trinidad, to seek independence in their own right. Actual dissolution of the federation took place on May 31, 1962. Jamaica became independent on August 6 and Trinidad and Tobago on August 31 of that year. Some of the eight remaining dependencies (Antigua, Barbados, Dominica, Grenada, Montserrat, St. Christopher Nevis and Anguilla, St. Lucia, St. Vincent) and possibly other outlying islands may be formed into a new federation.

APPENDIX

Populations, Areas, Capitals, and U.N. Membership for All Independent States

The information tabulated on the following pages is provided as reference material only. Although taken from what are considered the latest and most authentic sources, the data do not necessarily correspond to the official statistics as published by the various states.

POPULATION

Given in thousands, along with the year of the Census (C) or the latest available Estimate (E).

AREA

Given in thousands of square miles except in a few instances where actual areas of small states appear in parentheses. The values in most instances are taken from the 1964 edition of the Encyclopaedia Britannica World Atlas. New material, believed to be more accurate, is used for several states.

CAPITALS

For each state the conventionally accepted capital city name, that recommended for use on maps, is listed in the "capital" column. In the several instances where states have more than one capital, information on each of the administrative centers is given in the notes.

U.N. MEMBERSHIP

Each state which is a member of the United Nations is designated with an asterisk in the following list. Only 112 of the full U.N. membership of 115 states appear since the U.S. Government does not recognize Byelorussia, Mongolia, and Ukraine as independent states.

Populations, Areas, Capitals, and U.N. Membership for All Independent States

| State | Population Thousands | Area ¹ Thousand square miles | Capital | Notes |
|------------------|-------------------------|---|-------------------------|---|
| * 1. Afghanistan | 14,900 (1963) E | 251 | Kabul | |
| * 2. Albania | 1,762 (1963) E | 11 | Tirana | Albanian spelling of the capital is Tiranë. |
| * 3. Algeria | 11,600 (1963) E | 920 | Algiers | |
| 4. Andorra | 11 (1963) E | (175) | Andorra | Andorra is the approved BGN name of the capital. Andorra la Vella is the Catalan name as locally used. The French name is <i>Andorre la Vieille</i> ; the Spanish name is <i>Andorra la Vieja</i> . |
| * 5. Argentina | 21,859 (1963) E | 1,072 | Buenos Aires | |
| * 6. Australia | 11,090 (1964) E | 2,971 | Camberra | |
| * 7. Austria | 7,193 (1963) E | 32 | Vienna | |
| * 8. Belgium | 9,328 (1963) E | 12 | Brussels | |
| 9. Bhutan | 715 (1963) E | 19 | Thimbu | <i>Thimbu</i> (<i>Tashi Chhö Dzong</i>) is the official capital; <i>Paro</i> is the administrative capital and the summer capital. |
| * 10. Bolivia | 3,653 (1964) E | 424 | La Paz | Although <i>La Paz</i> is the administrative capital, <i>Sucre</i> is the legal capital and seat of the judiciary. |
| * 11. Brazil | 79,837 (1964) E | 3,287 | Brasilia | Transfer of the government from <i>Rio de Janeiro</i> to <i>Brasilia</i> is in progress. |
| * 12. Bulgaria | 8,111 (1963) E | 43 | Sofia | |
| * 13. Burma | 23,664 (1963) E | 262 | Rangoon | |
| * 14. Burundi | 2,650 (1962) E | 11 | Bujumbura (Usumbura) | Usumbura was previously the capital of the trust territory of Ruanda-Urundi, now the independent states of <i>Ruanda</i> and <i>Burundi</i> . |
| * 15. Cambodia | 5,900 (1963) E | 67 | Phnom Penh | |
| * 16. Cameroon | 4,560 (1963) E | 184 | Yaoundé | |
| * 17. Canada | 19,272 (1964) E | 3,846 | Ottawa | |

¹ Figures in parentheses are square miles rather than thousands of square miles.

Populations, Areas, Capitals, and U.N. Membership for All Independent States—Continued

| State | Population Thousands | Area ¹ Thousand square miles | Capital | Notes |
|---|-------------------------|---|------------------------------|---|
| * 18. Central African Republic | 1,300 (1963) E | 242 | Bangui | |
| * 19. Ceylon | 10,625 (1963) C | 25 | Colombo | |
| * 20. Chad | 2,800 (1963) E | 495 | Fort-Lamy | |
| * 21. Chile | 8,364 (1964) E | 286 | Santiago | |
| * 22. China | 724,543 (1963) E | 3,911 | Taipei, Taiwan (Provisional) | Of the total area of China, 3,897,000 square miles are on the mainland. The 1963 year-end population of mainland China is estimated at 712,000,000 and for Taiwan is 12,543,000. The latter figure includes armed forces. |
| * 23. Colombia | 15,434 (1964) E | 440 | Bogotá | |
| * 24. Congo, Republic of | 840 (1963) E | 135 | Brazzaville | |
| * 25. Congo, Democratic Republic of the | 15,007 (1963) E | 905 | Léopoldville | |
| * 26. Costa Rica | 1,395 (1964) E | 20 | San José | |
| * 27. Cuba | 7,336 (1964) E | 44 | Havana | |
| * 28. Cyprus | 591 (1963) E | 4 | Nicosia | |
| * 29. Czechoslovakia | 14,058 (1964) E | 49 | Prague | |
| * 30. Dahomey | 2,250 (1963) E | 45 | Porto Novo | The American Embassy is located at Cotonou, which is scheduled to become eventually the official capital. |
| * 31. Denmark | 4,684 (1963) E | 17 | Copenhagen | |
| * 32. Dominican Republic | 3,452 (1964) E | 19 | Santo Domingo | |
| * 33. Ecuador | 4,877 (1964) E | 106 | Quito | |
| * 34. El Salvador | 2,721 (1963) E | 8 | San Salvador | |
| * 35. Ethiopia | 21,400 (1963) E | 455 | Addis Ababa | Includes Eritrea, incorporated into Ethiopia as a province in 1962. |
| * 36. Finland | 4,586 (1964) E | 130 | Helsinki | |

CONSULAR CONVENTION WITH THE SOVIET UNION

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|----------------------------------|------------------|-------|--------------------|--|
| * 37. France | 48,290 (1964) E | 213 | Paris | Data are for metropolitan France, excluding overseas departments of Martinique, Guadeloupe, French Guiana, and Réunion. |
| * 38. Gabon | 460 (1964) E | 102 | Libreville | |
| * 39. Gambia, The | 316 (1963) E | 4 | Bathurst | |
| 40. Germany, Federal Republic of | 55,787 (1964) E | 96 | Bonn (Provisional) | Population figure excludes West Berlin, which had an estimated population of 2,187,000 on February 29, 1964. |
| * 41. Ghana | 7,340 (1963) E | 92 | Accra | |
| * 42. Greece | 8,480 (1963) E | 51 | Athens | |
| * 43. Guatemala | 4,214 (1964) E | 42 | Guatemala | Although Guatemala is the official name for the capital, it is popularly called <i>Guatemala City</i> in the English language. |
| * 44. Guinea | 3,357 (1963) E | 95 | Conakry | |
| * 45. Haiti | 4,550 (1964) E | 11 | Port-au-Prince | |
| * 46. Honduras | 2,092 (1964) E | 43 | Tegucigalpa | |
| * 47. Hungary | 10,123 (1964) E | 36 | Budapest | |
| * 48. Iceland | 187 (1964) E | 40 | Reykjavik | |
| * 49. India | 458,677 (1963) E | 1,180 | New Delhi | Population figures include Nagaland, 376,350 (1963) E, North East Frontier Agency, 343,980 (1963) E, Pondicherry, 377,140 (1963) E, and Junagadh and Manavadar, 1,275,718 (1963) E. Excluded are Goa, Daman, and Diu, 646,199 (1963) E, which was not covered in the 1961 Indian census, and disputed Jammu-Kashmir, the final status of which has not been determined, 4,676,957 (1963) E, of which 3,643,349 (1963) E are claimed by India and 1,033,608 (1963) E are in that portion held by Pakistan. Area figures exclude Jammu-Kashmir, 85,861 sq. mi., and Goa, Daman, and Diu, 1,426 sq. mi., but include all other political divisions covered by the 1961 Indian census. |
| 50. Indonesia | 100,795 (1963) E | 736 | Djakarta | |
| * 51. Iran | 22,523 (1963) E | 636 | Tehran | Includes Irian Barat (West New Guinea) population 750,000 (1962) E, area 160,618 sq. mi. |
| * 52. Iraq | 6,855 (1963) E | 172 | Baghdad | |

¹Figures in parentheses are square miles rather than thousands of square miles.

Populations, Areas, Capitals, and U.N. Membership for All Independent States—Continued

| State | Population Thousands | Area ¹ Thousand square miles | Capital | Notes |
|-------------------|-------------------------|---|----------------------|--|
| * 53. Ireland | 2,849 (1964) E | 27 | Dublin | |
| * 54. Israel | 2,483 (1964) E | 8 | Jerusalem (de facto) | In 1950 the Israel Parliament proclaimed <i>Jerusalem</i> the capital. The U.S. Government does not recognize <i>Jerusalem</i> as the capital, and the U.S. Embassy continues to be located in Tel Aviv. |
| * 55. Italy | 50,619 (1963) E | 116 | Rome | |
| * 56. Ivory Coast | 3,665 (1963) E | 125 | Abidjan | |
| * 57. Jamaica | 1,718 (1964) E | 4 | Kingston | |
| * 58. Japan | 96,910 (1964) E | 148 | Tokyo | |
| * 59. Jordan | 1,860 (1963) E | 37 | Amman | Population figure includes 654,092 Palestinian refugees registered as of June 30, 1963. |
| * 60. Kenya | 8,847 (1963) E | 225 | Nairobi | |
| 61. Korea | 38,000 (1962) E | 85 | Seoul | Of the total population, 11,600,000 are in the northern region. Of the total area, 43,000 square miles are in the northern region. |
| * 62. Kuwait | 383 (1963) E | 6 | Kuwait | |
| * 63. Laos | 1,925 (1963) E | 86 | Vientiane | <i>Vientiane</i> is the administrative capital; <i>Luang Prabang</i> is the royal capital. |
| * 64. Lebanon | 2,200 (1962) E | 4 | Beirut | Population figure includes 149,983 Palestinian refugees registered as of June 30, 1963. |
| * 65. Liberia | 1,030 (1962) E | 43 | Monrovia | |
| * 66. Libya | 1,559 (1964) C | 679 | Benghazi; Tripoli | <i>Benghazi</i> and <i>Tripoli</i> are co-capitals. In addition, a federal administrative center has been activated in <i>Baida</i> (Al Bayda). |
| 67. Liechtenstein | 18 (1963) E | (61) | Vaduz | |
| * 68. Luxembourg | 327 (1963) E | 1 | Luxembourg | |
| * 69. Madagascar | 6,016 (1963) E | 230 | Tananarive | |
| 70. Malawi | 2,980 (1962) E | 36 | Zomba | Capital changed from Blantyre in 1964. |

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|---------------------|-----------------|-------|---------------|
| * 71. Malaysia | 10,853 (1963) E | 129 | Knala Lumpur |
| * 72. Mali | 4,394 (1963) E | 465 | Bamako |
| 73. Malta | 328 (1963) E | (121) | Valletta |
| * 74. Mauritania | 1,000 (1964) E | 419 | Nouakchott |
| * 75. Mexico | 39,643 (1964) E | 760 | México, D.F. |
| 76. Monaco | 22 (1963) E | (0.6) | Monaco |
| * 77. Morocco | 12,700 (1963) E | 174 | Rabat |
| 78. Muscat and Oman | 565 (1963) E | 82 | Muscat |
| * 79. Nepal | 9,700 (1962) E | 55 | Katmandu |
| * 80. Netherlands | 12,124 (1964) E | 12 | Amsterdam |
| * 81. New Zealand | 2,591 (1964) E | 104 | Wellington |
| * 82. Nicaragua | 1,570 (1964) E | 57 | Managua |
| * 83. Niger | 3,117 (1963) E | 489 | Niamey |
| * 84. Nigeria | 55,620 (1963) C | 357 | Lagos |
| * 85. Norway | 3,681 (1964) E | 125 | Oslo |
| * 86. Pakistan | 98,612 (1963) E | 865 | Rawalpindi |
| * 87. Panama | 1,210 (1964) E | 29 | Panamá (City) |
| * 88. Paraguay | 1,949 (1964) E | 157 | Asunción |
| * 89. Peru | 11,854 (1963) E | 482 | Lima |

¹ Figures in parentheses are square miles rather than thousands of square miles.

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Includes islands of Gozo and Comino.

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Although *México* is the official name for the capital, it is popularly called *Mexico City* in the English language.

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Also spelled *Katmandu*. *Katmandu* is the officially recognized spelling.

Amsterdam is the capital; *The Hague*, the seat of the government. The U.S. Embassy is located in *The Hague*.

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Area figure excludes 24,000 square miles in Svalbard.

Figures exclude Junagadh-Manavadar, area 4,186 sq. mi., population 1,275,718 (1963) E and disputed Jamnu-Kashmir, area 85,861 sq. mi., population 4,676,957 (1963) E; of which 1,033,608 are in Pakistan-held area and 3,643,349 are in Indian-held portion.

Rawalpindi is the seat of the executive branch of the government pending construction of the capital city of *Islamabad*. The new constitution (1962) designated *Dacca* as the second capital of the country and seat of the legislative branch. The U.S. Embassy continues to be at *Karachi*.

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Populations, Areas, Capitals, and U.N. Membership for All Independent States—Continued

| State | Population Thousands | Area ¹ Thousand square miles | Capital | | Notes |
|------------------------------------|-------------------------|---|-------------------------|---|--|
| | | | Population Thousands | Area ¹ Thousand square miles | |
| * 90. Philippines | 31,270 (1964) E | 116 | Manila | | A new capital, <i>Quezon City</i> , has been officially established near <i>Manila</i> , but transfer of administration awaits construction of adequate facilities. |
| * 91. Poland | 31,161 (1964) E | 120 | Warsaw | | |
| * 92. Portugal | 9,123 (1964) E | 36 | Lisbon | | Population figure includes Azores and Madeira islands. |
| * 93. Rumania | 18,813 (1963) E | 92 | Bucharest | | |
| * 94. Rwanda | 2,850 (1963) E | 10 | Kigali | | |
| 95. San Marino | 17 (1963) E | (24) | San Marino | | |
| * 96. Saudi Arabia | 6,600 (1963) E | 618 | Riyadh | | <i>Riyadh</i> is the official capital. <i>Mecca</i> , because of its importance as a religious center, is often cited as a capital city but no government offices are there. The U.S. Embassy is at <i>Jidda</i> . |
| * 97. Senegal | 3,360 (1963) E | 76 | Dakar | | |
| * 98. Sierra Leone | 2,190 (1963) C | 28 | Freetown | | |
| * 99. Somalia | 2,300 (1962) E | 246 | Mogadiscio | | |
| *100. South Africa, Republic of | 17,474 (1964) E | 472 | Pretoria | | Although <i>Pretoria</i> , in Transvaal Province, is the official capital and seat of the executive branch of the government, <i>Cape Town</i> , in Cape Province, is the seat of the legislative branch while <i>Bloemfontein</i> , in Orange Free State, is the seat of the Supreme Court. Natal Province is reimbursed for not having any national governmental honors. |
| *101. Soviet Union | 223,122 (1962) E | 8,603 | Moscow | | Population figure includes Byelorussia, 8,413,000 (1963) E and Ukraine, 44,054,000 (1963) E. |
| *102. Spain | 31,339 (1964) E | 195 | Madrid | | Population figure includes Balearic Islands and Canary Islands. |
| *103. Sudan | 13,180 (1964) E | 967 | Khartoum | | |
| *104. Sweden | 7,639 (1964) E | 174 | Stockholm | | |
| 105. Switzerland | 6,030 (1964) E | 16 | Bern | | |

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|----------------------------|-----------------|---|-------|---------------|--|
| *106. Syria | 5,308 (1963) | E | 72 | Damascus | Population figure includes 126,939 Palestinian refugees registered as of June 30, 1963. |
| *107. Tanzania | 10,310 (1962-4) | E | 362 | Dar es Salaam | |
| *108. Thailand | 29,700 (1964) | E | 198 | Bangkok | |
| *109. Togo | 1,603 (1964) | E | 22 | Lomé | |
| *110. Trinidad and Tobago | 920 (1962) | E | 2 | Port-of-Spain | |
| *111. Tunisia | 4,546 (1963) | E | 63 | Tunis | |
| *112. Turkey | 30,256 (1963) | E | 296 | Ankara | |
| *113. Uganda | 7,190 (1963) | E | 94 | Kampala | Entebbe was the seat of most government offices before independence of Uganda in October 1962. |
| *114. United Arab Republic | 28,359 (1963) | E | 386 | Cairo | |
| *115. United Kingdom | 54,210 (1963) | E | 95 | London | Belfast, Edinburgh, and Cardiff serve to some extent as administrative centers for Northern Ireland, Scotland, and Wales, respectively. Northern Ireland has its own parliament in Stormont, a suburb of Belfast, which has the power to make laws for Northern Ireland on matters not reserved to the U.K. Parliament. Northern Ireland also elects members to the U.K. Parliament. |
| *116. United States | 192,556 (1964) | E | 3,615 | Washington | |
| *117. Upper Volta | 4,650 (1963) | E | 106 | Ouagadougou | |
| *118. Uruguay | 2,556 (1963) | C | 72 | Montevideo | |
| 119. Vatican City | 1 (1963) | E | (0.2) | Vatican City | |
| *120. Venezuela | 8,276 (1964) | E | 352 | Caracas | |
| 121. Viet-Nam | 33,017 (1963) | E | 126 | Saigon | Of the total population, 17,800,000 are in the northern region. Of the total area, 63,000 square miles are in the northern region. |
| 122. Western Samoa | 119 (1963) | E | 1 | Apia | |
| *123. Yemen | 5,000 (1963) | E | 75 | Sana'a | The official and traditional capital is Sana'a (San'a'). Ta'izz (T'a'izz) is the location of the foreign ministry and of most diplomatic missions. |
| *124. Yugoslavia | 19,302 (1964) | E | 99 | Belgrade | |
| *125. Zambia | 3,610 (1964) | E | 290 | Lusaka | |

¹Figures in parentheses are square miles rather than thousands of square miles.

EXHIBIT A

I. SOVIET TREATIES

1. PEACE TREATY

A peace treaty was concluded in Moscow on July 12, 1920, between the Union of Soviet Socialist Republics and the Republic of Lithuania, Article 1 of which reads: "Proceeding from the right, proclaimed by the Russian Socialist Federated Soviet Republic, of all nations to free self-determination * * * Russia recognizes without reservation, the sovereign rights and independence of the Lithuanian State, with all the juridical consequences arising from such recognition, and voluntarily and for all time abandons all sovereign rights of Russia over the Lithuanian people and their territory. The fact of the past subjection of Lithuania to Russia does not impose on the Lithuanian nation and its territory any liabilities whatsoever toward Russia." (League of Nations Treaty Series, Vol. 3, p. 106.)

2. TREATY OF NONAGGRESSION

On September 28, 1926, a Treaty of Nonaggression was signed in Moscow. The pertinent Articles of this treaty read:

"*Article 2:* The Republic of Lithuania and the Union of Soviet Socialist Republics mutually agree to respect their respective sovereignty and also their integrity and territorial inviolability in all circumstances.

"*Article 3:* Each of the two Contracting Parties undertakes to refrain from any act of aggression whatsoever against the other Party." (League of Nations Treaty Series, Publication of Treaties and International Engagements Registered with the Secretariat of the League of Nations, LX 153.)

Before the termination of the above-mentioned treaty, the Government of Moscow proposed to the Government of the Republic of Lithuania that the validity of this treaty be extended for another ten years. This was done on April 4, 1934. The Nonaggression Treaty was extended until December 31, 1945.

3. TREATY OF MUTUAL ASSISTANCE

On October 10, 1939, Lithuania was forced to sign this pact, Article 7 of which reads: "This pact shall not affect to any extent the sovereign rights of the Contracting Parties * * *"

Similar treaties of Mutual Security and Nonaggression were signed with Latvia and Estonia in 1920, 1932, and 1939.

EXHIBIT B

For correspondence in 1940 concerning the forcible occupation of the Baltic States and their incorporation into the Soviet Union, see 1940 For. Rel. vol. I, pp. 357-444.

Law incorporating the Lithuanian Soviet Socialist Republic in the Union of Soviet Socialist Republics, Moscow, Aug. 3, 1940, original text in *Isvestiya*, Aug. 9, 1940, reprinted in English translation in 144 Br. & For. St. Paps. (1940-42) 526; law incorporating the Latvian Soviet Socialist Republic in the Union of Soviet Socialist Republics, Moscow, Aug. 5, 1940, original text in *Isvestiya*, Aug. 9, 1940, reprinted in English translation in 144 Br. & For. St. Paps. (1940-42) 527; law incorporating the Estonian Soviet Socialist Republic in the Union of Soviet Socialist Republics, Moscow, Aug. 6, 1940, original text in *Isvestiya*, Aug. 9, 1940, reprinted in English translation in 144 Br. & For. St. Paps. (1940-42) 527.

EXHIBIT E

[From the Chicago Sun-Times, May 12, 1966]

SOVIETS HOUND BALTIC EXILES

(By Charles Bartlett)

NEW YORK.—The question of whether Eerik Heine is a Communist agent or an Estonian patriotic hero serves at least to direct attention to the Soviet enslavement of the Baltic republics. This is useful at a time when the Kremlin is making freedom an issue in South Viet Nam.

Whatever Heine proves to be, there are ample grounds for the charge that Moscow sends agents to penetrate exile communities. Others have made this effort. In fact, the greatest mark of Soviet concern for the nations it has occupied is the attention it accords their exiles.

A young Estonian named Arthur Haman landed in Sweden after escaping from Soviet territory in 1955. He took a part-time job with the Associated Press while he studied at Stockholm University. Later he worked with Estonian groups in Sweden and wrote a textbook in Swedish for Estonians. He was completely accepted by his fellow exiles.

He came to the United States in 1961 to attend a congress of linguists. The Central Intelligence Agency had established that he was an agent. He was advised to leave the country. He returned to Stockholm but disappeared during May, 1963. A letter appeared five months later over his name in Izvestia. It complained that he had been hounded out of the West by CIA persecution.

Soviet policy toward exiles from the Baltic states and the Ukraine is to keep them intimidated and, if possible, divided. A Communist newspaper, Homeland, is distributed in their native tongues and it persistently attacks the exile leadership. Occasionally an exile leader is assassinated in Europe by Soviet agents.

All this activity could betray a sense of insecurity on the part of the Kremlin. A Latvian elevated to the Soviet Presidium, Arvid Pelshe, told the party congress there are "quite a few difficulties," including a failure to attach sufficient significance to Marxism, in the Baltic republics. But none of the ingredients of an uprising exists.

These nations were highly literate before the Soviets seized them in 1939 and their cultures are being doggedly preserved against the rigors of the Communist system. A spirit of nationalism is sustained in language and literature.

"Bourgeois nationalism" is a serious sin in Communist eyes, but its persistence is attested by reports reaching the West that a large number of writers were arrested in the Ukraine last fall. Such activities keep alive the exiles' hopes that liberation, sparked from within, may one day be attainable.

The prospect seems remote but it is hard to believe that the book has been closed on this sordid chapter in history. The Baltic states were the first to recognize the Soviet government in 1920 and the first to be swallowed in 1939. Defending the treaty that preceded the physical takeover, Foreign Minister V. M. Molotov said the talk of "Sovietizing" the Baltic states was "nonsensical."

One year of Communist rule was so brutal that the Germans were received as liberators in the Baltic states. They had endured the rigors of false elections, mass deportations and shootings and they counted on the West's determination to save them from a return of the Russians.

The United States could perhaps have used its nuclear weight to save these countries at the end of the war. The evidence of the Heine case that the CIA is involved with the Baltic exiles is reassurance at least that the cause of freedom is being kept alive.

9. RUSSIA'S BALTIC WINDOW ON EUROPE

(By Anthony J. Rudis)

There are almost one million people in Chicago, whose direct origin or ethnic origin is Eastern European—this is the territory from the Baltic to the Black Sea, between Russia and Germany. From this group the Baltic people in Chicago number 200,000. The problems of Eastern Europe draw our close attention because it is there that the 1st and 2nd World Wars flamed up—to envelope the world, and where the flame still has not died.

The history of this part of Europe is most intriguing. It is here that a dividing line is formed between Eastern and Western civilizations. Not only did this territory form the ancient battlefields, but it has even become the present-day front. Today it is called "The Iron Curtain". It has divided the world into two distinct camps—the Eastern World and the Western World.

Today I'm going to speak of a small part of Eastern Europe—but one that is very important and one on which people are seeking information. Because I will go into historical dates and quotations from treaties, I will necessarily have to adhere rather closely to my written text.

The three Baltic States of Lithuania, Latvia and Estonia, perhaps are so-called because of their geographical location on the Baltic Sea. The title to my discussion is not a factual one or an existing condition, it was thus called by Molotov in September, 1939, when the Russian government informed the Lithuanian nation that it would be necessary for them to sign Mutual Assistance Pacts. When a country, too small to offer assistance and to small and peaceful to commit an act of aggression, was approached by a big power such as the Soviet Union, their question was why a great power demanded this of the three comparatively small Baltic countries. Molotov's answer was that "Russia looked upon them as their Baltic Window on Europe".

Through the years, Russia had demanded treaties and pacts from these three small nations, promising "respect to each other's sovereignty and territorial integrity and inviolability". Yet the world knows what subsequently happened to these people, how the Red fire swept through these countries, consuming, scorching and destroying human freedom and civilization, brazenly trampling on their own promises and agreements.

The time today is too short to present a whole composite picture, but I shall attempt to give you a clearer understanding of the Baltics, by going back several centuries and bringing you up to 1939—the date of the final treaty, and 1940, when an ultimatum was delivered and all power was openly taken over by the Soviet Union.

The three countries of Lithuania, Latvia and Estonia are not new political formations. They are of Aryan stock. Their historical backgrounds differ somewhat from one another, and as Lithuania is the largest, and figures more prominently in history, I will dwell more on this country. The Letts (Latvians as they are now called) and their close racial kin, the Lithuanians, occupied the Baltic region before written history began. Phoenician and Roman coins found in these countries testify to their existence and contact with those periods. The Latvians and Estonians have always constituted a distinct national group, but they could not fight off aggression and in their early history were taken over and ruled by a succession of strong European powers—German and Swedish—before Russian Imperialism enveloped them from about 1720 to the 1st World War, when they emerged, as republics.

Latvia comprises 25,000 sq. miles with a population of 1,900,000. The majority of the Letts are protestant by religion. Estonia comprises 18,357 sq. miles, with a population of 1,126,400. 78% are Lutherans. Lithuania comprises an area of 23,500 sq. miles and had a population of 3,042,863 in 1939. 80% are Catholic.

Today, the Lithuanian tongue, a member of the Indo-European family of languages, has the distinction of being one of the oldest living languages in

Europe—the most akin to ancient Sanskrit. Its importance as an aid to the study of comparative philology is recognized by foreign scholars.

Ancient Phoenician, Greek, Roman, and Arab travelers and writers were the first to acquaint the world at large with the inhabitants of the Southeastern shores of the Baltic Sea. The oldest designation for the inhabitants of this area, the Aistians, was first mentioned by Tacitus in the first century of the Christian Era and repeated by other writers until the end of the 10th century. Lithuanian historians and linguists identify their prehistoric ancestors as Aistians.

The Chronicle, Annales, Quedlinburgenses, of the year 1009, A.D. first mentions Litua (Lithuania). Nestor's Chronicle from the year 1056 to 1116 mentions Litva (Lithuania). Teutonic invaders referred to the inhabitants as Leeti or Leedu—the Estonian name for Lithuania. Since then, Lithuanians and their kinsmen have remained known to history.

The Teutonic Order mentions the resistance of the Lithuanians from 1215 to 1410 at the time they attempted to spread Christianity into that territory. But the Lithuanians felt that the aims of the Teutonic Knights were political, and not Christian, and therefore resisted strongly and became the last nation in Europe to embrace Christianity.

History tells us that the Lithuanians had formed an official state by the middle of the 13th century, when their King, Mindaugas, was crowned in 1253. Defensive wars against the Teutonic Orders encouraged the formation of the official state which at that time became known as the Grand Duchy of Lithuania.

Wars with the Teutonic Knights lasted for 200 years. During this period many small duchies and kingdoms, including Russian duchies, knowing of the tolerance of the Lithuanian rulers, sought protection from the Tartars, and came under the protectorate of Lithuania to ward off the onslaught and terror. So that in the beginning of the 15th century, about 1410, the Grand Duchy of Lithuania became a great power stretching from the Baltic to the Black Seas, and, as such, was successfully able to continue to ward off the political ambitions of its neighbors.

Thus, for a period of 500 years, Lithuania not only stopped Teutonic expansion into Eastern Europe, but became known for its religious and racial tolerance to all people within its domain—Lithuanians, Russians, Ukrainians, Jews, and Poles.

The succession of rulers during this period, the Grand Dukes, gave asylum to the persecuted and oppressed people of other nations, permitting them extensive privileges. It is interesting to note that many Jewish people accepted this gesture and enjoying the privilege of racial and religious freedom, built one of their greatest religious institutions, in Telsiai. Pre-Second World War, this Institute, several hundred years old, was still world-renowned among the Jewish Rabbis.

This fact is brought out to contrast the condition in the neighboring countries, where despotic governments, subjugation of the people, suppression of human rights and hatred of one nation against the other, were rife. There are many documents today that testify to Lithuania's great tolerance, her benign protectorate that became so extensive because it was sought by outside nations, and not forced, through conquest. And, so we find that in the Middle Ages, Lithuania offered a free and democratic way of life to its people.

Lithuania's desire for a just Code of Laws resulted in the Statutes of Lithuania, published in 1529. It is important to note that this was the first Code of Laws published in Europe since the time of Justin the Great. It was 15 years in the making. This Code of Laws was adopted by other Eastern European countries and was used up to the 19th century. The first known land census of Europe was accomplished by the Lithuanian State in 1528. Land reforms resulted from this.

This method of rule was admired and envied by other countries, so that marriage and territorial alliances were sought. These alliances, in time, and the liberal forms of government, proved also to be the country's weakness and subsequent downfall. The autocratic governments surrounding Lithuania—Russia, Austro-Hungary Empire, Prussia, planned invasions and seized Lithuanian territories. One invasion after another reduced the country and Lithuanian fell to Russia in 1795.

For 120 years, Lithuania suffered an exceedingly dark and dismal period. Freedom of speech and religion was banned. The people were serfs in the full sense of the word. For 40 years, even the Press was denied them. Insurrection followed insurrection, until the ban on the printed word was raised. The Lithu-

anian people seeking to escape Russian tyranny, in great numbers abandoned their ancestral homeland and emigrated to America.

World War I released the Baltic countries from their Russian bondage of over 120 years. All the great powers of the day: England, France, Italy, Japan, and the United States, acknowledged Lithuania free and independent. In 1921, she was admitted to the League of Nations, and established diplomatic relations.

On July 12, 1920, Russia, acknowledging Lithuania's independence, signed a peace treaty which stated:

1. Declaration of war upon another State.
2. Invasion by its armed forces * * *.
3. Naval blockade of the coasts or ports.
4. Provision of support to armed bands formed in its territory or which have invaded the territory * * *.

The 3rd paragraph accents even more clearly: "No political, military or other consideration, may serve as an excuse or justification for the aggression referred to in Article 2."

Similar treaties of Mutual Security and Non-Aggression were signed with Latvia and Estonia in 1920, 1932, and 1939. One commercial treaty with Estonia, in particular, gave them a wide open window for trade. It was extremely favorable to Russia—transit rights in ports were even granted.

The Baltic countries lived in peaceful and friendly co-existence with its neighbors, including Russia. Nevertheless, in a speech delivered at the 18th Congress of the Communist Party, Stalin stated that under the existing political circumstances, the time was ripe "for reappraisal of existing international pledges and agreements". That same year, 1939, a map appeared, published by the Russian general staff, showing Lithuanian territory as a component part of the Soviet Union. In addition to its military significance, this map shows that the attack on Lithuania by the Soviet Union was premeditated.

With the outbreak of World War II, Lithuania proclaimed her neutrality and did not succumb to German proposals to enter the war against Poland. The Soviet Union made the enticing offer to return her historic capital, Vilnius. This did not deceive the government of Lithuania, which made every effort to avoid signing a mutual assistance pact, the terms of which included the garrisoning of Soviet troops on Lithuanian soil. However, on October 10, 1939, Lithuania was forced to sign this pact, Article 7 of which read: "This pact shall not affect to any extent the sovereign rights of the contracting parties * * *"

Yes even this did not satisfy the Soviet Union, imbued with the idea of self-aggrandizement and communistic imperialism. Lithuania was stunned, when at midnight, June 14, 1940, an ultimatum was delivered demanding the access of unlimited troops and a government subservient to Moscow.

All political power was openly taken over by the Soviet Union and on August 3, 1940, Lithuania was declared to be a part of the Soviet Union. *These countries were enslaved by Moscow through friendly treaties, which the Russians had no intention of keeping at the time they were made.* When the October 10, 1939, treaty was signed with Lithuania, Russia had already signed the Molotov-Ribbentrop Pact in August of that year, by which Pact the Soviet Union and Germany had assigned and divided amongst themselves, Lithuania, Latvia, Estonia and Poland. The Kersten Committee discovered the original map designating this.

We can only understand Russia's deceitful presentation of this process, at which they are experienced masters, when we know that *Communist propaganda always transforms acts of violence and aggression into impressive acts of liberation.* The Soviet Union is interested in conducting matters so that a conflict can take place so that it would be possible to carry out Stalin's oath given at the grave of "We swear to you, Comrade Lenin, that we will not spare our lives in the strengthening and extension of the Communist International." (History of the Communist Party in U.S.S.R., 1928)

The Soviet occupation is illegal and not recognized by the United States. On April 29, 1954, Senator Douglas (Ill.) introduced a Resolution into the Senate, reaffirming the official stand taken by Presidents Roosevelt, Truman, and Eisenhower, condemning the seizure of the Baltic States as unlawful. This Resolution passed unanimously in the Senate.

The United Nations has agreed that the only hope for avoiding war is the signing of international treaties, however, the Russians believe that changing times invalidate existing obligations—hence their peace treaties and signed pacts are worthless, as they drive on seeking new windows to world domination.