pt 2

TRADE AGREEMENTS EXTENSION ACT OF 1951

HEARINGS

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

EIGHTY-SECOND CONGRESS

FIRST SESSION

ON

H. R. 1612

AN ACT TO EXTEND THE AUTHORITY OF THE PRESIDENT TO ENTER INTO TRADE AGREEMENTS UNDER SECTION 350 OF THE TARIFF ACT OF 1930, AS AMENDED, AND FOR OTHER PURPOSES

PART 2

MARCH 16, 19, 20, 21, 22, APRIL 3, 4, 5, AND 6, 1951

Printed for the use of the Committee on Finance

UNITED STATES
GOVERNMENT PRINTING OFFICE
80378 WASHINGTON : 1951

COMMITTEE ON FINANCE

WALTER F. GEORGE, Georgia, *Chairman*

TOM CONNALLY, Texas	EUGENE D. MILLIKIN, Colorado
HARRY FLOOD BYRD, Virginia	ROBERT A. TAFT, Ohio
EDWARD C. JOHNSON, Colorado	HUGH BUTLER, Nebraska
CLYDE R. HOEY, North Carolina	OWEN BREWSTER, Maine
ROBERT S. KERR, Oklahoma	EDWARD MARTIN, Pennsylvania
J. ALLEN FREAR, Jr., Delaware	JOHN J. WILLIAMS, Delaware

ELIZABETH B. SPRINGER, *Chief Clerk*

CONTENTS

TRADE AGREEMENTS EXTENSION ACT OF 1951

FRIDAY, MARCH 16, 1951

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to call, at 10:10 a. m. in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

Present: Senators George, Kerr, Frear, Millikin, Martin, and Williams.

Also present: Mrs. Elizabeth B. Springer, chief clerk, and Serge Benson, minority professional staff member.

The CHAIRMAN. The committee will come to order, please.

Have you anything in the way of a formal statement you wish to make at this time?

STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE; ACCOMPANIED BY LEONARD WEISS, ASSISTANT CHIEF OF COMMERCIAL POLICY STAFF, DEPARTMENT OF STATE

Mr. BROWN. No, Mr. Chairman, I have not at this time. I have two further documents which were requested, one a statement of the countries with which we have trade agreements, a statement of the parties to the GATT as they are now and will be when Torquay is concluded, and a list of the delegation to the Torquay Conference with some biographies of the people on the delegation.

I think that completes the material that we have been asked to provide. The rest of it has already been given to the committee.

The CHAIRMAN. You may file this for the record.

(The two documents referred to above are as follows:)

CONTRACTING PARTIES TO THE GENERAL AGREEMENT OF TARIFFS AND TRADE AT THE CONCLUSIONS OF THE TORQUAY NEGOTIATIONS

There are at present 31 contracting parties, including the United States, to the General Agreement on Tariffs and Trade. Trade agreements between the United States and 14 countries not now contracting parties to the General Agreement, concluded under the Trade Agreements Act of 1934 as amended, are now in effect. The United States also has a trade agreement with the Republic of the Philippines, concluded under the Philippine Trade Act of 1946.

Seven new countries are now negotiating at Torquay for accession to the General Agreement. These countries are:

Austria
Federal Republic of Germany
Guatemala
Korea
Peru
Republic of the Philippines
Turkey

The United States now has trade agreements with four of these seven—Guatemala, Peru, Republic of the Philippines, and Turkey. The United States is not negotiating with the Republic of the Philippines at Torquay.

With the successful conclusion of the Torquay negotiations there will be 38 contracting parties to the General Agreement and the United States will have trade agreements with a total of 40 countries, including the Republic of the Philippines.

Calendar of Trade Agreements

Listed below are the countries which are parties (except as noted), to reciprocal-trade agreements concluded, on the part of the United States, under the provisions and authority of the Trade Agreements Act of 1934 as amended and extended. Those countries which became contracting parties to the General Agreement on Tariffs and Trade at Geneva, Switzerland, in 1947, are indicated by the symbol (G); countries which became contracting parties to the general agreement as a result of the negotiations at Annecy, France, in 1949, are indicated by the symbol (A)[3]; countries listed without symbols are countries with which the United States concluded bilateral trade agreements before the general agreement, and which are not parties to the general agreement.

Country	Date concluded	Date effective	Country	Date concluded	Date effective
Argentina	Oct. 14, 1941	Nov. 15, 1941	Indonesia (G)	Oct. 30, 1947	Jan. 1, 1948
Australia (G)	Oct. 30, 1947	Jan. 1, 1948	Iran	Apr. 8, 1943	June 28, 1944
Belgium (G)	....do....	Do.	Italy (A)	Oct. 10, 1949	May 30, 1950
Brazil (G)	....do....	July 31, 1948	Lebanon (G)[3]	Oct. 30, 1947	July 30, 1948
Burma (G)	....do....	July 30, 1948	Liberia (A)	Oct. 10, 1949	May 20, 1950
Canada (G)	....do....	Jan. 1, 1948	Luxemburg (G)	Oct. 30, 1947	Jan. 1, 1948
Ceylon (G)	....do....	July 30, 1948	Mexico[4]	Dec. 23, 1942	Jan. 30, 1943
Chile (G)	....do....	Mar. 16, 1949	Netherlands (G)[5]	Oct. 30, 1947	Jan. 1, 1948
China (G)	....do....	May 22, 1948	New Zealand (G)	....do....	July 31, 1948
Costa Rica[1]	Nov. 28, 1936	Aug. 2, 1937	Nicaragua (A)	Oct. 10, 1949	May 28, 1950
Colombia[2]	Sept. 13, 1935	May 20, 1936	Norway (G)	Oct. 30, 1947	July 11, 1948
Cuba (G)	Oct. 30, 1947	Jan. 1, 1948	Pakistan (G)	....do....	July 31, 1948
Czechoslovakia (G)	....do....	Apr. 21, 1948	Paraguay	Sept. 12, 1946	Apr. 9, 1947
Denmark (A)	Oct. 10, 1949	May 28, 1950	Peru	May 7, 1942	July 29, 1942
Dominican Republic (A)	....do....	May 19, 1950	Southern Rhodesia (G)	Oct. 30, 1947	July 12, 1948
Ecuador	Aug. 6, 1938	Oct. 23, 1938	Sweden (A)	Oct. 10, 1949	Apr. 30, 1950
El Salvador	Feb. 19, 1937	May 31, 1937	Switzerland	Jan. 9, 1936	Feb. 15, 1936
Finland (A)	Oct. 10, 1949	May 25, 1950	Syria (G)	Oct. 30, 1947	July 31, 1948
France (G)	Oct. 30, 1947	Jan. 1, 1948	Turkey	Apr. 1, 1939	May 5, 1939
Greece (A)	Oct. 10, 1949	Mar. 9, 1950	Union of South Africa (G)	Oct. 30, 1947	June 14, 1948
Guatemala	Apr. 24, 1936	June 15, 1936	United Kingdom (G)	....do....	Jan. 1, 1948
Haiti (A)	Oct. 10, 1949	Jan. 1, 1950	Uruguay	July 21, 1942	Jan. 1, 1943
Honduras	Dec. 18, 1935	Mar. 2, 1936	Venezuela	Nov. 6, 1939	Dec. 16, 1939
Iceland	Aug. 27, 1943	Nov. 19, 1943			
India (G)	Oct. 30, 1947	July 9, 1948			

[1] China withdrew from the general agreement, effective May 5, 1950.
[2] Terminated by joint agreement as of Dec. 1, 1949.
[3] Lebanon withdrew from the general agreement, effective Feb. 25, 1951.
[4] Terminated by joint agreement as of Dec. 31, 1950.
[5] The Netherlands negotiated concessions on behalf of the Netherlands Indies at Geneva in 1947; the Republic of Indonesia, on Feb. 24, 1950, was recognized as a contracting party to the general agreement in its own right.

United States Delegation to the Third Set of Tariff Negotiations by the Contracting Parties to the General Agreement on Tariffs and Trade, Torquay, England, September 28, 1950

Chairman: Willard L. Thorp, Assistant Secretary of State for Economic Affairs.
Alternate Chairman: Winthrop G. Brown, Director, Office of International Trade Policy, Department of State.
Vice Chairman: Carl D. Corse, Chief, Commercial Policy Staff, Department of State.
Trade Agreements Committee:
Carl D. Corse, Chairman, Department of State
Vernon L. Phelps, Alternate Chairman, Department of State
Robert B. Schwenger, Department of Agriculture

Trade Agreements Committee—Continued
(Mrs.) Louise Butt, Alternate, Department of Agriculture
Thomas R. Wilson, Department of Commerce
Harold P. Macgowan, Alternate, Department of Commerce
Prentice Dean, Department of Defense
Hubert Havlik, Economic Cooperation Administration
Milton Blick, Alternate, Economic Cooperation Administration
Philip Arnow, Labor Department
Betti Goldwasser, Alternate, Labor Department
Walter W. Ostrow, Alternate, Treasury Department
Dana Durand, Tariff Commission
Ben Dorfman, Alternate, Tariff Commission
Paul A. Unger, Department of the Interior
Advisers:
George Bronz, Treasury Department
W. R. Johnson, Bureau of Customs
Paul Kaplowitz, Tariff Commission
Walter Hollis, Department of State
Negotiating teams:
I. United Kingdom:
Charles F. Baldwin, Head
James H. Lewis, Deputy Head
Ben Dorfman
Frank Gonet
(Mrs.) Deane M. Grady
Kathleen Molesworth
Wentworth Peirce
Dexter V. Rivenburgh
II. Canada:
Charles F. Baldwin, Head
Constant Southworth, Deputy Head
Richard Black
Allen H. Garland
Fred A. Motz
William H. Myer
Carl Whelan
III. Australia, New Zealand, and South Africa:
Charles F. Baldwin, Head
Albert E. Clattenburg, Jr., Deputy Head
Martin B. Dale
Richard Roberts
(Mrs.) Musedorah Thoreson
Carl Whelan
IV. Belgium, Indonesia, Luxemburg, and Netherlands:
Patten D. Allen, Head
Walter Buchdahl
(Mrs.) Louise Butt
Willard Kane
Hyman Leikind
John F. Shaw
V. France:
Daniel J. Reagan, Head
Willard Kane
John H. Kean
Hyman Leikind
George L. Robbins
C. Thayer White.
VI. Germany:
Knowlton Hicks, Head
Karl H. Koranyi
Stanley Mehr
Earle Winslow
Ernest Wolff
Henry Wyner

Negotiating teams—Continued
VII. Austria, Denmark, Italy, Norway, Sweden:
John M. Kennedy, Head
Robert P. Donogh
Ben Dorfman
Frank Gonet
John H. Kean
Karl H. Koranyi
David Lynch
Carlisle C. McIvor
Stanley Mehr
John Montgomery
George Reeves
Earle Winslow
Ernest Wolff
VIII. India, Korea, and Turkey:
Francis Lincoln, Head
Celia F. Herman
David Lynch
George Reeves
George L. Robbins
(Mrs.) Louise Sissman
IX. Cuba and Dominican Republic:
Merwin Bohan, Head[1]
(Mrs.) A. H. Hood
Anthony Kenkel
Percy K. Norris
Enoch W. Skartvedt
X. Brazil and Peru:
Merwin Bohan, Head[1]
William A. Conkright, Deputy Head
William F. Gray
Allyn C. Loosley
Elizabeth McGrory
Percy K. Norris
Anthony J. Poirier

Secretariat:
Executive Secretary: Frederick D. Hunt, Department of State.
Technical Secretary: (Mrs.) Margaret H. Potter, Department of State.
TAC Secretariat:
Margaret McCoy
Louise M. Rovner
Members of the Secretariat:
(Mrs.) Mildred N. Blaich
Marian Boswell
Gladys Bradley
Marion Bush
Helen Coon
Edna C. Davis
Gladys Deitz
(Mrs.) Mary Delaney
Lillian Dolgin
Bernadette Garges
Lea Gaulin
Jeanette Hackett
Eleanor Idol
Isabel James
(Mrs.) Leona H. Johnson
Mary Lipar (documents officer)
Mary Ellen Long
Roberta McCahill
Jean McClure
Persia D. Perruso
Alma Portilla

[1] Replaced in January 1951 by Mr. DuWayne Clark.

Secretariat—Continued
Members of the Secretariat—Continued
Vivian Reese
George Riddiford (administrative assistant)
Nan Stites
Barbara Ann Walker
Marietta Waite
Anna Williams

BIOGRAPHIES OF CERTAIN MEMBERS OF UNITED STATES DELEGATION TO THE TORQUAY TARIFF NEGOTIATIONS

WILLARD LONG THORP: b. Oswego, N. Y., May 24, 1899; Duluth (Minn.) Central High Sch. grad.; U. S. Army 1918, 2d lt.; Amherst Coll., B. A. 1920; U. of Mich., M. A. 1921; Columbia U. Ph. D. 1924; instr. in econ., U. of Mich, 1920–21, Amherst Coll. 1921–22; on research staff, Nat. Bu. of Econ. Research, 1923–33; chief statistician for N. Y. Bd. of Housing 1925–26; prof. of econ., Amherst Coll., 1926–33; dir., U. S. Bu. of For. and Dom. Com., 1933–34; chm. of advisory council, Nat. Recovery admin., 1934–35; dir., Consumers Div., Nat. Emergency Council, 1934; dir. of econ. research for finance co. 1935–45; trustee of utility corp. 1940–; app. deputy to the asst. sec. of state at $8,000 (P–8) in the Dept. of State June 26, 1945; v. chm., Exec. Comm. on Econ. For. Policy, July 5, 1945; alt. del., Preparatory Commn., United Nations Food and Agri. Org., Washington, 1946; asst. sec. of state for econ. affairs Nov. 15, 1946; U. S. rep. in ECOSOC 1947–; chm. U. S. del., Ruhr Coal-Production Talks, Washington, 1947; alt. U. S. rep., 2d sess. of Gen. Assembly, United Nations, Flushing Meadows, 1947; U. S. del., World Statistical Cong., Washington, 1947; U. S. del., U. S.-U. K. Meetings on Bizonal Arrangements for Germany, Washington, 1947; U. S. rep., Intergovernmental Working Party on the Safeguarding of For. Interests in Germany, Paris, 1948; mem., U. S. Nat. Commn., Pan-Am. Ry. Cong. Assn., June 14, 1949–; U. S. rep., 9th sess., ECOSOC, Geneva, 1949; alt. U. S. del., extraordinary sess., Inter-Am. Econ. and Social Council, Washington, 1950; U. S. rep., 10th sess., ECOSOC, Lake Success, 1950; married.

WINTHROP GILMAN BROWN: b. Seal Harbor, Maine, July 12, 1907; St. Paul's Sch. grad.; Yale U., B. A. 1929, LL. B. 1932; mem. of bar of N. Y.; law clk, 1932–38, mem. 1938–41 of legal firm; att., Lend-Lease Admin., June-Nov. 1941; exec. officer, Harriman Mission and Mission for Econ. Affairs, London, 1941–45; app. chief, Div. of Cml. Policy, Dept. of State, July 26, 1945; chm., Trade Agreements Comm., 1945–48; mem., Comm. for Reciprocity Information, 1945–48; U. S. del., 2d meeting of the United Nations Preparatory Comm., Int. Conf. on Trade and Employment, Geneva, 1947; dir., Office of Int. Trade Policy, June 13, 1948.

CARL D. CORSE: b. Verndale, Minn., Nov. 20, 1907; Central High Sch. (Minneapolis) grad.; U. of Minn., B. B. A. 1930, M. A. 1935; instr. and research asst. in econ., accounting, and statistics, U. of Minn., 1930–35, 1938–39; field investigator, Treas. Dept., Sept. 1934; econ. analyst, Dept. of State, 1935–38; divisional asst. July 10, 1939; mem., Shipping Priorities Advisory Comm., 1942–45; asst. chief, Div. of Cml. Policy, June 24, 1944; v. chm., U. S. del, 2d meeting, Exec. Comm., Interim Commn. for ITO, Geneva, 1948; assoc. chief, Div. of Cml. Policy, Oct. 17, 1948; act. chief, Mar 29, 1949; chief, Cml. Policy Staff, Oct. 8, 1949; chm., Trade Agreements Comm., 1949–; mem. Comm. for Reciprocity Information, 1949; married.

VERNON LOVELL PHELPS: b. Kaneville, Ill., Oct. 21, 1900; Kaneville High Sch. grad.; U. of Ill., B. S. 1928, M. S. 1929; research fellow, Brookings Inst., 1935–36; U. of Pa., Ph. D. 1937; teacher in high sch. 1923–24, 1928–29; sales-promotion work 1926–27; instr. in econ., Lafayette Coll., 1929–34; instr. in merchandising, Wharton Sch., U. of Pa., 1934–35; ag[illegible]conomist, Dept. of Agri., 1936–37; app. econ. analyst in the Dept of State Oct. 1, 1937; divisional asst. July 1, 1939; asst. chief, Div. of Cml. Policy, June 24, 1944; adviser on European cml. affairs Feb. 24, 1946; asst. chief, Cml. Policy Staff, Oct. 19, 1949; married.

WALTER HOLLIS: b. Newton Highlands, Mass., July 30, 1908; Charlton High Sch. grad.; Clark U., A. B. 1930; Columbia U., A. M. 1933; LL. B. 1936; mem. of bar N. Y.; asst. in legal firm 1936–42; app. divisional asst. in the Dept. of State April 1, 1942, May 16, 1944, Mar. 13, 1946; atty. adviser May 30, 1948; married.

CHARLES FRANKLIN BALDWIN: b. Zanesville, Ohio, January 21, 1902; high-sch. grad.; Georgetown U., B.S. 1926; trade commr. with U. S. Govt. 1927–30; asst. chief of div., Dept. of Com., 1930–32; admin. asst., U. S. Shipping Bd. Bu.,

1932–35; rep. for credit assn. 1935–41; U. S. Navy 1941–45, comdr. overseas ser.; app. cml. att. in the For. Ser. Auxiliary and assigned at Santiago Apr. 16, 1945; at Oslo May 31, 1946; For. Ser. Reserve Officer of class three Nov. 13, 1946; For. Ser. officer of class two, cons. of career, and sec. in the Diplo. Ser. July 28, 1947; 1st sec. and cons. at Oslo Aug. 23, 1947; couns. of emb. for econ. affairs at Oslo Dec. 22, 1947; For Ser. officer at Trieste Nov. 15, 1948; couns. of emb. for econ. affairs at London, temp., Jan. 6, 1950; married.

JAMES HISTED LEWIS: b. Carbondale, Pa., Dec. 18, 1912; Coughlin High Sch. (Wilkes-Barre) grad.; George Washington U., A. B. 1935, A. M. 1939; student asst. in pol. sci., George Washington U., 1934–36; app. clk. in the Dept. of State Mar. 18, 1936; econ. analyst Feb. 16, 1938; divisional asst. July 1, 1939; jr. econ. analyst at London Apr. 7, 1942; division asst. in the Dept. of State Mar. 1, 1944; for. affairs specialist Mar. 21, 1945; country specialist Jan. 12, 1947; act. asst. Chief of British Commonwealth and Empire branch, Div. of Cml. Policy, Jan. 21, 1948; Technical Secretary, U. S. Del., Third Session of Contracting Parties to GATT, Annecy, France, April-September 1949; Economic Officer, BNA, Oct. 1949; married.

CONSTANT SOUTHWORTH: b. Duluth, Minn., August 12, 1894; private sch. in Germany; Phillips Exeter Acad. grad.; Harvard U., A. B. 1915; Georgetown U. Sch. of For. Ser. 1920–22; Brookings Grad. Sch. of Govt. and Econ. Ph. D. 1929; U. S. Army 1918, 2d lt.; engineer for construction co. 1915–17; econ. and statistical research for bank 1917–20, Tariff Comm. 1920–21, Dept. of Com. 1921–22, 1926–27, 1928–1933, and Brookings Inst. 1923; asst. dir., educational assn., 1927–28; code adviser, Nat. Recovery Admin. 1933–36; econ. analyst 1936–39 and divisional asst. 1939–41, Dept. of State; econ. analyst, Office of Price Admin., 1941–42; app. divisional asst. in the Dept. of State Oct. 1, 1942; country specialist Sept. 29, 1944; act. asst. chief, Div. of Cml. Policy, Mar. 21, 1949; Economic Officer, BNA, Oct. 1949; married.

ALBERT EDWIN CLATTENBURG, JR.: b. Philadelphia, Pa., Sept. 16, 1906; Chestnut Hill Acad. grad.; U. of Pa., A B. 1928; app. For. Ser. Officer unclass. and v. c. of career Mar. 26, 1929; assigned to the For. Ser. Sch. July 1, 1929; v. c. at Athens Sept. 13, 1929; at Patras temp., Mar. 16, 1931; at Athens May 16, 1931; at Batavia July 20, 1935; sec. in the Diplo. Ser. Apr. 25, 1936; class eight June 1, 1937; cons. and cons. at Batavia June 17, 1937; at Hamburg Feb. 24, 1939 (canceled); class seven Apr. 1, 1939; to the Dept. Oct. 12, 1939; act. asst. chief, Special Div., Oct. 31, 1941; asst. chief Mar. 28, 1942; class six June 1, 1942; asst. chief, Special War Problems Div., Jan. 15, 1944; at $6,500 (P–7) in the Dept. of State Jan. 17, 1944; asst. chief, Special Projects Div., Oct. 3, 1945; chief, P–8, July 28, 1946; dept. rep. on Interdepartmental Shipping Comm., 1946–; chm. U .S. del., Meeting of Int. Red Cross Comm., Geneva, 1947; For. Ser. officer of class three, cons. of career, and sec. in the Diplo. Ser. May 14, 1947; 1st sec. and cons. at Lisbon Oct. 20, 1947; married.

PATTEN DANGAIUX ALLEN: b. Easthamton, N. Y., June 10, 1906; Flushing High Sch. grad.; l'Ecole des Roches and U. of Tours, France, 1921–22; Colegio San Luis, Spain, and tutor in Italy, 1922–23; Dartmouth Coll., A. B., 1926; teacher in French sch. 1 yr.; asst. stylist for retail store and research asst. for advertising co., 1928; chief supervisor for insur. co., 1929–47; organizational consultant, War Production Bd., 1942–43; U. S. Navy, 1944–45, lt.; sr. econ. analyst in the For. Ser. Auxiliary, 1945–46; app. For. Ser., officer of class three, cons. of career, and sec. in the Diplo. Ser., March 15, 1947; to the Dept., Apr. 20, 1947; asst. cml. att. at Manila, Apr. 21, 1947; 1st sec. and cons. at Manila, Sept. 21, 1948; at Brussels, Jan. 9, 1950; married.

DANIEL J. REAGAN: b. Terre Haute, Ind., Sept. 26, 1893; Normal High Sch. grad.; Columbia U., B. A., 1916; supt. of mines and mfg. plant, 1912–14; sec.-treas. of int. cml. corp. 1917; asst. mgr. of engineering corp, 1917–19; advertising mgr. 1919–23; entered Bu. of For. and Dom. Com., Apr. 1923; app. trade commr. at Paris, Aug. 16, 1924; asst. cml. att. at Paris, Apr. 27, 1927; del., Int. Road Conf., Paris, 1929; First Int. Cong. of Aerial Safety, Paris, 1930, 6th Cong. of the Int. Assn. of Agri. of Tropical Countries, Paris, 1931; Int. Cong. of Wood and Sylviculture, Paris, 1931; 7th Int. Cong. of Agri. and Fisheries, Paris, 1931; cml. att. at Paris, Jan. 5, 1939; For. Sec. officer of class three, July 1, 1939; cons. and sec. in the Diplo. Ser., Nov. 16, 1939; cml. att. at Vichy, temp., Mar. 25, 1941; at Vichy, Oct 1, 1941; Am. mem., Permanent Int. Council and Permanent Int. Commn. of Permanent Int. Assn. of Road Congresses, 1940–; cml. att. at Bern, Dec. 16, 1941; class two, Feb. 1, 1942; class one, July 16, 1944; to the Dept., Jan. 5, 1945; couns. of leg. for econ. affairs at Bern, Feb. 21, 1945; couns. of emb. for econ. affairs at Paris with personal rank of minister, May 4, 1948; retired Jan. 31, 1950; reinstated as For. Ser. Res. Officer, Sept. 1950; married.

KNOWLTON VINCENT HICKS: b. Waterford, N. Y., June 22, 1902; Troy Conservatory of Music 1914–20; Hamburg U. 1928–30; engineering and clerical work 1917–23; app. clk in Am. consulate at Ghent Oct. 13, 1923; at Hamburg July 15, 1924; v. c. at Hamburg Dec. 17, 1924; app. For. Ser. officer unclass and v. c. of career Apr. 27, 1927; v. c. at Hamburg May 9, 1927; class eight cons., and cons. at Hamburg Feb. 4, 1931; at Göteborg Dec. 17, 1931; at Budapest Aug. 6, 1934; class seven Oct. 1, 1935; cons. at Vancouver Nov. 13, 1936; sec. in the Diplo. Ser. Aug. 17, 1937; cons. at Halifax Jan. 9, 1939; class six Apr. 1, 1939; to the Dept. Oct. 3, 1941; asst. chief, Visa Div., March 13, 1942; class five Oct. 20, 1942; cons. at Naples Mar. 11, 1944; class four May 16, 1945; cons. at Adelaide June 19, 1945; For. Ser. officer of class three Nov. 13, 1946; cons. at Sydney Mar. 4, 1947; 1st sec. and cons. at Vienna April 20, 1949; cons. gen. Sept. 22, 1949; cons. gen. at Vienna in addition to duties as 1st sec. Sept. 30, 1949; class two Apr. 21, 1949; married.

JOHN MICHAEL KENNEDY: b. Philadelphia, Pa., Jan. 30, 1900; elementary sch., Instituto Marcantonio Colonna, Rome, 1908–13; Manhattan Prep. Sch. grad.; Georgetown U., B. S. (For. Ser.) 1935; grad. work Brookings Inst., Dept. of Agri. Grad. Sch., and Am. U., 1935–45; U. S. Army 1918; stenog. 1917–22; salesman 1922–24; newspaper reporter 1924–26; cml. agt. and asst. trade commr. (Rome and Milan, Italy), Dept. of Com., 1926–33; admin. asst., information specialist, and agr. economist, Dept. of Agri. 1933–44; app. divisional asst. in the Dept. of State Sept. 4, 1944; country specialist, June 30, 1946; Economic officer, WE, Oct. 1949; married.

FRANCIS FRENCH LINCOLN: b. Belmont, Mass., Mar. 29, 1890; Belmont High Sch. grad.; Harvard U., A. B. 1910; salesman for investment cos. 1927–35; analyst Securities and Exchange Commn., 1935–44; app. divisional asst. in the Dept. of State June 1, 1944; economist July 1, 1944; Asst. Export-Import Specialist, Am. Miss for Aid to Greece, 1947–50; appointed int'l. economist in the Dept. of State, GTI, May 22, 1950; married.

MERWIN LEE BOHAN: b. Chicago, Ill., Jan. 21, 1899; Am. High Sch. (Mexico City); Dallas (Tex.) High Sch.; clk. in oil cos. in Mexico and U. S., in Am. consulate gen. and Am. emb. in Mexico City, 1919–20; asst. mgr. rubber co., 1920–22; advertising mgr., publicity mgr., and for. trade sec. chamber of com., 1922–27; mgr., cooperative office, Bu. of For. and Dom. Com., Dallas, Tex., 1926; app. trade commr. at Habana Jan. 16, 1927; asst. cml. att. May 16, 1927; cml. att. at Guatemala June 22, 1928; also at Tegucigalpa and San Salvador Oct. 5, 1928; cml. att. at Lima and Quito Sept. 15, 1931; at Santiago, Chile, July 18, 1933; del., 1st Inter-Am. Travel Cong., San Francisco, 1939; For. Ser. Officer of class four July 1, 1939; cons. and sec. in the Diplo. Ser. Nov. 16, 1939; cml. att. at Bogotá Mar. 6, 1940; class three Feb. 1, 1942; to the Dept. Mar. 17, 1942; chief, U. S. Econ. Mission to Bolivia, 1941–42; cml. att. at Buenos Aires Sept. 14, 1942; couns. of emb. for econ. affairs at Buenos Aires Nov. 5, 1942; to the Dept. July 10, 1944; class two July 16, 1944; act. chief, Div. of For. Ser. Planning, Apr. 1, 1945; also chief, Div. of For. Reporting Sers., Apr. 1, 1945; couns. of emb. for econ. affairs at Mexico City Aug. 14, 1945; class one Dec. 17, 1945; mem. of U. S. del., U. S.-Mexican Discussions on Air-Sers. Agreement, Mexico City, 1946; For. Ser. officer of class one Nov. 13, 1946; Retired Feb. 28, 1949; appointed For. Ser. officer of class one and assigned Dept. Aug. 12, 1950; married.

DUWAYNE GERALD CLARK: b. Charles City, Iowa, Feb. 27, 1903; Santa Ana (Calif.) High Sch. grad.; Stanford U., A. B. 1925; Georgetown U. Sch. of For. Ser. 1925–26; George Washington U. 1926–27; entered Bu. of For. and Dom. Com. Sept. 1, 1927; asst. trade commr. at Johannesburg Aug. 1, 1929; to Philadelphia dist. office Nov. 20, 1933; asst. trade commr. at Buenos Aires Aug. 27, 1934; trade cmmr. at Buenos Aires Dec. 16, 1935; asst. cml. att. at Buenos Aires Aug. 10, 1936; to Bu. of For. and Dom. Com. Jan. 1, 1938; trade commr. at Paris May 16, 1938; asst. cml. att. at Madrid (San Sebastian) June 7, 1939; For. Ser. officer of class six July 1, 1939; asst. cml. att. at Madrid Sept. 9, 1939; cons. and sec. in the Diplo. Ser. Nov. 16, 1939; cml. att. at Asunción Jan. 8, 1942; class five Oct. 20, 1942; cons. at São Paulo May 2, 1944; cml. att. at Rio de Janeiro Apr. 21, 1945; class four May 16, 1945; For. Ser. officer of class three Nov. 13, 1946; to the Dept. Aug. 6, 1947; asst. chief, Div. of Brazilian Affairs, Dept. of State, Sept. 29, 1947; class two Apr. 14, 1948; chief, Div. of Brazilian Affairs, Aug. 22, 1948; Dept. July 1, 1949.

FREDERICK DRUM HUNT: b. Bethesda, Md., Nov. 27, 1912; Western High Sch. (D. C.) grad.; Severn Prep. Sch. grad.; George Washington U., A. B. 1935; Div. of Press Intelligence for U. S. Govt. 1933–36; entered Bu. of For. and Dom.

Com. Mar. 2, 1936; asst. trade commr. at London Sept. 1, 1937; at Bucharest June 1, 1939; For. Ser. officer unclass. July 1, 1939; v. c. of career and sec. in the Diplo. Ser. and v. c. and 3d sec. at Bucharest Nov. 16, 1939; v. c. at Shanghai Feb. 15–Dec. 7, 1941; at Lourenco Marques July 20, 1942; at Johannesburg, temp., Sept. 4, 1943; at Port Elizabeth, temp., Oct. 12, 1943; at Johannesburg, temp., Nov. 7, 1943; at Lourenco Marques Nov. 20, 1943; to the Dept. Mar. 10, 1944; v. c. at Nuevo Laredo Oct. 20, 1944; class eight Aug. 13, 1945; v. c. at Martinique Nov. 1, 1946 (canceled); For. Ser. officer of class five Nov. 13, 1946; cons. and cons. at Martinique Mar. 4, 1947; to the Dept. Oct. 14, 1948; married.

MARGARET HARDY POTTER (MRS.): b. Ottawa, Kans.; George Washington U., A. B. 1933; l'Institut Universitaire de Hautes Etudes Internationales, doctorat ès sciences politiques de l'Université de Genève 1936; econ. analyst and divisional asst., Dept. of State, 1938–41; assoc. economist Office of Price Admin., 1941; app. divisional asst. in the Dept. of State Dec. 19, 1941; resigned Oct. 16, 1942; app. divisional asst., temp., in the Dept. of State June 16, 1943; resigned Nov. 1, 1943; app. divisional asst. in the Dept. of State April 16, 1945; country specialist July 14, 1946; divisional asst. Mar. 23, 1947.

PRENTICE N. DEAN: b. Nov. 28, 1897, Scranton, Pa. A. B. Princeton U.; M. A., Beirut, Syria; Post Graduate work, Princeton U. Economist, Tariff Comm., 1934–48; Special Adviser on International Trade, Office of International Programs, Munitions Board, 1948-present; representative of Dept. of Defense on Trade Agreements Comte. and Comte. for Reciprocity Information, 1948 to present. Served on a number of interdepartmental committees dealing with economic problems on various commodities with particular reference to products of the chemical industry. Member of U. S. Del. to Geneva (1947), Annecy (1949), and Torquay (1950) tariff negotiations under the GATT. Married.

THOMAS R. WILSON: b. 1897, Seattle, Wash. U. of California, B. S., Economics, 1922; Georgetown Foreign Service School, B. F. S. 1923, Ph. D. 1932; George Washington U., M. A. 1924. American Expeditionary Forces, France, 1917–19. Chief of British and Can. Sect. of W. Eur. Div., Commerce, 1922–25; Asst. Trade Commissioner, Ottawa, Canada, 1925–26; Chief of British and Orient Sect., Foreign Tariffs Division, Commerce, 1926–29; Chief of Eur. Sect., Finance Div., Commerce, 1929–41; Chief of British Empire Unit, Commerce, 1941–45; Deputy Director, Areas Division, O. I. T., Commerce, 1946–48; Director, Areas Div., Commerce, 1948–50; Asst. to Director of O. I. T., in charge of Trade Agreements and Commercial Treaties, 1950 to present. Married.

MILTON H. BLICK: b. March 28, 1922. Attended George Washington U; B. S., U. of Indiana, School of Business Administration; studied law at U. of Indiana and New York University. Asst. to Pres., in charge Research and Development, Schaef Trading Co., 1946–47; Member of Norman Maxwell Association (Export-Import Contracting Firm), 1947–48; Market Analyst, Dept. of Agriculture, 1948–49; Economist, Intl. Trade and Development Sect., ECA, 1949 to present. Married.

PHILIP ARNOW: b. Dec. 11, 1916, New York City. B. S. and M. A., New York University; Graduate work in economics, American University 1937–38. Married. National Institute of Public Affairs, intern at National Labor Relations Bd.; 1937–38; Analyst, U. S. Senate Comte on Education and Labor, Subcommittee on Civil Liberties, June 1938–Jan. 1939; Economist, Wage and Hours Div., Dept. of Labor, Jan. 1939–Aug. 1942; Wage Stabilization Director, Washington, and later Vice Chairman, Regional Bd. for Michigan, National War Labor Bd., Aug. 1942–Dec. 1945; Chief of Wage Problems Div., Bureau of Labor Statistics, Jan. 1946–Aug. 1949; Office International Labor Affairs, Aug. 1949 to present; Representative of Dept. of Labor on Interdepartmental Committee on Trade Agreements and Comte for Reciprocity Information, May 1947 to present; Member of U. S. Dels. to Geneva (1947), Annecy (1949), and Torquay (1950) tariff negotiations under the GATT.

LOUISE E. BUTT (Mrs.): b. Columbus, Ohio. Ohio State U., A. B. 1928; Radcliffe College, M. A., 1929; University of Geneva, Docteur es Sciences et Politiques, 1932; American University 1936–37. Various research jobs 1930–40; Dept. of Agriculture 1940 to present—Assistant to Head of Foreign Trade Sect., OFAR, 1940–43; Regional Specialist, OFAR, 1943–47; Assistant to Head Foreign Trade and Policies Div., OFAR, 1947 to present.

GEORGE BRONZ: b. New York, N. Y., July 7, 1910; married; College of City of New York, 1926–29 B. S. (cum laude); Columbia Law School, New York City, 1929–32 LL. B. (law review); bar, New York, 1933; prior to Treasury, 1930–33, Columbia Law School research asst.; 1933–35, National Recovery Adm., attorney; 1935–39, Resettlement Adm. and Agric. Dept, attorney; 1939–43, Interior Dept,

Office of the Bituminous Coal Consumers Counsel, chief legal adviser; Treasury, 1943 to present, now special asst to General Counsel; special mission to Siam, March-Apr. 1946; Participated first session of Preparatory Committee of the U. N. Conf. on Trade and Employment, London, Oct.-Nov. 1946; member U. S. Del. to Geneva Conf., 1947; U. N. Conf. on Trade and Employment, Havana, Nov. 1947-March 1948; and Second, Third, and Fifth Sessions of the Contracting Parties of the GATT; U. S. Rep. on Comm. of Special Exchange Agreements, London, 1948.

WILLIAM R. JOHNSON: b. near Kersey, Colorado, March 18, 1896; married two children; 1925, B. Sc. New York University; 1935 LL. B., George Washington University; Aug. 1917 to June 1918, U. S. Army; 1920–30, clerk, liquidator, office of collector of customs, New York, N. Y.; 1930–36, attorney in Bureau of Customs; 1936–39, chief counsel, Bureau of Customs; 1939–40, Acting Deputy Commissioner of Customs; Commissioner of Customs, 1940–48; 1948 to present, Special Asst. to Commissioner of Customs; June 1938, special mission to Goteborg and Stockholm, Sweden on off. business; Oct. 1946, del. to first meeting of Preparatory Committee for Internatl Conf. on Trade and Employment, London, Eng.; member U. S. Delegations to the Geneva (1947), Annecy (1949), and Torquay (1950) tariff negotiations under the GATT.

WALTER W. OSTROW: b. Dec. 9, 1893; George Washington U., A. B., 1916; Graduate work U. of Berlin, 1915–16, 1931–32; Vice Consul, Foreign Service, Berlin, 1923–24, Zurich, 1934–41; economist in charge German desk, Monetary Research, Dept. of Treasury, 1941–45; Treasury Rep., Zurich 1945–46, Bern, 1946–50; Deputy Chief, Comm. Pol. Division, Office of International Finance, Dept. of the Treasury, 1950. Married.

E. DANA DURAND: Commissioner, U. S. Tariff Commission. b. Romeo, Michigan, Oct. 18, 1871; A. B. Oberlin College; Ph. D., Cornell University; Service with Tariff Commission: 16 years as chief economist, 1920–35; Commissioner, 1935-present; Other service: 22 years in Govt. Served as Director of Census, held posts with Federal Food Adm., Bureau of Foreign and Domestic Commerce, and Commerce Dept's division of statistical research. member U. S. Del, Geneva Conf. 1947.

BEN DORFMAN: b. Feb. 16, 1902, Portland, Oreg.; Reed College A. B.; U. of California, M. A., Ph. D., 1933; Married; U. S. Tariff Commission, 1934 to present: economist, 1934–42; Advisor to Commission on Far Eastern Trade Problems 1942–43; Chief Economist, 1943–50; Chief economist and Chief of Economics Division, 1950.

PAUL KAPLOWITZ: Acting General Counsel, U. S. Tariff Comm; b. Atlantic City, N. J., May 1, 1906; LL. B., Washington College of Law; member of the Bar of the District of Columbia, and the U. S. Court of Customs and Patent Appeals; Service with Tariff Commission: 8 years: as attorney, 1939–43; Assistant General Counsel (1943–50).

ROBERT B. SCHWENGER: b. Fort Wayne, Ind., Feb. 27, 1906; U. of Wisconsin, B. A. 1928; graduate Institute of Inter. Studies, Geneva, Switzerland; fellowship in Inter. Relations, 1930–32; U. of Chicago, fellowship in Inter. Economic Relations, 1932–33; Member of the Office of Foreign Agr. Relations and predecessor organizations, U. S. Dept. of Agr., 1934 to date; Head of Inter. Economic Studies Division; Acting Chief and later (since 1948) Chief of Regional Investigations Branch; Deputy Executive Officer for the U. S., Combined Food Board, 1932–33; asst. sec., Comm. on Inter. Econ. and Soc. Cooperation, UN Conf. on Inter. Org., San Francisco, 1945; Sec., Fifth Meeting Inter. Cotton Advisory Comm., Washington, D. C., 1946; Adviser to U. S. Delegate to the Inter. Wool Conversations, London, 1946 and 1947; Del. to the Prep. Comm. for the Inter. Conf. on Trade and Employment, First Session, London, 1946; Alt. Del. to the Prep. Comm. for the Inter. Conf. on Trade and Employment, Second Session; Adviser to the U. S. Del., Prep. Comm. of the FAO, Washington, 1946–47; Agriculture member on Committee on Trade Agreements and Committee for Reciprocity Information; member U. S. Del. to Geneva (1947), Annecy (1949), and Torquay (1950) tariff negotiations under the GATT.

HAROLD P. MACGOWAN: b. Mt. Vernon, N. Y., 1895; Preparatory schooling, Canada, Germany, Switzerland, Phillips Exeter Academy (also a year's educ. trip around the world), 1905–13; School of Commerce and Finance, New York University, 1913–15; Natl. City Bank (Habana and New York), 1913–15; Johns-Manville Co. (France and New York), 1916–17; Military Intelligence, U. S. Army (France and Italy), 1917–19; Latin-American Sales Representative (Crown Cork & Seal Co.), 1920–21; Regional Economist, Bureau of Foreign & Domestic Commerce, 1922–23; Trade Commissioner, Caribbean Area (West Indies, Vene-

suela, Colombia, and Central America), 1924–30; Commercial Adviser to Gov. of Puerto Rico, 1931; Foreign Commerce Officer (Class II), Bogotá, Colombia, 1932–33; Importer and Exporter, in New York (own account), 1934–35; Foreign Trade Economist (spec. on inter. trade barriers), 1935–39; Commerce Representative, Trade Agreement Negotiations in Argentina, Uruguay, and Chile, 1940; Acting Chief, Trade Agreements Unit, Dept. of Commerce, 1940; Chief, Trade Agreements Unit, Dept. of Commerce, 1941–45; Adviser on Trade Agreement Policy, Office of Inter. Trade, Dept. of Commerce, 1946–47; Dept. of Commerce Alt. on Trade Agreements Committee and Committee for Reciprocity Information, 1940–present; Member of U. S. Delegations to Geneva (1947), Annecy (1949), and Torquay (1950) tariff negotiations under the GATT.

HUBERT F. HAVLIK: b. Chicago, Ill., Oct. 10, 1904; Harrison Tech. High Sch. grad.; Northwestern U., B. S. 1926, M. B. A. 1927; Columbia U., Ph. D. 1938; clk. and accountant for chemical co. 1921–23; research asst., Inst. for Research in Land and Public Utility Econ. 1926–28; instr. in econ., Northwestern U., 1927–30; fellow and instr. in govt. and econ. Columbia U., 1930–42; chief of fuel and power section, chief of program branch, and exec. sec. of comm., War Production Bd., 1942–44; chief of lend-lease div. and deputy asst. administrator, For. Econ. Admin., 1944–45; sec., U. S.-United Kingdom Negotiations on Lend-Lease and Mutual Aid, Washington, 1944; transferred to Dept. of State as deputy admin. asst., Office of For. Liquidation, Oct. 1945; act. chief. Div. of Lend-lease and Surplus War Property Affairs, Dec. 1945; principal sec. of U. S. Lend-Lease Comm. and chm. on spec. lend-lease, surplus, and claims agreements, U. S.-U. K. Econ. Negotiations, Wash. 1945–46; adviser and exec. sec., Lend-Lease Settlement Negot. with India, France, Australia, Belgium, New Zealand, and S. Africa, Wash. 1946; Chief, Div. of Investment and Econ. Dev., 1946–48; Chief of Finance and Trade Div., OSR, Paris, 1948–present. Married.

PAUL A. UNGER: b. Sept. 10, 1914. Harvard College, A. B. 1936; Night school Catholic U., 1937, and American U., 1940–41. Project Analyst, WPA, 1936–39; Federal Public Housing Authority, 1939–44; UNRRA (Egypt and Yugoslavia), July 1944–April 1947; Information Specialist, Fish and Wildlife Service, Dept. of the Interior, Feb.–June 1948; Special Assistant to Assistant Secretary of the Interior, June 1948 to present.

BETTI GOLDWASSER (MRS): b. New York City. Bryn Mawr College, B. A., cum laude, 1934; Radcliffe College, M. A., 1936; Graduate work, American University; Research Fellow, Brookings Institution, Oct. 1936–June 1937. Junior Economist National Resources Comm., 1937–38; Assistant Economist, Social Security Bd., 1939–42; Associate Economist, later analyst, Office of Price Administration, 1942–1944; Economist and later analyst, War Production Board, 1944–1945; Statistician, Regional Economics Division, Dept. of Commerce, 1946–48; Program Officer, Export Program Staff, O. I. T., 1948–50; Labor Economist,, Division of Foreign Labor Conditions, Dept. of Labor, Jan. 1950 to present.

The CHAIRMAN. If you have no formal statement you wish to make, perhaps it would be just as well if you would take a look at the bill as it passed the House and, if you are able, indicate at least the amendments, substance of the amendments, without the detailed wording necessary, that the Department of State will recommend should be made in these amendments, if you have any recommendations to make. The Secretary indicated that there might be some.

Mr. BROWN. I think the Secretary made it very clear that the fundamental position of all the agencies in the trade-agreements organization is that they feel that the amendments are undesirable and that the bill as it emerged from the Ways and Means Committee would be the kind of bill that would be the best for us to have.

However, the Secretary indicated in his testimony that there were certain changes in some of the amendments passed by the House which he felt could make them, as he described, "workable."

I am prepared to suggest what some of those changes might be.

The CHAIRMAN. I would be very glad to have you do so, and I think Senator Millikin would like to have you do that at this time, if you can, even if you suggest only the substance of the changes that

you think would make this bill workable or livable, as I believe the Secretary stated.

Mr. BROWN. The first amendment, Mr. Chairman, was the so-called peril-point amendment which appears in sections 3, 4, and 5, of H. R. 1612.

The CHAIRMAN. Does it differ from the amendment that was put in in the Eightieth Congress?

Mr. BROWN. Yes, sir.

The CHAIRMAN. It does?

Mr. BROWN. In one important respect it differs, and that is that in the event that the President should decide to disregard a peril-point recommendation made by the Tariff Commission he would be obliged under this amendment to publish only the peril point which he had disregarded and to give his reasons for disregarding it. In the previous peril-point provision he would have had to publish the entire list of peril points involved in the negotiation.

The CHAIRMAN. With respect to that matter and assuming you will have a peril point, you would not quarrel with that change; would you?

Mr. BROWN. No, sir. We consider that that makes the amendment very much more workable, and it particularly takes away one of the great disadvantages that the earlier amendment had on negotiations with the other countries.

We really have only one suggestion to make with respect to the peril-point amendment as it passed the House; and that, is as we have always said, we feel that the participation of the Tariff Commission in the work of the Trade Agreements Committee and in the negotiation of the agreements has been a helpful and constructive thing, and they would like to see it continue.

Therefore, we would suggest that section 4, which prevents the Tariff Commission from participating in negotiation of an agreement, also the Commission and its members or staff, and in the decisions of the Trade Agreements Committee, might be deleted.

Senator MILLIKIN. Will you identify the specific parts agreed to be deleted?

Mr. BROWN. It could be done in two ways. I think the way we would prefer would be if section 4 were deleted entirely.

Senator MILLIKIN. Well, Mr. Brown, would you want to delete the mandate to the Commission to furnish facts, statistics, and other information, and so forth?

Mr. BROWN. We think that goes without saying. They do it now. Our point would be fully met if you started the deletion at the "but" in line 21.

The CHAIRMAN. Line 21 on page 3 of the bill.

Senator MILLIKIN. On through the rest of the section?

Mr. BROWN. Yes, sir. Actually the requirement of furnishing the facts, we think, would be covered by lines 14, 15, 16, and 17 in the preceding section, where there is an obligation to consult.

Senator MILLIKIN. But you would see no harm——

Mr. BROWN. None whatever.

Senator MILLIKIN. If the first four lines up to the semicolon on line 21 of section 4 were kept in?

Mr. BROWN. No, sir. The next amendment which was passed by the House is an amendment contained in section 6.

The CHAIRMAN. That is on page 5 of the bill.

Mr. BROWN. Yes, sir. The Secretary explained the difficulties this amendment, or the embarrassment that this amendment, would be likely to cause. I think that some of the difficulties could be mitigated if the section were so drawn as to eliminate the requirement which is implicit in this section that the President make a specific finding that some other country is dominated or controlled by the foreign government or organization controlling the world Communist movement.

That is a requirement that would be rather embarrassing to him politically, and I think wording could probably be found which could eliminate that requirement.

Moreover, the requirement of not more than 90 days after enactment of this act would, we think, be unworkable and also would involve some unnecessary cases of violation of agreements.

In a few cases we could simply give proper notice and accomplish the result, but we couldn't do it in 90 days.

Senator MILLIKIN. Does any number of days occur to you as a better solution?

Mr. BROWN. We would greatly prefer, Senator, if that day requirement was left out. I don't think I could suggest a specific number of days which could be shown not to be embarrassing.

The CHAIRMAN. In other words, if the phrase "as soon as practicable but not more than ninety days after the enactment of the Act" were omitted and the section then began "The President shall take such action as is necessary," and so forth——

Senator KERR. You would want to leave the first four words; wouldn't you?

The CHAIRMAN. "As soon as practicable"?

Senator KERR. And then cut out the next phrase.

The CHAIRMAN. I don't know. It strikes me that if the amendment simply required the President to take such action as necessary to withdraw or prevent application to reduce tariffs, and so forth, it might be said "as soon as practicable."

I presume the State Department wouldn't care if "as soon as practicable" was left in because that would follow anyway. You wouldn't be able to get anything done before it was practicable to do it, of course.

Senator KERR. It might be less harsh with it in than with it out.

The CHAIRMAN. Might be.

Mr. BROWN. I have another suggestion which bears on that point.

The CHAIRMAN. Oh, yes, on that point.

Mr. BROWN. We feel that the only proper reason why an amendment of this kind could appear in this act is, if the action contemplated bore some relation to our national security interests and we would suggest that if the amendment is to remain that that be made clear by adding some kind of phrase at the end of the section. If that were done, the "as soon as practicable" would not be consistent with the sense of the amendment.

The CHAIRMAN. Would not be necessary to put it in?

Mr. BROWN. No, sir.

The CHAIRMAN. I see. It occurred to me, Mr. Brown, that this language in 18 beginning after the word "thereof", "which the President deems to be," that puts the burden upon the President to say who are the satellites, who are the Socialist republics, and so forth, may be

under the domination or control of a foreign government or foreign organization controlling the world Communist movement, and it just occurs to me I would like to have your view on it while we are on it, if you are prepared to make a statement on it now.

Would it not be better to say rather than "which the President deems" to at the end of the line, line 21, add the suggestion which you make, "whenever the President determines that such action would further the national security of the United States," for instance?

Mr. BROWN. That would be much better from our point of view, Mr. Chairman. We feel that it would be intensely embarrassing to the President to have to come out publicly at some moment and label a particular country as being dominated by an outside organization. To make a formal finding of that kind doesn't add anything to the effectiveness of the amendment if it should be adopted and does cause an awful lot of embarrassment and at least a tarnishing of positions which as we all know, often prevents getting proper solutions of problems.

We just would not like to see him put in the position where he had to come out and make a formal finding of that kind. Just leave out those words.

The CHAIRMAN. It would seem to me, if that were left out, then whenever the President should determine, however, that something should be done in the interest of the security of the United States, he could very well do that without making a specific finding that some particular country was under the domination of a foreign organization connected with communism.

Mr. BROWN. That would be something that would be well understood, I think.

The CHAIRMAN. Is there any other suggestion?

Mr. BROWN. No.

The CHAIRMAN. Nothing more on that section, that amendment?

Mr. BROWN. No, sir.

The CHAIRMAN. We might go to the next one.

Senator MILLIKIN. I would like to have Mr. Brown summarize just what amendments should be made or that would be agreeable to the State Department if made. Do you want to omit the time provision up at the beginning? Do you have any ideas as to a different time period, but a time period?

Mr. BROWN. No, sir. The suggestion that we make that this kind of action be limited to cases where there is some kind of a security interest involved, which seems to us to be the only real basis for any kind of amendment of this type, would eliminate the need for a time period, because it would depend on whether or not there was a security situation, but wouldn't fix the time as to when that would or wouldn't occur.

Senator MILLIKIN. We now have the right—do we not?—to escape if the security of the United States is involved.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. So, that would add nothing at all to the bill; would it?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. That would add nothing at all to the existing state of affairs.

Mr. BROWN. It wouldn't change our international agreement, but it would be a directive to the President to do something internally.

Senator KERR. May I ask a question, Mr. Chairman?

Senator MILLIKIN. Just one more question.

Senator KERR. I thought you were through.

Senator MILLIKIN. As I understand it, we now have full right to withdraw from any agreement or any concession that affects our security interests and the power of declaring that our security interests are affected and the power to set in motion the steps to escape is the power of the President; is that not correct?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. So that this section as changed in the manner proposed by you would simply be a reminder to the President of his existing power; is that correct?

Mr. BROWN. It would be a directive to him to use them.

Senator MILLIKIN. A directive for him to use it?

Mr. BROWN. Yes, sir; "the President shall," it says.

Senator MILLIKIN. Do you think that would have much practical usefulness? Should not the President take such action as will preserve our security without direction of the Congress?

Mr. BROWN. We have already said we don't think this amendment is either necessary or desirable.

Senator MILLIKIN. You would want the present situation without this amendment?

Mr. BROWN. That would be our distinct preference.

Senator MILLIKIN. This amendment merely mandates that which the Constitution—this amendment as it might be improved under your suggestion merely mandates the duty, the performance by the President of his existing duties, constitutional and otherwise.

Mr. BROWN. Yes, sir. There is one further thing, Senator, which you asked me to summarize, which is we feel the requirement of a formal finding that some country is dominated by a foreign organization should be eliminated. That is in line 18 and the beginning of line 19.

Senator MILLIKIN. You wish to eliminate the finding?

Mr. BROWN. Yes, sir; not the facts, but the finding.

Senator MILLIKIN. You would have no objection to an escape that might be taken under the President's existing powers, but the circumstances might be such as to make the finding embarrassing; is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Has not the President formally and informally already made that finding, so far as Russia and the satellite countries are concerned?

Mr. BROWN. The President has had some very firm things to say about those countries, but I think he made those statements at a time and in a manner where he felt it was something that would advance the interests of this country.

Now it is impossible to predict whether 6 months from now or a year from now a formal finding of the kind that would be involved in these two or three words in this paragraph might not, even though the facts

were there, be a highly adverse thing for this country's interests for the President to do; and, therefore, we would not like to see him obligated to make such a finding.

Senator MILLIKIN. Taking the two phases of your answer, first as to what the President has already said, I don't believe you would challenge my assertion that the President formally or informally has already said, has already made the declaration referred to in this proposed amendment. Would you deny that?

Mr. BROWN. I don't know what my lawyers would tell me on that point, Senator.

Senator MILLIKIN. You have a layman's opinion that he has not spared his denunciation either of Russia or the satellite countries, do you not?

Mr. BROWN. I quite agree.

Senator MILLIKIN. And the same is true as to the Secretary of State; is that not correct?

Mr. BROWN. Yes, sir; but circumstances change.

Senator MILLIKIN. Now as to the situation 6 months from now, if this amendment became law, by the same token that we can escape, we can renew our relations, can we not?

Mr. BROWN. Well, sir, if the Congress would tell us that what the President has already said meets this finding and would not require him to make further findings of this kind, I don't think it would embarrass him.

Senator MILLIKIN. I took your point to be this: That 6 months from now the world situation might be such that the type of action contemplated by this amendment might then slap us in the face with some kind of an embarrassment.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. If that came about, we can reverse the field, can we not, and reenter trade relations with the countries that are contemplated?

Mr. BROWN. Yes; we could, Senator. I was really thinking of a more unfortunate case where it might be that the area of influence was extended and then you had a very delicate political situation where a finding by the President as to that fact might have very bad effects, for example, in morale of the people who are opposing the infiltration in that area, and that kind of thing.

Senator MILLIKIN. It is conceivable that trade with these countries presents a great embarrassment to the American people, isn't it?

Mr. BROWN. I don't think so, sir.

Senator MILLIKIN. You don't think so. Do we not already exercise export controls to these countries?

Mr. BROWN. Yes sir, and we do that very clearly on the basis of the protection of our national security to deny to these countries things which would contribute to building up their war potential.

Senator MILLIKIN. That is right. When we permit their imports into this country, we provide them with dollar exchange, which enables them to build up their war potential; is that not correct?

Mr. BROWN. No, sir, because they cannot use it to buy any of the things they need to build up their war potential.

Senator MILLIKIN. They may not be able to buy it from us, but the world is open to them and they can buy it from Great Britain at Hong Kong.

Mr. BROWN. Yes, and they have many other sources of gold and dollars.

Senator MILLIKIN. So the dollar is useful not only between us and the Communist or satellite countries but it is useful to him any place if he has the dollar; is that not correct?

Mr. BROWN. Yes, and if it is desired to cut that off, then there are other more effective and direct ways of doing it which should be used. We don't think this is an appropriate way of doing it. The Secretary said this touches on a basic problem of our total relations with this area and should be approached directly rather than piecemeal in this manner.

Senator MILLIKIN. The imposition of export controls is in the last analysis a matter of executive discretion, is it not?

Mr. BROWN. It requires authority from the Congress to enact them, but how they are placed is a matter of executive discretion, yes sir.

Senator MILLIKIN. That is right. So that in imposing these export controls, as far as these lists of countries are concerned, we have overcome whatever reluctance we might have had due to embarrassments of the type you speak of, have we not?

Mr. BROWN. As far as the existing situation is concerned, I should think so. I think perhaps, Senator, that I am giving the impression of a greater problem than I really mean. What I am concerned about is these words, "which the President deems to be" in lines 18 and 19. If those words were omitted, the point that I am trying to get at would be met, but the substance of what the amendment seeks to accomplish in this respect I should think would be preserved.

Senator MILLIKIN. You are willing to have the substance but you don't want the finding?

Mr. BROWN. That is correct, sir. That is that point. The other points I think I have summarized.

Senator KERR. Would the witness like to feel that there was as much of a desire on the part of the committee to keep a witness out of trouble as there is on the part of the witness to keep the committee out of trouble?

Mr. BROWN. He would, sir.

Senator KERR. Is there constant effort being made to drive wedges between Russia and her satellites? That is one of the principles of your foreign policy, isn't it?

Mr. BROWN. You have me a little bit out of my depth, Senator, and I am not sure whether I should answer that question on the record or not, but I think I can say that we are doing everything we can as part of our basic policy through all the means available to us to weaken the position of the Soviet Union and, too, I think our attitude is illustrated by the aid which has been given to Yugoslavia, for example.

Senator KERR. Isn't Yugoslavia a nation which a few months ago would have come under the purview of this section?

Mr. BROWN. Yes.

Senator KERR. But which today we find at least the very strong possibility that the interests of this country are best served by not only trading with her, but even building her up in her efforts to withstand Russia?

Mr. BROWN. That is correct, sir. And we have a great deal of—we have put a lot of money and effort and thought into helping Yugo-

slavia to maintain its independent attitude, which it has shown, and we consider that has been one of the very encouraging factors in the situation. We would like to be in a position to continue that kind of activity.

Senator KERR. Isn't it devoutly to be hoped that other similar situations may arise by the workings of their own natural principles of which you might take advantage or even where the situation might be developed by reason of things that come about through your initiative?

Mr. BROWN. Yes, sir; it is very devoutly to be hoped.

Senator KERR. Well, now, is there any information that would be readily available of which you might have knowledge to indicate that this country in some of this trading is able to purchase materials which are critically short in this country and needed in the building of our own security?

Mr. BROWN. It has been the case in the past, Senator, that we have obtained very substantial quantities of certain critical materials from the Soviet Union and from some of the satellites. The flow of these materials from the Soviet Union has diminished very materially in the past year or so. There are also a number of things which we have got from China which are important, which are on our critical and strategic list. Then to a minor extent some of those materials come from the other satellites.

Senator KERR. I believe that is all I have.

Senator MILLIKIN. Insofar as the critical materials are concerned, would you say that we are not in position to get those critical materials from other sources?

Mr. BROWN. Some of the things that come from China are pretty hard to replace. As far as the ones from the Soviet Union are concerned, I think we could get them elsewhere.

Senator MILLIKIN. They might be hard to replace, but will you name those which could not be replaced?

Mr. BROWN. I could find that out for you, but I am not expert enough to make such a flat statement.

Senator MILLIKIN. I don't want to suggest——

Senator KERR. I for one would like to suggest that careful thought be given to asking for the placing of that kind of information in the record.

Senator MILLIKIN. Yes; I think it would be very important.

The CHAIRMAN. If it is furnished, we would withhold it from the record until we at least could take a look at it.

Senator MILLIKIN. The same mechanics whereby our goods are bootlegged into Communist China would be available, I assume, to us to bootleg them out of China, the things we want from China; would you not assume that to be true?

Mr. BROWN. I would have to deny that officially, Senator.

Senator MILLIKIN. I am not advocating bootlegging operations, but I am merely pointing out that our goods are bootlegged into China, and I would assume the same mechanism could operate in reverse.

Mr. BROWN. I would prefer not to comment.

Senator MARTIN. Are there very many critical defense items that it is very much of a secret about where they are secured?

Mr. BROWN. No, sir; I think the information as to where these different minerals or materials are to be found is pretty well known.

Senator MARTIN. That was the impression I had always had, that there is no high military secret relative to them.

Mr. BROWN. But, Senator Millikin asked me the question, Senator Martin, as to which materials from those areas we felt we could not replace or get adequate supplies of, and I do feel——

Senator MARTIN. I think probably that ought to be kept as secret, but I think it is pretty well known.

Senator KERR. You wouldn't want to add to the extent to which it is known.

Senator MARTIN. Personally, I am of the impression that one of the ways of attaining peace is to lay the cards out on the table.

Senator KERR. I think that is all right as long as you have a good six-shooter in your hand to back them up.

Senator MARTIN. I am for carrying the six-shooter, but on the other hand, I think the time has come when we have got to have world understanding. You know, Benjamin Franklin, who was a pretty wise man, said that each side would be better off in a war if they cast lots for the winner. I think there is a lot to it. The way we are going now and tangling our economy up and committing our troops I am getting terribly worried about it.

Senator MILLIKIN. With reference to the critical materials and secrecy involving them, I wish to remind the witness that the appropriate department of this Government makes open publication of our critical and strategic materials, and so I suggest——

Mr. BROWN. Of the list; yes, sir.

Senator MILLIKIN. Of the list, yes, and so I suggest there is no secrecy about it at all.

The CHAIRMAN. Not about the list, but maybe the source of supply.

Senator MILLIKIN. I was not speaking of the sources of supply.

Mr. BROWN. I wasn't claiming that the list was secret or the fact that we have shortages is secret, but I was hesitant about going into any further detail about the degrees of the shortage or particular location.

Senator MILLIKIN. I suggest in that connection if we were to collate all that has been said by Government officials, the origin of those materials could be easily seen or deduced. There is some difference about the gentleman politically, but I don't think there is any dispute about his being an expert in mining matters, and that gentleman appeared before the Joint Senate Foreign Relations Committee and the Armed Services Committee recently and I believe he stated, either there or in some other public address, that we did not have to rely on countries outside of this hemisphere for materials needful to our defense. I don't know whether he said what I am going to say now, but I believe it is implicit in the knowledge of anyone who knows anything about the mining business, that if the materials are in the Western Hemisphere we may have to pay a higher price for what we buy, but assuming the payment of the proper incentives, that the materials are available to us.

Perhaps I should say I was referring to Mr. Herbert Hoover. Does the witness have any comment on that?

Mr. BROWN. I don't agree with the statement, but I am not prepared to support my disagreement here. I didn't come prepared on that subject.

Senator MARTIN. Mr. Chairman, along that line, to the most of us we were terribly alarmed about a reserve of iron ore just a few months ago, but private enterprise in America has now discovered what seems like an abundance of supply in South America. They have enough reliance in it that they are building enormous steel plants along the Delaware River, both in New Jersey and Pennsylvania and I think probably down in Delaware. So private enterprise takes care of these things in pretty good shape if we give it the opportunity to do so.

Senator KERR. I wonder if the Senator is aware of the fact that the workings of the reciprocal trade agreements might be the determinative factor as to whether or not the nation from which that iron ore is now being obtained would permit its free flow into this country even though we were able to guarantee the delivery once it were placed on ships to bring it here.

Senator WILLIAMS. Are you advocating a lower tariff on oil for this country now?

Senator KERR. Well, I would say that is a question that I would be glad to discuss with the Senator, but it was not the question I had intended to raise. I believe that the statement of the principle that I stated could be determined to be either accurate or inaccurate, regardless of the attitude of the Senator from Oklahoma with reference to the tariff on oil imports.

Senator MILLIKIN. May I suggest to the witness that the purpose of the reciprocal trade agreement is to make money for both parties reciprocally, and that the American dollar presumably will be able to buy that which is for sale in foreign countries.

Mr. BROWN. I am afraid that is not an accurate statement, Senator, that the American dollar——

Senator MILLIKIN. Can you tell us a country that is not interested in the American dollar.

Mr. BROWN. There is a strong feeling on the part of a great many countries at the present time that the American dollar is useful only in terms of what it can buy, and since there are increasing difficulties on the part of other countries in buying what they need, what they feel they need in this country, they are getting less interested in the force of the American dollar, and as dominating everything else it is becoming a diminishing factor.

Senator MILLIKIN. Because it is probably diminishing in value, but be that as it may, the point of our trade, I repeat most respectfully, is for a mutual making of money.

Mr. BROWN. I would agree with that, sir.

Senator MILLIKIN. Yes, of course. And as long as our money has value, I assume that people will be willing to sell goods for it. That was our experience in World War II. We had to pay a lot of money to get some of the goods from other countries, but we paid it and got the goods. That is even true so far as these minerals are concerned in this country. We are paying very big prices to get uranium ores, for example, but the more we offer in price the more we get.

The CHAIRMAN. All right, Mr. Brown, I believe you discussed this amendment in 6. If you have nothing further to submit on that

at this time, we might go to the next amendment made in the House.

Mr. BROWN. The next amendment, Mr. Chairman, appears in section 7, and from our point of view that amendment has a considerable number of very serious objections.

The main points that I would like to suggest in connection with this amendment are as follows:

In the first place, as drafted, the amendment doesn't relate the element of injury that it discusses in any way to trade agreement or to a concession in a trade agreement. It seems to us that since this is an escape clause designed to give relief for consequences of a trade agreement that may have resulted in an injury or threat of injury, there should be provision for withdrawal only when the injury which is established, if it is established, is the result at least in part of the concession, some kind of action that has been taken in the trade agreement.

Secondly, we feel——

Senator MILLIKIN. Mr. Brown, I don't want to interrupt the consecutiveness of your thought unduly, but would you mind demonstrating a little more fully the absence of relation between this proposed amendment and the trade agreements?

Mr. BROWN. In the present escape clause under the Executive order and in the escape clause which is included in our trade agreements it says that "if as a result of a concession or obligation in the agreement" that there are increased imports and a resulting threatened injury, then the action may be taken.

Senator MILLIKIN. That is what you are referring to?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I note that the——

Mr. BROWN. That does not appear in this section at all.

Senator MILLIKIN. So that the basis for your statement may be understood, I notice that the amendment is full of references to trade agreements and things of that kind, but what you are talking about is its failure to identify results with concessions made in trade agreements?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. The injury can be just as great whether or not it results from a concession, can it not?

Mr. BROWN. It could be, but since this is an escape from an action taken in the agreement, it seems to us that if the agreement has no relation to injury, the agreement should be maintained.

Senator MILLIKIN. I would not argue that it might not have relation, but that if an import is injurious, the point I suggest is to remedy the injury and to say that you can't remedy the injury unless it is a result of the agreement is to say there shall not be any relief in probably many cases; is that not correct?

Mr. BROWN. If the injury is not in any way the result of the concession, the withdrawal of the concession will, by definition, not correct the injury.

Senator MILLIKIN. Well, it is the import that we will assume causes the injury. The question raised is whether the injury shall be remedied when an import is contributing to it, whether or not it results from the concession.

Mr. BROWN. Well, sir, if it doesn't result from the concession, then the removal of the concession can't help correct the injury.

Senator MILLIKIN. Well, if you remove the import, if you put a quota on the import, you may be contributing toward relief, may you not?

Mr. BROWN. You might be.

Senator MILLIKIN. Why, of course. If you have 10 units of import and only 1 out of the 10 represents a concession in a trade agreement, and assuming that there is an injury, I suggest there is a lot of shadow boxing to say that you can only consider the 1 and that you shouldn't consider the 9.

Mr. BROWN. You are only considering the one if you withdraw the tariff concession.

Senator MILLIKIN. You are only considering one, but the nine will also be injuring, and therefore I suggest the nine should be dealt with along with the one.

Mr. BROWN. This is a provision for escape from either a tariff concession or some other obligation, perhaps the obligation not to impose a quota, which is contained in the trade agreement. If those obligations, either the lower tariff rate or the obligation to maintain freedom from quota, has no causal effect in relation to the injury, then we say that obligation need not and should not be changed; and, therefore, it is proper, since this is an escape clause, a mechanism for dealing with possible adverse effects of some action which is taken under a trade agreement, either a self-denying ordinance or an affirmative action, that it should be related in the statute.

Senator MILLIKIN. That is clearly what you said, but how would you give relief from excessive imports of the nine as well as of the one?

Mr. BROWN. You can't split it down in practice in as great detail as that. If the imports increase as result of some obligation in the trade agreement and if the total of the imports thus increased—that is, the 10—cause injury, then I would say that action could be taken under the escape clause with respect to the 10.

Senator MILLIKIN. Yes; that is what the present law says; is that not correct?

Mr. BROWN. Yes, sir; that there must be some causal relationship.

Senator MILLIKIN. The point of the amendment, of course, is to change the present law, and we should, I suggest, test the validity of the purpose of the amendment. I will put the question to you:

If the imports, whether caused by the concession, or whatever the cause, are injuring our domestic producers seriously, why should there not be relief, and where can the relief be found except under the trade-agreements system?

Mr. BROWN. Sir, all I am saying is that there must be some causal relationship, and if there is no causal relationship, then by definition the change in the obligation won't correct the situation.

Senator MILLIKIN. You will concede that the total quantity of imports could under easily imaginable circumstances be injurious to a domestic producer, could you not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. All right. Now it doesn't solve the injury to say that you are not injured by a concession involving a 10-percent reduction in the tariff. I repeat, if there is an injury due to the imports, whether or not directly related to the concession, why shouldn't there be relief?

Mr. BROWN. Because if the concession has nothing to do with it, then the concession doesn't need to be changed.

Senator MILLIKIN. Supposing that concession has nothing to do with it, supposing we are unable to pin the exact cause of the injury from a given amount of imports, but are able to establish the injury, what does the domestic producer do to protect himself?

Mr. BROWN. We are not claiming now, nor has the Tariff Commission claimed in its administration of the escape clause, that the concession has to be the sole or even the predominant cause.

Senator MILLIKIN. I understand that. I am willing to lump them all together and discuss all of them, but in the interest of orderly procedure I will take one at a time, and the others will appear in due course; but I am saying to you again that if the domestic producer is seriously injured by imports, why shouldn't he have relief, and if he doesn't find relief under the Reciprocal Trade Act, where does he find it?

The CHAIRMAN. The relief which this amendment gives, Senator Millikin, is to suspend the concession in whole or in part, to withdraw or modify the concession or establish import quotas.

Senator MILLIKIN. That is right. The quota might very directly get at the total import as distinguished from that part of the import which has been stimulated by the concession. I suggest my question is pertinent.

Mr. BROWN. I think it is, sir; and I continue to think that my answer is also.

Senator MILLIKIN. Well, Mohammed will have to come to the mountain or the mountain will have to go to Mohammed, and it doesn't look like either is going to happen in this forum. Very well.

Mr. BROWN. The second point is that down in line 25 it says in such—may I look at my papers for just a moment?

The CHAIRMAN. Yes; of course.

Mr. BROWN. Over on the top of page 6, the first line—serious injury to "domestic producers"—I think you will recall, Senator Millikin, that that language came up in the debate in the Senate in connection with the first peril-point amendment in 1948, and the question was raised as to whether this domestic producer might not mean simply a marginal producer and that really what was intended was to deal with injury to the industry and that an amendment was made on the floor at the time of the debate to change that language to "the domestic industry" producing like or directly competitive products.

We would feel it would be important to make that change. In this respect, to go back to the language in the 1948 act——

Senator MILLIKIN. It will be understood, will it not, from your own interpretation of the words that the domestic industry would contemplate all forms of production?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Including agricultural production for example?

Mr. BROWN. As far as my understanding of it is concerned, I would be quite prepared to accept the explanation you gave on the floor of the amendment that was made at that time.

Senator MILLIKIN. When I am asking you, I think it should be understood that I am always asking about the State Department position unless I make it clear that I am asking for your personal opinion.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. May that be assumed all through these proceedings?

Mr. BROWN. All through these proceedings I think you can assume I am talking not only for the State Department but for the other agencies in the trade-agreements organization.

Senator MILLIKIN. Thank you very much.

Mr. BROWN. May I add, sir; that the comment that I make also applies on lines 16 and 17 to the words "or a segment of such industry."

Senator MILLIKIN. Your objection is it might cover too many high-cost marginal producers?

Mr. BROWN. Yes, sir. The next point that we would like to make in connection with this amendment appears on line 10 on page 7, where there is a requirement that if the Tariff Commission should, after investigation, find that no injury or threat of injury had been established, it must in addition to giving the reasons why it came to that conclusion set forth a level of duty below which in the Commission's judgment serious injury would occur or threaten.

In other words, the Commission would then have to make another peril-point finding.

Senator MILLIKIN. You are referring now to the first part of subparagraph (c)?

Mr. BROWN. No, sir; I am referring to the last sentence of subparagraph (c), beginning on line 10 and ending on line 12.

Senator MILLIKIN. Thank you.

Mr. BROWN. It would seem to us that that is, particularly if the peril-point amendment in sections 3 through 5 should be adopted, that would be superfluous and undesirable and should be omitted.

The next point deals with the second paragraph of section C, lines 13 through 18. We feel that this paragraph would make the administration of the escape clause quite unworkable and would lead to in many cases action where no real injury was caused by imports. This question of what is evidence of injury is something which differs very widely with different cases, and, as the Tariff Commission itself has stated in the booklet which it has put out about the administration of the escape clause, you have to look at each individual case on its merits.

Let me cite just one example. As this section now reads, it says that a higher or growing inventory attributable in part to import competition would be evidence of serious injury.

Now there might be many cases where a higher or or growing inventory was something that people were trying to get. You might have your oil inventory, for example, much too low from the point of view of the industry operation or from the point of view of national security. You could have a downward trend in production, employment, wages, or decline in sales from any variety of causes which were not related in any significant way to import competition, but nevertheless under this mandate they are made legally evidence of serious injury. That would in our opinion be a quite unworkable standard.

We think that the Tariff Commission ought to be left as the expert body to determine what is evidence of injury and what weight to give to that evidence in the particular case before it.

Therefore we would suggest that that paragraph should be eliminated.

SENATOR MILLIKIN. Under the language of the amendment is the weight to be given the evidence prescribed?

Mr. BROWN. No, sir; it is not prescribed, but it says that if any of these factors should be established, that there is evidence of injury in the eyes of the Congress, and that is a very important factor which we think should be left entirely to the Tariff Commission to decide.

Senator MILLIKIN. It does not say conclusive evidence, does it?

Mr. BROWN. No, sir.

Senator MILLIKIN. Or completely determinative evidence?

Mr. BROWN. No, sir.

Senator MILLIKIN. It just says it shall be evidence.

Mr. BROWN. That is correct.

Senator MILLIKIN. And the trier of the facts and the law can give whatever weight he wishes to each and/or all or any combination of those standards, can he not?

Mr. BROWN. It can be so argued; yes, sir.

Senator MILLIKIN. Is there any answer against that argument under the language?

Mr. BROWN. There are two answers to it. The first one is that in certain cases the things which are named here would not in fact be evidence of injury, but they are nevertheless so denominated by this section. In the second place, it puts the Tariff Commission in the position of being given a legislative mandate to do certain things which may or may not be evidence of injury and puts them in the position, if they deny an application, of appearing to disregard evidence of the injury, and we don't think that is a proper position for them to be put in.

Senator MILLIKIN. Well, since they are the triers of the facts and the law and since under the language they can attach their own weight to the evidence, what is tthe harm?

Mr. BROWN. There is a very important difference. When there is a congressional statement that certain things are evidence, that gives them a great deal of weight, more weight than they perhaps should have in the light of the circumstances that exist in the particular case.

Senator KERR. Is the witness saying that the language in the bill would of itself make certain things damaging regardless of whether or not other interpretations might be given to it in the absence of the language?

Mr. BROWN. That is correct, sir. If the Congress wished to say that certain things should be considered, taken into account, given attention, but make it perfectly clear that whether or not they are evidence and the weight to be given is a matter for the trier of the facts, that would, I think, meet the point that I was making.

Senator MILLIKIN. But under the language as it is—we don't want to be captious with the language of the House bill that comes here, and under the language as it is, I ask again: Is there anything in that language that prevents the Tariff Commission from giving exactly the weight that it chooses to those factors, singly or in combination?

Mr. BROWN. Yes, sir; there is.

Senator MILLIKIN. What is it?

Mr. BROWN. Because it says that certain things here shall be evidence of injury, and in certain cases they would not be evidence of injury as a matter of fact.

Senator MILLIKIN. The Tariff Commission gives it that weight. It is simply a rule of admissibility.

Mr. BROWN. No, sir.

Senator MILLIKIN. All the law says is these things are put in and they have the status of evidence, but show me, please, where it says what weight should be given to the evidence.

Mr. BROWN. It doesn't, Senator, except that a congressional mandate, congressional statement, gets a great deal of weight.

Senator MILLIKIN. These matters that we are discussing, if there is any serious contention that the words are not clear enough, it could be cleared up in the committee report, could it not?

Mr. BROWN. No, sir; I think this is sufficiently important that it should be cleared up in the language of the statute.

Senator MILLIKIN. But if it were cleared up in the committee report, for example, if the committee report said in effect that the trier of the facts is the judge of the weight of evidence, and the committee put that interpretation on it, it ought to be sufficient, ought it not?

Mr. BROWN. It would not meet our objection to this at all—well, it would help, but it would not meet it, Senator, because it would nevertheless put the Tariff Commission in a position where it might have in a great many cases to deny an application and would be in the position of disregarding what the Congress had said to be evidence of serious injury. We do not think it should be put in that position, and if the Congress thinks that the weight to be given to the evidence should be the function of the trier of the facts, then I think the Congress should say so and not leave it to argument afterward.

Senator MILLIKIN. I suggest that the language itself has that construction inherent in it, but I suggest again that if any one had any doubts, it could be easily cleared up in the committee report.

I ask you again to point out the words which limit the Tariff Commission in giving the weight it wishes to the evidence.

Mr. BROWN. There aren't any words, I am not claiming there are, but as a practical matter, this would have a very important effect, and we think that it is not a proper thing for this kind of a mandate to be put in the law and the thing to be left ambiguous and open to the kind of discussion and difference of opinion which we are having here.

Therefore, we would ask the Congress to clarify that point and make it perfectly clear that these are matters—if they wish to mention them at all—that these are matters which the Tariff Commission should take into account, but that whether or not they are evidence and the weight of the evidence is something that the triers of the facts should determine.

Senator MILLIKIN. I suggest again that the language comes down to a mandate on admissibility as to what shall be the evidence of the case, but I suggest again that you cannot point out anything in there that limits the right of the Tariff Commission to reach its own conclusions as to the evidence and to give whatever weight it wishes to any of these factors alone or in combination, and, if there is, I wish you would point it out.

Mr. BROWN. It is not explicit, but it is very ambiguous.

Senator KERR. Would the witness say at that point that the Tariff Commission would be in the position of saying that Congress has

said that this shall be evidence, but we decide that it has no weight as such, and that that might embarrass the Commission?

Mr. BROWN. I think that would put them in a very embarrassing position.

The CHAIRMAN. I think we might deal with that in such a way as to make it perfectly clear in the language, but I get your point, and as I get it, it is this: In some cases particular facts might be evidence of injury and in other cases they might be wholly unrelated and have no relation whatever.

Mr. BROWN. That is correct, sir.

The CHAIRMAN. But since the Congress is directing that they shall be deemed so-and-so, in that event, of course, the Tariff Commission would be in a most embarrassing position to say we have to consider this but we don't think it has the slightest impact on the question primarily submitted to us for consideration. I think it can be clarified, however, Mr. Brown.

Now, are there any other objections to this particular section?

Mr. BROWN. We have a number of small things.

The CHAIRMAN. But you do not think it is advisable even to put it in, perhaps, but assuming we are dealing with it, we have to deal with it as it comes over from the House, and we have to make up our own judgment as to whether it should be retained, and if so, in what form.

Mr. BROWN. I have some words here and there that I would suggest, but I don't think they are important enough to bother.

Senator MILLIKIN. I would like to ask the witness now to give his affirmative suggestions for improving this section.

The CHAIRMAN. You might do that, Mr. Brown, if you are prepared to do it at this time.

Mr. BROWN. I consider the suggestions I have been making so far as being affirmative suggestions. Would you like me to submit a redraft which incorporates the suggestions that I have made, with some words here and there in the language, and indicate the marking, and so forth, for you?

The CHAIRMAN. That would be helpful to us if you are prepared to do that now.

Mr. BROWN. I would rather do that on a piece of paper than try to do it in this manner, if that would suit you, sir.

The CHAIRMAN. It would suit us and probably be more helpful to us. If you will do that, we will have exactly what you have in mind.

Mr. BROWN. I can give it to you tomorrow.

Senator MILLIKIN. I would like to ask the witness whether he objects to all of the standards that are in this section.

Mr. BROWN. Senator, I don't think we object to any of them as being an element in the Tariff Commission's consideration, but we do object to any of them being denominated ipso facto as evidence of injury because we do not think that necessarily follows, but as a guide to the area of the Tariff Commission's consideration, there are perfectly legitimate elements.

Senator MILLIKIN. Well, you will cover, as you stated, your affirmative suggestions in the memorandum?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. The proposed draft, your own view of a better amendment?

Mr. BROWN. Yes, sir. On section 8 we have not been able to think of any suggestions which would make that a workable amendment and the reasons for our objection to the amendment in toto have been stated by the Secretary of State and the Secretary of Agriculture.

The CHAIRMAN. My recollection is that the Secretary said this could not be reconciled with any due and proper administration of the Trade Agreements Act—this section.

Mr. BROWN. That is our judgment.

The CHAIRMAN. This particular amendment. And he didn't suggest that any amendment could be helpful in considering this. That is your position still; is it?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Might I ask for a résumé of the objections to that paragraph, Mr. Chairman?

The CHAIRMAN. Yes, sir; you mean section 8?

Senator MILLIKIN. Yes, sir; section 8.

Mr. BROWN. I don't see how I could add very much to what the Secretary of Agriculture said on the subject, but basically this repeals the binding force of almost all of the agricultural concessions that we have made in our trade agreements, and therefore will, we will, prevent us from making useful agreements in the future, take away the legal basis for agreements in the past, and lead to a withdrawal of concessions that we have obtained for American agriculture, which will have a much greater harm to the United States interests in general and agricultural interests in particular than any conceivable benefit that could come from this section, even if it worked as written.

That is a very, very succinct summary and, as I say, the matter was explained in detail by those better qualified than I to do so.

Senator MILLIKIN. You are content, completely content, then, with the explanation of the Secretary of Agriculture?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You are not always working in the same harmony when specific cases are before the Tariff Commission.

Mr. BROWN. The Departments of State and Agriculture and the people in those Departments often disagree on various points, but we have no difficulty in working in harmony.

Senator MILLIKIN. You have harmoniously agreed to disagree with respect to the relation of section 22 to GATT.

Mr. BROWN. In a particular case; yes, sir.

Senator MILLIKIN. Yes, sir.

Mr. BROWN. We have disagreed as to whether or not a certain proposed action under section 22 would be consistent with GATT. In most cases we are in agreement.

Senator MILLIKIN. Have you any suggestions for improving under your view the matter—the provisions of section 8?

Mr. BROWN. No, sir; we don't think it can be improved. We think there is just nothing to work on.

Senator MILLIKIN. I hope you let your voice fall.

Mr. BROWN. There is nothing to work on. We have tried. We have approached this problem, as the Secretary explained, with a desire to see, much as we disagreed with these amendments, if there was a way in which they could be worked out; and with the best will in the world, we can't find any way in which this section can be contained in the act

which would not render the act quite unworkable, and we feel that very strongly.

Senator WILLIAMS. Would you prefer the Magnuson amendment in preference to this if you had to take your choice?

Mr. BROWN. Senator, that puts me between the devil and the deep sea.

Senator KERR. In other words, if you are going to be executed, you have to be forced to tell in which manner it shall be done?

Mr. BROWN. Yes, sir; because if you make the choice, it implies some preference for the manner of execution, and we object to execution.

The CHAIRMAN. Is there anything else on these amendments you wish to say at this time? Any questions?

Senator MILLIKIN. No further questions.

The CHAIRMAN. Any questions by any other member of the committee? Any questions about these amendments? Mr. Brown is here now to answer questions about anything, so we have 30 minutes, but we will have to go to the floor today. We will not be able to sit this afternoon and not before Monday again, after we reach the noon hour.

Are there any questions you wish to go into now—and member of the committee at this time—with Mr. Brown?

Senator FREAR. I don't want to ask repetitious questions, Mr. Chairman, but this little blue sheet, analysis of H. R. 1612—with which of those points does Mr. Brown disagree? You have seen this?

Mr. BROWN. I have seen it, Senator. I don't have it before me.

Senator WILLIAMS. Here is one.

Mr. BROWN. Thank you very much. Fundamentally, Senator Frear, we object to all of the amendments.

Senator FREAR. I think that answers the question.

Mr. BROWN. What we have been trying to do this morning has been, in the cases where it was possible, to suggest changes which we felt could allow the program to work, to try and do so, and we have been able to find a number of points in items 2, 3, and 4 where we felt changes here and there would make the thing possible.

Senator FREAR. But then you do not disagree entirely with 2 and 4?

Mr. BROWN. We think that it would be preferable if we did not have 2 and 4. We think that you could have a 2 and a 4 which could be made to work.

Senator WILLIAMS. When you said you believed you could have a 2 and a 4, you did not mean 2 (a) and 4 (a)?

Mr. BROWN. Just the escape clause and the peril-point amendment, which could be made to work.

The CHAIRMAN. Any further questions?

Senator FREAR. No.

The CHAIRMAN. Mr. Brown, it has been suggested in the course of the testimony here before us that with reference to section 8 of the bill—that is, the last amendment—that there should be an amendment to section 22, particularly to the provision designated as 22 (f). That has been the position taken by some of the farm organizations, that they agreed that this section 8 was not desirable, but that they did think that there should be an amendment made of the character that I have just described. That is, an amendment to section 22, clarifying it, and particularly to the provision contained in f. Have you given that consideration?

Mr. BROWN. As I recall it, the section small f of section 22, when it was first brought into the law in 1948, I think it was, said that no action should be taken under section 22 which was in contravention of any international agreement to which the United States was a party. That was amended—was it in 1949, I think it was in 1949—to limit the limiting effect of international agreements on section 22 by an amendment which said—I don't remember the exact-language—in effect that we should be free to operate under section 22 within the limits of the agreement contained in the General Agreement on Tariffs and Trade, the GATT, and that no further agreement, no future agreement, no amendment to the GATT should impose any further restrictions on the use of the section.

Now, the reason for that, all of section f, is this: that section 22 contemplates that one might have quotas or fees—that is, an additional tariff—on agricultural products in a case where imports were affecting an agricultural program.

This has always been one of the difficult problems that we have had to deal with, because agriculture in this country has two great interests. It has the domestic interest and it has the export interest. One of the major functions and purposes of the trade-agreements program has been to obtain concessions abroad for our agricultural exports. I think this committee has been told many times and knows well the importance of export markets to our agricultural products.

Now, in any trade agreement you can't get concessions for your exports unless you are willing to give some concessions on your imports. That is basic. And you can't be able to give any concession on your imports if you are free at your own unilateral decision to impose a quota or raise a tariff on a product which is in the agreement.

On the other hand, we certainly didn't want to be in the position where if there was a price-support program in this country, there wasn't any way of limiting imports, because that would obviously not make sense.

So the basic agreement was reached that whenever—that we would be free to impose a quota on imports in any case where we were restricting our domestic production.

Now, the normal price-support operation involves some kind of a limitation on the amount of product which is entitled to the support, because otherwise it just goes up and up.

Senator FREAR. Limitations were not very heavy on potatoes.

Mr. BROWN. There was none on potatoes at first, and then I think there was an acreage restriction, which did not prove effective because farmers were ingenious enough to grow a great deal more on the lesser number of acres, but I think the Congress has taken action on that particular program.

So that now as section 22 stands we are free, so far as our international obligations are concerned, to impose a quota on a programed commodity in any case where either the production or the marketing of the commodity domestic is effectively limited.

Senator MILLIKIN. And where it is reduced proportionately.

Mr. BROWN. Where the whole burden of the cut would not be on the import; yes, sir. Of course, section 22 says that you can't cut more than 50 percent under the section.

Senator MILLIKIN. We have to cut our domestic production proportionately to the cut in the import; is that right?

Mr. BROWN. That is right.

Senator WILLIAMS. You speak of the action of Congress taken with reference to potatoes. The situation, if I understand it correctly, there is no price support on potatoes and our potato growers will have to compete with Canadian imports with a 50-percent cut in the tariff.

Mr. BROWN. Yes, but Canadian imports have fallen off tremendously.

Senator WILLIAMS. But in 1951 we have no assurance they will not be back to normal with a normal crop.

Mr. BROWN. The anticipation is they will be very much smaller.

Senator WILLIAMS. And they will be operating in 1951 on a 37½-cent tariff rate against a former 75-cent tariff rate; is that not correct?

Mr. BROWN. On a certain amount.

Senator WILLIAMS. Yes; and in addition to that, they will be operating with no support price.

Mr. BROWN. That is correct, but the expectation is that the imports will be very small. They are down to a third of what they were, and they consist very largely of seed potatoes, which we want.

Senator WILLIAMS. What leads you to think that in 1951 low imports will prevail?

Mr. BROWN. I am not a potato expert, Senator Williams, but that is what the potato experts tell me.

Senator WILLIAMS. They had a shorter crop that year, which did that, as I understand it. Would you advocate this same remedy on all agricultural commodities other than potatoes?

Mr. BROWN. Yes, sir; I think it is a sound principle.

Senator WILLIAMS. You think it is a sound principle for the solution to our agricultural problem and would work in all agricultural commodities?

Mr. BROWN. I think the Secretary of Agriculture showed that the interests of agriculture in the products which are or were likely to be under price support in the export field is vastly greater than the imports which would come.

Senator WILLIAMS. You recommend that Congress give serious consideration to extending this principle on to other agricultural commodities as we have done on potatoes?

Mr. BROWN. Well, Congress has not—you mean no price supports?

Senator WILLIAMS. Yes.

Mr. BROWN. No, sir; I have no opinion in the field of whether——

Senator WILLIAMS. That is what you said a moment ago, and I wondered if I understood you correctly.

Mr. BROWN. I was referring to the principle in the general agreement.

Senator WILLIAMS. Why did you single out the potato farmer to subject him to a lower tariff and no price supports and not extend it to the wheat farmer or other farmers? What is the difference between the farmers?

Mr. BROWN. I am sorry; I did not intend to single out potatoes. You started asking me questions about potatoes.

Senator WILLIAMS. I asked you if you would single them out, and your answer, as I understood it, was you would not single them out,

but extend it across the board, and that means the elimination of all price supports.

Mr. BROWN. No, sir; that is not what I meant. The principle I would extend across the board is the principle that one should not impose a quota on agricultural imports unless there is a restriction also on either the marketing or production of one's domestic agricultural products, because if you don't have some kind of a limitation on what you do, you cannot expect to get the concessions and lowering of duties and reduction of import quotas which our agricultural exports need.

Senator WILLIAMS. You made reference to the fact that you thought Congress had corrected the situation as regards potatoes. The only action Congress took on potatoes was to repeal the price-support program.

Mr. BROWN. I thought I said—and I intended to say Congress had acted—I must disclaim any judgment or opinion as to what the price-support policy of the Congress should be and what commodities should be included. I am not qualified to have a judgment on those subjects.

Senator MILLIKIN. Do you feel qualified to assert that whatever the judgment of Congress should be, it should not be impaired by GATT?

Mr. BROWN. Well, Senator, the amendment, or rather the section as it now stands, is quite explicit that the Congress has referred to the GATT, and——

Senator MILLIKIN. I beg your pardon. It hasn't referred to it explicitly. It refers to treaties and agreements.

Mr. BROWN. I think not, sir. May I see the section?

Senator MILLIKIN. There is nothing whatever in the section about GATT, and had there been anything in the section about GATT, that particular part of the agreement, I suggest, would never have been authorized.

Mr. BROWN. Would you care to read it, sir?

Senator MILLIKIN. I am quoting from section 22 (f) of Public Law 579 of the Eighty-first Congress:

> But no international agreement or amendment to an existing international agreement shall hereafter be entered into which does not permit the enforcement of this section with respect to the articles and the countries to which such agreement or amendment is applicable to the full extent that the general agreement on tariffs and trade, as heretofore entered into by the United States, permits such enforcement with respect to the articles and the countries to which this general agreement is applicable.

Is that what you are referring to?

Mr. BROWN. That is what I was referring to.

Senator MILLIKIN. The words are, "international agreement or amendment to an existing international agreement." The earlier language 2 years before, I think, said "treaties or agreements." There is nothing in there about GATT; is there?

Mr. BROWN. I thought I heard you read GATT.

Senator MILLIKIN. Sir?

Mr. BROWN. The amendment says that—may I have a copy of it?

Senator MILLIKIN. Surely, pardon me.

Mr. BROWN. Thank you. It says:

No international agreement shall hereafter be entered into which does not permit the enforcement of this section to the full extent that the general agreement on tariffs and trade, as heretofore entered into, permits such enforcement with respect to the articles and the countries to which such general agreement is applicable.

In other words, that means that we cannot, by any future international agreement or by any amendment to the GATT or to any other agreement place any limitation on the use of section 22 which is not in the general agreement.

Senator MILLIKIN. It does not mention; does it?

Mr. BROWN. Yes, sir—"the general agreement on tariffs and trade, as heretofore entered into by the United States."

The CHAIRMAN. He didn't call it GATT. Maybe that is what confused the matter.

Senator KERR. Does GATT stand for General Agreement on Tariffs and Trade?

Mr. BROWN. Yes, sir.

Senator WILLIAMS. Do you think there is any contradiction between the low tariff under reciprocal trade and a high agriculture-support program?

Mr. BROWN. Yes, sir; I think there is some conflict there, but as I said before, you have two very important interests of the United States agriculture, and both of them need to be forwarded and protected, and the Government has to represent both of them.

Senator WILLIAMS. Do you think that the existing program has the effect of a world-wide agriculture-support program?

Mr. BROWN. No, sir.

Senator WILLIAMS. Do you think that the importing of agricultural commodities under the low tariff at the same time they are being purchased under the high-support program and then reexported as surplus commodities is a contradiction?

Mr. BROWN. I think the amounts which are imported of price-support commodities are very small.

Senator WILLIAMS. I was just reading in this morning's paper there were several million pounds of Cheddar cheese being unloaded in one of our ports.

Mr. BROWN. Yes, sir, our imports of Cheddar cheese are somewhere in the neighborhood of 1½ percent of our domestic production, and about one-third of our exports of Cheddar cheese.

Senator WILLIAMS. There were several million pounds being unloaded currently.

Mr. BROWN. Most of them are of a special kind, which we do not produce and which people in this country like.

Senator WILLIAMS. That is true, but when you subtract those kinds, you have about 6 or 8 million pounds, if I remember correctly, of Cheddar cheese which we do produce, and in the same paper the day before the Department announced it was buying 3 or 4 million pounds of cheese for the support program. Both announcements came out within 24 hours of each other.

Mr. BROWN. That is correct.

Senator WILLIAMS. They announced we were buying that for export to get it out of this country. Isn't there a contradiction in that?

Mr. BROWN. Export is an important interest of American agriculture.

Senator WILLIAMS. Sure, it is. But it is not important when we pay 32 cents a pound for it and sell it for 15 cents a pound.

Mr. BROWN. Again, Senator, I am not as well qualified to answer these questions as is the Secretary of Agriculture, but it is my understanding that these things do not all happen simultaneously, that these sales that were made at the reduced price were made some time ago.

Senator WILLIAMS. About a couple of months ago, weren't they?

Mr. BROWN. They were made under different conditions from those that exist today, and what you have to look at is the end result over a period of time.

So far the experience has been in the postwar years that our imports of Cheddar cheese have been minute in comparison to our domestic production and have been very much less than our exports of Cheddar cheese.

Senator WILLIAMS. This minute part you are speaking of cost us about $11,000,000 last year.

Mr. BROWN. I don't know whether there has been a loss on the Cheddar-cheese program in total during the year or not.

Senator WILLIAMS. Yes, that is a matter of record.

Mr. BROWN. I say I don't know. But you have to look at the total picture on these commodities and where the balance of interest lies, because if you just take the other extreme and you say that there shall be no imports of Cheddar cheese from Canada, which is where they come from, then you get a situation where there is by that much less sales of our products to the Canadians.

Now, the Canadians take more generally from us than we do from them, and in the agricultural area they are one of our very best customers, and they happen to be the most or one of the most important areas in the world where there is now a free market without restrictions.

Senator WILLIAMS. Of course, you are speaking of Canada.

Mr. BROWN. Yes, sir; and that is where Cheddar cheese comes from.

Senator WILLIAMS. It so happens that this shipment of Cheddar cheese comes from New Zealand.

Mr. BROWN. Well, but the point I made would still hold, that if you embargo imports of Cheddar cheese, you would have the effect on Canada——

Senator WILLIAMS. Might have sold something to New Zealand which we wouldn't have sold otherwise?

Mr. BROWN. That is true, too.

Senator KERR. The witness says he is not an agricultural expert, and in that I want to say I share the status, but it may be that he is better informed with reference to this particular field of agriculture than I am, and if so, I would appreciate his trying to answer this question.

Is the term "Cheddar cheese" one which refers to quite a field of products that generally bear the name of cheese or its it one of a limited identity? Are there different kinds and qualities and flavors and degree of decomposition in certain fields or is it one of those which has to be subjected to that condition before it is edible?

Mr. BROWN. There is a very wide variety of different kinds of cheeses, and on the whole, I think I am correct in saying that our imports are mainly of specialty kinds which appeal to particular groups in this country. The Italian population in this country, for example, has got some favorite kinds of cheese which they get from Italy, and also it is my understanding that there are gradations within the Cheddar category and that the Cheddar which comes from Canada is of a somewhat different type than the great bulk of what we produce.

Senator KERR. Another term that would identify this Cheddar group that might be more intelligible to the uninformed would be what?

Mr. BROWN. I would have to take advice on that.

Senator MILLIKIN. Is that what is commonly known as rat-trap cheese?

Mr. BROWN. Off the record, sir.

(Discussion off the record.)

Senator WILLIAMS. I directed the same question to the Department of Agriculture because I knew nothing about cheese, but I was advised this type of cheese is comparable to that which is produced in this country and it goes under the same name.

Senator KERR. We have every other kind of cheese in this country.

Senator WILLIAMS. We have limburger, which we bring in but do not make. They had eliminated those types which were not produced in this country, as I understand it. I am not an authority on cheese.

Senator KERR. Does the witness know the hoop kind of cheese purchasable in the average general merchandise store in rural areas, which is sliced off with a mechanical device calculated to do it in very thin slices?

Mr. BROWN. I think you have effectively demonstrated my lack of qualifications as an agricultural expert. I will just have to find out for you.

Senator KERR. It is not my purpose to do that. It was my purpose to eliminate a similar situation with myself to the extent that you might be able and willing to do so.

Mr. BROWN. I think all I can say is that the most important kind of cheese which we produce is the cheese called Cheddar, and I think that is the sort of general common ordinary kind of cheese you see around the country. I would like to check that.

Senator MARTIN. I think the common ordinary cheese to which the Senator from Oklahoma refers is what we used to as boys purchase when we would buy a little cheese and some crackers when we went to the crossroads store. That is probably what the Senator from Colorado refers to now as rat-trap cheese.

Senator WILLIAMS. Maybe that is rat-hole cheese.

Senator MARTIN. It is really a basic product and probably more generally used than a lot of these others.

The CHAIRMAN. We will ask you to come back Monday morning, Mr. Brown, and in the meantime I would like to submit to you an amendment which has been offered to the committee and dealing with our old friend, furs. See what you think about it and whatever comments you have we will be glad to receive.

Mr. BROWN. Thank you, sir.

Senator MILLIKIN. I would like to ask the witness whether he desires to change any of his testimony in past hearings on ITO, GATT, the reciprocal-trade system, or any of his testimony before this committee 2 years ago or whenever we have had these hearings.

Mr. BROWN. No, sir, I have read over the discussions that we had on the meaning and the purpose of the different articles in the GATT and we are prepared to stand on that explanation.

Senator MILLIKIN. That goes also as to reciprocal trade, the system, the practice, the procedures—the whole subject?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I ask the question, Mr. Chairman, because obviously we can save a lot of time if we may consider as a part of this record the prior records that have been made on the same general subject matter or the specific subject matters. May we do that?

The CHAIRMAN. Yes, that can be done, and if you have any amendments that you want to suggest to any portion of your testimony, please bring that to the attention of the committee.

Senator MILLIKIN. I would like to ask one further question. From the State Department standpoint, the same understanding and agreement would apply to other witnesses for that Department, Mr. Thorp, Mr. Clayton, for example?

Mr. BROWN. I think so, yes. We can't obviously be sure that every word that we have said is exact, but the substance of what we have said, the kind of procedures and operations that we have described, and specifically the interpretations which I gave this committee of the meaning and the purpose of the general agreement, I think we certainly don't want to change.

Senator MILLIKIN. I don't want to limit my question to anything specific. I want to limit it to the whole complex of related subjects, and I want to be fair about it, because otherwise I wouldn't talk about it, I would just use those records.

If there are any changes, they certainly should be provided us rapidly. It would be too much of a burden, Mr. Chairman, to have to run through all of the subject matter that has been discussed at prior meetings.

The CHAIRMAN. You understand, Mr. Brown, if you have any amendments or wish to clarify any statement in any of your own testimony—of course, Mr. Clayton is not now with the State Department and you wouldn't be able to make any changes in his testimony, of course.

Mr. BROWN. I think only, sir, if there should be need to do so, when he was speaking officially for the Department, but I don't anticipate any need to make any change.

The CHAIRMAN. The committee will recess until 10 o'clock Monday morning.

(The following letters, by direction of the chairman, were made a part of the record:)

UNITED STATES JUNIOR CHAMBER OF COMMERCE,
Tulsa, Okla., March 15, 1951.

Hon. WALTER F. GEORGE,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D. C.

DEAR SENATOR GEORGE: The national executive committee of the United States Junior Chamber of Commerce, at its last meeting in Roanoke, Va., on January 20, 1951, authorized me to make the following statement:

"The United States Junior Chamber of Commerce by its resolutions at its national conventions and national board meetings has consistently supported the Reciprocal Trade Agreements Act and desires to go on record urging the extension of the Reciprocal Trade Agreements Act which expires on June 12, 1951."

I would appreciate your having this statement inserted in the record of the hearings now being held by your committee.

Sincerely yours,

RICHARD W. KEMLER,
National President, United States Junior Chamber of Commerce.

LAWRENCE LEAGUE OF WOMEN VOTERS,
Lawrence, Kans., March 13, 1951.

Senator WALTER F. GEORGE,
Chairman, Senate Finance Committee,
United States Senate, Washington, D. C.

DEAR SENATOR GEORGE: The League of Women Voters has been concerned with tariffs and trade for many years and is in favor of liberal reciprocal trade agreements. As you know, at the hearings in both House and Senate committees, the league supported an extension of the Trade Agreements Act in its present form.

The league believes that keeping avenues of world trade open is especially important now. We need many strategic materials from other countries, and other countries need to sell goods to stabilize their economies. The league believes that a free flow of imports and exports will also help to stabilize and expand our domestic economy. And is it not better economy to trade than to give outright?

In behalf of the League of Women Voters of Lawrence, Kans., I urge you to support extension of the act as first introduced in the House, that is, without the four amendments added on the floor of the House. We believe that these amendments negate the whole act.

Sincerely yours,

JOHANNA KOLLMORGEN, *President.*

(Whereupon, at 12 o'clock m., the committee adjourned to reconvene at 10 a. m., Monday, March 19, 1951.)

TRADE AGREEMENTS EXTENSION ACT OF 1951

MONDAY, MARCH 19, 1951

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to recess, at 10 a. m., in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

Present: Senators George, Connally, Hoey, Kerr, Millikin, Taft, Martin, and Williams.

Also present: Mrs. Elizabeth B. Springer, chief clerk, and Serge Benson, minority professional staff member.

The CHAIRMAN. The committee will come to order, please.

A letter from the Secretary of the Interior will be made a part of the record at this point.

(The letter referred to follows:)

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., March 12, 1951.

Hon. WALTER F. GEORGE,
Chairman, Committee on Finance,
United States Senate, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: The Department of the Interior, which has recently been designated to have a direct part in the administration of the Trade Agreements Act, would appreciate the consideration by your committee of the views expressed in this letter with respect to the pending extension of that act.

The extension bill, H. R. 1612, in the amended form in which it was passed by the House of Representatives, would not appear to be in the national interest. The cumulative effect of the amendments added by the House represents a serious threat to what has already been achieved under the trade agreements program and would result in such procedural restrictions as to make satisfactory future action most unlikely.

The need for these very restrictive amendments does not seem to be justified by the facts at present available to this Department. The present procedural safeguards, in the light of our experience, seem adequate and workable. Consequently, I urge renewal of the act without crippling amendments, and in a form which will make it administratively possible to achieve the purpose of the act.

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

Sincerely yours,

OSCAR L. CHAPMAN,
Secretary of the Interior.

The CHAIRMAN. Mr. Brown, you had finished, I believe, what you wished to say about these House amendments. Is there anything else you wish to add at this time?

STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE; ACCOMPANIED BY LEONARD WEISS, ASSISTANT CHIEF OF COMMERCIAL POLICY STAFF, DEPARTMENT OF STATE—Resumed

Mr. BROWN. Mr. Chairman, there is one point in connection with the escape-clause amendment that I neglected to make on Friday, and Senator Millikin asked me a question about past testimony of the Department. I would, with your permission, like to comment on each of those.

The CHAIRMAN. Yes. You might do that at this time.

Mr. BROWN. I have provided you, Mr. Chairman, and Senator Millikin with draft language for the revision of the amendments in a form which is in accord with the suggestions that I made Friday.

There is one word which is quite an important word, which——

Senator MILLIKIN. I have not had a chance, Mr. Brown, to go over this.

The CHAIRMAN. This is a new suggestion, Senator.

Mr. BROWN. This is a new point, Senator, but I told you on Friday that the word changes I was going to suggest were unimportant. This one is not unimportant, and I thought I had better call it to your attention.

Senator MILLIKIN. This has to do with the escape clause?

Mr. BROWN. At the bottom line on page 5 it refers to importations into the territory of one of the contracting parties in such increased quantities or under such conditions. We think that word "or" should be "and," and we would suggest that the word "relatively" might be put in before the word "increased."

Senator MILLIKIN. Is that in this memo?

Mr. BROWN. Yes, sir; that is in the memo I have given you.

The reason for that is that we feel that if, as might be the case, imports were going down faster than a decline in domestic production, and, therefore, were taking more of the burden of the declining market than the domestic production, that under those conditions it would not be proper to withdraw the concession. We would not like to have it done by another country vis-a-vis our exports, and we do not think that it should be done by us.

Now, as the section now reads it says "such increased quantities." We do not necessarily think that it is essential that imports be increasing absolutely in order to give rise to escape-clause action, so that we suggest that the word "relatively" might be put in there to show that even though imports might be declining, if they were taking a larger share of the domestic market than before, there would be justification for escape-clause action. That would also make the line consistent with line 14 on page 6, where the word "relatively" already appears.

Senator MILLIKIN. I believe, Mr. Chairman, it would serve orderly procedure if Mr. Brown were to run through the suggested changes, in accordance with this late information which has been supplied us.

Mr. BROWN. Would you like me to comment on each one?

Senator MILLIKIN. Yes. I believe it would be a good idea to get it tied up all into one package.

Mr. BROWN. Very good, sir.

The first suggestion is "as a result of the effect of the obligations incurred." That was the point that we were discussing on Friday, where we felt that if action is to be taken it must be action related to something that was caused, at least in part, by the operation of the agreement.

The CHAIRMAN. You are still speaking of the escape clause?

Mr. BROWN. Yes, sir; this is section 7 (a).

The CHAIRMAN. Yes.

Senator MILLIKIN. Hasn't the chairman been supplied with a copy?

Mr. BROWN. Yes, sir; he has a copy.

The CHAIRMAN. But I did not bring mine around with me.

Mr. BROWN. I have another copy, Senator.

The CHAIRMAN. I have to go back to my office anyway as soon as Senator Kerr gets here.

Senator MILLIKIN. Mr. Brown, that means that from the State Department's standpoint the injury must be the result of the obligation.

Mr. BROWN. At least in part, sir.

Senator MILLIKIN. And the injury that might not result from the obligation but would be generally connected with imports would not be the ground for an acceptable escape so far as the State Department is concerned?

Mr. BROWN. It would not.

Senator MILLIKIN. Thank you.

Mr. BROWN. Throughout you will notice a number of cases where we have suggested the changing of the word "concession" to "obligation", because "concession" is regarded sometimes as only being a change in the tariff rate, and we wanted to cover all of the obligations assumed under the agreement, such as the binding or the obligation not to use quotas.

Senator MILLIKIN. Does the word "obligation" carry the connotation that the Congress considers that there is a binding obligation?

Mr. BROWN. We had not thought of that, Senator. We think there is an obligation——

Senator MILLIKIN. I understand that.

Mr. BROWN (continuing). But it was not an attempt to bind the Congress; simply to get away from the narrower connotation of the word "concession."

Senator MILLIKIN. The word "concession" can rest on its own bottom without carrying any implication that the Congress has recognized an obligation; in other words, there is quite a little difference of opinion as to whether GATT, for example, creates an obligation.

Mr. BROWN. If the Congress would prefer the word "concession" we would have not the slightest objection.

The word in the next two lines "relatively" and the change from "or" to "and" I have just explained.

Senator MILLIKIN. Would you mind defining the word "relatively", your meaning of it?

Mr. BROWN. I would mean that imports were taking a larger share of the domestic market than they had before. Both might be declining, Senator, but imports were taking a larger share.

Senator MILLIKIN. That is the only thought you have in connection with that?

Mr. BROWN. That is all, sir.

The next suggestion is "the domestic industry producing like or directly competitive products"——

Senator KERR. Let me get caught up with you.

Mr. BROWN. I do not think you have a copy of this.

Senator MILLIKIN. Mr. Brown has put in writing his proposed amendments, and he was just starting with the one that had to do with section 7.

Mr. BROWN. We had come to the seventh line in the first paragraph, Senator, with respect to the words "the domestic industry producing like or directly competitive products," which was to meet the point about marginal producers that we discussed on Friday.

The next change from "concession" to "obligation" is the one I have already commented on.

The next one down there in the middle of paragraph (b) is a similar change.

Senator MILLIKIN. Is there any significance to the word "producing" that you have underlined in the eighth line in the first paragraph?

Mr. BROWN. I think that was the language that appears in the peril-point amendment.

Senator MILLIKIN. Well, it is merely a carrying word to connect up the thoughts. It has no particular significance in itself, is that correct?

Mr. BROWN. No, sir.

The change at the bottom from "or" to "and" is the one I just explained the reasons for.

The deletion of the words "or a segment of such industry" at the top of page 2 goes back to the same comment about marginal producers.

The change from "concession" to "obligation" is for the same purpose, but if the Congress prefers the word "concession" we do not care.

Senator MILLIKIN. What obligations do we make that are not concessions?

Mr. BROWN. A binding of a duty-free treatment or a binding of an existing rate of duty.

Senator MILLIKIN. That is really though, in substance, a concession, is it not?

Mr. BROWN. It is.

Senator MILLIKIN. I mean, it is something of value to the other fellow.

Mr. BROWN. Yes, sir. The word could be interpreted in that way.

Senator MILLIKIN. What is your authority to make obligations that are not concessions?

Mr. BROWN. That goes to the whole question as to whether we have the authority to agree to general provisions in the agreement.

Senator MILLIKIN. So that if the word "obligation" were accepted there might be an implication, at least, that we had approved your right to go into the general trade agreements.

Mr. BROWN. I had not thought of it, Senator, but——

Senator MILLIKIN. You mean to tell me you had not thought of that?

Mr. BROWN. I had not thought of that one, no. I thought of a good many, but not that one.

The next comment is a suggested deletion of the requirement of a second peril point at the bottom of paragraph (c).

The next one is the suggested deletion of the paragraph about standards, but then to meet the point that we discussed on Friday——

Senator MILLIKIN. Is that the last paragraph on the second page?

Mr. BROWN. Yes, sir. There is an alternative draft of language.

Senator MILLIKIN. Would you mind holding up for just one second? Proceed, please.

Mr. BROWN. On the top of page 3 is an alternative, suggested alternative, to the paragraph at the bottom of page 2, if the Congress should desire to specify or identify some of the considerations that the Tariff Commission should consider in working on escape clause applications. They are the same standards in the other sections.

Senator MILLIKIN. That, under your theory, would go back and be ruled by such phrases as "relatively increased quantities," and such conditions as to cause——

Mr. BROWN. Yes, sir; just as the other one would.

Senator MILLIKIN. Yes, sir.

Mr. BROWN. I mean, there is no difference in relative status between the two paragraphs.

Senator MILLIKIN. The relatively increased quantities, for example, would be an indispensable condition to a finding, would it not?

Mr. BROWN. Yes. As a matter fact, as the section is now written an absolute increase would be.

Senator MILLIKIN. I mean from your standpoint, with the substitution of the words that you put in here that would be an indispensable condition to a finding of such injury as would warrant an escape.

Mr. BROWN. Yes, sir. We feel——

Senator MILLIKIN. And this paragraph that you are now discussing would be ruled by that indispensable condition?

Mr. BROWN. Yes, sir; just as the other one would have been.

Senator MILLIKIN. Yes.

Senator KERR. Would you say that it would be ruled or affected or limited by it?

Mr. BROWN. I would say it would be affected by the preceding parts of the section. The section will have to be administered as a whole.

Senator KERR. To the same extent, but to no greater extent than would the paragraph for which this is suggested as a substitute.

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. Let me put it this way: Suppose the Tariff Commission takes into account the trends of production, and regardless of what it may find as to the trends of production, it must ultimately find that there has been a relative increase in the quantities of importation; is that not correct?

Mr. BROWN. That would be correct, sir.

Senator MILLIKIN. Supposing that the Tariff Commission takes into consideration profits, sales, and wages in the domestic industry concerned, would it be true that regardless of what it might find as to those, it would have to also find that there had been a relatively increased quantity of imports; is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Let us assume that the Tariff Commission considered the wages in the domestic industry concerned, no matter what they found about that, if there was not a relatively increased importation, they could not make a finding for escape?

Mr. BROWN. No, sir.

Senator MILLIKIN. Yes. Thank you.

Mr. BROWN. The reason for that being that we feel that if imports are dropping faster than our domestic production already, whatever the situation is that is causing the difficulty is bearing more arduously on the imports than on the domestic production, that we ought not then to place a further burden on the imports.

We would not like to have other countries treat our exports in that way, and we do not think that we should do it ourselves.

Senator MILLIKIN. Would you give the same answers to the position in solving the whole problem of the condition which you have imposed that the increase of imports must result from the concessions or obligations?

Mr. BROWN. As I said on Friday, Senator, if it does not result from the concession, we do not see how changing the concession is going to correct the situation.

Senator MILLIKIN. Well, you say that again today.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Your answer is "Yes"?

Mr. BROWN. Yes.

Senator MILLIKIN. Thank you.

Would you proceed with the other amendments in the bill? Would you give us anything that you have to suggest as to them.

Mr. BROWN. The next one is section 6, Senator. The first suggestion is the withdrawal of the time period. The second is the withdrawal of the requirement of a finding by the President, and the third one is relating to the amendment to the matter of security.

Senator MILLIKIN. In effect, that completely transfers the discretion so far as the substance of that paragraph is concerned to the President, does it not?

Senator TAFT. What changes do you strike out?

Senator MILLIKIN. They are talking about this one.

My question was whether if the changes proposed by the State Department were adopted, the discretion in the subject would lie entirely with the President.

Mr. BROWN. It would be related to his judgment as to whether this would or would not affect the national security.

Senator MILLIKIN. Would it not be completely related?

Mr. BROWN. He would have to make the decision; yes, sir.

Senator MILLIKIN. So that it would be completely related to his discretion in making his decision; is that not correct?

Mr. BROWN. Discretion is not perhaps the word; I would say his judgment.

Senator MILLIKIN. Well, I accept the word "judgment."

Mr. BROWN. The difference in my mind is that in discretion I would say one was free to act either way or not. If it was a question of judgment, if you found that a certain situation existed, then there would be an obligation to act.

Senator MILLIKIN. Well, he has the discretion to exercise his judgment; is that correct?

Mr. BROWN. No, sir; he has an obligation to exercise his judgment.

Senator MILLIKIN. But the obligation is determined by how he——

Mr. BROWN. His estimate of the situation.

Senator MILLIKIN. How his judgment moves on the factors that are mentioned in the section.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. So would you say that the matter is transferred to the judgment of the President?

Mr. BROWN. Under the circumstances specified in the amendment, yes, sir.

Senator TAFT. He could do what he would, then be authorized to do without anything in the bill at all, would he not?

Mr. BROWN. Yes, sir.

Senator TAFT. I mean, if you make these changes, why, you can take out the section and he can still do everything that you authorize him to do.

Mr. BROWN. He could; yes, sir.

Senator KERR. This paragraph is not an authorizing paragraph, but a directing paragraph.

Mr. BROWN. Yes, sir.

Senator KERR. He already has the authority.

Mr. BROWN. Yes, sir.

There are no suggestions with respect to section 8, for the reasons which I gave on Friday.

Senator MILLIKIN. Is it your opinion that the President at the present time has the power to withdraw or prevent the application of reduced tariffs or other concessions obtained in any trade agreement so far as these particular countries are concerned?

Mr. BROWN. If there is a national security interest involved, yes, sir.

Senator MILLIKIN. It comes only under that provision of GATT which has to do with national security?

Mr. BROWN. Yes, sir; or if the other countries should take some action which would violate the agreement in some way and bring some of the other provisions into operation.

Senator MILLIKIN. I did not get what you said.

Mr. BROWN. I say if one of the other countries should take some action which was not justified by the agreement, then we might be in a position to withdraw some concessions or take some action. But looking at it from the point of view of our initiating the action, your statement was correct.

Senator MILLIKIN. Getting outside of the field of security, withdrawal of concessions to these particular countries would involve the whole rigamarole provided for in GATT, would it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I do not ask you to accept the word "rigamarole" as your description of the processes of GATT.

Mr. BROWN. I did not think you did, sir.

Senator MILLIKIN. No; thank you.

I see there is another sheet here that proposes striking out section 8 of the bill. That would have to do with 22?

Mr. BROWN. No, sir; section 8 is the one about the farm price.

Senator MILLIKIN. About what?

Mr. BROWN. The amendment which says that concessions must be withdrawn whenever the price of the import falls below parity.

Senator MILLIKIN. Is that not section 22?

Mr. BROWN. No, sir.

Senator MILLIKIN. What is that?

Mr. BROWN. It is related to section 22. We discussed section 22 on Friday, but it is in a different statute.

Senator MILLIKIN. Is this not aimed as an amendment to section 22?
Mr. BROWN. No, sir.
Senator MILLIKIN. Does it revolve in its own orbit?
Mr. BROWN. I believe so.
Senator MILLIKIN. Under your own interpretation?
Mr. BROWN. Yes, sir.
Senator MILLIKIN. Under our present law section 22 rules this particular field; does it not?
Mr. BROWN. Yes, sir.
Senator MILLIKIN. So that whether section 22 is mentioned or is not mentioned, if this were adopted, section 22 would be affected, would it not?
Mr. BROWN. No, sir. This would provide for automatic action without reference to section 22 or whether the imports were in any way affecting a program or meeting any of the tests which are set forth in section 22. This would operate quite independently.
Senator MILLIKIN. Well, for that very reason it would have a very profound impact on section 22.
Mr. BROWN. This is totally independent, a totally independent statutory mandate.
Senator MILLIKIN. Oh, say, that it is textually and technically; I am simply driving to the point that this does have a very important effect, if it were adopted, on section 22, does it not?
Mr. BROWN. I do not think so. It covers the same field but it operates quite independently. Perhaps I did not get your point, Senator.
Senator MILLIKIN. I am not making myself clear.
Senator KERR. Would the implementation of section 8 change the implementation or operation of section 22, or is it that it only affects certain things which are also affected by 22?
Mr. BROWN. I think the latter statement is correct, Senator. It affects certain things which might also be dealt with under section 22, but it is quite independent.
Senator MILLIKIN. Section 22 does apply to the imports of agricultural commodities, does it not?
Mr. BROWN. Yes, sir.
Senator MILLIKIN. Section 22 can have important significance as to support price products, can it not?
Mr. BROWN. Yes, sir.
Senator MILLIKIN. Does this not impose a more rigid standard for applying quotas, for example, than section 22 does?
Mr. BROWN. This imposes a much more rigid standard than section 22 does. I would say it dealt with much the same subject matter, but rather a broader subject matter, and operated in a much more rigid way than section 22 does.
Senator MILLIKIN. All right; that is all.
Senator TAFT. You do not change section 3?
Mr. BROWN. Our only suggestion there, Senator Taft, is that we feel that the Tariff Commission is a useful member of the Trade Agreements Committee and of the negotiating teams, and we made the suggestion that the clause which prohibits it from participating in that work, except as a supplier of the facts, should be deleted.
Senator TAFT. You strike out section 4?
Mr. BROWN. Yes, sir; we do not suggest any change in the peril-point amendment.

Senator MILLIKIN. If there are no questions, I would like to start out on the inquiry with respect to GATT.

Senator TAFT. I am sorry I was not here, but do I understand that the State Department accepts the peril-point provision basically?

Mr. BROWN. Senator Taft, subject to our basic reservation that we feel that the act would be a better act without the peril-point amendment and that we would prefer not to see the peril-point amendment, nevertheless, as the Secretary said——

Senator CONNALLY. If you prefer not to see it, why are you advocating it?

Mr. BROWN. We are not advocating it, Senator Connally.

Senator KERR. He has stated that they do not like the amendment, but he was directed by the committee to bring language here which they felt, as nearly as possible, would make it workable as possible if the Congress decided to keep it. I mean, he has done what he has done under the direction of the committee.

Senator CONNALLY. All right.

Senator KERR. Are there any questions over here?

Senator MILLIKIN. Mr. Brown, I would like to ask a question.

Mr. BROWN. Senator, you asked me one other question at the end of Friday's testimony. Would you like me to give you the answer to that, and then proceed?

Senator MILLIKIN. Would you state the question and then give the answer.

Mr. BROWN. At the hearing on Friday you asked me if the Department was prepared to stand on the testimony that its representatives had previously given with respect to the trade-agreements program or whether there were any changes in that testimony that we would like to make.

I obviously have not had a chance to check everything that all of the representatives of the Department have said, explaining and supporting this program before this committee and elsewhere. But I am prepared to say that we can think of no significant testimony that we would like to change.

There are, however, two statements which have been made by representatives of the Department which have been commented upon in these hearings and elsewhere and which I would like to clarify.

The first of these is the statement which was made by Mr. Thorp in his testimony before the Ways and Means Committee as follows:

> Under the act which the President has requested, every officer concerned will be mindful of the need to safeguard the American economy but, at the same time, we shall have a clear mandate to broaden the bases of United States foreign trade to create purchasing power for American exports, and to guide the economy as a whole into the most productive lines possible.

This statement must be read against the background of the statement of purposes of the Trade Agreements Act as set forth in section 350 (a) of the Tariff Act, as amended, which reads:

> For the purpose of expanding foreign markets for the products of the United States as a means of assisting and establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of the various branches of American production which require and are capable of developing such outlets, by affording corresponding market opportunities for foreign products in the United States.

Senator MILLIKIN. Would you mind reading again what Mr. Thorp said so that we can tie the two together or disassociate them?

Mr. BROWN. May I complete the statement?

Senator MILLIKIN. Yes; go ahead.

Mr. BROWN. Mr. Thorp's statement was not intended to go any further than is contemplated by the foregoing statement of purposes in the act. This, I believe, is made quite clear by Secretary Acheson's statement before this committee on February 22, in which he said:

I do not regard this—

referring to the Trade Agreements Act—

as a vehicle for guiding our economy, but merely for reducing the barriers which have existed in the past.

The second statement upon which I would like to comment is one made by Mr. Clayton to the effect that there is in the operation of the trade-agreements program an element of calculated risk. This statement has been interpreted to mean that the agencies concerned in the administration of the trade-agreements program have deliberately made concessions which they thought were likely to result in injury.

I would like to call the committee's attention to precisely what Mr. Clayton said. It was as follows——

Senator CONNALLY. You are talking now—you are not quoting anybody; that is your language?

Mr. BROWN. That was my language; yes, sir. I am now beginning to quote Mr. Clayton:

Mr. CLAYTON. Senator Millikin, I have always said to you and others, and I say it again, that in the deliberations and in the decisions of the interdepartmental committee I do not believe that a decision has ever been taken, and I doubt if it will be taken which, in the knowledge of the committee, will bring about an injury to an American industry for the purpose of accomplishing other benefits to the country. I just do not believe that.

Senator MILLIKIN. Mr. Clayton, you have said again and again that you take calculated risks.

Mr. CLAYTON. Yes, sir.

Senator MILLIKIN. How can you prevent injury if you, as a policy, take calculated risks?

Mr. CLAYTON. We take calculated risks, Senator Millikin, but that means that there is an area that you cannot possibly be sure of. It does not mean that you have taken an action of which you know is going to result in any injury. That we do not do.

This testimony can be found on page 168 of the hearings before this committee in 1949.

I would like to confirm what Mr. Clayton said, from the experience of my personal participation in the administration of this act, which started in June 1945.

I can state quite definitely that I know of no case during the period when I represented the State Department in the Trade Agreements Committee or in the period in which I have had general supervision of the work of the State Department in connection with the administration of this program, where the committee has recommended to the President any action which it felt would be likely to cause serious injury to domestic industry.

Senator MILLIKIN. You put your emphasis on the word "likely." If you make agreements on calculated risks, they might mature or they might not mature, which is vastly different from something being likely, is that not correct?

Mr. BROWN. We do not make any recommendations which we think are going to cause injury.

Senator MILLIKIN. I repeat, you may not think it is going to cause injury, but if you work within a range of calculated risks, so described hundreds of times, and so defined, oh, I would not say hundreds of times, but dozens of times, you are building into systems, I suggest, the possibility of injury, is that not correct?

Mr. BROWN. No, sir.

Senator CONNALLY. May I ask a question? Are you through, Senator?

Senator MILLIKIN. I would like to ask him whether it is correct. Why do you fool around with a calculated risk if you are not calculating a risk?

Mr. BROWN. There is an element of risk in every decision which is made.

Senator MILLIKIN. Granted.

Mr. BROWN. As is the decision not to make a tariff concession; that has an element of risk.

Senator MILLIKIN. Granted.

Mr. BROWN. That is all that was meant by "calculated risk."

Senator MILLIKIN. If you will read the testimony that was gone into dozens and dozens of times from different approaches—you have read the testimony of Commissioner Ryder of the Tariff Commission, in which he speaks of the range of risk, and so forth and so on, and from which it is very apparent that there has been a range of risk, and since the range of risk was known, it was a calculated risk.

Now, you have based your interpretation on the word "likely." I am not charging that anyone has done anything that would likely result in serious injury. My point is that if you make your basic policy one of calculated risk then, those risks mature whether you want them to or not.

Mr. BROWN. Senator, I would not agree with the statement that we have made our basic policy one of calculated risk, and I do not believe the testimony would sustain that.

Senator MILLIKIN. Then you are willing to let the whole testimony determine that?

Mr. BROWN. Yes, sir; I would. The fact that there is in this operation, as in any other, some element of risk—no one can ever give a guaranty that either action or inaction is not going to result in some consequence which is foreseen. But I would deny that we make, as a basic element of our policy, the policy of figuring out calculated risks. There is an implication in that which is not a fair implication, based upon my experience.

What we try to do is to avoid injury to the domestic industry, and that is our basic policy.

Senator MILLIKIN. I suggest that the greater part of the testimony in all of these hearings has turned on probing into the calculated risk. There is not the faintest doubt that you take calculated risks. I am not saying that you take them on the theory that they will likely result in injury, but that you do take calculated risks. Do you deny that?

Mr. BROWN. I would say that there is no possibility of saying that any action one takes is entirely free from some kind of risk.

Senator MILLIKIN. That may be granted even under any kind of a prediction that you would make where you were following calculated safeguarding.

Mr. BROWN. That is right.

Senator MILLIKIN. Let us agree that, of course, that is true. You take a calculated risk every time you walk in and out of a building. A tile may fall off the roof and hit you on the head. Let us agree that that sort of stuff is out of the discussion.

Senator KERR. Would the Senator agree that you could take a risk without its being a calculated risk?

Senator MILLIKIN. I certainly agree, and that raises the precise point of distinction. There has been one school of thought which felt that we should be engaged in calculated safeguarding rather than engaging in calculated risks.

Mr. BROWN. I would be prepared to say, Senator, that during the period when I have been connected with the trade agreements program, the emphasis has been on calculated safeguarding. That is my testimony as an operating man in this program who has been closely and intimately associated with it for the past 6 years.

Senator MILLIKIN. You have steadfastly repelled the idea of the calculated safeguarding inherent in the peril point, have you not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. That is right. And you are willing to let the whole record determine whether you have been engaged in calculated risks?

Mr. BROWN. I am prepared to stand on the record of achievement. I am, in fact, very proud of it.

Senator MILLIKIN. I am not speaking of the record of achievement; I am speaking of the record of testimony.

Mr. BROWN. No, sir; not testimony; the facts that have happened, not the claims that have been made.

Senator MILLIKIN. What you are saying is that under your experience there no risk has been taken likely to injure anybody, and that has been your personal observation?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. That is not my question. Are you willing to stand on the record of the testimony that you have given?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And that Mr. Thorp has given and that other State Department representatives have given, and that the Chairman of the Tariff Commission has given?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You are not making any modifications on it?

Mr. BROWN. No, sir; I am emphasizing——

Senator MILLIKIN. With respect to the effects that may be deduced from that testimony?

Mr. BROWN. No, sir.

Senator MILLIKIN. What you are saying is that under your experience you have not intended to injure anybody.

Mr. BROWN. Sir, I am merely emphasizing a point in that testimony which I think has been overlooked very frequently, but I do not wish to change it.

Senator MILLIKIN. I was running through your testimony and Commissioner Ryder's testimony and Mr. Clayton's testimony, yesterday

on that very subject, and it is greatly illuminating and if you do not wish to change their testimony, if you merely wish to argue as to the effect of their testimony, I have no objection.

Mr. BROWN. That is correct.

Senator MILLIKIN. But if you wish to change their testimony——

Mr. BROWN. No, sir.

Senator MILLIKIN (continuing). That is a horse of a different color, because then we will have to argue the thing all over, and have the witnesses all in again, and have the testimony all over, which the Lord knows I do not want to burden myself with.

Now, as to Mr. Boyd's statement——

Senator KERR. I think Senator Connally wants to ask a question at that point.

Senator MILLIKIN. Pardon me.

Senator CONNALLY. I will not take but a minute. Some time ago, is it true that in considering these matters, you tried not to do anything that would hurt the United States interests?

Mr. BROWN. Yes, sir.

Senator CONNALLY. You do not mean that it would not hurt some little one single commodity, but you mean it would not hurt the general welfare of the United States, do you not?

Mr. BROWN. Well, Senator Connally, even in dealing with the individual industries we do not take action which—we try to avoid, as Senator Millikin said—in order to have a calculated safeguard—to avoid injury even in the individual cases, as well as in the general over-all picture.

Senator CONNALLY. I see. But there is sometimes a head-on collision between the two, is there not?

Mr. BROWN. No, sir; there has not been. There have been people—people have not always agreed with us as to what the effect of the result has been.

Senator CONNALLY. Mr. Brown, does not this construction of the peril point and the general interest conflict sometimes?

Mr. BROWN. We think that they might, Senator Connally, and we would greatly prefer not to have a peril point in the act, but the committee asked us if we could provide some modifications which would make it more workable, and we have done so.

Senator CONNALLY. Are you satisfied with those suggestions?

Mr. BROWN. We could live with them.

Senator CONNALLY. You can live with them?

Mr. BROWN. We could live with them, and the program could be made to work under them.

Senator CONNALLY. You would rather not have them though?

Mr. BROWN. Yes, sir.

Senator CONNALLY. All right, thank you.

Senator TAFT. Mr. Brown, have you any general estimate of the effect of the imports' and exports' present level? I mean, have we not gone far enough without any more reductions?

Mr. BROWN. That is a very difficult subject on which to generalize, Senator Taft, because the situation varies with each particular product. In some cases we have gone as far as we should have.

Senator TAFT. I am talking about the over-all effect of the act. I have here the exports and imports for January 1951. Imports into the United States reached the figure of $1,022,000,000, the highest that

we have ever imported into the United States in 1 month. There was an excess of imports of $50,000,000 over the exports, and the exports were partly financed by Government gifts and loans; consequently there was a drain on the gold of the United States because of the excessive imports over imports.

Do you not think we have gone far enough? Have we not succeeded, if we wanted to increase imports—have we not gotten to the point where we can stop any further effort to increase imports into the United States?

Mr. BROWN. Our desire is, as in the statement of the purposes of the act, to develop foreign markets and to increase the level of international trade generally. Even if our current accounts, exports and imports, were balanced, we still are a creditor nation and there are dollar requirements for meeting debt obligations to us, and it would be good business for all concerned if the level of trade in and out of the country were higher, just as it would be for a business to have a higher——

Senator TAFT. But the imports of January—I mean, the exports, are below the average exports for 1947, 1948, 1949.

Mr. BROWN. Yes, sir.

Senator TAFT. And the imports are twice as big as they were in 1948 and 1949.

Mr. BROWN. There have been tremendous price increases in some of the big import commodities.

Senator TAFT. Some of it is price, that may be; but the same price applies to exports, but they have not gone up. They have gone down instead of up.

Mr. BROWN. No, sir; the price increases have not been as great in the export field.

Senator TAFT. I would question that as to the over-all; I do not think anybody has any figures to show that to the point where a few spectacular increases in imports—nobody knows. I have no analysis of what these particular imports were that came in in January.

Mr. BROWN. Going again to the point of your question, Senator Taft, we do not expect that there will be any major tariff negotiations within the next 3 years.

Senator TAFT. What about this Torquay reduction?

Mr. BROWN. That should be shortly concluded. That was planned a long time ago. But during the period of the authority that is requested here we expect that there will not be any Torquays or Genevas, but we do need the authority in case we have an individual country negotiation or a renegotiation of an agreement, or changes in individual items that need to be made.

Senator TAFT. I was not necessarily suggesting that we stop. I was suggesting that the State Department's policy of further reducing tariffs might be stopped for the time being.

Mr. BROWN. In some cases a goodly number of cases, we would not recommend any further change in tariff.

Senator TAFT. But you have got hundreds of industries here scared to death as to what you are going to do at Torquay, whether you are going to do it or not, I do not know. I am just suggesting that you do not do it; that for the present you have gone just as far as necessary to increase imports to the United States. Of course, in addition

to this excess of imports I think I was told that the American tourist payments amounted to nearly a billion dollars, providing Europe with another extra billion over and above any excess in imports during the year of 1950, during presumably the year 1951 again.

Mr. BROWN. I think that the tourist payments have been substantial.

Senator TAFT. I was told they were approaching a billion dollars a year.

Mr. BROWN. I do not know what the figure is, I had thought it was less than that, but it would be good if it were.

I am not sure whether Europe is in as quite a favorable position in that analysis as some of the other parts of the world, where there have been these big price increases, but there is no question that the situation as far as our import-export balance is concerned, is very much improved.

Senator TAFT. Very much improved? It is going the other way. I mean, if it goes on we are going to have to pay out large amounts of this gold, and that unsettles the general conditions, as soon as everybody is scared about how much, and at the moment you export a billion of it everything gets jittery again.

Senator MILLIKIN. They export about 2½ billion, and a part of it goes into the black-market operations——

Senator TAFT. It was just a suggestion.

Mr. BROWN. Thank you, sir.

Senator KERR. At that point, if I may ask the witness a question, with reference to those imports, are you familiar with whether or not our purchases of tin and rubber for the provision of critical materials needed in this country would be a part of those imports in January?

Mr. BROWN. Yes, sir; they would be.

Senator KERR. You do not have knowledge as to what the extent of it would be that was included in those items?

Mr. BROWN. They would be significant, but I could not tell exactly how much.

Senator MILLIKIN. What is the tariff on rubber?

Mr. BROWN. Nothing, sir.

Senator MILLIKIN. Nothing. What is the tariff on tin?

Mr. BROWN. Nothing.

Senator MILLIKIN. Going back to your correction or interpretation of the testimony of past hearings, would you mind reading Mr. Thorp's statement which you clarified and, as I understand it, limited it to the general proposition that you are dealing in reciprocal trade and that you are not out to control the economies of the world; is that a fair statement of your statement?

Mr. BROWN. That is what the Secretary said, and that is what we stand on.

Senator MILLIKIN. Would you mind reading what he said?

Mr. BROWN. Yes, sir.

Under the act which the President has requested every officer concerned will be mindful of the need to safeguard the American economy but, at the same time, we have a clear mandate to broaden the bases of United States foreign trade to create purchasing power for American exports and, to guide the economy as a whole into the most productive lines possible.

Senator MILLIKIN. Mr. Thorp occupies what position?

Mr. BROWN. He is Assistant Secretary of State for Economic Affairs.

Senator MILLIKIN. He himself has stated under oath, "I am responsible, under the direction of the Secretary of State, for the development of foreign economic policy to which the present action is closely related." Is that a correct statement?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Now, I invite your attention to GATT. At the very opening of GATT, in the second paragraph of GATT, it said—the second paragraph below the opening statement of GATT it says:

Recognizing that their relations in the field of trade and economic endeavor should be conducted with a full view of raising standards of living, insuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world, and expanding the production and exchange of goods.

Do you feel prepared now to draw the distinction between the paragraph in GATT, which you tell us is provisionally effective, and Mr. Thorp's statement, which you have clarified?

Mr. BROWN. One of the ways, Senator Millikin, in which you contribute to raising standards of living, and developing the full use of the resources of the world, and expanding the production and the exchange of goods, is by removing unnecessary obstacles to the movement of goods between countries, and that is the only purpose that the Trade Agreements Act is directed to.

Senator MILLIKIN. How do you distinguish between the statement of purpose which I have just read you, which appears in GATT, and the statement of Mr. Thorp's, which you have interpreted?

Mr. BROWN. Mr. Thorp's statement was directed to the use of the Trade Agreements Act, and the purpose of the use of the Trade Agreements Act is in the field of the reduction of trade barriers.

Senator MILLIKIN. Is that not the purpose of GATT?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Did you say no or yes?

Mr. BROWN. Yes, sir. But that is only one element, just the element of trade barriers; that is all we are dealing with.

Senator MILLIKIN. You do not care to draw a distinction between the Thorp statement, which you have interpreted, and the statement which I have just read you from GATT?

Mr. BROWN. I am saying that Mr. Thorp's statement was directed to the use of the Trade Agreements Act, and the Trade Agreements Act, as the Secretary said, deals with trade barriers, and that is one of the ways in which you contribute to the developing of the resources of the world, and expanding the production and exchange of goods.

Senator MILLIKIN. Well, your only authority for entering GATT, if you have any authority, is under the Trade Agreements Act, is it not?

Mr. BROWN. That is correct, sir—I beg your pardon. That is a main authority, but there is also the President's general responsibility for the conduct of foreign affairs.

Senator MILLIKIN. Secretary Acheson testified, in effect, that the sole authority of the executive department in this subject arises from the Trade Agreements Act, and other powers, as I recall it, specifically granted by the Congress. Do you take issue with that?

Mr. BROWN. I do not recall his having so testified.

Senator MILLIKIN. I will read you his testimony. We will return to that, if you do not mind, in a moment.

Will you describe the method by which trade agreements were made prior to GATT? Give us a synopsis of the way they were made prior to GATT.

Mr. BROWN. Prior to GATT?

You decided that you wanted to have a trade agreement with a country, let us say, with the United Kingdom, and you found out if they were willing to have a trade agreement with you; and you then looked over the trade that you had—your imports from the United Kingdom.

You selected the items which were the principal items in that trade, basically the items of which the United Kingdom was the principal supplier to this country; and you then looked over the items of your exports to the United Kingdom, and you picked out the items which you hoped you could expand your trade with them.

Do you wish to go into the details of the domestic procedure or simply the international?

Senator MILLIKIN. I do not think it is necessary to go into the domestic end of it.

We then had the Committee on Reciprocal Trade Information?

Mr. BROWN. Reciprocity Information.

Senator MILLIKIN. Reciprocity Information. For some reason or another that term baffles me; I cannot remember it exactly. But be that as it may, the domestic procedures were roughly the same as they are now?

Mr. BROWN. Yes, sir; precisely.

Senator MILLIKIN. Would you mind proceeding with that?

Mr. BROWN. Then having gone through your domestic procedures, and having received the decision of the President as to what offers might be made and what offers should be requested, you sat down with the United Kingdom negotiators who had had similar domestic discussions, and then you argued out around the table what concessions you would give and what concessions you would get; and if, as we twice did, you came to a satisfactory agreement, you then agreed and put it into effect.

Senator MILLIKIN. You are saying twice as far as Great Britain is concerned?

Mr. BROWN. There were two United Kingdom agreements; yes, sir.

Senator MILLIKIN. But you had many others.

Mr. BROWN. Oh, yes.

Senator MILLIKIN. Pardon me. That agreement was a formal agreement, and our adherence to it was proclaimed by the President; is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What is the effect of GATT on those agreements, the pre-GATT agreements?

Mr. BROWN. It differs. In the case of the principal countries that were at Geneva, I am not sure about all of them, but most of them, the old agreements were suspended during the life of the GATT.

In the case of some of the countries with which we negotiated later, Sweden, I think is one illustration, with which we negotiated at Annecy, the earlier Swedish agreement was terminated.

Senator MILLIKIN. And supplanted by GATT, or terminated completely?

Mr. BROWN. It was terminated completely, sir.

Senator MILLIKIN. Completely?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Will you give us a list of the nations with which we had pre-GATT bilateral agreements which are suspended?

Mr. BROWN. I believe that is in the record somewhere, Senator, but I will give it again.

Senator MILLIKIN. Will you give it again?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Can you give us roughly from memory whether all of the nations that appeared at Annecy, for example, were in the status of having agreements with us, which were suspended?

Mr. BROWN. Subject to check, Senator, I think I am correct in saying that our agreements with the principal Geneva countries, that is, the United Kingdom, France, Australia—no; we did not have one with Australia—Cuba, Brazil, Belgium, Holland, Norway, I think all of those were suspended, and are now in suspense.

Senator MILLIKIN. They are in a state of suspension?

Mr. BROWN. Yes, sir. How far that is true of the Annecy countries, I would have to check for you.

Senator MILLIKIN. Will you give us a very careful up-to-the-minute statement on it?

Mr. BROWN. I have it right here, Senator.

Senator MILLIKIN. All right, good.

Mr. BROWN. Would you like me to read it or simply supply it for the record?

Senator MILLIKIN. Yes; read it. I would like to get an idea of it.

You seem to be looking at a table. Is that table in the record.

Mr. BROWN. I would have to check and see whether it is or not.

Senator MILLIKIN. If it is not, would it be agreeable, Mr. Chairman, if it were put in the record?

Senator KERR. Yes.

Mr. BROWN. Senator, this is one of these tables that I cannot assimilate quickly. I will have to check it.

Senator MILLIKIN. Can you draw from rough memory, with the understanding that you put it in later—can you draw from rough memory whether any of our bilateral agreements entered into prior to GATT have been completely terminated?

Mr. BROWN. Oh, yes, sir.

Senator MILLIKIN. Give us some information on that.

Mr. BROWN. Well, as I said, Sweden is one, Finland is another, Haiti is another, Nicaragua is another.

Senator MILLIKIN. Were those agreements, and any others that you might mention—is GATT a substitute for them?

Mr. BROWN. Yes.

Senator MILLIKIN. All of them, all that you have mentioned?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. So as to those particular countries there is no state of suspension?

Mr. BROWN. No, sir.

Senator MILLIKIN. So far as the agreements are concerned, whatever they may be, they rest on GATT; is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Can you give us roughly again which countries are in a state of suspended animation, so far as the trade agreements are concerned?

Mr. BROWN. Britain, Canada, France, Cuba, Brazil——

Senator KERR. That is the table which you are going to put into the record, as I understand it?

Mr. BROWN. Yes, sir. Belgium and Holland; those are the most important ones.

Senator MILLIKIN. How much of the world trade roughly do those nations occupy?

Mr. BROWN. Half.

Senator MILLIKIN. Half?

Mr. BROWN. That is a rough guess. I would have to check it.

Senator MILLIKIN. Will you give us a more exact statement on that when you submit that for the record?

Mr. BROWN. Yes, sir.

Senator KERR. I presume you mean international trade?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Thank you, Senator.

If Torquay were not completed, would GATT and the trade agreements, whatever their status may be, be the same as after Annecy?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What would have been their status prior to Annecy? I am speaking now in particular of those suspended agreements.

Mr. BROWN. Annecy did not change the status of the pre-Geneva agreements with respect to the Geneva countries.

Senator MILLIKIN. Well, that answers my question.

Mr. BROWN. But it did change the status of the agreements with the countries which came in at Annecy.

Senator MILLIKIN. Which came in at Annecy for the first time.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. With which we did not have reciprocal trade agreements.

Mr. BROWN. And with which we did have reciprocal trade agreements. You see, Sweden came in at Annecy.

Senator MILLIKIN. Yes.

Mr. BROWN. We had an agreement with Sweden.

Senator MILLIKIN. Yes. But the Swedish agreement did not remain suspended.

Mr. BROWN. No; that was terminated.

Senator MILLIKIN. So that is completely under Annecy at the present time?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And these other countries that had agreements which were terminated, they are under Annecy at the present time?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. In both cases that I have mentioned they will continue to be under Torquay if Torquay becomes effective, is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. If the extension bill that we have before us were passed, what would be the effect on existing trade agreements and GATT?

Mr. BROWN. The immediate effect as of the date of passage would be none; but it would have a number of potential effects. For example, if the bill were passed and if it included section 8 it would mean at any time——

Senator MILLIKIN. I dropped a few words that you said there. Would you mind repeating?

Mr. BROWN. I say, if the bill were passed as it now stands, coming from the House, it would mean that if at any time in the future——

Senator MILLIKIN. May I change my question?

Mr. BROWN. Yes, sir; it is a little hard to answer.

Senator MILLIKIN. It would be simpler for you—if a straight extension were not granted, what would be the effect on our reciprocal trade agreements, and those suspended and not suspended, and what would be the effect on GATT?

Mr. BROWN. Let me put it this way: If no act were passed, if the trade agreements program lapsed, the agreements negotiated to date, including the GATT, would remain in effect——

Senator MILLIKIN. Until?

Mr. BROWN. Until terminated in accordance with their terms.

Senator MILLIKIN. According to their terms, either the terms of GATT or the terms of the agreements themselves?

Mr. BROWN. That is correct.

Senator MILLIKIN. Yes.

Mr. BROWN. And if GATT were to be terminated, then the agreements which are suspended would come back into force, or if there were no agreements, then you would go back to the 1930 rates.

Senator MILLIKIN. Yes.

Senator KERR. Senator, let me ask a question in order that I might get a little better picture myself. I am getting a little confused, and just let me eliminate that. Where was GATT negotiated?

Mr. BROWN. At Geneva, sir.

Senator KERR. At Geneva?

Mr. BROWN. GATT was negotiated at Geneva, and then new countries joined, became contracting parties, at Annecy, and we hope that some new ones will become contracting parties at Torquay.

Senator KERR. That helps me as to the next question.

Mr. BROWN. It is the same agreement in each case.

Senator KERR. The basic agreement that you refer to as GATT was made at Geneva?

Mr. BROWN. Yes, sir.

Senator KERR. With the nations represented at Geneva.

Mr. BROWN. Yes, sir.

Senator MARTIN. To help my thinking, when was GATT first entered into?

Senator KERR. Geneva.

Senator MARTIN. I know where, but when?

Mr. BROWN. October 1947.

Senator KERR. Followed by Annecy——

Mr. BROWN. In 1949.

Senator KERR (continuing). In 1949; and now by Torquay.

Mr. BROWN. Yes, sir.

Senator KERR. The action at Torquay would not be a new agreement replacing GATT, but would be amendments to the agreement you

refer to as GATT, as formulated at Geneva, and as amended at Annecy.

Mr. BROWN. That is substantially correct; yes, sir.

Senator KERR. All right. Thank you very much.

Senator WILLIAMS. Are there being new countries added at Torquay?

Mr. BROWN. Yes; six new countries.

Senator WILLIAMS. What countries are they?

Mr. BROWN. Austria, Western Germany, Peru, Korea, Philippines——

Senator KERR. Say that again.

Mr. BROWN. Austria, Western Germany, Peru, Korea, Philippines, Turkey——

Senator MARTIN. What was the fourth one? I missed that.

Mr. BROWN. Peru.

Senator MARTIN. Peru, all right.

Senator WILLIAMS. In Western Germany, you recognize the Allied Governments as the negotiators on behalf of it?

Mr. BROWN. No, sir. The Bonn Government is negotiating as such.

Senator WILLIAMS. The Government of Western Germany?

Mr. BROWN. Yes, sir.

Senator MARTIN. Do we have in the record a complete list of the countries that are now in GATT?

Mr. BROWN. Yes, sir.

Senator MARTIN. We have that? All right, go ahead; I am sorry.

Mr. BROWN. I am not sure whether we have it—yes, we do. I gave it to Senator Millikin and I am not sure whether you have introduced it yet, but I expected that you would.

Senator KERR. If not, would you put it in the record at this point?

Senator MILLIKIN. Would you put it in?

Mr. BROWN. It has been in each time.

Senator MILLIKIN. We have had it in in the past.

(The list referred to has been submitted—see contents page:)

Senator MILLIKIN. If you did not get a renewal, you stated that the agreements, both the bilateral original agreements, which were suspended and GATT, would continue according to their terms, is that correct?

Mr. BROWN. Yes, sir. The act deals with the authority of the President to negotiate and conclude agreements.

Senator MILLIKIN. What act would be necessary to reinstate the effectiveness of the suspended agreements?

Mr. BROWN. The termination of the GATT.

Senator MILLIKIN. Sir?

Mr. BROWN. The termination of the GATT.

Senator MILLIKIN. That would automatically suspend—that would actually suspend the suspension.

Senator KERR. That would reinstate them.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Where is the language that would bring about that result?

Mr. BROWN. In the agreement suspending the earlier agreements, not in the GATT.

Senator MILLIKIN. Where does that evidence itself? Where do those agreements evidence themselves?

Mr. BROWN. I think there were exchanges of notes with the countries or possibly there was a formal agreement. I would have to check that point.

Senator MILLIKIN. Would you check that, please, and put that in the record.

Mr. BROWN. I was just asking if it was in the previous record, but I am informed that it was not.

Senator MILLIKIN. I do not think it was in the previous record, so I think we ought to have something definite having to do with those suspended agreements and the contingencies on which they operate.

Mr. BROWN. Would it be satisfactory, Senator, if I gave you one for the record, and said that the terminology was substantially the same as far as the others were concerned?

Senator MILLIKIN. Yes; it would be all right; and I am depending on you to bring to our attention anything that is not substantially the same.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. It has been suggested that it would be a good thing to have a list of the nations to which this exchange of notes or whatever the mechanics were, applied.

Mr. BROWN. Yes, sir. It is my recollection that at Geneva, as well as signing the GATT, I signed a series of separate notes with the countries involved, suspending their agreements, and I can provide a copy of the note, and the list of the countries to which they apply, and if there are differences I could explain them.

Senator MILLIKIN. Thank you.

(The document and the list referred to appear subsequently:)

Senator MILLIKIN. Would you mind describing the process whereby contracting parties collectively keep track of compliance or noncompliance with GATT.

Mr. BROWN. Basically it operates on the principle that if anybody feels that another party to the GATT is not living up to it and is doing something which adversely affects its interests and it is sufficiently important, the party that thinks it is injured tries to work the thing out satisfactorily with the other country, and if that fails, then brings it before the contracting parties.

Senator MILLIKIN. Do the contracting parties have a list of alleged failures of compliance by any of the contracting parties?

Mr. BROWN. No, sir. They do not operate as a police force in the matter.

Senator MILLIKIN. But do they operate as a record-keeping force?

Mr. BROWN. Yes, sir. I could give you a number of illustrations; what has normally happened has been that the country has made a complaint about some action of another party to the agreement, and put it on the agenda, and they usually work out a solution before it comes up for discussion.

Senator MILLIKIN. But the central organization itself, the contracting parties—first, do the contracting parties have a central organization?

Mr. BROWN. No, sir; they have been serviced to date by a secretariat which was originally set up in connection with the anticipated ITO, now not anticipated.

Senator MILLIKIN. Is that sustained by the United Nations?

Mr. BROWN. No, sir.

Senator MILLIKIN. Who pays for that?

Mr. BROWN. Each country pays its share of the expenses.

Senator MILLIKIN. Are they paying?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Are they paying their share?

Mr. BROWN. Most of them.

Senator MILLIKIN. May we have a statement of what those expenses have been and the contribution of the different nations toward those expenses?

Mr. BROWN. May I take advice on that, sir?

I think we can, Senator.

(The information referred to appears in subsequent testimony.)

Senator MILLIKIN. Is there a rule for the percentage of contributions to be made by the different members?

Mr. BROWN. Yes, sir. It is based on a share of international trade. Ours is somewhere in the neighborhood of 17 percent.

Senator MILLIKIN. Where was that determined, and how?

Mr. BROWN. By agreement.

Senator MILLIKIN. Where is that agreement evidenced?

Mr. BROWN. It is a resolution of the contracting parties.

Senator MILLIKIN. Is it in any of the papers which you have supplied us?

Mr. BROWN. No, sir.

Senator MILLIKIN. Will you document that whole subject for us?

Mr. BROWN. I am not sure that I can give you the actual resolution, but I can state what the percentage is.

Senator MILLIKIN. If two countries find themselves in dispute they attempt, in the first instance, to work it out between themselves?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. They send notice of the dispute to all of the other members?

Mr. BROWN. Not usually.

Senator MILLIKIN. All of the other members have an interest, do they not?

Mr. BROWN. They may or may not.

Senator MILLIKIN. But on the assumption that they may have, they do not receive notice?

Mr. BROWN. No, sir. The normal process is that any country which feels it has a difficulty with another country goes to it and tries to work the problem out in the usual way.

Senator MILLIKIN. But due to the multilateral nature of the thing, when they resolve their difficulties, every other country has an interest in the way the problem is resolved, is that not correct?

Mr. BROWN. That might or might not be so.

Senator MILLIKIN. Might or might not? On the assumption that it might be so, yet the other interested parties that might be interested do not have any notice, is that correct?

Mr. BROWN. If the matter never got to the status of a formal complaint they probably would not.

Senator MILLIKIN. You say there is no central system for keeping track of these efforts of groups of two countries to resolve their own difficulties?

Mr. BROWN. What happens is that the parties to the agreement meet periodically, and any party to the agreement has the right to put anything on the agenda that it wants to raise with the group as a whole, and then when that is done, when the parties come together for the meeting, they discuss the different problems.

Senator MILLIKIN. Well, is there no secretariat?

Mr. BROWN. And records are kept.

Senator MILLIKIN. No central organization——

Mr. BROWN. Yes, sir.

Senator MILLIKIN (continuing). That has a record of alleged violations or of escapes?

Mr. BROWN. The only way the records would be kept would be of complaints which were in the form of suggestions for the agenda of meetings, points that countries wanted to bring up, and the record of what happened in disposing of that agenda item.

Senator MILLIKIN. Is there maintained by—if I am not using the right words when I say "central organization," I do not want any reservations about this thing, and give me the right word.

Mr. BROWN. There is the secretariat which has serviced these meetings.

Senator MILLIKIN. Yes.

Mr. BROWN. It has maintained a record, and announcements have been made of what happened at the meetings, and the actions that have been taken.

Senator MILLIKIN. Are there minutes available?

Mr. BROWN. No; they do not keep minutes, as I remember.

Senator MILLIKIN. You mean there is no record of these things?

Mr. BROWN. A record is kept of the decisions, whatever happened, the disposition of the matter, and those are public information.

Senator MILLIKIN. You have them in your own department?

Mr. BROWN. Oh, yes, sir.

Senator MILLIKIN. How bulky are they?

Mr. BROWN. Not very bulky.

Senator MILLIKIN. How many of those decisions, roughly, would you say had been made?

Mr. BROWN. At the last meeting we dealt with some 20, 25 items; some of them were the budget, and that kind of administrative thing; what the situation of the finances was, and I would say that the summary of the results would be 4 or 5 pages. I would be very glad to provide it for you.

Senator MILLIKIN. May we have a copy of that?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Would that show who the complaining party was?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Would it show the history of the negotiations? Would it show notice that had been given to other nations?

Mr. BROWN. No, sir; it would simply show what had happened.

Senator MILLIKIN. What had happened. Would you make that a part of the record?

Mr. BROWN. It would also show that nobody raised any objection to what had happened.

(The document referred to is referred to in subsequent testimony.)

Senator MILLIKIN. And these meetings that you refer to, are they meetings that are independent of Torquay, of the Torquay meeting, for example?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You periodically meet?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. How often?

Mr. BROWN. I think they have met about every 6 months.

Senator MILLIKIN. Who calls the meeting?

Mr. BROWN. Mechanically it is done by the chairman.

Senator MILLIKIN. By the chairman of the contracting parties?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Who is the chairman of the contracting parties?

Mr. BROWN. Mr. Wilgress of Canada.

Senator MILLIKIN. What is the rest of the organization? Is there a vice chairman?

Mr. BROWN. That is all—I think there is, I have not the haziest notion who he is. He does not do anything.

Senator MILLIKIN. Is there a secretary—do you know who the vice chairman is?

(Note.—The name of the vice chairman, subsequently submitted for the record, is Max Suetens.)

Mr. BROWN. No, sir; but I can provide his name.

Senator MILLIKIN. Will you do that?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Do you know who the secretary is?

Mr. BROWN. The secretary is Mr. Eric Wyndham White.

Senator MILLIKIN. Would you state that again?

Mr. BROWN. Mr. Eric Wyndham White.

Senator MILLIKIN. Representing which country?

Mr. BROWN. None.

Senator MILLIKIN. I mean coming from which country?

Mr. BROWN. He is an Englishman.

Senator MILLIKIN. English.

Does the organization, do the contracting parties——

Mr. BROWN. May I make a further statement? The way in which the meetings have been called hitherto has been at the end of each meeting they have agreed when they would meet again. That is my recollection of it.

Senator WILLIAMS. But they are the only officers of this organization, the chairman and the secretary?

Mr. BROWN. Yes, sir. What it is, is that this is an agreement now over thirty parties to it, and they meet every now and then, every so often, to deal with problems that come up under the agreement, and it is an exremely informal arrangement. What you need is simply somebody to preside and somebody to see that proper facilities are made available.

Senator WILLIAMS. You have a board of directors?

Mr. BROWN. No, sir.

Senator WILLIAMS. And the chairman is a Canadian, and the secretary is British, is that correct?

Mr. BROWN. Yes, sir.

Senator WILLIAMS. They are pretty well represented; are they not?

Mr. BROWN. No, sir. The country which has been the most consistent and complete supporter of the United States position throughout this whole business has been Canada.

Senator WILLIAMS. These countries that are members of this, once having subscribed to the multilateral agreements, are they precluded individually from entering into bilateral agreements with other nations?

Mr. BROWN. No, sir.

Senator WILLIAMS. They can continue right on?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Does the organization make reports?

Mr. BROWN. The contracting parties have published two, or is it three, pamphlets which report certain standards. One of them was a pamphlet on standards for the administration of import and export licensing systems which were designed to simplify red tape, and to eliminate some of the uncertainties and difficulties that business people had found in dealing with these licensing systems. As a matter of fact, that was a suggestion of ours and was agreed to. I would be very glad to submit that for the record.

Senator MILLIKIN. Would you mind submitting it so that we can take a look at it, and it may not be necessary to burden the record with it?

Mr. BROWN. I can give it to you now.

(The document referred to follows:)

GENERAL AGREEMENT ON TARIFFS AND TRADE—STANDARD PRACTICES FOR IMPORT AND EXPORT RESTRICTIONS AND EXCHANGE CONTROLS

(The contracting parties to the General Agreement on Tariffs and Trade, Geneva, December 1950)

PREFACE

The General Agreement on Tariffs and Trade is an international trade agreement which came into force provisionally on January 1, 1948. Thirty-two governments accounting for over three-quarters of world trade are at present parties to the agreement and seven more are expected to join at the conclusion of the tariff negotiations now being conducted at Torquay, England.

When the agreement was drawn up in 1947 most of the emergency controls imposed by governments on international commerce were expected to disappear within the next few years. Some headway has been made, but controls are still widespread.

The agreement recognizes that governments will need to exercise control over the import and export of goods during periods when they are in balance of payments difficulties. Such controls and restrictions, however necessary they may be, present great problems to the trading and financial communities, and sometimes the way in which they are administered makes them unnecessarily onerous. With the sort of world in which we live, it is clear that these restrictions and controls will be maintained for some time to come. But if they cannot be removed, perhaps their administration can be improved.

The contracting parties to the agreement examined this question at their fifth session which has just concluded at Torquay, England. They desired to reduce to a minimum the uncertainties and hardships to merchants resulting from the changing and unpredictable operation of trade controls. The outcome is the code of standard practices published in this pamphlet which, if followed by governments, would contribute to the fulfilment of the objectives of the agreement. I believe that all who are concerned with trade and commerce will find them deserving of careful study.

It is, of course, understood that the adoption of the recommended practices cannot constitute additional obligations imposed upon contracting parties, and that individual governments must be left to decide how best to apply these

standards to their own procedures. Moreover, it is recognized that where there are clear and overriding considerations, or where in particular cases there are good reasons to suspect the bona fides of the transactions, it may be necessary for individual governments to depart from the precise terms of these standards.

The contracting parties as a whole have made abundantly clear their wish that governments should review their present practices in the administration of import and export controls and, if possible improve their practices in line with the code of standard practices which they have recommended. In present-day circumstances commercial enterprise has to operate under difficult and often frustrating conditions; these can be rendered less difficult if controls are administered in such a way as to reduce to a minimum some of the unpredictable and arbitrary elements with which the commercial community has to contend.

ERIC WYNDHAM WHITE,
Executive Secretary.

PALAIS DES NATIONS, GENEVA,
December 27, 1950.

STANDARD PRACTICES FOR THE ADMINISTRATION OF IMPORT AND EXPORT RESTRICTIONS AND EXCHANGE CONTROLS

1. The grant of an import license should imply that the necessary foreign exchange will be obtainable if applied for within a reasonable time. When both import licenses and exchange permits are required, the operation of the two requirements should be coordinated. If more than one rate of exchange applies in payment for imports, the import license or exchange permit should indicate the type of exchange which will apply in the settlement of the particular transaction.

2. Any new or intensified restrictions on importation or exportation should not apply to goods shown to the satisfaction of the control authority to have been en route at the time the change was announced or to have been paid for in substantial part or covered by an irrevocable letter of credit.

3. Goods proven to have been covered by adequate confirmed prior order at the time new or intensified restrictions are announced, and not marketable elsewhere without appreciable loss, should receive special consideration on an individual-case basis, provided their delivery can be completed within a specified period. Such goods, as well as those covered under paragraph 2, should be accountable against any import or export quota or exchange allocation that may have been established for that particular class of goods.

4. The administrative formalities in connection with the issuance of import and export licenses or exchange permits should be designed to allow action upon applications within a reasonably short period. A license or permit should be valid for a sufficient period to allow for the production and delivery of the goods, taking into account the character of the goods and the conditions of transport from the country of origin. The control authorities should not withdraw licenses or permits unless they are satisfied that exceptional circumstances necessitate such action, and should give sympathetic consideration to requests for renewal or revalidation of licenses or permits when exceptional circumstances prevent their utilization within the original period.

5. Under a system involving the fixing of quotas for particular classes of goods or of allocations of exchange in payment for them, any period that may be set, within which applications for such quotas or allocations must be made, should be sufficient to allow for the exchange of communications with likely foreign suppliers and the conclusion of purchase contracts.

6. When foreign products subject to quantitative limitations are apportioned among importers largely in the light of their past participation in the trade, the control authorities, at their discretion and without undue prejudice to the interests of established importers, should give consideration to requests for licenses or permits submitted by qualified and financially responsible newcomers.

7. If an assurance regarding the issue of an import license is required as a condition of consular legalization of shipping documents in the country of exportation, a reliable communication giving the number of the import license should suffice.

8. The authority given to customs officials should be adequate to allow them, at their discretion, to grant reasonable tolerance for variations in the quantity or value of individual shipments as delivered from that specified in the prior import or export authorization, in accordance with the character of the product involved and any extenuating circumstances.

9. Where, owing to exceptional and unforeseen balance-of-payment difficulties, a country is unable to provide foreign exchange for imports immediately payment becomes due to the supplier, transfers of foreign exchange in respect of goods already imported, or licensed for importation should have priority over transfers in respect of new orders, or should at least have a definite and equitable share of the total amounts of foreign exchange currently available for imports.

Senator MILLIKIN. Does the organization or the contracting parties or the secretariat publish, make available, a detailed report of what happens at these meetings?

Mr. BROWN. No, sir.

Senator MILLIKIN. It does not?

Mr. BROWN. A summary of the decisions and action taken, the matters that were discussed before.

Senator MILLIKIN. That is what you referred to before?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. These reports to which you are now referring, are they authorized by the contracting parties or are they made out of hand by the officers of the contracting parties?

Mr. BROWN. No, sir; these represent the agreement of the contracting parties. Let me take this one as an illustration.

Senator MILLIKIN. All right.

Mr. BROWN. In view of the shortage of dollar exchange and the need to conserve them, countries have put in various forms of import licensing.

The way in which those systems are operating had varied widely in different countries, and some of them run rather smoothly and cause a minimum of difficulty to the business people who have to trade under them, and others are operated in an arbitrary and unreasonable and unnecessarily complicated manner.

Now, we had been concerned for some time about complaints that businessmen had made to us about the difficulties that they were running into.

Senator MILLIKIN. That is, the United States?

Mr. BROWN. Yes, sir; that a businessman would get an import license from some country and would find he had no foreign-exchange license to go with it, so the import license he had gone through the trouble of getting did not do him any good because there was not any assurance that he would get the dollars to pay for his goods, and then changes would be made in the system suddenly, and without proper notice, and he might be found with a shipment of goods on the water and the rules were changed on him while it was afloat, and so forth. So that the Department of Commerce and other agencies worked out a whole set of these difficulties and suggestions as to ways in which they could be mitigated. So at the last meeting of the contracting parties we suggested that the contracting parties consider the suggestions that we had made, designed to limit the hardships, the unnecessary hardships, of these import licensing systems and that if there were agreement, that it was a good thing that we work out a set of suggestions and recommend to the governments of the contracting parties that they follow them. That has been done and that idea was welcomed by the other countries, and this matter was discussed by representatives of all the contracting parties, and a set of nine points, standards, were worked out and agreed upon, and each representative has recommended to his government that it follow the standards in the administration of its import licensing systems.

We hope that if that is done, the way will be smoothed for businessmen generally in operating under these systems.

Senator MILLIKIN. That is an illustration——

Mr. BROWN. That is an illustration of the kind of thing they do.

Senator MILLIKIN. Now with reference to these arbitrary uses of import licenses and exchange licenses, and the other things that are contemplated by GATT, and which occupy a considerable part of the exceptions permitted in GATT, how do the contracting parties, as such, keep track of those?

Mr. BROWN. Before I answer that question may I ask that this be included in the record?

Senator MILLIKIN. Yes.

Senator KERR. Yes; it already has been.

Mr. BROWN. I am sorry that that is my only copy that I have with me.

Senator, would you mind asking that question again? I am not sure what you mean by "keep track of."

Senator MILLIKIN. You have referred to the arbitrary use of the import and exchange licenses.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Do the contracting parties, as such, have an organization or a system or method whereby they keep track of those violations?

Mr. BROWN. No, sir. The only way that things come before the contracting parties is if somebody raises the question to be discussed at a meeting.

Senator KERR. You mean the only way it comes before this general meeting.

Mr. BROWN. That is right, sir. The secretariat does not keep a list of quantitative restrictions through the world.

Senator KERR. As I understand it, when any two nations have a problem under any agreement they usually try to work it out themselves without bringing it to this general meeting. They do do that which would amount to changing the agreement that they have made.

Mr. BROWN. No, sir.

Senator KERR. What they do is to try to work out any trouble that they have under the agreement.

Mr. BROWN. That is correct, sir.

Senator KERR. All right.

Mr. BROWN. Another kind of thing that they do, Senator Millikin——

Senator MILLIKIN. Might I put a clincher on the previous question I asked you? Am I correct when I understand that the contracting parties, as such, as an organization, do not have a list of all of the import licenses, their import license restrictions and exchange restrictions, and so forth and so on; is that correct?

Mr. BROWN. I cannot answer that question yes or no, Senator. For example, another thing that the contracting parties considered at one of their earlier meetings, that is before the last one, was the use of quantitative restrictions for protective purposes.

As you recall, the agreement says, by and large, that you can use quantitative restrictions to protect your balance of payments, but it does not permit the use of quotas for straight protection purposes.

Now it was felt that some of that kind of use was growing up and

it was agreed that the contracting parties would be asked to submit to the group a description of their use of these quantitative restrictions.

Now in that sense, if the contracting parties asked for information from the different contracting parties to be used as a basis for discussions or as a basis for the kind of report which I have just submitted for the record, then they would get the information, but that would be a situation where the group meeting together decided that it would be helpful to them in minimizing the abuse of exceptions in the agreement, to get information as to how the countries are operating under it. But it would not be sort of a continuing function of the kind that the Bureau of Labor Statistics carries on or some other operation of that kind.

Senator MILLIKIN. Well, the reports that would result from an inquiry of that kind, I suggest, would probably be on the self-serving side, would they not?

Mr. BROWN. They might or might not.

I think you would have to assume that a country that is asked a question is going to give an honest reply.

Senator MILLIKIN. Let me come back to what I was starting to get at. Do the contracting parties, as such, have central knowledge available, we will say, to all of the members of how these exceptions in GATT are being used; as to whether they are being used, let us say, in good faith or whether unwarranted advantage of them is being taken?

Mr. BROWN. The accurate answer, I think to your question, Senator Millikin, is "No"; they have the information which is brought before them when a complaint is made and they have the information that they get when they think it will be helpful to work out a report like this or one that they had at the last session on the use of quantitative restrictions for protective purposes, when they need the factual information to base suggestions for better operation under the agreement. But they do not maintain a sort of a police check on how each country operates. They do not have any staff or any desire to do that kind of thing. Essentially their meetings are to deal with problems which arise.

Senator MILLIKIN. But I think you have answered it, except perhaps, this time I might not like the use of a word that you have given.

Mr. BROWN. Perhaps I could change it, sir.

Senator MILLIKIN. Call it a police organization or call it what you will, the contracting parties, as such, do not maintain a supervision over the use of the contracting parties separately——

Mr. BROWN. No, sir.

Senator MILLIKIN (continuing). As to exceptions.

Mr. BROWN. No, sir.

Senator MILLIKIN. Has the United States protested the use of the exceptions specifically? I am thinking about the use of the import licenses and export licenses and quotas, and bilateral agreements, and so forth; has the United States protested any of those in any instance?

Mr. BROWN. Yes and no, Senator, in this way: We have been concerned about, and have joined in criticism of, the use of certain devices, but we have not been the country which put it on the agenda. In other words, someone else raised the question and we have joined with

them in expressing our disapproval of what was done, and made a suggestion.

Senator MILLIKIN. We have not initiated any complaints against any contracting parties for the unwarranted use of the exceptions?

Mr. BROWN. Not in the meetings; no, sir. We have, of course——

Senator MILLIKIN. In any way?

Mr. BROWN. Oh, yes.

Senator MILLIKIN. In any way at all, formally, informally, by any method?

Mr. BROWN. There is one exception to that. We did raise objection to the imposition of some arbitrary customs regulations by Cuba against our textiles, which acted as an almost complete embargo of those imports.

Senator MILLIKIN. What were the mechanics of that protest?

Mr. BROWN. We tried to work it out with the Cubans, first, and did not get any success through the usual channels bilaterally, so we wrote to the Secretary and said, "Would you please put this item on the agenda? We would like to take it up," and we stated the criticism we had of what the Cuban regulations were doing, and we got a satisfactory solution of the matter.

Senator KERR. You got what?

Senator MILLIKIN. Was it put on the agenda?

Mr. BROWN. It was put on the agenda.

Senator MILLIKIN. Was it handled by the contracting parties, as such?

Mr. BROWN. Discussion began and then the Cubans withdrew the objectionable regulation.

Senator MILLIKIN. Is that the only instance that comes to your mind?

Mr. BROWN. That is the only one I can think of where we have taken action formally to put something on the agenda.

Senator MILLIKIN. Now informally what instance has come to your mind?

Mr. BROWN. Senator, I can only say that I would prefer not to name countries to whom we have protested, and with whom we have worked things out.

Senator MILLIKIN. Will you give us the number of them?

Mr. BROWN. Well, in varying degrees of importance, we have something on the fire almost every day with some country or other that is doing something that is causing difficulties for us.

Senator MILLIKIN. You have a record of that?

Mr. BROWN. Just as we have quite a number of visitors who come in to see us and are worried about things that we are doing.

Senator MILLIKIN. You have a record of the protests which you have made formally, informally, or otherwise?

Mr. BROWN. I could give you examples of the kind of thing that we have been discussing with other countries, Senator, if that would help you.

Senator MILLIKIN. Give us a few.

Mr. BROWN. Well, one country had proposed, or, as a matter of fact, this one was one that came on the agenda by somebody else, who put it on the agenda, of import restrictions which were suggested by South Africa which would have been very restrictive, and highly discrim-

inatory against the dollar area in a way that we did not think was justified, and we joined in that protest and, as a result of the discussion in the group, the South African Government greatly modified the restrictions which it had imposed, and eliminated the great bulk of the discriminatory features to which we objected.

Senator MILLIKIN. I take it that found reflection at the contracting parties' level?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Yes.

How many complaints are before the contracting parties at the present time?

Mr. BROWN. None.

Senator MILLIKIN. No complaints at all? I am having, in all of my questioning on this subject, particular reference to the abuse of, the alleged abuse of, import and export licenses, monetary controls, and other things, quotas, and so forth.

Mr. BROWN. At the last meeting of the contracting parties we and several other countries, Canada, Belgium, and Cuba, took the position formally that the improved dollar situation of a number of the British Commonwealth countries was such that they should start a relaxation of their import controls, felt that their gold and dollar position, both in terms of reserves and currently, had sufficiently improved so that although they could not eliminate them they could start to relax them.

Then, of course, the Korean situation changed the picture quite a bit.

Senator MILLIKIN. Did we not protest in one form or another, the British-Argentina bilateral agreement?

Mr. BROWN. Yes; we protested that on a purely bilateral basis. That was about 3 years ago.

Senator MILLIKIN. That did not get up to the contracting parties?

Mr. BROWN. No, sir.

Senator MILLIKIN. We failed in our protests?

Mr. BROWN. Yes. The agreement was entered into.

Senator MILLIKIN. Has Czechoslovakia protested our escape on fur felt hat?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Has that reached the contracting-party level?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. With that exception, I will ask you again what complaints are pending for the attention of the contracting parties?

Mr. BROWN. The answer is none, sir. The way they operate is that before the next meeting there will undoubtedly be complaints that will come up to go on the agenda. But, as of the moment, this Czech thing, which is a hangover from the last meeting, is the only one that is known.

Senator MILLIKIN. Would you say in very rough language that there are vast numbers of complaints regarding abuse of the exception privileges or very few?

Mr. BROWN. I would say it was a moderate number.

Senator KERR. Somewhere between a vast number and very few.

Mr. BROWN. Leaning on the low side.

Senator MILLIKIN. Who besides the United States, if we have protests of those abuses, to the extent that we protested them, who besides the United States has been protesting?

Mr. BROWN. Oh, at the last meeting the protests that were made came from—let me see—I think there were four of them: One from Belgium, one from Holland, one from Chile, and one from France.

Senator MILLIKIN. What were they protesting?

Mr. BROWN. The Belgians and the Dutch were protesting against the use of some British—well, I am sorry, the Belgians were protesting against the——

Senator MILLIKIN. British bulk charges?

Mr. BROWN. No, sir; about the British quota on one or two of their major exports which they said did not conform to this report as to what the proper use of these restrictions was, and the British agreed to change it.

The Dutch protest was because the British purchase tax——

Senator KERR. The what?

Mr. BROWN. The British purchase tax, which is a very heavy tax ranging from one-third to 100 percent——

Senator KERR. You mean by purchase tax that which is the same as the tariff?

Mr. BROWN. It is the same as a sales tax, Senator Kerr. If you buy an automobile in Britain, I think you have to pay 100 percent or 60 percent purchase tax on the purchase of the car.

Senator KERR. The protest then was for the purchase of stuff bought from Britain rather than sold to Britain?

Mr. BROWN. No, sir; the purchase tax in Britain exempted what they call utility goods; that is, standard furniture and clothes, and things that the bulk of the people of low-income groups use. But before Torquay that exemption did not apply to imported goods of the same general characteristics, so the Dutch said to the British, "Under the agreement you have agreed that imports will get the same treatment as your domestic product insofar as domestic taxes are concerned. It is the principle of domestic treatment in national taxation, but you have an exemption from the purchase tax for your utility goods, but not for imported utility goods."

The British agreed that this point was well taken, and have undertaken to correct that situation. That is the kind of thing.

Senator MILLIKIN. You mentioned a couple of countries that you——

Mr. BROWN. The French protest was a protest against some Brazilian taxes which applied to imports and not to the domestic product, and again violated this rule of national treatment of internal taxes, and the Brazilians agreed to correct that; and the Chilean protest was against some Australian activity in connection with subsidies on ammonium sulfate which competes with nitrate, and they worked out a solution, which was satisfactory.

Senator MILLIKIN. What was the need for the Torquay Conference?

Mr. BROWN. It was felt that it would be desirable to have some further tariff negotiations, and see if we could not get some further reductions, and to bring some additional countries which had not previously negotiated for many years into the general agreement.

Senator MILLIKIN. What, Mr. Brown, are the additional countries sought to be brought within the organization at Torquay?

Mr. BROWN. The countries that I named, Senator Millikin, Austria, Western Germany, Korea, Peru, the Philippines, and Turkey.

Senator MILLIKIN. What percentage of the world's trade have they?

Mr. BROWN. I could not say offhand.

Senator MILLIKIN. Would you say as much as 5 percent?

Mr. BROWN. It would be in that neighborhood, perhaps a little less.

Senator MILLIKIN. Will you supply that for the record?

(The information referred to appears in subsequent testimony.)

Mr. BROWN. Yes, sir.

Senator MILLIKIN. The main purpose then of the meeting was to work out new concessions?

Mr. BROWN. There were two meetings at Torquay. There was a tariff negotiation meeting, which is still going on, and there was a session of the contracting parties which took place just before Christmas.

Senator MILLIKIN. Well, let us take them one at a time.

Mr. BROWN. But I think if you speak of Torquay it essentially means the tariff negotiation.

Senator MILLIKIN. Yes. The tariff concession meeting is still going on?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Has the general meeting of the contracting parties ended?

Mr. BROWN. Yes, sir; that ended before Christmas.

Senator MILLIKIN. Did that bring about any new amendments of any kind?

Mr. BROWN. It amended the one date that I spoke of in my earlier testimony.

Senator MILLIKIN. That was all?

Mr. BROWN. Not in the form of an amendment, but in the form of a waiver resolution that they would all agree that that date should be extended. It was not a formal amendment in the technical legal sense.

Senator MILLIKIN. That was worked out by all of the contracting parties?

Mr. BROWN. So far as the text of the agreement is concerned, yes, sir.

Senator MILLIKIN. Was anything discussed with reference to the ITO?

Mr. BROWN. I made the announcement to the contracting parties that we were not going to submit the ITO; no, sir.

Senator MILLIKIN. Did the meeting fly to pieces after that?

Mr. BROWN. No, sir; it continued.

Senator MILLIKIN. How far along are you on your concession bargaining?

Mr. BROWN. I think it is approaching a close.

Senator MILLIKIN. Within what period of time do you anticipate or estimate——

Mr. BROWN. Before the end of April.

Senator MILLIKIN. The end of April? Close to the end of April or the middle of April, or what?

Mr. BROWN. I should think around the 20th.

Senator MILLIKIN. The 20th.

Tell us about how this bargaining is now conducted. Is it still on a—preliminarily is it still on a—bipartisan, bilateral basis and, I hope, a bipartisan basis?

Mr. BROWN. I like that word very much.

Senator KERR. You may answer the questions separately.

Mr. BROWN. Essentially, the bargaining is done in precisely the same manner that I described for an individual agreement; that we look at our trade with the particular countries; we have a negotiating team that sits down and discusses the matter with that country, and we try to work out a satisfactory arrangement with that country and that, of course, we do have in mind the interests that we might have indirectly in concessions on products which we might be a secondary or a minor supplier in the course of other negotiations; but the great bulk of the interest is in the negotiations with the individual countries. Then you put them all together.

Senator MILLIKIN. Country X negotiates with country Y in this process to which you refer?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And they agree on their concessions as between themselves?

Mr. BROWN. Yes.

Senator MILLIKIN. Does that take any kind of—does that take anything in the nature of a formal statement or are those agreements initialed or how do they finally take on the multilateral phase?

Mr. BROWN. Well, I expect they are initialed. I mean, you agree at the end of each day's discussion, if you have agreed, or you do not agree.

Senator MILLIKIN. Well, finally country X and country Y have completed their negotiations. How do they evidence that?

Mr. BROWN. I suppose it is on a piece of paper with initials on it.

Senator MILLIKIN. Then I assume as the different combinations of countries conclude their work, that is all funneled into someone centrally who finally brings them all together; is that correct?

Mr. BROWN. The way we work it, the mechanics of it, are done by the secretariat that are servicing the meeting. What we would do, just as one country, would be when we have reached agreement with all the countries that we are negotiating with or know that we will not reach agreement with a particular country, in other words, when we are through the job we simply take the different things that we have agreed and put them all together in one schedule.

Senator MILLIKIN. Yes.

Mr. BROWN. And fit all the pieces in together.

Senator MILLIKIN. Do those have the status of bilateral agreements, existing within the framework, as our States have their own position——

Mr. BROWN. No, sir.

Senator MILLIKIN (continuing). Their own position within all of the States or does it all become merged in the multilateral agreement?

Mr. BROWN. Legally there is one multilateral agreement.

Senator MILLIKIN. One agreement that covers the whole thing?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. So that each country is interested in every concession that is in the entire combined list; is that correct?

Mr. BROWN. Strictly, legally speaking; yes, sir.

Senator MILLIKIN. What is the exact language—the reason I ask this question is I do not find it in any of the material that is supplied to us—what is the exact language preceding the annex having to do with the schedules? What does it say?

Mr. BROWN. It is article II, Senator Millikin. It says that "each contracting party shall accord to the commerce of the other contracting parties treatment no less favorable than that provided for in the appropriate part of the schedule."

Senator MILLIKIN. I mean, is that the language which is put at the head of the annexes, as we make them? What is the introductory language? I am trying to get at the legal effect of it.

Mr. BROWN. It is in article 2. The commitment with respect to it is in article 2. The schedule identifies the rates and the products.

Senator MILLIKIN. Are they identified as multilateral agreements, or are they——

Mr. BROWN. No, sir.

Senator MILLIKIN (continuing). Identified as a series of bilateral agreements reached between various negotiating teams?

Mr. BROWN. No, sir; they are identified as one single schedule of concessions that each country will maintain so far as all the others are concerned. You have your commitment in article II to maintain the treatment provided for in the schedules, and then you have a set of schedules for each country, and our schedule is one single schedule.

Senator MILLIKIN. Now, in the event of the failure of GATT would those separate schedules to which you refer have their own power to bind the countries?

Mr. BROWN. No, sir. If GATT failed, if we withdrew from GATT, then the whole thing, the whole schedule, would be withdrawn.

Senator MILLIKIN. Yes.

Mr. BROWN. Every one——

Senator MILLIKIN. And you would go back to the situation at Annecy, whatever that was?

Senator KERR. Before Geneva.

Mr. BROWN. You would go back to the situation before Geneva.

Senator MILLIKIN. Before Geneva?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You would not go back to Annecy?

Mr. BROWN. No, sir.

Senator MILLIKIN. Would not Annecy continue to have life?

Mr. BROWN. No, sir. There is one general agreement, and the schedules change in the course of these negotiations.

Senator KERR. And the parties may change.

Mr. BROWN. And the parties may have changed.

Senator KERR. May have changed so that others dropped out and others added.

Mr. BROWN. That is right.

Senator MILLIKIN. So if Torquay did not exist then you would go back to the agreement prior to Geneva.

Mr. BROWN. I see what you are driving at.

Senator MILLIKIN. Yes.

Mr. BROWN. If Torquay should not be concluded, that is, if no agreement should be reached at Torquay, no new schedules, no new countries, presumably you would remain in the status quo before Torquay, namely, the Annecy situation.

Senator MILLIKIN. That seemed very clear to me.

Mr. BROWN. I am sorry; I thought that what you were asking me was if GATT should fail and be terminated, then you would go back, as Senator Kerr pointed out, to your pre-Geneva situation.

Senator MILLIKIN. I am interested solely in Torquay.

Mr. BROWN. I see.

Senator MILLIKIN. If that should fail, then you go back to Annecy.

Mr. BROWN. Yes, sir. It would be as though nothing had happened.

Senator MILLIKIN. Yes. And if nothing happened, Annecy and the GATT agreement would continue under their own terms for whatever extension the parties aimed to give it, is that correct?

Mr. BROWN. Yes, sir.

Senator MARTIN. Mr. Chairman, I wished to place a statement in the record. This is a statement from the president and the secretary-treasurer of Lace Accessory and Finishers' Union of Wilkes-Barre, Pa., which is affiliated with the American Federation of Labor, in which they state that they are only working 4 days a week for the last year in one of their plants, and one of the plants is entirely down, and they would like to make this statement.

I would ask the privilege now of submitting this statement without their being present and reading it.

The CHAIRMAN. You may put it in and it will follow Mr. Brown's statement.

(The prepared statement referred to follows:)

STATEMENT FROM LACE ACCESSORY AND FINISHERS' UNION, NO. 15393, AMERICAN FEDERATION OF LABOR, WILKES-BARRE, PA.

The officers and members of this union, representing over 600 employees of the Nottingham lace-curtain industry, appeal to your committee to recommend amendments to H. R. 1612, which will prevent the destruction of our jobs and livelihood by the present method of administering the reciprocity provisions of the Tariff Act of 1930.

Complete, detailed statements covering the operation of the manufacturing plants of this industry, located in Pennsylvania, New York, and Illinois, have been furnished the Committee of Reciprocity Information, for the past several years, by the National Association of Lace Curtain Manufacturers, Inc., through Mr. Charles A. Turner, president. The manner in which cheap, imported goods have been, and still are destroying the American lace-curtain industry has been made very clear by the elaborate briefs furnished to the administration at Washington by President Turner.

This union, under date of March 23, 1938, with the cooperation of the research department of the American Federation of Labor, addressed a strong appeal to the Committee for Reciprocity Information, in behalf of our members. We stated, at that time:

"* * * The American Federation of Labor and its affiliated unions does not believe that it is the intent and purpose of the United States Government to jeopardize the labor standards built up over a long period of years by this group of skilled, industrious craftsmen. The only protection to the wage earners in the Nottingham lace-curtain industry is an adequate tariff which effectively prevents the importation of the cheaper product from abroad."

We regret that the confidence we expressed at that time in the governmental officials making the tariff decisions, was misplaced. Ignoring the evidence submitted by the Manufacturers' Association, and the appeals by the American Federation of Labor and the other unions of employees in the industry, two additional reductions of 10 percent each, have been made in the tariff on foreign-made lace curtains machine products, with another hidden tariff reduction added through the devaluation of the British and other foreign currencies.

The employment conditions in the industry have become so destructive in recent years, due to this favoritism granted the cheap imported goods, that the manufacturers stated to the Committee of Reciprocity Information, in a brief filed last year, which was suported by an affidavit, that:

"The points made herein, and the facts shown in our more comprehensive brief of December 1949, we feel show conclusively that if we are allowed to survive and to supply employment to American workers who are totally dependent on our industry, no further reductions can safely be made in our existing rate of duty."

Regardless of the obstacles placed before the employers by the favoritism shown to cheap imported goods by our officials in control of the trade-agreements program, the wage rates and working conditions under which the lace-curtain mills are operated constitute some of the best in the American textile industry. These wage rates and working conditions, established through collective bargaining between the employers and the various unions of employees, cannot be maintained if the importation of cheap foreign products is continued. This favoritism to imported lace curtain machine products is actually exporting our jobs to the foreign countries.

Seven of the remaining 10 mills in the Nottingham lace-curtain industry are located in Pennsylvania, 2 are in New York and 1 in Illinois. Here, in Wilkes-Barre, one additional plant was closed last July and there are no indications, at present, that it will reopen.

The mill of the Wilkes-Barre Lace Manufacturing Co., employing our members, has been operating on a 4-day per week schedule since November 1949. Even on this part time schedule, not all of the employees have been able to work the 4 days per week. Also, in order to create some work for the employees, the company has accumulated an inventory of finished goods at a value of over $1,000,000. This will have to be disposed of at a loss unless some protection and consideration is given this industry by our Government. The conditions facing the management and employees of this Wilkes-Barre company is general throughout the industry.

Our members, and their families, represent a group who are trying to be real Americans. They are a credit to this community. We have always given full cooperation to our Government. Several of our members gave their lives in action in World War I, and we also lost seven more in the same manner in World War II. Many of our members have worked for years in the lace-curtain industry and there is no future for them if the industry is destroyed.

Approximately 300 of our former members had their jobs abolished last year when one plant in the city closed down. Is it fair to American wage earners, who have always tried to support their country and Government, to have their jobs destroyed by such an unfair and ill-named reciprocity trades-agreement policy?

Our parent organization, the American Federation of Labor, in the annual convention held at Houston, Tex., September 18 to 23, 1950, took a definite stand in defense of its members who were being injured by the importation of cheap products. A report of the resolutions committee, upon this subject matter, adopted unanimously by the convention reads, in part, as follows:

"The reciprocal trade-agreements program offers a method toward freeing of international trade from restrictive barriers. However, in some instances the duty reductions already made have reached the point where further reductions would endanger the employment in particular industries exposed to competition from abroad.

"In support of the trade-agreements program, we recognize the need of safeguarding American labor in some industries, especially where wages are a relative heavy factor in the cost of production against competition that threatens to undermine our labor standards."

If our industry is to be spared complete destruction, there must be no further reductions in tariff upon the products of the foreign lace-curtain industry. Also, some action must be taken to protect the industry from the effects of the devaluation of foreign currency. The peril-point and escape clause amendments to H. R. 1612, approved by the House of Representatives on February 7, 1951, can be of great assistance in preventing unfair reductions in tariff, if enacted in law, and given fair and American interpretation by the administration at Washington.

However, charges have been made, and not denied by the Federal Government, that no consideration is being given to the effect of foreign currency devaluation in the adjustment of the American tariff rates at the Trade Agreement Conference now in progress at Torquay, England.

The foreign governments, which have devalued their currencies, can use this change in the value of their currency to the same advantage as a tariff reduction of relative value, unless some action is taken by our Congress to protect American industry and the American wage earners from such foreign currency adjustments.

We respectfully bring these facts to the attention of the members of your committee, trusting you will understand we are desperately fighting to retain the jobs upon which depend the welfare, health and the very lives of the employees of the Nottingham lace-curtain industry and of the members of their families.

Respectfully submitted for Lace Accessory and Finishers Union, No. 15393, American Federation of Labor, Wilkes-Barre, Pa.

FRANCES ANDREWS,
President.
FRANK J. CURRAN,
Secretary-Treasurer.

MARCH 16, 1951.

Senator KERR. We have a letter here from the Department of the Interior with reference to the proposed legislation which I will ask be incorporated in the record at this point.

The CHAIRMAN. Without objection, it may be incorporated; but I suggest it be incorporated preceding Mr. Brown's testimony.

(The letter referred to appears at p. 1019.)

The CHAIRMAN. We will take a recess until 2:30, Mr. Brown.

(Whereupon, at 12:05 p. m., the committee adjourned, to reconvene at 2:30 p. m., this same day.)

AFTERNOON SESSION

Senator KERR. We will proceed.

FURTHER STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE—RESUMED

Senator MILLIKIN. Mr. Brown, this morning there was some discussion on the question of the authority of GATT in these trade agreements. I made a reference to statements of Secretary Acheson in response to some questions of mine, and I am quoting from the transcript of the hearings on Thursday, February 22, 1951:

Senator MILLIKIN. May I ask, Mr. Secretary, whether it is the position of the State Department that the Congress, if there should be a conflict with this provisional arrangement, whether there is a challenge of the power of Congress to deal with the same subject?

Secretary ACHESON. There is no challenge to the power.

Senator MILLIKIN. There is no question as to the power of that?

Secretary ACHESON. No, sir.

Senator MILLIKIN. Congress has a constitutional power to control as it sees fit this subject of tariffs?

Secretary ACHESON. That is right.

Senator MILLIKIN. And that proposition is not challenged anywhere along the line?

Secretary ACHESON. No.

Senator MILLIKIN. Is there any contention that there is executive power to deal with the same subjects?

Secretary ACHESON. No. If the Congress legislates, that is controlling.

Senator MILLIKIN. So that we may assume, in considering these various amendments, that there is no contention that we do not have the power to deal with them?

Secretary ACHESON. That is correct, Senator.

Senator MILLIKIN. Passing the question of policy?

Secretary ACHESON. Yes, sir.

May I ask whether you have any disagreement with that, Mr. Brown?

Mr. BROWN. No, sir. We have no disagreement with the fact that the Congress has the power to legislate in these matters.

Senator KERR. I wonder if in that regard your attitude would be that such negotiations as have taken place have been in accordance with authorization by the Congress?

Mr. BROWN. That would be our contention, Mr. Chairman.

Senator KERR. That nothing has been done except that which has been authorized by the Congress?

Mr. BROWN. There are two ways in which the President has authority to deal with these problems. One of them is by express delegation from the Congress, and the other is that he has the general responsibility for the conduct of our foreign affairs. We have submitted a legal memorandum which gives the legal basis for the authority of the President to deal in these matters. Obviously we do not challenge—we could not challenge the power of Congress to legislate with respect to them.

Senator MILLIKIN. Have you finished, Senator?

Senator KERR. Yes.

Senator MILLIKIN. I invite your attention to the hearings of February 1949, part 1 of the record, page 6, where I am questioning Mr. Thorp:

Senator MILLIKIN. Mr. Thorp, you, of course, appreciate that this whole subject matter is within the direct, primary, expressed constitutional power of the Congress.

Mr. THORP. Yes; I do.

Senator MILLIKIN. That whatever power the President has results from our delegation of that power to him.

Mr. THORP. That is correct.

Senator MILLIKIN. Therefore, he is our delegate in this matter. Correct?

Mr. THORP. That is my understanding of the legal situation.

Mr. BROWN. I think, Senator, there is no difference of opinion between us on this point with respect to tariff rates. That is, the President has no authority other than that specifically given to him by the Congress. With respect to the power to enter into agreements affecting our trade, then he has some powers under his general constitutional authorities. On the matter of the tariff rates Congress has the exclusive jurisdiction.

Senator MILLIKIN. Outside of the authority of the Reciprocal Trade Act?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. So far as the proper construction and interpretation of the Reciprocal Trade Act is concerned he at that point is merely the delegate, or the agent, or the enforcing officer of Congress. Is that correct?

Mr. BROWN. Yes.

Senator MILLIKIN. He cannot add to or subtract from anything that is contained in the Reciprocal Trade Agreements Act.

Mr. BROWN. No, sir.

Senator MILLIKIN. The business of making Executive agreements flows from his power to run the international affairs of the country. Is that correct?

Mr. BOWN. Yes, sir.

Senator MILLIKIN. And there, when he comes within the direct express constitutional authority of the Congress, No. 1, he is supposed to comply with that authority when it has expressed itself; No. 2, whatever he does in that field is subject to later action by the Congress. Is that correct?

Mr. BROWN. Yes, sir.

Senator KERR. Let me ask a question right there, if I may.

Do I understand that answer to mean that you take the position that Congress, having given him the authority to do a certain thing, and he having done it, that then Congress would have the right by legislative enactment to undo that which he had done by reason of the congressional authority?

Mr. BROWN. Yes, sir. As a matter of constitutional power, the Congress would have the authority to legislate in a way that is contrary to an agreement which had been made by the President in full compliance with a delegated power.

Senator KERR. I am fully aware they would have the right to withdraw the authority at any time that they desire to do so, and did exercise their right to do so. Do you think in withdrawing the authority that they could on a unilateral basis nullify that which had been done by him on a bilateral basis, but in accordance with express authority given him by the Congress?

Mr. BROWN. As a matter of constitutional power, they could do that. The Congress would then be taking an action which would violate an agreement which it had authorized its agent, the President, to make.

Senator KERR. You think they do have the authority to do that?

Mr. BROWN. They would have the power to do so. Yes, sir. But, as to the policy, that would be, of course, something they would be reluctant to do.

Senator KERR. You think then the contract which had been made by him under authority from the Congress would be subject to nullification by subsequent act of the Congress?

Mr. BROWN. I think the Congress has the power to legislate in any manner that it sees fit, and if it authorizes an agreement and then—in fact, Congress could, if it so desired, pass legislation which would be inconsistent with a treaty which it had itself approved, if it changed its mind. That is a matter of the actual power of the Congress.

Senator KERR. That is a matter for them to determine how to use it?

Mr. BROWN. Yes, sir.

Senator KERR. All right.

Senator MILLIKIN. The Congress could do it, and the Congress could determine the policy?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. This morning in talking to you about Torquay I got the impression that the contracting parties, as such, have finished their work at Torquay. Did I get the right impression of your testimony?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And you, I believe, said that there had been some action or some talk about changing one date. Am I correct in what I said?

Mr. BROWN. Yes, sir. That is correct. Of course, the contracting parties are all there at Torquay engaged in the tariff negotiations and any related procedural and administrative problems.

Senator KERR. Have they completed their negotiations?

Mr. BROWN. No, sir. They have not completed their negotiations.

Senator KERR. That is the way I understood it.

Senator MILLIKIN. The impression I got was that they had completed their negotiations as contracting parties on general subjects, I take it, such as the content of GATT. Is that correct?

Mr. BROWN. They have completed their business other than the matter of tariff negotiations—rate negotiations.

Senator MILLIKIN. Then are they acting as contracting parties in conduct of the tariff negotiations?

Mr. BROWN. No, sir.

Senator MILLIKIN. I thought you were trying to draw a distinction.

Mr. BROWN. They are acting as individual countries.

Senator MILLIKIN. That is negotiating teams—two countries negotiating with each other in this phase of the tariff concession part of the business.

Mr. BROWN. They act as contracting parties as a group in the respect that they decide what the duration of the meeting should be, and what kind of general rules of procedure should be followed, and all the mechanics that go with the meeting in order to keep all the negotiations operating in an orderly manner; but, as far as the matter of what rates might be involved, that is entirely a matter for the negotiation of the individual countries concerned.

Senator MILLIKIN. So that even though the contracting parties as such, let us say, have performed a part of the business, as such, they are always—theoretically, at least—the contracting parties, as such, are always present, even though these negotiations are proceeding bilaterally. Is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And after the negotiations of the bilateral agreements have been finished, then it will require some kind of action by the contracting parties as such to multilateralize them. Is that correct?

Mr. BROWN. No. The action which is necessary to multilateralize them—that is a difficult word. The way in which it becomes multilateralized, Senator Millikin, is that the document, as the result of the negotiations, is signed by the individual countries.

Senator KERR. It becomes multilateral automatically, does it not?

Mr. BROWN. And they assume all the obligations by signing the contract.

Senator KERR. Does it not become multilateral automatically? When two of the nations negotiate an agreement, the provisions that are in that become available to all of the other nations automatically, do they not, under the most-favored-nation clause?

Mr. BROWN. No; they do not, Senator Kerr.

Senator KERR. That bilateral agreement between this country and one other does not then have to be approved by a group in order to become effective, or does it?

Mr. BROWN. Perhaps I could explain the process, and the answer might be a little more clear.

Senator KERR. You do explain it, and then I understand it, and then we come in from another tack and I get lost. I cannot tell whether that is my fault or the fault of the question; but, in any event, I am just trying to keep abreast of you as you explain it.

Senator MILLIKIN. The end point I have in mind is very important and one way or another I want to get this thing buttoned down and as clear as a bell, as to the relation of the bilateral phase of this to

the multilateral phase of it, and how the bilateral phase becomes multilateral, if it does.

Senator KERR. I think that is a very interesting question, and I would be delighted to have the answer to it.

Mr. BROWN. I will try my best. I think your difficulty, Senator Kerr, is the inherent complexity of the subject.

Senator KERR. There is one other alternative, you know. Sometimes the difficulty arises by reason of either the inherent or acquired complexity of the subject; and another alternative is the lack of that with which to comprehend or understand, although it is not so complex either inherently or otherwise. But, you be as lucid as possible, and I will be as adaptable as possible, and thereby we may do good.

Mr. BROWN. What happens is this: Take our own case, to simplify it. We negotiate, let us say, with 10 other countries.

Senator KERR. Would that be a bilateral agreement?

Mr. BROWN. We sit down with the British, and we negotiate, and we sit down in another room with the French and negotiate.

Senator KERR. The question, as I understood Senator Millikin, was to ask you how a bilateral agreement became multilateral. If I am wrong in believing a bilateral agreement is one between two countries, why, correct me; and if I am not, then exemplify on that basis.

Mr. BROWN. I have got to take this thing step by step, Senator, to make myself clear.

Senator KERR. All right. Will you answer that question? Does a bilateral agreement contemplate the possibility that there may be more than two countries agreeing on it?

Mr. BROWN. No, sir. If you just had a bilateral agreement with one other country, what would happen would be that you had an agreement with the British, let us say, and the only contractual obligation you have is to the British, and they have a contractual obligation to you, and nobody else can claim the benefit of that contract.

Senator KERR. As I understood the question, that having been done, then how does it become a multilateral agreement, if it does? Is that it?

Senator MILLIKIN. Yes.

Mr. BROWN. That is what I was coming to. Take just the simple case of the bilateral agreement, and forget everything else for the moment. It has been our policy as a matter of our own free will that when we make an agreement on tariffs with one country we generalize the benefits—the rates which are in that agreement—to all countries. That is stated in the statute as being a requirement of the law.

Senator KERR. Any concession you give to the British becomes a general one which is available to all?

Mr. BROWN. That is correct. We have only one tariff rate on each article.

Senator KERR. That is what I thought a moment ago when I asked you if it did not automatically become multilateral.

Mr. BROWN. But as a matter of free will, Mr. Chairman, and not as a matter of contractual obligation. That is, the French could not come in and say, "We have a right to the tariff rate you gave to the British."

Senator KERR. What is the difference whether they get it as a right or as our free will offer?

Mr. BROWN. There is no practical difference unless you got in a dispute. In other words, if we should for example, cancel our agreement with the British, and the tariff rates went back up again, nobody else could complain, because our only contract is with the British. That was the old system. Now, what happens in the GATT is that you negotiate with several countries, and then you add the result of those negotiations up and put them into one agreement, and when you and the other countries have signed, then that agreement is a contract between you and all of the other countries. So that what you do is put sort of little bricks of bilateral agreements into this structure of a many-country agreement.

Senator MILLIKIN. It becomes that structure at the signing of all the parties?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And they sign at that point as contracting parties?

Mr. BROWN. No, sir. As individual countries. There is no group action.

Senator MILLIKIN. Individually then they are approving a series of bilateral agreements?

Mr. BROWN. Individually they are approving one agreement which was built up by a series of bilateral agreements.

Senator KERR. And which is capable of being separated into bilateral agreements?

Mr. BROWN. Yes. When China withdrew, we took out the Chinese segment of the agreement.

Senator KERR. But you still had the obligation to the others with whom you had signed?

Mr. BROWN. Yes, sir.

Senator KERR. Now, as I understood the Senator's question and the answer that he sought, and the one which I seek also in this regard, it is this: What is done to that agreement in general conference, if anything, or what is the significance of that agreement in the general conference, if anything. Is that one answer you sought, Senator Millikin?

Senator MILLIKIN. Yes.

Mr. BROWN. I thought that what Senator Millikin was driving at is whether there is any group action; that is, action of the capital letters CONTRACTING PARTIES, which is required to give this agreement a multilateral significance.

Senator MILLIKIN. This capital-letters business is of great importance, Senator. The contracting parties spelled with regular or uniform type letters means less than when it is spelled using—I think we used to call them capital nouns. When they are made in caps, or made in the form of capital nouns, that means the collective action of the CONTRACTING PARTIES as such. Is that not correct, Mr. Brown?

Mr. BROWN. The contracting parties in the ordinary type is just the individual countries. It is the legal term for describing them. When they are capitals it is the group acting as such. But there is no group action required. You simply sign it or do not sign it, depending on whether you are satisfied with it.

Senator KERR. Then that agreement does not have to be ratified by the group to be effective?

Mr. BROWN. No, sir. For example, you have 38 countries at Torquay, and you could come out with an agreement with 30 of them.

Senator KERR. Or with one of them, theoretically.

Mr. BROWN. Theoretically with one of them; yes, sir.

Senator KERR. And such agreement or agreements as you come out with, either with one or more as individuals, neither needs ratification by the group to be effective, nor of itself bestows any rights on any others of the group by reason of having been made between the several individuals. Is that right?

Mr. BROWN. It bestows rights only as between the countries that sign it and accept it.

Senator KERR. Then would the answer to the question be "No"?

Mr. BROWN. I think the first part of your question was entirely accurate. I am not sure of the second part.

Senator KERR. I do not know how you can describe the question as accurate.

Mr. BROWN. Well, you stated it as, Isn't it true that such and such is so? The first part is accurate.

Senator KERR. Then I will ask them separately. Is it correct to say that these agreements, when made either between us and one other country, or between us and any number of other countries, needs no ratification by a group, or any others than those who sign them, in order to be effective?

Mr. BROWN. That is correct.

Senator KERR. The next question is this: Do any other countries or any group of countries individually or collectively acquire any rights solely by reason of the fact that we have given rights or received rights from one or more countries individually in these agreements?

Mr. BROWN. Only in one respect, and that is the application of this most-favored-nation commitment. For example, there are some countries with which——

Senator KERR. Then would you say only those countries who have unilateral or bilateral agreements with us will be the beneficiaries of a most-favored-nation principle?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. That is by virtue of a most-favored-nation principle in GATT that makes it possible to include a bilateral agreement which will become effective as to all, because they have all signed GATT?

Mr. BROWN. Yes, sir. You might have a most-favored-nation with other countries. You might have a country, for example, like Costa Rica, which is not a party to GATT, but with which we have a trade agreement.

Senator MILLIKIN. That would be by virtue of the terms of that separate agreement. Is that right?

Mr. BROWN. Yes, what I mean is, if we make some tariff concessions at Torquay the countries which we are not actually negotiating now would get the benefit of those concessions.

Senator KERR. If we had a most-favored-nation clause contract with them.

Mr. BROWN. That is correct.

Senator KERR. Is there any nation negotiating at Torquay with whom we do not have an agreement with the most-favored-nation clause as a part of it?

Mr. BROWN. I think so. Could I just check on that?

Senator KERR. Yes. Check on that.

Mr. BROWN. Germany and Korea.

Senator KERR. They are the only two at Torquay with whom we do not have trade agreements, that have as a part of them a most-favored-nation clause?

Mr. BROWN. Or a commercial treaty, or some other commitment of that kind.

Senator KERR. A while ago I asked you if, when we made an agreement with any of the countries at Torquay with whom we were negotiating, the benefits of that agreement insofar as our concessions to the other party were concerned, did not become available automatically to all other countries at Torquay, and you said that they did not. I take it now that practically they do, except with reference to Korea and West Germany.

Mr. BROWN. I did not mean to say, Senator Kerr, that they would not become available to all other countries at Torquay. What I was trying to explain was the most-favored-nation clause in our law operates as distinguished from the most-favored-nation agreement with another country. The statement is if we give tariff concessions to any country at Torquay, those tariff concessions will be extended as a matter of contract to all the other parties at Torquay who sign the agreement.

Senator KERR. Except Korea and West Germany.

Mr. BROWN. No, sir. Those are the countries with which we do not have most-favored-nation agreements. If they come into the general agreement at Torquay, we will then have a most-favored-nation agreement with them.

Senator KERR. Then as a matter of fact, and as a matter of practical operation, the answer to that question I asked a while ago would be simply "Yes"?

Mr. BROWN. Yes, sir. They all get it.

Senator KERR. Now let me ask you this question: Is that identity commonly referred to in these hearings as GATT a creature or an identity which exists by reason of the terms of the contract or contracts, or by reason of the operations of contracts? It may be if there is a distinction it is one without a difference, but I still would like to know.

Mr. BROWN. The GATT is a contract. The General Agreement on Tariffs and Trade is a contract between a large number of countries.

Senator KERR. Entered into and formalized at Geneva?

Mr. BROWN. Yes, sir.

Senator KERR. In 1947?

Mr. BROWN. That is correct. And in that agreement, since it is an agreement between a considerable number of countries, there is provision for the parties to the agreement to meet and to deal with problems that come up under it in its administration and in its interpretation. When they do that——

Senator KERR. As a matter of practical operation, Mr. Brown, I would like to know this: I find in the reading of this act authority or reference to contracts with that nation having the greatest interest

in the matter which is the subject of the contract. For all practical purposes, the operation of the GATT agreement and its subsequent agreements is such as actually to nullify that, is it not?

Mr. BROWN. I think you are referring to the principal-supplier rule, as we commonly term it?

Senator KERR. Yes.

Mr. BROWN. No, sir. It does not nullify it.

Senator KERR. Then let me ask you this right there, because, as I see it, it does. Try to get it so that either I am informed or you are.

We make an agreement with England on cutlery, let us say, on the basis that they are the principal supplier. The concessions which we make in that agreement are immediately available to all members of GATT, are they not?

Mr. BROWN. Yes, sir; and they would be under our policy and under our law even without the GATT.

Senator KERR. But even so, the concessions that we make are available to all?

Mr. BROWN. Yes.

Senator MILLIKIN. Senator, I hate to interrupt you, but the act of 1930, which still controls—and I do not believe it has been superseded in this respect—requires that whenever we make an agreement, or whenever we make a concession, it shall automatically become available to every country in the world, whether or not it is in GATT. Is that correct?

Mr. BROWN. That is correct, sir; and that is why we used the principal-supplier rule, so that we give our concessions to the country with which we have the biggest bargaining power.

Senator KERR. I think the Senator is talking about the original source of the law. I did not know exactly where it was, but I was under the impression it was.

Senator MILLIKIN. GATT restricts itself to the members of GATT, but we have a basis underlying the responsibility to let in the imports from everywhere once we make a concession to anyone.

Senator KERR. To the principal supplier.

Senator MILLIKIN. No. The principal-supplier business is a method of procedure. It has been developed in the testimony that sometimes we have made deals with nations that might not have been the principal suppliers; but so far as GATT is concerned, GATT limits the universality of GATT, or the most-favored-nation rule of GATT, to member nations of GATT. But, so far as that is concerned, we apply the most-favored-nation rule to every country. Once we make the concession, they all have the benefit of it. Is that correct?

Mr. BROWN. That is correct.

Senator KERR. At that point let me say this: We make a concession to the nation which is the principal supplier of any product. That concession then is available to any other country, either in or out of GATT, apparently. What is to keep some other nation from becoming the principal supplier either by reason of that one which was the principal supplier finding something better to do or being eliminated by competition from somebody else?

Mr. BROWN. That sometimes happens.

Senator KERR. Then there is nothing to keep it from him, so far as the application of the program is concerned.

Mr. BROWN. No, sir. That sometimes happens; but at the same time we get from the other countries a commitment to treat us in the same way, so that we get the benefits of the concessions, for example, that France might give to Britain. The benefit would come to us also, and if we can out-compete the British in the French market and become the principal supplier, then we get the whole benefit of it.

Senator KERR. Of course, that has some academic interest, but it seems to me the practical interest is whether or not we will be able to continue to out-compete others in this market.

Mr. BROWN. That we take care of in the degree of the concessions, if any, which we give. But, obviously, when we make a recommendation to the President as to whether we should give a concession on cutlery, then what we consider is what is going to be the total impact of the total foreign importation. We do not just look at what is likely to come, let us say, from Britain.

Senator KERR. What part of the imports, Mr. Brown, that come into this country, on which a duty is paid, are shipped in here by Americans operating abroad?

Mr. BROWN. That would vary very widely with the different products. I could not give you an estimate.

Senator KERR. Over-all.

Mr. BROWN. In some cases it is very important.

Senator KERR. But you would not be in a position to give us a rough estimate?

Mr. BROWN. No, sir. It would not be worth anything.

Senator KERR. It would not be as much as 25 percent?

Mr. BROWN. I should not think so.

Senator MILLIKIN. I think we have a good clarification here of the public agreements. Who called the Torquay Conference?

Mr. BROWN. All the contracting parties agreed to hold it. I do not think anybody called it.

Senator MILLIKIN. You mean at the preceding Annecy meeting?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And presumably before you finish Torquay; if you finish Torquay, they will set some future time for another similar conference?

Mr. BROWN. I should very much doubt it.

Senator MILLIKIN. You doubt it?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What raises the doubt in your mind?

Mr. BROWN. Because I think all the countries are going to want to wait and see how the results of Torquay work out, and the principal countries which have indicated the desire to negotiate their way into the GATT have done so. I think it is most unlikely that there will be any plans for another Torquay Conference, or any date fixed at Torquay.

Senator MILLIKIN. Then how may a future conference of that type be called? Who takes the initiative?

Mr. BROWN. Anybody who wants to.

Senator MILLIKIN. Can any one call a meeting of all the contracting parties?

Mr. BROWN. No, sir. But any one could——

Senator KERR. Could ask for it?

Mr. BROWN. Could ask for it, and if they got enough people who thought it was a good idea, then those people who wanted to come, could come.

Senator MILLIKIN. So there is nothing to bar a future meeting of the type of Torquay.

Mr. BROWN. No, sir. There is nothing to bar it.

Senator MILLIKIN. You think it may not occur, but it might occur?

Mr. BROWN. I think it is unlikely that a meeting of that kind will occur in the next 2 or 3 years?

Senator KERR. May I ask another question there?

Senator MILLIKIN. Surely.

Senator KERR. As I get it, the evidence a while ago was to the effect that if we make a contract with either one or a half dozen other nations, the concessions which we make in that automatically are available to all of the others in this group.

Mr. BROWN. That is correct.

Senator KERR. When the time comes that we see it is to our interest to change those provisions, do we have to negotiate with all who received the benefit of that agreement, or can we change them by negotiating with only those nations who signed the agreement or agreements?

Mr. BROWN. We have changed some rates in the GATT by negotiation with the country that we originally negotiated it with. The normal situation is that although there may be 30 or more parties to the contract, there are only one or two countries who are interested in a particular product to any significant extent.

Senator KERR. Here was the gist of my question. Does the right which others acquire by reason of an agreement we make with Great Britain, for instance, become a vested right, or is it subject to being terminated by our being able to negotiate a change of it with only that nation or those nations with whom we originally made the agreement by which the others acquired the right?

Mr. BROWN. The answer is that as a matter of contract everyone has in interest.

Senator KERR. A vested interest?

Mr. BROWN. A legal interest.

Senator KERR. Just the same as though they had been parties to the contract?

Mr. BROWN. Yes, sir; but the agreement provides that if anyone wishes to make a change they are to consult with the country with which they originally negotiated the concession, and they can notify other countries who are substantially interested and should have an obligation to consult with them as well, if they ask to be consulted with. Now, as a practical matter, those renegotiations have happened from time to time, and they have usually been limited to two or three countries.

Senator KERR. But actually we have the same contractual obligation to those with whim we did not make the contract as we have with reference to those with whom we did make the contract?

Mr. BROWN. Yes, sir; and we have a similar legal interest in the concessions of the other countries.

Senator KERR. I understand that, but I am addressing myself now to the obligations.

Mr. BROWN. That is correct.

Senator KERR. And, in order to change any concession which we had made, though we made it with only one nation, technically we have to free ourselves from it, if we do, by negotiation with all that want to negotiate on it?

Mr. BROWN. That is correct, sir. Let me qualify that. May I read you the words of the article?

Senator KERR. I do not want to qualify it unless——

Mr. BROWN. The test is that you have to consult on request with any contracting party that has a substantial interest in the product concerned.

Now, for example, let us suppose we had given a concession on burlap. We have done so in the agreement. That comes from India, and perhaps some from Pakistan. I am not sure. But we would not have to consult and negotiate with the French or the British. They have a technical legal right to that concession, but they cannot show any substantial interest in the importation of that product.

Senaor KERR. But if they want to negotiate we have to negotiate?

Mr. BROWN. No, sir. We could say in that case that they do not have any substantial interest and we will not do it.

Senator KERR. Are we the sole judge as to whether any other nation has a substantial interest?

Mr. BROWN. No, sir; but the other nation, if it wanted to, could ask the group to say whether it has a substantial interest or not.

Senator MILLIKIN. It could ask the contracting parties as such?

Mr. BROWN. Yes.

Senator MILLIKIN. Now you are getting to the guts of it.

Senator KERR. I understand that, but we could not formally say that they had no interest and make it stand up?

Mr. BROWN. Well, we would not formally say it. We would want to consult with any country that had a significant interest in it.

Senator KERR. Or claimed an interest?

Mr. BROWN. If they claimed it we would listen to them.

Senator KERR. You understand I am not trying to trap you, or anything like that. I am just trying to get a complete and accurate picture of this thing for myself.

Mr. BROWN. As a matter of technical, legal right, every party to the agreement has a right to every concession of every other party.

Senator KERR. And when we desire to change it, it is subject to their objection, and they have the right not only to object but, upon our failing to recognize it, they have the right of going to the general assembly of the contracting parties and having it tried out there by the group?

Mr. BROWN. Yes. They could claim they had a substantial interest.

Senator KERR. And if that group said they did have, then——

Mr. BROWN. Then we would have to consult with them, and that is all.

Senator MILLIKIN. You might take it further. You have to consult with them, and you could go ahead and make your escape, but all the other countries having the contracts could make reciprocal escapes.

Mr. BROWN. That is correct.

Senator MILLIKIN. It is illustrated in article XIX when we talk about escapes, and I am reading paragraph No. 2:

Before any contracting party shall take action pursuant to the provisions of paragraph 1 of this article—

that is the escape—

it shall give notice in writing to the CONTRACTING PARTIES * * *"

Senator KERR. Is that in capitals?

Senator MILLIKIN. That is in capitals.

Senator KERR. That means all of them?

Senator MILLIKIN. That means all of them.

Mr. BROWN. That is right.

Senator MILLIKIN (reading):

as far in advance as may be practicable and shall afford the CONTRACTING PARTIES and those contracting parties having a substantial interest as exporters of the product concerned an opportunity to consult with it in respect of the proposed action.

Sometimes, Senator, as has been developed here, and which the Member will recall, there is a close race as between who is a principal supplier party. There may be two or three or four nations that have a very important interest, and a lot of others that have a minor interest.

Senator KERR. They do not have to be the principal supplier, but all they need to do under that is to have a substantial interest.

Senator MILLIKIN. It goes on to say:

When such notice is given in relation to a concession with respect to a preference, the notice shall name the contracting party which has requested the action. In critical circumstances, where delay would cause damage which it would be difficult to repair, action under paragraph 1 of this Article may be taken provisionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action.

It does not stop there, but it goes on to say:

If agreement among the interested contracting parties with respect to the action is not reached, the contracting party which proposes to take or continue the action shall, nevertheless, be free to do so, and if such action is taken or continued, the affected contracting parties shall then be free, not later than ninety days after such action is taken, to suspend, upon the expiration of thirty days from the day on which written notice of such suspension is received by the CONTRACTING PARTIES, the application to the trade of the contracting party taking such action, or, in the case envisaged in paragraph 1 (b) of this Article, to the trade of the contracting party requesting such action, of such substantially equivalent obligations or concessions under this Agreement the suspension of which the CONTRACTING PARTIES do not disapprove.

Which is another way of saying "approve." Then it goes on to say:

(b) Notwithstanding the provisions of subparagraph (a) of this paragraph, where action is taken under paragraph 2 of this Article without prior consultation and causes or threatens serious injury in the territory of a contracting party to the domestic producers of products affected by the action, that contracting party shall, where delay would cause damage difficult to repair, be free to suspend, upon the taking of the action and throughout the period of consultation, such obligations or concessions as may be necessary to prevent or remedy the injury.

So the contracting parties, as such, have a very definite part in this, and the whole thing could not be disposed of just between Great Britain and the United States. The contracting parties, for example, could determine the parties at interest who should be called in at the discussions, and if you want to call the hearings in the matter. Is that not correct, Mr. Brown?

Mr. BROWN. That is correct, and that is the only reasonable procedure you can have. If you make a bargain with another country and you get concessions from them and pay them for those concessions,

and then, for reasons of your own necessity or policy, withdraw a part of that payment, then it is proper that the other country can make an equivalent adjustment in its side of the bargain. That is the very simple idea which underlies this paragraph.

Senator MILLIKIN. Also, Senator, it carries a very simple idea that every dispute between any two countries over the concessions at once becomes an international dispute by reason of making the whole thing multilateral. Under the old form of having bilateral agreements it was a dispute between two nations. This makes it, or could make it, a dispute between all nations, and acts as a deterrent to an escape, because the President of the United States, looking over the whole field, cannot anticipate where these counter escapes will be taken, or their magnitude. It makes it a very difficult situation when you are escaping.

Mr. BROWN. I would respectfully suggest that that is not what experience has demonstrated, Senator.

Senator MILLIKIN. Experience has demonstrated you made no attempt to escape by and large.

Mr. BROWN. Cases have not been brought up which justified the use of an escape clause in the judgment of the Tariff Commission.

Senator MILLIKIN. I was going to say that the committee had a lot of sworn testimony on that subject.

Mr. BROWN. But the fact is that we have taken action under the escape clause. There were four countries interested, and three of them said that they wanted to settle the matter by discussion with us as part of their private negotiation, and that was the way it was handled so far as they were concerned. There was no problem about it. The fourth country was Czechoslovakia, and Czechoslovakia was not satisfied with our action and has been reiterating to us that we should not have taken it.

Senator KERR. Somewhere in the course of the questioning—and this is probably the worst place, Senator—I would like for Mr. Brown to give us his views on watches and furs.

Senator MILLIKIN. You shall have that opportunity.

Senator KERR. Are you going to go into that?

Senator MARTIN. Mr. Chairman, I have missed a little this morning, but before we get into specific things, if we have not already discussed it, I would like to ask what effect our aid to other countries has had on the balance between exports and imports, and what consideration has been given to small concerns, such as I put in evidence and submitted a statement from this morning.

Have you asked any questions, either one of you, along that line?

Senator MILLIKIN. No.

Senator MARTIN. What I am getting at is, you stated this morning that the balance is a little bit our way.

Senator KERR. I think the statement was made by Senator Taft and, in fact, attention was called to it by him, that in the month of January our imports exceeded our exports, which I think probably was the first time that that happened.

Senator MARTIN. How much of this balance is due to the aid that we are giving to various nations in Europe, because it seems to me that is a pretty important thing to consider, because that is an extraordinary situation. That is not a normal trade situation.

Senator MILLIKIN. If you straightened that out our debtor position would be increased.

Senator MARTIN. That is what I am getting at. And, it not being normal, a reciprocal-trade agreement—the way I have always understood it, and of course I am for reciprocal-trade agreements, and always have been—I believe that a reciprocal-trade agreement is a two-way street. I just wondered how much consideration had been given to the appropriations that we are now making to aid European countries.

Mr. BROWN. Well, sir, one of the important reasons why we have been trying to expand our trade with those countries has been precisely to diminish the need for making appropriations of grant-in-aid to them.

Senator MARTIN. It is not a normal situation. Personally I am not intelligent enough to see how we can continue that indefinitely and survive economically here in our own country.

Senator KERR. It may be—and I am not saying that it is, nor can I say that it is not—it may be that the fact that the imports have caught up with the exports is an evidence of the success of the program, rather than an argument against it. I do not know.

Senator MARTIN. That is possible.

Senator KERR. And I would be glad if Mr. Brown would address himself, in answering your question, to that.

Senator MARTIN. Before we go further, this morning I introduced some testimony of a labor union up in the anthracite region of Pennsylvania where they manufacture lace. One of the factories had been down for a year, which employs 300 people. This other one, where they employ 400, was working 4 days a week during that period. Now, I know of my own knowledge—and I think Senator Malone the other day put in the record quite a number of items from every State in the Union which are having difficulty in surviving now because of the difference between the wage payments in our country and those in competing countries.

Senator KERR. You mean because they cannot compete with the imports?

Senator MARTIN. That is right. Now, you take this, for example: I know we have glass factories that are only operating a percentage of the time, and pottery and china and wallpaper factories.

Senator KERR. And watches.

Senator MARTIN. And different textiles and hats. They are putting a lot of our people out of employment. I have nothing against the great, big business concern. We have got to have them in America, because this is a great, big country, but they furnish so much of our exports; that is, these smaller concerns. It is not so much individually, but collectively, and it makes a pretty large amount when taken in that fashion. It is very important to keep those men working because they are consumers. It is very important.

So, I want to say that Mr. Brown has been a grand witness, and I wondered how much consideration you had given to those facts, because, Mr. Brown, it is awfully hard for these small concerns to put the matter up to you people as well as our larger corporations do, because these large corporations have fine lawyers and fine accountants and fine statisticians that the smaller ones cannot afford. It is so

important in our economy that I just wondered how much consideration had been given to it.

Mr. BROWN. Senator Martin, one of the important elements that we look at in considering whether we can or cannot give a tariff concession is the make-up of the industry, that is, as to whether it is an industry which is highly mechanized and with large integrated production, or whether it is an industry which has substantial elements of the craftsman individual worker in it.

Senator MARTIN. If I might give another illustration, in my own town we have a very old hand-blown glass factory, where the cost of this glass I hold in my hand is probably more than 50 percent labor. Fine citizens who own their own homes, and so on, do that work. Then we have three factories where it is all machine-made. Now, the machine-made products do not have the difficulty of competition that the hand-blown ones do. It takes a very skillful man to make this glass by hand. That takes a very skillful man. Of course, a machine will make it also. Mr. Stratton back there can tell whether it is machine-made or hand-made. I will admit I have been close to the glass-making people all my life, and I can still be very easily fooled, but I want to see that the craftsmen of our country have an opportunity to work because that is what has made our country.

I believe, Senator Kerr, down in your great State of Oklahoma one company has a glass factory in Oklahoma, but that is machine-made glass. I do not know whether you have any of the hand-blown glass or not.

Senator KERR. I do not think so. I think it is all machine made.

Senator MARTIN. I do not believe you do; but it is not only true in glass, but in watches and pottery as well. You have pottery down there. The same is true in china and in different textiles.

Take wallpaper, for instance. Less than 75 miles north of where we are sitting is the center of the wallpaper industry of the whole United States. It is being terribly injured by importation, and the difficulty is in the difference in the wage scale.

Senator KERR. Now, what questions do you want to ask Mr. Brown?

Senator MARTIN. I wanted to ask him how much they had given consideration to the wage scale in these little industries which I call one-town industries. They are too small to make much of a fight themselves, but in the aggregate those companies employ hundreds of thousands of men in America, and they are among our very best consumers. I wanted to know how much consideration had been given to these little fellows, and how much consideration had been given as to what our aid to European countries meant with regard to our exports. Those are the kinds of things I would like to have Mr. Brown comment on.

You have been a good witness, Mr. Brown. I mean, you came in here with a lot of fine information and you have been very frank about it. You have been very frank.

Mr. BROWN. Thank you very much, Senator. I have tried to answer questions as thoroughly and completely as I can. Sometimes, of course, you stump me and I have to go back and look.

The answer to your question about the small industries and the industries where there is an element of handicraft and hand labor concerned, is that that is one of the factors that we pay particular attention

to, because obviously you have a different situation there than you do in the situation of the large mass-production industry.

We also pay particular attention to whether you have a situation of what I think you described as the one-industry town, where a community is dependent, as it is in a great many cases, on one particular industry. There are a number of cases of that kind.

Where you have a set of facts like that, you deal with the problem differently than you would if you had a different kind of product. It is one that we have been very much aware of, and which has very much influenced the question of whether we do or do not recommend the concessions and, if so, how much.

On the question of foreign aid, as I said, one of the main purposes, or one of the big purposes of this statute, has been—or, rather, one of the purposes of the administration of this statute has been to increase our trade with the other countries, and to give them a greater opportunity to pay their way, so that we could cut down this drain on the taxpayer and have it taken over by the normal processes of trade. We hope it can be cut down quickly.

Senator MILLIKIN. Mr. Brown, are you aware of the speeches of Mr. Hoffman, where he urged that the hand products be favored, so as to get this stuff into this country, pointing out that they could not compete with us in our mass production industries?

Mr. BROWN. I am not aware of that particular speech, but I do know that many countries abroad have tried to expand their imports of hand-made products here. Many of them are extremely high-priced, and have a hard time getting into our market.

Senator MILLIKIN. What Mr. Hoffman was saying was that we should take these American dollars we are giving for economic aid and use them to increase the exports into the United States in the hand labor field. That is what he was saying. You are not aware of that?

Senator MARTIN. If I might interject, I do not know whether it was Mr. Hoffman, but someone even went to the extent of saying that we might have a little governmental aid to some of our craft industries. Somebody made that statement.

Senator MILLIKIN. That was Mr. Wilcox.

Senator MARTIN. It was brought out on the Senate floor one day.

Senator MILLIKIN. I would like to have Mr. Brown's reaction. If you wish, I will dig up the Hoffman speeches on the subject.

Mr. BROWN. No. I know Mr. Hoffman has been urging the European countries to do everything they could to increase their exports to this country of all kinds of products.

Senator MILLIKIN. Exporting hand labor where the labor bears a large proportion of the cost. He pointed out that they could not compete here with our great mass production industries. Do you challenge my statement of the facts?

Mr. BROWN. No, sir. I do not.

Senator MILLIKIN. That has some bearing on what we are trying to do.

Senator MARTIN. Very much of a bearing, and that is what I was trying to bring out, Mr. Chairman. I am interested, of course, in the industries in my own community, but I am interested also in the economy of our country. In my own State we have so-called billion

dollar corporations, but the thing that profitably employs the people of our State are the small industries. In a lot of them they are very skilled craftsmen who are employed, and if we are to have our American way of life continue, somehow we have to take care of these people. That is why I brought it up.

Senator KERR. I welcome the discussion, and any specific question the Senator has. I would be delighted to hear him ask it and listen to the answer.

Senator MARTIN. I think you and Senator Millikin have done so. I was not sure whether you had developed this part, but from what I heard you develop, I think it ties it together in pretty good shape.

Senator KERR. Senator Millikin.

Senator MILLIKIN. Mr. Brown, coming back to the concessions that are being negotiated at Torquay, as I understood your position, as the bilateral negotiations at Torquay are concluded between the countries making them, does that automatically become the ruling law, so far as those concessions are concerned, or what remains to be done to give those concessions the binding force of law on the parties dealing between themselves and on the rest of the parties who are members of GATT?

Mr. BROWN. I would expect it is when the agreement is signed that then it becomes an agreement.

Senator MILLIKIN. Not until then?

Senator KERR. It could not become binding on the others if it changes the previous concession, unless the others agree to it, could it?

Mr. BROWN. That is correct.

Senator MILLIKIN. That is what I am driving at. I am driving at that point.

Senator KERR. Therefore, it does not become effective the moment it is signed by two or more nations, unless they are among those who have an interest.

Senator MILLIKIN. That is what I would have to have the witness say "Yes" or "No" to.

Mr. BROWN. That is correct, I think.

Senator MILLIKIN. How is that agreement finally signed or finally executed?

Mr. BROWN. Each individual representative of each individual country signs the agreement.

Senator MILLIKIN. It could be mailed to them?

Mr. BROWN. That would be possible.

Senator MILLIKIN. They do not sit around as contracting parties and sign as contracting parties?

Mr. BROWN. No. What happens is that there is a piece of paper which is the thing that you sign, and it is opened for signature on a certain date, and you can sign it the first day, or a week later, or any time within some period of time which is allowed.

Senator KERR. Or, you do not ever have to sign it.

Mr. BROWN. Or, you do not ever have to sign it. Or conceivably it could be mailed to you.

Senator MILLIKIN. And when you do sign, at that time, whether it is mailed to you or it is done around the table, or however it may be, are you signing individually, or are you signing as one of the contracting parties, in caps?

Mr. BROWN. You are signing individually.

Senator MILLIKIN. So that the effect of GATT and the relationship to GATT of the contracting parties in caps does not operate at that particular point?

Mr. BROWN. No, sir. Each country is accepting, individually, the obligations of the agreement.

Senator KERR. But that is a tentative acceptance and subject to whether or not it is accepted by all?

Mr. BROWN. Let us suppose we sign and two other countries sign, and nobody else signed it. There would be an agreement only between us and the other two countries.

Senator MILLIKIN. That raises precisely what is in my mind. Would that be an effective agreement between those two countries, irrespective of whether the others signed or not?

Mr. BROWN. Can I take advice on that? I will have to check into that, Senator. As I remember, what happened at Geneva, it was agreed that—yes. This is what happened at Geneva, and I imagine similiar procedure will take place at Torquay, but I will check it for you.

Senator KERR. And did it take place at Annecy?

Mr. BROWN. I would have to check that, sir, but what happened was that it was agreed that if countries representing, I think it was, 85 percent of the trade of the countries—the international trade of the countries at the meeting—then when they signed up, then the agreement would go into effect for the countries that signed up, because it was felt if only two or three signed it would not be worth while, and that was the principal purpose of it.

Senator MILLIKIN. Then you would say as to this supposed agreement between the United States and Great Britain, if we were the only nations which agreed it would not be effective, because it would not meet your 85 percent rule. Is that correct?

Mr. BROWN. I think that is correct, but I will have to check that.

Senator MILLIKIN. Will you please check that, because it is very important.

Senator KERR. Let me see if I can clarify that in my own mind. Is that 85 percent figure used with reference to the total number of governments attending, or the governments who handle 85 percent of the international trade with reference to that particular commodity?

Mr. BROWN. They added up the international trade of the countries at the conference and then said when countries whose trade added up to 85 percent——

Senator KERR. Of the total international trade on that?

Mr. BROWN. Yes. Of the countries at the conference.

Senator KERR. Then, in other words, it might just be that two countries themselves would have 85 percent of all the international trade on any one product about which they were negotiating, and when they signed that in itself would meet that requirement?

Mr. BROWN. No, sir. It was the total international trade in all products.

Senator KERR. Oh. In other words, when countries doing as much as 85 percent of the international trade of all that done by those present had signed, then the agreement became valid?

Mr. BROWN. For those who had signed.

Senator MILLIKIN. Is it possible that you are confusing the situation which we have been discussing with you on a supposed agreement between the United States and Great Britain, and adherence to GATT?

Mr. BROWN. I think, Senator, I must admit I am thoroughly confused and will have to go home and straighten out my thinking and my views if the committee will give me an opportunity to do so.

Senator MILLIKIN. There is no question but that the adherence to GATT runs along the line furnished, but now we are talking about a different situation. We are just talking about whether, if Great Britain and the United States, for example, would make an agreement during the process of these negotiations over there, would that continue to live if the other nations did not give their adherence to that agreement. You are going to go into consultation on that?

Mr. BROWN. I think, Senator, if you could put that question to me again, I will then try to give you a clear and a simple answer to it.

Senator MILLIKIN. Let us take the case suggested here. Over there at Torquay the United States is negotiating with some others sitting around the table and they come up with a set of concessions which are agreeable to them.

Senator KERR. And to which they agree.

Senator MILLIKIN. And to which they agree. I think the process is that it is initialed by the different countries that do this negotiation, and which negotiate through their negotiating teams. When they reach an agreement I think they all initial it. But, however the agreement may be evidenced, would an agreement of that kind continue to have life even though the other countries did not approve of it?

Mr. BROWN. I think I had better take advice on that. I was going to say it would depend entirely on whether we and the British decided it was worth our while to put that agreement into effect. We could, for example, perfectly well agree to amend our schedules to incorporate the changes we had agreed upon bilaterally, if we wanted to do so. I think it would be unlikely that we would wish to do so, but I will get you the real authoritative answer.

Senator KERR. If I understand the witness' answers to other questions, and if his answers were correct, then the answer to your question now, Senator, would not only be in the negative with reference to whether or not that agreement would continue to have life but the answer would have to say that it never would begin to have life until and after it had been initialed, or ratified, or accepted, or affirmatively approved, either by all of those present or by those representing 85 percent of the international trade.

Mr. BROWN. Eighty-five percent was the amount we used as a test at Geneva to get the thing launched. I just do not know what the arrangements were at Annecy or Torquay.

Senator KERR. I want to give you whatever assurance there may be in this statement—I do not know either.

Senator MILLIKIN. There may be some other arrangement as to making these concessions valid as between all or a part of the parties, but the 85 percent Mr. Brown referred to I am quite sure was the percentage necessary to bring GATT into effectiveness. That much is correct, is it not?

Mr. BROWN. Yes.

Senator MILLIKIN. And you are going to look into it?

Mr. BROWN. I will give you a statement when you want me again, which describes exactly how the agreement gets brought into effect, and what would be the effect in the situation that you described of a very small number of countries having a satisfactory agreement, but the others not wishing to participate.

Senator MILLIKIN. You pose that speculation toward the end of your other speculation that there might be some way of making that agreement between Great Britain and the United States effective, as between them; or, in the same way, as between other groups less than the whole. I would like very much to have a comment on that.

What agreements have we escaped from?

Mr. BROWN. There has been one application for escape on which the Tariff Commission has recommended action, and that was in the case of women's fur-felt hats. In that case we withdrew the concessions.

Senator MILLIKIN. You withdrew the concession?

Mr. BROWN. Yes, sir.

Senator KERR. In that case you took advantage of the escape clause and escaped?

Mr. BROWN. Yes, sir. We went back to the 1930 rate.

Senator MILLIKIN. What compensating escapes have been taken by the Czechs?

Mr. BROWN. None that I know of.

Senator MILLIKIN. Do you know that they are contemplated?

Mr. BROWN. I do not, sir.

Senator MILLIKIN. That subject was brought up for discussion, was it not, with the contracting parties in GATT.

Mr. BROWN. I got the impression the Czechs did not want to take any compensating escapes. They wanted us not to take our escape.

Senator MILLIKIN. Has there been any suggestion that we might take additional escapes from the Czechs as a deterrent to their taking compensating escapes?

Mr. BROWN. In this particular case; no, sir. We would be entirely happy to see them take any compensating escapes they want.

Mr. MILLIKIN. What other countries have ever taken escapes?

Mr. BROWN. This is the only one in which article XIX has been used.

Senator MILLIKIN. Mexico escaped, did it not?

Mr. BROWN. Mexico was never a party to the GATT. I thought you were asking about GATT, Senator.

Senator MILLIKIN. No. Let us go back to concessions. What is our situation with the Czechs?

Mr. BROWN. We have withdrawn other concessions before we had the escape clause.

Senator MILLIKIN. Well, since we have had the escape clause, what concessions have we escaped from?

Mr. BROWN. This is the only application where the Tariff Commission recommended action.

Senator MILLIKIN. This is the only one?

Mr. BROWN. Yes.

Senator MILLIKIN. What escapes have been taken by other countries from us?

Mr. BROWN. Under article XIX?

Senator MILLIKIN. Under anything since we have had these bilateral agreements, trade agreements, or under GATT.

Mr. BROWN. As you know, we had to terminate the Mexican agreement because they wanted to withdraw a whole lot of their concessions and were not willing to make what we considered adequate compensation for them.

Senator MILLIKIN. We did not take any compensatory escapes from Mexico?

Mr. BROWN. No, sir. We canceled the whole agreement.

Senator MILLIKIN. After how much did you cancel it?

Mr. BROWN. About 2 years. The reason for that, Senator, was because our export trade was very much concerned with the idea of the Mexican tariff rates going up, because we had a working agreement with them which limited the amount by which they went up, and our exporters did not want to see the agreement terminated, because they knew if it were the rates would go up even further. We were having no complaints about the imports, and when we finally were unable to reach an agreement and terminated the thing, then the Mexicans put the rates up even further, as we had expected they would do.

Senator MILLIKIN. That is one of the deterrents to escape, is it not? In other words, you have to sit around—where you take an escape you have to sit around and study the repercussions as to counterescapes, which may be taken all the way along the line. It that not correct?

Mr. BROWN. In this particular case we had no complaints about the imports. The whole thing was coming from the other side.

Senator MILLIKIN. But that very fact that you set out here caused you to delay it 2 years in terminating the agreement. Is that not correct?

Mr. BROWN. We were trying to get the best arrangement we could for the American interests that were affected.

Senator MILLIKIN. That is right, and the considerations that you mentioned, I assume, caused the delay of 2 years. Is that correct?

Mr. BROWN. Yes, sir. But that is not an analogy to the point you were making before.

Senator MILLIKIN. I do not have to follow a consistent pattern.

Mr. BROWN. I know you do not, sir.

Senator MILLIKIN. Regard it as a purely virginial conception and treat it as such.

Mr. BROWN. I was just trying to be careful, Senator, that my answer was not interpreted—I wanted the record clear as far as my part in it was concerned, that I was not saying there was an analogy between the two cases you mentioned.

Senator MILLIKIN. It is a fact we had an agreement with Mexico, is it not, and it is a fact that Mexico breached the agreement, is it not? I think you can answer all these with one answer.

Mr. BROWN. That is correct.

Senator MILLIKIN. It is a fact that due to considerations such as you mentioned we delayed 2 years in terminating the agreement?

Mr. BROWN. That is correct. May I complete the picture?

Senator MILLIKIN. Yes.

Mr. BROWN. By saying the reason we did that was because the interests of the American citizens who were involved in the picture were, in their and our judgment, best served by our proceeding in that manner.

Senator MILLIKIN. Aside from the Mexican episode, what other countries have escaped from us?

Mr. BROWN. We have renegotiated some of the Geneva concessions. I do not know whether you would call that an escape or not. What happened was that they suggested——

Senator MILLIKIN. There was a threatened escape?

Mr. BROWN. No, sir. They suggested they wanted to renegotiate on certain items and offered us compensation for doing so.

Senator MILLIKIN. What escapes? Let us get back to escapes.

Mr. BROWN. None.

Senator MILLIKIN. We have taken no escapes from any other country?

Mr. BROWN. None from other countries.

Senator MILLIKIN. And no other countries escaped from us?

Mr. BROWN. Our action was the first and only case in which article XIX has been used in the GATT.

Senator MILLIKIN. And, having taken no escapes, the question of compensatory action has not arisen. Is that correct?

Mr. BROWN. The question of compensation was one, as far as the French and Italians are concerned—who are the other countries interested in this fur-felt-hat matter—was one which was taken up in our negotiations with them.

Senator MILLIKIN. What happened?

Mr. BROWN. The negotiations are proceeding.

Senator MILLIKIN. They are still under way?

Mr. BROWN. Yes, sir. But that is part of the whole over-all Torquay negotiation with them. That just became another item in the negotiations.

Senator MILLIKIN. I am again taking the illustration that Senator Kerr was touching on a while ago. We had a fur-felt-hat contract there with Czechoslovakia, Italy, and what is the other country?

Mr. BROWN. And France.

Senator MILLIKIN. And France came in on it?

Mr. BROWN. Yes, sir.

Senator KERR. You said that is the only escape we have taken under XIX. You mean Czechoslovakia?

Mr. BROWN. This one product of the hats.

Senator KERR. You are not referring to the Mexican business, because they are not in GATT?

Mr. BROWN. That is correct.

Senator MILLIKIN. Of course, you can take an escape from an export license or an import license, could you not? That is, under preference agreements and bilateral agreements?

Mr. BROWN. I am very glad you brought up the question of bilateral agreements, Senator, because I have wanted to make a comment on that.

Senator KERR. I would be glad if you answered his question in the order it was asked.

Mr. BROWN. Yes, sir. It is recognized in the agreement that it is legitimate to put import licensing and import restrictions on, to protect the balance-of-payments situation. When you do not have enough foreign exchange to pay for all that you want to get, then in order to protect your reserves and protect your balance-of-payments situation you are under the agreement, at liberty to restrict your imports.

Senator MILLIKIN. Then under that agreement that is a form of escape, is it not?

Mr. BROWN. That is an exception to the rule against quotas and it is recognized as something that can be done.

Senator MILLIKIN. And it may be the equivalent of an escape, may it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. This morning I asked you what steps the contracting parties, as such, have taken to keep track of these various quotas and licenses and other restrictive devices, and I understood your answer to be that as such there is no organization to look after that. Is that correct?

Mr. BROWN. I said that we have had consultations with a number of the contracting parties about their use of these devices, and as I said, in the case of many of the Commonwealth countries we have suggested to them that the time has come to start liberalizing their use of those restrictions, and in the way of particular cases the contracting parties have looked at this use.

Senator MILLIKIN. The contracting parties, not as such, but separately, circulated complaints back and forth between the individual contracting parties. Is that correct?

Mr. BROWN. That is the preliminary. The contracting parties as such, took this particular case I was talking about up at the meeting.

Senator MILLIKIN. Which particular case was that?

Mr. BROWN. The question of consultations with the Commonwealth countries about their use of import restrictions.

Senator MILLIKIN. They took that up and asked for a continuance of consultations?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. They made no orders?

Mr. BROWN. No, sir. They have no power to make orders.

Senator MILLIKIN. The consultations are going on?

Mr. BROWN. They have been concluded.

Senator MILLIKIN. What was the result?

Mr. BROWN. The result was that a number of the important countries expressed the view I have stated that they should relax their restrictions, and that was taken into account by the Commonwealth countries.

Senator MILLIKIN. Have they relaxed it?

Mr. BROWN. In some aspects; yes, sir.

Senator MILLIKIN. Would you give us a list?

Mr. BROWN. Their token imports have been doubled. That is not a major relaxation.

Senator MILLIKIN. You said it was not a major relaxation. Did I understand you correctly?

Mr. BROWN. That is correct.

Senator MILLIKIN. How many concessions are there involved under Annecy? The whole organization, with the whole scope of the agreements, as of the time of the end of Annecy.

Mr. BROWN. It depends on how you count them. You could count them in dozens of different ways, but I would say the figure we use normally is about 45,000 different rates.

Senator MILLIKIN. How many of those represent our concessions?

Mr. BROWN. About 45 on the same basis.

Senator KERR. 45,000?
Mr. BROWN. 4,500.
Senator MILLIKIN. 4,500?
Mr. BROWN. Yes, sir.
Senator KERR. Did he say there had been a total of 45,000?
Senator MILLIKIN. Yes. And of that number we are interested in——
Mr. BROWN. No. We made about that.
Senator MILLIKIN. We made about 4,500 concessions?
Mr. BROWN. Yes, sir.
Senator MILLIKIN. Now we are about the only country that does not maintain restrictions of the type we have been discussing, are we not?
Mr. BROWN. You mean balance of payment restrictions?
Senator MILLIKIN. Balance of payment restrictions, on export and import licenses. We have some of a minor nature, but roughly speaking we are the only country that does not have currency restrictions.
Mr. BROWN. It is correct we are the only country that does not have currency restrictions, but we have very important export controls and export licensing.
Senator MILLIKIN. All right.
Mr. BROWN. We have quotas on a number of major agricultural products.
Senator KERR. On exports or imports?
Mr. BROWN. Both, sir; but we do not have the widespread import restrictions which countries with dollar shortages have.
Senator MILLIKIN. What are prescribed by bilateral agreements?
Senator KERR. I do not understand that question.
Senator MILLIKIN. You see, there are about 300 bilateral agreements as, for example, the Argentina-British agreement, which in real substance comes down to trade barter with a monetary aspect.
Mr. BROWN. We do not have bilateral agreements of that kind except in the sense that our Government purchasing——
Senator MILLIKIN. So we only have one type of money?
Mr. BROWN. Our Government purchasing in bulk purchasing arrangements is a bilateral agreement.
Senator MILLIKIN. Aside from that.
Senator KERR. That is not a bartering arrangement.
Mr. BROWN. No, sir; and neither are most of these bilateral agreements either. That was the point I wanted to make.
Senator MILLIKIN. Before you come to that point—and I will not deprive you of it——
Mr. BROWN. Thank you.
Senator MILLIKIN. Let us stay on what we are talking about. We have only one-column money. Is that not correct?
Mr. BROWN. Yes.
Senator MILLIKIN. Most of the other countries have two, or three, or four-column moneys, have they not? We have only one, do we not?
Mr. BROWN. I do not think it correct to say that most countries have what I think you mean as multiple exchange rates, but there are quite a number of the Latin-American countries that do. There was a time, I think, when France had two exchange rates, but now she has gone back to a unitary rate.
Senator MILLIKIN. But my question is that we do not.

Mr. BROWN. That is correct. We do not have any multiple exchange rates.

Senator MILLIKIN. And, with the single instance of what you miscalled a bilateral agreement, we do not go in for bilateral agreements, do we?

Mr. BROWN. No, sir. We do not have any agreements for exchange of goods or barter.

Senator MILLIKIN. With a very limited series of quotas we do not go in for quotas, do we?

Mr. BROWN. No, sir.

Senator MILLIKIN. But do you want me to go through a whole rigmarole and read out the countries that do?

Mr. BROWN. No.

Senator MILLIKIN. It is unnecessary, is it not?

Mr. BROWN. I would freely admit most of the countries of the world restrict importations, and the reason they do so is because——

Senator MILLIKIN. I do not care about the reason. We all understand the reason, and I am in hearty approval with most of the reasons. I am simply developing the ultimate fact which you stated, that most of the other countries do.

Now, have you fully developed what we have done to try to restrict those restrictions, or eliminate them?

Mr. BROWN. With the main category of the restrictions, which is the balance of payments restrictions, what we have done to eliminate or restrict them is to secure the agreement of the other countries that they would relax those restrictions as their conditions improve, and they would eliminate them when the balance-of-payments situation was cured; and, they would not use by and large the quota for other purposes. There have been cases in which there have been relaxations of these quotas in response to that commitment, but fundamentally the situation still is that most other countries are short of dollars.

For example, the Canadians had complete dollar import licensing and limitations in 1947. As their condition improved about a year later, I think, they relaxed those restrictions. Now they have taken them off completely. In the case of South Africa, they have relaxed their import restrictions and have eliminated many of the discriminatory features in them.

Senator MILLIKIN. Have there been any instances where they have been increased during the last year?

Mr. BROWN. As far as purchases from the dollar area are concerned, I should doubt if there has been any substantial increase.

Senator MILLIKIN. Purchases from the dollar area?

Mr. BROWN. I think that is what we are talking about.

Senator MILLIKIN. Are all the nations in GATT dollar-area countries?

Mr. BROWN. No, sir; but it is the purchases from the dollar area which are the ones that are most restricted, because it is the dollar that is the shortest currency.

Senator MILLIKIN. Soft-currency countries run restrictions against each other, do they not?

Mr. BROWN. Yes; they do; and there has been substantial liberalization in those restrictions in the past year.

Senator MILLIKIN. Have there been any increases in quotas or in the exchange restrictions, as among the soft-currency countries?

Mr. BROWN. Yes. There have probably been some increases, and there have been also some relaxations, depending on what the circumstances will be.

Senator MILLIKIN. But there have been both increases and decreases, have there not?

Mr. BROWN. I would say on the whole the balance is strongly in favor of the relaxations.

Senator MILLIKIN. You are going to submit data on the subject, and I think you have submitted it?

Mr. BROWN. I have submitted a list of bilateral agreements.

Senator MILLIKIN. So there is no point to my running through this whole list to show the almost universal extent of these various restrictions of the type I am speaking of, and I think you concede that most other countries do have them?

Mr. BROWN. I have already admitted most other countries have exchange controls, but I would also say the recent trend has been in general toward a relaxation of those restrictions, and one of the contributing factors to that has been the commitments in the general agreement.

Senator MILLIKIN. Relaxation of the dollar situation?

Mr. BROWN. Yes, sir. As the dollar situation improved, there have been relaxations.

Senator MILLIKIN. Then it is the improvement in the dollar situation that has done the business?

Mr. BROWN. Plus the obligation which they have assumed under the agreement to relax as their dollar situation does improve.

Senator MILLIKIN. The dollar situation has improved in what way?

Mr. BROWN. Because they have earned more dollars.

Senator MILLIKIN. Now, where do they make those dollars?

Mr. BROWN. By selling goods to us.

Senator MILLIKIN. Do you know that 60 percent of our agricultural exports have been paid for with our own money?

Mr. BROWN. Yes; but that is partly a bookkeeping arrangement.

Senator MILLIKIN. No. It gives them dollars. You cannot call dollars beekkeeping.

Mr. BROWN. No. But the reason why the percentage is so high for agricultural products as compared to industrial products is because it is easier to keep the books as between ECA dollars and free dollars.

Senator KERR. Would it be more accurate to say that the amount of foreign aid we have provided has been equal to 60 percent of the total amount of our agricultural export?

Mr. BROWN. I do not have the figures in my head, Senator Kerr. I do not know.

Senator KERR. You accepted the statement that 60 percent of our agricultural exports had been paid for with money that we had given those countries?

Mr. BROWN. Yes, sir; but very much less than that percentage of industrial exports had been paid for with ECA money, and the reason why it is so heavily weighted on the agricultural side is because they are bulk commodities and it is much easier to keep the records.

Senator KERR. I personally do not accept that statement, and I would want you to supply for the record the basis of the information on which you make that statement.

Mr. BROWN. I think it is perfectly fair to say that a very large proportion—and I can give you the exact amount tomorrow—of our exports, has been paid for by ECA money. That is what the ECA money was given for.

Senator MILLIKIN. I will give you what is supposed to be the figure. In 1950, from January to June, the total agricultural exports for that period were $1,446,000,000; $909,000,000 represented foreign aid, or 63 percent of the total.

For July to December $1,403,000,000 represented our total exports; $833,000,000 was financed with our foreign aid. That is 58 percent.

Mr. BROWN. Yes, sir. I am not quarreling with that.

Senator MILLIKIN. You are accepting roughly the correctness of this?

Mr. BROWN. Yes.

Senator MILLIKIN. Let us take the industrial side now. Are you contending that the purchases made in this country on the industrial side are unconnected with our foreign aid?

Mr. BROWN. No, sir. I am saying a larger proportion of the purchases of industrial equipment was made with free dollars, as compared with ECA dollars.

Senator MILLIKIN. And that is all you are contending?

Mr. BROWN. And a smaller proportion of the agricultural purchases were made with free dollars than with ECA dollars.

Senator MILLIKIN. Yes.

Mr. BROWN. The reason for that discrepancy or difference is the matter of the ease of record-keeping and bookkeeping. I am not challenging or quarreling with the fact that a very large proportion of our total exports have been financed with ECA dollars, and if you would like me to provide the figure, I could give you the total figure.

Senator MILLIKIN. I would like to have that total figure.

Senator KERR. I would like to have these figures of our total exports.

Mr. BROWN. Yes.

Senator MILLIKIN. And our total foreign aid.

Mr. BROWN. Including military?

Senator KERR. Our total foreign aid in dollars.

Mr. BROWN. Yes.

Senator KERR. The total amount of the aid money which we have provided other countries which they have used in buying from us, and what they bought with it percentagewise, broken down in agricultural products, industrial products, and other products.

Mr. BROWN. I am not sure I can have that by tomorrow morning, Senator.

Senator KERR. All right. Next week will be all right. The hearings will be over, I hope, but I will be delighted to get the information at whatever time it is available.

Senator MILLIKIN. I suggest to you about 17 percent of industrial products were financed by our foreign aid.

Mr. BROWN. Yes, sir. I think that is about right, but you will notice there is a big difference in the proportion of the two groups of commodities.

Senator MILLIKIN. I would like at the point we were discussing a while ago to get our true international picture. That is a deduction which intensifies our debtor relation. What are the principal con-

cessions other countries want from us that are under negotiation at Torquay?

Mr. BROWN. A list of the items which are under consideration by us for possible concessions at Torquay has been published, and I can make it available to the committee if you would like to have it.

Senator MILLIKIN. The list is public property?

Mr. BROWN. Yes, sir. It was developed at public hearings.

Senator MILLIKIN. What I want to know is, what is actually going on at Torquay, and what are the pressures at Torquay, so far as the principal items of concessions are concerned? Which country is demanding what, which would represent on our part important concessions, I assume, in return for some of theirs?

Mr. BROWN. That is confidential information which I am sorry I cannot give.

Senator MILLIKIN. Confidential to this committee?

Mr. BROWN. Yes, sir. We cannot give out what is happening during the course of actual negotiations.

Senator MILLIKIN. Why is that?

Mr. BROWN. Those are my instructions, sir, and that is a decision that has always been the policy, and I am afraid I cannot make that information available.

Senator MILLIKIN. Have you authority to carry on the negotiations from the Congress?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And you will not disclose to the Congress what is going on at Torquay?

Mr. BROWN. I am afraid we cannot, sir.

Senator MILLIKIN. Would you say you would give the same answer as to what we are trying to get in the way of concessions from others?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What has been the progress in concessions given and received? With which countries have we finished our bargaining?

Mr. BROWN. I would have to check on that.

Senator MILLIKIN. Could you give us a rough idea?

Mr. BROWN. What usually happens at these meetings is that you do not finish up with any one country very much before you finish up with all of them.

Senator MILLIKIN. Because of the multilateral nature of these. Is that right?

Mr. BROWN. Yes; and because the pressures—I mean, just the practical problem of negotiating.

Senator KERR. If the Senator would permit there, would you join me in asking the witness to tell us why they felt such a policy was justified?

Senator MILLIKIN. I would be very glad to have that question pursued as far as the Senator wished to pursue it. I have bumped my head against it before, so I am merely developing now that it is the same old policy, but I would like to have you develop it.

Senator MARTIN. Why should we not have the answer, Mr. Chairman? Also, who enunciates that policy?

Senator KERR. You can ask that question, if you like, or state it first.

Senator MILLIKIN. I would like to ask first that the witness supply us tomorrow with those bargainings that have been completed. I do not want to shadow-box about the word "completed."

Mr. BROWN. I think I know what you mean, sir.

Senator MILLIKIN. Call it initialed, or call it whatever you want, but in practical terms, that have been completed. Also, those which have not been. One follows from the other, but list all of them that are completed and that are not completed. You will not tell us the nature of the concessions which we are seeking, or which the other countries are seeking?

Mr. BROWN. I cannot do that, Senator, because the negotiations are in a continual state of flux. They change from day to day, and it is essential, if you are going to conduct a negotiation of this kind, to have the negotiation confined to the teams. That is the only way in which the thing can be done on an orderly basis.

Senator MILLIKIN. And it is essential from your standpoint that they be clothed with secrecy. Is that correct?

Mr. BROWN. Yes, sir. That has been the policy right along as far as the actual negotiations are concerned.

Senator MILLIKIN. Do you wish to probe that any further, Senator Kerr?

Senator KERR. I would like to hear the witness' statement of what they consider the justification for the policy and the reasons for it.

Mr. BROWN. There is a bargaining process around the table which just has to be operated on a confidential basis. Then the situation changes from day to day, and what really counts is what is the result. That, of course, is made fully public, and everyone in the public who has any interest in the matter is invited to come in and give their views, and they are told what products are going to be considered.

Senator KERR. When do they do that?

Mr. BROWN. Before we make up our minds as to whether we will or will not recommend any tariff concessions.

Senator KERR. Is that a process which has already been had and completed?

Mr. BROWN. Oh, yes, sir.

Senator KERR. Or is it one which is in continuing operation?

Mr. BROWN. No, sir. That is a process which has been completed. We held formal public hearings.

Senator KERR. I knew there had been formal public hearings held, but it occurred to me that these very developments or very negotiations which you tell us must be kept confidential, might bring about situations which would indicate to you that you needed further advice or information from those who might be affected by the concessions.

Mr. BROWN. Well, sir, we do from time to time talk to people. We have had groups in my office quite often during the period of the past couple of months, discussing them.

Senator KERR. Of course, this discussion with interested parties has not finally terminated?

Mr. BROWN. No, sir. It has not, but we do not tell them what the figures are that we are actually discussing around the table at Torquay. We do not tell anybody that.

Senator MILLIKIN. You do not tell them the current status of the bargaining?

Mr. BROWN. No, sir.

Senator MILLIKIN. And you do not permit industry groups to counsel our negotiators at Torquay or these other meetings?

Mr. BROWN. No, sir. That would be quite impractical because of the enormous numbers of people that would be necessarily involved—if for no other reason.

Senator MILLIKIN. It is not so impractical at other international gatherings to have representatives of industry, labor, and other groups present.

Mr. BROWN. Yes, sir; but I have found that even in talking with the representatives of one industry, with the management side alone at that, that it has been exceedingly difficult, if not impossible, to get any suggestions from them on the ground that they felt each concern should speak its own piece.

Senator MILLIKIN. They could not make you an effective pertinent suggestion because they do not know what you are aiming at. Is that not correct?

Mr. BROWN. They can tell us what the conditions are in their industry; they can tell us what the competitive factors involved are; they can tell us what tariff rates they think they need; they can tell us at what point they think they might be caused difficulty; and we asked them to tell us all of those things.

Senator MILLIKIN. But they cannot tell you, or they cannot discuss with you the deals you are going to make because they do not know what the deals are. That is true; is it not?

Mr. BROWN. No. They can talk of the things involved in their business——

Senator MILLIKIN. Never mind their business, but what I said is correct. Is that right?

Mr. BROWN. Yes.

Senator MILLIKIN. Nor can the Congress approach or tell whether you are making a bad deal because of the confidential seal which you impose on the negotiations. Is that correct?

Mr. BROWN. That is correct.

Senator MILLIKIN. And you reiterate that you derive your authority from the Congress. Is that correct?

Mr. BROWN. That is correct.

Senator MILLIKIN. So the servant is greater than the master. Is that correct?

Mr. BROWN. No, sir. This has been a practice we have followed from 1934.

Senator MARTIN. When did you start this?

Mr. BROWN. Since 1934, and the authority has been renewed consistently since that time. I submit that the test is in what we do and what tariff rates come out of the negotiations, and that we must stand on the record of what we do, and we must provide a means for correcting any mistakes if we should make them.

Senator MILLIKIN. As has been said, that operates on the autopsy theory, rather than the preventive-medicine theory; does it not?

Mr. BROWN. No, sir. That part of its works on the autopsy theory, but the whole preliminary process we go through before we go to one of these negotiations is concerned with the preventive-medicine side of it.

Senator MILLIKIN. You are concerned with it, but you will not discuss it with others who might be concerned in it.

Mr. BROWN. We afford everyone who is interested an opportunity to discuss it with us fully.

Senator MILLIKIN. Mr. Brown, do any interested parties in labor or industry know what discussions are going on in the interdepartmental committee?

Mr. BROWN. No, sir.

Senator MILLIKIN. Of course not. Do they know what discussions are going on with the country committees?

Mr. BROWN. No, sir.

Senator MILLIKIN. Of course not. Do they know what your objective is except that you are going to make a concession?

Mr. BROWN. Not necessarily.

Senator MILLIKIN. Or may make a concession? Do they know what your point is you are going to agree on or willing to agree on?

Mr. BROWN. No, sir. Neither do we.

Senator MILLIKIN. You do before you finish?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. But they do not know before you finish, do they?

Mr. BROWN. But they have told us what the levels are that they think may or may not hurt them, and they have given us that information, and they have given it to us in varying degrees of detail. Some have thoroughly and some not.

Senator MILLIKIN. Within the confidence or secrecy of the interdepartmental committee and/or the country committees there might be a chance for a very bad misinterpretation of information coming to you; but those in the position to correct it are denied the opportunity to correct it. Is that correct?

Mr. BROWN. They cannot come into the meetings and find out what is going on.

Senator MILLIKIN. Is that correct then?

Mr. BROWN. That is a possibility. That is correct. Yes, sir.

Senator MILLIKIN. Assuming it is a possibility, it is correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. It is correct, also, that the Congress, in reaching its conclusion that perhaps you have misinterpreted the facts or are not giving the proper weight to them, is also denied the opportunity to make their suggestions. Is that correct?

Mr. BROWN. That is correct.

Senator MILLIKIN. Now, article XX of GATT relates to the expiration of the period during which the parties may take appropriate measures to meet shortages, and world costs, and price controls, and to liquidate war costs and temporary surpluses, and the article requires these measures be removed not later than January 1, 1951.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Is that the date that you have moved forward?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. That was done by agreement of the contracting parties?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. To what date has that been moved forward?

Mr. BROWN. A year—January 1, 1952.

Senator MILLIKIN. To January 1, 1952?

Mr. BROWN. Yes.

Senator MILLIKIN. Did anybody object to that? Did any of the contracting parties object?

Mr. BROWN. There were some who did not like the idea very much. Yes, sir.

Senator MILLIKIN. Who were they?

Mr. BROWN. That I cannot tell you.

Senator MILLIKIN. Is that another secret?

Mr. BROWN. You see, here I am dealing with the discussions of a group that involves other countries as well as our own, sir, and I would have to check on that. I do not think I could. I might be able to tell you. There might be no concern about it, but I would not feel quite free.

Senator MILLIKIN. Also, GATT concerns other countries.

Mr. BROWN. Yes.

Senator MILLIKIN. The concern arises out of the congressional authority?

Mr. BROWN. May I ask advice on that?

Senator MILLIKIN. Do you not think you should tell us the countries that objected to moving the date forward to January 1, 1952?

Mr. BROWN. I do not think so, but I would have to check, if I may.

Senator MILLIKIN. Will you?

Mr. BROWN. Thank you, sir.

Senator MILLIKIN. Will you tell us? Will you give us an answer?

Mr. BROWN. Oh, yes.

Senator MILLIKIN. Now, article XXVIII has a provision dealing with modification of schedules and provides that this article should be effective on or after January 1, 1951. What has been done about that?

Mr. BROWN. Consideration is being given to changing that date to January 1, 1954.

Senator MILLIKIN. 1954?

Mr. BROWN. Yes, sir. That was in the public notice for the hearings.

Senator MILLIKIN. And that has been moved by the contracting parties, as such?

Mr. BROWN. By all the different countries; yes, sir.

Senator MILLIKIN. By the contracting parties, as such?

Mr. BROWN. Yes.

Senator KERR. Has been, or is being?

Mr. BROWN. Is being, sir.

Senator MILLIKIN. So that the contracting parties, as such, will finally have to take action on that. Is that correct?

Mr. BROWN. Yes, sir.

Senator KERR. Would it be correct to say that as of the moment, January 1, 1951, is effective and would remain so until changed by the contracting parties, which is now under consideration by them?

Mr. BROWN. That is exactly correct.

Senator MILLIKIN. Article XXXI provides that any parties may withdraw after January 1, 1951, upon 6 months' notice. What is being done about that?

Mr. BROWN. I know of no proposed changed in that.

Senator MILLIKIN. There is no change on that?

Mr. BROWN. No, sir.

Senator KERR. Does that mean, Senator, that any country that is a part of GATT that gives 6 months' notice can get out, and it will be all over with as far as it is concerned?

Mr. BROWN. Yes, sir.

Senator KERR. That is an escape clause, I take it?

Mr. BROWN. Yes, sir. That is the biggest escape. At present the GATT is only provisionally effective so that any country could withdraw at 60 days' notice, but if it became definitely effective then the 6 months' term would apply.

Senator MILLIKIN. Has any country indicated it is going to get out or wants to get out?

Mr. BROWN. No, sir. There have been two withdrawals.

Senator MILLIKIN. Can you state them?

Mr. BROWN. I thought your question was prospective. China withdrew; and Lebanon.

Senator MILLIKIN. Why did Lebanon withdraw? I am curious about that.

Mr. BROWN. We were curious, too, but we have not been able to find out very clearly.

Senator MILLIKIN. You made a big fuss about getting Lebanon in.

Senator MARTIN. When did they withdraw? I am asking just out of curiosity.

Mr. BROWN. Very recently, Senator Martin. I think it was effective only a couple of weeks ago.

Senator MARTIN. I see. I had not heard about it at all.

Senator MILLIKIN. What is the relation of GATT in its present form, that is, its provisional form, to the United Nations?

Mr. BROWN. I think the simple answer to your question is "None." There is no legal relationship. It is true that the negotiations at Geneva were sponsored by the Economic and Social Council of the United Nations, but aside from that general blessing there is no direct connection there between the United Nations and the GATT.

Senator KERR. Would it be more accurate to say that it is general evidence of interest rather than to refer to it as that general blessing?

Mr. BROWN. That would perhaps be a better way of putting it.

Senator KERR. I could understand it better.

Senator MARTIN. Have not a great number who have been very strong advocates of the United Nations also been very strong advocates of GATT? Maybe that would cause us to feel that there was a connection.

Mr. BROWN. Most of the countries which are parties to the GATT are members of the United Nations.

Senator MARTIN. That is what I mean, and that is the reason why many feel they are connected.

Mr. BROWN. Yes, sir. In that respect there is a pretty close common membership.

Senator MARTIN. Yes. An association, but nothing official.

Mr. BROWN. No, sir.

Senator MILLIKIN. The United Nations contemplates subsidiary organizations, contemplates dependent organizations, and contemplates related organizations.

Mr. BROWN. Yes.

Senator MILLIKIN. Is GATT either subsidiary, or dependent, or related?

Mr. BROWN. No, sir.

Senator MILLIKIN. It stands on its own feet—I was going to say bottom, but it would be rather difficult to stand on its own bottom. It stands on its own feet; does it not?

Mr. BROWN. Yes, sir.

Senator KERR. If it is in a standing posture.

Mr. BROWN. Yes.

Senator MILLIKIN. Yes. You have provided the list by agencies of those representing the United States at Torquay?

Mr. BROWN. Yes, sir. I gave you a copy.

Senator MILLIKIN. How did you pick those negotiators?

Mr. BROWN. We picked the man we thought was the best qualified for the job—who had a combination of the knowledge of the country with experience in this tariff work.

Senator MILLIKIN. Are any of them picked from outside of the Government?

Mr. BROWN. No, sir. They are all from the Government.

Senator MILLIKIN. From what Departments?

Mr. BROWN. From the Departments of Agriculture, Commerce, State, Treasury, Labor, Defense, Interior; and the Tariff Commission.

Senator MARTIN. Might I ask a question there? Have any of those who have been selected had the experience as workmen in industry, management of industry, or management of agriculture at any time in their careers?

Mr. BROWN. I do not think any of them have been businessmen. No, sir.

Senator MARTIN. Or have any of them ever worked in industrial plants?

Senator KERR. I take it the Senator means as laborers in industry?

Senator MARTIN. I mean, if the man worked in a plant.

Senator KERR. I say, as laborers in industry?

Senator MARTIN. Yes; that is what I mean. I am not trying to imply they do not work hard in these Departments. They do. There is no question about that; but what I am getting at is whether or not we have a man on it who has made his living working in a plant, or who has made his living as an industrialist, or made his living as a farmer. Now, we have to have these career men down here, but there is quite a difference between these career men here in Washington and the men who have actually strived back on the home front.

I would like to know whether any of them had actually worked in plants. I mean by that, whether they have made their living in plants as workmen, and whether any of them had made their living as industrialists, or whether any of them had made their living as farmers.

Mr. BROWN. I think very few of them, Senator.

Senator MILLIKIN. Have any outstanding representatives of labor been appointed?

Mr. BROWN. No, sir.

Senator MILLIKIN. They are all from the Government?

Mr. BROWN. They are all Government servants, specializing in this field.

Senator MILLIKIN. Who makes the selection of those negotiators?

Senator KERR. Does each Department select its own representatives?

Mr. BROWN. Every Department selects its own representatives on the Trade Agreements Committee and the negotiating teams.

Senator MILLIKIN. But there must be some order to it. Is each Department assigned a certain number to appoint? Who makes the decision as to the number that should be appointed from each Department?

Mr. BROWN. It is made by the Trade Agreements Committee, which is representative of all of the Departments responsible.

Senator MILLIKIN. And the Secretary of State acts for the Interdepartmental Committee?

Mr. BROWN. In what way, sir?

Senator MILLIKIN. The law says he is the head of the Interdepartmental Committee; is he not?

Mr. BROWN. He is the head in the sense that he is the chairman of the committee, but the committee makes its own decisions.

Senator MILLIKIN. But who makes these selections?

Mr. BROWN. The committee does.

Senator MILLIKIN. The committee sits around a table, and the Secretary of Agriculture and the Secretary of Defense pick these men?

Mr. BROWN. The committee asks the Defense representatives to send, let us say, two people to represent them, and it agrees on how man people who are agricultural specialists should be necessary, and how many people in other lines would be necessary, and then asks the appropriate agency to provide those people.

Senator MILLIKIN. May we have a list?

Mr. BROWN. As far as the negotiating teams are concerned, they are commonly composed of a State Department representative, a Commerce Department representative, and a Tariff Commission representative.

Senator MILLIKIN. I did not get all of your last statement. I am sorry. Starting with "as far as."

Mr. BROWN. As far as the negotiating teams are concerned, they are usually composed of a representative of the State Department, the Commerce Department, and the Tariff Commission, and then they have assistants from Agriculture and other agencies, as they may need them in connection with particular products.

Senator MILLIKIN. Who finally approves the lists as thus gathered during the formal process?

Mr. BROWN. Bringing the list together and making the arrangements and everything is in the Conference Department of the Department of State.

Senator MILLIKIN. The Conference Department of the Department of State?

Mr. BROWN. Yes, sir. They ask for the budget and provide all the arrangements.

Senator MILLIKIN. Would you mind supplying us with lists of the men at Torquay according to their selection by Departments?

Mr. BROWN. I believe that is clear in the list I gave you, Senator.

Senator MILLIKIN. Is that clear?

Mr. BROWN. Yes.

Senator MILLIKIN. Thank you very much.

Now, who appoints the panels on the Committee for Reciprocity Information?

Mr. BROWN. The panels include representatives of all of the agencies that are on the Trade Agreements Committee.

Senator MILLIKIN. How are they picked?

Mr. BROWN. By the agencies. Each agency picks the man it wishes to be represented by.

Senator MILLIKIN. Will you submit to us lists showing their selections in connection with the hearings they held in preparation for Torquay?

Mr. BROWN. I would be very glad to, sir.

Senator MILLIKIN. Department by department. Roughly, are there about an equal number from each department?

Mr. BROWN. There is normally one man from each department.

Senator MILLIKIN. One man from each department?

Mr. BROWN. Yes, sir; and a point is made if there is more than one panel, as there has been recently, to have at least one member of the Trade Agreements Committee sitting on each panel, so that there will always be in the Trade Agreements Committee at least one person who has heard all of the witnesses directly.

Senator MILLIKIN. And who composes the Interdepartmental Committee?

Mr. BROWN. That is composed of the Cabinet officers or representatives of the Cabinet officers.

Senator MILLIKIN. Primarily of Cabinet officers, and they appoint their representatives, do they not?

Mr. BROWN. Yes.

Senator MILLIKIN. Obviously the President appoints a Cabinet officer, and the Cabinet officers who are members of this Interdepartmental Committee appoint their own substitutes. Is that correct?

Mr. BROWN. That is correct.

Senator MILLIKIN. The other day I think you made a slip of the tongue. You said you were representing all of the Government agencies that are involved in this problem. You did not mean to say you were representing the Tariff Commission, did you?

Mr. BROWN. No, sir.

Senator MILLIKIN. I thought you would want to make that exception. So that the substitute members of the Trade Agreements Committee are responsible to their superiors, and their superiors are in turn responsible to the President. Is that the hierarchy?

Mr. BROWN. That is correct.

Senator MILLIKIN. Is there any liaison between any of these committees—the country committees, the negotiating teams, the substitutes for members of the Cabinet, and the Cabinet members, with the Congress, in connection with this subject?

Mr. BROWN. No, sir; except through these hearings.

Senator KERR. You would not say that these hearings are entirely without significance in that regard?

Mr. BROWN. We consider them very important, Senator, because it is here that we render our accounts to the Congress.

Senator MILLIKIN. Where do you render your accounts?

Mr. BROWN. We make our report every time we come up and ask for our renewal of the statute.

Senator MILLIKIN. But there is no current liaison between the Congress and any of these groups that I have mentioned on their current progress with the problems. Is that correct?

Mr. BROWN. Except to this extent, Senator Millikin, that I got a great many inquiries from Members of Congress about individual situations and the bearing out of the Trade Agreements Act and its

administration. I think the Members of Congress show a great deal of interest in what we are doing, but we do spend a great deal of time, Senator Millikin, both by correspondence and when a Member of Congress wishes it, in coming to see him to give him information about the problems that they have raised; and, in that respect there is an almost continuous liaison with individual Members of Congress on individual problems.

Senator MILLIKIN. That is an off-the-cuff procedure and happens when it does. Is that correct?

Mr. BROWN. When the Member of Congress requests it, it happens.

Senator MILLIKIN. Yes. There is no organized liaison between the country committees, negotiating teams, the Interdepartmental Committee and the Committee?

Mr. BROWN. No, sir.

Senator KERR. You would be glad to have such a congressional directive, I presume?

Senator MILLIKIN. Oh, Senator.

Senator KERR. Let me ask you another way. You would be willing to have such if Congress so provided in its legislative enactment?

Mr. BROWN. That would be a very interesting thing to try to work out. I think it would be pretty hard to draft.

Senator KERR. If they were successful in drafting it and so provided, you would be willing to acquiesce in it?

Mr. BROWN. We would have to.

Senator MILLIKIN. It is a very penetrating question. I would like to have a straight-out answer from the witness.

Mr. BROWN. I cannot answer that question yes or no. Senator, it would all depend on how the thing is set up and whether it could be workable or not.

Senator MILLIKIN. I think it is perfectly obvious there would be a gross inconsistency between your refusal to bring information such as the minute books of the Interdepartmental Committee and what is going on at Torquay, before this Committee which has legal jurisdiction over the whole subject matter and is the part of the Congress from which you derive your authority and then at the same time have an orderly organized liaison between negotiators and the Interdepartmental Committee and the panels who are picked for the Committee on Reciprocity Information, and so forth and so on? But I would like to have Mr. Brown say that he would favor that.

Senator KERR. I did not ask him that. I asked him if he would be willing. I frankly think if it worked out Congress would probably become as dissatisfied with it as the witness probably could, but I still feel there probably should be an affirmative response to the question, would they be willing if Congress so provided.

Senator MILLIKIN. I would like to have not only an answer to that, but I would like to have an answer if Mr. Brown would favor it.

Mr. BROWN. I think it would be extremely difficult, Senator, to work out any arrangement in which individual tariff rates were the subject of consultation. Extremely difficult.

Senator MILLIKIN. Do you think you would favor it?

Mr. BROWN. I think it just would not work, and therefore would not favor it.

Senator MILLIKIN. You would not favor it because it would not work.

Senator MARTIN. Mr. Brown, I have been a part of meetings of laboring men, owners of plants, and Members of the Senate and House where we would get around the table and discuss certain of these things. Do you not believe a group like that could give you a lot of valuable information?

Mr. BROWN. I do not think what the group would add, Senator, to what we get in other ways would in any way be as great as the difficulties that would be caused.

Senator MARTIN. There you have the representatives of the people in the Congress, you have the men who work in the plants and earn their living there, and you have the men who make the profits for the stockholders. I do not know where you could get a group that would be more concerned and more desirous of giving you the proper information. I have sat down here several times with pretty large groups where we spend the whole evening—labor and management together—in the most harmonious situation, and where we have been discussing as to how certain industries could survive in the future and we could not see how they could unless we had some tariff help. It would seem to me groups like that ought to be helpful to you.

Mr. BROWN. I can only say, Senator, I am afraid it would be an extremely difficult thing to work out and I just do not see how the subject of individual tariff rates could be handled in that manner. One of the basic ideas underlying the act has, I think, been the question of delegating, within limits, the work on tariff rates to the Executive, and that was done for reasons that the Congress found persuasive. I do not see how you could work that out without getting the tariff rate-making process back in Congress. I think you would have to make a choice as to whether Congress wishes to take back to itself the tariff-making process which, of course, it could do at any moment, or whether it wishes to delegate that to the Executive.

Senator MILLIKIN. I think you have described it in excessively sharp contrast. For example, we have a resolution before the Senate now which requires consultations between the executive department and the Committees on Foreign Affairs and Armed Services. That does not mean that the Congress is intruding on the constitutional powers of the President. It is intended, I assume, to bring the two together in closer cooperation. That does not at all mean that the Congress is going to take over every detail of strategic and technical military operations.

In other words, there a point has been found that falls far short of the extremes in the case to which I have referred. I suggest you are picking on an extreme, rather than dealing directly with the question of some liaison between the Congress and the Department of State.

Mr. BROWN. I am picking on the extreme because in the nature of the case what you are dealing with in dealing with the tariff is precisely the matter of detail.

Senator MILLIKIN. The matter of what?

Mr. BROWN. The matter of detail; and it is the figure of "X" percent or "Y" percent, or what have you, that is involved.

You said in this that you thought I was too extreme because it was a choice of bringing Congress into the detail or leaving it all to the Executive. I think when you get to dealing with individual tariff rates you are getting down to it, and the only way you can deal with them is in the actual detail of the particular situation.

Senator MILLIKIN. But you have a vast field concerned with that exact detail. For example, you have the question of whether a vehicle like GATT should be entered into. You have many questions affecting the terms of GATT, and things of that kind, where Congress might have a very direct interest aside from detailed concessions.

Mr. BROWN. On that there would be very much less difficulty, Senator.

Senator MILLIKIN. It would be what?

Mr. BROWN. I thought you were referring to the rate situation. On that kind of thing I think it would be quite a different situation.

Senator MILLIKIN. You see, had there been something of that kind, we would probably not have had these years of debate and conflict over ITO and over GATT.

Mr. BROWN. In that area I should think it would certainly be possible to work out some kind of consultation and——

Senator KERR. And liaison.

Mr. BROWN. I for one would welcome it, speaking for myself personally, as I must, because it is a new idea suggested today.

Senator MARTIN. Mr. Chairman, if I might, may I ask, you do not feel that Congress intended to give a complete power of attorney without any possible review, or without any possible accounting, do you?

Mr. BROWN. No, sir. Congress did not. Congress set the limit on what the President can do in terms of changing the tariff rates and gave him the power for only a limited period.

Senator KERR. And retained the power to change anything he had done any time they wanted to.

Mr. BROWN. Yes, sir.

Senator MARTIN. There was quite an able speech that was referred to here the other day—and unfortunately only a couple of the members were present—which was made by Mr. Peck, who was former Solicitor General of the United States, when he said he doubted very much whether Congress had even the authority to delegate this authority. I have been giving a lot of consideration to whether or not to put that speech into the record, so that we would all have a copy of it, but it is a little long, although it is a very able presentation as to whether or not they had the constitutional right to do it.

Senator KERR. I assure you, Senator, that the speech is brief compared to many things that have been put into the record.

Senator MARTIN. I know, but I hate to impose on the record too much.

(The speech referred to follows:)

SHOULD THE POWER TO TAX BE VESTED IN THE PRESIDENT?

(Speech of Hon. James M. Beck, of Pennsylvania, in the House of Representatives, March 24, 1934)

Mr. BECK. Mr. Chairman, the consent just given me to revise and extend my remarks will relieve me of the necessity of making, as I had hoped to do, an argument at some length and in some detail as to whether there is any constitutional power in the Congress to transfer its taxing power to the President. I had indulged the hope that I would have that opportunity, but for several reasons, including permission to extend, I shall not at this late hour Saturday afternoon thus impose upon my indulgent colleagues. In the first place, the time now allotted to me for such an argument is too short, and I would be like the old farmer in New York State who entered his farm nag in the Saratoga races. When his horse came in last he was asked to explain his poor showing. He

replied that "the course was too long and the time was too short." [Laughter.] That is true of the length and breadth of a subject as great as the fundamental question of taxation, and it is also peculiarly applicable to the time allotted to me.

In the second place, the gentleman from Massachusetts [Mr. Treadway], although not a lawyer, has made such an admirable argument against the constitutionality of this measure that I am afraid that if I attempted to argue long the same lines I would simply be repeating that which he said with greater deliberation, and presumably, therefore, with greater precision.

But the third reason is the consciousness that has been borne upon me ever since my service in the House of Representatives as to the futility of any argument as to the constitutional powers of Congress or as to the sanctity of the Constitution itself, so far as voting is concerned. I do not doubt that many Members of this House do take what is an academic and sentimental interest in the Constitution as it came from the master architects of our Government, but, as far as affecting a single vote is concerned, I have yet to discover that any effort of mine or any effort of any other Member of the House has ever changed a vote in respect to a question, where the doubt was purely that of constitutional power.

In this connection I am reminded of the facility with which changes of opinion can take place in matters of constitutional powers, although they concern the oath that we all take when we come into this House to defend and protect the Constitution of the United States.

Today an extraordinary change has taken place on the Democratic side of the aisle, to which already the gentleman from California [Mr. Evans] has made extended and most effective reference. I refer to it again because it brings to my mind an experience—I will not say of some bitterness, because it is more amusing than otherwise. In 1929 a far more defensible proposition was under consideration of this House to vest such a power in the President upon advice of the Tariff Commission, a legislative auxiliary of Congress in the function of imposing taxes. When that proposition was made in 1929 I recall the vigorous attack that was made by the entire Democratic side of that Congress against this lesser and more defensible proposition, which it regarded as subversive of our institutions. I was so impressed with the arguments then made by the distinguished chairman of the Committee on Ways and Means [Mr. Doughton] and by the gentleman from Alabama [Mr. Bankhead], who closed the debate, and by our former colleague, Mr. Crisp of Georgia, and by the Democratic floor leader, Mr. Garner, that I concluded that the Democratic view was right, and, somewhat, to the consternation of my Republican colleagues and possibly to the surprise of my constituency, I made a speech on May 22, 1929, in which I supported the Democratic view. Now I am left alone, like a deserted and forlorn bride on the church steps. [Laughter.] I stand today, where I stood then, in defense of the constitutional prerogatives of Congress. The Democratic Party has deserted me. Why did they then strain at a gnat, now to swallow a camel? You will remember Lady Teazle said to her would-be seducer, "It may be well to leave honor out of the question." So in this matter the Democratic Members of this House must leave consistency out of the question. [Laughter.] I appreciate we cannot always be consistent for we are all in the swift current of events which may be likened to the River Mississippi in a period of a spring freshet, where the muddy stream is overflowing the boundaries of the river and pours on to some unknown destination in muddy swirls and eddies.

I quite appreciate, therefore, that under the tremendous impact of this economic depression it may be no impeachment either of the sincerity or patriotism of the Democratic Members of the House that they are today taking a precisely opposite position to the one which they took in the preceding Congress, when a far more defensible proposition was under consideration. However, they could be at least more modest in advocating today what they attacked in 1929 and less enthusiastic in surrendering the prerogatives of Congress. Of course, it only goes to prove that the age of miracles has not passed [laughter]; because, while it was a miracle when Paul went to Damascus and was stricken with a strange light and forthwith he, the persecutor of the brethren, became their foremost apostle, is not the collective conversion of the Democratic side of this House, which we are now witnessing, a greater miracle?

There is another reason why I have done the House the great kindness of not making the argument as to constitutionality that I had in mind, but am contenting myself with some more general observations. We are living in strange times, when one can no longer with any confidence make predictions as to what the Supreme Court will do. I am confident that the Supreme Court, if it adhered to

its decisions of many years, could not find any justification in the Constitution for the complete and absolute transfer of the taxing power upon imports from the Congress, where the Constitution placed it, to the Executive; but I say we are living in extraordinary times, when not merely Congress and the Executive are floating down this swollen and seemingly irresistible stream of events, to which I referred, but even the Supreme Court seems to be finding difficulty in resisting the fearful current of a world catastrophe.

Until a month ago it had been the settled rule of that Court, recognized in many decisions—a perfect beadroll of authority—that there was a clear distinction between a natural monopoly that was impressed with a public use, and the ordinary avocations of men. As to the former it was within the legislative power, notwithstanding the fourteenth amendment, to regulate the rates that could be charged by these natural monopolies; but as to the latter, as to the larger number of men who deal in the necessities of life, like milk, bread, coal, wheat, or cotton, the Court had for a half century consistently held that there was no power, in view of the prohibition of the fourteenth amendment, in a State, to determine at what price an individual could sell his product.

When a month ago the Supreme Court of the United States, in the so-called New York Milk Case, calmly discarded its decisions of 50 years, and did not even pay to those decisions the ceremonious respect of a funeral oration, it laid down the principle that not only in respect of natural monopolies, but in respect of all the products of human labor the State has a power to determine the price at which a man shall sell. I regard that decision as astounding and disconcerting as any decision since the Dred Scott decision. The latter abrogated a political settlement of over 30 years; the former discarded decisions of a half century, and virtually expunged the fourteenth amendment from the Constitution for most practical or conceivable purposes. Therefore I would not risk the little reputation I may have in this House as a prophet by denying the possibility that this great Court might not, as a concession to the times, accept this law, if it should arise in a litigated case.

Does our responsibility end with the assumption that the Supreme Court might, especially if it were called upon to decide the constitutionality of this law under the present abnormal conditions, sustain the law? Does our responsibility then end?

There are two great fields of constitutional law. In one of them the Congress has primary responsibility, but the Supreme Court has the ultimate and final decision. Those are the constitutional questions that are said to be justiciable; and therefor, when such a question comes before the Court in a litigated case, the Court can only compare the statute with the Constitution, if the statute conflicts therewith, declare it invalid.

But the one thing that we often ignore, not only in this House but in all public discussions, is that outside of the field of purely juridicial constitutional law there is a vast field of governmental action, in which the most important constitutional questions can be raised, and in this field of power the Congress has not only the primary but is the ultimate and exclusive authority, and the Supreme Court is incompetent to act. I refer to the field of what are called political or nonjusticiable questions. For example, it is undoubtedly true that when Congress was given the power to make appropriations to enable the Executive to function, that the constitutional duty was put upon the Congress to pass the appropriations; but if Congress refused to do so, the question would be nonjusticiable, because fulfillment of that duty rests in the conscience of the Congress and could not possibly be the subject of a judicial decision. The only appeal is to the people.

Assume that the Supreme Court would accept an absolute delegation of the taxing power to the Executive to be exercised by the President in the form of a treaty without the consent of the Senate—and in ordinary times it never would—yet it does not alter the fact that upon the Members of this House is the responsibility, under our solemn oath of office, to determine in the light of the Constitution and according to the basic principles of English-speaking liberty, of which the Constitution is but one expression, whether we are prepared to turn our backs upon 500 years of struggles for liberty by the English-speaking race and vest an absolute power of taxation in respect to imports in the Executive. This question was the origin of the British Parliament, well and properly known as the Mother of Parliaments. Parliament came into existence because the English people were not content that the Crown could impose any tax without the consent of the representatives of the people. And that struggle has gone on from the time of the Plantagenets down to King George V, because in the last crisis in English history, involving the attempt of the House of Lords to

reject a budget that had been passed by the House of Commons, Prime Minister Asquith advised the King that if necessary the King must appoint enough peers to give a liberal majority in the House of Lords to sustain the right of the House of Commons to impose taxes; and, ultimately, as you know, the crisis was solved without such an extraordinary act on the part of the King; and it was solved by the reaffirmation of the principle, that a money bill must be the subject of action by the House of Commons and could not be transferred or vested in any other body.

Go back to our own Revolution, which made us a Nation. We did not object to regulations of commerce by Great Britain. We did object to the attempt to tax us by legislative assemblies in which we had no representatives; and it was for that principle that we fought seven long years; for that the agonies of Valley Forge were endured, and the crowning triumph of Yorktown was gained. Yet, now, in a moment of hysteria, for that is what it is, in an economic crisis—undoubtedly grave, but not so grave as the crisis of which the Constitution was born—not so grave as other crises in American history in which the industries of this country were far more prostrated, we are prepared to abandon a basic rule of taxation and also a fundamental principle of our Constitution that no treaty, that shall bind the faith and credit of the United States to a course of action with another government, shall be valid unless it have the concurrence of two-thirds of the Senate.

We are thus confronted with the possibility of a double violation of the Constitution.

Please remember that there is no question about the President's power to negotiate all the trade treaties he wants, because his power of negotiation is as surely vested in him as is the power that Congress exercises to impose taxes, but when he negotiates, and he can negotiate with any nation for reciprocal exchange of imports and of duties upon imports, he must return it to the Senate for its approval, and if it involves changes in taxation it must be returned to the House, because the power to originate any tax is the ancient privilege of the House of Representatives and the final power to impose the tax, whether in accord with a trade agreement or not, is the greatest of all prerogatives of Congress itself. Therefore, there is no objection to the President, if he feels he can improve our economic situation, to making a tariff treaty with Germany, with France, or any other nation, but we do object to the Presidents' having the final authority without submitting it to the Congress of the United States and to that body of the Congress which has the peculiar right to say when we shall commit ourselves to binding agreements with other governments in matters of legislative policy.

I know there are many trade agreement that do not require either the action of the Senate or the action of the Congress, because they are of a peculiarly executive character. And there is the line of distinction. You may have an agreement that if such-and-such country will provide certain facilities for the entrance of our vessels we will do the same thing in our ports of entry, or any other method of commercial comity between nations, but when an act essentially legislative is involved—and the highest of all legislative powers is the power to impose a tax—you cannot destroy the right of the Senate to concur and the right of the Congress to impose the tax stipulated by calling it a trade agreement, because this would be merely juggling words and would not answer the quite obvious intention of the Constitution.

There is no room in the American system for one-man power, and this was decided at a time when we had a leader who could, if anyone, have claimed one-man power, although he never did—that man of incomparable virtue, probity, and sagacity, the first President of the United States—but it was not proposed to give any such power to the President of the United States, even though he were George Washington. Therefore all legislative power was vested in a Congress by the Constitution.

The executive power was vested in a President, and the Executive was to be limited in his negotiations and conduct of foreign relations by the provision that not merely a majority of the Senate but two-thirds of the Senate must concur before the freedom and independence of this country was compromised, because every treaty in a measure compromises the independent action of a country. I do not mean that this ought not to be so. I simply say if I agree with another man I will do a thing, as a man or honor, I have limited my own independence of action by the obligation of my promise, and so a nation limits its independence when it agrees in a treaty that it will take a certain course of action. Therefore the framers of the Constitution were not willing, unless two-

thirds of the Senate concurred, that there should be any commitment of this country to a future course of action with any nation. They made no exception in the matter of taxes. The commitment was just as applicable as to what duties should be imposed with reference to taxes as upon any other subject.

Mr. WOODRUFF. Will the gentleman yield?

Mr. BECK. Yes; certainly.

Mr. WOODRUFF. I think before the gentleman takes his seat he should explain to the House the difference between a so-called trade agreement between nations and a treaty between nations, because, after all, any agreement between nations seems to me to be a treaty. If there is a difference, I hope the gentleman will give the House the benefit of his views on the question.

Mr. BECK. I have tried to do so in what I have already said by stating that whether the treaty or the trade agreement is one that must go to the Senate depends upon whether it relates to matter that the Constitution has committed to the executive branch of the Government; but when it refers to matter that requires action of a legislative character, it does not matter how you label it. Our State Department is the organ of our foreign affairs and can make many agreements with foreign countries of an executive character that do not require the concurrence of the Senate, but when you come to examine them, you find they are all parts of the executive function in seeing that the laws are faithfully administered and in the conduct of our relations with foreign countries.

Let us stand by the Government of the fathers and trust to the composite patriotism and intelligence of the Congress of the United States. It may err, it often does. It may be inefficient, it often is inefficient; but its wisdom is better than the wisdom of any one man and we will find it out sooner or later. [Applause.]

Mr. DOUGHTON. The gentleman is learned in the Constitution, able and adroit in debate, but it appears to me that the gentleman strains the point by using the term with respect to this bill "imposing taxes." What is there in this bill that authorizes the President to impose any new taxes? He may raise or lower the present tax, as he can under section 336 of the present law, but he cannot impose any tax, and the gentleman has used that term more than once.

Mr. BECK. I used it because, if you will look through form to substance, that is the effect. When the Congress says that the tax shall be 3 cents a pound on sugar and then gives to the President, whether under the old Tariff Commission or without the Tariff Commission, as this law provides the power either to increase that to 4½ cents a pound or to decrease it to 1½ cents a pound, then this has happened: Congress has only nominated a tax, the President has ultimately determined its real amount, and if he increases the tax to 4½ cents per pound, he has imposed a tax to the extent of 1½ cents a pound.

Mr. DOUGHTON. I know the distinguished gentleman can differentiate between increasing or lowering a tax and imposing a tax. I know the gentleman can distinguish between the two propositions. We all understand what is meant by increasing or decreasing a tax, but the gentleman used the words "imposing a tax" and used them more than once, and I maintan that in this bill there is no power given to the President to impose a tax.

Mr. BECK. If the President does not impose a tax after he has made his agreement with foreign nations, who does?

These changes in our form of Government, whereby the Executive Office is immensely expanded and the powers of Congress, as the great council of the Republic, are sensibly diminished, give me great concern. They are the results of a subtle change in our Government, which has been in progress in the last 50 years and which has been immeasurably accelerated in the last 12 months.

In 1887, 3 years after I was admitted to the historic bar of Philadelphia, that city held a great celebration, and with its characteristic hospitality was the host of the Nation. It was the centennial celebration of the adoption of the Constitution of the United States.

For a whole week Philadelphia was en fete.

September 17, 1887, is an imperishable memory with me. On that day many thousands gathered in front of Independence Hall to celebrate the exact hundredth anniversary of that day in Philadelphia when the weary members of the convention, having exhausted the possibilities of compromise, reluctantly signed their names to the great document and submitted it to the people for their decision.

President Cleveland, ex-President Hayes, and all the members of the Supreme Court were present, together with many Members of the United States Senate and House of Representatives, and other able dignitaries, prelates, educators,

and publicists from all parts of the country. President Cleveland delivered a memorable address, and then Mr. Justice Miller, of the Supreme Court, delivered the formal oration.

I have recently glanced through the two ponderous volumes edited by Hampton L. Carson, of the proceedings of that notable celebration, which lasted for the greater part of a week. That which greatly impressed me was the fact that there was then nothing but the most unbounded optimism, not merely as to the surpassing merit of the Constitution, which seemed to them a flawless masterpiece, but also as to its assured permanence. Mr. Gadstone's oft-quoted tribute on that occasion was the verdict of all there present, and all seemingly felt that the troubles of the Constitution had now been happily adjusted, that the pendulum that had at first swung to a rigid construction and later to a liberal construction, had now reached the point of stabilization, and that in the future there was nothing for the Constitution except smooth seas and cloudless skies.

Dr. Oliver Wendell Holmes wrote a poem whose refrain was—

"While the stars in heaven shall burn,
While the ocean tides return,
Ever shall the circling sun
Find the Many still are One."

And this proud, but somewhat magniloquent boast was echoed in a new national hymn, written by F. Marion Crawford, whose refrain, chanted by a thousand voices, of which I was one, was—

"Thy sun is risen, and shall not set
Upon thy day divine!
Ages of unborn ages yet,
America, are thine!"

Few there present ever dreamed that the power of taxation—the most potentially destructive of all powers—would one day be vested to a large extent in the Executive.

Two minor notes alone were then sounded. At the banquet given to the Supreme Court of the United States by the bar of Philadelphia, the chief justice of Pennsylvania, addressing himself to the Chief Justice of the United States, appealed to the latter to preserve, by judicial decision, the boundary which the Constitution had prescribed between the powers of the Federal Government and those of the States. He said:

"Mr. Chief Justice, you and your distinguished colleagues, with whose company we are honored today, have it in your power to do very much toward preserving intact the line of distinction between the Federal and State courts as marked out and defined by our fathers. You are the conservative element of the Government. The lofty tableland upon which you stand is far above the atmosphere engendered by politics. The waves of popular clamor break harmlessly at your feet. The Supreme Court of the United States is the central sun of our judicial system. Your permanent position and conservative surroundings eminently fit you to preserve the nice distinctions of the Constitution. There has never been, and I trust there never will be, a serious conflict between the Federal and the State courts. It can best be prevented in the future by preserving the line that has always existed between them, and by rendering unto Caesar the things only which belong to Caesar."

In this appeal to Chief Justice Waite, the chief justice of Pennsylvania was evidently under the illusion that the Supreme Court of the United States could effectually preserve the Constitution of the United States in a nation which was essentially democratic in spirit.

I think the two great illusions of American history are the rooted ideas that the Constitution with its nicely prescribed boundaries of power could long limit the vagaries of democracy, and that the Supreme Court could effectively keep the American people within these prescribed boundaries of power. Nearly 2,000 years ago Aristotle had taught us that if a constitution conflicts with the ethos or genius of the people, it is the constitution that is broken in the conflict, and no better illustration can be given of this truth of the great Greek philosopher than the fate of the eighteenth amendment.

It is not less an illusion to suppose that the nine justices of the Supreme Court can enforce the Constitution. In this period of rapid change, one can say of this august tribunal, in the words of Omar Khayyam:

"Lift not thy hands to it for help—for it
Rolls impotently on as thou or I."

The reason for this is obvious. The Supreme Court cannot even interpret the Constitution unless there comes before it a litigated case, and many unconstitutional laws are passed by Congress which never give rise to a litigated case.

In the second place, there are many questions of interpretation which involve questions of a political or nonjusticiable character.

In the third place, the powers of the Federal Government are given for specific purposes and cannot, theoretically, be used for any other purpose; but if Congress uses such a power to accomplish an end that is within the reserved powers of the States, how can the Supreme Court determine the motives which prompted the legislation? That Court has not yet finally answered that question.

Apart from these three main considerations, the Supreme Court is not, and never was, a wholly independent body. It does not remain proudly in its seat of justice, as did the old senators of Rome, when the Goths and Vandals invaded the Imperial City. The Court is a very human institution; and while it is not true, as Mr. Dooley suggested, that it "follows the election returns," yet it cannot be indifferent to the deep currents of social changes, nor can it even be wholly deaf to the rumblings of popular discontent.

Undoubtedly the Court has done much to preserve the Federal Government from attempts of the States to invade the Federal sphere of power, but it has been largely ineffective in defending the States from the encroachments of the Federal Government. The proof of what I say, which may seem to many of you heretical, is the fact that while Congress, from the beginning, has passed thousands of laws for which it had no perceptible grant of power, the Supreme Court has only invalidated about 50 Federal statutes in all its history.

Recurring again to the constitutional celebration of 1887, at a dinner given by the learned societies of Philadelphia to the distinguished guests of the city, a more pointed speech was made by Charles Francis Adams, of Massachusetts. He, alone, pointedly warned those assembled that the centripetal influences of a mechanical civilization were fast destroying the constitutional equilibrium of our dual Government, and he added:

"From the very beginning there have been two views of the Constitution—the liberal view and the strict view. In the first Cabinet of Washington, Hamilton represented one side of the great debate, which has gone on from that day to this, and Jefferson the other. Both parties to this debate have, I submit, been for a part of the time right; both have been for a part of the time wrong. The unexpected occurred—steam and electricity have in these days converted each thoughtful Hamiltonian into a believer in the construction theories of Jefferson; while, nonetheless, events have at the same time conclusively shown that in his own day Jefferson was wrong and Hamilton was right. * * * It is from the other side of the circle that danger is now to be anticipated; everything today centralizes itself; gravitation is the law. The centripetal force, unaided by government, working only through scientific sinews and nerves of steel and steam and lightning—this centripetal force is daily overcoming all centrifugal action. The ultimate result can by thoughtful men no longer be ignored. Jefferson is right, and Hamilton is wrong."

As we look back upon that celebration in a cloudy vista of 47 years, it is clear that only Charles Francis Adams showed any clear foresight as to the future. This is not said by way of reflection, for the greatest political thinker of the nineteenth century, Prince Bismarck, once said that the wisest statesman could not see 5 years in advance, and on another occasion he said that no statesman can ever tell what cards fate holds in its hands.

This is strikingly shown by the celebration to which I am referring. Its undiscriminating optimism showed no appreciation of the fact that the Constitution in 1887 was about to enter into a phase of development which would convert within a half century our federation of States into a unitary socialistic State.

The ancient boundaries of power were soon to be obliterated and the basic ideals of the framers of the Constitution were, less than a half century later, to be flouted as obsolete. In its practical operations government is more concerned with trade and industry than with any other phase of life, and it is noteworthy that when the centennial celebration took place in 1887, Congress for a century had never attempted to exercise affirmatively any power over interstate commerce by regulating statutes. The operations of the commerce clause were restrictive upon State legislation and purely negative.

The number of cases which arose under the commerce clause up to 1860 were only 20. Thirty years later there were 148, and since then the number has been so multiplied that most constitutional cases today arise either under the commerce clause or under the fifth or fourteenth amendments.

The beginning of the new era was the creation of the Interstate Commerce Commission on February 4, 1887. There were not wanting those who clearly foresaw the bureaucratic Frankenstein that Congress was about to create. For example Senator Morgan, of Alabama, said:

"I admit all that has been said about the wrongs and injustice that people have suffered through the overbearing insolence and oppression of the railroad companies. Their greed is destructive to the people and the governments from whom they derive their powers; but in finding a remedy for this evil I neither wish to find for the people a new master, remote from them and their influence, in the Congress of the United States, nor to place in the hands of that master a power over their trade and traffic more dangerous than the power of the railroad companies."

A few years after the creation of the Interstate Commerce Commission came the Department of Agriculture, and 3 years later came the passage of the Sherman antitrust law, and these three laws were only the prelude to a continuing policy of bureaucratic regulation under which the Federal Government assumed control over the farm and factory and even the life of the individual.

The mighty changes in our constitutional system which have taken place in the last half century have been effected principally in three ways.

The first has been the perversion of Federal powers to destroy the reserved rights of the States. This has been largely accomplished through the taxing power and the power over commerce.

The second and more destructive method has been the abuse of the power of appropriation, and this has proved the most vulnerable tendon of our Achilles.

From the beginning the Government, the Congress, from time to time, made appropriations for purposes that were not within the Federal field of power, but in most instances they were justified as purely philanthropic and humanitarian gifts. In the last half century our Federal bureaucracy has grown by leaps and bounds because Congress has realized that in appropriating money for non-Federal purposes they could assume an incidental right to supervise the uses of the money, and thus the Federal Government immensely expanded its operations. For example, the Department of Agriculture can have no constitutional justification except insofar as interstate or foreign conveyance of agricultural commodities are concerned, but this stupendous Department, which now spends far more money each year than the whole Federal Government spent in 1887, supervises the conditions of the farm and the methods of production to such an extent that even the intimate personal life of the farmer is sought to be influenced by its Bureau of Home Economics.

In recent years a third and more alarming doctrine has been introduced as a justification for Federal usupation, and that is the doctrine of emergency. It was long ago said by Justice Field, in his dissenting opinion in the Legal Tender cases:

"What was in 1862 called the 'medicine of the Constitution' has now become its daily bread. So it always happens that whenever a wrong principle of conduct, political or personal, is adopted on the plea of necessity, it will be afterwards followed on a plea of convenience. * * * From the decision of the Court I see only evil likely to follow."

What he said seems especially applicable to the present doctrine of emergency. This doctrine was once characterized by the Supreme Court in the case of Ex parte Milligan as easily the most pernicious of constitutional heresies, but it now threatens to be so firmly embedded in our form of government that unless this Nation returns to the beaten tracks of the fathers, which at the moment seems improbable, it is within the power of the President, not merely to declare an emergency, but to create one, and having done so, to overturn our form of government by claiming for the Federal Government all power deemed by the President to be essential to end the emergency. This is not a prophecy; it is a present fact.

It may yet prove to be the beginning of the end of our form of constitutional government, and this has come within 47 years after the American people in 1887 celebrated the adoption of the great compact with such generous acclaim and unbounded optimism, and largely in the space of a short 12 months. If so, we no longer have except in form a written Constitution, and we now realize the pointed warning that Chief Justice Fuller gave in his great dissenting opinion in the Lottery Case, "It is with governments as with religions, the form often survives the substance of the faith."

What now is beginning to concern the thoughtful American is the future of that Constitution. Freely conceding that it never was and never could be rigid

and inelastic, is it to grow in wisdom or perish in folly? Are we today rising to greater heights of constitutionalism, or are we descending into that Avernus of destruction from which escape to the upper air is so difficult?

We are passing through an economic crisis of exceptional gravity. It is not the worst economic crisis that our Republic has experienced. Indeed, the economic crisis which prevailed at the time the Constitution was formulated was far graver than the present one, for at that time the credit of the American Commonwealth had fallen so low that men derisively papered their houses with the worthless continental currency, and the bonds of the infant Republic sold at 4 cents on the dollar. And yet these nation builders formulated the most conservative form of government in the world.

It is not the gravity of the crisis which should give us concern as to the future of the Constitution but rather the present spirit of too many Americans.

The Constituiton was based upon an individualistic state of society, and it has required considerable adaptation to make it work for what is now a collectivistic state. To this I assign the fact, which seems to me indubitable, that the Constitution for the last 50 years has been in process of slow demolition. Here an arch has fallen, there a pillar, and now it is the foundations themselves that are fast sinking, and if the present process of destruction proceeds, it is not unlikely that within the life of the present generation the whole structure will fall into careless ruin.

What is more significant is that the process of demolition is proceeding with accelerating speed. At first it was so sporadic and insidious that it was hardly noticed. A decade might elapse before another arch would fall, but as we view the momentous changes in the Constitution in the last 12 months, due to practical administration, judicial interpretation, and abdication by Congress of its powers and duties, the thoughtful man is beginning to appreciate that our form of government is not unlike the present ruins of the Coliseum, and the best that one can hope is that "while stands the Coliseum"—the Constitution—even in its ruins, Rome—by which I mean the Union—will stand.

It is a proof of Washington's extraordinary sagacity that in his Farewell Address he predicted that our form of government would not be overthrown from without but "undermined" from within; and if we divest our minds of illusions and face grim realities it can hardly be questioned that the Constitution in many of its basic features has been "undermined." The warning of Charles Francis Adams has been fully justified by events.

I have no doubt that if the Constitution were submitted tomorrow to the American people for readoption or rejection that the American people, by an overwhelming majority, would readopt it. But this would not be because of any knowledge of its text or its fundamental philosophy, but only because of respect for a historic landmark and a subconscious belief in the average man that it is the Constitution that in some way holds together a people who inhabit a vast continent and number over 120,000,000. To them the Constitution is the organic expression of the Union. The Union means the unity of the American people; and the Union, it being the oldest name of the American Commonwealth, is very dear to all Americans. They realize that the Constitution means a political and economic unity for one of the most powerful races that the world has ever known and that as such it confers upon him as an American citizen a powerful prestige and immeasurable benefits, such as no other nation at the present time can afford its citizens.

While, therefore, the Constitution would be readopted by an overwhelming vote as an entirety, and to a certain extent as an abstraction, yet this is not inconsistent with the fact that when the Constitution is attacked in detail by measures which are foreign to its nature and destructive of its purposes, the American people can only see the ponderables of the question and are quite satisfied that the Constitution in detail should be "undermined," to use Washington's phrase, if it means an immediate advantage to the people.

Washington was so concerned as to the possibility of this spirit of pragmatism that he predicted, in a letter whitten to his friend and comrade in arms, Lafayette, shortly after the formation of the Constitution, that it would last—"So long as there shall remain any virtue in the body of the people."

He then continued:

"I would not be misunderstood, my dear Marquis, to speak of consequences, which may be produced in the revolution of ages by corruption of morals, profligacy of manners, or listlessness in the preservation of the natural and unalienable rights of mankind, nor of the successful usurpations that may be established at such an unpropitious juncture upon the ruins of liberty, however,

providently guarded and secured, as these are contingencies against which no human prudence can effectually provide."

Notwithstanding his eloquent reference to the rising sun, Franklin had the same gripping fear when he urged the members of the Convention to sign the Constitution. He said:

"There is no form of government but what may be a blessing to the people if well administered, and I believe, further, that this Constitution is likely to be well administered for a course of years, and can only end in despotism as other forms have done before it, when the people shall become so corrupted as to need despotic government, being incapable of any other."

I draw your especial attention to the words of Washington, already quoted, when he warned that the destruction of the Constitution would result from "listlessness in the preservation of the natural and inalienable rights of mankind," for he was there distinguishing between the ponderables of the problem, in whose pragmatic advantages the people chiefly feel concerned, and those great imponderables of liberty which are not for one age but for all time, and without which no nation can be truly free, whatever its nominal form of government is. He emphasized this in his poignantly pathetic Farewell Address when he said:

"Toward the preservation of your Government and the permanency of your present happy state, it is requisite not only that you steadily discountenance irregular oppositions to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretexts. One method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown."

Washington and Franklin were only thus expressing the opinions of all the master builders of 1787, that no constitution is self-executing and none can preserve itself no matter what its governmental machinery may be. They recognized better than we do that in the last analysis the preservation of the Constitution would depend upon the will of the American people, and that it was futile to expect that the people would defend what they had created unless the average citizen was inspired by what Grote well called "constitutional morality," which means a knowledge of the Constitution, a loyal acceptance of its spirit, and a militant purpose to defend it from destruction. If this be wanting, and there has been little evidence in recent months that the American people have this spirit of constitutional morality, then the preservation of the Constitution is an impossible task, for slowly its basic principles will yield to the spirit of opportunism.

The American people once had this spirit of constitutional morality in a very high degree. It was this spirit that led them to fight for seven weary years to vindicate a principle of taxation, although the nature of the tax was only a "tupenny" duty on a pound of tea. To them the amount of the tax or its economic effect was unimportant. It was the great imponderable as to whether the taxing power could be exercised by a Parliament 3,000 miles away and in which the American people had no representation. The sufferings of Valley Forge were endured for a sacred principle. When the Constitution was submitted to the people, it was debated throughout the Union at every crossroads and in every farmhouse; and the questions that were discussed were not the pragmatic advantages of the proposed new form of government, but rather the question whether the liberties of the individual were adequately protected.

I have recently had occasion to read William Wirt's Life of Patrick Henry, and I read such portions of Henry's argument against the Constitution as were made in the Virginia Convention, and I was immensely impressed, not only with the force of his eloquence but with his vision as to what would be evolved by construction from the naked text of the Constitution.

While the American people accepted the Constitution with great hesitation, yet, when its advantages became manifest in the rise of a new nation in the firmament of history, the people began to believe passionately in the Constitution; and from 1789 to 1861 the debates on constitutional questions were the greatest that ever took place in America, and were equal to the greatest debates that ever took place on a form of government in the annals of history.

Here again in these debates the pragmatic advantages of any proposed legislation were wholly subordinated to the question whether a proposed measure was within the grant of power, and while there speedily developed the two schools of thought as to the construction of the document, one advocating strictness and the other liberality, yet both believed in their Constitution, and without respect to economic advantages, they fought for the underlying principles of government

that seemed to them at stake. When James Monroe attacked the constitutionality of internal improvements he was not thinking whether Virginia would get a road at the expense of the Federal Treasury, but whether the Constitution had granted any such power of appropriation.

It was the tenacious adherence to the Constitution which led in the early days of the Republic to the great crisis, which nearly disrupted the Union. The greatest debate in our history, and I am inclined to think in the annals of the English-speaking race, was the debate a century ago on Senator Foote's resolution, innocent in itself, but which developed the whole question as to what the rights of the States were if the Federal Government deliberately and indubitably usurped a power that was not granted to it. If Webster's reply to Hayne was the greatest forensic effort in our history, the speech of Hayne, of South Carolina, was not unworthy of the reply, for these were only two of the gladiators, for there were many arguments of remarkable power and eloquence made a century ago on both sides of the question, which are only now forgotten because they were overshadowed by Webster's masterful effort.

After the Civil War an entirely new spirit came to the American people. It was as though our written Constitution had become an unwritten one. Thenceforth, except on rare occasions, there was little more than lip service paid to the Constitution, although in that Civil War hundreds of thousands had died to preserve it. Acts that were flagrantly unconstitutional were passed on the theory that Congress had no responsibility, as the final decision rested with the Supreme Court. This quite ignored the fact that the question might never arise in the Supreme Court and that if it did the Supreme Court, necessarily influenced in a democracy by the will of the people, would hesitate a long time before disregarding the fiat of Congress. In this spirit the boundaries of Federal power were pushed forward with amazing speed and those of the States correspondingly contracted. Undoubtedly this was due in large part to the impact of a mechanical civilization and it may have been inevitable, but it put upon the Supreme Court the impossible strain, when a case did arise, of trying to reconcile the will of Congress, which no longer takes into account its limited powers under the Constitution, with the provisions of that document.

With a subtlety worthy of medieval scholasticism and reminding me, as I recently had occasion to say in this House, of Swift's Tale of a Tub, the Court proceeded to reconcile the acts of Congress with an extraordinarily latitudinarian interpretation of the Constitution.

The probable passage of the legislation now proposed and under discussion shows how insidiously our Constitution can be changed and its basic principles overthrown.

The Constitution was formed under the traditions of the English revolution of 1689. That meant the supremacy of the people in Parliament, and it was fundamental in that theory of government that the executive should never have a power to impose a tax, but that such levies upon the wealth of the people should only be authorized by the composite judgment of their representatives in Parliament. In defense of that principle Hampden risked his life, Charles the First lost his head, and James the Second his crown. For that principle our forebears in England had struggled from the dawn of constitutional liberty and they had maintained from the times of the Plantagenet kings to the present day that any tax measure must originate in the will of the people.

Therefore, our Constitution provided that the House of Representatives should originate all tax bills and that Congress alone should impose taxes. No more sacred duty was imposed upon it, for it was never intended that any levy should be made upon the American people unless by the consent of their Representatives in Congress. Congress has already surrendered its taxing power for, in the present emergency statute, the Secretary of Agriculture was given absolute power to impose taxes upon the processors of agricultural commodities in his discretion. And what is worse, it gave him the power to turn over the proceeds of the levy to one class in the community.

To this end the Secretary can even impose a tariff duty upon imports whenever he thinks it necessary to protect the processors, whose cost of production is necessarily raised by the processing tax. You will thus see that the complete power of taxation in the manner indicated has been vested in the head of a department to do whatever he pleases. Now it is proposed to vest in the President the power of taxation on imports. Thus we have a perversion not merely of the Constitution but of a basic principle of Anglo-Saxon liberty, for which the American people and their forebears have fought for over 500 years, and which they thought they had written into the Constitution in a manner that could not be defeated.

I could give many other examples of this slow undermining of our Government, either by laws upon which the Supreme Court never has occasion to pass, or by laws which, when passed, are sustained by the Supreme Court in deference to the will of Congress.

Possibly my pessimism is due to my advancing years, for the shadows of life are fast lengthening with me and I cannot hope to see the future development of the Constitution, as I have witnessed it in the last half century.

We are fundamentally a democracy and while a constitution can retard the spirit of innovation, it can never wholly defeat it. It can be a rudder or a chart, but never an anchor.

Today many Americans seemingly favor a central government of unlimited powers. Whether such a government would insure the perpetuity of the Union is a serious question. The founders of the Republic believed that no central government of unlimited powers could be successful, and in this they were fully justified by the consistent experience of history. A unitary and homogeneous state, like England or France, may be able to distribute the blessings of government without creating sectional or class antagonism, but if the federated British Commonwealth of Nations were to make such an attempt as that of the processing tax, and the wealth of Canada were drained to support the farmers of Australia, the Empire would dissolve overnight. The fear of a like fate dominated the thoughts of the great Convention of 1787. They recognized that there was an inevitable conflict of economic interests between the different sections of America, and that the only way to prevent a dissolution of the Union by reason of such conflict was to confine the Federal Government to a very limited sphere of power.

Even as so limited, our Nation was twice brought to the verge of destruction by a clash of economic interests, and it has only been preserved by the welding influences of steam and electricity and general and ever-increasing prosperity.

Today, however, the Federal Government, asserting unlimited power and concentrating it in the President, is attempting to redistribute property to draining the wealth of the industrial States for the benefit of the agricultural States. The present depression may make the industrial States conscious of this continuous drain on their resources, and the ever-smoldering fire of sectionalism may again break out into a destructive blaze. Should the Union disintegrate, some future Gibbon will say that its downfall began when the Nation disregarded the wise limitations of the Constitution on Federal power, and began to assert the unlimited power of a unitary state.

I am loath to end my speech upon so pessimistic a note. Who can say what is in the womb of the future? In this hour of acute anxiety we can well recall the noble words of Franklin, uttered when the great crisis of the Convention arose and when its success seemed impossible. He said:

"I have lived, sir, a long time, and the longer I live the more convincing proofs I see of this truth: That God governs in the affairs of men. And if a sparrow cannot fall to the ground without His notice, it is probably that an empire can rise without His aid? We have been assured, sir, in the sacred writings, that 'Except the Lord build the house, they labor in vain that build it.' I firmly believe this, and I also believe that without His concurring aid we shall succeed in this political building no better than the builders of Babel. We shall be divided by our little partial local interests, our projects will be confounded, and we ourselves shall become a reproach and a byword down to future ages. And what is worse, mankind may hereafter from this unfortunate instance despair of establishing governments by human wisdom and leave it to chance, war, and conquest."

Will this be the fate of America? I am by no means hopeless. All human progress in government is marked by alternate periods of integration and disintegration. When the integration proceeds too far, the pendulum swings back and reaches the other extreme of disintegration only to swing back when the distribution of power has gone too far.

Moreover, there is one great fact of which the proponents of the New Deal are seemingly ignorant. It is the native individualism of the American. The old pioneer spirit has not wholly lost its force, even in a mechanical civilization.

The fate of the eighteenth amendment clearly proved that, and I today see signs of a distinct reaction in the hearts of the people against this attempt to make one man, even though he be President, the master of the destinies of the American people.

No one man, whoever he may be, is fit to play such a role. Dictators have never long lasted. In a homogeneous nation a dictatorship may last for a time,

for the problem is not so complex as with a heterogeneous nation of conflicting interests. The present dictators in Italy may last as long as Mussolini lives, for he is a man of extraordinary ability and may rank high in history as one of the greatest sons of Italy—that fertile mother of great men—but when Mussolini dies, what will then happen in the struggle to seize the scepter that will then fall from his hands As for the dictatorship in Germany, it is doomed to failure long before Hitler shall live his allotted span of life, for that narrow fanatic is not a Mussolini.

Where, however, a people is heterogenous and occupies, as our Nation does, a vast territorial domain ranging from the sub-Arctics to the Tropics, and with all the conflicting economic interests that differences in climate necessarily bring about, then a dictator cannot long last, for he cannot so dispense governmental favors as to placate all sections, classes, and interests.

Moreover, the old love of liberty is not dead in America. It may for a moment be moribund because of the prostrating effect upon the human spirit of a prolonged depression but sooner or later—and I believe at no distant day—the American people will turn back to the beaten paths of the fathers and will again be animated by the spirit of liberty, which influenced Washington and Franklin, Hamilton, and Jefferson.

The American Constitution did not believe in one-man power, and for a very obvious reason that is inherent in human nature. A President, whoever he may be, cannot wholly arise above the conditions of his birth and of his environment. He carries with him into his high office all the influences of his early surroundings. It was for this reason that the framers of the Constitution refused to concentrative power in one man. It vested all legislative power in a Congress, which would represent the composite will of the entire people, and they never intended that the representatives of the people should abdicate their responsible office and transfer the legislative power to the President. Undoubtedly Congress, like all parliamentary institutions, is by reason of its being thus representative of the whole people, often inefficient, for all legislation must thereby be a matter of slow compromise, but if we must choose between the security of liberty and the supposed efficiency of one-man power, the genius of our institutions prefers the former.

I remember a passage in Victor Hugo's masterpiece where, in a political club, an orator in glowing terms described the genius of Napoleon, but when he ended his eloquent tribute to the achievements of one of the greatest of the children of men by asking what could be better, a fellow member answered him in three words. They were "To be free."

The American people are not yet so demoralized that they prefer so-called efficiency to their liberty. Unless I gravely mistake the present state of the public mind, they are already in revolt against the great betrayal of our form of government which we have witnessed in the last 12 months.

"The shallows murmur, but the deep is dumb."

The little coterie of socialistic visionaries, called the brain trust, and who apparently influence the President, are the shallows which are now very vocal. But the American people represent the unfathomable deep, which though silent at the moment will yet become articulate. They are already becoming so, and I venture now to predict that when the American people again go to the polls to select a President they will, by an overwhelming majority, composed of the good men of all parties, sweep away this attempt to vest the mighty power of the American people in one man. If I did not think this, I would despair of the Republic. [Applause.]

Senator MILLIKIN. Mr. Brown, have you answered?

Mr. BROWN. I think so, sir.

Senator KERR. If he has, I would like to go back to one thing there. I take it in view of this latter discussion, on the general question I asked you a while ago to the effect that would you be willing to operate under such a program in the event the Congress so prescribed it, and in taking into account all elements of policy as well as detail on tariff matters, if they insisted upon it, you might now give a different answer than the one you gave?

Mr. BROWN. Senator Kerr, on the question of the general lines of policy, such things as Senator Millikin has described of a multilateral approach against a bilateral approach, whether or not there is a need for something like the ITO, or something like that, that kind of question would certainly be one that it seems to me we could, and from my personal point of view would be something that I think would be very useful if we could have a matter of liaison with the Congress on it in an orderly way.

Senator KERR. Could we interpret that answer to go to all phases that might come to your mind, with the exception of the detail on individual tariff matters?

Mr. BROWN. On the individual products I just do not think it would work.

Senator KERR. But all other matters?

Mr. BROWN. But on the policy lines it could be something fruitful.

Senator MILLIKIN. Mr. Chairman, since we are going to quit at 5, I am just about to enter on a point in a different field, and it will take quite a bit of time.

Senator KERR. We will recess then until 10 o'clock in the morning.

(Whereupon, at 5 p. m., the committee recessed until 10 a. m. the following day.)

TRADE AGREEMENTS EXTENSION ACT OF 1951

TUESDAY, MARCH 20, 1951

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to recess, at 10 a. m., in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

Present: Senators George, Kerr, Frear, Millikin, and Martin.

Also present: Mrs. Elizabeth B. Springer, chief clerk, and Serge Benson, minority professional staff member.

The CHAIRMAN. All right, Mr. Brown.

Senator MILLIKIN. I am ready to ask Mr. Brown to explain the changes in GATT since Geneva. I have what purports to be a copy of the General Agreement on Tariffs and Trade showing those changes. There are some cabalistic marks on it that I would like to have explained, and other features, and I wonder if you would mind telling me about them.

STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE, ACCOMPANIED BY LEONARD WEISS, ASSISTANT CHIEF OF COMMERCIAL POLICY STAFF, DEPARTMENT OF STATE—Resumed

Mr. BROWN. Would you like me to tell you that first or would you like to get the answers to quite a number of the questions that you asked at the close of the last hearing, which we have available, whichever you prefer?

Senator MILIKIN. I think you had better move to the matters you have mentioned now.

Mr. BROWN. You asked me, sir, which bilateral trade agreements had been suspended and which had been terminated as the result of the Geneva and Annecy negotiations.

The CHAIRMAN. Which had been suspended and which had been terminated?

Mr. BROWN. Yes, sir. In some cases we simply suspended the old agreement as long as the GATT was in effect, and in other cases we terminated the old agreement outright.

There were 13 agreements which were affected. Of those four were terminated, the agreements with Finland, Haiti, Nicaragua, and Sweden.

Senator MILLIKIN. Those are out?

Mr. BROWN. Those are out, finished.

Senator MILLIKIN. Which of them are in GATT?

Mr. BROWN. All of them are in GATT.
Senator MILLIKIN. All of them?
Mr. BROWN. Yes.
Then there were 9 agreements, but with eight countries, which were suspended during the life of GATT, and those are the agreements with the Benelux countries, the Customs Union; that is, Belgium, Holland, and Luxemburg; with Brazil, with Canada, with Cuba, with France, the United Kingdom.
Senator MILLIKIN. You have got eight listed so far, including the three Benelux countries.
Mr. BROWN. Well, there were, you see, two agreements—with the Benelux there were two agreements in the old days. There was an agreement between Belgium and Luxemburg and an agreement with Holland, so that accounts for two.
Senator MILLIKIN. Two?
Mr. BROWN. And Czechoslovakia. [Corrected in testimony of March 22, 1951.]
Senator MILLIKIN. All right.
Now, all of the other agreements that are—well, all of the remaining contractual relations, the contractual relationships with the countries not specified by you, where the agreements have been suspended or terminated, they have whatever effectiveness they have under GATT, is that correct?
Mr. BROWN. No, sir. The agreements I have named are the only ones which have been affected by the GATT; that is, either terminated or suspended as a result of the GATT. All other agreements remain in status quo ante. They are not affected.
Senator MILLIKIN. By GATT one way or the other?
Mr. BROWN. Yes, sir.
Senator MILLIKIN. Which are those?
Mr. BROWN. There is the list in the record of all of our other trade agreements, Senator. I have not got them at my fingertips.
Senator MILLIKIN. That is in status quo ante, by which you mean prior to GATT?
Mr. BROWN. Yes.
Senator MILLIKIN. They run along under their own terms?
Mr. BROWN. Those are agreements with countries which are not parties to the GATT, and are not affected by it.
The CHAIRMAN. There are about how many of them, do you recall?
Mr. BROWN. I think there are about a dozen of them.
The CHAIRMAN. About a dozen of them?
Senator MILLIKIN. Where are they?
Mr. BROWN. There is a complete list. It was submitted for the record at the time, and a copy has been given to you.
Senator MILLIKIN. You say about a dozen?
Mr. BROWN. May I, for convenience, put them in the record?
Senator MILLIKIN. So, the dozen to which you have just referred, which are operative now, and you have nine, which will become operative on their own authority if GATT were to terminate——
Mr. BROWN. Yes, sir.

Senator MILLIKIN. And as to those which have been terminated, I take it that they, that our trade agreements, with those countries rests exclusively on GATT; is that correct?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. Thank you, sir.

The CHAIRMAN. Do you want to put something in?

Mr. BROWN. I have that summarized in a table which I would like to put in the record.

The CHAIRMAN. Yes; put it in the record.

(The table referred to follows:)

STATUS OF BILATERAL AGREEMENTS CONCLUDED WITH COUNTRIES WHICH HAVE SUBSEQUENTLY BECOME CONTRACTING PARTIES TO THE GENERAL AGREEMENT

Thirteen countries with which the United States had concluded bilateral trade agreements before conclusion of the General Agreement on Tariffs and Trade at Geneva in 1947 have subsequently become contracting parties to the general agreement. These countries, the dates of signature and of coming into effect of the bilateral agreements, and the present status of the bilateral agreements, are given below.

Country	Signed	Effective	Disposition	Last date effective
Belgium	Feb. 27, 1935	May 1, 1935	Suspended	Dec. 31, 1947
Brazil	Feb. 2, 1935	Jan. 1, 1936	do	July 29, 1948
Canada:				
First agreement	Nov. 15, 1935	do	Terminated	Dec. 31, 1938
Second agreement	Nov. 17, 1938	Jan. 1, 1939	Suspended	Dec. 31, 1947
First fox fur	Dec. 30, 1939	Jan. 1, 1940	Terminated	Dec. 19, 1940
Second fox fur	Dec. 13, 1940	Dec. 20, 1940	do	Apr. 30, 1947
Cuba	Aug. 24, 1934	Sept. 3, 1934	Suspended	Dec. 31, 1947
First supplementary	Dec. 18, 1939	Dec. 23, 1939	do	Do.
Second supplementary	Dec. 23, 1941	Jan. 5, 1942	do	Do.
Czechoslovakia	Mar. 7, 1938	Apr. 16, 1938	Terminated	Apr. 22, 1939
Finland	May 18, 1936	Nov. 2, 1936	do	May 24, 1950
France	May 6, 1936	June 15, 1936	Suspended	Dec. 31, 1947
Haiti	Mar. 28, 1935	June 3, 1935	Terminated	Dec. 31, 1949
Luxemburg	Feb. 27, 1935	May 1, 1935	Suspended	Dec. 31, 1947
Netherlands	Dec. 20, 1935	Feb. 1, 1936	do	Do.
Nicaragua	Mar. 11, 1936	Oct. 1, 1936	Terminated	May 27, 1950
Sweden	May 25, 1935	Aug. 5, 1935	do	June 30, 1950
United Kingdom	Nov. 17, 1938	Jan. 1, 1939	Suspended	Dec. 31, 1947

Mr. BROWN. You asked me also, Senator Millikin, to submit an example of the agreement which affected the suspension. They differ slightly. The substance of them is the same, however, and I have here the agreement with the United Kingdom which would be typical of the arrangements.

Senator MILLIKIN. This comes about through an exchange of notes?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And the notes in this particular case are in this pamphlet?

Mr. BROWN. Yes, sir. They are not identical in all the cases, but the substance of them is precisely the same.

Senator MILLIKIN. It comes to the same end point?

Mr. BROWN. Yes, sir.

The CHAIRMAN. You say that is an example or an illustration of the substance of these?

Mr. BROWN. That is correct.

The CHAIRMAN. That will go in the record then.

(The information referred to follows:)

[Treaties and other international Acts series 1706]

RECIPROCAL TRADE AGREEMENT AND ACCOMPANYING LETTERS BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND RENDERING INOPERATIVE THE AGREEMENT OF NOVEMBER 17, 1938, AND SUPPLEMENTING THE GENERAL AGREEMENT ON TARIFFS AND TRADE OF OCTOBER 30, 1947

(Signed at Geneva October 30, 1947—Entered into force October 30, 1947, effective January 1, 1948)

The Governments of the United States of America and the United Kingdom of Great Britain and Northern Ireland,

Having participated in the framing of a General Agreement on Tariffs and Trade and a Protocol of Provisional Application, [1] the texts of which have been authenticated by the Final Act adopted at the conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, signed this day,

Hereby agree that the Trade Agreement between the United States of America and the United Kingdom of Great Britain and Northern Ireland, signed November 17, 1938, [2] with accompanying exchanges of notes, shall be inoperative for such time as the United States of America and the United Kingdom of Great Britain and Northern Ireland are both contracting parties to the General Agreement on Tariffs and Trade as defined in Article XXXII thereof.

IN WITNESS WHEREOF the representatives of the Governments of the United States of America and the United Kingdom of Great Britain and Northern Ireland, after having exchanged their full powers, found to be in good and due form, have signed this Supplementary Agreement.

DONE in duplicate, at Geneva, this thirtieth day of October, one thousand nine hundred and forty-seven.

For the Government of the United States of America:

WINTHROP G. BROWN

For the Government of the United Kingdom of Great Britain and Northern Ireland:

T. M. SNOW

The Acting Chairman of the United States Delegation to the Acting Head of the British Delegation

OCTOBER 30, 1947.

DEAR MR. HELMORE:

A point of legal detail has been brought to my attention in connection with the Agreement Supplementary to the General Agreement on Tariffs and Trade which we propose to sign on behalf of our two Governments on October 30 making the Reciprocal Trade Agreement of 1939[2] between the United States and the United Kingdom inoperative so long as both the United States and the United Kingdom are parties to the General Agreement on Tariffs and Trade.

As you know, Article XXV of the 1939 Agreement provides that it may be terminated by either party after three years on six months' notice. The inclusion of such a provision in all our trade agreements is required by the Trade Agreements Act. Our lawyers have suggested that the very general terms of the proposed Supplementary Agreement might possibly be interpreted as making it impossible for either party to the 1939 Agreement to exercise this right of termination.

It is, of course, improbable that either of our Governments would wish to exercise this right of termination, but under our law we must, nevertheless, retain it in force. To suggest a formal amendment to the proposed Supplementary Agreement expressly excepting Article XXV of the 1939 Agreement at this late date would cause considerable inconvenience and would give greater emphasis to this point than it deserves. I am therefore writing to make it clear that we would be signing the Supplementary Agreement with the understanding that its general language would not prevent notice of termination of the 1939

[1] Executive Agreement Series 164; 54 Stat. 1897. The agreement was signed Nov. 17, 1938; entered into force provisionally Jan. 1, 1939, and definitively Dec. 24, 1939.
[2] Treaties and Other International Acts Series 1700.
[3] Executive Agreement Series 164; 54 Stat. 1897.

Agreement given by either party while we were both parties to the General Agreement on Tariffs and Trade from effecting termination of the 1939 Agreement in six months.

I would appreciate it if you could give me the assurance that your Government has the same understanding.

Sincerely yours,

WINTHROP G. BROWN
Acting Chairman

Mr. J. R. C. HELMORE, C. M. G.
United Kingdom Delegation,
Palais des Nations.

The Acting Head of the British Delegation to the Acting Chairman of the United States Delegation

UNITED KINGDOM DELEGATION

TO

PREPARATORY COMMITTEE

PALAIS DES NATIONS,
GENEVA.
30 October 1947.

DEAR MR. BROWN,

I have received your letter of today's date regarding the Supplementary Agreement to the General Agreement on Tariffs and Trade and its effect on Article XVIII of the 1939 Agreement between the United States and the United Kingdom. I confirm that my Government has the same understanding on this matter as that set out in your letter.

Yours sincerely,

J. R. C. HELMORE

Mr. WINTHROP BROWN,
Acting Chairman,
United States Delegation,
Palais des Nations,
Geneva.

Mr. BROWN. You asked me for the name of the vice chairman of the contracting parties. That is Mr. Max Suetens of Belgium.

Senator MILLIKIN. Tell me that again, please, Mr. Brown.

Mr. BROWN. The name of the vice chairman of the contracting parties is Mr. Max Suetens of Belgium.

Senator MILLIKIN. So that we can get it all in one place, are you now prepared to give the names of the chairman, the vice chairman and the secretary?

Mr. BROWN. Yes, sir. The chairman is Mr. Dana Wilgress of Canada, and the secretary is Mr. Eric Wyndham White.

Senator MILLIKIN. And the vice chairman is the one you just named?

Mr. BROWN. The vice chairman is Mr. Suetens.

Senator MILLIKIN. Now, there is one other category of countries that I do not believe is accounted for by this data that you have given us; the new countries that are coming in to Torquay. We do not have the agreements with them at the present time, do we?

Mr. BROWN. We have an agreement with Peru, and with Turkey.

Senator MILLIKIN. I assume then, as to Peru and Turkey, that they would follow this suspension procedure?

Mr. BROWN. I do not know, sir, whether it would be suspension or termination.

Senator MILLIKIN. That is, as to Peru or Turkey?

Mr. BROWN. Yes; it would be one or the other.

Senator MILLIKIN. Now, which would be the other countries which would come originally under Torquay?

Mr. BROWN. Austria, Germany, Korea, and the Philippines are negotiating to join the GATT, but since we are prohibited by the Philippines Trade Act of 1946 from having a trade agreement with the Philippines, it is being arranged that there will be no contractual relationship between us and the Philippines, as a result of their accession to the general agreement.

Senator MILLIKIN. I see.

Mr. Chairman, yesterday Senator Kerr and I were both interested in what is the relationship of past bilateral agreements to GATT.

Mr. Brown has told us this morning that those agreements which have been suspended, which would come into effect if anything happened, if GATT terminated, are the Benelux countries, that is Belgium, Luxemburg, and Holland—Brazil, Canada, France, United Kingdom, and Czechoslovakia. (Corrected in testimony of March 22, 1951.)

The countries where we have had trade agreements which have been terminated by the entry of those countries into GATT are Finland, Haiti, Nicaragua, and Sweden.

Now, the rest of those countries are—will you name us those two or three countries with which we have agreements, and where it has not been determined whether those agreements would be suspended or terminated?

Mr. BROWN. The countries which are negotiating for accession at Torquay are Austria, Germany, Korea, Peru, Philippines, and Turkey. We have trade agreements now with Peru and Turkey.

Senator MILLIKIN. We have them with those, and we do not know whether they will be suspended or terminated, and as to the list of the rest that you have just read, they will come in originally under Torquay. I think that makes it clear.

Senator KERR. I want to ask one question there, if I may.

Under the provisions of the law referred to here yesterday by Senator Millikin, if the GATT were suspended, and if these other agreements, or if the GATT were terminated and these other agreements now under suspension were reinstated, the provisions or the concessions that we have made in those with reference to the nations with whom they are made, would be available to all other nations under that provision that you read, would they not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Mr. Brown, will you tell us what percentage of the world's trade is represented by those countries in the first category, to wit, the suspended category that you have, the list starting with Benelux?

Mr. BROWN. Thirty-nine percent, sir, on the basis of 1949 world trade.

Senator MILLIKIN. Thirty-nine or forty-nine?

Mr. BROWN. Thirty-nine.

Senator MILLIKIN. As of 1949?

Mr. BROWN. Based on 1949 figures.

Senator MILLIKIN. The terminated countries?

Mr. BROWN. Four percent.

Senator MILLIKIN. As of the same date?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Now, this other category?

Mr. BROWN. Approximately 5 percent.

Senator MILLIKIN. Of the 5 percent, what percent is occupied by those countries with which we have agreements?

Mr. BROWN. I would have to get that for you, Senator.

Senator MILLIKIN. Will you get it for us?

Mr. BROWN. I am sorry I did not anticipate that question.

(The following information was subsequently supplied for the record:)

The total foreign trade of the two countries which have bilateral trade agreements now in effect with the United States that are expected to accede to the General Agreement on Tariffs and Trade as a result of the Torquay negotiations represented about 1 percent of total world trade in 1949. These countries are:

	Percent of world trade
Peru	0.3
Turkey	.5
Total	.8

The CHAIRMAN. What percent does our country represent?

Mr. BROWN. In the neighborhood of 20 percent, I think.

The CHAIRMAN. That is, other than the 39 percent; the 39-percent figure, as I understood it, was represented by the nations with whom we had those contracts, and it did not include the amount which we ourselves provided.

Mr. BROWN. That is correct, Senator. Ours is somewhere between 17 and 20; I am not sure exactly what it is.

Senator MILLIKIN. For one of the purposes of GATT we are listed as having 25.2 percent.

Mr. BROWN. I think that is the international trade of the countries who were at Geneva, not the total international trade of the world.

Senator MILLIKIN. I see; thank you.

Senator KERR. Do you happen to know the percentage that Russia provides?

Mr. BROWN. Oh, less than 5 percent.

Senator KERR. And the United Kingdom?

Mr. BROWN. I think Russia and the satellites are less than 5 percent. The United Kingdom on the basis of 1949 figures was approximately 17 percent.

Senator KERR. Does the United Kingdom include Canada, New Zealand, and Australia?

Mr. BROWN. No, sir; I could give you those figures, if you would lik to have them.

Senator KERR. I would like to have them very much.

Mr. BROWN. I am sorry; I could only give you Canada, which was 5 percent of the world's trade in 1949.

The United Kingdom and its dependencies, that is, the colonies, would be 17 percent.

Senator KERR. Well, now, what are the colonies?

Mr. BROWN. Malaya, and west Africa, and the West Indies, Jamaica, places like that.

The CHAIRMAN. Seventeen percent?

Mr. BROWN. Yes, sir.

The CHAIRMAN. Is that the total commerce?

Mr. BROWN. Total international.

Senator KERR. Total international?

The CHAIRMAN. Total international commerce?

Mr. BROWN. Yes, sir.

Senator KERR. And our own is between 17 and 20?

Mr. BROWN. I think that is correct. I will have to check it to be exact, but my recollection is that ours is about the same as the United Kingdom.

Senator MILLIKIN. Did you have some other items that you wanted to supply us?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Mr. Brown is buttoning up some loose ends that we left yesterday.

(There was discussion off the record.)

Mr. BROWN. There was one point on which I got thoroughly confused yesterday, and gave the committee entirely wrong answers, and that is the question of what action needs to be taken to put concessions into effect as a result of or after one of these negotiations, and whether any approval by the group is required to get those concessions into effect, or whether it is something for the individual countries to do.

Senator KERR. That is with reference to a contract that might at this time be negotiated as between our country and one other or our country and any group of others, but less than the total number?

Mr. BROWN. That was the line of questioning.

Senator MILLIKIN. Yes.

Mr. BROWN. I think it can be summed up very simply in this way: As far as the new countries coming into Torquay are concerned, it would require the agreement of two-thirds of the present countries to permit them to accede to the agreement.

Senator FREAR. By number or by value?

Mr. BROWN. By number.

Senator MILLIKIN. To permit which countries to accede?

Mr. BROWN. Each. That is to say when Germany——

Senator KERR. Any of the countries not now signatory to GATT?

Mr. BROWN. Take Germany, for example. If Germany completes negotiations at Torquay, and two-thirds of the present contracting parties sign the document at the end, then Germany would become a contracting party, and its concessions would become operative. It would not matter whether any of the other countries who are acceding had or had not received the necessary approval. That is, two-thirds must agree to each new country coming in.

Senator MILLIKIN. That is by the express terms of GATT; is it not?

Mr. BROWN. That is correct.

Now, as far as the old parties are concerned, who are already parties, they are free to put all or any part of the concessions that they negotiate at Torquay into effect whenever they want to, and they do not need any approval by the group.

Senator KERR. But all members of the group have access to whatever concessions may be made in those new agreements?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. Mr. Brown, I am sorry, I dropped a stitch looking at something else. Would you mind repeating that last statement?

Mr. BROWN. As far as the present parties to the GATT are concerned they are free to put all or any part of the concessions which

they agree upon at Torquay into effect without any approval by the group.

Senator MILLIKIN. As a matter of practice, are there any nations present at GATT which are not negotiating?

Mr. BROWN. Oh, yes, sir.

Senator MILLIKIN. Which countries?

Mr. BROWN. In this sense, there are no nations present which are not doing some negotiating; but, for example, there are about 36 or 37 countries there now, and we are only negotiating with 20 or 21, because in some cases the amount of trade between the two countries is not sufficient to justify negotiation.

Senator MILLIKIN. But every country is trying to give or get some kind of a concession.

Mr. BROWN. Yes, sir.

Now, when I was speaking yesterday about 85 percent, and when I was so confusing in my testimony, I was mixing it up for the requirement for putting the GATT into definitive effect.

You also asked me which negotiations were completed. I can tell you how many negotiations are completed, but I am not free to say with which countries since that involves the confidence of the other countries as well as ours.

Senator MILLIKIN. That follows the line of reasoning which we developed yesterday.

Mr. BROWN. Yes, sir; plus the normal diplomatic arrangement that you do not disclose the status of an agreement with another country unless the other country agrees that it should be done.

Senator MILLIKIN. All right.

Mr. BROWN. We have had 21 negotiations at Torquay. In one we agreed there was no basis for negotiations, and it was called off. Fifteen are still in progress; five have been completed.

Senator MILLIKIN. Five completed?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Can you indicate whether the completed agreements concern the larger proportion of what they are trying to do there or give us some kind of a generality on that?

Mr. BROWN. Yes, sir. I can say that the most complicated and largest and most difficult negotiations always take the longest time, and are the last ones to be completed.

Senator MILLIKIN. Remain to be completed? Did you say remain to be completed?

Mr. BROWN. I say that is the normal procedure, and that this meeting is no exception.

Senator MILLIKIN. Then, I repeat my question: Can you say that the bulk of the concessions in terms of trade that we have, where we have set out either to get or give concessions or both, have been completed?

Mr. BROWN. No; the bulk remain to be completed.

You asked me about the budget of the GATT. I have a statement here as to the amount of the budget, the share of the United States being 16 percent. The principle which is followed in apportioning the shares of the expenses of the GATT, is to base it on the relationship which the foreign trade of the individual countries in the years 1938 and 1946 averaged together, bear to the foreign trade of the group as a whole, including in this case the shares of the countries that are ex-

pected to accede. The United States and the United Kingdom pay about 16 percent. The other countries pay proportionately less. I have a copy of the resolution which agreed upon that principle, which I would be glad to submit for the record if the committee desires.

Senator MILLIKIN. Where was that adopted, and when?

Mr. BROWN. It was adopted at the second session of the contracting parties. I think it was at Geneva in 1948.

Senator MILLIKIN. Did you check to see which countries are ante-ing up, and which countries are not?

Mr. BROWN. That, sir, I am afraid I will have to get permission to disclose.

Senator MILLIKIN. Will you try to get permission to disclose it?

Mr. BROWN. I will inquire; yes, sir.

Senator MILLIKIN. But you will not try, is that correct?

Mr. BROWN. I will convey the desire of the committee—

Senator MILLIKIN. But you will not try to get it, is that correct?

Mr. BROWN. I must do my best to get it, certainly.

Senator MILLIKIN. I call that a good try if you do your best.

Mr. BROWN. Would you like me to——

The CHAIRMAN. Would you like this in the record?

Mr. BROWN. Put this in the record?

Senator MILLIKIN. I should like to ask, What is the budget; how much money are we spending on this?

Mr. BROWN. The budget for 1950 is $331,000, of which our share is $53,000.

The CHAIRMAN. And substantially the United Kingdom's is the same?

Mr. BROWN. Yes, sir.

(The resolution referred to follows:)

UNRESTRICTED
LIMITED A
GATT/CP. 2/41
13 September 1948
ORIGINAL: ENGLISH

GENERAL AGREEMENT ON TARIFFS AND TRADE.
Contracting Parties.
Second Session.

FINANCING OF SECRETARIAT SERVICES

The following resolution was adopted by the Contracting Parties at the twenty-fourth meeting of the Second Session:

WHEREAS Article XXV of the General Agreement on Tariffs and Trade provides that: "Representatives of the contracting parties shall meet from time to time for the purpose of giving effect to those provisions of this Agreement which involve joint action and, generally, with a view to facilitating the operation and furthering the objectives of this Agreement"; and

WHEREAS it is necessary to make provision for Secretariat services for such meetings and for consultation between the Contracting Parties in the intervals between such meetings;

The Contracting Parties resolve to recommend their respective governments to take the necessary steps to give effect to the financial arrangements set out in the Annex to this Resolution.

ANNEX

(a) ICITO should absorb the expenses of the Contracting Parties up to the end of the Second Session. These expenses should be accounted for separately in the accounts of the Interim Commission in case any question should later be raised regarding the manner in which expenses attributable to the Contracting Parties should ultimately be divided.

(*b*) As regards the future expenses of the Contracting Parties a "pay as you go" arrangement should be adopted. For the purpose of the division of expenses, the Contracting Parties should be classified according to six categories:

Category A—Countries whose share of total external trade as shown in Annex II of GATT is 10 percent or more, $11,000 each: United States and United Kingdom	$22,000
Category B—Countries whose share is 7½ percent or more but less than 10 percent, $7,000 each: France	7,000
Category C—Countries whose share is 5 percent or more but less than 7½ percent, $5,500 each: Belgium and Canada	11,000
Category D—Countries whose share is 2½ percent or more but less than 5 percent, $3,750 each: Australia, Brazil, China, Netherlands, South Africa	18,750
Category E—Countries whose share is 1 percent or more but less than 2½ percent, $2,200 each: Czechoslovakia, India, Norway, New Zealand, Pakistan	11,000
Category F—Countries whose share is less than 1 percent, $900 each: Burma, Ceylon, Cuba, Lebanon, Luxemburg, Southern Rhodesia, Syria	6,300
Total	76,050

(*c*) The contribution of each Contracting Party determined in accordance with the above formula should be paid not later than 31 July 1949 to the Financial Officer at the European Office of the United Nations for the account of the Contracting Parties. Payment may be made in U. S. dollars or Swiss francs at the option of each Contracting Party. The approval of these financial arrangements shall also constitute authority to the Executive Secretary of the ICITO to apply at such time as he may deem appropriate, the sums so paid into this account to reimburse the Interim Commission for advances to the Contracting Parties.

(*d*) These collective arrangements by the Contracting Parties in their individual capacities shall not be construed as in any way conferring upon them the character of an international organization. Accordingly, the basis for division of expenses between the Contracting Parties in no way constitutes a precedent for the basis of contributions by governments to international organizations.

(*e*) Countries which are not at present Contracting Parties but which accede to the General Agreement as a result of the new tariff negotiations shall participate in this financial arrangement on the same basis as the present Contracting Parties. Such participation shall relate to all expenses incurred from the date of the commencement of the new tariff negotiations, i. e. 11 April 1949. The contributions of the present Contracting Parties shall be adjusted to take account of the contributions of new Contracting Parties.

(*f*) In the event that Havana Charter does not enter into force, the Contracting Parties agree that the expenses of the Second Session shall also be reimbursed.

The CHAIRMAN. All the rest, of course, are proportionately less on the basis that you have described?

Mr. BROWN. The minimum contribution is $2,650.

Senator MILLIKIN. Do we get aid from the United Nations, clerical aid, headquarters aid, any other types of aid? We did at one time; that I know.

Mr. BROWN. We did get aid; the GATT got a good deal of aid from the Interim Commission for the ITO in the early days. Now, it is paying its own way entirely. We use United Nations offices when the sessions are at Geneva, but we pay for them. In other words, we get no financial contribution from the United Nations.

Senator MILLIKIN. Do we get clerical assistance or building facilities?

Mr. BROWN. No, sir. They allow us to use them, but on a business basis.

Senator MILLIKIN. They charge you for them?

Mr. BROWN. Surely.

Senator MILLIKIN. And you have libraries available, and that sort of thing?

Mr. BROWN. Oh, yes.

Senator MILLIKIN. I am not making any point of these details; I am simply wanting to get an idea of how this thing functions.

Mr. BROWN. For example, the interpreters are usually United Nations interpreters whom we employ for the purpose of our conference, and things like simultaneous translation facilities, and that kind of thing.

Senator MILLIKIN. Do they make a charge for translators?

Mr. BROWN. They lend us the translators, and we pay them during the time we are having them work for us.

Senator MILLIKIN. I am delighted to hear that there is some little semblance of business in the United Nations organization.

(There was discussion off the record.)

Mr. BROWN. I would offer that resolution for the record, with the caveat that the shares which appear on page 2 have been changed since 1948; and our share is, as I have testified, 16 percent.

The CHAIRMAN. That has been accepted for the record.

Senator MILLIKIN. Was the change in shares decided by the contracting parties?

Mr. BROWN. It was agreed on the basis of this formula of the share in world trade. It was perfectly automatic; the formula, having been agreed upon, the share was adjusted to meet the change in trade figures.

Senator MILLIKIN. Was that decision made by the contracting parties' capitals?

Mr. BROWN. Yes.

The CHAIRMAN. Do I understand that basis is 1936 and 1948? Is that inclusive or merely the 2 years?

Mr. BROWN. No; we averaged the two.

The CHAIRMAN. The average of the 2 years, 1936 and 1948.

Mr. BROWN. Yes; and then get the proportion that the trade of each party bears to the total trade of all of them.

The CHAIRMAN. I understand that.

Mr. BROWN. And we took those 2 years as being a prewar year and a postwar year to give a balance.

The CHAIRMAN. Oh, yes.

All right. Are there any other odds and ends?

Mr. BROWN. Yes, sir; there are one or two more.

Senator Millikin asked me whether any countries objected to the extension of the date in article 20 from January 1, 1951, to January 1, 1952. There were some countries that objected at first. Australia and New Zealand were, perhaps, the ones that opposed the point most strongly. We discussed it with them, and the resolution extending the date was unanimously agreed upon.

Senator MILLIKIN. Were there any considerable number of additional countries that joined Australia and New Zealand in that? You have designated them as the principal countries.

Mr. BROWN. No, sir; they were the ones that did the talking. I do not know what thoughts went on in others' minds, but there was no dissent. It was a unanimous action at the end.

Senator Millikin asked me whether it was not also true that there were a large number of bilateral agreements among other countries which had the effect of discriminating against us and of, perhaps, nullifying concessions which had been made by other countries.

I would like to point out in reply that these bilateral agreements are, for the most part, not the kind of agreement where one country agrees to buy X thousand tons of stuff if another country will buy Y thousand tons of stuff. They are not barter-exchange agreements.

Senator MILLIKIN. Some fall into that classification.

Mr. BROWN. Very few, sir.

Senator MILLIKIN. All right; some do.

Mr. BROWN. Well, I could not—I think probably some do.

Senator MILLIKIN. Yes.

Mr. BROWN. But the great bulk of them, over 85 percent of them, do not. They are agreements whereby one country says that it will relax its restrictions and permit the importation into its country from the other country of up to a certain amount of products if there is a commercial demand for them; and, in return, the other country agrees to relax its restrictions and to permit the importation of up to certain amounts if there is a demand for them. I think it is fair to say that, if all those agreements were abolished tomorrow, there would be no significant increase in the exports from this country to those countries.

Senator MILLIKIN. But there is a significant breech of the principle that all nations shall be treated without discrimination in foreign trade; is that not correct?

Mr. BROWN. Not under the balance-of-payments exception; no, sir.

Senator MILLIKIN. Well, that involves a thousand other subjects going into the whole theory of our responsibility in connection with balance of payments; is that not correct?

Mr. BROWN. No, sir. The reasons for the restrictions on imports from this country——

Senator MILLIKIN. Let me ask you this, Mr. Brown; I do not think we need to spar around with this. Any agreement of that kind affords a preferential treatment to the nations that are involved in it; does it not?

Mr. BROWN. That is correct.

Senator MILLIKIN. And the general underlying purpose of the reciprocal trade system is to abolish discriminations of that kind; is that not correct?

Mr. BROWN. That is correct.

Senator MILLIKIN. Now, you are saying that, as an exception in order to remedy balances of trade, such arrangements can be winked at; is that correct?

Mr. BROWN. I am saying that, when countries do not have dollars with which to permit unlimited imports into their country, we have all recognized that they may limit their imports from the dollar area, and permit imports from other areas, and discriminate in that manner because of the fundamental shortage of dollar exchange. They are obligated as that condition improves to diminish and ultimately to eliminate that discrimination.

Senator MILLIKIN. Yes. But, when we are appraising the glories of the reciprocal-trade system, it brings the subject into some perspective when we note that during the life of the reciprocal-trade

system there has been an enormous acceleration and increase in these bilateral agreements.

Insofar as exchange is concerned, what is there in the reciprocal-trade law which requires that we concern ourselves with that particular problem?

Mr. BROWN. There is nothing specifically about foreign exchange in the reciprocal-trade law, but it does enjoin upon us to do our best to develop export markets for our American products.

Senator MILLIKIN. And you develop those by bilateral agreements?

Mr. BROWN. We develop those by getting the maximum possible limitation upon the use of any restrictions upon our exports.

Senator MILLIKIN. And, despite that objective, there has been this enormous proliferation of bilateral agreements?

Mr. BROWN. Yes; but what I am saying is that bilateral agreements are not——

Senator KERR. I did not understand the question.

Senator MILLIKIN. I said that, despite our aims and objectives, there has been this enormous—this word will puzzle you—"proliferation" of bilateral agreements.

Senator KERR. Do you suppose it would be of any value if the committee would understand the word? [Laughter.]

Mr. BROWN. All I am saying is that these bilateral agreements are not in the very great bulk of the cases injuring our exports.

Senator MILLIKIN. In the administration of the reciprocal-trade system, what are you doing exactly—give us the specific cases—to bring the currencies of the world to their real value, via the values that are put upon them in a free market place?

Mr. BROWN. We are not doing anything under the Trade Agreements Act to do that.

Senator MILLIKIN. All right. I did not think you were.

If the nations of the world which maintain these, enter into these, bilateral agreements, and these other forms of restrictions, brought their currencies to their honest values, there would be much less need for dollar exchange; would there not?

Mr. BROWN. I am afraid you have got me out of my depth there, Senator. I do not know that I am enough of an economist to answer that question.

You said there would be much less need for dollar exchange. I could certainly agree that, if the currencies of the world all had their true relationship to market forces, the general trading conditions would be vastly better; but, whether the precise way in which you stated the question is accurate, I am afraid I am not a good enough economist to answer.

Senator MILLIKIN. But, obviously, if dollars and the currencies of the other countries of the world were on a freely exchangeable basis, and had reached their true values by a free market place or free market places, every country would have its own currency, which it might exchange for currencies of other countries, and thus relieve the concentrated effort to get dollars. That is not a matter of economy; I suggest that is just a matter of common sense.

Mr. BROWN. If that were true, there would be very much less need for restrictions and limitations.

Senator MILLIKIN. Thank you very much.

Mr. BROWN. There was one other question that Senator Kerr and Senator Millikin asked me, and that was whether we would welcome a more regular liaison with the Congress than we now have. I gave it as my personal opinion at that time that on matters of general policy in connection with the administration of the act, we would welcome a closer liaison.

I have checked that with my colleagues and my superiors, and they confirm that impression. I think there is a precedent for it in the consultative arrangements that we have on general economic matters with a subcommittee of the Foreign Relations Committee. We have welcomed that very much, and we would welcome it here if the committee desired it.

Senator MILLIKIN. I can give you another precedent: The so-called peril point was the creation of Senator Vandenberg and myself. We developed the thought in order to take pressures off, remove pressures that might have led to undesirable actions so far as our international trade is concerned, and we had consultations on the subject. We were acting, I should say, strictly for ourselves. We had consultations on the subject with representatives of the State Department, particularly with Mr. Clayton.

Our suggestion of the peril point was rejected, and our suggestion as to the escape clause was accepted, but the escape clause itself, under my viewpoint, was ineffective because we could not get the State Department to agree to delete such phrases as "unforeseen injury," which the State Department stubbornly adhered to.

I toss that in as one history of cooperation between the State Department and Members of Congress.

Mr. BROWN. Well, sir, we are always anxious to cooperate with Members of Congress; and, as I said yesterday, we are in continuous touch with Members of the Congress on a whole variety of problems which they bring up with us, and we do our best to be helpful.

Senator MILLIKIN. I do not want to rebuff anything that was in your mind with respect to cooperation between the State Department and Congress.

Mr. BROWN. There was one other question that was asked, which was for a list of the members of the CRI panels during the last three hearings, and I have that which I would like to submit for the record, if you wish it to be in the record.

Senator MILLIKIN. What were those?

Mr. BROWN. You asked me for the names of the members of the CRI panels by agencies, and I have that information here.

Senator MILLIKIN. I would like to have it in the record.

The CHAIRMAN. You may put it in, Mr. Brown. There is no objection to putting it in?

Mr. BROWN. No, sir.

(The information referred to follows:)

MEMBERS OF COMMITTEE FOR RECIPROCITY INFORMATION

GENERAL SESSION

(May 24, 1950)

Committee members:
Lynn R. Edminster, chairman, Vice Chairman, United States Tariff Commission
Carl D. Corse, Department of State
Prentice N. Dean, Department of Defense
Thomas R. Wilson, Department of Commerce
George H. Willis, Treasury Department
Robert B. Schwenger, Department of Agriculture
Philip Arnow, Department of Labor
James A. McCullough, Economic Cooperation Administration
Edward Yardley, Executive Secretary

PANEL A—CHEMICALS

(May 31, 1950)

Panel members:
Prentice N. Dean, chairman, Department of Defense
Carl J. Whelan, Tariff Commission
Morris J. Fields
George Bronz (alternate)
Treasury Department
C. C. Concannon,
Blodgett Sage (alternate)
Department of Commerce
Clarence A. Wendel, Department of State
Raymond H. Bland, Department of Agriculture
(Miss) Betti Goldwasser, Department of Labor
H. B. Vanderpoel
W. F. Watkins (alternate)
Economic Cooperation Administration

PANEL B—METALS AND MANUFACTURES

(May 31, 1950)

Panel members:
Carl D. Corse, chairman, Department of State
David Lynch, Tariff Commission
Graham B. Brown
Robert B. McCormick (alternate)
Department of Defense
William H. Myer
Max Malin (alternate)
Department of Commerce
Walter W. Ostrow, Treasury Department
Bruce M. Easton, Department of Agriculture
Edgar I. Eaton, Department of Labor
B. Lockwood
C. G. McNaron (alternate)
Economic Cooperation Administration

PANEL C—AGRICULTURAL PRODUCTS, FISHERY PRODUCTS

(May 31, 1950)

Panel members:
George B. L. Arner, chairman, Department of Agriculture
E. Dana Durand, Tariff Commission
Clarence S. Gunther, Treasury Department
Dexter V. Rivenburgh (alternate), Department of Agriculture
John Ewing, Department of Labor
John A. Loftus
Wilbert M. Chapman (alternate)
Department of State

Norris G. Kenny, Department of Defense
George A. Sallee
Albert A. Prosterman (alternate)
Department of Commerce
Robert Tyson
J. J. Reed (alternate)
Economic Cooperation Administration

PANEL D—TEXTILES, LUMBER AND PAPER PRODUCTS

(May 31, 1950)

Panel members:
Lynn R. Edminster, chairman, Vice-Chairman, United States Tariff Commission
W. T. M. Beale, Department of State
Frank H. Whitehouse
Artruh G. Peterson (alternate), Department of Defense
Nathan B. Salan, Department of Commerce
Oliver C. Olsen, Treasury Department
Albert C. Cline
Horace R. Josephson (alternate)
Carl H. Robinson (alternate)
Floyd E. Davis (alternate)
Department of Agriculture
Irving Kravis, Department of Labor
F. F. Kidd
T. L. Sweet (alternate)
G. B. Conte (alternate)
E. C. Parker (alternate)
Economic Cooperation Administration

PANEL E—CERAMICS, SUNDRIES

(May 31, 1950)

Panel members:
Philip Arnow, chairman, Department of Labor
Earle M. Winslow
John M. Jacobs (alternate)
Tariff Commission
Clifford J. Hynning, Treasury Department
Louise E. Butt, Department of Agriculture
T. L. Sweet
W. F. Watkins (alternate)
Economic Cooperation Administration
Charles A. Livengood, Department of State
Timothy C. May
LeRoy M. Otis (alternate)
Department of Defense
Harold P. Maggowan, Department of Commerce

HEARINGS JUNE 19–20, 1950 (4 PANELS)

Tariff:
Lynn Edminster
Earle Winslow
Carl Whelan
E. Dana Durand
David Lynch
State:
W. T. M. Beale
Charles Livengood
John Fuqua
Carl D. Corse
Defense:
Hiram Nones
Norris Kenny
William Fallon
Frank Whitehouse
Commerce:
Nathan Salant
Harold P. Magowan
George Sallee
Max Malin
Treasury:
Iver C. Olsen
Clifford J. Hynning
Clarence Gunther
Walter Ostrow
Agriculture:
Floyd E. Davis
Edgar H. Omohundro
Albert Cline
James O. Howard
George R. L. Arner

Labor:
Irving Kravis
Philip Arnow
John Ewing
Betti Goldwasser

ECA:
John Menefee
T. L. Sweet
Milton H. Blick
Roger Stewart
B. S. Van Rensellaer

HEARINGS SEPTEMBER 25–28, 1950

Tariff: Lynn R. Edminster
State: W. T. M. Beale
Treasury: Walter W. Ostrow
Defense: Prentice Dean
Agriculture: George B. L. Arner
Commerce: Thomas R. Wilson
Labor:
Philip Arnow
Betti Goldwasser
ECA: Milton Blick

Senator MILLIKIN. Is there any significance from the tabulation and the weighting of the panels as to whether all Departments have about the same proportion of representation?

Mr. BROWN. I said yesterday that each panel has one representative from each Department on the Trade Agreements Committee.

Senator MILLIKIN. And this tabulation bears out your memory of yesterday?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Thank you.

The CHAIRMAN. You may put that in the record.

Mr. BROWN. There was one final question, and that was, I was asked to provide an account of what action has been taken by the contracting parties at their various sessions.

I have here a summary of the action taken at each session, and the decisions and resolutions adopted by the contracting parties at those sessions, which I will be glad to submit to the committee. It is rather bulky. A lot of it is very technical.

Senator MILLIKIN. Give us a sample.

Senator KERR. I suggest, Mr. Chairman, that it just be left with the committee and put in the files, but not in the printed record.

Senator MILLIKIN. I would like, before final action is taken on that, Senator, to get a little better idea of what the nature of the documents is that Mr. Brown has there. Would you mind giving us a sample?

Mr. BROWN. Well, take the last session. This is an announcement by the contracting parties, and a brief description of each of the matters which was discussed at the fifth session, who brought up the problem, and what was done about it. Then there is also a document which sets forth the exact text of any formal action that was taken, any resolutions or decisions of the contracting parties.

Senator KERR. Let me say, Mr. Chairman, that what I said was only a suggestion, and if Senator Millikin wants this in the record, I certainly would not object.

Senator MILLIKIN. Let me make the suggestion that we take a look at it, and then if it has record importance, I would like to have the privilege of asking the chairman to put it in later on.

The CHAIRMAN. Yes, you may leave that with the committee, Mr. Brown.

Senator MILLIKIN. May I submit it to Mr. Benson?

The CHAIRMAN. Yes.

Mr. BROWN. Mr. Chairman, that completes the information that we were asked for yesterday, with the exception of one figure which

is going to take us some little time to compute, and which I will try to provide as rapidly as possible.

Senator MILLIKIN. What figure was that?

Mr. BROWN. That was the figure that Senator Kerr asked for as to the amount of foreign aid, in comparison, and how much of it was used to buy things from the United States, and the comparison to our total exports. The reason it takes a little time to compute is that not everyone is agreed as to just what foreign aid is, but I hope to have it within a day or so.

Senator KERR. Let me say that my question was just addressed to ECA.

Mr. BROWN. Just ECA?

Senator KERR. Yes.

Mr. BROWN. Thank you, sir. That will help us.

Senator MILLIKIN. I think that certainly should be covered, but there are other forms of aid.

Mr. BROWN. There have been loans.

Senator MILLIKIN. The UNRRA, the earlier UNRRA, might be considered as a form of aid, and there were loans. Make it as broad, please, as you can, so that after we have what you supply we do not have to add a lot of rough generalities to it.

(Information relative to the above appears in subsequent testimony.)

The CHAIRMAN. All right.

Now, Senator Millikin, you say you had some other things to take up?

Senator MILLIKIN. I think we ought to get into the record GATT as it now is, and my understanding is that Mr. Brown has furnished the committee with a corrected copy, and I would like very much for him to go ahead and point out the changes and the significance of the markings.

Mr. BROWN. Senator Millikin, I think that is a very simple question to answer, because the text which I have given you with these lines on the side, and so forth, is the text that we discussed when you were questioning me at the previous hearing.

Senator MILLIKIN. Yes.

Mr. BROWN. So that when I gave my answers to your questions, and my explanation of what these various provisions meant, I was discussing the text as it now stands which you have before you.

Senator MILLIKIN. Has the chairman been supplied with a copy of this?

Mr. BROWN. No, sir; I do not think he has. It is the text that is in the record which was made the last time.

Senator MILLIKIN. You mean 2 years ago?

Mr. BROWN. Yes, sir. I have another one here if you wish to have one.

The CHAIRMAN. Do you have an extra one?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. On the second page and the third page numbered by—what do you call them, "i's," is that—how do you designate that kind of a number?

Senator KERR. Would they be Roman numerals?

Senator MILLIKIN. I do not think they would be Roman. How do you designate that kind of page numbering?

Senator KERR. You can call it "ii" and "iii."

Senator MILLIKIN. It seems to me probably "i's."

Mr. BROWN. Yes, sir; I understand what you mean.

Senator MILLIKIN. Well, on pages ii and iii, and then on page 2 are references to various protocols which are referred to in the introductory text as amendments and rectifications.

Mr. BROWN. Yes, sir. Each of those is incorporated in the text which you have before you, and which we discussed in 1949, with the exception of the very last one of all on page iii, the third protocol of rectifications; and, as I recall that one, the changes that were made were to recognize the independent status of Indonesia.

Yes; you see in annex C there was a reference to Indonesia and The Netherlands Antilles, and I think that was changed to take care of the changing political situation, but there was no substantive change in that protocol.

Senator MILLIKIN. Were these adopted by two-third votes? Perhaps, I should lay a foundation question and ask whether a rectification has the force of an amendment or whether it is only a correction of an obvious error.

Mr. BROWN. It is the correction of a mistake.

Senator MILLIKIN. Yes. So that would not require a two-thirds vote, would it?

Mr. BROWN. Actually, Senator Millikin, all of these protocols have been signed—most of them by all of the contracting parties, and I think that there are only one or two in which a couple of the smaller countries have not yet signed, so there is unanimity.

Senator MILLIKIN. Would you mind explaining to us the general nature of those rectifications or amendments which have been adopted since we had this matter before the committee 2 years ago?

Mr. BROWN. Yes, sir.

The only changes that have been made since our discussion or since I last testified and you asked me to explain this whole text——

Senator MILLIKIN. Yes.

Mr. BROWN (continuing). Is the waiver of the date from January 1, 1951, in article 20, to January 1, 1952; and the waiver of the date of the meeting specified in article 29 which, under the text of that article, needed to be held before the end of January 1949.

Senator MILLIKIN. I notice you provide that the dates of the instrument and dates of entry into force of modifications—I notice that the fourth protocol and the fifth protocol on page iii carrying instrument dates later than the date of our hearings. Were we discussing matters to be forthcoming then or what is the explanation of that? We did not have any hearings on this in March 1950 with respect to this subject, or in December 1950.

Mr. BROWN. Our hearings were in 1949, were they not?

Senator MILLIKIN. That is right. What were the dates of the hearings, Mr. Benson?

We had our hearings in February and March of 1949, so there are three dates that, so far as the instrument dating is concerned, are later than the dates of our hearings.

Mr. BROWN. No, sir; I think only two. On the top of page iii——

Senator MILLIKIN. Do you have a date there of August 13, 1949? We had our hearings in the winter and spring of that year.

Mr. BROWN. That is right. Protocol 7 and the third protocol of rectifications are dated August 13, 1949.

Senator MILLIKIN. Will you tell us about that?

Mr. BROWN. And the protocol on article 26——

Senator KERR. This is off the record.

(There was discussion off the record.)

Mr. BROWN. I do not know the explanation for that date, Senator Millikin; but the text of that protocol is included in the text that we discussed, as will appear from the note at the foot of page 59.

Senator MILLIKIN. Will you tell us about that protocol. What was it about?

Mr. BROWN. It was a question of a technical point as to whether a country accepting the agreement accepted it on behalf of all of its dependent territories or whether it accepted it—I think as it was originally drawn a country that accepted the agreement accepted it on behalf of all of its dependent territories. Under the amendment, it accepted it only on behalf of those dependent territories which it specified. That was the only change in that one.

Senator MILLIKIN. And the other two?

Mr. BROWN. There is only one other, Senator, and that is the third protocol of rectifications.

Senator MILLIKIN. Starting on page iii——

Mr. BROWN. Yes, sir.

Senator MILLIKIN (continuing). I am not concerned for the moment with any of these protocols which have dates, instrument dates, prior to our hearing. I am only concerned with those which have instrument dates after our hearing.

Mr. BROWN. There are two of those, and I have spoken of one.

Senator MILLIKIN. Why would not the one at the top of page iii——

Mr. BROWN. That is the one I spoke of, protocol 7, modifying article 26.

Senator MILLIKIN. Yes; and August 13, 1949, and March 30, 1950, and December 16, 1950; why would they not come under the category of protocols that were not discussed 2 years ago?

Mr. BROWN. You must have a different text from mine.

You do have a different text from mine also, Senator.

Senator MILLIKIN. Is this text the valid text or are the other texts the valid texts?

Mr. BROWN. I think this text is a valid text, and I will have to check on those, because I was not supplied with them.

Senator MILLIKIN. Let me suggest, Mr. Brown, that until we can get these various copies in unison that we pass this particular subject for the time being.

Mr. BROWN. I can make the general observation though, Senator, that these deal with changes in the schedules and not in the text of the GATT.

You see, the later dates are all ones of rectifications, and dealing with such things as that recognition of the change in Indonesia, and so forth. I am sorry, but I will be prepared this afternoon to discuss it.

Senator MILLIKIN. May I proceed with this copy as though it were the real thing?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. On page 2 of the copy which I have there are a couple of double lines on the left side of two sentences appearing about seven lines down. What is the purpose of that?

Mr. BROWN. That indicates that it was amended, and the text, as it is written, is the amended text.

Senator MILLIKIN. But does it not also indicate that no one has agreed to it?

Mr. BROWN. No, sir.

Senator MILLIKIN. The explanation that I have of this system that you have here was as follows——

Mr. BROWN. This document was written on the 20th of January, 1950.

Senator MILLIKIN. That is right.

The amended texts—

I am now reading from page IV—

which have not entered into force for any contracting party are indicated by two parallel lines in the left-hand margin.

Is that correct?

Mr. BROWN. Yes, sir; that was written in January 1950.

Senator MILLIKIN. But it is not now correct?

Mr. BROWN. I think this particular amendment has been accepted by everyone except Chile.

Senator MILLIKIN. Well now, let us get at the general system so that we understand each other as to the general system.

Two marks to the left ordinarily means that it has not yet entered into force for any contracting party.

Then it goes on to say:

Those which are in force for some but not all of the contracting parties are indicated by a single line in the left-hand margin.

Is that correct?

Mr. BROWN. That is correct, and I can provide by this afternoon, if you wish, an identification of each of these cases where there has been a change since January 1950.

Senator MILLIKIN. Would you mind giving an explanation of all of these marks? Do you want to do it now? Do you want to do it by memo, all of these marks, double lines and single lines? I am willing to run through the whole thing now.

Mr. BROWN. You want to know exactly what is in effect and what is not?

Senator MILLIKIN. I am assuming the correctness of the explanation made as to the meaning of these lines.

Now, you have indicated there may be some exceptions, so we certainly should know about the exceptions, but we also should know the meaning of the double-lined matter and the single-lined matter.

Mr. BROWN. I can give you by this afternoon, I think, an explanation of any case in which the symbolism in this document has been changed by events since it was written January 20, 1950.

Senator MILLIKIN. Then, that leaves open what is the purpose of the amendment.

Senator KERR. The significance of the amendment?

Mr. BROWN. I could go over that again. You questioned me about that in previous hearings, and I have endeavored to explain it.

Senator MILLIKIN. That is this double line on page 2, for example, has been explained?

Mr. BROWN. I think so, sir.

Senator MILLIKIN. Has the double line on page 2, further down in paragraph 2, been explained?

Mr. BROWN. I think so; because the text that we were discussing and about which you were questioning me in the previous hearings was the text as it appears in this document.

Senator MILLIKIN. Yes.

Well, would you mind running through this document? I think we can save ourselves a lot of time if you will run through this document. May I ask, as a preliminary to that, is your copy that you are working with the same as this copy, the same that I have?

Mr. BROWN. With the exception of that typewritten insert at the beginning.

Senator MILLIKIN. All right. Then, would you mind checking and advising us of any of those amendments, whether adopted by all parties or whether adopted by some, or whether adopted by none, have been explained, and explain those which have not been?

Mr. BROWN. Yes, sir; I can do that and give you the reference to the place where it has explained.

Senator MILLIKIN. Now, I notice on page 7 there is a single line to the left, indicating what? That some have and some have not agreed?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I mean, giving it its meaning according to the explanation that I read, some have and some have not.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Now then, there is a pencil mark drawn through that. What does that mean?

Senator KERR. On page 7?.

Mr. BROWN. I have got no pencil marks.

Senator MILLIKIN. On pages 7, 8, and 9.

Mr. BROWN. We have given you a working copy, on which people have been making notes. I think since January 1950, that it has been accepted by everybody.

Senator MILLIKIN. Can we get that all for the record?

Mr. BROWN. Yes, sir. I am sorry we did not understand what you wanted or we would have been prepared.

Senator MILLIKIN. I notice on pages 13, 14, and 15, a single line at the left of those provisions, and also that seems to be affected by a pencil marking.

Mr. BROWN. It is my recollection that protocol 5 has been accepted by everyone and, therefore, that it is in effect, as written?

Senator MILLIKIN. You will advise us?

Mr. BROWN. I will advise you; yes, sir.

Senator MILLIKIN. I see the same single line on page 30, with pencil drawn through it, and on pages 38, 39, 40, 41, 42, 43, 44, and 45, a single line.

Mr. BROWN. Yes; that is all protocol 5, you see.

Senator MILLIKIN. Yes.

All I am trying to get at, Mr. Brown, is what is the agreement at the present time so that we get that definitely of record.

Mr. BROWN. Yes, sir. That will be very easy.

Senator MILLIKIN. Now, on pages 53, 54, 55, 56, and 57, there is a single line to the left of the provisions, which does not have pencil markings on it. What is the meaning of that?

Mr. BROWN. That probably means that there is at least one country which has not accepted the protocol, although most of them have.

Senator MILLIKIN. Will you tell us about that also?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. On page 59 there was a double line, and one of the lines seems to be penciled out. Will you tell us about that when you get around to it again?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. On pages 61 and 62 there are double lines which are not modified by pencil marking.

Mr. BROWN. I think that is one that needed unanimous consent to be changed.

Senator MILLIKIN. There is a double line which has not been affected by pencil markings on page 67.

Mr. BROWN. Yes, sir. I can clear all that up very easily for you.

Senator MILLIKIN. I see.

There is a double line on page 75.

Senator KERR. You missed a couple on 69, Senator, I believe.

Senator MILLIKIN. That is correct, sir; and there are some penciled additions on page 69, adding to the protocol. There is a reference to the third protocol of rectifications, with some comment after those lines; and then the figures 1, 2, and 3 ahead of them, and then there is a continuation of notations in pencil.

Mr. BROWN. That undoubtedly indicates what changes were made by the protocol. I will provide you with an explanation of the exact up-to-date current text.

Senator MILLIKIN. That is right, and continuing all the way through——

Mr. BROWN. Yes, sir, in all the cases——

Senator MILLIKIN. It is not necessary for me to comment on each instance, is it?

Mr. BROWN. No.

Senator MILLIKIN. Then, Mr. Chairman, after we have that information I would like to have permission to enter the whole agreement of record.

The CHAIRMAN. Following that explanatory statement. You may do that.

Senator MILLIKIN. Mr. Brown, you and I have been through it a number of times, and I believe it would be useful if we could have in the record a brief statement of the general history leading to GATT. I do not want to go into a lot of details, but give us some kind of a brief sketch of what brought us to GATT.

Mr. BROWN. GATT was initiated in December 1945, when we issued invitations to, I think it was, 14 or 15 countries to negotiate agreements with us, and made the suggestion that it would be a desirable thing if they should negotiate with each other as well as with us. Those invitations were accepted, and the negotiations opened in Geneva in April of 1947.

They concluded in October of 1947, and during the course of the negotiations several countries came into existence, Pakistan, for example; Burma got her independence, and when the negotiation was over there were 23 countries party to the agreement.

Senator MILLIKIN. At Geneva?

Mr. BROWN. At Geneva.

At Geneva we negotiated not only on the tariff rates which were part of the agreement but on the general provisions which are contained in this text.

Senator MILLIKIN. Will you tell us of the relations of GATT to ITO.

Mr. BROWN. Yes, sir. At the same time, in December 1945, we also put forward some proposals for the expansion of world trade and employment——

Senator KERR. For what?

Mr. BROWN. Proposals for the expansion of world trade and employment.

Senator KERR. Yes.

Mr. BROWN. In which we laid down certain ideas as to what we thought the principles for trade rules should be, and suggested that it would be desirable to get as wide an agreement as possible on those rules. The Economic and Social Council of the United Nations, in February 1946, called a conference to consider ways and means of improving the conditions of trade, and the general subjects that were in our proposals for world trade and employment were put on the agenda for that conference.

The Economic and Social Council also appointed a preparatory committee to get ready for that conference, and that preparatory committee met at London in October of 1946.

Prior to that conference we took our proposals and expanded them into a draft charter for an international trade organization, which we submitted to the conference, and which was accepted as the basic working document of the London Conference. That document was discussed, and at the close of the London conference it had been considerably revised. There was then a second meeting of the preparatory committee at Geneva in 1947 which took place at the same time that the tariff negotiations took place.

Senator MILLIKIN. Was there not a New York meeting in there?

Mr. BROWN. There was a meeting of a drafting committee in New York in, I think it was, January; it was either December 1946 or January 1947.

Senator MILLIKIN. That followed the London conference?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And proceeded the Geneva agreement at which that was entered into?

Mr. BROWN. That is correct, sir. Between London and Geneva we appeared before this committee, and explained the London text of the draft charter, and received a great many suggestions as to how it could be improved. We also held public hearings in seven cities in the United States, at which we invited the views of industry, agriculture, and labor, anyone who was interested in the text of the charter, and there received many constructive suggestions.

So that two things went on at Geneva: One was the negotiation about the charter, and the other was the tariff negotiations.

Now, one of the subjects that the charter dealt with was obviously commercial policy.

Senator MILLIKIN. What is that, Mr. Brown?

Mr. BROWN. Commercial policy; and it was essential to have general provisions in the tariff agreement on commercial policy because if you do not have general provisions the tariff concessions can very easily be nullified, and all our previous trade agreements have had general provisions of different kinds. So we developed these general provisions at Geneva, and they were substantially the same as the provisions of the commercial policy chapter of the ITO Charter.

Senator KERR. Of what?

Mr. BROWN. Of the Charter.

Senator MILLIKIN. That is to say, GATT roughly is the same as the chapter in ITO.

Mr. BROWN. Yes, sir; with the exceptions that we noted in the hearings 2 years ago.

Senator KERR. Is that the entire program or the instrument known as GATT, that is substantially the same as one of the chapters of the Charter, or do you mean that one of the chapters of GATT is the same as one of the chapters of the Charter?

Mr. BROWN. The bulk of the provisions of GATT are the same as one of the chapters of the Charter.

The Charter also dealt——

Senator MILLIKIN. The differences are very minor, are they not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. They are almost verbatim; in the main they are verbatim.

Mr. BROWN. Yes.

The CHAIRMAN. That is chapter 7 of the ITO?

Mr. BROWN. I think it was chapter 4.

The CHAIRMAN. All right.

Mr. BROWN. The Charter also dealt with such subjects as employment and investment and economic development, commodity policy, cartels.

Senator KERR. How many chapters were there to the Charter?

Mr. BROWN. Nine.

Senator MILLIKIN. And they dealt with what subjects, Mr. Brown?

Mr. BROWN. Employment and economic development, commercial policy, cartel policy, commodity policy, and the provisions for setting up the organization, how it should function, its relationship to other organizations, and so forth.

Then, after Geneva, at the end of Geneva, we put the general provisions—we put the GATT into provisional effect, and the conference, the world conference, was called at Habana in either October or November of 1947, and was concluded on the 24th of March 1948; and at that conference the Charter was further revised.

Senator KERR. Now, this world conference had to do with ITO and not with GATT?

Mr. BROWN. Yes, sir.

Senator KERR. All right.

Mr. BROWN. GATT was already in operation. GATT had 23 parties, and there were, I think, 56 countries present at Habana.

The ITO is not being presented to the Congress, and the consequence of that, I think, is almost certainly that there will be no ITO; and several other countries have announced that they would not submit it to their parliaments in consequence of our decision.

Senator MILLIKIN. When did the President sign ITO?

Mr. BROWN. He did not, Senator. The draft charter was signed by Mr. Clayton in March, I think, March 24, 1948, ad referendum.

Senator KERR. Signed what?

Mr. BROWN. Ad referendum, to be submitted to Congress.

Senator KERR. That means it was tentatively signed, subject to the approval by the Congress?

Mr. BROWN. Yes, sir. All of the delegates said, "This is the document we will submit to our congresses for their approval."

Senator KERR. All right.

Senator MILLIKIN. Have you finished?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. In a report dated November 1947, by the Tariff Commission entitled "Analysis Geneva Draft of Charter for an International Trade Organization," on page 11, the Tariff Commission says:

> Chapter IV prescribes basic rules of commercial policy. It is the heart of the Charter. It is, in effect, a code of governmental conduct with respect to (*a*) tariffs, preference and internal taxes on imports and exports, (*b*) quotas, (*c*) subsidies, (*d*) state trading operations and (*e*) miscellaneous nontariff trade controls. The members assume obligations looking toward the reduction or elimination of most of the principal trade-regulation devises which have been employed by various nations to limit the imports and exports of merchandise.

Would you accept that as an accurate statement of the GATT?

Mr. BROWN. Yes, sir.

Senator KERR. If I may ask a question there, Mr. Chairman——

The CHAIRMAN. All right, Senator Kerr.

Senator KERR. I would like to have the witness tell us at this point his conception of the meaning of that phrase "the heart of ITO."

Mr. BROWN. From my point of view, Senator Kerr, I think the commercial policy aspects are the most important.

Senator KERR. Of ITO?

Mr. BROWN. Yes, sir. Commodity policy aspects are also very important from our point of view, and we were also greatly interested in the cartel aspects, the anticartel aspects.

I think the other countries were primarily interested in the employment and economic development parts; but I think probably if I had to make a judgment as to which was most important, I would say that the commercial policy part of it was.

Senator KERR. Then you said you agreed with that statement by the Tariff Commission, which included the phrase that GATT contained the heart of ITO. I understand you to tell us that you mean in your opinion that you think the chapter which was—that it contained the chapter which you considered was the most important.

Mr. BROWN. Yes, sir. I do not think that other countries would think it was the most important.

Senator KERR. I understand.

Mr. BROWN. Yes; but we think it was the most important.

Senator KERR. You do not mean by that that substantially all of the ITO is included in GATT?

Mr. BROWN. Oh, no. No, sir.

Senator KERR. All right.

Senator MILLIKIN. Mr. Benson, will you let me have the transitional paragraph of GATT?

Mr. BROWN. You are referring to article 29, sir?

Senator MILLIKIN. Yes.

Article 29 of GATT, entitled "Relation of This Agreement to the Charter for an International Trade Organization, follows in this manner:

(1) The contracting parties, recognizing that the objectives set forth in the preamble of this agreement can be best attained through the adoption by the United Nations conference on trade and employment of a charter leading——

Mr. BROWN. May I interrupt you, sir?

Senator MILLIKIN. Yes.

Mr. BROWN. That is not the present text.

Senator MILLIKIN. Would you mind reading the present text?

Mr. BROWN. That was revised, Senator, at the Habana meeting.

Senator MILLIKIN. At the Habana meeting?

Mr. BROWN. The substance of what—I think the substance of it is substantially the same, but you wanted to have the accurate text in it.

Senator MILLIKIN. I want to have this text from which I am reading in, and then we can consider any modifications.

Mr. BROWN. Very good, sir.

Senator MILLIKIN. Then we can have any modifications that were made in any later texts.

can best be attained through the adoption by the United Nations conference on trade and employment of a charter leading to the creation of an international trade organization under that, pending their acceptance of such charter in accordance with the their constitutional procedures to observe to the fullest extent of their executive authority the general principals of the draft charter submitted to the conference by the preparatory committee.

(2) (a) On the day on which the charter of the international trade organization enters into force, Article 1 and part 2 of this agreement—

That is referring to GATT—

shall be suspended and superseded by the corresponding provisions of the charter.

What is left of GATT other than article 1 and part 2?

Mr. BROWN. The procedural arrangements in part 3.

Senator MILLIKIN. Yes.

Continuing to quote:

Provided that within 60 days of the closing of the United Nations conference on trade and employment any contracting party may lodge with the other contracting parties an objection to any provision or provisions of this agreement being so suspended and superseded. In such case the contracting parties shall, within 60 days after the final date for the lodging of objections, confer to consider the objection in order to agree whether the provision of the charter to which objection has been lodged or the corresponding provisions of this agreement in its existing form or any amended form shall apply.

(b) The contracting parties will also agree concerning the transfer to the international trade organization of their functions under Article 25.

What is article 25, Mr. Brown?

Mr. BROWN. Those are the procedural arrangements for actions by the contracting parties.

Senator MILLIKIN (reading):

(3) If any contracting party has not signed the charter when it is entered—

and so forth and so forth. It is not challenged, is it, Mr. Brown, that GATT was intended to be merged into ITO?

Mr. BROWN. No, sir.

Senator MILLIKIN. No?

Would you deny that it was intended that Congress should be put into a position of considering both ITO and GATT together?

Mr. BROWN. It was intended that Congress should be put into position to consider ITO.

Senator MILLIKIN. But not ITO and GATT together?

Mr. BROWN. No, sir; ITO.

Senator MILLIKIN. On page 1093 of the hearings of February and March before this committee on H. R. 1211 you said, at the bottom of the page:

Mr. BROWN. As I have stated before, and as it appears from the document to which you have just referred, the provisions of general agreement and a number of the provisions of ITO cover the same subject matter. The Congress, when it considers the ITO, will consider whether or not it wishes to accept those provisions, and, if it does so, it will, by legislation, make the changes that it approves. That would be one way of making those changes. If the charter should not be accepted then presumably we would ask the Congress to make effective changes in order to permit us to make this agreement definitely effective.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You do not modify that in any way?

Mr. BROWN. No, sir. In that case I was referring to the cases in which provisions of the GATT are not consistent with laws of the United States.

Senator MILLIKIN. Yes.

Mr. BROWN. And we are obviously following the laws of the United States, and not the provisions of the GATT, until we asked the Congress to change them, and until Congress does see fit to change them.

Senator MILLIKIN. And you recognized, did you not, that the Congress would consider the two together? I quote again:

The Congress, when it considers the ITO, will consider whether or not it wishes to accept those provisions—

and so forth.

Mr. BROWN. I was referring to the provisions which are inconsistent with our present laws, and which we are not now applying.

Senator MILLIKIN. You do not come to that until later, Mr. Brown. I will read the quote again, Mr. Brown:

As I have stated before, and as appears by the document to which you just referred, the provisions of general agreement and the number of provisions of the ITO cover the same subject matter. The Congress, when it considers the ITO, will consider whether or not it wishes to accept those provisions, and, if it does so, it will, by legislation—

now you are coming to the subject of legislation—

make the changes that it approves.

Mr. BROWN. I think, Senator, that the discussion that we were talking about there was with respect to the portions of the agreement that are different from our laws. That was certainly what I had in mind.

Senator MILLIKIN. Well, are you saying that it was not in your mind that the Congress would consider ITO and GATT together?

Mr. BROWN. It was in my mind that the Congress would consider the ITO, and that the Congress would consider any changes in our laws in cases where there was an inconsistency with the GATT, because obviously we cannot apply the GATT in any case where it is inconsistent with our laws.

Senator MILLIKIN. But it was not in your mind that the Congress should have the opportunity to consider them both together?

Mr. BROWN. The GATT as a whole; no, sir.

Senator MILLIKIN. You have read the debate or listened to the debate on this subject?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Has that not brought out clearly that question in connection with the length of the term of extension that you are asking for from time to time?

Mr. BROWN. That argument was made, sir.

Senator MILLIKIN. Yes.

Are you not aware of the fact that this committee has put two caveats on GATT so that it could consider GATT and ITO together? What do you say about that?

Mr. BROWN. I am aware of what has been in the committee reports; yes, sir; but——

Senator MILLIKIN. I will remind you of what is in the committee reports.

Mr. BROWN. I say, I am aware of them.

Senator MILLIKIN. I am reading from the committee report dated June 8, having to do with extending the authority of the President under section 350 of the Tariff Act of 1930, as amended. This report was to accompany House Resolution 6556. It is in the Eightieth Congress, second session. It was know as Report No. 1558, and at pages 2 and 3 of the report the following appears:

> In reporting out this bill your committee reserves questions such as those posed by allegations that the authority conferred under section 350 of the Tariff Act has been exceeded either by incorporation of general regulatory provisions in the multilateral trade agreement recently concluded at Geneva or otherwise. Many of these regulatory provisions duplicate provisions in the Habana charter for an international trade organization and, therefore, consideration will be given these matters when the Habana charter is presented to the Congress. If the United States accepts membership in the international trade organization broad statutory changes would be needed to carry out effectively engagements that would follow from this country's acceptance of membership in that organization. This approaching decision respecting membership in the international trade organization is a strong reason for not extending the Trade Agreements Act of 1934 beyond June 30, 1949.

Do you remember that?

Mr. BROWN. Yes, sir; I remember that.

Senator MILLIKIN. I will read to you from the report of this committee accompanying House Resolution 1211 of the Eighty-first Congress, Report No. 107, submitted on March 11 by the chairman of this committee, Senator George. On page 2, I quote the following:

> In reporting this bill your committee would emphasize that its enactment is not intended to preclude the Congress on questions raised by the incorporation of general regulatory provisions and multilateral trade agreements recently concluded at Geneva or recent aspects of our foreign-trade program. Full consideration will be given these matters when the Habana charter for an international trade organization is presented to the Congress.

Do you remember that?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I invite your attention to part 1 of the hearings of 1949 before this committee.

Mr. Thorp was the witness.

Mr. BROWN. May I have the page, sir?

Senator MILLIKIN. Page 57; I beg your pardon.
Mr. BROWN. Thank you.
Senator Millikin (reading):

Senator MILLIKIN: March 1948. Under your own claims an agreement of enormous significance to world trade under the terms of your Geneva agreement, the closest connection between ITO and what you have been doing at Geneva—

I suppose that should read "there is the closest connection." Continuing:—

and yet since March of 1948 you have held back the master agreement into which you hoped to merge a part of the reciprocal trade agreements. I do not think that I would have much difficulty in showing you that you have been using ITO as a sort of tactical maneuver point, and, if that is the way you want to play it, there are offsets to that. You have been treated very well here in connection with ITO, and I do not think you have treated the Congress fairly in withholding ITO all of this time.

Mr. THORP. May I explain that the situation as of March a year ago was one in which a Congress was in session which was extremely busy and which was not going to continue in session for many months, and at that time we did consider whether it would be appropriate to send this immediately to the Congress. We made the judgment that this was sufficiently important and sufficiently complicated, as you well know, that it would not be wise and helpful to the Congress to submit it at that time. The decision was made to submit it to this Congress, and it will come to this Congress within a few weeks.

Senator MILLIKIN. Let me remind you of something. The reason we restricted the extension last year to 1 year is because the Congress recognized that the two were inseparable, and that ITO would be before us so we could consider the both of them together before the expiration of the year, and you came in here with this hurry-up act on reciprocal trade, but you are holding back on ITO.

Mr. THORP. I have difficulty with the concept of their being inseparable. If there were no ITO, I would be here with exactly the same request as I am here today.

Mr. BROWN. Yes, sir; with the request for renewal of the Trade Agreements Act.

Senator MILLIKIN. Do you remember that?

Let me have Mr. Clayton's observation on the subject.

Mr. BROWN. The request Mr. Thorp was referring to was the request for the renewal of the extension of the Trade Agreements Act.

Senator MILLIKIN. So my original question to you was whether you had knowledge that Congress wanted to consider ITO with GATT. What was your answer?

Mr. BROWN. My answer is that I am familiar with all of the things that you have quoted.

Senator MILLIKIN. Does that substantiate my affirmation that the Congress did want to consider both together?

Mr. BROWN. It is very difficult to interpret the sense of Congress. I think probably at one time it did, and another time it may not have.

Senator MILLIKIN. Is there anything difficult about interpreting the sense of the caveats of this committee which I read to you?

Mr. BROWN. This committee has explicitly said in its last two reports that its approval of the extension of the Trade Agreements Act did not imply approval of the specific provisions of the GATT. We understand that. As we have testified before in this committee, it is our contention that the GATT is an agreement which the President has the power to enter into, and we have given quite elaborate testimony on that point.

Now there are certain parts of the GATT which we do not have authority to enter into, and we have not made those effective, and we

propose to ask the Congress for authority to accept those parts, obviously, before we do anything about accepting them.

Senator MILLIKIN. I am not now primarily interested in what you intend to do. I am primarily interested in whether it was State Department knowledge that the two would be considered together, and in response to and in support of that, I have read you your own testimony, I have read you the testimony of Mr. Thorp; I have read you the caveats of this committee. Are you now saying that you did not understand, or the State Department did not understand, that we wanted to consider them both together?

Mr. BROWN. I have understood that that desire was expressed by many Members of the Congress, and I would hope I made it clear that I did not, could not, agree with the interpretation of my testimony or Mr. Thorp's testimony.

When I made the statement that I made, I was considering these cases in which we would need to change our laws if it were to be possible for us to put the GATT fully into effect, and——

Senator MILLIKIN. Of course, the Congress, Mr. Brown, has the primary responsibility of determining the laws of this country regarding these trade affairs; is that not correct?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. Would you restrict our own expression of desire to consider together ITO and GATT?

Mr. BROWN. No, sir; I would not.

Senator MILLIKIN. But you paid no attention to it, did you?

Mr. BROWN. We had taken the position, Senator Millikin, that this is an executive agreement which is entered into by the President under proper authority.

Senator MILLIKIN. Well, we will have some examination on that.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. But, answering the question, you paid no attention to the desire of this committee to consider ITO and GATT together; and I suggest you paid no attention to your own assurances that they would be considered together. What is your comment on that? Not what you would like to do in the way of changing the law, but what this committee tried to reserve to itself, the right to propose in the way of changing the law.

Mr. BROWN. We made it perfectly clear that we intended to submit the ITO to the Congress for its approval. The Secretary stated that the support that we expected and hoped for the ITO did not develop, and we did not and have not submitted it, and it will not be submitted.

Senator MILLIKIN. I suggest that that does not answer my question.

Mr. BROWN. And so far as the GATT is concerned, that, as we have testified before, is in our opinion, an executive agreement, and the President has the right——

Senator MILLIKIN. That all evades the question which I am asking, to wit, you have not paid any attention to the desire of this committee to consider them both together, and you have not paid any attention to the expressions of the State Department witnesses that opportunity would be afforded to consider them both together, have you?

Mr. BROWN. We said that there would be opportunity to consider the ITO.

Senator MILLIKIN. And you have said that they would be considered together, have you not? Let me have Mr. Brown's testimony again.

It ought not to be necessary to go through these things again and again. Let me have Mr. Thorp's testimony.

Here is the testimony of Mr. Brown on page 1093 of part 2 of the hearings before this committee in February and March of 1949:

As I have stated before, and as appears from the document to which you have just referred, the provisions of the general agreement, and a number of the provisions of the ITO cover the same subject matter. The Congress, when it considers the ITO, will consider whether or not it wishes to accept those provisions.

What could be plainer than that, Mr. Brown?

Mr. BROWN. Yes, sir; and what we were talking about, if you go back a little further, is the cases where there was inconsistency between our legislation and the legislation of——

Senator MILLIKIN. That will be a matter of peculiar interest to this committee.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Does that change your statement that both will be considered together?

Mr. BROWN. No, sir. What I said was that any changes in our laws which would be necessary if the Congress desired to make them, which would be necessary to enable us to participate fully in the GATT, would be involved also in the consideration of the ITO.

Senator MILLIKIN. Well, assume that to be correct.

Mr. BROWN. That is what I said.

Senator MILLIKIN. Well, assume that to be correct, and at the moment I do not challenge that any conflict between GATT would have to be resolved by the Congress, it has no bearing on what I am talking about. I am talking about your statement,

As I have stated before, and as appears from the document to which you have just referred, the provisions of the general agreement and a number of the provisions of ITO cover the same subject matter. The Congress, when it considers the ITO, will consider whether or not it wishes to accept those provisions.

You said that, did you not?

Mr. BROWN. Yes, sir, in the context.

Senator MILLIKIN. And you said it in the context that you thought the Congress should resolve any conflicts between GATT and its own jurisdiction, did you not?

Mr. BROWN. Yes, sir; and I still think so.

Senator MILLIKIN. Well, I agree with you. All I am asking you again is, Did you say what I have just read?

Mr. BROWN. Oh, yes.

Senator MILLIKIN. Yes.

Now, you finally got around to submitting ITO to Congress, did you not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Tell us when.

Senator KERR. I did not understand that question.

Senator MILLIKIN. I say they finally got around to submitting ITO to the Congress.

Senator KERR. I thought they got around to deciding not to submit it.

Senator MILLIKIN. That was the second step.

Mr. BROWN. I think it was April 1949.

Senator MILLIKIN. My copy of the message from the President to the Congress is dated April 28, 1949.

Mr. BROWN. Then, I was right.

Senator MILLIKIN. I assume that was the formal date of the submission?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You had it—and I do not want any of these distinctions between having it in the hands, and having it on the deck—the White House had that document in its possession from early in 1948 until April 1949 before it submitted it, did it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. That is right.

Now, on what date did Secretary Acheson testify that, in effect, ITO had been abandoned?

Mr. BROWN. February 22, 1951.

Senator MILLIKIN. He did testify to that effect?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And you explained that to the nations at Torquay, you stated yesterday?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. That makes it impossible to consider ITO and GATT together, does it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. There never was any doubt about the necessity for submitting ITO for the approval of Congress, either by a treaty or by legislation, was there?

Mr. BROWN. No, sir.

Senator MILLIKIN. So I will ask you if all of ITO was to be submitted for express action by Congress, why not all of GATT, which has been described as a central part of ITO?

Mr. BROWN. Because the great bulk of the provisions in the GATT are provisions which are derived from our early trade agreements, and are provisions which the President has the authority to make, agree to, as part of his negotiation of trade agreements. There are some cases where that is not true.

Senator KERR. You mean there are some parts of GATT?

Mr. BROWN. Yes, sir. There are some parts of GATT which we could not apply unless the Congress agreed to make some legislative changes.

Senator KERR. And they have been made subject to being submitted to and approved by or rejected by the Congress?

Mr. BROWN. We are not applying them, Senator.

Senator KERR. Is that right?

Mr. BROWN. We are not applying those provisions.

Senator KERR. They were made subject to either being submitted to or approved by or submitted to and rejected by the Congress.

Mr. BROWN. That is correct, sir.

Senator KERR. In which event those provisions that you did not have the authority to make would be of no force or effect.

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. Would you mind stating again why, if all of ITO had to be submitted to Congress, either by treaty or by legislation, why, what has been described as the heart of it, need not be submitted?

Mr. BROWN. It happened that the ITO, the general subject matter of the ITO, covered and embraced the subject matter which we have

traditionally dealt with in our trade agreements, and which are an important part of the trade agreements.

Now, before the ITO was conceived of, those provisions were provisions which were dealt with by executive action and in executive agreements.

It happened that they duplicated, included a subject which was pertinent to the ITO, which was an important part of the field covered by the ITO, and they were included in the ITO. But that did not change their essential nature.

Senator MILLIKIN. Since it did not change their essential nature, how do you justify not submitting all of GATT to the Congress?

Mr. BROWN. Because, as I have said, sir, we consider that the GATT is an executive agreement which the President has the authority to negotiate and enter into.

Senator MILLIKIN. Why could you not have considered ITO as an executive agreement and put it into force?

Mr. BROWN. Because there were commitments in the ITO which would have required legislation, and which were not the same as our laws.

Senator MILLIKIN. And you say there are no such commitments in GATT?

Mr. BROWN. No, sir. I say there are specifically certain obligations in the GATT which we cannot apply because they are not consistent with our laws.

Senator MILLIKIN. You are determining the consistency of our laws; is that correct? I mean the State Department is determining which parts of GATT are consistent with our laws; is that correct?

Mr. BROWN. Yes, sir. I think that when the President——

Senator MILLIKIN. In the case of ITO, under the statement you have just made, the State Department would consider which parts of ITO are consistent with our laws; is that correct?

Mr. BROWN. Yes, sir. I think that is the responsibility——

Senator MILLIKIN. Then, why not let the Congress, which makes the law, decide which parts are consistent and which parts are not?

Mr. BROWN. I think when the President is given authority by the Congress and has certain constitutional responsibilities that he has the responsibility for deciding whether he is operating within his authority and for asking the Congress for legislation where he does not have the authority.

Senator MILLIKIN. But I have brought your attention, Mr. Brown, to the fact that the Congress made it very clear—at least it was made very clear on this side of the Congress—that the Congress itself wanted to determine whether there was conflict between ITO and GATT, and the congressional jurisdiction over the subject matter. What have you to say to that?

Mr. BROWN. I have no comment.

The CHAIRMAN. The committee will recess until 2:30.

(Whereupon, at 12:05 p. m., a recess was taken until 2:30 o'clock of this same day.)

AFTERNOON SESSION

Senator KERR. We will proceed.

Senator MILLIKIN. Did you have anything you wanted to speak of specially, Mr. Brown?

FURTHER STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE, AND LEONARD WEISS, ASSISTANT CHIEF, COMMERCIAL POLICY STAFF

Mr. BROWN. At the close of the morning session, Senator Millikin, you asked me to clear up this matter of the text, and I am now prepared to do so at any time you wish me to.

Senator MILLIKIN. Mr. Brown, this copy that I have says, "Released February 1950."

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And the release of February 1950 had these printed lines on the side. Is that correct?

Mr. BROWN. Yes, sir. The explanation of the significance of the lines contained in paragraph 2 on page iv is an accurate description.

Senator KERR. You have lost me there.

Mr. BROWN. Senator, if you turn to the very beginning of the document, the very first few pages.

Senator KERR. Yes; I have it now. Paragraph 2.

Mr. BROWN. There have been certain changes in the situation since the date of this document which I will explain. Would you like to have me take each one?

Senator MILLIKIN. Let us run through and get them straight for the record.

Mr. BROWN. Article I. There are three double lines on page 2. The first two are simply indicating the changes in the rough cross references which are required by the introduction of a new paragraph into article III. That is their only purpose.

Senator MILLIKIN. Are these three changes on page 2 effective?

Mr. BROWN. No, sir. The double line is correct. They are not effective because article I needs to have unanimous approval for its amendment, and Chile has not yet accepted that amendment. All of the other contracting parties have agreed to it.

Senator MILLIKIN. All three of the amendments you referred to?

Mr. BROWN. Yes, sir; and, also, the change in the number of the paragraph at the top of page 3.

Senator KERR. That is, now you say also the two places which are identified with the double line on page 3?

Mr. BROWN. Yes, sir. So that the situation is that none of these changes are technically in effect. They have, however, been approved by all the contracting parties except one. A similar situation applies to the double line at the top of page 5. Again it is a cross reference simply.

Senator MILLIKIN. What is the significance of that?

Mr. BROWN. A new paragraph was added in article III, Senator, so that the numbering in the old paragraph—the cross reference to the old paragraph before the addition of the new one—was inaccurate.

Senator MILLIKIN. It is merely a cross reference?

Mr. BROWN. That is all.

Senator MILLIKIN. All right.

Mr. BROWN. Now in article III there is a single line by the whole article. That line may now be deleted because the article as it appears in this document is in effect for all of the contracting parties.

Senator MILLIKIN. And that situation has developed since February 1950?

Mr. BROWN. The effectiveness has developed since then, but the text which appears in this paper is the text about which you interrogated me in the last hearings. The discussion begins on page 1152.

Senator MILLIKIN. What exactly happened to bring about the elimination of that line throughout article III?

Mr. BROWN. The last one of the contracting parties signed the protocol and thereby accepted the amendment.

Senator MILLIKIN. And what did we do about it?

Mr. BROWN. We had accepted it long ago.

Senator MILLIKIN. We had accepted it long ago?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And all of the other parties have accepted it?

Mr. BROWN. Yes, sir. So that you can disregard the line entirely.

Senator MILLIKIN. Have we discussed the difference between article III as it starts on page 7 of this document and the old article III?

Mr. BROWN. I think we did, sir, but I know that the text that we discussed when you interrogated me before was the text which appears here.

Senator MILLIKIN. The same thing?

Mr. BROWN. Yes, sir. Identical.

Senator MILLIKIN. And the elimination of this line resulted from the procedures in all cases for making an amendment in GATT?

Mr. BROWN. Yes, sir.

Senator KERR. The elimination of the line, as I understand it, occurred by reason of the fact that all of the contracting parties agreed to it.

Senator MILLIKIN. That is right; and I was simply developing that that was in accordance with the amending procedures as set up by GATT.

Senator KERR. Oh, yes.

Mr. BROWN. The same situation applies to the line to the left of article VI. The text which is contained in this document is the same text which I explained at the previous hearings beginning on page 1191 of the record. The same is true with respect to paragraph 5 of article XIII, appearing on page 30 of this document. I explained that text in the previous hearing beginning at page 1243 of the record.

Did you wish me to continue, sir?

Senator MILLIKIN. Yes. Let us get it all. The next is on page 38, I think.

Mr. BROWN. On page 38 the line opposite article XVIII may be eliminated as it is now in force for all of the contracting parties. This is the text which I explained in the previous hearings beginning at page 1305.

Senator KERR. Does that go through page 45?

Mr. BROWN. Yes, sir. I think the next is article XXIV on page 53. This text is in force for all of the contracting parties except Brazil, Burma, and New Zealand.

Senator MILLIKIN. What is their objection to the article?

Mr. BROWN. I do not know that they have any. Sometimes it is just inertia.

Senator MILLIKIN. They just have not signed up?

Mr. BROWN. Yes, sir. They have stated no objection.

Senator MILLIKIN. Is this the kind of a case that requires unanimity?

Mr. BROWN. No, sir.

Senator MILLIKIN. But do you not have two-thirds anyhow?

Mr. BROWN. Oh, yes. It is in force for all of the contracting parties except those three. This text is the text about which you interrogated me in 1949 at page 1371 of the record.

The next one is article XXVI on page 59. The double line may now be changed to a single line. This text is in force for all of the contracting parties except Burma and Chile. I explained the significance of that amendment this morning.

Senator MILLIKIN. All of your explanations are subject to the prohibition which appears in the Annecy Protocol that no country is bound by any part of GATT which is in conflict with its own domestic legal situation?

Mr. BROWN. Yes, sir.

The next is page 61, article XXIX. That is not in force because it is one of the articles that requires unanimity. It has been accepted by all of the contracting parties except Chile. The text which is in force is on page 98 and is the one which you read this morning. I have, however, explained——

Senator MILLIKIN. Can you tell us briefly what is the difference between them?

Mr. BROWN. I explained that at page 1402 of the record in the preceding hearings. You went into that in some detail.

Senator MILLIKIN. Can you give us the gist of it just to refresh my memory?

Mr. BROWN. The gist of it is that it referred, instead of to the draft charter, to the Habana Charter, since the Habana Conference had taken place in the meanwhile and left out this material about within 60 days after the close of the conference, because nobody had lodged any objections. So that was superseded by events. It changed the date before which the parties would meet if the charter had not come into force.

Senator MILLIKIN. This article, as amended, is now out of date, is it not?

Mr. BROWN. In one respect. The date which is mentioned in paragraph 3 of it has been passed, but there has been a waiver of it, as I explained this morning; that is, of that date.

Senator MILLIKIN. Will you hold up for just a minute while I glance at this? I have not checked this article in connection with this inquiry against the old article. We did not discuss this article, did we?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. As it stands, with the two lines on it?

Mr. BROWN. Yes, sir. On page 1402.

Senator MILLIKIN. For example, take the first paragraph—No. 1. It says:

> The contracting parties undertake to observe to the fullest extent of their executive authority the general principles of Chapters I to VI inclusive and of Chapter IX of the Havana Charter pending their acceptance of it in accordance with their constitutional procedures.

Did I not understand your testimony the other day to be to the effect that you are not paying any attention to the Havana Charter?

Mr. BROWN. No, sir. Because we are not pending our acceptance of it any more.

Senator MILLIKIN. You are not paying any attention to it then, are you?

Mr. BROWN. I said we did not consider it an obligation. I said also that we still think that some of the policies which were expressed in it are good policies.

Senator MILLIKIN. But did you say whether we are observing to the fullest extent of our executive authority the general principles of chapters I to VI, inclusive, and chapter IX of the Habana Charter?

Mr. BROWN. No, sir. We do not consider we have any obligation under that paragraph.

Senator MILLIKIN. I think I detect a new complication in your answers. Are we using the rest of the Habana Charter as a guide in our acceptance under GATT?

Mr. BROWN. No, sir. We are not using it as a guide. The reason why I qualified my statement a little is because, as I said, there are some ideas which are in the charter which we think are good ideas, and which we would observe whether or not there was a charter; but we are not taking the charter as a conscious standard.

Senator MILLIKIN. I do not think you have clarified the matter any. I would like to know what are these parts of ITO that you consider to be good and that you are observing with or without the charter?

Mr. BROWN. Let me say, Senator, that we are not—to answer your question directly, the answer is no.

Senator KERR. The charter has no significance and no identity insofar as your considerations are concerned but, if by chance there are things in it which you feel are commendable and which are available to you under the law as you have it, that is still something that you do not automatically exclude from your consideration?

Mr. BROWN. Yes, sir. Let me give an illustration. In the Habana Charter it says in the chapter that deals with commodity agreements that consumers should be represented equally with producers. Now, if we discuss a commodity agreement we would take the position that consumers ought to have an equal representation with the producers.

Senator KERR. Merely because you think it is right.

Mr. BROWN. Because we think it is sound principle. Yes, sir. One consideration is that we are normally a consumer country.

Senator MILLIKIN. The charter then would be a reminder in that case of what you previously had considered sound anyhow?

Mr. BROWN. That is right.

Senator MILLIKIN. But the charter would not give you any mandate?

Mr. BROWN. No, sir.

Senator MILLIKIN. And the charter, as such, would not influence you?

Mr. BROWN. No, sir.

Senator MILLIKIN. Could you say that any relationship between what you now do and seek to do and the provisions of the charter is purely coincidental?

Mr. BROWN. Yes, sir. I think we could say that. I think we could say that we judge the problems that come up on their merits and not because they were in the Habana Charter.

Senator MILLIKIN. Now, would you mind recapitulating and tell us what is the effect or influence on what you do of that part of ITO which is not in GATT?

Mr. BROWN. I do not think it has an influence. It has no legal effect. It has no legal mandate. We do not consider that we are bound by it in any way. But, as I said before, there are some things like the illustration I gave you where what we think is a good policy is the policy which was expressed in that document and, therefore, there is the same result in our action. I cannot think of any cases where this question has come up.

Senator MILLIKIN. If any part of ITO that is not in GATT influences your actions I would like to have you specify what they are.

Mr. BROWN. I could not specify anything, Senator.

Senator MILLIKIN. You could not specify anything because in your opinion there is nothing of that kind in there. Is that correct?

Mr. BROWN. I do not think the charter is having any, shall I say, mandate or guidance or legal obligation on our actions.

Senator MILLIKIN. Moral or legal?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. While we are on this, what are the other countries doing about ITO?

Mr. BROWN. Nothing.

Senator MILLIKIN. Have you any indication that they intend to do anything about it?

Mr. BROWN. We have an indication that certain countries do not intend to do anything about it.

Senator MILLIKIN. Could you name those conveniently?

Mr. BROWN. Yes. The British Government has told its Parliament that in the light of our decision they will not submit the charter to Parliament, and there are one or two others that have definitely stated that. I can provide you with the names if you would like them.

Senator MILLIKIN. It would be interesting, I think, to have it; and you might put it in the record, if you would, Mr. Chairman.

Senator KERR. Fine. The names of the countries that have taken similar action, that is.

Mr. BROWN. Yes, sir. I would be glad to get that.

(The information requested, subsequently submitted, is as follows:)

In addition to the action of the British Government, the Italian Government has indicated that it does not intend to take any special action to have the ITO Charter approved by the Italian Parliament.

Australian approval of the charter contained a proviso that such approval would be effective only if the United States and the United Kingdom ratified.

The Swedish Riksdag authorized Sweden's adherence to the ITO at the discretion of the Foreign Minister. The Foreign Office has pointed out that in view of the decision of the United States, such action will be indefinitely postponed.

Senator MILLIKIN. You know of no country or countries that intend to try to bring it to life on their own?

Mr. BROWN. I think it most unlikely, sir.

Senator MILLIKIN. And you know of no such country that had that intention?

Mr. BROWN. No, sir.

The next case is on page 67, at the bottom of the page. That being an annex to article I, it requires unanimous consent. It has been agreed to by every one except Chile, and is, therefore, not in force.

Senator MILLIKIN. What is the situation between India and Pakistan right now as far as trade is concerned?

Mr. BROWN. I do not know in detail, Senator. I know there have been great difficulties, but that the situation has improved somewhat in recent weeks. In what respect I could not say.

On page 69 there are some double lines—again a corrective protocol agreed to by all parties except Chile. The type of change involved is to add the words "New Guinea"; to change "Indonesia" to the "Republic of Indonesia"; and so forth. They simply reflect territorial changes and changes in the status of the countries that have them.

Senator MILLIKIN. Down at the bottom of this page there is some penciling. Does that need to be clarified?

Mr. BROWN. No, sir. That merely explains, as I said, that it would change "Indonesia" to the "Republic of Indonesia."

Senator MILLIKIN. Is that penciling something that should go in as a part of the official text, or is that just an explanation that you have gratuitously furnished.

Mr. BROWN. No. It is not yet part of the official text and should not go in.

Senator MILLIKIN. Starting with what you numbered——

Mr. BROWN. What should go into the text, Senator, is the printed material.

Senator MILLIKIN. Just the printed material?

Mr. BROWN. Yes. Only. In the interpretative notes on page 75 the material at the top of the page with the double line next to it is simply dealing with these cross references which are purely mechanical. They are not in effect because Chile has not accepted the protocol.

Senator MILLIKIN. Is there any particular reason why Chile lags so much in their approval, except lethargy?

Mr. BROWN. No, sir. The same situation applies with respect to the amendments on page 76 and the double line there. The single line at the bottom of page 76 can be omitted since the note has now been agreed to by all contracting parties. This note I did not explain in my previous testimony.

Senator MILLIKIN. Would you mind explaining it, please?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Does that run over to page 77?

Mr. BROWN. No. I have a different comment on that.

Senator MILLIKIN. Just delete the part of 76 that has a single line?

Mr. BROWN. I am referring now only to the paragraph at the bottom of page 76 which has a single line.

Senator MILLIKEN. Yes. Will you explain that, please?

Mr. BROWN. Some countries which have a less well developed system of tax collection collect their ordinary internal taxes at the customhouse as a matter of convenience. The purpose of this note is to make it clear that such a tax and such a method of collection does not mean that the tax is a customs duty, but means it is still a tax. That is the only point.

Senator MILLIKIN. It goes merely to the place where the tax is collected?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Rather than the nature of the tax?

Mr. BROWN. That is correct.

On page 77 the line may be deleted in its entirety, since that is now in force and has been accepted by all the contracting parties. You interrogated me about all these notes in my previous testimony. The same is true for the line on the left on page 78, and also the single lines on page 83.

Senator MILLIKIN. There seems to be a couple of double lines there.

Mr. BROWN. Yes. May I check for a moment?

Senator MILLIKIN. Yes.

Mr. BROWN. I cannot explain that. My note here, Senator, is that these two notes are in force or agreed to by all except Burma.

Senator MILLIKIN. That is where the doubles are, or the singles are?

Mr. BROWN. Yes. If that is an error, I will correct it.

Senator KERR. Where the doubles are?

Mr. BROWN. Yes, sir. Actually the change is simply to change the words "most-favored-nation rate" into "higher duty that would be payable." It is a longer phase. It is a pure technicality.

Senator MILLIKIN. Have we discussed it?

Mr. BROWN. We have, on page 1373 of the record.

On page 84 the double line is not in force for anyone because it has been agreed to by everyone except Chile.

I think that completes the text.

Senator MILLIKIN. Will formal action of any kind be taken to dispose of ITO, or will it just languish?

Mr. BROWN. No, sir. It would have required formal action to create and establish ITO, but it takes no formal action to let it die.

Senator KERR. It can die unaided, but could not live without adequate props?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. I think before we closed this noon I asked you if all of ITO was to be submitted by express action by Congress. Why not all of GATT, which is a central part of ITO? Would you mind summarizing your answer to that?

Mr. BROWN. My answer to that is——

Senator MILLIKIN. I think before lunch I described it as the heart of GATT, rather than the central part.

Mr. BROWN. My answer is that the GATT is in our judgment an executive agreement—a trade agreement—and that the provisions of it which we have put into force are provisions which are within the detailed and general authority of the President and, therefore, need not be submitted to the Congress. There are certain provisions in the GATT where the provisions of the GATT are not in accord with the laws of this country and, therefore, where, if we are to apply them, we will ask the Congress whether or not it wishes to make the provisions which would authorize us to do so.

Senator MILLIKIN. You are making the decision as to whether there is or is not conflict, or whether you do or do not have authority?

Mr. BROWN. Yes, sir. We are trying to act within our authority and to ask for congressional action where we do not have the authority.

Senator MILLIKIN. You feel that you have the right to cover with executive agreements the subject matter which is within the exclusive jurisdiction of Congress, without the consent of Congress?

Mr. BROWN. Yes, sir; we have a delegation of authority from the Congress in the Trade Agreements Act.

Senator MILLIKIN. But, let me ask you again: Do you figure that you are acting under the delegation of authority which you have from Congress?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And that the executive agreement is not by virtue of any general executive power of the President, but that your executive agreements, under your theory, are made pursuant to the delegated power of Congress. Is that correct?

Mr. BROWN. We are acting under the delegated and general powers of the President.

Senator MILLIKIN. But you go beyond the delegated powers of Congress.

Mr. BROWN. Yes, sir. We have submitted a legal memorandum stating our position on that.

Senator MILLIKIN. And you are here on the same theory?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You do believe, where the Congress has the exclusive jurisdiction over the subject matter, that you can make executive agreements which are not a right which is delegated?

Mr. BROWN. Yes; but there are some things—for example, the general obligation to consult, which is in this agreement, which is not a matter of the exclusive jurisdiction of the Congress the way the control of tariff rates is. Now, there is no specific delegation of anything like that, but the general acceptance of an obligation to consult about matters arising under the agreement would be something that would be within the ordinary powers of the President in his conduct of foreign affairs.

It is that kind of thing I have in mind. Our principal authority for this agreement we feel is in the Trade Agreements Act.

Senator MILLIKIN. Well, Congress has the exclusive constitutional power over valuing our domestic money and valuing foreign money for domestic purposes. What delegation of power in that regard has been made by the Congress to the President other than in the Monetary Fund?

Mr. BROWN. None; and there is no action about it in the general agreement.

Senator MILLIKIN. There is no relation between the Monetary Fund and GATT in the general agreement?

Mr. BROWN. Yes, sir. In the general agreement in certain cases we agree to accept decisions of the Monetary Fund; and those decisions in the Monetary Fund, so far as we were concerned, would be made pursuant to Congress' acceptance of our membership in that fund.

Senator MILLIKIN. Did the Congress give you the right to make that delegation to the Monetary Fund in tariff matters?

Mr. BROWN. Congress has authorized us to participate in the Monetary Fund.

Senator MILLIKIN. But has the Congress brought the Monetary Fund into tariff making?

Mr. BROWN. No; and neither have we in the general agreement.

Senator MILLIKIN. What do you do in the general agreement?

Mr. BROWN. We agree that the Monetary Fund shall be the exclusive judge of such matters as the financial condition of other countries, which is the kind of thing that it is set up to do.

Senator MILLIKIN. Value the money?

Mr. BROWN. Value of the money. The fund is expressly authorized to deal with par values.

Senator MILLIKIN. Have you authorized the Monetary Fund? Have you given the Monetary Fund any power over the value of money for tariff purposes?

Mr. BROWN. This agreement agrees to accept the par values established by the fund as being the correct par values.

Senator MILLIKIN. And did Congress authorize you to do that?

Mr. BROWN. Not specifically. No, sir.

Senator MILLIKIN. The parities established by the fund might be very unrealistic parities, might they not?

Mr. BROWN. They might be, but it is necessary for the President and for us in administering our customs to have some standard as to what the exchange rates should be.

Senator MILLIKIN. Do you feel there has been a delegation to the President or to the State Department to accept parities that might be very unrealistic? Did Congress tell you to do that?

Mr. BROWN. The Congress told us we could participate in the International Monetary Fund.

Senator MILLIKIN. But I am talking about the Trade Agreements Act.

Mr. BROWN. Well, sir, I know of no way to answer that question except the way I did.

Senator MILLIKIN. You could answer that the Trade Agreements Act did not give you that authority, could you not?

Mr. BROWN. In this case we do not deal—the Trade Agreements Act and the general agreement does not do anything about fixing values of money.

Senator MILLIKIN. Will you explain that, please.

Mr. BROWN. That is just a statement.

Senator MILLIKIN. The establishment of parities between moneys fixes their value, does it not?

Mr. BROWN. Yes.

Senator MILLIKIN. Is that not the point of reference to the Monetary Fund?

Mr. BROWN. In the general agreement we agree that the par values determined by the fund shall be the par values which are used, and the President—in order to administer tariffs you have to have some kind of a standard. Over the years the Executive has always chosen what that standard should be, and this is the standard in fixing which we have a chance to participate through our membership in the fund, and it is a generally accepted international standard.

Senator MILLIKIN. Did we authorize the President, or anyone, in the Reciprocal Trade Agreements Act to allow the value of our money for customs purposes to be referred to the Monetary Fund or to any other international group?

Mr. BROWN. You were silent on that subject.

Senator MILLIKIN. We said nothing about it?

Mr. BROWN. Yes.

Senator MILLIKIN. So the answer to that is there is nothing in the Trade Agreements Act to that effect, is there?

Mr. BROWN. There is nothing specific, as I have said many times, in the Trade Agreements Act, to that effect.

Senator MILLIKIN. So that there I assume you are acting under what you call the President's executive authority independent of the Reciprocal Trade Agreements Act. Is that correct?

Mr. BROWN. We think the President has authority to select a reasonable standard for the conversion of currencies for the purpose of administrating the customs laws.

Senator MILLIKIN. Assume the President has that authority. Does he have any authority so far as it is granted by Congress to delegate his own judgment in the matter to an international body?

Mr. BROWN. Yes, sir. He is specifically authorized by the Congress in the fund——

Senator MILLIKIN. In the Reciprocal Trade Agreements Act, Mr. Brown?

Mr. BROWN. But you cannot isolate them, Senator.

Senator MILLIKIN. Oh, you can isloate them. Of course you can isolate them.

Mr. BROWN. The answer in the Reciprocal Trade Agreements Act is "No."

Senator MILLIKIN. They derive from different sources of authority. The Monetary Fund and the trade agreements are derived from different sources of authority. Of course they can be isolated.

Mr. BROWN. Certainly. I have said many times, Senator, there is nothing in the Trade Agreements Act specifically about par values.

Senator MILLIKIN. Now I am taking the next one. You say that that action—the action of referring the value of money to the Monetary Fund—results in the Presidential power to make executive agreements. Is that correct?

Mr. BROWN. I think it is inherent that he has to have some way of finding out what the values that will be used for this purpose are. That is the reasonable way of doing it.

Senator MILLIKIN. Let us assume it is inherent, and let us assume it is a reasonable way of doing it. Does he do it by virtue of an Executive power as distinguished from a delegation of power by the Congress?

Mr. BROWN. I cannot make that distinction, Senator.

Senator MILLIKIN. Why not?

Mr. BROWN. Because I cannot do it.

Senator MILLIKIN. Why not? You say it is not from the Reciprocal Trade Agreements Act.

Mr. BROWN. I will have to take legal advice on that point, Senator.

Senator MILLIKIN. Would you be good enough to take it?

Mr. BROWN. I have tried to disclaim being a lawer many times here.

Senator MILLIKIN. Do you want to take it now?

Mr. BROWN. No. I do not have any lawyers with me.

Senator KERR. I believe the Senator would agree that he seeks the best answer that you can give, and you may state whether it is something that you are giving of your own knowledge, or something that you are giving as a mater of judgment, or something that you are giving as a matter of advice, and I believe that would be satisfactory.

Mr. BROWN. If you would like to have my layman's personal opinion on the thing I think that the delegation of authority to change tariff rates and to make trade agreements would embrace within it as a matter of common sense the authority to pick a reasonable well-

accepted standard of par value for the conversion of currency. I would think that it would be—looking around for what the reasonable par value would be—the most generally accepted and firmly fixed value that you can find that which has been established by the International Monetary Fund by the agreement of all the countries, and in which the United States has had a direct participation. Therefore, it would seem to me as a layman that that was an inherent implication of the powers given under the Trade Agreements Act, but I cannot say whether that is good legal theory or not.

Senator KERR. Let me ask you this question: The President is not bound by what the International Monetary Fund does, is he?

Mr. BROWN. Yes, sir. It is agreed that for the conversion factors in this agreement the par value fixed by the fund should normally be the accepted one. This provision is not yet in effect for the United States, because our present law specifies different conversion factors.

Senator KERR. Could he change that, or could he change his mind about that if he wanted to?

Mr. BROWN. It would require a change in the agreement.

Senator KERR. It would require a change in the agreement?

Mr. BROWN. Yes, sir.

Senator KERR. All right.

Senator MILLIKIN. May I ask what would require a change in the agreement? I was interrupted for a moment.

Mr. BROWN. Senator Kerr was asking whether a change——

Senator KERR. I was asking whether the President was in a position to be influenced by it, or bound by it. He said he was bound by it unless the agreement was changed.

Senator MILLIKIN. Yes. That is, bound by what the Monetary Fund does.

Senator KERR. By what it decides with reference to par value.

Senator MILLIKIN. That is right. Let me ask you again, from your layman's standpoint, does this thing that has been done with reference to the Monetary Fund grow out of the President's powers or out of the delegation of power to him by the Congress, or does that involve a law question?

Mr. BROWN. That involves a law question, but looking at it again from the layman's point of view, from my personal point of view, it seems to me that you have to have some kind of a measurement for conversion. Therefore you pick out the one that is the most generally accepted and known to everybody, and which can be recognized, just the way you do in many other business operations.

Senator MILLIKIN. But there is a distinction?

Mr. BROWN. And this is the one that is accepted.

Senator MILLIKIN. There is a distinction between your looking in the Wall Street Journal to get the price of a stock, or delegating to someone the right to determine the price of the stock. There is a big difference.

Let us grant that the President has the power to look anywhere he pleases to find the value of our dollar in relation to the currency of some other country.

Mr. BROWN. Oh, as far as the value is concerned——

Senator MILLIKIN. Let us assume that he has; but there is a vast difference between that and his delegation of that power to some other body.

Mr. BROWN. Senator, if you are asking about our dollar, the President has delegated nothing to the Monetary Fund.

Senator MILLIKIN. Of course, the President has delegated it to the Monetary Fund because our parities run in relation to other parities.

Mr. BROWN. Yes.

Senator MILLIKIN. Of course; but the value of the dollar in foreign trade is the amount of other currencies that it will buy so far as value is concerned.

Mr. BROWN. The value of our dollar in terms of gold is one for us, of course, to decide.

Senator MILLIKIN. Of course. And, the President has delegated that to the Monetary Fund and we are coming to the basic legal question now on which you want advice, as to whether he has the right to do it on his Executive power or on the delegated power to him by the Reciprocal Trade Agreements Act.

Mr. BROWN. As far as his right to agree to par values generally is concerned, that, of course, is clearly given him by the membership in the Monetary Fund.

Senator MILLIKIN. Let us assume that is correct. We are talking about what he is doing under the Reciprocal Trade Agreements Act, which is a specific act and which operates under an exclusive congressional power over the subject matter.

Mr. BROWN. I would not agree with that, Senator. I would say——

Senator MILLIKIN. You would disagree?

Mr. BROWN. I would say as far as changes in tariff rates are concerned, yes. The Congress has the exclusive jurisdiction and it has delegated a part of its authority to the President. But, the President has many authorizations from the Congress in membership in the fund, in general conduct of foreign affairs, and other delegated authorities, and I do not think one can isolate them always and say in doing a certain act he is operating under one or the other.

Senator MILLIKIN. You are not willing to say he is operating under the Reciprocal Trade Agreements Act?

Mr. BROWN. Not solely.

Senator MILLIKIN. Then if he is operating under a part of it, please define the part he is operating under.

Mr. BROWN. I am sorry, sir. I have given you the best statement of my opinion that I can. I cannot add to it.

Senator MILLIKIN. How many powers are there? Have you ever counted the powers in GATT of the contracting parties, as such?

Mr. BROWN. No.

Senator MILLIKIN. How many are there, would you guess?

Mr. BROWN. I have not the slightest idea, Senator.

Senator MILLIKIN. We will say they have a vast range of powers over a number of matters, have they not?

Mr. BROWN. They have no power to compel any contracting party to do anything.

Senator MILLIKIN. They have the power to compel you to or else get out.

Mr. BROWN. Yes.

Senator MILLIKIN. They have that power, you agree?

Mr. BROWN. Yes.

Senator MILLIKIN. That is a very important power, is it not?

Senator MILLIKIN. You say "Yes?"

Mr. BROWN. Yes.

Senator MILLIKIN. Then they do have an important power, do they not?

Mr. BROWN. Yes.

Senator MILLIKIN. And that power to compel you or get out runs entirely through GATT, does it not?

Mr. BROWN. No, sir. It comes in some very important places.

Senator MILLIKIN. It is supplemental all through GATT, is it not? Do you want me to take GATT and run through every power that the contracting parties have? I am willing to do it. I am rather merciful here to the chairman of this committee, but it happens that I have made an analysis of all the powers of the contracting parties and I could produce all of them, and run through GATT with you on it.

Mr. BROWN. I am willing to concede that the contracting parties have a number of important powers.

Senator MILLIKIN. Now, tell us those that occur to your mind. They have this power with reference to fixing the parities of money. They have the power of making the reference to the Monetary Fund, which in turn will fix the parity of the money. Is that correct?

Mr. BROWN. What article II says is that the specific rates in the schedule are expressed in the terms of the par values of the currencies established by the fund. That is a statement of fact.

Senator MILLIKIN. Do not the contracting parties refer those questions, as such, as the contracting parties, to the fund?

Mr. BROWN. No, sir; not in that.

Senator MILLIKIN. How do you get the matter before the fund?

Mr. BROWN. You do not.

Senator MILLIKIN. What do you get before the fund?

Mr. BROWN. You simply accept the values that have been established by the fund. That is done in the regular course of the fund's business.

Senator MILLIKIN. What is that?

Mr. BROWN. I say, you simply take the rate which has been established by the fund. As of a particular day, that is the rate. You do not refer anything to the fund.

Senator MILLIKIN. There is no matter of decision that is referred to the Monetary Fund?

Mr. BROWN. Not with respect to the rates. No, sir. There are other things.

Senator MILLIKIN. What are the matters of decision that the Monetary Fund has arising out of GATT?

Mr. BROWN. The most important one is the right to make a finding as to whether or not the monetary reserves of a contracting party are very low, or are so low as to justify the use of the balance-of-payments exceptions.

Senator MILLIKIN. That could be vastly important, could it not?

Mr. BROWN. Yes, sir; it is very important, and we insisted on that being put into the agreement.

Senator MILLIKIN. Yes. That does not necessarily lend it virtue.

Senator KERR. Nor the opposite.

Senator MILLIKIN. No.

Mr. BROWN. It is a very pertinent point.

Senator MILLIKIN. I mean, you said that with such unction that I thought——

Mr. BROWN. No, sir. I said it quite frankly because of the fact that we have a very important influence in the fund and we felt it was the best place from our point of view to have those determinations made.

Senator MILLIKIN. All right. The contracting parties, as such, refer questions of the type which you just mentioned to the fund, and accept the fund's decisions. Is that correct?

Mr. BROWN. That is correct.

Senator MILLIKIN. And that kind of a decision might be vastly important. Is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Where is your authority under the Reciprocal Trade Agreements Act for that?

Mr. BROWN. I cannot point to any specific authority which says that we can refer certain specified questions to the Monetary Fund, anywhere in the Reciprocal Trade Agreements Act.

Senator MILLIKIN. All right. We are probing what I thought was an answer you gave awhile ago that the contracting parties, as such, do not have a great deal of power in this business. Maybe you wish to modify your answer before we proceed and take up a lot of other things.

Mr. BROWN. I did not say that, Senator; or if I did say that, I did not mean to say that. What I said was the contracting parties have many important powers.

Senator MILLIKIN. As such?

Mr. BROWN. As such.

Senator MILLIKIN. And what they decide goes, unless you want to get out. Is that not correct?

Mr. BROWN. Not in every case. No, sir; but, in general, it is true.

Senator MILLIKIN. Well, in many cases.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And in general that is true except where you have some weak consultation provision that might not lead to a decision.

Mr. BROWN. I could specify the cases in which it is true, and if I may, I would like to do so.

Senator MILLIKIN. Yes. Do so, please.

Mr. BROWN. I cannot do it now, but I can do it tomorrow morning.

Senator MILLIKIN. And will you specify also, while you are at it, all of the other powers of the contracting parties? I would like to see if our minds are together on that.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. The contracting parties have powers over the enforcement of the various exceptions that we have been discussing here?

Mr. BROWN. They can interpret the agreement. Yes, sir.

Senator MILLIKIN. You either follow their decision or you have the option of getting out. Is that right?

Mr. BROWN. No, sir. I will specify precisely what the facts are. As a general statement, that is not correct.

Senator MILLIKIN. That is often correct, is it not?

Mr. BROWN. No, sir; because in a lot of cases what happens is that the other party is entitled to take compensatory action, and the alternative of having to get out is not involved.

Senator MILLIKIN. Yes; and the contracting parties have some supervision over the compensatory action to be taken, have they not?

Mr. BROWN. To keep it from being too extreme.

Senator MILLIKIN. So in the end it comes down to the contracting parties, does it not?

Mr. BROWN. Yes, sir; but not in the way you stated it.

Senator MILLIKIN. Well, I stated it correctly now, did I not?

Mr. BROWN. The contracting parties have a supervision over that type of thing, and I will be glad to specify specifically.

Senator MILLIKIN. Will you say that that runs through this whole field of exceptions?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Because obviously there must be some judge of the good faith of the application of all of these exceptions, and I take it that GATT reposes that responsibility in the contracting parties. There may be some exceptions, but in the main that is correct, is it not?

Mr. BROWN. That is correct.

Senator MILLIKIN. And those powers go to the heart of the agreement, do they not?

Mr. BROWN. They basically have the power collectively to interpret the agreement.

Senator KERR. May I ask a question right there?

Senator MILLIKIN. Surely.

Senator KERR. If you had one trade agreement with just one other nation, would it not have similar reservations available to each of the contracting parties where, if the thing did not work as they wanted it and an argument arose that they could not agree on, that either of them could get out if he wanted to?

Mr. BROWN. Yes, sir. We have those provisions, and also in formal earlier agreements we have provision for the establishment of mixed commissions to intepret and administer the agreement.

Senator MILLIKIN. In the normal bilateral agreement let us say country X says there is a violation, and country Y says there is not. There is a controversy between two countries there, and they either settle it or they denounce the agreement, or they live along with it in a state of violation or alleged violation. Is that right?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. In the ordinary agreement there might be some agreements which set up some arbitration process or something of that kind, but in the absence of that the decision is not in the third party or in any outside party.

Mr. BROWN. That is correct, sir.

Senator KERR. But the reservation of getting out is the same in either case.

Mr. BROWN. That is correct.

Senator MILLIKIN. But in GATT the decision in these matters with the alternative of getting out if you do not like it, is with the contracting parties, as such. Is that right?

Mr. BROWN. That is correct, sir, and we think that is a good thing, Senator?

Senator KERR. May I ask a question there?

Senator MILLIKIN. Surely.

Senator KERR. It only goes to the contracting parties in the event the two cannot agree.

Mr. BROWN. That is correct.

Senator KERR. So that the difference between this and the other is that there is an intermediate stage or situation there which is available as a means which you hope would be effective in helping to settle that which the two parties could not agree to?

Mr. BROWN. That is correct, sir, and that has worked.

Senator KERR. In actuality, do you regard it as an additional benefit rather than additional burden?

Mr. BROWN. We consider it as being an additional benefit and we have found that the force of public opinion as represented by the contracting parties as a group has been very helpful in settling disputes which could not be satisfactorily resolved by the ordinary bilateral discussions.

Senator KERR. What it amounts to is that if the two parties affected cannot agree between themselves, then the contracting parties, as such, become kind of a board of arbitration, and if they can work out a settlement agreeable to both it is accepted, but in the event they fail to do that then either party still has the same privilege of getting out as he would have under a bilateral agreement.

Mr. BROWN. That is exactly correct.

Senator MILLIKIN. Now, is this exactly correct—that the contracting parties are made up of all the members of the entire organization. Is that right?

Mr. BROWN. The contracting parties are all of the parties to the agreement. Yes, sir.

Senator MILLIKIN. In reaching its decisions the United States has one vote?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And each of the others has one vote?

Mr. BROWN. One vote.

Senator MILLIKIN. Would you not say that that is a rather novel feature of the arrangement?

Mr. BROWN. No, sir; we are not in the least afraid of appearing in an international gathering——

Senator MILLIKIN. I did not say whether you are afraid.

Senator KERR. You have the same veto as you had before.

Mr. BROWN. Surely.

Senator MILLIKIN. You have no veto at all if everybody gangs up on you, except getting out.

Mr. BROWN. Which is a very important veto, Senator.

Senator MILLIKIN. With regard to the question of getting out, we have it solidly planted now that we have only one vote out of all of them?

Mr. BROWN. That is correct.

Senator MILLIKIN. And each other country has one vote?

Mr. BROWN. But the influence of the votes is not counted solely by the number.

Senator MILLIKIN. And the decisions are made on 51 percent of the vote, or two-thirds of the vote, or as specified in GATT. Is that correct?

Mr. BROWN. That is the legal situation. Yes. It does not operate that way practically.

Senator KERR. May I ask one question right there, Senator?

Senator MILLIKIN. Yes.

Senator KERR. Are you better off to have one vote and many friends, or many votes and no friends?

Mr. BROWN. You are much better off with one vote and many friends, and you cannot get around the fact that the influence of the United States is very much more important in any international gathering than simply one vote. That has always been our experience.

Senator MILLIKIN. The influence of the United States, such as in the United Nations?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Where we have been able to do exactly what we wanted to do because we were so influential?

Mr. BROWN. I would never claim that we would be able to do exactly what we wanted to, and I do not think that we would do that.

Senator MILLIKIN. Well, to produce effective results.

Mr. BROWN. I would say we had accomplished some very fine results in the United Nations; yes, sir.

Senator MILLIKIN. You like the number of troops that are supporting our own troops in Korea?

Mr. BROWN. You are getting me out of my depth on that.

Senator MILLIKIN. Yes; I thought I would have you out of your depth very shortly. That illustrates the power of the United States in the United Nations. Your protest against the Argentine-British agreement illustrates your power in trade matters, I suggest.

Mr. BROWN. There was a case of simply just us and the British talking together. Perhaps if we had had the contracting parties to bring the matter before we would have had a better result.

Senator MILLIKIN. Or perhaps it would have been much worse.

The end point is, we have one vote which, legally, if you want to put it that way, is just one vote, and we can be ridden down by the others any time they would certainly decide to do it.

Mr. BROWN. We can, sir, but we are not.

Senator MILLIKIN. We have not yet because there has been no occasion to ride us down, because we have been supplying the money to keep the trade of these countries going. This little item of 1 vote and entrusting our whole tariff system and our whole reciprocal-trade system to an international body where we have only 1 vote represents, I suggest, the very most extreme of delegation that could possibly be imagined, and I suggest that you find nothing authorizing it in the Reciprocal Trade Agreements Act.

Mr. BROWN. It is not correct to say that we have entrusted our tariff system to an international organization in which we have only 1 vote.

Senator MILLIKIN. What is correct?

Mr. BROWN. We have complete, absolute unilateral control over what we do about our tariff rates. The articles of the general agreement which deal with tariff schedules require unanimous consent for their change.

Senator MILLIKIN. Yes.

Mr. BROWN. We are the sole judge of what concessions we offer and of what tariff concessions we make, and as to whether or not we wish to withdraw any of them. In that regard, Senator, we have not given power over a single rate to any other country or group.

Senator MILLIKIN. Well, let us test that. From the moment you make this concession, what are the different decisions that the contracting parties can make with respect to it?

Mr. BROWN. With respect to the rates?

Senator MILLIKIN. Yes. Say we make a concession.

Mr. BROWN. That concession we make of our own free will as part of the negotiation, and the contracting parties cannot do anything about it.

Senator MILLIKIN. In connection with the protection of that rate structure you have set up all of these other provisions in GATT. Is that right?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What are the powers of the contracting parties with respect to those provisions which are supposed to protect the rate?

Mr. BROWN. With respect to those, they can interpret those provisions. But, as I say, with respect to our tariff rates they can do nothing.

Senator KERR. May I ask a question?

Senator MILLIKIN. You are just talking about setting the rates initially, are you not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. That is all you are talking about, is it not?

Mr. BROWN. Yes, sir; but that is a very important fact, Senator.

Senator MILLIKIN. Your answer does not go into all of these other things that come into the substance of the rate, such as the value of the money, and such as import and export controls, and bilateral agreements, over which I think you will admit, will you not, that the contracting parties have considerable authority?

Mr. BROWN. They do. Yes, sir.

Senator KERR. There is no agreement made with reference to any change in our tariff rates except those that we agree to?

Mr. BROWN. That is correct, sir.

Senator KERR. Then if extraneous matters are brought in by others which may affect that agreement adversely, or if our own position changes to the point where we want to make it different and we are unable to do so, or unable to bring about a situation that is agreeable to us, then we can retire or withdraw and eliminate the concession that was made?

Mr. BROWN. We can either do that, or we could do what we wanted to and accept compensatory withdrawals on the part of the other parties affected.

Senator MILLIKIN. Now, as to the right of withdrawal, we are the promoters of this plan, are we not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. We really have persuaded the other countries to go into it, have we not?

Mr. BROWN. We suggested it.

Senator MILLIKIN. Yes. We would have to endure shocking losses and shocking dislocations before we would be warranted in pulling out, would we not?

Mr. BROWN. I think we would withdraw if we felt it was the wise and useful thing to do. But the possibility of our withdrawal would be a very serious possibility for all the other countries to contemplate.

Senator MILLIKIN. Of course it would be, so we would be very loath to withdraw in order to protest the run-of-mine decisions that might be made against us, would we not?

Mr. BROWN. That runs both ways, Senator.

Senator MILLIKIN. Well, call it both ways. I am talking about the United States.

Mr. BROWN. We would obviously not withdraw unless it was an important issue.

Senator MILLIKIN. It would have to be very important, would it not?

Mr. BROWN. Yes; but, as I say, we are not necessarily forced to the alternative of withdrawing.

Senator MILLIKIN. That is what I am talking about. We would adopt every compensatory method available to us.

Mr. BROWN. Yes. Certainly.

Senator MILLIKIN. If they were approved by the contracting parties. And, we would do everything else we could, such as negotiation, to avert our withdrawing, would we not?

Mr. BROWN. Of course.

Senator MILLIKIN. That means, since we are the promoter and since the hopes for the success of the thing rest on us, we would not be in a position to take advantage of the aggregate of lesser issues as they accumulated, would we?

Mr. BROWN. Obviously we are not going to withdraw from this agreement unless there is an important issue involved, and our experience has been, and our expectation is, that as far as the lesser issues are concerned they will normally be resolved in a way which is satisfactory to us. That has been the experience so far, and we expect it to continue to be the experience.

Senator MILLIKIN. The decision to withdraw certainly could not rest on small grounds, or out of pique, or matters involving loss to us which were not very, very heavy.

Mr. BROWN. We would not take that decision lightly, and I would hope we would never make an important decision out of pique.

Senator MILLIKIN. So when we talk about the power of withdrawal as far as the United States is concerned—the promoter of this organization, which has perhaps the largest interest in it—it is more or less of an abstraction, is it not?

Mr. BROWN. I do not think so, sir.

Senator MILLIKIN. Then you define it.

Mr. BROWN. I have done so. We have the ultimate power of withdrawal, and that is a very important sanction as far as the other countries are concerned, because they are very much interested in the maintenance of this agreement, so far as we are concerned, and others. Therefore, if you got to an important issue we have, in addition to our normal influence in the picture, a very important sanction which we can use and which the others would not like to see us use.

Now all of this discussion has been based on a sort of general assumption and unexpressed assumption—and certainly it has been in my answers, as I am answering the questions—it is implied we are always going to stand alone in this matter and be outvoted, which just is not the experience. It has not happened to date.

Senator MILLIKIN. If it only happens once in an important matter, though.

Mr. BROWN. If it only happens once in an important matter then we can withdraw.

Excuse me, sir, but I would like to make this point.

Senator MILLIKIN. Go ahead.

Mr. BROWN. It just is not in consonance with the facts to imply that we are always alone and that nobody supports us, and that we are ganged up on and we are being outvoted. That is just not the experience that we have had, nor do we anticipate it. We do not take unreasonable positions, and we find support for reasonable positions.

If you should get to the situation where there is a basic and important difference in which we find ourselves alone in an untenable position, then we are in the position to withdraw.

Senator MILLIKIN. And if we withdrew, what would happen to GATT?

Mr. BROWN. I do not know whether the other countries would want to maintain it or not. I think they might very well; but, of course, one of the most important elements in it would be missing.

Senator MILLIKIN. Would not the history of it in your judgment be the same as ITO? If we withdrew, it finishes?

Mr. BROWN. I do not know, sir.

Senator MILLIKIN. You would not preclude that possibility, would you?

Mr. BROWN. Of course, I would not preclude the possibility, but all I can say is——

Senator MILLIKIN. Do you not think it would be likely to happen?

Mr. BROWN. No, sir.

Senator MILLIKIN. Just as in the case of ITO? If not, why not?

Mr. BROWN. Because, as I have pointed out before in this testimony, out of some 45,000 or 50,000 concessions which have been negotiated in the course of GATT, there are only about 4,500 cases granted by us. Those other concessions are of importance and interest to the other countries in their trade with each other. A much larger proportion of trade of the countries in GATT is with each other than it is with the United States. Therefore, I think there would be a very good likelihood that, if we should withdraw, the agreement might be continued, at least by a very substantial number of the other countries.

Senator KERR. Is it possible, Mr. Brown, that other international agreements which in the minds of some are promoting better understanding, and therefore providing improved opportunities for peace, may have been encouraged by the success of the General Agreement on Tariffs and Trade that has been developed in this program?

Mr. BROWN. We have always felt, Senator Kerr, that it was very important to build up the trade relations between friendly countries, and that, if those relations were established, the combination of the closer contacts that come about through those trade relationships and

the increased economic strength and stability that comes from them would make for a stronger structure of the friendly world.

Senator KERR. I am thinking of the Schuman plan and wondered if it might be possible that what seems to be a very wholesome and maybe successful effort to bring about a beneficial working agreement between the nations of Western Europe might possibly have received an impetus from the successful operation of our reciprocal-trade program. I would suggest you speak only as a layman and as a matter of your own personal opinion.

Mr. BROWN. There have been a number of important and constructive efforts in the trade-liberalization field since the war. I think it would be fair to say that they interact upon one another, and when one seems to be succeeding it encourages the development of others. This one was the first, and you had the OEC trade liberalization program next, and then the Schuman plan came along. I think it would be difficult to make a specific tie-in between those things, but they are all part of a climate of endeavor and of effort.

As you know, success leads to success and new effort.

Senator MILLIKIN. Schumann is a citizen of what country?

Mr. BROWN. He was the foreign minister of France.

Senator MILLIKIN. And where has the opposition arisen as to the Schuman plan?

Mr. BROWN. That again I am not qualified to comment on, Senator. I have not followed it in detail.

Senator MILLIKIN. I would suggest that there has been considerable opposition from Great Britain.

Mr. BROWN. Yes.

Senator MILLIKIN. And I suggest that there has been considerable opposition from Germany.

Mr. BROWN. That is correct.

Senator MILLIKIN. And so far the existence of a reciprocal-trade-agreement system has had no effect whatsoever on the promulgation or promotion, or the ultimate success—if it is to be successful—of the Schuman plan.

Senator KERR. The German representative has agreed to it, has he not?

Mr. BROWN. Yes. All six countries have initialed it.

Senator MILLIKIN. Great Britain has now agreed?

Mr. BROWN. They were not in the negotiations. They did not participate.

Senator MILLIKIN. No; but they have a very important situation in the Ruhr which has a very important bearing on the success of the Schuman plan. They have not yet agreed for that.

Mr. BROWN. No, sir. They have not participated in the negotiations at all, as I understand it.

Senator MILLIKIN. Now, as to the single vote per nation under GATT, what percentage of the vote do we have in the Monetary Fund?

Mr. BROWN. About 30 percent.

Senator MILLIKIN. There our financial strength receives some recognition?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Why should not our trade strength have received some in GATT?

Mr. BROWN. Our original proposal was that there should be one country, one vote. We feel in these matters that is the best way to handle it, that you proceed on the basis of your case and the way you present it, and you do not get agreements by force and by the use of weighted votes in this field.

Another difficulty, of course, is the practical difficulty of how on earth you figure out a weighted vote in matters of trade.

Senator MILLIKIN. Do you not have a weighted vote under GATT in one particular?

Mr. BROWN. The only thing I can think of is possibly the requirement that the countries accounting for 85 percent of the trade must put the agreement definitively into effect before it becomes effective.

Senator MILLIKIN. That is quite important, is it not?

Mr. BROWN. That is just another way of saying you must get most of the countries to give it effect before it becomes effective.

Senator MILLIKIN. Yes; and it also gives weight, nation by nation, according to the trade strength assigned to the particular nation, does it not?

Mr. BROWN. That is correct. Yes, sir.

Senator MILLIKIN. Now, what strength has the United States on the Security Council of the United Nations?

Mr. BROWN. One vote.

Senator MILLIKIN. Out of how many?

Mr. BROWN. It is seven or nine.

Senator MILLIKIN. It is 7 or 11, is it not; or, is it 7 and 5? It makes 11 altogther, but the rotating countries——

Mr. BROWN. It has one vote and a veto; and in the General Assembly of the United Nations, in which there are a great many countries, we have one vote.

Senator MILLIKIN. And Russia has four. There are some other disproportionate representations there too, are there not? We are talking about the Assembly.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Russia has four votes in the Assembly, has it not?

Mr. BROWN. Russia and its satellites.

Senator MILLIKIN. And we have one?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Coming back to the Security Council, we have one vote and we do have the power of veto. My point is that in other international agreements we have not always reduced ourselves to where we have only one vote out of how many now in Torquay? And, how many in Annecy?

Mr. BROWN. There are, I think, between 36 and 39 at Torquay.

Senator MILLIKIN. One out of 36 or 39?

Mr. BROWN. Yes. We are not in the least afraid of going into an international meeting with one vote.

Senator MILLIKIN. You may not be afraid, Mr. Brown, but there are a lot of people in the United States who, if they knew the facts, might be afraid.

Mr. BROWN. Yes, sir. But not if they knew all the facts.

Senator MILLIKIN. That might be a consideration, and a prudent counselor never allows the possibility of the cards being stacked against his clients.

Mr. BROWN. No, sir, and that is why we can always withdraw.

Senator MILLIKIN. You do not take a client who has, let us say, 30 percent of the chips and allow someone with 1 chip to take the pot or to make a combination. I have no doubt that you have confidence that with one vote we can carry out the public policies of the United States in this particular organization. I do not doubt that you think that—and maybe that has happened in the past. I am not arguing whether it has or has not now. I am simply suggesting that a prudent counselor never allows the deck to be stacked against his client to that extent because you never can tell—especially when this country has the most desirable market in all of the world, and the most desirable money in all of the world.

Now, will you tell us again, Mr. Brown, those measures that you do intend to bring to the Congress for approval in order to iron out what you believe are the conflicts between GATT and the existing laws of the United States?

Mr. BROWN. I was looking to see, Senator, whether we had put in the record of this case the memorandum stating the cases in which the provisions of the GATT would not be consistent with our laws.

Senator MILLIKIN. I think you did that 2 years ago. I wanted to bring the situation up to date.

Mr. BROWN. It would be the same.

Senator MILLIKIN. It would be the same?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. None of those laws have been passed?

Mr. BROWN. No, sir.

Senator MILLIKIN. Could you give us a rough idea of the subject matter?

Mr. BROWN. Yes, sir. Most of them are in the field of customs procedures.

Senator MILLIKIN. Yes, sir. There are several others. I recall something about tobacco seed and printing, and a few other things.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. But when you get those passed, if you get them passed, then in your opinion we will be in accord with the provisions of GATT. Is that correct?

Mr. BROWN. Yes, sir. We owned then believe the provisions of GATT to be in accord with our laws.

Senator MILLIKIN. Why have you been unwilling to submit the complete GATT to the consideration of Congress?

Mr. BROWN. I have nothing to add to what I have said this morning.

Senator MILLIKIN. Sir?

Mr. BROWN. I have nothing to add to what I said this morning on that subject.

Senator MILLIKIN. I do not mean to encumber the record with useless repetition, but what was your answer, if you could state it briefly, to that question?

Mr. BROWN. I said this was in our opinion an executive agreement which the President had authority to agree in and to put into effect with the exceptions of these changes which we have just been discussing, and which, if it is not in the record, I will see that the memorandum is put in.

(The information referred to appears in subsequent testimony.)

Senator MILLIKIN. Why do you submit any laws to the Congress? You have mentioned that several would be coming along, and that until we have those we will not be in harmony with GATT. Why do you submit any?

Mr. BROWN. Because we would like to put certain provisions of the GATT into effect and we do not feel we have the authority to do so under our laws.

Senator MILLIKIN. Why not?

Mr. BROWN. Because our laws are different from the provisions in the GATT?

Senator MILLIKIN. In those respects?

Mr. BROWN. Yes, sir. We, of course, are bound by our laws.

Senator MILLIKIN. With respect to the subject matters covered by the bills which you hope to get through Congress?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Our laws are different?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You are speaking of our statutory laws?

Mr. BROWN. Statutory.

Senator MILLIKIN. There is a conflict between our statutory laws and the laws that you feel are nececessary to make GATT fully effective, so far as we are concerned?

Mr. BROWN. No, sir.

Senator KERR. I wonder if it would be more correct to say that at this time there is a conflict in certain provisions of GATT with our present law which you hope to resolve by the enactment of such legislation as will do that, in the event Congress sees fit to do so?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. And those laws have not been enacted?

Mr. BROWN. No, sir; and the provisions of GATT are not being observed by us.

Senator MILLIKIN. As to those particular laws?

Br. BROWN. That is correct, sir.

Senator MILLIKIN. Now, will you cite the provision—and I think it is in the Annecy protocol—so that we can get the exact language before us as to the conflict between GATT and local laws? Do you have that handy? Could you quote it?

Mr. BROWN. Yes, sir. Leaving out the recitation of the countries, what the protocol says is that, "the governments"—and then it lists the countries, including the United States of America—undertake to apply provisionally on and after January 1, 1948, parts I and III of the General Agreement on Tariffs and Trade, and part II of that agreement to the fullest extent not inconsistent with existing legislation.

Senator MILLIKIN. So the limitation there is as to existing legislation. Is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What about the constitutional powers?

Mr. BROWN. I do not understand your question.

Senator MILLIKIN. Well, we have a law, or we hope to pass a law represented by a bill before us. That would be a law when it passes. We also have the Constitution. Does that refer to the constitutions of the nations as well as the statutory law?

Mr. BROWN. I think it would.

Senator MILLIKIN. You are unwilling then to present the whole of GATT to Congress so that it might not only compare GATT against existing laws, but also against the Constitution?

Mr. BROWN. I have given you the answer on that, Senator. I cannot add anything to it.

Senator MILLIKIN. You have nothing to add to that answer?

Mr. BROWN. No, sir.

Senator MILLIKIN. What about future laws of Congress?

Mr. BROWN. The answer to that question is that if the Congress should pass legislation in the future that was inconsistent with the GATT, they would put the United States in the position of violating the GATT.

Senator MILLIKIN. And you feel that the President is warranted in making future executive agreements which in themselves might conflict with future laws of Congress?

Mr. BROWN. That has been the situation with respect to all of our trade agreements since the beginning, Senator.

Senator MILLIKIN. Now, let me ask you to specify country by country the provisions of GATT which are considered in violation of the legislation or the constitutions of the various members of GATT?

Mr. BROWN. I do not think I have that information.

Senator MILLIKIN. Is it anywhere?

Mr. BROWN. It would be a difficult research job to get it.

Senator MILLIKIN. You do not believe that it exists anywhere?

Mr. BROWN. I doubt it it is compiled in any one place, Senator.

Senator MILLIKIN. Do not the contracting parties, as such, know the field of conflict?

Mr. BROWN. I do not think so.

Senator MILLIKIN. And we do not know?

Mr. BROWN. No, sir. We have not run into any difficulties on that problem as yet.

Senator MILLIKIN. I am not speaking of difficulties, but I am asking you whether we know.

Mr. BROWN. I said no, sir, we do not know, and then I added that that fact has not caused us difficulty to date.

Senator MILLIKIN. Will you provide us with a list of the legislation which has been introduced by other members to resolve conflicts of that kind between their local legislation, and the constitutions, and the terms of GATT?

Mr. BROWN. The way in which other countries deal with agreements of this kind varies widely. Some of them present the whole agreement for ratification. Others operate under a complete delegation of power. I believe that we have information which I could provide stating how those things are handled in each of the countries.

Senator MILLIKIN. That information, I believe, was given us 2 years ago.

Mr. BROWN. I think so, Senator.

Senator MILLIKIN. But I am asking you now whether we have a list of the legislation which has been submitted within the various member States for the purpose of passing laws or making constitutional amendments that would resolve these conflicts we are talking about?

Mr. BROWN. I would have to check that for you, and I will.

Senator MILLIKIN. Will you let us know in the morning whether there are such lists, and if there are, and if you have them, will you produce them?

Mr. BROWN. I will be glad to, sir.

Senator MILLIKIN. So that as of this moment you do not know how much of GATT is effective?

Mr. BROWN. Not down to the last detail. No, sir.

Senator MILLIKIN. Well, even short of the last detail. I mean, if you do not know what the other states consider to be the field of conflict, and if you do not know what legislation they have introduced and passed to remedy the conflict, and what legislation they have pending, I suggest that you do not know the contents of GATT. Am I correct on that?

Mr. BROWN. No, sir.

Senator MILLIKIN. Would you mind correcting me?

Mr. BROWN. We know how the things are working under the GATT, and we have not found that there has been any difficulty caused by the possible conflicts with other legislation; and, since that is the case we have not gone to the trouble of looking into the laws of every other country to find out precisely where there may be inconsistencies between the provisions of the GATT and their existing legislation.

Senator MILLIKIN. You are discussing, Mr. Brown, how things are working. I am discussing how they are authorized to work under GATT as reconciled by the various countries. There is a difference.

Mr. BROWN. On that latter point I am ignorant.

Senator MILLIKIN. Now, GATT is an agreement. You said so in earlier testimony that GATT is an agreement, in answer to a question by Senator Kerr. How can you say it is an agreement when the terms of it are unknown?

Mr. BROWN. Most of the terms of it are known.

Senator MILLIKIN. If you do not know those fields where there is conflict and where there has been no reconciliation of the conflict, how can you say the terms are known?

Mr. BROWN. There is the agreement. [Holding copy of GATT.] Only some parts of that agreement are not in effect.

Senator KERR. Would you say, Mr. Brown, that the agreement might be divided into three parts? One, that about which there is no question in the minds of those who made it as to its identity; one part that about which the parties who made it are certain that the provisions must be approved by legislation; and then a limited portion of it that might be described as in the twilight zone of doubt as to whether or not it is absolutely clear that it is in one or the other of the two other parts?

Mr. BROWN. That is correct, sir. We have an agreement. There is no doubt as to what the agreement is. Everybody knows what the text of the agreement is. There are some parts of it which are not in effect for some countries and some parts which are not in effect for other countries.

Senator MILLIKIN. What I am asking is for you to tell us the status as to those three divisions of Senator Kerr's, or any other divisions that you might suggest between that which is identically approved by all of the parties and that which remains to be approved or is in the

process of being approved. I would like to have that specified provision by provision in GATT.

Mr. BROWN. That would take a very long time and great deal of work.

Senator MILLIKIN. It would take a long time to do because you do not know, as you stated a while ago.

Mr. BROWN. That is correct.

Senator MILLIKIN. I repeat, when you are talking about an agreement how can you say that you have an agreement when you cannot tell what parts of it have been approved by the approving parties necessary to approve it, and when they can pick and choose between what they will and will not accept? Did you ever hear of an agreement of that type?

Mr. BROWN. We know what the agreement is, and we have all agreed that it need not be fully applied by everybody; and, we know where there have been cases in which it has been felt that the agreement has not been applied. I can think of one case where the argument was made that the reason it was not being applied in that particular case was because it was inconsistent with existing legislation. In that case we were satisfied that the point was well taken.

Now, we have not had occasion to have many cases—I cannot think of any other at the moment—in which the problem of whether a particular provision of the agreement is or is not inconsistent with the local legislation of a particular country has come to have any practical significance. So, we have not gone through the job of compiling all the possibilities inherent in Senator Kerr's three alternatives—which are a good description of the situation—because it has not been a practical necessity.

The great bulk of the agreement has been in effect, and it has been working for most of the countries.

Senator MILLIKIN. I repeat my question. You do not know those parts of the agreement which are in conflict in the various countries with local legislation there, or their constitution, do you?

Mr. BROWN. Not in any detail. No, sir.

Senator MILLIKIN. Do the other countries know any more about it than you do?

Mr. BROWN. I should think each one of them probably knows, just as we know the situation with respect to our laws.

Senator MILLIKIN. But they do not know as to the other countries.

Mr. BROWN. Whether they do or not I do not know, sir.

Senator MILLIKIN. But as to the United States we do not know which of these conflicting provisions, where there are conflicts, have been ironed out by the member states?

Mr. BROWN. We could probably, without too much trouble, find a number of major areas in which there are not many conflicts, and we might be able to find some cases in which there may be, but do do a complete job of the kind you suggest would be a considerable research job and I do not know how much in the way of results it would give.

Senator MILLIKIN. Roughly speaking, excepting the classifications which have been made by Senator Kerr, you do not have any classification of that kind, or any other kind, available to you at the present time, do you?

Mr. BROWN. No, sir, but if you would like me to I would be glad to check and see what information we could provide. We might be able to provide something that would give a rough approximation.

Senator MILLIKIN. Are you prepared to say that all conflicts in all of the member states, between the terms of GATT and the legislation of these states, have been resolved?

Mr. BROWN. No, sir.

Senator MILLIKIN. So you do not know what is in the agreement, do you?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You know what is in that piece of paper that is before us but you do not know how much of it has been accepted, do you?

Mr. BROWN. Not in detail. No, sir.

Senator MILLIKIN. Sir?

Mr. BROWN. Not in complete detail. No, sir.

Senator MILLIKIN. What do you mean by "complete detail?"

Mr. BROWN. Would you like me to submit a statement tomorrow morning in which I could check on our knowledge and see whether I could give you a more responsive answer?

Senator MILLIKIN. Certainly. I will ask you again. I believe you were trained as a lawyer. I do not know whether you practiced it but you were trained as a lawyer, were you not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Did you ever hear of such a term as a meeting of the minds between parties to an agreement?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Did you ever hear of a contract where one party to it could pick and choose the parts of the contract that he decided were effective as against him, and other parts that he decided he could not accept; and a contract of the size of this one with many parties involved, where each one can accept those parts which he believes do not conflict, and which he must pass on a contingent basis subject to the decisions of legislatures as to whether the conflicting parts will be resolved, and would you say that where you have that kind of a situation that you have an agreement?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Where did you study law, Mr. Brown.

Mr. BROWN. I said we have an agreement, and I think that——

Senator MILLIKIN. You have something called an agreement.

Mr. BROW. I do not think, Senator, that is a fair picture of the situation, if you will permit me to say so.

Senator MILLIKIN. Then let me ask you a question, and you can expand on that.

Mr. BROWN. Thank you.

Senator MILLIKIN. You call it an agreement, and you call it a contract because you refer therein to the contracting parties. Now, I ask you again if you ever heard of a valid contract where the parties to it had the choice of picking and choosing between the parts while it was provisionally effective?

Mr. BROWN. That, of course, is not an accurate description of the situation.

Senator MILLIKIN. All right. Now you give us a description.

Mr. BROWN. We have here an agreement the great bulk of which for all parties in an agreement which is consistent with their laws, and which they are able to put into effect.

Senator MILLIKIN. All right. Now, will you put into the record that great bulk on which all have agreed and on which there is no conflict?

Mr. BROWN. I will do my best, but I do not think I can give you a specific list of each article of the GATT and the conflicts that may exist in respect of each country, but I will do the very best I can.

(Reference is made to the above in subsequent testimony.)

Senator MILLIKIN. Then you are stating a matter of opinion, which you have a right to state, but you cannot document that opinion as of now?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. And you cannot document those cases where the nations themselves have determined that there are conflicts and have or have not taken steps to resolve them. Is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I have reached another chapter, Mr. Chairman. Off the record.

(Discussion off the record.)

Senator KERR. We will recess until 10 o'clock tomorrow morning.

(Whereupon, at 4:20 p. m., the hearing was adjourned until 10 a. m., the following day, Wednesday, March 21, 1951.)

TRADE AGREEMENTS EXTENSION ACT OF 1951

WEDNESDAY, MARCH 21, 1951

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to recess, at 10 a. m., in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

Present: Senators George, Kerr, Frear, Millikin, Taft, and Williams.

Also present: Mrs. Elizabeth B. Springer, chief clerk, and Serge Benson, minority professional staff member.

The CHAIRMAN. The committee will come to order.

Senator Magnuson, we will be glad to hear you first this morning.

Senator MAGNUSON. Thank you.

The CHAIRMAN. You have an amendment which you have offered?

STATEMENT OF HON. WARREN G. MAGNUSON, UNITED STATES SENATOR FROM THE STATE OF WASHINGTON

Senator MAGNUSON. Yes, Mr. Chairman and members of the committee.

This amendment we are submitting to the committee is one that is quite familiar to the Senate, and I guess to the members of the committee, too. It is known as the Magnuson-Morse amendment, which relates to section 22 of the Agricultural Act, as it affects the making of trade treaties.

Your committee will recall that last year the matter was passed by the Senate and was presented to the Senate in the session prior to that; but the amendment before the committee now, which I will submit here, propose an addition of a section 9 to the reciprocal-trade bill.

In reality the amendment is a complete substitution for section 22 of the AAA Act of 1938, as amended.

Most members of this committee will recall that this was also submitted last year as an amendment to the Commodity Credit Corporation bill.

Likewise, I am sure, most of us, most Senators, will remember an identical amendment offered to the so-called Anderson farm bill

in the first session of the Eighty-first Congress. Still others may remember an amendment of similar nature sponsored in 1948 during the second session of the Eightieth Congress.

Just to refresh our minds as to the fate of these various attempts on my part to make section 22 of the AAA the effective tool that was intended, in the Eightieth Congress, the amendment was defeated by a substantial majority.

In the first session of the Eighty-first Congress the most important section of the amendment was finally adopted by a vote of 44 to 28. The amendment, however, was lost in conference between the two Houses on the Anderson farm bill.

The contention was at that time—I think both of you Senators will remember—that, first of all, it did not belong on the Anderson farm bill, and, second, that we might run into a veto if that section stayed in the bill.

Last year the amendment in toto was adopted unanimously by the Senate Agricultural Committee. The Senate adopted it as a portion of the Commodity Credit bill without objection. That bill went to conference, and, from my point of view, at least, the section was completely emasculated. Many of you will recall the attempt that was made on June 20, 23, and 26 of 1950 to induce the Senate to reject the conference report, and to insist upon language as approved by the Senate originally. The vote on our motion to reject the conference report on H. R. 6567, the Commodity Credit bill, ended in a 35 to 35 tie, and at that time it was broken by the Vice President, so we lost the amendment again.

Senator MILLIKIN. Senator Magnuson, under the most favorable view that could be put on what happened in conference, from the viewpoint of the State Department, they completely reversed the purpose of the amendment; did they not?

Senator MAGNUSON. They completely reversed it; just turned it right around.

Senator MILLIKIN. It has always seemed to me, to go back to it, that it was subject to a point of order.

Senator MAGNUSON. Yes.

Senator MILLIKIN. But in any event they brought in something in the conference report which, in my opinion, was a violation of the conference rules.

Senator MAGNUSON. And that point was made very effectively on the floor, but I say we had the tie, this 35 to 35 tie vote.

I want to mention the brief history of these attempts to streamline section 22, chiefly to demonstrate the increasing apprehension the Senate of the United States has exhibited over the effect of imports on farm programs, as authorized by the AAA Act.

Through persistent efforts, beginning in 1948, we have developed a better understanding of the relationship between imports and tax-supported domestic farm programs.

With this preface, I would like to turn to a brief discussion of the amendment before us.

As I stated in the beginning, the amendment is, in reality, a complete substitute for section 22 of the AAA Act of 1938. Section 22 was designed by its authors to provide a means of protecting domestic agricultural producers, under certain circumstances, from ruinous imports. Its machinery may be invoked through a proclamation by

the President when imports threaten the efficacy of a marketing agreement, a price-support, school-lunch, export-subsidy, or a similar farm program.

Section 22 has never been the effective safety valve its authors intended it to be.

To the best of my knowledge only two sets of domestic farm producers have ever been successful in obtaining the protection of section 22. The two sets of producers were the growers of cotton and wheat.

I have been unable to find a single case in which the producers of a perishable agricultural commodity have been successful in obtaining action under section 22. Recent experience with imports dictates that Congress either makes section 22 an effective tool or write it off the books. There is no point in having a safety valve that does not work.

The amendment proposed does two things: First, it streamlines the procedural provisions of section 22; second, it reverses the emphasis of subsection (f), a section adopted by the Eightieth Congress, and amended last year.

As to the streamlining of section 22, here is what the amendment does: First, it transfers the fact-finding function from the Tariff Commission to the Secretary of Agriculture; thus, the Secretary will conduct the investigation of the effect of imports upon agricultural programs.

Second, he will recommend action to the President, based upon the facts developed through his investigation.

Third, if the President concurs in the Secretary's recommendations, he will, by proclamation, impose either an import fee up to 50 percent ad valorem, or place a limitation on the quantity that can be imported of the commodity involved.

Senator MILLIKIN. Could he do both under the language?

Senator MAGNUSON. He could do both.

Senator MILLIKIN. Yes.

Senator MAGNUSON. The second thing has been done in some cases, where they merely put a quota on the amount of stuff coming in.

Senator MILLIKIN. But you could have a raise and a quota.

Senator MAGNUSON. You could use either method or both.

Senator MILLIKIN. Yes.

Senator MAGNUSON. Under this amendment the Tariff Commission would be relieved of the responsibilities now assigned to the Commission under section 22 which, of course, is purely an agricultural program.

The line of action would run from the Secretary of Agriculture to the President. It now runs from the Secretary to the President; from the President to the Tariff Commission; and from the Tariff Commission back to the President.

Let me explain briefly the second purpose of the amendment, namely, a restatement of subsection (f) of section 22. As adopted by the Eightieth Congress, section (f) read:

> No proclamation under this section shall be enforced in contravention of any treaty or other international agreement to which the United States is or hereafter becomes a party.

That is the end of the section.

Senator MILLIKIN. That was adopted in an agricultural bill?

Senator MAGNUSON. It was adopted in an agricultural bill; yes.

Last year the Senate unanimously adopted the substitute language proposed by this amendment, and I quote that. We just turn it around. We say:

No international agreement hereafter shall be entered into by the United States or renewed, extended, or allowed to extend beyond its permissible termination date in contravention of this section.

As I stated a few minutes ago, the conferees on H. R. 6507 emasculated this language, which the Senator from Colorado just mentioned. I need not read that section.

Senator MILLIKIN. I wish you would read it, Senator. I would like to see what it means. I have been trying to find out what it means.

Senator MAGNUSON. All right, here is the way it came back from the conference.

No proclamation under this section shall be enforced in contravention of any treaty or other international agreement to which the United States is or hereafter becomes a party; but no international agreement or amendment to existing international agreement shall hereafter be entered into which does not permit the enforcement of this section with respect to the articles and the countries to which such agreement and amendment is applicable to the full extent that the General Agreement on Tariffs and Trade, as heretofore entered into by the United States, permits such enforcement with respect to articles and countries to which such general agreement is applicable. Prescription of a lower rate of duty for any article than that prescribed by the General Agreement on Tariffs and Trade shall not, if subject to the escape provisions of such General Agreement, be deemed a violation of this subsection.

The language, of course, is quite complicated, and, to get the full sense of the change, here is the controlling portion. Here is the limitation that the subsection places on the President's authority under section 22 with the complicated phrases left out:

No international agreement or amendment to the existing international agreement shall hereafter be entered into which does not permit the enforcement of this section to the full extent that the General Agreement on Tariffs and Trade permits such enforcement.

It is easy to see when read, as I have just read it, that subsection (f) in its present form makes section 22 in its entirely subordinate to the General Agreement on Tariffs and Trade; and so the amendment we propose goes back to the original language when we say that—

they shall not make, extend, or renew such treaties in contravention of the section.

Senator MILLIKIN. May I ask you again——

Senator MAGNUSON. Yes.

Senator MILLIKIN. That is a complete reversal of the amendment as it came from the Agriculture Committee.

Senator MAGNUSON. Yes; in my opinion it was.

Senator MILLIKIN. It is a complete reversal of the Senate vote.

Senator MAGNUSON. Of the Senate vote; unanimous vote.

Senator MILLIKIN. Yes.

Senator MAGNUSON. If the amendment I propose is adopted it will restore section 22 to its predominant position.

Senator MILLIKIN. Let me ask you just one more question, so that the record may be clear. I think you and I understand this, but I think it ought to be in the record.

Senator MAGNUSON. Yes.

Senator MILLIKIN. That derives by action from a conference committee.

Senator MAGNUSON. By a conference committee; correct.

If the amendment we propose is adopted it will restore section 22 to its predominant position with respect to trade agreements, and I believe this is what Congress intended.

The issue here is simple, namely, shall the protection to agricultural producers and programs provided in section 22 be abrogated by an international trade treaty or trade agreement, or, put in another way, shall the United States Government, on the one hand, say to the farmers of the country, "We have provided a safety valve against excessive and injurious imports through the medium of section 22," but, on the other hand, say to our foreign friends, "The trade agreements we are negotiating with you nullify the effect of section 22."

In conclusion, section 22 should be streamlined. I have pointed out here what we think should be done to streamline it.

I have some other general statements here on this matter, which I would like permission to place in the record, Mr. Chairman.

The CHAIRMAN. Yes; you may.

Senator MAGNUSON. Along with some statements Mr. Winthrop Brown made, so that it can all go in at one place.

The CHAIRMAN. Yes; it may go in the record.

Senator MAGNUSON. The whole question is either we should repeal section 22 or we should make section 22 effective so that the President can, by direct action or very simple action, prevent the ruinous imports that are going to have some effect upon a Government-controlled farm program, whether it be price support, marketing agreement, or any other farm program that costs the taxpayers money.

It does not make sense to have a farm program, on the one hand, and allow the State Department to negotiate treaties, on the other hand, that either injure or completely nullify it.

Senator TAFT. I have never understood the status exactly of the so-called General Agreement on Tariffs and Trade, which is referred to, and made effective, so to speak, in this amendment of (f), subparagraph (f). Under what general authority do you understand that such a general agreement which, under this thing apparently permit enforcement or not permit enforcement—do you think that that is part of the Reciprocal Trade Agreement Act?

Senator MAGNUSON. I think that is under the Reciprocal Trade Agreement Act, the general authority to enter into such agreements.

Senator TAFT. If it is part of an agreement, then the whole section seems to conflict because it says that no international agreement shall hereafter be entered into permitting it, and then it turns around and says that the General Agreement on Tariffs and Trade may be entered into.

Senator MAGNUSON. May be entered into. That is what the Senator from Colorado said, completely nullified what we said in the Senate.

Senator TAFT. Unless it says—

Independent authority to make general agreements on tariff and trade, outside of the Reciprocal Trade Agreement Act—

and that, I would certainly question.

Senator MAGNUSON. And then, Senator Taft, another thing is that this is not in violation of the general purposes of our reciprocal-trade agreements with other countries because in the Geneva Conference,

where they set up a general blueprint for this action they recognized the fact that some governments would have, you know, price supports or price-supported programs. So that in the beginning all these countries knew that we intended to protect a Government program against ruinous imports or detrimental imports.

Senator TAFT. You have read the House bill? Do you regard your amendment as superseding the section of the House bill which deals with the same subject?

Senator MAGNUSON. We have submitted here a new amendment. There was a mistake made down in the drafting room, but this new amendment will supersede those others.

Senator TAFT. I think that was just—I see. We have not got a copy of that.

Senator MAGNUSON. No; it adds a new section.

Senator TAFT. I wonder whether you substitute this for section 8 of the House bill?

Senator MAGNUSON. I have not the House bill here with me, but this adds a new section.

The CHAIRMAN. You deal with section 22?

Senator MAGNUSON. Dealing with section 22.

The CHAIRMAN. That was in the Farm Bureau Federation recommendation that section (f) be stricken out. I believe that was the recommendation of the Farm Bureau Federation spokesman here.

Senator MAGNUSON. Section 8 of the House bill states:

No reduced tariff or other concessions resulting from a trade agreement shall apply with respect to an agricultural—

yes, I would say that if this amendment were adopted it would take care of and supersede the House section 8.

The CHAIRMAN. Senator Magnuson, do I understand that this conference report on (f), as you quoted here on page 5 of your statement, is the present law? That became law?

Senator MAGNUSON. Oh, yes.

The CHAIRMAN. That conference report became law?

Senator MAGNUSON. That is right; it became law.

The CHAIRMAN. I see.

Senator MAGNUSON. And that was the 35-to-35 vote in which the Vice President—we voted to reject the conference report—and the Vice President voted to accept it. The conference—they just reversed what the Senate had done, actually legislated in the reverse.

Senator TAFT. You referred to the Eightieth Congress. Was it the Eightieth Congress?

Senator MAGNUSON. Well, the original part of subsection (f) of section 22 was adopted in the Eightieth Congress.

Senator MILLIKIN. It was part of an agricultural bill.

Senator MAGNUSON. Yes.

The CHAIRMAN. It did not come to this committee.

Senator TAFT. This act is now the act of June 28, 1950.

Senator MAGNUSON. That is right.

Senator TAFT. Is that where the battle was?

Senator MAGNUSON. That is where the 35-to-35 battle was when we——

Senator TAFT. I see.

Senator MAGNUSON (continuing). Had passed this.

Senator TAFT. I mean, the crime was committed by the Eighty-first Congress; that is the point I want to make.

Senator MAGNUSON. Yes. I think we will have to say that was correct.

Senator MILLIKIN. Mr. Chairman, I would like to ask the chairman's opinion: May a conference committee reverse the meaning of an amendment, as a parliamentary matter?

The CHAIRMAN. I would not think so.

Senator MILLIKIN. This is a complete reversal of what was adpoted by the Senate.

Senator MAGNUSON. They use our language but they said, "But you do not need to worry about it. It does not mean anything."

Senator MILLIKIN. Does not mean anything; and they took you to the opposite direction.

Senator MAGNUSON. Thank you, Mr. Chairman. I will submit the amendment.

Senator MILLIKIN. Senator Magnuson, may I make a suggestion to you?

Senator MAGNUSON. Yes, sir.

The CHAIRMAN. You have a printed amendment, but you say there is an error in it?

Senator MAGNUSON. There was an error; there was a technical error. This is the new one.

The CHAIRMAN. You are offering the new one?

Senator MAGNUSON. Yes.

The CHAIRMAN. We will have it in the record and have it printed.

Senator MAGNUSON. Yes.

(The prepared statement of Senator Magnuson, accompanied by the comments with reference to the testimony of Mr. Brown, together with a brief analysis of conferees' action on H. R. 6567 follow:)

STATEMENT OF HON. WARREN G. MAGNUSON, A UNITED STATES SENATOR FROM THE STATE OF WASHINGTON

Mr. Chairman, your committee has before it an amendment sponsored by the junior Senator from Oregon, Mr. Morse, and myself. The amendment proposes the addition of a section 9 to the reciprocal trade bill. In reality our amendment is a complete substitute for section 22 of the Agricultural Adjustment Act of 1938, as amended.

Most members of this committee will recall what became known last year as the Magnuson-Morse amendment to the Commodity Credit Corporation bill. Likewise, I am sure, most Senators remember an identical amendment I offered to the so-called Anderson farm bill in the first session of the Eighty-first Congress. Still others may remember an amendment of similar nature I sponsored in 1948 during the second session of the Eightieth Congress.

Let me refresh your minds on the fate of these various attempts on my part to make section 22 of the AAA the effective tool it was intended to be. In the Eightieth Congress my amendment was defeated by an overwhelming majority. In the first session of the Eighty-first Congress the most important portion of the amendment was finally adopted by a vote of 44 to 28. The amendment, however, was lost in conference between the two Houses on the Anderson farm bill.

Last year the amendment in toto was adopted unanimously by the Senate Agriculture Committee. The Senate adopted it as a portion of the Commodity Credit bill without objection. The bill went to conference and, from my point of view at least, was completely emasculated.

Many of you will recall the attempt Senator Morse and I made on June 20, 23, and 26 of 1950 to induce the Senate to reject the conference report and to insist upon the language as approved by the Senate originally. The vote on our motion to reject the conference report on H. R. 6567, the Commodity Credit bill, ended in a 35–35 tie. The tie was broken by the Vice President who cast his vote in favor of adopting the conference report.

I mention this brief history of my attempts to streamline and strengthen section 22 chiefly to demonstrate the increasing apprehension the Senate of the United States has exhibited over the effect of imports on farm programs authorized by AAA act—as amended. Through persistent effort beginning in 1948, we have developed a better understanding of the relationship between imports and tax-supported, domestic farm programs. With this preface I turn to a brief discussion of the amendment before us.

As I stated at the beginning, our amendment is in reality a complete substitute for section 22 of the AAA of 1938. Section 22 of the AAA was designed by its authors to provide a means of protecting domestic agricultural producers—under certain circumstances—from ruinous imports. Its machinery may be invoked through a proclamation by the President when imports threaten the efficacy of a marketing agreement, price support, school lunch, export subsidy, or similar farm program.

Section 22 has never been the effective safety valve its authors intended it to be. To the best of my knowledge, only two sets of domestic farm producers have ever been successful in obtaining the protection section 22 is designed to extend. The two sets of producers are growers of cotton and wheat. I have been unable to find a single case in which producers of a perishable agricultural commodity have been successful in obtaining action under section 22. Recent experience with imports dictates that the Congress either make section 22 an effective tool or write it off the books. There is no point in having a safety valve that doesn't work.

The amendment I propose does two things: First; it streamlines the procedural provisions of section 22; second, it reverses the emphasis of subsection (f)—a section adopted by the Eightieth Congress and amended last year.

As to streamlining section 22—here's what the amendment does:

First, it transfers the fact-finding function from the Tariff Commission to the Secretary of Agriculture; thus, the Secretary will conduct the investigation of the effect of imports upon agricultural programs such as marketing agreements, school-lunch purchases, price supports, export subsidies, and similar programs.

Second, he will recommend action to the President based on the facts developed through his investigation.

Third, if the President concurs in the Secretary's recommendations, he will by proclamation impose either an import fee up to 50 percent ad valorem, or place a limitation on the quantity that can be imported of the commodity involved.

Under this amendment, the Tariff Commission would be relieved of the responsibilities now assigned to it under section 22. The line of action would run from the Secretary of Agriculture to the President. It now runs from the Secretary to the President—from the President to the Tariff Commission—and from the Tariff Commission back to the President.

Let me explain briefly the second purpose of our amendment; namely, a restatement of subsection (f) of section 22:

As adopted by the Eightieth Congress, subsection (f) reads:

"No proclamation under this section shall be enforced in contravention of any treaty or other international agreement to which the United States is or hereafter becomes a party."

Last year the Senate unanimously adopted the substitute language proposed by Senator Morse and me, reading as follows:

"No international agreement hereafter shall be entered into by the United States or renewed, extended, or allowed to extend beyond its permissible termination date in contravention of this section."

As I stated a few minutes ago, the conferees on H. R. 6567 emasculated this language by adopting the recommendation of the State Department. The language reported by the conferees—which led me to oppose the conferees' report reads:

"(f) No proclamation under this section shall be enforced in contravention of any treaty or other international agreement to which the United States is or hereafter becomes a party; but no international agreement or amendment to existing international agreement shall hereafter be entered into which does not permit the enforcement of this section with respect to the articles and countries to which such agreement and amendment is applicable to the full extent that the General Agreement on Tariffs and Trade, as heretofore entered into by the United States, permits such enforcement with respect to articles and countries to which such general agreement is applicable. Prescription of a lower rate of duty for any article than that prescribed by the General Agreement on Tariffs

and Trade shall not, if subject to the escape provisions of such General Agreement, be deemed a violation of this subsection."

This language is quite complicated. To get the full sense of the change, let me read the controlling portions—leaving out some of the modifying phrases.

Here's the limitation that the subsection places on the President's authority under section 22:

"No proclamation under this section shall be enforced in contravention of any treaty or other international agreement to which the United States is or hereafter becomes a party;"

So far the wording is identical with that adopted by the Eightieth Congress—now, the part added last year:

"* * * but no international agreement or amendment to an existing international agreement shall hereafter be entered into which does not permit the enforcement of this section * * * to the full extent that the General Agreement on Tariffs and Trade, * * * permits such enforcement * * *"

It is easy to see, when read as I have just read it, that subsection (f) in its present form, makes section 22 in its entirety, subordinate to the General Agreement on Tariffs and Trade.

The amendment I am proposing goes back to the original Magnuson-Morse language and says:

"No international agreement hereafter shall be entered into by the United States, or renewed, extended, or allowed to extend beyond its permissible termination date in contravention of this section."

If the amendment I propose is adopted, it will restore section 22 to the predominant position, with respect to trade agreements, I believe the Congress intended it to have.

The issue here is simple, namely, shall the protection to agricultural producers and programs provided in section 22 be abrogated by an internation treaty or trade agreement? Or to put it another way, shall the United States Government, on the one hand, say to the farmers of this country: "We have provided a safety valve against excessive and injurious imports through the medium of section 22," but on the other, say to our foreign friends: "The trade agreement we are negotiating with you nullifies the effect of section 22."

In conclusion: Section 22 should be streamlined if it is to be the effective tool its authors intended it to be. Subsection (f) either should be reworded, or repealed, if we are to be honest with the farmers and taxpayers of this country and with our foreign friends.

At this point I would like to read a few paragraphs from a statement I made on the floor of the Senate last year. I quote from the debate on the so-called Magnuson-Morse amendment:

"May I add a postcript—by way of general comment—on my attitude toward trade agreements as they relate to the bill I have just introduced. I have consistently supported trade agreement legislation. I see no inconsistency between that action and what I am here proposing.

"The United States of America has been catapulted into world leadership. Reciprocal trade agreements are one of the media through which we seek to exercise that leadership. We do this because we believe freer trade will promote a higher standard of living in the world and will make a substantial contribution to world peace.

"Reciprocal trade agreements cannot be negotiated under Utopian circumstances. We can be idealists and still recognize the hard facts as they exist. If we were starting our trade agreement policy with a completely clean slate, we could remove all barriers, thereby adding immeasurably to the effectiveness of our world leadership, and at the same time avoid wreaking irreparable damage upon specific industries and, therefore, upon selected groups of our own citizens.

"Unfortunately trade practices and national policies over the last 200 years have encouraged patriotic, industrious American citizens to invest their energies and finances in enterprises to which the death knell would be sounded if a system of complete free trade were instituted world-wide, as of tomorrow morning. The practicalities of the situation demand, therefore, that the Congress and the executive branch, particularly the State Department, approach reciprocal trade in the light of things as they are.

"I am not too much disturbed by the repeated accusations on the part of industry that the concessions we grant—as the leading Nation of the world—exceed in value the concessions we receive. Such is the price we pay for world leadership. I am extremely disturbed, however, over the apparent failure on

the part of our negotiators to balance the international good we expect to come from a concession granted by us, against the immediate or prospective damage such concessions will wreak upon a minor segment of our population.

"I do not want to see the United States play the role of Uncle Shylock. Neither do I want to see our reciprocal trade program jeopardized by those ardent free traders who fail to recognize that steps toward our ultimate objective must be taken in a world where existing industrial and economic patterns demand consideration."

Mr. Chairman, there is a mistake in drafting on the print of the amendment you have before you. I would like to submit a corrected draft. The only difference between the two is that the one I now present, while drawn as section 9 of H. R. 1612 nonetheless makes it clear that the statute affected is section 22 of the AAA.

In addition, Mr. Chairman, I would like to submit for the record a brief analysis of the action taken by the House and Senate conferees last year on the commodity credit bill. This analysis is pertinent because it shows how the Magnuson-Morse amendment, as adopted by the Senate, was emasculated in conference. Likewise, it demonstrates at greater length than I have attempted in my statement why subsection (f), as now written, renders section 22 subservient to the General Agreement on Tariffs and Trade.

So the record on this subject may be complete, I would like also to have inserted in the record a document entitled "Comments Prompted by Testimony of State Department Witness, Mr. Winthrop Brown." The identical statement appears on page 391 of the Senate Agricultural Committee's hearings of last year on S. 2826—S. 2826 was the Senate version of the bill to increase the borrowing authority of the Commodity Credit Corporation. These comments constitute a rebuttal I made covering certain statements made by Mr. Brown on this subject before the Senate Committee on Agriculture last year.

I appreciate the courtesy your committee has extended to me and sincerely urge your favorable consideration of the amendment I presented.

PART II—COMMENTS PROMPTED BY TESTIMONY OF STATE DEPARTMENT WITNESS, MR. WINTHROP BROWN

Up to the time the chairman closed the hearings on S. 2826, Mr. Winthrop Brown was the only witness from the executive branch who appeared to testify on my proposal to amend section 22 of the AAA. Mr. Brown confined his testimony entirely to subsection (f). We must assume, therefore, that the State Department and other executive agencies involved have no particular objection to subsections (a), (b), (c), (d), and (e) of the amendment. These are what I call the streamlining provisions of the amendment. These are the provisions which transfer section 22's investigative responsibility from the Tariff Commission to the Secretary of Agriculture. This transfer is made in recognition of the fact that the Secretary of Agriculture must deal with "total supply," in devising and administering a price support or similar program and, therefore, should have authority over imports paralleling his authority over domestic production.

This year's 10 million bushels of imported potatoes, added to our 402,000,000 bushels of domestic production, constitute the "total supply" the Secretary must deal with.

Since there is no apparent controversy over subsections (a), (b), (c), (d), and (e), I will confine my remarks as did the State Department witnesses to subsection (f). Before going further let me refresh your memory as to the wording of that section in the existing law and compare it to the wording contained in my proposed amendment.

Subsection (f) of section 22, as added by the Eightieth Congress, now reads: "No proclamation under this section shall be enforced in contravention of any treaty or other international agreement to which the United States is, or hereafter becomes, a party."

I propose to reverse the emphasis. In the Magnuson-Morse amendment subsection (f) reads: "No international agreement hereafter shall be entered into by the United States, or renewed, extended, or allowed to extend beyond its permissible termination date in contravention of this section."

The State Department witness alleges three major objections to the amendment. I will list them and then discuss each in turn. Here they are: (1) The Magnuson amendment would require renegotiation of all existing trade agreements; (2) the Magnuson amendment authorizes the President unilaterally to

impose fees or quotas "without limitation"; (3) the Magnuson amendment is unnecessary because existing agreements already authorize imposition of fees or quotas when circumstances warrant it.

The contention that my amendment would require renegotiation of all existing trade agreements is misleading to say the least, and in those cases where renegotiation might be necessary the situation demands corrective action anyway. Let me elucidate.

This amendment does not change in any way the basic principle of section 22 of AAA, as it has stood in full force and effect during the entire period in which all of our foreign-trade agreements under the so-called Reciprocal Trade Agreements Act have been negotiated. Trade agreements are executive agreements. In such agreements, our negotiators could not legally bargain away the limited protection to farm programs contained in this Federal statute. Any provisions in trade agreements contrary to section 22, therefore, must necessarily have been null and void from their inception.

Paragraph (f) of section 22 was adopted in 1948. It could not have created, therefore, any obligation to the signatories of any trade agreement, that did not already exist. The only trade agreements negotiated, signed, and placed in effect, since existing subsection (f) was enacted, are those with Haiti and Greece. All others were subject to section 22, minus subsection (f). There certainly should be no objection on the part of the State Department to correcting past errors—to retreat from a position they had no right to take in the first place.

In the event renegotiation of any existing agreement becomes necessary, only that part of the agreement will have to be changed, which is inconsistent with the provisions of section 22. If the State Department's claims—which I will comment upon in the next few paragraphs—are true, any change in existing agreements required to bring them into conformity with section 22 will be very slight.

The State Department witness contended before this committee that there presently exists no legal bar to action by the executive branch in connection with imports along lines proposed in my amendment. Specifically the witness said, beginning on page 758, and I quote: "* * * the general agreement says that we would be free to impose a quota on agricultural imports in any case where we are supporting the price of the commodity in this country and where we are restricting our own domestic production.

"The basis for that agreement, of course, is that where there is a limitation on the domestic market, it is fair and right and proper that there should also be a limitation on the import.

"There is also a provision in the agreement which would permit imposition of quota at any time, where we are disposing of our agricultural surplus, say, in the free lunch or under a stamp plan or any way of that kind as we, I think, are doing with some potatoes today; and, finally, in the agreement it would permit the imposition of a quota or fee at any time when the imports of the commodity were causing or threatening any serious injury to the domestic production."

Here, in effect, the witness was paraphrasing article XI of the General Agreement on Tariffs and Trade. As he frankly admits, article XI authorizes restrictions upon imports through various devices when a country has programs in effect, the purpose of which is—and here I quote:

"* * * to restrict the quantities of the like domestic product permitted to be marketed or produced or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted; or

"to remove a temporary surplus of the like domestic product, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported products can be directly substituted, by making the surplus available to certain groups of domestic consumers free of charge or at prices below current market level".

These two paragraphs are from article XI of the General Agreement on Trade and Tariffs, paragraph 2, subsection (c).

Translated into section 22 language these paragraphs say: A signatory to GATT may take unilateral action to restrict agricultural imports, if such imports jeopardize farm programs such as a marketing agreement, direct price support, school lunch purchases to reduce surplus, acreage allotments, etc.

Since provisions in this agreement so nearly conform to what I am seeking to accomplish in this amendment, I see no reason why the State Department should object—unless they intend to completely vitiate section 22 in the

next round of negotiations. This is precisely what could be done unless subsection (f) is repealed or changed. As a matter of fact, the greatest danger of loss of the limited protection of section 22 lies in what could be written into new, extended, or renegotiated agreements.

To conclude this phase of my discussion—if the protection of section 22 has been bargained away in trade agreements, either section 22 should be repealed, or the agreement should be corrected. If, however, existing agreements conform to section 22, then there should be no objection to my amendment on legal or moral grounds. In either event, the amendment is a restatement of congressional intent and should be adopted as a practical means of instructing our trade agreement negotiators as to the boundary within which they must bargain.

There remains one final allegation of the State Department witness which deserves comment. On page 704 of the record of hearings the witness stated, and I quote: "The Magnuson amendment says in effect that we cannot by international agreement accept any limitation whatever on the type of quota or fee or the conditions under which we would impose a quota or fee under section 22 * * *."

Obviously this allegation is a distortion of the facts. Let me read from the amendment itself. I quote that part of section (b) of our section 22 amendment which prescribes the limits the President must observe should he decide to impose a fee or quota on a particular import. The pertinent provisions read: "* * * if he concurs therewith, the President shall by proclamation impose such fees not in excess of 50 percent ad valorem, or such quantitative limitations * * * as he finds * * * to be necessary * * * provided that no proclamation under this section shall impose any limitation on the total quantity of any article or articles which may be entered or withdrawn from warehouse for consumption which reduces such permissive total quantity to proportionately less than 50 percent of the total quantity of such article or articles which was entered or withdrawn from warehouse for consumption during a representative period, as determined by the Secretary of Agriculture."

Here in the language of the amendment itself is the unequivocal denial of the State Department's allegation that the Magnuson amendment would require or permit imposition of fees or quotas "without limitation."

There are further safeguards against indiscriminate use of section 22: First, the Secretary of Agriculture must investigate the particular import in question. He must find it is injurious to the enforcement of a farm program, such as price supports or marketing agreements, and he must so certify to the President. Second, if the President concurs with the facts presented to him by the Secretary of Agriculture, he shall take action within the limits I have just recited. He may not impose a fee in excess of 50 percent ad valorem or a quota that would reduce imports below 50 percent of the quantity brought into the country during a representative period.

As a matter of fact, the severest criticism that can justifiably be leveled against my amendment is that the additional protection it will afford farm programs and the producers participating therein is entirely too limited.

In summary, Mr. Chairman, I have pointed out that the three chief objections to this amendment made by the State Department witness, Mr. Winthrop Brown, are ill-founded. The amendment would not require renegotiations of all existing trade agreements. Existing trade agreements do conform closely to the provisions of my amendment and the amendment would not permit the President to impose import fees or quotas "without limitation."

This amendment to section 22, offered by Senator Morse and myself, should be adopted by the Congress as a restatement of its intent and as a specific instruction to the State Department and our trade agreement negotiators, as to the boundary within which they must bargain.

May I remind the committee, by way of postscript, that the National Grange, National Council of Farmer Cooperatives, American Farm Bureau Federation, National Milk Producers Federation, National Renderers Association, National Apple Institute, Northwest Horticultural Council, Florida Fruit and Vegetable Growers Association, California Fruit Growers Exchange, California Almond Growers Exchange, California Walnut Growers Exchange, Northwest Nut Growers, American Hop Growers Association, National Cherry Institute, and other farm groups have testified or communicated with this committee in support of my amendment.

(The following letter was subsequently submitted in connection with the above memorandum and is referred to in testimony at page 1276:)

DEPARTMENT OF STATE,
Washington, March 22, 1951.

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

DEAR SENATOR GEORGE: At the close of Senator Magnuson's testimony yesterday, he introduced a memorandum commenting on certain statements I had made in my testimony before a subcommittee of the Senate Agriculture Committee with respect to the Magnuson-Morse amendment to S. 2826.

I enclose a copy of a letter which I wrote to Senator Magnuson on March 28, 1950, a copy of which I sent to Senator Ellender who was chairman of the subcommittee, in which I recognized that I had made an error of fact in my statement before the subcommittee and in which I made some comments on his memorandum.

I would appreciate it very much if my letter could be inserted in the record after Senator Magnuson's memorandum.

Sincerely yours,

WINTHROP G. BROWN,
Director, Office of International Trade Policy.

Enclosure:
Copy of letter to Senator Magnuson, March 28, 1950.

MARCH 28, 1950.

Hon. WARREN G. MAGNUSON,
United States Senate.

DEAR SENATOR MAGNUSON: I have read a copy of the statement that you submitted to Senator Ellender's subcommittee of the Senate committee commenting upon my testimony with respect to your proposed amendment to section 22 of the Agricultural Adjustment Act.

Let me say first of all that you are quite correct that my statement on page 704 of the record, to the effect that under your amendment we could not accept "any limitation whatever" on the type of quota or fee which could be imposed under section 22, goes too far. In making that statement I overlooked the limitation of 50 percent which the present section 22 contains, and I am sending a copy of this letter to Senator Ellender so as to make that clear.

The negotiating problem with other countries which would be created by the amendment which you suggest nevertheless remains, for under that amendment we would be in a position where we would have to go to them and say that we must reserve the right unilaterally to cut their imports of agricultural products in half whenever we felt it necessary to use section 22.

Your memorandum states that the State Department should have no objection to the proposed amendment unless it intends completely to vitiate section 22 in the next round of negotiations; that this could be done if subsection (f) remains unchanged; and that "the greatest danger of loss of the limited protection of section 22 lies in what could be written into new, extended, or renegotiated agreements".

You may be assured that the Department has not the slightest intention of entering into any agreement which would vitiate section 22. Nevertheless, we would have no objection to an amendment to subsection (f) which would guard against this possibility.

We suggest that the following language would meet the most important point which you have in mind and would at the same time preserve the provisions of article XI of the General Agreement on Tariffs and Trade quoted in your memorandum which have been worked out with such difficulty over so many months of international negotiation and which we believe permit the effective use of section 22 and serve both the export and the import interests of American agriculture.

(Clause to be added at the end of subsec. (f) "but no international agreement or amendment to an existing international agreement shall hereafter be entered into which does not permit the enforcement of this section with respect to the articles and countries to which such agreement or amendment is applicable to the full extent that the General Agreement on Tariffs and Trade, as entered into by the United States on October 30, 1947, permits such enforcement with

respect to the articles and countries to which such general agreement is applicable. Nothing in this subsection shall prevent changes in rates of duty pursuant to section 350 of the Tariff Act, as amended."

I have submitted this language to Senator Ellender through a member of his staff.

Sincerely yours,

WINTHROP G. BROWN,
Director, Office of International Trade Policy.

BRIEF ANALYSIS OF CONFEREES' ACTION ON COMMODITY CREDIT CORPORATION BILL, H. R. 6567

On Thursday, June 15, House-Senate conferees reached agreement on differences in the two versions of H. R. 6567. The Senate version of this bill contained, as section 3, the so-called Magnuson-Morse amendment. This amendment was in the nature of a substitute for existing section 22 of the AAA.

Section 22 gives the President only limited and only permissive authority to deal with agricultural imports. The Magnuson-Morse amendment does not expand his authority or make it mandatory. If the facts warrant it, he may impose an import fee up to 50 percent ad valorem or a quota not less than 50 percent of the imports during a representative period.

Please bear in mind that section 3 of H. R. 6567, the Magnuson-Morse amendment, was adopted unanimously by the Senate Agriculture Committee. It was adopted by the Senate without objection, and, after a 3-day floor fight last year, similar language was approved by a vote of 44 to 28. Last year, too, the amendment was lost in conference.

A subsection "F" was added to section 22 by the Eightieth Congress. The most important single provision of the Magnuson-Morse amendment is the substitute for this subsection.

Here is the way subsection (f) now reads:

"No proclamation under this section shall be enforced in contravention of any treaty or other international agreement to which the United States is or hereafter becomes a party."

The Magnuson-Morse amendment reverses the emphasis by saying:

"No international agreement hereafter shall be entered into by the United States or renewed, extended, or allowed to extend beyond its permissible termination date in contravention of this section."

Here is the language the conferees adopted:

"(f) No proclamation under this section shall be enforced in contravention of any treaty or other international agreement to which the United States is or hereinafter becomes a party; but no international agreement or amendment to an existing international agreement shall hereafter be entered into which does not permit the enforcement of this section with respect to the articles and countries to which such agreement or amendment is applicable to the full extent that the general agreement on tariffs and trade, as heretofore entered into by the United States, permits such enforcement with respect to the articles and countries to which such general agreement is applicable. Prescription of a lower rate of duty for any article than that prescribed by the general agreement on tariffs and trade shall not, if subject to the escape provisions of such general agreement, be deemed a violation of this subsection."

If you will read the underscored portions of this language, you will see why it is so objectionable. The net effect is to ratify article 11 of the General Agreement on Tariffs and Trade—or, to put it another way, the net effect is to make section 22 subordinate to article 11 of GATT and to authorize the Department of State in any new trade agreements to follow the same pattern. As a practical matter, present provisions of GATT nullify section 22.

The most pertinent part of article 11 of GATT reads as follows:

"1. No prohibitions or restrictions other than duties, taxes, or other charges, whether made effective through quotas, import or export licenses, or other measures, shall be instituted or maintained by any contracting party on the exportation or sale for export of any product destined for the territory of any other contracting party.

* * * * * * *

"2. (c) Import restrictions on any agricultural or fisheries product, imported in any form, necessary to the enforcement of governmental measures which operate—

"(i) to restrict the quantities of the like domestic product permitted to be marketed or produced, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted; or

"(ii) to remove a temporary surplus of the like domestic product, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted, by making the surplus available to certain groups of domestic consumers free of charge or at prices below the current market level; or

"(iii) to restrict the quantities permitted to be produced of any animal product the production of which is directly dependent, wholly or mainly, on the imported commodity, if the domestic production of that commodity is relatively negligible."

Since the net effect of the conferees' action on H. R. 6567 is to subordinate section 22 to article 11 of GATT, it would be far better and certainly more forthright to repeal section 22.

Further action

The conferees also "comprised out of the bill" the streamlining provision of the Magnuson-Morse amendment. The amendment transferred from the Tariff Commission to the Secretary of Agriculture full responsibility for developing the facts upon which the President would act, in cases where imports threaten domestic farm programs.

Justification for streamling stems from the fact existing machinery is so cumbersome as to be totally ineffective—particularly in the case of perishables. Net effect of conferees' action is to write into section 22 the procedure presently followed under Executive Order 7233, dated November 23, 1935. This accomplishes nothing.

Senator MILLIKIN. What I am about to say is technical and might be considered caviling, but the agreement that came out of the conference committee puts the "general agreement on tariffs and trade" in small letters, the technical significance of that being when you mean GATT, the organization that has been so much the subject of controversy if you mean GATT, you capitalize it, and that has more significance than might appear on the surface.

Senator MAGNUSON. Yes; than might appear on the surface.

Senator MILLIKIN. So you have added something here by capitalizing it, which is not in the law itself.

Senator MAGNUSON. That is not in the law itself.

Senator MILLIKIN. And technically that might have some significance. I suggest that you leave it out the next time you make that particular point.

The CHAIRMAN. Are there any questions? Thank you very much, Senator.

Senator MAGNUSON. Thank you very much for the oportunity to appear.

The CHAIRMAN. Mr. Brown, I suppose we are ready for you, unless there is somebody else to speak on this amendment.

We will insert the proposed amendment by Senator Magnuson at this point.

(The proposed amendment referred to follows:)

SEC. 9. Section 22 of the Agricultural Adjustment Act, as amended (U. S. C., title 7, sec. 624), is hereby amended to read as follows:

"SEC. 22. (a) Whenever the Secretary of Agriculture has reason to believe that any article or articles are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render

or tend to render ineffective, or materially interfere with, any program or operation undertaken under this title or the Soil Conservation and Domestic Allotment Act, as amended, or section 32 Public Law Numbered 320, Seventy-fourth Congress, approved August 24, 1935, as amended, or any loan, purchase, or other program or operation undertaken by the Department of Agriculture, or any agency operating under its direction, with respect to any agricultural commodity or product thereof, or to reduce substantially the amount of any product processed in the United States from any agricultural commodity or product thereof with respect to which any such program, or operation is being undertaken, he shall cause, on his own motion or on the motion of interested producers or processors, an immediate investigation to be made by the appropriate officer or agency of the United States Department of Agriculture responsible for the administration of the affected program, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties, and shall be conducted subject to such regulations as the Secretary of Agriculture shall specify.

"(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the Secretary of Agriculture finds the existence of such facts, he shall certify to the President such facts and the President shall by proclamation impose such fees not in excess of 50 per centum ad valorem or such quantitative limitations on any article or articles which may be entered, or withdrawn from warehouse, for consumption as he finds and declares shown by such investigation to be necessary in order that the entry of such article or articles will not render or tend to render ineffective, or materially interfere with, any program or operation referred to in subsection (a), of this section, or reduce substantially the amount of any product processed in the United States from any such agricultural commodity or product thereof with respect to which any such program or operation is being undertaken: *Provided*, That no proclamation under this section shall impose any limitation on the total quantity of any article or articles which may be entered, or withdrawn from warehouse, for consumption which reduces such permissible total quantity to proportionately less than 50 per centum of the total quantity of such article or articles which was entered, or withdrawn from warehouse, for consumption during a representative period as determined by the Secretary of Agriculture: *And provided further*, That in designating any article or articles, the Secretary of Agriculture may describe them by physical qualities, value, use, or upon such other bases as he shall determine.

"(c) The fees and limitations imposed by the President by proclamation under this section and any revocation, suspension, or modification thereof, shall become effective on such date as shall be therein specified, and such fees shall be treated for administrative purposes and for the purposes of section 32 of Public Law Numbered 320, Seventy-fourth Congress, approved August 24, 1935, as amended, as duties imposed by the Tariff Act of 1930, but such fees shall not be considered as duties for the purpose of granting any preferential concession under any international obligation of the United States.

"(d) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended or terminated by the President whenever the Secretary of Agriculture finds and certifies to the President that the circumstances requiring the proclamation or provision thereof no longer exist or may be modified by the President whenever the Secretary of Agriculture finds and certifies to the President that changed circumstances require such modification to carry out the purposes of this section.

"(e) Any decision, finding, or certification of facts and required fees or quantitative limitations of the Secretary of Agriculture under this section shall be final.

"(f) No international agreement hereafter shall be entered into by the United States, or renewed, extended, or allowed to extend beyond its permissible termination date in contravention of this section."

The CHAIRMAN. I was not with you yesterday afternoon, and I do not know where you left off.

Senator KERR. Mr. Chairman, he was to bring up some specific answers to some specific questions that were not completed yesterday, I believe.

The CHAIRMAN. All right then, you may proceed.

STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE; ACCOMPANIED BY LEONARD WEISS, ASSISTANT CHIEF OF COMMERCIAL POLICY STAFF, DEPARTMENT OF STATE—Resumed

Mr. BROWN. Mr. Chairman, I think there are two questions that were asked me yesterday to which I have not yet supplied the answers. I do not have them ready yet, but I hope to have them by tomorrow morning.

Senator MILLIKIN. One of those had to do with the powers of the contracting parties.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. The other had to do with your future claim of power in reference to future legislative action.

Mr. BROWN. No, sir; the other one had to do with the question of the conflicts in other countries' laws with the provisions of the general agreement.

Senator MILLIKIN. You do not have that ready at the present time?

Mr. BROWN. No, sir.

Senator MILLIKIN. I would suggest, Mr. Chairman, that unless the witness has some other carry-over matters from yesterday, that he address himself to the statement of Senator Magnuson.

The CHAIRMAN. I think he is ready to do that at this time.

Mr. BROWN. Mr. Chairman, I was asked about section (f) of section 22 at an earlier session in this hearing, both by Senator Millikin and Senator Williams, and I think I stated our position at that time, in a way to which I have nothing to add.

Senator MILLIKIN. The State Department prepared the language adopted by the conference committee, did it not?

Mr. BROWN. Yes, sir, at the request of the chairman of the subcommittee of the Senate Agriculture Committee, and that language appears in the report of the subcommittee, without recommendation.

Senator MILLIKIN. Yes, without recommendation.

Do you agree with the statements of Senator Magnuson that the Senate did pass the Magnuson-Morse amendment which would have subordinated GATT to the section 22 clause?

Mr. BROWN. Yes, sir. Senator Magnuson's account of what happened is, as I understand it, entirely correct.

Senator MILLIKIN. Yes; and that the action that was finally taken was taken as a result of conference action?

Mr. BROWN. Yes, sir. I think the record speaks clearly on that point.

Senator MILLIKIN. Yes.

It is the opinion of the State Department—is it not?—that the Congress has ratified GATT.

Mr. BROWN. No, sir.

Senator MILLIKIN. I invite your attention to an affidavit presented by Mr. Thorp in the case of *Rodes* v. *Dean Acheson*, Civil Action No. 3756-49, in the District Court of the United State for the District of Columbia, Civil Division. That, you will recall, is an action whereby Rodes was claiming that American citizens were being discriminated against in various ways in Morocco. Mr. Thorp filed an affidavit in that case, and in paragraph 11 he recites the history where he alleges

Congress has expressly recognized the necessity of permittting countries whose economic recovery is a matter of concern to the United States to take special measures to protect their foreign-exchange position. He winds up that particular paragraph with the following language:

The authority to negotiate for the accession of additional countries to this agreement has recently been extended by Congress without qualifications (Public Law 307, 81st Cong.) following hearings in which the provisions of the agreement, including those as to discriminations (art. XIV) were examined in detail (Finance Committee, Senate, extension of Reciprocal Trade Agreements Act; hearings, vol. 2, 1250 ff.).

Does that not indicate that the State Department considers that the Congress has given authority—has approved GATT?

Mr. BROWN. You asked me, Senator, whether we felt that the Congress has ratified the GATT, and I answered "No"; and I think that is a correct answer. I do not think that——

Senator MILLIKIN. Give you your meaning of "ratify." I do not want any sparring about the meaning of words.

Mr. BROWN. I do not think that the Congress has approved the GATT and all of its provisions? I think there is some general approval of what has been done under a delegated authority when that authority is renewed. What the measure of that approval is, I do not know; but I would not claim that the Congress had ratified the specific provisions of the GATT.

Senator MILLIKIN. Would you say that Mr. Thorp, who is head of this whole economic business, said to the contrary when he said—

The authority to negotiate for the accession of additional countries to this agreement has recently been extended by Congress without qualification, following the hearings in which the provisions of the agreement—

he is talking about GATT—

including those as to discriminations were examined in detail.

Senator TAFT. Do they have the word "Millikin" after the words "in detail" in parentheses?

Senator MILLIKIN. It should have been. That is in the extension of Reciprocal Trade Agreement Act, first hearings.

Does that not indicate Mr. Thorp's view that Congress, one way or another, has ratified, or approved, concurred—or use any synonym that you want to—in GATT?

Mr. BROWN. I would prefer to answer that question, Senator, after I had examined the entire affidavit.

Senator MILLIKIN. All right. Will you come prepared to answer it?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. As for yourself and your positon in the State Department, you do not believe that the Congress has ratified GATT?

Mr. BROWN. I would stand on my previous statement, sir.

Senator MILLIKIN. What was your previous statement?

Mr. BROWN. Could I ask the reporter to read it, sir?

Senator MILLIKIN. You had better not stand on something you cannot remember. Go ahead, Mr. Reporter.

(The reporter read Mr. Brown's answer.)

Senator MILLIKIN. You do not think Congress has ratified——

Mr. BROWN. I gave a further statement. Would you mind reading the rest of it?

(The reporter read the additional statement of Mr. Brown.)

Mr. BROWN. I would like to stand on that statement.

Senator MILLIKIN. As was, I think, rather fully developed yesterday, and need not be developed in further detail today; you are aware of the caveats of this committee?

Mr. BROWN. I would like to stand on my testimony yesterday.

Senator MILLIKIN. Well, never mind yesterday's testimony. This is a new day. I think you gave me an explicit answer to that yesterday. Will you answer the question?

Mr. BROWN. I am aware of what has appeared in the committee's reports; yes, sir.

Senator MILLIKIN. You are aware of what has appeared in the debate?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Having to do particularly with the time for the extension of the Reciprocal Trade Act?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. In relation to the consideration of GATT and ITO together?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Yes.

Why does not the State Department submit the whole GATT for the approval of Congress, or for whatever action Congress wants to take on it?

Mr. BROWN. I answered that question yesterday, sir.

Senator MILLIKIN. Would you mind——

Mr. BROWN. I have nothing to add to what I said yesterday.

Senator MILLIKIN. Would you mind repeating your answer of yesterday?

Mr. BROWN. I said yesterday that this is an executive agreement which we believe the President has authority to enter into, with the exceptions that I specified yesterday.

Senator MILLIKIN. Yes.

Now, you were going to provide us with a full list of those exceptions. Will you give them to us now?

Mr. BROWN. Yes, sir. Excuse me for just a moment, Mr. Chairman, I have the papers somewhere.

Senator MILLIKIN. Will you give us a general description of these laws?

Mr. BROWN. Yes, sir. In general, they are provisions that deal with methods of customs valuation, or cases in which we have an internal tax which is preferential, and which, if we were to put the GATT fully into effect, would need to be changed into a preferential tariff rather than an internal tax, and changes of that kind. I have explained each one of them, Senator, in answer to your questions, with respect to the individual articles of the GATT in the previous hearings, and they are all summarized in that document.

Senator MILLIKIN. All I want now is a general description of the subject matter of the bills which will be offered to iron out what you conceive to be the conflicts between GATT and——

Mr. BROWN. It is generally matters of the kind I have mentioned.

Senator MILLIKIN. Sir?

Mr. BROWN. It deals with matters of the kind I have mentioned.

Senator MILLIKIN. Well, you have been more specific on previous occasions, and you have identified the type of the bill, and that is all I am asking for.

Mr. BROWN. As I say, it is questions with respect to some of our methods of customs valuation. We have some taxes which, as I say, involve a preference under the GATT that would not be permitted, but we would be able to change that tax into a preferential tax. It has the same effect actually. It is a change in form but not in substance.

Senator TAFT. May I ask you a question just to get clarification in my mind. Is the authority to enter into GATT—you spoke of an executive agreement—is that under the reciprocal-trade authority to enter into foreign-trade agreements with foreign governments or is it under your idea of a general executive power to make executive agreements?

Mr. BROWN. It is principally under the power in the Reciprocal Trade Agreements Act, sir.

Senator TAFT. Just those broad words, to enter into trade agreements with foreigin goverments?

Mr. BROWN. No, sir; there is quite a bit of specific language in the act.

Senator TAFT. Well, as to GATT, did you comply with the things to be done in proclaiming modifications of existing duties, and so forth; did you comply with this act?

Mr. BROWN. Yes, sir; we have complied with this act. There are certain provisions in the GATT which are not in effect because they are not consistent with United States laws; and, therefore, we cannot apply them fully, and it is those matters that Senator Millikin was asking about.

Senator TAFT. Where they run into specific laws. But have you qualified GATT, so to speak, by these proclamations, and so forth, that are required for trade agreements under this act?

Mr. BROWN. Yes, sir. GATT has been put provisionally into effect by a proclamation.

Senator TAFT. By a proclamation?

Mr. BROWN. By a proclamation in conformity with the requirements of the law.

Senator TAFT. Then, you claim some parts of it are also justified by the general power to make executive agreements?

Mr. BROWN. Yes, sir; and we have submitted a legal memorandum on that point, which is in the record.

Senator TAFT. I see.

The CHAIRMAN. As I understand it, this document here specifies those statutory changes which you think Congress must make or authorize before you could put GATT fully into effect; is that right?

Mr. BROWN. That is correct, sir.

The CHAIRMAN. Into full effect.

Senator KERR. Another way to ask the question would be that this memorandum specifies those provisions in GATT which you think cannot be made effective without specific legislation?

Mr. BROWN. That is correct, sir.

The CHAIRMAN. And you have set them all out in this memorandum?

Mr. BROWN. Every one, sir.

The CHAIRMAN. Every one of them. You put that in the record, sir? Has that gone in the record yet?

Mr. BROWN. Yes, sir; I would ask the committee, if it please, to put it in the record.

The CHAIRMAN. We will be glad to put it in the record.

(The memorandum referred to is as follows:)

UNITED STATES LAWS INCONSISTENT WITH GATT PROVISIONS

The substantive commitments of the GATT are based in the main on principles which are already generally followed by the United States. However, there are a few instances in which changes in United States laws would have to be made in order for the United States to comply fully with the principles contained in GATT, and thus to permit the United States to put GATT into effect definitively as contrasted with its present provisional application. These are stated hereunder.

ARTICLE I

Article I requires that each contracting party to the GATT shall, generally speaking, give equal treatment to all other contracting parties with respect to tariffs and other charges, rules, and formalities in connection with importation and exportation. This is the unconditional most-favored-nation principle, which since 1923 has been the general policy of the United States in its commercial treaties entered into with the advice and consent of the Senate and which is embodied in the Trade Agreements Act. As an exception to the general rule, article I permits the continuance of certain long-standing preferential systems, including those between the United States and Cuba and the United States and the Philippines.

In order for the United States to comply fully with this principle as stated in article I, the following minor changes in United States laws would be necessary: (*a*) the repeal of a provision in paragraph 812 of the Tariff Act of 1930 (19 U. S. C. 1001, par. 812) which provides for the forfeiture of liquors in any sized casks, bottles, or other packages imported from any country whose laws prohibit the importation of similar sized casks, etc., of liquor put up or filled in the United States; (*b*) the repeal of section 320 of the Tariff Act (19 U. S. C. 1320) which authorizes the conclusion of reciprocal agreements for the free entry of certain advertising matter; the restriction of duty-free entry to the agreement country would be contrary to the most-favored-nation clause, although no such agreements have in fact ever been entered into; (*c*) the conversion into a tariff preference of the 2 cents per pound preference in the processing tax accorded coconut oil derived from Philippine coconuts (26 U. S. C. 2470), a change in form but not in substance. (See discussion under art. III.)

ARTICLE III

Article III lays down another basic rule; namely, that internal taxes and other internal regulations should not be used as a substitute for tariff protection. Underlying this rule is the principle that taxes for protective purposes should be levied at the customs frontier and that, once an imported product has passed the customs barrier, it should not be discriminated against as compared with merchandise of domestic production. Such a rule is, of course, necessary to prevent the nullification or impairment of tariff concessions in trade agreements.

The United States has normally followed this principle of nondiscriminatory treatment of imports as regards our internal taxes, laws, and regulations (see national treatment provisions for internal taxes included in United States commercial treaties and agreements for many years). In order to make existing United States laws consistent with this principle as stated in article III, the following changes would be necessary.

(*a*) The processing taxes imposed on coconut, palm, and palm-kernel oil under section 2470 of the Internal Revenue Code would conflict with paragraph 2 of article III, but could be converted into equivalent import duties or taxes—a change in form but not in substance. Such a conversion is specifically authorized by the note following item 54 of schedule XX of the GATT.

(*b*) Sections 2800, 2827, and 2856 of the Internal Revenue Code impose internal-revenue taxes on imported oleomargarine, adulterated butter, and filled cheese which are not applied to the like domestic product. Sections 2800 (a) (3)

and 1650 of the Internal Revenue Code impose a discriminatory tax on imported perfumes containing distilled spirits. These laws would have to be amended so as to provide for the same internal-revenue tax treatment of the imported product as applies to the like product of domestic manufacture.

(c) Under section 2800 (a) (1) of the Internal Revenue Code, the tax on imported and domestic distilled spirits is levied on the basis of the proof gallon, or wine gallon when below proof. In practice, this provision operates inequitably as between domestic and imported distilled spirits, since the domestic spirits are always or nearly always above proof at the time of tax payment while imported liquors are almost always under proof at the time of importation. The result is that in the case of imported Scotch whisky, for example, which is 86 proof, the tax is collected on the basis of wine gallons (i. e. as though it were 100 proof), whereas in the case of domestic spirits the tax is collected on the basis of proof gallons. On the other hand imported-beverage distilled spirits, although practically always rectified before importation, are not subject to the rectification tax of 30 cents per gallon imposed on domestically rectified spirits (sec. 2800 (a) (5) I. R. C.). It can be argued that, from a strictly legal point of view, the provisions of section 2800 (a) (1) do not violate the national treatment provisions of article III. However, a change in law to provide for the levying of the tax on a proof-gallon basis and to subject imported rectified spirits to the rectification tax would place both imported and domestic spirits on a basis of complete equality as regards internal-revenue tax treatment and thus conform in every way to the principles expressed in article III.

(d) The so-called manufacturing clause of the copyright law is discussed hereafter under article XI.

ARTICLE XI

Article XI days down a general rule against quotas on imports or exports, with certain exceptions recognized in that article itself and elsewhere in the GATT.

One of the most important exceptions to the general rule against quotas, from the point of view of the United States, is that permitting the use of import quotas on agricultural products where they are necessary to the enforcement of domestic marketing or production restriction programs. This will permit the continuance, for example, of import quotas on sugar under the provisions of the Sugar Act of 1948. Other important exceptions are found in article XX and in article XXI. The latter article clearly authorizes United States export restrictions which are considered necessary to the national security in time of international emergency.

The following changes in United States laws would be necessary to bring them into full conformity with the rule against quotas as stated in article XI:

(a) The prohibition on the export of tobacco seed (7 U. S. C. 516, 517) would have to be repealed.

(b) Article XX of the GATT expressly states that the agreement shall not be construed to prevent adoption or enforcement of measures necessary to secure compliance with laws and regulations relating to the protection of copyright. In other words, the GATT would not in any way interfere with reasonable laws and regulations necessary for the protection of copyright. However, article XX states that countries shall not use their copyright laws as disguised trade barriers. Section 16 of title 17, U. S. C. (commonly known as the manufacturing clause), provides that in order to be accorded copyright protection in the United States a book in English must, generally speaking, be printed in the United States from type set or from plates produced in the United States. A related provision, section 107, generally prohibits the importation into the United States, during the existence of the American copyright, of any copy of a book in English which has not been manufactured in the United States. As an exception to these provisions, existing law permits temporary copyright protection up to 5 years of an English book published abroad (17 U. S. C. 22), and during this period not more than 1,500 copies of such English book printed abroad may be imported (17 U. S. C. 16). These provisions in effect preclude any book in English from receiving copyright protection in the United States unless every copy sold here (above a quota of 1,500) is manufactured in the United States. The place of manufacture of a book is obviously not necessary to protect the rights of the author. To the extent that these provisions deny copyright protection to books in English merely because the books are manufactured abroad rather than in the United States and because these provisions act as an absolute barrier to the

importation of foreign manufactured books in English which are copyrighted in the United States (above the quota), they are inconsistent with the provisions of article III concerning internal laws and regulations, article XI relating to import prohibitions and quotas, and article XX concerning disguised trade barriers.

ARTICLE VI

Article VI, while condemning price dumping which is injurious to an industry in the territory of a contracting party, sets out rules designed to prevent the misuse of antidumping and countervailing duties to hamper normal competition in international trade. The article limits the use of antidumping and countervailing duties to the purpose of offsetting price dumping and subsidies. It provides that such special duties may not be imposed unless the effect of the dumping or subsidization would cause or threaten material injury to an industry in the territory of a contracting party.

The policy of the United States with regard to the imposition of antidumping and countervailing duties, as set forth in the Antidumping Act of 1921 (19 U. S. C. 160–173) and in section 303 of the Tariff Act of 1930 (19 U. S. C. 1303), conforms generally to the GATT requirements. In order to make our laws consistent with the principles of article VI, however, one important change in the countervailing duty law would be required. It is clear that the imposition of special duties of this kind should be limited to cases where injury is caused or threatened to a domestic industry. The existing Antidumping Act requires a finding of injury as a condition precedent to the assessment of antidumping duties, but our countervailing duty law does not. Accordingly, it would be necessary to amend section 303 of the Tariff Act to provide for a finding of injury before countervailing duties may be levied. In addition, three minor clarifications in the antidumping and countervailing duty laws are necessary to make them fully consistent with article VI: (*a*) A provision to make it clear that both antidumping and countervailing duties will not be imposed on particular merchandise to compensate for the same situation of dumping or export subsidization; (*b*) an amendment of the Antidumping Act to require a finding of material injury to an industry rather than mere injury; and (*c*) an amendment to section 303 of the Tariff Act to provide that countervailing duty shall not be levied because of the ordinary remission or refund of taxes and duties allowed on exportation by most countries, including the United States. These latter three amendments are mere clarifications of the laws and would involve no change whatsoever in the administrative practice that has been followed since their enactment.

ARTICLE VII

The provisions of article VII are designed to assure that fair valuation systems will be used in assessing ad valorem duties. They set forth the principle that the values to be used should be based on the actual value of the kind of goods imported and not on arbitrary or fictitious values nor on the values of domestic goods. The article establishes fair rules for the conversion of currencies in assessing ad valorem duties and provides that, whatever valuation methods are used by a country, such procedures should be stable and should be given sufficient publicity to enable traders to estimate with reasonable certainty what the value for customs purposes will be. In the main existing United States valuation laws conform to article VII. Certain changes would be necessary, however, to make our laws fully consistent with the article.

(*a*) The use of "American selling price" as a basis of dutiable value would be inconsistent with article VII. To eliminate the use of "American selling price" would be a change in the method of calculating a tariff. It would not require a change in the level of the tariff.

Under existing law, most products subject to ad valorem duties are dutiable on the basis of the wholesale selling price of the imported articles in the country of export, but a few classes of merchandise are dutiable on the basis of the American selling price of similar domestic products. These products are competitive coal-tar products covered by paragraphs 27 and 28 of the Tariff Act (19 U. S. C., sec. 1001, pars. 27, 28) and certain classes of canned clams (T. D. 47031), woolen gloves and mittens (T. D. 48183), and rubber footwear (T. D. 46158) to which "American selling price" has been applied by proclamations under section 336 of the Tariff Act (19 U. S. C. 1336). The use of "American selling price" almost always results in much higher duties than would be the case if the normal basis of valuation were used. The existence in our tariff laws of provisions for

the use of "American selling price" as a basis of dutiable value for a very few classes of imported articles, as an exception to the general rule that the normal basis for assessing ad valorem duties is the wholesale price of the goods in the country of export, tends to subject the United States to the charge that it is resorting to a device to conceal the amount of protection accorded to particular products. There is no good reason why the protection afforded these products should not be expressed in the same way that the protection for other products is expressed.

The abolition of "American selling price" as a basis of value to conform to article VII will not necessitate any change in the level of tariff protection now enjoyed by the industries operating under American selling price. It is contemplated that the rates of duty on products now dutiable on that basis would be adjusted so as to maintain the level of existing protection (see paragraph 5 of the "General notes" at the end of schedule XX of the GATT, where the United States expressly reserved the right to make such adjustments). The abolition of "American selling price" as a basis of value will require amendments to paragraphs 27 and 28 of the Tariff Act (19 U. S. C., sec. 1001, pars. 27, 28), sections 336 (b) and (j) and 402 (a) (4) and (g) of that act (19 U. S. C. 1336 (b) and (j), 1402 (a) (4) and (g)), and certain Presidential proclamations (T. D. 46158, T. D. 47031, and T. D. 48183).

(b) Other amendments to section 402 of the Tariff Act (19 U. S. C. 1402) needed to bring our valuation laws into conformity with the "actual value" standard of article VII of GATT would be (1) the exclusion from dutiable value of internal taxes applied in foreign countries but not paid on exports; under prevailing administrative rulings and judicial decisions in the United States, such taxes are not regarded as a part of dutiable value in many instances but are so regarded in some cases; (2) the dropping of the rule of using "foreign value" or "export value," whichever is the higher, as the primary basis of value and substituting "export value" alone as the primary basis; (3) a definition of "usual wholesale quantities" which would relate dutiable value to prices prevailing in sales of the greater volume of merchandise in the trade between the country of exportation and the United States, whereas under present law the usual wholesale quantity is the quantity in which the latest number of individual transactions occur; (4) the establishment of alternative dutiable values which are closely equivalent to "actual value"; this will involve amendment of the definitions of "United States value" and "cost of production" in section 402 of the Tariff Act which presently provides for arbitrary additions to the ordinary commercial value of some imports.

(c) Paragraph 4 of article VII provides that the conversion of currencies for customs purposes should as a general rule be based on the par values established under the International Monetary Fund; where no such par value has been established, the conversion rate should reflect the current value of the currency in commercial transactions and similar provision is made for the conversion of currencies for which multiple rates of exchange are maintained. Under existing law, the values of foreign gold coins, as proclaimed quarterly by the Secretary of the Treasury, are made the primary basis for the conversion of foreign currencies. This procedure has become largely meaningless because of the almost complete disappearance of gold coinage as a significant factor in monetary systems. In practice, conversion for the generality of cases is based on the current market rates of exchange as certified by the Federal Reserve Bank of New York. The amendment of the United States law (sec. 522 of the Tariff Act, 31 U. S. C. 372) to conform to the GATT provisions would bring the United States law into line with existing realities without any substantial change in the amounts of duty collected as compared with existing practice, since the par values under the Monetary Fund do not vary greatly from the commercial exchange rates.

ARTICLE IX

Article IX, relating to marks of origin, sets forth principles directed at the elimination of unnecessary marking requirements and the administration of marking laws and regulations in a fair manner so as not to unduly hamper trade. The United States general marking law, section 304 of the Tariff Act (19 U. S. C. 1304), is generally in accord with the principles and rules set forth in this article. In a few cases, however, the Tariff Act provides for special marking requirements for particular articles, principally cutlery, surgical, and scientific instruments, and thermostatic bottle. (See pars. 354, 355, 357, 358, 359, 360, 361, and 1553 of the Tariff Act (19 U. S. C. sec. 1001, pars. 354, 355, 357, 358, 359, 360, 361, and

1553).) These paragraphs specify in effect that the articles enumerated shall be denied entry unless they have, when imported, the name of the maker or purchaser as well as the name of the country of origin conspicuously and indelibly marked on the outside of the articles. In order to conform to article IX of the GATT, it would be necessary to permit marking to be affixed at the time of importation.

Senator MILLIKIN. Mr. Chairman, for the benefit of Senator Taft, I would like to say that yesterday we examined into the GATT, and the question which he was asked, and related questions, rather fully brought out, and I think I can summarize fairly when I say that we do not know, nor do the contracting parties to GATT know, in detail, those parts of GATT which are ineffective, because those conflicting provisions of the GATT to local law have not been ironed out.

For example, the contracting parties do not have a register or anything you want to call it which will show conflicts between GATT and the various member nations of the organization; which is another way of saying, I suggest, that you have no agreement because no one knows what the actual terms of the agreement may be.

(Discussion off the record.)

Senator MILLIKIN. Mr. Brown, if we do not know, and if the contracting parties do not know, the extent of reconciliation necessary between the member states and the general agreement, how can we make GATT definitively effective?

Mr. BROWN. We could make the GATT definitively effective. The way in which GATT would be made definitively effective, would be by countries representing 85 percent of the international trade of the parties to the agreement, depositing an instrument of acceptance of the agreement as a definitive agreement.

Senator KERR. Has that been done?

Mr. BROWN. No, sir.

Senator KERR. Has that been done?

Mr. BROWN. No, sir. That would mean that each country had put itself in a position so that it could accept the obligations of agreement in full.

Senator MILLIKIN. That would be another way of saying that they had examined——

Mr. BROWN. Yes, sir.

Senator MILLIKIN (continuing). Their own local laws and constitutions, and had done those things necessary to make a reconciliation or that they preferred to waive their right.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. One or the other, but we are not now in shape to make GATT definitive, are we?

Mr. BROWN. No, sir.

Senator MILLIKIN. There is not enough support at the present time to make it definitively effective.

Mr. BROWN. No, sir; we have not taken the necessary steps to make it definitively effective.

Senator MILLIKIN. By what authority do we take imports into this country from Russia and Japan, for example?

Mr. BROWN. A private citizen needs no authority to bring an import into this country.

Senator MILLIKIN. I beg your pardon?

Mr. BROWN. I say, a private citizen needs no authority to bring an import into this country.

Senator MILLIKIN. But what rate does he have to pay when he brings it into this country?

Mr. BROWN. Rate of duty?

Senator MILLIKIN. Yes.

Mr. BROWN. He has to pay the rate of duty which is described in the Tariff Act, as modified by the trade agreements.

Senator MILLIKIN. Do we have a trade agreement with Russia?

Mr. BROWN. No, sir.

Senator MILLIKIN. Do we have a trade agreement with Japan?

Mr. BROWN. No, sir.

Senator MILLIKIN. So that the controlling rates there would be those provided by the act of 1930?

Mr. BROWN. No, sir; because they might have been modified in negotiations with other countries, and indirectly benefiting the—strike that.

There is only one rate. That is fixed either by statute or by the rate in a trade agreement. If a rate has been fixed in a trade agreement on a product which comes from Japan, as well as from the country with which the trade agreement has been negotiated, under the most-favored-nation requirement of the statute, the importer from Japan would pay that rate.

Senator KERR. You are talking about the statute of 1930?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You are saying the same is true as to Russia— —

Mr. BROWN. Yes, sir.

Senator MILLIKIN (continuing). Or as to any other country with which we do not have a trade agreement.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Under the universal most-favored-nation clause of the act of 1930.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. As distinguished from anything that may be in the bilateral agreements or in GATT, they get the benefit.

Mr. BROWN. They have no contractual right.

Senator MILLIKIN. They have no contractual right.

Mr. BROWN. But they do get the benefit.

Senator MILLIKIN. But by virtue of our own law they can bring this stuff in and take the rates that are provided in applicable trade agreements; is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Has the State Department any intention to recommend the abandonment of the universal most-favored-nation clause of the act of 1930?

Mr. BROWN. No, sir.

Senator MILLIKIN. You have no such intention?

Mr. BROWN. No, sir.

Senator MILIKIN. GATT itself limits the benefits to GATT; but the act of 1930 extends those benefits to countries with which we do not have trade agreements.

Mr. BROWN. GATT contains the benefits to the parties to GATT.

Senator MILLIKIN. I think that is what I said.

Mr. BROWN. I thought you said limited to the parties to GATT, and I thought there might be an implication.

Senator MILLIKIN. Are you going to confine that to limiting——

Mr. BROWN. No, sir; I did not want the record to show that the GATT would prevent some party to the GATT from giving most-favored-nation treatment to somebody else who was not a party to the GATT.

Senator MILLIKIN. No; but I am talking in our own case, first, the State Department has no desire to recommend the restriction or rather to restrict the most general favored-nation provisions of the act of 1930.

Mr. BROWN. We have no such intention.

Senator MILLIKIN. Is that correct?

Do you see any objection to the continuance of that provision of the act of 1930 under present circumstances?

Mr. BROWN. No, sir.

Senator MILLIKIN. What jurisdiction, if any, does the International Court of Justice have in tariff matters?

Mr. BROWN. I am sorry, Senator, I do not know anything about the International Court of Justice or what its jurisdiction is.

Senator MILLIKIN. Who is your lawyer who deals specifically with these things?

Mr. BROWN. I would have to find that out, sir.

Senator MILLIKIN. Will you find that out and let us know?

Mr. BROWN. I can get you an answer to that question; yes, sir.

Senator MILLIKIN. But I would also like to know who your lawyer is.

Mr. BROWN. Our lawyer is Mr. Fisher, legal adviser to the Department.

Senator MILLIKIN. How does he spell his name?

Mr. BROWN. F-i-s-h-e-r.

Senator MILLIKIN. Is he available for testimony?

Mr. BROWN. Oh, of course.

Senator MILLIKIN. You do not know?

Mr. BROWN. No, sir.

Senator MILLIKIN. You do not know whether the International Court of Justice has any possible relationship with GATT?

Mr. BROWN. No, sir.

(The following was subsequently supplied for the record:)

RELATIONSHIP BETWEEN THE GATT AND THE INTERNATIONAL COURT OF JUSTICE

Question was raised as to the relationship between the International Court of Justice and the General Agreement on Tariffs and Trade in the settlement of possible disputes which might arise between the United States and other contracting parties to the GATT.

The general agreement contains no provision for the reference of problems under the agreement to the Court. Rather, the agreement provides its own procedures, in article XXIII, for the adjustment of differences by the contracting parties, acting jointly. Whatever compulsory jurisdiction the Court might have under certain circumstances with respect to disputes arising under the GATT stems from the acceptance by the United States of the Court's compulsory jurisdiction in certain categories of legal disputes. This acceptance was advised and consented to by the Senate in 1946.

Acting in accordance with the Senate resolution of August 2, 1946, the United States filed a declaration under paragraph 2 of article 36 of the Statute of the International Court of Justice recognizing the compulsory jurisdiction of the Court in certain cases. The declaration states that—

"* * * the United States of America recognizes as compulsory ipso facto and without special agreement, in relation to any other state accepting the

same obligation, the jurisdiction of the International Court of Justice in all legal disputes hereafter arising concerning—

"(a) the interpretation of a treaty;

"(b) any question of international laws;

"(c) the existence of any fact which, if established, would constitute a breach of an international obligation;

"(d) the nature or extent of the reparation to be made for the breach of on international obligation; * * *"

This declaration accepting compulsory jurisdiction contained certain reservations. These reservations specified that the declaration should not apply to—

"(a) disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or

"(b) disputes with regard to matters which are essentially within the domestic jurisdiction of the United States of America as determined by the United States of America; or

"(c) disputes arising under a multilateral treaty, unless (1) all parties to the treaty affected by the decision are also parties to the case before the Court, or (2) the United States of America specially agrees to jurisdiction; * * *"

These reservations would, of course, have to be taken into account in determining whether the United States were obligated to accept the jurisdiction of the Court in any dispute under the GATT involving the United States which another contracting party sought to bring before the Court.

Since the GATT, in article XXIII, itself sets up a procedure for the settlement of disputes arising under the agreement by providing for the referral of disputes for settlement to the contracting parties, acting jointly, a jurisdictional defense might be raised by the United States under reservation (a).

Reservation (c) might also afford the United States a defense against the Court's jurisdiction under certain circumstances. The GATT is a multilateral agreement. Hence, under reservation (c) the United States would not be obliged to accept the Court's jurisdiction unless all parties to the GATT affected by the decision were also parties to the case before the Court, or unless the United States specially agreed to the Court's jurisdiction.

Senator MILLIKIN. Are there any arbitration procedures under GATT?

Mr. BROWN. You mean procedures for submitting a dispute to some outside group for arbitration?

Senator MILLIKIN. Yes.

Mr. BROWN. No, sir. There are the provisions we discussed yesterday about findings by the Monetary fund, but with that exception, I do not think there are any.

Senator KERR. Would you say the provisions whereby a member nation, feeling itself damaged or feeling that it has a complaint or a protest, takes action by bringing the matter before the contracting parties as a body and receiving from them consideration and decision, would be following the procedure that has provided the substance of arbitration even though there was an absence of the specific form?

Mr. BROWN. I think that would be so, Senator Kerr. I thought the question was directed to whether there was some provision for consideration or abritration outside the parties to the general agreement.

Senator MILLIKIN. Make it outside or inside.

Mr. BROWN. I think that it could be said that the consultative procedures in the agreement partake of the nature of arbitration.

Senator MILLIKIN. The consultative provisions take on the aspect of an arbitaration.

Mr. BROWN. Yes, sir; the provisions for action by the contracting parties.

Senator MILLIKIN. Well, I suggest that the procedures to consult are procedures to consult and do not authorize an arbitration.

Mr. BROWN. I think I had better not discuss the question of arbitration, Senator, because that, obviously, has a meaning, a technical meaning, which I do not understand.

Senator MILLIKIN. Let me ask you this: Two of the nations of GATT, falling into dispute, could they on their own get up an arbitration agreement that would not conflict with GATT?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You think they could do that?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And GATT would have no jurisdiction over that?

Mr. BROWN. No; it would not. If, as a result of such activity, the parties did something which—one of the parties or the other did something which—might be considered to be a violation of the GATT, then that would be subject to complaint by another party who wished to make it.

Senator KERR. Any other member nation.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. If any other member nation did not like that arbitration and did not want to be bound by it, do you believe that GATT could provide an effective intervention against that kind of an arbitration?

Mr. BROWN. It could not prevent the arbitration, but it could give rise to a complaint against action taken as a result of it.

Senator MILLIKIN. They could prevent the result of the arbitration; I mean they could take action against——

Mr. BROWN. Yes.

Senator MILLIKIN. They could take some kind of action to agree with or set aside or modify the results of the arbitration.

Mr. BROWN. No.

Senator MILLIKIN. No?

Mr. BROWN. No, sir. If there was an arbitration by bilateral agreement, which would be perfectly permissible, and then, as a result, one of the parties did something which another party not involved in the arbitration thought was a violation of the GATT, that third party would have a perfect right to complain, either bilaterally or to the contracting parties, and the rights of the parties would be governed by the general agreement.

Senator MILLIKIN. All right, he complains. Let us say that the contracting parties get together on the complaint, and they reach one of three decisions: first, that the arbitration result is O. K., and will not be disturbed. Second, that it should be changed in some particulars and, third, it should be disregarded completely.

Would the contracting parties take that kind of a step?

Mr. BROWN. They could, insofar as the rights of the parties to the agreement are concerned.

Senator MILLIKIN. That is what I am talking about.

Mr. BROWN. They could not set aside the arbitration; they have no jurisdiction over it.

Senator MILLIKIN. I am talking about actualities, and I frame my question with respect to results. I think your answer is, "Yes." Is that your answer, or shall we go back to the question and have it read?

Mr. BROWN. The contracting parties are not bound by the arbitration, and they are free to take any action with respect to the parties to the agreement, which is provided in the agreement.

Senator MILLIKIN. So the contracting parties could approve the agreement, the results of the agreement; they could recommend modification of them, or they could recommend total disregard of them, could they not?

Mr. BROWN. Substantially, yes.

Senator MILLIKIN. Yes.

That would negative the importance of an arbitration, of an attempted arbitration, would it not? Let me preface that question by saying the purpose of the arbitration is usually to get a final and definite decision.

Mr. BROWN. Senator, I would say, in answer to that question, that when a country becomes a party to the general agreement it assumes certain obligations under the agreement, and if it wishes to remain a party, it would live up to those obligations, and it would not take other actions which would be inconsistent with it.

Senator MILLIKIN. My question was whether that would not, as a practical matter, rather negative any purpose in seeking an arbitration.

Mr. BROWN. I cannot conceive of any situation in which that would arise, but I think the technical answer to your question is "Yes."

Senator MILLIKIN. Yes.

What action have we taken to compensate currency evaluations by other countries, Great Britain, for example?

Mr. BROWN. I do not understand the question.

Senator MILLIKIN. You understand that Great Britain devalued?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You understand that had some effect on our trade?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What have we done to compensate that effect?

Mr. BROWN. The reason for the devaluation was because the rates of exchange between the pound and the dollar had got way out of line, and the value of the pound in terms of the dollar was much too high. Devaluation was to correct that discrepancy, and we have accepted that.

Senator MILLIKIN. This had an effect on trade, did it not?

Mr. BROWN. Yes, sir; and we——

Senator MILLIKIN. This had the substantial effect of lowering some import duties, did it not?

Mr. BROWN. It has had the effect of lowering the prices of imported products.

Senator MILLIKIN. Yes; I accept that.

Have we sought any compensation for that?

Mr. BROWN. No, sir; because the effect of the getting out of line of the currencies, before that, had been greatly to increase the price of the imported products in a way that had no relation to the true exchange situation.

Senator MILLIKIN. But the devaluation, the one we are talking about, did have the effect of lowering our import rates.

Mr. BROWN. That is correct, sir; and if——

Senator MILLIKIN. Yes.

Mr. BROWN (continuing). Any injury ensues therefrom there is a remedy for it.

Senator MILLIKIN. What is it?

Mr. BROWN. The escape clause.

Senator MILLIKIN. Is that the only one?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I understand article 2, paragraph 6 (a) says, and I quote:

"The duties, charges and margins of preference contained in the schedules are expressed in currency at the par value recognized by the International Monetary Fund at 'the date of this agreement.' In case the par value of any such currency is reduced by more than 20 percent in accordance with the International Monetary Fund Agreement, these duties, charges, and margins of preference may be adjusted accordingly, but only if the contracting parties jointly concur that such adjustments will not impair the value of the GATT concessions when all factors are taken into account."

Mr. BROWN. Yes, sir; that is correct in the case of specific duties.

Senator MILLIKIN. I come to my question again: We have taken those steps, have we, to compensate for the lowering, the equivalent lowering, of tariffs resulting from that particular devaluation?

Mr. BROWN. No, sir.

Senator MILLIKIN. And we do not intend to?

Mr. BROWN. We have no present intention of doing so.

Senator MILLIKIN. We encouraged the devaluation, did we not, that particular devaluation?

Mr. BROWN. We were glad to see it happen; yes, sir.

Senator MILLIKIN. And we encouraged it. We had meetings here in Washington to encourage it, did we not?

Mr. BROWN. I prefer not to comment on that, sir.

Senator MILLIKIN. Do you know the answer?

Mr. BROWN. I would prefer not to comment.

Senator MILLIKIN. All right. That is not a very good way to leave the record.

Would you agree that many other currencies of other countries are on an inflated basis?

Mr. BROWN. I do not know what the situation is with respect to the currencies of other countries.

Senator MILLIKIN. Do you know that with very few exceptions the monetary fund has preserved the parities that it started out on, which was self-declared parity?

Mr. BROWN. In my very slight understanding of the articles of agreement of the International Monetary Fund, I believe that all parities are initially, at least, self-declared.

Senator MILLIKIN. I did not ask you that question. I assumed that was true.

Mr. BROWN. Then, I am afraid I did not understand the question, sir.

Senator MILLIKIN. I asked you whether you were aware of the fact that the monetary fund, with few exceptions and unimportant exceptions, has not varied the original parties which were set up by it, which followed self-declared parity of the member nations of the monetary fund?

Mr. BROWN. It was my understanding that there had been some very material changes in par values.

Senator MILLIKIN. What is your understanding of those changes?

Mr. BROWN. There was a devaluation by Britain, most of the European countries, and many others.

Senator MILLIKIN. Tell us some. The devaluation by Britain——

Mr. BROWN. Yes, sir.

Senator MILLIKIN (continuing). That was approved by the monetary fund?

Mr. BROWN. Yes, sir; but that was a change in parity.

Senator MILLIKIN. Yes. The change in parity was approved by the monetary fund.

Mr. BROWN. Oh, yes.

Senator MILLIKIN. Yes.

What other European countries have devalued their currencies, as approved by the monetary fund?

Mr. BROWN. I think almost all of them.

Senator MILLIKIN. Almost all of them?

What other countries, outside of Europe, have done that?

Mr. BROWN. India, for example; Argentina—I could give a list.

Senator MILLIKIN. The monetary fund has approved those devaluations?

Mr. BROWN. I would have to check on that, sir; I am not an expert on financial matters, and I really do not know what the facts are on that.

Senator MILLIKIN. Well, as to any of those changes which you say have been made, have we taken any steps to compensate any effect that they may have had in so doing?

Mr. BROWN. No, sir; we have welcomed the imports which have resulted from those changes.

Senator MILLIKIN. You welcome them?

Mr. BROWN. Yes, sir; and if in any case injury is caused we have provided a means for remedying them.

Senator MILLIKIN. That is the escape clause?

Mr. BROWN. That is the test of whether or not there has been injury.

Senator MILLIKIN. But you have granted no relief under the remedy which you say is available in those cases.

Mr. BROWN. There have been only 20 or 21 applications, Senator, and the Tariff Commission has only found that one was such as to justify recommending action. The Tariff Commission is, under the escape-clause procedure, made the judge of whether or not an application is well based, and when the recommendation was made in the one case that action should be taken it was promptly taken.

Senator MILLIKIN. What have the contracting parties done about any of those changes, so far as concessions and trade levels, and so forth, are concerned?

Mr. BROWN. You are referring to the paragraph which you read about 6 (a)?

Senator MILLIKIN. I am referring to that paragraph, or anything else that they may have done.

Mr. BROWN. Excuse me, sir, apparently I am off the track. Would you excuse me for just a moment, Senator?

The CHAIRMAN. Oh, yes.

Mr. BROWN. I am advised that I have not said anything wrong yet, but that I might. I would like to point out that paragraph 6 (a), and the right to make the adjustment there is designed to authorize the country which has devalued to change its specific rates in order to take care of the changed price situation which would result from the devaluation. It is not directed toward other countries, and the consultative—the proviso to which you refe red—is the place in which we, in this case, would have a chance to see that any adjustment made would not be excessive.

Senator MILLIKIN. Are you saying also that a member of GATT, injured by devaluation, would not have a remedy under the organization?

Mr. BROWN. His remedy is, as I explained, under the escape clause, if there are any injuries.

Senator MILLIKIN. If the escape clause does not provide a remedy, then there is no other remedy?

Mr. BROWN. No, sir; but if there is any injury——

Senator MILLIKIN. Did you answer "Yes" or "No"?

Mr. BROWN. I said "No"; but the escape clause does provide a remedy in case there is injury.

Senator MILLIKIN. Well, that is your assertion.

Mr. BROWN. Yes.

Senator MILLIKIN. That has been the subject of a lot of debate around here. I am putting it this way, that if the escape clause does not provide a remedy, then there is no other remedy; is that correct?

Mr. BROWN. That is quite correct. [This answer was modified in later testimony.]

Senator MILLIKIN. All right.

Now, coming back again to the main inquiry, have we, or as far as you know, any other nations taken action to secure an escape due to monetary devaluation?

Mr. BROWN. No, sir.

Senator MILLIKIN. Are there any problems of that kind before the contracting parties?

Mr. BROWN. No, sir.

Senator MILLIKIN. So far as you know there have been no escapes?

Mr. BROWN. No, sir; there has been, I think, one adjustment under paragraph 6 (a).

Senator MILLIKIN. We have taken none——

Mr. BROWN. That is not an escape.

Senator MILLIKIN. And do not contemplate it; is that correct?

Mr. BROWN. No, sir; that is correct, we do not contemplate it.

Senator MILLIKIN. The answer is "Yes"?

Mr. BROWN. I am sorry.

Senator MILLIKIN. All right.

You have said that you welcome the effects of these devaluations.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Do you anticipate that there may be many devaluations before our currencies of the world reach a relatively stable value?

Mr. BROWN. I have no basis for an opinion on that.

Senator MILLIKIN. You have no opinion as to whether they are overvalued?

Mr. BROWN. No, sir.

Senator MILLIKIN. You do know that, with the exceptions that you have mentioned, the parities originally prescribed still prevail?

Mr. BROWN. Yes, sir; and and I would like to make it quite clear to the committee that I am not qualified to testify about monetary rates, and the legitimacy or propriety of exchange rates. I simply do not know about that.

Senator MILLIKIN. Who can you bring in here from your Department who would?

Mr. BROWN. I would think that would be a matter for the Treasury Department.

Senator MILLIKIN. Or the Treasury Department? I hoped we would have someone from the Monetary Fund in here.

Mr. BROWN. I am sorry; I hope it will not seem that I am not trying to help the committee, but I simply do not know, and the answers I would give you would not be worth the paper they are written on.

Senator MILLIKIN. But the thing that amazes me, if you do not mind my saying so, is that currency devaluation has a profound effect on the effect of our rates, and yet you, having a very important part of this business, sit there and seem to be oblivious of the impact, and say you know nothing about it.

Mr. BROWN. On that point, Senator, I am very well aware of the impact, and I have stated our position, which is that we were glad to see the devaluations; that we welcomed the results of them. We think it was a sound thing, and we do not think it has caused injury, and, if it did cause injury, there is a method available for correcting it.

Senator MILLIKIN. Good.

Mr. BROWN. On that point I am perfectly clear.

Senator MILLIKIN. Yes, all right.

Now you do not preclude, do you, the thought that you might consider a devaluation to be injurious so far as our rates are concerned, under some future action?

Mr. BROWN. That is quite conceivable; yes, sir.

Senator MILLIKIN. Despite the fact that you welcome these things, as far as they have happened, you are not going to put yourself in a position that you will always welcome them?

Mr. BROWN. No, sir.

Senator MILLIKIN. To repeat, I believe you have taken no action and do not contemplate any action to compensate for whatever effect these devaluations that have occurred have had on our trade structure.

Mr. BROWN. That is correct, sir. We gave no compensation when the balance of advantage in the exchange rates was running in our favor.

Senator MILLIKIN. So that in this whole field of monetary policies, in this monetary field which we have been discussing, in the field of import and export quotas, in the field of exchange licensing, in the field of bilateral agreements, neither singly nor in combination have any of those moved us, moved the State Department, to try to secure relief against them.

Mr. BROWN. That is not true; no, sir; that is not true.

Senator MILLIKIN. Will you state the exceptions?

Mr. BROWN. As I said before, we are continually taking up with other countries problems that are caused by their administration of exchange controls and licenses and other kinds of barriers, and we

have joined in the GATT in protesting against certain things that have been done.

Senator MILLIKIN. Have we taken any escape?

Mr. BROWN. We have not taken escapes because we take escapes when there has been injury to our domestic industries, and the only case in which that has been established was the one case about which I have testified.

Senator MILLIKIN. You do not believe that there has been such injury caused by any one or a combination of the things we are now discussing that will warrant an escape?

Mr. BROWN. No, sir. I think, in fact, the trend has been in recent period toward a relaxation of restrictions.

Senator MILLIKIN. Is it not your duty to protect the rates as made?

Mr. BROWN. It is our duty to get the best possible arrangement we can for the United States interest.

Senator MILLIKIN. Oh, well, that does not even commence to answer my question.

Is it not your duty to protect the integrity of the rates represented by the concessions that are made in these trade agreements?

Mr. BROWN. We do our very best to do so; yes, sir.

Senator MILLIKIN. When you have a substantial devaluation, the integrity of those rates, I suggest, is shaken, but nothing happens because you believe it is a good thing anyhow.

Mr. BROWN. I could not agree with that statement, Senator.

Senator MILLIKIN. Would you mind stating it the way you would like to state it?

Mr. BROWN. Because, as I said before, the integrity of the rates was shaken in the other direction during the period when the currency values were out of line.

Senator MILLIKIN. The integrity of the rates as they are, is it not your duty to preserve that integrity?

Mr. BROWN. Not necessarily; no, sir.

Senator MILLIKIN. Not necessarily? That means your answer is no; does it not?

Mr. BROWN. No, sir; the Congress has specifically delegated to us the authority to change the rates, within limits.

Senator MILLIKIN. It has delegated to you the right to change the rates, within limits?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. But I assume it has also delegated to you the responsibility of protecting the integrity of the rates you do change under that delegation of power; is that not correct?

Mr. BROWN. It has given the President the authority to make agreements to change the rates within the limits specified to any extent he wishes or not at all.

Senator MILLIKIN. Mr. Reporter, would you mind reading my question?

(The reporter read Senator Millikin's question.)

Senator MILLIKIN. That admits of a ready answer, I should think, one way or the other.

Mr. BROWN. No, sir; I do not think it does.

Senator MILLIKIN. Well, then, give us an actual answer for it.

Senator KERR. May I ask a question right here, Mr. Chairman?

The CHAIRMAN. Yes, Senator Kerr.

Senator KERR. The Tariff Act in the main ties the rates of imports in terms of percentages of cost in the countries where it came from, does it not, in terms of foreign currencies rather than in terms of our dollar?

Mr. BROWN. The valuation is normally on the basis of the foreign selling price; yes, sir.

Senator KERR. And that is fixed by act of Congress?

Mr. BROWN. No, sir; I think—yes, sir, I think it is.

Senator KERR. Now, you have no control over devaluation of foreign currencies, have you?

Mr. BROWN. No, sir.

Senator MILLIKIN. My question was whether it is your duty to protect the integrity of the rates as made; and I suggested that that admitted of an easy yes or no answer; and you said, "No, sir; I do not think so."

Now will you give us your kind of an answer to that question?

Mr. BROWN. I think it is our duty to administer this act in such a way as to fulfill its purposes, which is to get the maximum export opportunities for United States products by developing corresponding import outlets in this country. A rate may be appropriate one day for that purpose, and may not be appropriate the next day.

Senator MILLIKIN. You have procedures for changing the rates?

Mr. BROWN. Yes, sir; by negotiation. There is no injunction in the law that we must keep always the same rate.

Senator MILLIKIN. I think you are approaching what I am getting at. You go to infinite pains to set a rate. Business presumably adjusts itself to that rate.

Now you are saying that that rate—I suggest you are saying that that rate—can be impaired or nullified, and that you have no duty to protect it if you believe that the general effect is good; is that what you are saying?

Mr. BROWN. It is our duty to see that no injury is done to a domestic industry; that is our duty, and we have provided a means for seeing that that is done.

Senator MILLIKIN. Then the rates that are established in the way which have been described so many times can be seriously affected without a change of rate through the attitude of the Department of State; is that correct?

Mr. BROWN. No, sir.

Senator MILLIKIN. Would you mind stating——

Mr. BROWN. I do not think I understand the question, in the first place.

Senator MILLIKIN. Well, you understand that we fix rates do you not?

Mr. BROWN. Rates of what, Senator?

Senator MILLIKIN. Rates of duty.

Mr. BROWN. Oh, yes.

Senator MILLIKIN. Yes.

Mr. BROWN. I thought you were talking about exchange rates.

Senator MILLIKIN. What are we talking about, except rates of duty?

Mr. BROWN. I did not understand; that is what confuses me.

Senator MILLIKIN. Well, I will try to make it clear.

Mr. BROWN. Thank you, sir.

Senator MILLIKIN. I dislike all this verbiage to repeat a subject of conversation that is clearly before this committee. I am now talking about concessions and rates and restrictions having to do with reciprocal trade, and under the reciprocal trade system. Is that acceptable that far?

Mr. BROWN. I understand you.

Senator MILLIKIN. Yes. We have described herein in this committee many, many times the processes whereby those rates, concessions, restrictions are established.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Is that correct? All right.

Now I am questioning you as to what can happen to those rates.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I am suggesting to you, and I am talking about the rates, the duties, our impost fees, our excises—correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Do we understand each other?

Mr. BROWN. I thought before you were talking about exchange rates; I am sorry.

Senator MILLIKIN. Well, we are on the track now, are we not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. All right.

Now, we go to all this trouble of negotiating rates at Geneva, and Annecy, at Torquay, and prior to that in the bilateral agreements; they become a part of our law and our traders base their future plans on those rates.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And you have testified here today, I believe you have testified here today, in effect, that the guts, the integrity, the substance of those rates, can be lost because the State Department has an attitude which does not result in a change of rate.

Mr. BROWN. No, sir; I did not testify to that at all.

Senator MILLIKIN. Now then, give us your answer to that question.

Mr. BROWN. The situation under this agreement is no different from what it would be if there had been no trade agreements program at all, and if we were operating under the 1930 tariff rates; if the country devalued, then the effect of the devaluation in relation to the then existing rate would be precisely the same as it is with respect to a rate——

Senator MILLIKIN. But do you not see, Mr. Brown——

Mr. BROWN. May I finish?

Senator MILLIKIN (continuing). As a point of merit for your system that you can at all times under the new system protect our own interests here?

Mr. BROWN. May I complete my answer?

Senator MILLIKIN. Now, you are saying that under the act of 1930 this thing would have happened anyhow. Out of the other side of your mouth you say under this new system we are in position to prevent those things from happening.

Mr. BROWN. No, sir; I did not say that at all.

Senator MILLIKIN. All, right; tell us what you do say.

Mr. BROWN. May I complete my answer?

Senator MILLIKIN. Yes; go ahead.

Mr. BROWN. I said that the effect of a devaluation bears on the tariff rate, whatever it is, whether fixed by statute or whether fixed by agreement, and the effect is the same regardless of which way it is fixed.

Senator MILLIKIN. Yes.

Senator KERR. The only thing that your agreements have done, if I understand it, to the statutory rates has been to change them, if changed, by reduction no more than 50 percent.

Mr. BROWN. That is correct, sir.

Senator KERR. So that the devaluation would hit the new rate which was the result of the statutory enactment, plus your agreed change, just the same insofar as whatever the devaluation amounted to, whether there had been a traded reduction or not.

Mr. BROWN. Yes, sir.

Senator KERR. And the relationship of the rate, the value of the foreign currency, was the result of the act of Congress and not the result of the act of the State Department. Is that principally or is that generally correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. It is conceivable, is it not, that a devaluation could have the effect of reducing a rate by 50 percent or of raising a rate by 50 percent; is it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Yes.

Under this system which you are defending there is relief against that, is there not?

Mr. BROWN. There are two forms of relief against it. The first form is if in any specific case the result of the devaluation, combined with other factors, that is, the increase of imports, the inflow of imports, caused or threatened serious injury, in that case there is an opportunity for escape.

Senator MILLIKIN. Yes.

Mr. BROWN. The other is that if the extent of the general devaluation were so great as to make us feel that the whole agreement was basically impaired, we could invoke the general nullification and impairment clause.

Senator MILLIKIN. You could make certain representations to the Monetary Fund, could you not?

Mr. BROWN. Oh, as to what a rate should be, yes.

Senator MILLIKIN. I am just adding another possible source of relief.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. So far as devaluation or revaluation is concerned, you could make certain representations to the Monetary Fund, could you not?

Mr. BROWN. I thought you wished me to confine myself to the trade-agreements program. There is also, of course, the voice that we have in the determinations of the Monetary Fund.

Senator MILLIKIN. Let us back up a minute. If you want to make it under the trade-agreements program——

Mr. BROWN. You are quite correct in saying that with respect to each change in rate we have a voice so far as all the members of the fund are concerned.

Senator KERR. You are now talking about exchange rates?

Mr. BROWN. Yes, sir; exchange rates.

Senator KERR. You have left tariff rates?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. We will come back to those. But the reason we are off of that is because of the very penetrating questions from the Senator from Oklahoma. We will come back to this, but let us follow this ball that we have.

The point was that if you do not like a devaluation or a revaluation or anything that is done in this international currency field, you have certain procedures available to you before the Monetary Fund, have you not?

Mr. BROWN. That is quite correct.

Senator MILLIKIN. And I said that taking it either independent of this system or taking it under the system, you have certain presumed remedies available to you, have you not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Yes.

Senator KERR. What are they?

Senator MILLIKIN. They can protest the devaluation.

Senator KERR. I would like him to answer. I am really asking for information.

Senator MILLIKIN. I thought you were asking me.

Senator KERR. Oh, no. I would really like him to give me, for my information, the answer as to what we could do in that field, and to what extent, and what we might be able to do, and how we might do it.

Mr. BROWN. I know that we have——

Senator KERR. I am not testing the witness' knowledge; I mean I am not seeking to test it. If you do know, I would appreciate your putting it into the record.

Mr. BROWN. I do not. I would have to refer you to somebody in the Treasury Department of the fund, who knows about how those things work in detail. All I know is we have an important voice there, and have an opportunity there to participate in the decisions and make our views known.

Senator KERR. I would be quite surprised to learn that the Monetary Fund, as such, could prevent a foreign country from devaluing its currency.

Senator MILLIKIN. I might suggest, Senator, that under the Monetary Fund it can devalue up to 20 percent on its own initiative, but after that it must secure the consent of the Monetary Fund. That is, I believe, the law.

The CHAIRMAN. That is if it is a member of the Monetary Fund.

Senator KERR. That is, if it has agreed to do that.

Senator MILLIKIN. The countries that have joined the Monetary Fund have agreed to that.

Senator KERR. Yes.

The CHAIRMAN. You have a right to recommend, do you not, to the Monetary Fund—submit recommendations?

Mr. BROWN. It is my understanding that any proposed devaluation by a member of the fund must be submitted to the fund, and in that forum there is an opportunity to make recommendations, state our position, but just how that is done, I do not know.

Senator MILLIKIN. I was merely driving to the end point that your knowledge is sufficient to know that under GATT and, as a member

of the Monetary Fund independently of GATT, if you wish, we do have opportunities to present any complaint that we may have as to any particular devaluation to the Monetary Fund, have we not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Yes.

Now, coming back to the original question, we go to all of these labors to produce a schedule of concessions.

I point out again that the producers of this country rely on those concessions, the rates, the actual figures in the columns which become law by your action; they rely on that in planning their present business, and in looking backward over the past vicissitudes and prosperity of their business, and in looking forward to possible other vicissitudes or prosperity, they plan on the basis of those stated rates.

Now, I think you have said, in effect—you have admitted, I believe—that those rates could be seriously affected by devaluations or revaluations; is that not correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. So that if that happens then the figures that the American producer has been working on are in the ash can, are they not?

Mr. BROWN. Not necessarily.

Senator MILLIKIN. Well, tell us about that.

Mr. BROWN. That is inherent in any tariff rate.

Senator MILLIKIN. Well, call it inherent—I have asked you a very plain question, Mr. Brown. I am not asking you what is inherent in risks of business. I know something about that myself.

Mr. BROWN. The effect of the rate is different——

Senator MILLIKIN. I am just asking you if a man plans his business according to a rate, and a deveLuation of it guts or seriously impairs or changes that rate, does that not have a profound effect on his affairs?

Mr. BROWN. The rate would be materially affected; yes, sir.

Senator MILIKIN. Why, of course.

Now then, I want to get very clearly your statement that I thought you made awhile ago that if the State Department is pleased with the increased imports that result, if you are pleased with that, that you can rest in a status of being pleased with it, without taking steps to change the rate on which business must operate; is that correct?

Mr. BROWN. The question of what the exchange rates are is a matter for the International Monetary Fund.

There is always in international trade inherently a problem of exchange rates, and the question of their fluctuations, and those are normal conditions that everyone understands, and must take into account.

Senator KERR. I would like to correct the witness there. When you said that everyone understands, I wonder if he would say everyone is aware of?

Mr. BROWN. Thank you very much Senator; that is much more accurate, a much more accurate statement.

(There was discussion off the record.)

Senator MILLIKIN. I would like to have the reporter read the question that Mr. Brown is now answering or discussing.

(The reporter read the question as requested by Senator Millikin.)

Senator MILLIKIN. Would you mind directing your answer to that question?

Mr. BROWN. I wonder, would the chairman permit the reporter to read the beginning of my answer. I think I am satisfied with that, and I would go on.

Senator MILLIKIN. I think your voice is mellifluous and pleasing enough to me so that I am willing to have it all read.

(The answer referred to was read by the reporter.)

Senator MILLIKIN. You think that much of your answer is responsive?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. All right, give us the rest of your responsive answer.

Mr. BROWN. That situation is inherent in any tariff, whether it is established by an agreement of this kind or by a law. It is not the purpose of this agreement to deal with the problems of fluctuating exchange rates; and that is taken care of in a different forum to the extent that it is taken care of.

What we do do to deal with that problem is to provide a means where if for any reason, including exchange fluctuations, an injury occurs, that can be prevented. The purpose of this agreement is to expand and increase the trade between the parties to it, and if a devaluation assists in expanding that trade, then that is consistent with the purposes of the agreement.

Senator MILLIKIN. Now, a devaluation expands trade on one side and restricts it on the other; does it not?

Mr. BROWN. The reason—yes, sir; it does; and the reason it does that is——

Senator MILLIKIN. I know the reason why it does it.

Mr. BROWN. May I please put it in the record?

Senator MILLIKIN. Yes.

The CHAIRMAN. Yes; go ahead.

Senator MILLIKIN. Put the reason in.

Mr. BROWN. The reason is because the trade has been distorted the other way in the past, and the reason for the devaluation is to correct a distortion which occurred before.

Senator MILLIKIN. All right, assume that is correct. A devaluation increases the imports on one side and may decrease the exports on the other side.

Mr. BROWN. That is its purpose.

Senator MILLIKIN. That is correct. So when you get all through, what is your net so far as increasing world trade is concerned?

Mr. BROWN. Your net is very considerable because if your exchange rates are in a better equilibrium, then you can get rid of some of these restrictions and let the forces of competition in the market place operate instead of governmental restrictions.

Senator MILLIKIN. By bringing them into equilibrium, let us assume the pound was brought into equilibrium, you increase our imports and decrease our exports.

Mr. BROWN. Yes, sir; and our exports and imports were very greatly out of balance.

Senator MILLIKIN. So that as far as that particular devaluation is concerned, your solicitude for the exporter does not equal your solicitude for greater imports into this country.

Mr. BROWN. In that particular case the exporter was enjoying an advantage as a result of the overvaluation of the pound.

Senator MILLIKIN. Now, you are saying the pound was overvalued? You are taking that as your own conclusion.

Mr. BROWN. I am assuming that that was the reason for devaluation. As to the merits of the figures chosen, I have no opinion.

Senator MILLIKIN. Yes.

Now, you point out that there are losses, without, I assume, any kind of tariff agreements at all; that men must calculate the future, and no man is capable of estimating very far into the future the effect on him of the vast complex of all of the trade circumstances of the world. That was, I believe, the gist of one part of your exposition; that under the act of 1930 the same thing could happen.

Now, I invite your attention to the fact that reciprocal trade agreements were supposed to give relief from injuries from imports that do injure.

I invite your attention again to the fact that in order that men may plan, as best they can, under the strained circumstances that operate in this world, we have fixed rates. That is one of the purposes of making a fixed rate.

I ask you again, where we have that fixed rate, if it should result in—if a devaluation should result in—injury to our producers, you do not take steps to readjust the rates, but if the result is pleasing to you, by way of increasing imports, you are content with a devaluation, and do nothing to straighten the rate out; is that correct?

Mr. BROWN. If the devaluation resulted in injury, action could and would be taken.

Senator MILLIKIN. What action would you take?

Mr. BROWN. Under the escape clause of changing the tariff rate.

Senator MILLIKIN. And you have taken no escapes on that account?

Mr. BROWN. We have not been asked to, Senator.

Senator MILLIKIN. Well, you can work under your own initiative, can you not?

Mr. BROWN. Sir, if we think there is any injury. We have no evidence of it and, therefore, we have not acted.

Senator MILLIKIN. You have said, I believe, you do not believe there has been any injury, and had you believed there was injury, you could take action on your own account?

Mr. BROWN. That is my position.

Senator MILLIKIN. And you have not taken any action?

Mr. BROWN. Because I do not believe there has been any injury.

Senator MILLIKIN. Well, never mind the "because." There is no use of repetition. I am just trying to get at the end point of whether you have taken any action.

Mr. BROWN. No; the essence of this thing, if I may be permitted to make my position clear is, the reason we have not taken action is because we do not believe there has been injury.

Senator MILLIKIN. Right.

Mr. BROWN. And we have no duty or responsibility to take action in cases where there has been no injury, and I would like——

Senator MILLIKIN. And of your own initiative you can take action whether or not a complaint is made to you by anybody else?

Mr. BROWN. We could.

Senator MILLIKIN. But you have not.

Mr. BROWN. Because there has been no injury.

Senator MILLIKIN. All right. Let us double underline that as your view of it. I am just trying to get at what your power is.

You can, out of your own initiative, without any complaint from anybody, take steps to redress injury that occurs from these devaluations; is that not correct? Never mind the "because" now; just tell me whether that is correct?

Mr. BROWN. I have stated it many times; yes, sir.

Senator MILLIKIN. All right.

Now, the same will be true as to possible other devalutions which have occurred, and as to those which might occur in the future; is that not correct?

Mr. BROWN. In any case where an injury is caused, we could take action either on our own initiative or on complaint of some affected party.

Senator MILLIKIN. Let us move over to——

Senator KERR. May I ask a question before you move?

Senator MILLIKIN. Yes.

The CHAIRMAN. All right, Senator Kerr.

Senator KERR. Is it your feeling that in the absence of injury, positive action might create injury?

Mr. BROWN. Yes, sir; if there is no injury, and if we raised tariff rates, that defeats the purpose of this whole program, which is to expand the mutually satisfactory trade between the countries.

The CHAIRMAN. Do I understand, Mr. Brown, that you have answered that the producers in this country, exporters, have not complained against any of these devaluations actually made, to the State Department; is that correct?

Mr. BROWN. There has been some complaint about the devaluations, yes. But we have no power to change the other fellow's tariff rates. I was addressing myself to the effect on our rates.

The CHAIRMAN. Yes.

Mr. BROWN. Which I thought Senator Millikin was interrogating me about.

Senator MILLIKIN. But you do have the power of initiating action that might adjust the situation to a no-injury point on both sides, do you not, under GATT, if you please?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Yes.

Nothing of that kind has been done on any of these devaluations which have occurred so far?

Mr. BROWN. No, sir.

Senator MILLIKIN. Now, what is the purpose of paragraph 516 (b) of the Tariff Act of 1930?

Mr. Brown, maybe we can short-circuit this; maybe I can refresh your memory, that 516 and, particularly 56 (b), deal with the subject of classifications.

Mr. BROWN. I think I am familiar with it, Senator.

Senator MILLIKIN. And under the old system, gave legal redress for a misclassification. That was repealed, was it not?

Mr. BROWN. I am sorry, sir; this is a rather abrupt change of subject. It has changed my mind.

Senator KERR. Would you say it changed your trend of thought?

(There was discussion off the record.)

Mr. BROWN. I was looking for the text of the section; I do not think I have it, but I think what the amendment was, was that it prevented a producer from litigating the propriety of a decision about classification of an import; am I correct?

Senator MILLIKIN. The reciprocal trade agreements did that.

Mr. BROWN. Yes.

Senator MILLIKIN. I think that is correct.

Mr. BROWN. As I understand the purpose of that it was that it had proved by experience that there had been a great many applications under that section, and that they had resulted in tying up imports for——

Senator MILLIKIN. You mean a great many legal actions.

Mr. BROWN. A great many legal actions, yes, sir; and they resulted in tying up imports to a tremendous extent, and for a long time, although there were very few decisions ultimately changing the classification and that, therefore, it was repealed.

Senator MILLIKIN. What relief does an importer have at the present time against what he thinks is a misclassification?

Mr. BROWN. An importer has the right to go to court about it.

Senator MILLIKIN. Not under those items that are——

Mr. BROWN. Yes, sir. The importer does; yes, sir.

Senator MILLIKIN. I mean the producer.

Mr. BROWN. He has none.

Senator MILLIKIN. He has none. He has the right under those articles that are not under the reciprocal trade system, does he not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. What was the effect of the reciprocal trade agreements on section 336 of the act of 1930?

Mr. BROWN. It removed items in the trade agreements from the operation of section 336.

Senator MILLIKIN. That had to do with production studies.

Mr. BROWN. Yes, sir; I think cost of production studies.

Senator MILLIKIN. Yes.

The general theory has been, has it not, that under the state of the world, it is rather impractical to make universal cost studies.

Mr. BROWN. Yes, sir; I believe there has been a great deal of testimony as to the impracticability of that procedure.

Senator MILLIKIN. There is no limitation on the Tariff Commission at the present time from making such cost studies as it is fitted to make; is that correct?

Mr. BROWN. I am not sure I understand the question, Senator.

Senator MILLIKIN. Well, one of the objections to making these cost studies, as provided in section 336 of the act of 1930, was that it required a tremendous organization, scattered around all over the world, and it is now contended that the world is in such a state that it is more or less impracticable in many cases to get cost figures.

Now, I am asking the question whether the Tariff Commission is barred in any way from making cost studies to the extent that it is able to make them, or feels it is able to make them?

Mr. BROWN. I do not think there is any bar against the Tariff Commission's making the study, but I do understand that the consequent action under section 336 would not be available in case of articles which are in the trade agreements.

Senator MILLIKIN. What is the remedy of a producer in a commodity that is under the trade-agreements system against a misclassification?

Mr. BROWN. If the misclassification should result in any injury to him, he has his remedy under the escape clause.

Senator MILLIKIN. I am talking about a producer.

Mr. BROWN. That is what I was talking about also, sir.

Senator MILLIKIN. That is the only remedy?

Mr. BROWN. Yes, sir. He also has the opportunity to be heard before any negotiation, and to suggest that there be an effort to change the classification, in negotiations.

Senator MILLIKIN. There is no legal remedy, is there?

Mr. BROWN. No, sir.

Senator MILLIKIN. No.

Now, if the reciprocal trade agreements were amended so as to restore the judicial remedy, what would be the harm to our trade-agreements system or to particular trade agreements?

Mr. BROWN. I think you would get the situation where you get back into litigation, delaying litigation. The real question is whether or not the domestic producer has suffered any injury as the result of the trade agreements' operations, and he has a full opportunity to present that to the Tariff Commission, and to secure redress if he makes his case.

Senator MILLIKIN. The reason for my question is that there is much complaint that the existing so-called remedies are empty, and that is why I am talking about whether great harm would be done if the old legal remedy were restored.

Mr. BROWN. I think it would be very much preferable to make the existing remedies adequate.

Senator MILLIKIN. How would you suggest that be done in the case of a misclassification?

Mr. BROWN. The only way in which a classification would be affected by a trade agreement would be if the classification were bound in the agreement against change. That sometimes happens—not often; and in the escape-clause action if the Tariff Commission found a case, escape could be taken from that binding; and then, in any case it would be necessary for the Congress——

Senator MILLIKIN. Sir?

Mr. BROWN. In any case it would be necessary for the Congress to take action to change the classification.

Senator MILLIKIN. The Congress would have to pass laws to cover the point you have now made.

Mr. BROWN. That would be true in any case, Senator.

Senator MILLIKIN. Yes.

Mr. BROWN. If the courts ruled that a classification is of a particular kind, the only way that could be changed would be by an act of Congress describing a different classification.

Senator MILLIKIN. We have had complaints here that one commodity has been construed as common sand—what is the name of it?—nepheline syenite has been construed to be the same as common sand.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Thus carrying no duty. Just how should those people proceed to establish, if they can, that nepheline syenite is not common sand?

Mr. BROWN. What they are concerned about—would be concerned about, I should think—would be two things: first the classification, which was the court decision, and the other would be whether the effect of that classification has been to cause them any injury.

Now, the only way in which the trade agreements affect that situation is because in this particular case it happens that the classification of nepheline syenite as sand has been bound in the trade agreement.

Senator MILLIKIN. Yes.

Mr. BROWN. Now, there is a way of getting out of that binding if the case is shown, through the escape-clause action.

Senator MILLIKIN. How? What is that exact way?

Mr. BROWN. By making an application in the usual way to the Tariff Commission.

Senator MILLIKIN. Yes. The law specifically provides that we cannot tamper with the free list; and, since you have got it on the free list, how can they bring themselves within the jurisdiction of the Tariff Commission?

Mr. BROWN. What the Tariff Commission escape-clause action would do would be to relieve us of the international commitments to maintain the item on the free list. Then it would, of course, no matter what happens, require a law of Congress to bring the thing from the free list to a dutiable list.

Senator MILLIKIN. So that in that particular case, and in similar cases, you have to have laws to reach the matter.

Mr. BROWN. That is correct, sir, and that would be true whether or not there was a trade agreement.

Senator MILLIKIN. Is it your opinion that the determination of what proper classification should be is a legal question, a factual question, or a mixed question of fact and law? Obviously, it has been a legal question in the past.

Mr. BROWN. It is decided in the Customs Court, I understand.

Senator MILLIKIN. Yes; and I assume that in solving—having determined that it is a legal question in particular cases, the decision goes off on facts, I suppose?

Mr. BROWN. Yes.

Senator MILLIKIN. And so, in determining your question of classification, the Tariff Commission would be assuming the judicial functions formerly assumed by the Customs Court; would it not?

Mr. BROWN. No, sir; not at all. The Tariff Commission would simply be determining whether or not the binding of this product as a duty-free product has caused or threatened serious injury to the domestic industry. It would have nothing to do with the classification at all; and, if that fact should be shown, then that binding could be withdrawn; and then, as I said before, it would be necessary, in order to complete the relief of the industry, for an act of Congress to change the duty status from free to dutiable. But that would be true—that latter point would be true—regardless of whether there were or were not a trade agreement.

Senator MILLIKIN. Well, to summarize, in the case of duty-free items, to get relief from this classification, Congress will have to pass some kind of legislation; is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. How can one prove that an increase in imports of a free item results from the binding?

Mr. BROWN. I think that is discussed in the Tariff Commission's pamphlet; that is the question, as you say, of making your plans on the basis of the assumption that you are going to get free entry into the country, developing a market; and the binding of an item on the free list can be a very important factor in the volume of imports.

Senator MILLIKIN. I agree with you entirely on that. I agree with you entirely that a binding can be a very, very important concession to interested parties. That is what makes it such an important question here, as to what is the effect of the binding; and, if we do not like the binding, what do we do about it? And, where you have the free category, to start with, how can you prove the binding of it, the binding it as a free item, how can you prove injury?

Mr. BROWN. You can show that the binding has been one of the contributing factors to the volume of imports.

Senator MILLIKIN. If you were playing devil's advocate just how would you proceed to prove that?

Mr. BROWN. Sir, I would have to prepare my case, but I am sure I could do it.

Senator MILLIKIN. I think you could, too.

Mr. BROWN. Thank you, sir.

Senator MILLIKIN. That is a tribute to your agility.

Mr. BROWN. I am not sure I like that word, Senator.

Senator MILLIKIN. Well, should I say your suppleness?

Mr. BROWN. No, sir; I do not like that either, if you will permit me to say so.

Senator MILLIKIN. Let me say a tribute to your outstanding ability, which I gladly concede.

Mr. BROWN. Thank you, sir.

Senator MILLIKIN. I hope there are no hurt feelings.

Mr. BROWN. No, sir.

Senator MILLIKIN. I want to end this morning's session on a nice note.

The CHAIRMAN. Well, it is 12 o'clock. Can you return at 2 or 2:30?

(There was discussion off the record.)

The CHAIRMAN. The committee will recess until 10 o'clock tomorrow morning.

Senator MILLIKIN. May I ask, Mr. Chairman, whether Mr. Brown will be prepared tomorrow on the unfinished material which was mentioned this morning?

Mr. BROWN. I hope to be, sir. I am trying to be complete, so that it may take a little time.

Senator MILLIKIN. Thank you.

The CHAIRMAN. We will recess until tomorrow at 10 o'clock.

(Whereupon, at 12:05 p. m., the committee adjourned to reconvene on Thursday, March 22, 1951, at 10 a. m.)

TRADE AGREEMENTS EXTENSION ACT OF 1951

THURSDAY, MARCH 22, 1951

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to recess, at 10:30 a. m., in room 312, Senate Office Building, Senator Robert S. Kerr presiding.

Present: Senators Kerr (presiding), Frear, Millikin, and Martin.

Also present: Mrs. Elizabeth B. Springer, chief clerk, and Serge Benson, minority professional staff member.

Senator KERR. The committee will come to order.

STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE—Resumed

Mr. BROWN. Mr. Chairman, I have one or two points which are still open and one or two corrections I would like to make, if that would be agreeable.

Senator KERR. All right, go ahead.

Mr. BROWN. Mr. Chairman, I stated at an earlier stage in the testimony that the previous trade agreement with Czechoslovakia had been suspended. I was in error. It had been terminated.

That was done in 1939 when Czechoslovakia was occupied by the Germans, so that the only relationship we have with Czechoslovakia as far as trade agreements are concerned is in the GATT. I would like to have that correction made in the record if the committee would permit me.

Senator KERR. Is that in effect? Is GATT in effect?

Mr. BROWN. Yes.

Senator KERR. In part? The practical result of it is then that we are in the status of having a trade relationship with them with concesions both ways as provided in the GATT agreement?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. May I ask at that point, the agreement terminated in what year?

Mr. BROWN. In 1939.

Senator MILLIKIN. And what was the cause for terminating the agreement?

Mr. BROWN. Czechoslovakia was occupied by the Germans at that time, Senator.

Senator MILLIKIN. And was it formally terminated, the agreement, at that time?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Following up Senator Kerr's inquiry, do our trade relations with Czechoslovakia result from the most-favored-nation clause of the act of 1930 or do they result from GATT or both?

Mr. BROWN. Both.

Senator MILLIKIN. What are the provisions of GATT that take in a country that is not a GATT member?

Mr. BROWN. Czechoslovakia is a party to the GATT.

Senator MILLIKIN. Oh, it is?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. That is what confused me. Thank you.

Mr. BROWN. I also stated that we had no most-favored-nation agreements with Korea and Germany. I find I was in error in that statement.

We had a most-favored-nation commitment, exchange of commitments with Korea in an ECA bilateral agreement, and by special arrangement with Germany signed in September 1948. So that, as far as the countries acceding to the GATT at Torquay are concerned, we have previous most-favored-nation agreements with all of them.

Senator MILLIKIN. Does ECA have a right to make bilateral trade agreements?

Mr. BROWN. No, sir; but one of the provisions that has been included in the bilateral agreements which have been concluded with all recipients of ECA has been an obligation by them to give us most-favored-nation treatment and vice versa.

Senator MILLIKIN. That is a part of every ECA agreement?

Mr. BROWN. I believe so, sir.

Senator MILLIKIN. I wonder if that would not lend itself readily to some documentation or a sample of something of that kind?

Mr. BROWN. Oh, yes.

Senator MILLIKIN. If it is agreeable to the chairman, let us get one of them in so we can determine the nature of those agreements as far as this system is concerned.

Mr. BROWN. Yes, sir.

(This matter is referred to in subsequent testimony.)

Senator MILLIKIN. Now that goes both as to Korea and was to which other country?

Mr. BROWN. Western Germany.

Senator MILLIKIN. Is Western Germany also an ECA situation?

Mr. BROWN. No, sir; that was a separate agreement.

Senator MILLIKIN. What is that agreement, a reciprocal trade system agreement or is it some other type?

Mr. BROWN. No, sir; it is just a separate agreement between us and other countries and Western Germany.

Senator MILLIKIN. I am just wondering what the legal basis would be for a tariff arrangement that is not authorized by the Congress. Well, anyhow might we have that agreement in the record?

Mr. BROWN. Certainly.

Senator MILLIKIN. Are you prepared to comment on its content, origins, when and where it was signed?

Mr. BROWN. Yes sir, it was signed at Geneva on September 14, 1948.

Senator MILLIKIN. 1948?

Mr. BROWN. We had long been anxious to get most-favored-nation treatment for Western Germany from other countries, and we suggested such an agreement and it was finally concluded.

Senator MILLIKIN. Was it in the nature of a reciprocal-trade agreement?

Mr. BROWN. No, sir; it was just a most-favored-nation agreement.

Senator MILLIKIN. Why would not Western Germany, assuming a national status for Western Germany—why would she not have had the benefit of the 1930 act?

Mr. BROWN. She did from us, Senator, but the principal point was to secure an assurance of most-favored-nation treatment from a large number of other countries. You see Western Germany was then under military occupation and we were very anxious to see that she was getting equal treatment from other countries. That was the primary purpose of the agreement.

Senator MILLIKIN. Is Western Germany in full trade with the rest of the world?

Mr. BROWN. Yes, sir; I think so.

Senator MILLIKIN. I mean are there any trade impediments against her that you know of?

Mr. BROWN. I do not know of any. There may be some cases where she is not getting most-favored-nation treatment, but I do not know of them. I can check that for you.

As far as the principal countries with which she has commercial relations, she is getting the same treatment as anyone else.

Senator MILLIKIN. And what is the nature of the concessions which Germany makes to the other countries? Is there a statutory——

Mr. BROWN. There is nothing but an agreement to give most-favored-nation treatment both ways.

Senator MILLIKIN. I mean on what basic law does Germany base herself?

Mr. BROWN. I do not know, sir.

Senator MILLIKIN. Does she have her own tariff act or does she publish concessions or how does an American exporter determine what he pays to get into Germany?

Mr. BROWN. There is a German tariff.

Senator MILLIKIN. I see, and is that by the new government?

Mr. BROWN. That is by the new government.

Senator MILLIKIN. Would you mind putting in the record those two agreements with Korea and Germany?

Mr. BROWN. Yes, sir. I have the German agreement here. I will get the Korean agreement.

(The agreements above referred to follow:)

[Treaties and other international acts series 1908]

ECONOMIC COOPERATION WITH KOREA UNDER PUBLIC LAW 793, EIGHTIETH CONGRESS—AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND KOREA

(Signed at Seoul December 10, 1948; entered into force December 14, 1948)

PREAMBLE

The Government of the Republic of Korea having requested the Government of the United States of America for financial, material and technical assistance to avert economic crisis, promote national recovery, and insure domestic tranquility in the Republic of Korea, and

The Congress of the United States of America, in the Act approved June 28, 1948, (Public Law 793, 80th Congress), having authorized the President of the United States of America to furnish assistance to the people of the Republic of Korea, and

The Government of the United States of America and the Government of the Republic of Korea, believing that the furnishing of such assistance, on terms consonant with the independence and security of the Government of the Republic of Korea, will help to achieve the basic objectives of the Charter of the United Nations [1] and the United Nations General Assembly Resolutions on November 14, 1947, and will further strengthen the ties of friendship between the American and Korean peoples:

The undersigned, being duly authorized by their respective Governments for that purpose, have agreed as follows:

ARTICLE I

The Government of the United States of America will furnish the Government of the Republic of Korea such assistance as the President of the United States of America may authorize to be provided in accordance with the Act of Congress approved June 28, 1948, (Public Law 793, 80th Congress), and any Acts amendatory or supplementary thereto.

ARTICLE II

The Government of the Republic of Korea, in addition to making the most advantageous use of all available Korean resources, will make similarly effective use of the aid furnished to the Government of the Republic of Korea by the Government of the United States of America. In order further to strengthen and stabilize the economy of Korea as soon as possible, the Government of the Republic of Korea hereby undertakes to effectuate, among others the following measures:

(a) The balancing of the budget through the exercise of economy in governmental expenditures and the increase of governmental revenues by all practicable means.

(b) The maintenance of such controls over the issuance of currency and the use of private and governmental credit as are essential to the attainment of economic stability.

(c) The regulation of all Foreign Exchange transactions and the establishment of foreign trade controls, including an export and import licensing system, in order to insure that all foreign exchange resources make a maximum contribution to the welfare of the Korean people and recovery of the Korean economy.

(d) The establishment of a rate of exchange for the Korean currency as soon as economic conditions in Korea warrant such action.

(e) The exertion of all possible efforts to attain maximum production, collection and equitable distribution of locally-produced supplies, including the continuance of a program of collection and distribution of indigenously-produced cereal grains designed to

(1) Assure a minimum adequate staple ration at controlled prices for all non-self-suppliers, and where necessary to distribute to indigent and needy persons their fair share of available food suplies; and

(2) Obtain foreign exchange.

(f) The facilitation of private foreign investments in Korea together with the admittance of private foreign traders to transact business in Korea subject to such restrictions as are prescribed in the Constitution and the Laws of the Republic of Korea.

(g) The development of Korean export industries as rapidly as practicable.

(h) The management or disposition of government-owned productive facilities and properties in such a manner as will insure in the general welfare, the furtherance of maximum production.

ARTICLE III

1. The Government of the United States of America will appoint an official (hereinafter referred to as the United States Aid Representative) to discharge the responsibilities in Korea of the Government of the United States of America under the terms of this Agreement. Within the terms of this Agreement, the

[1] Treaty Series 993; 59 Stat. 1031.

United States Aid Representative and his staff will assist the Government of the Republic of Korea to make the most effective use of Korea's own resources and of aid furnished to the Government of the Republic of Korea by the Government of the United States of America, thereby to advance reconstruction and promote economic recovery in Korea as soon as possible.

2. The Government of the Republic of Korea agrees to extend diplomatic privileges and immunities to the United States Aid Representative and members of his mission.

3. The Government of the Republic of Korea will furnish all practicable assistance to the United States Aid Representative in order to enable him to discharge his responsibilities. The Government of the Republic of Korea will permit the free movement of employees of the Government of the United States of America engaged in carrying out the provisions of this Agreement to, in or from Korea; facilitate the employment of Korean nationals and residents; authorize the acquisition of facilities and services at reasonable prices; and in other ways assist the United States Aid Representative in the performance of his necessary duties. The Government of the Republic of Korea, in consultation with the United States Aid Representative, will effectuate such mutually acceptable arrangements as are necessary for the utilization of the petroleum storage and distribution facilities, and other facilities which are required to carry out the objectives of this Agreement.

4. The Government of the Republic of Korea will permit the United States Aid Representative and his staff to travel and to observe freely the utilization of assistance furnished to Korea by the Government of the United States of America, and will recognize his right to make such recommendations in respect thereto as he deems necessary for the effective discharge of his responsibilities under this Agreement. The Government of the Republic of Korea will maintain such acounts and records pertaining to the Aid Program, and will furnish the United States Aid Representative such reports and information as he may request.

5. In the event the United States Aid Representative ascertains the existence of abuses or violations of this Agreement, he will so inform the Government of the Republic of Korea. The Government of the Republic of Korea will promptly take such action as is necessary to correct such abuses or violations as are found to exist and inform the United States Aid Representative of action taken. If, in the opinion of the United States Aid Representative, appropriate corrective action is not taken by the Government of the Republic of Korea, he may take such steps as may be appropriate and proper and may recommend to the Government of the United States of America the termination of further assistance.

6. The Government of the Republic of Korea will establish an operating agency to develop and administer a program relating to the requirements, procurement, allocation, distribution, pricing, and accounting for supplies obtained under this Agreement. In the development and execution of such a program the operating agency will consult with the United States Aid Representative.

ARTICLE IV

1. The Government of the Republic of Korea will develop an over-all economic recovery plan designed to stabilize the Korean economy. An integral part of this economic recovery plan will be an import-export program to be agreed upon by the United States Aid Representative and the Government of the Republic of Korea. In consonance with this agreed-upon import-export program, the Government of the Republic of Korea will transmit to the United States Aid Representative fully justified import requirements, together with estimates of export availabilities, this information to be transmitted at such times and in such form as may be desired by the United States Aid Representative.

2. The Government of the Republic of Korea will insure that the periodic allocation of foreign exchange by categories of use will be made in consultation with and with the concurrence of the United States Aid Representative, and that expenditures of foreign exchange will be made in accordance with such allocations.

3. Where it is deemed necessary, the Government of the Republic of Korea will employ foreign consultants and technicians to assure the effective utilization of domestic resources and of equipment and materials brought into Korea under the import-export program. The Government of the Republic of Korea will in each case inform the United States Aid Representative of its intention to employ such individuals.

ARTICLE V

1. The Government of the Republic of Korea will take all appropriate steps regarding the distribution within Korea of goods provided by the Government of the United States of America pursuant to this Agreement, and of similar goods imported through the use of other funds or produced locally, to insure a fair and equitable distribution of these supplies at reasonable prices consistent with local economic conditions within the Republic of Korea, and to insure that all such goods are used for the purpose envisaged by this Agreement.

2. The Government of the United States of America shall from time to time notify the Government of the Republic of Korea of the indicated dollar cost of commodities, services, and technical information (including any cost of processing, storing, transporting, repairing or other services incident thereto) made available to Korea on a grant basis pursuant to this Agreement. The Government of the Republic of Korea, upon notification of such indicated dollar costs, shall thereupon deposit in a special account in its name at the Bank of Chosun a commensurate amount in won, computed at a won-dollar ratio which shall be agreed to at such time between the Government of the Republic of Korea and the United States Aid Representative. The Government of the Republic of Korea will use any balance in the special account, to pay the United States Aid Representative such funds, as he may require from time to time to meet the won expenses incurred in the discharge of his responsibilities within Korea, under this Agreement. The remaining sums in the special account may be used only for such other purposes as may be agreed upon from time to time between the Government of the Republic of Korea and the United States Aid Representative.

3. The Government of the Republic of Korea will not permit the re-export of goods provided by the Government of the United States of America pursuant to this Agreement or the export or re-export of commodities of the same character produced locally or otherwise procured, without the concurrence of the United States Aid Representative.

4. The Government of the Republic of Korea will insure that all commodities made available under this Agreement or the containers of such commodities shall, to the extent practicable, be marked, stamped, branded, or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of such commodities or containers will permit, in such a manner as to indicate to the people of Korea that such commodities have been furnished or made available by the United States of America.

ARTICLE VI

1. The Government of the Republic of Korea will undertake to use its best endeavors to cooperate with other countries in facilitating and stimulating an increasing interchange of goods and services with other countries and in reducing public and private barriers to trade with other countries.

2. Pending the entry into force of a Treaty of Amity and Commerce between the Government of the United States of America and the Government of the Republic of Korea, the Government of the United States of America shall accord, immediately and unconditionally, to the merchandise trade of the Republic of Korea treatment no less favorable than that accorded to the merchandise trade of any third country. Similarly, treatment no less favorably than that accorded to the merchandise trade of any third country shall be accorded, immediately and unconditionally, within the Republic of Korea, to the merchandise trade of the United States of America.

3. Departures from the application of the most-favored-nation treatment provided for in paragraph 2 of this Article shall be permitted to the extent that they are in accord with the exceptions recognized under the General Agreement on Tariffs and Trade, dated October 30, 1947,[1] concluded at the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as now or hereafter amended. The provisions of this paragraph shall not be construed to require compliance with the procedures specified in the General Agreement with regard to the application of such exception.

4. The provisions of paragraphs 2 and 3 of this Article shall apply, with respect to the United States of America, to all territory under its sovereignty or authority.

5. The Government of the Republic of Korea shall accord reciprocal most-favored-nation treatment to the merchandise trade of any area in the free

[1] Treaties and Other International Acts Series 1700.

territory of Trieste, Japan or Western Germany in the occupation or control of which the Government of the United States participates, for such time and to such extent as such area accords most-favored-nation treatment to the merchandise trade of the Republic of Korea.

6. The provisions of paragraphs 2 and 3 of this Article shall not derogate from such other obligations concerning the matters contained in this Agreement as may at any time be in effect between the Government of the United States of America and the Government of the Republic of Korea.

7. The Government of the Republic of Korea will take the measures which it deems appropriate to prevent, on the part of private or public commercial enterprises, business practices or business arrangements affecting international trade which have the effect of interfering with the purposes and policies of this Agreement.

8. The provisions of this Article and of Article VII shall apply during such period as the Government of the United States of America extends aid to the Government of the Republic of Korea under the terms of this Agreement, unless superseded by a Treaty of Amity and Commerce.

ARTICLE VII

The Government of the Republic of Korea shall, with respect to commercial, industrial, shipping and other business activities, accord to the Nationals of the United States of America treatment no less favorable than that now or hereafter accorded by the Republic of Korea to Nationals of any third country. As used in this paragraph, the word "Nationals" shall be understood to include natural and juridical persons.

ARTICLE VIII

The Government of the Republic of Korea will facilitate the transfer to the United States of America, for stockpiling or other purposes, of materials originating in the Republic of Korea which are required by the United States of America as a result of deficiencies or potential deficiencies in its own resources, upon such reasonable terms of sale, exchange, barter or otherwise, and in such quantities, and for such period of time, as may be agreed to between the Governments of the United States of America and the Republic of Korea after due regard for the reasonable requirements of the Republic of Korea for domestic use and commercial export of such materials. The Government of the Republic of Korea will take such specific measures within the intent of this Agreement as may be necessary to carry out the provisions of this paragraph, including the promotion of the increased production of such materials within the Republic of Korea, and the removal of any hindrances to the transfer of such materials to the United States of America. The Government of the Republic of Korea will, when so requested by the Government of the United States of America, enter into negotiations for detailed arrangements necessary to carry out the provisions of this paragarph.

ARTICLE IX

1. The Government of the Republic of Korea and the Government of the United States of America will cooperate in assuring the peoples of the United States of America and of Korea full information concerning the goods and technical assistance furnished to the Government of the Republic of Korea by the Government of the United States of America.

2. The Government of the Republic of Korea will permit representatives of the press and radio of the United States of America to travel and to observe freely and to report fully regarding the receipt and utilization of American aid.

3. The Government of the Republic of Korea will permit representatives of the Government of the United States of America, including such committees of the Congress as may be authorized by their respective houses to observe, advise, and report on the distribution among the people of commodities made available under this Agreement.

4. The Government of the Republic of Korea will cooperate with the United States Aid Representative in providing full and continuous publicity in Korea on the purpose, source, character, scope, amounts and progress of the economic and technical aid provided to the Government of the Republic of Korea by the Government of the United States of America under the provisions of this Aid Agreement.

ARTICLE X

1. Any or all assistance authorized to be provided pursuant to this Agreement will be terminated—

(a) If requested by the Government of the Republic of Korea.

(b) If the United Nations finds that action taken or assistance furnished by the United Nations makes the continuance of assistance by the Government of the United States of America pursuant to this Agreement unnecessary or undesirable.

(c) If the President of the United States of America determines that the Government of the Republic of Korea is not adhering to the terms of this Agreement; or whenever he finds, by reason of changed conditions that aid provided under this Agreement is no longer necessary or desirable; or whenever he finds that, because of changed conditions, aid under this Agreement is no longer consistent with the national interests of the United States of America.

ARTICLE XI

This Agreement shall become effective with the formal notification to the Government of the United States of America that the Korean National Assembly has consented to this Agreement.[3] It shall remain in force until three (3) months after the day on which either Government shall have given to the other notice of intention to terminate. This Agreement may be amended at any time by agreement between the two Governments.

ARTICLE XII

This Agreement shall be registered with the United Nations.

Done in duplicate, in the English and Korean[4] languages at Seoul, Korea, this 10th day of December 1948. The English and Korean texts shall have equal force, but in the case of divergence, the English text shall prevail.

For the Government of the United States of America:

JOHN J. MUCCIO

For the Government of the Republic of Korea:

LEE, BUMSUK
D. Y. KIM

[Treaties and Other International Acts Series 1886]

TRADE APPLICATION OF MOST-FAVORED-NATION TREATMENT TO AREAS OF WESTERN GERMANY UNDER OCCUPATION OR CONTROL—AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND OTHER GOVERNMENTS, WESTERN GERMANY

(Dated at Geneva September 14, 1948; entered into force, with respect to the United States, October 14, 1948)

Being desirous of facilitating to the fullest extent possible the reconstruction and recovery of the world from the destruction wrought by the recent war,

Believing that one of the most important steps towards such reconstruction and recovery on a sound basis is the restoration of international trade in accordance with the principles of the Havana Charter for an International Trade Organisation, [1] and

Considering that the application of reciprocal most-favoured-nation treatment to the trade of the areas of Western Germany under military occupation will contribute to the foregoing objectives,

The signatories agree to the following provisions:

ARTICLE I

For such time as any signatory of this Agreement participates in the occupation or control of any area in Western Germany, each of the signatories shall accord to the merchandise trade of such area the treatment provided for in the most-

---

[3] Entered into force Dec. 14, 1948, the date on which the Korean Minister of Foreign Affairs at Seoul notified the Chief of Civil Affairs Section of the United States Armed Forces in Korea that the National Assembly of the Republic of Korea ratified the Aid Agreement on Dec. 18, 1948.

[4] Not printed.

[1] Department of State publication 3117.

favoured-nation provisions of the General Agreement on Tariffs and Trade, dated 30 October 1947, [3] as now or hereafter amended.

ARTICLE II

The undertaking by a signatory provided for in Article I shall apply to the merchandise trade of any area referred to therein only for such time and to such extent as such area accords reciprocal most-favored-nation treatment to the merchandise trade of the territory of such signatory.

ARTICLE III

The undertaking in Article I is entered into in the light of the absence, on the date of this Agreement, of effective or significant tariff barriers to imports into the areas referred to therein. In the event that effective or significant tariff barriers are thereafter imposed in any such area, such undertaking shall be without prejudice to the application by any signatory of the principles relating to the reduction of tariffs on a mutually advantageous basis which are set forth in the Havana Charter for an International Trade Organization.

ARTICLE IV

The rights and obligations established by this Agreement are to be understood as entirely independent of any rights or obligations which are or may be established by the General Agreement on Tariffs and Trade or by the Havana Charter.

ARTICLE V

1. This Agreement shall be open for signature at Geneva on this day and shall remain open for signature thereafter at the Headquarters of the United Nations. The Agreement shall enter into force for each signatory upon the expiration of thirty days from the day on which such signatory signs the Agreement.

2. The undertakings in this Agreement shall remain in force until 1 January 1951, and, except for any signatory which at least six months before 1 January 1951 shall have deposited with the Secretary-General of the United Nations a notice in writing of intention to withdraw from this Agreement on that date, they shall remain in force thereafter subject to the right of any signatory to withdraw upon the expiration of six months from the date on which such a notice shall have been so deposited.

3. On the request of any three signatories to this Agreement, and in any event not later than 1 January 1951, the Government of the Kingdom of the Netherlands shall promptly convene a meeting of all signatories with a view to reviewing the operation of the Agreement and agreeing upon such revisions as may be appropriate.

ARTICLE VI

1. The interpretative notes to this Agreement which are contained in the Annex shall constitute an integral part thereof.

2. The original of this Agreement shall be deposited with the Secretary-General of the United Nations, who shall send a certified copy thereof to each member of the United Nations and to each country which participated in the United Nations Conference on Trade and Employment, and he is authorized to effect registration thereof pursuant to paragraph 1 of Article 102 of the Charter of the United Nations.[3]

3. The Secretary-General shall notify each signatory of the date of each signature of this Agreement subsequent to the date of the Agreement or of any notice of intention to withdraw pursuant to paragraph 2 of Article V.

IN WITNESS WHEREOF, the respective representatives, duly authorized, have signed this Agreement.

DONE at Geneva, in a single copy, in the English and French[4] languages, both texts authentic, this fourteenth day of September 1948.

ANNEX

INTERPRETATIVE NOTES

1. It is recognized that the absence of a uniform rate of exchange for the currency of the areas in Western Germany, referred to in Article I may have the

[3] Treaties and Other International Acts Series 1700.
[3] Treaty Series 993; 59 Stat. 1031.
[4] Not printed.

effect of indirectly subsidizing the exports of such areas to an extent which it would be difficult to calculate exactly. So long as such a condition exists, and if consultation with the appropriate authorities fails to result within a reasonable time in an agreed solution to the problem, it is understood that it would not be inconsistent with the undertaking in Article I for any signatory to levy a countervailing duty on imports of such goods, equivalent to the estimated amount of such subsidization, where such signatory determines that the subsidization is such as to cause or threaten material injury to an established domestic industry or is such as to prevent or materially retard the establishment of a domestic industry. In circumstances of special urgency, where delay would cause damage which it would be difficult to repair, action may be taken provisionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action.

2. The reference to the most-favoured-nation provisions of the General Agreement is understood to cover all the provisions of the General Agreement relevant to most-favoured-nation treatment as well as Article I.

3. The standard of the treatment to be accorded is set by all the most-favoured-nation provisions of the General Agreement (including the exceptions) and accordingly, under the reciprocity clause of Article II of this Agreement, the same standard would be used to measure the treatment received. If in the judgment of a signatory, that signatory was not actually receiving the most-favoured-nation treatment conforming to the standard, it would not consider itself obligated to grant treatment in accordance with the standard. Differences of view between signatories would naturally, however, be the subject of consultation.

4. The reference in Article III to "the principles relating to the reduction of tariffs on a mutually advantageous basis which are set forth in the Havana Charter" is designed to permit a signatory to withhold most-favoured-nation treatment in the event of the failure of an area under occupation—assuming that significant or effective tariffs were to be imposed by such area—to negotiate in accordance with the principles of Article 17 of the Havana Charter and in conformity with the established procedure for tariff negotiations.

For the Kingdom of Norway
THORFINN OSTEDAL.

Pelos Estados Unidos do Brazil
Ad referendum
Para ter efeito trinta dias após a notificação ao Secretario Geral das Nações Unidas
JOÃO CARLOS MUNIZ

For Pakistan
S. HASNIE

For Ceylon
Ad referendum
Signature to be effective thirty days after notification to Secretary-General of U.N.[5]
O. GOONETILLEKE

For India
Ad referendum
Signature to be effective thirty days after notification to Secretary-General of U.N.[6]
C. DESAI

For the United Kingdom
R. SHACKLE

For the United States of America
LEROY D. STINEBOWER

Pour la République française
ANDRÉ PHILIP

For the Kingdom of the Netherlands
E. DE VRIES

Pour la Belgique
M. SUETENS

---

[5] Instrument of acceptance was deposited with the Secretary-General of the United Nations on Dec. 9, 1948.
[6] Instrument of acceptance was deposited with the Secretary-General of the United Nations on Nov. 1, 1948.

Pour le Grand-Duché de Luxembourg
J. WOUTHROUN
For Canada
E. D. WILGRESS
For the Union of South Africa
Ad referendum
Signature to be effective thirty days after notification to Secretary-General of U.N.
L. C. STEYN
14 October 1948[1]
Certified true copy.
For the Secretary-General:
DR. I. KERNO
Assistant Secretary-General in charge of the Legal Department

Senator MILLIKIN. Tell us who made the German agreement, while we are at it. Who were the parties to it?

Mr. BROWN. The parties to the agreement are Norway, Brazil, Pakistan, Ceylon, India, United Kingdom, United States, France, Netherlands, Belgium, Luxemburg, Canada, and South Africa.

Senator MILLIKIN. Can you tell me whether as a legal matter there are countries with which we are at war that still have the right to trade with us under the general most-favored-nation provisions of the act of 1930 and/or of GATT?

Mr. BROWN. I think the situation is that it requires an affirmative act to remove the most-favored-nation treatment provided for by the tariff act.

Senator KERR. What you are saying is that the state of war itself is not sufficient?

Mr. BROWN. No, sir. It would have to be some affirmative action I think, but I am speaking without a brief on that, Senator.

I also stated that the only action which had been taken under article 19, the escape clause, was the action by the United States which we have discussed on the fur felt hats. I find that Brazil also took action under that article on some woolen products. Our interest in that case was secondary and the matter of compensation is now under negotiation with them at Torquay.

Senator MILLIKIN. Which was the primary supplier with Brazil?

Mr. BROWN. I do not know, sir.

You asked me if I could give any further details as to the legislation in other countries which might be inconsistent with provisions of the GATT. I am not able to do so.

I can simply say as I said before, that schedules of tariff concessions and the great bulk of the agreement is in operation for the parties to the agreement, but where there are conflicts in detail other than our own, I cannot tell you.

Senator MILLIKIN. As far as you know, contracting parties as such do not have a register of that kind of thing?

Mr. BROWN. There is no register, no, sir.

Senator MILLIKIN. I am not speaking particularly of a register as a technical thing. I am speaking of any kind of a centralized record.

Mr. BROWN. That is correct. There is no compilation of it.

Now, you also asked me if I would describe the powers of the contracting parties. I think they can be——

Senator KERR. Now, are you speaking of contracting parties in capital——

[1] Date on which the agreement was signed on behalf of the Union of South Africa.

Mr. BROWN. Yes, sir, as such. The powers can be described in a number of major groups. The first power which they have is the power to interpret the agreement and to decide whether an action of a party to the agreement or a proposal by a party to the agreement is in conformity with the agreement.

Illustration of that kind of a power is in article 24, which deals with customs unions or a plan and schedule for arriving at a free trade area. Contracting parties would have the power to look at that plan and see whether it met the tests of the GATT.

Senator MILLIKIN. Are you about to go into another point?

Mr. BROWN. No, sir. I was going to give another illustration of the same thing. The GATT provides for releases of certain obligations under article 18 where certain specific criteria have been met. The contracting parties, as such, would have the power to determine whether those criteria had been met. There are other illustrations of that kind, but that is a fundamental power of the contracting powers.

Senator MILLIKIN. Have you finished that section?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Off the point that we are on, have there been any new customs areas or free-trade areas set up since we last discussed this subject?

Mr. BROWN. There is a proposal for a customs union between Southern Rhodesia and South Africa. The progress of that has been reported to the contracting parties and taken note of by them. They have not taken any action with respect to it.

Senator MILLIKIN. What happened to the proposed agreement between France and Italy?

Mr. BROWN. May I check, Senator. I am advised that an agreement has been drafted and redrafted and further revised. It is still in that process. It has not been submitted to the legislature of either country. (Upon further investigation Mr. Brown determined that the proposed Franco-Italian Customs Union Convention had been submitted to the French Parliament, but had not yet been put to a vote.)

Senator MILLIKIN. So that at the present time we have the Benelux Union. Was there not a North African Union of some kind?

Mr. BROWN. No, sir. There have been many proposals for a customs union of the Scandinavian countries.

Senator MILLIKIN. As of the present time, as far as you are aware now, the Benelux is the only one that is operating?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. Now, the contracting parties you say have the powers that you have described. Are those final powers, or are they subject to check of any kind, or is the ultimate appeal the right of withdrawal?

Mr. BROWN. If the contracting parties should feel that a proposal or action of one of the contracting parties was not consistent with the agreement, then the contracting party would be free to go ahead and take the action, notwithstanding.

Senator KERR. Say that again.

Mr. BROWN. If the contracting parties should decide that——

Senator KERR. If the contracting parties, in capitals?

Mr. BROWN. As such, as a group, decided that some action of an individual party to the agreement was not consistent with the agree-

ment, that party would nevertheless be free to go ahead and take the action. Now, two things might happen. Other parties who are affected by that action of the first one——

Senator KERR. Of the individual nation?

Mr. BROWN. Of the individual nation, might be able to withdraw concessions or take some action to redress the balance of the bargain.

Senator MILLIKIN. That would be subject to the contracting parties also?

Mr. BROWN. That is another power, to which I was coming. The contracting parties could say that that compensatory action was too extreme in their judgment; and if it were, then it would only be proper for the party taking it to take as much compensatory action as the contracting parties thought was substantially equivalent.

If the party which had gone ahead and taken the action, notwithstanding a decision of the contracting parties, felt that the compensatory action taken was unsatisfactory and sufficiently important to justify, it would then have the option of withdrawing.

Senator KERR. Any nation may do that at any time?

Mr. BROWN. Yes, sir.

The next general group of powers is the power to facilitate solution of problems arising under the agreement. I could give a number of illustrations of that. The first is that frequently through the agreement——

Senator MILLIKIN. Mr. Brown, before you get off on that, regarding this power of withdrawal, when a nation pulls out of GATT, then it is cut off, in the first instance it is cut off from trade relations with the members of GATT, but by special arrangement it could resume some kind of trade relations with GATT members, could it not?

Mr. BROWN. If a member withdrew, it would lose, of course, the obligations of the other parties to it under the agreement. It would lose the obligation of maintenance of the tarff concessions and of the other obligations in the agreement.

Senator MILLIKIN. And the concessions themselves would fall?

Mr. BROWN. Yes, sir; they could be withdrawn.

Senator MILLIKIN. All the way along the line, on both sides?

Mr. BROWN. Yes, sir. But there would be, as you say, no reason why they could not make other arrangements if they wanted to, and if the other parties were agreeable.

Senator KERR. They would still have the benefit of the favored-nation clause in our tariff law; and if a similar provision is to be found in the law of any other country, then they would have the provision of that?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. But we might or might not have the benefit from the exporting side of the favored-nation treatment by withdrawn countries, is that not correct, depending on their local legislation?

Mr. BROWN. That is correct, sir, or whether we had some other agreement with them.

Throughout the agreement, in many cases, there is provision for consultation with the group in the case of a dispute or problem which arises under the operation of the agreement.

Senator MILLIKIN. I want to be doubly sure, Mr. Brown, that you will give us the instance that you cited that there is one case of a clear so-called ECA bilateral agreement.

Mr. BROWN. Yes, sir; I will see that that is in the record.
(The information referred to follows:)

ECONOMIC COOPERATION AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND UNITED KINGDOM

PREAMBLE

The Governments of the United States of America and of the United Kingdom of Great Britain and Northern Ireland:

Recognising that the restoration or maintenance in European countries of principles of individual liberty, free institutions, and genuine independence rests largely upon the establishment of sound economic conditions, stable international economic relationships, and the achievement by the countries of Europe of a healthy economy independent of extraordinary outside assistance;

Recognising that a strong and prosperous European economy is essential for the attainment of the purposes of the United Nations;

Considering that the achievement of such conditions calls for a European recovery plan of self-help and mutual co-operation, open to all nations which co-operate in such a plan, based upon a strong production effort, the expansion of foreign trade, the creation or maintenance of internal financial stability and the development of economic co-operation, including all possible steps to establish and maintain valid rates of exchange and to reduce trade barriers;

Considering that in furtherance of these principles the Government of the United Kingdom has joined with other like-minded nations in a Convention for European Economic Co-operation signed at Paris on 16th April, 1948, under which the signatories of that Convention agreed to undertake as their immediate task the elaboration and execution of a joint recovery programme, and that the Government of the United Kingdom is a member of the Organisation for European Economic Co-operation created pursuant to the provisions of that Convention;

Considering also that, in furtherance of these principles, the Government of the United States of America has enacted the Economic Co-operation Act of 1948, providing for the furnishing of assistance by the United States of America to nations participating in a joint programme for European recovery, in order to enable such nations through their own individual and concerted efforts to become independent of extraordinary outside economic assistance;

Taking note that the Government of the United Kingdom has already expressed its adherence to the purposes and policies of the Economic Co-operation Act of 1948;

Desiring to set forth the understandings which govern the furnishing of assistance by the Government of the United States of America under the Economic Co-operation Act of 1948, the receipt of such assistance by the United Kingdom, and the measures which the two Governments will take individually and together in furthering the recovery of the United Kingdom as an integral part of the joint programme for European recovery;

Have agreed as follows:—

ARTICLE I

1. The Government of the United States of America undertakes to assist the United Kingdom, by making available to the Government of the United Kingdom or to any person, agency or organisation designated by the latter Government such assistance as may be requested by it and approved by the Government of the United States of America. The Government of the United States of America will furnish this assistance under the provisions, and subject to all of the terms, conditions and termination provisions, of the Economic Co-operation Act of 1948, acts amendatory and supplementary thereto and appropriation acts thereunder, and will make available to the Government of the United Kingdom only such commodities, services and other assistance as are authorised to be made available by such acts.

2. The Government of the United Kingdom, acting individually and through the Organisation for European Economic Co-operation, consistently with the Convention for European Economic Co-operation signed at Paris on 16th April, 1948, will exert sustained efforts in common with other participating countries speedily to achieve through a joint recovery programme economic conditions in Europe essential to lasting peace and prosperity and to enable the countries of Europe participating in such a joint recovery programme to become independent

of extraordinary outside economic assistance within the period of this Agreement. The Government of the United Kingdom reaffirms its intention to take action to carry out the provisions of the General Obligations of the Convention for European Economic Co-operation, to continue to participate actively in the work of the Organisation for European Economic Co-operation, and to continue to adhere to the purposes and policies of the Economic Co-operation Act of 1948.

3. With respect to assistance furnished by the Government of the United States of America to the United Kingdom and procured from areas outside the United States of America, its territories and possessions, the Government of the United Kingdom will co-operate with the Government of the United States of America in ensuring that procurement will be effected at reasonable prices and on reasonable terms and so as to arrange that the dollars thereby made available to the country from which the assistance is procured are used in a manner consistent with any arrangements made by the Government of the United States of America with such country.

ARTICLE II

1. In order to achieve the maximum recovery through the employment of assistance received from the Government of the United States of America, the Government of the United Kingdom will use its best endeavors:

(*a*) To adopt or maintain the measures necessary to ensure efficient and practical use of all the resources available to it, including—

(i) Such measures as may be necessary to ensure that the commodities and services obtained with assistance furnished under this Agreement are used for purposes consistent with this Agreement and, as far as practicable with the general purposes outlined in the schedules furnished by the Government of the United Kingdom in support of the requirements of assistance to be furnished by the Government of the United States of America;

(ii) The observation and review of the use of such resources through an effective follow-up system approved by the Organisation for European Economic Co-operation; and

(iii) To the extent practicable, measures to locate, identify and put into appropriate use the furtherance of the joint programme for European recovery, assets, and earnings therefrom, which belong to nationals of the United Kingdom and which are situated within the United States of America, its territories or possessions; it being understood that nothing in this clause imposes any obligation on the Government of the United States of America to assist in carrying out such measures, or on the Government of the United Kingdom to dispose of such assets;

(*b*) To promote the development of industrial and agricultural production on a sound economic basis; to achieve such production targets as may be established through the Organisation for European Economic Co-operation; and when desired by the Government of the United States of America to communicate to that Government detailed proposals for specific projects contemplated by the Government of the United Kingdom to be undertaken in substantial part with assistance made available pursuant to this Agreement, including whenever practicable projects for increased production of coal, steel, transportation facilities and food;

(*c*) To stabilise its currency, establish or maintain a valid rate of exchange, balance its Governmental budget, create or maintain internal financial stability, and generally restore or maintain confidence in its monetary system; and

(*d*) To co-operate with other participating countries in facilitating and stimulating an increasing interchange of goods and services among the participating countries and with other countries and in reducing public and private barriers to trade among themselves and with other countries.

2. Taking into account Article 8 of the Convention for European Economic Co-operation, looking toward the full and effective use of manpower available in the participating countries, the Government of the United Kingdom will accord sympathetic consideration to proposals made in conjunction with the International Refugee Organisation directed to the largest practicable utilisation of manpower available in any of the participating countries in furtherance of the accomplishment of the purposes of this Agreement.

3. The Government of the United Kingdom will take the measures which it deems appropriate, and will co-operate with other participating countries, to

prevent, on the part of private or public commercial enterprises, business practices or business arrangements affecting international trade which restrain competition, limit access to markets or foster monopolistic control whenever such practices or arrangements have the effect of interfering with the achievement of the joint programme of European recovery.

ARTICLE III

1. The two Governments will upon the request of either of them consult respecting projects in the United Kingdom proposed by nationals of the United States of America and with regard to which the Government of the United States of America may appropriately make guarantees of currency transfer under Section 111 (*b*) (3) of the Economic Co-operation Act of 1948.

2. The Government of the United Kingdom agrees that if the Government of the United States of America makes payment in United States dollars to any person under such a guaranty, any pounds sterling, or credits in pounds sterling, assigned or transferred to the Government of the United States of America pursuant to that section shall be recognised as property of the Government of the United States of America.

ARTICLE IV

1. The provisions of this Article shall apply only with respect to assistance which may be furnished by the Government of the United States of America on a grant basis.

2. The Government of the United Kingdom will establish a special account in the Bank of England in the name of the Government of the United Kingdom (hereinafter called the Special Account) and will make deposits in pounds sterling to this account as follows:—

(*a*) The unencumbered balances of the deposits made by the Government of the United Kingdom pursuant to the Exchange of Notes between the two Governments dated 30th April, 1948.

(*b*) Amounts commensurate with the indicated dollar cost to the Government of the United States of America of commodities, services and technical information (including any cost of processing, storing, transporting, repairing or other services incident thereto) made available to the United Kingdom on a grant basis by any means authorised under the Economic Co-operation Act of 1948, less, however, the amount of the deposits made pursuant to the Exchange of Notes referred to in sub-paragraph (*a*). The Government of the United States of America shall from time to time notify the Government of the United Kingdom of the indicated dollar cost of any such commodities, services and technical information, and the Government of the United Kingdom will thereupon deposit in the Special Account a commensurate amount of pounds sterling computed at a rate of exchange which shall be the par value agreed at such time with the International Monetary Fund.

The Government of the United Kingdom may at any time make advance deposits in the Special Account which shall be credited against subsequent notifications pursuant to this paragraph.

3. The Government of the United States of America will from time to time notify the Government of the United Kingdom of its requirements for administrative expenditures in pounds sterling within the United Kingdom incident to operations under the Economic Co-operation Act of 1948, and the Government of the United Kingdom will thereupon make such sums available out of any balances in the Special Account in the manner requested by the Government of the United States of America in the notification.

4. Five per cent. of each deposit made pursuant to this Article in respect of assistance furnished under authority of the Foreign Aid Appropriation Act, 1949, shall be allocated to the use of the Government of the United States of America for its expenditures in the United Kingdom, and sums made available pursuant to paragraph 3 of this Article shall first be charged to the amounts allocated under this paragraph.

5. The Government of the United Kingdom will further make such sums of pounds sterling available out of any balances in the Special Account as may be required to cover costs (including port, storage, handling and similar charges) of transportation from any point of entry in the United Kingdom to the consignee's designated point of delivery in the United Kingdom of such relief supplies and packages as are referred to in Article VI.

6. The Government of the United Kingdom may draw upon any remaining balance in the Special Account for such purposes as may be agreed from time to time with the Government of the United States of America. In considering proposals put forward by the Government of the United Kingdom for drawings from the Special Account, the Government of the United States of America will take into account the need for promoting or maintaining internal monetary and financial stabilisation in the United Kingdom and for stimulating productive activity and international trade and the exploration for and development of new sources of wealth within the United Kingdom, including in particular:—

(*a*) Expenditures upon projects or programmes, including those which are part of a comprehensive programme for the development of the productive capacity of the United Kingdom and the other participating countries, and projects or programmes the external costs of which are being covered by assistance rendered by the Government of the United States of America under the Economic Co-operation Act of 1948 or otherwise, or by loans from the International Bank for Reconstruction and Development.

(*b*) Expenditures upon the exploration for and development of additional production of materials which may be required in the United States of America because of deficiencies or potential deficiencies in the resources of the United States of America; and

(*c*) Effective retirement of the national debt, especially debt held by the Central Bank or other banking institutions.

7. Any unencumbered balance, other than unexpended amounts allocated under paragraph 4 of this Article, remaining in the Special Account on 30th June, 1952, shall be disposed of within the United Kingdom for such purposes as may hereafter be agreed between the Governments of the United States of America and the United Kingdom, it being understood that the agreement of the United States of America shall be subject to approval by Act or joint resolution of the Congress of the United States of America.

ARTICLE V

1. The Government of the United Kingdom will facilitate the transfer to the United States of America, for stockpiling or other purposes, of materials originating in the United Kingdom which are required by the United States of America as a result of deficiencies or potential deficiencies in its own resources, upon such reasonable terms of sale, exchange, barter or otherwise, and in such quantities, and for such period of time, as may be agreed to between the Governments of the United States of America and the United Kingdom after due regard for the reasonable requirements of the United Kingdom for domestic use and commercial export of such materials. The Government of the United Kingdom will take such specific measures as may be necessary to carry out the provisions of this paragraph, including the promotion of the increased production of such materials within the United Kingdom, and the removal of any hindrances to the transfer of such materials to the United States of America. The Government of the United Kingdom will, when so requested by the Government of the United States of America, enter into negotiations for detailed arrangements necessary to carry out the provisions of this paragraph.

2. Recognising the principle of equity in respect to the drain upon the natural resources of the United States of America and of the participating countries, the Government of the United Kingdom will, when so requested by the Government of the United States of America, negotiate where applicable (*a*) a future schedule of minimum availabilities to the United States of America for future purchase and delivery of a fair share of materials originating in the United Kingdom which are required by the United States of America as a result of deficiencies or potential deficiencies in its own resources at world market prices so as to protect the access of United States industry to an equitable share of such materials either in percentages of production or in absolute quantities from the United Kingdom, (*b*) arrangements providing suitable protection for the right of access for any citizen of the United State of America or any corporation, partnership, or other association created under the laws of the United States of America, or of any State or Territory thereof and substantially beneficially owned by citizens of the United States of America, in the development of such materials on terms of treatment equivalent to those afforded to the nationals of the United Kingdom, and, (*c*) an agreed schedule of increased production of such materials where practicable in the United Kingdom and for delivery of an agreed per-

centage of such increased production to be transferred to the United States of America on a long-term basis in consideration of assistance furnished by the United States of America under this Agreement.

3. The Government of the United Kingdom, when so requested by the Government of the United States of America, will co-operate, wherever appropriate, to further the objectives of paragraphs 1 and 2 of this Article in respect of materials originating outside the United Kingdom.

ARTICLE VI

1. The Government of the United Kingdom will co-operate with the Government of the United States of America in facilitating and encouraging the promotion and development of travel by citizens of the United States of America to and within participating countries.

2. The Government of the United Kingdom will, when so desired by the Government of the United States of America, enter into negotiations for agreements (including the provision of duty-free treatment under appropriate safeguards) to facilitate the entry into the United Kingdom of supplies of relief goods donated to or purchased by United States voluntary non-profit relief agencies and of relief packages originating in the United States of America and consigned to individuals residing in the United Kingdom.

ARTICLE VII

1. The two Governments will, upon the request of either of them, consult regarding any matter relating to the application of this Agreement or to operations or arrangements carried out pursuant to this Agreement.

2. The Government of the United Kingdom will communicate to the Government of the United States of America in a form and at intervals to be indicated by the latter after consultation with the Government of the United Kingdom:

(*a*) Detailed information of projects, programmes and measures proposed or adopted by the Government of the United Kingdom to carry out the provisions of this Agreement and of the General Obligations of the Convention for European Economic Co-operation;

(*b*) Full statements of operations under this Agreement, including a statement of the use of funds, commodities and services received thereunder, such statements to be made in each calendar quarter;

(*c*) Information regarding its economy and any other relevant information, necessary to supplement that obtained by the Government of the United States of America from the Organisation for European Economic Co-operation, which the Government of the United States of America may need to determine the nature and scope of operations under the Economic Co-operation Act of 1948, and to evaluate the effectiveness of assistance furnished or contemplated under this Agreement and generally the progress of the joint recovery programme.

3. The Government of the United Kingdom will assist the Government of the United States of America to obtain the information, relating to the materials originating in the United Kingdom referred to in Article V, which is necessary to the formulation and execution of the arrangements provided for in that Article.

ARTICLE VIII

1. The Governments of the United States of America and the United Kingdom recognise that it is in their mutual interest that full publicity be given to the objectives and progress of the joint programme for European recovery and of the actions taken in furtherance of that programme, and that wide dissemination of information on the progress of the programme is desirable in order to develop the sense of common effort and mutual aid which are essential to the accomplishment of the objectives of the programme.

2. The Government of the United States of America will encourage the dissemination of such information and will make it available to the media of public information.

3. The Government of the United Kingdom will encourage the dissemination of such information both directly and in co-operation with the Organisation for European Economic Co-operation. It will make such information available to the media of public information and take all practicable steps to ensure that appropriate facilities are provided for such dissemination. It will further provide other participating countries and the Organisatizon for European Economic

Co-operation with full information on the progress of the programme for economic recovery.

4. The Government of the United Kingdom will make public in the United Kingdom in each calendar quarter, full statements of operations under this Agreement, including information as to the use of funds, commodities and services received.

ARTICLE IX

1. The Government of the United Kingdom agrees to receive a Special Mission for Economic Co-operation which will discharge the responsibilities of the Government of the United States of America in the United Kingdom under this Agreement.

2. The Government of the United Kingdom will, upon appropriate notification from the Amabassodor of the United States of America in the United Kingdom, consider the Special Mission and its personnel, and the United States Special Representative in Europe, as part of the Embassy of the United States of America in the United Kingdom for the purpose of enjoying the privileges and immunities accorded to that Embassy and its personnel of comparable rank. The Government of the United Kingdom will further accord appropriate courtesies to the members and staff of the Joint Committee on Foreign Economic Co-operation of the Congress of the United States of America, and grant them the facilities and assistance necessary to the effective performance of their responsibilities.

3. The Government of the United Kingdom, directly and through its representatives on the Organisation for European Economic Co-operation, will extend full co-operation to the Special Mission, to the United States Special Representative in Europe and his staff, and to the members and staff of the Joint Committee. Such co-operation shall include the provision of all information and facilities necessary to the observation and review of the carrying out of this Agreement, including the use of assistance furnished under it.

ARTICLE X

1. The Governments of the United States of America and the United Kingdom agree to submit to the decision of the International Court of Justice any claim espoused by either Government on behalf of one of its nationals against the other Government for compensation for damage arising as a consequence of governmental measures (other than measures concerning enemy property or interests) taken after 3rd April, 1948, by the other Government and affecting the property or interest of such national, including contracts with or concessions granted by duly authorised authorities of such other Government. It is understood that the undertaking of each Government in respect of claims espoused by the other Government pursuant to this paragraph is made in the case of each Government under the authority of, and is limited by, the terms and conditions of its declaration accepting the compulsory jurisdiction of the International Court of Justice under Article 36 of the Statute of the Court, and shall remain in force as to each Government on a basis of reciprocity until 14th August, 1951, and thereafter for such period as the declarations of such acceptance by both Governments are in effect, but not later than the date of termination of this Agreement The provisions of this paragraph shall be in all respects without prejudice to other rights of access, if any, of either Government to the International Court of Justice or to the espousal and presentation of claims based upon alleged violations by either Government of rights and duties arising under treaties, agreements or principles of international law.

2. The Governments of the United States of America and the United Kingdom further agree that such claims may be referred, in lieu of the Court, to any arbitral tribunal mutually agreed upon.

3. It is further understood that neither Government will espouse a claim pursuant to this Article until its national has exhausted the remedies available to him in the administrative and judicial tribunals of the country in which the claim arose.

ARTICLE XI

As used in this agreement:—

(a) "The United Kingdom" means the United Kingdom of Great Britain and Northern Ireland and any territory to which this Agreement shall have been extended under the provisions of Article XII.

(b) The term "participating country" means (i) any country which signed the Report of the Committee of European Co-operation at Paris on 22nd September, 1947, and any territories for which it has international responsibility and to which the Economic Co-operation Agreement concluded between that country and the Government of the United States of America has been applied, and (ii) any other country (including any of the zones of occupation of Germany, and areas under international administration or control, and the Free Territory of Trieste or either of its zones) wholly or partly in Europe, together with dependent areas under its administration; provided that, and for so long as, such country is a party to the Convention for European Economic Co-operation and adheres to a point programme for European recovery designed to accomplish the purposes of this Agreement.

(c) The expression "nationals of the United Kingdom" shall mean British subjects belonging to, and companies and associations incorporated under the laws of, the United Kingdom or any territory to which this Agreement shall have been extended under Article XII.

ARTICLE XII

This Agreement shall, on the part of the Government of the United Kingdom, extend to the United Kingdom of Great Britain and Northern Ireland, to the territories specified in the schedule attached hereto, and to any other territories (being territories for whose international relations the Government of the United Kingdom is responsible) from the date on which the Government of the United Kingdom notifies the Government of the United States of America of the extension of the Agreement to them. Nothing in the Agreement shall be construed as imposing any obligation contrary to the terms of a Trusteeship Agreement in force in relation to any territory.

Schedule

Aden.
Bahamas.
Cyprus.
Falkland Islands.
Fiji and Western Pacific High Commission territories excluding Tonga and New Hebrides).
Gambia.
Gibraltar.
Gold Coast.
Hong Kong.
Kenya.
Malta.
Mauritius.
Nigeria.
Nyasaland.
St. Helena and Dependencies.
Seychelles.
Sierra Leone.
Singapore.
Tanganyika.
Uganda.
Windward Islands.
Zanzibar.

ARTICLE XIII

1. This Agreement shall become effective on this day's date. Subject to the provisions of paragraphs 2 and 3 of this Article, it shall remain in force until 30th June, 1953, and, unless at least six months before 30th June, 1953, either Government shall have given notice in writing to the other of intention to terminate the Agreement on that date, it shall remain in force thereafter until the expiration of six months from the date on which such notice shall have been given.

2. If, during the life of this Agreement, either Government should consider there has been a fundamental change in the basic assumptions underlying the Agreement, it shall so notify the other Government in writing and the two Governments will thereupon consult with a view to agreeing upon the amendment, modification or termination of the Agreement. If, after three months from such notification, the two Governments have not agreed upon the action to be taken in the circumstances, either Government may give notice in writing to the other of intention to terminate the Agreement. Subject to the provisions of paragraph 3 of this Article, the Agreement shall then terminate either—

(a) Six months after the date of such notice of intention to terminate, or

(b) After such shorter period as may be agreed to be sufficient to ensure that the obligations of the Government of the United Kingdom are performed in respect of any assistance which may continue to be furnished by the Government of the United States of America after the date of such notice;

provided, however, that Article V and paragraph 3 of Article VII shall remain in effect until two years after the date of such notice of intention to terminate, but not later than 30th June, 1953.

3. Subsidiary agreements and arrangements negotiated pursuant to this Agreement may remain in force beyond the date of termination of the Agreement and the period of effectiveness of such subsidiary agreements and arrangements shall be governed by their own terms. Article IV shall remain in effect until all the sums in pounds sterling required to be deposited in accordance with its terms have been disposed of as provided in that Article. Paragraph 2 of Article III shall remain in effect for so long as the guarantee payments referred to in that Article may be made by the Government of the United States of America.

4. This Agreement may be amended at any time by agreement between the two Governments.

5. The Annex to this Agreement forms an integral part thereof.

6. This Agreement shall be registered with the Secretary-General of the United Nations.

IN WITNESS whereof the respective representatives, duly authorised for the purpose, have signed the present Agreement.

Done in London, in duplicate, this 6th day of July, 1948.

LEWIS W. DOUGLAS
ERNEST BEVIN

ANNEX

INTERPRETATIVE NOTES

It is understood that the requirements of paragraph 1 (*a*) of Article II relating to the adoption of measures for the efficient use of resources, would include with respect to commodities furnished under the Agreement, effective measures for safeguarding such commodities and for preventing their diversion to illegal or irregular markets or channels of trade.

2. It is understood that the obligation under paragraph 1 (*c*) of Article II to balance the budget would not preclude deficits over a short period but would mean a budgetary policy involving the balancing of the budget in the long run.

3. It is understood that the business practices and business arrangements referred to in paragraph 3 of Article II mean—

(*a*) Fixing prices, terms or conditions to be observed in dealing with others in the purchase, sale or lease of any product;

(*b*) Excluding enterprises from, or allocating or dividing, any territorial market or field of business activity, or allocating customers, or fixing sales quotas or purchase quotas;

(*c*) Discriminating against particular enterprises;

(*d*) Limiting production or fixing production quotas;

(*e*) Preventing by agreement the development or application of technology or invention whether patented or unpatented;

(*f*) Extending the use of rights under patents, trade marks or copyrights granted by either country to matters which, according to its laws and regulations, are not within the scope of such grants, or to products or conditions of production, use or sale which are likewise not the subjects of such grants; and

(*g*) Such other practices as the two Governments may agree to include.

4. It is understood that the Government of the United Kingdom is obligated to take action in particular instances in accordance with paragraph 3 of Article II only after appropriate investigation or examination.

5. It is understood that the phrase in Article V "after due regard for the reasonable requirements of the United Kingdom for domestic use" would include the maintenance of reasonable stocks of the materials concerned and that the phrase "commercial export" might include barter transactions. It is also understood that arrangements negotiated under Article V might appropriately include provision for consultation, in accordance with the principles of Article 32 of the Havana Charter for an International Trade Organisation, in the event that stockpiles are liquidated.

6. It is uderstood that it should not be assumed from paragraph 2 of Article VI that the existing facilities extended by the United Kingdom to relief goods and packages are inadequate.

7. It is understood that the Government of the United Kingdom will not be requested, under paragraph 2 (*a*) of Article VII, to furnish detailed information about minor projects or confidential commercial or technical information the disclosure of which would injure legitimate commercial interests.

8. It is understood that the Government of the United States of America in making the notifications referred to in paragraph 2 of Article IX would bear in mind the desirability of restricting, so far as practicable, the number of officials for whom full diplomatic privileges would be requested. It is also understood that the detailed application of Article IX would, when necessary, be the subject of inter-Governmental discussion.

9. It is understood that any agreements which might be arrived at pursuant to paragraph 2 of Article X would be subject to ratification by the Senate of the United States of America.

Mr. BROWN. For example, there is a provision in article 12, dealing with the use of quotas for balance of payments reasons, for consultation with the group. We had such a consultation at the fifth session last December in Torquay where, as I reported earlier, a number of the important countries expressed the view that some of the commonwealth countries ought to start to relax their restrictions. That is not mandatory, but it is an important thing when such a view is expressed.

There is another way in which the contracting parties can have the power to help work out the solution of problems, and that is by insuring that all interested parties have an opportunity to participate.

If a dispute arises, for example, between two parties in which another one is substantially interested, the contracting parties as a group have the power to see that that substantially interested party has a right to participate.

Senator MILLIKIN. Those who have a substantial interest——

Mr. BROWN. That is correct.

Senator MILLIKIN (continuing). Are the more positive powers so far as use of quantitative restrictions is concerned?

Mr. BROWN. Yes, sir; I was just coming to that one. They have also the power to review the use of quantitative restrictions. In fact, in one case there is a specific requirement that they must make a review of the quantitative restrictions imposed by their members, and in certain cases they have the power to direct their removal.

I have already referred, in answer to your question, to the power to limit compensatory action or to allow it. They have the general power to grant a waiver of obligations under the agreement by a two-thirds vote. They have powers to establish all the procedures which are necessary for the operation of the agreement.

For example, they have the power to say, if there is a dispute, that the parties must get together by a certain time. If application is made for some kind of a decision, that a reply should be given within a certain period so that the thing will not drag on forever, and they have the power to request information which would be useful to them, for example, in connection with this review of quantitative restrictions.

They are now asking for information about that use by the parties to the agreement. That is on balance of payments restrictions. Finally they have the power to determine the terms of accession of new parties, as I described either yesterday or the day before, and if there is a major amendment to the agreement which a party declines to accept, they may then decide whether that party may remain a party to the agreement or should be asked to withdraw. I think that is an accurate and complete summary description of the nature of the powers.

Senator MILLIKIN. Mr. Chairman, I have said to the witness—I have stated informally and unofficially and without any real power to

do so—we probably will go over until the first Tuesday after the first Monday when we reconvene; in other words, on April the 3d.

Senator KERR. Yes.

Senator MILLIKIN. I wonder if between now and then we might ask the State Department to prepare and have ready for us an article-by-article description of the exact power of the contracting parties.

Senator KERR. As set forth in the GATT?

Senator MILLIKIN. As set forth in the GATT.

Senator KERR. Can you prepare that, Mr. Brown, or can that be prepared for the committee?

Mr. BROWN. Yes, sir; it can be done.

Senator KERR. We will receive it on the 3d of April.

(The following information was subsequently supplied:)

POWERS OF THE CONTRACTING PARTIES TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The powers of the contracting parties to the General Agreement on Tariffs and Trade are set forth in the provisions of the agreement. These powers may be summarized as follows:

(1) To interpret the agreement and determine the consistency of actions or proposals of a party to the agreement;

(2) To facilitate the solution of problems arising under the agreement (a) by consultation and (b) by insuring that all interested parties have a chance to participate;

(3) To allow or limit compensatory action;

(4) To grant waivers of agreement obligations by a two-thirds vote;

(5) To determine the terms of accession of new parties and to expel parties which refuse to accept major amendments; and

(6) To establish procedures for the operation of the agreement.

Following is an article-by-article listing of the powers of the contracting parties acting jointly (contracting parties being designated as contracting parties when taking joint action):

Article	Paragraph	Description
I	3 (text not yet in force).	If contracting parties approve under provisions of art. XXV-5 (a), preferences may be maintained or instituted between contracting parties formerly a part of the Ottoman Empire.
II	6 (a)	If contracting parties concur, adjustments may be made in specific duties of products in the schedule of a contracting party which has reduced the par value of its currency.
VI	6	Contracting parties may waive requirements of art. VI-6 to permit a contracting party to impose an antidumping or countervailing duty on the importation of any products for purpose of offsetting dumping or subsidization injuring another contracting party exporting the product concerned to the importing country.
VII	1	Contracting parties may request reports on steps taken to give effect to principles of valuation set forth in art. VII.
	4 (c)	Where multiple rates of exchange are maintained consistently with the articles of agreement of the International Monetary Fund, the contracting parties, in agreement with the International Monetary Fund, shall formulate rules relating to the selection of rates used in converting foreign currencies for valuation purposes.
X	3 (c)	Contracting parties may request information to determine whether procedures of a contracting party conform to requirements of provision dealing with review of administrative action relating to customs matters.
XII	4 (b)	Contracting parties may require a contracting party applying balance-of-payments restrictions to consult with them. Contracting parties shall review by Jan. 1, 1951, restrictions imposed for balance-of-payments reasons.
	4 (c)	With respect to restrictions proposed by a contracting party for balance-of-payments reasons, the contracting parties may approve in advance the maintenance, intensification, or institution of such restrictions insofar as their general extent, degree of intensity and duration are concerned if they consider the measures conform to the requirements of the agreement.
	4 (d)	Where a contracting party is adversely affected by balance-of-payments restrictions imposed inconsistently with the agreement by another contracting party, the contracting parties shall submit their views on the problem with a view to resolving the difficulty. Contracting parties may recommend withdrawal or modification of the restrictions. If the restrictions are not withdrawn or modified in accordance with the recommendations of the contracting parties, the latter may release a contracting party from specified obligations toward the contracting party applying the restrictions.

Article	Paragraph	Description
XII—Con	5	Contracting parties shall require consultations when there is a general disequilibrium restricting international trade.
XIII	4	Contracting parties may require consultation with contracting parties imposing quotas to determine representative base period.
XIV	1 (g) and (h) and annex J 2 and 3.	Contracting parties may request information on action taken under the annex, may require modification or removal of restrictions applied inconsistently with the exceptions provided in paragraph 1 of the annex, and may, with respect to any action taken under the annex after March 1, 1952, prescribe limitations or require termination of such action.
XIV	1 (h)	Contracting parties may require termination of discriminatory restrictions imposed for balance-of-payments reasons under paragraph 1 (c) of art. XIV.
	2	Contracting parties may permit a contracting party in balance-of-payments difficulties to apply a temporary discriminatory restriction in respect of a small part of its external trade where the benefits substantially outweigh the injury to the trade of others.
XV	2	Contracting parties shall consult with the Monetary Fund in cases where the contracting parties are called upon to consider exchange matters.
	6	Contracting parties are empowered to enter into special exchange agreements with contracting parties which are not members of the International Monetary Fund.
	8	Contracting parties may require information within the scope of sec. 5 of art. VIII of the articles of agreement of the International Monetary Fund
XVI		Contracting parties may require consultation of a contracting party which is maintaining a subsidy affecting its exports or imports which seriously prejudices the interests of another contracting party.
XVIII	3 (b)	Contracting parties shall determine the contracting parties materially affected by a measure proposed under this provision, shall sponsor negotiations, and prescribe a time schedule for them. Contracting parties may assist in the negotiations. Contracting parties may release a contracting party from obligations referred to under the paragraph within limitation agreed upon in the negotiations.
	4 (b)	Contracting parties shall determine whether any measure referred to in the provision shall be continued, discontinued, or modified.
	4 (c)	Contracting parties may disapprove compensatory suspension of concessions.
	5	Same as par. 3 (b).
	7 (a)	Contracting parties shall grant a release for a specified period if it is established that the specified conditions are met.
	8 (a)	Contracting parties may determine whether all contracting parties materially affected by a measure proposed under this provision are consulted and their interests taken into account. Contracting parties may grant a release subject to such limitations as they may impose.
	8 (b)	Contracting parties may determine contracting parties materially affected by a measure proposed and set time limits for notification of objections to the proposed measure. Contracting parties shall grant a release if there is no objection. If there is objection, they shall examine the measure and may grant a release subject to such limitations as they may impose.
	12	Contracting parties shall examine and give a decision with respect to the maintenance by a country becoming a contracting party of existing nondiscriminatory development measures affecting imports.
XIX	3 (a)	Contracting parties may disapprove suspension of obligations or concessions which would constitute more than substantially equivalent compensation for action taken by another contracting party under the escape clause.
XX	II	Contracting parties may extend the date until which measures imposed under Part II of art. IX may be applied.
XXIII	2	Contracting parties shall investigate, make recommendations, or give a ruling with respect to representations of nullification or impairment. Contracting parties may consult. Contracting parties may authorize suspension of obligations or concessions to compensate for action nullifying or impairing benefits of the agreement.
XXIV	7 (a)	Contracting parties may make reports and recommendations to contracting parties proposing to form customs unions or free trade areas.
	7 (b)	Contracting parties shall make recommendations if they find the proposed agreement is not likely to result in the formation of a customs union or free-trade area within the period contemplated by the parties to the agreement or that such period is not a reasonable one. The agreement cannot be put into force until modified in accordance with the recommendations.
	7 (c)	Contracting parties may require consultation concerning major changes in the schedule for the formation of a customs union or free trade area.
	10	Contracting parties may, by a two-thirds majority, approve proposals to form a customs union or free trade area which do not fully conform to standards of the article.
XXV	5 (a)	Contracting parties, where the agreement does not specify otherwise, may waive an agreement obligation by a two-thirds majority vote which shall comprise more than half the contracting parties. By such a two-thirds vote contracting parties may specify exceptional cases to which other voting requirements for a waiver of obligations shall apply. They may prescribe such criteria as may be necessary for the application of this subparagraph.
	5 (b)	Contracting parties may authorize a contracting party to withhold concessions from another contracting party which has never concluded and which fails without sufficient justification to carry out tariff negotiations with it.
XXVIII	1	Contracting parties may determine which contracting parties have a substantial interest in a particular tariff concession and must be consulted when consideration is being given to withdrawal of the concession under this article.

Article	Paragraph	Description
XXX	2	Contracting parties may determine period within which instruments of acceptance of an amendment may be deposited. Contracting parties may decide that a contracting party not accepting a major amendment may withdraw or they may expel it.
XXXIII		Contracting parties may determine terms for accession.
XXXV	2	Contracting parties may review the operation of the article, pertaining to the nonapplication of the agreement or the tariff concessions between certain contracting parties and may make recommendations.

Mr. BROWN. I believe that completes the points that I have in reply to questions that were asked me at earlier sessions. I hope to have the figure you requested, Senator Kerr, by late this afternoon for the committee.

(The following was subsequently supplied for the record:)

Economic data relating to total United States exports and foreign aid payments under the European recovery program for the period Apr. 1, 1948, to Dec. 31, 1950

[Value in millions of dollars]

Total United States exports (including reexports)		$81,623
Foreign-aid payments under the ERP to European countries:		
Total payments for supplies procured within the United States		$5,461
For food and agricultural supplies	$3,205	
Percent of total	58.7	
For industrial supplies	$2,250	
Percent of total	41.3	
Total payments for supplies procured outside the United States		[1] 2,693
Total foreign-aid payments		[2] 8,154

[1] Includes supplies procured principally in Canada (in millions of dollars), 1,187, in Latin America, 680, and in participating countries, 444.
[2] Does not include ocean transportation which amounted to $909,000,000.

NOTE.—Export figures are taken from customs declarations. ECA payments are based on Treasury disbursements. There is a significant volume of supplies that has been lifted but is not yet reflected in Treasury disbursements.

In addition to the air granted under the European recovery program during the above period, there were some payments for foreign and interim aid which totaled 137 (million of dollars) and payments under the Greek-Turkish program not separately reported as to the amounts used for civilian and military supplies.

Senator MILLIKIN. May I ask, when did the State Department decide not to go further with ITO?

Mr. BROWN. At the end of last year.

Senator MILLIKIN. When you told us the other day that at Torquay the parties had been notified of our attitude and our intentions regarding ITO, when was that?

Mr. BROWN. I believe it was on the 6th of December.

Senator MILLIKIN. 1950?

Mr. BROWN. 1950.

Senator MILLIKIN. I notice in the minutes of the summary of the fifth session of the contracting parties to the General Agreement on Tariffs and Trade, a document which you submitted along with others of the same general nature—oh, no, this is a press release containing a summary of the fifth session of the contracting parties to the General Agreement on Tariffs and Trade. Who puts that out, Mr. Benson?

Mr. BENSON. It was released by the contracting parties.

Senator MILLIKIN. May I ask whether you remember that press release?

Mr. BROWN. In general, yes.

Senator MILLIKIN. Is it an official press release of GATT?

Mr. BROWN. Oh, yes.

Senator MILLIKIN. I notice in that press release that it is stated on page 11, at the top of page 11 it says "List of governments and organizations which had the right to participate in the fifth session of the contracting parties."

Then it lists a subheading "International Organizations," and those specified are the United Nations, the International Monetary Fund, the Organization for European Economic Cooperation and the World Health Organization. The date of that release was December 19, 1950.

Since by losing our interest in ITO we were severed from the United Nations, as I believe was developed in testimony the other day, I am curious what right the United Nations had to be at that conference.

Mr. BROWN. So am I, sir, about what right. We invited them, they were invited to come. The World Health Organization was there because it asked for an opinion on a proposal that it had for an international convention about insecticides, so they were invited to come.

The Monetary Fund, of course, was there because there was a consultation about quantitative restrictions, and under article 15 their participation is specifically spelled out in the agreement. The others were there as observers.

Senator MILLIKIN. It may be this is a misconstruction of the situation. They may have been there just by invitation?

Mr. BROWN. I believe that is correct.

Senator MILLIKIN. I presume that the organization had the power to invite people in, but I cannot refrain from commenting that they did not invite any of our domestic producers into the proceedings.

Mr. BROWN. No, sir; and they do not invite any of those organizations in on the tariff negotiations.

Senator MILLIKIN. And they apparently invite these organizations in on matters having to do with tariff negotiations or otherwise, and I would be very curious as to what they were doing there.

(There was discussion off the record.)

Senator MILLIKIN. Specifically, would you mind inquiring as to the exact purpose of the United Nations there at that time and inquire into the question of their right to be there?

Mr. BROWN. I think the word "right," Senator, was not used in any technical or calculated sense.

Senator MILLIKIN. Would you mind checking?

(This matter is referred to in subsequent testimony.)

Mr. BROWN. But I will check that for you and give you a memorandum.

Senator MILLIKIN. Now the International Monetary Fund, since there is a definite relationship as set forth in GATT, I have no particular curiosity as to why the International Monetary Fund was there.

Mr. BROWN. No, sir.

Senator MILLIKIN. I do not know whether technically they had a right to be there.

Mr. BROWN. Actually they were there by invitation. A letter was sent to them asking them if they would participate.

Senator MILLIKIN. I would think so, but I want to be sure. I want to find out what this right is and I can understand the purpose of the International Fund being there by invitation.

Mr. BROWN. I think the situation is they were all there by invitation, and I know of no right to be there but I will doublecheck that for you.

Senator MILLIKIN. Now the Organization for European Economic Cooperation, what was their purpose there?

Mr. BROWN. They are interested in anything to do with trade matters, the liberalization of trade, and there are many European countries which are parties to the GATT.

Senator MILLIKIN. Were they there for any specific purpose?

Mr. BROWN. No, sir.

Senator MILLIKIN. They merely were observers?

Mr. BROWN. They were observers. There are quite a number of observers. Some of the countries who were not participating in the negotiations were there as observers.

Senator MILLIKIN. They had no specific programs to put before the organization?

Mr. BROWN. No, sir.

Senator MILLIKIN. ECA had no specific programs to put before the organization?

Mr. BROWN. No, sir. I am advised they put no proposals forward, they had no rights to vote and were there in an observer status.

Senator MILLIKIN. Did any of them make proposals or suggestions to ECA?

Mr. BROWN. ECA was not——

Senator MILLIKIN. I mean the Organization for European Economic Cooperation.

Mr. BROWN. I think I will have to get you the full story on this, but as I said, the Organization for European Economic Cooperation was interested in anything that had to do with the liberalization of trade in Europe. As you know, there has been quite a trade liberalization program sponsored by the OEEC.

One of the forms of trade barriers in Europe has been the tariff, and there has been quite a good deal of discussion about the levels of tariffs, both high tariff and low tariff countries in Europe, and therefore the OEEC had a very real interest in what was done at Torquay about the tariffs.

Senator MILLIKIN. You said we had no proposals to that Organization?

Mr. BROWN. Nothing was put to that Organization or received from them, as I understand it.

Senator MILLIKIN. Now the question is both ways, whether they were there for any purpose, whether we made any proposals to them. Will you look it up?

Mr. BROWN. Yes, sir; I can give you a complete statement on that.

(The matters referred to are answered in subsequent testimony.)

Senator MILLIKIN. Now it is also stated, that the World Health Organization had a right to be there, and I believe you said that they were there in connection with some insecticide program. Tell us a little bit about that please.

Mr. BROWN. They proposed an international convention for the duty-free treatment of insecticides used for public-health purposes, and they sent a copy of the document over to the meeting where we had a group of tariff experts assembled and asked for our comments on the technical aspects of the agreement.

Senator KERR. On the technical aspects of the agreement?

Mr. BROWN. Of the proposal, and that was given to them. I am not sure whether anybody from the World Health Organization was actually there or not. Yes; they finally turned up.

Senator MILLIKIN. What specifically did they ask for, the free importation of insecticides?

Mr. BROWN. The proposed agreement would be an agreement whereby the signatory parties would admit insecticides for, I think it was, public-health purposes, free of duty.

Senator MILLIKIN. Under public control?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I mean the insecticides to be under public control.

Mr. BROWN. Not commercial use of them but public-health development projects, malaria control.

Senator MILLIKIN. Will you submit that in detail after you have had a chance to refresh your memory?

Mr. BROWN. That is correct on that part, I am sure.

Senator MILLIKIN. What was decided?

Mr. BROWN. An opinion was given.

Senator MILLIKIN. By the contracting parties?

Mr. BROWN. By the contracting parties. A working party was established and they went over the document and they made some comments about it and the result is summarized in that statement.

Senator MILLIKIN. Yesterday I gathered the impression from your testimony that, so far as the injurious effects of monetary devaluations are concerned, the remedies for that, if there is a remedy, is to be found in the use of escape clause; is that correct?

Mr. BROWN. I stated that if a domestic industry were injured by imports as the result of devaluation or any other cause, it would have the remedy under the escape clause.

Senator MILLIKIN. I pressed to find out whether there were any other remedies. As I recall it in each instance you came back to the escape clause; am I correct on that?

Mr. BROWN. As far as the GATT is concerned. Then I also, as you suggested, agreed that as far as the changing of the rate is concerned, that was a matter on which we had an opportunity to express our views in the Monetary Fund.

Senator MILLIKIN. I invite your attention to the document which is described as "Unrestricted limited B, GATT/CP/94, 18 January 1951, Original: English," and then it goes on under that, "General Agreement on Tariffs and Trade, Decisions and Resolution of the Contracting Parties at the Fifth Session, Torquay, November-December, 1950."

On page 7 of those minutes, or however they might be described, the following appears:

5. DECISION OF DECEMBER 15, 1950, ON THE ADJUSTMENT OF CERTAIN SPECIFIC DUTIES AND CHARGES IN SCHEDULE II (BENELUX)

The CONTRACTING PARTIES,

HAVING NOTED the adjustments relating to the specific duties and charges included in Section A of Schedule II (Benelux) of the General Agreement on Tariffs and Trade, as specified in the list annexed to this Decision, to take account of a reduction, by more than twenty per centum, of the par value of the Netherlands guilder effected consistently with the Articles of Agreement of the International Monetary Fund, to the extent necessary to ensure that the same duties and charges are applied by each of the members of Benelux,

CONCUR, in accordance with the provisions of paragraph 6 (a) of Article II of the General Agreement, that such adjustments do not impair the value of the concessions provided for in Schedule II to the General Agreement.

Now I would like to read into the record, I am reading now from page 5 of the copy of the general agreement that we have been working on, paragraph 3:

No contracting party shall alter its method of determining dutiable value or of converting currencies so as to impair the value of any of the concessions provided for in the appropriate schedule annexed to this agreement.

I am now reading from page 6, paragraph 6 (a):

The specific duties and charges included in the schedules relating to contracting parties members of the International Monetary Fund, and margins of preference in specific duties and charges maintained by such contracting parties, are expressed in the appropriate currency at the par value accepted or provisionally recognized by the Fund at the date of this Agreement. Accordingly, in case this par value is reduced consistently with the Articles of Agreement of the International Monetary Fund by more than 20 per centum, such specific duties and charges and margins of preference may be adjusted to take account of such reduction;

Provided that the CONTRACTING PARTIES (i. e. the contracting parties acting jointly as provided for in Article XXV) concur that such adjustments will not impair the value of the concessions provided for in the appropriate Schedule or elsewhere in this Agreement, due account being taken of all factors which may influence the need for, or urgency of, such adjustments.

(b) Similar provisions shall apply to any contracting party not a member of the Fund, as from the date on which such contracting party becomes a member of Fund or enters into a special agreement in pursuance of Article XV.

In the light of that language is there not a relief available other than by the escape-clause procedure?

Mr. BROWN. I explained that yesterday, Senator, and if you will permit just a moment to refer back to what I said. I pointed out yesterday, Senator—

that paragraph 6 (a), and the right to make the adjustment there is designed to authorize the country which has devalued to change its specific rates in order to take care of the changed price situation which would result from the devaluation.

That is what Benelux did which led to the decision which you have read into the record. The proviso which you have read just now is the place in this case where we have a chance to see that any adjustment made would not be excessive. I testified yesterday that there we have an opportunity to have a check on the nature of the adjustment made to see that our interests are protected.

Senator MILLIKIN. What is your theory for the statement that these particular provisions are applicable only to the nations who devalue?

Mr. BROWN. Because it says that the rates specified are expressed in the currency at the par value accepted by the fund, and if that

value is changed then the rates which are expressed in that value may be adjusted.

Senator MILLIKIN. I do not quite see the limitation there limiting the remedy to the country that has devalued. What is your authority for that?

Mr. BROWN. That is what the language says, sir, in my opinion.

Senator MILLIKIN. Would you read it again?

Mr. BROWN. Yes. "If the par value is reduced"—that is the par value in which a specific duty is expressed, in this case the Netherlands guilder, if that par value is reduced—"then such specific duties"—that is the duties expressed in terms of that par value—"may be adjusted." You could not adjust anybody else's duties based on that.

Senator MILLIKIN. Let us take this language starting with paragraph 3, page 5:

No contracting party shall alter its method of determining dutiable value—

That takes in importers as well as exporters.

Mr. BROWN. Yes, sir; but that does not say that no contracting party shall change the par value.

Senator MILLIKIN (reading):

or of converting currencies so as to impair the value of any of the concessions provided for in the appropriate Schedule annexed to this Agreement.

Show me anything in there that limits the remedy to the country that does the devaluing.

Mr. BROWN. That particular paragraph is not limited, but the decision which you have just read in the paragraph is based on paragraph 6 (a) and not on paragraph 3.

Senator MILLIKIN. The decision which I have read is a case where the Netherlands devalued its currency and wanted to adjust its tariff rates with the other Benelux countries; is that not correct?

Mr. BROWN. Wanted to adjust its tariff rates.

Senator MILLIKIN. All right, wanted to adjust its tariff rates so there was the case of a country which devalued wanting to make adjustments.

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. I am not limiting myself to that case because that presented that angle. Now I am asking you, that does not make the interpretation of the whole GATT agreement?

Mr. BROWN. No, sir; but my interpretation of paragraph 6 (a), which is the paragraph under which that adjustment was made, is correct. The remedy that is provided for in that whole paragraph is designed to deal with action by the devaluing countries.

Senator MILLIKIN. Well, look at the words then. Let us take paragraph 3. Frankly I thought you were in error yesterday when you limited our relief against devaluation where we did not do the devaluing, to the escape clause.

Mr. BROWN. I took care of that in the portion of my testimony that I read to you.

Senator MILLIKIN. Under GATT the relief is available to anyone who is hurt. The remedy provided by GATT and under GATT is available to anyone who is hurt.

3. No contracting party—

that is as to each one of all of them—

shall alter its method—

they are not talking there about which country does the devaluing—

of determining dutiable value—

That can be the country that does the devaluing as well as any other country—

shall alter its method of determining dutiable value or of converting currencies so as to impair the value of any of the concessions provided for in the appropriate Schedule annexed to this Agreement.

Do you contend that that is limited to the devaluing country?

Mr. BROWN. I never did, sir.

Senator MILLIKIN. You never did? But you contended that we could only have recourse through the escape clause. Why couldn't we have recourse to that?

Mr. BROWN. This paragraph does not deal with the question of changes in rates of exchange.

Senator KERR. Let me get into this, if I may, Senator.

Mr. BROWN. This deals with the method of computing the dutiable value or of converting currencies.

Senator KERR. What does the term "of converting currencies" mean? What is the significance of that phrase?

Mr. BROWN. Well, when you have an import from France, as you pointed out earlier, Senator, the duty is generally based upon the price at which the thing is sold in France. Now, the francs have to be changed into dollars in order to compute the value for duty purposes.

Senator KERR. I can understand your position here with reference to the first phrase "no contracting party shall alter its method of determining dutiable value." I can understand your position that that does not contain a prohibition against changing value, but means that they shall not alter the method of determining dutiable value, but, if we read it without that, it says "no contracting party shall alter its method of converting currencies."

Mr. BROWN. Yes, sir. Could I give you an illustration?

Senator KERR. I would love to have that.

Mr. BROWN. In some cases you have countries which have a number of different exchange rates.

Senator KERR. Would you say that you would have the same method of converting a franc into a dollar regardless of whether you had to give 15 francs to get a dollar or 30 francs to get a dollar?

Mr. BROWN. No, sir. That might or might not be a change in the method of converting the currency.

Senator KERR. I can understand why it would not be a change in the method if you had to change the number. The method would be that you would trade so many francs for so many dollars. I can understand that that would not of itself be a provision with reference to how many of them you had to provide in operating under any given method, if that is the meaning of the language.

Mr. BROWN. In some cases, Senator, you have a country that has several exchange rates and they have a habit as of today, let us say, of converting their currency for determining dutiable value on the basis of one of those rates.

Senator KERR. Now you mean rates of exchange?

Mr. BROWN. Yes, sir; rates of exchange. Now let us suppose that next week they decided that they would use a different one of those rates of exchange as the method of accomplishing this conversion. That is the kind of situation that this paragraph is dealing with. It is the fact that if a contracting party changes the method of computation or changes from one existing rate to another rate, in a way as to impair the value of the concessions, that every contracting party has a remedy under this section 3, but if you have a unitary rate and you devalue, which is what I had understood we were discussing, in accordance with the fund approval, then this particular section here, 6 (a), which has been read into the record, only gives a remedy to the country doing the devaluing, and if any injury ensues to another country as a result, there whould be the remedy under the escape clause or under the general nullification and impairment if the thing were widespread enough and important enough.

Senator KERR. My lack of understanding may be the reason that I am confused as to the meaning of paragraph 3, Senator.

Senator MILLIKIN. Mr. Chairman, it seems to me that the language of paragraph 3 is as clear as anything could possibly be. Let us look at it again:

> No contracting party shall alter its method of determining dutiable value or of converting currencies so as to impair the value of any of the concessions provided for in the appropriate Schedule annexed to this Agreement.

Now, the purpose, clearly, is to prevent the impairment of the value of concessions.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. There cannot be the slightest doubt about that.

Senator KERR. That is, in one of the ways set out in the paragraph?

Senator MILLIKIN. That is right. Now let us look at it from the standpoint of an importing country that already has rates established by agreement as to its imports.

Now, "no contracting party shall alter its method of determining dutiable value." Supposing that an importing country felt that it was injured by the devaluation. Well, to overcome that injury it cannot alter its method of determining the dutiable value if doing that tends to impair the value of the concessions, nor shall it follow any system of converting currencies or any method of converting currencies that would lead to the same result.

Every time you have an import you have a problem of determining the dutiable value and you have a problem concerning the conversion of currencies. The same is true as to exports, so here it seems to me is a clear statement in the agreement that you shan't impair—what we were talking about yesterday—the integrity of these rates that have been agreed upon in negotiation between the parties. You can't impair those either by methods of determining dutiable value or by methods of converting currencies.

Mr. BROWN. I would agree with that, Senator.

Senator KERR. Let me make this observation at this point. It occurs to me that if the intent of this paragraph had been to prohibit changing the value or relative or comparative value of currency, it could very simply have said so.

Senator MILLIKIN. Well, I think it has simply said so.

Senator KERR. The thing that confuses me is that I cannot determine in my own mind whether or not this paragraph is intended to prohibit changing the value or relative values of currency or intended to prohibit the method of computing the import of a product in terms of the comparative value without either restricting the change in the value or comparative value of the currency, or holding it in status quo.

Mr. BROWN. May I make a comment, Senator?

Senator KERR. Well, it might be helpful.

Mr. BROWN. I would like to make two, if I may. The first one is that you are entirely correct in saying that if paragraph 3 had been intended to deal with changes in par value, that would have been very easy to express.

You will notice that paragraph 3 deals with methods of determining value or of converting currencies, whereas paragraph 6, which is specifically dealing with changes in par value, states that it is dealing with changes in par value, so that it is quite clear that one is referring to a change in the par value itself and another one, the other one, is dealing in questions of method. Now let me illustrate.

Senator KERR. What you are saying is that paragraph 3 deals with the method of computing tariff on the basis of the relative value as it is, and that paragraph 6 refers to the operation of changing that relative value.

Mr. BROWN. That is correct, sir. There are all kinds of things that can be done in the way of computing and determining dutiable value which could impair the significance of a concession. For example, you can establish arbitrary valuations.

There are all kinds of ways in which it can be done, and it is that kind of administrative procedure and practice that this paragraph 3 is designed to get at.

Senator MILLIKIN. Now let us go back to paragraph 3. I am suggesting, Mr. Chairman, first that a devaluing country is adopting a different method of converting currencies. Prior to the devaluation it traded so many guilders for so many dollars, or so many guilders for so many pounds.

Senator KERR. Would it not have to do the same thing afterward, except using a different number?

Senator MILLIKIN. It uses a different method of doing it. It uses a different calculation.

Senator KERR. Does it use a different method of exchange or does it use a different number to effect the change by the use of the same method which is the exchanging of some number of one for some number of the others?

Mr. BROWN. You are correct, Senator Kerr.

Senator MILLIKIN. And it all comes to the same thing because it has relation to changes in the parity of the money. Prior to the conversion its method is to charge for the imports of that country and to exact from the importing countries for the exports from that country to the importing country money based upon parities.

Now, it has changed that, and therefore it has changed the parity through its method of converting currencies. If I make a deal with you now for 350 francs for $1——

Senator KERR. Does this do that or say you pay me so much percent on the value of what you send in here?

Senator MILLIKIN. It all comes down to money and comes down to parities. You cannot escape the money, you cannot escape the parities.

Mr. BROWN. Mr. Chairman, I might have a point that will help to clarify this discussion.

Senator KERR. I think it needs some clarification.

Mr. BROWN. Section 3 deals with the method of computing ad valorem rates, that is, 20 percent duty or 10 percent duty, which is not affected by devaluation. Section 6 deals with specific duties, that is, 6 cents a pound or 5 cents a pound, which would be affected by devaluation.

Senator MILLIKIN. I suggest that an ad valorem duty is affected by the par value of the money, because you have to pay money and you have to pay attention to the pars. Now, how can you say that ad valorem duties are not affected by the question? What is the language there calling for distinction?

Mr. BROWN. It is affected, yes, Senator.

Senator MILLIKIN. Why, of course.

Mr. BROWN. But section 3 deals with the basis of determining dutiable values and deals with the problems which arise in connection with ad valorem duties, and section 6 deals with the specific ones.

Senator MILLIKIN. Now, what this says, as I see it, Senator Kerr, starting with the purpose, it says you shall not impair the value of any concession by methods of determining dutiable value or of converting currencies, and when you devalue you are interfering with the objective and you are doing it by the precise ways that are mentioned there.

Senator KERR. Let the reporter now read me the first part of that statement.

(The reporter read the statement referred to.)

Senator KERR. Instead of saying that you shall not impair the values by a method, as I understand it it says you shall not change the method of figuring the value.

Senator MILLIKIN. It comes to the same thing.

Senator KERR. I can see a distinction. It may be without a difference.

Senator MILLIKIN. I suggest it comes to the same thing. When a country devalues, it changes the relation of its currency to every other country in the world.

Senator KERR. Correct, but do you not have to still use the same method?

Senator MILLIKIN. It has adopted a method of altering the value of its money by devaluation.

Senator KERR. Has it not adopted a change in the value rather than a change in the method?

Senator MILLIKIN. It has done both. Its method of doing it is to depreciate, to devalue. That is its method of doing it. It cannot do it except by a method, and its method is to devalue.

All right, it does that, and that involves the question of methods of converting currencies. "Methods" includes the ratios that shall be applied and the relative rates between the currencies that shall be applied, so you shan't devalue, as I interpret the paragraph, you shan't adopt the method of devaluing to impair a concession, and you

shan't do it by altering the methods of determining dutiable value or of converting currencies, and the moment that you devalue, you are altering the method of converting currencies.

Mr. BROWN. No, sir, that is not the interpretation which is intended or has been given to this section. It would be quite simple if——

Senator MILLIKIN. It flows naturally from the words, Mr. Brown, and if you have any documentation to show what exactly was intended, I think you should put it in the record and not give us an ipse dixit on it.

Mr. BROWN. The best I can do is to give you the considered judgment of the Administration on that point.

Senator MILLIKIN. And you have done that?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. But, after all, you do not challenge the fact that the words speak for themselves.

Mr. BROWN. No, sir.

Senator MILLIKIN. I should suggest, Mr. Brown, that you should be looking for words in which you could protect our concessions if there is injury. I should think you would be looking for ways.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. In order to protect our people, and here is a paragraph which I suggest to you is packed on the point. You should do that instead of looking for ways to find interpretations that limit the remedies of our people.

Mr. BROWN. We are constantly looking for ways in order to protect the interests of our people. That is the whole purpose of this exercise in which we engage.

Senator MILLIKIN. Now, let use get to 6 (a):

The specific duties and charges included in the Schedules relating to contracting parties members of the International Monetary Fund, and the margins of preference in specific duties and charges maintained by such contracting parties, are expressed in the appropriate currency at the par value accepted or provisionally recognized by the Fund at the date of this Agreement.

I doubt whether there is any conflict between us that far.

Mr. BROWN. I do not think so.

Senator MILLIKIN (reading):

Accordingly, in case this par value is reduced consistently with the Articles of Agreement of the International Monetary Fund by more than 20 per centum, such specific duties and charges and margins of preference may be adjusted to take account of such reduction.

Where is your authority there for limiting that remedy to the country which devalues?

Mr. BROWN. That is what the language means to us and that is what it was intended to provide.

Senator MILLIKIN. But it does not say so, Mr. Brown.

Mr. BROWN. Yes, sir; I think it does.

Senator KERR. There is a "provided" there.

Senator MILLIKINS It says:

provided that the contracting parties concur that such adjustments—

that is all of them—

will not impair the value of the concessions provided for in the appropriate schedule or elsewhere in this agreement—

that gives the contracting parties some police powers over the subject—

due account being taken of all factors which may influence the need for, or urgency of, such adjustments.

(b) Similar provisions shall apply to any contracting party not a member of the Fund—

and so forth.

I ask again, Mr. Brown, show me the words which limit this relief to the country that does the devaluing.

Mr. BROWN. Because, Senator Millikin, the only country which would be reducing the par value would be the country which is devaluing, and this section deals with the reduced rates.

Senator MILLIKIN. Of course, the devaluing country is the devaluing country, but the question is, who gets relief from the devaluation, and I ask you to point to me the language which limits the relief to the devaluing country. Let me have the words.

Mr. BROWN. Sir, I can only repeat what I have said before, and say that that is what the language means to me and that that is the purpose of it.

Senator MILLIKIN. We are talking, Mr. Brown, not about the schedules of the devaluing party. We are talking about all of the schedules, the specific duties and charges included in the schedules relating to contracting parties members of the International Monetary Fund. Let me put a peg in there and ask how many members in GATT now are not members of the Monetary Fund.

Mr. BROWN. I think it is five, but I will have to check.

Senator MILLIKIN. Well, then, this applies to all but five of the members of the Monetary Fund.

Senator KERR. You mean this applies to all members of GATT except the five who are not members of the Montary Fund.

Senator MILLIKIN. Yes; that is right—

and margins of preference in specific duties and charges maintained by such contracting parties—

not just the devaluing country, all of them—

are expressed in the appropriate currency at the par value accepted or provisionally recognized by the Fund at the date of this Agreement. Accordingly, in case this par value is reduced—

of course, by the devaluing country—

consistently with the Articles of Agreement of the International Monetary Fund by more than 20 per centum, such specific duties and charges and margins of preference—

such specific duties, what are they, and margins of preference? They are of all of the countries that are in the Monetary Fund, not just the devaluing country. It says so, and I do not see how it could say so more explicitly.

Mr. BROWN. No, sir.

Senator MILLIKIN. "Such specific duties and charges and margins of preference"—what may be adjusted? Those specific duties and margins of preference belonging to all of the parties here except those that are not under the Monetary Fund may be adjusted to take account of such reduction.

Mr. BROWN. No, sir. May I comment at that point?

Senator MILLIKIN. Yes.

Mr. BROWN. What this article deals with, "such specific duties and charges" which can be adjusted are the specific duties and charges

maintained by contracting parties and expressed in terms of a par value, and if that par value is reduced then the specific duties and charges expressed in that par value may be adjusted; and that is what this section is intended to provide; and that is what I think it says.

Senator MILLIKIN. I do not see any need to manipulate it, and I do not say that in an invidious way.

Senator KERR. Let the record show the Senator was smiling when he used the term.

Senator MILLIKIN. I do not think we need to manipulate the language in order to get an interpretation. Let us start with the opening of it.

Senator KERR. May I interrupt for a minute. I notice here language which says—

in case this par value is reduced consistently with the Articles of Agreement of the International Monetary Fund by more than 20 per centum.

I had understood the statement to be made here that those nations in the Monetary Fund agreed that they would not reduce by more than 20 percent.

Senator MILLIKIN. Under the Monetary Fund they can agree on their own initiative to a reduction up to 20 percent; so this properly concerns itself with a reduction beyond that.

Senator KERR. In other words, they can reduce by as much as 20 percent without any agreement with anybody.

Senator MILLIKIN. That is right.

Senator KERR. And can go beyond that in case the Monetary Fund members agree to it.

Senator MILLIKIN. That substantially is correct.

Senator KERR. Now, then, may I ask one more question here? I wonder if Mr. Brown's position is this: The second sentence of 6 (a) and the language appearing before the word "providing" says "accordingly, in case this par value is reduced"—I take it that it refers there to the par value of the currency of some nation.

Senator MILLIKIN. Well, read me the language again, Senator.

Senator KERR. "Accordingly, in case this par value"——

Senator MILLIKIN. This is the par value.

Senator KERR. "Is reduced"——

Senator MILLIKIN. Yes, by the devaluing country, which is done with a fixed relationship to——

Senator KERR. As I understand it, that refers to the par value of the currency or the money of a nation.

Senator MILLIKIN. A nation.

Senator KERR. Then I wonder if the fact that the par value of any money could not be reduced except by the one nation issuing the money is the basis of Mr. Brown's position that this language is limitation, the effect of this language is limitation of that operation to that one country which has reduced the par value of its money.

Mr. BROWN. That is correct, Senator.

Senator MILLIKIN. I cannot agree with Mr. Brown's interpretation of this paragraph; but, obviously, it flows from a devaluation of a specific country, and then the question is: Where do we go from there? How can you preserve the rights of the rest of the contracting parties?

Senator KERR. As I understand this language, it would mean that in the event any nation—and it would have to be one nation that reduced the par value of any currency—reduces the par value of its currency with the agreement of the Monetary Fund by more than 20 percent, then that the specific duties and charges and margins of preference may be adjusted with reference to imports from that nation to take account of the extent to which it has reduced the par value of its currency to a degree greater than 20 percent.

Mr. BROWN. No, sir.

Senator MILLIKIN. I would simplify the thing under the language that once a nation has devalued, since all these nations are committed to parities, since they all hang together and have relationship to each other, that the purpose of these provisions is to say that all of those countries under the circumstances mentioned here may adjust their own tariff matters accordingly to avoid injury. If that is not the purpose, there is no purpose.

Senator KERR. The extent to which they can hold, then, is contained in the language, and if I understand this language—and I would like to have Mr. Brown's observations on this—it would be this. This would be an illustration.

The United Kingdom under this paragraph could reduce the relative value of its money up to 20 percent, and the language of this paragraph within itself would cause no change in the import duties on the stuff which it shipped into this country. Now, am I right up to there?

Mr. BROWN. Yes, sir. This paragraph would not cause any change in the import duties in this country under any circumstances.

Senator KERR. Do not get me beyond my depth. I am trying to go a step at a time.

Mr. BROWN. You are correct so far, sir.

Senator KERR. If the United Kingdom devalued or revalued its money by a reduction in the parity or its relative value by not more than 20 percent, this language would of itself bring no change in the method of computing the tariff on the stuff it shipped into this country.

Mr. BROWN. That is right.

Senator KERR. If, however, it went to the Monetary Fund and got an agreement whereby it could revalue its currency by reducing its relative value more than 20 percent, then with reference to anything shipped into our country from the United Kingdom we would under this language be permitted to charge a greater amount than the specific amount provided for in the exhibit here, and the difference would be enough to compensate for that devaluation to the extent that it was greater than 20 percent.

Senator MILLIKIN. That is what it says.

Mr. BROWN. No, sir; that is not correct.

Senator MILLIKIN. That is what it says.

Mr. BROWN. It would permit the British to change their specific rates to take account of the devaluation.

Senator KERR. Wait a minute; I do not want to get lost here.

Mr. BROWN. This authorizes no change by anybody except the devaluing country.

Senator KERR (reading):

Accordingly, in case this par value is reduced consistently with the Articles of Agreement of the International Monetary Fund by more than 20 per centum, such specific duties and charges—

Mr. BROWN. Yes, sir.

Senator KERR. And that is the specific duties and charges included in the schedules.

Mr. BROWN. That is of the country.

Senator KERR. Relating to the contracting party.

Senator MILLIKIN. It does not say the devaluing country; please note that.

Mr. BROWN. Well, it does.

Senator KERR. Is there a schedule of specific duties?

Senator MILLIKIN. Yes, sir.

Senator KERR. Does not that schedule include the duties and charges which we make for them to ship stuff into this country?

Mr. BROWN. Yes, sir, but this paragraph does not deal with that. This paragraph says that the duties are expressed; that is, all of the duties and all of the schedules are expressed in a currency at the par value accepted by the Fund. Now, if the par value is reduced, if Britain reduces, then the duties expressed in——

Senator KERR. In the schedule.

Mr. BROWN (continuing). In terms of her par value can be reduced or adjusted.

Senator MILLIKIN. Where does it say that?

Mr. BROWN. But not the others.

Senator MILLIKIN. Where does it say that?

Senator KERR. I am going to have to disagree with you, Mr. Brown.

Senator MILLIKIN. That is the crux of it. Where does it say that?

Mr. BROWN. That is what the language means, and that is what it is intended to mean.

Senator MILLIKIN. May I run through this in kindergarten fashion?

Senator FREAR. That is what will take for me.

Senator KERR. I want to say one more thing. I think it must be interpreted to mean that in the case of England, with the permission and agreement of the Monetary Fund——

Senator MILLIKIN. Right.

Senator KERR (continuing). Devalues.

Senator MILLIKIN. Right, more than 20 percent.

Senator KERR. More than 20 percent.

Senator MILLIKIN. Right.

Senator KERR. That the specific duties and charges may be adjusted. May be adjusted by whom? May be adjusted by those who fix it?

Senator MILLIKIN. That is right.

Senator KERR. May be adjusted by those who fix them to take account of the reduction which is a greater degree than 20 percent.

Senator MILLIKIN. Senator, there would be no point to these paragraphs unless that is the point.

Senator KERR. I must say that as of this moment I have to agree with that interpretation of the language.

Mr. BROWN. I can see that I will have to get a lawyer, Senator.

Senator MILLIKIN. Now let me run through this in my pedestrian way.

Senator KERR. You are very kind to listen to me.

Senator MILLIKIN. It was very informative.

Senator KERR. Thank you, sir.

Senator MILLIKIN. Now we are talking about these specific duties and charges.

Senator KERR. And that is the ones set forth in the schedule.

Senator MILLIKIN. Not of the devaluing country. The specific duties and charges, how do we identify of what country or of what countries, which countries?

Senator KERR. It says "included in the schedules."

Senator MILLIKIN. "Included in the schedules." Now, included in the schedules are the concessions of all of the countries, not the devaluing country. They are there, but also all of the others are there.

Now, later on, that is all tied up with the words "such schedules"; so, if we pin at the very beginning what schedules we are talking about, we know the scope of this paragraph.

The specific duties and charges included in the schedules relating to contracting parties, not the devaluing country, but the contracting parties—

members of the International Monetary Fund, and margins of preference in specific duties and charges maintained by such contracting parties, are expressed in the appropriate currency at the par value accepted or provisionally recognized by the Fund at the date of this Agreement.

Every one of those countries has par values for its own currency in relation to the par values of every other currency. That is the function of the Monetary Fund, to determine that, and it has determined it, not the devaluing country.

Senator KERR. And there was a fixed ratio at the date of this agreement.

Senator MILLIKIN. There was a fixed ratio at the date of this agreement, and has been ever since.

Accordingly, in case this par value is reduced consistent with the Articles of Agreement of the International Monetary Fund—

let us assume that it was reduced consistently—

by more than 20 per centum—

the 20 per centum figure is put in there for the reason that has been mentioned; now what?—

such specific duties and charges and margins of preference—

the word "such" relates back to something, and it only relates back to the specific charges, duties and charges included in the schedules relating to contracting parties, members of the International Monetary Fund and margins of preference in specific duties and charges maintained by such contracting parties may be adjusted.

Such things may be adjusted to take account of such reduction. What does it mean if it does not mean that, "provided"—now let us see what the police power on here is—

that the contracting parties concur that such adjustments will not impair the value of the concessions provided for in—

the devaluing country schedules? No.—

provided for in the appropriate schedule or elsewhere in this Agreement, due account being taken of all factors which may influence the need for, or urgency of, such adjustments.

That is your standard for policing.

Senator KERR. I gather that that provision has to mean this: that although the Nation fixing the duties and the charges which have

been agreed on may under that language appearing before the word "provided" adjust them to take into account that reduction which exceeded 20 percent——

Senator MILLIKIN. That is it exactly. Technically maybe not, Senator, but let us assume that that is right. Maybe you could take in the whole 20 percent.

Senator KERR. The contracting parties as a board of review could take due account of all factors which may influence the need for or urgency of such adjustments in which event they would say to the United States, "Now you have made the proportionate increase here in this tariff rate to offset for this devaluation in excess of 20 percent, but it is going to work a hardship on the importing nation and therefore we want you to not make that adjustment."

Senator MILLIKIN. I agree entirely, and the only possible point of difference would be whether the 20 percent itself should be considered, but we do not need to go into that.

Senator KERR. I must say that I see no reason for the language in the proviso unless that were its significance.

Senator MILLIKIN. Senator, we have got to assume—and it is a very far-fetched assumption on my part—that there is sense and a sense of balance in this agreement. Consider the utter imbecility of trying to protect the concessions that have been made and not have a provision in it for protecting against a devaluation which can change those concessions as much as if the change had been spelled out.

Now I make my next point. It is amazing to me that the Department of State chooses to rule itself out of that avenue of escape in a worthy case and limit it to the devaluing party. Think of the imbecility of limiting the relief to the party that causes the trouble.

Mr. BROWN. There is an assumption that trouble is being caused, which is not a justified assumption.

Senator MILLIKIN. Maybe not, but trouble might be caused. Think of limiting the relief to the party that causes the trouble when it causes trouble.

Senator KERR. Well, now aside from the language that has been used by which I was impressed but with which I do not necessarily concur——

Senator MILLIKIN. I intended to affect you emotionally.

Senator KERR. I would like to have Mr. Brown's observation with reference to the thought I expressed as to what this language must mean.

Mr. BROWN. Senator, I am obviously unable to explain to the satisfaction of this committee what this language means, and I would like to call for help. I need a lawyer on this point.

Senator KERR. I would like to have the best informed technical legal ability you have got address it itself to it.

Mr. BROWN. Yes, sir.

Senator FREAR. On the kindergarten plateau.

Mr. BROWN. I have been trying to cover a very wide range of subjects.

Senator KERR. You have done a marvelous job and I want to say I have followed you, generally concurring in what you have said, but I do not agree with your interpretation of this language, and I would like to have more light on it.

Mr. BROWN. I will endeavor to get some one to shed it.

Senator KERR. Fine!

Senator MILLIKIN. Going back to paragraph F of section 22, Mr. Brown, what is your interpretation of the effect of that paragraph?

Mr. BROWN. As it now stands?

Senator MILLIKIN. As it now stands.

Mr. BROWN. It means that we would be able to use section 22 and impose a quota on imports of a product under a program in section 22 at any time when there was any kind of effective limitation on either domestic production or domestic marketing. Also if you should have a surplus disposal program of the type which is referred to in article XI of the GATT.

Senator MILLIKIN. The purpose of it is to conform section 22 to GATT.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Is that a simple description of it?

Mr. BROWN. That is right.

Senator MILLIKIN. And you say it does so?

Mr. BROWN. We believe it does so. But it would prevent us from negotiating any future agreement that was more limiting. We feel that in the vast majority of the cases where one would want to use section 22, we would be at perfect liberty to do so under the GATT.

Senator MILLIKIN. But there would be some cases where you might not be able to.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I would like to add my own suggestion to that of Senator Kerr. Personally I regard this protection against devaluation as a very, very important thing, not only from the standpoint of past devaluations, but of many devaluations which I am confident will occur if we are going to have honest money over the world, and if you can bring anybody here that can add any further enlightment to that, I would appreciate it very much.

Mr. BROWN. I think it is a very important subject, Senator Millikin, and one on which there is a great deal of misunderstanding and I think it would be helpful if we could present something to the committee on that general subject as well as on the particular points you raised.

Senator MILLIKIN. Mr. Chairman, I quoted from two sets of minutes of the contracting parties and I would like to have both of those put in the record.

The CHAIRMAN. No objection.

(The documents above referred to are as follows:)

[Press Release Torquay/23 19 December 1950]

SUMMARY OF THE FIFTH SESSION OF THE CONTRACTING PARTIES TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The Fifth Session of the Contracting Parties to the General Agreement was held at Torquay, from November 2 to December 16, 1950.

The Session was attended by 29 of the 32 countries which comprise the Contracting Parties. Syria, Lebanon, and Nicaragua were not represented; 13 governments were represented by observers; and four international organisations were also represented. A list of these countries and organisations is given on the final page of this summary.

During the course of the session eleven working parties were set up to examine in greater detail the items which were submitted to them and one further working party will met between the Fifth and Sixth Sessions.

In this summary an attempt is made to set out the substantive items of the Session in four categories; this is an entirely informal arrangement for the possible convenience of members of the press:

A. Arrangements for implementing the results of the Torquay Tariff Negotiations and for prolonging the assured life of the Geneva and Annecy tariff concessions.

B. Matters arising out of the operation of the General Agreement.

C. The continuing administration of the General Agreement and other administrative matters.

D. Miscellaneous items.

A. ARRANGEMENTS FOR IMPLEMENTING THE RESULTS OF THE TORQUAY TARIFF NEGOTIATIONS AND FOR PROLONGING THE ASSURED LIFE OF THE GENEVA AND ANNECY TARIFF CONCESSIONS

One of the important tasks accomplished during the Fifth Session was the preparation of legal instruments which will serve to bring into force the tariff concessions negotiated at Torquay, to prolong until January 1, 1954, the assured life of the Geneva and Annecy schedules of concessions, including such limited renegotiations of these concessions as are undertaken, and to admit as contracting parties the governments which are negotiating at Torquay to accede to the General Agreement.

These instruments are of necessity somewhat complex. Briefly, there will be a Final Act which will serve to authenticate the results of the tariff negotiations as well as the texts of the following instruments:—

(a) Decisions agreeing to the accession of the acceding governments. These are to be opened for signature by the contracting parties at the close of the negotiations.

Among the arrangements for the accession of further governments to the Agreement was one permitting Uruguay, which undertook negotiations at Anecy in 1949 but did not subsequently accede, to sign both the Annecy and Torquay Protocols.

(b) The Torquay Protocol embodying the results of the Torquay negotiations and the terms on which the new governments will be able to accede.

(c) A Declaration by the Contracting Parties that they undertake not to invoke, before January 1, 1954, the provisions of Article XXVIII of the General Agreement; in effect this establishes, subject to the limited renegotiations mentioned above, the prolonging of the assured life of the tariff concessions for a further period of three years.

A further explanatory press release on the procedural arrangements will be issued at the time when the Torquay negotiations are completed.

B. MATTERS ARISING OUT OF THE OPERATION OF THE GENERAL AGREEMENT

Consultations held with certain governments under Article XII: 4 (b) of the General Agreement

Under Item 8 of the Agenda, consultations were held with the Governments of Australia, Ceylon, Chile, India, New Zealand, Pakistan, Southern Rhodesia, and the United Kingdom with respect to their import restrictions in accordance with Article XII: 4 (b) of the General Agreement. In accordance with Article XV: 2 of the Agreement, the Contracting Parties also consulted with the International Monetary Fund.

There was a full and frank discussion between the Contracting Parties, the consulting countries and the Fund, in which full information was presented and views and opinions were freely expressed.

During the course of the consultations, the representatives of Belgium, Cuba, Canada, and the United States expressed the view that the time had come when, with all due caution in the light of the uncertainties of the present situation, a progressive relaxation of the hard currency import restrictions of Australia, Ceylon, New Zealand, Southern Rhodesia, and the United Kingdom might begin. This view was based upon their analysis of the favourable current situation of these countries and the prospects for the coming year. Based on its analysis made available to the Contracting Parties the Fund expressed the opinion that such relaxation would be feasible in these cases, but should be undertaken with due caution having regard to present uncertainties.

The representatives of Australia, Ceylon, New Zealand, and the United Kingdom expressed the opinion that although the gold and dollar reserves of the

sterling area had markedly improved, these views gave undue weight to the favourable factors in the developments of the past 12 months and that insufficient attention had been paid to the adverse factors operating in the present situation, the full force of which would not be felt until 1951. The representatives of Australia, New Zealand, and the United Kingdom referred in particular to the new responsibilities which would be undertaken under the current rearmament programme.

No suggestion was made during the consultations that it would be appropriate for Chile, India, or Pakistan to engage in any further general relaxation of their restrictions on imports from the dollar area, and the Fund was also of the opinion that no further relaxations in the cases of these countries were feasible in the present circumstances.

The consultations accomplished a useful interchange of information and opinion, and the representatives of the governments whose restrictions were the subject of the consultations said that they had taken full note of the views expressed by other contracting parties and that these views would be conveyed to their governments for their consideration.

Review of import restrictions and second report on discriminatory application of restrictions

The Contracting Parties completed the text of a questionnaire to obtain the necessary information for a review of import restrictions applied under Article XII—i. e., for balance-of-payments reasons—and for the Second Report on the discriminatory application of restrictions under the transitional period arrangements of Article XIV.

Although the Agreement contains a general ban on the use of prohibitions and restrictions on imports or exports, certain exceptions are provided to permit the use of restrictions in defined circumstances, of which the most important is the need to safeguard a country's external financial position and balance of payments. Paragraph 4 (b) of Article XII requires the Contracting Parties to review all such restrictions in force in March 1951.

The Agreement also provides special arrangements in Article XIV for the discriminatory application of balance-of-payments restrictions during the post-war transitional period. Under paragraph 1 (g) of Article XIV the Contracting Parties are required to report annually on action taken under these arrangements. The first report was issued in March 1950.

The questionnaire, which relates only to contracting parties applying import restrictions in the foregoing circumstances, will bring together the information needed to fulfill both the objectives referred to above for study at the Sixth Session.

Special exchange arrangements

The general purpose of the Agreement is to reduce tariffs and ultimately to eliminate other barriers to trade. The value of the reductions can be impaired, however, by a country which resorts to currency practices of various kinds. It is therefore essential that the contracting parties should each adhere to certain generally accepted principles of international monetary policy. But the countries which comprise the Contracting Parties are not necessarily all members of the International Monetary Fund. Accordingly, the Agreement provides that any contracting party which is not a member of the Fund shall enter into a "special exchange agreement" with the Contracting Parties, which contains obligations in the exchange field analogous to those contained in the Articles of Agreement of the International Monetary Fund.

At the Fifth Session the Contracting Parties reviewed the position of the countries which are not yet members of the Fund and have not entered into Special Exchange Agreements. They also established procedural arrangements for the administration of Special Exchange Agreements.

Quantitative export restrictions

It was agreed that the collection of information on the application of quantitative export restrictions which are permitted to be used under circumstances as defined in the Agreement, would be useful, and the Executive Secretary was authorized to invite contracting parties to submit statements on their export restrictions.

Article XVIII—Notification of existing protective measures by Denmark, Haiti, and Italy.—Article XVIII of the Agreement recognizes the need for special measures "to promote the establishment, development, or reconstruction of particular

industries or branches of agriculture," and deals in detail with the kind of restrictions which may be used, the time limits on their use, and various safeguards against their misuse. The last paragraphs of the Article contain special provision for the maintenance of existing measures, subject to the approval of the Contracting Parties.

At the Fifth Session the Contracting Parties had before them notifications from three Annecy acceding governments: Denmark, Haiti, and Italy.

In the case of Haiti, the purpose of the measure—namely, the development of the growing of raw tobacco—was considered and after examining all the relevant data the Contracting Parties granted permission to maintain the protection by a system of licensing for the importation of tobacco, cigars, and cigarettes, for five years.

The applications made by Italy and Denmark were withdrawn, since it was determined that they did not fall within the types of protective measures envisaged under Article XVIII.

Australian subsidy on ammonium sulphate

At the Fourth Session, the Contracting Parties examined with the delegations of Australia and Chile the situation resulting from the removal of sodium nitrate from the pool of nitrogenous fertilizers which is subsidized by the Australian Government, while continuing to subsidize domestic ammonium sulphate. While determining that the Australian action was not a breach of the General Agreement, the Contracting Parties took into consideration the fact that both subsidies had been in effect at the time when Australia granted a concession on sodium nitrate in the 1947 tariff negotiations. They recommended that Australia should consider, with due regard to its policy of stabilizing the cost of production of certain crops, means to remove any competitive inequality between sodium nitrate and ammonium sulphate for use as fertilizers which may in practice exist as a result of the removal of sodium nitrate from the operations of the subsidized pool of nitrogenous fertilizers.

At the Fifth Session the Contracting Parties were informed that the two governments had entered into consultation and that they had reached a satisfactory agreement.

Brazilian internal taxes

At their Third Session the Contracting Parties dealt with the discrimination in Brazilian internal taxes against certain French, United Kingdom, and United States exports, such as cognac, aperitifs, watches and clocks, beer, and cigarettes. Subsequently Brazil gave an assurance that the laws would be amended and, at the Fifth Session, the Contracting Parties were asked to examine a draft law modifying the present legislation on consumption taxes which had been prepared and submitted to the Brazilian legislature and to advise on the conformity of the draft law with relevant provisions of the General Agreement and the Protocol of Provisional Application.

The matter was examined by a working party which reported that the draft law would, insofar as they were able to judge from the information supplied and except in certain circumstances, remove the new and increased internal tax discrimination introduced since October 1947, and bring Brazil's consumption tax legislation into conformity with the General Agreement as applied under the Protocol of Provisional Application.

The effect of the United Kingdom purchase tax on certain imports into the United Kingdom with reference to article III

The utility system has been in force in the United Kingdom since 1941 and is applicable to a wide range of consumer goods. Goods made in the United Kingdom and eligible for classification as utility are for the most part exempt from purchase tax; but these exemptions have not in general been extended to goods of comparable quality and price imported from abroad. In the view of the Netherlands Delegation, at whose request this item was placed on the agenda, this constitutes a discriminatory levy of purchase tax in the United Kingdom on the imported goods in question, in relation to the provisions of Article III of the General Agreement.

The United Kingdom delegate said that the utility system had admittedly come to have some protective effect in practice, though it was not intended for this purpose. The United Kingdom Government had for some time exempted from purchase tax certain classes of imported goods comparable with domestic

utility products, and were now able to authorize him to state that they were very hopeful that it would be possible before long to remove the discrimination. It was agreed that the matter should be placed on the agenda for the Sixth Session of the Contracting Parties, in case it should prove necessary to discuss it further at that stage.

South Africa—Southern Rhodesia Customs Union: First Annual Report of the Customs Union Council.—In accordance with the Declaration of the Contracting Parties of May 18, 1949, the Customs Union Council's First Annual Report was submitted jointly by the governments of South Africa and Southern Rhodesia for their information. Under Article XXIV of the Agreement the Contracting Parties are mainly concerned with two points, first, whether the Agreement is likely to result in the formation of a full Customs Union, and secondly, whether the interim period is a reasonable one. The Contracting Parties took note of the Report and expressed the hope that the work would proceed expeditiously and that in the next Report there would be fuller consideration of the problem of the removal of restrictions in the trade between the two countries.

Assured life of the tariff concessions: Withdrawal by the United States under the provisions of Article XIX.—During the Fifth Session the Delegation of Czechoslovakia drew attention to the withdrawal by the United States of a concession which had been negotiated in 1947 on parts of item 1526 (a) of the United States tariff—women's hats and hat bodies made of fur felt—under the provisions of Article XIX. The relevant part of this Article states that: "If, as a result of unforeseen developments and of the effect of the obligations incurred by a contracting party under this Agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the contracting party shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession."

The Government of the United States had previously announced, on November 1, that in accordance with the findings of the United States Tariff Commission and in accordance with the provisions of Article XIX of the General Agreement, the tariff concessions which had been granted by the United States on the above products would be withdrawn on December 1, 1950. These concessions were granted by the United States as part of the United States tariff concessions which were negotiated at Geneva in 1947 and which were incorporated in Schedule XX of the General Agreement.

Consultations were held among the contracting parties mainly concerned, namely Czechoslovakia, France, Italy, and the United States, but the results of the consultations between Czechoslovakia and the United States did not prove acceptable to the Delegation of Czechoslovakia. In order to give the Contracting Parties an opportunity to examine the facts of the case a working party was set up to examine between the Fifth and Sixth Sessions the contention of the Czechoslovak Delegation that in withdrawing a part of item 1526 from Schedule XX, the nited States has failed to fulfill the obligations of Article XXI: 1 (a) and report back to the Contracting Parties.

Examination, under the procedures provided in Article XXIII, of actual cases of quantitative restrictions applied for protective purposes

In accordance with the procedure provided in Article XXIII of the Agreement, Belgium requested that an examination of actual cases of quantitative restrictions applied by certain countries for protectionist purposes which, in the view of the Belgian Government, were causing unnecessary damage to the Belgian economy, should be undertaken. The Belgian request concerned restrictions imposed by the United Kingdom and France.

With regard to the restrictions imposed by the United Kingdom, consultations were held between the United Kingdom and Belgian delegations and, in accordance with the spirit of Article XXIII, a bilateral agreement was arranged. In the case of the restrictions imposed by France, bilateral consultations were held and formal assurances were given by the French representatives that they would seek a satisfactory settlement of the question before the end of 1950.

French export restrictions on hides and skins

At the request of the United States Government an item was placed on the agenda of the Fifth Session relating to restrictions of exports of raw hides

and skins maintained by the French Government. Discussions between the respective delegations were held during the Fifth Session, as a result of which the United States Government decided not to request consideration of this item at the Fifth Session.

C. THE CONTINUING ADMINISTRATION OF THE AGREEMENT AND OTHER ADMINISTRATIVE MATTERS

During the Fifth Session the Contracting Parties considered a proposal by the Canadian Delegation that they should establish a standing committee to deal with certain business between their regular full Sessions and to do preparatory work to facilitate and expedite the work of these Sessions. A study of the matter was prepared by a working party; it was agreed that this should be transmitted to Governments for their examination with a view to a fuller consideration at the Sixth Session of the proposal for a standing committee and of establishing a permanent secretariat.

During the consideration of this item the United States Delegation submitted a statement of policy which was issued on December 6 by the U. S. Department of State. This indicated that the executive agencies of the U. S. Government had reviewed the status of the legislation affecting American participation in the General Agreement. As a result of this review the interested agencies had recommended and the President had agreed, that while the proposed Charter for an International Trade Organization should not be resubmitted to the United States Congress, appropriate legislative authority would be sought to make American participation in the General Agreement more effective. It was felt that the many serious legislative problems now facing the United States Congress require concentration on the trade programmes that are most urgently needed and will most quickly produce concrete results. To meet the need for improved organization, the United States stated that it would suggest to the other governments concerned the creation of the necessary administrative machinery, including a small permanent staff, and would seek appropriate legislative authority for this purpose in connection with renewal of the trade agreements programme.

Sixth session of the contracting parties

It was decided that the Sixth Session would open at Geneva on September 17, 1951.

D. MISCELLANEOUS ITEMS

Standard practices for import and export restrictions and exchange controls

The General Agreement recognizes that governments will need to exercise control over the import and export of goods during periods when they are in balance-of-payments difficulties. Such controls and restrictions, however necessary they may be, present great problems to the trading and financial communities, and sometimes the way in which they are administered makes them unnecessarily onerous.

The Contracting Parties examined this question at the Fifth Session with the object of reducing the uncertainties and hardships to merchants resulting from the changing and unpredictable operation of trade controls. A code of standard practices was worked out and formulated, based on the best practices of those governments which have given careful study to the method of operating these controls.

The Contracting Parties made clear their wish that governments should review their present practices in the administration of import and export controls and, if possible, improve their practices in line with the code of standard practices which they have recommended. They requested individual governments to bring the code of standards to the attention of those responsible for administering import and export restrictions and exchange controls.

The Code of Standard Practices will be published on December 27, 1950, and will be obtainable as a printed leaflet from the Secretariat.

Draft agreement on the importation of insecticides

The World Health Organization at its Third Assembly in May 1950 adopted a resolution directed towards ensuring a "free flow" of insecticides, raw materials used in their manufacture, and the equipment required for their application. The Secretariat of the World Health Organization felt that an international

agreement, by which customs duties and tariffs on the products in question would be waived by the states becoming a party to it, might contribute to this end.

The Contracting Parties examined—through a committee of experts—in consultation with the representatives of the World Health Organization the feasibility of a draft agreement having as its aim the reduction of trade barriers affecting the importation of insecticides and certain apparatus and materials necessary for campaigns against insects which are carriers of diseases of man. The views of the committee of experts will be transmitted to the Director General of the World Health Organization, together with the draft of an amended agreement. There was, however, no unanimity of opinion among those who considered the matter that such a draft agreement would be workable or effective.

Position of Indochina in relation to the agreement

The Contracting Parties were informed that negotiations between France and the Associated States of Indochina had resulted in the completion of draft arrangements for the establishment of a customs union between Cambodia, Laos, and Viet Nam, which define the powers devolving upon these States in the realm of external trade. A draft Convention has been drawn up and will be submitted for ratification. After the signature of the Convention, the Associated States of Indochina will be entitled, on the one hand, to negotiate commercial agreements with foreign countries and, on the other hand, to establish their own legislation and customs regulations.

The French Government has undertaken to facilitate the accession of those countries to international trade agreements, and it will be the responsibility of those countries to decide, within the framework of the general economic policy of the French Union, what their position will be in regard to the General Agreement.

The proposed European coal and steel agreement

The French delegation stated that negotiations towards the completion of the proposed European Coal and Steel Agreement were still continuing. In any case, if the proposed Agreement affected in any way the text of the General Agreement or its application, the French Government would not fail to inform the Contracting Parties and to submit to them any question which might arise.

List of Governments and Organizations which had the right to participate in the Fifth Session of the Contracting Parties

32 CONTRACTING PARTIES TO THE GENERAL AGREEMENT

Australia	France	New Zealand
Belgium	Finland	Nicaragua
Brazil	Greece	Norway
Burma	Haiti	Pakistan
Canada	India	South Africa
Ceylon	Indonesia	Southern Rhodesia
Chile	Italy	Sweden
Cuba	Lebanon	Syria
Czechoslovakia	Liberia	United Kingdom
Denmark	Luxemburg	United States
Dominican Republic	Netherlands	

13 GOVERNMENTS AS OBSERVERS

Austria	Turkey	Venezuela
German Federal Republic	Uruguay	Switzerland
Korea	El Salvador	Yugoslavia
Perú	Guatemala	
Philippines	Mexico	

4 INTERNATIONAL ORGANIZATIONS

The United Nations
The International Monetary Fund
The Organization for European Economic Cooperation
The World Health Organization

[Unrestricted—Limited B—GATT/CP/94—18 January 1951—Original: English]

GENERAL AGREEMENT ON TARIFFS AND TRADE—DECISIONS AND RESOLUTION OF THE CONTRACTING PARTIES AT THE FIFTH SESSION

(Torquay, November–December 1950)

DECISIONS

1. Decision of November 9, 1950, on the accession of Uruguay[1]

CONSIDERING that Paragraph 10 (a) of the Annecy Protocol of Terms of Accession to the General Agreement on Tariffs and Trade provides that the Protocol would be open for signature by acceding governments only until April 30, 1950,

CONSIDERING that the Government of Uruguay, owing to unavoidable circumstances, was unable to sign the said Protocol by that date, and

CONSIDERING the desirability of affording an additional opportunity to the Uruguayan Government to accede to the General Agreement.

The CONTRACTING PARTIES,

ACTING pursuant to Article XXXIII of the General Agreement, in view of the special circumstances referred to above,

DECIDE that, notwithstanding the provisions of Paragraph 10 (a) of the Annecy Protocol of Terms of Accession, signature of the said Protocol by the Government of Uruguay shall be effective for all purposes of that Protocol if affixed not later than the final date to be established for signature of an instrument of accession by Governments which intend to accede to the Agreement as a result of the negotiations entered into at Torquay, and

INSTRUCT the Executive Secretary to forward a copy of the present Decision to the Secretary-General of the United Nations and to inform the Secretary-General in due course of the final date fixed for signature in accordance with the foregoing paragraph.

2. Decision of November 27, 1950, granting a release applied for by the Government of Haiti under paragraph 12 of Article XVIII relating to the import of tobacco[2]

The CONTRACTING PARTIES,

HAVING AGREED that the measure notified by Haiti satisfied the requirements of Article XVIII of the Agreement,

DECIDE that a release be granted, for a period of five years, under paragraph 12 of Article XVIII for the maintenance of the measure insofar as it requires importers to obtain an import permit.

3. Decision of November 30, 1950, extending the time limit in Part II of Article XX of the agreement[3]

WHEREAS it is provided in Article XX that nothing in the General Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures described in Part II of Article XX, and that measures instituted under the said Part II of Article XX which are inconsistent with other provisions of the General Agreement shall be removed as soon as the conditions giving rise to them have ceased, and in any event not later than January 1, 1951; and

WHEREAS the conditions due to the war have not improved at the rate and to the extent expected when the General Agreement was drawn up,

The CONTRACTING PARTIES

DECIDE, in accordance with Article XXV: 5 (a), to waive until January 1, 1953, the obligation of contracting parties instituting or maintaining measures under Part II of Article XX to discontinue them or seek the approval of the Contracting Parties for their continuance.

4. Record of decisions of December 13, 1950, concerning the acceptance of special exchange agreements by the Governments of Burma, Haiti, Sweden, and Indonesia[4]

The CONTRACTING PARTIES approved the recommendations contained in the Report of Working Party "J" on Special Exchange Agreements (GATT/CP.5/44), thus taking the following decisions:

[1] See GATT/CP.5/SR.2 and 11.
[2] See GATT/CP.5/25 and GATT/CP.5/SR.15.
[3] See GATT/CP.5/SR.16.
[4] See GATT/CP.5/44 and GATT/CP.5/SR.21.

(a) that the time limit for the acceptance of special exchange agreements by the Governments of Burma, Haiti, and Sweden, failing their becoming members of the Fund in the meantime, be extended to September 17, 1951, the opening date of the Sixth Session; and

(b) that the Government of Indonesia, when it deposits an instrument of acceptance of its special exchange agreement, shall be considered as having fulfilled its obligations under the Resolution of April 13, 1950, notwithstanding the time limit set in that Resolution.

5. Decision of December 15, 1950, on the adjustment of certain specific duties and charges in Schedule II (Benelux) [5]

THE CONTRACTING PARTIES,

HAVING NOTED the adjustments relating to the specific duties and charges included in Section A of Schedule II (Benelux) of the General Agreement on Tariffs and Trade, as specified in the list annexed to this Decision, to take account of a reduction, by more than twenty per centum, of the par value of the Netherlands guilder effected consistently with the Articles of Agreement of the International Monetary Fund, to the extent necessary to ensure that the same duties and charges are applied by each of the members of Benelux,

CONCUR, in accordance with the provisions of paragraph 6 (a) of Article II of the General Agreement, that such adjustments do not impair the value of the concessions provided for in Schedule II to the General Agreement.

LIST OF ADJUSTMENTS OF SPECIFIC DUTIES AND CHARGES IN SCHEDULE II (BELGIUM-LUXEMBURG-NETHERLANDS)

Item 68.—The rates of the Netherlands monopoly duty "f.4.—" and "f.1.—" in the "*Note 1*" to this item shall read: "f.5.0" and "f.1.20."

Item 70.—The rate of the Netherlands monopoly duty "f.2.—" in the *Note* to subitem "*a*" shall read: "f.2.51."

The rate of the Netherlands monopoly duty "f.1.50" in the *Note* to subitem "*b*" shall read: "f.1.88."

Item ex 74.—The rate of the Netherlands monopoly duty "f.2.—" in the *Note* to this item shall read: "f.2.51."

Item 84.—The rate of the Netherlands monopoly duty "f.15.—" in the *Note* to sub-item "*b*" shall read: "f.18.83."

Item 89.—The rate of duty in the third colum to sub-item "*d*" "f.50.—" shall read: "f.62.78."

Item 123.—The rate of duty in the third colum to sub-item "ex *b*" "f.15.13" shall read: "f.19.—."

Item 153.—The rate of duty in the third column to sub-item "*a*" "f.36.32" shall read: "f.45.60." The supplementary duty in *Note* 1 to sub-item "*a*" "f.0.70" shall read: "f.0.88. The rate of duty in the third column to sub-item "*b*" "f.100.—" shall read: "f.125.56."

Item 154.—The rate of duty "f.254.24" in the third column shall read: "f.319.20."

Item 155.—The rates of duty "f.121.07" and "f.151.33" in the third column shall read: "f.152.—" and "f.190.—."

Item 165.—The rate of the Netherlands monopoly duty in the *Note* to this item "f.2—" shall read: "f.2.51."

Item 206.—The duty "f.1.82" in the *Note* to the sub-item "ex *b* 3" shall read: "f.2.28."

Item 294.—The rates of duty in the third column to this item "f.2.—" (3x) and "f.0.10" (3x) shall read: "f.2.51" and "f.0.13."

Item 661.—The rate of duty "f.0.61" (2x) in the third column shall read: "f.0.76."

Item 662.—The rate of duty "f.1.21" (2x) in the third column shall read: "f.1.52."

6. Decision of December 16, 1950, on the application of Annecy schedules [6]

CONSIDERING that paragraph 3 of the Annecy Protocol of Terms of Accession to the General Agreement on Tariffs and Trade provides that notifications of intention to apply the concessions provided for in the schedules contained in Annex A thereto shall only be effective if received by the Secretary-General of the United Nations not later than April 30, 1950,

[5] See GATT/CP.5/SR.24.
[6] See GATT/CP.5/SR.26.

CONSIDERING that several contracting parties, owing to unavoidable circumstances, were unable to submit notifications by that date, and

CONSIDERING the desirability of affording an additional opportunity to those contracting parties to notify their intention to apply the concessions provided for in their respective schedules in Annex A to the said Protocol,

The CONTRACTING PARTIES,

ACTING pursuant to Article XXXIII of the General Agreement, in view of the special circumstances referred to above,

DECIDE that, notwithstanding the provisions of paragraph 3 of the Annecy Protocol of Terms of Accession, notifications of intention to apply the concessions provided for in schedules in Annex A to the said Protocol shall be effective for all purposes of that Protocol if received by the Secretary-General of the United Nations not later than April 1, 1951, and

INSTRUCT the Executive Secretary to forward a copy of the present Decision to the Secretary-General of the United Nations.

7. *Decision of December 16, 1950, concerning the effect of the failure of a contracting party to sign a decision agreeing to the accession of a government acceding to the general agreement*[1]

The CONTRACTING PARTIES,

DECIDE that the failure of any contracting party to sign the Decision annexed to the Final Act of Torquay in respect of any particular acceding government by the final date for the signature of such Decision shall be deemed to be a negative vote on the Decision contemplated in paragraph 11 of the Torquay protocol and shall be so recorded.

RESOLUTION OF NOVEMBER 17, 1950, ON THE EXPENDITURE OF THE CONTRACTING PARTIES IN 1951 AND THE WAYS AND MEANS TO MEET SUCH EXPENDITURES[2]

Part I

The CONTRACTING PARTIES,

HAVING considered the estimates of expenditure of the Contracting Parties during 1951, as set forth in the Schedules annexed to this Resolution,[3]

RESOLVE that:

1. The Executive Secretary is authorized to repay promptly ICITO for services rendered during the year 1951, provided that such repayment does not exceed a total of US$403,281;

2. The repayment referred to in paragraph 1 shall be financed as follows:
   (a) by contributions from contracting parties for an amount of US$319,781;
   (b) by drawing on the cash balance available on December 31, 1950, and payments received in 1951 in respect of 1949 and 1950 financial years up to an amount of US$61,000; and
   (c) by miscellaneous income estimated at US$22,500;

3. Any balance from the cash surplus as at December 31, 1950, and payments of outstanding 1949 and 1950 contributions in excess of $61,000 shall be left at the disposal of the Executive Secretary for use as approved by the Contracting Parties, provided that such approval shall not be necessary to finance approved expenditure in 1951 pending delay in receipt of contributions;

4. The Executive Secretary shall report to the Contracting Parties at the Sixth Session on the status of budgetary expenditures, including all commitments entered into to meet unforeseen and extraordinary expenses; and

5. The contributions of the contracting parties in 1951 shall be assessed in accordance with the scale of contributions set forth in Annex C to this Resolution.

Part II

The CONTRACTING PARTIES

RESOLVE further that:

1. Before adopting any proposal involving expenditure not specifically covered by appropriations already approved, they shall examine the financial implications of that proposal and consider ways and means of meeting the expenditure out of the existing budget resources or new resources;

2. They shall consider at their Sixth Session a report by the Executive Secretary on the income received up to the date of the Session and, if there should

[1] See GATT/CP.5/SR.26.
[2] See GATT/CP.5/SR.15.
[3] For Annexes see pages 10–14 of GATT/CP.5/28.

be an amount in arrears from contributions such as to impede the execution of the work entrusted to the Secretariat, they shall review the appropriations for 1951 and consider arrangements for financing expenditure during the remainder of the year; and

3. They shall also consider at their Sixth Session the question of the establishment of a Working Capital Fund.

Part III

The CONTRACTING PARTIES,

HAVING taken cognizance of the note submitted by the Executive Secretary on contributions in arrears and of the report of its Working Party on Budget Questions,

STRONGLY URGE all contracting parties which have not yet paid their contributions for 1950 and previous years to do so without delay; and

REQUEST all contracting parties to remit their contributions for 1951 as early as possible and in any case not later than April 30, 1951, and all acceding governments to take the necessary steps to enable them to send their contributions for 1951, which shall be considered as due and payable in full as soon as those governments become contracting parties.

Senator KERR. The committee will recess until 10 o'clock the morning of April 3 and we will take up with Mr. Brown again.

(Whereupon, at 12 noon, the committee adjourned, to reconvene at 10 a. m. Tuesday, April 3, 1951.)

TRADE AGREEMENTS EXTENSION ACT OF 1951

TUESDAY, APRIL 3, 1951

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to adjournment, at 10 a. m., in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

Present: Senators George (chairman), Kerr, Millikin, Taft, Brewster, and Martin.

Also present: Mrs. Elizabeth B. Springer, chief clerk, and Serge Benson, minority professional staff member.

The CHAIRMAN. The committee will come to order.

I would like to have entered in the record at this point, at the request of Hon. Carl Hayden, Senator from Arizona, the following telegrams, all of which relate to the suggested amendment presented to this committee by Senator Holland, of Florida.

(The telegrams referred to are as follows:)

NOGALES, ARIZ., *March 21, 1951.*

Senator CARL HAYDEN,
Washington, D. C.:

The bill to amend the Reciprocal Trade Agreements Act with Mexico not only jeopardizes American investments in Mexico but will increase the already high cost of food. This bill penalizes many for the benefit of a few; we are strongly opposed to this bill, in fact and in principle.

BRACKER VEGETABLE SALES CO.

NOGALES, ARIZ., *March 21, 1951.*

Hon. CARL HAYDEN,
Senate Office Building, Washington, D. C.:

Urgently request your support in defeating amendment to Trade Agreements Act providing quota on imports if prices fresh vegetables in United States fall below parity, amending bill now before Senate Finance Committee. As growers, shippers, and packers of Mexican winter vegetables we strongly recommend its defeat.

CHRIS KOUTROULAKES.

NOGALES, ARIZ., *March 22, 1951.*

Hon. Senator HAYDEN, of Arizona,
Washington, D. C.:

Urgently request your full support to kill amendment to Trade Agreement Act now before Senate Finance Committee to impose quota on fruits and vegetables imports from west coast of Mexico when United States price is below parity. This would be disastrous as we are now imposed with heavy duties which benefits everyone; also this business greatly benefits Arizona. Thanks.

JOE T. MASON.

NOGALES, ARIZ., *March 22, 1951.*

Senator CARL HAYDEN,
Senate Office Building:

Would like to ask your support to defeat bill before Finance Committee to amend Trade Agreements Act which proposes to impose quota on imports fresh vegetables, fruits when prices below parity in United States. Such bill would be opening wedge to destroy reciprocity agreements and would cripple or destroy industry which imports 8,000 to 9,000 carloads vegetables each winter through Nogales from Mexico. This industry is backbone of Farming industry on west coast of Mexico which buys from Arizona and United States millions dollars farm machinery, autos, trucks, other machinery, and supplies. Domestice growers cannot supply consumer needs for these vegetables in winter so our imports no serious competition. Please [illegible].

JAMES K. WILSON CO.

NOGALES, ARIZ., *March 22, 1951.*

Senator CARL HYDEN,
Washington, D. C.:

Urgently request your full support, kill amendment to Trade Agreements Act now before Senate Finance Committee which would impost quota on fruit, vegetable imports when United States price is below parity. The export vegetable industry is probably among west coast of Mexico's principal industries, which also gives enormous amount revenue brokers, distributors, railroads, parts distributors, tractor, truck manufacturers, seedhouses, insecticide houses, et cetera, all over United States of America, Canada, including Arizona. On top this is an era of good will and friendly neighbor policy and solidarity among our American nations, this restricting measure on Mexico's winter vegetable export deal would be a blow to neighboring country. High import duties by United States of America, higher freight rates, et cetera, already establishes big barrier against Mexican winter vegetables whenever Florida or other local winter tomatoes, peas, peppers are available, so that measure not necessary. Needless to add Mexican winter vegetables in no way compete with Arizona-grown vegetables.

BURNAND & CO.

The CHAIRMAN. I should also like to put into the record this morning a letter from Mr. Brown to Senator Ellender which relates to the Magnuson amendment.

Senator MILLIKIN. May I see that, please?

The CHAIRMAN. Yes, sir.

Mr. BROWN. I made an error in my testimony before the Senate Agriculture Committee to which Senator Magnuson referred, and I wanted this record to be complete, as well as have it correct in the Agriculture Committee.

The CHAIRMAN. I see that is the purpose of it then.

Mr. BROWN. I made the statement that under section 22 you could impose quotas without limit, and that was not correct. It is a 50 percent limit, and I wanted to correct that in view of Senator Magnuson's statement.

The CHAIRMAN. It was made in connection with the Magnuson amendment?

Mr. BROWN. Yes, sir; Senator Magnuson referred to it in the memorandum he submitted to this committee.

The CHAIRMAN. Yes.

(The letter referred to appears at p. 1187.)

STATEMENT OF WINTHROP G. BROWN, DIRECTOR, OFFICE OF INTERNATIONAL TRADE POLICY, DEPARTMENT OF STATE—Resumed

The CHAIRMAN. Now, Senator Millikin, where were you with Mr. Brown? I express the hope that you may be able to finish with Mr. Brown because of urgent necessity for him to give attention to other matters during this week. But if you cannot finish, he has to go over to about Friday.

Senator MILLIKIN. Do you have anything you want to put in, Mr. Brown?

Mr. BROWN. Mr. Chairman, I wanted to make one correction in a statement that I made in the earlier testimony, which was that we obtained most-favored-nation commitments in many of our ECA bilateral agreements. I was in error in that statement. In most of those agreements we obtained most-favored-nation commitments for the occupied areas for which we had responsibility, that is, Western Germany and Japan, or Western Germany in any event.

And since we already had most-favored-nation agreements of various kinds with the other countries, that subject was not covered as far as we and the recipient country were concerned in the ECA bilaterals. I have put in the record a copy of an illustrative agreement as Senator Millikin requested.

I think that we are up to date in having supplied for the record, with copies being sent to Senator Millikin—he will get the last of them this morning—all of the material which the committee has asked us for.

I was asked at the close of the last hearing to give an explanation of the interpretation of article II, paragraph 6 (a) of the GATT. For the convenience of the committee, I have written it out since it is extremely technical, and I would ask that it be submitted for the record.

The CHAIRMAN. Have you copies of it?

Mr. BROWN. Yes, sir.

(The document referred to is as follows:)

STATEMENT ON ARTICLE II, PARAGRAPH 6 (A), OF GATT

In the course of the hearing before the Committee on Finance on H. R. 1612, a question arose as to the proper construction of article II, paragraph 6 (a), of GATT, dealing with adjustments in the specific duties, charges, and margins of preference of contracting parties in the event of a currency devaluation. The provision was construed by the State Department representative to mean that a country which devalued its currency might be permitted, under the circumstances and subject to the limitations set forth in the GATT provision, to raise its specific duties to take account of the devaluation. Senator Millikin suggested that the provision is subject to the opposite construction; i. e., when one contracting party devalues its currency, all other contracting parties may be permitted to adjust their rates of duty upward to take account of such devaluation.

The language of the paragraph is admittedly ambiguous on its face. The principal difficulty stems from the fact that the words "duties," "charges," and "margins of preference" are plural words, while the words "currency" and "par value" are given in the singular. When such ambiguities develop in written instruments, their true construction must be determined in the light of all the surrounding circumstances. In recheck it appears that the construction given in the testimony of the State Department representative is the correct one because the language has been so understood in all international discussions

involving the drafting and administration of the provision, and because only this construction gives a consistent and common-sense result. The construction proposed had never before, so far as can be ascertained, occurred to or been suggested to anyone in the Government involved in the trade-agreements program.

Article II, paragraph 6 (a), is limited in terms to cases where a "par value is reduced consistently with the articles of agreement of the international monetary fund." If this paragraph is construed to deal with adjustments of specific duties by the devaluing country, this limitation makes sense. A country which devalues in violation of its obligations under the fund agreement is denied the privileges of paragraph 6 (a). Under the alternative construction of paragraph 6 (a), however, this limitation would mean that if a country devalues consistently with its international obligations, other countries are free to raise tariffs against it, but if a country violates its international obligations by devaluing in the face of objections by the fund, other countries would not be free to raise their tariffs.

The construction suggested also leads to anomalous results in terms of the first provision of GATT, article I, paragraph 1, which establishes the rule of unconditional most-favored-nation treatment among the parties to GATT. In fact, it brings results inconsistent with this rule. Thus, if country A devalues its currency, and this devaluation is considered to give country B a privilege to raise its duties on A's products, B could only exercise such a privilege either (*a*) by simultaneously raising its duties on the same products from all countries (thus raising duties against countries which have not devalued) or (*b*) by applying higher rates of duty on the products of country A than on the same products from all other sources (thus violating the most-favored-nation rule). Since most of the GATT contracting parties have devalued their currencies since GATT came into force, and since these devaluations have varied widely in amounts, a breach of the most-favored-nation principle under Senator Millikin's construction of article II, paragraph 6 (a), would by now have resulted in a wide multiplicity of United States specific duties depending on the precise degree of devaluation by each supplying country from the par value effective at the inception of GATT.

When a country devalues its currency, prices of its imports normally tend to rise in terms of its currency. Thus, duties which that country levies on an ad valorem basis would automatically rise in terms of its currency. It would therefore appear perfectly reasonable to provide in GATT that such a country be permitted similarly to adjust its specific rates of duty upward in the event of devaluation.

When a country devalues its currency, its products normally tend to become cheaper in terms of the currencies of importing countries which maintain their par values. Specific duties levied by an importing country on these products do not change in terms of the importing country's currency when the import becomes cheaper. Their ad valorem incidence may, in fact, increase. On the other hand, ad valorem duties would automatically go down as the products become cheaper. Yet article II, paragraph 6 (a), unambiguously permits adjustments only in specific duties, not in ad valorem duties. Senator Millikin's construction would lead to the anomalous result that an importing country might raise its specific duties (which are either unaffected or increased in incidence by any cheapening of imports resulting from a devaluation) but might not raise its ad valorem duties (which automatically fall with any cheapening of the imported products).

Finally, it should be noted that a note to the schedule of Greek tariff concessions added to GATT by the Annecy Protocol makes special detailed provision for specific duty adjustments in the Greek tariff schedule to take account of the fluctuating rate for the Greek drachma, and relates this special provision to article II, paragraph 6 (a), in such a way as to indicate clearly that article II, paragraph 6 (a), was understood to deal with duty adjustments by the country devaluing.

Senator MILLIKIN. Will you give us the gist of it now?

Mr. BROWN. Yes, sir. The gist of it is that the paragraph referred to gives the right of adjustment to the devaluing country. The memorandum explains how that interpretation arises from the text of the paragraph and its relationship to other paragraphs in the agreement.

Senator MILLIKIN. Can you demonstrate that without taking too much time?

Mr. BROWN. Yes, sir; I could.

The CHAIRMAN. Are these two statements or one?

Mr. BROWN. There are two copies of the same, Senator George. The original I have given to the stenographer.

The CHAIRMAN. Yes.

Senator MILLIKIN. You also will cover before you finish the other paragraph?

Mr. BROWN. As far as that is concerned, Senator, I think the explanation I gave before with respect to article II (3) is as good as I can do.

Senator MILLIKIN. Your lawyers did not give you any further enlightenment?

Mr. BROWN. No, sir. I think the basic reason is that the language of article II (6) (a) is ambiguous.

Senator MILLIKIN. Speaking now of 6 (a) or the other one?

Mr. BROWN. 6 (a). If it were interpreted in any other way than being confined to action by the devaluing country, it would lead to rather absurd results. For example, it provides that adjustments may be made in specific rates in the case of a devaluation. Now if that applied to a nondevaluing country, it would mean that that country could raise its specific rates in case of devaluation by another country, and then it would be in the position where under the most-favored-nation clause of the agreement it would either have to raise its rates vis-à-vis other countries which had not devalued, or it would have to violate the most-favored-nation clause.

Similarly, section 6 (a) says that specific duties can be adjusted in cases where the par value is reduced consistently with the "Articles of agreement of the fund."

If this section applied to nondevaluing countries, it would mean that they could take compensatory or retaliatory action in a case where the devaluing country had complied with its obligations under the fund, but could not do so in a case where the devaluing country had not complied with its obligations under the fund. I think those illustrate the kind of results that would follow.

Senator MILLIKIN. You do not contend that the language of 6 (a) explicitly supports your interpretation?

Mr. BROWN. I would agree, Senator, that the language is ambiguous.

Senator MILLIKIN. And you are giving what you consider to be a sensible interpretation of it?

Mr. BROWN. Yes, sir; and also what I know to be the interpretation of the parties in the course of the negotiation of the paragraph.

Senator MILLIKIN. If an American importer imports "widgets" from X country, and $1 will buy one "widget," and the specific duty on that "widget" is 10 cents, if the foreign country from which we buy that "widget" devalues its currency one-half, of course, you could buy two "widgets" for $1 and you would pay 20 cents duty on the two "widgets," if they had a 10-cent specific duty on a "widget." Is that correct?

Mr. BROWN. That is correct. In other words, the duty would have increased, which is another reason——

Senator MILLIKIN. The duty would have increased on two "widgets."

Mr. BROWN. No; the ad valorem equivalent of the specific duty would increase.

Senator MILLIKIN. Let's talk about the specific duty and not convert the specific duty into ad valorem. If you convert your specific duty into ad valorem, you have the conventional effect which we have been talking about so much here.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. I am just speaking of specific duty. If the foreign country from which our importer buys a "widget" for $1 prior to devaluation, if that foreign country devalues so that its currency is only worth half as much in terms of dollars, of course, you get two "widgets" for $1, and you pay instead of that 10 cents specific duty on one "widget," 10 cents specific duty on two "widgets," or 20 cents; is that correct?

Mr. BROWN. That is correct.

Senator MILLIKIN. And exactly the reverse is true so far as our exports to that foreign country is concerned?

Mr. BROWN. That is correct.

Senator MILLIKIN. If our exporter exports "widgets," and formerly the foreign purchaser had to rustle $2 to buy one of those——

Mr. BROWN. One dollar.

Senator MILLIKIN. Sir?

Mr. BROWN. One dollar in your example.

Senator MILLIKIN. Yes; pardon me. Thank you. [Pause.] Had to rustle $1 to buy one of those "widgets," if that foreign country devalued its currency by half, he now has to rustle $2 to buy one "widget," and if he has a specific duty over there—let's assume it was 10 cents—he continues to pay 10 cents, but he has to rustle twice as many dollars to buy the "widget" as he did before. Is that correct?

Mr. BROWN. That is entirely correct.

Could I make one other comment, and then I think I have completed all pending matters?

The CHAIRMAN. Yes, sir.

Mr. BROWN. Senator Millikin asked me what right the OEEC and the UN had to be at the Torquay conference, and whether specific proposals were made by the OEEC or to the OEEC by the contracting parties. He suggested that they were there by invitation. That is the correct answer—they were there by invitation, and there were no specific proposals made.

Senator MILLIKIN. Is it not also true, Mr. Brown, that OEEC in relation to GATT has what might be called a permanent liaison between the two organizations?

Mr. BROWN. I do not know of any permanent liaison, Senator. I know that there is frequent consultation, as is evidenced by the presence of the OEEC observer by invitation at the fifth session.

Senator MILLIKIN. But in the informal conferences between formal sessions are there not frequent consultations of the type that you mention between representatives of OEEC and representatives of GATT?

Mr. BROWN. Members of the Secretariat have frequently consulted; yes, sir.

Senator MILLIKIN. Have you finished?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. On December 5, 1924, by an exchange of notes the United States entered into an executive agreement with Czechoslovakia calling for reciprocal most favored nation treatment. Is that agreement still in force?

Mr. BROWN. I think not, Senator, but I will have to check for you.

Senator MILLIKIN. Will you check for us and let us know?

Mr. BROWN. Yes, sir. I suspect it was superseded by the trade agreement of 1938, which was later terminated.

Senator MILLIKIN. And you will find out about it?

Mr. BROWN. Yes.

(The following information was subsequently supplied for the record:)

The executive agreement providing for reciprocal most-favored-nation treatment between the United States of America and the Czechoslovak Republic, effected by exchange of notes signed on October 29, 1923, as prolonged by the agreement signed December 5, 1924, and as amended by the agreement signed on March 29, 1935, is no longer in force. It was supplanted by the trade agreement negotiated between the two countries which became effective on April 16, 1938, and which was later terminated.

Senator MILLIKIN. I have before me a list of changes in par values of exchange rates on which the Monetary Fund was consulted by its members. I notice in connection with the British devaluation almost 20 other devaluations or changes that occurred in connection with that British devaluation. For example, I see—I am identifying them all as occurring in September of the year 1949—United Kingdom, British Honduras, Australia, Union of South Africa, Norway, India, Denmark, Egypt, Canada, Iceland, Netherlands, Greece, Finland, Belgium, France, Iraq, Luxemburg. Then there are some other changes later in that year, but I am just taking those that occurred in September after the British devaluation.

Now let me ask you specifically: Have we made any changes in our concessions to any of the countries that I have mentioned—and I will read them rapidly to refresh your memory—following that devaluation? United Kingdom, Australia, Union of South Africa, Norway, India, Denmark, Egypt, Canada, Iceland, Netherlands, Greece, Finland, Belgium, France, Iraq. And perhaps as a preface to that question, let me run through and you tell us with which of these countries we have reciprocal trade agreements.

United Kingdom?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Australia?

Mr. BROWN. Yes, sir. They are both parties to GATT.

Senator MILLIKIN. Union of South Africa?

Mr. BROWN. A party to GATT.

Senator MILLIKIN. Norway?

Mr. BROWN. The same.

Senator MILLIKIN. India?

Mr. BROWN. The same.

Senator MILLIKIN. Denmark?

Mr. BROWN. The same.

Senator MILLIKIN. Egypt?

Mr. BROWN. No agreement, sir.

Senator MILLIKIN. Canada?

Mr. BROWN. A party to the GATT.

Senator MILLIKIN. Iceland?
Mr. BROWN. We have a trade agreement.
Senator MILLIKIN. Netherlands?
Mr. BROWN. A party to the GATT.
Senator MILLIKIN. Greece?
Mr. BROWN. A party to the GATT.
Senator MILLIKIN. Finland?
Mr. BROWN. We have a trade agreement.
Senator MILLIKIN. Belgium?
Mr. BROWN. A party to the GATT.
Senator MILLIKIN. France?
Mr. BROWN. A party to the GATT.
Senator MILLIKIN. Iraq?
Mr. BROWN. No agreement.
Senator MILLIKIN. Belgium?
Mr. BROWN. A party to the GATT.
Senator MILLIKIN. Luxemburg?
Mr. BROWN. Also a part to the GATT.
Senator MILLIKIN. Now let me ask you: Following these devaluations——
Mr. BROWN. Senator, I was wrong. Finland is a party to the GATT.
Senator MILLIKIN. Yes.
Following those devaluations, did we attempt to, or did we secure any changes in our concessions to those countries or any of our concessions to any country?
Mr. BROWN. We terminated the agreement with Mexico subsequent to the devaluation, but there was no relation.
Senator MILLIKIN. That was independent of that devaluation, was it not?
Mr. BROWN. The answer to your question is that we did not make any changes because of the devaluation.
Senator MILLIKIN. We did not ask for any because of the devaluation?
Mr. BROWN. No, sir.
Senator MILLIKIN. From any of those countries?
Mr. BROWN. No, sir. I have given the reasons why in my previous testimony.
Senator MILLIKIN. Yes.
What is the relationship of the European Payments Union to the GATT?
Mr. BROWN. No formal relationship.
Senator MILLIKIN. As a matter of practice is there consultation between them?
Mr. BROWN. Not to my knowledge.
Senator MILLIKIN. I think our status in the European Payments Union is that of observer. Do we exert any pressures there in connection with our role as an observer nation, or whatever our role may be, to shape in any way any of the subject matter of GATT?
Mr. BROWN. Some of the provisions in the EPU deal with the use of quotas—approaching it from the point of view of the particular purposes sought to be achieved in EPU. The subject of quotas is also covered in some of the provisions of the GATT. So that in that sense the two agreements deal to a certain extent with the same subject matter.

As far as our role in the EPU is concerned, I am afraid I would have to get someone from ECA to answer that more definitely than I can. I do not follow that and I am not familiar with it.

Senator MILLIKIN. Is there a practical liaison between the EPU and GATT and/or ECA?

Mr. BROWN. Well, as I understand it, the EPU is a part of the OEEC——

Senator KERR. Say that again.

Mr. BROWN. The EPU is part of the Organization for European Economic Cooperation.

Senator KERR. I wonder if you would eliminate the alphabetical symbol.

Mr. BROWN. The EPU is the European Payments Union. The OEEC is the Organization for European Economic Cooperation. That was set up in connection with the Marshall plan at the very beginning as the cooperative organization of the European countries in working in the recovery program.

Now the European Payments Union is a separate agreement, I think between the same countries, dealing with establishing a method of clearing trade balance, which has made it possible for countries to eliminate a considerable number of the quotas which they had previously imposed on their private trade with each other.

That statement is necessarily general, Mr. Chairman, because I have not, as I have said, followed that and am not familiar in any detail with the operation of the European Payments Union. It is a highly complicated matter.

Senator MILLIKIN. In the main, that effect which you have just described applies to the Benelux countries, does it not?

Mr. BROWN. Oh, yes.

Senator KERR. May I ask a question there?

The CHAIRMAN. Yes, Senator Kerr.

Senator KERR. We are not a party to either agreement?

Mr. BROWN. No, sir.

(Mr. Brown later submitted the following:)

The United States is not a signatory to the Convention for European Economic Cooperation, and is not a member of the Organization for European Economic Cooperation (OEEC) established by that convention. This Government has, however, through the Office of the United States' Special Representative in Europe, maintained a close connection with the work of the OEEC. This has been accomplished on a continuing basis through the presence of United States observers at meetings of many of the OEEC committees and of the OEEC Council at ministerial level.

In June 1950, the council of the OEEC officially invited the United States and Canada to associate themselves informally with the work of that organization. The acceptance of the invitation, and the designation of Ambassador Katz, the United States special representative in Europe, to represent the United States in this association have led to fuller United States participation in the work of the OEEC and its various committees.

The United States is not a signatory of the agreement establishing the European Payments Union (EPU), and therefore not a member of the EPU. The United States, however, makes certain funds available for use in support of the operations of the EPU. A representative of this Government participates in the discussions of the EPU managing board, and as described above, the United States also has a close working relationship with the OEEC, under whose authority the EPU is operated.

Senator KERR. And would you say that any relationship between either of those organizations and the GATT would be purely coincidental?

Mr. BROWN. There is no organic relationship or legal relationship of any kind between the two.

Senator KERR. Or between either and GATT?

Mr. BROWN. I mean between OEEC or EPU and GATT.

Senator KERR. Yes.

Mr. BROWN. The OEEC and EPU are closely related.

Senator KERR. Yes.

Mr. BROWN. But, as I understand, since both the GATT and the EPU and OEEC are all interested in this problem of liberalizing trade, there are obviously common discussions of those problems from time to time. That is a very informal operation.

Senator MILLIKIN. I would suggest, Mr. Brown, it is more than informal so far as the European economic—what do you call it? OEEC? What is it?

The CHAIRMAN. OEEC.

Senator MILLIKIN. So far as OEEC and GATT are concerned, I suggested a while ago that there is an almost continuous, if not completely continuous, formal or informal liaison between the two. Is that correct or incorrect?

Mr. BROWN. I say there have been frequent consultations between members of the Secretariat that have serviced the GATT and members of the staff of the OEEC.

Senator MILLIKIN. I think you have said in effect, have you not, that OEEC derives its potency out of the assistance that it gets via the Marshall plan; is that correct?

Mr. BROWN. I did not say just that.

Senator MILLIKIN. Put it in your own words.

Mr. BROWN. The OEEC was formed by the European countries at the very beginning after Secretary Marshall's speech, and it has been the organization in Europe which has dealt with the Marshall plan and has coordinated the recovery plans of the different European countries.

Senator MILLIKIN. Yes. Well, without the Marshall plan there would not be any OEEC.

Mr. BROWN. That is correct.

Senator MILLIKIN. Since we are interested in the Marshall plan, I assume that our interest extends to OEEC; is that correct?

Mr. BROWN. Oh, we are very much interested in the OEEC. We participate as an observer.

Senator MILLIKIN. Yes.

Mr. BROWN. And are active in working with the OEEC countries.

Senator MILLIKIN. And since we have supplied the basic credit on which the Payments Union operates, we are interested in the Payments Union; are we not?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. And we watch its operations closely; do we not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And we try to shape them as best we can in accordance with our own policies; do we not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And the same is true as to OEEC; is that not correct?

Mr. BROWN. That is correct.

Senator MILLIKIN. Now, does not the Payments Union interest itself in the question of removing quantitative restrictions?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And what showings has it made on that subject to GATT?

Mr. BROWN. None on that subject.

Senator MILLIKIN. None on that subject?

Mr. BROWN. No.

Senator MILLIKIN. What showings has it made on any subject to GATT?

Mr. BROWN. I do not know. What has happened is that the OEEC has been concerned with the question in the EPU of reducing trade barriers in Europe. One of the ways in which that has been done has been through this clearing arrangement and the reduction of quotas imposed by the European countries on their trade with each other.

Another factor in the picture, of course, another type of trade barrier, is the tariff. Negotiations with respect to tariff changes have been conducted within the framework of the GATT, as most of the parties to the OEEC are parties to the GATT. And, of course, each is interested since both are striving to reduce trade barriers, being a common interest in that problem.

The OEEC has been discussing, worrying about, the question of tariffs in Europe. There is some feeling on the part of a number of countries that they have low tariffs and some of the other European countries have very high tariffs, and that this is a definite obstacle to European trade and to achieving the objective of trade liberalization of the EPU. Therefore, it is very much hoped that the Torquay conference would result in an improvement in that situation so that the work of getting down the general trade barriers in Europe could be put forward. In that sense there is a common interest in the two groups.

Senator MILLIKIN. Now, translating the common interest into action, let me ask you again: What has either the EPU or the OEEC requested formally or informally of GATT in aid of achieving these common objectives?

Mr. BROWN. EPU has requested nothing, and I do not know of any formal request or informal request by the OEEC. But there has been a special effort within the framework of the GATT by the European countries to see if in their negotiations with each other they could make progress in solving this high tariff-low tariff problem in Europe. Now that problem would have existed whether or not there was an OEEC. It is there—something which is of great concern to those countries.

Now OEEC, as I said, has been very much interested in that. That is one of the reasons why they were invited to come to the meeting. And if there is a successful outcome in improving this tariff situation among the European countries, then the general program of getting down trade barriers in Europe will have been advanced.

In that sense there is, as I say, a common interest.

Senator MILLIKIN. Admitting the common interest again, you do not recall of any formal or informal approaches of the European Payments Union or of OEEC to GATT in connection with the problems that have arisen?

Mr. BROWN. There is a resolution of the Council of the OEEC which says—I have forgotten exactly what it says, but the sense of it is that the OEEC feels the question of the high-low tariff problem within Europe is one that should be carried on in the regular tariff negotiation process at Torquay, and that the results of that will have a bearing on what OEEC does, and what more can be done in quota removal by the OEEC and the EPU.

Senator MILLIKIN. The countries that have been working among themselves for reduction of quantitative restrictions have been working as such countries and not under the direction of GATT; is that not correct?

Mr. BROWN. I beg your pardon?

Senator MILLIKIN. Those countries which you have described as working there to reduce quantitative restrictions have been working as such countries as distinguished from working under the direction of GATT?

Mr. BROWN. That is correct, sir.

Senator MILLIKIN. That is correct?

Mr. BROWN. Yes.

Senator MILLIKIN. Did I understand you to say awhile ago that, roughly speaking, GATT has been concerning itself with rates of duty, whereas the activities of these other agencies have been concerning themselves with trying to get quantitative restrictions reduced?

Mr. BROWN. I said that the GATT, of course, has provisions in it with respect to quantitative restrictions, and the EPU agreement also does. The primary purpose of the EPU agreement, as I understand it, was to make possible the reduction of quotas on intra-European trade, and that is the objective of that agreement.

Senator MILLIKIN. Is the answer "yes" to my question, where I think I am taking the clue from you, that GATT has concerned itself primarily with rates, whereas these other organizations have concerned themselves primarily with the reduction of quantitative restrictions?

Mr. BROWN. I think that is a fair statement; yes.

Senator MILLIKIN. GATT under its provisions, as you indicated awhile ago, contemplates reduction of restrictions as well as establishment of rates; does it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Do you not think we are getting quite a few organizations working on this problem?

Mr. BROWN. There are two.

Senator MILLIKIN. What is this working party that is meeting now or is about to meet? Does that strike a gong in your mind?

Mr. BROWN. There is a working party that is about to meet. The purpose of that is to see if ways can be devised of working out a further reduction of the discrepancy between the high and low tariffs in Europe; and that was a subject to which the European countries who have been at Torquay have given a good deal of attention and have not made as much progress as they would like to make,

and so they are trying within the framework of the GATT to work out some means of going further in that process.

Senator MILLIKIN. Who makes up that working party?

Mr. BROWN. I would expect, Senator, that it would be the countries which are members of the OEEC and also of the GATT, but I do not know.

Senator MILLIKIN. You do not know?

Mr. BROWN. No, sir; but I am pretty sure that would be the composition.

Senator MILLIKIN. Would you find out and let us know?

Mr. BROWN. Yes, sir.

(Mr. Brown later submitted the following:)

The countries represented on this working party are Australia, Belgium, Brazil, Canada, Cuba, Denmark, France, India, Italy, the Netherlands, the Union of South Africa, Sweden, the United Kingdom, and the United States.

Senator MILLIKIN. And the purpose of that working party is to do what?

Mr. BROWN. To make suggestions, work out procedures as to how the European countries can go further in this process of reducing this high tariff-low tariff discrepancy which has caused them so much concern.

Senator MILLIKIN. GATT has not acted on that itself as such?

Mr. BROWN. GATT does not act on tariff rates itself as such. The parties to the GATT negotiate their own tariff rates with each other.

Senator MILLIKIN. That is entirely true there, Mr. Brown. I think we are all well educated in that. But GATT has a very profound supereffect on everything that is done in connection with those rates which are thus negotiated; is that not correct?

Mr. BROWN. I think I will stand on my statement, sir.

Senator MILLIKIN. Let's see what my question was. Read the question and answer, please, Mr. Reporter.

(The record was read by the reporter as follows:)

Senator MILLIKIN. GATT has not acted on that itself as such?
Mr. BROWN. GATT does not act on tariff rates itself as such. The parties to the GATT negotiate their own tariff rates with each other.

Senator MILLIKIN. I did not ask you whether GATT had acted on any specific thing. I was trying to drive to the question of whether GATT had taken action in the field that is to be occupied by this working party. That was the purpose of my question.

Mr. BROWN. The answer is that the various parties who are members of the OEEC and who are concerned with this problem have, during the course of the Torquay negotiations, tried to work out ways of handling their negotiations to deal with this problem, and they feel that that work is not completed and it needs to be continued.

Senator MILLIKIN. Well, has GATT formally as such attempted to work out the problem which has now been delegated to the working party?

Mr. BROWN. There has been no such action by the contracting parties as such, other than the approval of the formation of this working party.

Senator MILLIKIN. Now, do you have any idea what the role of the proposed point 4 program will be in the matter of tariffs and trade?

I am not talking about rates; I am talking about the whole subject of tariffs and trade.

Mr. BROWN. I am sorry, Senator, if I am stupid. Could you clarify that a little bit?

Senator MILLIKIN. You are not stupid; it is a very broad question.

Mr. BROWN. You mean by the proposed point 4 program?

Senator MILLIKIN. There is a lot of rumor around here, which I hate to hear, that you are going to leave your present position and identify yourself with the new point 4 program. So the thought flits through my mind that perhaps it must have some tariff or trade significance, and I was trying to find out without asking you a personal question.

Mr. BROWN. Well, sir, the fact is that I am going to be changing my work in the Department to deal directly and exclusively with the problem of these raw material shortages which are plaguing us all so much; and this testimony here, I am afraid, will be my last appearance before this committee on this subject.

Senator MILLIKIN. That is unfortunate because then this committee will be in a state of complete darkness.

Mr. BROWN. Well, sir, I shall regret it very much, too, because, although the committee makes me work very hard, I have very much appreciated the way in which the committee has treated me.

Senator MILLIKIN. When we cannot get information from you, Mr. Brown, some of us have recourse to the New York Times.

I am now reading from the New York Times, and I will ask you to state whether what it says is correct. I am reading from an article by Michael L. Hoffman, in the Times issue of March 30, 1951. It says:

> The contracting parties to the General Agreement on Tariffs and Trade convened in a special session here today.

Is that correct?

Mr. BROWN. I do not know, sir.

Senator MILLIKIN. Going on—

> The main purpose of the meeting, which will practically mark the end of the 7-month-old World Tariff Conference, the third since 1947, is to try to find a solution to the problem created for the Western European economy by the large discrepancies between the tariffs of two groups of countries.

You told us that a while ago; did you not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. That is correct. Is that the main purpose of the meeting?

Mr. BROWN. I have not seen the article, but as you read it, it sounds to me that it refers to the meeting to decide whether or not this working party will be set up. I think the decision will be to set it up.

Senator MILLIKIN. In any event, there has been a problem of the type referred to in that paragraph, for I assume that refers to the same thing generally you were referring to a while ago.

Mr. BROWN. I have described the problem accurately, sir.

Senator MILLIKIN. Would you mind describing it again accurately so that we can have it in immediate context with that paragraph? I hate to put these burdens on you, Mr. Brown.

Mr. BROWN. Well, sir, I explained it has been a problem for the Western European countries for some time; that some of them have

what they consider to be very low tariffs, and that others have what they consider to be very high tariffs.

Senator MILLIKIN. You say that is the same problem described in the paragraph that I read?

Mr. BROWN. I think that is the problem described.

Senator MILLIKIN. So let's go on to the next paragraph. [Reading:]

On the one hand are Norway, Sweden, Denmark, the Netherlands, Belgium, and Luxemburg with low tariffs, and on the other are France, Italy, and Britain, with comparatively high duties on imports. It is not yet clear where Western Germany will fall in this grouping, but it is more likely to be near the low group than in the other camp.

What do you say about that?

Mr. BROWN. I think that is substantially correct.

Senator MILLIKIN (continuing):

For many months the low-tariff countries have been complaining that they are getting an unfair deal as a result of the removal of quantitative import controls under the agreements among Marshall plan countries. As controls are removed, their markets become opened to competition from other European countries, while in the market—

there is a misspelling here. I think it should be

of the high tariff group their own export products face heavy and often insurmountable import duties.

Would you say that is a fair statement?

Mr. BROWN. I would say, as I said before, that the low-tariff countries are very much concerned, and they do not like the high tariffs of their high-tariff colleagues in Europe.

Senator MILLIKIN. Would you say that is a fair statement?

Mr. BROWN. I think substantially so; yes.

Senator MILLIKIN (reading):

This problem has been discussed in the Organization for European Economic Cooperation in Paris without any positive result. It had been discussed previously by the contracting parties. Until the tariff bargaining that has been going on here all winter neared completion, it was not possible for the contracting parties to do much about the European problem.

What do you have to say about that?

Mr. BROWN. I would say that is inaccurate in the implication it gives that the contracting parties, in capital letters, as a group have been dealing with this problem. It is correct in the sense that the European countries who are parties to the GATT, and who have been in the negotiations, have been striving for some time to find a solution to the problem within their negotiating procedure.

Senator MILLIKIN. So that the Organization for European Economic Cooperation labored in vain over; is that correct?

Mr. BROWN. I think they made some studies sometime ago which did not get very far.

Senator KERR. I did not understand that.

Mr. BROWN. I think they made some studies of the problem some months ago which did not get very far. I am not familiar with the detail of it.

Senator MILLIKIN. Would you say, practically speaking, they have the leadership in the matter, whatever has been the result?

Mr. BROWN. I do not think any organization has had the leadership in the matter. I think the leadership in the matter has come from

the low-tariff countries, who have been striving to find some way of getting the high-tariff countries to lower their tariffs.

Senator MILLIKIN. Assuming that is true, they have stimulated the OEEC to try to do something about it; is that correct?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. And I think from your explanation it is true GATT has not done anything about it; is that correct?

Mr. BROWN. That is correct.

Senator MILLIKIN (reading):

It now appears that the concessions made by the high-tariff countries in this round of negotiations have not been substantial enough to soothe the irritation of the low-tariff group. This is not yet certain, but it is probable enough for the contracting parties to operate on that assumption. The contracting parties as a body are a kind of combination executive board and Supreme Court for the governments linked together in the system of trade accords known as the General Agreement.

What do you have to say about that, with particular reference to that part of the paragraph which reads:

It now appears that the concessions made by the high-tariff countries in this round of negotiations have not been substantial enough to soothe the irritation of the low-tariff group.

Mr. BROWN. I can honestly say I do not know the answer to that question, but I think it is probably correct.

Senator MILLIKIN. I think we ought to call Mr. Hoffman also, Mr. Chairman. He seems to get the correct information. [Reading:]

Neither that code nor any international body can force France, Britain, or Italy to lower tariffs. There are two things they can do, on of which, sooner or later, they must do. This is to decide what is the proper form (one that will be internationally recognized) for the settling of any kind of solution to the tariff discrepancy problem.

Have you any comment on that, Mr. Brown?

Mr. BROWN. No, sir.

Senator MILLIKIN. (reading):

The second thing the General Accounting group can do is to grant the Western European countries permission to carry out any arrangements they may agree upon. They are likely to need such permission because the agreement to which they all adhere restricts their legal right to enter upon special trade relations among themselves that would affect non-European members.

Do you agree with that, Mr. Brown?

Mr. BROWN. Yes, sir; it is correct that under the application of the provisions of GATT the European countries could not establish a preferential tariff system because that would mean giving preferences to each other which would not be extended to us and to Canada and to other countries in the world.

Senator MILLIKIN. They would really have to bring the whole problem to GATT, would they not?

Mr. BROWN. Yes, sir. If, for example, they proposed a European customs union——

Senator KERR. If what?

Mr. BROWN. If, for example, they should try to work out a European customs union, that would come under the customs union article of the GATT. But they could not give preferential tariff treatment without violating the GATT.

Senator MILLIKIN. And they have not given each other any kind of preferential treatment?

Mr. BROWN. Tariff treatment; no, sir.

Senator MILLIKIN. (reading):

There is a general feeling here that if the contracting parties can act on the first of these problems without a serious split they will be able to handle the second.

Well I will not ask you to comment on that because that is trying to analyze the general feeling.

Mr. BROWN. Thank you, sir.

Senator MILLIKIN. (reading):

Johan Melander, head of the commercial policy department of the Norwegian Foreign Office, today was elected chairman of the contracting parties for the ensuing year, succeeding L. Dana Wilgress, Canadian High Commissioner in London, who had served two terms as chairman.

May we accept that as correct? You gave us the name of the chairman.

Mr. BROWN. I do not know, sir, but I hope so. I would have voted for him if I had been there.

Senator MILLIKIN. You do not know?

Mr. BROWN. I can check that for you, but I think it is probably correct.

Senator MILLIKIN. I think it would be worth dropping a line because I think we should know who the officers of this organization are.

Mr. BROWN. We will have a cable in on that, I am sure.

May I put it this way, Senator: If I do not correct it in the record by tomorrow, that will be correct.

Senator MILLIKIN. All right.

Now we have another article from the New York Times of March 31, by Michael L. Hoffman:

TORQUAY, ENGLAND, March 30.—Negotiations between Britain and the United States for a new long-term trade agreement have broken down. Unless there should be some fundamental change in the position of the United Kingdom Government during the next few days, there will be no United Kingdom-United States tariff accord among the 150 or so such agreements to be signed at the close of the Torquay trade conference.

Do you mind commenting on that, Mr. Brown?

Mr. BROWN. The results of this conference are not yet definitely fixed, and we cannot make them public until the 9th of May.

Senator MILLIKIN. Would you say that Mr. Hoffman is accurate when he says, "Negotiations between Britain and the United States for a new long-term trade agreement have broken down"?

Mr. BROWN. I think I would rather not comment on that, sir.

Senator MILLIKIN. If you do not like the words "broken down," give us your own substitute.

Mr. BROWN. Let me put it this way: I cannot say because the thing has not yet been finally determined, and I cannot say exactly what happens until we can make it all public. That is our agreement with everyone.

Senator MILLIKIN. You would say the situation is not one of ebullient health at this moment, would you not?

Mr. BROWN. I can say we are not very optimistic about this particular negotiation.

Senator MILLIKIN. Thank you.

I notice a reference to "150 or so such agreements." Does this bargaining result in 150 agreements?

Mr. BROWN. Mr. Hoffman is inaccurate again.

Senator MILLIKIN. Do not say inaccurate again; he has been pretty accurate. What is the number?

Mr. BROWN. I do not know, sir, but it is somewhere in that general neighborhood in terms of the bilateral discussions which have taken place, which we have been describing, into the building of this agreement, but one agreement comes out.

Senator MILLIKIN. You not only divide people thereby half, but those there have sometimes a series of agreements with others?

Mr. BROWN. That is correct.

Senator MILLIKIN. And the whole thing multiplies. Could you give us some idea of how many of those bilateral agreements might be initialed?

Mr. BROWN. They are bilateral negotiations, Senator, the results of which come into a multilateral agreement. I think this figure of 150 is within 10 to 20 either way probably correct. It could have been about four or five hundred.

Senator MILLIKIN. Continuing to quote:

Conference leaders do not underestimate the serious political as well as economic consequences of such embarrassing evidence of disharmony between the leading countries of the British Commonwealth and the United States, although the situation is somewhat ameliorated by the fact that the Commonwealth countries and, of course, the United States, will all remain signatories of the General Agreement on Tariffs and Trade. They will thus be bound in principle to try further for new bilateral tariff-reducing agreements at some future date.

Have you anything to say on that?

Mr. BROWN. I have nothing to say about those comments about the consequences and this matter of describing this as disharmony. We always have gone into these negotiations on the basis of trying to work out something on a mutually satisfactory basis just as individuals try to make an agreement; and if we do not succeed, I do not think it is necessarily embarrassing evidence of disharmony. I would not accept that kind of comment.

As far as the "bound in principle to try for a new bilateral tariff-reducing agreements at some future date," there is nothing in the GATT that obligates us to do that, but it has been our policy and the policy of the other countries from time to time to engage in these negotiations.

Senator MILLIKIN. If you do not succeed, you try, try again. Is that not it?

Senator TAFT. May I ask one question?

The CHAIRMAN. Yes.

Senator TAFT. If you make 150 agreements with all these other countries, would not Great Britain get all the advantages practically they want out of the tariff reduction while we get nothing from Great Britain? Is not the result of the breakdown with Great Britain only to bar us from advantages and not to bar them from advantages?

Mr. BROWN. No, sir.

Senator TAFT. What particular tariff does Great Britain want lowered in this country that would not be lowered in these other 150 agreements?

Mr. BROWN. In the first place, we are only negotiating, I think, with 24 other countries, not 150.

Senator TAFT. Well, 24 other countries.

Mr. BROWN. In the second place, we are not negotiating with any of those countries on the products in which Britain is principally interested.

Senator TAFT. What are those products?

Mr. BROWN. The products which Britain is the main exporter to this country are such products as whisky and textiles and bone china, cutlery, leather goods.

Senator TAFT. Is there any tariff on whisky to speak of?

Mr. BROWN. Yes, sir.

Senator TAFT. Not compared to the tax, however?

Mr. BROWN. No, sir.

Senator MILLIKIN. Are you finished?

Senator TAFT. Yes.

Senator KERR. Is imported liquor not subject to tax?

Mr. BROWN. As a matter of fact, it pays somewhat higher taxes than domestic liquor does.

Senator KERR. That is in addition to import duty?

Mr. BROWN. Yes, sir. Continuing to answer your question, Senator Taft, the British are negotiating with other countries there as well as with us, and we, under the most-favored-nation clause, will get the benefit of any concessions which they make to the other countries.

Senator BREWSTER. Is not it chiefly the problem of imperial preference?

Mr. BROWN. That is always a difficulty in negotiating with the British, Senator Brewster.

Senator MILLIKIN. Does the witness recall that a State Department representative one time stated at hearings on this or related subjects that unless we solve the problem of British preferences we have nothing left—in effect?

Mr. BROWN. I doubt if he said exactly that.

Senator MILLIKIN. I do not say that he did; I say "in effect."

Mr. BROWN. It would not be a correct statement if he did make it.

Senator MILLIKIN. If he said that in effect, that was not correct?

Mr. BROWN. No, sir.

Senator MILLIKIN. And, of course, you do not say it would be correct, because you have continued with the whole arrangement despite the fact that you have not solved the British preference problem?

Mr. BROWN. No, sir. We have succeeded over the years in reducing a very considerable number of the preferences in the British Commonwealth and in eliminating a considerable number of them. The system, of course, remains; and, in that sense, the problem still exists. We have chipped away at it. We have made some progress.

Senator MILLIKIN. Let's see what our authority, Mr. Hoffman, has to say next. [Reading:]

These 6-month-long negotiations have foundered on the rock of British "imperial preferences." The British have refused to agree to reduce the margins between the duties imposed on United States goods and those (if any) imposed on Commonwealth goods of the same type imported into Britain. They have preferred to forego the very considerable reductions the United States was prepared to make in duties on British goods as the American share of a big tariff bargain.

Would you mind commenting on that?

Mr. BROWN. I have no comment, sir.

Senator MILLIKIN. Let's break it down. You would not agree with Mr. Hoffman's description, would you, that "These 6-month-long negotiations have foundered on the rock of British 'imperial preferences'"?

Mr. BROWN. Senator, I am not in a position to comment upon the details of what has been going on in the negotiations at Torquay.

Senator MILLIKIN. Someone apparently has commented to Hoffman. It is a little embarrassing to this committee to have to get a reasonably accurate account of what is going on at Torquay from Mr Hoffman.

Mr. BROWN. I think that is embarrassing all around, Senator.

Senator MILLIKIN. Yes; I think it would be.

Let me read that paragraph again. [Reading:]

These 6-month-long negotiations have foundered on the rock of British "imperial preferences." The British have refused to agree to reduce the margins between the duties imposed on United States goods and those (if any) imposed on Commonwealth goods of the same type imported into Britain. They have preferred to forego the very considerable reductions the United States was prepared to make in duties on British goods as the American share of a big tariff bargain.

Let's take some of the statements of fact. Have the British refused to agree to reduce the margins between the duties imposed on United States goods and those (if any) imposed on Commonwealth goods of the same type imported into Britain?

Mr. BROWN. Senator, I have said that I cannot comment on what is going on in the negotiations at Torquay.

Senator MILLIKIN. I would suggest that so far today you have made quite a few comments on that.

Mr. BROWN. Yes, sir; but in very general terms.

Senator MILLIKIN. You are being selective?

Mr. BROWN. Yes, sir; if I may.

Senator MILLIKIN. Do you think that this committee, charged with special jurisdiction over this subject, should not know?

Mr. BROWN. We have agreed that we will announce the results of this conference at a certain time, and we will make a complete announcement at that time, and I am not at liberty to disclose the details.

Senator MILLIKIN. You refuse to give the committee an answer to that question?

Mr. BROWN. Yes, sir; I cannot do so. I am sorry.

Senator MILLIKIN. Let me ask you another one. [Reading:]

They (the British) have preferred to forego the very considerable reductions the United States was prepared to make in duties on British goods as the American share of a big tariff bargain.

Is that correct or incorrect?

Mr. BROWN. I am afraid I must give the same answer.

Senator MILLIKIN. Do we give concessions in order to get countries to do their duty as far as reducing preferences are concerned? Have we ever done that?

Mr. BROWN. No, sir. We give concessions in order to get concessions in return. There are two kinds of concessions—one in duties, and one in preferences.

Senator MILLIKIN. Now, GATT says that these preferences are evil and that it is their duty to do away with them. I am asking you now if we give a quid pro quo in order to get countries to do that which they should do?

Mr. BROWN. No; GATT does not say that.

Senator MILLIKIN. Does it not say it in effect?

Mr. BROWN. It says that countries will negotiate for the ultimate elimination of preferences.

Senator MILLIKIN. Yes.

Mr. BROWN. And negotiate means negotiate.

Senator MILLIKSN. Cannot you find any language in there that indicates that preferences are an evil to be overcome?

Od, do not take my word "evil." Is not that one of the basic principles of GATT?

Mr. BROWN. Surely.

Senator MILLIKIN. Why, of course. So, if it is a basic principle, if it is something that a nation should remedy itself, I am asking you: Do we ever give a quid pro quo to get them to do that which they should do?

Mr. BROWN. There has been consistently through this whole thing the recognition that there are certain established preferential systems which, if you abolished immediately, would have very great disruptions, and that the process of getting rid of them for ourselves as well as for the British and others is a process of negotiation.

Senator MILLIKIN. Is that to say that you will negotiate and in the course of negotiations you would have or might have concessions in order to achieve that result?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Were we prepared to offer concessions on British goods as a part of the program to reduce preferences?

Mr. BROWN. We were prepared to offer concessions on British imports into this country in return for advantages, tariff advantages, in their markets, either reduction of rates or reduction of elimination of preferences, or both.

Senator MILLIKIN. Yes. Now, continuing to quote:

The United States is not prepared to grant further reductions in duties on British goods without getting what its negotiators consider equivalent value in the form of the removal of discriminations against United States goods in British markets.

You have already answered that, have you not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Continuing to quote:

In some cases the British could not grant a reduction in preferential margins because Australia, New Zealand, or South Africa would not agree to give up the protective market in Great Britain that their industries have enjoyed since 1931.

Is that a correct statement?

Mr. BROWN. I think that comes within the terms of specific details of the negotiations, which I am sorry I cannot comment on.

Senator MILLIKIN. You refuse to answer that?

Mr. BROWN. I am afraid so, sir.

Senator MILLIKIN. You refuse; is that correct?

Mr. BROWN. I am afraid that is correct.

Senator MILLIKIN (continuing):

But the negotiations did get far enough so that it became quite clear that even in cases in which the Commonwealth governments would release the United Kingdom from its previous commitments to grant their goods preferential treatment, London would not go along.

Would you comment on that?

Mr. BROWN. The same answer, sir.

Senator MILLIKIN. Continuing to quote:

Entirely apart from the tariff preferences, the Commonwealth countries enjoy protection in the United Kingdom market because British buyers can get sterling freely, but dollars only with difficulty.

Mr. BROWN. That is a matter of general knowledge.

Senator MILLIKIN (continuing):

Some conference leaders believe some good will come eventually of this successful "smoking out" of the British assertion that it is largely or only because of Commonwealth objections that the United Kingdom is so reluctant to bargain reductions in preferences against tariff concessions in the American markets as it is pledged to do under a series of agreements under the Atlantic Charter.

Is not Mr. Hoffman in error?

I do not remember a series of agreements in the Atlantic Charter.

Mr. BROWN. I think Mr. Hoffman is in error.

Senator MILLIKIN. Let's pin one error on Mr. Hoffman. Can we agree on that one?

Mr. BROWN. Certainly. I was going to say he is in error again.

Senator TAFT. Do you think he meant the Atlantic Pact?

Senator MILLIKIN. Undoubtedly. I think he meant the Atlantic Pact, but I wanted to destroy the infallibility of Mr. Hoffman.

Mr. BROWN. Thank you, Senator.

Senator KERR. After having built it up so successfully?

Senator MILLIKIN. I just like to have him be human. He gives us our best evidence we have had before this committee on the subjects. [Reading:]

Because all members of the British Commonwealth are tied together by these preferential accords, the refusal of one or two members to give up preferences ties the hands of the others. Failure to reach a United States-United Kingdom agreement, therefore, almost inevitably involves failure to reach agreements between the United States and other members of the Commonwealth involved in the preferential system, although a Canadian-United States may be salvaged.

Prior to the statement that a Canadian-United States accord may be salvaged, I think what was said was a conclusion from a prior premise, and I will not ask you to comment on it unless you wish to. But do you believe that we will salvage a Canadian-United States accord?

Mr. BROWN. I said I was pessimistic about our negotiations with the United Kingdom. I think I can fairly say I am optimistic about our negotiations with Canada.

Senator MILLIKIN. Continuing the quote:

This is the same issue on which British-American negotiations nearly failed in 1947. The tariff schedules agreed to then after last-minute efforts had succeeded in breaking the impasse, will be those applied by Britain and the United States to each other's goods for the next 3 years in view of the failure to agree on new ones at Torquay.

Assuming that they did fail at Torquay and assuming that some other conference were not called prior to the end of 3 years, that is a correct statement, is it not?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Continuing to quote:

Preferences are a hot political issue in Britain. In Torquay itself a "rally" was held tonight to denounce—

I just wish to impress upon the committee how much everyone knows and is willing to tell outside of the State Department, on this subject—

In Torquay itself a "rally" was held tonight to denounce what the organizers mistakenly believe to be the British Government's intention to conclude agreements at Torquay seriously weakening the preferential system.

The meeting adopted a resolution recording a determination "to resist all decisions taken at Geneva, Habana, or elsewhere which threaten the liberty of Great Britain and the Commonwealth to support and further the general system of Imperial preference."

Alan Lennox Boyd, one of the Conservative Party speakers, said: "We hold ourselves free to renounce, while observing our treaty obligations, any part of the agreements at Habana, Geneva, Annecy, or here that may be prejudicial to Empire trade."

Most experienced observers here believe the fact that the Labor Government has a majority in the House of Commons that has gone as low as three has a lot to do with its reluctance to provide the foundation for new charges of "selling out the Empire."

I will not ask you to comment on that, Mr. Brown, unless you wish to.

Mr. BROWN. I think I would like to, Senator, if I may.

Senator MILLIKIN. Good.

Mr. BROWN. I think that the rally which is reported to have been held at Torquay about the fear of Mr. Boyd and his colleagues that the British delegation were going to sell out the Commonwealth is matched in many cases in this country by the meetings and speeches expressing the fear that our negotiators are going to sell out the United States. I think that in both cases they are equally mistaken.

Senator KERR. Would you say, Mr. Brown, at that point, that the fears of each were probably as ill-founded as were the fears of the other?

Mr. BROWN. Yes, sir; I would say that precisely.

Senator TAFT. But the agitation in England seems to have more effect on the negotiators than the agitation in the United States apparently.

Mr. BROWN. Well, sir, if we do not reach an agreement with Britain, then we do not make tariff concessions to Britain.

Senator MILLIKIN. Fear seems to be common in both countries.

Mr. BROWN. I am afraid it is, sir.

Senator MILLIKIN. And, as Senator Taft has pointed out, they pay attention to the fear in Britain, and you gentlemen do not pay any attention to it in the United States except when you abandoned ITO, and except when you finally abandon GATT, then there will be further evidence of the fact that you do once in a while look to the public opinion facts of the situation.

The CHAIRMAN. Do you wish to ask a question, Senator Kerr?

Senator KERR. Yes. Is it a fact, Mr. Brown, that the problem of probable failure to reach further agreements with the United Kingdom, if there is probability of such failure, may be the result not only of the purpose of our negotiators to agree only to that which would be to the benefit of American industry, on the one hand, and also the recommendations and urgings received by the State Department from American industry representatives?

Mr. BROWN. Yes, sir; that is certainly true. The representations which have been made to us and to the other agencies all are important factors in the decisions as to whether or not we can offer concessions;

how far we are willing to go. And the other side of the coin is that we do not feel that it is in the best interests of this country and consistent with the program to make concessions when nothing is coming back the other way.

Senator KERR. Then if there is probability of failure, would it be more accurate to say that it is because of the caution on the part of our negotiators and their respect for the position of American industry rather than because of the lack of it?

Mr. BROWN. Yes, sir, certainly.

Senator MILLIKIN. Does it not come to what Senator Kerr said awhile ago—that you aim not to give a concession unless you get something in return for it?

Mr. BROWN. That is right, sir.

Senator MILLIKIN. And any other assumption would impute imbecility to you.

The CHAIRMAN. Go ahead.

Senator MILLIKIN. What was the preceding history on the calling of the Torquay Conference? We asked that it be called, did we not?

Mr. BROWN. No, sir; there was a general agreement at Annecy that it would be desirable to have it. Agreement was reached there to set the date for this spring in Torquay.

Senator TAFT. How many years was that?

Mr. BROWN. Two years.

Senator TAFT. Two years ahead?

Mr. BROWN. Yes. But, of course, there had been no negotiations at Annecy between the original Geneva countries, so it was a little over 3 years as far as they were concerned.

Senator MILLIKIN. Have you finished, Senator Taft?

Senator TAFT. Yes.

Senator MILLIKIN. I asked you some questions about the part of trade that is covered by concessions the other day, and my attention has been called to the fact that perhaps they were not broad enough and inclusive enough. So I think the point of distinction should be kept in mind as between that part which is covered by concessions and the remainder of world trade. If there is any confusion in the questions or answers, I think we ought to resolve that. Maybe there is not. So I will ask you what part of the world trade is covered by tariff concessions in GATT or other agreements.

Mr. BROWN. I do not know there is any way to get that figure accurately. We probably have the proportion of the international trade of the contracting parties.

Senator MILLIKIN. Yes.

Mr. BROWN. Which is covered by the concessions.

Senator MILLIKIN. What is that?

Mr. BROWN. But we would not have figures of the trade of some country not party to the agreement.

Senator MILLIKIN. What part of the world trade is covered by agreements under GATT?

Mr. BROWN. We could only give you the part of the international trade of the contracting parties.

Senator MILLIKIN. Yes; that is what I am talking about.

Mr. BROWN. If it is not in the record, we will supply it.

Senator MILLIKIN. All right. Then I want to find out what part of our trade is in commodities upon which we have granted concessions, what part of our entire international trade is in commodities on which we have granted concessions.

Mr. BROWN. By concessions, do you also include bindings on the free list?

Senator MILLIKIN. Yes.

Mr. BROWN. I believe that is in the record.

Senator MILLIKIN. Will you make a division between bindings and the other types of concessions?

Mr. BROWN. I think that is already in the record.

Senator MILLIKIN. And what part of total world trade is covered by concessions granted by foreign countries in agreements which have been suspended during the life of GATT?

Mr. BROWN. Well, all of those figures, I think, are in the record, Senator.

Senator MILLIKIN. If they are, will you give specific reference to them?

Mr. BROWN. Yes.

Senator MILLIKIN. Because, in having a staff talk on this subject, there was considerable confusion as to whether we were comparing the world trade of one country against the world trade of another, or whether we were covering concessions against all world trade. Just so we can get it buttoned down to get the relation of the concessions to the whole subject of trade.

Mr. BROWN. The figures that we put in the record were the total international trade of the countries about which you are asking.

Senator MILLIKIN. That is right.

Mr. BROWN. But they were not broken down in the proportion between their concessions and their total trade.

Senator MILLIKIN. That is right. For example, as I recall it, we have about 60 percent of our imports on the free list, roughly; is the correct?

Mr. BROWN. Substantially; yes, sir.

Senator MILLIKIN. So there are 40 percent that are subject to some kind of duty or other agreement. Then the question would have relation to that 40 percent.

I take it that much of the goods that come in here—I do not know what proportion, and that is one of the things I want to find out—that of the part that is not on the free list, a part of that is covered by concessions under the reciprocal trade system and a part is not, and it is data of that kind we are anxious to get.

Mr. BROWN. I think I understand now, sir.

Senator MILLIKIN. Yes.

Mr. BROWN. I am not sure whether we can get that for all the other countries, but we can probably give you an approximation.

Senator MILLIKIN. Do the best you can on it.

Mr. BROWN. Yes, sir.

(Mr. Brown later submitted the following:)

1. The tariff concessions which have been made in the General Agreement on Tariffs and Trade at Geneva and at Annecy now apply to products which account for more than two-thirds of the import trade of the participating countries and more than one-half of the import trade of the world.

2. The percentage of United States import trade affected by concessions granted in trade agreements in effect as of January 1, 1951, is shown in the following table:

Item	United States imports for consumption, 1949	
	Value (millions of dollars)	Percent of total
Total dutiable imports	2,695	100.0
Duty reduced in a trade agreement	2,385	88.4
Duty bound in a trade agreement	113	4.2
Not in any trade agreement	199	7.4
Total duty-free imports	3,886	100.0
Duty-free status bound in a trade agreement	[1] 3,486	89.7
Not in any trade agreement	[1] 400	10.3
Total all imports	6,581	100.0
In a trade agreement	5,982	90.9
Not in any trade agreement	599	9.1

[1] Partly estimated. If principal classes of imports free under special provisions such as the Philippine Trade Act of 1946, the suspension of the copper excise tax, etc., are excluded, the proportion subject to trade-agreement concession would be well over 90 percent.

3. The tariff concessions which have been made in bilateral trade agreements with the United States which are inoperative as long as the signatory countries are contracting parties to the General Agreement on Tariffs and Trade are estimated to apply at least to products which account for about one-fourth of the import trade of the signatory countries and approximately one-eighth of the import trade of the world.

Senator MILLIKIN. Did you have a question, Senator?

Senator TAFT. Well, I wanted to follow up a little bit and ask whether your problem of trying to coordinate all these agencies abroad in the economic field has been in any way increased by the setting up of North Atlantic Treaty Organization. They seem to have economic duties.

Mr. BROWN. Insofar as my particular field of trade barriers is concerned, Senator, that has not created difficulties. I just do not know on the other aspects of the NATO work.

Senator TAFT. I was only dealing with the economic end of this. It is an article again from the New York Times of yesterday morning, in which James Reston, from Washington, says.

General of the Army Dwight D. Eisenhower has won a major argument with the United States Government over the location of the North Atlantic Treaty Organization's headquarters.

Behind the news from London this morning that most of the Treaty Organization will remain there lies a rather bitter dispute that has hampered the work of the Organization for several months.

The State Department wanted to move the Treaty Organization headquarters to Paris. General Eisenhower, whose personnel staff headquarters are there, wanted to keep the political, economic, and production sides of the Treaty Organization in London. The dispute came to a climax several days ago when Under Secretary of State James Webb and Thomas D. Cabot, Director of International Security Affairs in the State Department, went to Paris to try to persuade the general to change his mind. He did not.

Consequently, against its own judgment and that of most of the officials who are running the Treaty Organization in London, the United States will recommend to the Council of Deputies that the Treaty Organization be split, with the military headquaters remaining in or just outside Paris and the rest of the Organization staying in the British capital.

I will skip most of this dealing directly with the treaty, but then—

To coordinate the activities of 12 governments in all these fields, and at the same time mesh the Marshall plan—

and I suppose that is OEEC—

and North Atlantic Treaty Organizations will be an extremely difficult task, even if all the officials directly concerned are operating in the same city.

To try to coordinate them when they are split between Paris and London, however, Washington officials argued to General Eisenhower, would complicate and retard the Treaty Organization's operations considerably.

Then skipping some more—

There is agreement here now that enough time had been wasted on the question of where the job is going to be done and that the thing to do now is to get on with the job under General Eisenhower's system.

Consequently, orders are going out to coordinate the various activities as well as possible. A detailed set of regulations has been circulated to bring the United States ambassadors and the ECA representatives together. Both the State Department and the ECA are to have the right to direct appeal back to their own agency heads. They are to make joint recommendations when they agree and joint statements of their differences to both the State Department and ECA headquarters here when they disagree. In short, the comparative autonomy of the ECA representatives abroad has been maintained.

Much time has been wasted over this dispute. Much confusion has been caused by duplicating staffs in different agencies and different capitals, but after months of wrangling a Government decision has been taken at last. Though frankly, few officials here think it was the right one.

Are you familiar with this detailed set of regulations that has been circulated to ambassadors and the ECA people?

Mr. BROWN. No, sir; I am not familiar with the NATO.

Senator TAFT. Does that cover the OEEC, too? I mean the Marshall plan organization.

Mr. BROWN. The only thing I could think of in the field that I do know about is possibly some of the work in getting increased production of raw materials, that kind of thing, might involve a jurisdictional problem.

Senator TAFT. What are the economic aspects?

Mr. BROWN. I just do not know.

Senator TAFT. What are the economic aspects of the North Atlantic Treaty Organization? This seems to have an economic head. [Reading:]

The main political committee, the principal production unit under William R. Herod, the joint American military assistance group under Maj. A. Franklin Kibler, will all be apart from both the Eisenhower headquarters and the Marshall plan headquarters, which has been assigned a major role in the rearmament program.

Is there any coordination between the different economic activities, foreign economic activities of the State Department?

Mr. BROWN. Yes, sir. These things that you have been reading about are things of a question of production, of developing priorities, of what needs to be produced; where are the factory facilities, and all that kind of thing; how much of a strain is it on the internal budget, and that kind of economic problem; whereas what we have been discussing here, what we deal with in GATT, is the question of your general trade barriers, and the process of trying to get reduction is not inconsistent with the work that is being done in the other area.

Senator TAFT. Is the point 4 organization separate still again in

the State Department? Is that entirely separate from this trade-control organization?

Mr. BROWN. Yes, sir. We are in touch with them, but it is a separate group.

Senator TAFT. I notice that the Rockefeller report recommended that they all be taken out of the State Department and put in a separate economic unit.

Mr. BROWN. I believe it did.

Senator BREWSTER. Did the State Department approve that?

Mr. BROWN. I do not think that the Department has made up its mind about those recommendations, Senator Brewster.

Senator BREWSTER. Is it not clear in the building up of the armament there and the strain it imposes on the economy of the various countries, that we are going to take account of that in the assistance which we extend?

Mr. BROWN. I would think we would, Senator.

Senator BREWSTER. And that necessarily has its impact upon the whole problem of international exchange and trade.

Mr. BROWN. Yes.

Senator BREWSTER. And while we will make a direct contribution in armaments, as frequently discussed, we are going to make this indirect contribution to the sustaining of the economy of the countries to the extent that they divert their civilian economy to rearmament.

Mr. BROWN. I do not know the answer to that, Senator.

Senator BREWSTER. Is it not contemplated there will be considerations of that character entering into our assistance?

Mr. BROWN. I honestly do not know. I am not qualified to answer the question.

Senator BREWSTER. Who would be the one in the State Department that would know about that? You are the director of international trade.

Mr. BROWN. Yes, sir; but I deal with the problem of trade barriers, and I have a difficult enough time keeping track of all of that. I think that the person to——

Senator BREWSTER. When you say "trade," you are not the director of international trade barriers, you are the director of international trade policy.

Mr. BROWN. That is correct.

Senator BREWSTER. That is quite a little broader than barriers.

Mr. BROWN. We also have a director of financial and development problems, who would know more about that than I. In fact Assistant Secretary Thorp would probably be the person to answer that question.

Senator BREWSTER. Mr. Bruce—I do not want to violate a confidence—but in Paris some months ago he indicated that was going to be one of the major problems.

Mr. BROWN. That may very well be, Senator. I just do not know, and I would prefer not to give the committee an answer that might be misleading and inadequate.

Senator BREWSTER. You do not know the scope of General Eisenhower's jurisdiction in these economic matters?

Mr. BROWN. Except that I know they deal mainly with these questions of production and budgetary problems, and that kind of thing.

Senator TAFT. May I ask one more question on another line, Mr. Chairman?

The CHAIRMAN. Yes, sir.

Senator TAFT. I have a letter here from a manufacturer of maraschino cherries, who is threatened with extinction, apparently. He says:

> Of utmost concern to us is an amendment or restatement of section 336 and section 352 (a) of the Tariff Act of 1930. For as amended by section 352 (a), it provides a procedure for obtaining a commission investigation of foreign and domestic costs and adjustment of tariff rates if the foreign costs are found to be substantially less than the domestic costs of production, but does not apply to any commodity covered by a trade agreement.

Is he referring to an amendment that was made by the House, or is it existing law, by "procedure for obtaining a commission investigation of foreign and domestic costs"?

Mr. BROWN. There is no amendment in the House on that subject.

Senator TAFT. What is 352 (a)?

Mr. BROWN. That is part of the Tariff Act. He is referring to a provision in the existing act, Senator.

Senator TAFT. What he is objecting to is that it does not extend to any commodity covered by trade agreements.

Mr. BROWN. That is correct.

Senator TAFT. What is the procedure for commission investigation of foreign and domestic costs?

Mr. BROWN. Under section 336 they used to have cost-of-production studies, and then the Tariff Commission, having gone into the study, would make a recommendation as to whether the rate should or should not be increased or reduced. When the Trade Agreements Act was passed, that was made inapplicable to the article in the trade agreements.

Senator TAFT. That was suspended by the Reciprocal Trade Agreements Act as to any articles covered by a trade agreement?

Mr. BROWN. That is correct. And if a situation develops where the existing rates cause trouble, we now have the escape-clause mechanism which takes care of that situation.

Senator MILLIKIN. Mr. Brown, what countries belong to the Monetary Fund that are not in the General Agreement? We had that information in the past. Have we got it in this hearing?

Mr. BROWN. I do not know, sir.

Senator MILLIKIN. Will you supply it, please?

Mr. BROWN. You want the countries that are members of the fund but not the GATT or members of GATT but not the fund?

Senator MILLIKIN. Just so we can see those countries which do not belong to the fund which belong to GATT, or which belong to GATT and do not belong to the fund.

Mr. BROWN. Very good, sir.

Senator MILLIKIN. And in that connection, at one part of whatever you bring in here, assume that the new countries are in.

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Or are out; so that we can clearly estimate with respect to that particular situation.

Mr. BROWN. Yes, sir.

(The following information was subsequently supplied for the record:)

COUNTRIES WHICH ARE CONTRACTING PARTIES TO THE GATT AND COUNTRIES WHICH ARE MEMBERS OF THE INTERNATIONAL MONETARY FUND

The following countries are either contracting parties to the General Agreement on Tariffs and Trade or are now negotiating at Torquay for accession to the agreement, and are also members of the International Monetary Fund:

Australia	Dominican Republic	Pakistan
Austria	Finland	Peru
Belgium	France	Republic of the Philippines
Brazil	Greece	Syria
Canada	India	Turkey
Ceylon	Italy	Union of South Africa
Chile	Luxemburg	United Kingdom
Cuba	Netherlands	United States
Czechoslovakia	Nicaragua	
Denmark	Norway	

The following countries are either contracting parties to the General Agreement on Tariffs and Trade or are negotiating at Torquay for the purpose of accession to the agreement, but are not members of the International Monetary Fund:

Burma	Indonesia	Southern Rhodesia
Federal Republic of Germany	Korea	Sweden
Haiti	Liberia	Uruguay
	New Zealand	

The following countries are members of the International Monetary Fund but are not contracting parties to the General Agreement on Tariffs and Trade. The asterisks indicate countries with which the United States has bilateral trade agreements:

Bolivia	Ethiopia	Mexico
China	Guatemala*	Panama
Colombia	Honduras*	Paraguay*
Costa Rica*	Iceland*	Thailand
Ecuador*	Iran*	Venezuela*
Egypt	Iraq	Yugoslavia
El Salvador*	Lebanon	

Senator MILLIKIN. Are you acquainted with our shipment of gold problem in relation to foreign trade policies?

Mr. BROWN. No, sir.

Senator MILLIKIN. You do not wish to testify on that?

Mr. BROWN. I would not be qualified.

Senator MILLIKIN. Do you know how much gold we lost last year?

Mr. BROWN. A substantial amount. I do not know the figure.

Senator MILLIKIN. Would you say perhaps $1,700,000,000?

Senator TAFT. About $2,300,000,000, according to figures I just saw yesterday.

Senator MILLIKIN. For calendar 1950?

Senator TAFT. For the 12 months, calendar 1950.

Mr. BROWN. I am advised that is substantially correct.

Senator MILLIKIN. Who is it over in your Department that would be competent to discuss that problem?

Mr. BROWN. On the gold, sir?

Senator MILLIKIN. Yes.

Mr. BROWN. I think probably the best qualified person would be in the Treasury Department, but I could find out and let you know, sir.

Senator MILLIKIN. Would you do that?

Mr. BROWN. Yes.

(Mr. Brown later apprised the committee that Mr. Frank A. Southard, Jr., United States Executive Director of the International Monetary Fund and Special Assistant to the Secretary of the Treasury, would be well qualified to discuss this matter.)

Senator MILLIKIN. Are not the trade negotiations somewhat embarrassed by our gold finding its way into the black market?

Mr. BROWN. I am not qualified. I do not know about black-market operations in gold.

Senator MILLIKIN. Are our shipments of gold limited to central banks of other countries?

Mr. BROWN. I do not know the answer to that.

Senator MILLIKIN. Are you prepared to say we maintain supervision over those who receive the gold, whether a central bank or otherwise, as to what they do with the gold?

Mr. BROWN. I do not know the answer to that question.

Senator MILLIKIN. At one time the State Department made the suggestion that there should be a permanent staff for GATT. What are you doing about that?

Mr. BROWN. We are considering that suggestion. It was discussed at the last session of the contracting parties, and there was a working party report suggesting to governments that the contracting parties do employ a permanent secretariat.

Senator MILLIKIN. At the present time you do not have a permanent secretariat?

Mr. BROWN. No, sir.

Senator MILLIKIN. And at the present time you do not have what might be called a staff?

Mr. BROWN. No, sir. We have a secretariat that handles problems during the meetings.

Senator MILLIKIN. Sir?

Mr. BROWN. We have a staff during our meetings, of course.

Senator MILLIKIN. I mean a permanent staff.

Mr. BROWN. No, sir.

Senator MILLIKIN. You do not have a permanent staff nor a permanent secretariat?

Mr. BROWN. No, sir. We have a recommendation that we should get one.

Senator MILLIKIN. The last sentence of paragraph 4 (b) of article XII of GATT reads as follows:

> Not later than January 1, 1951, the contracting parties shall review all restrictions existing on that day and still applied under this article at the time of the review.

Can you give us a report on that review? Was it made? By whom? Is an official report being made?

Mr. BROWN. No, sir; it has not yet been made. It probably will be made at the next meeting.

Senator MILLIKIN. It probably will be made at the next meeting?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. You mean after the conclusion of Torquay?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Is it under preparation at the present time?

Mr. BROWN. Yes, sir. I believe that information on the use of these restrictions has been asked for from the different contracting parties, to be the basis for this discussion at the next meeting.

Senator MILLIKIN. By GATT as such?

Mr. BROWN. By the contracting parties as such.

Senator MILLIKIN. That is right. Why has that been so late in getting under way?

Mr. BROWN. I am advised that the mechanics of setting up the questionnaire took a lot more time than was anticipated. And, as I reported in earlier testimony, there has been a consultation and review with respect to restrictions of some of the countries, the commonwealth countries, which are a very important element in the picture.

Senator MILLIKIN. You do not think of any other reason causing the delay?

Mr. BROWN. No, sir; I do not.

(Mr. Brown later indicated that another reason for the delay was the desire of the contracting parties to hold the review called for under article XII, 4 (b) at the same time as they were preparing the report on discriminatory balance-of-payments restrictions required under article XIV, 1 (g).)

Senator MILLIKIN. Now the contracting parties are required by article XIV, paragraph 1 (g) to report on any action being taken which discriminates against any member, and reads as follows:

> Not later than March 19, 1950 (3 years after the date on which the International Monetary Fund began operations), and in each year thereafter the contracting parties shall report on any action still being taken by the contracting parties under subparagraph (b) and (c) of this paragraph, or under Annex J.

Is that report available?

Mr. BROWN. I do not know the answer to that question, Senator. I will have to find out for you.

Senator MILLIKIN. Will you advise us?

Mr. BROWN. Yes, sir.

Senator MILLIKIN. Was a report made?

Mr. BROWN. I think not.

Senator MILLIKIN. And will you advise us definitely as to that?

Mr. BROWN. Yes, sir; I will be glad to.

(Upon checking this point, Mr. Brown found that the first review and report under art. XIV, 1 (g) had been made at the fourth session of the contracting parties.)

Senator MILLIKIN. With reference to the negotiations for rates at Torquay, since the peril-point law has been repealed, what do our country committees have to work on so far as a limit within which they should operate is concerned?

Mr. BROWN. They have all of the information which is in the Government files, which has been accumulated over the years by the people dealing with the products in the different departments, and the information which is obtained at the hearings, both in the oral testimony and in the briefs, and information which is obtained from individual conferences with people who are interested.

Senator MILLIKIN. So that each of those country committees has the information available from which a point or range could be determined which should not be exceeded; is that correct?

Mr. BROWN. Yes, sir. I think if you remember the Executive order under which we are operating, the Tariff Commission is required to made certain studies and provide the organization with information

as to the competitive factors and a number of things which are specified. So that the data is there.

Senator MILLIKIN. So when the country committee gets to work, it has before it from one source or another, or from all sources, data from which it can be advised as to limits which should not be exceeded; is that correct?

Mr. BROWN. Yes, sir; it has before it information which would enable it to decide whether or not it should recommend a concession, and what the risks involved might be.

Senator MILLIKIN. Is that not another way of saying it has before it information which gives caution or advice as to the limits not to be exceeded?

Mr. BROWN. I think so, sir.

Senator MILLIKIN. That is all.

Senator BREWSTER. Could I ask a question?

The CHAIRMAN. Yes, if you wish.

Senator BREWSTER. In your operation, the United States through all the aid which it is extending around the world has a very great power in effecting the policies of other countries, if it chooses to exercise that power; has it not?

Mr. BROWN. Yes, sir.

Senator BREWSTER. And you try to use your strength with due regard to the proprieties and with regard to our interests?

Mr. BROWN. Yes, sir.

Senator BREWSTER. Now there was a conspicuous example—the Argentina and Russian agreements with Britain. We were not too happy about them, were we?

Mr. BROWN. No, sir.

Senator BREWSTER. We regreted some of the provisions in those. That is rather commonly understood; is it not?

Mr. BROWN. That is correct.

Senator BREWSTER. But we did not feel we had the right to say to England, "We will cut off your aid if you do not modify these agreements."

Mr. BROWN. No, sir. There was a very real need there for the meat for the British ration.

Senator BREWSTER. What is that?

Mr. BROWN. There was a very real need there for the meat for the British ration.

Senator BREWSTER. And with Russia there was some similar consideration?

Mr. BROWN. Wheat basically.

Senator BREWSTER. Now when they stepped on our toes in the oil situation, the State Department protested very mildly at first; did it not?

Mr. BROWN. No, sir. I think we protested and the thing worked out very well in the end.

Senator BREWSTER. I refer again to the New York Times of Tuesday, January 31, 1950, an article by Felix Belair, Jr., headlined—"Weak United States protest caused the British to embargo our oil. Mere expression of regret by State Department seen as motivating extension."

Mr. BROWN. That is a completely inaccurate description. Senator Brewster, and it was based on confusion in the Colonial Office about various documents. The fact is——

Senator BREWSTER. It was a London Ministry letter regarding the east African admission of America oil; was it not?

Mr. BROWN. It was an interpretation by the Colonial Office of what we had said to the British. Their interpretation was not accurate.

Senator BREWSTER. It is your contention that the Colonial Office inaccurately stated the position of the State Department?

Mr. BROWN. Yes, sir; and the whole thing was worked out on a very satisfactory basis.

Senator BREWSTER. The letter in question, which was by the Colonial Office to one of their Dominions, East Africa, I believe, said: "The Americans have as expected not gone beyond expressing regret at the proposal and steps have now been taken to put the scheme into effect in the United Kingdom. It is now desired to arrange full substitution on sterling fuel oil for dollar oil at present imported into eastern Africa for inland consumption."

You say that is entirely inaccurate?

Mr. BROWN. Yes, sir.

Senator BREWSTER. And did the State Department vigorously protest this action?

Mr. BROWN. Yes, sir; and we worked out a satisfactory solution.

Senator BREWSTER. Was it not a fact that the vigorous action of the State Department followed the determination of the Committee on Foreign Relations of the Senate, under the leadership of their chairman and some other members, to intervene very vigorously in the matter if it was not withdrawn?

Mr. BROWN. No, sir.

Senator BREWSTER. That was merely coincidental?

Mr. BROWN. The action of the Foreign Relations Committee was subsequent to the action of the State Department.

Senator BREWSTER. There was nothing done by the State Department after the Foreign Relations Committee expressed their views in the matter?

Mr. BROWN. We continued to press the matter, and as I have said, the thing was worked out on a satisfactory basis.

Senator TAFT. What is a satisfactory basis?

Mr. BROWN. I do not know the details, Senator Taft, but I do know that all the oil companies operating in those areas are well content with the basis that was worked out.

Senator BREWSTER. This, at any rate, illustrated a situation where you felt that our interests were so much affected that we should take very vigorous action, and other considerations decided you not to take strong action in the case of the Argentine Treaty or the Russian Treaty, although they did adversely affect us to some extent, but we did not feel our interests were so vitally involved we should exercise our full weight. Is that correct?

Mr. BROWN. Yes, sir; I believe it is.

Senator BREWSTER. So that in each instance you have to decide how far the very enormous power which America possesses by reason of these various economic aids in Europe justify our modifying the policies of Britain or other countries?

Mr. BROWN. That is correct, sir.

Senator BREWSTER. Now have you put in the record in the course of this hearing, or someone else, the record as to what it has cost America as the result of the increases in prices of rubber, of tin, and of wool in the international market as a result of the increases in the prices of those commodities in the last year? Has there been any figure on that given here?

Mr. BROWN. I do not think so.

Senator BREWSTER. Could you supply us with those—what the cost has been to our country over a period of the last 12 months, let us say?

Mr. BROWN. We will do our best, Senator.

Senator BREWSTER. Yes. And would you then also report whatever steps have been taken to persuade our associates to impose the sort of export restrictions which we are seeking to impose ourselves on our own exports in order to service the great cause of freedom in which we are all engaged, as to whether the Commonwealth countries and the other allies or associates we have are cooperating similarly to try to serve the common cause, or rather permitting Russia freely to bid us out of the market?

Mr. BROWN. Yes, sir; I will be glad to give the committee a memorandum on that subject.

(The statement requested is as follows:)

Rubber.—Total United States imports of crude rubber during 1950 amounted to about 1.7 billion pounds valued at $419 million. If prices had remained the same as the prices of imports in January 1950, imports during the year would have cost about $171 million less.

Tin.—Total United States imports of tin concentrates during 1950 amounted to about 26,000 tons and of tin metal to 186 million pounds valued at $47 million and $153 million, respectively. If prices had remained the same as the prices of imports in January 1950, the imports of tin concentrates would have cost about $20 million less and tin metal $8 million less, a total saving of $37 million.

Wool.—Total United States imports of apparel and carpet wool during 1950 amounted to about 466 million pounds (clean basis) valued at $417 million. The cost would not have been much different if this quantity had been purchased at prices prevailing at the beginning of 1950. Prices are now roughly 2½ times those prevailing in January 1950, but this price increase was not reflected in the cost of wool actually landed in the United States in 1950. Statistics for the first quarter of 1951 are not yet available.

The rise in the prices of these materials is a part of the general increase in raw-materials prices which has occurred since war began in Korea. They have not occurred because of any action taken by the supplying countries but merely because in free markets prices respond to large increases in demand such as those which have taken place during the past year.

Malaya, the largest rubber exporter, began on April 9 to require export licenses for shipments of rubber to destinations other than the United States and the Commonwealth. This is the only formal restriction on shipments to the Soviet bloc that has been adopted by a major supplier of rubber, tin, or wool. However, it cannot properly be said that the Russians are bidding us out of the market for these products. Russian purchases have not been abnormal. It is primarily the increase in United States demand which has driven these prices up to their present levels.

Senator BREWSTER. I think that would be very helpful, Mr. Chairman.

The CHAIRMAN. All right, sir.

Senator BREWSTER. I would like to have, if I could, that New York Times article put in the record.

The CHAIRMAN. You may do so.

(The article referred to is as follows:)

[New York Times, New York, Tuesday, January 31, 1950]

WEAK UNITED STATES PROTEST CAUSED THE BRITISH TO EMBARGO OUR OIL

MERE EXPRESSION OF REGRET BY STATE DEPARTMENT SEEN AS MOTIVATING EXTENSION—WIDENED CURBS IN VIEW—LONDON MINISTRY LETTER TO EAST AFRICA BARES PLAN TO LIMIT AMERICAN PETROLEUM

(By Felix Belair, Jr.)

WASHINGTON, January 30.—How the British Government proposed to extend its own embargo on dollar oil imports to the entire Commonwealth after the State Department had confined itself to a mere expression of "regret" at the new order was disclosed in a letter from the British Colonial Secretary now in the files of the National Petroleum Council here.

The letter, addressed to the East African Government at Nairobi, caused such a storm of protest when read at a recent meeting of the council here that it has been brought to the attention of President Truman. Chairman Tom Connally of the Senate Foreign Relations Committee is expected to bring the document to the attention of that body this week.

How the National Petroleum Council, official advisory body to the Interior Department, obtained the letter has not been disclosed by members. However, they contend it proves the British intention to exclude oil produced by United States companies not only from England and the colonies but from the entire Commonwealth and the sterling area.

After telling how the State and Treasury Departments were informed of the British decision to substitute sterling for dollar oil imports in the United Kingdom the letter said:

"In this it is hoped to secure the cooperation of sterling Commonwealth countries."

The British decision to curb dollar oil imports was first intimated during the tripartite financial talks here in September among the United States, British, and Canadian Governments. A committee was set up to discuss the problem and while it was negotiating, the "full substitution" program was initiated by the Ministry of Fuel and Power.

On this point, the letter to the East African Government explained:

"The Americans have as expected not gone beyond expressing regret at the proposal and steps have now been taken to put the scheme into effect in the United Kingdom. It is now desired to arrange full substitution on sterling fuel oil for dollar oil at present imported into Eastern Africa for inland consumption."

National Petroleum Council members were particularly indignant over this passage, taking it as an indication that either the State Department had acquiesced in the British decision or that the British Government had good reason to suppose there would be no vigorous protest from this side.

The council has done nothing about the matter publicly as yet because its import committee has been preparing a report to the Secretary of the Interior suggesting measures necessary to protect the domestic industry in the face of Britain's expanded production program.

PRESIDENT HELD "AROUSED"

Industry representatives here suggested the least that would happen as a result of the British policy, as clarified by the letter of the British Colonial Secretary, was a more strongly worded recommendation to the Interior Department. They professed to know that President Truman was "aroused" when a copy of the letter was shown him by a member of the Texas congressional delegation.

Meanwhile, the Petroleum Committee of the British, Canadian and United States Governments has recessed for a second time without agreeing on anything.

Copies of the letter from the British Colonial Secretary were unsigned and undated. Presumably it was sent out last December just prior to the effective date of the dollar oil import curb.

TEXT OF THE LETTER

The letter read:

"Following the meeting of the Ministers in Washington in September, a special group of officials was formed in Washington to consider oil problems. In this group United Kingdom representatives explained in detail how the dollar drain in oil arises and made it plain that in the immediate future the United Kingdom would be obliged to adopt a policy of substitution in sterling for dollar oil to reduce the drain. In this it is hoped to secure the cooperation of sterling Commonwealth countries.

"Until recently the cost of dollar oil which British companies had to buy in order to meet the gap between supply and demand represented a dollar outgoing over and above the dollar expenditures incurred in producing their own oil. These deficit purchases, apart from specialty oil, have now ended, and in the coming year it is expected that British companies' availability of fuel oil and possibly of other products will exceed their normal trade requirements. In the immediate future the surpluses are not expected to be substantial except in the case of fuel oil which does not include gas oil or Diesel oil.

"The United States Government has now been informed of the substance of the proposal for substituting this surplus production by British companies for dollar oil imported into the sterling area by United Kingdom companies. The Americans have, as expected, not gone beyond expressing regret at the proposal, and steps have now been taken to put the scheme into effect in the United Kingdom and to obtain the cooperation of Dominion governments. It is now desired to arrange full substitution of sterling fuel oil for dollar oil at present imported into East Africa for inland consumption. It is not intended to substitute sterling oil for fuel-oil imports destined for use in ship's bunkers.

"By substitution it is meant replacement of dollar-oil imports by equivalent imports from British-controlled sources. It is not intended to interfere with United States companies' internal distribution business. For this purpose the dollar oil means the oil which the United States controlled companies obtain from Standard New Jersey, Standard Vacuum Socony, Standard California, Texoil Corp., and Caltex, or any of their associates, such as the Bahrein Petroleum Co. In the category there is not included oil which any of these American companies purchase and ship from British-controlled companies' sources, such as the Aabadan and Curacao refineries.

DECISION FOR UNITED STATES CONCERNS

"United States controlled companies would be left to decide whether they would be left to decide whether they would make good the reduction in their imports of dollar oil by purchases from nondollar sources. Assurance has been given by British companies that they are in principle willing to sell their surplus fuel oil to American companies but these arrangements can be left to commercial negotiations between British and American companies.

"Should an American distributing company decide to curtail its trade, British companies or indeed other American companies should have little difficulty in taking over the additional business. Anything more than minor curtailment of this kind appears unlikely, judging by the attitude of the head offices of United States companies in the general discussion the Ministry of Fuel and Power have had with them.

"British companies are not expected to have any appreciable surpluses in the near future of products other than fuel oil. In the case of fuel oil there will be more than enough available from British-controlled companies' production in 1950 to take the place of all dollar imports of fuel oil for inland consumption in the Commonwealth.

"Failure to dispose of this fuel oil output may well result in a reduction in British companies' output of other products. On this account and because of the important dollar saving that can be achieved, United States controlled companies importing into the United Kingdom have been informed of the intention to introduce fuel oil substitutions from dollar sources as from January 1, 1950.

"I hope that the East African Government will be able to operate fuel oil substitutions from the same date, though some postponement may have to be accepted, e. g., to enable the companies to adjust their shipping program. United States companies with whom the Minister of Fuel and Power have discussed arrangements for substitution in the United Kingdom may be warning their subsidiaries in East Africa that similar arrangements may be applied to their imports.

"I must leave it to the Colonial Government to decide how substitutions can best be administered. Should there be difficulty in controlling the source of fuel oil imports by a system of cargo licensing, etc., it should be possible to insure the sterling origin on imports by ad hoc arrangements agreed with the companies on whom will rest the onus of proof.

"Any fuel oil imports by United States companies which are already being bought by them from British-controlled companies will, of course, rank as sterling oil but oil supplies from Bahrein, although invoiced in sterling, ranks as dollar oil for the purpose of this substitution since Bahrein is fundamentally a dollar source.

"Please inform me as soon as possible of the action being taken."

The CHAIRMAN. Mr. Brown, I believe that will finish you except for such information you have been asked now to supply.

Mr. BROWN. Yes, sir.

The CHAIRMAN. Tomorrow morning, Senator Millikin, the Chairman of the Tariff Commission will come up, and we will also ask Mr. Southard to come back. I do not know whether we will need him before Thusday morning, however. Would we?

Senator MILLIKIN. I doubt very much whether we would get to him before Thursday.

The CHAIRMAN. I would like to have him on Thursday, then. Dr. Ryder will come up here tomorrow morning. He said he would be rather hopeful that the committee would ask questions rather than expect any formal statement from him.

There is a communication here from the Assistant Secretary of State enclosing a request of the Indonesian Government, and asking the State Department's good offices in presenting the matter to the Senate Finance Committee. The request relates entirely to section 8 of H .R. 1612, the so-called farm price amendment. If there is no objection, I think it ought to go into the record, but it sets forth the views of the Indonesian Government respecting this particular amendment. So that will go into the record.

(The document referred to is as follows:)

APRIL 2, 1951.

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

MY DEAR SENATOR GEORGE: At the request of the Indonesian Government, I am transmitting herewith a note received by the Department from the Indonesian Embassy concerning certain proposed amendments to H. R. 1612, the Trade Agreements Renewal Act.

The Embassy's note sets forth the views of the Indonesian Government with respect to section 8 of H. R. 1612, the farm price amendment, and expresses the serious concern of the Indonesian Government about the passage of this amendment.

Sincerely yours,

JACK K. MCFALL,
Assistant Secretary,
(For the Secretary of State).

Enclosure: Copy of Indonesian note.

KEDUTAAN BESAR INDONESIA,
EMBASSY OF INDONESIA,
Washington, D. C.

The honorable the SECRETARY OF STATE,
Washington, D. C.:

The Ambassador of the Republic of Indonesia presents his compliments to The Honorable the Secretary of State, and has the honor to refer to section 8 of the Reciprocal Trade Agreements Act, as amended by the House of Representatives (H. R. 1612) and which reads:

"No reduced tariff or other concession resulting from a trade agreement entered into under this section shall apply with respect to any agricultural com-

modity for which price support is available to producers in the United States unless the sales prices (as determined from time to time by the Secretary of Agriculture) for the imported agricultural commodity within the United States after the application of such reduced tariff or other concession exceed the level of such price support."

United States commodities enjoying price support include tobacco, potato starch, various vegetable oils or products from which these oils are extracted.

One of the most important Indonesian export products which would be affected by this amendment is tobacco. Although not entirely certain, it seems probable that this amendment would also affect those commodities which can be substituted for the aforementioned products such as tapioca,[1] palm oil, copra-cocoanut oil.

H. R. 1612 has already been passed by the House of Representatives and has now come before the Senate.

The Indonesian Government considers the amendment in Section 8 of H. R. 1612 most detrimental to its future exports to the United States of some of the products mentioned above. Acceptance of this amendment would mean that when the landed, duty-paid price of the Indonesian commodity is equal to or below the United States supported price, the existing tariff or other concessions would become ineffective, with the possible result that such exports must be discontinued; also, it may mean that when continuation of such exports to the United States requires a tariff or other concession for the survival of such exports, such concessions cannot be acquired with the result that these exports must disappear.

The seriousness of the possible effects of H. R. 1612 is illustrated by the following figures showing the prewar volume of Indonesian exports to the United States of tobacco, palm oil, and tapioca at present values. Prewar figures are shown because postwar exports of these products have not been completely rehabilitated. It is however hoped that prewar export levels may be reached in due time and when studying the possible ill effects of Section 8 of H. R. 1612 on Indonesian exports, it seems logical to base calculations on normal exports instead of the present abnormal level. Figures for copra-coconut oil have been omitted because these Indonesian exports to the United States have been discontinued following the reinstatement of the additional processing tax on the non-Philippine products.

	Tons (1939)	Approximate value in dollars
Tobacco	2,680	30,000,000
Tapioca	167,000	20,000,000
Palm oil	104,000	50,000,000

The foreign exchange obtained from these exports is urgently needed by Indonesia not only for the further rehabilitation of a country which has gone through years of war and devastation but also to ensure a favorable level of imports[2] and to improve Indonesia's standard of living. Also, certain regions in Indonesia are almost entirely dependent on one of the above products and discontinuation of such exports to the United States may easily cause serious economic, social, or even political repercussions in those areas.

There is also another matter which must be considered. Strict interpretation of the amendment would mean the introduction in U. S. trade agreements of another provision which would make concessions granted by the United States conditional (like the escape clause in Section 7 of H. R. 1612, which principle already is included in article 19 of the GATT). The result will be that the other contracting country, in return, will make some of its concessions dependent upon the life and existence of the American "Agricultural" concession. Thus, in case Section 8 is amended, another—and more serious—element of uncertainty will enter international-trade agreements concluded by the United States; this must be considered most detrimental to the success of these agree-

[1] Although tapioca is now free of duty, excise taxes, etc., it may suffer from this amendment if in the future it would be subjected to such a levy.

[2] Ample imports tend to reduce the cost of living, thereby also reducing production costs of export products enabling these products to better compete at world markets; this again results in increased exports making larger imports possible.

ments and to the success of the entire United States reciprocal trade-agreement program.

The application by the United States of the protection afforded to certain agricultural commodities by the amended Section 8 of H. R. 1612 may well induce the other contracting country to discontinue imports of similar products from the United States. In this connection, it is interesting to note tthat U. S. exports of products enjoying price support exceed several times U. S. imports of such products.

In view of the above-mentioned facts, the Government of the Republic of Indonesia is seriously concerned about the passage of this amendment and kindly requests the assistance of The Honorable the Secretary of State to put the views and feelings of the Indonesian Government on this matter before the appropriate Committee of the Senate.

The CHAIRMAN. I believe that will end the hearing, then, until tomorrow at 10 o'clock, at which time Dr. Ryder, of the Tariff Commission, will be up.

Thank you very much, Mr. Brown.

Mr. BROWN. Thank you, Mr. Chairman.

(By direction of the chairman, the following statement appears for the record:)

STATEMENT OF C. E. JOHNSON BEFORE THE SENATE FINANCE COMMITTEE IN OPPOSITION TO MAGNUSON AMENDMENT TO H. R. 1612

My name is C. E. Johnson of Chicago, Ill. I am vice president of the Kelling Nut Co., and chairman of the Government Relations Committee of the Peanut and Nut Salters Association. I appear here in behalf of that association.

The Magnuson amendment (S. 983) to H. R. 1612 is unsound and unfair in that it is designed to vest in the Secretary of Agriculture the power to hold hearings and determine issues on which the Department of Agriculture has heretofore taken a definite position as an interested party.

This amendment would transfer from the Tariff Commission to the Secretary of Agriculture the function of investigating, conducting hearings, and making determinations of fact under section 22 of the Agricultural Adjustment Act, as amended, as to whether imports of farm commodities are interfering with domestic agricultural programs to such an extent as to require increased duties or the establishment of import quotas.

Domestic nut growers have made repeated efforts beginning in 1946 to secure import restrictions on foreign nuts, some of which are not even grown in this country. Each such effort has failed largely because of the high prices and high profits of the west coast producers.

Exhaustive hearings were held last year before the Tariff Commission under section 22. On November 30, 1950, the Commission filed its interim report with the President stating that "the Commission concludes that there is at this time no basis for imposing restrictions on imports of tree nuts * * *."

Official representatives of the Department of Agriculture appeared at the Tariff Commission hearings, supported the growers, and recommended the imposition of import restrictions.

We do not object to the appearance of the Department as an advocate for domestic nut producers inasmuch as the Secretary stated at page 131 of the present hearings that he considers the Department as "spokesman for the producers."

But to now allow the Department of Agriculture to sit in judgment after its appearance as an advocate would be contrary to first principles.

We understand that the Department of Agriculture itself has gone on record to the effect that such investigations, hearings, and fact-finding functions should remain with the Tariff Commission.

In view of its inherent unfairness to purchasers and users of tree nuts and other imported agricultural commodities, we urge the committee to reject the Magnuson amendment.

(Whereupon, at 12 noon, the committee adjourned, to reconvene at 10 a. m., Wednesday, April 4, 1951.)

TRADE AGREEMENTS EXTENSION ACT OF 1951

WEDNESDAY, APRIL 4, 1951

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to adjournment, at 10 a. m., in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

Present: Senators George, Kerr, Millikin, Taft, and Martin.

Also present: Mrs. Elizabeth B. Springer, chief clerk, and Serge Benson, minority professional staff member.

The CHAIRMAN. The committee will be in order.

We have here Dr. Ryder with us again on reciprocal trade. Doctor, we will be glad to hear from you any formal statement that you have to make, then we will be very glad to hear from you on any particular phase of the House bill.

STATEMENT OF HON. OSCAR B. RYDER, CHAIRMAN, UNITED STATES TARIFF COMMISSION

Mr, RYDER. All right. I have no formal statement to make. I have prepared material very roughly on certain matters so that I will be sure to cover them fully if you should ask some questions on them.

I have a very general personal statement which I would like to make, after which I shall answer as fully as I am able to answer, any questions you should like to propound.

The United States Tariff Commission has always been a fact-finding organization made up of an equal number of Democrats and Republicans. With a high degree of consistency, I think, the Commission has refrained from passing judgment upon questions of policy. That we regard as the function of the Congress and the President. Our job is to give as full and fair a statement as possible of the facts which should be taken into account in making policy decisions.

Senator MILLIKIN. Mr. Commissioner, do you wish to be undisturbed until you get through?

Mr. RYDER. Yes; I have only two or three paragraphs here.

Before I attempt to answer any questions you may have to ask, I want to say that as a member of the Tariff Commission, and as its Chairman, I shall to the best of my ability assist in carrying out any law which may be enacted. That is my sworn duty.

I should like to repeat what I said 2 years ago when I appeared before this committee and expressed my views in opposition to the

peril-point amendment: "The Tariff Commission always follows the law."

I am here at your request to be of whatever service to you I can. You have asked me to testify regarding the pending bill extending the trade agreement authority. I can do so only in my personal capacity.

I do not speak for the Commission or for any member of the Commission, other than myself. I shall, however, answer as frankly as possible any questions you may choose to ask. You are entitled to my views and to give them whatever value you may deem fit. That is all I have to say.

The CHAIRMAN. Doctor, did you want to say anything about the specific amendments made in the House? Have you looked over those amendments?

Mr. RYDER. I have; yes.

The CHAIRMAN. Well, you might discuss those briefly with us. I would like to hear and have your views on the escape clause amendment.

Mr. RYDER. All right. I have prepared a statement on that and I will give you that first.

On section 7, that is, the escape-clause amendment, the Bailey amendment to the House bill, I have the following comments. By the way, this was gotten up very roughly, but I think it sets forth what it seems to me the bill does.

It would seem to me that subsections (a) and (b), taken together, present a problem of interpretation and require drafting changes to insure their effectiveness.

Subsection (a) sets forth an escape clause in somewhat the language appropriate for insertion in a trade agreement, and in pharaseology which would apply equally to concessions received as well as made by the United States.

The clause, however, differs substantially from the clause in existing trade agreements.

Subsection (b) then provides that—

> the United States Tariff Commission shall make an investigation to determine whether any article upon which a concession has been granted under a trade agreement to which a clause similar to that provided in subsection (a) of this section is applicable is being imported in such relatively increased quantities and under such conditions—

and so forth.

Does this mean that action may be taken under the escape clause only with respect to concessions made in trade agreements containing an escape clause similar to that set forth in subsection (a)? If so, it would make the provision ineffective inasmuch as there are no trade agreements which contain an escape clause similar to that set forth in subsection (a), and there is no requirement, specific requirement, in the bill that there be such a clause in any agreements.

If the purpose, on the other hand, is to make it mandatory that subsection (a) be applicable to all products on which concessions have been made in any trade agreement, whether or not the agreement contains an escape clause of any type, this purpose should be made clear. In that case, of course, it would be necessary to renegotiate or terminate the General Agreement on Tariffs and Trade.

The second comment I have to make on the bill is—on section 7 of the bill—that the requirements of the escape clause contained in section 7 differ from existing procedure in the following respects:

(*a*) The present escape clause can be invoked only when there is an increase in imports, relative or absolute, and when such increased imports result from unforeseen developments and the tariff concession, or other trade-agreement obligation, and are being entered under such conditions as to cause or threaten serious injury.

Under the Bailey amendment—subsection 7 (a) of the House bill—it is provided that action may be taken under the escape clause "if in the course of a trade agreement" any product upon which a concession has been made "is being imported in such increased quantities or"—instead of "and" as in the present law, in the present escape clause—"under such conditions as to cause or threaten serious injury."

This eliminates the requirement that to warrant action under the escape clause there must be an increase in imports, either relative or absolute, and the increase must be due at least in part to the concession. This change would greatly widen the scope of action under the escape clause, and probably necessitate the renegotiation or termination of the General Agreement on Tariffs and Trade.

(*b*) The present escape clause permits action to be taken to prevent serious injury to "domestic producers of articles like or directly competitive with" the imported articles.

Under Executive Order 10082 such action is envisaged only if there is injury, actual or threatened, to "the domestic industry producing like or directly competitive articles."

Section 7 of the House bill in subsection (b) uses the term "domestic producers" but after "domestic industry" it inserts the words "or a segment of such industry." When in actual operation this change from the present procedure would result in any material change in the scope of the clause would depend upon the interpretation given the term "domestic producers."

(*c*) Subsection (b) of section 7 of the Bailey amendment requires the Tariff Commission to make an investigation, including a public hearing, "upon the request of the President, upon its own motion, or upon the application of any interested party."

Under Executive Order 10082, the Commission investigates at the request of the President or upon its own motion or upon the application of any interested party, if in the judgment of the Commission there is good and sufficient reason therefor.

If the Commission should be required to investigate at the request of any interested party, it would have to expend time and effort on cases which are obviously without merit. This might make it difficult, if not impossible, for the Commission to concentrate upon the really meritorious cases, where there is really serious injury.

To interpolate here, I have had a great deal of experience in this kind of thing. I headed an import division of the NRA during the NRA days, to recommend when investigation should be made in regard to imports which it was claimed were threatening—it was alleged were threatening—the codes.

If you have a provision that the Commission will have to investigate every time anyone asks us to do so, we would be swamped with investigations, many of which would be of a very flimsy character.

In this connection I should like to state that of the 19 applications for investigation under the escape clause upon which the Commission has taken action so far, 15 were dismissed without formal investigation. Of these 15, 9 were dismissed by unanimous action of the Commission. One was dismissed by a 4 to 1 vote, two were dismissed by a 4 to 2 vote, and three were dismissed by a 3 to 3 vote. In other words, in the case of almost one-half of all the applications on which the Commission has passed, there was unanimous agreement among the Commissioners that there was no reason for a formal investigation.

I think when all six Commissioners, each one of whom has different tariff views, agrees there is no cause for investigation, there is little ground that anyone could find for investigation.

Senator MILLIKIN. Except the fellow who wants the investigation.

Mr. RYDER. What is that?

Senator MILLIKIN. Except the fellow who wants the investigation. He is a rather important fellow in this business.

Mr. RYDER. Sometimes it is a little doubtful whether he wants the investigation.

Senator MILLIKIN. He is not spending his money, I suggest, and taking his time just——

Mr. RYDER. Well, maybe not.

Senator MILLIKIN (continuing). To play peekaboo with you.

Mr. RYDER. It should be stated, however, that before the Commission decides to dismiss an application without formal investigation, it has its experts make a study of all the available pertinent facts, and it is on the basis of these facts, as well as on the basis of the statements made in their applications, that the Commission takes action.

Senator TAFT. Is not what you really object to in the clause the provision that in the course of any such investigation the Tariff Commissioners shall hold hearings? I mean, after all, what you refer to is an investigation; you have to make some kind of an investigation in order to be able to dismiss it.

Mr. RYDER. We always have what we call a preliminary investigation and a preliminary report from our staff on the application, and it is on the basis of that that the Commission decides whether or not to order a formal investigation, which includes a public hearing.

Senator TAFT. I cannot see any argument against the first part of (b) where it just says that they shall make an investigation. It seems to me that it is necessary if somebody makes an application; they must make an investigation. I can see some reason about lines 18 to 22, which require you to hold public hearings, give reasonable notice, and so forth. That might be limited to cases in which you find probable cause, and so forth.

Mr. RYDER. If it was made clear that all that was meant was that we make a preliminary investigation, an informal preliminary investigation without a hearing, then there would be no objection on my part. That is what we do. We always look into this. We do not dismiss a thing offhand.

Senator TAFT. It is really lines 18 to 22 that you are objecting to more than anything else.

Mr. RYDER. That is right.

Then the next comment I have is that the first paragraph of subsection (c) of section 7 requires the Commission, after investigation and hearing, to make a finding in support of its denial of any application "setting forth the facts which lead to such conclusion."

This, coupled with the requirement that the Commission make a formal investigation, including a public hearing whenever requested to do so, would place a tremendous burden upon the understaffed Tariff Commission.

Senator MILLIKIN. Where does it say about the formal investigation, Mr. Commissioner?

Mr. RYDER. It is the distinction I make between the informal investigation which the Tariff Commission always makes in regard to every application and a formal investigation which includes a public hearing and a report to the President.

Senator MILLIKIN. Where does the law say that?

Senator TAFT. Lines 18 through 22.

Mr. RYDER. Line 18.

Senator MILLIKIN. I wanted to know where it say a "formal investigation."

Mr. RYDER. I was distinguishing between a formal investigation and the informal investigation which we give to an application. The formal investigation would include a public hearing and a formal report to the President.

Senator MILLIKIN. Under the language which you are complaining about you are the master of the investigation; are you not? There is no specication here as to what kind of an investigation to undertake.

Senator TAFT. Hold hearings.

Mr. RYDER. You have got to hold a public hearing and you have got to make a report to the President.

Senator MILLIKIN. That is right. You are the master of the type of investigation under the language of the bill; are you not?

Mr. RYDER. Oh, yes. But in any case, to have a public hearing and to make a formal report to the President on an application requires a great deal of work.

Senator MILLIKIN. Yes.

Mr. RYDER. We do not have to do that work in a merely informal type of investigation, in a study which we make to enable us to pass upon whether an investigation should be ordered or not.

Senator MILLIKIN. I am simply suggesting that if you decide to make an investigation you are the master of the investigation, and to investigate to the depth that you feel like doing.

Mr. RYDER. Within limits; that is right.

Senator MILLIKIN. I do not see any limits.

Mr. RYDER. Because you have got to hold a public hearing.

Senator MILLIKIN. I mean, the limits are within your control. They are not imposed upon you by law.

Mr. RYDER. Well, a public hearing and a report to the President are imposed by law.

Senator TAFT. If you only had 10 over a period of a number of years; is there any reason why you should not give——

Mr. RYDER. What is that?

Senator TAFT. Is there any reason why you should not give everybody who wants to come in a public hearing? If you have only had 19, what is the trouble with that? The National Labor Relations Board has a hearing every day of the year; there are 365 of them.

Mr. RYDER. But they divide into panels and all.

Senator TAFT. Yes.

Mr. RYDER. We have never done that. We have not the staff to do it. We have a staff of a little over 200 and these applications, by the way, have not been received in the last 5 years. All of them have come in, as I recall it, in the last 2 years, and most of them in the last year, and year and a half.

Senator TAFT. Nineteen? That is something like eight a year.

Mr. RYDER. Twenty-one applications altogether, but that is only one phase of our work. Moreover, there would have been many more than 21 applications had the Commission been required to make a formal investigation whenever requested.

I want to comment upon the fact that not only is the Commission required to make a report giving its reasons whenever it decides there is no cause for action under the escape clause but that it must also find the level of duty below which, in the Commission's judgment, serious injury would occur or be threatened.

It is difficult to see the usefulness of a peril point finding in this case. If the Commission finds that no serious injury has resulted or is threatened, and proceeds to find a peril point, manifestly the peril point would be lower than the duty established by the trade agreement concession. In fact, if the maximum concession has been made, the peril point would be below any duty which could be fixed in a subsequent trade agreement.

My final comment on the bill is on section 7 of the bill, in regard to subsection (c).

The meaning of the second paragraph of subsection (c), Mr. Chairman, needs to be clarified. It might be interpreted as requiring a finding of serious injury wherever there has been "a downward trend of production, employment, and wages in the domestic industry, or where there has been a decline in sales, and a high or growing inventory attributable, in part, to import competition."

Note that under the present punctuation the phrase "attributable, in part, to import competition" would apply to a "decline in sales and a high or growing inventory" but not to "downward trend of production, employment, and wages." The phrase could be made applicable to a downward trend in production, employment, and wages by striking out the comma before the first "or" and inserting a comma between "inventory" and "attributable."

Senator MILLIKIN. Hold up just one second. Where would you put the comma?

Mr. RYDER. The way I have it—I think that is correct—between the words "attributable" and "inventory."

Senator TAFT. You want to hitch the "attributable" on to the "downward trend."

Mr. RYDER. If the purpose is to make that phrase apply both to the downward trend of production, employment and wages, and to the decline in sales and a high or growing inventory, then you should put a comma before "attributable", and I would think leave out the preceding comma, but that might not be necessary.

I do not think that the provision, as written, would prevent the Commission from finding a serious injury as a result of causes other than those named. In other words, I do not interpret the criteria as being exclusive. I think, however, the language of the provision is susceptible of several interpretations.

If the intent is only to require that in making its findings the Commission take into account the existence of a downward trend in production, employment and wages, and a decline in sales, and a high or growing inventory, when they are caused, in part, by import competition, this fact should be made clear. That is what the Commission does now.

I would like to have inserted in the record at this point, if it is agreeable, a report which the Commission got out on the criteria it uses under the escape clause in cases under the escape clause.

The CHAIRMAN. Yes, sir; you may insert it, Doctor.

(The document referred to follows:)

UNITED STATES TARIFF COMMISSION

PROCEDURE AND CRITERIA WITH RESPECT TO THE ADMINISTRATION OF THE "ESCAPE CLAUSE" IN TRADE AGREEMENTS

Prepared in response to a resolution of the Committee on Ways and Means of the House of Representatives, Washington, February 1948 (Revised February 1950)

FEBRUARY 24, 1948.

The Honorable HAROLD KNUTSON,
Chairman, Committee on Ways and Means,
House of Representatives.

DEAR MR. KNUTSON: I have the honor to transmit herewith a report prepared by the United States Tariff Commission on "Procedure and Criteria with Respect to the Administration of the 'Escape Clause' in Trade Agreements." This report was prepared in response to a resolution of the Committee on Ways and Means of July 25, 1947. Thirty additional copies are being sent to Mr. Tawney for the membership and staff of the Committee.

Sincerely yours,

OSCAR B. RYDER, *Chairman.*

Enclosure

PROCEDURE AND CRITERIA WITH RESPECT TO THE ADMINISTRATION OF THE 'ESCAPE CLAUSE" IN TRADE AGREEMENTS

INTRODUCTION

On July 25, 1947, the Committee on Ways and Means adopted a Resolution containing, inter alia, the following paragraph:

"*Resolved*, that the Tariff Commission is requested to establish as soon as practicable the substantive and procedural criteria, measurements, or other standards by which it will determine whether imports, of any particular commodity are entering in such quantities as to 'injure' or threaten 'injury' to any domestic unit of agriculture, labor, industry or segment thereof, and to inform the Committee on Ways and Means as to how that Commission intends to comply with the provisions of Executive Order 9832 issued February 25, 1947 * * *."

The present memorandum undertakes to set forth the general procedure which the Commission will follow in carrying out its obligations regarding the escape clause under Executive Order 9832, and, so far as practicable at this time, to indicate the major considerations which it will take into account in determining whether, as a result of unforeseen developments and of a concession granted by the United States on any article in a trade agreement, the article is being imported in such increased quantities and under such conditions as to cause, or threaten, serious injury to domestic producers.

The relevant portions of Executive Order 9832 for present purposes are contained in paragraphs 1-3, inclusive, of part I, as follows:

"1. There shall be included in every trade agreement hereafter entered into under the authority of said act of June 12, 1934, as amended, a clause providing

in effect that if, as a result of unforseen developments and of the concession granted by the United States on any article in the trade agreement, such article is being imported in such increased quantities and under such conditions as to cause, or threaten, serious injury to domestic producers of like or similar articles the United States shall be free to withdraw the concession, in whole or in part, or to modify it, to the extent and for such time as may be necessary to prevent such injury.

"2. The United States Tariff Commission, upon the request of the President, upon its own motion, or upon application of any interested party when in the judgment of the Tariff Commission there is good and sufficient reason therefor, shall make an investigation to determine whether, as a result of unforeseen developments and of the concession granted on any article by the United States in a trade agreement containing such a clause, such article is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or similar articles. Should the Tariff Commission find, as a result of its investigation, that such injury is being caused or threatened, the Tariff Commission shall recommend to the President, for his consideration in the light of the public interest, the withdrawal of the concession, in whole or in part, or the modification of the concession, to the extent and for such time as the Tariff Commission finds would be necessary to prevent such injury.

"3. In the course of any investigation under the preceding paragraph, the Tariff Commission shall hold public hearings, giving reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence and to be heard at such hearings. The procedure and rules and regulations for such investigations and hearings shall from time to time be prescribed by the Tariff Commission."

An escape clause under which emergency action withdrawing or modifying a concession may be taken is included in the multilateral trade agreement recently negotiated at Geneva, which covers a large part of our total import trade both in number of articles and in aggregate value. A similar clause will also be included in subsequent trade agreements. But it is not included in any of the trade agreements which were concluded prior to the Geneva agreement, except the agreements with Mexico and Paraguay, which are still in effect.

The first paragraph of article XIX of the General Agreement on Tariffs and Trade negotiated at Geneva is an escape clause meeting the requirements of the President's Executive Order 9832. The language of this paragraph, which is, of course, controlling so far as action under the Geneva agreement is concerned, is as follows:

"1. (a) If, as a result of unforeseen developments and of the effect of the obligations incurred by a contracting party under this Agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the contracting party shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdrew or modify the concession."

The Geneva Agreement contains detailed provisions regarding the procedure to be followed in making use of the escape clause. They are quoted in full in the appendix to this report. In substance the Article requires consultation with the other contracting parties before taking action under the escape clause; under critical circumstances, however, action may be taken without prior consultation provided consultation is effected immediately thereafter. Even if agreement among the interested parties is not reached, the country proposing to take action under the escape clause may nevertheless do so. Other affected contracting countries are then free to suspend substantially equivalent obligations, so far as concerns trade with the country taking the action.

PROCEDURE REGARDING INVESTIGATIONS

The Presidential order provides that investigations by the Tariff Commission under the escape clause shall be made upon the request of the President, upon the motion of the Commission itself, or upon application of any interested party when in the judgment of the Commission there is good and sufficient reason therefor.

The procedure to be followed in investigations under Executive Order 9832 is given in detail in the Amendment to Rules of Practice and Procedure, published by the Tariff Commission in June 1947. In brief, the procedure consists of open hearings after public notice, investigation by the staff of the Commission, preparation of the Commission's report, and, if serious injury or threat of injury is found, transmittal of the report with findings and recommendations to the President. The Tariff Commission is to issue public notice of each properly-filed application for investigation under Executive Order 9832 and, if an application is dismissed, it is to issue a statement to that effect. Due notice must also be given of the institution of investigations at the request of the President or on the initiative of the Commission.

The applicant for an investigation is requested to file with his application as much information as may be readily available to him regarding certain matters listed in the rules, such as imports, production, sales, exports, labor engaged in direct production, comparability of the domestic and foreign article, the nature and extent of the injury to the domestic producer which is alleged to be caused or threatened, and various other matters. The purpose in asking for such information of this character as it may be practicable to furnish is to assist the Commission in determining whether the circumstances warrant an investigation under Executive Order 9832. It is, however, preliminary to, and not a substitute for, the investigation itself, should the Tariff Commission decide that an investigation is warranted. This requirement has for its purpose to enable the Commission more readily to determine whether or not the application has prima facie merit. The Commission encourages informal conferences with prospective applicants to aid them in deciding whether to request an investigation, and if they decide to do so, to advise with them regarding the character of the information which in their special circumstances should accompany the application.

By whatever method an investigation is instituted, the Tariff Commission in carrying out its obligations regarding the escape clause will, as a matter of broad public policy, act as expeditiously as possible, consistent with the ascertainment of the facts. Prompt investigation and report is required to enable the President to forestall serious injury before it occurs, or, where that is not feasible, to afford appropriate relief before the damage has become prolonged.

The procedure summarized above is directed principally to investigations at the request of domestic producers. In those instances where investigations are undertaken by the Tariff Commission on its own initiative, similar information in the possession of the Commission will be taken into account in determining whether or not an investigation is warranted. The requirements of notice and public hearings will remain the same for all investigations, however instituted. Investigations on the initiative of the Tariff Commission would be in order in those cases where no application has been submitted but where the information available to the Tariff Commission indicates the probability of serious injury, or threat thereof, to domestic producers.

CRITERIA FOR DETERMINATIONS UNDER THE ESCAPE CLAUSE

Variation in criteria in different cases

It needs to be emphasized at the outset that, in considering how to determine whether serious injury has been caused or is threatened within the meaning of the escape clause, no single, simple criterion or set of criteria can be laid down for application in all cases. Each case will have to be judged on its own merits. Some, perhaps most, of the criteria applicable in a given case will be similar in character to those applicable to the generality of cases. But the relative importance to be attached to these identical criteria may vary with individual cases. Moreover, there will often be other circumstances to be taken into account which are peculiar to a particular case. Hence, it is impossible to state categorically in advance the character and weight of the criteria which will govern the Commission's determination of serious injury or absence of such injury in a given instance. All that can be done is to indicate and comment upon the principal factors which, so far as can be foreseen, will enter into the determination.

Provisions of the escape clause regarding imports

In order to enable the President to take action withdrawing or modifying a concession on any article, it must be found that the facts in the particular case conform to the specifications of the escape clause as regards its use. Four points appear in that clause. It must be found:

(1) That there has been an increase in the quantity of imports;

(2) That this increase has been a result of unforeseen conditions;
(3) That it has been a result of the concession on the article;
(4) That the increased imports are entering under such conditions as actually to cause or threaten serious injury to domestic producers.

The most difficult task confronting the Commission will naturally be that of determining whether serious injury has actually been caused or is threatened. The other points will be considered jointly with this major point.

Increase in imports.—The escape clause specifies that the injury or threat of injury must be caused by imports in such increased quantities as to have that effect. This means that imports under the trade agreements must supply a larger share of domestic consumption than they did during a previous period. In other words, if imports, although at the same or at an even lower level than in the base period, have increased relative to declining domestic production and injury to domestic producers has resulted, action is permissible under the escape clause. This explanation merely illustrates the meaning of increased imports and is not to be taken to preclude action under the escape clause in cases where domestic production has expanded, if the share of imports in the domestic market has increased and the requisite finding with respect to injury is made.

It will be necessary to select a historical base by which to judge whether such an increase in imports has occurred. It will not be possible to select a single basis for comparison which will be fairly applicable to all cases. For example, with respect to the Geneva agreement, which (for the most part) went into effect January 1, 1948, it may be appropriate in some cases to compare subsequent imports with those of a postwar year or period of years, although, of course, comparison with the months immediately preceding the agreement might be vitiated by the holding back of imports in anticipation of reduction in duty. Often, however, owing to the highly abnormal influences which have been operative during and since the war, it will be necessary, at least for some time to come, to compare imports since the Geneva agreement with those during a representative period prior to the war. Each case brought up under an escape clause must be considered independently as regards determination of a representative period with which to compare current imports.

The escape clause also specifies that the increase of imports (as well as the conditions under which imports enter) must be such as to cause or threaten serious injury to domestic producers. Obviously, no rule can be laid down that some particular percentage of increase in imports constitutes prima facie evidence of injury. The actual facts concerning injury must be ascertained in each case; the kinds of data which must be considered in that connection are discussed in subsequent sections of this memorandum.

Increased imports as a result of unforeseen developments.—Under the escape clause "unforeseen developments" as well as the concession contained in the trade agreement must have contributed to increased imports and resulting serious injury. Under the Trade Agreement Act changes in the tariff are made by the President after consultation with executive agencies through the Interdepartmental Trade Agreements Committee. The construction which the Commission places upon the words "unforeseen developments," as concerns the exercise of its functions under the escape clause, is that when imports of any commodity enter in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers, this situation must, in the light of the objective of the trade-agreement program and of the escape clause itself, be regarded as the result of unforeseen developments.

Increased imports as a result of the concession.—Under the language of the escape clause there must be a finding that the concession granted by the United States was at least in part responsible for the increase in imports. Obviously, if a concession, although provided for in an agreement, has not yet actually gone into effect, the escape clause cannot be invoked; in this connection it should be noted that some of the concessions made in the Geneva agreement have not yet entered into effect because the countries with which they were negotiated have not yet accepted the agreement. When once a concession has gone into effect, however, if imports have increased thereafter, the Commission must satisfy itself as to whether the increase was a result of the concession.

On this question there may or may not be specific facts available which would establish conclusively that the increase in imports was a result of the concession. In many cases there will be other causal factors; and if all of the causes could be disentangled and separately weighed, it might be found that the increase in imports was due mainly, if not solely, to causes other than the concession. But if the imports have increased following a duty reduction, the

logical inference (quite apart from more specific evidence) would ordinarily be that the increase was caused, at least in part, by the duty reduction. Indeed, the very purpose of a reduction in duty is to cause imports to be larger than they would otherwise be. If the increase was, even in part, the result of the concession, that is sufficient, since the language of the escape clause clearly does not require that the concession be the sole, or even the chief, cause.

The question may be raised whether the binding of an existing duty against increase, or the binding of continued free entry, could in itself cause an increase in imports. As to most articles, no doubt, any increase in imports which takes place after a binding must be attributed to other causes. However, in some instances there may previously have been fear on the part of foreign producers that the duty might be increased or a duty placed on a presently free article. They may, therefore, have hesitated to take the steps (expansions of equipment, establishment of market connections, reduction of prices, etc.) necessary in order to make possible an expansion of their exports to the United States. With the assurance resulting from a binding they might take these steps and a subsequent increase of imports might properly be found to be attributable, at least in part, to the binding.

Imports "under such conditions" as to cause or threaten serious injury

When it has been found that the quantity of imports of any product has increased and that the increase has, in part at least, resulted from a tariff concession, the Commission must then determine whether imports are entering "under such conditions as to cause or threaten serious injury to domestic producers." The phrase quoted will require the Commission to investigate the conditions, here and abroad, under which the increase in imports occurred, and at the same time to determine whether these conditions are such as to cause or threaten serious injury. The discussion below of the question of criteria to be considered in determining whether serious injury has actually occurred or is threatened necessarily includes a discussion of the conditions under which the increase in imports has occurred.

Determination of the producing group or groups to be considered

The escape clause refers to injury to "domestic producers of like or similar articles." In each investigation under this clause, the Commission will have to determine what group or groups of producers are concerned. In some cases the Commission will need to consider to what extent the impact of imports on a limited group of producers in an industry can cause or threaten "serious" injury in the sense of the escape clause. Two principal situations in which this question may arise are discussed below.

One is the situation where import competition is substantially confined to a limited area, or limited areas, of the country, usually along the seaboard. On many commodities of low unit value, transportation charges are a major factor in delivered prices. Low ocean transportation charges some times enable foreign producers to obtain a considerable or large share of the total market in some area or areas close to the seaboard, even though they are not able to penetrate any considerable distance into the interior. Here two widely different situations may present themselves, apart from intermediate situations. At the one extreme, there may be producers who are located within such a seaboard area, who are the principal domestic producers selling there, and who, in view of freight charges, must market most of their product in that area. Increased import competition may represent serious injury to these producers, even though producers elsewhere are little affected. At the other extreme, there may be no domestic producers within the area, and the ability of domestic producers elsewhere to compete in it may depend chiefly on the relation between the transportation charges they must pay and the charges, including duty, on the imported product. Under these circumstances injury to domestic producers from an increase in imports substantially confined to the particular area could hardly be considered serious if that area represents only a small fraction of the total domestic market, but it might be considered serious if it represents a considerable fraction of the market.

Another situation where the question of the extent of the field affected by import competition may arise is that in which the article in question represents only a minor fraction of the whole output of an industry. Here the position of different individual concerns in the industry would have to be considered. It may be that for all the concerns the article is of minor importance. For example, it may be by its nature a byproduct of processes which produce much

more important commodities. Again, although not a byproduct, the article may be, for all the concerns which produce it, only one, and a minor one, of many articles which they produce. The problem, however, would be different if the article were the principal, or at least a major, product of certain concerns in the industry, even though of minor importance to the majority of the concerns. The problem would also be different if increased competition were affecting not a single product of an industry but several or many of its products.

No general rule can be laid down in advance to cover all cases of the kinds mentioned in the two preceding paragraphs, or other similar cases which may arise. Each situation must be considered on its merits, to determine whether the injury, or threat of injury, resulting from increased import competition is serious in the meaning of the escape clause.

Criteria regarding injury to domestic producers

As already stated, numerous classes of facts, which may for convenience be called criteria, or indicators, will have to be taken into account by the Tariff Commission in determining whether serious injury has been caused or is threatened by an increase in imports. The order in which such criteria are mentioned in the present memorandum has no particular significance, and should not be taken as indicating the relative importance which the Commission attaches to them. Each case will be considered independently.

Trend of ratio of imports to domestic production.—An important indicator as to injury will be whether or not an increase has occurred, or is threatened, in the ratio of imports to production. The emphasis here is on "increase." The fact that imports are in a particular ratio to domestic production cannot in itself be taken, ordinarily, as indicating either injury or lack of injury. Account must be taken of the degree of competition from imports to which an industry is accustomed; special attention should be given to any radical increase in this respect, actual or impending, especially when rapid.

In some instances, however, even if there has been an increase in the ratio of imports to production, the resultant absolute magnitude of that ratio will need to be considered. For example, the ratio after the concession might be several times higher than before, but yet might still be so low that any injury to the domestic industry could scarcely be considered serious. On the other hand, a less-marked increase in a ratio already relatively high might indicate more or less serious injury.

Where imports have shown an absolute increase, an increase in the ratio of imports to domestic production may occur (*a*) if domestic production has decreased, (*b*) if it has remained stationary, or (*c*) if it has increased less than the imports. The injury to domestic producers is, of course, most likely to be felt in the first of these cases. Even in the third case, however, the Commission might need to consider whether injury has occurred where there has been a great increase in demand for the commodity and where domestic producers, although increasing their output, have obtained a much smaller share of this increase in consumption than have foreign producers.

In determining whether a significant change has occurred in the ratio of imports to production, the same care must be exercised in selecting the base period for the production figures as for the import figures. Representative years, often prewar years, must be selected and these will not be the same for all commodities. The discussion already presented regarding evidence as to an increase in imports is applicable here also.

As more fully pointed out hereinafter, the fact that an absolute increase in imports has been accompanied by little or no increase in the ratio of imports to production does not necessarily indicate that no injury has been caused. Domestic production may have been maintained only at the expense of a lowering of wages or profits, or both.

In some instances, for reasons set forth in the section on "Determination of the producing group or groups to be considered," the ratio of imports to production may need to be considered not merely for the country as a whole but for certain particular areas or certain special branches or segments of the industry.

In addition to the trend of the ratio of imports to domestic production, information on other underlying competitive conditions will often be important as indicating the nature and degree of the injury (if any) which has been caused, and more especially as indicating whether injury is threatened. These factors are discussed in the next two sections.

Costs of production.—Information regarding differences in the total delivered costs of imported and domestic products will be of much significance in this connection, whenever it can be readily obtained. In most instances, however, com-

plete cost comparisons, similar to those undertaken under section 336 of the tariff act, will not be possible in investigations under Executive Order 9832. The determination of precise cost differences is at best difficult, because of the complex questions which are likely to arise regarding the comparability of the domestic and imported product, the allocation of general and overhead costs to particular joint products or byproducts, the method of averaging costs of different producers, the appropriate markets to which to compute costs of transportation, and other matters. The fact that it usually takes months to make any close comparison between total domestic and foreign unit costs will in itself in most instances rule out any attempt to get complete data. In some instances, however, it may be possible, without undue difficulty, to compare costs of representative United States concerns with invoice prices of imported products, including in both instances transportation and other charges involved in getting the goods to competitive markets.

Even where average total costs cannot be obtained in an investigation under Executive Order 9832, light on the subject may in some instances be gained from comparison of changes here and abroad in particular cost elements, such as major raw materials, wages, and transportation charges. However, the extent to which changes in a particular cost element are significant may depend upon the changes, if any, in other cost elements, in the domestic or in the foreign industry, for which adequate data are lacking. For example, it may be impossible to obtain adequate information as to changes in technology, and consequently in productivity of labor.

Price trends and conditions of supply and demand.—Determination as to whether injury has occurred or is threatened by reason of increased imports will often be facilitated by comparison of price movements here and abroad and of price movements in this country of imported and competing domestic products by ascertaining what methods of marketing the foreign goods are being practiced and by a general study of conditions of demand and supply here and abroad. Such price and market data may be particularly important as indicating whether the increase in imports is likely to continue or even to accelerate.

In determining whether import competition is causing, or threatening, serious injury to domestic producers much may depend on whether the increase in imports occurs in a time of rising prices and rising prosperity, in business generally or in the particular industry concerned, or whether it occurs in a period of declining prices and prosperity.

In studying prices of particular articles account must be taken, especially in times like the present, of general trends of commodity prices. Such general causal factors as changes in exchange rates of foreign currencies and the desire of foreign producers and foreign governments to obtain dollar exchange must be given due weight.

Conditions of supply and demand, here and abroad, may often be illuminated by data as to new investments in the industry, changes in the capacity and character of the equipment, and changes in stocks on hand. Regard must be given to whether a rise or a fall in demand for the particular article, here or abroad, is due to special technical factors, such as changing consumer tastes, the introduction of new substitutes, and the like. In some special instances other questions will have to be considered (particularly as regards threat of injury, such, for example, as whether foreign producers have or have not other available markets for their goods or whether the foreign industry is operated by the state.

Changes in production, employment, wages, and profits.—Judgment as to whether injury has actually occurred must in most instances depend largely on data regarding production, employment, wages, and earnings of the concerns in the domestic industry, and the changes therein, in the light of the particular circumstances surrounding each case. Adequate information with respect to some of these matters may sometimes not be readily available. In some cases it may not be sufficiently up to date, especially if the competitive impact of increased imports has been sudden. Nevertheless available data will often be sufficient to indicate whether or not injury has already occurred. On the other hand, even complete and up-to-date information on these matters will often not reflect the degree to which increased imports threaten serious injury to domestic producers which has not yet actually occurred.

It is particularly important to note that an increase in imports may cause or threaten serious injury notwithstanding the fact that production and employmen in the competing domestic industry may remain undiminished. Production and employment may have been maintained only at the expense of cuts in wages or in profits, or both, sufficient to keep prices competitive with those of imports.

Employers or employees, or both, may thus have suffered loss in income involving real injury.

CONCLUSION

An attempt has been made in this report to state in general terms the nature of the criteria which the Tariff Commission believes will enable it to form a judgment as to whether or not the escape clause should be invoked and, if invoked, the character of the relief, if relief is found warranted, which should be afforded. Such a statement cannot be all-inclusive. American industry and agriculture are too large and too varied to permit at this time more than an indication of the various types of situations which might warrant action under the clause. The Commission will be receptive to any evidence offered by producers, importers, or others regarding the relationship between imports and domestic production that may have a bearing on the effect of increased competition resulting from a concession made in a trade agreement. It does not intend by this report to suggest the exclusion of any information which interested parties may consider relevant.

APPENDIX

Text of Article XIX of the Geneva General Agreement on Tariffs and Trade

EMERGENCY ACTION ON IMPORTS OF PARTICULAR PRODUCTS

1. (a) If, as a result of unforeseen developments and of the effect of the obligations incurred by a contracting party under this Agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the contracting party shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession.

(b) If any product, which is the subject of a concession with respect to a preference, is being imported into the territory of a contracting party in the circumstances set forth in subparagraph (a) of this paragraph, so as to cause or threaten serious injury to domestic producers of like or directly competitive products in the territory of a contracting party which receives or received such preference, the importing contracting party shall be free, if that other contracting party so requests, to suspend the relevant obligation in whole or in part or to withdraw or modify the concession in respect of the product, to the extent and for such time as may be necessary to prevent or remedy such injury.

2. Before any contracting party shall take action pursuant to the provisions of paragraph 1 of this Article, it shall give notice in writing to the CONTRACTING PARTIES as far in advance as may be practicable and shall afford the CONTRACTING PARTIES and those contracting parties having a substantial interest as exporters of the product concerned an opportunity to consult with it in respect of the proposed action. When such notice is given in relation to a concession with respect to a preference, the notice shall name the contracting party which has requested the action. In critical circumstances, where delay would cause damage which it would be difficult to repair, action under paragraph 1 of this Article may be taken provisionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action.

3. (a) If agreement among the interested contracting parties with respect to the action is not reached, the contracting party which proposes to take or continue the action shall, nevertheless, be free to do so, and if such action is taken or continued, the affected contracting parties shall then be free, not later than ninety days after such action is taken, to suspend, upon the expiration of thirty days from the day on which written notice of such suspension is received by the CONTRACTING PARTIES, the application to the trade of the contracting party taking such action, or, in the case envisaged in paragraph 1(b) of this Article, to the trade of the contracting party requesting such action, of such substantially equivalent obligations or concessions under this Agreement the suspension of which the CONTRACTING PARTIES do not disapprove.

(b) Notwithstanding the provisions of subparagraph (a) of this paragraph, where action is taken under paragraph 2 of this Article without prior consultation and causes or threatens serious injury in the territory of a contracting party to the domestic producers of products affected by the action, that contract-

ing party shall, where delay would cause damage difficult to repair, be free to suspend, upon the taking of the action and throughout the period of consultation, such obligations or concessions as may be necessary to prevent or remedy the injury.

EDITORIAL NOTE

Executive Order 9832, frequently referred to in this document, has been superseded by Executive Order 10004 of October 5, 1948, which order has been in turn superseded by Executive Order 10082 of October 5, 1949. Although there are verbal differences between the paragraphs of Executive Order 9832 referred to herein and the corresponding provisions of Executive Order 10082, the basic substance remains the same; accordingly, to save printing costs, we have refrained from changing the various references to the Executive order. The substance of paragraphs 1, 2, and 3 of Executive Order 9832 are contained in paragraphs 10 and 13 of Executive Order 10082. Copies of Executive Order 10082 are available upon request addressed to the United States Tariff Commission.

Mr. RYDER. I think you will find that we go about work under the escape clause in the broadest possible way. I will read what we say in the criteria report in regard to changes in production, employment, wages, and profits. That corresponds somewhat to this provision in this subsection (c). [Reading:]

Judgment as to whether injury has actually occurred must in most instances depend largely on data regarding production, employment, wages, and earnings of the concerns in the domestic industry, and the changes therein, in the light of the particular circumstances surrounding each case. Adequate information with respect to some of these matters may sometimes not be readily available. In some cases it may not be sufficiently up to date, especially if the competitive impact of increased imports has been sudden. Nevertheless, available data will often be sufficient to indicate whether or not injury has already occurred. On the other hand, even complete and up-to-date information on these matters will often not reflect the degree to which increased imports threaten serious injury to domestic producers which has not yet actually occurred.

Then it continues:

It is particularly important to note that an increase in imports may cause or threaten serious injury notwithstanding the fact that production and employment in the competing domestic industry may remain undiminished. Production and employment may have been maintained only at the expense of cuts in wages or in profits, or both, sufficient to keep prices competitive with those of imports. Employers or employees, or both, may thus have suffered loss in income involving real injury.

Senator MILLIKIN. Those things could all occur and still a claimant might be losing his proportion of the market, could they not?

Mr. RYDER. How was that?

Senator MILLIKIN. I say, those things could all occur and at the same time the applicant for relief might be losing a part of his market. He might maintain his employment——

Mr. RYDER. That was my understanding of what was said there.

Senator MILLIKIN. That is correct, then?

Mr. RYDER. Oh, yes. [For correction of this answer see end of testimony on April 5.]

In other words, if you will read our report on criteria, I think you will find we have considered almost every factor which may arise. The Commission takes the work under the escape clause very seriously, and it is one of the most difficult tasks that I have ever tried to accomplish.

We have done the best we could under the circumstances; and I think a reading of our criteria report will make clear the way we go into the matter of every application that is filed with us.

I want to refer further to the provision of subsection (c) that a decline in production, employment, and wages, and so forth, shall be taken as evidence of serious injury. Even if all the factors named

are to be connected with import competition, the question whether these factors could properly be taken as evidence of serious injury would depend upon the degree of the decline and upon the circumstances under which it occurred. If there were any decline, there might be some injury, but whether the decline could be taken as indicative of serious injury would depend upon the extent of the decline and the circumstances under which it occurred.

It would seem to me doubtful whether the factors mentioned in subsection (c) should be laid down as criteria without reference to the other factors, the many other factors, involved. That is all I have to say on the Bailey amendment.

The CHAIRMAN. Are there any questions? Are there any questions the committee wishes to ask on this point?

Senator MILLIKIN. Before we come to this particular section, I notice that at the outset of your testimony you said that the Commission has been traditionally a fact-finding Commission; is that correct?

Mr. RYDER. That is right.

Senator MILLIKIN. And that is more or less called for by the law setting up the Commission; is that not correct?

Mr. RYDER. Oh, yes; that is correct.

Senator MILLIKIN. Then why does the Commission want to participate in the negotiation of concessions on both sides?

Mr. RYDER. Well, I discussed that with you, I believe, the last time I appeared before the committee, you know.

The Commission, as such, does not participate in any phases of the trade-agreements work. The experts of the Commission, however, serve with the country committees in the negotiations to supply them information which may be needed in holding up our claim to see that we do not want to go further in the offers that we are making.

Senator MILLIKIN. Commissioner, is it not the fact that employees of the Commission are sitting on these country committees and taking part in the actual negotiations?

Mr. RYDER. Yes, but what they actually do, Senator, varies from negotiating team to negotiating team.

Senator MILLIKIN. Yes.

Mr. RYDER. But the usual thing is that the negotiation is carried on entirely, practically entirely, by the head of the team who is a State Department man.

Senator MILLIKIN. Are there not instances where Commission employees actually participate in the negotiations?

Mr. RYDER. It would depend on what you mean by "participation."

Senator MILLIKIN. Well, the country committee is sitting around, let us say, with another country committee, and on our country committee I suggest you will find from time to time an employee of the Commission who is participating actively in the bargaining that goes back and forth between those two committees.

Mr. RYDER. No; only in the sense that he is present and gives information to the head of the team, and maybe on occasion might be called upon to explain a certain matter by the head of the team—in that sense he participates in the negotiation.

Senator MILLIKIN. That is the full extent of his participation?

Mr. RYDER. That is ordinarily true.

Senator MILLIKIN. He does not try to persuade a concession?

Mr. RYDER. I do not think so; no.

Senator MILLIKIN. We ought to have a pretty good answer on that.

Mr. RYDER. I, of course, have not been present at all the negotiations, but I know that is the general rule; what I have stated is the general practice.

Senator MILLIKIN. Then, as a matter of general practice, the employees of the Commission do not participate in the bargaining?

Mr. RYDER. Not in the sense of actually conducting the negotiations. They assist in it by giving information and by being on occasion called upon to explain something, and doing so.

Senator MILLIKIN. But do they not at times actually contribute to the persuasion process that brings about an agreement?

Mr. RYDER. I cannot say; I cannot give you a universal answer. Ordinarily they do not.

Senator MILLIKIN. But in some cases would you say that they do?

Mr. RYDER. That is possible.

Senator MILLIKIN. Yes.

Mr. RYDER. I would doubt that it very often happens. If it happens I am sure it happens very infrequently.

Senator MILLIKIN. Then under your own explanation of what you think is going on you could have no objection to a provision of law that prevented the Commission employees from taking part in the bargaining process, could you?

Mr. RYDER. Well that depends on how you interpret the language you use. They way we had previously, there was some doubt whether our men could effectively supply the information needed and the help needed in the negotiation.

Senator MILLIKIN. Mr. Commissioner, I suggest, there has never been any doubt because the law specifically said you gentlemen are at liberty to supply information to anybody who is interested in this process and it is not required that you stay here at home when there is a negotiation abroad. You could sit at the elbow of anyone you wanted to and supply him with information. Now you tell us that that is what they do and so, going that far, you are complying with the law, and apparently you approve of that and apparently it is your impression that they do not take part in the actual bargaining back and forth, and apparently you do not want them to take part in the actual bargaining back and forth because you are a fact-finding commission and hence what is the objection to a provision that says you shall not take part in the actual negotiation?

Mr. RYDER. Well, the last time when we had the provision prohibiting the Commission experts from participating in negotiations, we did send 10 or 12 of our experts over to Annecy in the negotiations. They assisted the negotiating teams. I got the impression that it was more difficult to assist effectively than it was when they were a member of the team.

It may not make a great difference, Senator. In any case, there is not any bargaining in the sense that we are giving something. It has already been decided what is to be given. All you can do is to try to get the other fellow to give you more for what you have offered and to try to prevent the——

Senator MILLIKIN. That is it exactly. How do you reconcile that with the fact-finding function of the Commission?

Mr. RYDER. Well, in doing that, as I envisage it, there are certain facts which our experts have, and can set forth to better advantage than anyone else, and they are called upon to give those facts and to give them to the head of the team or maybe they may be called upon sometimes to state them to the negotiating team of the foreign country. I do not see that that is departing from a fact-finding function.

Senator MILLIKIN. If that is the function, that is what the law says they should do; the law did say they should not negotiate, which is a further step of trying to persuade the fellow to accept a concession of some kind in return for giving us a concession in a field where you have no jurisdiction at all, to wit, in getting concessions from other countries.

Mr. RYDER. Yes.

Senator MILLIKIN. So I repeat my question, what can be the objection to spelling that out in the law?

Mr. RYDER. Well I have already stated that I think your men are freer and more likely to be of assistance if they are members of the committee, but I do not know that it is a vital question.

Senator MILLIKIN. So it doesn't make any difference.

Mr. RYDER. I would not say it would not make any difference; no.

Senator MILLIKIN. I think that the Congress is entitled to your view on this. The whole burden of your testimony is that it is not vital, that is No. 1. Second, that under your view of it, although you will not say there may not be an instance to the contrary, under your view of it these employees of the Commission do not engage in the actual bargaining; they sit there and supply information.

Mr. RYDER. That is right; that is their normal function.

Senator MILLIKIN. Yes.

If that be true, then what is the objection to saying so in the law?

Mr. RYDER. Well, I can see one difficulty. You have, when you are negotiating with a country, you have their country team there, and they are insisting that we should give them a greater concession than we are offering them on a given product.

Senator MILLIKIN. That is right.

Mr. RYDER. Now, if they are merely to supply information, the probabilities are that our experts would not feel free, if the chairman of our negotiating committee asks them to make a statement as to why we cannot go any further and give the facts in regard to it, they would not feel free; they could not do it. They could give it to the chairman of that committee, and he could retail it to the committee, but he might not do it as well as our men.

Senator MILLIKIN. The only greater freedom under your own testimony, Mr. Commissioner, I suggest, is that greater freedom of stepping over and trying to persuade the other fellow to accept a concession that we are willing to make in return for a concession that we want them to make.

Mr. RYDER. No. What I was trying to say was that I do not think our men get into that field particularly because that is the field of the Department of Commerce; but what they are——

Senator MILLIKIN. Mr. Commissioner, you are always hanging words like "particularly" onto your answer. I think we ought to have a clean-cut answer as to whether they do or do not take part in the bargaining process; that is all I am talking about.

Mr. RYDER. I have told you what, in my view, and I think it is correct, is the way they participate.

Senator MILLIKIN. Yes. Am I correct in saying that they participate as fact suppliers?

Mr. RYDER. That is right.

Senator MILLIKIN. And do not participate as negotiators?

Mr. RYDER. That is right. My difficulty, Senator—I will be perfectly frank about it, my difficulty—is in separating the two functions, because a part of the negotiation is a statement of the facts, and our men are the more capable of stating the facts as to why we cannot give a greater concession, than anyone else is.

Senator MILLIKIN. Mr. Chairman, there is no difficulty in my thinking about that at all. Mr. Benson is the minority clerk of this committee. He sits here armed with several feet of facts. If I want a fact I turn to him and I say, "Mr. Benson, please let me have that fact," and he participates not at all in the negotiation that is going on between you and me right now. There is no difficulty in asking for facts. There is no difficulty in having someone sit at your elbow and supply the facts, is there?

Mr. RYDER. But there is this difference. The few times that I have myself observed negotiations—I did not take part actively, but in one negotiation, and that was the first one with Czechoslovakia, which went by the board when the World War began. I did just what I have told you a minute ago as to how Commission experts participate in the negotiations.

It is very difficult to get a leader of a team, who is usually a Foreign Service employee of the State Department, to get him to grasp fully the facts in regard to the domestic situation, which has to be given—it would be much better if it can be given by our man if he is called upon to do it, rather than to get him to whisper it to the chief negotiator. There is that much difficulty.

Senator KERR. You think you might even have a thought that the negotiator was not aware of, and there might be something about it that would cause you to want to give him that information?

Mr. RYDER. That is possible; yes.

Senator MILLIKIN. Then when he would do that he would sit there merely to supply a fact; is that the point?

Mr. RYDER. To supply a fact.

Senator MILLIKIN. To use that fact.

Senator KERR. To make a suggestion.

Mr. RYDER. That is right, to make a suggestion; yes, sir.

Senator MILLIKIN. Would he sit there to use that fact to persuade the other fellow or as a part of the process of the persuasion?

Mr. RYDER. He would use that fact, I would say, to convince—in the process of convincing—the other fellow that that was as far as we could go in making a concession.

Senator KERR. If it were a fact that threw some light on the question you would not want something that would automatically put a bushel over the light?

Mr. RYDER. That is all I have ever felt about it. Maybe I am wrong.

Senator MILLIKIN. Let us take that. That, I think, is all right. All you want to do is to supply the facts to the negotiators; is that correct?

Mr. RYDER. To both sides. You are called upon——

Senator MILLIKIN. To both sides? What do you mean by "both sides"?

Mr. RYDER. Well I will give you an illustration. In this one negotiation in which I participated as a member of a negotiating team, I was on a few occasions called upon by the chairman of the negotiating team to state what the situation was with regard to a certain thing, and I did so, and I did it much bettter than he could have done it, and I think it had some effectiveness.

Senator MILLIKIN. Well you were supplying the information.

Mr. RYDER. It was information.

Senator MILLIKIN. Of course, you have no legal duty to supply information to representatives of other countries——

Mr. RYDER. Oh, no.

Senator MILLIKIN. In these negotiations. That is what I was driving at when I asked you about supplying the other fellow with information.

Mr. RYDER. That is right.

Senator MILLIKIN. You will agree to that, will you not?

Mr. RYDER. All that we do—I will agree that all that the Tariff Commission representatives do—at least ordinarily is to supply facts and in most cases the facts are supplied to our delegation or the head of our delegation. But on occasion he may be called upon to explain a certain matter or to tell why we cannot do more than so much on a certain thing, and give a group of facts to the other side.

Senator MILLIKIN. When he is doing that, he is supplying facts.

Mr. RYDER. That is right.

Senator MILLIKIN. Would you say it is never his duty and not your intention that he shall persist, that he shall participate in, the salesmanship or the bargaining or the persuasions incident to a negotiation?

Mr. RYDER. Well, my difficulty is in separating the two. In my own mind I cannot separate the two. The statement of the facts, such as I have indicated, is a part of a negotiating process.

Senator KERR. You think that the statement of facts itself might constitute a persuasive effort?

Mr. RYDER. That is right.

Senator KERR. And you would not want to be bound?

Mr. RYDER. In fact, I think that is the only persuasive evidence you can give in most cases.

Senator KERR. You would not wish to be bound to withhold the facts merely by reason of the fact that the statement of it might be persuasive?

Mr. RYDER. That is right.

Senator MILLIKIN. Mr. Commissioner, there is no suggestion here, and there is not in the law, and there never has been, that any facts should be withheld.

Mr. RYDER. I know that.

Senator MILLIKIN. Now, if we can agree, and we should be able to agree quickly, that your function is limited to supplying facts and not to participate in the persuasions and policies and bargaining incident to reaching the conclusion of a negotiation, we have no difference between us at all, and all I am trying to find out is whether we do agree on that.

Mr. RYDER. Well, we agree on it if you can separate the arguments in regard to the facts from the persuasion and negotiation, but I cannot do it. I do not think they can be separated; that is my view.

Senator MILLIKIN. If you supply the facts, and if the negotiating team, which is to do the salesmanship, if it has the facts available, either from the negotiator at its elbow or from a letter that you write from the Commission, or however it may be, you have contributed your function, have you not?

Mr. RYDER. We contribute our function by a statement of facts, and supplying the facts needed in the negotiations; and the only difference between us is my view of it that it is easier to do that if you are a member of the negotiating team than if you are not, that is all.

Senator KERR. If he is going to be completely muzzled, you might just as well write out a memorandum and send it over there, and you stay home.

Mr. RYDER. Pretty well.

Senator MILLIKIN. There is no muzzling in the process. Your employee sits at the elbow of the negotiating team.

Mr. RYDER. Yes.

Senator MILLIKIN. Somebody asks for a fact, and he supplies it. He can do that just as well sitting at the elbow as being a member of the team, can he not?

Mr. RYDER. That is what being a member of the team consists of.

Senator MILLIKIN. Well, let me have an answer to my question. So far as the supply of facts is concerned, can he not supply those facts sitting at the elbow of the negotiators, just as well as if he were a member of the team?

Mr. RYDER. Of course, he can if he is perfectly free to do the same thing that he does now.

Senator MILLIKIN. Yes.

Mr. RYDER. Then, of course, it would not make any difference.

Senator MILLIKIN. Then, I suggest, Mr. Commissioner, there is no reason why the law should not spell out that your business, as you have stated it is, is to supply facts. Certainly you would not say that it is the business of the Commission to take over the negotiation of our foreign relations.

Mr. RYDER. Well, the Commission does not take any part in it at all. It loans its experts to these committees.

Senator MILLIKIN. I am talking about—I would rather have the Commission take part than to have a lot of anonymous employees occupy an important role in the negotiation of our foreign affairs, because I know the Commissioners but I do not know the anonymous employees.

Mr. RYDER. You have the same—in a different way, Senator, you have the same situation when you have, as we had in 1922 and 1930 a general congressional revision of the tariff.

The Tariff Commission, as such, did not participate in that proceeding or have anything to do with it, but it loaned its experts to the committees of Congress to supply them with all the facts and all the data on everything that they needed.

Senator MILLIKIN. Yes.

Mr. RYDER. And manifestly the Commission itself could not be responsible for that.

Senator MILLIKIN. The law tells you to do that, does it not?

Mr. RYDER. Yes.

Senator MILLIKIN. That is a natural function?

Mr. RYDER. Yes, and that is what we do now. That is a similar thing to what we do in connection with the trade agreements.

Senator MILLIKIN. Mr. Benson has just handed me some facts, which I assume are facts, because they are printed, and having received those facts, I will proceed to use them in my negotiation with you.

Mr. RYDER. Fine.

Senator MILLIKIN. I understand that our negotiating team with the United Kingdom has on it Loyle A. Morrison, Chief, Economics Division, United States Tariff Commission, is that correct? That was at Geneva.

Mr. RYDER. That was at Geneva. He is now our Director of Investigation. He was then Chief of the Economics Division.

Senator MILLIKIN. That is what it says, and all of these entries go to Geneva, and we will determine whether there is any change in principle after we run through this.

Next is Carl J. Whelan, principal economist, United States Tariff Commission, who was on the negotiating team with Canada.

Mr. RYDER. Canada, I believe.

Senator MILLIKIN. Is that correct?

Mr. RYDER. Yes.

Senator MILLIKIN. Wentworth W. Pierce, senior economist, United States Tariff Commission.

Mr. RYDER. Australia.

Senator MILLIKIN. The southern Dominions.

Mr. RYDER. That is right.

Senator MILLIKIN. David Lynch, principal economist, United States Tariff Commission. Say, you have got a lot of principal economists. Who is the principal over there?

Mr. RYDER. That is a civil service designation; we are not responsible for that. Blame it on the law.

Senator MILLIKIN. Principal economist, United States Tariff Commission, India, is that correct?

Mr. RYDER. Lynch? Who was that, Lynch? Yes; that is right.

Senator MILLIKIN. Willard W. Kane, commodity specialist, United States Tariff Commission, France.

Mr. RYDER. Right.

Senator MILLIKIN. Prentice N. Dean, principal economist, United States Tariff Commission, Belgium and Holland, is that correct?

Mr. RYDER. That is correct.

Senator MILLIKIN. David Lynch, that is the same gentleman, I assume, principal economist, United States Tariff Commission, Lebanon and China, is that correct?

Mr. RYDER. That is correct.

Senator MILLIKIN. Allyn Campbell Loosley, principal economist, United States Tariff Commission, Brazil and Chile.

Mr. RYDER. Yes.

Senator TAFT. Are those gentlemen stationed there?

Mr. RYDER. No. These were assigned with respect to these various country committees that the Senator just named.

Senator MILLIKIN. They sit as part of the team that negotiates the concessions, if there are any concessions, and they sit there to negoti-

ate what we get from the other fellow as well as what the other fellow gets from us.

Then we have Anthony B. Kenkel. He is just an ordinary economist: economist, United States Tariff Commission, Cuba.

Mr. RYDER. They did him wrong.

Senator MILLIKIN. They certainly violated the protocol. [Laughter.] Then Louis S. Ballif, Chief, Technical Service, United States Tariff Commission, for Norway, is that correct?

Mr. RYDER. Yes. He is right here.

Senator MILLIKIN. Is that correct?

Mr. RYDER. That is right.

Senator MILLIKIN. All right. So that you had highly placed employees of the Commission on these negotiating teams, are you not prepared to say that they did not go beyond the power of merely supplying facts?

Mr. RYDER. It depends on what you mean by "supplying facts." I do not think, in general, taking it from a broad general point of view—I doubt if they did.

Senator KERR. As you understand it, they did not?

Mr. RYDER. That is right.

Senator MILLIKIN. And you would not want them to, is that right?

Mr. RYDER. As a general rule, yes.

Senator MILLIKIN. Then, if the law confines you to supplying facts, you are content with the law, is that correct?

Mr. RYDER. If it is clear that they can act as they are doing now and can be free to give information in the course of negotiations when called upon to the other side as well as to the American delegation, then I have no objection if that can be made clear.

Senator MILLIKIN. If the law is clear that they shall supply the facts, and are limited to supplying the facts, you have no objection, is that correct?

Mr. RYDER. That is right, if you made it clear.

Senator KERR. If it was made clear that they were not limited.

Mr. RYDER. That is right.

Senator MILLIKIN. If it was made clear that they are not limited in supplying facts, is that right?

Mr. RYDER. That is right, if not limited at all in that respect.

Senator MILLIKIN. Wait a minute. Not limited at all in supplying the facts.

Mr. RYDER. At all. If called upon, they can give them to the other side.

Senator KERR. Or if they think about it, they could do it on their own initiative.

Mr. RYDER. That is right.

Senator MILLIKIN. You would not want them to supply facts to the other side unless the negotiating team requested them to, would you?

Mr. RYDER. As a matter of fact, my observation is that negotiations between two countries are fairly rigidly controlled, and one man on the team would not speak up until he has been invited to by the chairman of the delegation. He might suggest to the delegation that he would like to do it, and if the chairman permits him to do it, he would do it.

Senator MILLIKIN. If the chairman says to Mr. Benson, "There are some facts here that seem to be pertinent. Will you please supply them to the other gentlemen?" I do not see that there could be any objection to that. But I am just trying to make clear that which seems so obvious to me, that you have no right to be supplying facts to the other side in a negotiation where we are trying to limit our concessions, I assume, and expand our export concessions.

Mr. RYDER. That is right.

Senator MILLIKIN. Is that correct?

Mr. RYDER. As a matter of fact——

Senator MILLIKIN. Is that correct?

Mr. RYDER. That is right. The way it works is I doubt if the Commission representatives would ever be called upon for much information regarding the concessions requested. We specialize in imports.

Senator KERR. Is this correct: That the facts that either you supply on your own initiative, if permitted, or called upon by the chairman of the American team, when those facts are asked to be given to the other side, are facts which will help us secure the objectives we seek?

Mr. RYDER. That is right; and our men would be called upon, I would say, almost exclusively to explain why we could not give a greater concession or could not give any concession, possibly, on a given article.

Senator KERR. Or what facts might exist that would be persuasive to cause the other side to give us some concession we seek.

Mr. RYDER. Well, I doubt if we would be called upon for the latter. That is the field of the Department of Commerce.

Senator KERR. I see.

Mr. RYDER. And I doubt if we would be called upon for that latter type of information.

Senator MILLIKIN. Mr. Commissioner, you have no authority at all under any theory of the case in supplying facts or otherwise to be negotiating what the other fellow should concede to us, have you?

Mr. RYDER. Well, no; I would guess not. We are called upon to advise in regard to trade agreements, but we have been called upon to specialize in the import side of it, and I do not say that we are never called upon for information on the export side. It may be that sometimes we have some information that the Department of Commerce does not have on that side. There are cases, no doubt, where that happens.

Senator MILLIKIN. But you have no jurisdictional authority——

Mr. RYDER. Oh, no.

Senator MILLIKIN (continuing). So far as our getting concessions from other countries is concerned. That is perfectly clear, is it not?

Mr. RYDER. Well, the law does not specify. There is nothing in the law that specifies that the Commission's experts' activities should be limited to the import side of it. But I would say that the fact that we have always—the general law gives us that field, and that is the field that has been given us in the negotiations, and we confine ourselves to that field.

Senator MILLIKIN. You have no hunger to get outside of the field of the law?

Mr. RYDER. Oh, no.

Senator MILLIKIN. That the law limits for you, do you?

Mr. RYDER. No.

Senator MILLIKIN. Let me then ask you again the same question I asked you before: If the law as it now stands makes it clear that your function is one of supplying facts and is not one of engaging in persuasion or bargaining, if the law makes that clear, you have no objection to the law?

Mr. RYDER. No; I cannot say that I do, except that I think that you are trying to make a distinction which does not exist.

Senator MILLIKIN. If the law makes it clear that your function is to supply facts, what do you want to do other than supply facts?

Mr. RYDER. That is all.

Senator MILLIKIN. All right. Then if the law makes that clear—and let us not decide that between ourselves, but if the law makes it clear—that your function is limited to supplying the facts, you have no objection to such a law, do you?

Mr. RYDER. No; if it is made clear that we can supply those facts in any way that may be necessary in the negotiation. As I state again, my difficulty is in separating the statement of facts from persuasion. In fact, the only persuasion that I know that is ever used to any great extent in these things is the statement of facts.

Senator MILLIKIN. Oh, Mr. Commissioner, did you ever trade a horse?

Mr. RYDER. No; I did not have that privilege.

Senator MILLIKIN Did you ever engage in any species of trading?

Mr. RYDER. I have traded a few things.

Senator MILLIKIN. When you trade a horse, and you look to me like a pretty good horse trader, when you trade a horse, Mr. Commissioner, you do not come out with a bundle of facts and things like that. When you are persuading this fellow to take your spavined, old, ring-tailed horse in trade for a much better one, or for an excessively large sum of money, there is a process of persuasion that goes on.

Senator KERR. Mr. Chairman, as a member of the committee friendly to the witness, I feel that he is entitled to be advised that he is not obligated to answer that question. [Laughter.]

Mr. RYDER. Well, I would say this, that the Tariff Commission representative would not be called upon to use the persiflage that might be necessary to use in the negotiations.

(Discussion off the record.)

Senator MILLIKIN. Now, coming back on the record, if the law—and you and I do not need to determine the clarity of the law; we could not even if we wanted to—if the law as it is now or as it might be amended makes it clear that your function is confined to the supply of facts, you would be content with that.

Mr. RYDER. That, as far as the negotiations are concerned, if that is made clear that they can participate freely in helping the negotiating team with a statement of fact, I do not know that I would have any objection to that.

There is another phase of it, though, which I would like to be thorough and frank about, as I wish to be thorough and frank about everything.

Senator MILLIKIN. You are, Mr. Commissioner.

Mr. RYDER. The main parts of these decisions are made not in the negotiations; they are made by the trade-agreements committee.

Then the trade agreements committee acts upon recommendations from the country committees. Now, the country committees later become the negotiating teams.

Our experts serve on those committees under the present law. Under the preceding law, the Trade Agreements Extension Act of 1948, they were not permitted to serve on those committees.

Senator MILLIKIN. They were never prohibited from supplying facts.

Mr. RYDER. I will come to that.

Now, under the Trade Agreements Extension Act of 1948 they were prohibited from being members of the committee and participating in it except to supply facts. Their main difference—I think there were other differences probably, but the main difference was that the Tariff Commission representative could not vote on any question of how much concessions should be made. Now, that may be all right as long as you have the peril-point provision, because under the peril-point provision the Tariff Commission had already found a peril point, and manifestly if he voted he would have to vote for that peril point.

Senator MILLIKIN. Why should the Tariff Commission or an employee vote on the facts which he has supplied?

Mr. RYDER. Well, there is this to be said in favor of it. The Tariff Commission representative presents the facts in regard to the domestic industry, and when there is a division in the committee on the question of how great a concession can be made, he is usually on the side of conservatism. In other words, the participation of the Commission expert in the voting has a moderating effect on the concession. That is the situation.

Senator KERR. What you are doing is supplying the facts; is that right?

Mr. RYDER. And in the present case——

Senator KERR. I mean at this particular moment.

Mr. RYDER. Yes; at this particular moment; yes.

Senator KERR. And you feel that you are rendering the best service in being able to do so without inhibition and without limitation?

Mr. RYDER. That is right.

Senator MILLIKIN. I certainly would be the last person in the world to put any limitation on the supply of facts, and I shall only repeat my question, and I think we ought to have a straight-out answer without these if's, but's, and maybe's, whether if the law makes it clear that is your function, and protects that function, you would be content with such a law.

Mr. RYDER. Well, as far as the negotiations are concerned; yes. But I still think it would be advisable, and it probably would be in the interest of the domestic industry, to the protection of the domestic industry, if the Tariff Commission expert on the country committee could record his vote in regard to the concession. Manifestly, however, with the peril-point provision in effect all he could do would be to vote for whatever the Commission had decided as the peril point; so it becomes a less important question when the Commission is required to find peril points.

Senator MILLIKIN. What you are moving over to is, so far as that vote is concerned, you are moving the Tariff Commission out of a fact-finding function into an agency for the executive department

of the Government in the negotiation of trade agreements; is that not so?

Mr. RYDER. Well, I expressed my views on that at some length the last time I testified here and you and I had a long conversation on it. We do not need to repeat it. If you want to, however, I will be glad to go into it.

Senator MILLIKIN. What I want to do is: I want to find out if there are any qualifications in your mind to the simple proposition that if the law fully protects you and continues to authorize you to supply facts and fully protects your right to supply facts and limits you to the supply of facts whether that would be agreeable or whether you want some additional power and, if so, what it is.

Mr. RYDER. Well, I think I have expressed myself over and over again as preferring the continuance of the present procedure and for reasons which I have given at various times. But, as I say, we, the Tariff Commission, always follow the law. The peril-point amendment is going into the law, and we have operated under it one time and we will operate under it again. When you have the peril-point requirement, this question of the extent to which the Tariff Commission experts participate in the country committees becomes a less important matter.

Senator TAFT. May I ask one question?

Mr. RYDER. Yes, Senator.

Senator TAFT. As I understand this provision, you are referring to the provision of section 4. This restores the language of the act of 1948?

Mr. RYDER. 1948.

Senator TAFT. That was the provision in effect for 2 years and then was taken out in 1950.

During those 2 years, was this particular prohibition any embarrassment to the Tariff Commission?

Mr. RYDER. That prohibition did, in the way it was interpreted at the time, as I understand it, to some extent limit the freedom of our experts.

Senator TAFT. I mean, did you have any difficulty about it? Did it make any difference to you?

Mr. RYDER. Oh, no.

Senator KERR. You just think you were made of less use or benefit to the program?

Mr. RYDER. I do; yes. But that is, as I say, with the peril-point amendment in, with the peril-point provision in, that presents a somewhat different situation.

Senator MILLIKIN. If you are limited, if you are protected in your right to supply facts and not limited so far as your supply of facts is concerned, you would not find any great ground for objection, would you?

Mr. RYDER. Our experts—I will put it this way: With the peril-point amendment in the bill, in the law, I see no great objection, although I would prefer it otherwise, to having our experts confine themselves to a statement of facts, providing that it is clear they shall be absolutely free to do it informally, as they have in the past.

Senator MILLIKIN. Informally what, Mr. Ryder?

Mr. RYDER. Informally. In other words, not to have it to be a written communication from the Commission to the country committee, or anything of that sort.

Senator MILLIKIN. Well, there is nothing of that kind in the law now, and there was nothing in the law that prevailed when we had the escape clause.

Assuming you do not have the escape clause?

Mr. RYDER. How was that?

Senator MILLIKIN. Assuming that you do not have the escape clause?

Mr. RYDER. The escape clause?

Senator MILLIKIN. I mean the peril point—that should be corrected.

Mr. RYDER. Well, of course, I think that the present arrangement, the present procedure, which has been in existence since 1934, is a good procedure, and I should like to see it continued, personally.

Senator MILLIKIN. And you have said that under the present procedure——

Mr. RYDER. How was that?

Senator MILLIKIN. You have said that under the present procedure the function of these men who are on the negotiating teams from your agency is that they are there to supply facts.

Mr. RYDER. That is true of the negotiating teams, but not the country committee.

Senator MILLIKIN. And they are not there to add any persuasions or bargaining other than that which occurs naturally from the facts which they supply.

Mr. RYDER. I would say that is correct so far as the negotiating teams are concerned. But it is not true in regard to their work on the country committee in preparation for the negotiations, when the decisions are made as to what concessions we shall offer and what concessions we shall ask for.

Senator MILLIKIN. And there you supply the facts?

Mr. RYDER. And our experts, in addition to supplying the facts, as I have stated, have a vote, along with other experts on the committee, as experts, as to what concessions we should offer and what concessions we should ask.

Senator MILLIKIN. And there, I assume, your experts carry out the opinion of the Commission?

Mr. RYDER. Oh, no, no, no. As I have stated over and over again, the Commission, as such, takes no part in any of the negotiations.

Senator MILLIKIN. So these fellows——

Mr. RYDER. Except to supply the information, the digests, and things of that kind, which is the basic information.

Senator MILLIKIN. So these employees of the Commission make their votes that you are talking about without supervision of the Commission?

Mr. RYDER. They do.

Senator MILLIKIN. And without guidance and control by the Commission?

Mr. RYDER. That is right.

Senator MILLIKIN. Sir?

Mr. RYDER. That is right.

Senator MILLIKIN. Now, let us get to the escape clause. You have 19 applications.

Mr. RYDER. Twenty-one. We passed on 19. There are two of them pending.

Senator MILLIKIN. How many of them have you granted?

Mr. RYDER. Four investigations have been instituted.

Senator MILLIKIN. How many applications have you granted?

Mr. RYDER. We have granted four.

Senator MILLIKIN. Will you tell us what those are?

Mr. RYDER. The Commission has received altogether 21 applications for investigation under the escape clause. Two applications are now pending. Four formal investigations have been ordered, including the one on watches ordered on March 22. The others ordered were on spring clothespins, fur-felt hats and hat bodies, and hatters' fur.

Two of these have been completed. They are those on spring clothespins and on fur-felt hat bodies. In one of the completed investigations, that on spring clothespins, the Commission found no serious injury. In the other, that on fur-felt hats and hat bodies, the Commission found serious injury and action was taken promptly by the President.

Senator MILLIKIN. That is the only escape?

Mr. RYDER. That is the only one so far.

Senator MILLIKIN. So far.

Mr. RYDER. One of the two investigations now in progress—that is the one on hatters' fur—is nearing completion, and a final report with respect to it is now being prepared by the Commission staff.

The other investigation now pending, that on watches, was instituted last month. A public hearing in the investigation has been called for May 15.

Senator MILLIKIN. Out of all of the applications that have been made, the one escape has been granted?

Mr. RYDER. So far.

Senator MILLIKIN. Yes.

Mr. RYDER. Of the 19 applications for investigation under the escape clause in which the Commission has taken action, 15 were dismissed without taking formal action. Of these 15, 9 were dismissed by unanimous action of the Commission.

Senator MILLIKIN. Now, let us get at the 15 that were dismissed without formal investigation.

Mr. RYDER. That is, without a public hearing. There was informal investigation with respect to all of them.

Senator MILLIKIN. The critera under which you operate there must be an increase, absolute or relative, in imports?

Mr. RYDER. That is right.

Senator MILLIKIN. If there were a decrease in imports, but nevertheless if the injury could be attributed to the decreased imports, either relative or absolute, you would not have jurisdiction to proceed.

Mr. RYDER. No; and manifestly that could not have been caused by the concession either.

Senator MILLIKIN. Let us take one at a time.

Mr. RYDER. All right.

Senator MILLIKIN. You would have no jurisdiction to proceed if the injury were caused by a decrease in imports even though they were a decrease, either absolute or relative?

Mr. RYDER. That is right.

Senator MILLIKIN. That is correct?

Mr. RYDER. In other words, there has to be, under the present provision, either an absolute or a relative increase in imports, and it has to be in some degree, maybe a minor degree, connected with the concession.

Senator MILLIKIN. Yes. But there has to be an increase. You have no jurisdiction unless there is an increase in imports; is that correct?

Mr. RYDER. That is right.

Senator MILLIKIN. That is what it says.

Mr. RYDER. Absolute or relative.

Senator MILLIKIN. That is what you say.

Mr. RYDER. That is correct.

Senator MILLIKIN. So that no matter what other factors were present in one of these applications—if injury were demonstrated, for example—even though there were less imports than there had been in some prior period, you could not take jurisdiction.

Mr. RYDER. No. The present escape clause does not provide for general revision of the tariff on account of injury that may have occurred.

Senator MILLIKIN. Well, is the answer "Yes"?

Mr. RYDER. That is right; if there has been no absolute or relative increase in imports.

Senator MILLIKIN. You also have a criterion that the injury must result from unforeseen developments; is that correct?

Mr. RYDER. That is correct.

Senator MILLIKIN. If the injury were seen or the developments were foreseen, you would not have jurisdiction to grant an escape.

Mr. RYDER. I do not think that that has any great pertinence.

Senator MILLIKIN. Sir?

Mr. RYDER. I say, I do not think that that has any great pertinence.

Senator MILLIKIN. Well, it is in the law; is it not?

Mr. RYDER. It is.

Senator MILLIKIN. It is in the President's regulations; is it not?

Mr. RYDER. That is right.

Senator MILLIKIN. It is in the escape clause—I mean, it is in the GATT; is it not?

Mr. RYDER. That is right.

Senator MILLIKIN. And you say it has no pertinence?

Mr. RYDER. No, for this reason: Manifestly when it has been stated as the policy of the State Department and the President, not to make any concessions which would cause serious injury, then any factor leading to an import causing serious injury must not have been foreseen. That is stated directly in the Commission's report on Criteria which says:

> Under the escape clause "unforeseen developments" as well as the concession contained in the trade agreement must have contributed to increased imports and resulting serious injury. Under the Trade Agreement Act changes in the tariff are made by the President after consultation with executive agencies through the Interdepartmental Trade Agreements Committee. The construction which the Commission places upon the words "unforeseen developments," as concerns the exercise of its functions under the escape clause, is that when imports of any commodity enter in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers, this situation must, in the light of this objective of the trade-agreement program and of the escape clause itself, be regarded as the result of unforeseen developments.

The phrase "unforeseen developments," as thus interpreted, makes it possible for the Commission to recommend action when the concession has been only a very minor contributing factor.

Senator MILLIKIN. All right. The law says "unforeseen developments"; does it not?

Mr. RYDER. That is right.

Senator MILLIKIN. The word "unforeseen" is very clear; is it not?

Mr. RYDER. That is right.

Senator MILLIKIN. It means obviously a development that has not been foreseen?

Mr. RYDER. And our interpretation of it——

Senator MILLIKIN. You have put an interpretation on that that practically rules it out of the book.

Mr. RYDER. Makes it the same thing as saying, "If as a result of the concession and other factors," it is just the same as if you had to say that.

Senator MILLIKIN. What authority have you to do that?

Mr. RYDER. What is that?

Senator MILLIKIN. What authority have you to write that word out of the law?

Mr. RYDER. Well, I think that is very obvious. I have just read why. The logic of it, I think, has been given in what I have just read.

Senator MILLIKIN. Let me suggest to you, Mr. Commissioner, that those words were very deliberate and that they mean exactly what they say, and I recall to your memory again—I believe I have already gone through this with you—that when this word "unforeseen" came up in the first Executive order on this subject, Senator Vandenberg and I objected strenuously to it, and Mr. Clayton, who was then representing the Department of State, was adamant in his refusal to try to get that word out.

It has a special significance which was that "unforeseen" meant unforeseen, and that "foreseen injuries" would remove your jurisdiction.

So I am asking again by what authority do you take out the word, or take out the effective purpose of the word in the law and in GATT and in the regulations?

Mr. RYDER. Well, we studied the matter and to us the only logical construction was that which we gave to it, and I have just read it to you.

Senator MILLIKIN. Yes.

Mr. RYDER. And that so far as I can see there has been no objection to that interpretation on the part of anyone.

Senator MILLIKIN. Oh, it should not be in there; but the question I am raising is whether you have a right to take it out.

Mr. RYDER. Well, I think our interpretation was a logical one.

Senator MILLIKIN. Then if the law took it out, if we took it out by amendment of the law, you would have no objection; would you?

Mr. RYDER. It would depend on how you do it. [Laughter.]

Senator MILLIKIN. Let us just assume, Mr. Commissioner, that we did it; that we took that criteria out of the law and made it clear that you could not use that criteria.

Mr. RYDER. Well, the reason I said that, Senator, is this: If you merely strike out the "unforeseen developments" and leave in "as a result of the concession granted," that would make it much more

imperative for the Commission to find that the concession was the cause of the injury and we want to avoid that.

Senator MILLIKIN. Let us assume, Mr. Commissioner, that we want to remove the "unforeseen developments" as a criterion upon which you can operate. Let us assume we want to get that accomplished; and let us assume that we act intelligently, or at least the way we want to act, as to the other criteria. Why should we not do that, considering the fact that you practically have written it out of the law already?

Mr. RYDER. I have already said that as far as I can see the same thing would be accomplished if you said, "as a result of the concession and other factors."

Senator MILLIKIN. You are talking about other criteria; I am talking about the single criterion "unforeseen developments."

Mr. RYDER. All I am saying is that if you would strike out the "unforeseen developments" and say "if as a result of the concession and of other factors," you would have the same effect as you have now with the Commission's interpretation of the "unforeseen." That is all I am saying.

Senator MILLIKIN. All right. Then if we take out this "unforeseen developments" criterion, you would have no objection; would you?

Mr. RYDER. Again, I will have to say it depends on how it is done. If it is merely done by striking out those words and leaving in the words "as a result of the concession granted"——

Senator MILLIKIN. Assuming that we adopt such other criteria as suit us, assume that, please, but that we are going to take out the "unforeseen" part of that criteria, would you have any objection? You would have no objections, would you?

Mr. RYDER. I have no objection to taking out the "unforeseen."

Senator MILLIKIN. We have got that nailed down, I believe.

Let me ask you this: Awhile ago you were showing some concern over—not violating GATT. When you take out the word "unforeseen" as you have done, and as you have no objection, if we take it out, is that not a violation of GATT?

Senator KERR. Foreseen or unforeseen?

Senator MILLIKIN. Unforeseen.

Mr. RYDER. I do not think it would make any difference.

Senator MILLIKIN. You do not think it would make any difference?

Mr. RYDER. Again I will have to emphasize that whether it would make any difference would depend on the choice of your other language.

Senator MILLIKIN. All right.

Mr. RYDER. If you would just merely strike out the "unforeseen developments" and leave in "if as a result of the concession," then that would be bad because it would force the Commission to tie the injury more closely to the concession than it does now.

Senator KERR. You mean it would limit them?

Mr. RYDER. That is right.

Senator MILLIKIN. Let us just take this conception, this single conception, of an unforeseen development. We take that out, as you have taken it out; you do not consider that would violate the GATT?

Mr. RYDER. Not that in itself, no.

Senator KERR. Let me ask a question.

Mr. RYDER. No, because it would continue the present interpretation.

Senator KERR. Are you telling the committee that in the Commission's interpretation of the law you have ignored the word "unforeseen?"

Mr. RYDER. I would not say so. You can deduce from our interpretation that——

Senator KERR. But is it apparent and deducible as a fact that that is what the Commission has done?

Mr. RYDER. What the Commission has done is to interpret——

Senator KERR. Just answer that question.

Mr. RYDER. What the Commission has done is to interpret that so that "unforeseen" really has no limiting effect.

Senator KERR. Well, then, what you have done is to interpret it in such a way that you ignored that word.

Mr. RYDER. Well, here is what we say. I will read it again, because——

Senator KERR. I will tell you, I am not as good as the Senator from Colorado is.

Senator MILLIKIN. You are not as patient as I am, Senator.

Senator KERR. The Senator from Colorado asks the questions to demonstrate facts which he already knows. I ask questions to get information. [Laughter.]

Senator MILLIKIN. Will not the Senator agree with me that he is not as patient as I am?

Senator KERR. Well, I would spell the word "patient" a little differently, and then answer it in the affirmative.

Senator MILLIKIN. I believe you should take the witness stand. [Laughter.]

Senator KERR. I would like for you to just answer that question for me, either "Yes," or partially "Yes", or "No."

Mr. RYDER. No, in our construction, the Tariff Commission's construction of it, which I understand has been adopted by everybody concerned, it really gives no limiting meaning to the word "unforeseen." In other words, it says, in effect, that since the President and the trade-agreement authority are pledged not to make a concession which will cause serious injury that, therefore, if it is caused that the causes of it must have been unforeseen.

Senator KERR. They wrapped a mantle of judicial charity around the acts.

Mr. RYDER. Judicial dialectics?

Senator KERR. Well, is there any relationship between the words?

Mr. RYDER. There may be.

Senator KERR. I would be curious to know on what theory the Commission has decided to follow a course which, in effect, neutralizes or nullifies a section or a word in the law.

Mr. RYDER. Well, I do not think it really nullifies it, because under the way the trade agreements——

Senator KERR. Then answer the question on the basis of what you have done.

Mr. RYDER. I know, that is what I am trying to do.

In making trade-agreement concessions the attempt is made to make as great a concession as possible provided you can get return concessions for it and do not cause or threaten serious injury to a do-

mestic industry. If you had anticipated that serious injury would result, you would not have made the concession. If serious injury does result, then the factors which caused it and which frequently are difficult to isolate, manifestly—that is the argument of the Commission which I am giving to you—manifestly it must have been unforeseen.

Senator KERR. In other words, then, you presume facts upon which you reach and implement a conclusion.

Mr. RYDER. That is right.

Senator KERR. But so far as the record is concerned, the conclusion is there without any apparent facts upon which the presumption was indulged in.

Mr. RYDER. That is right. I can go into that a little further if you want to.

Senator KERR. You do not need to if that is correct.

Mr. RYDER. I happen to have been the author of that term "unforeseen." It occurred in this way: Back in 1940 or 1941 I was then serving as a member of the Trade Agreements Committee and they were considering the possibility of a new trade agreement with the United Kingdom, which never went through at that time, and we were considering if it did, what kind of concessions we could make—just giving consideration to it. When we got to a certain item I vigorously opposed the concession that some wanted to make, because of the uncertainties of the situation. They said "Well, can't we write something that would take care of that?"

Since under conditions then existing and which could be foreseen I thought the concession might be made, I, sitting there in the meeting, framed an escape clause. The clause has not been greatly changed since then.

Senator MILLIKIN. By the way, you were making policy when you wrote that.

Mr. RYDER. Maybe.

Senator MILLIKIN. Mr. Commissioner, have you finished?

Mr. RYDER. Go ahead.

Senator MILLIKIN. I take the great liberty only because the Senator has not been in on the prior development of this thing: this word "unforeseen" is not just an inadvertence. It is a very deliberate word to cover a very deliberate purpose.

Senator KERR. It looks to me like it was apparently an acceptable but temporary vehicle, and that they have ceased to use it, but have just not gone to the inconvenient trouble of getting out of the law.

Mr. RYDER. That is right.

Senator MILLIKIN. The Senator will recall that earlier in these proceedings it was agreed that the prior record would become a part of this record. I suggest that the prior record would amply demonstrate that we had been working—I think there has been some wiggling away from it during these hearings, but we had been working—on the theory of calculated risk.

Now, if you calculate a risk, obviously you are foreseeing the possibility of an injury, and that word is in there to protect the calculated risks. That I can testify to on my own behalf because I engaged in the most vigorous negotiations to get that word "unforeseen" out.

Mr. RYDER. Are there any other questions along that line?

Senator MILLIKIN. I am content with the "unforeseen" phase of the matter.

Mr. RYDER. I have a brief statement here that I would like to read in regard to our work under section 22, but I do not want to stop this discussion we have been going through.

Senator MILLIKIN. Before we come to that—we are getting along pretty good here. Before we come to that, in addition to the "unforeseen" part of it, give it what effect you want to for present purposes, but when you have taken it out, there must also be an increase, and we have discussed that. That is one category; there must be an increase, absolute or relative.

There must be, the law says, an unforeseen injury. By "the law," I mean the President's Executive order, and what I do not consider to be the law, but I assume that you do, to wit, GATT.

Now, then, the injury must result from the concession, is that correct?

Mr. RYDER. To a limited degree. We, in our——

Senator MILLIKIN. Does the law say a limited degree?

Mr. RYDER. No. The law says "and the concession," but the interpretation we have given to it, it only has to be a contributing factor to it.

Senator MILLIKIN. But the law says that it must result from a concession, does it not?

Mr. RYDER. That is right.

Senator MILLIKIN. All right.

Now, let us assume that there is a duty of 10 percent on a "widget," and let us assume that we make a concession reducing it by 1 percent, so that your final duty is 9 percent. The concession is represented by 1 percent.

How, in the name of goodness, can someone who is entitled to raise the question in this country prove that the 1 percent is a cause of injury?

Mr. RYDER. Well, I would say this: Whenever you have an increase in imports, and you have a situation arising in which there seems reason to make an investigation to determine whether there has been serious injury as a result of the import situation, there always, so far as I have been able to discover in the many cases I have seen, is a great variety of reasons, causes, or factors involved.

Senator MILLIKIN. But you must find under the law that the concession is responsible or you do not have jurisdiction; is that correct?

Mr. RYDER. I am coming to that; yes.

Senator MILLIKIN. All right.

Mr. RYDER. Now, as I say, in practically every case there is a multiplicity of factors involved, and it is, as a matter of experience, practically impossible to determine the relative importance of those different factors; so all we say under the criteria under which we are operating is that if it is clear that the duty had something to do with it, then we are willing to recommend action under the escape clause.

Senator MILLIKIN. But under the law it is an indispensable requisite to your jurisdiction.

Mr. RYDER. That is right.

Senator MILLIKIN. How can any citizen come in and demonstrate in the case that I have given you that the 1-percent concession is the cause of his injury?

Mr. RYDER. Well, when you have only a 1-percent reduction it would be very difficult.

Senator MILLIKIN. It would be very difficult.

Mr. RYDER. But it is, as is usual in the case where there is a large concession—you can, I think, be certain if there has been an increase, either relative or absolute, that the concession must have had something to do with it.

Senator MILLIKIN. Let us assume that is correct, but the applicant has the burden of demonstrating that it is the concession that causes the injury.

Mr. RYDER. No.

Senator MILLIKIN. That is what the law says, sir.

Mr. RYDER. The Commission does not operate as a court on these matters. It takes all the facts, as presented at the hearing, and all the facts its experts can get, sometimes supplied by field trips and sometimes otherwise, and it analyzes those facts, and if it appears that as a result of the various factors involved, including the concession, there has been a serious injury, real or threatened, then the Commission recommends action.

Senator MILLIKIN. Once more, you are interpreting out of the law an indispensable condition precedent to your jurisdiction.

Mr. RYDER. No; I do not think so.

Senator MILLIKIN. Well, let us back up, Mr. Commissioner, so that we understand each other. These questions are important. I am not interested in shadow-boxing with you. I want to get at the facts.

Mr. RYDER. I am not shadow-boxing either.

Senator MILLIKIN. We are talking now about this citizen of the United States who thinks he is injured, or threatened with serious injury, and he is trying to get an escape, and he reads the law and it says that he must demonstrate that his injury is due to a concession, not to the whole body of the question, not to the entire 10 percent, but he must prove that the 1 percent or, if you please, 2 percent or 3 percent is the cause of his injury. I am asking you how can he do it?

Mr. RYDER. In the case of an only 1 percent reduction——

Senator MILLIKIN. I am not saying that you have not made a good practical resolution of the subject; I am not saying that now. I am not saying that. I am talking about this applicant who wants relief, but he is confronted by the fact that he has to meet the terms of the law, to wit, the regulations, and GATT; he is confronted with the necessity of showing that the concession, and distinguished from the entire duty, is the cause of his injury, and I am asking you how would you proceed to do that?

Mr. RYDER. I do not think it can be done.

Senator MILLIKIN. Why, of course not.

Mr. RYDER. The Commission does not require that they have to prove anything. They present their case, all the facts they can. We get all the facts we can, in addition to what they have presented, and we make the best finding we can.

Senator MILLIKIN. Now then, because it can't be done, you have adopted certain, what you considered to be, practical interpretations of the terms.

Mr. RYDER. That is right.

Senator MILLIKIN. Let us pass the question of whether you have a right to do it, let us pass that for the moment. The law does not say that, so the applicant, looking at the law, says, "Well, how am I going to prove that the concession caused my injury?"

He might well conclude, "What is the use of trying an escape," is that not correct?

Mr. RYDER. I do not know. I would not think that that would bar anyone from making an application.

Senator MILLIKIN. It would not bar him.

Mr. RYDER. Because in the very nature of the thing, there may be no way of proving it, but, on the other hand, I think it is well to have a provision that the increase has to be in some way connected with the concession.

Senator KERR. That is not what the law is, is it?

Mr. RYDER. Yes, that is what the law is now.

Senator MILLIKIN. The law now.

Senator KERR. That it is just in some way connected with it?

Mr. RYDER. Well, the language says, "If as a result of the unforeseen developments and the concession."

Senator KERR. Are these the only two criteria?

Mr. RYDER. They are the only ones.

Senator KERR. Let me see if I am correct in this: You have already told us that you have interpreted the word "unforeseen" out of it, as a practical matter.

Mr. RYDER. That is right.

Senator KERR. Well, that leaves only the concession.

Mr. RYDER. No, because the other developments, other than the concession——

Senator KERR. I am talking about the law.

Mr. RYDER. Well, I am talking about the law, too. The other factors, other than the duty, which may have caused the situation, we regard as unforeseen.

Senator KERR. As described.

Mr. RYDER. We take them into account.

Senator KERR. Well, then, you have not interpreted "unforeseen" out; you have just interpreted "unforeseen" off.

Mr. RYDER. Well, that is the way I expressed myself. In other words——

Senator KERR. Is it a fact, as an accurate or reasonably accurate description of the practical situation, that the Commission has found that it is very difficult, if not impossible, to follow the language of the law, and it has just kind of set up a body of regulation of its own that comes as near as it thinks it can to the law, and still operate on a practical basis, and follows that procedure?

Mr. RYDER. The way I would state it is this: That the Commission has taken the language of the law——

Senator KERR. Say that again.

Mr. RYDER. The way I would state it is this: The Commission has taken the language of the law and has construed it by applying to it the rule of reason, and making it into a workable instrument.

Senator KERR. Have you applied the rule of reason to it or have you accepted only that part of the law which, in your opinion, conforms to a rule of reason, as you yourself have fixed it?

Mr. RYDER. No. As I see it, we have given a perfectly reasonable construction to the language. It amounts, as I will agree, to giving the "unforseen" a little—making the "unforeseen"——

Senator KERR. Just a little bit of a brush-off.

Mr. RYDER (continuing). Of not much significance.

Senator KERR. Not a complete brush-off, but a limited brush-off.

Mr. RYDER. Well, no, we have taken the language——

Senator KERR. And have done the best you could to operate under it, but have continued to operate under it.

Mr. RYDER. And have given it a logical interpretation from all the factors involved. I do not think it is an arbitrary interpretation.

Senator KERR. I am sure it is not an arbitrary interpretation. An arbitrary interpretation would be in some degree limited by some previously accepted and fixed definition of the terms.

Mr. RYDER. That is right. I think that we have made a perfectly logical interpretation of the language.

Senator MILLIKIN. Now, then, Mr. Commissioner, you would have no objection if, so far as the "unforeseen" part of this thing is concerned, and so far as limiting your jurisdiction to the injury from a concession, you would have no objection, since you have taken it out of the law, if we take it out of the law, is that correct?

Mr. RYDER. I beg your pardon, we have not taken it out of the law.

Senator MILLIKIN. If we should do that which should conform to your own notions about those two things, you could have no objection to that, could you?

Mr. RYDER. Oh, no.

Senator MILLIKIN. All right. So that if the law, in effect, writes out "unforeseen" and if it writes out the determinative importance of the concession—that is what you have done—you would have no objection if we did it by law?

Mr. RYDER. But there is this difference: I do not think that the law should be framed in a way not to make any action under the escape clause contingent upon the concession being at least in some degree responsible for the injury.

Senator KERR. What you are saying is this, Mr. Commissioner: That if the Congress takes the word "unforeseen" out, which you have used as a vehicle to arrive at what you think is a logical conclusion, you would want the Congress to substitute some other term that would serve as an equally available vehicle.

Mr. RYDER. That is right; and I would like also to have it brought out that it should be at least to some extent connected with the concession. Otherwise you are having an escape from something that the trade agreement does not have anything to do with, and yet you are operating under the agreement, escaping from it. There is a difficulty there which I think you should consider.

Senator MILLIKIN. All right. If we do by law that which you have now done by practice over in the Commission, you could have no objection, could you?

Mr. RYDER. No. It is plain——

Senator MILLIKIN. All right. Assume it is plain, and assume we do it effectively.

Mr. RYDER. All right.

Senator MILLIKIN. You would have no objection, would you?

Mr. RYDER. All right.

Senator MILLIKIN. All right.

Now, have the contracting parties in GATT agreed with your interpretations of the GATT provisions?

Mr. RYDER. I do not know that there has ever been any interpretation by the GATT of the provision, except that there is an interpretation of the word "modification" to make it clear that the modification of a concession would include the imposition of quotas.

Senator MILLIKIN. You are aware that there are amending provisions in GATT so that if you want to change the words of GATT there are ways of doing it by amendment?

Mr. RYDER. Oh, yes.

Senator MILLIKIN. Have we made any effort to amend GATT to conform to your own interpretations of these conditions precedent to your jurisdiction?

Mr. RYDER. I do not think that our interpretation of it at all is inconsistent with the GATT.

Senator MILLIKIN. Assume that for the purpose of my question only; assume that, have we made any applications?

Mr. RYDER. Oh, no, no.

Senator MILLIKIN. All right.

Have we notified the other contracting parties that we have made this interpretation?

Mr. RYDER. No. We are not called upon to do that.

Senator MILLIKIN. Let me read you article XIX of GATT, 1 (a):

If, as the result of unforeseen developments and of the effect of the obligations incurred by a contracting party under this agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and such conditions as to cause a threatened serious injury to domestic producers in that territory of like or directly competitive products, the contracting party shall be free, in respect of such product, and to the extent and for some time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part, or to withdraw or modify the concession.

(b) If any product, which is the subject of a concession with respect to a preference, is being imported into the territory of a contracting party in the circumstances set forth in subparagraph (a) of this paragraph, so as to cause or threaten serious injury to domestic producers of like or directly competitive products in the territory of a contracting party which receives or received such preference, the importing contracting party shall be free, if that other contracting party so requests, to suspend the relevant obligation in whole or in part or to withdraw or modify the concession in respect of the product, to the extent and for such time as may be necessary to prevent or remedy such injury.

2. Before any contracting party shall take action pursuant to the provisions of paragraph 1 of this Article, it shall give notice in writing to the contracting parties as far in advance as may be practicable and shall afford the contracting parties and those contracting having a substantial interest as exporters of the product concerned an opportunity to consult with it in respect of the proposed action.

Then it continues.

Now, if an escape were granted and were made effective, those affected would have to receive notice, would they not, under the language which I have just read?

Mr. RYDER. Yes. In the one case that so far has been acted upon, in that case action was taken without previous notice as provided there in subsection 2.

But the interested contracting parties were notified at Torquay, and I think some of them have taken steps to make compensatory withdrawals of concessions made by them to the United States. I do not know what the exact situation is.

Senator MILLIKIN. But if we wish to amend GATT we have to follow the procedures set up in GATT to amend it, do we not?

Mr. RYDER. Oh, yes.

Senator MILLIKIN. And no effort has been made by the United States Government to bring about an amendment to coincide with the practical interpretations of the Commission, as given to these two parts of the criteria for taking jurisdiction, is that correct?

Mr. RYDER. Yes; that is right; and in my judgment, there is no reason to, because they are fully consistent with article XIX.

Senator MILLIKIN. Well, I mean, that raises a question.

Mr. RYDER. That is our interpretation.

Senator MILLIKIN. But if you have made an interpretation which conflicts with GATT, then you have not taken the steps necessary to make it official, so far as GATT is concerned.

Mr. RYDER. If it should conflict with it, we have taken no action to amend section 19, put it that way.

Senator MILLIKIN. All right.

Now, you stated that in how many cases did you have unanimous action?

Mr. RYDER. Of the 15 applications which were dismissed without going through a formal investigation, including a public hearing, 9 of them were dismissed by unanimous action; 6 of them, by divided vote.

Senator MILLIKIN. How many of those decisions resulted from the failure to meet the test of unforeseen developments or the test of not showing an absolute or relative increase or the test of not being able to show that the concession was the cause of the injury?

Mr. RYDER. Well, I cannot answer that offhand. I could say; however, that none of them were turned down on account of unforeseen—I can say that offhand.

Senator MILLIKIN. Yes.

Mr. RYDER. And beyond that I would not be willing to go without looking over the cases.

Senator MILLIKIN. You would not be willing to say that others had been turned down because they did not meet the test of absolute or relative increase or because they did not meet the test of showing injury, as a result of the concession?

Mr. RYDER. I would have to look over each one of them to find out the answer to that.

In most cases my impression is, my recollection is—I will put it this way—in most cases the view was, the view of the Commission was, that there was no injury involved, but that is just——

Senator MILLIKIN. Of course, whether the injury is involved depends on whether the other criteria have been met, is that not correct?

Mr. RYDER. That is right.

Well, it depends to some extent on the other criteria, not entirely the criteria——

Senator KERR. It could be injury outside of the criteria.

Mr. RYDER. What is that?

Senator KERR. It could be injury outside of the criteria.

Mr. RYDER. Of course there could be.

Senator KERR. And there could be conditions that conform to the criteria without injury.

Mr. RYDER. Take for instance in the one case on which we have found serious injury, fur-felt hat bodies, there was injury to the fur-felt hat industry not caused by imports, because there had been a decline in the production of hats. People were wearing a lesser number of hats; a lot of people do not wear hats any more. The industry was already suffering injury before the import situation occurred. So you have injuries to industries occurring from various and sundry reasons.

Senator MILLIKIN. Well, if we make the law so that injury occurs from imports, whatever the circumstances, if it results from imports, you would have no objection to that, would you?

Mr. RYDER. I think that it should be also connected to some extent with the concession. Otherwise, you would be revising the tariff—taking action under the escape clause on something which had nothing to do with the concession involved.

Senator MILLIKIN. I think that is the way the law says at the present time, and that is the way the Executive order under which you operate so states.

Mr. RYDER. That is right.

Senator MILLIKIN. But I think—I believe I am fair when I say that we have established here that a man cannot make a case by showing that the concession is the cause of his injury or at least he would have a terribly difficult time doing it, where the concession has not been of massive scope, is that not correct?

Mr. RYDER. I do not think that that difficulty will arise, because if there has been a concession, making any substantial reduction in duty at all, and if under the present language there has been any increase in imports, relative or absolute, you can, and I think you have to, assume that the concession had something to do with it.

Senator MILLIKIN. Mr. Commissioner, we want to make it easy for you, so that you will not have to bedevil yourself with all of these interpretations and everything; so if we make it easy for you and attach the injury to the import, what is your objection to doing it along that line?

Mr. RYDER. Well, my only objection, of course, would be, and you can give it whatever weight you want to give it——

Senator MILLIKIN. Yes.

Mr. RYDER (continuing). Is that here you have a concession that you have made to a foreign country in perfectly good faith, and unless the injury is in some degree a result of the concession, it is difficult to see how you can warrant or justify the withdrawing of that concession.

Senator MILLIKIN. Mr. Commissioner, is it not difficult to see how we can maintain a reciprocal trade system that does not give relief from injury if injury results from imports? Now, in the old logrolling days, which everyone deprecates, if there was an injury, why, you could come in here and logroll to get away from the injury, and you did not have to show unforeseen injury, and you did not have to show increase, absolute or relative; you did not have to show that it

resulted from a concession. But that is what you could do, and you would do it, according to the critics of the old system, by logrolling.

But now we have a substitute for that system, which I suggest to you, should do justice by the system and by the citizen.

Now, if he cannot come to you to take an escape from a duty or a concession that injures him, where does he go, unless he come to Congress for special relief in special cases, and as that thing proliferates it will not be long before you will find yourself back to logrolling in Congress.

So what I am suggesting to you, Mr. Commissioner, is instead of resisting changes in the law that will rectify injury, if the injury is caused by imports, unaffected by all of these conditions which you yourself are writing out of the law, why should not that be done?

Mr. RYDER. Mr. Senator, my difference with you is largely a technical one. As I stated, if there has been a reduction in the duty, and there have been imports causing serious injury, an increase in imports causing serious injury, then manifestly the concession must have had something to do with it; and in order to technically tie it in with your provision in the trade agreement, there should be some reference, some tying in with the concession and, as I see it, in actual operation it presents no difficulty.

Senator MILLIKIN. Well, as I see it, and under your own interpretation of it, why limit it or make the concession, the degree of concession, a determining factor? If there is an injury that threatens to put a domestic producer out of business, by reason of imports, what difference does it make whether it comes from a foreseen or unforeseen development? What difference does it make whether it comes from a relative or absolute increase? What difference does it make whether it comes from the concession or not, if it comes from the imports?

I am suggesting again, Mr. Commissioner, that when we tie these rigidities to the reciprocal trade system you are building up opposition which might tear it to pieces, and some of us are trying to make the thing work, strange as it may seem.

Mr. RYDER. Senator, I think the difference between us is a matter largely of technical language that you are going to use. As I see it, the language "and of the concession granted," has proved in the cases we have had under the escape clause to be no limiting factor.

Senator MILLIKIN. Would you object to concessions "and the rest of the duty?" Would you object to language to that effect, "the concessions and the rest of the duty"?

Mr. RYDER. I would have to think over that one.

Senator MILLIKIN. What do you have to think about that?

Mr. RYDER. I have difficulty with it. Here you have got an agreement with the foreign country and there is an escape clause, then you have got to tie action under it in to some extent with the concession. It is an escape from the concession. I agree with you in general that if there is an import-caused injury, and if there has been a considerable concession made, a concession made in an agreement, then we should take action and I do not think that the language of the present provisions at all limits us in the action.

Senator MILLIKIN. Then you would not object if we said in effect, "The concessions plus the rest of the duty." How can you consider

the one without relation to the other? How can a man make a case without taking them both together?

Mr. RYDER. Of course, he has——

Senator MILLIKIN. How can you reach a decision without taking them both together?

Mr. RYDER. I cannot see that that would change the sense particularly.

Senator KERR. Let me ask you this question: Is what you are telling us, or does what you are telling us, amount to saying that there could be injury from imports although there could be no concession with reference to those imports?

Mr. RYDER. There could be, yes; there could be injury.

Senator KERR. And, therefore, your position is that in view of the fact that the reciprocal trade agreement authorizes concessions that if there is to be escape from that reciprocal trade agreement which amounted to a concession, that the escape should be able to show that his injury was in part or wholly caused by the concession.

Mr. RYDER. I think, in view of our relations with the foreign country, we should do that. As I said to Senator Millikin, it is largely a technical matter and I do not think, as it has been administered, it has limited action under the escape clause.

Senator MILLIKIN. I am posing to you as a technical matter what could be your objection if the concession, together with the rest of the duty, were factors to be considered. I suggest most respectfully that you cannot make a decision without considering the rest of the duty.

Mr. RYDER. Of course, you would have to consider the rest of the duty. I would have to see the language. Of course, it is hard to pass upon a question such as that here offhand.

Senator MILLIKIN. All right. But if appropriate language were drawn to that effect, you would have no objection to it, would you?

Mr. RYDER. I cannot say, Senator. I would have to study it and have to see it.

Senator KERR. You would have to see the language before you could say——

Mr. RYDER. I would have to see the language before committing myself.

Senator MILLIKIN. You would have to see the language, but before the language met your particular thoughts on the subject— I am not criticizing you for being meticulous.

Mr. RYDER. You are also meticulous. We are alike in that.

Senator MILLIKIN. And assuming the language were appropriate to convey the idea that if this injury comes from imports, that the concession, as well as the rest of the duty, may be considered in determining the question?

Mr. RYDER. I think you have to consider the rest of the duty. I do not know that you would be adding anything by doing it.

Senator MILLIKIN. Then it would not be doing any harm.

Mr. RYDER. I would like to state my general view on it: The provision should be stated in such a way so that it would be very flexible and there, I think, should be some language to provide that the injury be connected with the agreement, and I also think it would be well to require either absolute or relative increases in imports.

Senator MILLIKIN. Yes.

Mr. RYDER. But that is just my own personal view about it.

Senator MILLIKIN. But if the language were appropriate and made it clear that you have a right to consider the rest of the duty as well as the concession, you would have no objection to that, would you?

Mr. RYDER. I would have to see it; I would have to see it, Senator. I do not like to commit myself until I see it, because I have had enough experience with this kind of thing to know that just a little difference in language may make a very great difference.

Senator MILLIKIN. I am assuming, of course, that the language would cover the thought, but maybe we will let you see the language.

Mr. RYDER. All right, I will be glad to give you my comment on any language that you have, and I will be glad to help you draft or have our people help you draft language to accomplish any purpose you want to accomplish.

Senator MILLIKIN. With or without your aid—and please note that I am not depreciating your aid—you may see such language.

Mr. RYDER. Yes, all right.

Senator MILLIKIN. Let me put another question to you, a fast one. Here comes a fellow who was injured by the binding of a free rate, by the binding.

Mr. RYDER. Yes, sir.

Senator MILLIKIN. Because after you have bound the free rate you are not at liberty to follow to give possibly an increase in the tariff to cover the situation.

Now, here is a duty that is bound, and let us assume that a fellow comes along and make a case that it should be unbound, and that there should be an increase in that duty.

How does a fellow prove that the binding is the thing that has injured him?

Mr. RYDER. I do not know, Senator. We have never had a case involving a binding, and I dislike to make any very definite statement without some experience on which to base it.

Senator MILLIKIN. I think you will agree with this, that if there is a binding of a free rate, and if a case of injury could be shown, there should be some relief, some place to get relief against that kind of a situation.

Mr. RYDER. Yes. I shall read what we said in the commission's criteria report on this matter.

Senator MILLIKIN. Yes.

Mr. RYDER (reading):

> The question may be raised whether the binding of an existing duty against increase, or the binding of continued free entry, could in itself cause an increase in imports. As to most articles, no doubt, any increase in imports which takes place after a binding must be attributed to other causes. However, in some instances there may previously have been fear on the part of foreign producers that the duty might be increased or a duty placed on a presently free article. They may, therefore, have hesitated to take the steps (expansion of equipment, establishment of market connections, reduction of prices, etc.) necessary in order to make possible an expansion of their exports to the United States. With the assurance resulting from a binding they might take these steps and a subsequent increase of imports might properly be found to be attributable, at least in part, to the binding.

Senator MILLIKIN. Now, Mr. Commissioner, is this not correct: As our tariff levels come down to where in many cases we have exhausted the reduction possibilities of the law as it now stands,

about the only thing we will have left for bargaining will be the binding of free items. Is that not correct?

Mr. RYDER. Well, I would have to see what the concessions are to be made in the Torquay agreement, but I think even if they make more concessions than I think they are going to make, that there will still be a considerable number of duties that have not been reduced to the maximum authorized under the trade agreement law.

Senator MILLIKIN. Let us assume that that is correct. Let us assume that is correct for the purpose of discussion. But as we lower our duties, and we are among the low-duty countries of the world now—Great Britain and France and several others, which we developed in the testimony yesterday—are high-tariff countries now—but as you come down toward a general level of free trade, the binding of something that comes in free may be a great ace in the hole for securing a concession.

Mr. RYDER. Oh, yes.

Senator MILLIKIN. Is that not correct?

Mr. RYDER. That has happened.

Senator MILLIKIN. So if we get into this binding business on a larger scale there will also be injustice from that kind of a binding, and certainly there must be some place where the citizen goes to correct the injustice; is that not correct?

Mr. RYDER. I should think so; yes. I think however that most of the articles on the free list that are of much consequence have already been bound.

Senator MILLIKIN. Then we have nothing left to bargain with.

Mr. RYDER. And we have gotten concessions from a number of Latin American countries from the binding of coffee; we have bound a half dozen of those countries, if I remember correctly.

Senator MILLIKIN. But, Mr. Commissioner, that is alarming; you open an alarming vista there, that once you have bound you have nothing further to bargain with and, in fact, that very question I suggest to you has come up at Torquay.

Mr. RYDER. It may be.

Senator MILLIKIN. The statement was in effect that that worked once, but it will not work again.

Mr. RYDER. That is right. Of course, the only thing we had to offer a number of the Latin American countries was bindings, because our whole imports from them are on the free list—coffee, bananas, and various other tropical products.

Now, I would like, if I might, too, to make a brief statement regarding the work of the Tariff Commission under section 22.

The CHAIRMAN. Yes, sir.

Mr. RYDER. Because there has been some testimony at these hearings about it, and I think not an entirely correct impression has been given of our work under that section.

The CHAIRMAN. Doctor, I am advised that they have not finished with your testimony. Can you come back in the morning?

Mr. RYDER. All right. At 10 o'clock?

The CHAIRMAN. At 10 o'clock, yes. We might consider sitting longer tomorrow, but we have got to get on the floor today.

Mr. RYDER. All right.

Senator KERR. Mr. Chairman, I have a little statement here with respect to the support of the trade agreements by the domestic industrial producers that I would like to put in the record.

The CHAIRMAN. Yes, sir.

(The document referred to is as follows:)

DOMESTIC INDUSTRIAL PRODUCERS SUPPORT TRADE-AGREEMENTS PROGRAM

During the several hearings which have been held in past years by the Senate Finance Committee and the House Ways and Means Committee, both committees have received, and placed in their records, a large number of statements both from individual industrial manufacturers and producers and from trade associations representing such producers, in support of the continuation of the reciprocal trade-agreements program.

It is noteworthy that such statements have come from major producers who depend on the domestic market for the sale of the greater portion of their output, and who are also able to compete in the world market with the products of manufacturers in other countries.

The industries from which the statements have come cover a very wide range of United States enterprises. They include such individual concerns as:

The Baldwin Locomotive Co.
The International Harvester Co.
The Gillette Safety Razor Co.
The Intertype Corp. (printing machinery).
The Electric Wheel Co.
The Justrite Manufacturing Co.
The Sloan Valve Co.
SKF Industries, Inc.
The Mine & Smelter Supply Co. (Denver, Colo).
Waukesha (Wis.) Motor Co.
Allis-Chalmers Manufacturing Co.
Murphy Diesel Co. (Milwaukee, Wis.).
Cutler-Hammer Co. (Milwaukee, Wis.).
Ace Fastener Corp. (Chicago, Ill.).
Goodyear Tire & Rubber Co.
Gates Rubber Co. (Denver, Colo.).
Globe-Wernicke Co. (office equipment).
Pillsbury Flour Mills.
Atlantic Refining Co.
Standard Vacuum Oil Co.
McGraw-Hill Publishing Co.
R. M. Hollingshead Corp.

The records of the two committees contain statements from dozens of other domestic producers, in support of the trade-agreements program.

In addition to these individual statements the committee records show supporting statements from many trade and other associations which speak for thousands of members, both large concerns and "small business," who are engaged in domestic production and manufacture of industrial goods.

Some of these associations are:

The International Chamber of Commerce, United States Council.
The Chamber of Commerce of the United States.
The Commerce and Industry Association of New York.
The Detroit Board of Commerce.
The Cleveland (Ohio) Chamber of Commerce.
The Dallas (Tex.) Chamber of Commerce.
The New Orleans (La.) Association of Commerce.
The Millers' National Federation.
The Typewriter Manufacturers' Export Association.
The Automobile Manufacturers' Association.
The Cigar Manufacturers' Association of America.
The Motion Picture Producers' and Distributors' Association.

The CHAIRMAN. We will recess until 10 o'clock tomorrow morning.

(Whereupon, at 12:05 p. m., the committee adjourned, to reconvene on Thursday, April 5, 1951, at 10 a. m.)

TRADE AGREEMENTS EXTENSION ACT OF 1951

THURSDAY, APRIL 5, 1951

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to adjournment, at 10 a. m., in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

Present: Senators George, Kerr, Millikin, and Butler.

Also present: Mrs. Elizabeth B. Springer, chief clerk, and Serge Benson, minority professional staff member.

The CHAIRMAN. The committee will come to order.

All right, Senator Millikin, were you questioning Dr. Ryder?

STATEMENT OF HON. OSCAR B. RYDER, CHAIRMAN, UNITED STATES TARIFF COMMISSION—Resumed

Senator MILLIKIN. Dr. Ryder had something on the agricultural program that he wanted to put in.

Mr. RYDER. Before I do that, I should like, if I might, Senator, to make clearer than I think I did yesterday my view in regard to the Commission's experts serving on the negotiating team. You remember we discussed that?

Senator MILLIKIN. Yes.

Mr. RYDER. I would like briefly to say what the set-up is so that you will know what it is and know what the problem is, so that Congress can decide what the policy should be in regard to it.

Each negotiating team is made up principally of a State Department chairman with a man from, and expert from, the Department of Commerce, who is responsible for the facts in regard to the concessions we have asked.

Then there is a man from the Department of Agriculture who represents the views of the agricultural interests and the facts in regard to the agricultural programs. Finally, there is a man from the Tariff Commission who is responsible for information in regard to the concessions that we are offering.

That makes up a logical team. Our men, like the men from Commerce and Agriculture, serve on the team, not as representatives of their departments, but as representatives of the Trade Agreements Committee, which is conducting the negotiations.

The CHAIRMAN. Who selects this man from the Tariff Commission?

Mr. RYDER. He is selected by the Tariff Commission.

The CHAIRMAN. By the Commission?

Mr. RYDER. By the Commission; yes.

80378—51—pt. 2——25

The CHAIRMAN. But he does not represent the Commission as a commission?

Mr. RYDER. Oh, no; no, no.

The CHAIRMAN. I just wanted to know who selected him.

Mr. RYDER. That is right.

If, as I said yesterday, you make it clear that he can have the freedom to do the normal work that I described yesterday, I do not know whether it would make much difference whether or not he was a member of the team. But there is one thing that makes me think it would be more advisable to have him continue as a member of the team, and that is there do arise occasions, as I understand it, when it may be necessary for the member of the team from the Commission to take a more prominent part than he ordinarily does.

There is only one instance that I can remember, but from it you can see the problem. I think it was in the negotiations with Brazil—I am not quite certain of the country. The head of the team had to go away for some reason, and the assistant head of the team got sick. There was no one—negotiations were almost at the completed stage—there was no one who knew about the situation and the facts involved, but the Tariff Commission man, and he took charge and completed the negotiations.

Now, such things as that are bound to happen now and then. Tariff Commission experts who work on these committees are men of high caliber, judgment, and responsibility, and they should be free to do whatever they may be called upon to do.

I put this before you so that you would know the situation.

Senator MILLIKIN. So, in the one case you have described, the employee of the Tariff Commission actually took charge of the negotiation and completed it?

Mr. RYDER. At the very end of it, yes, because of the situation that arose at that time, an unusual situation.

Senator MILLIKIN. Are there not at least three other cases where employees of the Tariff Commission on those teams have acted as chairmen because of absence or sickness or the regular chairman?

Mr. RYDER. That is the only one I know of.

Senator MILLIKIN. You would not deny the possibility——

Mr. RYDER. There is the possibility.

Senator MILLIKIN. Of three or four other cases?

Mr. RYDER. A bare possibility; and in my judgment, I cannot for my own part see the objections to the present arrangement; but that is for the Congress to decide.

Senator MILLIKIN. It does not happen very often.

Mr. RYDER. No.

Senator MILLIKIN. You can think of only one case?

Mr. RYDER. Only one that I know of.

Senator MILLIKIN. If you think of only one case and it doesn't happen very often, why not just reserve the rule, which apparently does not need any exception, that the Tariff Commission mind its own business as a fact-finding agency, and that its representatives serve in that capacity.

Mr. RYDER. That is for the Congress to decide, of course.

Senator MILLIKIN. Yes. But my question to you is, if it is a matter of such unimportance, if there is only one case that can occur to your mind where there appeared to some to be a reason for Tariff Com-

mission employees acting as negotiators, if that is the only case of its kind, why not adhere to the rule?

Mr. RYDER. Well, personally, I do not see any reason for a rigid rule. I think that he should be free to do whatever is required. It is probably better, therefore, to continue the present arrangement; but that is for the Congress to decide.

Senator MILLIKIN. If there is only one case, no harm would be done if the rule would be adhered to.

Mr. RYDER. Probably not.

The CHAIRMAN. Is there anything further?

Mr. RYDER. Not on that point.

The CHAIRMAN. Yes; all right.

Mr. RYDER. I understand that yesterday, I am informed by Mr. Ballif here that I was asked a question——

Senator MILLIKIN. Mr. Ryder, when I am talking about adhering to the rule, I am talking about adhering to the view that the Tariff Commission should confine itself to the presentation of facts; that is what I am talking about, and there is some difference of opinion, obviously, as to whether that is or is not a rule, but I have called it a rule because I think even from your own testimony yesterday there is plenty of admission, and the law makes it clear, that the function of the Tariff Commission is to find facts.

Mr. RYDER. There are two different things, Senator. I am making a sharp distinction between the Tariff Commission work, as such, when the Tariff Commission as an organization takes action, and when its experts act in their capacity as experts.

Senator MILLIKIN. Yes.

Mr. RYDER. Now in this case our men are serving on these committees in their individual expert capacities, and they are not responsible to the Tariff Commission for their actions. They are responsible to the Trade Agreements Committee during that period during which they are assigned to the negotiations. We lend them, in fact, to the trade-agreement organization for that period of time.

Senator MILLIKIN. Do the other representatives of the teams represent their departments or are they likewise acting in their personal capacity?

Mr. RYDER. I would say that they are acting in their personal capacity. I cannot answer that as definitely for them as I can for the Tariff Commission.

Senator MILLIKIN. Then you have what is the equivalent of a series of negotiating teams of unofficial persons attending to this vital part of the program.

Mr. RYDER. No; they are officials.

Senator MILLIKIN. They are officials in the sense that they are on the payroll.

Mr. RYDER. Well, the President has established a Trade Agreements Committee to conduct negotiations. The Trade Agreements Committee sits there supervising the negotiations, and these men serve as its instruments in carrying out the trade-agreements negotiations.

Senator MILLIKIN. But you just stated they act in their own capacity and do not represent their own departments, and hence I think it

follows logically that they can be described as persons who happen to be on the payroll, who are doing this part of the job.

Mr. RYDER. They are representatives——

Senator MILLIKIN. Out of their own heads and out of their own, let us call it, expertness, but they do not represent the departments.

Mr. RYDER. They represent, as I would take it, the President and the Trade Agreements Committee, who are conducting the negotiations.

Senator MILLIKIN. Yes; but they do not represent the departments.

Mr. RYDER. No; that is right.

Senator MILLIKIN. Does the Trade Agreements Committee control their actions?

Mr. RYDER. Yes. Here is the situation: The negotiating teams have the concessions that we are prepared to offer; they have been agreed on by the Trade Agreements Committee, and approved by the President.

Mr. MILLIKIN. Yes.

Mr. RYDER. They have the concessions we are to request.

Now they cannot go beyond what has been agreed to, without going back to the Trade Agreements Committee and getting their authorization; and the Trade Agreements Committee would have to go to the President to get his authorization.

Senator MILLIKIN. So in the negotiating function, to achieve whatever the preconceived result may be, they are acting there as individuals who are on the public payroll——

Mr. RYDER. I do not——

Senator MILLIKIN. Within the bounds which you have just stated.

Mr. RYDER. That is right. They are acting as representatives of the Trade Agreements Committee, I will put it that way.

Senator MILLIKIN. But they have complete freedom, with the exception of where they want to enlarge their instructions and to cable back for permission to do so, they have complete freedom to negotiate within the ranges that you are talking about.

Mr. RYDER. Of course, if they do not get from the other country as much as we have requested, then they also have to report back and see if we have to reduce our concessions, our offers. You can see how it works backward and forward.

Senator MILLIKIN. I understand how it works. I remember one time they cabled back to exceed the peril point. They wanted to exceed the peril point. Do you remember that instance?

Mr. RYDER. No; I do not.

Senator MILLIKIN. I think there was such an instance, but, I think, of course, they should cable back if they want to exceed their instructions.

Mr. RYDER. That is right.

Senator MILLIKIN. But let me repeat my question: Within the range that has been established by the Trade Commission, they do act as individuals and not representing any particular department?

Mr. RYDER. They do not represent a particular department in that particular work.

Senator MILLIKIN. Yes.

Mr. RYDER. However, they represent the Trade Agreements Committee.

Senator MILLIKIN. But the field of discretion is their field of discretion.

Mr. RYDER. Well, the field of discretion, as I see it, is rather limited.

Senator MILLIKIN. It is?

Mr. RYDER. It is, because they have the fixed schedules, and any departure from those schedules means that they have to go back and get authority for it.

Senator MILLIKIN. In other words, they have a peril point which they must not exceed.

Mr. RYDER. That is right.

Senator MILLIKIN. So there can be no objection to the peril point; is that correct?

Mr. RYDER. No; that is not as easily answered as that, Senator.

Senator MILLIKIN. I thought you would find difficulty in answering that.

Mr. RYDER. I gave a long statement on the peril-point requirement; you and I discussed that 2 years ago, and I suppose both of us are about of the same mind as we were then.

Senator MILLIKIN. I always live in the hope that I will get a shorter statement. [Laughter.] Hope too long deferred maketh the heart sick.

Mr. RYDER. That is right.

Senator MILLIKIN. Tell us a little about that as to just what is their range. How is that established, Mr. Commissioner, their range of discretion at these negotiations?

Mr. RYDER. Well, I described that, in part, yesterday. This committee, that later becomes the negotiating team, is a country committee——

Senator MILLIKIN. That is right.

Mr. RYDER. Made up of experts from the different departments, and they, serving as experts, meet and prepare a tentative schedule with a statement of the facts, with the Tariff Commission digests attached, and that goes to the Trade Agreements Committee; and the Trade Agreements Committee goes over the proposed schedule in the greatest detail and makes its decisions. Those decisions are laid before the President, and, if the President approves them, negotiations proceed on that basis.

Senator MILLIKIN. Well, those decisions say, "Don't go beyond and do as much better as you can," do they not?

Mr. RYDER. Well, no; the decision is not to offer more than this list of concessions, up to a certain amount upon a certain list of products——

Senator MILLIKIN. That is right.

Mr. RYDER. And to try to get from the foreign country.

Senator MILLIKIN. Yes.

Mr. RYDER. The concessions contained in the request list. That is another list. And that is the way they start out.

Senator MILLIKIN. So they sit there under a limit which they cannot on their own authority exceed?

Mr. RYDER. That is right.

Senator MILLIKIN. That is right. So when they go into those conferences that point has been established for them.

Mr. RYDER. Yes, sir.

Senator MILLIKIN. All right.

I continue to suggest that that is in substance a peril point, unless you are out to peril things.

Mr. RYDER. I do not want to go into a long discussion of the peril-point provision. The procedure I have described differs from the peril point in several ways: One difference is that it is an interdepartmental decision. The chief difference is that in the case of the peril point the point found is a fixed thing which cannot be changed, so far as I can see; whereas under the present procedure if in the negotiations it appears desirable to go a little further on a certain item, or maybe to add an item that had been left out——

Senator MILLIKIN. Let us test that, Mr. Commissioner. Let us suppose the Tariff Commission were setting those points out of its own authority, and let us assume that the President approved. If it were found that it was advisable to exceed a peril point, the Tariff Commission could reconsider the matter, could it not?

Mr. RYDER. I had not thought they could.

Senator MILLIKIN. Why not?

Mr. RYDER. I had not thought they could.

Senator MILLIKIN. You can always correct a mistake, can you not?

Mr. RYDER. But in any case it would be difficult for the Tariff Commission here and the negotiations over there, without a full knowledge of the negotiating situation.

Senator MILLIKIN. No more difficult than for those fellows to cable back to the Trade Agreements Committee.

Mr. RYDER. Well, the Trade Agreements Committee is over there. It goes over there and sits over there. They are sitting in Torquay now. They have to cable back here to have any change put before the President.

Senator MILLIKIN. Mr. Chairman, I suggest you can complete a transfer of cables to Washington faster than you can send messengers to find out where they are sttting around at Torquay.

Mr. RYDER. If you do that, that would give the Commission charge of the negotiations, and I do not want that done.

Senator MILLIKIN. That is right.

Now, let us go back to this negotiating team. The members of the team, other than the Tariff Commission, represent the Interdepartmental Trade Committee. Is that the correct name of it? What is the correct name of it?

Mr. RYDER. The Interdepartmental Trade Committee. I do not think it has the word "interdepartmental" in it.

Senator MILLIKIN. So the members of the Tariff Commission represent that committee?

Mr. RYDER. Well, that committee is made up of members from all the departments, including the Tariff Commission.

Senator MILLIKIN. Yes. But you have said—at least those who are not Tariff Commission men do represent the Trade Committee, have you not? I mean the Interdepartmental Committee.

Mr. RYDER. Oh, the Interdepartmental Committee, I do not know. I cannot speak for the other departments. I do not know exactly how the other departments operate; I do not know.

Senator MILLIKIN. Well, we are now in a state of complete confusion. I thought you were speaking——

Mr. RYDER. What we were talking about, Senator, was the Trade Agreements Committee.

Senator MILLIKIN. I am talking about the negotiating teams.

Mr. RYDER. I thought you were saying the Trade Agreements Committee.

Senator MILLIKIN. I thought you said trade-agreements negotiating teams represented experts in their field who represented the Interdepartmental Committee; is that right?

Mr. RYDER. In those negotiations.

Senator MILLIKIN. In those negotiations?

Mr. RYDER. Yes.

Senator MILLIKIN. You have said that the experts from the Tariff Commission do not represent the Tariff Commission.

Mr. RYDER. That is right.

Senator MILLIKIN. Does the expert likewise represent the Interdepartmental Trade Committee?

Mr. RYDER. Oh, yes, I would say so.

Senator MILLIKIN. He is the representative?

Mr. RYDER. In those negotiations, that is right.

Senator MILLIKIN. What is your authority for providing experts to negotiate on behalf of the Interdepartmental Trade Committee?

Mr. RYDER. Well, we are required by law to cooperate with other Government departments, and we are required to advise in regard to the trade agreements.

Senator MILLIKIN. Why do you not send someone over to negotiate the Japanese treaty? That needs cooperation.

Mr. RYDER. We loan our men to various organizations at various times. We are required by law to cooperate with other Government departments, and we are now having to loan people to several of the new defense agencies to help them get started on some of their work.

Senator MILLIKIN. Well, anyhow you do.

Mr. RYDER. That is right.

The CHAIRMAN. Do I understand that you wish to say something about 22?

Mr. RYDER. Oh, yes, section 22.

The CHAIRMAN. That is the agricultural amendment?

Mr. RYDER. That is right. In this particular case, Senator, I can speak for the Commission because the Commission, day before yesterday, agreed upon a report to the Finance Committee upon the amendment which Senator Magnuson intends to offer to H. R. 1612.

The CHAIRMAN. Yes; we have that report.

Mr. RYDER. On the Magnuson amendment.

The CHAIRMAN. You have that report, have you?

Mr. RYDER. Yes; that is right. I can read the whole report or just the part that has to do with the work of the Tariff Commission under section 22, whichever you prefer.

The CHAIRMAN. I think you might put it into the record, your recommendations or the statement regarding the Magnuson amendment, and then you might discuss that part of it that refers to section 22.

Mr. RYDER. All right. I will have the whole thing put in the record, then.

(The document above referred to is as follows:)

MEMORANDUM FOR THE SENATE FINANCE COMMITTEE ON THE AMENDMENT WHICH SENATOR MAGNUSON INTENDS TO PROPOSE TO H. R. 1612, EIGHTY-SECOND CONGRESS, A BILL TO EXTEND THE AUTHORITY OF THE PRESIDENT TO ENTER INTO TRADE AGREEMENTS UNDER SECTION 350 OF THE TARIFF ACT OF 1930, AS AMENDED, AND FOR OTHER PURPOSES

This memorandum deals with an amendment which Senator Magnuson intends to propose to H. R. 1612, a bill which would extend the authority of the President to enter into trade agreements with foreign countries. In the absence of additional legislation this authority of the President would expire on June 12, 1951. H. R. 1612, in the form passed by the House of Representatives and now before the Senate, would, in addition to extending this authority for 3 years (from June 12, 1951, to June 12, 1954), amend the trade agreements legislation now in effect by providing additional statutory limitations and directives as to the President's use of this authority. The amendment proposed by Senator Magnuson would add a ninth section to the eight already contined in the bill. This ninth section, although it would, if enacted, be a part of the trade agreements legislation, would replace and amend the present provisions of section 22 of the Agricultural Adjustment Act, as amended, and that section would be repealed by subsection (g) of the Magnuson amendment.

Changes which the Magnuson amendment would make in existing legislation

Subsections (a) and (b) of section 22 of the Agricultural Adjustment Act, as amended, set forth the conditions and limitations under which the President, upon the advice of the Secretary of Agriculture, and after investigation and report of findings and recommendations by the Tariff Commission, is authorized to impose fees or quantitative limitations on imports, whenever such imports would render ineffective or tend to render ineffective or materially interfere with any program or operation with respect to any agricultural commodity or product thereof undertaken by the Department of Agriculture or agencies operating under the direction of the Department of Agriculture. Subsections (c), (d), and (e) of the present law deal with the technical and legal aspects of the administration of the section. Subsections (a) through (e) of the Magnuson amendment would adopt unchanged the conditions and limitations[1] applicable to the imposition of fees or quantitative restrictions which are now provided under subsections (a) through (e) of section 22 to prevent interference with agricultural programs. The proposed amendment, however, would transfer to the Secretary of Agriculture the investigative functions vested by the present law in the Tariff Commission. It would appear also to transfer to the Secretary of Agriculture the discretionary power given to the President under the existing law.

The proposal to transfer to the Secretary of Agriculture the investigative functions of the Tariff Commission under section 22 of the Agricultural Adjustment Act, as amended, raises a major question of governmental policy. In passing upon this question of policy, the Commission's experience under the present law may be of interest to the committee. That experience, therefore, is described in detail in a later part of this memorandum.

The change in the wording used in the amendment from that of the present law as regards the discretion of the President requires brief comment. As the wording now stands, it appears to place in the hands of the Secretary of Agriculture important powers now vested in the President. Under the present law, although the Secretary of Agriculture initiates action with respect to imports under section 22, no investigation is undertaken except by direction of the President, and such investigation must be made by the Tariff Commission. Moreover, following the investigation and report to the President of findings and recommendations made in connection therewith by the Tariff Commission, the President need follow the findings and recommendations submitted to him as a result of an investigation only if he finds the existence of the facts with respect to interference on the basis of the investigation and report.

[1] In the case of import fees, the limitation is that they shall not exceed 50 percent ad valorem; in the case of quantitative restrictions, the total quantity permitted to be entered cannot be reduced to proportionately less than 50 percent of the total quantity of such article as was permitted to enter during a representative period.

Under the Magnuson amendment the Secretary of Agriculture is vested with the exclusive authority to determine whether an investigation will be initiated; in addition, the investigation is conducted by the appropriate officer or agency of the Department of Agriculture. The latter part of subsection (b) of the proposed amendment provides that the President shall impose the import restrictions which he finds and declares shown by the investigation to be necessary. However, it appears doubtful whether or not the President retains discretion to make findings or to impose import restrictions which differ from those submitted by the Secretary of Agriculture in the light of subsection (e) which provides that "Any decision, finding, or certification of facts and required fees or quantitative limitations of the Secretary of Agriculture under this section shall be final." The committee may wish to consider whether, despite the wording of subsection (e) and the first part of subsection (b), the latter part of subsection (b) could be interpreted to mean that the President rather than the Secretary of Agriculture is to have final discretion as to the degree or character of the import restrictions to be imposed.

Subsection (f) of section 22 of the Agricultural Adjustment Act, as amended, provides that fees or quantitative limitations on imports imposed in connection with agricultural programs shall not be in contravention of any treaty or other international obligation to which the United States is or hereafter becomes a party. It also provides, however, that no international agreement or amendment to an existing international agreement shall hereafter be entered into by the United States which would restrict the freedom of action of this Government in respect to quantitative import restrictions imposed under this section to a greater degree than such freedom of action is restricted by the provisions of the General Agreement on Tariffs and Trade. Subsection (f) of the Magnuson amendment would replace the foregoing provision of the present law by one which would read as follows:

"(f) No international agreement hereafter shall be entered into by the United States, or renewed, extended, or allowed to extend beyond its permissible termination date in contravention of this section."

This proposal raises the question as to whether or not it would require the modification or abrogation of the General Agreement on Tariffs and Trade.

The proposed amendment contains a clerical error. The third word from the end of line 23 on page 2 should be "or" rather than "of."

Tariff Commission operations in connection with the imposition of restrictions on imports under section 22 of the Agricultural Adjustment Act

Section 22, since it was first adopted in 1935, has had for its general purpose the safeguarding of the programs of the Department of Agriculture from the possible interference that imports may cause in carrying out its various responsibilities under the Agricultural Adjustment Act. It permits the President to impose restrictions upon particular classes of imports where the impact of such imports on programs or operations undertaken or sponsored by the Department of Agriculture is such that the imports in fact "render or tend to render ineffective or materially interfere with" the programs or operations in question. Section 22, however, requires that before such restrictions are imposed investigation shall be made to determine the facts as to the impact of imports on the programs or operations of the Department. Action under section 22 is initiated by the Secretary of Agriculture. It is provided, however, that the Tariff Commission, as a bipartisan fact-finding agency whose activities are principally related to import restrictions and the competitive impact of imports upon domestic production, shall undertake such investigations and only by direction of the President. It is the understanding of the Commission that the procedure above outlined as adopted by Congress has consistently had the approval of the Department of Agriculture since its inception in 1935.

The Magnuson amendment provides that the Secretary of Agriculture shall make the investigation and determination of the facts as to the effect of imports upon the programs or operations of the Department of Agriculture rather than the Tariff Commission. The committee, therefore, may be interested in a review of the Tariff Commission's operations under section 22.

Under the law and under Executive Order 7233, which contains the President's instructions as to the procedures to be followed in imposing import restrictions under section 22, the Tariff Commission is authorized to make the appropriate investigations only when directed by the President in each particular case; the President gives such directions after recommendations to him by the Secretary of

Agriculture. In the 16 years in which section 22 has been in effect the President has directed the Commission to make three investigations under this section—on cotton, on wheat, and on tree nuts. In each of these cases the Commission instituted the investigation immediately upon receipt of the President's directions.

The first Tariff Commission investigation under section 22 of the Agricultural Adjustment Act was on cotton and cotton products. The President directed the Commission to initiate this investigation on July 26, 1939, and the Commission ordered the investigation on the same day. The Commission's report recommending restrictions of imports of cotton and cotton waste was sent to the President 30 days later, August 25, 1939. Restrictions on imports in accordance with the Commission's recommendations were proclaimed by the President on September 20, 1939.

The Commission did not consider its initial recommendations with respect to restrictions on imports of cotton and cotton waste as concluding its investigation; the investigation was continued on the Commission's docket in order that action might be taken promptly, and without further direction from the President, if changes in the restrictions on imports should become desirable. Under the procedure thus provided for, the Commission has made 10 supplemental investigations under section 22 of the Agricultural Adjustment Act with respect to cotton. As a result of these investigations, the quantitative limitations on the varieties of imports of cotton and cotton goods have been modified; temporary increases in the volume of permitted imports of certain classes of cotton have been provided for; and various changes have been made in the administration of the quantitative controls of imports. These supplemental investigations have been initiated as a result of information that has come to the attention of the Commission in various ways and it is difficult to identify the exact dates upon which the Commission's attention was first directed to the matter. It can be said, however, that the Commission responded promptly to the situation in each case. The following tabulation will indicate the time involved between the Commission's ordering of these investigations and the subsequent actions.

Supplemental investigations made by the Tariff Commission under sec. 22 of the Agricultural Adjustment Act with respect to cotton and cotton products

Subject of investigation	Date investigation ordered by Commission	Date of public hearings	Date on which report of Commission was sent to President	Date of proclamation by the President
To determine whether import quota on cotton of a staple of 1 1/16 inches or more in length should be continued	Dec. 4, 1940	Dec. 11, 1940	Dec. 13, 1940	Dec. 19, 1940
To determine whether import quotas on cotton waste, cotton samples, and cotton card strips should be continued	Nov. 12, 1941	Dec. 10, 1941	Feb. 23, 1942	Mar. 31, 1942
To determine whether import quotas on cotton of a staple of 1 1/16 inches or more in length should be changed from a country quota to a global quota	May 12, 1942	----------	June 10, 1942	June 29, 1942
To determine whether import quotas should be imposed on harsh or rough cotton of a staple of less than 7/8 inch in length (excluded from original quota)	Sept. 17, 1946	Oct. 14, 1946 Oct. 15, 1946	Dec. 31, 1946	Feb. 3, 1947
To determine whether imports additional to those provided by regular annual quota for cotton of a staple of 1 1/4 to 1 1/16 inches in length should be permitted	Jan. 23, 1947	Feb. 18, 1947	Apr. 21, 1947	June 9, 1947
To determine whether imports additional to those provided by regular annual quota for cotton of a staple of 1 1/4 inches to 1 1/16 inches in length should be permitted	Jan. 15, 1948	Feb. 17, 1948 Feb. 18, 1948	May 14, 1948 July 14, 1948[1]	July 20, 1948
To consider change of quota year	June 9, 1949	July 7, 1949	Aug. 11, 1949	Sept. 3, 1949
To determine whether imports additional to those provided by regular annual quota for cotton of a staple of 1 1/16 to 1 3/16 inches in length should be permitted	June 30, 1950	July 18, 1950	Aug. 14, 1950	Oct. 4, 1950
To determine whether imports additional to those provided by regular annual quota for cotton of a staple of 1 3/16 to 1 5/16 inches in length should be permitted	Sept. 20, 1950	Sept. 29, 1950	Oct. 5, 1950	Oct. 12, 1950
To determine need for further increase in the permitted imports during the quota year for cotton of the description covered by the last preceding supplemental investigation	Nov. 29, 1950	Dec. 11, 1950	[2]	----------

[1] Sent in response to request of President July 8, 1948, asking that the Commission reconsider its findings in light of changes in situation, and that an allocation procedure be set up.

[2] Commission terminated investigation for additional supplemental quota for quota year ending Jan. 31, 1951. No report sent to President.

NOTE.—The Commission is at present considering the advisability of ordering a supplemental cotton investigation to determine whether circumstances warrant the imposition of a separate quota on Tanguis cotton.

The second separate investigation made by the Tariff Commission under section 22 of the Agricultural Adjustment Act was on wheat and wheat products. The President directed the Commission to institute this investigation on December 13, 1939. The Commission ordered the investigation on December 14, and public hearings on this matter were held on January 4 and February 12, 1940. As the excess of the United States price of wheat over the Canadian price was found to be considerably less than the duty of 42 cents per bushel, there was obviously no basis for action as of that time under section 22. Because, however, of much uncertainty about the future course of prices, the Commission decided to hold the investigation in abeyance and to watch developments. By thus continuing the investigation the Commission was able, when the situation changed so as to warrant it, to recommend action to the President without the delays incident to instituting a new investigation and holding another public hearing.

The price difference between the United States and Canadian wheat began to widen early in the spring of 1941. By the middle of May the margin of the United States price of wheat over the Canadian price approached the 42 cents duty and a large increase in imports appeared probable. In order to prevent such an increase, the Tariff Commission on May 19, 1941, recommended to the President the imposition of quotas on imports of wheat and wheat products. The President followed the Commission's recommendation and put the quota into effect May 29, 1941, in ample time to prevent any considerable increase in imports of Canadian wheat. This quota has at all times since been maintained.

The third separate investigation instituted by the Tariff Commission was on tree nuts on April 18, 1950, on receipt of a directive from the President of that date. A hearing was called for the 16th day of May 1950. At the written request, however, of the attorneys representing the Pacific coast producers of almonds, walnuts, and filberts, the Commission postponed the hearing from May 16 to June 27, 1950.

During the course of the investigation subsequent to the hearing, it was apparent that there would not be available prior to October 15 sufficiently accurate estimates of American production of tree nuts to determine with any degree of accuracy the quantity of the various types of imported tree nuts which could be permitted to be imported without exceeding the danger points in total supply, and thereby rendering ineffective the programs of the Department of Agriculture. This was especially evident because the Secretary of Agriculture, during the period between September 15 and October 15, would make his final determinations under the programs then in effect as to the restrictions on the marketing of American-grown tree nuts and the allocations of those tree nuts between the unshelled and shelled markets. Further, at the time of the hearing no marketing agreement existed on almonds, though it was anticipated that such an agreement would be made by the middle of September. All of the producing interests as well as the Department of Agriculture recognized the advisability of deferring decision until the data referred to became available. In fact, in the brief submitted in behalf of the domestic growers of tree nuts it had been specifically requested that "the Tariff Commission attempt to reach a final conclusion and make a report to the President not earlier than September 15, 1950, and not later than October 15, 1950."

After the hearing and the receipt of briefs, the Commission proceeded with an analysis of the facts obtained in the investigation and of the questions involved. At the same time the Commission followed closely developments regarding the orders and regulations of the United States Department of Agriculture under the marketing agreements and under section 32, Public Law 320, Seventy-fourth Congress, as amended, and developments as regards the size of the 1950 fall crop in the United States and foreign countries, and as regards volume of demand and trend of prices.

Sufficiently accurate estimates of American production of tree nuts became available in the fall of 1950, and it became apparent that under the conditions then prevailing no action with respect to imports under section 22 was warranted. Because of uncertainties with respect to the course of imports over the year following, however, the Commission refrained from making a determination at that time and announced that the investigation would be continued so that if developments should occur which would warrant the imposition of restrictions on imports at a later date prompt action would be taken by the Commission. We have been advised by the Washington representatives of the domestic growers of tree nuts that this decision was in no way at variance with the wishes of the producers. The decision was also agreeable to the Department of Agriculture.

The Commission is, of course, following the trend of imports and domestic production, and has recently received a request from the California Almond Growers Exchange that the investigation be reopened with a view to determining whether or not imports of almonds are in such volume and of such a character as to warrant imposition of restrictions upon such imports. This request is currently under study by the Commission.

Senator MILLIKIN. Mr. Chairman, might I make just a little brief interruption before he gets to that?

The CHAIRMAN. Yes.

Senator MILLIKIN. I would like to ask the witness whether he agrees with the testimony of Mr. Brown on Tuesday, April 3, 1951, as follows:

Senator MILLIKIN. With reference to the negotiations for rates at Torquay, since the peril-point law has been repealed, what do our country committees have to work on so far as a limit within which they should say is concerned?

Mr. RYDER. That was your question, was it?

Senator MILLIKIN. That is the question.

Mr. BROWN. They have all of the information which is in the Government files, which has been accumulated over the years by the people dealing with the products in the different departments, and the information which is obtained at the

hearings, both in the oral testimony and in the briefs, and information which is obtained from individual conferences with people who are interested.

Senator MILLIKIN. So that each of those country committees has the information available from which a point or range could be determined which should not be exceeded; is that correct?

Mr. BROWN. Yes, sir. I think if you remember the Executive order under which we are operating, the Tariff Commission is required to make certain studies and provide the organization with some information as to the competitive factors and a number of things which are specified. So that the data are there.

Senator MILLIKIN. So when the country committee gets to work, it has before it from one source or another, or from all sources, data from which it can be advised as to limits which should not be exceeded; is that correct?

Mr. BROWN. Yes, sir; it has before it information which would enable it to decide whether or not it should recommend a concession, and what the risks involved might be.

Senator MILLIKIN. Is that not another way of saying it has before it information which gives caution or advice as to the limits not to be exceeded?

Mr. BROWN. I think so, sir.

Do you agree with that?

Mr. RYDER. Read the last sentence; I did not quite catch it.

Senator MILLIKIN (reading):

Is that not another way of saying it has before it information which gives caution or advice as to the limits not to be exceeded?

Mr. BROWN. I think so, sir.

Mr. RYDER. I would say so—yes.

Senator MILLIKIN. All right.

Mr. RYDER. Mr. Chairman, in regard to section 22, since it was first adopted in 1935—as I am saying, this is a Commission report, and I am in this case representing the Commission, not just myself as an individual.

Senator KERR. Is there a difference in your viewpoint and that which you are going to read?

Mr. RYDER. No. Heretofore I have been speaking only of my personal views.

Senator KERR. Yes.

Mr. RYDER. Section 22, since it was first adopted in 1935, has had for its general purpose the safeguarding of the programs of the Department of Agriculture from the possible interference that imports may cause in carrying out its various responsibilities under the Agricultural Adjustment Act.

It permits the President to impose restrictions upon particular classes of imports where the impact of such imports on programs or operations undertaken or sponsored by the Department of Agriculture is such that the imports in fact "render or tend to render ineffective or materially interfere with" the programs or operations in question.

Section 22, however, requires that before such restrictions are imposed, investigation shall be made to determine the facts as to the impact or imports on the programs or operations of the Department.

Under section 22 action is initiated by the Secretary of Agriculture. It is provided, however, that the Tariff Commission, as a bipartisan fact-finding agency whose activities are principally related to import restrictions and the competitive impact of imports upon domestic production, shall undertake such investigations and only by direction of the President—only by direction of the President.

It is the understanding of the Commission that the procedure above outlined, as adopted by the Congress, has consistently had the approval of the Department of Agriculture since its inception in 1935.

I want to say that, in administering section 22, the Tariff Commission and all the members of the Tariff Commission have proceeded with the most sympathetic attitude toward the agricultural program, with the aim of taking whatever action may be necessary and that may be allowable under the law.

The Magnuson amendment provides that the Secretary of Agriculture shall make the investigation and the determination of fact as to the effect of imports on programs or operations of the Department of Agriculture rather than the Tariff Commission.

The committee, therefore, may be interested in a review of the Tariff Commission's operations under section 22.

Senator KERR. Say that again, not for the record.

(Discussion off the record.)

Senator MILLIKIN. The Magnuson amendment would take the Tariff Commission out of the picture?

Mr. RYDER. That is right. It would make a section 9 of the bill.

Senator MILLIKIN. Yes.

Mr. RYDER. Under the law, and under Executive Order 7233, which contains the President's instructions as to the procedures to be followed in imposing import restrictions under section 22, the Tariff Commission is authorized to make the appropriate investigations only when directed by the President in each particular case.

The President gives such directions after recommendations to him by the Secretary of Agriculture.

Senator MILLIKIN. May I ask, Mr. Commissioner, who it is over in the White House who specializes in these problems which you are now discussing, and in the general subject of trade?

Mr. RYDER. I do not know that anybody is regularly assigned to it. In recent years, in the last year or so, I am sure that Mr. Steelman, the President's assistant——

Senator MILLIKIN. Steelman?

Mr. RYDER. Steelman.

Senator MILLIKIN. Steelman?

Mr. RYDER. Yes.

The CHAIRMAN. Dr. Steelman.

Mr. RYDER. In the 16 years in which section 22 has been in effect, the President has directed the Commission to make three investigations under this section—on cotton, on wheat, and on tree nuts. In each of these cases the Commission instituted the investigation immediately upon receipt of the President's directions.

The first Tariff Commission investigation under section 22 of the Agricultural Adjustment Act was on cotton and cotton products. The President directed the Commission to initiate this investigation on July 26, 1939, and the Commission ordered the investigation on the same day. The Commission's report recommending restrictions of imports of cotton and cotton waste was sent to the President 30 days later, August 25, 1939. Restrictions on imports in accordance with the Commission's recommendations were proclaimed by the President on September 20, 1939.

You can see there was a period of less than 2 months between the order of investigation and action by the President in that case.

Senator MILLIKIN. And you took 30 days to do your job?

Mr. RYDER. Thirty days; that is right.

Mr. MILLIKIN. Along with all of your other work?

Mr. RYDER. That is right.

The Commission did not consider its initial recommendations with respect to restrictions on imports of cotton and cotton waste as concluding its investigation. The investigation was continued on the Commission's docket in order that action might be taken promptly, and without further direction from the President, if changes in the restrictions on imports should become desirable.

Under the procedure thus provided for, the Commission has made 10 supplemental investigations under section 22 of the Agricultural Adjustment Act with respect to cotton.

As a result of these investigations, the quantitative limitations on the varieties of imports of cotton and cotton goods have been modified; temporary increases in the volume of permitted imports of certain classes of cotton have been provided for; and various changes have been made in the administration of the quantitative control of imports.

The supplemental investigations have been initiated as a result of information that has come to the attention of the Commission in various ways, and it is difficult to identify the exact dates upon which the Commission's attention was first directed to the matter.

It can be said, however, that the Commission responded promptly to the situation in each case.

Then there follows a tabulation which I will not read, of course, of those supplemental investigations, when we initiated them, when we made a recommendation, and when the President acted upon them.

The CHAIRMAN. That is attached to your report?

Mr. RYDER. That is right.

Senator KERR. Let me ask you this at that point: When he directs an investigation, it becomes a continuing directive or a directive for a continuing investigation?

Mr. RYDER. Well, that is the way we have operated. In the cotton case, the Department of Agriculture had placed export subsidies on the exports of cotton, and it was feared, and it probably would have happened, that foreign cotton would flow in here, and American cotton go out to get the benefit of the subsidy.

So, in order to prevent that from happening we promptly recommended quotas on the imports of long-staple cotton, and ordinary short-staple cotton, but we exempted from the quota certain types of waste, and short harsh cotton that came from India and China, which did not seem to have any problem at that time; and also we took no action in regard to cotton manufacturers. But we did not know what was going to be the final outcome of the export subsidy program; how these other articles were going to be affected. It was not clear, so we continued the investigation, and the investigation has been continued until the present day.

We later did recommend a separate quota on harsh, short cottons from India and China when the situation arose which seemed to make it necessary; but so far no situation has arisen which has caused us to take action in regard to cotton manufacturers.

Senator KERR. But as of today, on the basis of an order issued in 1939, the Tariff Commission still regards as current the directive for the investigation, and you operate on that basis; and should you find anything, either with reference to imports or exports, that were

damaging to the cotton producers of the United States or the cotton manufacturers of the United States, you would make a recommendation for remedial action.

Mr. RYDER. That is right. It seemed to be the only practical way of handling the situation, and that has been true in the other investigations that we have had.

Senator KERR. Even if that lay dormant for 5 years and conditions developed, you would act under that directive?

Mr. RYDER. That is right; we could act under that directive.

Of course, if, for instance, it became necessary to do anything on cotton cloth, we would call a public hearing. We do not act without due——

Senator KERR. You would be the judge of what investigation was to be made, and the manner in which it was made, upon which to base your recommendations?

Mr. RYDER. That is right.

The second separate investigation made by the Tariff Commission under section 22 of the Agricultural Adjustment Act was on wheat and wheat products.

The President directed the Commission to institute this investigation on December 13, 1939. The Commission ordered the investigation on December 14, and public hearings on this matter were held on January 4 and February 12, 1940.

As the excess of the United States price of wheat over the Canadian price was found to be at that time considerably less than the duty of 42 cents per bushel, there was obviously no basis for action as of that time under section 22.

Because, however, of much uncertainty about the future course of prices, the Commission decided to hold the investigation in abeyance, and to watch developments. By thus continuing the investigation, the Commission was able, when the situation changed so as to warrant it, to recommend action to the President without the delays incident to instituting a new investigation and holding another public hearing.

The price difference between the United States and Canadian wheat began to widen early in the spring of 1941. By the middle of May the margin of the United States price of wheat over the Canadian price approached the 42 cents duty, and a large increase in imports appeared probable.

In order to prevent such an increase, the Tariff Commission on May 19, 1941, recommended to the President the imposition of quotas on imports of wheat and wheat products.

The President followed the Commission's recommendation and put the quota into effect May 29, 1941, in ample time to prevent any considerable increase in imports of Canadian wheat. This quota has at all times since been maintained. That is the story on wheat.

The third separate investigation instituted by the Tariff Commission was on tree nuts.

Senator MILLIKIN. How much wheat is coming in here now?

Mr. RYDER. I do not know; but it has never been above the quota, and the quota is a small one. I do not know; I have not looked into it recently. I imagine the quota is filled in most years, although I am not certain about it.

Senator MILLIKIN. We have a very large export market.

Mr. RYDER. That is right.

Senator MILLIKIN. So it helps us clear our surplus if there is a surplus in this country.

Mr. RYDER. That is right.

The third separate investigation instituted by the Tariff Commission was on tree nuts on April 13, 1950, on receipt of a directive from the President of that date.

A hearing was called for the 16th day of May, 1950. At the written request, however, of the attorneys representing the Pacific coast producers of almonds, walnuts, and filberts, the Commission postponed the hearing from May 16, to June 27, 1950.

During the course of the investigation subsequent to the hearing it was apparent that there would not be available prior to October 15 sufficiently accurate estimates of American production of tree nuts to determine with any degree of accuracy the quantity of the various types of imported tree nuts which could be permitted to be imported without exceeding the danger points in total supply, and thereby rendering ineffective the programs of the Department of Agriculture.

This was especially evident because the Secretary of Agriculture, during the period between September 15 and October 15, would make his final determinations under the programs then in effect as to the restrictions on the marketing of American-grown tree nuts and the allocations of those tree nuts between the unshelled and shelled markets.

Further, at the time of the hearing no marketing agreement existed on almonds although it was anticipated that such an agreement would be made by the middle of September.

All of the producing interests, as well as the Department of Agriculture, recognized the advisability of deferring decision until the data referred to became available.

Senator MILLIKIN. The producing interests?

Mr. RYDER. Yes. In fact, the brief submitted in behalf of the domestic growers of tree nuts specifically requested that "the Tariff Commission attempt to reach a final conclusion and make a report to the President not earlier than September 15, 1950, and not later than October 15, 1950."

After the hearing and the receipt of briefs, the Commission proceeded with an analysis of the facts obtained in the investigation and of the questions involved.

At the same time, the Commission followed closely developments regarding the orders and regulations of the United States Department of Agriculture under the marketing agreements and under section 32, Public Law 320, Seventy-fourth Congress, as amended, and developments as regards the size of the 1950 fall crop in the United States and foreign countries, and as regards volume of demand and trend of prices.

Sufficiently accurate estimates of American production of tree nuts became available in the fall of 1950, and it became apparent that under the conditions then prevailing no action with respect to imports under section 22 was warranted.

Because of uncertainties with respect to the course of imports over the year following, however, the Commission refrained from making a determination at that time, and announced that the investigation would be continued so that if developments should occur which would

warrant the imposition of restrictions on imports at a later date, prompt action could be taken by the Commission.

We have been advised by the Washington representatives of the domestic growers of tree nuts that this decision was in no way at variance with the wishes of the producers. The decision was also agreeable to the Department of Agriculture.

The Commission is, of course, following the trend of imports and domestic production, and has recently received a request from the California Almond Growers Exchange that the investigation be reopened with a view to determining whether or not imports of almonds are in such volume and of such a character as to warrant imposition of restrictions upon such imports. This request is currently under study by the Commission.

Senator MILLIKIN. Would you mind telling us what the issues were in the tree-nut case?

Mr. RYDER. I could not go into it, Senator, without going into all the legal questions involved; and the Commission has before it a brief from the producers taking one position, and a brief from the Department of Agriculture, taking another position, and a brief from the——

Senator MILLIKIN. State Department.

Mr. RYDER. [Continuing]—State Department, taking still another position; also a memorandum from our chief counsel taking still another position.

Senator KERR. But you say that the decision that you rendered satisfied the growers, on the one hand, and the Department of Agriculture, on the other?

Mr. RYDER. I did not understand you, Senator.

Senator KERR. The action you took was satisfactory to the growers and the Department of Agriculture?

Mr. RYDER. That is right.

Senator KERR. Was it satisfactory to the State Department, or do you not know?

Mr. RYDER. I presume so; I have not had anything from them on it.

Senator MILLIKIN. Well, the State Department would be satisfied because it did not want you to make a decision, is that not correct?

Mr. RYDER. That is correct.

Senator MILLIKIN. And the Department of Agriculture wanted you to make a decision?

Mr. RYDER. No.

Senator MILLIKIN. Is that correct?

Mr. RYDER. No, the Department of Agriculture was perfectly——

Senator MILLIKIN. The Department of Agriculture recommended relief, did it not?

Mr. RYDER. Oh, no. The Department of Agriculture only suggested that the President order the investigation by the Tariff Commission. Of course, in doing that he used the language of the law.

Senator MILLIKIN. But do not the communications of the Department of Agriculture indicate that they thought the relief was justified?

Mr. RYDER. I would have to read their testimony at our hearings to be certain what their position was. I do know this, Senator; that the Department of Agriculture was in agreement with our decision not to take action last December when we made an interim report deferring this decision.

Senator MILLIKIN. I invite your attention to a copy of the letter from Secretary Brannan to you. I think the date is probably January 30, 1950. It appears in our record of hearings here at page 76. The opening statement is:

Dear Mr. RYDER: I have have reason to believe that almonds, filbers, walnuts, Brazil nuts, and cashews, of foreign production are being imported into the United States in such quantities as to render ineffective programs undertaken by the Department of Agriculture pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Section 32, Public Law 320, Seventy-fourth Congress, as amended.

Mr. RYDER. I think that letter was signed by the President—either by the President or some one for the President, and he has to use that language under the law in order to have an investigation.

Senator MILLIKIN. Well, the President is not going to put his signature to something that is false in order to have an investigation, is he?

Mr. RYDER. The law says that when he has reason to think so and so, the President shall direct the Tari Commission to make——

Senator KERR. Was this letter signed by the President or the Secretary of Agriculture?

Mr. RYDER. There is no way of telling here. There is no signature. I think it was from either Mr. Steelman for the President or from the President himself.

Senator MILLIKIN. I am advised that this is from either the President or some assistant for him.

Mr. RYDER. That is right.

Senator MILLIKIN. But I ask you again, would either the President or Mr. Steelman ask you to take action on a statement that they did not believe to be true?

Mr. RYDER. The law reads that way, and in directing the Tariff Commission to make an investigation the President must use that language. He must state that he has reason to think a thing is true when he directs the Tariff Commission to make an investigation. The language you read is the language which has been used in all of the orders and investigations that we have gotten from the President. All three of them have read in that same language. That does not mean that the President prejudges the investigation, of course.

Senator MILLIKIN. What you are saying is that you have had a continuous course with statements which are not true.

Mr. RYDER. I do not know about that, Senator. But I know that the President, in writing those letters, does not intend it to prejudge the case, and he is using the technical language of the law in directing us to make the investigation.

Senator MILLIKIN. There has been so much discussion over this tree nut business that I would like to refresh your memory of what Secretary Brannan did say in a letter to the President dated January 30, 1950. He said:

DEAR MR. PRESIDENT: It is hereby requested that you cause an immediate investigation to be made by the United States Tariff Commission, pursuant to section 22 of the Agricultural Adjustment Act, as amended, relative to the effect of importation of tree nuts on the tree nut programs of this Department.

This appears at page 77 of the record here.

It is further requested that if it is found that imports tend to render ineffective or materially interfere with any tree nut program of this Department, ap-

propriate quantitative limitations be proclaimed on entries of foreign tree nuts. This request is based on Executive Order No. 7233 of November 23, 1935, and on the preliminary investigation undertaken pursuant to such order.

Then he goes on and he cites a paragraph—well, let us read it:

A near-record large domestic crop of tree nuts, almonds, filberts, pecans, and walnuts (English) is indicated for 1949 and is expected to total 14.4 percent greater than the average for the period 1944–48. This supply will be augmented by imports whose rate of entry during the 1948 marketing season exceeded that of any season in the period 1927–47. The probable supplies in the domestic market are causing much concern, and six programs of this Department, three marketing agreements (walnuts, filberts, pecans) and three of payments (walnuts, almonds, filberts), conditioned on the exportation or the diversion of surplus stocks from normal channels of trade, are in operation for the 1949 marketing season

In this 1949 season, approximately 35 percent of the total domestic consumption of tree nuts may be imports and at the same time 30 percent of the merchantable walnut pack and 25 percent of the merchantable filbert pack will be diverted to shelling and other outlets of low remuneration. Walnuts and almonds equivalent to approximately 14 and 11 percent, respectively, of each estimated crop are to be employed in outlets other than those of direct human consumption. The quantity of southeastern unshelled pecans which may be sold for unshelled consumption outside of the production area will be restricted through grade and size regulations.

A comparison of prices to domestic producers during the war and postwar years will show how the entry of competitively priced foreign tree nuts adversely affects domestic prices, and hence interferes with the price stabilization and price improvement efforts of this Department. During the war years of curtailed and uncertain imports, domestic farm prices for tree nuts were mostly at, or in excess of, their respective parity or comparable price levels. In comparison, in the 1948 season, when consumer purchasing power was at a record high level, imports of tree nuts exceeded the prewar 1935–39 average, and the domestic almond, walnut, and filbert growers received 76, 61, and 44 percent of parity, respectively. The attempt of distributors to sell an abnormally large volume of foreign nuts domestically has depressed prices below the levels to be expected from the increased production as offset by improved marketing practices.

Article XI of the General Agreement on Tariffs and Trade (Department of State Publication 3107) prohibits the imposition of quantitative restrictions on the importation of commodities, but section 2 (c, i) and (c, ii) of said article permits import restrictions on any agricultural product, imported in any form, necessary to the enforcement of governmental measures which operate (1) to restrict the quantities of the like domestic product permitted to be marketed, or (2) to remove a temporary surplus of the like domestic product. The six previously mentioned programs of this Department are governmental measures within these two exceptions to the general prohibition. Consequently, a quantitative limitation on importation of tree nuts, to the extent that such importation interferes with the governmental measures, would not be prohibited by the General Agreement on Tariffs and Trade.

Immediate action on the part of the Tariff Commission is advisable, as the injection of some certainty into the outlook for imports and can be expected to imthe domestic groups in their merchandising efforts and can be expected to improve domestic prices. A draft of an order to the Commission, to be issued by you, is attached.

This Department will gladly make available statistical and other information that may be of value to the Tariff Commission in its investigation.

Respectfully yours,

CHARLES F. BRANNAN, *Secretary.*

Mr. RYDER. I would call attention to the fact that that letter is dated January 30, 1949.

Senator MILLIKIN. Yes.

Mr. RYDER. And it refers to a situation which he states existed in 1949.

Senator MILLIKIN. Yes, sir.

Mr. RYDER. The Tariff Commission did not receive an order for investigation by the President until April 13, 1950.

Senator KERR. April 13, 1949?

Mr. RYDER. April 13, 1950.

Senator KERR. 1950.

Mr. RYDER. Yes. The letter from the Secretary of Agriculture was dated January 1950 and referred to the 1949 crop.

Senator KERR. You said it was dated 1949 instead of 1950.

Mr. RYDER. Well, I misspoke myself, Senator.

As I say, the Commission did not get an order for investigation until April 13, 1950. We called a hearing for about 30 days thereafter, but at the specific written request of the domestic interests we postponed it until June 27. In the brief that they submitted after the hearing, the domestic nut growers asked that decision be not made before September 15, and not later than October 15; that was the way it was expressed.

Senator MILLIKIN. Did you make the decision by October 15?

Mr. RYDER. I was coming to that.

Senator MILLIKIN. All right.

Mr. RYDER. By that time, by the September-October period, it became apparent that there was a short domestic crop, as I recall it, of practically all of the nuts except almonds, and that the price situation was considerably better.

Senator KERR. The price situation?

Mr. RYDER. The price situation, and there were, as I recall it, almost no programs in actual operation at the time.

Senator KERR. You mean support programs?

Mr. RYDER. What is that?

Senator KERR. You say there were no programs in effect.

Mr. RYDER. I mean although they had marketing agreements, there were no specific programs in operation under those agreements. There may have been one or two minor ones, I am not certain. I am going from memory.

So, as a result, it seemed to the Commission that there was no basis for a finding at that time.

Senator KERR. That is between September 15 and October 15, 1950?

Mr. RYDER. That is right.

So we continued to study the question, and early in December, I believe it was, we issued an interim report stating the reasons for not taking action then, and I am sure that the report had the approval of the Department of Agriculture and the domestic producers.

Senator MILLIKIN. Well, the testimony here is to the contrary, Mr. Commissioner.

Mr. RYDER. Well, I cannot help that. The Washington representatives of the nut growers expressed that view to us.

Senator MILLIKIN. Well, the end point is that they did not get a decision, did they?

Mr. RYDER. No, not then, because there was unanimous agreement, so far as I can see, that there was no basis for action at that time.

Senator MILLIKIN. But there was not unanimous agreement in the Commission as to whether you had a right to issue an order, is that not correct?

Mr. RYDER. I do not recall that, Senator.

Senator MILLIKIN. Is there not a conflict in the Commission as to whether, for example, you can go outside of a temporary surplus——

Mr. RYDER. I do not know that there is.

Senator MILLIKIN. Well——

Mr. RYDER. Wait a minute.

Senator MILLIKIN (continuing). One of the contentions was, one of the State Department contentions was, to the effect that there was no evidence, there is no indication that the surplus situation in tree nuts is temporary, as the foregoing provision would require. That is a State Department communication.

Mr. RYDER. That is not my statement.

Senator MILLIKIN. No, no, I am not holding you. The Lord knows, I would not try to hold you responsible for State Department statements. [Laughter.]

Mr. RYDER. Here is the situation, if you will let me explain it, Senator.

Senator MILLIKIN. Yes.

Mr. RYDER. We had four or five different views as to the legal situation resulting from article XI of the General Agreement on Tariffs and Trade, and section (f) of the Agricultural Adjustment Act, as amended—section 22 (f).

I myself arrived at some tentative conclusion, and I think some other Commissioners did. Before we had gotten——

Senator KERR. Is that a matter of record?

Mr. RYDER. What?

Senator KERR. Is that conclusion a matter of record?

Mr. RYDER. Oh, no. I am coming to that.

Senator KERR. I mean, I would not want to inquire what it was if it were inappropriate. I noticed in the press that the President had arrived at a decision, but it was not yet for publication, and I wondered if this was a similar thing.

Mr. RYDER. No. Here is the situation: The Commission had a brief discussion of the legal question involved, but we decided in view of all the circumstances that there was no reason, there was no occasion, for a decision at that time, and so we continued the investigation; issued a public announcement to that effect in which we specifically stated that we did not pass upon the legal questions. So the Commission has never passed upon them, and I would not like to express my tentative views, which might be changed, when we discuss these questions again in the Commission and make a final decision on them, as we ultimately will.

Senator MILLIKIN. So if you today indicated that the facts warranted relief, you have not reached a conclusion as to whether the law warrants relief, is that correct?

Mr. RYDER. So far we have not.

Senator MILLIKIN. So the industry is on two horns of a dilemma. It does not know what the Tariff Commission thinks about the facts, except that it knows that the Tariff Commission does not consider that a decision is advisable at the present time; but also it does not know whether it can have legal relief even if you make a decision on the facts.

Mr. RYDER. Well, that is the same thing as is true, of course, when a question of law has to be determined by a court.

Senator MILLIKIN. Well, that does not relieve the tree nut grower.

Mr. RYDER. I know. That is the situation. I do not see how it can be avoided.

Senator MILLIKIN. That was a correct statement that I made, was it not? My statement was, first, you are holding a decision on the facts in abeyance and, second, you have not decided the law.

Mr. RYDER. That is right.

Senator MILLIKIN. Therefore, the growers are confronted with those two dilemmas.

Mr. RYDER. Yes.

Senator MILLIKIN. Even if the facts warranted relief, he might be denied relief because you might conclude that you do not have the legal authority.

Mr. RYDER. I think that is correct. Here is the situation: It was difficult and, I think, it would be impossible for the Commission to have passed upon the legal question in abstraction.

We shall have to decide them in meeting specific issues in specific cases.

Senator MILLIKIN. Is it not also true, Mr. Commissioner, that if the State Department view prevailed you would not have jurisdiction?

Mr. RYDER. Well, I would not say we would not have jurisdiction. I would not say—I would have to read their letter again to be certain how much jurisdiction they would have left in of the case.

Senator MILLIKIN. Well, the State Department made two points, as I recall it: One, on this temporary business, and the other that if you were doing something that gave relief, that it would conflict with GATT.

Mr. RYDER. That is right.

Senator MILLIKIN. Therefore, I suggest that it is just common logic that if the State Department view is followed, the tree-nut grower cannot get relief even if in the future you find that the facts, taken by themselves, warrant relief; is that not correct?

Mr. RYDER. Yes. As I recall it, the State Department view of it was that certainly if any action could have been taken it would have been a very limited action.

Senator MILLIKIN. That is right.

Then, could there be any objection, Mr. Commissioner, if they clarified the law to make it easier for you to take this question of doubt that may be in the Commission as to the law out of the picture entirely?

Mr. RYDER. Well, that is another matter which raises the question of how important it is to maintain the present General Agreement on Tariffs and Trade. I would not like to commit myself without knowing exactly what the change is going to be.

Senator MILLIKIN. Let me put it to you this way: I am not asking you to approve in advance specific language, but supposing this committee should say and this committee should conclude, among its members, that it is an intolerable situation; that the tree-nut industry finds itself confronted with the dilemma we have referred to, and that it decides that at least the legal basis for the dilemma should be removed. You could not have any objection to that, could you?

Mr. RYDER. Of course, I do not have any objection to anything the Congress wants to do in the matter. I do not know. It is a very complex question. Personally, I would not like to see any law that would require a violation of the General Agreement. If your proposal does that, then——

Senator MILLIKIN. Now, Mr. Commissioner, just yesterday you told us that you have written out the effect of the words "unforeseen developments," which write out two words of GATT.

You gave us some other testimony regarding concessions and other matters where you have reached practical decisions which, let me put it mildly, might be in conflict with GATT.

Now, if we should remove those conflicts, surely you could not have any objection, could you?

Mr. RYDER. I do not agree that there is a conflict. I do not agree that we have ruled out the word "unforeseen," but we have interpreted it in a way that probably gives it very little meaning.

Senator MILLIKIN. You have interpreted it out rather than ruled it out.

Mr. RYDER. I think we have interpreted it under all the circumstances in an entirely logical and fair way, and I do not think it is in violation of the General Agreement.

Senator MILLIKIN. Let me come back and ask if this committee and the Congress should remove these burdens of doubt which are in the Commission as to whether there is a conflict between GATT and what you are doing or would like to do, that could not result in any objection from you, could it?

Mr. RYDER. As I said, again, I would not object, and I am not going to object, of course, to anything that Congress wants to do on the subject.

Whether I would think it was the thing that I would personally want to do or not, I would have to see it; I do not know.

Senator MILLIKIN. But you would have no violent objection if we used our own judgment on it, would you?

Mr. RYDER. Of course not.

The CHAIRMAN. Are there any further questions?

Senator MILLIKIN. I would like to ask the Commissioner how many applications—or would you know the number of applications—that have been made to the Secretary of Agriculture for relief under section 22?

Mr. RYDER. I have no information on that whatsoever. I would assume that the Secretary of Agriculture has certified all cases to us that have had much merit. I do not know, that is just my assumption.

Senator MILLIKIN. You do not know how many applications?

Mr. RYDER. I have no knowledge on that subject at all.

Senator MILLIKIN. But those that have filtered through to the Commission via the President are the three you have just discussed?

Mr. RYDER. That is right.

Senator MILLIKIN. Now, section 22 contains a clause which has been interpreted to mean that our agricultural programs, and whatever relief might otherwise be available under section 22, must conform to GATT. I feel quite sure that an effort will be made to take that out of section 22. What do you think?

Mr. RYDER. There again it is a matter of policy. My own view is, that as I would like to see the General Agreement maintained, I would like to see section (f) retained. If I may speak as a layman, not being a lawyer, I would say that I have never had any difficulty in understanding the meaning of (f), but maybe that is simple mindedness on my part. I know a great many people have found difficulty.

Senator MILLIKIN. Well, the Department of Agriculture and the Department of State are in conflict on the subject.

Mr. RYDER. Are they? I did not know that.

Senator MILLIKIN. When we are confronted with a conflict of that kind, we are warranted in resolving it, are we not?

Mr. RYDER. Is that so? I did not know there was a conflict.

Senator MILLIKIN. Well, you have got letters from the Department of State and the Department of Agriculture proposing views which are diametrically opposite as to the effect of GATT.

Mr. RYDER. I know, but they do not disagree regarding the effect of (f). Maybe I am mistaken. I am going from memory; I have not looked at those letters recently. I think, however, that they did not have any disagreement with regard to the meaning of (f), but they did have a great disagreement with regard to the meaning of article XI of GATT.

Senator MILLIKIN. But it does come down to the question of whether GATT rules this question, does it not?

Mr. RYDER. Well, it is whether the obligations of the GATT have to be taken into account.

Senator MILLIKIN. And there is a direct conflict between the two Departments on yes or no.

Mr. RYDER. No; the Department——

Senator MILLIKIN. And it is our job to resolve conflicts of that kind.

Mr. RYDER. As I recall the Department of Agriculture letter to us on this subject—I see it is in here; I have not read it recently—as I recall, however, they argue that all the action that is necessary, that they thought should be taken in regard to tree nuts, could be done under the GATT. I think that is the argument that they made.

Senator MILLIKIN. And the State Department says "No."

Mr. RYDER. That is right. But they, as I recall it—there was no difference of opinion between them that article XI did apply.

Senator MILLIKIN. Well, the only difference of opinion, spread it into or over any article that you choose, is that the Department of Agriculture says that you can give relief as a matter of law——

Mr. RYDER. That is right.

Senator MILLIKIN (continuing). And the Department of State says you cannot give relief as a matter of law.

Mr. RYDER. That is right.

Senator MILLIKIN. And in the interest of the citizen, that poses the question to us as to whether we shall resolve the doubt.

Mr. RYDER. But that is not, as I understand it, a difference as to the meaning of subsection (f) of section 22, but a difference as to the meaning of article XI of the GATT, and to the interpretation to be given to certain of the agricultural adjustment programs.

Senator MILLIKIN. Assume that you are correct, pin the cause of the difference to any part of the act that you please, we certainly are confronted with a problem as to whether we wish to clarify those differences by law, are we not?

Mr. RYDER. That is for you to decide.

Senator MILLIKIN. If we decide, say, with the Department of Agriculture, you would not turn your back on that great agency, would you?

Mr. RYDER. I have said over and over again I shall follow anything that the Congress enacts.

Senator MILLIKIN. That is good.

Senator KERR. With reference to that conflict between Agriculture and the State Department, I believe I heard you say awhile ago that the Commission itself has made no decision——

Mr. RYDER. That is right.

Senator KERR (continuing). As to which of the viewpoints is legally correct, if either.

Mr. RYDER. That is right.

Senator KERR. I gathered from what you said that there was some difference of opinion among the Commissioners in tentative form as of this time.

Mr. RYDER. As of last December when we discussed it.

Senator KERR. Yes.

Mr. RYDER. There was apparently some differences of opinion. They might have been resolved, if we had continued the discussion.

Senator KERR. But it has not?

Mr. RYDER. That is right. That is all I think I should say about it.

The CHAIRMAN. I may remind you, Doctor Ryder, that only the ignorant agree on the interpretation of a law.

Mr. RYDER. That is right.

The CHAIRMAN. Learned lawyers never agree.

Mr. RYDER. That is right. That is the reason that I think I understand section (f) while some lawyers do not think they do.

The CHAIRMAN. As I understood your position, you think you have an understanding of it.

Mr. RYDER. That is because of my ignorance, and not being a lawyer.

The CHAIRMAN. Not being a lawyer, you think you understand it. [Laughter.]

Mr. RYDER. That is right.

The CHAIRMAN. Only the ignorant can agree among themselves; that is, ignorance in the sense that they are not lawyers.

Senator MILLIKIN. Mr. Commissioner, I take it you are opposed to the Magnuson amendment, is that right?

Mr. RYDER. Yes; personally I am. Let me say this: You have the Commission memorandum on the amendment. The Commission never opposes as a Commission, anything or favors anything. We tried to give you the facts and that is all we did.

The CHAIRMAN. This is a unanimous decision of the Commission?

Mr. RYDER. That is a unanimous report of the Commission, but we do not take a direct stand on the bill.

The CHAIRMAN. I understand. But you set forth here what you regard as the factual basis?

Mr. RYDER. That is right.

The CHAIRMAN. And leave it up to the Congress, of course.

Mr. RYDER. That is right.

The CHAIRMAN. I wanted to get at this: This report represents the unanimous view of the Commission?

Mr. RYDER. That is right, the unanimous view of the Commission. There was no disagreement at all.

Senator MILLIKIN. Now, we have a recommendation from Senator Holland to the effect that we allow the Secretary of Agriculture to propose quotas of a particular type on perishable agricultural products. Are you familiar with that amendment?

Mr. RYDER. No; I am not. I do not think I have ever seen it. This is the first time I have ever heard of it.

Senator MILLIKIN. You would not preclude the wisdom of setting up, assuming it was done soundly and wisely, special procedures to take care of perishable crops by reason of their perishable nature, let us say, that would affect the time element?

Mr. RYDER. I could see that there is a problem there.

Senator MILLIKIN. Let us say it short-circuited the usual procedures.

Mr. RYDER. Of course I do not know what kind of a law you have in mind.

Senator MILLIKIN. You are not prepared to testify about the Holland amendment, is that it?

Mr. RYDER. No. This is the first time I have heard of it, Senator.

Senator MILLIKIN. Do you have any suggestions for clearing up the present state of the law anywhere along the line so far as the Tariff Commission is concerned?

Mr. RYDER. You mean the present law?

Senator MILLIKIN. Yes.

Mr. RYDER. The present law? No; I have the recommendation in regard to that.

Senator MILLIKIN. What is your opinion on section 8 of the bill before us, which is brief, and I will read the gist of it:

(e) No reduced tariff or other concession resulting from a trade agreement entered into under this section shall apply with respect to any agricultural commodity for which price support is available to producers in the United States unless the sales prices (as determined from time to time by the Secretary of Agriculture) for the imported agricultural commodity within the United States after the application of such reduced tariff or other concession exceed the level of such price support.

Have you any opinion on that?

Mr. RYDER. Yes.

Senator MILLIKIN. Is this your own opinion or——

Mr. RYDER. No; I cannot state the opinion of the Commission. I have never discussed it with any other Commissioner.

Senator MILLIKIN. Yes.

Senator RYDER. As I see it, this subsection 8, if enacted, would require either the renegotiation or the denunciation of a number of trade agreements. How soon it would be necessary to do it would depend upon unpredictable circumstances; that is, unpredictable so far as I am concerned.

It seems to me that it would probably upset to a very large extent the present program.

Senator MILLIKIN. How would it upset the present program?

Mr. RYDER. Because articles which have at different times been a matter of price support are key products in a number of our trade agreements. When action modifying or terminating any one of these agreements would have to be taken would depend upon when the landed price of imports of the agricultural articles on which concessions were made in that agreement will go below the support

price of the Department of Agriculture. Of course, we would want to take action before that happens, because we do not want to be violating that agreement by suspending the concession. This, I think, would be very detrimental to the trade-agreements program. That is just my opinion of it. Whether you want to do it or not is, of course, a matter of policy again.

Senator MILLIKIN. Well, it goes to the basic question of whether we shall allow our support-price programs to be upset by importations.

Mr. RYDER. I would say that section 22 is probably sufficient support. Anyhow, I do not think that so far the trade agreements have to a very great extent interfered with any of the price-support programs.

It is a problem there, I will agree with you, Senator, but it is —

Senator MILLIKIN. How many digests did you prepare for use at the Torquay Conference?

Mr. RYDER. I do not know that. I am told about 2,000.

Senator MILLIKIN. About 2,000?

Mr. RYDER. Mr. Morrison is not positive about it, however.

Senator MILLIKIN. Is that a safe rough figure?

Mr. RYDER. He says he would rather check on it, Senator. I will check on it and I will put a correct figure in, if it is agreeable with the committee.

Senator MILLIKIN. I wonder if you could check on it over the telephone. I think it is rather important to know.

Mr. RYDER. He will try to get it for you.

The CHAIRMAN. What was the question exactly, Senator Millikin, that you wanted answered?

Senator MILLIKIN. I wanted to find out how many digests they prepared for the use of our negotiators at Torquay.

The CHAIRMAN. You might provide a rough answer.

Mr. RYDER. He is going to telephone. He gave a rough answer of 2,000. I think it would be an overestimate, but I am not certain. He is phoning to see.

There were 2,700 statistical classes covered, but some of the digests covered more than one class. Twenty-seven hundred statistical classes were covered.

Senator MILLIKIN. Consolidated into a lesser number of classifications?

Mr. RYDER. In a number of cases, two or more statistical classes were treated together in the digests.

Senator MILLIKIN. How long did it take to prepare these digests?

Mr. RYDER. The digests we prepared this time were quite different from those we ordinarily prepare. We had just finished a revised edition of the tariff information so we took these revised summaries and we put a supplement at the front of each one of them, usually only a page or two, giving the more recent figures and additional facts. Work on the digests, as such, was therefore less than for the Geneva or Annecy negotiations.

Senator MILLIKIN. How much time would you say?

Mr. RYDER. They occupied the principal work of the time of the staff for 8 months, we will say.

Senator MILLIKIN. Thank you very much.

Mr. RYDER. Of course, the summary which preceded them took a much longer time, much longer time of the staff, but they were revised at the request of the Ways and Means Committee of the House.

The CHAIRMAN. The summaries were revised at the request of the Ways and Means Committee, you say?

Mr. RYDER. That is right; and we spent a year or so, I think, working upon a revision of those digests, not exclusively, of course; we did other things.

Senator MILLIKIN. But in preparing the digests for the negotiators you took how long?

Mr. RYDER. About 3 months.

Senator MILLIKIN. Thank you very much, Mr. Ryder.

The CHAIRMAN. Are there any other questions? Senator Kerr?

Senator KERR. No questions.

The CHAIRMAN. Are there any others of these amendments made in the House that you wish to make any comment on?

Mr. RYDER. No; I think I have commented on all of them, except the peril-point amendment, and I commented on that at such length in 1948 and 1949, and you have the record of it, so that I did not think it was necessary to go into now.

The CHAIRMAN. We have it in great detail now.

Mr. RYDER. That is right.

The CHAIRMAN. The peril point amendment made with respect to this particular bill differs in one respect, does it not, from——

Mr. RYDER. Yes. As I recall it, it differs in only one respect, and that is that if the peril point should be exceeded, instead of the President's having to send to the Congress the whole list of peril points and the data in regard to them, he has only to send those on which the peril point was exceeded.

The CHAIRMAN. In other words, it limited his work.

Mr. RYDER. That is right.

Senator MILLIKIN. And it prevented the disclosure of irrelevant information——

Mr. RYDER. That is right.

Senator MILLIKIN (continuing). Which might have embarrassed our relations with foreign countries if they did not get the full amount of concessions we might have been willing to grant.

Mr. RYDER. That is an improvement, I think.

Senator MILLIKIN. Yes.

Mr. RYDER. That is right; I think that was an improvement.

Senator MILLIKIN. I thought that was a very good improvement in the law.

Mr. RYDER. That is right.

Senator MILLIKIN. Are you familiar with section 516 (b) of the Tariff Act?

Mr. RYDER. Let me see.

Senator MILLIKIN. It has to do with classifications.

Mr. RYDER. Oh, yes; I know that.

Senator MILLIKIN. We have had complaint here that there is no way to test a question of classification, and it was brought sharply to our minds in connection with a dispute as to whether sand may fairly be classified as some type of chemical, as nepheline syenite.

Mr. RYDER. That is right. I have never gone into that question, Senator. I know there are two views on it. One is that by this sec-

tion of the Trade Agreements Act the domestic producers are deprived of the privilege of going in court on a question of classification.

On the other hand, I know that there are arguments made that the provision was used merely to harass the importers. I have never gone into it myself and I have no opinion that would be worth while to give you.

The CHAIRMAN. That is largely a Treasury problem?

Mr. RYDER. That is largely a Treasury question.

Senator MILLIKIN. You would have the right, if we restored such right, to litigate an erroneous, or what the litigant thinks is an erroneous, classification.

Mr. RYDER. I will have to say that I have no opinion on that.

Senator MILLIKIN. All right.

The CHAIRMAN. Senator Millikin, do you have any further questions?

Senator MILLIKIN. No.

The CHAIRMAN. Well, Doctor, we appreciate your appearance here, sir.

Mr. RYDER. Thank you very much.

I am always glad to appear before this committee, and happy to help you in any way I can.

The CHAIRMAN. If there has been any request for any specific matter to go into the record, why, you submit it. We had hoped to print the record next week.

Mr. RYDER. There is one additional thing I should like to say. As I understand from Mr. Ballif here, I was asked a question yesterday as to whether action could be taken under the escape clause unless domestic producers were losing their domestic market, and I said, "Yes." If so, I did not mean it. I did not comprehend the question.

Senator MILLIKIN. Would you mind stating what your position is on that?

Mr. RYDER. Well, my position is stated in the Commission's report on criteria in escape clause cases, which has been made a part of this record. That report states that action may be taken under the present law if there has been an increase, either absolute or relative, in imports. If the increase is absolute, they might continue to have a larger percentage of the domestic market than they had before.

Now, on the other hand, if you take it on the relative basis, the ratio basis, then it works the other way, as you can see.

Senator MILLIKIN. Let us assume, Mr. Commissioner, that there is no increase, absolute or relative, but that due to imports the man has to make his case that he is losing what might be termed his proper share of the market. Would you give him relief?

Mr. RYDER. I do not think you could take action under the present law, and I do not think that the escape clause should be expanded to take care of that kind of a situation. You would then be making the escape clause sort of a general tariff, emergency tariff, provision of some kind. Unless there has been something which has happened causing domestic producers to lose a part of the market, it is difficult to see how you can attribute it to any change in the import situation.

Senator MILLIKIN. Of course, that is the difficulty of the applicant; that is not your difficulty. If the applicant proves injury due to the customs, and if that injury is one which causes him to lose what might

be called his proper percentage of the market, there is no relief at the present time.

Mr. RYDER. If he is losing a percentage of the market to importers, then you can take relief under the escape clause as it is interpreted, because if there was a relative decrease in production that would mean a relative increase in imports.

Senator MILLIKIN. Even though the imports declined?

Mr. RYDER. Even though in absolute quantities the imports may have declined.

Senator KERR. Absolute quantity or quality?

Mr. RYDER. Quantity. The imports may have declined; but if domestic production has declined more so there is a relative increase in imports, then the Commission can, under the escape clause, take action.

Senator MILLIKIN. I think you have answered my question.

Then you can write out entirely the question of increase, absolute or relative, and even though there has been, let us say, a decrease, if the whole effect of the tariff is to deny an American his fair share of the market, he could get relief.

Mr. RYDER. If he is getting a declining share of the market, and the importers are getting an increased share of the market, then he can get relief under the escape clause.

Senator MILLIKIN. Regardless of the other conditions of the escape clause?

Mr. RYDER. Of course, he has to be under such terms and conditions as to cause him serious injury.

Senator MILLIKIN. Due to the concession, for example?

Mr. RYDER. Well, under the law it would only have to be—in the way we have administered the law it would only have to be—a contributing factor; and if, as I said yesterday, I think, and I repeat it, there has been an increase, relative or absolute, in imports after a concession has been made, then you can be certain that the concession had something to do with it.

Senator MILLIKIN. If what other "if's" are established? Add the other "if's" that must be established.

Mr. RYDER. We do not have to add any other "if's."

Senator MILLIKIN. No other "if's"?

Mr. RYDER. Read our criteria. All we had to do is to show that imports had something to do with it—I mean the reduction in duty had something to do with it.

Senator KERR. The concession had something to do with it.

Mr. RYDER. The concession had something to do with it.

Senator MILLIKIN. Let me put it to you again. First, let us define absolute and relative increase. What do you mean by that?

Mr. RYDER. That would be imports before the concession was made were a million pounds.

Senator KERR. Could you say, Commissioner, that an absolute increase would be a greater quantity than previous imports?

Mr. RYDER. That is right. I was going to give an illustration, but that is the way to put it in general terms.

Senator MILLIKIN. Now, give us the definition of relative.

Mr. RYDER. A relative increase would be imports supplying a larger proportion of total domestic consumption than they did before the concession was made.

Senator KERR. Although the total imports might be less.

Mr. RYDER. Although the total imports might be less.

Senator MILLIKIN. I was interrupted in your last answer, and I am sorry, but would you mind repeating it?

Mr. RYDER. I do not know exactly what I said.

The CHAIRMAN. Please repeat the answer, Mr. Reporter.

(The answer was read by the reporter.)

Senator MILLIKIN. In relation to what?

Mr. RYDER. They might be less in absolute quantity; instead of being a million pounds, they might be 750,000 pounds.

Senator KERR. But if that constituted——

Mr. RYDER. But the production may have fallen off more.

Senator KERR (continuing): They constituted a larger percentage of the total domestic market.

Mr. RYDER. That is right. The original language of the GATT just said "increase," but that was interpreted at the Habana conference, largely through the efforts of the United States delegation—I had a little to do with it—to include a relative as well as an absolute increase.

Senator MILLIKIN. So far as the Habana conference was concerned, I do not know whether that has been abandoned by the Tariff Commission, but it has been abandoned by the State Department.

Mr. RYDER. I am not talking about the charter.

The CHAIRMAN. Not the charter; you are talking about the work you did, the interpretation.

Senator MILLIKIN. Now, the tests of the law are that there must be an increase in quantity of imports; that this increase has been a result of unforeseen conditions; that it has been a result of the concession on the article; the increased imports are entering under such conditions as to actually cause or threaten serious injury to domestic producers.

Mr. RYDER. That is right.

Senator MILLIKIN. Those are not alternatives; they must all be shown—all of those factors must be shown.

Mr. RYDER. Yes.

Senator MILLIKIN. Let me ask you again: If there has been—assume that there has been—a decrease in imports, relative or absolute, assume that a citizen comes in and shows that he has been injured, injured seriously or threatened with serious injury because of the customs situation, and he has been injured because he is losing his fair share of the market; would you give him relief regardless of whether there had been an increase in the quantity of imports, regardless of whether that had been the result of unforeseen conditions, regardless of whether it had been a result of the concession, if there is a concession?

Mr. RYDER. Well, in our interpretation of it, it would have been both, if there had been a relative increase in imports; there necessarily would have been both.

Senator MILLIKIN. I do not understand this "would have been both."

Mr. RYDER. If, after a concession is made, a situation arises where there is—I will stick to the relative this time—there has been a relative increase in imports, then, and if, we make a study of the situation,

and find that there is serious injury involved, the Commission, under its interpretation of the escape clause, would hold that the serious injury was the result of unforeseen developments inasmuch as it was intended at the time the concession was made that no injury should result from the concession. It also would hold, I think, that any relative increase in imports must have been in some part due to the concession. Thus, there is no difficulty on these points so far as administration is concerned, and never has been.

Senator MILLIKIN. Unless you rule out the criteria of the Executive order and of GATT.

Mr. RYDER. I don't know, but I think there has been a general acceptance of our criteria on the subject.

Senator MILLIKIN. Well, there again—I will put it to you again, if we should clarify that part of our problem by law you would have no objection to it?

Mr. RYDER. That depends again, I will have to say, on how it is done and what the phraseology is, and all that sort of thing.

Senator MILLIKIN. Assuming it were wisely done, but to reach that end point, to clarify any confusion that there might be over that question, you would have no objection; would you?

Mr. RYDER. I would have to see it.

Senator MILLIKIN. I invite your attention to a pamphlet which your Commission put out February 1948. In discussing on page 5 the question of increase in imports, the pamphlet says:

> The escape clause specifies that the injury or threat of injury must be caused by imports "in such increased quantities" as to have that effect. The increase must be in terms of quantity. The increase must be absolute and not merely relative to domestic production.

Have you changed your rules?

Mr. RYDER. That is right; we have.

Senator MILLIKIN. You have changed your rules?

Mr. RYDER. That has been changed. We changed it on account of the interpretation that was given to it so as to include a relative as well as an absolute increase, and, by the way, Senator, Executive Order 10082 uses the term "relative."

Senator MILLIKIN. Yes.

Then you revised that pamphlet?

Mr. RYDER. If it has not been revised, it should have been.

Senator MILLIKIN. It says, "Revised February 1950" and it was from the revised pamphlet that I read the four conditions under which you can get relief: No. 1, that there has been an increase in the quantity of imports; No. 2, that the increase has been a result of unforeseen conditions; No. 3, that it has been a result of the concession; No. 4, that the increased imports are entering "under such conditions" as to actually cause or threaten serious injury to the domestic producers.

I invite your attention again to the fact that all of those are in the conjunctive.

Mr. RYDER. If that is true, that should be changed, because the Executive order itself, 10082, uses the term "relative increase" and we are operating under that.

The original language, before the interpretation was given to it, did seem to require that the increase be an absolute one. When we

originally wrote the Criteria report that interpretation had been given to it.

Senator MILLIKIN. I do not believe I have had an answer to my question.

Mr. RYDER. I am sorry.

Senator MILLIKIN. Whether under the case I had put to you, you would grant relief, assuming the demonstration of the injury, to wit——

Mr. RYDER. I said, "Yes."

Senator MILLIKIN (continuing). Assuming an important loss of market——

Mr. RYDER. I said, "Yes."

Senator MILLIKIN (continuing). Regardless of whether the imports were increased or decreased, absolute or relative, if the customs were shown to be the cause of that injury, and regardless of these other conditions which you have listed here, relief would be given?

Mr. RYDER. I would not say regardless of them, because I think that if there has been an increase in imports, absolute or relative, those conditions would be assumed to be there. There must, however, be an increase.

Senator MILLIKIN. But if they were not?

Mr. RYDER. I cannot conceive of a case where they would not be.

Senator MILLIKIN. Then just assume, even though you cannot conceive it, that someone else can conceive it.

Mr. RYDER. If you can conceive of a relative increase in imports that had nothing to do with a decrease in duty, and nothing to do with the factors that may have arisen since the concession was made, but I cannot conceive of such a thing.

Senator MILLIKIN. But if you could conceive of it, would you conceive of relief?

Mr. RYDER. Under the law you could not.

Senator MILLIKIN. Or conceive of no relief?

Mr. RYDER. Under the law you could not.

Senator MILLIKIN. You could not give relief. That is all I wanted to know.

The CHAIRMAN. Your position is that they are necessarily connected with the concession?

Mr. RYDER. That is right. You make the concession and you do it with the idea that there is not going to be any serious injury involved. If a situation arises where there is an increase, such as does cause injury, then manifestly that was not foreseen by the people who made the agreement.

Senator KERR. It would automatically be unforeseen.

Mr. RYDER. Yes, and also the reduction in duty must have had something to do with it. That is the way we are operating under the escape clause, Senator.

The CHAIRMAN. That is the way you interpret it?

Senator MILLIKIN. I am afraid that is true.

The CHAIRMAN. Thank you, Doctor.

Mr. RYDER. Thank you very much.

(By direction of the Chairman, the following letter is made a part of the record:)

TERRY'S SEWING MACHINE CO.,
Passaic, N. J., April 5, 1951.

The Honorable WALTER F. GEORGE,
Chairman, Finance Committee, United States Senate,
Senate Office Building, Washington, D. C.

DEAR SENATOR GEORGE: I had hoped to appear before your committee in connection with the hearings on the proposed extension of the 1934 Trade Agreements Act, but I have found that they have reached the point where my appearance would be impracticable. Your secretary suggested that I write the following brief, which would be made a part of the hearings.

Before the Korean War, my sewing-machine business, like a good many other industries, was so depressed through imports from cheap-labor countries that we could see our capital and employment being destroyed. I hope that your committee will make a thorough study of the sewing-machine industry before any real action is taken on the extension of the Trade Agreements Act—a study not only of the injuries to the industry, but of the promotional stunts, the hokum, the lies, and misrepresentation which the importers and foreign exporters use to dump these cheap foreign-made sewing machines on the American buying public.

The State Department seems to have an objective of dividing our market with foreign cheap-labor competitors instead of the long-established principle of fair and reasonable competition through the principle of adjustable tariffs on imports.

It seems unfair that the industrially inexperienced State Department should be allowed to select the industries which are to survive in this country. Industry is perfectly willing to operate under the flexible provisions of the 1930 tariff, or under the fair and reasonable competition as laid down in Senate bill 981 now before your committee.

Neither my industry, nor any other industry which has come to my attention, has ever objected to free trade or competition on an even basis with any nation or area having approximately the same wage-living standards as the United States. I quote below a letter received by the White Sewing Machine Co. of Cleveland, Ohio, from T. Nakamura & Co., of Kobe, Japan. The letter was written on October 5, 1950.

"Messrs. WHITE SEWING MACHINE CORP.
Main Avenue & Elm Street, Cleveland, Ohio.

"GENTLEMEN: We understand that you are surely interested in importing sewing machine from Japan. Probably you are already purchasing the same from other exporters in Kobe, Osaka, or Yokohama. With such an understanding, we have the pleasure of offering our Minato sewing machine.

"The fashion of home sewing in United States of America coupled with reported prohibition of manufacturing home sewing machine, has driven American manufacturers to overload Japanese factories with orders for the head.

"The history of our factory is not so long as Mitsubishi or Fukusuke, but the skilled workmanship insures the sales of 1,000 machines per month and the manufacturing capacity is gradually being enlarged.

"We enclose herewith our catalog and beg to offer as follows:

Model No. 377 (Exactly same as Singer 15–K88)
"MINATO" Sewing Machine Head for electric driving 1,000 Heads only
November/December shipment from Kobe
@ $18.00 per head F. O. B. Kobe
Terms of payment: Irrevocable Credit to be opened by cable, available by draft at sight on first class bank in U. S.

"Commending the above to your prompt attention and looking forward to your valued command, which we would assure you shall have our best care,

"We remain,

"Yours faithfully,

"T. NAKAMURA & Co.,
"Per /s/ T. Nakamura, *Principal.*

"TN/HI

"P. S.—If you like to see a sample, we will send you a head at the cost price."

From what I can see in this letter, the above-mentioned Japanese firm wants us to shut down our big industries, use our factories for warehouses, and keep their factories going.

You know as well as I do that we cannot manufacture a sewing machine in the United States for the price stated in the letter. The standards of American living are much higher than those of the Japanese. I have proof, and can show you a letter received from a friend who is now visiting in Japan. He writes that one Japanese factory employing 1,100 people is turning out 3,000 sewing machines a month, with an over-all average pay of $35 per month. I ask you, Senator, how can we compete with this?

I do not believe I am too far off when I say that more than 300,000 sewing machines were imported into this country in 1950 alone. It is my opinion that about 225,000 of them came from Japan alone. What do these figures mean? They mean that about 25 percent of the household sewing machines sold in the United States last year came from abroad. Think of that. At least one of every four machines sold in this country came from abroad, and the rate of import has been increasing steadily month after month for the past couple of years. Honestly, I would not feel as badly about this alarming situation, and I am sure the industry would not mind it as much, if we knew and could believe that this flood of imported goods was resulting in a good break for the common ordinary working people in the foreign countries. We all have good hearts and none of us would complain if the working people of these countries were wearing better clothing, eating better food, and their all-around living conditions were better as a result of these imports. But I know, as you do, that this is not the case.

I quote you an article which appeared in Retailing Daily on March 13, 1951.

"Although production of American-made sewing machines is expected to be sharply curtailed by material scarcities, the output of Elna machines produced in Switzerland will remain at high levels, the firm's local distributor declared here.

"According to Charles A. S. Heinle, president of the Eastern company, the Swiss makers have assured American representatives of full supplies of the Elna units. In the 20 months since the machines were introduced in the United States, more than 20,000 have been sold, it was said."

Yes, Senator, a year ago people in all walks of life were starting to feel the impact of cheap foreign imports into this country—people in a good many industries were laid off by their employers who could not compete with the cheap foreign goods which were being dumped into our country. Shortly thereafter the Korean situation became headlines in every newspaper of the world. We were at war again. It meant that thousands of new jobs would open—everyone could see big war wages and fat bank accounts, thus changing the picture and situation on foreign imports.

I say that if it takes war to create jobs, and the expense of the lives of young Americans who are being killed and butchered this very minute on the battlefields of Korea, then let us give this country to Russia.

Quoted below is a portion of an article which appeared in Retailing Daily on March 28, 1951:

"JAPAN SEWING-MACHINE TRADE INCREASE SEEN—HOPE TO EXPORT 500,000 THIS YEAR—UNITED STATES PRINCIPAL CUSTOMER

"TOKYO, March 27.—Japan hopes to export 500,000 sewing machines in 1951, according to the Sewing Machine Industrial Society. Last year it exported 240,000 machines, or 60 percent of total production, a twofold increase over 1949.

"Exports last year included 42,000 household machines; 184,000 heads of household machines; 10,000 hand-driven machines; 1,000 electric machines; 1,800 zigzag machines; 1,900 heads of industrial machines; and 300 tailor machines.

"The United States was principal buyer, taking 60 percent of total exports, mostly heads of household treadle machines. Central and South America, South Sea countries, and Near East Africa, and Canada all imported more than 1,000 treadle machines each. Far East countries bought heads for industrial machines and tailor machines."

From this article it appears to me that this year men and women employed in one of Ohio's leading industries—the Great White and Domestic Sewing Machine Manufacturing Co.—will lose nearly $5,000,000 in wages.

The Honorable George W. Malone, junior Senator from Nevada, spoke the truth when he told the Senate Finance Committee: "Any further cut in tariffs on foreign-produced goods that compete with items of similar American manufacture is a shotgun leveled at the head of every American working man and woman."

Mr. Chairman, we are certainly deviating from the high ideals which George Washington, Abraham Lincoln, and hundreds of other real Americans fought to protect. I think that the time has arrived when party policies, rules, and regulations making possible personal gains to individuals or groups of people to the detriment of a vast majority be cast aside. It is about time we rolled up our sleeves and did something about the alarming imports of cheap, falsely advertised foreign goods which are being dumped in our country in unfair competition with goods of our own manufacture. Again I say that the time has arrived for you and your committee to take this alarming situation in hand and find ways and means to protect the American industries, every man, woman, and child, and every legitimate retailer who has worked hard to make this great Nation what it is today.

Mr. Chairman, there is a limit beyond which reciprocal trade agreements must not go if American industry, American wages, and American standards of living are to be preserved. I think that the Nation's lawmakers first consideration must be the welfare of the American workingman. Congress must not authorize any reciprocal trade agreement which would put American labor at the mercy of slave-labor competition. What I want to know, but cannot find out, is, why do we have to do without our share of the market while some foreign nations who are supposed to be our partners in fighting communism are able to do business as usual. We conquered Germany, Japan, and Italy in a war, and now reward them by permitting their cheap-labor products to be dumped wholesale in this country, thus clearing the road for them by putting all kinds of restrictions on our own products, and giving the foreigner clear sailing.

I would like to quote from a speech made by Samuel Gompers (the father of the American labor movement) made in Cooper Union:

"All people suffer pain and hunger and in the main share similar sensations. But that doesn't mean all people are alike in all respects.

"An American can't do a day's work on a bowl of rice and some gruel, but a Chinaman and a Japanese can. And that goes as well for the peasants of Italy, Spain, Germany, Russia, and many European countries. This doesn't mean that Americans are better than others, but, an American wants better things and better living conditions and he is willing to band together in a common cause to fight to preserve those high standards. In unity there is strength, and that strength will protect the American workingman against the competitive serf labor from across the sea.

"We must stem the tide of products made by cheap subsidized foreign labor or we'll have no jobs and live no better than those from whom we should protect ourselves."

Mr. Chairman, unemployment, which we will have without war, means that the American public will not be in a position to buy goods whether they are made in the United States, Japan, Germany, or Italy. I say do something about this cancerous condition which is eating into our future.

Yours truly,

JOSEPH TERRY.

The CHAIRMAN. The committee will adjourn until 10 o'clock tomorrow morning, at which time we will hear Mr. Southard.

(Whereupon, at 11:40 a. m., the committee adjourned, to reconvene at 10 a. m., Friday, April 6, 1951.)

TRADE AGREEMENTS EXTENSION ACT OF 1951

FRIDAY, APRIL 6, 1951

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to adjournment, at 10 a. m., in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

Present: Senators George (chairman), Kerr, Frear, Millikin, and Taft.

Also present: Mrs. Elizabeth B. Springer, chief clerk, and Serge Benson, minority professional staff member.

The CHAIRMAN. The committee will come to order.

Mr. Southard, you are the United States Executive Director of the International Monetary Fund and special assistant to the Secretary of the Treasury?

STATEMENT OF FRANK A. SOUTHARD, JR., UNITED STATES EXECUTIVE DIRECTOR, INTERNATIONAL MONETARY FUND, SPECIAL ASSISTANT TO THE SECRETARY OF THE TREASURY, ACCOMPANIED BY GEORGE BRONZ, SPECIAL ASSISTANT TO THE GENERAL COUNSEL, TREASURY DEPARTMENT; AND CHARLES R. McNEILL, ATTORNEY, OFFICE OF GENERAL COUNSEL, TREASURY DEPARTMENT

Mr. SOUTHARD. Yes, sir.

The CHAIRMAN. That is your exact position?

Mr. SOUTHARD. Yes, sir.

The CHAIRMAN. And you have here with you Mr. George Bronz also, Senator Millikin, who is special assistant to the General Counsel, Treasury Department; and Mr. Charles R. McNeill, who is an attorney in the Office of the General Counsel, Treasury Department.

Now, Senator Millikin desired to make some inquiry regarding the matters which you have knowledge of, as United States Director, and I presume, of course, you are not appearing for the Monetary Fund?

Mr. SOUTHARD. No, sir. I have no authority to speak for the fund.

The CHAIRMAN. You have no authority to speak for the fund?

Mr. SOUTHARD. I am a United States Government official. As United States Director, I am appointed by the President and confirmed by the Senate. In that capacity I do not represent the fund, which is an international institution.

The CHAIRMAN. Yes.

Mr. SOUTHARD. I have no prepared statement, but I hope I can answer any questions.

The CHAIRMAN. You say you have no prepared statement?

Mr. SOUTHARD. No, sir.

The CHAIRMAN. Senator Millikin, would you desire to ask some questions?

Senator MILLIKIN. Yes, Mr. Chairman.

Mr. Southard, you were good enough to supply us with a memorandum reflecting changes in par values or exchange rates on which the fund has been consulted by members of it.

Mr. SOUTHARD. Has that been put in the record, Senator, or do you want me to put it in now?

Senator MILLIKIN. I think it would be a good idea to put it in.

The CHAIRMAN. I am not sure that it is in the record; but if it is not, you may do so.

Mr. SOUTHARD. I sent it to you with an informal note. Shall I put it in now without the note, as a submission?

Senator MILLIKIN. Put it in as you please, just so we have the information in the record.

(The document referred to is as follows:)

Changes in par values or exchange rates on which the Fund was consulted by members

[From the initial establishment of par values (Dec. 18, 1946), to Apr. 1, 1951]

Date	Country	Par value or exchange rate changes
Feb. 18, 1947	China	Change in exchange rate.
June 5, 1947	Ecuador	Multiple rate, complex rate changes.
Jan. 26, 1948	France	Par value (to 214.392 francs to United States dollar) and multiple currency system.
Jan. 30, 1948	Chile	Multiple rate, complex rate changes.
Mar. 12, 1948	Italy	Established exchange rate between lira and French franc of 2.20 lire per franc.
Mar. 24, 1948	Chile	Multiple rate, complex rate changes.
June 18, 1948	China	Do.
July 21, 1948	Mexico	Abandonment of par value.
Aug. 19, 1948	China	Change in exchange rate.
Sept. 2, 1948	Peru	Multiple rate, complex rate changes.
Oct. 10, 1948	do	Do.
Oct. 15, 1948	Costa Rica	Do.
Oct. 25, 1948	Chile	Do.
Dec. 10, 1948	Peru	Do.
Dec. 17, 1948	Colombia	Par value, 1.749 pesos to 1.94666 pesos per United States dollar and multiple rate changes.
Jan. 6, 1949	Iran	Multiple rate, complex rate changes.
Mar. 18, 1949	French Somaliland	Par value established at 214.392 Djibouti francs per United States dollar.
Mar. 21, 1949	France	Rate of exchange between lira and franc from 2.15 to 1.80 lire per franc.
June 17, 1949	Mexico	Par value, 4.855 pesos to 8.65 pesos per United States dollar.
Sept. 17, 1949	United Kingdom (all territories except British Honduras also changed).	Par value, 1£ sterling=$4.03 to 1£ sterling=$2.80.
Sept. 17, 1949	Australia	Par value, 1 Australian pound=$3.22 to 1 Australian pound=$2.24.
Do	Union of South Africa	Par value, 1 South African pound=$4.03 to 1 South African pound=$2.80.
Sept. 18, 1949	Norway	Par value, 4.96278 Norwegian kroner to 7.14286 kroner per United States dollar.
Do	India	Par value, 30.2250 United States cents per rupee to 21 United States cents per rupee.
Do	Denmark	Par value, 4.79001 kroner to 6.90714 kroner per United States dollar.
Do	Egypt	Par value, 4.133 Egyptian pounds=3.87156 Egyptian pounds per United States dollar.

Changes in par values or exchange rates on which the Fund was consulted by members—Continued

Date	Country	Par value or exchange rate changes
Sept. 19, 1949	Canada	Par value, 1 Canadian dollar to 1.10 Canadian dollars per United States dollar.
Do	Iceland	Par value, 6.48885 kroner to 9.34107 kroner per United States dollar.
Do	Netherlands	Par value, 2.55285 guilders to 3.8 guilders per United States dollar.
Do	Greece	Multiple rate, complex rate changes.
Do	Finland	Do.
Do	Belgium	Abandonment of existing par value of franc.
Do	France (French possessions).	Franc in CFP pegged to French franc at ratio of 5.80 metropolitan francs per 1 CFP franc. Par value, rupee of French possessions in India 30.225 United States cents per rupee to 21 United States cents per rupee.
Sept. 20, 1949	Iraq	Par value, 1 dinar=$4.03 to 1 dinar=$2.80.
Sept. 21, 1949	Belgium	Par value, 43.8275 francs to 50 francs per United States dollar.
Do	Luxemburg	Par value, 43.8275 francs to 50 francs per United States dollar.
Oct. 5, 1949	Uruguay	Multiple rate, complex rate changes.
Nov. 4, 1949	Paraguay	Do.
Nov. 15, 1949	Peru	Fluctuating rate.
Nov. 18, 1949	Austria	Multiple rate, complex rate changes.
Dec. 23, 1949	British Honduras	Par value, 100 United States cents per British Honduras dollar to 70 United States cents per British Honduras dollar.
Jan. 9, 1950	Chile	Multiple rate, complex rate changes.
Jan. 16, 1950	Thailand	Do.
Feb. 6, 1950	Iceland	Par value, 9.34107 kroner to 16.2857 kroner per United States dollar.
Feb. 17, 1950	Bolivia	Multiple rate, complex rate changes.
Mar. 27, 1950	Thailand	Fixation of special baht-dollar rate with Japan.
Apr. 24, 1950	Bolivia	Par value, 40 bolivianos to 60 bolivianos per United States dollar.
Sept. 30, 1950	Canada	Par value, Canadian dollar to be allowed to fluctuate.
Oct. 2, 1950	Austria	Establishment of single rate of 21.86 schillings per United States dollar for commercial transactions.
Oct. 18, 1950	Nicaragua	Multiple rate, complex rate changes.
Nov. 6, 1950	Uruguay	Do.
Nov. 16, 1950	Iran	Do.
Dec. 1, 1950	Ecuador	Par value, 13.50 sucres to 15.15 sucres per United States dollar.
Dec. 19, 1950	Philippines	Multiple rate, approval of exchange tax.
Dec. 30, 1950	Chile	Multiple rate, complex rate changes.
Jan. 15, 1951	Paraguay	Do.
Feb. 26, 1951	Paraguay	Multiple rate, principal rate from 3.00 guaranies to 6. guaranies per United States dollar.
Mar. 19, 1951	Colombia	Multiple rate, rates concentrated mainly at 2.50 pesos per United States dollar.

Senator MILLIKIN. I notice, Mr. Southard, in connection with the devaluation of sterling, dated September 17, 1949, I count 16 additional countries that made sympathetic devaluations.

Mr. SOUTHARD. Within a few days.

Senator MILLIKIN. Within a few days.

Mr. SOUTHARD. That is right.

Senator MILLIKIN. My test—that has been my test, to take those that came within a few days, and from my own knowledge of what currency areas they are in, I have deduced that there are that many countries, if not more, that took sympathetic action. If there are any others after the word "Luxemburg" on page 2, would you mind telling me what they are?

Mr. SOUTHARD. By "sympathetic action" I suppose you mean——

Senator MILLIKIN. I mean that are in the sterling area, and that acted accordingly.

Mr. SOUTHARD. Not all those countries, of course, are in the sterling area, but I would say they all took action, because in one way or another, they presumably felt that their trading position might call for roughly corresponding action.

Senator MILLIKIN. Yes. Are there any countries after——

Mr. SOUTHARD. I would think possibly the Uruguayan adjustment in early October was one. Argentina, which is not listed because it is not a member of the fund, has a major market in England, and made an adjustment of its complex rates, following the devaluation of sterling. I would think Uruguay, competing closely with Argentina, was pushed by that.

Senator MILLIKIN. Yes.

Mr. SOUTHARD. I cannot be positive of it.

The CHAIRMAN. May I clear the matter in my mind? Most of these adjustments were made in September——

Mr. SOUTHARD. That is right.

The CHAIRMAN (continuing). Following the adjustment?

Mr. SOUTHARD. That is right.

The CHAIRMAN. That is all.

Mr. SOUTHARD. I think it could be noted, Senator Millikin, that not all of those adjustments were in exactly the same percentage as the pound sterling adjustment.

Senator MILLIKIN. I understand.

Mr. SOUTHARD. There was a certain selectivity.

Senator MILLIKIN. I said sympathetic——

Mr. SOUTHARD. I accept the term.

Senator MILLIKIN (continuing). Devaluations. I do not mean they did it out of sympathy. They did it in their own interest, but did it because of the British devaluation. Are we understanding each other so far as terms are concerned?

Mr. SOUTHARD. I accept that.

Senator MILLIKIN. Do you know what percentage of the world's trade under the reciprocal-trade system is represented by this group of countries that we have been talking about?

Mr. SOUTHARD. No, sir; I do not, and I would have to check the records.

Senator MILLIKIN. Using annex H on page 74 of the copy of GATT that we have been working with as a test of that, and that particular annex deals with the percentage shares of total external trade to be used for the purpose of making the determinations referred to in article XXVI of GATT, and the determinations there referred to provide a basis for determining when GATT becomes effective—so, just using that for determining this business, I calculated this morning that 88.4 percent of the articles of the concessions covered by GATT are affected by these devaluations, and that the concessions covered by GATT are roughly, I think, about 85 percent of the whole world's trade. Is anybody in a position to confirm or challenge the last statement that I made?

Mr. BRONZ. If I may, I believe you asked that question of Mr. Brown earlier this week.

Senator MILLIKIN. Yes.

Mr. BRONZ. And he undertook either to identify the figures on this point in the record, or to supply them if they are not already in the record.

Senator MILLIKIN. Yes.

Well, my memory, my rough memory, was that the concession area is about 85 percent of the entire world trade. Would that jar on your recollection?

Mr. BRONZ. The countries which are now in GATT may very well cover 85 percent of trade, although they did not give concessions on all their imports.

Senator MILLIKIN. Well, let us assume that they do; I mean, let us assume that they cover 85 percent of the world's trade. Let us get down to the effect of a devaluation on the concessions. Would you mind giving your own view on that?

Mr. SOUTHARD. Senator, currency devaluation tends to have the effect of making it somewhat easier pricewise for the devaluing country to export, and somewhat more difficult, again in terms of prices, for the country to import. I say tends to have that effect, and I would think, in most instances, at least in the short run a devaluation would have that effect.

Senator TAFT. In the case of the British, has it not actually had that effect now for longer than, perhaps, you would have anticipated?

Mr. SOUTHARD. Not longer than I anticipated, Senator. I expected that it would take, if affairs were operated well, a good many months, and maybe several years at the least, for the internal prices in England to move up under the impact of higher import prices, gradual wage increases, gradual increases in the general price level, and tend to wipe out some of the advantage gained by the devaluation. But I would not have assumed, even in theory, that all of that advantage would necessarily be wiped out even over a long period.

Senator MILLIKIN. In the testimony before this committee in 1947 on ITO trade and the reciprocal trade system, the chairman of the committee asked a representative of the Monetary Fund this question on page 620 of those hearings, and the witness said, among other things:

> There are times, for illustration, when you might get much more effective results by setting a quota on imports than on rationing foreign exchange permits, because in many cases it may be easier to evade foreign exchange control than import control. At other times the reverse might be true.
>
> The CHAIRMAN. If you cheapen or render more expensive any one currency in terms of other currencies, you accomplish some of the effect which would be accomplished by a reduction in tariffs; is that not correct?

The witness replied, "Very true, Senator."

Do you agree with that?

Mr. SOUTHARD. I think I would agree with that statement—that last statement. The first part I do not think is very helpful.

Senator MILLIKIN. But the last part of it, so far as the effect of devaluation on the effectiveness of the tariff rate is concerned, you agree with that?

Mr. SOUTHARD. You might accomplish something of the same kind of result by either means.

Senator MILLIKIN. It has been developed, Senator Taft, that other countries that devalued promptly after Britain devalued—shall we refer to that as the United Kingdom devaluation or British devaluation?

Mr. SOUTHARD. United Kingdom.

Senator MILLIKIN. United Kingdom devaluation; make it that way—there were, oh, 18 or 19 other countries that promptly made their own devaluation; that, including the United States and United Kingdom, and those countries, 88 percent of the concession area of the world's trade is involved.

Now, in connection with——

Mr. SOUTHARD. Senator, would you mind if I revert to that last quotation you read?

Senator MILLIKIN. Yes; I wish you would.

Mr. SOUTHARD. I woud like to make this qualification, that tariff reductions or tariff changes—let me say tariff changes——

Senator MILLIKIN. May I back up, Mr. Southard? I want to be sure that I am using the right terms, sir.

Would you repeat my question to Mr. Southard—rather what I said to Senator Taft, Mr. Reporter?

(The record was read by the reporter as directed.)

Senator MILLIKIN. By "concession area" I mean that part of the trade covered by concessions within the GATT.

Mr. SOUTHARD. Well, I am not an expert on that, Mr. Bronz——

Senator MILLIKIN. I just wanted to get it clear.

Mr. SOUTHARD. I understand the language.

Senator MILLIKIN. I want to get it clear. If you confuse the concession area with all of the world's trade, you are liable to get into trouble with these figures. Pardon me.

Mr. SOUTHARD. I merely wanted to say that tariff adjustments, whether up or down, are usually selective. They rarely affect the whole range of the international transactions of the country. An exchange adjustment, whether up or down, tends to affect the whole range of these transactions; not equally, of course, but if there is a 20-percent depreciation or appreciation, it does affect the whole range of value relationships.

Senator MILLIKIN. That is right.

It does not necessarily follow that because the pound sterling has been devalued x percent that that means that their imports are made x percent more expensive.

Mr. SOUTHARD. No, sir.

Senator MILLIKIN. Or exports to this country are made x percent cheaper.

Mr. SOUTHARD. That is right.

Senator MILLIKIN. That depends on the commodity you are considering. There will not be any change in some commodities.

Mr. SOUTHARD. Exactly.

Senator MILLIKIN. For example, if the United Kingdom has a monopoly in this country for some product which has great demand, they make no change at all in sending it into this country, do they?

Mr. SOUTHARD. That is right.

Senator MILLIKIN. On the other hand, as the degree of competition increases, the importance of the devaluation becomes more important; is that not correct?

Mr. SOUTHARD. I would agree generally with that. But I merely wanted to say that in agreeing that you can have the same effect from tariff adjustments as from exchange adjustments, I did not want to imply I thought that in practice those two kinds of adjust-

ment tended to operate administratively as easily or in the same manner, because the one is more selective, probably, than the other.

Senator MILLIKIN. I would not contend anything to the contrary.

Mr. SOUTHARD. Yes, sir.

Senator MILLIKIN. But if you have an important devaluation of an important currency, you would not deny that there would be bound to be important repercussions on many items that are involved in trade.

Mr. SOUTHARD. Of course not.

Senator MILLIKIN. No.

Now did GATT counsel with your fund in connection with the sterling devaluation, or any of these other devaluations?

Mr. SOUTHARD. In what way, Senator? I am not sure I understand the question.

Senator MILLIKIN. To determine the effect on the concessions which exist under GATT.

Mr. SOUTHARD. There has been no specific consultation between GATT and the Fund on that particular point.

Senator KERR. Consultation on what?

Mr. SOUTHARD. The GATT members, or GATT acting for the members, in connection with detailed tariff negotiations, have not asked the fund that question, or for an opinion on that aspect of the problem.

Senator MILLIKIN. So GATT does not have any opinion from the Monetary Fund respecting the possible repercussions on concessions of these devaluations to which you have been referring?

Mr. SOUTHARD. No; they do not.

Senator MILLIKIN. Senator Kerr, let me bring you up to date.

Senator KERR. I would be very grateful if you would.

(There was discussion off the record.)

Senator MILLIKIN. Now, coming back to my last question to you, which was an effort on my part to find out what the consultation was between the fund and GATT——

Senator KERR. May I ask one further question there? Did you bring out the percentage of the devaluation or the extent of the devaluation?

Senator MILLIKIN. Not quite as yet; but the witness has put in the record information on that, but I think it would be good to bring it out in this connection. May I complete this question and then we will get it in?

Senator KERR. Fine.

Senator MILLIKIN. I believe your answer was, Mr. Southard, that there was no consultation.

Mr. SOUTHARD. That is right. There have been consultations between the fund and GATT, but not on that point.

Senator MILLIKIN. Not on that point.

So far as you know, did anybody make any representations to the fund as to the possible effect of the devaluation on concessions that have been made within the structure of GATT?

Mr. SOUTHARD. So far as I know, no; they did not.

Senator MILLIKIN. So far as you know, the fund did not consult with any countries with that particularly in mind; is that correct?

Mr. SOUTHARD. So far as I know, it did not.

Senator MILLIKIN. Would you mind referring to your memorandum so that we can get it right now? Just to pin this sterling-area business or the area where countries devalued sympathetically with the United Kingdom devaluation, would you mind starting with the United Kingdom devaluation, and from that point on through the rest of the countries that did that sympathetic devaluation, tell us the nature of the devaluation?

Mr. SOUTHARD. The nature of it in arithmetical terms, Senator?

Senator MILLIKIN. In terms of the lowering of the value of the money.

Mr. SOUTHARD. Well, the United Kingdom devaluation, at the bottom of the page, was a devaluation of 30.5 percent; and, as you see, that was from $4.03 to the now familiar figure of $2.80.

You will notice that, from the document, that devaluation included all territories except British Honduras. Indeed, the British Honduras currency, not very long afterward, as you see at the top of the third page of the document, was devalued to the same extent.

Senator MILLIKIN. Yes.

Mr. SOUTHARD. The reference to "all territories" covers what are called the dependent overseas territories, meaning, in common language, the colonial areas, but these areas include varying degrees of political maturity.

Senator MILLIKIN. Well, they would devalue exactly the same.

Mr. SOUTHARD. They were not required to under the Article of Agreement of the Fund, but they did.

Senator MILLIKIN. Well, there are ties with the mother country that would be in a very curious position if they did not do that.

There is some difference between those dependent countries and the independent, partially independent, countries.

Mr. SOUTHARD. Well I myself, Senator, do not believe, as a matter of financial technique or exchange management, that it is at all impossible for an important colonial area to have a different exchange rate from the mother country, so I would not want to agree that they could not; but the fact is they did.

Senator MILLIKIN. It would depend, to a considerable extent, on the nature of their trade.

Mr. SOUTHARD. That is right.

Senator MILLIKIN. Whether they were trading with the mother country or whether they were trading independently of the mother country. That would be the determining question there, would it not?

Mr. SOUTHARD. Yes. But those included fairly important territories, as you know; British Malaya, for example.

Senator MILLIKIN. Start with Australia, and tell us about that.

Mr. SOUTHARD. That is the same percentage, 30.5.

Senator KERR. 31.5?

Mr. SOUTHARD. 30.5 is the figure.

South Africa was the same. I ought to say roughly 30 percent in these cases, because some of the decimals varied very minutely.

Senator MILLIKIN. Do you mind if I go through that and give the percentage of concession trade as set forth in that annex to which I referred?

Mr. SOUTHARD. Certainly I have no objection.

Senator MILLIKIN. So, starting back with the United Kingdom, the percentage is 25.7 percent. Australia is 3.2 percent. That is what you are now discussing, Australia.

Mr. SOUTHARD. Yes.

Senator KERR. 3.20?

Senator MILLIKIN. 3.20 of the total trade within the concession area.

Senator KERR. The figures you are giving are the percentage of the total trade represented or carried on by the countries specifically mentioned?

Senator MILLIKIN. I will give it to you technically. It is the percentage shares of total external trade to be used for the purpose of making a certain determination under GATT. So, Australia has 3.2 percent of that total trade.

Senator KERR. Is there a relationship between the figures you are giving and the percentage of imports that come into this country?

Senator MILLIKIN. Well, yes, because it is a percentage of the total external trade of the countries in GATT, and we are a country of GATT. But the exact nature of that percentage and its effect on the the problem we are considering, that has not been determined, because we have not yet received those statistics.

Senator KERR. All right.

Senator MILLIKIN. Next is the Union of South Africa.

Mr. SOUTHARD. Yes, Senator, and I might say that in table III of the special NAC report to the Eighty-first Congress——

Senator MILLIKIN. What is the NAC?

Mr. SOUTHARD. The National Advisory Council on International Monetary and Financial Problems was established by the Bretton Woods Agreements Act. In its report to the Eighty-first Congress, second session, House Document 611, the percentages are calculated, and I will be referring to those percentages, and we could read that table into the record.

Senator MILLIKIN. Are they the same as the percentages I am talking about? Are they made from the same base?

Mr. SOUTHARD. I am not talking about your percentages; I am talking about the percentage devaluation, the figures I have been giving.

Senator MILLIKIN. Oh, yes.

Mr. SOUTHARD. In the case of Norway——

Senator MILLIKIN. You have not come to the Union of South Africa.

Mr. SOUTHARD. South Africa I had mentioned; I think I mentioned it hurriedly. It is the same percentage.

Senator MILLIKIN. 2.3 percent.

Mr. SOUTHARD. And the devaluation is 30.5.

Senator MILLIKIN. Thank you.

Mr. SOUTHARD. In Norway, the devaluation was 30.5 percent.

Senator MILLIKIN. 1.5 percent is its percentage of the type of trade we are talking about.

Mr. SOUTHARD. In India, the devaluation was 30.5 percent.

Senator MILLIKIN. 3.3 percent is its share.

Mr. SOUTHARD. Denmark was 30.5 percent.

Senator MILLIKIN. I do not have the figure on Denmark, because I do not believe Denmark was a member of GATT. Am I correct about that?

Mr. BRONZ. Senator Millikin, the figures given in annex H of GATT add up to 100, and comprise percentages of the total trade of the coun-

tries which were original contracting parties to GATT. Denmark became a contracting party after the Annecy negotiations.

Senator MILLIKIN. I see. Thank you very much.

Mr. SOUTHARD. Egypt then is 30.5 percent.

Senator MILLIKIN. I have no figure on that.

Mr. SOUTHARD. Egypt is not a contracting party to GATT.

The Canadian devaluation was 9.1 percent. Here is a case of a marked divergence from the, shall we say, United Kingdom pattern and, of course, reflects the well-known fact that Canada feels two major pulls, the United States and the United Kingdom, economically.

Senator MILLIKIN. We have had a relatively stabilized relationship with Canada on monetary matters for a long time past.

Mr. SOUTHARD. That is right. It has seldom differed by more than 10 percent.

Senator MILLIKIN. The percentage figure is 7.2.

Mr. SOUTHARD. Iceland, the devaluation here referred to is roughly 30 percent, or 30.5 percent.

There is, I believe, on the next page a second devaluation of the krone, but that was a later matter.

Senator MILLIKIN. I have no statistics on Iceland.

Senator KERR. What is the total devaluation?

Mr. SOUTHARD. Those two devaluations—the second one was not fully relevant to the point that Senator Millikin is discussing, because it arose out of peculiar Icelandic problems—totaled 60 percent.

Senator MILLIKIN. Six or sixty?

Mr. SOUTHARD. Sixty.

Senator TAFT. We might forget the trade with Iceland. I do not believe it is very important.

Mr. SOUTHARD. Iceland is not a GATT contracting party.

For the Netherlands, 30.2. That was one of the cases of minimal differences from the UK percentage.

Senator MILLIKIN. Would you mind giving us Belgium and Luxemburg in that same connection?

Mr. SOUTHARD. Belgium-Luxemburg was 12.3 percent.

Senator MILLIKIN. Each?

Mr. SOUTHARD. There is a currency union there, and Luxemburg depends on the Belgian franc for all overseas trade, so that although there are separate rates, they always act together.

Senator MILLIKIN. And each one of them devalued 12⅓ percent.

Mr. SOUTHARD. 12.3 percent.

Senator MILLIKIN. The total percentage of the trade, I have been discussing for the three countries, is 10.9 percent.

Mr. SOUTHARD. You will note, Senator Millikin——

Senator MILLIKIN. Pardon me, Senator Kerr, I interrupted you as you were about to say something.

Senator KERR. The figures that I see here on page 2 with reference to Belgium and Luxemburg represent more than 12 percent.

Mr. SOUTHARD. From 43.8 francs to 50 francs. I have not done the arithmetic recently, Senator, but I believe that it was about 12 percent. I could have somebody run the calculation for us and check it.

Senator KERR. I assure you it is more than 12 percent. I do not know anything about tariffs, but I can figure percentage.

Senator MILLIKIN. I figure one of them about 14 percent.

Senator TAFT. He is a rapid calculator.

Mr. SOUTHARD. I am not, Senator. It may be that we are getting a slight difference, depending on which kind of quotation we are using. The quotations here are the foreign currency values in United States cents per unit of currency, whereas the others are total number of units of the foreign currency per dollar.

Senator KERR. This says 43.8 francs to 50 francs per United States dollar.

Mr. SOUTHARD. That is right and that is what you used for your calculations.

Senator KERR. And on that basis my opinion is that it is more than 12 percent.

Mr. SOUTHARD. May I check the figures and correct the record?

Senator KERR. It is your record.

(The witness supplied the following further explanation of the computation of the percentage devaluation of the Belgian franc:)

On September 21, 1949, the value of 1 Belgian franc was reduced from 2.28167 United States cents to 2 United States cents, or a reduction of 12.3 percent. Looking at this devaluation from the other viewpoint, the value of 1 United States dollar was increased from 43.8275 Belgian francs to 50 Belgian francs—an appreciation of 14.1 percent. The difference between the two percentage figures is a normal result of calculating from opposite sides of the rate of exchange equation. Thus, in the contemporaneous devaluation of the pound sterling, the value of 1 pound sterling in terms of United States currency was reduced 30.5 percent; the value of 1 United States dollar in terms of United Kingdom currency was increased 43.9 percent.

Mr. SOUTHARD. Iraq devalued by the same percentage as the United Kingdom, and Iraq is not a contracting party to GATT.

That brings me down to Uruguay, which has a very complex——

Senator MILLIKIN. Did you give us Greece?

Mr. SOUTHARD. Well, Greece and Finland, Senator, have had complex multiple-rate systems, which make it impossible, without extremely careful calculations, which I do not have available, to determine the exact percentage of the change.

Senator MILLIKIN. When you have this multiple-rate situation it would be difficult, in any event, to figure out what this exact relationship would be, would it not?

Mr. SOUTHARD. That is right.

Senator MILLIKIN. That is more or less of an opportunistic thing, is it not, the relationship between the various currencies of a multiple-currency system?

Mr. SOUTHARD. "Opportunistic" is an unkind word, but at least a multiple-rate system can be one in which a large number of rates are adjusted to suit a series of different commodities, and it takes very careful calculation to figure out the average effective rate of exchange.

Now, we can make such calculations and I could try to supply them, if you wish.

Senator MILLIKIN. I do not have a figure for Greece.

Mr. SOUTHARD. It is very small, I should think.

Senator MILLIKIN. The next one is Finland. They have a multiple currency situation.

Mr. BRONZ. Greece and Finland both became GATT contracting parties at Annecy, but were not contracting parties of GATT originally.

Senator MILLIKIN. You have given us Belgium, I believe?

Mr. SOUTHARD. I think I have covered the countries down to Uruguay, which is another complex multiple rate arrangement.

Senator MILLIKIN. Did you give us the French possessions?

Mr. SOUTHARD. Oh, yes. In France and the French possessions, there was a devaluation of the effective commercial rate of something in the order of 23 percent, and there were similiar adjustments in the French possession rates which were linked more closely with the metropolitan franc.

Senator MILLIKIN. What does "CFP" mean? It says, "franc in CFP pegged"—the French franc?

Mr. SOUTHARD. That is an abbreviation of a French phrase which means the French colonies of the Pacific.

Senator MILLIKIN. I see. All right. Now what about Iraq?

Mr. SOUTHARD. Iraq devalued to the same extent as the United Kingdom.

Senator MILLIKIN. We are now down to Uruguay, which is quite an——

Mr. SOUTHARD. Which involved quite a complex set of rate exchanges. I doubt if I could give you a devaluation percentage figure on a quick inspection. It would take very careful calculations back to the trade figures to give you anything useful on Uruguay. I would be glad to try to do it, if you wish.

Senator MILLIKIN. So far as you know, none of these devaluations which we have been discussing came or was brought before the fund by GATT, and neither did the fund bring those matters before GATT, is that correct?

Mr. SOUTHARD. Yes, that is correct.

Senator MILLIKIN. Are there any other important devaluations that you believe would be worth while to bring to our attention, that are not covered in these multiple rate changes?

Mr. SOUTHARD. Well, I could mention, since it is close to the United States, the Canadian change on page 3, in the middle of the list. Last October, Canada abandoned its par value and allowed its dollar rate to fluctuate, and since that time the rate has been holding fairly steadily at around 95, whereas the par value for the previous year, you will recall, was 90. Thus, there was an appreciation of the Canadian dollar which cut by about one-half the previous depreciation.

Senator KERR. Let me ask you at this point, if I may, what is the present relationship between these relative rates that you have on this sheet of paper and the actual trading value of these various currencies?

Mr. SOUTHARD. Well, the general reply I would give, Senator, is that in almost all cases these are the effective rates of exchange, in addition to being officially the par values; that is to say, the trade is actually carried out at these rates. On the other hand, there are cases in the world, and this would be true of a few of these multiple-rate cases, where only a part, and maybe even only a small part, of the trade is carried out at the par value. Some countries have various taxes on foreign-exchange transactions, and therefore various other effective rates at which much trade is carried out. But in all these cases, I believe all of them, where I have on this sheet given the par value, it is the effective rate of the country.

Senator MILLIKIN. That comes about through the adherence to the Monetary Fund?

Mr. SOUTHARD. I do not say necessarily all.

Senator MILLIKIN. Does that not come about through the adherence of these countries to the Monetary Fund, and agreements to which they commit themselves when they become a member of the fund?

Mr. SOUTHARD. Not quite, Senator.

Senator MILLIKIN. Will you explain that, please?

Mr. SOUTHARD. Where the country has established a par value, and has not, in consultation with the fund, established or maintained some multiple-rate system, then it would be the expectation of the fund that it is, in fact, making its par value the effective rate for all its trade. But the fund does have authority under article VIII to approve multiple rates, and under article XIV—which is the so-called postwar transition period article—countries which had restrictions or multiple-rate systems, may also continue those under the general scrutiny of the fund.

Senator MILLIKIN. Yes.

Mr. SOUTHARD. So that, in fact, there are a very considerable number of countries where they do have a variety of rates, with the knowledge, and in one way or another, the consent of the fund.

Senator MILLIKIN. Well, that keeps them within the coverage of the fund.

Mr. SOUTHARD. That is right; but I did not wish to imply in the record that every member of the fund must have a par value which is uniformly applied.

Senator MILLIKIN. I understand it.

Mr. SOUTHARD. That is the goal; that is certainly the goal.

Senator MILLIKIN. Where you have these deviations, they are after consultation with the fund.

Mr. SOUTHARD. That is right.

Senator MILLIKIN. And if they want to stay official, it is with the acquiescence of the fund, is that not correct?

Mr. SOUTHARD. That is right; I would accept that, Senator.

Senator MILLIKIN. Before we enter into a discussion with respect to gold, I would like to introduce in the record and invite the witness' attention to the first sentence or the first paragraph of article XV of GATT, which reads:

> The contracting parties shall seek cooperation with the International Monetary Fund to the end that the contracting parties and the fund may pursue a coordinated policy with regard to exchange questions within the jurisdiction of the fund and questions of quantitative restrictions and other trade measures within the jurisdiction of the contracting parties.

Senator KERR. At that point—I do not think this is germane, Mr. Chairman, but I would like to ask the witness this question, if I may: What is the present world price of gold in terms of the American dollar?

Mr. SOUTHARD. Thirty-five dollars an ounce, Senator.

Senator KERR. Well, is there deviation from that?

Mr. SOUTHARD. There are free and black markets for gold in some countries of the world. There is private legal and illegal trading in gold in some parts of the world at these free or black market prices; but so far as the fund is concerned, the par value system is based on and is linked to the present price of gold, and the only way in which, so far as the fund is concerned——

Senator KERR. You mean these par values that you are giving us are based upon the price of gold being $35 an ounce?

Mr. SOUTHARD. That is right.

Senator KERR. Well, what part of the trading in gold that now goes on is being done at that price?

Mr. SOUTHARD. So far as official monetary transactions are concerned——

Senator KERR. I am not interested insofar as official transactions are concerned. I am talking about total transactions.

Mr. SOUTHARD. I think that is a much harder question to answer.

Senator KERR. If you cannot answer it, say so.

Mr. SOUTHARD. Because it involves a great deal of guessing, and I would like, if I may, enter that into the record later. We do have some calculations that I want to check with the fund that constitute guesses as to what volume of gold may have moved into free or private unofficial markets. It is a very broad guess, at best.

(The following table was later supplied for the record:)

Estimate of absorption of gold into private hoards, 1946–50

[In millions of United States dollars]

	1946	1947	1948	1949	1950 year [1]	1950 first half [1]	1950 second half [1]
Gold production [2]	760	775	810	835	861	435	436
Increase in official gold holdings [3]	295	450	400	478	427	318	109
Absorption into industry, arts, professions, and private hoards	465	325	410	357	434	107	327
Estimated absorption into industry, arts, and professions in occidental countries	205	110	100	170	[4] 160	[4] 80	[4] 80
Estimated absorption into private hoards	260	215	310	187	274	27	247

[1] Provisional.
[2] Estimated world production excluding the U. S. S. R.: valued at U. S. $35 per fine ounce.
[3] Estimates of changes in official gold holdings are based on figures supplied by the Federal Reserve Board, and include gold holdings of international institutions and of stabilisation funds.
[4] Estimated at approximately the same annual rate as in 1949.

Senator KERR. Is there a considerable percentage of it that moves in that particular part of the market?

Mr. SOUTHARD. I would rather use the word "quantity" instead of "percent." There is a considerable amount of gold that moves into it. I am not sure what percentage these constitute of total gold transactions throughout the world in a year.

Senator KERR. What is the price of gold in that market?

Mr. SOUTHARD. It is not a homogeneous market, Senator. There are various gold prices.

Senator KERR. What is the range?

Mr. SOUTHARD. The range also varies, but it is a range from close to $35 up to something about $50.

Senator MILLIKIN. Has it not gone as high as $75 and $80?

Mr. SOUTHARD. As high as $60 in a few isolated markets. It ranges or differs with the political atmosphere of the world or the degree of Communist threat in a given area. It differs with people's fear of inflation; in some areas, they hoard gold. It is a highly volatile price, which, indeed, within the last few weeks, with things looking quieter, has tended to go down in some of those markets. After Korea it went up.

Senator KERR. What would you say was a rough guess of the average of the price of gold in the black market, so-called?

Mr. SOUTHARD. I would not wish to venture a guess at this time.

Senator KERR. Would it be as much as $45 an ounce?

Mr. SOUTHARD. I would not have any careful judgment. It has been dropping.

Senator KERR. Is there anybody connected with your organization that would be qualified to answer that question?

Mr. SOUTHARD. I think we could get some of the representative figures in leading gold markets. We will try to get those and put them into the record.

Senator MILLIKIN. May I interrupt, Senator? I happen to know that at least a year or two ago there was one gentleman over in the Treasury Department who was giving special attention to the question of black market gold, and if he is still there, I should think he would be able to illuminate this thing completely, because at least at that time he told me of the different markets.

Mr. SOUTHARD. That is right.

Senator MILLIKIN. He told me of the different markets for gold that were unofficial, and gave me ranges of figures at that time; and I should think he would be able to give you exactly what you want, Senator.

Mr. SOUTHARD. I think we can get something between the Treasury and the fund.

Senator MILLIKIN. Will you put it into the record?

Mr. SOUTHARD. Yes.

The CHAIRMAN. When you get it, transmit it to the clerk, please.

Mr. SOUTHARD. Yes.

(The information referred to is as follows:)

End of month prices of bar gold in various world markets

[In United States dollars per fine ounce at free or black market exchange rates]

Date	Beirut	Hong Kong	Rome-Milan [1]	Paris [2]	Tangier
1949—January	.....	50.12	50.00	50 71	.....
February	.....	48.55	48.44	49.93	.....
March	.....	49.07	.....	50.92	.....
April	.....	53.89	.....	50.48	48.79
May	46.61	[3] 57.86	51.43	50.90	52.44
June	.....	53.58	51.41	50.84	53.10
July	47.73	54.33	51.35	51.72	49.66
August	46.60	50 27	50.84	53.08	49.54
September	45.50	49.59	51.61	52 51	50.16
October	44.29	46.69	51.91	51.73	47.85
November	[4] 42.04	43.28	46.70	49.10	44.47
December	41.39	38.75	45.04	46.22	43.19
1950—January	41.47	39.16	44.13	45.23	42.93
February	40.86	39.79	41.19	42.74	39.90
March	39.71	36.87	40.81	41.50	42.08
April	38.40	38.42	39.39	40.84	40.15
May	36.51	37.31	38.19	38.48	39.19
June	38.05	43.94	40.86	41.06	40.06
July	39.14	44.89	40.60	43.39	41.08
August	38.99	41.52	39.77	41.22	41.28
September	38.99	38.30	39.86	41.50	41.20
October	38.66	40.37	39.46	40.28	40.06
November	38.26	43.06	39.67	41.07	.....
December	39.97	44.74	41.40	43.06	40.00
1951—January	42.79	47.24	43.26	44.36	42.125
February	42.56	46.54	42.94	44.23	42.25
March	[5] 41.77	45.27	[6] 41.50	[6] 42.24	[7] 40.40

[1] Prices quoted are from the Rome market through November 1949; other prices are from the Milan market.
[2] Prices for last Friday of each month January 1949 through April 1950; end of month thereafter.
[3] Highest reported price in history of Hong Kong (the equivalent of U. S. $68.93 per fine ounce) occurred on May 25, 1949.
[4] Mar. 6.
[5] Mar. 20.
[6] Mar. 21.
[7] Mar. 22.

Senator KERR. What is the basic reason for the present decline that has taken place in the stocks of gold owned by this Government?

Mr. SOUTHARD. I would say broadly a strong demand for imports, together with rising prices for a number of important commodities, such as wool, which have tended to give almost all of the food and raw material producing countries a strong trading position. That, I would say, is the main development.

Senator KERR. To what extent has the gold owned by this Government been reduced in the last 12 months?

Mr. SOUTHARD. In the last several years?

Senator KERR. Twelve months.

Mr. SOUTHARD. The last 12 months? I have in the year 1950 roughly 1.8 billion dollars.

Senator KERR. Has that continued through the first quarter of this year?

Mr. SOUTHARD. The decline has continued; yes.

Senator KERR. Then, has it been at an accelerated rate?

Mr. SOUTHARD. The rate has been accelerating somewhat. I would be glad to check the rate and get the first quarter figures.

Senator KERR. I would be glad if you would put that into the record.

(The information referred to, later submitted, is as follows:)

United States net sales of monetary gold, January 1–April 6, inclusive, amount to $913.5 million.

Senator KERR. Now, then, tell me this. How unhealthy is that?

Mr. SOUTHARD. Senator, I have a very brief statement, which I prepared in order to have it worded more carefully, and, indeed, is the only statement I would care to read, if you do not mind by reading it, and then I will try to elaborate on it.

Senator KERR. Is it all right with the chairman to have it go into the record at this point?

Mr. SOUTHARD. I would be glad to hand copies of this brief statement to members of the committee.

Shall I read the statement or just place it in the record without reading it?

The CHAIRMAN. Suppose you read it, Mr. Southard.

Mr. SOUTHARD. Since the beginning of 1950, there has been an outflow of gold from the United States of about $2.6 billion.

Senator KERR. Then, the first quarter would be about $800 million?

Mr. SOUTHARD. That is right, something in that order.

Senator KERR. So that last year we had an outflow of 1.8 billion. At the rate of $800 million a quarter we would have an outflow of 3.2 billion dollars.

Mr. SOUTHARD. That is right, it is accelerated. But the biggest acceleration occurred last summer, and the rate of loss has not changed greatly since the first of this year.

Contributing to this movement of gold has been a shift in our international accounts occasioned in part by increased demands for foreign materials associated with the defense effort, plus substantial adjustments in prices of commodities entering world trade.

The gold movement has also reflected the recovery of the payments position of a number of areas of the world, especially since the time of the devaluation of sterling.

Senator KERR. Just there, what does that mean?

Mr. SOUTHARD. It means that prior to the devaluation of sterling, there was a measurable disparity of prices in the sense that in the dollar area (primarily the United States, Latin America, and Canada) commodity prices, generally, particularly for manufactured goods, but also for some others, tended to be measurably lower, measured particularly by general price indexes, than the prices of Western Europe and the United Kingdom, in particular, and to some extent the price of the rest of the so-called soft currency area, which was primarily the sterling area.

Senator KERR. This says:

The gold movement has also reflected the recovery of the payments position.

Mr. SOUTHARD. That is right.

Senator KERR. Does that mean the recovery of their position of being able to pay?

Mr. SOUTHARD. It means the recovery of their balance of payments to the position where, rather than having a continued decline in their reserves, that decline, in general, has tended to be arrested, and in many instances they have begun building up their reserves again.

Senator MILLIKIN. Does it not also mean they have increased their exports.

Mr. SOUTHARD. That is right.

Senator MILLIKIN (continuing). Which have caused this result about which you are talking?

Mr. SOUTHARD. Their exports have increased, and they have also increased their earnings from service transactions.

The CHAIRMAN. Do you have the statement that appeared in the morning press about the reserves, the British and sterling area?

Mr. SOUTHARD. I read it in the press, Senator.

The CHAIRMAN. You read it in the press? You have not the statement?

Mr. SOUTHARD. I have no official statement.

The CHAIRMAN. You have no official statement?

Mr. SOUTHARD. I read it probably through the same source that you did, Mr. Chairman.

The CHAIRMAN. Yes, sir.

Senator MILLIKIN. Do you mind, Senator, if I ask one more question before you go on? Had you finished, Mr. Chairman?

The CHAIRMAN. Yes; I had. I thought if we had that statement it might shed some light on this general statement of Senator Kerr's.

Senator MILLIKIN. Going back again to what I thought we were talking about a moment ago, the way they balance their accounts, and get into a better position, which is to sell more outside of their country——

Mr. SOUTHARD. That is right.

Senator MILLIKIN (continuing). And the devaluation has tended to increase their export trade——

Mr. SOUTHARD. That is right.

Senator MILLIKIN (continuing). Which is another way of saying——

Mr. SOUTHARD. And tended to decrease their import trade; it is both, Senator.

Senator MILLIKIN. That is right, I agree entirely. Which is saying in terms of the United States that it has increased imports into the

United States, which have given those countries a greater claim for gold than they have had before, and they have pursued the claim, is that correct?

Mr. SOUTHARD. That is correct, broadly.

Shall I continue, Mr. Chairman?

The CHAIRMAN. Yes.

Senator MILLIKIN. I am sorry to have interrupted you.

Senator KERR. You are shedding light on it, and that is what I am looking for.

I want to ask him a question in these words: This means that at the present time we are importing more than we are exporting, and paying for the difference in gold, does it not, stated simply and briefly?

Mr. SOUTHARD. With respect to some countries. Our over-all trade balance for the whole world has, of course, for the whole of last year, showed more exports than imports, and while there were brief periods toward the end of 1950 when there was actually an excess of imports over exports, it is not true of the whole year, and I am not sure that it was true the first quarter of this year. I would have to check those figures.

Senator KERR. Mr. Southard, would you develop for the record how the United States can be a creditor nation and, at the same time, be losing gold?

Mr. SOUTHARD. The flow of gold in and out of the United States depends on the movement of the entire balance of payments of the United States with the rest of the world, including both current and capital transactions. It is important to distinguish the balance of payments from the balance of trade. There is submitted herewith a summary table showing the balance of payments of the United States for 1950. It can be seen from this table that the United States actually exported goods and services which exceeded imports of goods and services by $2.2 billion. However, this net surplus on account of trade and services was much more than offset by net outflow of private capital and private donations and by public loans and grants. The net result was that the rest of the world acquired $1.7 billion in gold and increased its dollar holdings by $1.9 billion in the course of its transactions with the United States.

United States balance of payments, 1950 [1]

[In billions of dollars]

A. Goods and services:	
Exports	10.7
Imports	−9.3
Trade balance	1.4
Service receipts	3.7
Service payments	−2.9
Services balance	.8
Total	2.2
B. Private donations, net	−.4
C. United States private capital, net	−1.1
Total (A through C)	.7

[1] No sign indicates credit; minus sign indicates debit.

United States balance of payments, 1950—Continued

[In billions of dollars]

D. U. S. Government grants and loans, net:	
Mutual defense assistance	—.5
Other	—3.8
Total	—4.3
E. Foreign countries' gold and dollar assets:	
Increase in long- and short-term dollar assets	1.9
Purchase of gold from United States	1.7
Total	3.6

Source: U. S. Department of Commerce, Survey of Current Business, March 1951.

This analysis of the relationship between the creditor position of the United States and the loss of gold is further elaborated in the following excerpt from the Federal Reserve Bulletin (March 1951, pp. 257–259):

CAUSES OF THE REVERSAL IN GOLD AND DOLLAR MOVEMENT

The basic cause of the outflow of gold and the rise in foreign dollar balances in 1950 was a further decline in the United States export surplus combined with a continued flow of United States Government aid. The export surplus (including services) dropped from 8.2 billion dollars in 1949 to about 2 billion in 1950, reflecting improvement in the economic and competitive position of foreign countries and also the emergence of sellers' markets for many raw materials produced abroad. Accompaning this reduced export surplus was a net extension of United States Government aid of 4.1 billion dollars, primarily to Western European countries. While this represented a considerable reduction from the 1949 total aid of 5.9 billion, the amount nevertheless exceeded the over-all export surplus by about 2 billion dollars. Without this net outlay of dollars, the bulk of the growth in foreign gold and dollar resources could not have taken place.

It should be noted that the figure of 4.1 billion dollars, representing the net utilization of United States foreign aid, does not reflect fully the reduction in allotments under the European recovery program that were made possible during 1950 as conditions abroad improved. Owing to a lag between allotment of funds and actual flow of goods, the effects of these reductions will be felt mainly during the course of the current year. On the other hand, the 1950 aid figures include only a comparatively small portion of the defense assistance that is projected under the mutual defense assistance program.

Another factor which helped to finance the export surplus, and contributed to the increase of foreign gold and dollar holdings, was an estimated 1.4 billion dollars made available to foreigners in 1950 through private financial transactions. Of this amount about 1 billion represented direct investments and loans, including certain special transactions such as a 225 million dollar loan extended to France by private American banks. The remaining 400 million represented private donations.

During the second half of the year, and especially in the third quarter, the movement of private funds from the United States included some speculative capital, particularly to Canada and the sterling area, and in smaller amounts to Latin America. The extent and significance of this outflow was greatly exaggereated in some press comments. Reports of "capital flight" in the second half of 1950 often confused transfers of American and other dollar funds with movements of nondollar funds from Europe. Also, they often confused current account payments with capital transactions and failed to distinguish between bona fide foreign investment and the speculative movements of funds.

There was a heavy flow of American funds to Canada in the third quarter of 1950. Canadian holdings of United States dollars rose by 900 million dollars in a period of 3 months, a much larger expansion than can be accounted for by trade and service transactions. The flow was to a considerable extent connected with anticipated changes in the value of the Canadian dollar. A substantial part of the flow appears to have represented advance purchases of Canadian dollars by American companies projecting future investments in Canada. Of the remainder, much of which arose from speculation with the object of obtaining

an exchange profit, some part may eventually find its way into long-term investment in Canada. There was only a small return flow of dollars to the United States in the latter part of 1950 after the unpegging of the Canadian currency.

There was also an unusual demand for sterling during the autumn of 1950, part of which appears to have originated in Canada as well as in the United States. Some of this demand accompanied unfounded rumors of sterling appreciation, but the major portion probably resulted from the rapidly expanding purchases of raw materials from the sterling area. Speculation on sterling revaluation subsided toward the end of the year.

The movement of funds to Latin America arose from a variety of motives. American venture capital was attracted by the developing boom in a number of countries, especially Mexico. It appears that the flow of funds also involved substantial amounts of foreign-held (e. g., European) dollar balances; such transfers altered the distribution of dollar assets among foreign holders but did not, in themselves, affect the aggregate amount. In addition, there was probably also a movement of nondollar capital from Europe to the Western Hemisphere.

The nature and extent of the outflow of private capital in 1950 should be evaluated in the light of the over-all balance-of-payments position of the United States, and reactions abroad to economic trends in this country. The bulk of the accumulation of gold and dollars by foreign countries in 1950 was the result of a shift in the trade balance and of continued American aid. The net gain in dollar balances was approximately equal to the net gain in gold, with varying degrees of preference among foreign monetary authorities between the two forms of holdings. At the same time, however, the outflow of private capital, whether from European or American sources, was apparently motivated in part by fears of further deterioration in the international situation as well as by inflationary developments in the United States.

The CHAIRMAN. Let me read this article from the New York Times. It is not as full as some other statements I saw this morning with respect to the statement made by the Chancelor of the Exchequer made yesterday to the House of Commons.

This statement says that the Chancelor told the House of Commons "that they amount to $3,758,000,000 on March 31, a rise of $458 million since December 31."

The Chancelor was reporting on the balance of trade between the sterling area and the rest of the world. The improvement in the British financial situation is still largely the result of earnings by other countries in the sterling area.

Had it not been for the big dollar earnings of Malaya for tin and rubber, and the high prices of wool from Australia and New Zealand, the picture would not be so bright, for the United Kingdom itself remains in deficit with dollar area.

These gains by dollar earners in the Commonwealth add to the hoard of gold and dollars in London, but at the same time they increase London's sterling liabilities. There is still a danger that if the United Kingdom cannot requite the balance with goods or services, the demand for conversion of sterling into dollars will increase throughout the Commonwealth.

Oliver Lyttelton said the opposition would not debate the figures until after the budget was submitted next Tuesday.

Now, I think that, included in this rise again, was some 90 billions of Marshall plan aid that had not been cut off.

Senator KERR. I think the figure you mean is something else.

The CHAIRMAN. Ninety-odd millions I mean. I think it is about 98 millions, I am not sure, of Marshall aid which was cut off when—last December?

Mr. BRONZ. I think the cut-off date was as of the end of the year, as of December 31.

The CHAIRMAN. As of the end of the year; but included within this general rise that the Chancelor was talking about, was the Marshall plan aid to the extent that it entered into it. I think that was the statement that I had in mind.

All right, I think if you would let Mr. Southard proceed——

Senator KERR. I want to ask him another question, if I may. Can you put a chart in the record showing the gold holdings of the various countries, most of Western Europe and this country?

Mr. SOUTHARD. Just the gold?

Senator KERR. The gold.

Mr. SOUTHARD. Not their official dollars. I will put that in; yes, I will be glad to put that in the record.

Senator KERR. Yes.

Mr. SOUTHARD. You would like it, perhaps, for the years 1945 through 1950?

Senator KERR. That is right.

(The information referred to is as follows:)

Monetary gold holdings

[In millions of United States dollars]

	End of—					
	1945	1946	1947	1948	1949	1950
United Kingdom	1,066	2,411	2,025	1,005	1,350	2,000
South Africa	614	698	762	153	128	107
Other sterling area	471	445	446	379	404	406
Total	3,361	3,744	3,233	2,107	1,882	3,503
Other OEEC countries:						
Belgium-Luxemburg [1]	749	751	613	647	754	649
France [1]	1,577	889	570	571	543	543
Italy				98	252	252
Netherlands [1]	421	416	255	214	219	334
Sweden	482	381	105	81	70	90
Switzerland	1,342	1,430	1,356	1,397	1,604	1,470
Other [1]	1,136	1,124	884	664	733	936
Total	5,707	4,991	3,753	3,662	4,075	4,274
Canada	361	543	294	403	496	590
Latin America:						
Argentina	1,197	1,072	289	141	216	216
Brazil	354	354	354	317	317	317
Cuba	191	226	279	289	299	271
Mexico	292	180	100	42	52	115
Venezuela	209	218	218	323	373	373
Other	552	540	416	376	398	588
Total	2,768	2,587	1,653	1,488	1,655	1,880
Other foreign countries [2]	1,518	1,464	1,378	1,311	1,287	1,267
Total foreign countries	13,705	13,329	10,306	9,036	9,395	11,514
United States	20,083	20,706	22,868	24,398	24,543	22,819
IMF and IBRD			1,360	1,436	1,451	1,494
Grand total [3]	33,788	34,035	34,534	34,870	35,409	35,827

[1] Including dependencies.
[2] Including BIS holdings for own and EPU account.
[3] Excluding U. S. S. R.

Source: International Financial Statistics and Federal Reserve Bulletin, April 1948, March 1951.

Senator KERR. What is the amount of production of gold annually that enters into monetary value?

Mr. SOUTHARD. May I put that in the record? It is a small figure.

Senator KERR. What is the annual production of gold in the world that you know about?

Mr. SOUTHARD. I think we have that here.

Senator KERR. Will you put the answer to the previous question in the record?

(The information referred to is as follows:)

Estimate of annual increase in world official gold holdings[1]

[In millions of United States dollars]

1946	295	1949	478
1947	450	1950	427
1948	400		

[1] Excluding U. S. S. R.; including gold holdings of international institutions and of stabilization funds.

Senator MILLIKIN. It is the smallness of the figure that has represented one of the principal arguments in favor of those who believe in the gold standard as giving that standard virtue.

Senator KERR. Or not giving it.

Mr. SOUTHARD. A considerable part of the newly mined gold, of course, goes into commercial channels. The world's total gold production——

Senator KERR. Is that exclusive of the U. S. S. R.?

Senator MILLIKIN. Yes. We do not know what it is.

Mr. SOUTHARD. It excludes the U. S. S. R.

Do you wish the latest year on it?

Senator KERR. Yes.

Mr. SOUTHARD. In 1950, which is estimated, because it is pretty early——

Senator KERR. Yes.

Mr. SOUTHARD. $850 million at $35 an ounce.

Senator KERR. That was the total production?

Mr. SOUTHARD. That is right.

Senator KERR. Is there an estimate of the percentage of it that goes into the monetary——

Mr. SOUTHARD. That is the figure I do not have, but I will endeavor to get it. (See p. 1412.)

Senator MILLIKIN. There was a time, was there not, when many people were actually figuring, and that was a time of greater normality than we have at the present time—of how we could actually redistribute at least a part of our gold surplus to lend stability to the monetary systems of other countries?

Mr. SOUTHARD. Yes, sir.

Senator MILLIKIN. I think that that view has disappeared because of the instability of the whole world, and the instability of the many currencies of the world, and gold shipped to us by others, whatever the mechanics might be, would just go down the drain, and lose itself in a general fiscal insolvency of many other nations; is that not correct?

Mr. SOUTHARD. Yes, sir.

Senator MILLIKIN. Of course, there is a whole lot of concern about our export of gold and, of course, one of the concerns touches this question of our trade relations; what is happening tradewise, of which this gold outflow may be a symptom, and I think we have gone into that somewhat this morning.

I think there is also a pretty general fear that we are shipping gold to foreign countries which, in turn, is being used in their own financial affairs to get more than the official value of the gold.

Senator KERR. More than $35 an ounce.

Senator MILLIKIN. More than $35 an ounce.

Will you comment on that, please? Then I would want to get into the black market.

Mr. SOUTHARD. Is it your suggestion that we would be shipping gold officially to those countries?

Senator MILLIKIN. That is right. A foreign country has X quantity of gold——

Mr. SOUTHARD. Yes.

Senator MILLIKIN (continuing). Which officially is valued at $35 an ounce.

Mr. SOUTHARD. Yes.

Senator MILLIKIN. What can it do, or what does it do, to get more than $35 an ounce for that gold while it has the gold?

Mr. SOUTHARD. Well, foreign governments could sell the gold at home or abroad in a so-called premium market, and acquire, if they sold it at home, their own currency at a rate greater than the equivalent in their currency at $35 an ounce.

Senator MILLIKIN. They could do the same thing in their transactions with others.

Mr. SOUTHARD. If they sold it abroad, in some market like Tangiers, it would be sold for some other foreign currencies, even dollars——

Senator MILLIKIN. How do they do that?

Mr. SOUTHARD. To the best of my knowledge the great generality of foreign central banks and governments do not engage in such transactions.

Now, what foreign central banks do is not always, or much of the time, a matter of record. They may engage in secret stabilization operations through banking agents. It may be very difficult, even for other governments, to trace such transactions.

Senator MILLIKIN. They might be using their gold to get more than $35 an ounce.

Mr. SOUTHARD. Some of them may be doing it.

Senator MILLIKIN. Yes.

Mr. SOUTHARD. If such gold sales are being carried out, it is not likely that profit is the primary objective. A central bank may sell gold for internal stabilization reasons, with the incidental effect of making a profit on the transaction, but not with that purpose.

Senator MILLIKIN. Yes.

Of course, I think the thing that disturbs the American citizen, aside from losing gold, is that where they make this unofficial use of gold to get more than $35 an ounce for it, the American taxpayer is paying the bill, is that not correct?

Mr. SOUTHARD. Well, we would not ourselves sell gold for anything other than $35 an ounce.

Senator KERR. What price?

Mr. SOUTHARD. $35 an ounce.

Senator MILLIKIN. If we are selling something at $35 an ounce that is worth more——

Mr. SOUTHARD. It would mean that somebody else is making a profit.

Senator MILLIKIN. The people of the United States as represented by the Government, are paying the bill, are they not?

Mr. SOUTHARD. Could I put it this way: that somebody would be making a profit——

Senator MILLIKIN. Yes.

Mr. SOUTHARD (continuing). But we would not ourselves engage in making that profit.

Senator KERR. We would be suffering the loss, would we not?

Mr. SOUTHARD. We would be losing the gold.

Senator MILLIKIN. We would be refraining from selling our gold at a profit, which comes to the same thing, does it not?

Mr. SOUTHARD. Yes, sir.

Senator MILLIKIN. In other words, we are, as Senator Kerr so pungently put it, suffering the loss which the people of the United States are suffering.

Mr. SOUTHARD. Could I say one further thing on that?

Senator MILLIKIN. Yes.

Mr. SOUTHARD. It is my belief, Senator, that no central bank is deliberately selling its official gold for the purpose of making a profit.

Senator KERR. Would the effect be less positive if it is being done deliberately?

Mr. SOUTHARD. As I say, some of them engage in stablization procedures in their own market with the same effect.

Senator KERR. Is it possible that some central banks are calling upon this country to reduce their dollar balances or to redeem their dollar balances of themselves with this country in gold at $35 an ounce, and then those foreign central banks take that into the black market and get 45 American dollars for each ounce of that gold, and get those American dollars that they obtain in that manner over here, and with that obtain additional gold for $35 an ounce?

Mr. SOUTHARD. It is possible, Senator, but extremely unlikely.

Senator MILLIKIN. What steps do you take to check the use of gold in countries that get it from us?

Mr. SOUTHARD. The Federal Reserve Bank, which is the agent of the Treasury in these matters, sells gold to foreign central banks only on a formal assertion that the purpose of the gold transaction is purely monetary.

If we had reasonable ground to suspect that a country was buying the gold for, shall I say, the kind of endless chain that Senator Kerr suggested might take place, the Treasury and the Federal Reserve Bank would investigate the matter with great care.

Senator MILLIKIN. Are we running such investigations

Mr. SOUTHARD. Well, I should say this: In any case, even such as the rumor that you may have seen in the press that the Bank of France was engaged in such sale, any case of that sort at once causes us privately and properly to discuss it with the foreign country.

Senator MILLIKIN. Yes. I want to come to France especially, but I would like to ask if a private citizen of a foreign country cannot buy gold in the United States; can he?

Mr. SOUTHARD. That is right, sir.

Senator MILLIKIN. The transactions are completely with the central bank of foreign countries?

Mr. SOUTHARD. That is right.

Senator MILLIKIN. And, as you state, there has to be a showing which, of course, might not be a correct showing, but there has to be a showing of why they want the gold, is that right?

Mr. SOUTHARD. Yes, sir. But, Senator, I should say that private citizens, both here and abroad can acquire gold for industrial purposes.

Senator MILLIKIN. For industrial purposes?

Mr. SOUTHARD. For industrial and artistic purposes.

Senator MILLIKIN. They must make a showing of that purpose?

Mr. SOUTHARD. Yes; and that is checked.

Senator MILLIKIN. Our own citizens have that right as well as the foreigners?

Mr. SOUTHARD. Completely.

Senator MILLIKIN. A foreign person buys gold for that purpose—if he does so, he buys it through the central bank, does he not, as a matter of mechanics?

Mr. SOUTHARD. No; he may buy it and ordinarily will buy it, from American gold refiners who are in that business and who are licensed by the Treasury.

Senator MILLIKIN. And you maintain close check over those people?

Mr. SOUTHARD. Yes, sir. We maintain a closer check the nearer the gold is to bar form; a lesser check the more nearly it gets in elaborate jewelry form.

Senator MILLIKIN. You folks are aware of this fear that people have that these foreign countries are making an improper use of our gold.

Mr. SOUTHARD. Yes, sir.

Senator MILLIKIN. If I might take the liberty of making a suggestion, I think you ought to get out to the people a completely factual and simple explanation of what is happening, and I think they ought to be assured that you are watching that like a hawk to see that that does not happen.

Mr. SOUTHARD. Thank you, Senator. I will communicate the suggestion to the Treasury.

Senator MILLIKIN. Let us get into the black-market field. What is your source of—what is the source of—gold for the black markets other than hoarded gold, which comes out of the sock, and so forth? Maybe I can simplify that by saying——

Mr. SOUTHARD. I think I understand the question, sir.

Senator MILLIKIN. All right; go ahead.

Mr. SOUTHARD. It is a proper question, and one that has not been altogether easy for us to get an answer to. Probably the most important source of hoarded gold is newly mined gold, diverted into uses that may not be fairly called industrial or artistic uses, but rather into hoarding uses.

Now, let us take our own case in the United States. We have a regular licensed trade in dental gold and jeweler's gold in the customary forms. We may license such gold for export by an American refiner to a foreign customer. Let us say that such gold is sent to a foreign customer in country X.

Senator MILLIKIN. Yes.

Mr. SOUTHARD. We have proper affidavits that the gold is destined for customary uses for that kind of gold. We have no reason to suspect otherwise. We may have made a careful check, as we often do, through our consuls, as to, for example, the reputability of the firm, whether it is customarily in that business, and so forth. But gold has been in the world for many thousands of years, and the gold trade is a very devious trade. Considering the large number of transactions, if even only 10 percent of that gold were to be diverted inadvertently or

willfully by the foreign importer or by someone to whom that person sold it, it may readily get into the black market. It may be melted down and reformed into little ingots. That is the most important source, because the number of countries mining gold is fairly numerous, including, of course, South Africa, Australia, Canada, and the United States.

Senator MILLIKIN. Two years ago we were having quite a fuss with South Africa over the disposition of newly mined gold. What is the present status of that?

Mr. SOUTHARD. Of the South African practices or of the fund relations?

Senator MILLIKIN. Of the practices.

Mr. SOUTHARD. As near as I know, Senator, South Africa is operating on what you could call an affidavit system. They allow their gold-mining industry to ship gold in the customary industrial and artistic forms to various world markets on the basis of affidavits.

In general, these affidavits are to the effect that the transaction is not against the laws of the country to which the gold is going, and that the gold is to be used for an industrial or artistic purpose.

Senator MILLIKIN. What are they selling that gold for?

Mr. SOUTHARD. They sell at current prices.

Senator MILLIKIN. Current prices?

Mr. SOUTHARD. Which vary. I do not mean by that that there is a single market price. It depends on the form of the gold, but they get the market price.

Senator MILLIKIN. A couple of years ago they were insisting on selling it above.

Mr. SOUTHARD. By current prices I do not mean $35 an ounce. I mean the current market price for that kind of gold in that market.

Senator MILLIKIN. Well, at the present time, it would be higher than the current official value for gold.

Mr. SOUTHARD. It may be in the high thirties or low forties.

Senator MILLIKIN. And under their claim that gold goes only into industrial and artistic purposes?

Mr. SOUTHARD. Industrial and artistic purposes.

Senator MILLIKIN. Of course, there is a possibility that part of that could be going into the black market.

Mr. SOUTHARD. Yes; into private hoards, and so forth.

Senator MILLIKIN. Yes.

What is the relationship of the fund to the countries that produce and sell gold in that way? Are you acquiescing or are you approving or what is the situation?

Mr. SOUTHARD. In the periods since the Korean outbreak, as you know, I am sure, Senator, the gold markets have been more active than they were before, for obvious reasons, and the percentage of the South African output of newly mined gold that moved through these channels, as against going to us or England in monetary transactions at the official price increased. We have the statement of their own finance minister that these transactions got up to about 40 percent of output.

Senator MILLIKIN. Can you put something in the record into which we can get our teeth into so far as volume of that sort of thing is concerned?

Mr. SOUTHARD. Yes; I will endeavor to get something for the record.

Senator MILLIKIN. All right.

(The information above referred to is as follows:)

[Excerpt from the Economist (London), March 3, 1951, p. 510]

SOUTH AFRICA AND PREMIUM GOLD

Mr. Havenga, the South African Finance Minister, has recently shed a little light on South Africa's sales of gold at premium prices, a subject that has hitherto been largely cloaked by official reticence. He told the South African Parliament that the percentage of the Union's newly mined gold that was sold in the open market varied from time to time, but "in recent months had been about 40 percent." This confirms unofficial estimates that have been current for some time and brings out clearly the exceptional importance of premium gold sales to the South African gold industry. The December quarterlies published by the producing mines showed that profits from premium sales had become a main source of revenue for certain mines. The March quarterlies are expected to show a marked further move in this direction.

Mr. SOUTHARD. The fund recently, and by that I mean roughly 30 days ago, studied that situation again, and took a decision, which was published, that the fund did not regard the current arrangements, including the arrangement with South Africa, as being satisfactory any longer to deal with this kind of problem, and the fund was going to review it actively with the countries.

The fund is now engaged in that, I should say, difficult review. It is going to try to study the nature of the trade, what kind of administrative steps might be feasible, and then come to what new decision it can.

Senator MILLIKIN. Let us get over now into the French situation. What is the relation of France to the fund at the present time?

Mr. SOUTHARD. France is a member of the fund.

Senator MILLIKIN. Is it complying with the parities established by the fund?

Mr. SOUTHARD. France has no par value at the present time, but the French exchange rates, official rates, have all been checked with the fund in the same way as if they were par values.

Senator MILLIKIN. But the fund has established a parity with France?

Mr. SOUTHARD. Originally established one, which the French withdrew.

Senator MILLIKIN. Yes.

Mr. SOUTHARD. There is no parity now.

Senator MILLIKIN. Has the Fund accepted the withdrawal of France of that parity?

Mr. SOUTHARD. The Fund did not approve a new par value because France did not finally submit one, and the Fund has tolerated the nonexistence of a parity, and has had submitted to it, as on this table I submitted, the effective exchange rates of France.

I think for practical working purposes, there is a firm official rate.

Senator MILLIKIN. How much does France owe the fund in terms of dollars?

Mr. SOUTHARD. France drew $125 million from the fund in 1947, and that has not been paid back.

Senator MILLIKIN. At what rate?

Mr. SOUTHARD. At the then par value.

Senator MILLIKIN. Which was what?

Mr. SOUTHARD. We will have to find that and put it in the record, sir; but, of course, the debt is a dollar debt, which the exchange rate does not affect. (See following testimony on this page.)

Senator MILLIKIN. If France wants to pay it back she has to give a certain number of her francs to get the dollars, does she not?

Mr. SOUTHARD. No; France paid the fund in francs, and is bound to keep those francs at parity.

Senator MILLIKIN. At the then official rate?

Mr. SOUTHARD. No; France has made supplemental payments in francs, which, together with the original payment, make a total franc deposit equivalent, in terms of the present official rates, to the dollar drawing.

Senator MILLIKIN. Has she discharged her obligation?

Mr. SOUTHARD. She has not paid back the dollars.

Senator MILLIKIN. That is what I am talking about.

Mr. SOUTHARD. No; that is right; the dollars have not been paid back. When they are paid back there would be a dollar transaction, and the fund will return the francs.

Senator MILLIKIN. She paid dollars into the fund, and she buys those dollars with francs?

Mr. SOUTHARD. That is right.

Senator MILLIKIN. So the exchange, as provided by the franc, is a pertinent inquiry, is it not?

Mr. SOUTHARD. Well, she would buy the dollars from her own citizens with francs, but so far as the fund is concerned, as long as France maintains the dollar value at all times at the official exchange rate of the franc, our books are covered.

Senator MILLIKIN. Yes; I understand that. Did you say that France has or has not reduced that debt?

Mr. SOUTHARD. She has not reduced the debt.

Senator MILLIKIN. Has not reduced the debt. What is the present official—unofficial official rate?

Mr. SOUTHARD. It is 350 francs to the dollar.

Senator MILLIKIN. Are you now prepared to say what was the parity at the time that we made——

Mr. SOUTHARD. It was 119 francs to the dollar.

Senator MILLIKIN. Thank you.

What is the relation of the European Payments Union to your fund?

Mr. SOUTHARD. There is no official relationship at all, sir, up to the present time.

Senator MILLIKIN. Can you give us a very brief description of the function of that Union?

Mr. SOUTHARD. Well, sir, if it can be very brief, because I am not an expert on it.

Senator MILLIKIN. Yes.

Mr. SOUTHARD. As I have understood it, the European Payments Union is a grouping of the so-called ERP countries who agreed to settle their current balances with each other multilaterally through a central office with respect to which each of them has been given a certain quota in dollar units, but it is bookkeeping units, and with

respect to which each of them is obliged to give a certain credit corresponding to that.

As long as these predetermined positions work out fairly well in practice, the accounts can clear, the monthly credits and debits can clear, with solvency in the total system.

Senator MILLIKIN. We underwrite the dollar credit part of it, do we not, up to the extent of our obligations?

Mr. SOUTHARD. There is some sort of United States underwriting, yes, sir.

Senator MILLIKIN. In other words, they have to have dollars to operate on to facilitate their trade with each other.

Mr. SOUTHARD. Yes; that is right.

Senator MILLIKIN. And we supply the dollars or the dollar credit, and I assume that the Payments Union is under some obligation to put that back with us?

Mr. SOUTHARD. I am not sure, sir.

Senator MILLIKIN. My understanding is that the European Payments Union was agreed upon July 1, 1950. The first settlement under this Payments Union was made September 30, 1950. To date $42 million has been used in the settlement of these payments; that the ECA authorizing bill which set this thing up was amended to include $600 million to be used for the purpose, and that the Appropriations Act of 1950 limited it to $500 million, and that the EPU has been delegated $350 million; I take it that is an over-all delegation—for the settlement of these payments and, of course, we retain title for use as needed. We keep it here until we have to advance it.

Do you know of the relation of European—did you answer the question as to what was the relationship of that particular Union to the fund?

Mr. SOUTHARD. There is no official relationship.

Senator MILLIKIN. No official?

Mr. SOUTHARD. No.

Senator MILLIKIN. But I assume you are in some sort of informal contact with it?

Mr. SOUTHARD. Very informal. The original OEEC paper on the Payments Union had a paragraph which expressed a recognition of the interest that the fund would or could or should have in a regional payments system, and undertook to enter into discussions with the fund for a proper relationship. Those discussions have not reached the board of the fund.

Senator MILLIKIN. Are you familiar with the relationship of the Union to OEEC?

Mr. SOUTHARD. I am not familiar with the legal relationship. I do not really think I know. Do you know, Mr. Bronz?

Mr. BRONZ. The EPU was created by, I believe, the OEEC countries. Whether there is a formal subordination to the OEEC organization or not, I am not certain.

Mr. SOUTHARD. It is my understanding, Senator, if we do not talk about legal relationships, but of actual relationships, that there is a managing board that runs the EPU, and that decisions of the managing board can be appealed up to or considered by the council of the OEEC, so I suppose, in a certain sense, it is a super board over the EPU. That would be my guess, but I am not positive.

Senator MILLIKIN. So far as the Payments Union is concerned, the credit that we supply to render their monetary transactions more flexible, that deals with the existing official parities, does it not? We do not set up a new set of parities to accommodate the Payments Union?

Mr. SOUTHARD. That is right.

Senator MILLIKIN. So that our credit works on the parities as they have been declared by the fund to the countries using the Payments Union, is that correct?

Mr. SOUTHARD. That is right, sir. Some of the members of the Union are not members of the fund, but most of them are. They must maintain their parities, or violate their obligations to the fund to maintain their exchange rates in conforming with parties.

Senator MILLIKIN. Do you have any side contracts—I believe you have authority to make side contracts with countries not members of the fund—do you have any side contracts?

Mr. SOUTHARD. No, sir.

Senator MILLIKIN. Let me ask you generally, do you wish to change your testimony in any respect, the testimony you gave us 2 years ago? I suppose statistical matters have changed, but so far as——

Mr. SOUTHARD. May I reread that testimony, Senator? I have not looked at it.

Senator MILLIKIN. Will you let us know, and if you wish to make any change you will specify what change you want to make?

Mr. SOUTHARD. Yes, sir.

Senator MILLIKIN. With reference to the operations of the fund in connection with the quantitative restrictions and the monetary restrictions that are being maintained by various countries, what exactly is the fund doing to break those down?

Mr. SOUTHARD. A number of things, all adding up to a continuous——

Senator MILLIKIN. The reason I asked that question—let me preface my original question to you—is that it developed in testimony here the other day that a sort of a rough division of authority is occurring between GATT and the Monetary Fund, to wit, GATT concerns itself primarily—and I am talking roughly—with rates and concessions, and the fund is working on the question that I am now exploring.

First, would you agree that that is roughly accurate? Is that roughly correct?

Mr. SOUTHARD. Yes; it is roughly correct.

Senator MILLIKIN. Yes. So, will you tell us what the fund is doing in the way of trying to break down the restrictions? I am thinking of quotas, export and import licenses, monetary licenses, and other monetary controls.

Mr. SOUTHARD. Since, as I said, the statement you made is roughly accurate, the fund does make a distinction between what I could call pure trade restrictions, not imposed directly or indirectly for balance of payments reasons, and restrictions, in whatever form, which are imposed for balance of payments reasons; that is, for the purpose, broadly, of trying to deal with given countries' reserve positions, and their over-all balance of payments.

So that there are some restrictions which the fund, on examination, would feel were not germane to its business. But the fund has a

broad definition of exchange restrictions, which does include the great mass of the restrictions of the postwar period, even if they might look just like trade restrictions.

The fund's job is clearly set forth in its own articles. It must maintain a continuous examination of restrictions. It is mandatory for the fund, by March 1, 1952, in other words, roughly, a year hence, to have careful and official consultation with all members to determine whether their present exchange restrictions, using exchange restrictions in this very broad and comprehensive sense, are needed in terms of their exchange stability.

Senator MILLIKIN. The figure in GATT, I understood, was changed in January 1951?

Mr. SOUTHARD. Our date cannot be changed; it is written in the Articles of Agreement.

Senator MILLIKIN. It is in the agreement itself?

Mr. SOUTHARD. Yes. In addition, beginning last year it was mandatory for the fund annually to publish a comprehensive review of restrictions. I believe you have seen the first of those. We are currently engaged in the last stages of preparing the second one. That is a separate publication which I think you have seen. But much more particularly, Senator, it is not only a matter of these general and formal studies or reviews. The fund is in continuous contact with its members privately and quietly, to see what can be done to reduce exchange restrictions, get rid of multiple rates, and simplify their exchange rate structures.

Senator MILLIKIN. What is your organization for making the studies? How far along are you on it?

Mr. SOUTHARD. We have not only a separate division of the fund, which is called the Exchange Restrictions Department, with a staff and experts, but in addition to that the geographic divisions, which are in direct touch with the countries, have to join in that continuous task.

Every mission we send out to a country has among its duties to discuss with that country the possibility of getting rid of the various restrictions, and the multiple rates. I think that our organization is full and effective in the field. Now, if you ask me what results we are having, it is somewhat different.

Senator MILLIKIN. Well, give us a general idea of the results.

Mr. SOUTHARD. I think superficially the results have been, so far, discouraging. Multiple rates, various exchange controls and exchange restrictions still are, almost universal, with really only a handful of countries, maybe 8 or 10 countries or so, that are completely free of them.

On the other hand, the general improvement in——

Senator MILLIKIN. Those are small countries, are they not, those countries?

Mr. SOUTHARD. Yes; aside from us, they tend to be the smaller countries; but Mexico is a good example of a moderately large country, with no restrictions; Cuba, a country of big trade, with no restrictions of consequence; Canada, decreasing restrictions. There are some——

Senator MILLIKIN. I think I read a list in one of your reports, and my own quick impression was that the whole impact of their restricted trade was very small.

Mr. SOUTHARD. Very small, sir.

Senator MILLIKIN. Considering the whole field of the subject; is that correct?

Mr. SOUTHARD. Yes. There are some bright lights in the world. I think, however, the improvement in the reserve positions of many countries—I think of the Latin-American countries as a whole group—is making it possible for them for the first time since the war to come to grips with this practical task of getting rid of restrictions in a way that they themselves are recognizing. We are seeing very important evidences in Latin America, I believe. To name an encouraging case, we have the recent case of Colombia, which has just publicly announced decisive steps in this direction. I myself am optimistic that in the next 12 months we are going to see a number of those countries rid themselves of very complex exchange-control mechanisms and rates.

I think if the Korean episode had not hit us we could have said the same thing with respect to even more areas, even some in the sterling area and in Europe. But now, as I think you would recognize, there are new uncertainties that are prompting countries to mark time, and not take their controls off too fast, because of cautiousness, of wondering what the impact of inflation may turn out to be, and so on.

Senator MILLIKIN. It is the conclusion of the fund, is it not, that many of these restrictions of the type that we are talking about go beyond monetary necessity and do, in fact, represent trade discrimination; is that not correct?

Mr. SOUTHARD. It is the clear conclusion of the fund that that may well be the case, Senator, but it is very difficult to trace out the cases.

Senator MILLIKIN. I am reading from page 12 of your report of March 19, 1950, as follows:

> Not all forms of restrictions lend themselves equally well to discrimination on the basis of countries or foreign currencies. A scrutiny of the prevailing restrictions indicates that almost all of them contain some element of discrimination between country or currency areas.

Mr. SOUTHARD. That is right.

Senator MILLIKIN. Would you say that is true?

Mr. SOUTHARD. I would agree with you.

Senator MILLIKIN. Now, what does the GATT, as such, contribute toward this study that you are making, of these discriminations?

Mr. SOUTHARD. Nothing, sir.

Senator MILLIKIN. Nothing?

Mr. SOUTHARD. It is our job.

Senator MILLIKIN. Mr. Chairman, that is all that occurs to me at this moment.

The CHAIRMAN. I have no questions.

You have been requested, I believe, to furnish some data for the record?

Mr. SOUTHARD. Yes.

The CHAIRMAN. And you have some memoranda on that as to what you will furnish?

Mr. SOUTHARD. Yes, sir.

The CHAIRMAN. If you will get it up to us, we would appreciate getting it as early as you can.

Mr. SOUTHARD. Yes, sir.

The CHAIRMAN. We thank you, sir, for your appearance here.

Mr. SOUTHARD. Thank you, sir.

(Discussion off the record.)

The CHAIRMAN. I do not think we have any further witnesses scheduled for these open hearings unless something develops and we want to reopen them for some other purpose.

(By direction of the chairman, the following statement is made a part of the record:)

STATEMENT OF SENATOR ARTHUR V. WATKINS, OF UTAH, BEFORE SENATE FINANCE COMMITTEE ON H. R. 1612, TRADE AGREEMENTS EXTENSION

I am happy to avail myself of this opportunity to present to this committee my views in connection with your consideration of H. R. 1612, the Trade Agreements Extension Act of 1951.

I urge this committee to report out this bill with the provisions for protection of American industry and jobs. Each segment of the American economy, agriculture, mining, manufacturing, trading, cannot but benefit from the peril-point feature.

The escape clause, the limitation on tariff reductions on price-support products, and the withholding of future tariff concessions from Communist areas, all are forward steps in the progress of our foreign trade and our own economy.

The State of Utah has a vital stake in the results of the deliberation of this committee and this Congress in connection with these proposals.

Our mining industry is still a sick industry despite the programs under the Defense Production Act, to stimulate development and exploration. Its plight would have been desperate except for the national emergency.

While many factors have contributed to this situation, one of the most important has been the importation of foreign mineral concentrates and ores, much of it from countries within the orbit of Communist Russia.

The continued reduction of the tariff under this misnamed reciprocal-trade program, when coupled with the ever-increasing cost of operation in our domestic mines threatens the very existence of the American mining industry. They just cannot compete with the virtually free importation of these metals from countries where labor conditions are little above the slave classification, and where modern machinery and equipment, technical assistance and so forth are being furnished by the American taxpayer. It seems to be an anomalous situation where the American stockholder and worker as taxpayers are being negotiated out of their holdings and jobs by the striped-pants group in the State Department at closed-door sessions in places like Geneva, Switzerland; Annecy, France; and Torquay, England, where just such a session is now taking place.

If the protection features of the measure now receiving the attention of this committee had been in effect during the past years, when these agreements which have sapped the vitality of our American mining industry, were being negotiated, the State Department would not have been able to sell our American workmen down the "free trade" river.

In my State alone many mines are closed down and one large smelter out of four in Salt Lake Valley is permanently closed—this in the face of our present high demand.

A long step toward a healthy American mining industry can be made by the passage of H. R. 1612 with the four protective features written in by the House.

A close analysis of the State Department's activity in the field of foreign trade leads to the conclusion that our agricultural programs are being deliberately subordinated to a free-trade program promulgated regardless of its cost.

I strongly urge the retention of section 8, for nothing less than that will protect American agriculture from cheap foreign competition.

A conflict between the Department of Agriculture and its policies on price supports and the Department of State and its policies of free trade is obvious to even the most casual observer in this field. I have received hundreds of letters from my home State asking why we are importing foreign produced eggs, potatoes, butter, powdered milk, and many other commodities while at the same time we are spending hundreds of millions of the American taxpayers' dollars to buy up and frequently to destroy the same products grown in our own market. It appears ridiculous to our farmers and even more so to our foreign competition for us to destroy our homegrown foodstuffs, while we send huge sums to bring in identical foreign products.

The American livestock industry especially in the west and northwest has suffered severe set-backs as a result of this so-called reciprocal trade program. Argentine beef and Communist-grown Polish hams have been coming in at the rate of millions of pounds every month. We do not object to clean competition, but this is not clean competition in any sense of the word, and so long as we maintain our own high standards, we should, in all fairness, regulate imports from countries which do not maintain those standards.

The American people are just not being told the truth about this program. An article in the New York Times of March 31, points out some aspects of this "globalony" thinking and what is happening at the present negotiations in Torquay. It would seem that no agreement is going to be worked because of the English Dominions' insistance on maintaining the Empire preference.

But even more dangerous is the fact that as this article points out, the relationship of the United States with other member nations of the General Agreement on Tariff and Trade is likely to be further impaired, of course, the existing agreements would stay in effect in the event no other agreement is reached.

The American taxpayers should also be told that the negotiators who have been at Torquay for many months are spending about $1,000,000 of our taxpayers' money just for expenses. Quite a heavy expenditure for the privilege of putting ourselves out of business and jobs.

The American taxpayers should be told that far greater barriers exist in foreign countries against our exports than ever before. Compare this with the average United States tariff of 6 percent, the lowest in our modern history.

The real factors inhibiting world trade are currency restrictions, export and import licensing, quotas, empire preferences, and other forms of restriction among the many nations the American taxpayer is supporting with Marshall plan aid.

While I have only cited two major industries as being affected by this free-trade program of the State Department, I know the committee is fully cognizant that almost every aspect of American economy is affected.

It is high time we stopped trading one industry off against another.

The huge, wealthy mass production industries may benefit from increased exports under this program, but we must not destroy our small independent groups on this sacrificial altar of free trade.

(Whereupon, at 12:30 p.m., the committee adjourned.)

×