

Mr. BRYAN. Mr. President, if I might respond, the Senator from Nevada needs about 5 to 6 minutes, but if that inconveniences the Senator from West Virginia, I am happy to wait. Whatever the Senator wishes.

Mr. BYRD. Mr. President, I ask unanimous consent I may speak for not to exceed 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent I may yield to the Senator from Nevada for not to exceed 5 minutes, without losing my right to the floor.

Mr. BRYAN. I appreciate that. That would accommodate the Senator from Nevada.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, let me preface my remarks by acknowledging the courtesy from the senior Senator from West Virginia. I appreciate his courtesy in allowing me to make a floor statement for a period not to exceed 5 minutes.

#### HOMEOWNERS' PROTECTION ACT OF 1997

Mr. BRYAN. Mr. President, yesterday in the Senate Banking Committee American consumers were dealt a major setback. The committee was expected to vote out legislation that would have ended a practice that costs hundreds of thousands of homeowners millions of dollars per year.

The Banking Committee was scheduled to vote out S. 318, the Homeowners' Protection Act of 1997 which is sponsored by Senators D'AMATO, DODD, DOMENICI, and myself. This bill would outlaw the practice of overcharging homeowners for private mortgage insurance they no longer need.

Unfortunately, Chairman D'AMATO was forced to cancel the markup because a number of Members put the interest of a small, yet highly profitable, industry over the public's interest. To make matters worse, this industry is clearly taking advantage of millions of Americans in an unconscionable manner.

The opponents of Chairman D'AMATO's legislation argue that the bill places too heavy a burden on this one industry. I do not share their opinion and believe the interests of millions of American homeowners should be put ahead of an industry that is clearly taking advantage of these same homeowners.

Those protecting the industry need to heed the advice of one of their colleagues, Congressman JAMES HANSEN. Let me share from Congressman HANSEN's observations:

As a small businessman for most of my life . . . I have learned that if an industry polices itself, the government should not interfere. I firmly believe that the government should stay out of the private marketplace. However, when an industry does not follow even its own guidelines, I believe it is our responsibility to draw that line.

Now that comes, Mr. President, from one of our more conservative colleagues who serves in the other body.

I commend Chairman D'AMATO for his leadership in introducing this important legislation that will affect millions of homeowners. Let me indicate how important that is and how many people are affected.

In 1996, of the 2.1 million home mortgages that were insured, more than 1 million required private mortgage insurance. One industry group has estimated that at least 250,000 homeowners are either overpaying for this insurance or paying when it is totally unnecessary. At an average monthly cost of \$30 to \$100, unnecessary insurance premiums are costing homeowners thousands of dollars every year.

Now, clearly, private mortgage insurance serves a useful purpose in the initial mortgage lending process. It enables many home buyers who cannot afford the standard 20-percent downpayment on a home mortgage to achieve a dream of home ownership. While private mortgage insurance protects lenders against default on a loan, there comes a time when that protection afforded to the lender becomes unnecessary, and the point, it seems to me, is reached when the homeowner's equity investment in the residence gives the lender sufficient assurance against default.

The comfort level generally within the industry has been 20 percent. So it stands to reason that PMI is not necessary for risk management and prudent underwriting procedures once the homeowner has reached the 20-percent equity mark. Therefore, borrowers who amass equity equal to 20 percent of their homes' original value should be treated in the same way as borrowers who are able to make a 20-percent downpayment or more at the outset of the loan.

The Homeowners' Protection Act of 1997 would ensure that existing and future homeowners would not continue to pay for private insurance when it is no longer necessary. Specifically, this legislation would inform the borrower at closing about private mortgage insurance and outline how the servicer of the loan will automatically cancel the mortgage insurance, assuming the transaction is not exempt from cancellation when the loan balance reaches 80 percent of the original value.

Mr. President, there is no doubt that private mortgage insurance is an important tool in the American system of mortgage finance. However, retaining private mortgage insurance beyond its usefulness to the homeowner is a practice that should be ended. The Homeowners' Protection Act will prevent present and future homeowners from paying for private mortgage insurance that is no longer needed. This proposal will end the unfair practice and protect the consumer.

This legislation is supported by almost every consumer group, but also

leading industry groups such as the American Bankers Association, the National Association of Realtors, and the National Association of Homebuilders.

I urge my colleagues to move forward on this important piece of consumer legislation and put the industry's objections below the overriding public interest. We must lift this unfair burden from American homeowners.

I thank the Chair. I thank my senior colleague from West Virginia for his courtesy. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

#### COMMISSION TO ELIMINATE THE TRADE DEFICIT

Mr. BYRD. Mr. President, I am pleased to join with the distinguished Senator from North Dakota, Senator DORGAN, in introducing an ambitious new effort on the matter of our nation's persistent and growing trade deficit. This legislation would establish a Commission to take a broad, thorough look at all important aspects of, and solutions to the growing U.S. trade deficit, with particular attention to the manufacturing sector.

The trade deficit, as my colleagues know, is a relatively recent phenomenon, with large deficits only occurring within the last 15 years. In the 1980's, the U.S. merchandise trade balance ballooned from a deficit of \$19 billion in 1980 to \$53 billion in 1983, and then doubled in a year, to \$106 billion in 1984. Last year it stood at \$188 billion, setting a new high record for the third consecutive year. Projections by econometric forecasting firms indicate long term trends which will bring this figure to over \$350 billion by 2007. No one is predicting a decline in the near future. If we do nothing, within 2 years the merchandise trade deficit will equal the annual budget for national defense.

To reiterate, in 1996 the United States had the largest negative merchandise trade balance in our history, some \$188 billion, and it is the third consecutive year in which the deficit has reached a new record high.

This legislation is committed to a goal of reversing that trend of the next decade. The goal of the commission is to "develop a national economic plan to systematically reduce the U.S. trade deficit and to achieve a merchandise trade balance by the year 2007."

While it is not clear what the particular reasons for this growing trade deficit may be, nor what the long term impacts of a persistently growing deficit may be, the time is overdue for a detailed examination of the factors causing the deficit. We need to understand the impacts of it on specific U.S. industrial and manufacturing sectors. Furthermore, we need to identify the gaps that exist in our data bases and economic measurements to adequately understand the specific nature of the

impacts of the deficit on such important things as our manufacturing capacity and the integrity of our industrial base, on productivity, jobs and wages in specific sectors.

Throughout the 1980's, my own State of West Virginia literally bled manufacturing jobs. We saw the jobs of hard-working, honest West Virginians in the glass, steel, pottery, shoe manufacturing and leather goods industries—and other so-called smokestack industries—hemorrhage across our borders and shipped overseas. While economic development efforts in my State have commendably encouraged our businesses to refocus to help recover from those losses, the lack of knowledge about the causes and impact of our trade deficit leaves West Virginia, and the nation as a whole, at a disadvantage in the arena of global competition.

We debate the trade deficit from time to time. We moan about it. We complain about it. But, if we do not understand the nature, of the long-term vulnerabilities that such manufacturing imbalances create in our economy and standard of living, we are surely in the dark. It appears to me that debate over trade matters too often takes on the form of rhetorical bombast regarding so-called protectionists versus so-called free traders. This is hardly a debate worthy of the name, given the problems we are facing. It is not an informed debate. We are talking past each other, and in far too general terms. It has been more of an ideological exchange than a real debate, primarily because we have not had sufficient analytical work done on the data bearing on this problem. Neither side knows enough about what is really transpiring in our economy, given the very recent nature of these persistent deficits.

Certainly we know that the deficit reflects on the ability of American business to compete abroad. We want to be competitive. Certainly we know that specific deficits with specific trading partners cause frictions between the United States and our friends and allies. This is particularly the case with the Japanese, and is quickly becoming the case with China. It is clear that the trade deficit has contributed to the depreciation of the dollar and the ability of Americans to afford foreign products. Less clear, but of vital importance, is the relationship of the trade deficit to other important policy questions on the table between the United States and our foreign trading partners.

Attempts by the United States to reduce tariff and nontariff barriers in the Japan and China markets, which clearly restrict access of U.S. goods to those markets, have been crippled by the intervention of other, more important policy goals. During the cold war, the United States-Japan security relationship had a severe dampening effect on our efforts to reduce these myriad barriers in Japan to United States ex-

ports. The same effect appears to have resulted from our need for the Japanese to participate in our treasury bill auctions. This becomes a closed cycle—the need to finance the trade deficit with foreign capital, resulting in regular involvement of the Japanese Government in our treasury bill auctions, seems to dampen our efforts to push the Japanese on market-opening arrangements. Naturally, without reciprocal open markets, the trade imbalance remains exaggerated between the United States and Japan, prompting further need for Japanese financial support to fund the national debt. Of course, this is a vicious circle. Thus, some argue that the need for Japanese involvement in financing our national debt hurt the ability of our trade negotiators to get stronger provisions in the dispute settled last year over the Japanese market for auto parts.

Similar considerations appear to prevail in negotiating market access with the Chinese in the area of intellectual property. While our trade negotiator managed a laudable, very specific agreement with the Chinese in 1995 in this area, the Chinese were derelict in implementing it, leading to another high-wire negotiation last year to avoid sanctions on the Chinese, and to get the Chinese to implement the accord as they had promised. Again, it is unclear whether the Chinese will now follow through in a consistent manner with the implementing mechanisms for the intellectual property agreement belatedly agreed to in the latest negotiation. The highly trumpeted mantra about how the U.S.-China relationship will be one of, if not the most important, U.S. bilateral relationship for the next half century, has a chilling effect on insisting on fair, reciprocal treatment, and good faith implementation of agreements signed with the Chinese government.

The Chinese government has again recently reiterated its desire to become a member of the World Trade Organization and certainly her interest in joining that organization is a commendable indication of her willingness to submit to the rules of that organization regarding her trading practices. There is legitimate concern however, that insufficient progress has been made by the Chinese on removing a wide variety of non tariff discriminatory barriers to U.S. goods and services, as she committed to do in the 1992 bilateral Market Access Memorandum of Understanding [MOU]. Indeed, in the 1996 report by the United States Trade Representative entitled foreign trade barriers, the amount of material devoted to the range of such barriers on the part of China is exceeded only by the material on Japan, indicating that we have a continued persistent problem that needs serious attention along these lines.

It will only be when we truly understand the specific impacts of these large deficits on our economy, particularly our industrial and manufacturing

base, that the importance of insisting on fair play in the matter of trade will become clear.

Finally, the legislation requires the Commission to examine alternative strategies which we can pursue to achieve the systematic reduction of the deficit, particularly how to retard the migration of our manufacturing base abroad, and the changes that might be needed to our basic trade agreements and practices.

These are the purposes of the Commission that Senator DORGAN and I have proposed in this legislation.

I commend the distinguished Senator from North Dakota for his studious approach to this question. He is as knowledgeable, if not more so, than certainly most other Senators, and perhaps any other Senators, as far as I am concerned, on this subject. I am pleased to join him in offering this proposal for the consideration of the Senate.

I hope that many of our colleagues will join us, and that we can secure passage of the proposal in the near future.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

#### EXECUTIVE SESSION

NOMINATION OF MERRICK B. GARLAND, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA

The PRESIDING OFFICER. The Senate will proceed to executive session.

The clerk will report the nomination.

The assistant legislative clerk read the nomination of Merrick B. Garland, of Maryland, to be U.S. circuit judge for the District of Columbia Circuit.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, before we get to the specific discussion of the merits of Merrick B. Garland, let me make an important point. There have been some suggestions made that this Republican Congress is not moving as rapidly or as well as it should on judges, or at least last year did not move as well or as rapidly as it should have on judges.

With regard to judicial vacancies, the important point I would like to make before getting into factual distortions that are being made about the judiciary confirmation process is this. Federal judges should not be confirmed simply as part of a numbers game to reduce the vacancy rate to a particular level.

While I plan to oversee a fair and principled confirmation process, as I