

January 2005

Canadian Speaker Session 6: Canada U.S. Approaches to Health Care - Canadian Speaker

Barrie McKenna

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Recommended Citation

Barrie McKenna, *Canadian Speaker Session 6: Canada U.S. Approaches to Health Care - Canadian Speaker*, 31 Can.-U.S. L.J. 177 (2005)

Available at: <https://scholarlycommons.law.case.edu/cuslj/vol31/iss/28>

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CANADIAN SPEAKER

Barrie McKenna[†]

Thank you very much, David. That was an extremely kind introduction.

This is actually my fourth time to Ohio in the past six months. I feel like I ought to get an apartment or something. I was here a couple times before the election, and I was here on Election Day in the pouring rain and howling wind. It was a lovely day all around.

I should probably tell you a little bit about what I do. I work for the *Globe and Mail*. I have been in Washington, D.C. now for eight years covering Canada-U.S. issues as well as U.S. politics, business, and a wide range of things, but a lot of it has had to do with the relationship between Canada and the United States, and over that time, I've probably traveled to 25 or 30 states reporting, doing business reporting, doing political reporting as well.

So I think I am a little bit unusual in that I have been here quite a long time. I'm probably past my due date as far as correspondents go. You usually stay here for about three or four years.

MR. CRANE: I was just going to interrupt to say that usually newspapers pull people out as soon as they start to understand an area.

(Laughter.)

And this is an inception.

MR. McKENNA: I am still learning. I am still learning.

I wanted to start off – I was watching TV a couple months ago – actually, watching my wife who was watching TV – and I walked in, and West Wing was on. All of a sudden, the word “Canada” came up on the screen, and I whistled around and sat down on the couch, and a border problem had erupted somewhere I think on the Washington-B.C. border. It had something to do with goose hunting, and some American hunters had invaded Canada, had gone across the border into Canada and in pursuit of geese or a similarity and had promptly been surrounded by a bunch of armed Canadians insisting that they leave.

[†] Barrie McKenna has been a *TORONTO GLOBE AND MAIL* correspondent and columnist in Washington since 1997. Before that, he worked in the *GLOBE*'s Ottawa and Montreal bureaus. He covers Canada-U.S. relations, business, trade, economics and politics. During his U.S. posting, he has traveled widely, filing stories from more than 30 states. Mr. McKenna has also been a frequent visitor to Japan and South Korea on reporting assignments. A native Montrealer, he has degrees from McGill University (history) and Carleton University (journalism). He is also a two-time finalist for Canada's National Newspaper Award.

And I came in about the time when the Canadian ambassador had arrived at the West Wing to try and resolve the dispute, and he sat down and proposed that Canada could probably get in there and diffuse this very messy situation. The Americans were talking about sending paratroopers in to try and yank them out or something. It was getting fairly nasty.

And the Canadian ambassador said I could solve this for you, but there is a little thing we need done on softwood lumber. And if you can assure us that you could do something for us here at the White House, we can diffuse this very ugly situation, at which point the national security adviser said – got very upset and threatened to dust off an old invasion of Canada plan, accusing the Canadians of using blackmail and threatening the administration. And so the Canadian ambassador was hustled out, and that was the end of the little Canada anecdote.

But I thought that was kind of telling in terms of where the softwood lumber dispute has gotten in the sort of public image of things because, as a Canadian journalist in the U.S., the softwood lumber dispute, or any other arcane Canadian dispute, is very much relegated to the specialized media; the back pages of newspapers. It comes up as a point of irritation when leaders are meeting.

You hear about it, these disputes, as when Bush comes to Canada or Martin is meeting Bush in Texas, “Oh, by the way, there are these disputes,” and it is covered off in a couple of paragraphs and that’s it. For somebody like me, these are things that are my bread and butter.

This is what we do day in and day out, and I can’t make them nearly as interesting as the West Wing can. But I think – I know you have heard a lot about the softwood lumber dispute today. You have probably talked about wheat and mad cow and all these other things.

I think the softwood lumber in many ways is far more important than any of those other ones. It has gone on for so long, and it has touched every aspect of the U.S.-Canada relationship, and I am going to spend a certain amount of time talking about that as a way into the broader relationship, the trade relationship between Canada and the United States.

And unlike the United States where I said this is kind of relegated as a back of the page – back of the newspaper kind of issue – in Canada, everybody has an opinion about these things from politicians to the average people on the street. I mean, you can talk to a stockbroker, you can talk to a waitress, and they could probably tell you something intelligent about stumpage, which is a little bit scary.

In the United States, you know, beyond saw mill owners and landowners, lobbyists and lawyers and a small group of trade bureau bureaucrats and some of the members of Congress, they know very well these kinds of things are not prominent issues, and it makes it hard to do what I do when that is the case. In some ways, it is a lot easier to cover these things from Canada.

You know, it really is sort of an obscure industrial dispute when a Canadian trade minister comes to Washington, I get to rub shoulders with, you know, reporters from Cattle Weekly, and they are obscure trade publications, but rarely the mainstream media.

There is a pretty important reason why newspapers like mine treat softwood lumber and cattle and wheat with such importance. I mean, economically, these things are huge in Canada. Lumber is one of Canada's top five exports.¹ It is worth \$10 billion dollars a year in exports.²

And even more than that in Canada, trade issues like these are seen through the prism of nationalism. These are points of pride for the Canadians. You know, these are seen by a lot of people as examples of Americans not playing by international trade rules, abusing their economic might to get their way, and that makes it instantly something more than an obscure industrial dispute to, you know, people in Canada who otherwise wouldn't give a damn about cattle ranchers or loggers. In fact, they probably don't like what loggers are doing to large swaths of Canada, and somehow find this kinship towards their government and towards their industry in fighting the United States for so long over this. And I think that is sort of an odd thing.

I think Canadians are a bit contradictory that way. I am just going to shift gears here a little bit. I wanted to talk a little bit less on the issues, and I am not going to be citing chapter and verse of trade agreements. I think you've heard a lot about that, and beyond the basic chapters, I don't know the chapters and verses anyway.

I want to tell you a little bit about the process of what we do and the way we treat certain stories. In Canada-U.S. trade stories, there are three classic kinds of stories. There is "the trade war looms," and there is "the U.S. snubs Canada." That's always good for a lot of copy, and then there is "Canada hits back or sort of threatens to hit back," and pretty much all trade stories fit somewhere into those three.

Trade war looms – the problem is that these trade wars, they always loom. They never actually erupt. So you can only sell that one to your editor so many times. Retaliatory duties are almost never applied, and when they are, it is usually for a very brief period of time.³ And yet, we write a lot about trade wars that are just around the corner. They are about to happen, and it turns into sort of a long dance that increasingly has no end.

¹ See Asia Pacific Foundation of Canada, *Canadian Merchandise Trade with World*, http://www.asiapacificbusiness.ca/data/trade/general_dataset2_withworld.cfm?AW=World (listing motor vehicles, natural gas, crude petroleum oils, coniferous lumber, and trucks as the top five exports).

² See *A Simple Lesson in Economics*, THE ECONOMIST, Feb. 1, 2003, at 34.

³ See generally Marco C.E.J. Bronkers, *Private Response to Foreign Unfair Trade Practices—United States and EEC Complaint Procedures*, 6 NW. J. INT'L L. & BUS. 651 (1984).

But my favorite, though, is the snub. This is the sort of classic U.S.-Canada relations story – and you get it in trade stories; you get it in political stories – it is a kind of a time-honored tradition of what we do. And the latest example of that, is the Condoleeza Rice story, apparently canceling or postponing a trip to Canada.⁴ That was worth several days of good coverage in Canada.

(Laughter.)

MR. McKENNA: It turns out she is going anyway, and it was just sort of a scheduling thing, but never mind. And then there was – Martin got to go to Texas finally after his predecessor Jean Chretien had never gotten to the ranch,⁵ but when he finally went to go, he had to share the ranch with Vicente Fox of Mexico,⁶ so that, again, is another snub. And he only got – I mean, I saw some story about how he was only going to get 20 minutes with the President,⁷ and this was yet again a slap in the face.

And in these stories, whether real or imagined, I mean, there is always some grain of truth to some of it. They are a reflection of how Canadians perceive the relationship with the United States, and I think that's what is important to note, not so much the details of how these things happened.

Canadians often see themselves as lap dogs, and they don't like it. They want to be regarded – they want to see themselves as the stalwart friend, the trusted ally, and when they don't get it, the snub.

The next sort of category of things is the anti-snob, the possibility that Canada might use some of its economic clout to retaliate and somehow bring the United States to its knees. And I am forever amazed at the otherwise quite intelligent and powerful people who have suggested things like Canada should curtail its oil and gas exports to the United States in retaliation for what it suffered over lumber and cattle.⁸ You know, even Jean Chretien sort of danced around the issue, and he said, you know, they want our oil, but they don't want our lumber.⁹ More recently, B.C.'s [former] natural resource

⁴ Adam Ereli, Deputy Spokesman, U.S. Dept. of State, Daily Press Briefing (March 1, 2005), available at <http://www.state.gov/r/pa/prs/dpb/2005/42857.htm> (explaining Secretary Rice's postponing of a trip to Canada).

⁵ See William Walker, *Even Before the 'Moron' Flap, Canada was Petty in U.S. Eyes*, TORONTO STAR, Nov. 29, 2002, at A26.

⁶ See generally Paul Martin, Statement by Prime Minister Paul Martin on the Occasion of the North American Leaders Summit (Mar. 23, 2005), available at <http://pm.gc.ca/eng/news.asp?id=444>.

⁷ See *Martin Will Press Bush at Three-way Summit*, CBC NEWS, Mar. 23, 2005, available at <http://www.cbc.ca/story/canada/national/2005/03/22/summit050322.html> (citing the 20-minute one-on-one meetings the country leaders planned).

⁸ See Steve Myrtl, *Angry Canada Suspends Softwood Talks with U.S., Cancels Monday Meeting*, CANADIAN PRESS NEWSWIRE, Aug. 16, 2005.

⁹ See William Neikirk, *Free Trade Hits Snags on Farm, Tariff Fronts; Policy Analyst Sees 'Troubling Pattern'*, CHICAGO TRIBUNE, May 3, 2002, at 1 (quoting Chretien as saying

minister Mike De Jong went even further when he said the natural gas pipeline proposed to come down from Alaska through the Yukon and cutting off the corner of B.C., that B.C. was going to somehow delay the approval process.¹⁰ He was kind of vague.

He sort of had visions of loggers up somewhere in the northern part of B.C. sort of threatening the construction of the pipeline. You know, that otherwise rational people would suggest these things is really kind of – it tells you a lot of how people have come look at these disputes over time and have gotten to a point of frustration or suggesting things that are tantamount to economic suicide.

But like the Canadian ambassador on the West Wing, you know, Canada is sort of playing – some Canadians are trying to play this game of brinksmanship, and they are doing it quite awkwardly.

But I started off talking about the West Wing, and it got me to thinking about coverage of Canada-U.S. trade issues. And in the eight years that I have been in the United States, I have got to say the tone has really changed in the debate. And it has changed the way that my newspaper looks at the stories that I write in a relatively short period of time, even though it is a long tenure for a journalist.

I think it has a lot to do with what's happening on some of these key trade cases. There is a deep sense among Canadians and amongst the people I write for and work for of unfairness, of bitterness, and lately of indifference.

Ralph Klein, the Alberta Premier, was in Washington recently, and somebody actually asked him about softwood lumber and he sort of looked at them and said “You know, when I hear that topic, my eyes just sort of glaze over” and went to another question. I guess people have started to grow tired of a legal process that seems to have absolutely no end.

And to a lot of people, it seems like going into overtime in a hockey game – you have to mention hockey if you are a Canadian at least once in your speech – and it keeps on going until the home team wins. The away team can score as many goals as they want, but the game is not over until the home team wins.

I think fundamentally Canadians and Americans now have quite divergent views of what free trade is and what NAFTA is. And I think if you talk to the average Canadian and to a more informed Canadian as well, there is this idea that NAFTA leveled the playing field. It put Canada on an equal footing with a much larger economic power, and it muted the effect of skewed trade loss in both countries; that it took things out of what was an unfair arena and put

that “the United States . . . they cannot have free trade on oil and gas and electricity and not give us free trade for wood”).

¹⁰ See James Irwin, *Politics Threatens to Further Delay Alaska Pipeline in Canada*, NATURAL GAS WEEK, Mar. 21, 2005.

it into what was supposed to be a fair arena. And the dispute settlement system was the key to that.

And I am not so sure that that's the way that many Americans, and particularly Congress, sees NAFTA. You know, free trade deals are seen as a way of opening foreign markets in the U.S. They are seen as a way of creating jobs. Not everyone agrees that they do, but there isn't this sense that this is somehow a way to diffuse difficult issues.

Unfortunately, the softwood lumber case has created the impression that NAFTA for Canadians – that NAFTA is a bit of an empty shell. And I think in some ways it may be, and that's why the outcome of the softwood dispute is so interesting to watch.

I think Canada's perception of the value of NAFTA rests with an effective dispute system. I mean, they think they have a system that is objective and enforceable. If duties have been applied wrongly, that they should be removed, and the money should be refunded. I don't think you will find any Canadian who would disagree with that.

The reality, though, is that dispute settlement panels really only have the power to issue recommendations,¹¹ and that's not the way – that's not the deal that people thought they were getting north of the border. You can't override U.S. law.¹² You can't compel the administration to do anything.¹³ Politically, you can, and technically you can, but legally you can't.

On the lumber case, as you all know, we are waiting for the extraordinary dispute resolution to be completed. And by all indications, the earlier decisions will be upheld, and the finding will be that Canadian lumber poses no threat of injury to the U.S. producers.

So far the Bush administration has insisted that earlier panels had gone beyond what they should have – had exceeded their jurisdiction – and that they have also been quite careful in how they've talked about the duties and have given every indication that they don't intend to give the duties back – not retroactively anyway – citing the Byrd Amendment and lack of other measures to bind them to do it.

By convention, the way it has worked in the past is you lose the case, you refund the money, and in this case, we are talking an awful lot of money. You know, it is approaching \$4 billion dollars U.S.¹⁴ So you can see there is a pretty fundamental question on the table here, and it really is: is NAFTA an

¹¹ North American Free Trade Agreement, U.S.-Can.-Mex., Dec. 17, 1992, 32 I.L.M. 289 (1993) art. 2007, para. 5.

¹² See *Reid v. Covert*, 354 U.S. 1 (1957).

¹³ See *Goldwater v. Carter*, 444 U.S. 996 (1979) (effectively allowing the President to rescind treaties).

¹⁴ See Steve Mertl, *U.S. Bid to Force Lumber Talks Backfired, Trade Minister Tells U.S. Official*, CANADIAN PRESS NEWSWIRE, Dec. 23, 2004.

effective vehicle to resolve these kind of contentious disputes? The Bush administration would have to decide whether to defy the ruling and keep the votes, and that would leave NAFTA a tattered mess in the eyes of most Canadians.

I think there is a similar dynamic on the media coverage of issues like border security as well. Americans and Canadians define this issue quite different. Our newspaper, like every other Canadian media, it is a business issue. It is an issue of national pride like lumber, and it is a travel story. It is something that touches every single Canadian.

For Americans, it is a question of Homeland Security and illegal immigration. So you are coming at the same issues from a completely different perspective, and it affects the way that we and others cover this story. We are looking for different things.

You know, Canadian officials on the question of the border, they love to say that we are in this together, that both our countries have shared interests, but increasingly our interests just aren't in sync.¹⁵ You know, the reality is that the U.S. is the main target of foreign terrorists, and it is the favorite destination of illegal immigrants; Canada is not. In some ways it is disingenuous for Canadians to claim that we do have a shared interest in these things. It may help sell the issue. And it is nice to put it that way, but I'm not so sure it is the case.

I am going to shift gears here a little bit and talk about China, because China is rapidly surpassing Canada as the United States' major trading partner.¹⁶ There is a very strong likelihood that within the next couple of years China will surpass Canada as the major exporter of the United States.¹⁷ Canada will remain a much larger trading partner because we also import a lot of U.S. goods thanks to the auto industry.¹⁸

And China is getting a lot of the negative attention that Canada might otherwise be getting in these circumstances. And, you know, as you know,

¹⁵ See David Crane, *No Rush for Closer Ties with U.S., Mexico*, TORONTO STAR, June 19, 2002 (highlighting separate Canadian interests in border cooperation).

¹⁶ See Senator Chuck Grassley, Senate Finance Committee Hearing on U.S.-China Economic Relations Opening Statement, June 23, 2005 (predicting that China will surpass Canada as largest trading partner by 2010); See also, *New Policies for a New World*, THE ECONOMIST, Oct. 2, 2004, at 25.

¹⁷ See Guy Pfeffermann and Bernard Wasow, *The U.S. and China – The Global Economy's Odd Couple*, THE GLOBALIST, Mar. 1, 2005, <http://www.theglobalist.com/StoryId.aspx?StoryId=4423>.

¹⁸ See Sylvie Montout, Jean-Louis Mucchielli, and Soledad Zignago, *Regionalization and Intra-Industry Trade: An Analysis of Automobile Industry Trade in NAFTA*, 16 RÉGION ET DÉVELOPPEMENT, 137 (2002).

the undervalued yuan is being blamed for killing U.S. jobs and flooding the U.S. with cheap imports.¹⁹

And just this week the trade deficit hit a new – a monthly trade deficit hit a new high of \$61 billion dollars.²⁰ On an annual basis, we are talking about \$700 billion dollars,²¹ which would be a new record. This is an incredible change. The rise of China has happened so quickly, and the Canadian diplomats down here have, for the longest time, touted Canada's importance economically to the United States and they use that two-way relationship as a tool to stress the importance of what we do and what they do. And that's in the process of slipping away.

I guess when you look at the trade deficit, what it illustrates is that the U.S. market is far more important to countries like Canada and to China than we are to the United States. Canada needs the United States more than the United States needs Canada, and it is that way because – both because of the surplus and because Canada is much more of a trading nation than the United States is. Probably twice as much of our GDP is derived from trade than it is in the United States.

I guess my rationale for spending so much time talking about the softwood lumber issue is that, you know, in eight years, I've seen enough that has changed, enough that has happened, that I am really fairly pessimistic about the way we are dealing with some of these fundamental issues. That if we can't find a way of finding a way out of the most difficult issues like that, and that people lose faith with the system for being able to handle those issues and, that in some ways, you wind up back in the Wild West of trade relations, which is what we were trying to get out of with the FTA in the first place. And if people are surprised by the way that newspapers in Canada treat these issues, I think that is more than anything is why we do it.

So thank you very much.

(Applause.)

MR. CRANE: Thank you, Barrie.

Now, I was intrigued by the fact that your wife watches West Wing. And so does mine. Despite all my efforts to persuade her this is not really what the White House is like, and how everybody is chummy and friendly and, therefore, the greater good. You are being a little bit misled at times on this.

But the other point about the West Wing, I'm not sure how many people know, but part of it was filmed in Canada at a small town near Guelph, On-

¹⁹ See *China Finance RMB Reform*, CHINA BUSINESS NEWS ON-LINE, May 18, 2004 (discussing the impact of exchange rates on trade).

²⁰ Eduardo Porter, *Demand for Oil Helped Push U.S. Trade Deficit to \$61 Billion in February*, THE NEW YORK TIMES, April 13, 2005, at C6.

²¹ Representative Lincoln Davis, *Rep. Davis Issues Statement on CAFTA*, US FED NEWS, Jul. 28, 2005 (citing the growth of the annual trade deficit).

tario, just off Highway 401.²² And I learned this because there was a photograph in the New York Times one day showing this West Wing site set up near Guelph, Ontario, which is otherwise known for giving the United States and Canada John Kenneth Galbraith.²³

I think one of the most pertinent things Barrie pointed to was the fact that in Canada, the softwood lumber dispute has reached a point where it is really not a discussion about a dispute; it has become a symbol of whether or not you can have a sort of rules-based fair relationship with the United States on an important economic issue, where Congressional forces are determined that the United States has to win, no matter if it loses all the panels, and that raises questions about whether or not – what the nature of the relationship really is. Is it a Napoleon relationship, or is it a relationship based on principles and rules?

And I think that is the corrosive effect, if you like, of what sovereignty – the continued dragging on of the softwood lumber dispute really points to. And we were told this morning that under U.S. law, there is no obligation to return the \$4 billion dollars. The interpretation is, under NAFTA, that you are only entitled to get money back from the duties collected after the decision has been rendered. And this is a hugely damaging possibility in the Canada-United States relationship, and so I think what is frustrating for people like Barrie and others and Canadian officials is, it is so difficult to engage the United States at that level on the issue.

As someone who is more irrational than Barrie, I was quite comfortable with the minister of energy – I think it was in B.C. – saying “well, maybe we need a 25-year environmental study from that part of the gas pipeline that goes between Alaska and the continental United States.”²⁴ I thought, maybe that will get somebody’s attention.

MR. MCKENNA: The only problem is B.C. has no jurisdiction over pipelines.²⁵

MR. CRANE: That’s the problem. Well, they could still find a way, but Americans may not always know that – especially not all members of the House of Representatives may be fully familiar with the Canadian constitution. There is always that possibility.

The other issue, which Barrie talked about, which I think is very important and which is a difficult one for both countries – and I think an area

²² See Bill Brioux, ‘West Wing’ Shoots in Canada, TORONTO SUN, Dec. 16, 2004.

²³ Peter J. Thompson, Photo, NATIONAL POST accompanying Ian Austen, *Fade to Black in Canada’s Film Work*, THE NEW YORK TIMES, Dec. 23, 2004, at W7.

²⁴ Irwin, *supra* note 10.

²⁵ See generally, ANNUAL REPORT 2004-2005, BRITISH COLUMBIA OIL AND GAS COMMISSION (2005), <http://www.ogc.gov.bc.ca/documents/advisorycommittee/AC%20Annual%20Report%202005.pdf>.

where Canada may be a bit careless at times – and that is on the border security issue. Canadians don't feel they are a target; Americans do. The Americans have been hit; Canadians haven't.

I was down speaking at a conference at the University of Texas in El Paso, which was organized by Sandia Labs and the University, and I was struck – they had people there from northern command and all these groups talking about when will the first car bombers start to appear?²⁶ When will we start to see the first suicide bombers?²⁷ It is only a matter of time before somebody goes into one of the 4,500 U.S. hospitals that has radioactive material in storage, which they use for nuclear medicine, and steals some of that, and ties it to some sticks of dynamite, and contaminates a major intersection and a major city.

And for a Canadian, these are things we don't even accept for the people whose professional job it is to think about them, but the average person doesn't think about it at all. The Canadian concern, as Barrie said, is to keep commerce flowing, and the Canadian fear is not the fear of being attacked; it is the fear if there is an attack in the United States, it might be traced back to Canada, and that is the fear that we have.

Obviously, Barrie made the point that at some point China will become a bigger exporter to the United States than we are. That's true at some point, whether it is two years or five years. It doesn't make much difference. Now, we used to fear that Mexico was going to replace Canada as number one of exporters of the United States, and that Mexico was going to steal all the auto plants out of Ontario, and that didn't happen, but I think China is more of an issue in a broader sense, and Barrie referred to the U.S. trade deficit.

Perhaps the more real fear in Canada is: will the United States, at some point, given the political complexion of the Congress, lash out in a protectionist way, out of frustration of its inability to make changes in the trade deficit, or will the U.S. dollar go into a nose dive, and Canada would pay a price that way?

And just one last point is that – just from a concern about proper use of statistics – one of the most dangerous things I think to do is to look at bilateral trade data. In Canada, we often talk about – exports being 40 percent of our GDP and, therefore, accounting for 50 percent of our jobs or something.²⁸ There is a lot of double and triple counting in trade statistics, so that when Canada exports a regional jet to the United States, say \$30 million dol-

²⁶ John Whitley, Judy Moore, Dick Gerdes, Marina Oborotova, & Jessica Glicken Turnley, *NorthAm Fest: Fostering a North American Continent Approach to Countering Terrorism*, SANDIA REPORT SAND2004-6221, Sandia National Laboratories (2004), available at http://www.sandia.gov/ACG/docs/sand_reports/northam_fest_%20SAND2004-6221.pdf

²⁷ *Id.*

²⁸ See Grant Cameron, *Exports, GDP and Jobs*, PERSPECTIVES, Statistics Canada, (1999).

lars, it contains an engine made in the United States and Massachusetts by General Electric. It contains a fuselage built in Japan. It contains electronics from the United States and France, landing gear, which has some British content.

I am on the National Statistics Council and asked them for another way of looking at this, and the Canadian value added in our manufacturing exports is just a bit over 25 percent. It is not 40 percent.

You are looking at an automobile and the way parts go back and forth and subassemblies go back and forth, and the same thing is true with China. If you look at a Chinese laptop computer coming into the United States, who knows where the semi-conductor came from? Where did the hard drive come from? Where did the screen come from?

These bilateral numbers are really misleading, and I think it is the overall trade balance that matters a lot more than the bilateral numbers. So anyway, I have spoken too long. I would like to ask Jack, because I know Jack has some very interesting things to say to us, and, Jack, it is your turn.

