The anomalous situation arose because of a determination by the U.S. Supreme Court in December, 1960, in a case involving bicycles, that the President did not have the power to modify the recommendations of the Tariff Commission. The practical effect of this decision was to invalidate the President's proclamation increasing the duty on spring clothespins, although a decision on spring clothespins was not actually handed down by the Customs Court until November, 1961. Protests had been filed by importers in connection with most shipments between December, 1957, when the President's proclamation increasing the duty was issued, and December, 1960. Following the Supreme Court decision, all imports of spring clothespins were protested.

Accordingly, although the ostensible duty imposed on spring clothespins in December, 1957 was 20¢, the importers received from the U.S. government a refund of 10¢ on every gross of clothespins included in a protested shipment. Beginning in December, 1960 the importers knew that the 20¢ rate was invalid and were content to pay the 20¢ rate with the assurance that 10¢ would eventually be refunded.

The real significance of this situation lies in the fact that the President knew in December, 1960 that the proclamation increasing the duty on spring clothespins was invalid. During the same month he received from the Tariff Commission a report informing him, in net effect, that continuance of the proclaimed duty was essential. *Nearly nineteen months elapsed before action was taken to validate the 20¢ duty.* Shortly after the Supreme Court decision the President asked the Tariff Commission to conduct a public hearing and determine a peril point on spring clothespins. This was done on January 9, 1961, and although the domestic producers do not know the exact peril point established, it had to be at least 20¢ since the Commission in December, 1961 again advised the President in a formal report that "continuance" of the 20¢ rate was necessary.

Following the establishment of the peril point in January, 1961, the U.S. began negotiating with Sweden and Denmark for a new trade agreement covering spring clothespins. In September, 1961 the President announced that agreement had been reached with Sweden, but formal action was withheld pending settlement with Denmark. In December, 1961 the writer was informed by a representative of the importers that agreement had been reached with Denmark. Such agreement was not announced by the President until March 7, 1962—although the importers knew about it in December, 1961. The March 7, 1962 announcement stated that the rate of duty on spring clothespins was bound at 20¢ in an agreement with Denmark.

However, the 20¢ rate was not put in effect until July 1, 1962. The writer is informed that the agreement with Denmark, reached in December, 1961, specifically provided that the 20¢ rate would not be put into effect until July 1, 1962, thus giving importers an opportunity to flood the domestic market with spring clothespins at the 10¢ rate.

Importers took full advantage of this moratorium. During the first six months of 1962 a total of 1,461,000 gross were imported. This figure represents an increase of nearly 500,000 gross over the comparable period in 1961. These imports during the period of the moratorium were sufficient to completely demoralize the domestic market for the entire year of 1962, and imports took over 36% of the market in that year.

The most significant feature of this situation is the fact that the agreement to postpone the effective date of the 20¢ rate until July 1, 1962 apparently was not reported to the Congress by the President. An agreement to continue a lower rate of duty for a specified period of time is a "concession" granted in a trade agreement just as much as an agreement to reduce a rate of duty. Since the 10¢ rate which was allowed to continue in effect was below the peril point established by the Tariff Commission, the President was required by Section 4(a) of the Trade Agreements Extension Act of 1951, as amended, to report the "concession" on the effective date of the increase to the Congress. This report was not made, so far as the writer can ascertain. If made, it was certainly not made public.

Thus despite a determination by the President that the domestic spring clothespin industry was being seriously injured by a concession granted under the trade agreements program, and despite his knowledge in December, 1960 that his action designed to relieve such injury was invalid, no relief of any kind was forthcoming until July 1, 1962. Negotiation of trade agreements takes time. However, Section 6 of the Trade Agreements Extension Act of 1951 specifically provided that no concession shall be permitted to remain in effect where a determination is made