STATEMENT BY SENATOR STROM THURMOND (D-SC) IN SUPPORT OF ESCAPE CLAUSE PROVISION TO H. R. 12591, ON SENATE FLOOR, JULY 16, 1958.

MR. PRESIDENT:

The decision on the escape clause provisions of the Trade Agreements Act which now faces the Senate is one of the most important of the session. The question is whether the Congress will accept a part of its Constitutional responsibility to regulate foreign trade, or pass the responsibility to the President.

The responsibility is assigned to Congress in Article I, Section 8, of the Constitution:

The Congress shall have the power...to lay and collect Taxes, Duties, Imposts and Excises,

and

The Congress shall have power...to regulate commerce with foreign nations, and among the several States, and with Indian tribes.

I will not take the time to trace the history of the Trade Agreements Act, by which the Congress handed the President what amounted to virtually full control over the tariff-fixing procedures. The Story is well known to the members of the Senate. I will, however, briefly describe the Senate Finance Committee's escape clause provision, and show how it differs from the change in escape clause procedure embodied in the bill as passed by the House of Representatives. In my opinion, once the provision is understood, reasonable men should have no objection to it.

The escape clause provision is, I believe, a strong step toward the goal of fairness to all. It is in harmony with the basic purpose of the Trade Agreements Act, which is directed toward the progressive elimination of those tariff barriers which are
unnecessary and the stimulation of world trade. At the same time, the provision brings the Trade Agreements Act more nearly in harmony with the Constitution, and provides a small measure of the safeguards/which import-affected domestic industries require/if they are to continue to support the high standard of living of domestic workers.

I am sure that most of my colleagues are aware/that I favor full and proper safeguards to protect our domestic industries, our war mobilization base, and the jobs of the millions of working people and their families. It is my opinion that these safeguards can best be provided/by a system of select legislative quotas. However, I am enough of a realist to know/that legislative quotas cannot be enacted at this session of the Congress.

Therefore, I am supporting this entirely reasonable approach to the problem/of continuing our trade program along the lines favored by a majority of the Congress/while, at the same time, returning to Congress a portion of its Constitutional responsibility/and giving our domestic industries and their employees/a fighting chance to survive.

The escape clause provision would require the President/to obtain the support of a majority of both Houses of Congress/before he could be sustained in his refusal to implement a Tariff Commission decision/granting escape clause relief to a domestic industry.

The principle that the Congress should reassert some of its power/to regulate foreign commerce/was accepted by the House of Representatives. Unfortunately, the provision written into the bill by the House is a sham and a delusion. It accepts the principle/
that Congress should have a voice in tariff determinations, but it provides no realistic way for Congress to exercise its powers.

The House bill provides that Congress can over-ride the President's veto of an escape clause finding, but only by a two-thirds vote of both Houses. To pretend that this would bring any relief at all to an industry found by the Commission to be injured by foreign imports or some aspect of our trade program would be to succumb to a sheer delusion. Congressmen and Senators are only too well aware of the difficulty of obtaining a two-thirds vote in both Houses. To say that a small domestic industry with limited resources and few plants in few States -- or, for that matter, any single American industry, no matter what its size -- could obtain the necessary two-thirds majority vote in both Houses is ridiculous.

Let me point out another obvious absurdity in the House provision. Congress has the power, of course, to enact a law, at any time, setting a new tariff on any commodity. This is a Constitutional power of Congress. Now, it is proposed that Congress, having shunned its duty over a period of many years, vote itself the power to over-ride a tariff decision by the President only by a two-thirds vote of both Houses. Yet, Congress needs only a simple majority in both Houses to enact legislation altering the whole tariff structure. The House provision, designed to restore some voice to Congress in tariff decisions, actually proposes a further abdication of Congressional power.

The opponents of the Senate Finance Committee escape clause provision have said that it would be a difficult thing for the President to obtain the consent of Congress for refusing to implement a Tariff Commission finding. It has been said that this is a
"high tariff" provision, the enactment of which would result in a general increase in tariff rates. It is no such thing.

The history of the Tariff Commission's activities in administering the escape clause clearly shows that the Commission is quite strict. It does not recommend relief without a sound basis for doing so. Of the 87 applications for relief which have been filed with the Commission since 1951, only 30 have cleared the Commission's hurdles and went to the White House with a recommendation for action. Of these 30 cases, no action has been taken in 3, and in 17 the President declined to implement the Tariff Commission finding.

These are the 17 cases which would have been reviewed by Congress if the escape clause provision had been in effect since 1951. Less than 3 cases per year, on the average, would have been subjected to Congressional scrutiny.

These 17 cases involved the following industries: Garlic, watches, tobacco pipes and bowls, scissors and shears, groundfish fillets, lead and zinc, handmade blown glassware, spring clothespins, screen-printed silk scarves, wood screws, acid-grade fluorspar, para-aminosalicylic acid, ferrocerium lighter flints, velveteen fabrics, straight pins, violins and violas.

These are the industries which would have worked for a favorable vote of Congress if this provision had been in effect when the President refused to implement the Tariff Commission's findings granting them relief. The prestige and influence of the Administration would have been arrayed against them. In the matter of winning Congressional approval, is the White House over-matched in a contest with, for example, the manufacturers of spring clothespins? If the merits of the argument are equally divided, can the makers of American
lighten flints/out-maneuver the Administration in the legislative halls?

I think not. This Administration, or any Administration, will have the advantage of great experience in the business of politics/ and the advantage of having its own partisans in both Houses of Congress. This is why I say that the Administration, if its argument for refusing to grant relief has any merit to it at all, will certainly be sustained by the Congress.

Congress will refuse to sustain the Administration/ whenever it finds that the Administration's reasons for refusing to grant relief/ are specious, flimsy, or arbitrary.

Perhaps there are Members of Congress/ who feel that they do not wish to bear the burden/ of voting on three or four tariff cases per year. Those members -- if such there be -- should reread Article I, Section 8 of the Constitution/ which plainly makes the regulation of foreign commerce and the question of tariffs/ a duty of Congress. I feel the members of this body/ are willing to do the work required of them by the Constitution.

I have made the point that only a small percentage of the tariff/ would ever be subject to Congressional review, under the provision. It would be a fallacy to assume, because of this, that the provision is unimportant.

One great value, I believe, is that it will restore confidence to a great many workers and managers in American industries/ who, at the present time, see little chance of ever gaining relief from the increasing competition of foreign imports. It has become Federal policy/ to treat the import regulations solely as an instrument of foreign policy. We are using tariff concessions principally as
bargaining material in our efforts to win friends abroad.

The policy is fool-hardy. Military alliances bought with trade concessions are likely to collapse like a house of cards in times of stress, when nations put self-preservation foremost. I do not believe in this policy, and I would welcome legislation to eliminate the Department of State as a decisive force in making tariff decisions.

However, as I have pointed out, the escape clause provision before the Senate is not that far-reaching at all. It merely provides a Court of Last Resort to which an injured industry may appeal when the President puts foreign policy considerations ahead of domestic welfare. Congress will have the opportunity to determine the proper priority in each case that comes before it.

Surely, there is no organ of government which is better qualified to review a tariff finding in the broad perspective of all governmental problems than is the Congress of the United States. I believe we can depend on Congress to act in the best interest of all America. It would be a sad commentary indeed if the Senate acts on the presumption that only the President is qualified to determine what is best for the country from an overall standpoint. If such be true, the Congress has been guilty of no less than treason in enacting legislation over the veto of the President of the United States.

I reject such a conclusion as absurd.

Industrial might is a vital part of a nation's war potential. In these difficult times, it is inviting disaster to drive industry out of this country and into foreign lands. Yet, that is what we are doing with many industries that would be invaluable to us in time of war.

To keep America strong, and to keep our workers on the job, it is
essential that we give our import-affected industries/at least a fighting chance to survive.

The Senate Finance Committee's escape clause provision/offers that chance.

Most importantly, the provision reverses the trend/of constantly increasing the power of the Executive Branch of the government/at the expense of the Legislative.