BILL	DATE	PAGE(S)
S. 1254	3/16/71	S 3220

ACTION: Introduced by Mr. McClellan.

By Mr. McCLELLAN:

S. 1254. A bill to amend title 35, United States Code, "Patents," and for other purposes. Referred to the Committee on the Judiciary.

Mr. McCLELLAN. Mr. President, as chairman of the Subcommittee on Patents, Trademarks, and Copyrights, I introduce, for appropriate reference, a bill to amend title 35, United States Code, "Patents," and for other purposes.

This legislation provides for several miscellaneous amendments of title 35 of the United States Code, and adjusts the structure of the Patent Office within the Department of Commerce. All of the provisions contained in this bill relate to subjects concerning which action by the Congress at an early date is desirable. I have previously introduced S. 643 for the general revision of the patent laws, but that legislation would not become effective until at least 1973.

There appears to be an increase in the number of situations in which a patent applicant has failed to make timely payment of the final patent issue fee. Under existing law, if this payment is rendered more than 3 months after the due date, there is no discretion in the Commissioner of Patents to accept such late payment even upon a showing of good cause. The only available remedy is by the enactment of a private relief bill. The time of the Congress should not be consumed in the processing of such bills. Therefore, section 151 of S. 643 authorizes the Commissioner of Patents to accept late payment of the issue fee if the "late payment is shown to have been unavoidable." The identical text of section 151 of S. 643 is contained in this bill.

Under existing law there are 19 positions in the Patent Office which are filled by nomination of the President with the advice and consent of the Senate. No useful public policy purpose is served by such a procedure. Therefore, this bill amends section 3 of title 35 to require Senate confirmation only of the Commissioner of Patents, the deputy commissioner, and the two assistant commissioners. While the number of positions requiring Senate confirmation is being reduced, the structure of the Patent Office within the Department of Commerce should be such that there is clear and direct responsibility in the Commissioner of Patents for all aspects of the administration of the patent system and the efficient functioning of the Patent Office. Therefore, this bill provides that in addition to the assistant secretaries now provided by law there shall be one additional Assistant Secretary of Commerce for Patents and Trademarks. The Assistant Secretary of Commerce for Patents and Trademarks, shall, ex officio, be the Commissioner of Patents. This structure of the Department of Commerce would be consistent with the action previously taken by the Congress whereby the Director of the Travel Service and the Maritime Administrator have the rank of Assistant Secretary of Commerce.