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ACTION: Introduced by Mr. McClellan | June 7, 1973 | S10551

Mr. McCLELLAN:

S. 1957. 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 bill is identical to S. 1254 of the 92d Congress, as passed by the Senate on April 29, 1971. The legislation makes a number of minor and miscellaneous amendments to title 35 and establishes the position of Assistant Secretary of Commerce for Patents and Trademarks, who shall ex officio be the Commissioner of Patents.

The Committee on the Judiciary in its report on S. 1254, concluded that a change in the status of the Patent Office within the Department of Commerce was necessary because of "the urgent administrative problems confronting the patent system." During my service as chairman of the subcommittee there have been five Commissioners of Patents. A chronic unsatisfactory relationship has existed between the Department of Commerce and the Patent Office. This has contributed to frequent changes in the office of Commissioner of Patents, and instability in the administration and programs of the Patent Office.

When S. 1254 was being considered in the House of Representatives the Department of Commerce informed the House Committee on the Judiciary that it was opposed to altering the structure of the Patent Office at that time because—

> It is the position of the Administration that while the President's recommendations for reorganization of the executive branch are under consideration, there should be no new proposals for restructuring of executive level positions in those Departments which would be affected by the reorganization.

I found the explanation of the Department of Commerce particularly unpersuasive. At that time I was chairman of the Committee on Government Operations, before which the reorganization plans were pending. It was readily apparent that there was no likely prospect of favorable action on the Department of Commerce reorganization plan, and the administration could not be described as diligently pursuing the Commerce Department reorganization.

I subsequently discovered that there was no absolute moratorium on restructuring departments involved in the reorganization plans. I was then advised by the Office of Management and Budget that—

> Exceptions to this policy have been made where special conditions require immediate realignment of positions.

In other words the moratorium only applied when it served the purposes of the Executive branch.

Legislation is now pending before the subcommittee to remove the Patent Office from the Department of Commerce and establish it as an independent agency. It is anticipated that the subcommittee will consider that proposal later this session in connection with the general revision of the patent laws.

In view of the apparent inability of the Department of Commerce to develop and maintain an effective working relationship with the Patent Office, such action may be required and desirable. The bill which I am introducing today provides an alternative approach, in the event the subcommittee decides to retain the Patent Office within the Department of Commerce.