



## BNA's PATENT, TRADEMARK & COPYRIGHT JOURNAL

### NEWS & COMMENT

#### SENATE PASSES PATENT POLICY BILL, S. 414

By an overwhelming vote of 91-4, the Senate has passed S. 414, the "University and Small Business Patent Procedures Act." The measure now goes to the House, which is also reviewing patent legislation.

#### Background

S. 414, introduced last year by Senators Birch Bayh (D-Ind.) and Robert Dole (R-Kans.), would allow universities and small businesses to obtain patent rights in technology resulting from Government-funded research and development contracts. The bill also features a payback provision that would permit the Government, in certain instances, to recoup its investment. See 417 PTCJ A-3, E-1.

The Senate Subcommittee on the Constitution held hearings on S. 414 last year (see 430 PTCJ A-7 and 433 PTCJ A-8), and the bill emerged from the Judiciary Committee in late November (see 456 PTCJ A-20).

Senate debate on the measure began February 5th, but the bill was laid aside the following day as a result of hostile questioning by Senator Russell B. Long (D-La.). See 466 PTCJ A-9. The Senate resumed consideration of S. 414 on April 23rd.

#### Senate Debate

Picking up where he left off, Senator Long argued that S. 414 is founded on the notion that "you can develop a product better if someone has a monopoly than you can if it is a competitive situation." In other words, said Long, the supporters of this legislation believe that "monopoly is better for the country than is competition." S. 414, Long warned, "is one of the most radical, far-reaching giveaways that I have seen."

Senators Adlai E. Stevenson (D-Ill.) and Harrison H. Schmitt (R-N.Mex.), prime sponsors of S. 1215 (431 PTCJ A-4, D-1), which would permit all contractors to obtain title to Government-funded inventions, both agreed that while S. 414 "is far from an ideal bill," it "is a small step in the right direction." (Ed. Note: An amendment offered by Senators Stevenson and Schmitt to extend S. 414's patent policy to all who contract with the Government was defeated by the Senate on February 6th by a vote of 60-34. See 466 PTCJ A-9.)

Addressing Senator Long's concern that S. 414 fleeces the Government and the taxpayers, Senator Bayh pointed out that at present the taxpayers receive no benefit since most Government-owned inventions remain uncommercialized. "What sense does it make to spend millions of dollars each year on Government-supported research and then prevent new developments from benefiting the American people because of dumb bureaucratic red tape," he asked? Bayh also emphasized that the bill's payback provision would allow the Government, in some cases, to recover its investment.

After 30 minutes of debate, the measure was put to a rollcall vote. (Ed. Note: A minor amendment, No. 1049, exempting the Tennessee Valley Authority from the provisions of the bill was offered by Senator Bayh and adopted.) The bill was passed by a vote of 91-4.

The floor debate and the text of S. 414 (as published in the Congressional Record, 4/23/80, P. S 4122) appear at page D-1.

- 0 -