

92D CONGRESS  
1ST SESSION

# S. 1254

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IN THE SENATE OF THE UNITED STATES

MARCH 16, 1971

Mr. McCLELLAN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 35, United States Code, "Patents", and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 That section 3, title 35 of the United States Code is amended  
4 to read as follows:

5 **"§ 3. Officers and employees**

6 " (a) There shall be in the Patent Office a Commissioner  
7 of Patents, a deputy commissioner, two assistant commis-  
8 sioners, and not more than fifteen examiners-in-chief. The  
9 assistant Secretary of Commerce for Patents and Trademarks,  
10 shall, ex officio, be the Commissioner of Patents. The deputy  
11 commissioner, or, in the event of a vacancy in that office,

1 the assistant commissioner senior in date of appointment  
2 shall fill the office of Commissioner during a vacancy in that  
3 office until the Commissioner is appointed and takes office.

4 The Commissioner of Patents, the deputy commissioner, and  
5 the assistant commissioners shall be appointed by the Presi-  
6 dent, by and with the advice and consent of the Senate.

7 “(b) The Secretary of Commerce may vest in himself  
8 the functions of the Patent Office and its officers and em-  
9 ployees specified in this title and may from time to time  
10 authorize their performance by any other officer or employee.

11 “(c) The Secretary of Commerce is authorized to fix  
12 the per annum rate of basic compensation of each examiner-  
13 in-chief in the Patent Office at not in excess of the maximum  
14 scheduled rate provided for positions in grade 17 of the  
15 General Schedule of the Classification Act of 1949, as  
16 amended.”

17 SEC. 2. Section 151 of title 35 of the United States  
18 Code is amended to read as follows:

19 **“§ 151. Issue of patent**

20 “(a) If it is determined that an applicant is entitled  
21 to a patent under the law, a written notice of allowance  
22 of the application shall be given or mailed to the applicant.  
23 The notice shall specify a sum, constituting the issue fee  
24 or a portion thereof, which shall be paid within three  
25 months thereafter.

26 “(b) Upon payment of this sum the patent shall issue,

1 but if payment is not timely made, the application shall be  
2 regarded as abandoned.

3 “(c) Any remaining balance of the issue fee shall be  
4 paid within three months from the sending of a notice  
5 thereof and, if not paid, the patent shall lapse at the ter-  
6 mination of the three-month period. In calculating the  
7 amount of a remaining balance, charges or a page for less  
8 may be disregarded.

9 “(d) If any payment required by this section is not  
10 timely made, but is submitted with the fee for delayed pay-  
11 ment and the late payment is shown to have been unavoid-  
12 able, it may be accepted by the Commissioner as though no  
13 abandonment or lapse had ever occurred.”

14 SEC. 3. (a) There shall be in the Department of Com-  
15 merce, in addition to the Assistant Secretaries now provided  
16 by law, one additional Assistant Secretary of Commerce for  
17 Patents and Trademarks, shall be appointed by the President  
18 by and with the advice and consent of the Senate, shall re-  
19 ceive compensation at the rate prescribed by law for Assist-  
20 ant Secretaries of Commerce, and shall perform such duties  
21 as the Secretary of Commerce shall prescribe.

22 (b) Section 5315 of title 5, United States Code, is  
23 amended by striking “(7)” at the end of item (12) and  
24 substituting “(8)”.

25 (c) Section 5316 of title 5, United States Code, is  
26 amended by striking item (48).

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By Mr. McCLELLAN

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