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HOUSE
SENATE

BILL	DATE	PAGE(S)
H.R. 4185	July 12, 1965	15767-68

ACTION:

Patent Office Fees: H.R. 4185, to increase fees payable to the Patent Office in connection with issuance of patents and registration of copyrights, was cleared for Presidential action by House concurrence in Senate amendment thereto. Pages 15767–15768

AN ACT TO FIX THE FEES PAYABLE TO THE PATENT OFFICE, AND FOR OTHER PURPOSES

Mr. WILLIS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill H.R. 4185, "An act to fix the fees payable to the Patent Office, and for other purposes," with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 7, strike out "$50" and insert "$65".

Page 2, line 4, strike out "$75" and insert "$100".

Page 2, line 13, strike out "$50" and insert "$65".

Page 2, line 23, strike out "$25" and insert "$50".

Page 6, line 7, after "period." insert "In calculating the amount of a remaining balance, charges for a page or less may be disregarded."

Page 6, line 16, strike out "and maintenance".

Page 6, strike out all after line 17 over to and including line 23 on page 9.

Page 10, strike out lines 1 to 14, inclusive, and insert:

"SEC. 6. The analysis of chapter 14 of title 35, United States Code, immediately preceding section 151, is amended in the first item thereof by striking out the words 'Time of issue of patent' and inserting in lieu thereof 'Issue of patent'."

Page 10, line 15, strike out "SEC. 9." and insert "SEC. 7".

Page 11, line 1, strike out "sections 4, 6, and 8" and insert "section 4".

Page 11, line 11, strike out "SEC. 10." and insert "SEC. 8".

Page 11, line 15, strike out "SEC. 11." and insert "SEC. 9".

Page 11, line 21, strike out "SEC. 12." and insert "SEC. 10".

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. POFF. Mr. Speaker, reserving the right to object, I think it would be appropriate to have a brief explanation of the Senate amendments.

Mr. WILLIS. Mr. Speaker, will the gentleman yield?

Mr. POFF. I will be glad to yield to the gentleman from Louisiana.

Mr. WILLIS. Mr. Speaker, the principal change made by the Senate is the elimination from the bill of provisions contained in sections 5, 6, 7, and 8 of the House bill which make provision for so-called maintenance fees. In lieu of these maintenance fee provisions which were included in the House bill, the Senate has increased the filing fee from $50 to $65; increased the issue fee from $75 to $100; increased the filing fee for a reissue from $50 to $65; increased the first appeal fee on notice of appeal from $25 to $50; and made certain perfecting amendments.

Mr. Speaker, the Patent Subcommittee of the House of which I am chairman

was of the opinion that the administration proposal for maintenance fees was meritorious, because it afforded an opportunity for the individual inventor to defer payment of part of the fees until a time when he would be better able to estimate the commercial value of his patent.

Now, however, the Senate has indicated its unwillingness to accept the innovation of maintenance fees. The bill as it passed the Senate, with maintenance fees deleted, will yield approximately the same amount of revenue as before amendment. The principal purpose of the legislation has been to increase the fee income of the Patent Office to a point where such income will produce approximately 75 percent of the cost of operations of the Patent Office. In the circumstances it now seems to me—to the subcommittee—to be desirable to pass the bill as amended by the Senate and to bring into effect increased revenues, deferring for some future time the ultimate solution of the question of maintenance fees.

Mr. POFF. Mr. Speaker, still reserving the right to object, and I shall not object, I think it is incumbent upon me to express a reservation about the action here taken. During the course of the debate in this body I felt rather strongly that the maintenance fee concept has much to speak for it. Had we gone to conference, I would have been disposed to insist on retention of the maintenance fee concept. I am not so much concerned about the revenue which the maintenance fee would have raised, but I am concerned about the concept. I think it is important, if we are to have legislation in this field this year, to accept the action which the chairman of the subcommittee has suggested we accept. Yet I say again that I reserve my original position on the concept, as such.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. POFF. I will be glad to yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, as one who spoke against maintenance fees when this bill was originally on the floor of the House, of course, I would differ with the remarks that have just been made by my friend from Virginia [Mr. POFF], and express gratitude and satisfaction at the fact that the committee decided to accept what I think was an act which expressed the greater part of wisdom on the part of the other body by deleting these objectionable maintenance fees from what otherwise is a good bill.

Mr. POFF. Mr. Speaker, it would appear that the remarks made by the gentleman when the bill was under debate in this body had a very major impact on the other body.

Mr. ANDERSON of Illinois. Mr. Speaker, it was back on March 17 of this year that I offered an amendment to this legislation that would do exactly what has been done to the bill in the other body. My amendment called for raising the original issue fee and applications fees, and striking the provision for schedule of so-called maintenance fees. At that time, my amendment failed by a vote of 36 to 22.

My amendment was made in clear recognition of the need for a self-sustaining Patent Office; and yet at the same time, it was a clear recognition of the adverse effect maintenance fees would have on the small inventor. At that time I warned the Members of the House that the maintenance fee system would serve as a disincentive to those innumerable small inventors who down through the years have given of their genius and the product of their brainpower and who have helped to make this Nation the great industrial nation it is.

At that time I also expressed my regret over the fact that no hearings were held this year over the bill—a bill so important to the small inventors and the patent bar and the whole country at large, affecting as it did the rights of small businessmen and small inventors.

At that time I pointed out the implications such a system of maintenance fees would have. I brought to the attention of the Members of the House the situation as it exists in Europe where maintenance fees originated. The system has been having considerable trouble over there because of the additional legal expenses involved when a lawyer must notify his client periodically about an impending maintenance payment. So we were talking about more than a fee to be paid by the patentee for maintaining his patent; we were also talking about paying a lawyer for his services.

It was pointed out in the debate of last March that we were not speaking of merely increasing a fee, but of creating an entirely new form of taxation—what amounted to a user tax on the inventor.

Let me remind the Members of the House that my amendment was designed to fulfill the intent of the original bill—that is, to make the patent office more self-sufficient. My main quarrel with the bill was the method with which it proposed to carry this out. My amendment called for an increase in existing fees while opposing the creation of a new long-term users tax which could only harm the inventor.

Mr. Speaker, I am happy to see sound wisdom has prevailed and that my suggestions and warnings have been heeded in the final draft of this bill as adopted in the other body and that the House Judiciary Committee is now proposing that we adopt the amendments of the other body.

(Mr. ANDERSON of Illinois asked and was given permission to extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. POFF. I yield to the gentleman.

Mr. KASTENMEIER. Mr. Speaker, I would like to associate my views with those of the gentleman from Virginia. I think that the maintenance fee concept was a good one. It is my understanding that the Senate bill will increase initial fees, application fees and others, and there was considerable testimony before our committee that the other fees that had been increased by the Senate would be objectionable. So I have the same reservations as the gentleman from Virginia has expressed about our action here today.

Mr. POFF. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.