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REMARKS: Remarks.

Patent Office Fees

SPEECH
OF

HON. ROBERT F. ELLSWORTH

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

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The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 8190) to fix the fees payable to the Patent Office, and for other purposes.

Mr. ELLSWORTH. Mr. Chairman, I appreciate the gentleman from New York yielding to me. I certainly do not intend to take the full 5 minutes. First of all I want to say I think the committee has done a very excellent job in preparing and bringing out this bill as well as in explaining it. Certainly I do not intend to go over the ground that has been so well covered by the gentleman from Louisiana, the chairman of the subcommittee, and the gentleman from New York [Mr. LINDSAY]. However, as a former practitioner of patent law, I would like to make very clear my enthusiastic support for this bill. A good many of the points made in opposition to the bill, of course, I am sure are motivated by the highest possible motives, but if I may say so, I think from an insider's view that they lack force in the face of two qualities of the bill that I want to emphasize.

First of all is the fact that this is a bill designed to meet the responsibilities that are imposed on the Congress to be financially responsible. This is a bill which fits in, I think, with the very admirable general principle that when special benefits accrue to identifiable recipents above and beyond those which accrue to the public at large, those recipients ought to support the services to a reasonable extent. Certainly this bill does that. It raises the level of the support for the Patent Office provided by those who receive special benefits from the Patent Office from about 30 percent of operating costs to about 75 percent. While one might quibble with the exact amounts of the fees imposed, one, I think, is almost compelled to recognize this principle and to recognize that the committee has done a careful job in arriving at the figures.

If you want to argue with the committee you will get into a numbers game, but I think with very little profit.

Second, I want to point out that this business of the relative positions of the small inventor and the big inventor, which has been touched upon a number of times this afternoon, has already been given very careful consideration by the committee. I think the committee has designed a fee structure both with respect to application fees and issuance fees as well as with respect to this business of the maintenance fees with that very much in mind. I think it is obvious to a person who gives it thought that with Patent Office operating costs having gone up as they have since 1932, and returns in terms of dollars to those who acquire patents having gone up as surely they must have and obviously have since 1932, the beneficiary of a static fee system is the large corporation or the wealthy inventor when compared with the small business competitor or the individual inventor. So when you raise fees in accordance with the rise in costs and benefits, you are attempting, as the committee has obviously done, to equalize the competitive situation of those two classes of inventors with respect to each other.

Furthermore, of course, the difference between the application fee which is increased a small amount and the issuance fee which is increased relatively more, favors the small inventor, gives him his day in court with a minimum of burden. So that I think the committee has, contrary to suggestions that have been made, given careful thought to this situation.

I want to say in conclusion that fees traditionally have covered the costs in the Patent Office and the patent system has flourished. All other costs and fees have gone up; returns have gone up. I think it is an excellent bill. It meets our financial responsibilities and I hope it will pass by a very heavy majority.