

1912.

THE PARLIAMENT OF THE COMMONWEALTH.

No. 74.

VOTES AND PROCEEDINGS

OF THE

HOUSE OF REPRESENTATIVES.

TUESDAY, 29TH OCTOBER, 1912.

1. The House met, at three o'clock p.m., pursuant to adjournment.—Mr. Speaker took the Chair, and read Prayers.
2. MESSAGE FROM THE GOVERNOR-GENERAL.—LOAN BILL (1912).—The following Message from His Excellency the Governor-General was presented, and the same was read by Mr. Speaker :—

DENMAN,
Governor-General.

Message No. 21.

In accordance with the requirements of section fifty-six of the Constitution of the Commonwealth of Australia, the Governor-General recommends to the House of Representatives that an appropriation of moneys be made for the purposes of a Bill for an Act to authorize the raising and expending of the sum of Five hundred and twenty-nine thousand five hundred and twenty-six pounds for the acquisition for Commonwealth purposes of property in Perth, Western Australia, and expenses incidental thereto; and to redeem loans raised by the Government of South Australia on account of the Northern Territory and the Port Augusta Railway.

Melbourne, 24th October, 1912.

Ordered—That the consideration of the foregoing Message in Committee of the whole House be made an Order of the Day for to-morrow.

3. PAPERS.—Mr. O'Malley presented, by command of His Excellency the Governor-General—
Electoral Divisions of New South Wales—Maps (2) showing Boundaries as at present and as proposed in the Redistribution Report laid on the Table on the 24th instant.
Ordered to lie on the Table.
Mr. O'Malley presented, pursuant to Statute—
Lands Acquisition Act—Land acquired under, at Turramurra, New South Wales—For Postal purposes.
4. POSTPONEMENT OF ORDER OF THE DAY.—Ordered—That Order of the Day No. 1, Government Business, be postponed until after Order of the Day No. 4.

29th October, 1912.

5. TRADE MARKS BILL (1912).—The Order of the Day having been read for the further consideration of this Bill in Committee of the whole House—Mr. Speaker left the Chair, and the House resolved itself into a Committee of the Whole.

(In the Committee.)

Postponed clause 21 further considered—

After debate, amendment moved by Mr. Fairbairn, to omit the words “, by leave of the Law Officer,” from lines 7 and 8 [*see page 200 ante*], negatived.

Clause agreed to.

New Clauses—

On the motion of Mr. Hughes, after debate, the following new clause was added to the Bill :—

“30. Section one hundred and twelve of the Principal Act is repealed and the following section inserted in its stead :—

‘112.—(1.) Any person who represents a trade mark as registered which is not so shall be liable for every offence on summary conviction to a fine not exceeding Five pounds.’

Penalty on falsely representing a trade mark as registered. 5 Edw. VII. c. 15, s. 67.

‘(2.) A person shall be deemed, for the purposes of this section, to represent that a trade mark is registered, if he uses in connexion with the trade mark the word “registered,” or any words expressing or implying that registration has been obtained for the trade mark.’”

On the motion of Mr. Hughes, the following new clause was added to the Bill :—

“31. Section one hundred and thirteen of the Principal Act is amended—

Amendment of section 113.

(a) by inserting therein after the words ‘Royal Arms’ the words ‘or the Arms of the Commonwealth’; and

(b) by omitting therefrom the words ‘so nearly resembling them’ and inserting in their stead the words ‘so nearly resembling the Royal Arms or the Arms of the Commonwealth’.”

Mr. Catts moved, That the following new clause be added to the Bill :—

“19A. Section fifty-three of the Principal Act is repealed and the following section inserted in its stead :—

‘53. The rights acquired by registration of a trade mark shall be deemed to be infringed by the use in respect of the goods in respect of which it is registered—

(a) of a mark substantially identical with the trade mark; or

(b) of a mark so nearly resembling the trade mark as to be likely to deceive; or

(c) of a mark which has been copied or imitated from the trade mark or from some portion thereof; or

(d) of a mark which in any particular resembles the trade mark and has been so designed with a view to deceive.

In an action for the infringement of a registered trade mark the Court in determining the question of infringement of the same shall have regard only to the trade mark itself, and to the mark which is alleged to be an infringement thereof, and not to any mark, design, or other matter extraneous to the trade mark, or to the alleged infringement thereof, nor to the size, or shape, or get-up of the package or goods to which the trade mark or the alleged infringement thereof is annexed or affixed, or upon which the same is printed, marked, or embossed. In considering whether any mark is an infringement of a trade mark, the Court shall have regard, in particular, to the colour or colours in which the mark and the trade mark respectively are used.’”

Debate ensued.

Proposed new clause put and negatived.

Title agreed to.

Bill to be reported with amendments.

The House resumed; Mr. Poynton reported accordingly.

On the motion of Mr. Hughes, by leave, the House adopted the Report, and the Bill was read a third time.

6. SERVICE AND EXECUTION OF PROCESS BILL (1912).—The Order of the Day having been read for the second reading—Mr. Hughes moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.—Bill read a second time.

Mr. Speaker left the Chair, and the House resolved itself into a Committee of the Whole.

(In the Committee.)

Clauses 1 to 4 agreed to.

Clause 5 debated and agreed to.

Clause 6 debated and agreed to.

Clauses 7 and 8 agreed to.

Clause 9 debated and agreed to.

Clauses 10 and 11 agreed to.

Title agreed to.

Bill to be reported without amendment.

The House resumed; Mr. Poynton reported accordingly.

On the motion of Mr. Hughes, the House adopted the Report, and, by leave, the Bill was read a third time.

29th October, 1912.

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7. POSTPONEMENT OF ORDER OF THE DAY.—Ordered—That Order of the Day No. 4, Government Business, be postponed until to-morrow.
8. COMMONWEALTH WORKMEN'S COMPENSATION BILL.—The Order of the Day having been read for the resumption of the debate on the question, That the Bill be now read a second time—
Debate resumed.
Question—put and passed.—Bill read a second time.
Mr. Speaker left the Chair, and the House resolved itself into a Committee of the Whole.

(In the Committee.)

Clause 1 read—
Progress to be reported, and leave asked to sit again.

The House resumed ; Mr. Chanter reported accordingly.
Resolved—That the House will, to-morrow, again resolve itself into the said Committee.

9. PAPER.—Mr. Fisher, for Mr. O'Malley, presented, pursuant to Statute—
Electoral Act—Telegrams from the Commissioners, making certain corrections in their Report prepared for the purpose of the redistribution of the State of New South Wales into Electoral Divisions, which was laid on the Table of the House on the 24th instant.
Ordered to be printed.

10. ADJOURNMENT.—Mr. Fisher moved, That the House do now adjourn.
Question—put and passed.

And then the House, at ten o'clock p.m., adjourned until to-morrow at half-past ten o'clock a.m.

MEMBERS PRESENT.—All Members were present (at some time during the sitting) except—Mr. R. Edwards, Mr. Frank J. Foster, Mr. Harper, Mr. Hans Irvine, Mr. W. J. Johnson, Mr. Kelly, Mr. Livingston, Sir William Lyne, Mr. Palmer, and Mr. Sinclair.

WALTER A. GALE,
Clerk Assistant,
for Clerk of the House of Representatives.