

1903.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

No. 11.

WEEKLY REPORT OF DIVISIONS IN COMMITTEE.

WEEK ENDED 1ST OCTOBER, 1903.

WEDNESDAY, 30TH SEPTEMBER, 1903.

No. 22.—*Patents Bill*—Clause 83 (*as amended*)—

83. (1) Any person interested may after the expiration of two years from the granting of the patent present a petition to the Commissioner alleging that the reasonable requirements of the public with respect to a patented invention have not been satisfied and praying for the grant of a compulsory licence, **or, in the alternative, for the revocation of the patent.**
- (2) The Commissioner shall consider the petition and if the parties do not come to an arrangement between themselves, the Commissioner, if satisfied that a *prima facie* case has been made out, shall refer the petition to the **High Court or the Supreme Court**, and if the Commissioner is not so satisfied he may dismiss the petition.
- (3) Where any such petition is referred by the Commissioner to the **High Court or the Supreme Court**, and it is proved to the satisfaction of the Court that the reasonable requirements of the public with reference to the patented invention have not been satisfied, the patentee may be ordered by rule or order to grant licences on such terms as the said Court thinks just, **or if the Court is of opinion that the reasonable requirements of the public will not be satisfied by the grant of licences the Court may order the revocation of the patent. Provided that no order of revocation shall be made before the expiration of three years from the date of the patent or if the patentee gives satisfactory reasons for his default.**
- (4) On the hearing of any petition under this section the patentee and any person claiming an interest in the patent as exclusive licensee or otherwise, shall be made parties to the proceedings, and the Commissioner shall be entitled to appear and be heard.
- (5) If it is proved to the satisfaction of the Court that the patent is worked or that the patented article is manufactured exclusively or mainly outside the Commonwealth, then, unless the patentee can show that the reasonable requirements of the public have been satisfied, the petitioner shall be entitled to an order for a compulsory licence, **or subject to the above proviso to an order for the revocation of the patent.**
- (6) For the purposes of this section the reasonable requirements of the public shall not be deemed to have been satisfied if, by reason of the default of the patentee to work his patent or to manufacture the patented article in the Commonwealth to an adequate extent, or to grant licences on reasonable terms—
- (a) any existing industry or the establishment of any new industry is unfairly prejudiced, or
 - (b) the demand for the patented article is not reasonably met.

- (7) A rule or order directing the grant of any licence under this section shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a licence and made between the parties to the proceeding.

—(*The Prime Minister.*)

Further amendment proposed—That the words “or his refusal to sell the patented article absolutely or except at oppressive and unreasonable prices” be inserted after the word “terms,” in line 4 of sub-clause (6).

—(*The Prime Minister.*)

Question—That the words proposed to be inserted be so inserted—put.

The Committee divided—

Ayes, 18.		Noes, 10.	
Mr. Brown,	Mr. Mahon,	Mr. Joseph Cook,	Mr. Poynton,
Mr. Chapman,	Mr. Mauger,	Mr. Winter Cooke,	Mr. Thomson.
Mr. Clarke,	Mr. McDonald,	Mr. Glynn,	<i>Tellers.</i>
Mr. Hume Cook,	Mr. O'Malley,	Mr. Hartnoll,	
Mr. Crouch,	Mr. Tudor,	Mr. Kirwan,	Mr. Fisher,
Mr. Deakin,	Sir George Turner.	Mr. Paterson,	Mr. Willis.
Mr. L. E. Groom,	<i>Tellers.</i>		
Mr. Higgins,			
Mr. Knox,	Mr. Batchelor,		
Sir William Lyne,	Mr. Watson.		

And so it was resolved in the affirmative.

THURSDAY, 1ST OCTOBER, 1903.

No. 23.—*Patents Bill*—(*continued*)—Proposed new clause—

82A. Every patent shall be granted, subject to the following conditions :—

- (a) That if the patented article is reasonably capable of being commercially constructed or manufactured, or the invention patented is reasonably capable of being commercially worked in Australia, the patentee, or some person authorized by him, shall, within five years after the date thereof, commence, and after such commencement continuously carry on in Australia the construction or manufacture of the patented article, or the working of the invention patented in such a manner that any person may obtain the patented article or the use of the invention at a reasonable price ; and
- (b) That if the patented article is reasonably capable of being commercially constructed or manufactured in Australia the patentee shall not after four years from the date of the patent import it, or cause it to be imported into Australia.

—(*The Prime Minister.*)

Question—That the proposed new clause be added to the Bill—put.

The Committee divided—

Ayes, 16.		Noes, 13.	
Mr. Chapman,	Mr. O'Malley,	Sir Edward Braddon,	Mr. Skene,
Mr. Clarke,	Mr. Ronald,	Mr. Brown,	Mr. Thomson,
Mr. Deakin,	Mr. Spence,	Mr. Winter Cooke,	Mr. Willis.
Sir John Forrest,	Mr. Tudor,	Mr. G. B. Edwards,	
Mr. L. E. Groom,	Mr. Watson.	Mr. Kirwan,	<i>Tellers.</i>
Mr. Kingston,	<i>Tellers.</i>	Mr. Knox,	
Sir William Lyne,		Mr. Mahon,	Mr. Joseph Cook,
Mr. Mauger,	Mr. Hume Cook,	Mr. Paterson,	Mr. Wilks.
Mr. A. McLean,	Mr. Crouch.		

And so it was resolved in the affirmative.