#### JURY (AMENDMENT) BILL.

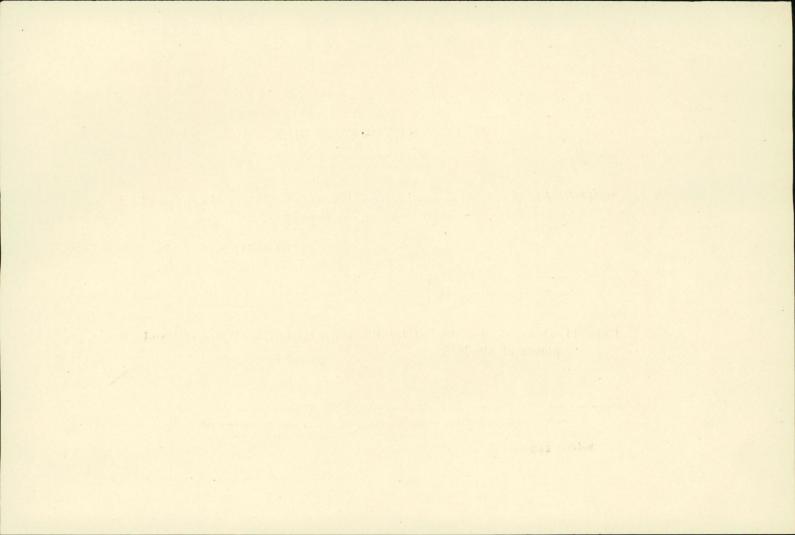
SCHEDULE showing the Legislative Assembly's further Amendment referred to in Message of 9th December, 1947.

> H. ROBBINS, Clerk of the Legislative Assembly.

Page 11, clause 5, line 36. After the word "additions" insert "and places of abode".

Note .- The reference is to the Council's reprint of the Assembly's Bill

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This Public Bill originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS, Clerk of the Legislative Assembly. Legislative Assembly Chamber, Sydney, 18 November, 1947.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

Clerk of the Parliaments.

Legislative Council Chamber, Sydney, November, 1947.



ANNO UNDECIMO

#### REGIS. GEORGI VI

### Act No. , 1947.

An Act to amend in certain respects the law relating to juries; to amend the Jury Act, 1912, and certain other Acts; and for purposes connected therewith.

B<sup>E</sup> it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of 5 the same, as follows :---

1. (1) This Act may be cited as the "Jury (Amend- Short title ment) Act, 1947."

and citation.

(2) The Jury Act, 1912, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, 10 may be cited as the Jury Act, 1912-1947.

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<sup>2.</sup> 

Note .- The words to be omitted are ruled through ; those to be inserted are printed in black letter.

2. (1) For the purposes only of Parts IV and V of Commencethe Principal Act subsection three of this section shall ment of section. be deemed to commence on the first day of the second week of October in such year as the Governor may by 5 notification published in the Gazette appoint.

(2) Subsection three of this section shall come into operation for all purposes upon the first day of January next following the year appointed by the Governor pur-

suant to subsection one of this section.

#### 10 (3) The Principal Act is amended—

Amendment of Act No. 31, 1912.

(a) by omitting section three and by inserting in Subst. sec. 3. lieu thereof the following section :-

3. Except as hereinafter provided every man Qualifications of who is entitled to be enrolled as an elector purmale jurors suant to Part III of the Parliamentary Electorates and Elections Act, 1912-1946, shall be qualified and liable to serve on juries for the trial of all issues, civil and criminal, and for the assessment of damages in all actions at law, and to act as a juror in any district court.

- (b) by omitting paragraph (a) of section four;
- (c) (i) by omitting from subsection one of section Sec. 10. ten the words "and nature of the qualifica- (Lists to be tion";
  - (ii) by omitting from subsection two of the same section the words "addition, and nature of the qualification" and by inserting in lieu thereof the words "and addition";
- (d) by omitting from the Third Schedule the matter Third appearing in the column "Nature of qualifica- Schedule. tion".

3. (1) (a) For the purposes only of Parts IV and V of Commencethe Principal Act subsection three of this section shall ment of section. be deemed to commence in respect of any jurors' district 35 on the first day of the second week of October in such year as the Governor may by notification published in the Gazette appoint in respect of such district.

Sec. 4. (Disqualification.) prepared by chief constables.)

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(b)

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(b) The Governor may for the purpose aforesaid appoint different years in respect of different jurors' districts and may appoint a year in respect of any one or more of such districts without appointing any year in 5 respect of other such districts.

(2) Subsection three of this section shall come into operation for all purposes in respect of any jurors' district upon the first day of January next following the year appointed by the Governor in respect of that jurors'

10 district pursuant to subsection one of this section.

(3) The Principal Act is further amended—

Further amendment of Act No. 31, 1912.

(a) by inserting next after section three the follow- New sec. 3A. ing new section :---

3A. (1) Except as hereinafter provided Qualifications of female

(a) who is entitled to be enrolled as an <sup>jurors.</sup> elector pursuant to Part III of the Parliamentary Electorates and Elections Act, 1912-1946; and

(b) who has, in the form contained in the Seventh Schedule to this Act, notified the chief constable of the police district in which she resides that she is desirous of serving as a juror as from the first day of January next following,

shall be qualified and liable to serve on juries for the trial of all issues, civil and criminal, and for the assessment of damages in all actions at law, and to act as a juror in any district court.

(2) Any woman qualified and liable to serve on juries or act as a juror as aforesaid shall, upon giving notification to the chief constable of the police district for which she is enrolled as a juror of her desire to discontinue her qualification and liability to serve on juries or act as a juror as aforesaid, cease, as from the first day of January next following such notification, to be qualified and liable to serve on juries or act as a juror as aforesaid, (b)

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		(b)	<ul><li>(i) by omitting from section four the word "man" and by inserting in lieu thereof the word "person";</li></ul>	
	5		<ul><li>(ii) by omitting from paragraph (b) of the same section the word "he" and by inserting in lieu thereof the words "such person";</li></ul>	3 1011 3 1011 3
	10	(c)	by omitting from sections nine, thirteen, twenty- seven and fifty-seven the word "men" wherever occurring and by inserting in lieu thereof the word "persons";	Secs. 9, 13, 27 and 57. (Consequen- tial.)
		(d)	by omitting from sections ten and fifty-eight the word "man" wherever occurring and by insert- ing in lieu thereof the word "person";	Secs. 10 and 58. (Conse- quential.)
	15	(e)	by omitting from the Second Schedule the word "men" and by inserting in lieu thereof the word "persons";	Second Schedule. (Conse- quential.)
			by inserting in the Sixth Schedule next before the letters "A.B." the words "Mrs. or Miss";	Sixth Schedule. (Conse- quential.)
:	20	(g)	by inserting next after the Sixth Schedule the following new Schedule:—	New Seventh Schedule.
			SEVENTH SCHEDULE.	Sec. 3A.
			FORM OF NOTIFICATION. To the Chief Constable of the Police District of (insert	
	2-		name of District).	
	25	e scenar in	I, (name), being a woman who is entitled to be enrolled as an elector pursuant to Part III	
			of the Parliamentary Electorates and Elections Act, 1912-1946, now resident at (insert address), am desirous of serving as a juror.	
:	30	Ct. No Bak (1754)	Dated this day of 19	
			(Signature.)	
			(i) by omitting from section nine, as amended	
	35		the words "such men" and by inserting in	Schedule. (Conse- quential.)
			(ii) by omitting from subsection three of section	quential.)
			ten, as inserted by paragraph (b) of section	88
	40		five of this Act, the word "men" and by inserting in lieu thereof the word	() ( <del>,()</del>
	1	ritaleneni sa	"persons"; (iii)	

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#### Jury (Amendment). (iii) by omitting from the Second Schedule, as amended by paragraph (pp) of section five of this Act, the words "of men" and by inserting in lieu thereof the words "of 5 persons". Further amendment 4. (1) The Principal Act is further amended of Act No. 31, 1912. (a) by omitting subsection $(1_A)$ of section fifteen; Sec. 15. (Special jurors.) (b) by omitting from the heading of Part V the words "AND SPECIAL JURORS' LISTS." 10 (b) (c) by omitting section twenty; Sec. 26. (c) (d) (i) by omitting from subsection one of section twenty-six the words "and special jurors' and lists to list"; immediately.) (ii) by omitting from the same subsection the 15 words "or list"; (iii) by omitting from subsection two of the same section the words "or list"; (iv) by omitting from the same subsection the words "or special jurors' list"; Sec. 28. 20 (d) (e) by omitting section twenty-eight; (Criminal special jury.) (c) (f) by omitting from section twenty-nine the word Sec. 29. "special"; (f) (g) by omitting from section thirty the words "who Sec. 30. shall be returned under the provisions of this twelve.) Act either from amongst the class of special 25 jurors or of common jurors, or in cases to be tried on circuit partly from each class, as the court thinks fit to order"; (g) (h) by omitting sections thirty-three and thirty- Secs. 33 and 34. 30 four;

Sec. 20. (Sydney special jurors' book.) come into force

(Special or common jury precepts.)

jury.)

(i)

(h) (i) by omitting from section forty-one the words Sec. 41. (Special rule "special or common"; or order for summoning

(Trial and assessment in civil cases.)

(Juries of

- (i) (j) (i) by omitting from subsection one of section sec. 43. forty-three the words "or special jurors' (Jurors to be chosen by lot.) list"; (ii) by omitting from the same subsection the words "or list" wherever occurring;

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(j) (k) by omitting section forty-six and by inserting Subst. in lieu thereof the following section :--sec. 46.

46. In determining the persons to be sum- Jurors not moned for a jury, those persons who, during the liable to be time that the jury book has been in use, have until list attended at a court in pursuance of a summons, or served on a jury, shall be excluded from service as jurors until the list of names in the jury book has been exhausted.

- 15 (k) (1) by omitting from subsection three of section sec. 59. fifty-nine the words "either special or common"; (striking jury in civil cases.)
  - (1) (m) (i) by omitting from paragraph (c) of sub- sec. 75. section one of section seventy-five the word (Fees to be "common";
    - paid on setting down case for trial.) (ii) by omitting paragraph (d) of the same subsection;
      - (iii) by omitting from subsection three of the same section the words "or six pounds, as the case may be":
- 25 (m) (n) by omitting section seventy-six;
- Sec. 76. (Costs of special jury unless judge certify.) Fourth Schedule.

Fifth Schedule.

Sec. 32.

- (ii) (o) by omitting from the Fourth Schedule the words "either special or common";
- (o) (p) by omitting the Fifth Schedule and by inserting subst. in lieu thereof the following Schedule:-

#### FIFTH SCHEDULE.

#### FORM OF PRECEPT.

(To be adopted for juries of twelve and juries of four.) To the Sheriff of or his deputy, greeting,-

Pursuant to the Act in such case made and provided, you are hereby commanded that you cause to come before (here insert the style of the court) to be

, on holden at the court-house at (here insert the day of the week), the day of now next ( 1 instant) good and

lawful

summoned exhausted.

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lawful persons of the jurors' district for aforesaid, duly qualified according to law as jurors to make a jury of the country for the trial of all such issues of fact or other matters as shall be then required to be tried by a jury of (twelve or of four according as the precept shall be intended). And that you have then there the names of those jurors as by the law is required of you, together with due proof of the service of a summons upon such of the said jurors as shall have been served and of the time and manner thereof and of the causes wherefore the others of such jurors have not been served with such summons and also this writ.

Given under my hand and seal at this day of , A.D. 19

15 (2) The amendments made by subsection one of Savings. this section shall not affect or invalidate the trial of any issue, civil or criminal, or the assessment of damages in any action at law pending or commenced at the commencement of this Act by or had before a jury summoned, 20 impanelled or constituted in accordance with the provisions of the Principal Act.

5. The Principal Act is further amended—

ment of Act No. 31, 1912.

(a) by inserting in section nine after the words sec. 9. "according to this Act" the words "or a list (Notice to comprising such number of such men as has chief constable.) been previously certified to such clerk by the sheriff as being reasonably sufficient for the estimated requirements of the district";

(b) by inserting at the end of section ten the follow- sec. 10. ing new subsection :---(Lists to be

prepared by

(d)

(3) The foregoing provisions of this section chief constable.) shall be regarded as sufficiently complied with if the list contains such number of such men as is specified in the notice referred to in section nine.

(c) by inserting in section twelve after the words sec. 12. "in every year" the words "by notice published (Special petty sessions to be in a newspaper circulating in the district or by summoned.) notice served by post";

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- Further amend.

		Jury (Amenament).	
5	(d)	(i) by inserting in subsection three of section thirteen after the words "infirmity of body" the words "and also the names of all men who in the opinion of the justices are, from the nature of their calling, liable to suffer undue hardship from being called to serve as jurors or whose call so to serve would occasion undue public inconveni-	and allow-
10		<ul><li>ence'';</li><li>(ii) by inserting at the end of the same section the following new subsection:—</li></ul>	
15		(6) The special petty sessions may be held by and before a stipendiary magistrate sitting alone or by and before two or more justices.	
20	(e)	<ul> <li>(i) by omitting from subsection one of section fifteen the words "the Supreme Court or a circuit court or" and by inserting in lieu thereof the words "a sitting of the Supreme Court or a district court or a";</li> </ul>	(Lists to be transmitted to sheriff,
		<ul> <li>(ii) by omitting from subsection two of the same section the words "or circuit court" and by inserting in lieu thereof the words "or district court";</li> </ul>	
25	(f)	<ul><li>(i) by omitting from subsection one of section seventeen the words "Except in the case of the jurors' district of the city of Sydney";</li><li>(ii) by omitting subsection two of the same</li></ul>	(Jurors'
20	()	section;	
30	(g)	by omitting section nineteen;	Sec. 19. (District court jurors'
	(h)	by omitting from section twenty-two the words "circuit court, or" and by inserting in lieu thereof the words "sitting of the Supreme Court, or a";	(New
35	(i)	(i) by inserting at the end of subsection one of section twenty-three the words "or a list comprising such number of such persons as has been previously certified to such bench	(Prepara- tion of lists for new

by the sheriff as being reasonably sufficient for the estimated requirements of the district":

(ii) by inserting in subsection two of the same section after the word "justices" the words "or the stipendiary magistrate or the two or more justices constituting the special petty sessions as provided by section thirteen of this Act'':

#### (j) by omitting section twenty-five;

"transmitted to the sheriff";

Sec. 25. (District court judge to prepare jurors' book.) (k) by omitting from subsection one of section sec. 26.

twenty-six the words "made out by the sheriff (Coming or the district court judge, as the case may be", into force of and by inserting in lieu thereof the words books and lists.)

(Trial by jury in criminal

cases.)

- (1) by omitting from subsection one of section Sec. 27. twenty-seven the words "the circuit courts";
- (Revision.) (m) by omitting from section twenty-nine the words Sec. 29 "whether the trial or assessment is had in the (Trial and assessment in civil cases.) said court or in any circuit court"; (Revision.)
- (n) by inserting next after section thirty the follow- News. 30A. ing new section :--

30A. Where in the course of a civil trial any Provision for continumember of a jury dies or is discharged by the ance of court as being through illness incapable of civil trial when a continuing, or for any other reason, the jury juror dies shall, unless the judge otherwise orders, and so or becomes incapable. long as the number of its members is not reduced below three (or in case of a jury of twelve below ten), be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a valid verdict may be given accordingly.

(o) (i) by omitting from subsection one of section thirty-two the words "and circuit courts" and by inserting in lieu thereof the word "Court"; (ii)

Sec. 32.

(General jury.)

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	Jury (Amendment).	
	<ul><li>(ii) by omitting from subsection two of the same section the words "or any circuit court";</li></ul>	
5	<ul> <li>(iii) by inserting at the end of the same section the following new subsection:— <ul> <li>(4) Two or more precepts may be issued returnable at any particular court on any one day to ensure the attendance at any trial of a sufficient number of jurors to allow full right of challenge to all parties.</li> </ul></li></ul>	i R
10	(p) by omitting from subsection one of section thirty-six the words "or any circuit court";	Sec. 36. (Number of jurors to be summoned.) (Revision.)
	<ul> <li>(q) by omitting from section thirty-seven the words</li> <li>"circuit court" and by inserting in lieu thereof the words "district court";</li> </ul>	
15	(r) by omitting section thirty-eight and thirty-nine;	Secs. 38 and 39. (Repeal: consequen- tial.)
20	<ul> <li>(s) (i) by omitting from subsection one of section forty the words "and circuit courts";</li> <li>(ii) by inserting in subsection two of the same section after the word "except" the words "where otherwise provided in this Act and";</li> </ul>	Sec. 40. (Power reserved to courts, etc.) (Revision.)
25	<ul> <li>(i) by omitting from paragraph (a) of subsection one of section forty-three the words "rotating ballot-box" and by inserting in lieu thereof the words "ballot-box of a type";</li> </ul>	(Jurors to
30	<ul> <li>(ii) by inserting at the end of the same para- graph the words "cards which during any year have already been drawn in a lot pursuant to this section being excluded";</li> </ul>	
1	<ul> <li>(iii) by omitting from paragraph (b) of the same subsection the words "Such box first having been made to rotate for one minute at least" and</li> </ul>	

and by inserting in lieu thereof the words "The cards in the box having been thoroughly mixed"; (u) by omitting from subsection one of section forty- sec. 45. five the words "Such summons shall be" and (Service of by inserting in lieu thereof the words "Every summons.) such summons requiring a juror to attend a sitting of the Supreme Court or a sitting of a court of quarter sessions shall be"; (v) by omitting section forty-seven; Sec. 47. (w) (i) by omitting from section fifty the words Sec. 50. "and shall annex to the said precept a panel (Sheriff's containing the names in alphabetical order return to of the persons so summoned by him in precept.) pursuance of the said jury precept, and shall also therewith furnish to the clerk of the said court the names of the said persons, with their respective additions and places of abode", and by inserting in lieu thereof the words "and shall, in the case of a precept for a jury for the trial of criminal issues, annex to the said precept a panel containing the names only of the persons so summoned by him in pursuance of the said jury precept, and in the case of a precept for a jury for the trial of civil issues, annex to the said precept a panel containing the names of the persons so summoned by him in pursuance of the said jury precept with their respective additions, and shall also furnish therewith to the clerk of the said court in the case of a precept for a jury for the trial of criminal issues and in the case of a precept for a jury for the trial of civil issues the names of the said persons with their respective additions"; (ii) by inserting at the end of the same section

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the following new subsections:---(2) No person shall, unless the judge otherwise orders, prior to or during the

(Summoning of same jurors.)

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the trial, be allowed to inspect or to obtain a copy of any such panel annexed to a precept directed to the sheriff requiring him to summon jurors for the trial of any criminal issue in any court.

(3) Any party to any other proceeding not being the trial of any criminal issue shall, upon payment of such fee as may be fixed by the judges of the Supreme Court, be allowed at any convenient time prior to the trial to inspect or to obtain a copy of any such panel annexed to a precept pursuant to subsection one of this section.

- (x) (i) by omitting from subsection one of section sec. 57. fifty-seven the words "or a circuit court"; (Impanel-
  - (ii) by inserting in the same subsection after criminal the word "another" the words "and call trials.) each by name":
  - (iii) by inserting at the end of the same subsection the words "Where more than one precept has been issued returnable on any one day the said clerk shall place into such box all the cards furnished pursuant to all such precepts before drawing any card from such box";
- (y) by omitting from subsection two of section fifty- sec. 59. nine the words "twice the number of jurors (Striking required to be impanelled" and by inserting in jury in civil cases.) lieu thereof the words "the number of jurors required for the impanelling of the jury pursuant to section sixty of this Act";
- (z) (i) by omitting subsection one of section sixty sec. 60. and by inserting in lieu thereof the follow- (Impaneling subsection :--

ling jury in civil cases.)

(1) In civil issues a sufficient number of pieces of card having been drawn out a list of the names appearing thereon shall be delivered by the sheriff or his deputy to the

plaintiff

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plaintiff or his attorney or counsel by whom a number of such names equal to one half of the number of the jury to be impanelled may be struck therefrom and the list so reduced shall then be delivered to each defendant who has pleaded separately or his attorney or counsel by each of whom a number of names equal to one half of the number of the jury to be impanelled may be also struck therefrom.

(ii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsections:-

(3) The cards bearing the names struck out from the list shall be returned to the box as soon as the jury is sworn and impanelled and the cards bearing the names of the jury sworn and impanelled shall also be returned to the box at the conclusion of the trial.

(4) In this section and in section sixtythree of this Act, "plaintiff" includes petitioner and "defendant" includes respondent, intervener and co-respondent.

(aa) by omitting from section sixty-two the words sec. 62. "the three next preceding sections" and by (When inserting in lieu thereof the words "sections fifty-nine, sixty and sixty-one"; (bb) by omitting from section sixty-four the word Sec. 64.

word "permit";

word "six";

damages assessed only.)

"order" and by inserting in lieu thereof the (Refreshments.)

- (cc) by omitting from section sixty-five the word sec. 65. "twelve" and by inserting in lieu thereof the (Disagreement n criminal trial.)
- (dd) (i) by omitting from subsection one of section Sec. 66. sixty-six the words "six hours" and by in- (Disagreeserting in lieu thereof the words "four mentin hours";

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civil cases.)

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#### Act No. , 1947.

#### Jury (Amendment).

(ii) by inserting at the end of the same subsection the words "but if three-fourths in number of them do not concur in any such verdict or assessment and it be found after 5 examination on oath of one or more of them that they or three-fourths in number of them are not likely so to concur then such jurors may be discharged and the cause may without any new process for that purpose 10 be again set down for trial or assessment (as the case may be) either at the same or any subsequent sittings, as the court or presiding judge may order"; (iii) by omitting from subsection two of the same section the words "the whole twelve hours" 15 and by inserting in lieu thereof the words "six hours"; (iv) by inserting at the end of the same section the following new subsection :---20 (3) Where, pursuant to section 30A of this Act, the number of jurors has been reduced to three-(a) the decision of such three jurors shall, if such jurors agree, be taken 25 and entered as the verdict or assessment of the jury; (b) the provisions of subsection one of this section shall not apply; (c) the provisions of subsection two of 30 this section shall be read as if the words "the three" were substituted for the words "three-fourths in number of the". In their application to a case where, pursuant to section 30A of this Act the number 35 of a jury of twelve has been reduced to eleven or ten the provisions of subsection one and of subsection two of this section shall be read as if the word "nine" were 40 substituted for the words "three-fourths in number" in each such subsection. (ee)

	\$	Jury (Amendment).	
		by omitting from subsection one of section sixty-seven the words "some of";	Sec. 67. (Order for view.)
	(ff) b	by omitting sections sixty-eight and sixty-nine;	Secs. 68 and 69. (Repeal: con- sequential.)
5		by omitting from section seventy the words "and circuit courts" and by inserting in lieu thereof the word "Court";	Sec. 70. (Jurors' fees.) (Revision.)
		by omitting subsection two of section seventy- one;	Sec. 71. (Compensation to jurors.)
10		by omitting from section seventy-two the words "or any circuit court";	Sec. 72. (District courts.)
		by omitting from section seventy-five the word "Prothonotary" wherever occuring and by inserting in lieu thereof the word "sheriff";	(Revision.) Sec. 75. (Fees to be paid.)
	(kk)	by omitting section seventy-nine;	Sec. 79. (Li <b>a</b> bility o <b>f</b> justices.)
15	(11)	by omitting section eighty-one;	Sec. 81.
			(Liability of viewers: repeal: con- sequential.)
		by inserting next after section eighty-four the following new sections:—	New ss. 84A, 84B.
20		84A. Any person who publishes in any news- paper the names, descriptions, addresses or photographs of the jurors or of any of the jurors summoned or impanelled for the trial of any criminal issue shall be liable on summary con-	publication
		viction to a penalty not exceeding one hundred pounds.	
25		employee or injures him in his employment of	unlawful dismissal of
		alters his position to his prejudice by reason of the fact that the employee is summoned to serve on a jury shall be liable on summary convic-	employee summoned to serve on a jury.
30		tion—	
•	•	(a) if a body corporate—to a penalty not exceeding two hundred pounds;	
		(b)	

(b) if any other person—to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment.

(2) The court before which the employer is charged may further order that the employee be reimbursed the wages lost by him and the court may also direct his reinstatment in his old or a similar position.

(3) In any proceeding for an offence against this section if all the facts and circumstances constituting the offence other than the reason for the defendant's action are proved, it shall lie upon the defendant to prove that the dismissal was not actuated by the reason alleged in the charge.

(4) Where the employer is a body corporate and the dismissal complained of is proved to have been with the consent or approval of any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed guilty of an offence against this section and shall be liable to be proceeded against and punished accordingly.

(5) Where, pursuant to the provisions of subsection two of this section, the court has ordered that an employee be reimbursed the wages lost by him, the amount of the wages so lost shall be specified in the order, and such order shall operate as an order against the employer for the payment of money under the Small Debts Recovery Act, 1912, as amended by subsequent Acts, and be enforceable as such under the provisions of that Act as so amended.

(6) Any employer who neglects or fails to comply with an order, made pursuant to the provisions of subsection two of this section, directing reinstatement of an employee, shall be liable

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liable on summary conviction to a penalty not exceeding ten pounds for each day such neglect or failure continues.

The amount of wages which would have been payable to the employee in respect of the period of such neglect or failure if he had been reinstated in accordance with the terms of the order aforesaid shall be recoverable, as a debt due to the employee by the employer, in any court of competent jurisdiction.

(nn) by omitting from subsection one of section Sec. 85. eighty-five the words "or to the Supreme Court, fines for nonif the fine has been imposed for non-attendance attendance.) at a circuit court";

- (00) (i) by omitting from paragraph (a) of section sec. 86. eighty-six the words "or a circuit court"; (Recovery
  - of other (ii) by omitting from paragraph (b) of the same fines.) section the words "in the manner appointed by law for the recovery of fines imposed by justices of the peace" and by inserting in lieu thereof the words "pursuant to the Fines and Forfeited Recognizances Recovery Act, 1902";
- (pp) by inserting in the Second Schedule after the Second words "all men" the words and symbols "[or Schedule. of men (being the number certified by the sheriff as being reasonably sufficient for the estimated requirements of the district)]";
- (qq) by omitting from the heading to the Third Third Schedule the words "of all persons" and by Schedule. inserting in lieu thereof the words and symbols "of all [or of persons]":
- (rr) (i) by omitting from the Sixth Schedule the sixth words "or Circuit Court" and by inserting Schedule. in lieu thereof the words "Court or District Court'';

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(ii)

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- (ii) by omitting from the same Schedule the word "ten" and by inserting in lieu thereof the words "a quarter to ten".
- 6. (1) The District Courts Act. 1912-1936. 5 amended-
  - (a) (i) by omitting from subsection three of sec. 90 (3). section ninety the words "made at least (Jury in actions for five clear days before the day named for the less th hearing" and by inserting in lieu thereof the words "made not less than the prescribed number of days before the day named for the hearing'';
    - (ii) by omitting from the same subsection the words "at least five clear days before the day named for the hearing" and by inserting in lieu thereof the words "not less than the prescribed number of days before the day named for the hearing";

(b) by omitting section ninety-three:

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- (c) (i) by omitting from subsection one of section Sec. 94. ninety-four the words "except where other- (Summons wise provided" and by inserting in lieu thereof the words "deliver to the sheriff a precept in or to the effect of the form contained in the Fifth Schedule to the Jury Act, 1912-1947, requiring him to":
  - (ii) by omitting from the same subsection the words "or special jurors' list";
  - (iii) by omitting from the same subsection the word "summons" and by inserting in lieu thereof the word "precept":
  - (iv) by omitting subsection four of the same section and by inserting in lieu thereof' the following subsection :---

(4) Before the day and at the place named in any precept for the appearance of the jurors thereby required to be summoned to attend the District Court, the sheriff shall return

is Amendment of Act No. 23, 1912.

Sec. 93. (Special jurors' list.)

to jurors.)

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return to the registrar thereof a panel containing the names of the persons so summoned pursuant to the precept with their respective additions and shall also furnish to the said registrar the names of the said persons with their respective additions written upon separate pieces of card being as nearly as may be of equal size.

The sheriff shall previously upon the panel certify that the jurors named therein have been duly summoned and such certificate shall without proof of his signature be prima facie evidence that each juror whose name is included in the panel has been duly summoned to attend the court pursuant to the precept.

(d) by omitting from subsection one of section Sec. 95. ninety-five the words "or special jurors' list";

(Jury, how chosen.)

- (e) by omitting from subsection two of section one Sec. 134. hundred and thirty-four the words "may be a (Jury.) common or special jury, and";
- (f) by omitting from section one hundred and thirty- Sec. 136. (Number six the word "special" wherever occurring;

of jurors.)

(g) by omitting subsections one and two of section Sec. 137. one hundred and thirty-seven and by inserting (Drawing of jury.) in lieu thereof the following subsection :---

(1) At the trial of any such issue the registrar shall put into a box provided for that purpose the pieces of card furnished as aforesaid by the sheriff.

(2) The Principal Act is further amended as Further amendment of Act No. 31, 1912. follows :---

(a) (i) by omitting from subsection five of section Sec. 13 (5).

- thirteen the word "three" and by inserting (Lists.) in lieu thereof the word "two";
- (ii) by omitting the proviso to the same subsection;

(b)

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(b) by omitting from subsection one of section Sec. 15. fifteen all words after the word "sheriff". (Transmission of

(3) The District Courts Act, 1912, as amended by lists.) subsequent Acts and by this Act, may be cited as the 5 Districts Courts Act, 1912-1947.

7. (1) The Matrimonial Causes Act, 1899, 1S Amendment amended-1899.

(a) (i) by inserting at the end of subsection three of sec. 52. section fifty-two the following words:-(Claim by husband for

Provided that, subject to section sixty - damages.) nine of this Act, any issue arising upon the hearing of any such petition (including the amount of damages) may be determined by the Court;

- (ii) by omitting subsection five of the same section;
- (b) by inserting next after subsection two of section Sec. 69. sixty-nine the following new subsection :----

(Trial by jury.)

(2A) A husband claiming damages may require the issues in the suit to be tried by a jury and the amount of the damages to be recovered to be ascertained by the verdict of a jury, although the respondent or co-respondent, or both the respondent and co-respondent, do not appear.

(c) by omitting section seventy-three and by insert- subst. sec. 73. ing in lieu thereof the following section :--

73. For the purposes of this Act the Court Summoning may, as occasion requires, issue such precepts directing the sheriff to summon jurors and make such orders upon the sheriff for the attendance of such number of jurors as such Court may consider requisite.

(d) by omitting from section seventy-six the word "now" and by inserting in lieu thereof the words "that for the time being."

(2) The Matrimonial Causes Act, 1899, as amended Sec. 76. by subsequent Acts and by this Act, may be cited as the (General law and Matrimonial Causes Act, 1899-1947. practice

to apply.) 8.

of jurors.

of Act No. 14,

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8. (1) (a) The Equity Act, 1901, as amended by Amendment of Act No. 24, 1901. subsequent Acts, is amended—

(i) by omitting from paragraph (a) of subsection sec. 51. two of section fifty-one the words "special or (Trial of issues.) common'';

(ii) by omitting from subsection one of section fifty- sec. 52. two the words "special or common";

(b) The Equity Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the 10 Equity Act, 1901-1947.

(2) (a) The Wills, Probate and Administration Amendment Act, 1898, as amended by subsequent Acts, is amended— 1898.

- (i) by omitting from section one hundred and forty sec. 140. the words "special or common": (Questions of fact
- how tried.) 15 (ii) by omitting from subsection one of section one Sec. 141. hundred and forty-one the word "men" and by (Question to be inserting in lieu thereof the word "persons". stated.)

(b) The Wills, Probate and Administration

Act, 1898, as amended by subsequent Acts and by this 20 Act, may be cited as the Wills, Probate and Administra-

tion Act, 1898–1947.

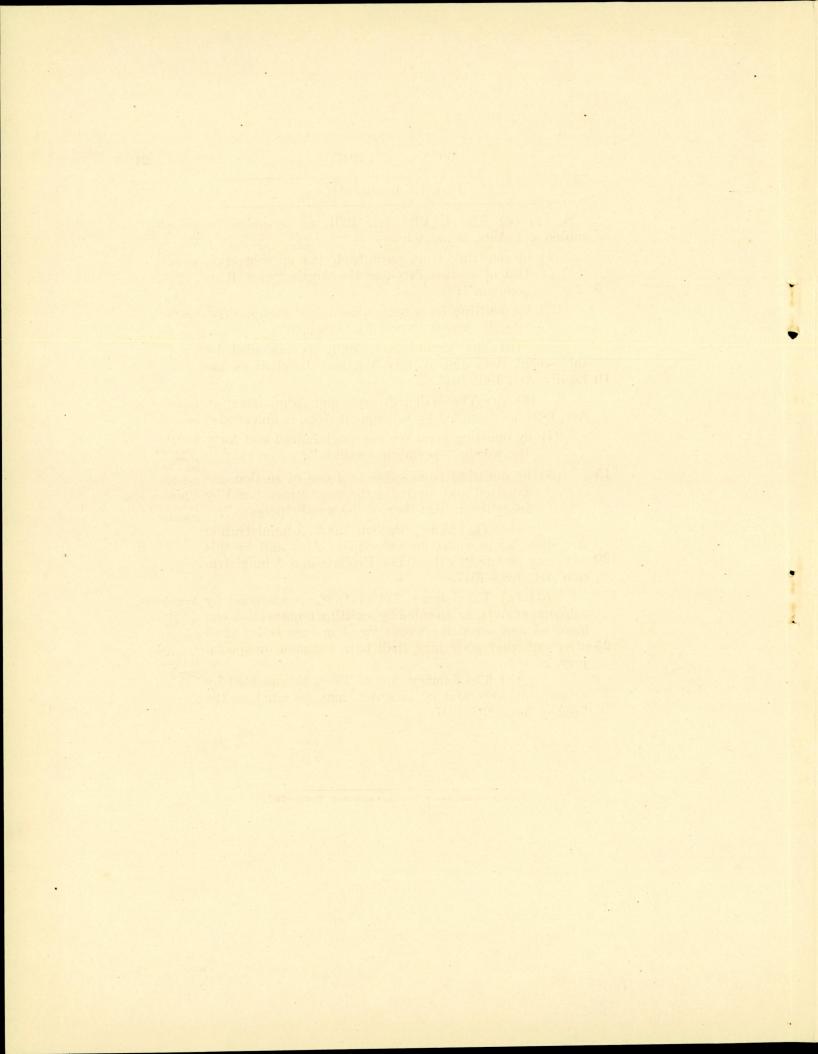
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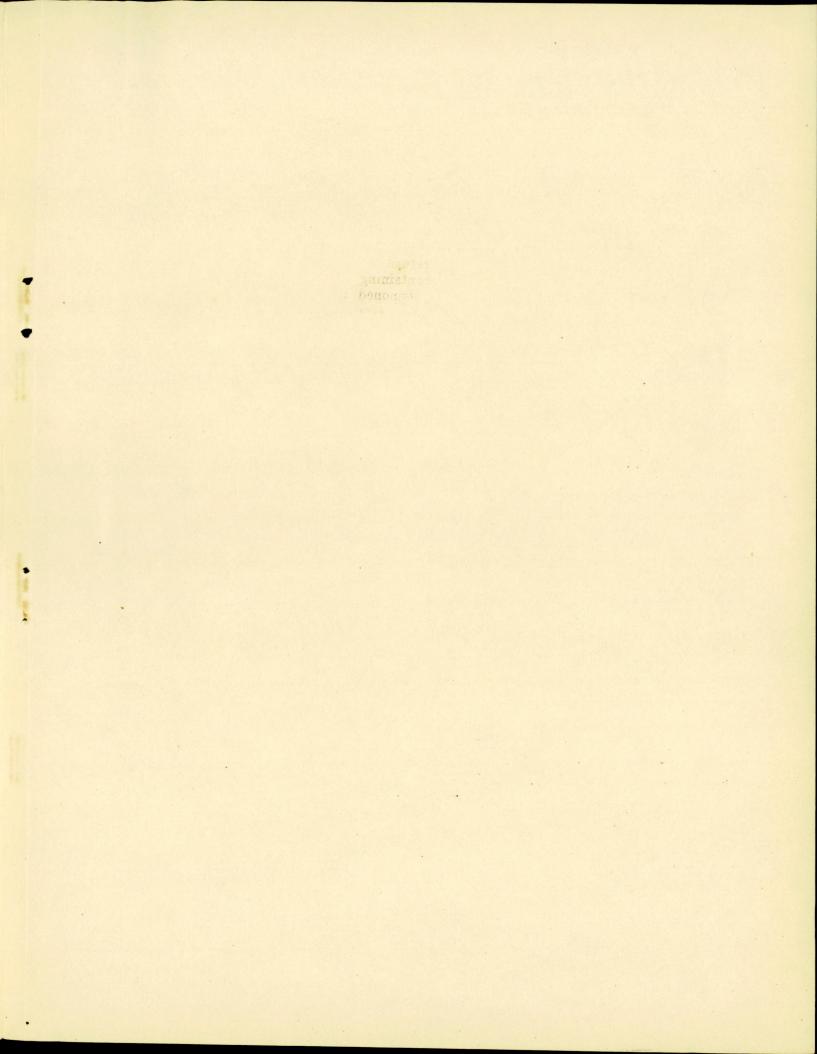
(3) (a) The Lunacy Act of 1898, as amended by Amendment subsequent Acts, is amended by omitting from section one of Act No. 45, 1898. hundred and seven the words "and in such order shall Sec. 107. 25 direct whether such jury shall be a common or special (Inquiry jury". before a

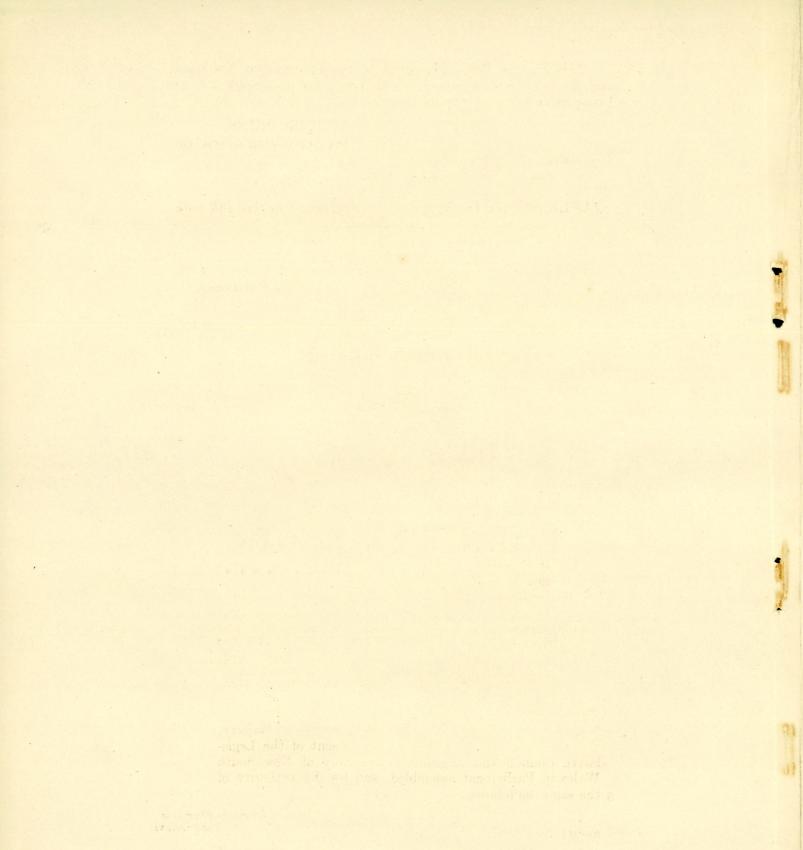
jury.) (b) The Lunacy Act of 1898, as amended by subsequent Acts and by this Act, may be cited as the Lunacy Act, 1898–1947.

Sydney: Thomas Henry Tennant, Government Printer-1947,

(Jury, how summoned.)







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This Public Bill originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

> H. ROBBINS, Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, 18 November, 1947.





# ANNO UNDECIMO GEORGII VI REGIS.

## Act No. , 1947.

An Act to amend in certain respects the law relating to juries; to amend the Jury Act, 1912, and certain other Acts; and for purposes connected therewith.

B<sup>E</sup> it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of 5 the same, as follows :---

1. (1) This Act may be cited as the "Jury (Amend- short title and citation. ment) Act, 1947."

(2) The Jury Act, 1912, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, 10 may be cited as the Jury Act, 1912-1947.

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2. (1) For the purposes only of Parts IV and V of Commencethe Principal Act subsection three of this section shall ment of be deemed to commence on the first day of the second week of October in such year as the Governor may by 5 notification published in the Gazette appoint.

(2) Subsection three of this section shall come into operation for all purposes upon the first day of January next following the year appointed by the Governor pursuant to subsection one of this section.

10 (3) The Principal Act is amended—

Amendment of Act No. 31, 1912.

(a) by omitting section three and by inserting in subst. sec. 3. lieu thereof the following section:-

3. Except as hereinafter provided every man Qualifications of who is entitled to be enrolled as an elector purmale jurors. suant to Part III of the Parliamentary Electorates and Elections Act, 1912-1946, shall be qualified and liable to serve on juries for the trial of all issues, civil and criminal, and for the assessment of damages in all actions at law, and to act as a juror in any district court.

(b) by omitting paragraph (a) of section four;

- (c) (i) by omitting from subsection one of section sec. 10. ten the words "and nature of the qualification";
  - (ii) by omitting from subsection two of the same section the words "addition, and nature of the qualification" and by inserting in lieu thereof the words "and addition";
- (d) by omitting from the Third Schedule the matter Third appearing in the column "Nature of qualifica- Schedule. tion".

3. (1) (a) For the purposes only of Parts IV and V of Commencethe Principal Act subsection three of this section shall ment of section. be deemed to commence in respect of any jurors' district 35 on the first day of the second week of October in such

year as the Governor may by notification published in the Gazette appoint in respect of such district. (b)

Sec. 4. (Disqualifica-tion.) (Lists to be prepared by chief constables.)

4 7

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(b) The Governor may for the purpose aforesaid appoint different years in respect of different jurors' districts and may appoint a year in respect of any one or more of such districts without appointing any year in 5 respect of other such districts.

(2) Subsection three of this section shall come into operation for all purposes in respect of any jurors' district upon the first day of January next following the year appointed by the Governor in respect of that jurors' 10 district pursuant to subsection one of this section.

(3) The Principal Act is further amended—

Further amendment of Act No. 31, 1912.

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(a) by inserting next after section three the follow- New sec. 3A. ing new section :---

3A. (1) Except as hereinafter provided Qualificaevery woman-

jurors. (a) who is entitled to be enrolled as an elector pursuant to Part III of the Parliamentary Electorates and Elections Act, 1912-1946; and

(b) who has, in the form contained in the Seventh Schedule to this Act. notified the chief constable of the police district in which she resides that she is desirous of serving as a juror as from the first day of January next following,

shall be qualified and liable to serve on juries for the trial of all issues, civil and criminal, and for the assessment of damages in all actions at law, and to act as a juror in any district court.

(2) Any woman qualified and liable to serve on juries or act as a juror as aforesaid shall, upon giving notification to the chief constable of the police district for which she is enrolled as a juror of her desire to discontinue her qualification and liability to serve on juries or act as a juror as aforesaid, cease, as from the first day of January next following such notification, to be qualified and liable to serve on juries or act as a juror as aforesaid. (b)

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	Jury (Amendment).				
(b)	<ul> <li>(i) by omitting from section four the word "man" and by inserting in lieu thereof the word "person";</li> </ul>				
5	<ul><li>(ii) by omitting from paragraph (b) of the same section the word "he" and by inserting in lieu thereof the words "such person";</li></ul>	anore of program (2)			
(c) 10	by omitting from sections nine, thirteen, twenty- seven and fifty-seven the word "men" wherever occurring and by inserting in lieu thereof the word "persons";	Secsi 9, 13, 27 and 57. (Consequen- tial.)			
(d)	by omitting from sections ten and fifty-eight the word "man" wherever occurring and by insert- ing in lieu thereof the word "person";	Secs. 10 and 58. (Conse- quential.)			
(e) 15	by omitting from the Second Schedule the word "men" and by inserting in lieu thereof the word "persons";	Second Schedule. (Conse- quential.)			
	by inserting in the Sixth Schedule next before the letters "A.B." the words "Mrs. or Miss";	Sixth Schedule. (Conse- quential.)			
(g) 20	by inserting next after the Sixth Schedule the following new Schedule:— SEVENTH SCHEDULE. FORM OF NOTIFICATION.	New Seventh Schedule. Sec. 3A.			
.82.592 Lasten()) (-(2012,2000 p	To the Chief Constable of the Police District of (insert name of District). I, (name), being a woman who is				
1 Sec 18 . Triat and attention in 	entitled to be enrolled as an elector pursuant to Part III of the Parliamentary Electorates and Elections Act, 1912-1946, now resident at (insert address), am desirous of serving as a juror.	a) (7) (7)			
30	Dated this day of 19 (Signature.)	0			
<b>35</b>	<ul> <li>(i) by omitting from section nine, as amended by paragraph (a) of section five of this Act, the words "such men" and by inserting in lieu thereof the words "such persons";</li> </ul>	and Second			
10. oktober 10. oktober 40. setter 20. setter 20. setter 20. setter	<ul><li>(ii) by omitting from subsection three of section ten, as inserted by paragraph (b) of section five of this Act, the word "men" and by inserting in lieu thereof the word</li></ul>	5) ©8			
6 - SAL	"persons"; (iii)	- (0)			

(iii) by omitting from the Second Schedule, as amended by paragraph (pp) of section five of this Act, the words "of men" and by inserting in lieu thereof the words "of persons".

4. (1) The Principal Act is further amended-

(a) by omitting subsection (1A) of section fifteen;

(b) by omitting section twenty;

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- (c) (i) by omitting from subsection one of section Sec. 26. twenty-six the words "and special jurors' list";
  - (ii) by omitting from the same subsection the words "or list";
  - (iii) by omitting from subsection two of the same section the words "or list";
  - (iv) by omitting from the same subsection the words "or special jurors' list":

(e) by omitting from section twenty-nine the word Sec. 29.

(f) by omitting from section thirty the words "who Sec. 30. shall be returned under the provisions of this twelve.)

Act either from amongst the class of special jurors or of common jurors, or in cases to be

tried on circuit partly from each class, as the

(d) by omitting section twenty-eight;

court thinks fit to order":

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(g) by omitting sections thirty-three and thirty- Secs. 33 and 34. four; (Special or

common jury precepts.)

(h) by omitting from section forty-one the words Sec. 41. "special or common";

(Special rule or order for summoning jury.)

(i)

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Further amendment of Act No. 31, 1912.

Sec. 15. (Special jurors.)

Sec. 20. (Sydney special jurors' book.)

(Jurors' books and lists to come into force immediately.)

Carl H. A. H.

Sec. 28. (Criminal special jury.)

> (Trial and assessment in civil cases.)

"special";

- (i) (i) by omitting from subsection one of section sec. 43. forty-three the words "or special jurors' (Jurors to be chosen by lot.) list'';
  - (ii) by omitting from the same subsection the words "or list" wherever occurring;
- (j) by omitting section forty-six and by inserting Subst. sec. 46. in lieu thereof the following section :---

46. In determining the persons to be sum- Jurors not moned for a jury, those persons who, during the liable to be time that the jury book has been in use, have until list attended at a court in pursuance of a summons, exhausted. or served on a jury, shall be excluded from service as jurors until the list of names in the jury book has been exhausted.

- (k) by omitting from subsection three of section sec. 59. fifty-nine the words "either special or common"; (Striking jury in civil cases.)
- (1) (i) by omitting from paragraph (c) of sub-sec. 75. section one of section seventy-five the word (Fees to be "common";
  - (ii) by omitting paragraph (d) of the same subsection;
  - (iii) by omitting from subsection three of the same section the words "or six pounds, as the case may be";
- (m) by omitting section seventy-six;

Sec. 76. (Costs of special jury unless judge certify.) Fourth Schedule.

paid on setting down case for trial.)

(n) by omitting from the Fourth Schedule the words "either special or common";

(o) by omitting the Fifth Schedule and by inserting Subst. Fifth in lieu thereof the following Schedule:-

Schedule. Sec. 32.

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#### FIFTH SCHEDULE.

#### FORM OF PRECEPT.

(To be adopted for juries of twelve and juries of four.) or his deputy, greeting,-To the Sheriff of

Pursuant to the Act in such case made and provided, you are hereby commanded that you cause to come before (here insert the style of the court) to be

, on holden at the court-house at (here insert the day of the week), the now next (or instant)

day of good and lawful.

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lawful persons of the jurors' district for aforesaid, duly qualified according to law as jurors to make a jury of the country for the trial of all such issues of fact or other matters as shall be then required to be tried by a jury of (twelve or of four according as the precept shall be intended). And that you have then there the names of those jurors as by the law is required of you, together with due proof of the service of a summons upon such of the said jurors as shall have been served and of the time and manner thereof and of the causes wherefore the others of such jurors have not been served with such summons and also this writ.

Given under my hand and seal at this day of , A.D. 19

15 (2) The amendments made by subsection one of savings. this section shall not affect or invalidate the trial of any issue, civil or criminal, or the assessment of damages in any action at law pending or commenced at the commencement of this Act by or had before a jury summoned, 20 impanelled or constituted in accordance with the provisions of the Principal Act.

#### 5. The Principal Act is further amended—

Further amendment of Act No. 31, 1912.

(a) by inserting in section nine after the words Sec. 9. "according to this Act" the words "or a list (Notice to comprising such number of such men as has chief constable.) been previously certified to such clerk by the sheriff as being reasonably sufficient for the estimated requirements of the district";

(b) by inserting at the end of section ten the follow- sec. 10. ing new subsection :---

(Lists to be prepared by

(d)

(3) The foregoing provisions of this section chief constable.) shall be regarded as sufficiently complied with if the list contains such number of such men as is specified in the notice referred to in section nine.

(c) by inserting in section twelve after the words sec. 12. "in every year" the words "by notice published (Special petty sessions to be in a newspaper circulating in the district or by summoned.) notice served by post'';

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			ourg (minenument).	
5	(d)	(i)	by inserting in subsection three of section thirteen after the words "infirmity of body" the words "and also the names of all men who in the opinion of the justices are, from the nature of their calling, liable to suffer undue hardship from being called to serve as jurors or whose call so to serve would occasion undue public inconveni- ence";	and allow-
10		(ii)	by inserting at the end of the same section the following new subsection:— (6) The special petty sessions may be	
n a guila e			held by and before a stipendiary magistrate sitting alone or by and before two or more	
			justices.	
15	(e)	(i)	by omitting from subsection one of section fifteen the words "the Supreme Court or	Sec. 15. (Lists to be
			a circuit court or" and by inserting in lieu	transmitted to sheriff,
			thereof the words "a sitting of the Supreme	etc.)
20			Court or a district court or a";	
		(ii)	by omitting from subsection two of the same section the words "or circuit court" and by inserting in lieu thereof the words "or district court";	
25	(f)		by omitting from subsection one of section seventeen the words "Except in the case of the jurors' district of the city of Sydney";	(Jurors'
		(ii)	by omitting subsection two of the same section;	
30	(g)	by	omitting section nineteen;	Sec. 19. (District court jurors' book.)
	(h)	hv	omitting from section twenty-two the words	
	uori ili bilari a	"ci the Cou	rcuit court, or" and by inserting in lieu reof the words "sitting of the Supreme art, or a";	(New courts.) (Revision.)
35	(i)	(i)	by inserting at the end of subsection one of section twenty-three the words "or a list	Sec. 23. (Prepara-
in Bon official			comprising such number of such persons as	lists for new
			has been previously certified to such bench	courts.)
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	Jury (Amendment).	
res of section her 13. sector (forrest) infirmity of sadalow in interaction (secord	<ul><li>by the sheriff as being reasonably sufficient for the estimated requirements of the district'';</li><li>(ii) by inserting in subsection two of the same</li></ul>	
5	section after the word "justices" the words "or the stipendiary magistrate or the two or more justices constituting the special petty sessions as provided by section thirteen of this Act";	
	by omitting section twenty-five;	Sec. 25. (District court judge to prepare jurors' book.)
Arta Arta Arta Arta Arta Arta Arta Arta	by omitting from subsection one of section twenty-six the words "made out by the sheriff or the district court judge, as the case may be" and by inserting in lieu thereof the words "transmitted to the sheriff";	(Coming into force of jurors' books and lists.)
(l)	by omitting from subsection one of section twenty-seven the words "the circuit courts"; by omitting from section twenty-nine the words "whether the trial or assessment is had in the	in criminal cases.) (Revision.) Sec. 29 (Trial and assessment in
<b>20</b> (n)	said court or in any circuit court"; by inserting next after section thirty the follow- ing new section:— 30A. Where in the course of a civil trial any member of a jury dies or is discharged by the	Provision for continu-
25	court as being through illness incapable of continuing, or for any other reason, the jury shall, unless the judge otherwise orders, and so long as the number of its members is not reduced below three (or in case of a jury of twelve below	viti trial when a juror dies or becomes
30	ten), be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a valid verdict may be given accordingly.	
(0) 35	<ul> <li>(i) by omitting from subsection one of section thirty-two the words "and circuit courts" and by inserting in lieu thereof the word "Court";</li> </ul>	

**	Jury (Amendment).	
	<ul><li>(ii) by omitting from subsection two of the same section the words "or any circuit court";</li></ul>	
	(iii) by inserting at the end of the same section the following new subsection:	
	(4) Two or more precepts may be issued returnable at any particular court on any one day to ensure the attendance at any trial of a sufficient number of jurors to allow	ň
`	full right of challenge to all parties.	
"	by omitting from subsection one of section thirty-six the words "or any circuit court";	Sec. 36. (Number of jurors to be summoned.) (Revision.)
)	by omitting from section thirty-seven the words "circuit court" and by inserting in lieu thereof the words "district court";	
)	by omitting section thirty-eight and thirty-nine;	Secs. 38 and 39.

(Repeal: consequential.)

(s) (i) by omitting from subsection one of section Sec. 40. forty the words "and circuit courts";

- (Power reserved to
- (ii) by inserting in subsection two of the same courts, etc.) section after the word "except" the words (Revision.) "where otherwise provided in this Act and";
- (t) (i) by omitting from paragraph (a) of sub-sec. 43. section one of section forty-three the words (Jurors to "rotating ballot-box" and by inserting in by lot.) lieu thereof the words "ballot-box of a type";
  - (ii) by inserting at the end of the same paragraph the words "cards which during any year have already been drawn in a lot pursuant to this section being excluded";
  - (iii) by omitting from paragraph (b) of the same subsection the words "Such box first having been made to rotate for one minute at least"

and

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	Jury (Amendment).	
	and by inserting in lieu thereof the words "The cards in the box having been thoroughly mixed";	
5	<ul> <li>(u) by omitting from subsection one of section forty- Sec. 45.</li> <li>five the words "Such summons shall be" and (Service of by inserting in lieu thereof the words "Every summons.)</li> </ul>	
	such summons requiring a juror to attend a sitting of the Supreme Court or a sitting of a court of quarter sessions shall be'';	
10	(v) by omitting section forty-seven; Sec. 47. (Summoning of same jurors.)	
	(w) (i) by omitting from section fifty the words sec. 50. "and shall annex to the said precept a panel (Sheriff's	
	containing the names in alphabetical order return to general of the persons so summoned by him in precept.)	
15	pursuance of the said jury precept, and shall also therewith furnish to the clerk of the	
3	said court the names of the said persons, with their respective additions and places	
20	of abode", and by inserting in lieu thereof the words "and shall, in the case of a precept	
40	for a jury for the trial of criminal issues, annex to the said precept a panel containing	
	the names only of the persons so summoned by him in pursuance of the said jury precept,	
25	and in the case of a precept for a jury for the trial of civil issues, annex to the said	
	precept a panel containing the names of the persons so summoned by him in pursuance	
30	of the said jury precept with their respective additions, and shall also furnish therewith	
	to the clerk of the said court in the case of a precept for a jury for the trial of criminal	
	issues and in the case of a precept for a jury for the trial of civil issues the names of the	
35	said persons with their respective additions'';	
	(ii) by inserting at the end of the same section the following new subsections:	

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the trial, be allowed to inspect or to obtain a copy of any such panel annexed to a precept directed to the sheriff requiring him to summon jurors for the trial of any criminal issue in any court.

(3) Any party to any other proceeding not being the trial of any criminal issue shall, upon payment of such fee as may be fixed by the judges of the Supreme Court, be allowed at any convenient time prior to the trial to inspect or to obtain a copy of any such panel annexed to a precept pursuant to subsection one of this section.

(x) (i) by omitting from subsection one of section sec. 57.

- fifty-seven the words "or a circuit court"; (Impanel-(ii) by inserting in the same subsection after criminal the word "another" the words "and call trials.) each by name":
- (iii) by inserting at the end of the same subsection the words "Where more than one precept has been issued returnable on any one day the said clerk shall place into such box all the cards furnished pursuant to all such precepts before drawing any card from such box";
- (y) by omitting from subsection two of section fifty- sec. 59. nine the words "twice the number of jurors (Striking required to be impanelled" and by inserting in jury in civil cases.) lieu thereof the words "the number of jurors required for the impanelling of the jury pur-0.2 suant to section sixty of this Act";
- (z) (i) by omitting subsection one of section sixty Sec. 60. and by inserting in lieu thereof the follow- (Impaneling subsection :--ling jury in civil cases.)

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(1) In civil issues a sufficient number of pieces of card having been drawn out a list of the names appearing thereon shall be delivered by the sheriff or his deputy to the

plaintiff

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plaintiff or his attorney or counsel by whom a number of such names equal to one half of the number of the jury to be impanelled may be struck therefrom and the list so reduced shall then be delivered to each defendant who has pleaded separately or his attorney or counsel by each of whom a number of names equal to one half of the number of the jury to be impanelled may be also struck therefrom.

(ii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsections :--

(3) The cards bearing the names struck out from the list shall be returned to the box as soon as the jury is sworn and impanelled and the cards bearing the names of the jury sworn and impanelled shall also be returned to the box at the conclusion of the trial.

(4) In this section and in section sixty. three of this Act, "plaintiff" includes petitioner and "defendant" includes respondent, intervener and co-respondent.

(aa) by omitting from section sixty-two the words sec. 62. "the three next preceding sections" and by (When inserting in lieu thereof the words "sections damages assessed fifty-nine, sixty and sixty-one"; only.)

(bb) by omitting from section sixty-four the word Sec. 64. "order" and by inserting in lieu thereof the (Refreshword "permit";

- (cc) by omitting from section sixty-five the word sec. 65. "twelve" and by inserting in lieu thereof the (Disagreement lensqual v m 710(gail ( ceens livis word "six";
  - (dd) (i) by omitting from subsection one of section sec. 66. sixty-six the words "six hours" and by in- (Disagreeserting in lieu thereof the words "four mentin civil cases.) hours";

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in criminal trial.)

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(ii) by inserting at the end of the same subsection the words "but if three-fourths in number of them do not concur in any such verdict or assessment and it be found after examination on oath of one or more of them that they or three-fourths in number of them are not likely so to concur then such jurors may be discharged and the cause may without any new process for that purpose be again set down for trial or assessment (as the case may be) either at the same or any subsequent sittings, as the court or presiding judge may order";

- (iii) by omitting from subsection two of the same section the words "the whole twelve hours" and by inserting in lieu thereof the words "six hours";
- (iv) by inserting at the end of the same section the following new subsection :---

(3) Where, pursuant to section 30A of this Act, the number of jurors has been reduced to three—

- (a) the decision of such three jurors shall, if such jurors agree, be taken and entered as the verdict or assessment of the jury;
- (b) the provisions of subsection one of this section shall not apply;
- (c) the provisions of subsection two of this section shall be read as if the words "the three" were substituted for the words "three-fourths in number of the".

In their application to a case where, pursuant to section 30A of this Act the number of a jury of twelve has been reduced to eleven or ten the provisions of subsection one and of subsection two of this section shall be read as if the word "nine" were substituted for the words "three-fourths in number" in each such subsection. (ee)

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	Jury (Amendment).	
-	sixty-seven the words "some of":	Sec. 67. (Order for view.)
	(ff) by omitting sections sixty-eight and sixty-nine;	Secs. 68 and 69. (Repeal: con- sequential.)
5	(gg) by omitting from section seventy the words "and circuit courts" and by inserting in lieu thereof the word "Court";	Sec. 70. (Jurors' fees.) (Revision.)
	(hh) by omitting subsection two of section seventy- one;	Sec. 71. (Compensation to jurors.)
10	(ii) by omitting from section seventy-two the words "or any circuit court";	Sec. 72. (District courts.)
	(jj) by omitting from section seventy-five the word "Prothonotary" wherever occuring and by inserting in lieu thereof the word "sheriff";	(Revision.) Sec. 75. (Fees to be paid.)
	(kk) by omitting section seventy-nine;	Sec. 79. (Liability of justices.)
15	(11) by omitting section eighty-one;	Sec. 81. (Liability of viewers: repeal: con- sequential.)
	(mm) by inserting next after section eighty-four the following new sections:	New ss. 84A, 84B.
20	84A. Any person who publishes in any news- paper the names, descriptions, addresses or photographs of the jurors or of any of the jurors summoned or impanelled for the trial of any	Penalty for publication of names of members of jury.
	criminal issue shall be liable on summary con- viction to a penalty not exceeding one hundred pounds.	30 1
25	84B. (1) Any employer who dismisses an employee or injures him in his employment or alters his position to his prejudice by reason of the fact that the employee is summoned to serve on a jury shall be liable on summary convic-	unlawful dismissal of employee summoned to serve
30	tion— (a) if a body corporate—to a penalty not exceeding two hundred pounds;	

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#### Act No. , 1947.

#### Jury (Amendment).

(b) if any other person—to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment.

(2) The court before which the employer is charged may further order that the employee be reimbursed the wages lost by him and the court may also direct his reinstatment in his old or a similar position.

(3) In any proceeding for an offence against this section if all the facts and circumstances constituting the offence other than the reason for the defendant's action are proved, it shall lie upon the defendant to prove that the dismissal was not actuated by the reason alleged in the charge.

(4) Where the employer is a body corporate and the dismissal complained of is proved to have been with the consent or approval of any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed guilty of an offence against this section and shall be liable to be proceeded against and punished accordingly.

 (nn) by omitting from subsection one of section sec. 85.
 eighty-five the words "or to the Supreme Court, (Recovery of fines for nonif the fine has been imposed for non-attendance attendance.)
 at a circuit court";

(oo) (i) by omitting from paragraph (a) of section Sec. 86.

eighty-six the words "or a circuit court"; (Recovery of other

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(ii) by omitting from paragraph (b) of the same fines.) section the words "in the manner appointed by law for the recovery of fines imposed by justices of the peace" and by inserting in lieu thereof the words "pursuant to the Fines and Forfeited Recognizances Recovery Act, 1902";

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- (pp) by inserting in the Second Schedule after the Second words "all men" the words and symbols "[or Schedule. of men (being the number certified by the sheriff as being reasonably sufficient for the estimated requirements of the district)]";
- (qq) by omitting from the heading to the Third Third Schedule the words "of all persons" and by <sup>Schedule</sup>. inserting in lieu thereof the words and symbols "of all [or of persons]";
- 10 (rr) (i) by omitting from the Sixth Schedule the Sixth words "or Circuit Court" and by inserting in lieu thereof the words "Court or District Court";
  - (ii) by omitting from the same Schedule the word "ten" and by inserting in lieu thereof the words "a quarter to ten".

6. (1) The District Courts Act, 1912-1936, is Amendment amended—

- (a) (i) by omitting from subsection three of Sec. 90 (3). section ninety the words "made at least actions for five clear days before the day named for the factor five clear days before the day named for the factor hearing" and by inserting in lieu thereof the words "made not less than the prescribed number of days before the day named for the hearing";
  - (ii) by omitting from the same subsection the words "at least five clear days before the day named for the hearing" and by inserting in lieu thereof the words "not less than the prescribed number of days before the day named for the hearing";
- (b) by omitting section ninety-three;
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  (c)

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(c) (i) by omitting from subsection one of section Sec. 94. (Summons to jurors.) ninety-four the words "except where otherwise provided" and by inserting in lieu thereof the words "deliver to the sheriff a precept in or to the effect of the form 5 7 contained in the Fifth Schedule to the Jury Act, 1912-1947, requiring him to"; (ii) by omitting from the same subsection the words "or special jurors' list"; (iii) by omitting from the same subsection the word "summons" and by inserting in lieu thereof the word "precept"; (iv) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection :---. (4) Before the day and at the place named in any precept for the appearance of the jurors thereby required to be summoned to attend the District Court, the sheriff shall 20 return to the registrar thereof a panel containing the names of the persons so summoned pursuant to the precept with their respective additions and shall also furnish to the said registrar the names of 25 the said persons with their respective additions written upon separate pieces of card being as nearly as may be of equal size. The sheriff shall previously upon the

panel certify that the jurors named therein have been duly summoned and such certificate shall without proof of his signature be prima facie evidence that each juror whose name is included in the panel has been duly summoned to attend the court pursuant to the precept.

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	(d) by omitting from subsection one of section ninety-five the words "or special jurors' list";	Sec. 95. (Jury, how chosen.)
5	(e) by omitting from subsection two of section one hundred and thirty-four the words "may be a common or special jury, and";	Sec. 134. (Jury.)
J	(f) by omitting from section one hundred and thirty- six the word "special" wherever occurring;	of jurors.)
10	(g) by omitting subsections one and two of section one hundred and thirty-seven and by inserting in lieu thereof the following subsection:—	Sec. 137. (Drawing of jury.)
	(1) At the trial of any such issue the registrar shall put into a box provided for that purpose the pieces of card furnished as aforesaid by the sheriff.	
15	(2) The Principal Act is further amended as follows:-	Further amendment of Act No. 31, 1912.
	<ul> <li>(a) (i) by omitting from subsection five of section thirteen the word "three" and by inserting in lieu thereof the word "two";</li> </ul>	Sec. 13 (5).
20	(ii) by omitting the proviso to the same sub- section;	instressids va
	(b) by omitting from subsection one of section fifteen all words after the word "sheriff".	Sec. 15. (Trans- mission of
25	(3) The District Courts Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Districts Courts Act, 1912-1947.	lists.)
	7. (1) The Matrimonial Causes Act, 1892, is amended—	Amendment of Act No. 14, 1899,
30	<ul> <li>(a) (i) by inserting at the end of subsection three of section fifty-two the following words:—</li> <li>Provided that, subject to section sixtynine of this Act, any issue arising upon the</li> </ul>	(Claim by husband for damages.)
35	hearing of any such petition (including the amount of damages) may be determined by	b
	(ii) by omitting subsection five of the same section;	1
	<u>(b)</u>	

(b) by inserting next after subsection two of section Sec. 69. (Trial by sixty-nine the following new subsection :--jury.)

(2A) A husband claiming damages may require the issues in the suit to be tried by a jury and the amount of the damages to be recovered to be ascertained by the verdict of a jury, although the respondent or co-respondent, or both the respondent and co-respondent, do not appear.

(c) by omitting section seventy-three and by insert- Subst. ing in lieu thereof the following section :---

73. For the purposes of this Act the Court Summoning may, as occasion requires, issue such precepts directing the sheriff to summon jurors and make such orders upon the sheriff for the attendance of such number of jurors as such Court may consider requisite.

(d) by omitting from section seventy-six the word "now" and by inserting in lieu thereof the words "that for the time being."

(2) The Matrimonial Causes Act, 1899, as amended Sec. 76. by subsequent Acts and by this Act, may be cited as the (General law and Matrimonial Causes Act, 1899-1947.

practice to apply.) of Act No. 24.

8. (1) (a) The Equity Act, 1901, as amended by Amendment 25 subsequent Acts, is amended-1901.

- (i) by omitting from paragraph (a) of subsection sec. 51. two of section fifty-one the words "special or (Trial of issues.) common'':
- (ii) by omitting from subsection one of section fifty- sec. 52. two the words "special or common":

(Jury, how summoned.)

(b) The Equity Act. 1901, as amended by subsequent Acts and by this Act, may be cited as the Equity Act, 1901-1947.

(2) (a) The Wills, Probate and Administration Amendment Act No. 13, 35 Act, 1898, as amended by subsequent Acts, is amended- 1898.

> (i) by omitting from section one hundred and forty sec. 140. the words "special or common":

(Questions of fact how tried.) (ii)

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of jurors.

(ii) by omitting from subsection one of section one Sec. 141. hundred and forty-one the word "men" and by (Question inserting in lieu thereof the word "persons". to be stated.)

(b) The Wills, Probate and Administration 5 Act, 1898, as amended by subsequent Acts and by this Act, may be cited as the Wills, Probate and Administration Act, 1898–1947.

(3) (a) The Lunacy Act of 1898, as amended by Amendment subsequent Acts, is amended by omitting from section one No. 45, 1898.

10 hundred and seven the words "and in such order shall sec. 107. direct whether such jury shall be a common or special (Inquiry jury".

(b) The Lunacy Act of 1898, as amended by <sup>jury.)</sup>
 subsequent Acts and by this Act, may be cited as the
 15 Lunacy Act, 1898–1947.

Sydney: Thomas Henry Tennant, Government Frinter-1947, [1e. 66.]

# Act No. , 1845.

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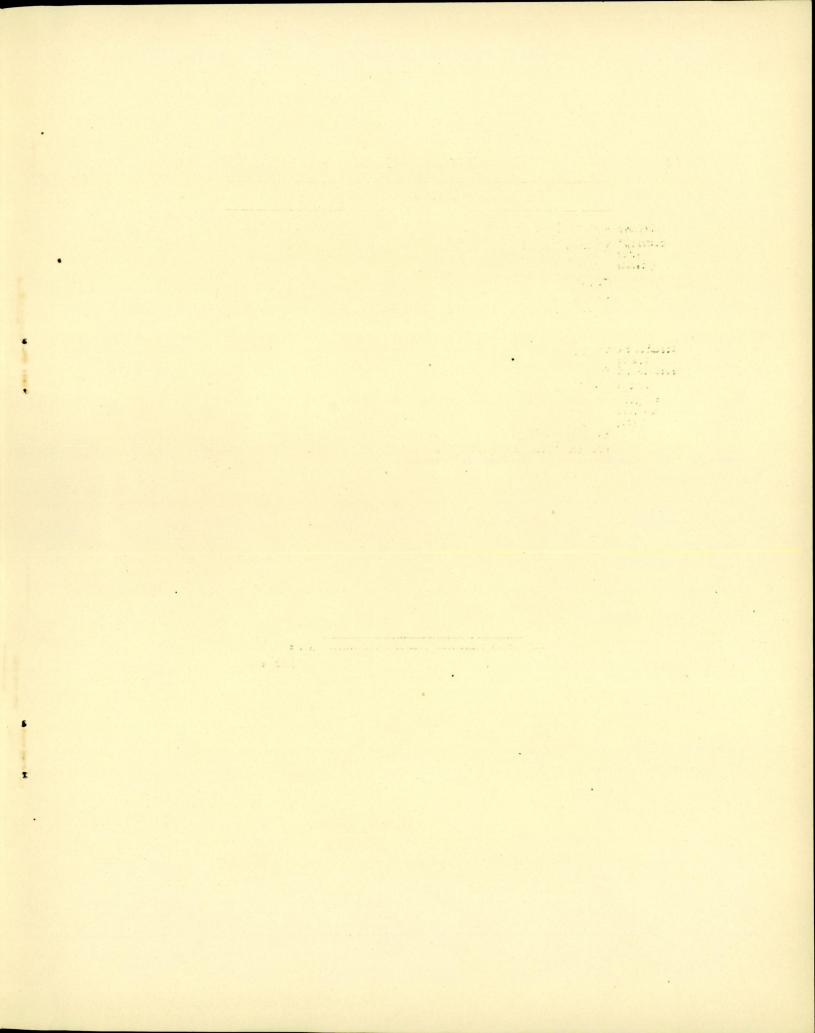
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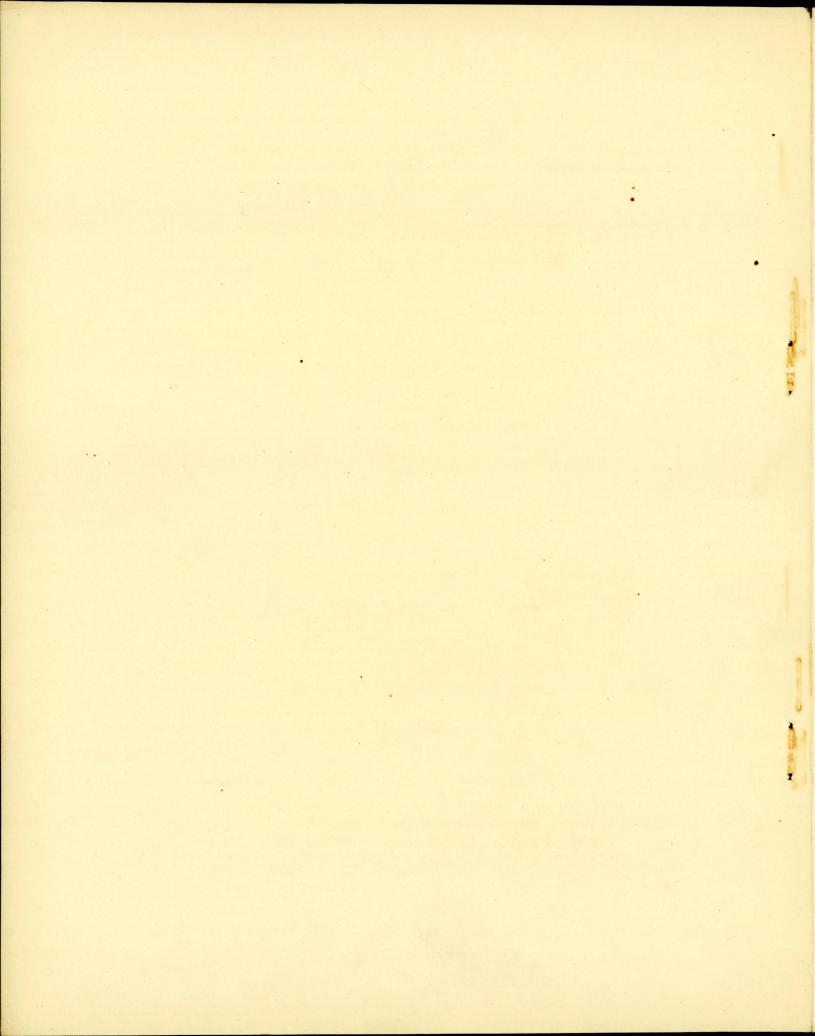
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#### Jury (Amendment) Bill, 1947.

#### EXPLANATORY NOTE.

THIS Bill provides-

- (i) that as from a date to be proclaimed the qualification for jury service by men is to be co-extensive with the Parliamentary franchise;
- (ii) that provision be made that such women who are qualified to vote at Parliamentary elections and who indicate their desire to do so, are to be eligible for and liable to jury service;
- (iii) for the abandonment of the classification of jurors as "common jurors" and "special jurors";
- (iv) for the number of persons included in the jury list for any one district being such number as is estimated by the Sheriff as sufficient to satisfy requirements for the ensuing year;
- (v) that special petty sessions may delete from the jury list for any year the name of any person where satisfied that to call such person for jury service would occasion undue hardship or public inconvenience;
- (vi) for the summoning by the Sheriff of jurors for district court trials;
- (vii) for the continuance of civil trials, notwithstanding the death or disability of one juror in the case of a jury of four or of not more than two in the case of a jury of twelve;
- (viii) for adjustment of the requirements for a majority verdict in the cases referred to in paragraph (vii);
- (ix) for the deletion from the Jury Act of the requirement that a rotating ballotbox be used in the selection of jurors to be summoned;
- (x) that the "Sydney Jurors' Book" be constituted in the same manner as jurors' books for other districts;
- (xi) that the periods after which-
  - (a) a jury engaged upon a criminal trial may be discharged where the judge is satisfied the jury is not likely to agree;
  - (b) a majority verdict must be accepted from a jury engaged upon a civil trial;
  - (c) a jury engaged upon a civil trial must be discharged in default of a verdict:

be reduced from-

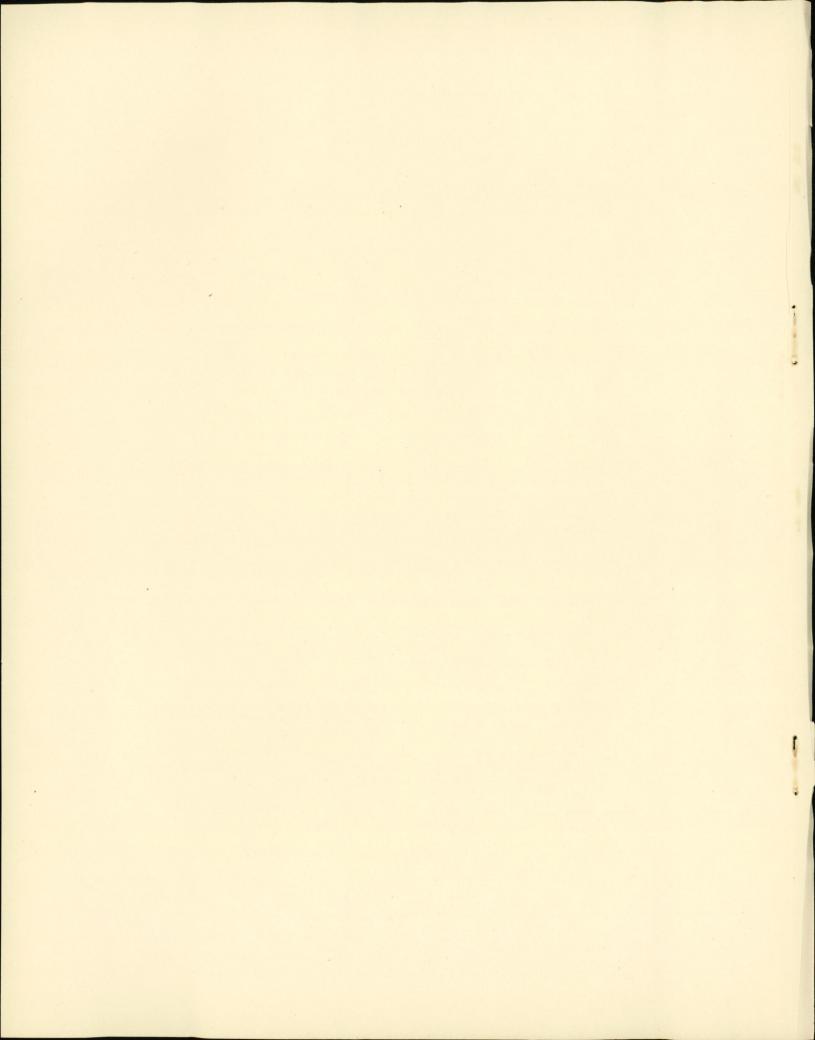
- (a) twelve hours to six hours;
- (b) six hours to four hours;
- (c) twelve hours to six hours;

respectively;

- (xii) for the abolition of the liability now imposed by law upon Justices of the Peace failing to attend the special petty sessions summoned to correct and allow jury lists;
- (xiii) that it shall be a punishable offence for any employer to dismiss or in any way prejudice an employee by reason of that employee's jury service, and establishes machinery whereby reinstatement of any such employee may be ordered:
- (xiv) that it shall be an offence to publish the name, description, address or photograph of any juror engaged upon a criminal trial;
- (xv) that, undefended suits in the Matrimonial Causes Jurisdiction of the Supreme Court in which damages are claimed are to be heard before a judge sitting alone, unless a jury is required by the petitioner;
- (xvi) that, except where otherwise provided by law, the practice for the time being in force at common law is to apply to jury trials in the Matrimonial Causes Jurisdiction of the Supreme Court.

The Bill effects certain other amendments to the Jury Act, the District Courts Act the Matrimonial Causes Act, the Equity Act, the Wills, Probate and Administration Act, and the Lunacy Act, some being consequential upon the amendments particularised above, and others being of a minor or machinery character.

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PROOF

No. , 1947.

# A BILL

To amend in certain respects the law relating to juries; to amend the Jury Act, 1912, and certain other Acts; and for purposes connected therewith.

[MR. C. E. MARTIN; -14 October, 1947.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of 5 the same, as follows :--

1. (1) This Act may be cited as the "Jury (Amend- Short title and citation.

(2) The Jury Act, 1912, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

10 (3) The Principal Act, as amended by this Act, may be cited as the Jury Act, 1912-1947.

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2. (1) For the purposes only of Parts IV and V of Commencethe Principal Act subsection three of this section shall ment of section. be deemed to commence on the first day of the second week of October in such year as the Governor may by 5 notification published in the Gazette appoint.

(2) Subsection three of this section shall come into operation for all purposes upon the first day of January next following the year appointed by the Governor pursuant to subsection one of this section.

#### 10 (3) The Principal Act is amended-

Amendment of Act No. 31, 1912.

(a) by omitting section three and by inserting in Subst. sec. 3. lieu thereof the following section :-

3. Except as hereinafter provided every man Qualificawho is entitled to be enrolled as an elector purtions of male jurors suant to Part III of the Parliamentary Electorates and Elections Act, 1912-1946, shall be qualified and liable to serve on juries for the trial of all issues, civil and criminal, and for the assessment of damages in all actions at law. and to act as a juror in any district court.

- (b) by omitting paragraph (a) of section four;
- (c) (i) by omitting from subsection one of section Sec. 10. ten the words "and nature of the qualifica- (Lists to be tion";
  - (ii) by omitting from subsection two of the same section the words "addition, and nature of the qualification" and by inserting in lieu thereof the words "and addition":
- (d) by omitting from the Third Schedule the matter Third appearing in the column "Nature of qualifica- Schedule. tion".

3. (1) (a) For the purposes only of Parts IV and V of Commencethe Principal Act subsection three of this section shall ment of be deemed to commence in respect of any jurors' district 35 on the first day of the second week of October in such

year as the Governor may by notification published in the Gazette appoint in respect of such district.

(Disqualification. prepared by chief constables.)

Sec. 4.

(b)

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(b) The Governor may for the purpose aforesaid appoint different years in respect of different jurors' districts and may appoint a year in respect of any one or more of such districts without appointing any year in 5 respect of other such districts.

(2) Subsection three of this section shall come into operation for all purposes in respect of any jurors' district upon the first day of January next following the year appointed by the Governor in respect of that jurors'10 district pursuant to subsection one of this section.

(3) The Principal Act is further amended—

Further amendment of Act No. **31**, 19**15**.

(a) by inserting next after section three the follow- New sec. 3A. ing new section:---

3A. (1) Except as hereinafter provided Qualifications of female

> (a) who is entitled to be enrolled as an <sup>jurors.</sup> elector pursuant to Part III of the Parliamentary Electorates and Elections Act, 1912-1946; and

(b) who has, in the form contained in the Seventh Schedule to this Act, notified the chief constable of the police district in which she resides that she is desirous of serving as a juror as from the first day of January next following,

shall be qualified and liable to serve on juries for the trial of all issues, civil and criminal, and for the assessment of damages in all actions at law, and to act as a juror in any district court.

(2) Any woman qualified and liable to serve on juries or act as a juror as aforesaid shall, upon giving notification to the chief constable of the police district for which she is enrolled as a juror of her desire to discontinue her qualification and liability to serve on juries or act as a juror as aforesaid, cease, as from the first day of January next following such notification, to be qualified and liable to serve on juries or act as a juror as aforesaid. (b)

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	Jury (Amendment).	
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	(b) (i) by omitting from section four the word "man" and by inserting in lieu thereof the word "person";	
5	<ul><li>(ii) by omitting from paragraph (b) of the same section the word "he" and by inserting in lieu thereof the words "such person";</li></ul>	
10	<ul> <li>(c) by omitting from sections nine, thirteen, twenty- seven and fifty-seven the word "men" wherever occurring and by inserting in lieu thereof the word "persons";</li> </ul>	Secs. 9, 13, 27 and 57. (Consequen- tial.)
10	<ul><li>(d) by omitting from sections ten and fifty-eight the word "man" wherever occurring and by inserting in lieu thereof the word "person";</li></ul>	Secs. 10 and 58. (Conse- quential.)
15	<ul><li>(e) by omitting from the Second Schedule the word "men" and by inserting in lieu thereof the word "persons";</li></ul>	Second Schedule. (Conse- quential.)
	(f) by inserting in the Sixth Schedule next before the letters "A.B." the words "Mrs. or Miss";	Sixth Schedule. (Conse- quential.)
20	(g) by inserting next after the Sixth Schedule the following new Schedule:	Seventh Schedule.
	SEVENTH SCHEDULE. FORM OF NOTIFICATION. To the Chief Constable of the Police District of (insert name of District).	Sec. 3A.
25	I, (name), being a woman who is entitled to be enrolled as an elector pursuant to Part III of the Parliamentary Electorates and Elections Act, 1912-1946, now resident at (insert address), am desirous of serving as a juror.	
30	Dated this day of 19 (Signature.)	
	(h) (i) by omitting from section nine, as amended by paragraph (a) of section five of this Act,	and Second
35	the words "such men" and by inserting in lieu thereof the words "such persons"; (ii) by omitting from subsection three of section	(Conse- quential.)
<b>4</b> 0	<ul> <li>(ii) by omitting from subsection three of section ten, as inserted by paragraph (b) of section five of this Act, the word "men" and by inserting in lieu thereof the word "persons"; (iii)</li> </ul>	

5	<ul> <li>(iii) by omitting from the Second Schedule, as amended by paragraph (kk) of section five of this Act, the words "of men" and by inserting in lieu thereof the words "of persons".</li> </ul>	
	4. (1) The Principal Act is further amended—	Further amendment of Act No. 31, 1912.
	(a) by omitting subsection (1A) of section fifteen;	Sec. 15. (Special jurors.)
	(b) by omitting section twenty;	Sec. 20. (Sydney special jurors' book.)
10	<ul> <li>(c) (i) by omitting from subsection one of section twenty-six the words "and special jurors" list";</li> </ul>	Sec. 26. (Jurors' books and lists to come into force immediately.)
	<ul><li>(ii) by omitting from the same subsection the words "or list";</li></ul>	
15	<ul><li>(iii) by omitting from subsection two of the same section the words "or list";</li></ul>	
	<ul><li>(iv) by omitting from the same subsection the words "or special jurors' list";</li></ul>	
	(d) by omitting section twenty-eight;	Sec. 28. (Criminal special jury.)
20	(e) by omitting from section twenty-nine the word "special";	
	(f) by omitting from section thirty the words "who shall be returned under the provisions of this Act either from amongst the class of special	Sec. 30.
25	jurors or of common jurors, or in cases to be tried on circuit partly from each class, as the court thinks fit to order";	
	(g) by omitting sections thirty-three and thirty- four;	Secs. 33 and 34. (Special or common jury precepts.)
30	<ul> <li>(h) by omitting from subsection one of section thirty-eight the words "to be taken from either the general or the special jury list";</li> </ul>	Sec. 38.
	<ul><li>(i) by omitting from section forty-one the words</li><li>"special or common";</li></ul>	

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or order for summoning jury.)

(j)

- (j) (i) by omitting from subsection one of section sec. 43. forty-three the words "or special jurors' (Jurors to be chosen by lot.) list";
  - (ii) by omitting from the same subsection the words "or list" wherever occurring;
- (k) by omitting section forty-six and by inserting Subst. in lieu thereof the following section :---

46. In determining the persons to be sum- Jurors not moned for a jury, those persons who, during the summoned liable to be time that the jury book has been in use, have until list exhausted. attended at a court in pursuance of a summons. or served on a jury, shall be excluded from service as jurors until the list of names in the jury book has been exhausted.

- 15 (1) by omitting from subsection three of section Sec. 59. fifty-nine the words "either special or common"; (Striking jury
  - (m) (i) by omitting from paragraph (c) of sub- Sec. 75. section one of section seventy-five the word down case for trial.
    - (ii) by omitting paragraph (d) of the same subsection:
    - (iii) by omitting from subsection three of the same section the words "or six pounds, as the case may be'':
  - (n) by omitting section seventy-six:

Sec. 76. (Costs of special jury unless judge certify.)

Sec. 32.

- (o) by omitting from the Fourth Schedule the words Fourth Schedule. "either special or common":
- (p) by omitting the Fifth Schedule and by inserting subst. Fifth in lieu thereof the following Schedule :--Schedule.

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#### FIFTH SCHEDULE.

#### FORM OF PRECEPT.

(To be adopted for juries of twelve and juries of four.) To the Sheriff of or his deputy, greeting,-

Pursuant to the Act in such case made and provided, you are hereby commanded that you cause to come before (here insert the style of the court) to be

holden at the court-house at , on (here insert the day of the week), the now next (or instant)

day of good and lawful

sec. 46.

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lawful persons of the jurors' district for aforesaid, duly qualified according to law as jurors to make a jury of the country for the trial of all such issues of fact or other matters as shall be then required to be tried by a jury of (twelve or of four according as the precept shall be intended). And that you have then there the names of those jurors as by the law is required of you, together with due proof of the service of a summons upon such of the said jurors as shall have been served and of the time and manner thereof and of the causes wherefore the others of such jurors have not been served with such summons and also this writ.

Given under my hand and seal at this day of , A.D. 19

15 (2) The amendments made by subsection one of Savings. this section shall not affect or invalidate the trial of any issue, civil or criminal, or the assessment of damages in any action at law pending or commenced at the commencement of this Act by or had before a jury summoned, 20 impanelled or constituted in accordance with the pro-

visions of the Principal Act.

5. The Principal Act is further amended—

Further amendment of Act No. 31, 1912.

- (a) by inserting in section nine after the words sec. 9. "according to this Act" the words "or a list (Notice to comprising such number of such men as has chief constable.) been previously certified to such clerk by the sheriff as being reasonably sufficient for the estimated requirements of the district";
- (b) by inserting at the end of section ten the follow-sec. 10. ing new subsection :---

prepared by constable.)

(d)

(3) The foregoing provisions of this section chief shall be regarded as sufficiently complied with if the list contains such number of such men as is specified in the notice referred to in section nine.

(c) by inserting in section twelve after the words sec. 12. "in every year" the words "by notice published (Special petty sessions to be in a newspaper circulating in the district or by summoned.) notice served by post";

(Lists to be

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Act No. , 1947.

#### Jury (Amendment).

(d) (i) by inserting in subsection three of section Sec. 13. thirteen after the words "infirmity of (Correction body" the words "and also the names of ance of all men who in the opinion of the justices lists.) are, from the nature of their calling, liable 5 to suffer undue hardship from being called to serve as jurors or whose call so to serve would occasion undue public inconvenience"; (ii) by inserting at the end of the same section 10 the following new subsection :---(6) The special petty sessions may be held by and before a stipendiary magistrate sitting alone or by and before two or more justices. 15 (e) (i) by omitting from subsection one of section Sec. 15. fifteen the words "the Supreme Court or (Lists to be transmitted a circuit court or" and by inserting in lieu to sheriff, thereof the words "a sitting of the Supreme etc.) Court or a district court or a"; 20 (ii) by omitting from subsection two of the same section the words "or circuit court" and by inserting in lieu thereof the words "or district court"; (f) (i) by omitting from subsection one of section Sec. 17. 25 seventeen the words "Except in the case of (Jurors' book.) the jurors' district of the city of Sydney"; (ii) by omitting subsection two of the same section; Sec. 19. 30 (g) by omitting section nineteen; (District court jurors' book.) (h) by omitting from section twenty-two the words Sec. 22 "circuit court, or" and by inserting in lieu (New thereof the words "sitting of the Supreme (Revision.) Court, or a''; (i) (i) by inserting at the end of subsection one of Sec. 23. 35 section twenty-three the words "or a list (Preparacomprising such number of such persons as tion of lists for new

has been previously certified to such bench courts.)

bv

	Jury (Amendment).	
5	<ul> <li>by the sheriff as being reasonably sufficient for the estimated requirements of the district'';</li> <li>(ii) by inserting in subsection two of the same section after the word "justices" the words "or the stipendiary magistrate or the two or more justices constituting the special petty sessions as provided by section thirteen of this Act";</li> </ul>	
10	(j) by omitting section twenty-five;	Sec. 25.
		(District court judge to prepare jurors' book.)
15	<ul> <li>(k) by omitting from subsection one of section twenty-six the words "made out by the sheriff or the district court judge, as the case may be" and by inserting in lieu thereof the words "transmitted to the sheriff";</li> </ul>	Sec. 26. (Coming into force of iurors'
	(1) by omitting from subsection one of section twenty-seven the words "the circuit courts";	Sec. 27. (Trial by jury in criminal cases.) (Revision.)
20	<ul><li>(m) by omitting from section twenty-nine the words</li><li>"whether the trial or assessment is had in the said court or in any circuit court";</li></ul>	Sec. 29 (Trial and assessment in civil cases.)
	<ul> <li>(n) by inserting next after section thirty the following new section:—</li> <li>30A. Where in the course of a civil trial any</li> </ul>	
25	member of a jury dies or is discharged by the court as being through illness incapable of continuing, or for any other reason, the jury shall, unless the judge otherwise orders, and so long as the number of its members is not reduced below three (or in case of a jury of twelve below	civil trial when a
30	ten), be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a valid verdict may be given accordingly.	
35	<ul> <li>(o) (i) by omitting from subsection one of section thirty-two the words "and circuit courts" and by inserting in lieu thereof the word "Court"; (ii)</li> </ul>	(General

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## Jury (Amendment). (ii) by omitting from subsection two of the same section the words "or any circuit court"; (iii) by inserting at the end of the same section the following new subsection :---(4) Two or more precepts may be issued returnable at any particular court on any one day to ensure the attendance at any trial of a sufficient number of jurors to allow full right of challenge to all parties.

- (p) by omitting from subsection one of section Sec. 86. (Number of thirty-six the words "or any circuit court"; jurors to be summoned.) (Revision.)
  - (q) by omitting from section thirty-seven the words Sec. 37. "circuit court" and by inserting in lieu thereof (Priority of precepts.) the words "district court";
  - (r) (i) by omitting from section thirty-nine the sec. 39. words "the next preceding section" and by (Enlarged inserting in lieu thereof the words "section jury panel.) (Revision.) thirty-eight of this Act";
    - (ii) by omitting from the same section the words "or in a circuit court";
    - (s) (i) by omitting from subsection one of section sec. 40. forty the words "and circuit courts"; (Power
      - reserved to (ii) by inserting in subsection two of the same courts, etc.) section after the word "except" the words (Revision.) "where otherwise provided in this Act and":
    - (t) (i) by omitting from paragraph (a) of sub-sec. 43. section one of section forty-three the words (Jurors to "rotating ballot-box" and by inserting in by lot.) lieu thereof the words "ballot-box of a type";
      - (ii) by inserting at the end of the same paragraph the words "cards which during any year have already been drawn in a lot pursuant to this section being excluded";
      - (iii) by omitting from paragraph (b) of the same subsection the words "Such box first having been made to rotate for one minute at least" and

be chosen

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and by inserting in lieu thereof the words "The cards in the box having been thoroughly mixed":

(u) by omitting section forty-seven and by inserting subst. in lieu thereof the following section :---

47. Where the sheriff has summoned any Summoning jurors for the trial of issues in the Supreme of jurors Court or court of quarter sessions at Darling- certain hurst, or the Supreme Court in King-street, courts. Sydney, or the District Court of the Metropolitan District, on any particular day or days, he shall not summon the same jurors to attend at any other such court on the same day or days.

(v) (i) by omitting from section fifty the words Sec. 50. "and shall annex to the said precept a panel (Sheriff's containing the names in alphabetical order general of the persons so summoned by him in precept.) pursuance of the said jury precept, and shall also therewith furnish to the clerk of the said court the names of the said persons, with their respective additions and places of abode", and by inserting in lieu thereof the words "and shall, in the case of a precept for a jury for the trial of criminal issues, annex to the said precept a panel containing the names only of the persons so summoned by him in pursuance of the said jury precept. and in the case of a precept for a jury for the trial of civil issues, annex to the said precept a panel containing the names of the persons so summoned by him in pursuance of the said jury precept with their respective additions, and shall also furnish therewith to the clerk of the said court in the case of a precept for a jury for the trial of criminal issues the names of the said persons only and in the case of a precept for a jury for the trial of civil issues the names of the said persons with their respective additions"; (ii)

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(ii) by inserting at the end of the same section the following new subsections :--(2) No person shall, prior to or during the trial, be allowed to inspect or to obtain a copy of any such panel annexed to a precept directed to the sheriff requiring him to summon jurors for the trial of any criminal issue in any court. (3) Any party to any other proceeding not being the trial of any criminal issue shall, upon payment of such fee as may be fixed by the judges of the Supreme Court, be allowed at any convenient time prior to

the trial to inspect or to obtain a copy of any such panel annexed to a precept pursuant to subsection one of this section.

- (w) (i) by omitting from subsection one of section Sec. 57.
  - fifty-seven the words "or a circuit court"; (Impanel-(ii) by inserting in the same subsection after criminal the word "another" the words "and call trials.)

- each by name";
- (iii) by inserting at the end of the same subsection the words "Where more than one precept has been issued returnable on any one day the said clerk shall place into such box all the cards furnished pursuant to all such precepts before drawing any card from such box";

(x) by omitting from subsection two of section fifty- Sec. 59. nine the words "twice the number of jurors (Striking required to be impanelled" and by inserting in jury in civil cases.) lieu thereof the words "the number of jurors required for the impanelling of the jury pursuant to section sixty of this Act";

(y) (i) by omitting subsection one of section sixty Sec. 60. and by inserting in lieu thereof the follow- (Impanel-ling jury in ing subsection :civil cases.)

(1) In civil issues a sufficient number of pieces of card having been drawn out a list of the names appearing thereon shall be delivered

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delivered by the sheriff or his deputy to the plaintiff or his attorney or counsel by whom a number of such names equal to one half of the number of the jury to be impanelled may be struck therefrom and the list so reduced shall then be delivered to each defendant who has pleaded separately or his attorney or counsel by each of whom a number of names equal to one half of the number of the jury to be impanelled may be also struck therefrom.

(ii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsections :---

(3) The cards bearing the names struck out from the list shall be returned to the box as soon as the jury is sworn and impanelled and the cards bearing the names of the jury sworn and impanelled shall also be returned to the box at the conclusion of the trial.

(4) In this section and in section sixty. three of this Act, "plaintiff" includes petitioner and "defendant" includes respondent, intervener and co-respondent.

- (z) by omitting from section sixty-two the words sec. 62. "the three next preceding sections" and by (When damages inserting in lieu thereof the words "sections assessed fifty-nine, sixty and sixty-one"; only.)
- (aa) by omitting from section sixty-four the word sec. 64. 30 "order" and by inserting in lieu thereof the (Refreshword "permit"; ments.)
  - (bb) by omitting from section sixty-five the word sec. 65. "twelve" and by inserting in lieu thereof the (Disagreement word "six":
  - (cc) (i) by omitting from subsection one of section Sec. 66. sixty-six the words "six hours" and by in- (Disagreeserting in lieu thereof the words "four mentin civil cases.) hours";

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(ii) by inserting at the end of the same subsection the words "but if three-fourths in number of them do not concur in any such verdict or assessment and it be found after examination on oath of one or more of them that they or three-fourths in number of them are not likely so to concur then such jurors may be discharged and the cause may without any new process for that purpose be again set down for trial or assessment (as the case may be) either at the same or any subsequent sittings, as the court or presiding judge may order"; (iii) by omitting from subsection two of the same section the words "the whole twelve hours" and by inserting in lieu thereof the words "six hours"; (iv) by inserting at the end of the same section the following new subsection :---(3) Where, pursuant to section 30A of this Act, the number of jurors has been reduced to three-(a) the decision of such three jurors shall, if such jurors agree, be taken and entered as the verdict or assessment of the jury; (b) the provisions of subsection one of this section shall not apply; (c) the provisions of subsection two of this section shall be read as if the words "the three" were substituted for the words "three-fourths in number of the". In their application to a case where, pur-

In their application to a case where, pursuant to section 30A of this Act the number of a jury of twelve has been reduced to eleven or ten the provisions of subsection one and of subsection two of this section shall be read as if the word "nine" were substituted for the words "three-fourths in number" in each such subsection. (dd)

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Jury (Amendment).	
thoroof the word "Count?".	Sec. 70. (Jurors' fees.) (Revision.)
one:	Sec. 71. (Compensation to jurors.)
"or any circuit court";	Sec. 72. (District courts.) (Revision.)
gg) by omitting section seventy-nine;	Sec. 79. (Liability of justices.)
hh) by inserting next after section eighty-four the	New ss. 84A, 84B.
paper the names, descriptions, addresses or photographs of the jurors or of any of the jurors	Penalty for publication of names of members of jury.
employee or injures him in his employment or alters his position to his prejudice by reason of the fact that the employee is summoned to serve	Penalty for anlawful dismissal of employee summoned to serve on a jury.
(a) if a body corporate—to a penalty not exceeding two hundred pounds;	
(b) if any other person—to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceed- ing six months or to both such penalty and imprisonment.	
(2) The court before which the employer is charged may further order that the employee be reimbursed the wages lost by him and the court may also direct his reinstatment in his old or a similar position.	
	<ul> <li>"and circuit courts" and by inserting in lieu thereof the word "Court";</li> <li>ee) by omitting subsection two of section seventy-one;</li> <li>eff) by omitting from section seventy-two the words "or any circuit court";</li> <li>gg) by omitting section seventy-nine;</li> <li>hh) by inserting next after section eighty-four the following new sections:—</li> <li>84A. Any person who publishes in any news-paper the names, descriptions, addresses or photographs of the jurors or of any of the jurors summoned or impanelled for the trial of any criminal issue shall be liable on summary conviction to a penalty not exceeding one hundred pounds.</li> <li>84B. (1) Any employer who dismisses an employee or injures him in his employment or alters his position to his prejudice by reason of the fact that the employee is summoned to serve on a jury shall be liable on summary conviction— <ul> <li>(a) if a body corporate—to a penalty not exceeding two hundred pounds;</li> <li>(b) if any other person—to a penalty not exceeding one hundred pounds;</li> <li>(c) The court before which the employee is charged may further order that the employee be reimbursed the wages lost by him and the court may also direct his reinstatment in his</li> </ul></li></ul>

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(3) In any proceeding for an offence against this section if all the facts and circumstances constituting the offence other than the reason for the defendant's action are proved, it shall lie upon the defendant to prove that the dismissal was not actuated by the reason alleged in the charge.

(4) Where the employer is a body corporate and the dismissal complained of is proved to have been with the consent or approval of any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed guilty of an offence against this section and shall be liable to be proceeded against and punished accordingly.

(ii) by omitting from subsection one of section sec. 85. eighty-five the words "or to the Supreme Court, (Recovery of if the fine has been imposed for non-attendance attendance.) at a circuit court";

- (ij) (i) by omitting from paragraph (a) of section Sec. 86. eighty-six the words "or a circuit court"; (Recovery of other
  - (ii) by omitting from paragraph (b) of the same fines.) section the words "in the manner appointed by law for the recovery of fines imposed by justices of the peace" and by inserting in lieu thereof the words "pursuant to the Fines and Forfeited Recognizances Recovery Act, 1902";
  - (kk) by inserting in the Second Schedule after the Second words "all men" the words and symbols "[or Schedule. of men (being the number certified by the sheriff as being reasonably sufficient for the estimated requirements of the district)]";
  - (11) by omitting from the heading to the Third Third Schedule the words "of all persons" and by Schedule. inserting in lieu thereof the words and symbols "of all [or of persons]";

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(mm) by omitting from the Sixth Schedule the words Sixth Schedule. "or Circuit Court" and by inserting in lieu thereof the words "Court or District Court."

6. (1) The District Courts Act, 1912-1936, 1S Amendment of Act No. 28, 1912. 5 amended—

- (a) (i) by omitting from subsection three of sec. 90 (3). section ninety the words "made at least (Jury in actions for five clear days before the day named for the £20.) hearing" and by inserting in lieu thereof the words "made at least ten clear days before the day named for the hearing if the hearing is to be had in Sydney and at least sixteen clear days before the day named for the hearing if the hearing is to be had elsewhere";
  - (ii) by omitting from the same subsection the words "at least five clear days before the day named for the hearing" and by inserting in lieu thereof the words "at least ten clear days before the day named for the hearing if the hearing is to be had in Sydney and at least sixteen clear days before the day named for the hearing if the hearing is to be had elsewhere'';
- (b) by omitting section ninety-three;
  - (c) (i) by omitting from subsection one of section Sec. 94. ninety-four the words "except where other- (Summons to jurors.) wise provided" and by inserting in lieu thereof the words "deliver to the sheriff a precept in or to the effect of the form contained in the Fifth Schedule to the Jury Act, 1912-1947, requiring him to";
    - (ii) by omitting from the same subsection the words "or special jurors' list";
    - (iii) by omitting from the same subsection the word "summons" and by inserting in lieu thereof the word "precept":

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(iv)

(Special jurors' list.)

Sec. 93.

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	(iv) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—
	(3) Such summons shall be—
5 10	<ul> <li>(a) delivered to such juror or left at his usual place of abode at least four clear days before the time specified for his attendance, if his attendance is required in Sydney, and in other cases at least eight clear days before such time; or</li> </ul>
15	(b) sent to him by post with the sheriff's seal of office thereon, in which case two additional days shall be allowed between the day of service and the time specified for his attendance.
	(v) by omitting subsection four of the same
20	section and by inserting in lieu thereof the
20	following subsection:
	(4) Before the day and at the place named in any precept for the appearance of
	the jurors thereby required to be summoned
25	to attend the District Court, the sheriff shall return to the registrar thereof a panel
	containing the names of the persons so
	summoned pursuant to the precept and shall also furnish to the said registrar their
20	respective additions and places of abode
30	written upon separate pieces of card being as nearly as may be of equal size.
	The sheriff shall previously upon the
	panel certify that the jurors named therein
35	have been duly summoned and such certi- ficate shall without proof of his signature
55	be prima facie evidence that each juror
	whose name is included in the panel has
	been duly summoned to attend the court pursuant to the precept.
	r to the procept

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	Jury (Amendment).	
		Sec. 95. (Jury, how chosen.)
5	(e) by omnoring from subsection the of section one	Sec. 134. (Jury.)
	six the word "special" wherever occurring:	Sec. 136. (Number of jurors.)
0	(g) by omitting subsections one and two of section one hundred and thirty-seven and by inserting in lieu thereof the following subsection:—	
	(1) At the trial of any such issue the registrar shall put into a box provided for that purpose the pieces of card furnished as aforesaid by the sheriff.	
5 fol	lows —	Further amendment of Act No. 31 1912.
	<ul> <li>(a) (i) by omitting from subsection five of section s thirteen the word "three" and by inserting in lieu thereof the word "two";</li> </ul>	Sec. 13 (5)
0	(ii) by omitting the proviso to the same sub- section;	
	(b) by omitting from subsection one of section s fifteen all words after the word "sheriff".	Trans-
		mission of ists.)
	0 O	mendment f Act No. 14, 899.
0	Provided that, subject to section sixty- nine of this Act, any issue arising upon the hearing of any such petition (including the amount of damages) may be determined by	Claim by
5	the Court; (ii) by omitting subsection five of the same	
	section; (b)	

(b) by inserting next after subsection two of section Sec. 69. (Trial by sixty-nine the following new subsection :--jury.)

(2A) A husband claiming damages may require the issues in the suit to be tried by a jury and the amount of the damages to be recovered to be ascertained by the verdict of a jury, although the respondent or co-respondent, or both the respondent and co-respondent, do not appear.

- (c) by omitting section seventy-three and by insert- Subst. sec. 73. ing in lieu thereof the following section :---
  - 73. For the purposes of this Act the Court Summoning of jurors. may, as occasion requires, issue such precepts directing the sheriff to summon jurors and make such orders upon the sheriff for the attendance of such number of jurors as such Court may consider requisite.
  - (d) by omitting from section seventy-six the word "now" and by inserting in lieu thereof the words "that for the time being."

(2) The Matrimonial Causes Act, 1899, as amended Sec. 76. (General law and by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1947. practice to apply.)

8. (1) (a) The Equity Act, 1901, as amended by Amendment of Act No. 24, 25 subsequent Acts, is amended-1901.

> (i) by omitting from paragraph (a) of subsection Sec. 51. two of section fifty-one the words "special or "Issues.) common'':

(ii) by omitting from subsection one of section fifty- Sec. 52. two the words "special or common";

(b) The Equity Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Equity Act, 1901-1947.

(2) (a) The Wills, Probate and Administration Amendment f Act No. 13. 35 Act, 1898, as amended by subsequent Acts, is amended— 1898.

> (i) by omitting from section one hundred and forty sec. 140. the words "special or common";

(Questions of fact how tried.) (ii)

(Jury, how summoned.)

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(ii) by omitting from subsection one of section one Sec. 141. hundred and forty-one the word "men" and by (Question inserting in lieu thereof the word "persons". to be stated.)

(b) The Wills, Probate and Administration

5 Act, 1898, as amended by subsequent Acts and by this Act, may be cited as the Wills, Probate and Administration Act, 1898–1947.

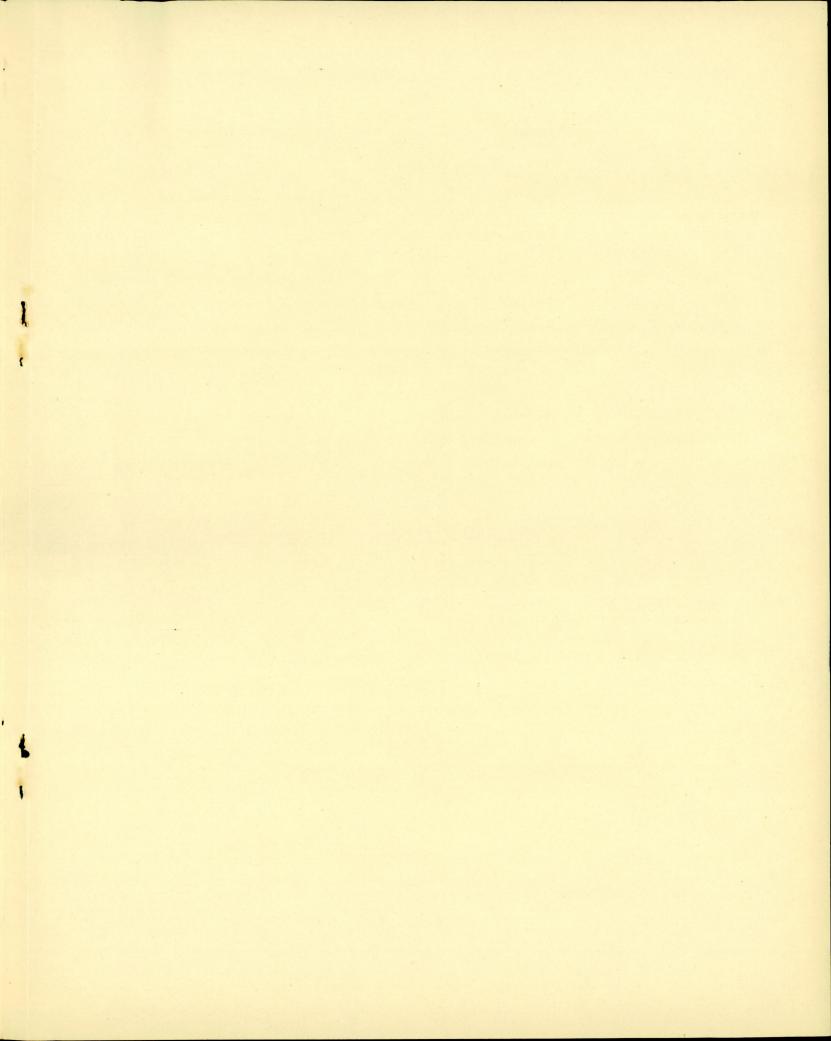
(3) (a) The Lunacy Act of 1898, as amended by Amendment subsequent Acts, is amended by omitting from section one No. 45, 1898.

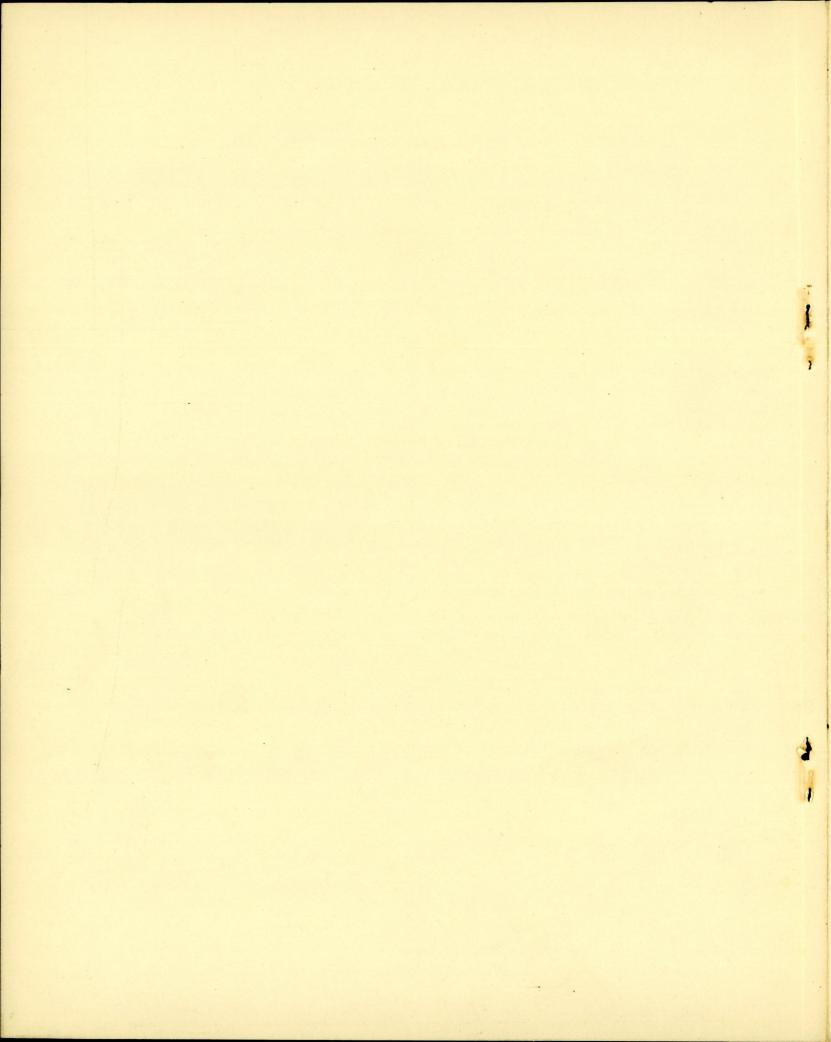
10 hundred and seven the words "and in such order shall sec. 107. direct whether such jury shall be a common or special (Inquiry jury".

(b) The Lunacy Act of 1898, as amended by <sup>jury.)</sup>
 subsequent Acts and by this Act, may be cited as the
 15 Lunacy Act, 1898–1947.

Sydney: Thomas Henry Tennant, Government Printer-1947.

. . . 





New South Wales.



# ANNO DUODECIMO GEORGII VI REGIS.

# Act No. 41, 1947.

An Act to amend in certain respects the law relating to juries; to amend the Jury Act, 1912, and certain other Acts; and for purposes connected therewith. [Assented to, 19th December, 1947.]

**B**<sup>E</sup> it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Jury (Amend- short title and citation.

(2) The Jury Act, 1912, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Jury Act, 1912-1947.

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#### Act No. 41, 1947.

### Jury (Amendment).

the Principal Act subsection three of this section shall

be deemed to commence on the first day of the second week of October in such year as the Governor may by

2. (1) For the purposes only of Parts IV and V of

Commencement of section.

Amendment of Act No. 31, 1912. Subst. sec. 3.

Qualifications of male jurors,

Sec. 4. (Disqualification.) Sec. 10. (Lists to be prepared by chief constables.)

Third Schedule.

Commencement of section. (3) The Principal Act is amended—

suant to subsection one of this section.

notification published in the Gazette appoint.

(a) by omitting section three and by inserting in lieu thereof the following section:---

(2) Subsection three of this section shall come into operation for all purposes upon the first day of January next following the year appointed by the Governor pur-

> 3. Except as hereinafter provided every man who is entitled to be enrolled as an elector pursuant to Part III of the Parliamentary Electorates and Elections Act, 1912-1946, shall be qualified and liable to serve on juries for the trial of all issues, civil and criminal, and for the assessment of damages in all actions at law, and to act as a juror in any district court.

(b) by omitting paragraph (a) of section four;

- (c) (i) by omitting from subsection one of section ten the words "and nature of the qualification";
  - (ii) by omitting from subsection two of the same section the words "addition, and nature of the qualification" and by inserting in lieu thereof the words "and addition";
- (d) by omitting from the Third Schedule the matter appearing in the column "Nature of qualification".

3. (1) (a) For the purposes only of Parts IV and V of the Principal Act subsection three of this section shall be deemed to commence in respect of any jurors' district on the first day of the second week of October in such year as the Governor may by notification published in the Gazette appoint in respect of such district.

(b)

(b) The Governor may for the purpose aforesaid appoint different years in respect of different jurors' districts and may appoint a year in respect of any one or more of such districts without appointing any year in respect of other such districts.

(2) Subsection three of this section shall come into operation for all purposes in respect of any jurors' district upon the first day of January next following the year appointed by the Governor in respect of that jurors' district pursuant to subsection one of this section.

(3) The Principal Act is further amended-

Further amendment of Act No. 31, 1912.

(a) by inserting next after section three the follow- New sec. 3A. ing new section :---

3A. (1) Except as hereinafter provided Qualificaevery woman-

- tions of female jurors.
- (a) who is entitled to be enrolled as an elector pursuant to Part III of the Parliamentary Electorates and Elections Act, 1912-1946; and
- (b) who has, in the form contained in the Seventh Schedule to this Act. notified the chief constable of the police district in which she resides that she is desirous of serving as a juror as from the first day of January next following,

shall be qualified and liable to serve on juries for the trial of all issues, civil and criminal, and for the assessment of damages in all actions at law, and to act as a juror in any district court.

(2) Any woman qualified and liable to serve on juries or act as a juror as aforesaid shall, upon giving notification to the chief constable of the police district for which she is enrolled as a juror of her desire to discontinue her qualification and liability to serve on juries or act as a juror as aforesaid, cease, as from the first day of January next following such notification, to be qualified and liable to serve on juries or act as a juror as aforesaid. (b)

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Sec. 4. (Consequential.) (b) (i) by omitting from section four the word "man" and by inserting in lieu thereof the word "person";

- (ii) by omitting from paragraph (b) of the same section the word "he" and by inserting in lieu thereof the words "such person";
- (c) by omitting from sections nine, thirteen, twentyseven and fifty-seven the word "men" wherever occurring and by inserting in lieu thereof the word "persons";
- (d) by omitting from sections ten and fifty-eight the word "man" wherever occurring and by inserting in lieu thereof the word "person";
- (e) by omitting from the Second Schedule the word "men" and by inserting in lieu thereof the word "persons";
- (f) by inserting in the Sixth Schedule next before the letters "A.B." the words "Mrs. or Miss";
- (g) by inserting next after the Sixth Schedule the following new Schedule:—

#### SEVENTH SCHEDULE.

FORM OF NOTIFICATION.

To the Chief Constable of the Police District of (insert name of District).

I, (name), being a woman who is entitled to be enrolled as an elector pursuant to Part III of the Parliamentary Electorates and Elections Act, 1912-1946, now resident at (insert address), am desirous of serving as a juror.

Dated this day of

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#### (Signature.)

- (h) (i) by omitting from section nine, as amended by paragraph (a) of section five of this Act, the words "such men" and by inserting in lieu thereof the words "such persons";
  - (ii) by omitting from subsection three of section ten, as inserted by paragraph (b) of section five of this Act, the word "men" and by inserting in lieu thereof the word "persons"; (iii)

Secs. 9, 10, and Second Schedule. (Consequential.)

1.

Secs. 10 and 58. (Consequential.)

Secs. 9, 13, 27 and 57.

tial.)

(Consequen-

Second

Schedule. (Conse-

quential.) Sixth Schedule.

(Consequential.) New Seventh

Schedule. Sec. 3A.

#### Act No. 41, 1947.

#### Jury (Amendment).

(iii) by omitting from the Second Schedule, as amended by paragraph (pp) of section five of this Act, the words "of men" and by inserting in lieu thereof the words "of persons". 4. (1) The Principal Act is further amended-Further amendment of Act No. 31, 1912. (a) by omitting subsection (1A) of section fifteen; Sec. 15. (Special jurors.) (b) by omitting from the heading of Part V the words "AND SPECIAL JURORS' LISTS." (c) by omitting section twenty; Sec. 20. (d) (i) by omitting from subsection one of section Sec. 26. twenty-six the words "and special jurors' list": (ii) by omitting from the same subsection the words "or list"; (iii) by omitting from subsection two of the same section the words "or list"; (iv) by omitting from the same subsection the words "or special jurors' list"; (e) by omitting section twenty-eight; Sec. 28. (f) by omitting from section twenty-nine the word Sec. 29. "special"; civil cases.) (g) by omitting from section thirty the words "who Sec. 30. shall be returned under the provisions of this twelve.) Act either from amongst the class of special jurors or of common jurors, or in cases to be tried on circuit partly from each class, as the court thinks fit to order": (h) by omitting sections thirty-three and thirty- Secs. 33 and 34. four; precepts.) (i) by omitting from section forty-one the words Sec. 41. (Special rule "special or common";

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(Sydney special jurors' book.) (Jurors' books and lists to come into force immediately.)

(Crimina] special jury. »

(Trial and assessment in

(Juries of

(Special or common jary

or order for summoning jury.)

(j)

Sec. 43. (Jurors to be chosen by lot.)

- (j) (i) by omitting from subsection one of section forty-three the words "or special jurors" list";
  - (ii) by omitting from the same subsection the words "or list" wherever occurring;

(k) by omitting section forty-six and by inserting in lieu thereof the following section :---

46. In determining the persons to be summoned for a jury, those persons who, during the time that the jury book has been in use, have attended at a court in pursuance of a summons, or served on a jury, shall be excluded from service as jurors until the list of names in the jury book has been exhausted.

- (1) by omitting from subsection three of section fifty-nine the words "either special or common";
- (m) (i) by omitting from paragraph (c) of subsection one of section seventy-five the word "common";
  - (ii) by omitting paragraph (d) of the same subsection;
  - (iii) by omitting from subsection three of the same section the words "or six pounds, as the case may be";
- (n) by omitting section seventy-six;
- (o) by omitting from the Fourth Schedule the words "either special or common";
- (p) by omitting the Fifth Schedule and by inserting in lieu thereof the following Schedule:—

#### FIFTH SCHEDULE.

#### FORM OF PRECEPT.

(To be adopted for juries of twelve and juries of four.) To the Sheriff of or his deputy, greeting,-

Pursuant to the Act in such case made and provided, you are hereby commanded that you cause to come before (here insert the style of the court) to be holden at the court-house at , on

holden at the court-house at (here insert the day of the week), the now next (or instant)

day of good and lawful

Subst. sec. 46.

Jurors not liable to be summoned until list exhausted.

Sec. 59. (Striking jury in civil cases.)

Sec. 75. (Fees to be paid on setting down case for trial.)

Sec. 76. (Costs of special jury unless judge certify.)

Fourth Schedule.

Subst. Fifth Schedule.

Sec. 32.

lawful persons of the jurors' district for

aforesaid, duly qualified according to law as jurors to make a jury of the country for the trial of all such issues of fact or other matters as shall be then required to be tried by a jury of (twelve or of four according as the precept shall be intended). And that you have then there the names of those jurors as by the law is required of you. together with due proof of the service of a summons upon such of the said jurors as shall have been served and of the time and manner thereof and of the causes wherefore the others of such jurors have not been served with such summons and also this writ.

Given under my hand and seal at this day. of ., A.D. 19

(2) The amendments made by subsection one of Savings. this section shall not affect or invalidate the trial of any issue, civil or criminal, or the assessment of damages in any action at law pending or commenced at the commencement of this Act by or had before a jury summoned, impanelled or constituted in accordance with the provisions of the Principal Act.

5. The Principal Act is further amended—

- (a) by inserting in section nine after the words sec. 9. "according to this Act" the words "or a list (Notice to comprising such number of such men as has chief been previously certified to such clerk by the sheriff as being reasonably sufficient for the estimated requirements of the district'';
- (b) by inserting at the end of section ten the follow- sec. 10. ing new subsection:-(Lists to be

(3) The foregoing provisions of this section chief shall be regarded as sufficiently complied with if the list contains such number of such men as is specified in the notice referred to in section nine.

(c) by inserting in section twelve after the words Sec. 12. "in every year" the words "by notice published (Special petty sessions to be in a newspaper circulating in the district or by summoned.) notice served by post'';

Further amendment of Act No. 31, 1912. constable.)

prepared by constable.)

(d)

Sec. 13. (Correction and allowance of lists.)

Sec. 15. (Lists to be transmitted to sheriff, etc.)

Sec. 17. (Jurors' book.)

Sec. 19. (District court jurors' book.) Sec. 22 (New courts.) (Revision.)

Sec. 23. (Preparation of lists for new courts.)

- (d) (i) by inserting in subsection three of section thirteen after the words "infirmity of body" the words "and also the names of all men who in the opinion of the justices are, from the nature of their calling, liable to suffer undue hardship from being called to serve as jurors or whose call so to serve would occasion undue public inconvenience";
  - (ii) by inserting at the end of the same section the following new subsection:---

(6) The special petty sessions may be held by and before a stipendiary magistrate sitting alone or by and before two or more justices.

- (e) (i) by omitting from subsection one of section fifteen the words "the Supreme Court or a circuit court or" and by inserting in lieu thereof the words "a sitting of the Supreme Court or a district court or a";
  - (ii) by omitting from subsection two of the same section the words "or circuit court" and by inserting in lieu thereof the words "or district court";
- (f) (i) by omitting from subsection one of section seventeen the words "Except in the case of the jurors' district of the city of Sydney";
  - (ii) by omitting subsection two of the same section;
- (g) by omitting section nineteen;
- (h) by omitting from section twenty-two the words
  "circuit court, or" and by inserting in lieu
  thereof the words "sitting of the Supreme Court, or a";
- (i) by inserting at the end of subsection one of section twenty-three the words "or a list comprising such number of such persons as has been previously certified to such bench by

by the sheriff as being reasonably sufficient for the estimated requirements of the district'':

- (ii) by inserting in subsection two of the same section after the word "justices" the words "or the stipendiary magistrate or the two or more justices constituting the special petty sessions as provided by section thirteen of this Act";
- (i) by omitting section twenty-five;

Sec. 25. (District court judge to prepare jurors' book.)

- (k) by omitting from subsection one of section sec. 26. twenty-six the words "made out by the sheriff (Coming or the district court judge, as the case may be" into force of and by inserting in lieu thereof the words books and "transmitted to the sheriff":
- (1) by omitting from subsection one of section sec. 27. (Trial by jury in criminal twenty-seven the words "the circuit courts"; cases.)
- (m) by omitting from section twenty-nine the words Sec. 29 "whether the trial or assessment is had in the (Trial and said court or in any circuit court";
- (n) by inserting next after section thirty the follow- News. 30A. ing new section:-

30A. Where in the course of a civil trial any Provision member of a jury dies or is discharged by the ance of court as being through illness incapable of civil trial continuing, or for any other reason, the jury when a juror dies shall, unless the judge otherwise orders, and so or becomes long as the number of its members is not reduced incapable. below three (or in case of a jury of twelve below ten), be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a valid verdict may be given accordingly.

(o) (i) by omitting from subsection one of section Sec. 32. thirty-two the words "and circuit courts" (General and by inserting in lieu thereof the word precepts.) "Court": (ii)

civil cases.) (Revision.)

(Revision.)

assessment in

lists.)

- (ii) by omitting from subsection two of the same section the words 'for any circuit court'';
- (iii) by inserting at the end of the same section the following new subsection:---

(4) Two or more precepts may be issued returnable at any particular court on any one day to ensure the attendance at any trial of a sufficient number of jurors to allow full right of challenge to all parties.

- (p) by omitting from subsection one of section thirty-six the words "or any circuit court";
- (q) by omitting from section thirty-seven the words "circuit court" and by inserting in lieu thereof the words "district court";
- (r) by omitting sections thirty-eight and thirty-nine;
- (s) (i) by omitting from subsection one of section forty the words "and circuit courts";
  - (ii) by inserting in subsection two of the same section after the word "except" the words "where otherwise provided in this Act and";
  - (t) (i) by omitting from paragraph (a) of subsection one of section forty-three the words "rotating ballot-box" and by inserting in lieu thereof the words "ballot-box of a type";
    - (ii) by inserting at the end of the same paragraph the words "cards which during any year have already been drawn in a lot pursuant to this section being excluded";
    - (iii) by omitting from paragraph (b) of the same subsection the words "Such box first having been made to rotate for one minute at least"

and

Sec. 36. (Number of jurors to be summoned.) (Revision.)

Sec. 37. (Priority of precepts.)

Secs. 38 and 39.

(Repeal: consequential.)

Sec. (40. (Power reserved to courts, etc.) (Revision.)

Sec. 43. (Jurors to be chosen by lot.)

- and by inserting in lieu thereof the words "The cards in the box having been thoroughly mixed'':
- (u) by omitting from subsection one of section forty- Sec. 45. five the words "Such summons shall be" and (Service of by inserting in lieu thereof the words "Every such summons requiring a juror to attend a sitting of the Supreme Court or a sitting of a court of quarter sessions shall be":
- (v) by omitting section forty-seven;
- (w) (i) by omitting from section fifty the words sec. 50. "and shall annex to the said precept a panel (Sheriff's containing the names in alphabetical order return to of the persons so summoned by him in precept.) pursuance of the said jury precept, and shall also therewith furnish to the clerk of the said court the names of the said persons. with their respective additions and places of abode", and by inserting in lieu thereof the words "and shall, in the case of a precept for a jury for the trial of criminal issues, annex to the said precept a panel containing the names only of the persons so summoned by him in pursuance of the said jury precept, and in the case of a precept for a jury for the trial of civil issues, annex to the said precept a panel containing the names of the persons so summoned by him in pursuance of the said jury precept with their respective additions, and shall also furnish therewith to the clerk of the said court in the case of a precept for a jury for the trial of criminal issues and in the case of a precept for a jury for the trial of civil issues the names of the persons with respective their said additions and places of abode";

(ii) by inserting at the end of the same section the following new subsections :----

(2) No person shall, unless the judge otherwise orders, prior to or during the

summons.)

Sec. 47. (Summoning of same jurors.)

the trial, be allowed to inspect or to obtain a copy of any such panel annexed to a precept directed to the sheriff requiring him to summon jurors for the trial of any criminal issue in any court.

(3) Any party to any other proceeding not being the trial of any criminal issue shall, upon payment of such fee as may be fixed by the judges of the Supreme Court, be allowed at any convenient time prior to the trial to inspect or to obtain a copy of any such panel annexed to a precept pursuant to subsection one of this section.

- (x) (i) by omitting from subsection one of section fifty-seven the words "or a circuit court";
  - (ii) by inserting in the same subsection after the word "another" the words "and call each by name";
  - (iii) by inserting at the end of the same subsection the words "Where more than one precept has been issued returnable on any one day the said clerk shall place into such box all the cards furnished pursuant to all such precepts before drawing any card from such box";
- (y) by omitting from subsection two of section fiftynine the words "twice the number of jurors required to be impanelled" and by inserting in lieu thereof the words "the number of jurors required for the impanelling of the jury pursuant to section sixty of this Act";
- (z) (i) by omitting subsection one of section sixty and by inserting in lieu thereof the following subsection:—

(1) In civil issues a sufficient number of pieces of card having been drawn out a list of the names appearing thereon shall be delivered by the sheriff or his deputy to the

plaintiff

Sec. 57. (Impanelling jury in criminal

trials.)

Sec. 59. (Striking jury in civil cases.)

Sec. 60. (Impanelling jury in civil cases.)

plaintiff or his attorney or counsel by whom a number of such names equal to one half of the number of the jury to be impanelled may be struck therefrom and the list so reduced shall then be delivered to each defendant who has pleaded separately or his attorney or counsel by each of whom a number of names equal to one half of the number of the jury to be impanelled may be also struck therefrom.

(ii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsections:-

(3) The cards bearing the names struck out from the list shall be returned to the box as soon as the jury is sworn and impanelled and the cards bearing the names of the jury sworn and impanelled shall also be returned to the box at the conclusion of the trial.

(4) In this section and in section sixtythree of this Act, "plaintiff" includes petitioner and "defendant" includes respondent, intervener and co-respondent.

(aa) by omitting from section sixty-two the words Sec. 62. "the three next preceding sections" and by (When damages inserting in lieu thereof the words "sections assessed fifty-nine, sixty and sixty-one";

only.)

- (bb) by omitting from section sixty-four the word Sec. 64. "order" and by inserting in lieu thereof the (Refreshword "permit"; ments.)
- (cc) by omitting from section sixty-five the word Sec. 65. "twelve" and by inserting in lieu thereof the [Disagreement in crimina] word "six": trial.)
- (dd) (i) by omitting from subsection one of section Sec. 66. sixty-six the words "six hours" and by in- (Disagreeserting in lieu thereof the words "four civil cases.) hours";

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(ii)

- (ii) by inserting at the end of the same subsection the words "but if three-fourths in number of them do not concur in any such verdict or assessment and it be found after examination on oath of one or more of them that they or three-fourths in number of them are not likely so to concur then such jurors may be discharged and the cause may without any new process for that purpose be again set down for trial or assessment (as the case may be) either at the same or any subsequent sittings, as the court or presiding judge may order";
- (iii) by omitting from subsection two of the same section the words "the whole twelve hours" and by inserting in lieu thereof the words "six hours";
- (iv) by inserting at the end of the same section the following new subsection :---

(3) Where, pursuant to section  $30_A$  of this Act, the number of jurors has been reduced to three—

- (a) the decision of such three jurors shall, if such jurors agree, be taken and entered as the verdict or assessment of the jury;
- (b) the provisions of subsection one of this section shall not apply;
- (c) the provisions of subsection two of this section shall be read as if the words "the three" were substituted for the words "three-fourths in number of the".

In their application to a case where, pursuant to section  $30_A$  of this Act the number of a jury of twelve has been reduced to eleven or ten the provisions of subsection one and of subsection two of this section shall be read as if the word "nine" were substituted for the words "three-fourths in number" in each such subsection. (ee)

- (ee) by omitting from subsection one of section Sec. 67. sixty-seven the words "some of"; view.) (ff) by omitting sections sixty-eight and sixty-nine; 69. sequential.) (gg) by omitting from section seventy the words Sec. 70. "and circuit courts" and by inserting in lieu (Jurors' fees.) thereof the word "Court"; (Revision.) (hh) by omitting subsection two of section seventy- sec. 71. one; to jurors.) (ii) by omitting from section seventy-two the words sec. 72. "or any circuit court"; courts.) (jj) by omitting from section seventy-five the word sec. 75. "Prothonotary" wherever occuring and by inserting in lieu thereof the word "sheriff"; Sec. 79. (kk) by omitting section seventy-nine; (11) by omitting section eighty-one; (Liability
- (mm) by inserting next after section eighty-four the New ss. 84A, following new sections :---

84A. Any person who publishes in any news- Penalty for paper the names, descriptions, addresses or photographs of the jurors or of any of the jurors members summoned or impanelled for the trial of any issue shall be liable on summary conviction to a penalty not exceeding one hundred pounds.

84B. (1) Any employer who dismisses an Penalty for employee or injures him in his employment or unlawful alters his position to his prejudice by reason of dismissal of employee the fact that the employee is summoned to serve summoned on a jury shall be liable on summary convic- on a jury. tion-

(a) if a body corporate—to a penalty not exceeding two hundred pounds;

publication of names of of jury.

to serve

(b)

(Order for Secs. 68 and (Repeal: con-

(Compensation

(District (Revision.) (Fees to be paid.)

(Liability of justices.)

Sec. 81.

84B.

of viewers: repeal: consequential.)

(b) if any other person—to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment.

(2) The court before which the employer is charged may further order that the employee be reimbursed the wages lost by him and the court may also direct his reinstatement in his old or a similar position.

(3) In any proceeding for an offence against this section if all the facts and circumstances constituting the offence other than the reason for the defendant's action are proved, it shall lie upon the defendant to prove that the dismissal was not actuated by the reason alleged in the charge.

(4) Where the employer is a body corporate and the dismissal complained of is proved to have been with the consent or approval of any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed guilty of an offence against this section and shall be liable to be proceeded against and punished accordingly.

(5) Where, pursuant to the provisions of subsection two of this section, the court has ordered that an employee be reimbursed the wages lost by him, the amount of the wages so lost shall be specified in the order, and such order shall operate as an order against the employer for the payment of money under the Small Debts Recovery Act, 1912, as amended by subsequent Acts, and be enforceable as such under the provisions of that Act as so amended.

(6) Any employer who neglects or fails to comply with an order, made pursuant to the provisions of subsection two of this section, directing reinstatement of an employee, shall be liable

liable on summary conviction to a penalty not exceeding ten pounds for each day such neglect or failure continues.

The amount of wages which would have been payable to the employee in respect of the period of such neglect or failure if he had been reinstated in accordance with the terms of the order aforesaid shall be recoverable, as a debt due to the employee by the employer, in any court of competent jurisdiction.

- (nn) by omitting from subsection one of section Sec. 85. eighty-five the words "or to the Supreme Court, fines for nonif the fine has been imposed for non-attendance attendance.) at a circuit court'':
- (00) (i) by omitting from paragraph (a) of section Sec. 86. eighty-six the words "or a circuit court"; (Recovery
  - (ii) by omitting from paragraph (b) of the same fines.) section the words "in the manner appointed by law for the recovery of fines imposed by justices of the peace" and by inserting in lieu thereof the words "pursuant to the Fines and Forfeited Recognizances Recovery Act, 1902";
- (pp) by inserting in the Second Schedule after the second words "all men" the words and symbols "[or Schedule. of men (being the number certified by the sheriff as being reasonably sufficient for the estimated requirements of the district)]":
- (qq) by omitting from the heading to the Third Third Schedule the words "of all persons" and by Schedule. inserting in lieu thereof the words and symbols "of all [or of persons]":
- (rr) (i) by omitting from the Sixth Schedule the sixth words "or Circuit Court" and by inserting Schedule. in lieu thereof the words "Court or District Court'':

B

of other

(ii)

(ii) by omitting from the same Schedule the word "ten" and by inserting in lieu thereof the words "a quarter to ten".

6. (1) The District Courts Act, 1912-1936, is amended—

- (a) (i) by omitting from subsection three of section ninety the words "made at least five clear days before the day named for the hearing" and by inserting in lieu thereof the words "made not less than the prescribed number of days before the day named for the hearing";
  - (ii) by omitting from the same subsection the words "at least five clear days before the day named for the hearing" and by inserting in lieu thereof the words "not less than the prescribed number of days before the day named for the hearing";

(b) by omitting section ninety-three;

- (c) (i) by omitting from subsection one of section ninety-four the words "except where otherwise provided" and by inserting in lieu thereof the words "deliver to the sheriff a precept in or to the effect of the form contained in the Fifth Schedule to the Jury Act, 1912-1947, requiring him to";
  - (ii) by omitting from the same subsection the words "or special jurors' list";
  - (iii) by omitting from the same subsection the word "summons" and by inserting in lieu thereof the word "precept";
  - (iv) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection:—

(4) Before the day and at the place named in any precept for the appearance of the jurors thereby required to be summoned to attend the District Court, the sheriff shall return

Amendment of Act No. 23, 1912.

Sec. 90 (3). (Jury in actions for less than £20.)

Sec. 93. (Special jurors' list.)

Sec. 94. (Summons to jurors.)

return to the registrar thereof a panel containing the names of the persons so summoned pursuant to the precept with their respective additions and shall also furnish to the said registrar the names of the said persons with their respective additions written upon separate pieces of card being as nearly as may be of equal size.

The sheriff shall previously upon the panel certify that the jurors named therein have been duly summoned and such certificate shall without proof of his signature be prima facie evidence that each juror whose name is included in the panel has been duly summoned to attend the court pursuant to the precept.

- (d) by omitting from subsection one of section Sec. 95. ninety-five the words "or special jurors' list"; (Jury, how chosen.)
- (e) by omitting from subsection two of section one Sec. 134. hundred and thirty-four the words "may be a (Jury.) common or special jury, and";
- (f) by omitting from section one hundred and thirty- Sec. 136. six the word "special" wherever occurring: (Number of jurors.)
- (g) by omitting subsections one and two of section Sec. 137. one hundred and thirty-seven and by inserting (Drawing in lieu thereof the following subsection :--of jury.)

(1) At the trial of any such issue the registrar shall put into a box provided for that purpose the pieces of card furnished as aforesaid by the sheriff.

(2) The Principal Act is further amended follows :---

C

- (a) (i) by omitting from subsection five of section Sec. 13 (5). thirteen the word "three" and by inserting (Lists.) in lieu thereof the word "two";
  - (ii) by omitting the proviso to the same subsection:

as Further amendment of Act No. 31, 1912.

(b)

Sec. 15.

(Transmission of lists.)

Amendment of Act No. 14, 1899.

Sec. 52.

(Claim by husband for

damages.)

Sec. 69.

(Trial by jury.) (b) by omitting from subsection one of section fifteen all words after the word "sheriff".

(3) The District Courts Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the District Courts Act, 1912-1947.

7. (1) The Matrimonial Causes Act, 1899, is amended—

(a) (i) by inserting at the end of subsection three of section fifty-two the following words:---

Provided that, subject to section sixtynine of this Act, any issue arising upon the hearing of any such petition (including the amount of damages) may be determined by the Court:

- (ii) by omitting subsection five of the same section;
- (b) by inserting next after subsection two of section sixty-nine the following new subsection:—

(2A) A husband claiming damages may require the issues in the suit to be tried by a jury and the amount of the damages to be recovered to be ascertained by the verdict of a jury, although the respondent or co-respondent, or both the respondent and co-respondent, do not appear.

- (c) by omitting section seventy-three and by inserting in lieu thereof the following section:--
  - 73. For the purposes of this Act the Court may, as occasion requires, issue such precepts directing the sheriff to summon jurors and make such orders upon the sheriff for the attendance of such number of jurors as such Court may consider requisite.
- (d) by omitting from section seventy-six the word "now" and by inserting in lieu thereof the words "that for the time being."

8.

(2) The Matrimonial Causes Act, 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Cause's Act, 1899-1947.

Subst. sec. 73.

Summoning of jurors.

Sec. 76. (General law and practice to apply.)

8. (1) (a) The Equity Act, 1901, as amended by Amendment of Act No. 24, subsequent Acts, is amended-

- (i) by omitting from paragraph (a) of subsection sec. 51. two of section fifty-one the words "special or "issues.) common'':
- (ii) by omitting from subsection one of section fifty- Sec. 52. two the words "special or common";

(b) The Equity Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Equity Act, 1901-1947.

(2) (a) The Wills, Probate and Administration Amendment of Act No. 13, Act, 1898, as amended by subsequent Acts, is amended-1898.

- (i) by omitting from section one hundred and forty Sec. 140. the words "special or common":
- (ii) by omitting from subsection one of section one Sec. 141. hundred and forty-one the word "men" and by (Question to be inserting in lieu thereof the word "persons".

(b) The Wills, Probate and Administration Act, 1898, as amended by subsequent Acts and by this Act, may be cited as the Wills, Probate and Administration Act, 1898-1947.

(3) (a) The Lunacy Act of 1898, as amended by Amendment subsequent Acts, is amended by omitting from section one No. 45, 1898. hundred and seven the words "and in such order shall sec. 107. direct whether such jury shall be a common or special (Inquiry before a jury". jury.)

(b) The Lunacy Act of 1898, as amended by subsequent Acts and by this Act, may be cited as the Lunacy Act, 1898-1947.

1901.

(Jury, how summoned.)

(Questions of fact how tried.)

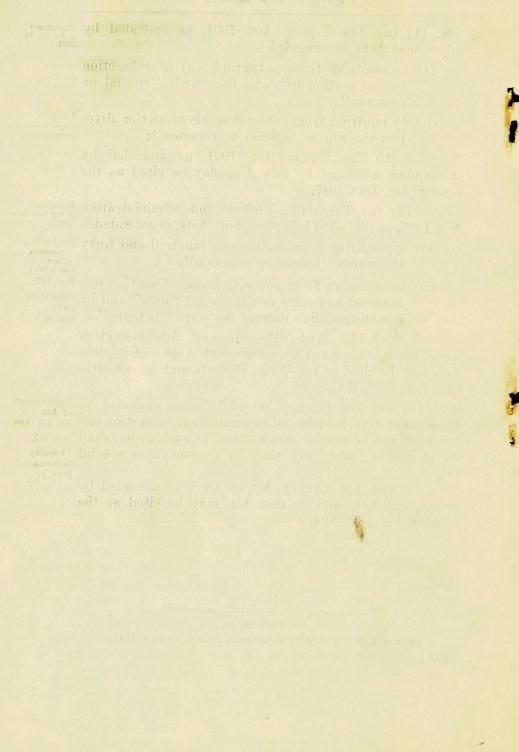
stated.)

By Authority:

THOMAS HENRY TENNANT, Government Printer, Sydney, 1948. [9d.]

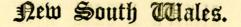
#### Act No. 41, 1947.

#### Jury (Amendment).



I certify that this PUBLIC BILL, which originated in the LEGIS-LATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

H. ROBBINS, Clerk of the Legislative Assembly. Legislative Assembly Chamber, Sydney, 18 December, 1947.





# GEORGII VI REGIS.

# Act No. 41, 1947.

An Act to amend in certain respects the law relating to juries; to amend the Jury Act, 1912, and certain other Acts; and for purposes connected therewith. [Assented to, 19th December, 1947.]

**B**<sup>E</sup> it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Jury (Amend- Short title ment) Act, 1947."

(2) The Jury Act, 1912, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Jury Act, 1912-1947.

2.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

1

G. BOOTH,

Chairman of Committees of the Legislative Assembly.

Commencement of section. 2. (1) For the purposes only of Parts IV and V of the Principal Act subsection three of this section shall be deemed to commence on the first day of the second week of October in such year as the Governor may by notification published in the Gazette appoint.

(2) Subsection three of this section shall come into operation for all purposes upon the first day of January next following the year appointed by the Governor pursuant to subsection one of this section.

(3) The Principal Act is amended—

Amendment of Act No. 31, 1912. Subst. sec. 3.

Qualifica-

tions of male jurors (a) by omitting section three and by inserting in lieu thereof the following section:—

3. Except as hereinafter provided every man who is entitled to be enrolled as an elector pursuant to Part III of the Parliamentary Electorates and Elections Act, 1912-1946, shall be qualified and liable to serve on juries for the trial of all issues, civil and criminal, and for the assessment of damages in all actions at law, and to act as a juror in any district court.

- (b) by omitting paragraph (a) of section four;
- (c) (i) by omitting from subsection one of section ten the words "and nature of the qualification";
  - (ii) by omitting from subsection two of the same section the words "addition, and nature of the qualification" and by inserting in lieu thereof the words "and addition";
- (d) by omitting from the Third Schedule the matter appearing in the column "Nature of qualification".

**3.** (1) (a) For the purposes only of Parts IV and V of the Principal Act subsection three of this section shall be deemed to commence in respect of any jurors' district on the first day of the second week of October in such year as the Governor may by notification published in the Gazette appoint in respect of such district. (b)

Sec. 4. (Disqualification.) Sec. 10. (Lists to be prepared by chief constables.)

Third Schedule.

Commencement of section.

(b) The Governor may for the purpose aforesaid appoint different years in respect of different jurors' districts and may appoint a year in respect of any one or more of such districts without appointing any year in respect of other such districts.

(2) Subsection three of this section shall come into operation for all purposes in respect of any jurors' district upon the first day of January next following the year appointed by the Governor in respect of that jurors' district pursuant to subsection one of this section.

(3) The Principal Act is further amended—

Further amendment of Act No. 31, 1912.

(a) by inserting next after section three the follow- New sec. 3A. ing new section :--

 $3_{A.}$  (1) Except as hereinafter provided Qualifications of every woman-

- jurors. (a) who is entitled to be enrolled as an elector pursuant to Part III of the Parliamentary Electorates and Elections Act, 1912-1946; and
- (b) who has, in the form contained in the Seventh Schedule to this Act. notified the chief constable of the police district in which she resides that she is desirous of serving as a juror as from the first day of January next following,

shall be qualified and liable to serve on juries for the trial of all issues, civil and criminal, and for the assessment of damages in all actions at law, and to act as a juror in any district court.

(2) Any woman qualified and liable to serve on juries or act as a juror as aforesaid shall, upon giving notification to the chief constable of the police district for which she is enrolled as a juror of her desire to discontinue her qualification and liability to serve on juries or act as a juror as aforesaid, cease, as from the first day of January next following such notification, to be qualified and liable to serve on juries or act as a juror as aforesaid. (b)

female

Act No. 41, 1947.

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	Jury (Amendment).
Sec. 4. (Consequen- tial.)	(b) (i) by omitting from section four the word "man" and by inserting in lieu thereof the word "person";
	<ul> <li>(ii) by omitting from paragraph (b) of the same section the word "he" and by inserting in lieu thereof the words "such person";</li> </ul>
Secs. 9, 13, 27 and 57. (Consequen- tial.)	(c) by omitting from sections nine, thirteen, twenty- seven and fifty-seven the word "men" wherever occurring and by inserting in lieu thereof the word "persons";
Secs. 10 and 58. (Conse- quential.)	<ul> <li>(d) by omitting from sections ten and fifty-eight the word "man" wherever occurring and by insert- ing in lieu thereof the word "person";</li> </ul>
Second Schedule. (Conse- quential.)	(e) by omitting from the Second Schedule the word "men" and by inserting in lieu thereof the word "persons";
Sixth Schedule. (Conse- quential.)	(f) by inserting in the Sixth Schedule next before the letters "A.B." the words "Mrs. or Miss";
New Seventh Schedule.	(g) by inserting next after the Sixth Schedule the following new Schedule:—
Sec. 3A.	SEVENTH SCHEDULE.
	FORM OF NOTIFICATION. To the Chief Constable of the Police District of (insert name of District).
	I, (name), being a woman who is entitled to be enrolled as an elector pursuant to Part III of the Parliamentary Electorates and Elections Act, 1912-1946, now resident at (insert address), am desirous of serving as a juror. Dated this day of 19
	(Signature.)
Secs. 9, 10, and Second Schedule. (Conse- quential.)	<ul> <li>(h) (i) by omitting from section nine, as amended by paragraph (a) of section five of this Act, the words "such men" and by inserting in lieu thereof the words "such persons";</li> </ul>
	<ul><li>(ii) by omitting from subsection three of section ten, as inserted by paragraph (b) of section five of this Act, the word "men" and by inserting in lieu thereof the word</li></ul>
	"persons"; (iii)

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#### Jury (Amendment). (iii) by omitting from the Second Schedule, as amended by paragraph (pp) of section five of this Act, the words "of men" and by inserting in lieu thereof the words "of persons". 4. (1) The Principal Act is further amended-Further amendment of Act No. 31, 1912. (a) by omitting subsection (1A) of section fifteen; Sec. 15 (Special jurors.) (b) by omitting from the heading of Part V the words "AND SPECIAL JURORS' LISTS." (c) by omitting section twenty; (d) (i) by omitting from subsection one of section twenty-six the words "and special jurors' list"; (ii) by omitting from the same subsection the words "or list"; (iii) by omitting from subsection two of the same section the words "or list": (iv) by omitting from the same subsection the words "or special jurors' list"; (e) by omitting section twenty-eight; (f) by omitting from section twenty-nine the word Sec. 29. (Trial and "special"; assessment in civil cases.) (g) by omitting from section thirty the words "who Sec. 30. shall be returned under the provisions of this twelve.) Act either from amongst the class of special jurors or of common jurors, or in cases to be

(h) by omitting sections thirty-three and thirty- Secs. 33 and 34. (Special or common jury precepts.) four;

(i) by omitting from section forty-one the words Sec. 41. "special or common";

tried on circuit partly from each class, as the

court thinks fit to order";

(Special rule or order for summoning jury.) (j)

Sec. 20. (Sydney special jurors' book.) Sec. 26. (Jurors' books and lists to come into force immediately.)

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Sec. 28. (Criminal special jury.)

#### Act No. 41, 1947.

Jury (Amendment).

Sec. 43. (Jurors to be chosen by lot.)

Subst. sec. 46.

Jurors not

liable to be summoned

until list exhausted.

Sec. 59.

Sec. 75.

(Fees to be paid on setting down case for trial.)

(Striking jury in civil cases.)  (j) (i) by omitting from subsection one of section forty-three the words "or special jurors" list";

- (ii) by omitting from the same subsection the words "or list" wherever occurring;
- (k) by omitting section forty-six and by inserting in lieu thereof the following section:---

46. In determining the persons to be summoned for a jury, those persons who, during the time that the jury book has been in use, have attended at a court in pursuance of a summons, or served on a jury, shall be excluded from service as jurors until the list of names in the jury book has been exhausted.

- (1) by omitting from subsection three of section fifty-nine the words "either special or common";
- (m) (i) by omitting from paragraph (c) of subsection one of section seventy-five the word "common";
  - (ii) by omitting paragraph (d) of the same subsection;
  - (iii) by omitting from subsection three of the same section the words "or six pounds, as the case may be";
- (n) by omitting section seventy-six;
- (o) by omitting from the Fourth Schedule the words "either special or common";
- (p) by omitting the Fifth Schedule and by inserting in lieu thereof the following Schedule:—

#### FIFTH SCHEDULE.

#### FORM OF PRECEPT.

(To be adopted for juries of twelve and juries of four.)
To the Sheriff of or his deputy, greeting,-
Pursuant to the Act in such case made and provided, you are hereby commanded that you cause to come before (here insert the style of the court) to be holden at the court-house at (here insert the day of the week), the now next (or instant) good and lawful

Sec. 76. (Costs of special jury unless judge certify.) Fourth Schedule.

Subst. Fifth Schedule. Sec. 32.

lawful persons of the jurors' district for

aforesaid, duly qualified according to law as jurors to make a jury of the country for the trial of all such issues of fact or other matters as shall be then required to be tried by a jury of (twelve or of four according as the precept shall be intended). And that you have then there the names of those jurors as by the law is required of you, together with due proof of the service of a summons upon such of the said jurors as shall have been served and of the time and manner thereof and of the causes wherefore the others of such jurors have not been served with such summons and also this writ.

Given under my hand and seal at this day of , A.D. 19

(2) The amendments made by subsection one of Savings. this section shall not affect or invalidate the trial of any issue, civil or criminal, or the assessment of damages in any action at law pending or commenced at the commencement of this Act by or had before a jury summoned, impanelled or constituted in accordance with the provisions of the Principal Act.

# 5. The Principal Act is further amended-

Further amendment of Act No. 31, 1912.

- (a) by inserting in section nine after the words sec. 9.
   "according to this Act" the words "or a list (Notice to comprising such number of such men as has chief constable.) been previously certified to such clerk by the sheriff as being reasonably sufficient for the estimated requirements of the district";
- (b) by inserting at the end of section ten the follow- sec. 10. ing new subsection:— (Lists to b

(Lists to be prepared by chief

(3) The foregoing provisions of this section chief shall be regarded as sufficiently complied with if the list contains such number of such men as is specified in the notice referred to in section nine.

(c) by inserting in section twelve after the words sec. 12. "in every year" the words "by notice published (Special petty in a newspaper circulating in the district or by summoned.) notice served by post";

(d)

Act No. 41, 1947.

#### Jury (Amendment).

Sec. 13. (Correction and allowance of lists.)

Sec. 15. (Lists to be transmitted to sheriff, etc.)

Sec. 17. (Jurors' book.)

Sec. 19. (District court jurors' book.) Sec. 22 (New courts.) (Revision.)

Sec. 23. (Preparation of lists for new courts.) (d) (i) by inserting in subsection three of section thirteen after the words "infirmity of body" the words "and also the names of all men who in the opinion of the justices are, from the nature of their calling, liable to suffer undue hardship from being called to serve as jurors or whose call so to serve would occasion undue public inconvenience";

(ii) by inserting at the end of the same section the following new subsection:—

(6) The special petty sessions may be held by and before a stipendiary magistrate sitting alone or by and before two or more justices.

- (e) (i) by omitting from subsection one of section fifteen the words "the Supreme Court or a circuit court or" and by inserting in lieu thereof the words "a sitting of the Supreme Court or a district court or a";
  - (ii) by omitting from subsection two of the same section the words "or circuit court" and by inserting in lieu thereof the words "or district court";
- (f) (i) by omitting from subsection one of section seventeen the words "Except in the case of the jurors' district of the city of Sydney";
  - (ii) by omitting subsection two of the same section;
- (g) by omitting section nineteen;
- (h) by omitting from section twenty-two the words "circuit court, or" and by inserting in lieu thereof the words "sitting of the Supreme Court, or a";
- (i) by inserting at the end of subsection one of section twenty-three the words "or a list comprising such number of such persons as has been previously certified to such bench by

by the sheriff as being reasonably sufficient for the estimated requirements of the district";

- (ii) by inserting in subsection two of the same section after the word "justices" the words "or the stipendiary magistrate or the two or more justices constituting the special petty sessions as provided by section thirteen of this Act";
- (i) by omitting section twenty-five;

Sec. 25. (District court judge to prepare jurors' book.)

(Revision.)

assessment in

civil cases.) (Revision.)

- (k) by omitting from subsection one of section sec. 26. twenty-six the words "made out by the sheriff (Coming or the district court judge, as the case may be", into force of and by inserting in lieu thereof the words books and lists.) "transmitted to the sheriff";
- (1) by omitting from subsection one of section sec. 27. (Trial by jury in criminal twenty-seven the words "the circuit courts"; cases.)
- (m) by omitting from section twenty-nine the words Sec. 29 "whether the trial or assessment is had in the (Trial and said court or in any circuit court";
- (n) by inserting next after section thirty the follow- News. 30A. ing new section :---

30A. Where in the course of a civil trial any Provision member of a jury dies or is discharged by the ance of court as being through illness incapable of civil trial continuing, or for any other reason, the jury when a juror dies shall, unless the judge otherwise orders, and so or becomes long as the number of its members is not reduced incapable. below three (or in case of a jury of twelve below ten), be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a valid verdict may be given accordingly.

(o) (i) by omitting from subsection one of section sec. 32. thirty-two the words "and circuit courts" (General and by inserting in lieu thereof the word jury precepts.) (ii)"Court";

Act No. 41, 1947.

	Jury (Amendment).
	<ul><li>(ii) by omitting from subsection two of the same section the words "or any circuit court";</li></ul>
	(iii) by inserting at the end of the same section the following new subsection:—
	(4) Two or more precepts may be issued returnable at any particular court on any one day to ensure the attendance at any trial of a sufficient number of jurors to allow full right of challenge to all parties.
Scc. 36. (Number of jurors to be summoned.) (Revision.)	(p) by omitting from subsection one of section thirty-six the words "or any circuit court";
Sec. 37. (Priority of precepts.)	<ul><li>(q) by omitting from section thirty-seven the words "circuit court" and by inserting in lieu thereof the words "district court";</li></ul>
Secs. 38 and 39. (Repeal: consequen- tial.)	(r) by omitting sections thirty-eight and thirty-nine;
Sec. 40. (Power reserved to	(s) (i) by omitting from subsection one of section forty the words "and circuit courts";
courts, etc.) (Revision.)	<ul> <li>(ii) by inserting in subsection two of the same section after the word "except" the words "where otherwise provided in this Act and";</li> </ul>
Sec. 43. (Jurors to be chosen by lot.)	<ul> <li>(t) (i) by omitting from paragraph (a) of subsection one of section forty-three the words "rotating ballot-box" and by inserting in lieu thereof the words "ballot-box of a type";</li> </ul>
,	<ul> <li>(ii) by inserting at the end of the same para- graph the words "cards which during any year have already been drawn in a lot pursuant to this section being excluded";</li> </ul>
	(iii) by omitting from paragraph (b) of the same subsection the words "Such box first having been made to rotate for one minute at least" and

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Act No. 41, 1947.

	Jury (Amendment).	
	and by inserting in lieu thereof the words "The cards in the box having been thoroughly mixed";	
(u) by or five by ir such sittin	mitting from subsection one of section forty- the words "Such summons shall be" and (and nserting in lieu thereof the words "Every summons requiring a juror to attend a ng of the Supreme Court or a sitting of a	ec. 45. Service of ummons.)
(v) by o	omitting section forty-seven;	ec. 47. Summoning I same
(w) (i)	by omitting from section fifty the words satisfies the section fifty the words satisfies the persons to the said precept a panel (containing the names in alphabetical order represent the persons so summoned by him in pursuance of the said jury precept, and shall also therewith furnish to the clerk of the said court the names of the said persons, with their respective additions and places of abode", and by inserting in lieu thereof the words "and shall, in the case of a precept for a jury for the trial of criminal issues, annex to the said precept a panel containing the names of the said jury precept, and in the case of a precept for a jury for the trial of the said precept a panel containing the trial of civil issues, annex to the said precept for a jury for the trial of the said jury precept, and in the case of a precept for a jury for the trial of civil issues, annex to the said precept a panel containing the names of the said jury precept, and in the case of a precept for a jury for the trial of civil issues, annex to the said precept a panel containing the names of the said jury precept with their respective additions, and shall also furnish therewith to the clerk of the said court in the case of	t same urors.) ec. 50. Sheriff's eturn to eneral
7	a precept for a jury for the trial of criminal issues and in the case of a precept for a jury for the trial of civil issues the names of the said persons with their respective	
	additions and places of abode";	
(ii)	by inserting at the end of the same section the following new subsections:	
	(2) No person shall, unless the judge	
Ŧ .	otherwise orders, prior to or during the	

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the trial, be allowed to inspect or to obtain a copy of any such panel annexed to a precept directed to the sheriff requiring him to summon jurors for the trial of any criminal issue in any court.

(3) Any party to any other proceeding not being the trial of any criminal issue shall, upon payment of such fee as may be fixed by the judges of the Supreme Court, be allowed at any convenient time prior to the trial to inspect or to obtain a copy of any such panel annexed to a precept pursuant to subsection one of this section.

- (x) (i) by omitting from subsection one of section fifty-seven the words "or a circuit court";
  - (ii) by inserting in the same subsection after the word "another" the words "and call each by name";
  - (iii) by inserting at the end of the same subsection the words "Where more than one precept has been issued returnable on any one day the said clerk shall place into such box all the cards furnished pursuant to all such precepts before drawing any card from such box";
- (y) by omitting from subsection two of section fiftynine the words "twice the number of jurors required to be impanelled" and by inserting in lieu thereof the words "the number of jurors required for the impanelling of the jury pursuant to section sixty of this Act";
- (z) (i) by omitting subsection one of section sixty and by inserting in lieu thereof the following subsection:—

(1) In civil issues a sufficient number of pieces of card having been drawn out a list of the names appearing thereon shall be delivered by the sheriff or his deputy to the

Lait La Lain de la

plaintiff

Sec. 57. (Impanelling jury in criminal trials.)

Sec. 59. (Striking jury in civil cases.)

Sec. 60. (Impanelling jury in civil cases.)

plaintiff or his attorney or counsel by whom a number of such names equal to one half of the number of the jury to be impanelled may be struck therefrom and the list so reduced shall then be delivered to each defendant who has pleaded separately or his attorney or counsel by each of whom a number of names equal to one half of the number of the jury to be impanelled may be also struck therefrom.

(ii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsections :---

(3) The cards bearing the names struck out from the list shall be returned to the box as soon as the jury is sworn and impanelled and the cards bearing the names of the jury sworn and impanelled shall also be returned to the box at the conclusion of the trial.

(4) In this section and in section sixtythree of this Act, "plaintiff" includes petitioner and "defendant" includes respondent, intervener and co-respondent.

- (aa) by omitting from section sixty-two the words Sec. 62. "the three next preceding sections" and by (When inserting in lies thereof the words "costions damages inserting in lieu thereof the words "sections assessed fifty-nine, sixty and sixty-one":
  - only.)
- (bb) by omitting from section sixty-four the word Sec. 64. "order" and by inserting in lieu thereof the (Refreshword "permit"; ments.)
- (cc) by omitting from section sixty-five the word sec. 65. "twelve" and by inserting in lieu thereof the (Disagreement word "six": word "six";
- (dd) (i) by omitting from subsection one of section Sec. 66. sixty-six the words "six hours" and by in- (Disagreeserting in lieu thereof the words "four civil cases.) hours";

(ii)

- (ii) by inserting at the end of the same subsection the words "but if three-fourths in number of them do not concur in any such verdict or assessment and it be found after examination on oath of one or more of them that they or three-fourths in number of them are not likely so to concur then such jurors may be discharged and the cause may without any new process for that purpose be again set down for trial or assessment (as the case may be) either at the same or any subsequent sittings, as the court or presiding judge may order";
- (iii) by omitting from subsection two of the same section the words "the whole twelve hours" and by inserting in lieu thereof the words "six hours";
- (iv) by inserting at the end of the same section the following new subsection:—

(3) Where, pursuant to section 30A of this Act, the number of jurors has been reduced to three—

- (a) the decision of such three jurors shall, if such jurors agree, be taken
  and entered as the verdict or assessment of the jury;
- (b) the provisions of subsection one of this section shall not apply;
- (c) the provisions of subsection two of this section shall be read as if the words "the three" were substituted for the words "three-fourths in number of the".

In their application to a case where, pursuant to section 30A of this Act the number of a jury of twelve has been reduced to eleven or ten the provisions of subsection one and of subsection two of this section shall be read as if the word "nine" were substituted for the words "three-fourths in number" in each such subsection. (ee)

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(ee) by omitting from subsection one of section sixty-seven the words "some of";	1 Sec. 67. (Order for view.)
(ff) by omitting sections sixty-eight and sixty-nine	
(gg) by omitting from section seventy the words "and circuit courts" and by inserting in lies thereof the word "Court";	<ul> <li>Sec. 70.</li> <li>(Jurors' fees.)</li> <li>(Revision.)</li> </ul>
(hh) by omitting subsection two of section seventy one;	- Sec. 71. (Compensation to jurors.)
<ul><li>(ii) by omitting from section seventy-two the word "or any circuit court";</li></ul>	(District courts.)
(jj) by omitting from section seventy-five the word "Prothonotary" wherever occuring and by inserting in lieu thereof the word "sheriff";	
(kk) by omitting section seventy-nine;	Sec. 79. (Liability of justices.)
(ll) by omitting section eighty-one;	Sec. 81. (Liability of viewers: repeal: con- sequential.)
(mm) by inserting next after section eighty-four th following new sections:—	e New ss. 84A, 84B.
84A. Any person who publishes in any news paper the names, descriptions, addresses of photographs of the jurors or of any of the juror summoned or impanelled for the trial of an issue shall be liable on summary conviction t a penalty not exceeding one hundred pounds.	r of names of s members of jury.
84B. (1) Any employer who dismisses a employee or injures him in his employment of alters his position to his prejudice by reason of the fact that the employee is summoned to serv on a jury shall be liable on summary convic- tion—	1 unlawful dismissal of f employee e summoned to serve

(a) if a body corporate—to a penalty not exceeding two hundred pounds;

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(b)

(b) if any other person—to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment.

(2) The court before which the employer is charged may further order that the employee be reimbursed the wages lost by him and the court may also direct his reinstatement in his old or a similar position.

(3) In any proceeding for an offence against this section if all the facts and circumstances constituting the offence other than the reason for the defendant's action are proved, it shall lie upon the defendant to prove that the dismissal was not actuated by the reason alleged in the charge.

(4) Where the employer is a body corporate and the dismissal complained of is proved to have been with the consent or approval of any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed guilty of an offence against this section and shall be liable to be proceeded against and punished accordingly.

(5) Where, pursuant to the provisions of subsection two of this section, the court has ordered that an employee be reimbursed the wages lost by him, the amount of the wages so lost shall be specified in the order, and such order shall operate as an order against the employer for the payment of money under the Small Debts Recovery Act, 1912, as amended by subsequent Acts, and be enforceable as such under the provisions of that Act as so amended.

(6) Any employer who neglects or fails to comply with an order, made pursuant to the provisions of subsection two of this section, directing reinstatement of an employee, shall be liable

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liable on summary conviction to a penalty not exceeding ten pounds for each day such neglect or failure continues.

The amount of wages which would have been payable to the employee in respect of the period of such neglect or failure if he had been reinstated in accordance with the terms of the order aforesaid shall be recoverable, as a debt due to the employee by the employer, in any court of competent jurisdiction.

- (nn) by omitting from subsection one of section Sec. 85. eighty-five the words "or to the Supreme Court, (Recovery of fines for nonif the fine has been imposed for non-attendance attendance.) at a circuit court";
- (00) (i) by omitting from paragraph (a) of section Sec. 86. eighty-six the words "or a circuit court"; (Recovery

of other

 (ii) by omitting from paragraph (b) of the same fines.) section the words "in the manner appointed by law for the recovery of fines imposed by justices of the peace" and by inserting in lieu thereof the words "pursuant to the Fines and Forfeited Recognizances Recovery Act, 1902";

and the

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- (pp) by inserting in the Second Schedule after the second words "all men" the words and symbols "[or Schedule. of men (being the number certified by the sheriff as being reasonably sufficient for the estimated requirements of the district)]";
- (qq) by omitting from the heading to the Third Third Schedule the words "of all persons" and by Schedule. inserting in lieu thereof the words and symbols "of all [or of persons]";
- (rr) (i) by omitting from the Sixth Schedule the Sixth words "or Circuit Court" and by inserting Schedule. in lieu thereof the words "Court or District Court";

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(ii)

#### Act No. 41, 1947.

#### Jury (Amendment).

(ii) by omitting from the same Schedule the word "ten" and by inserting in lieu thereof the words "a quarter to ten".

District Courts Act, 1912-1936, is 6. (1) The amended-

Amendment of Act No. 23, 1912. Sec. 90 (3).

(Jury in actions for less than £20.)

(Special jurors' list.) Sec. 94. (Summons to jurors.)

(a) (i) by omitting from subsection three of section ninety the words "made at least five clear days before the day named for the hearing" and by inserting in lieu thereof the words "made not less than the prescribed number of days before the day named for the hearing";

(ii) by omitting from the same subsection the words "at least five clear days before the day named for the hearing" and by inserting in lieu thereof the words "not less than the prescribed number of days before the day named for the hearing";

(b) by omitting section ninety-three;

- (c) (i) by omitting from subsection one of section ninety-four the words "except where otherwise provided" and by inserting in lieu thereof the words "deliver to the sheriff a precept in or to the effect of the form contained in the Fifth Schedule to the Jury Act, 1912-1947, requiring him to";
  - (ii) by omitting from the same subsection the words "or special jurors' list";
  - (iii) by omitting from the same subsection the word "summons" and by inserting in lieu thereof the word "precept";
  - (iv) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection :--

(4) Before the day and at the place named in any precept for the appearance of the jurors thereby required to be summoned to attend the District Court, the sheriff shall return

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Sec. 93.

Act No. 41, 1947.

## Jury (Amendment).

1. 15

return to the registrar thereof a panel containing the names of the persons so summoned pursuant to the precept with their respective additions and shall also furnish to the said registrar the names of the said persons with their respective additions written upon separate pieces of card being as nearly as may be of equal size.

The sheriff shall previously upon the panel certify that the jurors named therein have been duly summoned and such certificate shall without proof of his signature be prima facie evidence that each juror whose name is included in the panel has been duly summoned to attend the court pursuant to the precept.

(d) by omitting from subsection one of section Sec. 95. (Jury, how chosen.) ninety-five the words "or special jurors' list";

- (e) by omitting from subsection two of section one Sec. 134. hundred and thirty-four the words "may be a (Jury.) common or special jury, and";
- (f) by omitting from section one hundred and thirty- Sec. 136. (Number six the word "special" wherever occurring;
  - of jurors.)
- (g) by omitting subsections one and two of section Sec. 137. one hundred and thirty-seven and by inserting (Drawing of jury.) in lieu thereof the following subsection :---

(1) At the trial of any such issue the registrar shall put into a box provided for that purpose the pieces of card furnished as aforesaid by the sheriff.

(2) The Principal Act is further amended as Further follows :---

- amendment of Act No. 31, 1912.
- (a) (i) by omitting from subsection five of section Sec. 13 (5). thirteen the word "three" and by inserting (Lists.) in lieu thereof the word "two";
  - (ii) by omitting the proviso to the same subsection;

(b)

Sec. 15. (Transmission of lists.) (b) by omitting from subsection one of section fifteen all words after the word "sheriff".

(3) The District Courts Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the District Courts Act, 1912-1947.

Amendment of Act No. 14, 1899. 7. (1) The Matrimonial Causes Act, 1899, amended—

Sec. 52. (Claim by husband for

damages.)

Sec. 69. (Trial by

jury.)

Subst. sec. 73.

Summoning of jurors.

Sec. 76. (General law and practice to apply.) (a) (i) by inserting at the end of subsection three of section fifty-two the following words:--

Provided that, subject to section sixtynine of this Act, any issue arising upon the hearing of any such petition (including the amount of damages) may be determined by the Court;

- (ii) by omitting subsection five of the same section;

(2A) A husband claiming damages may require the issues in the suit to be tried by a jury and the amount of the damages to be recovered to be ascertained by the verdict of a jury, although the respondent or co-respondent, or both the respondent and co-respondent, do not appear.

(c) by omitting section seventy-three and by inserting in lieu thereof the following section:---

73. For the purposes of this Act the Court may, as occasion requires, issue such precepts directing the sheriff to summon jurors and make such orders upon the sheriff for the attendance of such number of jurors as such Court may consider requisite.

(d) by omitting from section seventy-six the word "now" and by inserting in lieu thereof the words "that for the time being."

(2) The Matrimonial Causes Act, 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1947.

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8. (1) (a) The Equity Act, 1901, as amended by Amendment of Act No. 24, 1901. subsequent Acts, is amended-

- (i) by omitting from paragraph (a) of subsection sec. 51. two of section fifty-one the words "special or (Trial of issues.) common'';
- (ii) by omitting from subsection one of section fifty- Sec. 52. two the words "special or common"; (Jury, how summoned.)

(b) The Equity Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Equity Act, 1901-1947.

(2) (a) The Wills, Probate and Administration Amendment Act, 1898, as amended by subsequent Acts, is amended—<sup>01 Act</sup> 1898.

- (i) by omitting from section one hundred and forty Sec. 140. the words "special or common";
- (ii) by omitting from subsection one of section one Sec. 141. hundred and forty-one the word "men" and by (Question inserting in lieu thereof the word "persons". to be

(b) The Wills, Probate and Administration Act, 1898, as amended by subsequent Acts and by this Act, may be cited as the Wills, Probate and Administration Act, 1898-1947.

(3) (a) The Lunacy Act of 1898, as amended by Amendment subsequent Acts, is amended by omitting from section one of Act No. 45, 1898. hundred and seven the words "and in such order shall sec. 107. direct whether such jury shall be a common or special (Inquiry jury". before a

(b) The Lunacy Act of 1898, as amended by <sup>jury.)</sup> subsequent Acts and by this Act, may be cited as the Lunacy Act, 1898–1947.

In the name and on behalf of His Majesty I assent to this Act.

## J. NORTHCOTT,

Governor.

Government House. Sydney, 19th December, 1947.

(Questions of fact how tried.)

stated.)

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