

New South Wales.



ANNO QUINTO DECIMO

GEORGII VI REGIS.

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Act No. 43, 1951.

An Act to amend the Matrimonial Causes Act 1899, the District Courts Act, 1912, and certain other Acts in certain respects; to remove doubts as to the validity of certain proceedings in the matrimonial causes jurisdiction of the Supreme Court and of certain decrees and orders pronounced and made by the said Court; to validate certain matters; and for purposes connected therewith. [Assented to, 10th December, 1951.]

*Matrimonial Causes (Amendment).*

**B**E 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 :—

Short title  
and  
citation.

**1.** (1) This Act may be cited as the "Matrimonial Causes (Amendment) Act, 1951."

(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1951.

(3) The District Courts Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the District Courts Acts, 1912-1951.

Amendment  
of Act No.  
23, 1912.

**2.** (1) The District Courts Act, 1912, as amended by subsequent Acts, is amended—

Sec. 132.  
(Issues of  
fact remitted  
to District  
Court for  
trial.)

(a) by omitting from section one hundred and thirty-two the words "of fact";

Sec. 133A.  
(Questions  
of fact in  
undefended  
matrimonial  
cases.)

(b) (i) by omitting subsection one of section 133A and by inserting in lieu thereof the following subsection :—

(1) The questions reduced into writing upon settlement of the issues in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, where—

- (a) no appearance has been entered;
- (b) the registered office of the solicitor for the petitioner is situated outside the County of Cumberland;  
and
- (c) it does not appear on the record that the petitioner has committed adultery,

shall, unless it appears that there is sufficient cause to the contrary, be remitted by the

the

*Matrimonial Causes (Amendment).*

the Supreme Court to be tried by a judge of a District Court without a jury.

- (ii) by inserting at the end of subsection three of the same section the words—

Any such endorsement may be amended, varied or revoked by such registrar or other officer;

- (iii) by omitting paragraph (c) of subsection six of the same section.

(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts, is amended— Amendment of Act No. 14, 1899.

- (a) by inserting in section three at the end of the definition of "The Court" the following new paragraph:— Sec. 3. (Interpretation.)

(3) in the case of any proceeding to which section 93A of this Act applies the registrar or any deputy registrar.

- (b) by omitting section 93A and by inserting in lieu thereof the following section:— Subst. sec. 93A.

93A. Where questions in any suit have been remitted for trial pursuant to section 133A of the District Courts Act, 1912, as amended by subsequent Acts, the power, authority and jurisdiction in or in respect of such suit (including power, authority and jurisdiction in matters of costs, custody and access) which, but for this section, would be exercisable by the Judge appointed to exercise jurisdiction under this Act or by any Judge acting in his place or having co-ordinate jurisdiction with him, shall be exercisable by the registrar or any deputy registrar. Decrees in certain cases to be pronounced by registrar.

3. The Matrimonial Causes Act 1899, as amended by subsequent Acts, is further amended by inserting next after section 93A the following new section:— Further amendment of Act No. 14, 1899. New sec. 93B.

93B. (1) Notwithstanding anything contained in section 93A of this Act, where in any matter coming before Registrar to refer certain matters to Judge.

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*Matrimonial Causes (Amendment).*

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before the registrar or any deputy registrar after the commencement of the Matrimonial Causes (Amendment) Act, 1951, pursuant to section 93A of this Act, it appears to him—

- (a) that any respondent party is desirous of being let in to defend the suit;
- (b) that there is ground on which a finding that the petitioner has been an accessory to or has connived at or condoned the matrimonial offence alleged or that the petition is presented or prosecuted in collusion with a respondent might be made;
- (c) that there is ground on which a decree might not be pronounced or the petition might be dismissed pursuant to section nineteen or subsection one of section twenty of this Act;
- (d) that the making of any order for costs, custody or access is opposed by any party to the suit appearing before him; or
- (e) that a special order under subsection two of section twenty-one upon the pronouncement of a decree *nisi*, is sought by any party,

the registrar or deputy registrar shall not deal with the matter but shall refer the same to the Judge appointed to exercise jurisdiction under this Act or to any Judge acting in his place or having co-ordinate jurisdiction with him.

(2) The power to make general rules conferred by subsection one of section ninety-one of this Act shall, without limiting the generality thereof, extend to include power to make general rules for the purpose of carrying out or giving effect to the provisions of this section and of section 93A of this Act.

Removal of  
doubts and  
validation.

4. (1) No remission of questions of fact arising in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, for trial by a judge of a District Court

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*Matrimonial Causes (Amendment).*

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Court made on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act, pursuant to section 133A (as enacted immediately before the commencement of this Act) of the District Courts Act, 1912, as amended by subsequent Acts, shall be or be deemed ever to have been invalid by reason only of some but not all of the questions of fact arising in the suit having been so remitted.

(2) All proceedings had in the matrimonial causes jurisdiction of the Supreme Court on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act pursuant to section 93A (as enacted immediately before the commencement of this Act) of the Matrimonial Causes Act 1899, as amended by subsequent Acts, all decrees and orders pronounced or made in the period aforesaid by the registrar or any deputy registrar pursuant to that section and all proceedings subsequent to the pronouncement or making of any such decree or order shall be and be deemed always to have been as valid as if this Act, other than section three, had been in force at the date of the proceeding, the date of pronouncing or making the decree or order, or the date of the subsequent proceeding, as the case may be.

(3) No marriage celebrated in New South Wales on or after the thirteenth day of February, one thousand nine hundred and fifty, shall be deemed or declared invalid or be deemed ever to have been invalid by reason only of the fact that the marriage was celebrated after the making in divorce proceedings of a decree absolute which might, but for this Act, have been invalid.

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By Authority:

A. H. PETTIFER, Government Printer, Sydney, 1952.

[4d.]

Matrimonial Causes (Amendment)

Court made on or after the thirtieth day of February one thousand nine hundred and thirty and before the commencement of this Act pursuant to section 133, be excepted immediately before the commencement of this Act of the District Courts Act 1931 as amended by section 133, shall be of the same force and effect as if it had been made on or after the thirtieth day of February one thousand nine hundred and thirty.

(2) All proceedings in the matrimonial cause jurisdiction of the District Court on or after the thirtieth day of February one thousand nine hundred and thirty and before the commencement of this Act pursuant to section 133, shall be treated as if they had been commenced on or after the thirtieth day of February one thousand nine hundred and thirty and before the commencement of this Act of the District Courts Act 1931 as amended by section 133, shall be of the same force and effect as if they had been commenced on or after the thirtieth day of February one thousand nine hundred and thirty and before the commencement of this Act of the District Courts Act 1931 as amended by section 133.

(3) No marriage celebrated in New Zealand after the thirtieth day of February one thousand nine hundred and thirty shall be deemed to have been celebrated in aid or being so to have been intended to be so only of the fact that the marriage was celebrated after the making in divorce proceedings of a decree absolute which might, but for this Act have been invalid.





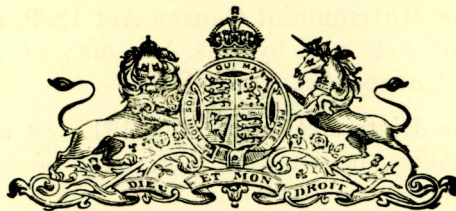


*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

H. ROBBINS,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 4 December, 1951.*

## New South Wales.



ANNO QUINTO DECIMO

# GEORGII VI REGIS.

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Act No. 43, 1951.

An Act to amend the Matrimonial Causes Act 1899, the District Courts Act, 1912, and certain other Acts in certain respects; to remove doubts as to the validity of certain proceedings in the matrimonial causes jurisdiction of the Supreme Court and of certain decrees and orders pronounced and made by the said Court; to validate certain matters; and for purposes connected therewith. [Assented to, 10th December, 1951.]

BE

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

G. BOOTH,  
*Chairman of Committees of the Legislative Assembly.*

*Matrimonial Causes (Amendment).*

**B**E 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:—

Short title  
and  
citation.

**1.** (1) This Act may be cited as the "Matrimonial Causes (Amendment) Act, 1951."

(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1951.

(3) The District Courts Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the District Courts Acts, 1912-1951.

Amendment  
of Act No.  
23, 1912.

**2.** (1) The District Courts Act, 1912, as amended by subsequent Acts, is amended—

Sec. 132.  
(Issues of  
fact remitted  
to District  
Court for  
trial.)

(a) by omitting from section one hundred and thirty-two the words "of fact";

Sec. 133A.  
(Questions  
of fact in  
undefended  
matrimonial  
cases.)

(b) (i) by omitting subsection one of section 133A and by inserting in lieu thereof the following subsection:—

(1) The questions reduced into writing upon settlement of the issues in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, where—

- (a) no appearance has been entered;
- (b) the registered office of the solicitor for the petitioner is situated outside the County of Cumberland; and
- (c) it does not appear on the record that the petitioner has committed adultery,

shall, unless it appears that there is sufficient cause to the contrary, be remitted by the

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*Matrimonial Causes (Amendment).*

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the Supreme Court to be tried by a judge of a District Court without a jury.

- (ii) by inserting at the end of subsection three of the same section the words—

Any such endorsement may be amended, varied or revoked by such registrar or other officer;

- (iii) by omitting paragraph (c) of subsection six of the same section.

(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts, is amended—

Amendment of Act No. 14, 1899.

- (a) by inserting in section three at the end of the definition of "The Court" the following new paragraph:—

Sec. 3.  
(Interpretation.)

(3) in the case of any proceeding to which section 93A of this Act applies the registrar or any deputy registrar.

- (b) by omitting section 93A and by inserting in lieu thereof the following section:—

Subst. sec. 93A.

93A. Where questions in any suit have been remitted for trial pursuant to section 133A of the District Courts Act, 1912, as amended by subsequent Acts, the power, authority and jurisdiction in or in respect of such suit (including power, authority and jurisdiction in matters of costs, custody and access) which, but for this section, would be exercisable by the Judge appointed to exercise jurisdiction under this Act or by any Judge acting in his place or having co-ordinate jurisdiction with him, shall be exercisable by the registrar or any deputy registrar.

Decrees in certain cases to be pronounced by registrar.

3. The Matrimonial Causes Act 1899, as amended by subsequent Acts, is further amended by inserting next after section 93A the following new section:—

Further amendment of Act No. 14, 1899.  
New sec. 93B.

93B. (1) Notwithstanding anything contained in section 93A of this Act, where in any matter coming before

Registrar to refer certain matters to Judge.

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*Matrimonial Causes (Amendment).*

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before the registrar or any deputy registrar after the commencement of the Matrimonial Causes (Amendment) Act, 1951, pursuant to section 93A of this Act, it appears to him—

- (a) that any respondent party is desirous of being let in to defend the suit;
- (b) that there is ground on which a finding that the petitioner has been an accessory to or has connived at or condoned the matrimonial offence alleged or that the petition is presented or prosecuted in collusion with a respondent might be made;
- (c) that there is ground on which a decree might not be pronounced or the petition might be dismissed pursuant to section nineteen or subsection one of section twenty of this Act;
- (d) that the making of any order for costs, custody or access is opposed by any party to the suit appearing before him; or
- (e) that a special order under subsection two of section twenty-one upon the pronouncement of a decree *nisi*, is sought by any party,

the registrar or deputy registrar shall not deal with the matter but shall refer the same to the Judge appointed to exercise jurisdiction under this Act or to any Judge acting in his place or having co-ordinate jurisdiction with him.

(2) The power to make general rules conferred by subsection one of section ninety-one of this Act shall, without limiting the generality thereof, extend to include power to make general rules for the purpose of carrying out or giving effect to the provisions of this section and of section 93A of this Act.

Removal of doubts and validation.

**4.** (1) No remission of questions of fact arising in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, for trial by a judge of a District Court

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*Matrimonial Causes (Amendment).*

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Court made on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act, pursuant to section 133A (as enacted immediately before the commencement of this Act) of the District Courts Act, 1912, as amended by subsequent Acts, shall be or be deemed ever to have been invalid by reason only of some but not all of the questions of fact arising in the suit having been so remitted.

(2) All proceedings had in the matrimonial causes jurisdiction of the Supreme Court on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act pursuant to section 93A (as enacted immediately before the commencement of this Act) of the Matrimonial Causes Act 1899, as amended by subsequent Acts, all decrees and orders pronounced or made in the period aforesaid by the registrar or any deputy registrar pursuant to that section and all proceedings subsequent to the pronouncement or making of any such decree or order shall be and be deemed always to have been as valid as if this Act, other than section three, had been in force at the date of the proceeding, the date of pronouncing or making the decree or order, or the date of the subsequent proceeding, as the case may be.

(3) No marriage celebrated in New South Wales on or after the thirteenth day of February, one thousand nine hundred and fifty, shall be deemed or declared invalid or be deemed ever to have been invalid by reason only of the fact that the marriage was celebrated after the making in divorce proceedings of a decree absolute which might, but for this Act, have been invalid.

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

K. W. STREET,  
*Lieutenant-Governor.*

*Government House,  
Sydney, 10th December, 1951.*

Motion for Judgment (Amendment)

Court made on or after the nineteenth day of February, one thousand nine hundred and fifty, and before the commencement of this suit, and to section 1381, as amended immediately before the commencement of this Act of the District Courts Act, 1912, as amended by Amendment No. 1, which be or be deemed to have been made in favor of some but not all of the parties of law arising in the suit having been so amended.

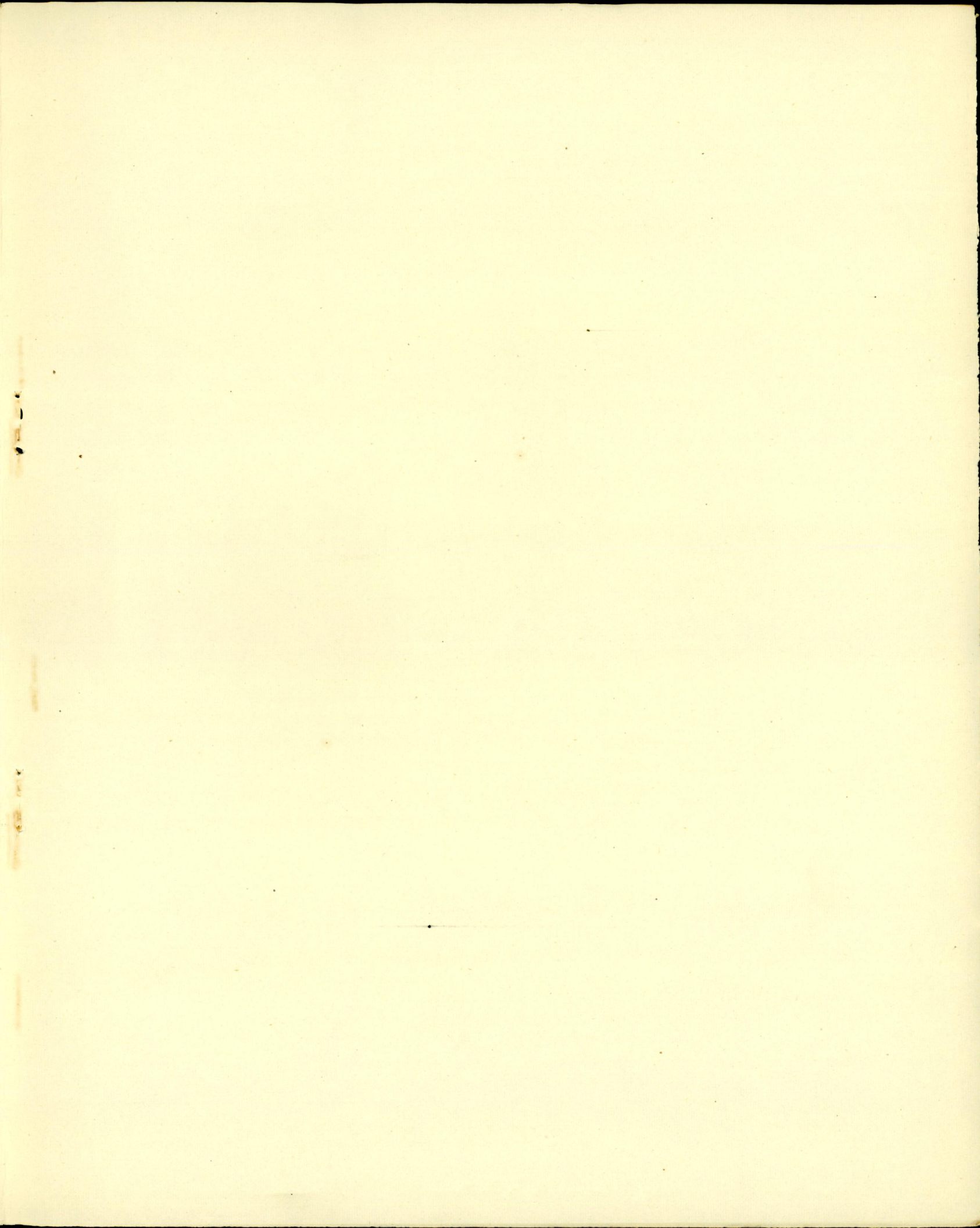
(2) All proceedings had in the matrimonial causes jurisdiction of the Supreme Court on or after the nineteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act, and before the commencement of this Act, as amended immediately before the commencement of this Act, of the District Courts Act, 1912, as amended by Amendment No. 1, which be or be deemed to have been made in favor of some but not all of the parties of law arising in the suit having been so amended.

(3) No marriage celebrated in New South Wales on or after the nineteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act, and before the commencement of this Act, as amended immediately before the commencement of this Act, of the District Courts Act, 1912, as amended by Amendment No. 1, which be or be deemed to have been made in favor of some but not all of the parties of law arising in the suit having been so amended.

I do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the Court records.

A. W. [Signature]

Deputy Registrar  
District Court, New South Wales







MATRIMONIAL CAUSES (AMENDMENT) BILL.

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*Schedule showing amendment referred to in Legislative Council's Message of  
27th November, 1951.*

Page 5, clause 4. *After line 24 add new subclause as follows:—*

**“(3) No marriage celebrated in New South Wales on or after the thirteenth day of February, one thousand nine hundred and fifty, shall be deemed or declared invalid or be deemed ever to have been invalid by reason only of the fact that the marriage was celebrated after the making in divorce proceedings of a decree absolute which might, but for this Act, have been invalid.”**

INTERNATIONAL ASSOCIATION OF WORKERS

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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, 20 November, 1951.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with an Amendment.*

W. K. CHARLTON,  
*Clerk of the Parliaments.*

*Legislative Council Chamber,  
Sydney, 27th November, 1951.*

## New South Wales.



ANNO QUINTO DECIMO

GEORGII VI REGIS.

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Act No. , 1951.

An Act to amend the Matrimonial Causes Act 1899, the District Courts Act, 1912, and certain other Acts in certain respects; to remove doubts as to the validity of certain proceedings in the matrimonial causes jurisdiction of the Supreme Court and of certain decrees and orders pronounced and made by the said Court; to validate certain matters; and for purposes connected therewith.

91829

177—

BE

NOTE.—The words to be inserted are printed in black letter.

*Matrimonial Causes (Amendment).*

**B**E 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 "Matrimonial Causes (Amendment) Act, 1951." Short title and citation.

(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1951.

(3) The District Courts Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the District Courts Acts, 1912-1951.

**2.** (1) The District Courts Act, 1912, as amended by subsequent Acts, is amended— Amendment of Act No. 23, 1912.

(a) by omitting from section one hundred and thirty-two the words "of fact"; Sec. 132. (Issues of fact remitted to District Court for trial.)

(b) (i) by omitting subsection one of section 133a and by inserting in lieu thereof the following subsection:— Sec. 133A. (Questions of fact in undefended matrimonial cases.)

(1) The questions reduced into writing upon settlement of the issues in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, where—

- (a) no appearance has been entered;
- (b) the registered office of the solicitor for the petitioner is situated outside the County of Cumberland; and
- (c) it does not appear on the record that the petitioner has committed adultery,

shall, unless it appears that there is sufficient cause to the contrary, be remitted by the

*Matrimonial Causes (Amendment).*

the Supreme Court to be tried by a judge of a District Court without a jury.

(ii) by inserting at the end of subsection three of the same section the words—

5 Any such endorsement may be amended, varied or revoked by such registrar or other officer;

(iii) by omitting paragraph (c) of subsection six of the same section.

10 (2) The Matrimonial Causes Act 1899, as amended by subsequent Acts, is amended— Amendment of Act No. 14, 1899.

(a) by inserting in section three at the end of the definition of "The Court" the following new paragraph:— Sec. 3. (Interpretation.)

15 (3) in the case of any proceeding to which section 93A of this Act applies the registrar or any deputy registrar.

(b) by omitting section 93A and by inserting in lieu thereof the following section:— Subst. sec. 93A.

20 93A. Where questions in any suit have been remitted for trial pursuant to section 133A of the District Courts Act, 1912, as amended by subsequent Acts, the power, authority and jurisdiction in or in respect of such suit (including Decrees in certain cases to be pronounced by registrar.

25 power, authority and jurisdiction in matters of costs, custody and access) which, but for this section, would be exercisable by the Judge appointed to exercise jurisdiction under this Act

30 or by any Judge acting in his place or having co-ordinate jurisdiction with him, shall be exercisable by the registrar or any deputy registrar.

3. The Matrimonial Causes Act 1899, as amended by subsequent Acts, is further amended by inserting next Further amendment of Act No. 14, 1899. New sec. 93B.

35 after section 93A the following new section:—

93B. (1) Notwithstanding anything contained in section 93A of this Act, where in any matter coming Registrar to refer certain matters to Judge.

before

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*Matrimonial Causes (Amendment).*

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before the registrar or any deputy registrar after the commencement of the Matrimonial Causes (Amendment) Act, 1951, pursuant to section 93A of this Act, it appears to him—

- 5 (a) that any respondent party is desirous of being let in to defend the suit;
- (b) that there is ground on which a finding that the petitioner has been an accessory to or has connived at or condoned the matrimonial offence alleged or that the petition is presented or prosecuted in collusion with a respondent might be made;
- 10 (c) that there is ground on which a decree might not be pronounced or the petition might be dismissed pursuant to section nineteen or subsection one of section twenty of this Act;
- 15 (d) that the making of any order for costs, custody or access is opposed by any party to the suit appearing before him; or
- 20 (e) that a special order under subsection two of section twenty-one upon the pronouncement of a decree *nisi*, is sought by any party,

the registrar or deputy registrar shall not deal with the matter but shall refer the same to the Judge appointed to exercise jurisdiction under this Act or to any Judge acting in his place or having co-ordinate jurisdiction with him.

25

(2) The power to make general rules conferred by subsection one of section ninety-one of this Act shall, without limiting the generality thereof, extend to include power to make general rules for the purpose of carrying out or giving effect to the provisions of this section and of section 93A of this Act.

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35 **4.** (1) No remission of questions of fact arising in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, for trial by a judge of a District Court

Removal of doubts and validation.

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*Matrimonial Causes (Amendment).*

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5 Court made on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act, pursuant to section 133A (as enacted immediately before the commencement of this Act) of the District Courts Act, 1912, as amended by subsequent Acts, shall be or be deemed ever to have been invalid by reason only of some but not all of the questions of fact arising in the suit having been so remitted.

10 (2) All proceedings had in the matrimonial causes jurisdiction of the Supreme Court on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act pursuant to section 93A (as enacted immediately before the commencement of this Act) of the Matrimonial Causes  
15 Act 1899, as amended by subsequent Acts, all decrees and orders pronounced or made in the period aforesaid by the registrar or any deputy registrar pursuant to that section and all proceedings subsequent to the pronouncement or making of any such decree or order shall be and  
20 be deemed always to have been as valid as if this Act, other than section three, had been in force at the date of the proceeding, the date of pronouncing or making the decree or order, or the date of the subsequent proceeding, as the case may be.

25 (3) No marriage celebrated in New South Wales on or after the thirteenth day of February, one thousand nine hundred and fifty, shall be deemed or declared invalid or be deemed ever to have been invalid by reason only of the fact that the marriage was celebrated after the making in divorce  
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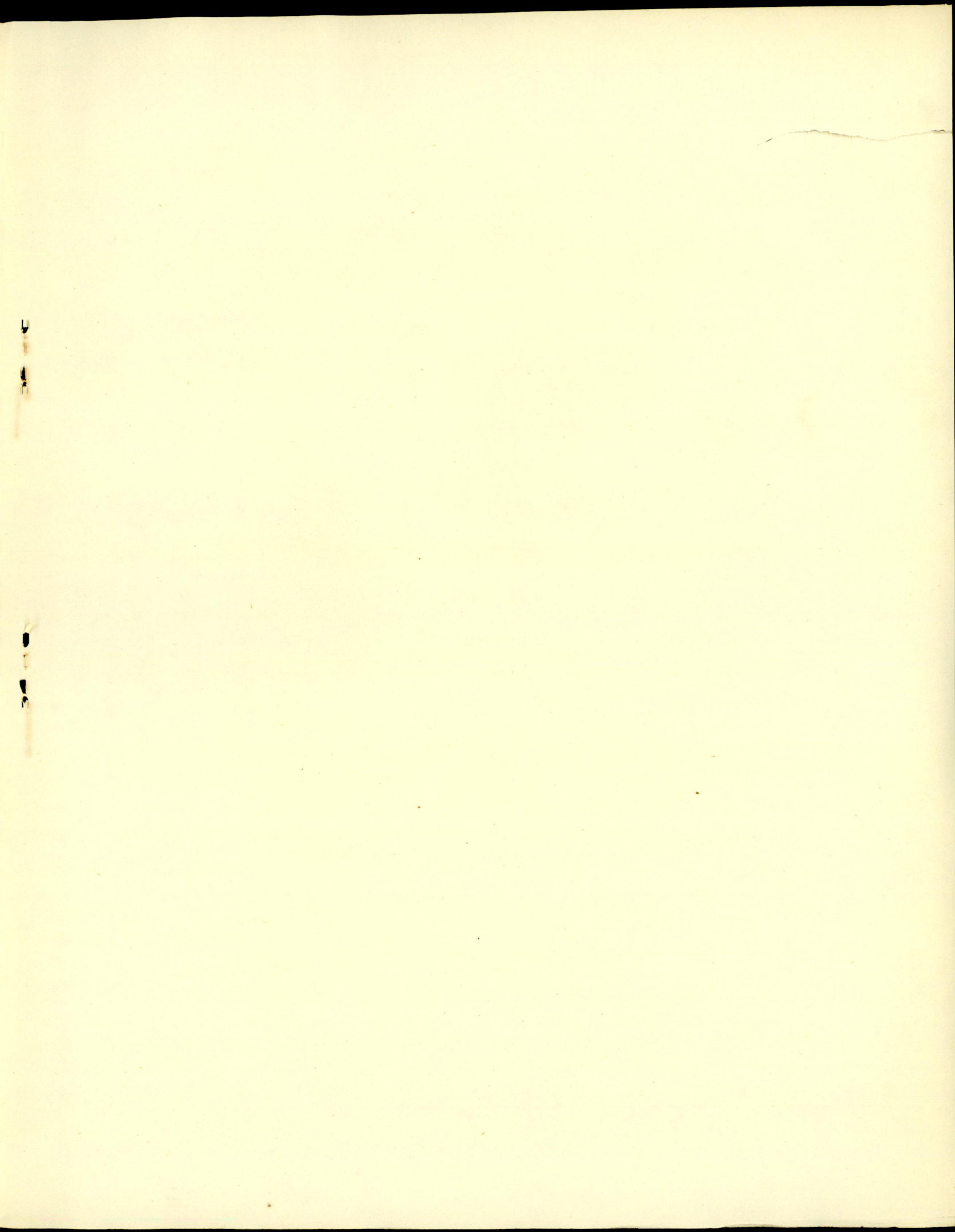
Matrimonial Causes (Amendment)

Court made up or after the thirtieth day of February, one thousand nine hundred and fifty, and before the commencement of this Act, pursuant to section 138A (as inserted immediately before the commencement of this Act) of the District Courts Act 1912, as amended by subsequent Acts, shall be or be deemed ever to have been invalid by reason only of some but not all of the questions of fact arising in the suit having been so omitted.

(2) All proceedings in the matrimonial causes in the jurisdiction of the Supreme Court on or after the thirtieth day of February, one thousand nine hundred and fifty, and before the commencement of this Act pursuant to section 52 (as inserted immediately before the commencement of this Act) of the Matrimonial Causes Act 1884, as amended by subsequent Acts, all decrees and orders pronounced or made in the period aforesaid by the registrar or any deputy registrar pursuant to that section and all proceedings subsequent to the pronouncement or making of any such decree or order shall be and shall be deemed always to have been as valid as if this Act had been in force on the date of the pronouncement or making of the decree or order, or the date of the subsequent proceedings, as the case may be.

(3) The marriage celebrated in New South Wales on or after the thirtieth day of February, one thousand nine hundred and fifty, shall be deemed or declared invalid or be deemed ever to have been invalid by reason only of the fact that the marriage was celebrated after the making in divorce proceedings of a decree absolute which might but for this Act have been invalid.







*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.*

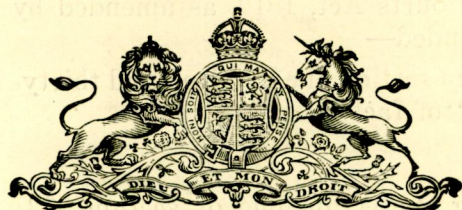
*Legislative Assembly Chamber,  
Sydney, 20 November, 1951.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with  
an Amendment.*

*Clerk of the Parliaments.*

*Legislative Council Chamber,  
Sydney, November, 1951.*

## New South Wales.



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GEORGII VI REGIS.

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NOTE.—The words to be *inserted* are printed in black letter.

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*Matrimonial Causes (Amendment).*

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(iii) by omitting paragraph (c) of subsection six of the same section.

10 (2) The Matrimonial Causes Act 1899, as amended by subsequent Acts, is amended— Amendment of Act No. 14, 1899.

(a) by inserting in section three at the end of the definition of "The Court" the following new paragraph:— Sec. 3. (Interpretation.)

15 (3) in the case of any proceeding to which section 93A of this Act applies the registrar or any deputy registrar.

(b) by omitting section 93A and by inserting in lieu thereof the following section:— Subst. sec. 93A.

20 93A. Where questions in any suit have been remitted for trial pursuant to section 133A of the District Courts Act, 1912, as amended by subsequent Acts, the power, authority and jurisdiction in or in respect of such suit (including power, authority and jurisdiction in matters of costs, custody and access) which, but for this section, would be exercisable by the Judge appointed to exercise jurisdiction under this Act or by any Judge acting in his place or having co-ordinate jurisdiction with him, shall be exercisable by the registrar or any deputy registrar. Decrees in certain cases to be pronounced by registrar.

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3. The Matrimonial Causes Act 1899, as amended by subsequent Acts, is further amended by inserting next Further amendment of Act No. 14, 1899.

35 after section 93A the following new section:— New sec. 93B.

93B. (1) Notwithstanding anything contained in section 93A of this Act, where in any matter coming before Registrar to refer certain matters to Judge.

*Matrimonial Causes (Amendment).*

before the registrar or any deputy registrar after the commencement of the Matrimonial Causes (Amendment) Act, 1951, pursuant to section 93A of this Act, it appears to him—

- 5 (a) that any respondent party is desirous of being let in to defend the suit;
- (b) that there is ground on which a finding that the petitioner has been an accessory to or has connived at or condoned the matrimonial offence alleged or that the petition is presented or prosecuted in collusion with a respondent might be made;
- 10 (c) that there is ground on which a decree might not be pronounced or the petition might be dismissed pursuant to section nineteen or subsection one of section twenty of this Act;
- 15 (d) that the making of any order for costs, custody or access is opposed by any party to the suit appearing before him; or
- 20 (e) that a special order under subsection two of section twenty-one upon the pronouncement of a decree *nisi*, is sought by any party,
- 25 the registrar or deputy registrar shall not deal with the matter but shall refer the same to the Judge appointed to exercise jurisdiction under this Act or to any Judge acting in his place or having co-ordinate jurisdiction with him.

30 (2) The power to make general rules conferred by subsection one of section ninety-one of this Act shall, without limiting the generality thereof, extend to include power to make general rules for the purpose of carrying out or giving effect to the provisions of this section and of section 93A of this Act.

35 4. (1) No remission of questions of fact arising in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, for trial by a judge of a District Court

Removal of doubts and validation.

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*Matrimonial Causes (Amendment).*

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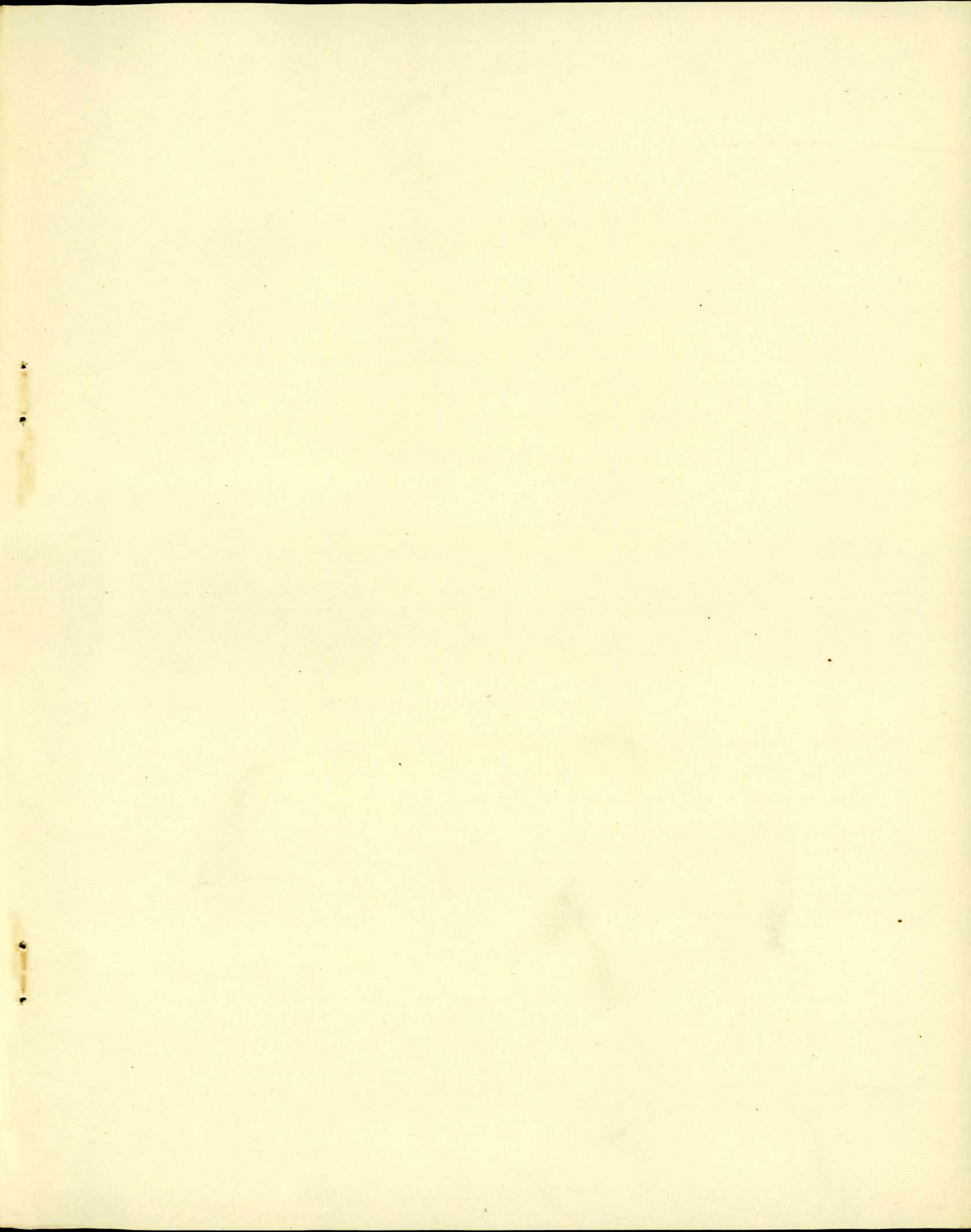
5 Court made on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act, pursuant to section 133A (as enacted immediately before the commencement of this Act) of the District Courts Act, 1912, as amended by subsequent Acts, shall be or be deemed ever to have been invalid by reason only of some but not all of the questions of fact arising in the suit having been so remitted.

10 (2) All proceedings had in the matrimonial causes jurisdiction of the Supreme Court on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act pursuant to section 93A (as enacted immediately before the commencement of this Act) of the Matrimonial Causes  
15 Act 1899, as amended by subsequent Acts, all decrees and orders pronounced or made in the period aforesaid by the registrar or any deputy registrar pursuant to that section and all proceedings subsequent to the pronouncement or making of any such decree or order shall be and  
20 be deemed always to have been as valid as if this Act, other than section three, had been in force at the date of the proceeding, the date of pronouncing or making the decree or order, or the date of the subsequent proceeding, as the case may be.

25 (3) **No marriage celebrated in New South Wales on or after the thirteenth day of February, one thousand nine hundred and fifty, shall be deemed or declared invalid or be deemed ever to have been invalid by reason only of the fact that the marriage was celebrated after the making in divorce  
30 proceedings of a decree absolute which might, but for this Act, have been invalid.**









*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.*

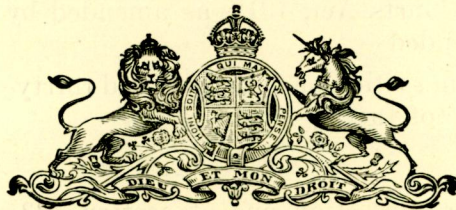
*Legislative Assembly Chamber,  
Sydney, 20 November, 1951.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with  
an Amendment.*

*Clerk of the Parliaments.*

*Legislative Council Chamber,  
Sydney, November, 1951.*

## New South Wales.



ANNO QUINTO DECIMO

GEORGII VI REGIS.

\*\*\*\*\*

Act No. , 1951.

An Act to amend the Matrimonial Causes Act 1899, the District Courts Act, 1912, and certain other Acts in certain respects; to remove doubts as to the validity of certain proceedings in the matrimonial causes jurisdiction of the Supreme Court and of certain decrees and orders pronounced and made by the said Court; to validate certain matters; and for purposes connected therewith.

91829 177—

BE

NOTE.—The words to be *inserted* are printed in black letter.

*Matrimonial Causes (Amendment).*

**B**E 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 "Matrimonial Causes (Amendment) Act, 1951." Short title and citation.

(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1951.

(3) The District Courts Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the District Courts Acts, 1912-1951.

2. (1) The District Courts Act, 1912, as amended by subsequent Acts, is amended— Amendment of Act No. 23, 1912.

(a) by omitting from section one hundred and thirty-two the words "of fact"; Sec. 132. (Issues of fact remitted to District Court for trial.)

(b) (i) by omitting subsection one of section 133A and by inserting in lieu thereof the following subsection:— Sec. 133A. (Questions of fact in undefended matrimonial cases.)

20

(1) The questions reduced into writing upon settlement of the issues in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, where—

25

- (a) no appearance has been entered;
- (b) the registered office of the solicitor for the petitioner is situated outside the County of Cumberland; and

30

(c) it does not appear on the record that the petitioner has committed adultery,

shall, unless it appears that there is sufficient cause to the contrary, be remitted by the

Matrimonial Causes (Amendment).

the Supreme Court to be tried by a judge of a District Court without a jury.

(ii) by inserting at the end of subsection three of the same section the words—

5 Any such endorsement may be amended, varied or revoked by such registrar or other officer;

(iii) by omitting paragraph (c) of subsection six of the same section.

10 (2) The Matrimonial Causes Act 1899, as amended by subsequent Acts, is amended— Amendment of Act No. 14, 1899.

(a) by inserting in section three at the end of the definition of "The Court" the following new paragraph:— Sec. 3. (Interpretation.)

15 (3) in the case of any proceeding to which section 93A of this Act applies the registrar or any deputy registrar.

(b) by omitting section 93A and by inserting in lieu thereof the following section:— Subst. sec. 93A.

20 93A. Where questions in any suit have been remitted for trial pursuant to section 133A of the District Courts Act, 1912, as amended by subsequent Acts, the power, authority and jurisdiction in or in respect of such suit (including power, authority and jurisdiction in matters of costs, custody and access) which, but for this section, would be exercisable by the Judge appointed to exercise jurisdiction under this Act or by any Judge acting in his place or having co-ordinate jurisdiction with him, shall be exercisable by the registrar or any deputy registrar. Decreases in certain cases to be pronounced by registrar.

25 30

3. The Matrimonial Causes Act 1899, as amended by subsequent Acts, is further amended by inserting next 35 after section 93A the following new section:— Further amendment of Act No. 14, 1899. New sec. 93B.

93B. (1) Notwithstanding anything contained in section 93A of this Act, where in any matter coming before Registrar to refer certain matters to Judge.

*Matrimonial Causes (Amendment).*

before the registrar or any deputy registrar after the commencement of the Matrimonial Causes (Amendment) Act, 1951, pursuant to section 93A of this Act, it appears to him—

- 5 (a) that any respondent party is desirous of being let in to defend the suit;
- (b) that there is ground on which a finding that the petitioner has been an accessory to or has connived at or condoned the matrimonial offence alleged or that the petition is presented or prosecuted in collusion with a respondent might be made;
- 10 (c) that there is ground on which a decree might not be pronounced or the petition might be dismissed pursuant to section nineteen or subsection one of section twenty of this Act;
- 15 (d) that the making of any order for costs, custody or access is opposed by any party to the suit appearing before him; or
- 20 (e) that a special order under subsection two of section twenty-one upon the pronouncement of a decree *nisi*, is sought by any party,
- the registrar or deputy registrar shall not deal with the matter but shall refer the same to the Judge appointed to exercise jurisdiction under this Act or to any Judge acting in his place or having co-ordinate jurisdiction with him.
- 25

- (2) The power to make general rules conferred by subsection one of section ninety-one of this Act shall, without limiting the generality thereof, extend to include power to make general rules for the purpose of carrying out or giving effect to the provisions of this section and of section 93A of this Act.
- 30

- 35 4. (1) No remission of questions of fact arising in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, for trial by a judge of a District Court

Removal of doubts and validation.

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*Matrimonial Causes (Amendment).*

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Court made on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act, pursuant to section 133A (as enacted immediately before the commencement of this Act) of the District Courts Act, 1912, as amended by subsequent Acts, shall be or be deemed ever to have been invalid by reason only of some but not all of the questions of fact arising in the suit having been so remitted.

(2) All proceedings had in the matrimonial causes jurisdiction of the Supreme Court on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act pursuant to section 93A (as enacted immediately before the commencement of this Act) of the Matrimonial Causes Act 1899, as amended by subsequent Acts, all decrees and orders pronounced or made in the period aforesaid by the registrar or any deputy registrar pursuant to that section and all proceedings subsequent to the pronouncement or making of any such decree or order shall be and be deemed always to have been as valid as if this Act, other than section three, had been in force at the date of the proceeding, the date of pronouncing or making the decree or order, or the date of the subsequent proceeding, as the case may be.

(3) No marriage celebrated in New South Wales on or after the thirteenth day of February, one thousand nine hundred and fifty, shall be deemed or declared invalid or be deemed ever to have been invalid by reason only of the fact that the marriage was celebrated after the making in divorce proceedings of a decree absolute which might, but for this Act, have been invalid.

Matrimonial Causes (Amendment)

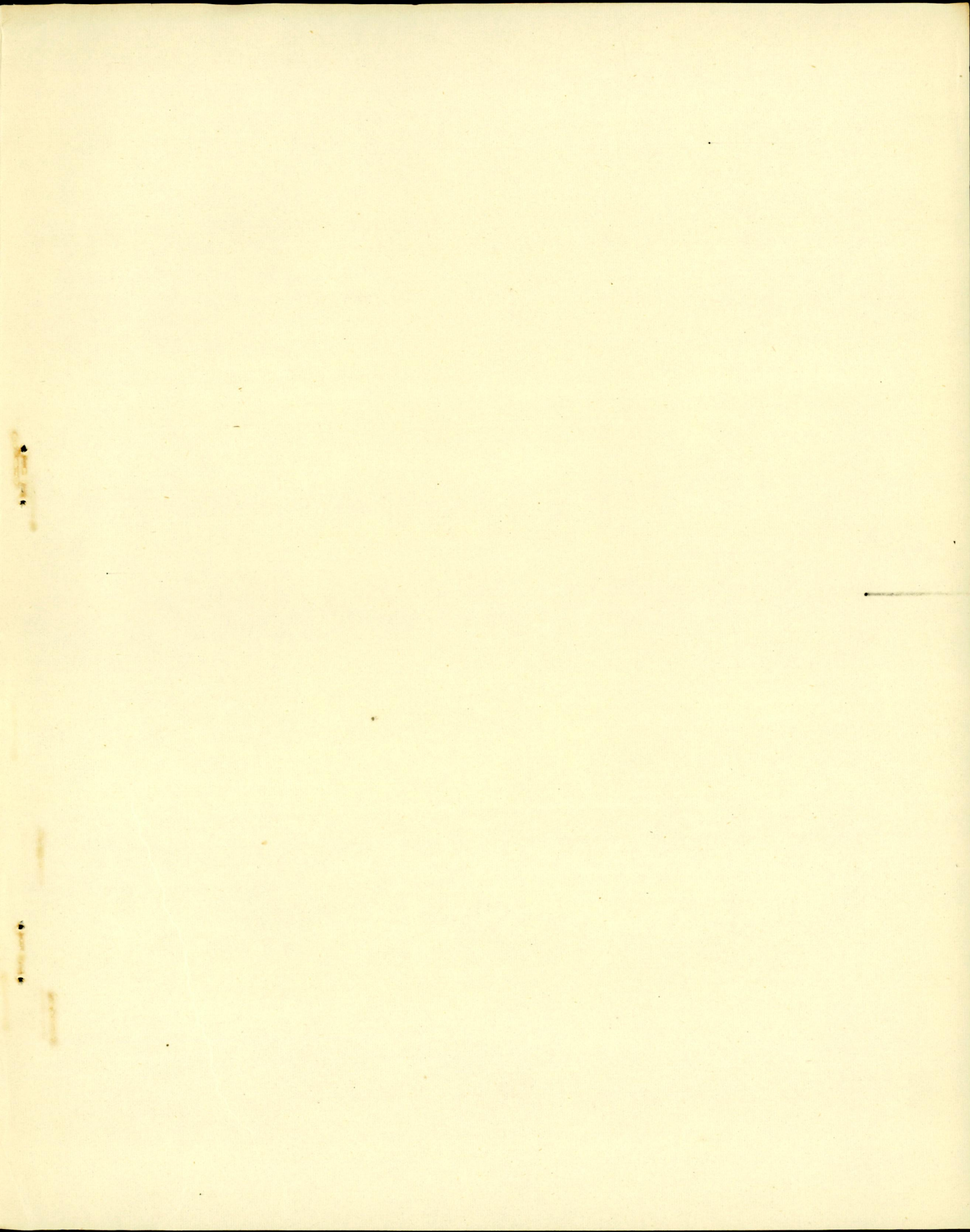
19. In any case where the husband or wife has been adjudged bankrupt or insolvent, and the court has granted a decree nisi, the court may, if it thinks fit, order that the decree shall be absolute.

20. In any case where the husband or wife has been adjudged bankrupt or insolvent, and the court has granted a decree nisi, the court may, if it thinks fit, order that the decree shall be absolute.

21. In any case where the husband or wife has been adjudged bankrupt or insolvent, and the court has granted a decree nisi, the court may, if it thinks fit, order that the decree shall be absolute.

22. (3) No marriage celebrated in New South Wales on or after the thirtieth day of February, one thousand nine hundred and fifty, shall be deemed or declared void or be deemed ever to have been invalid by reason only of the fact that the marriage was celebrated after the making of the proceedings of a decree absolute which might, but for this Act, have been invalid.





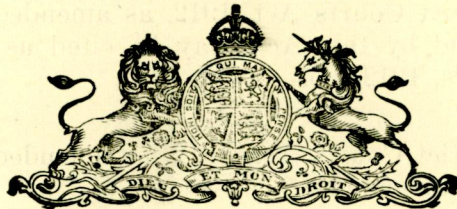


*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

H. ROBBINS,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 20 November, 1951.*

## New South Wales.



ANNO QUINTO DECIMO

GEORGII VI REGIS.

\*\*\*\*\*

Act No. , 1951.

An Act to amend the Matrimonial Causes Act 1899, the District Courts Act, 1912, and certain other Acts in certain respects; to remove doubts as to the validity of certain proceedings in the matrimonial causes jurisdiction of the Supreme Court and of certain decrees and orders pronounced and made by the said Court; to validate certain matters; and for purposes connected therewith.

*Matrimonial Causes (Amendment).*

**B**E 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 "Matrimonial Causes (Amendment) Act, 1951."

Short title and citation.

(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1951.

(3) The District Courts Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the District Courts Acts, 1912-1951.

**2.** (1) The District Courts Act, 1912, as amended by subsequent Acts, is amended—

Amendment of Act No. 23, 1912.

(a) by omitting from section one hundred and thirty-two the words "of fact";

Sec. 132. (Issues of fact remitted to District Court for trial.)

(b) (i) by omitting subsection one of section 133A and by inserting in lieu thereof the following subsection:—

Sec. 133A. (Questions of fact in undefended matrimonial cases.)

(1) The questions reduced into writing upon settlement of the issues in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, where—

- (a) no appearance has been entered;
- (b) the registered office of the solicitor for the petitioner is situated outside the County of Cumberland; and

- (c) it does not appear on the record that the petitioner has committed adultery,

shall, unless it appears that there is sufficient cause to the contrary, be remitted by the

*Matrimonial Causes (Amendment).*

the Supreme Court to be tried by a judge of a District Court without a jury.

(ii) by inserting at the end of subsection three of the same section the words—

5 Any such endorsement may be amended, varied or revoked by such registrar or other officer;

(iii) by omitting paragraph (c) of subsection six of the same section.

10 (2) The Matrimonial Causes Act 1899, as amended by subsequent Acts, is amended— Amendment of Act No. 14, 1899.

(a) by inserting in section three at the end of the definition of "The Court" the following new paragraph:— Sec. 3. (Interpretation.)

15 (3) in the case of any proceeding to which section 93A of this Act applies the registrar or any deputy registrar.

(b) by omitting section 93A and by inserting in lieu thereof the following section:— Subst. sec. 93A.

20 93A. Where questions in any suit have been remitted for trial pursuant to section 133A of the District Courts Act, 1912, as amended by subsequent Acts, the power, authority and jurisdiction in or in respect of such suit (including power, authority and jurisdiction in matters of costs, custody and access) which, but for this section, would be exercisable by the Judge appointed to exercise jurisdiction under this Act or by any Judge acting in his place or having co-ordinate jurisdiction with him, shall be exercisable by the registrar or any deputy registrar. Decrees in certain cases to be pronounced by registrar.

3. The Matrimonial Causes Act 1899, as amended by subsequent Acts, is further amended by inserting next 35 after section 93A the following new section:— Further amendment of Act No. 14, 1899. New sec. 93B.

93B. (1) Notwithstanding anything contained in section 93A of this Act, where in any matter coming before Registrar to refer certain matters to Judge.

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*Matrimonial Causes (Amendment).*

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before the registrar or any deputy registrar after the commencement of the Matrimonial Causes (Amendment) Act, 1951, pursuant to section 93A of this Act, it appears to him—

- 5 (a) that any respondent party is desirous of being let in to defend the suit;
- (b) that there is ground on which a finding that the petitioner has been an accessory to or has connived at or condoned the matrimonial offence alleged or that the petition is presented or prosecuted in collusion with a respondent might be made;
- 10 (c) that there is ground on which a decree might not be pronounced or the petition might be dismissed pursuant to section nineteen or subsection one of section twenty of this Act;
- 15 (d) that the making of any order for costs, custody or access is opposed by any party to the suit appearing before him; or
- 20 (e) that a special order under subsection two of section twenty-one upon the pronouncement of a decree *nisi*, is sought by any party,
- 25 the registrar or deputy registrar shall not deal with the matter but shall refer the same to the Judge appointed to exercise jurisdiction under this Act or to any Judge acting in his place or having co-ordinate jurisdiction with him.

30 (2) The power to make general rules conferred by subsection one of section ninety-one of this Act shall, without limiting the generality thereof, extend to include power to make general rules for the purpose of carrying out or giving effect to the provisions of this section and of section 93A of this Act.

35 4. (1) No remission of questions of fact arising in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, for trial by a judge of a District Court

Removal of doubts and validation.

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*Matrimonial Causes (Amendment).*

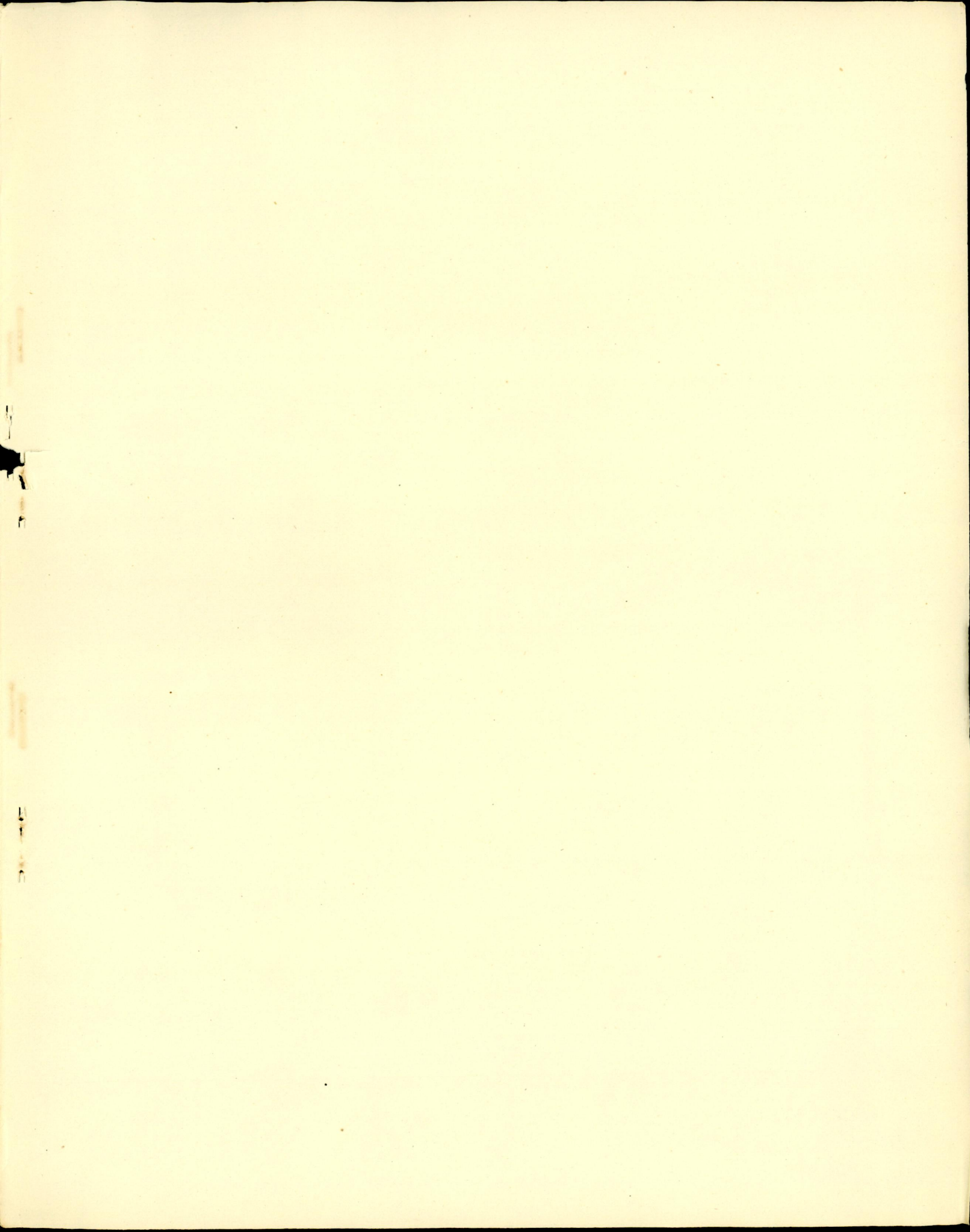
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5 Court made on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act, pursuant to section 133A (as enacted immediately before the commencement of this Act) of the District Courts Act, 1912, as amended by subsequent Acts, shall be or be deemed ever to have been invalid by reason only of some but not all of the questions of fact arising in the suit having been so remitted.

(2) All proceedings had in the matrimonial causes  
10 jurisdiction of the Supreme Court on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act pursuant to section 93A (as enacted immediately before  
15 the commencement of this Act) of the Matrimonial Causes Act 1899, as amended by subsequent Acts, all decrees and orders pronounced or made in the period aforesaid by the registrar or any deputy registrar pursuant to that section and all proceedings subsequent to the pronouncement or making of any such decree or order shall be and  
20 be deemed always to have been as valid as if this Act, other than section three, had been in force at the date of the proceeding, the date of pronouncing or making the decree or order, or the date of the subsequent proceeding, as the case may be.









No. , 1951.

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## A BILL

To amend the Matrimonial Causes Act 1899, the District Courts Act, 1912, and certain other Acts in certain respects; to remove doubts as to the validity of certain proceedings in the matrimonial causes jurisdiction of the Supreme Court and of certain decrees and orders pronounced and made by the said Court; to validate certain matters; and for purposes connected therewith.

[Mr. C. E. MARTIN :—1 November, 1951.]

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*Matrimonial Causes (Amendment).*

**B**E 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 "Matrimonial Causes (Amendment) Act, 1951." Short title and citation.

(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts and by this Act, may be cited as the  
10 Matrimonial Causes Act, 1899-1951.

(3) The District Courts Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the District Courts Acts, 1912-1951.

**2.** (1) The District Courts Act, 1912, as amended by  
15 subsequent Acts, is amended—

(a) by omitting from section one hundred and thirty-two the words "of fact"; Amendment of Act No. 23, 1912. Sec. 132. (Issues of fact remitted to District Court for trial.)

(b) (i) by omitting subsection one of section 133A and by inserting in lieu thereof the following  
20 subsection:— Sec. 133A. (Questions of fact in undefended matrimonial cases.)

(1) The questions reduced into writing upon settlement of the issues in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, where—

- 25 (a) no appearance has been entered;
- (b) the registered office of the solicitor for the petitioner is situated outside the County of Cumberland; and
- 30 (c) it does not appear on the record that the petitioner has committed adultery,

shall, unless it appears that there is sufficient cause to the contrary, be remitted by  
the

*Matrimonial Causes (Amendment).*

the Supreme Court to be tried by a judge of a District Court without a jury.

(ii) by inserting at the end of subsection three of the same section the words—

5 Any such endorsement may be amended, varied or revoked by such registrar or other officer;

(iii) by omitting paragraph (c) of subsection six of the same section.

10 (2) The Matrimonial Causes Act 1899, as amended by subsequent Acts, is amended— Amendment of Act No. 14, 1899.

(a) by inserting in section three at the end of the definition of "The Court" the following new paragraph:— Sec. 3. (Interpretation.)

15 (3) in the case of any proceeding to which section 93A of this Act applies the registrar or any deputy registrar.

(b) by omitting section 93A and by inserting in lieu thereof the following section:— Subst. sec. 93A.

20 93A. Where questions in any suit have been remitted for trial pursuant to section 133A of the District Courts Act, 1912, as amended by subsequent Acts, the power, authority and jurisdiction in or in respect of such suit which, but for this section, would be exercisable by the Judge appointed to exercise jurisdiction under this Act or by any Judge acting in his place or having co-ordinate jurisdiction with him, shall be exercisable by the registrar or any deputy registrar. Decrees in certain cases to be pronounced by registrar.

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3. The Matrimonial Causes Act 1899, as amended by subsequent Acts, is further amended by inserting next after section 93A the following new section:— Further amendment of Act No. 14, 1899. New sec. 93B.

35 93B. (1) Notwithstanding anything contained in section 93A of this Act, where in any matter coming before the registrar or any deputy registrar after

the

*Matrimonial Causes (Amendment).*

the commencement of the Matrimonial Causes (Amendment) Act, 1951, pursuant to section 93A of this Act, it appears to him—

- 5 (a) that any respondent party is desirous of being let in to defend the suit;
- (b) that there is ground on which a finding that the petitioner has been an accessory to or has connived at or condoned the matrimonial offence alleged might be made;
- 10 (c) that there is ground on which the petition might be dismissed or a decree might not be pronounced pursuant to section eighteen or section nineteen of this Act;
- 15 (d) that the making of any order for costs, custody or access is opposed by any party to the suit appearing before him; or
- (e) that a special order under subsection two of section twenty-one upon the pronouncement of a decree *nisi*, is sought by any party,
- 20 the registrar or deputy registrar shall not deal with the matter but shall refer the same to the Judge appointed to exercise jurisdiction under this Act or to any Judge acting in his place or having co-ordinate jurisdiction with him.
- 25 (2) The power to make general rules conferred by subsection one of section ninety-one of this Act shall, without limiting the generality thereof, extend to include power to make general rules for the purpose of carrying out or giving effect to the
- 30 provisions of this section and of section 93A of this Act.

4. (1) No remission of questions of fact arising in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, for trial by a judge of a District Court made on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act, pursuant to section 133A (as enacted
- Removal of doubts and validation.

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*Matrimonial Causes (Amendment).*

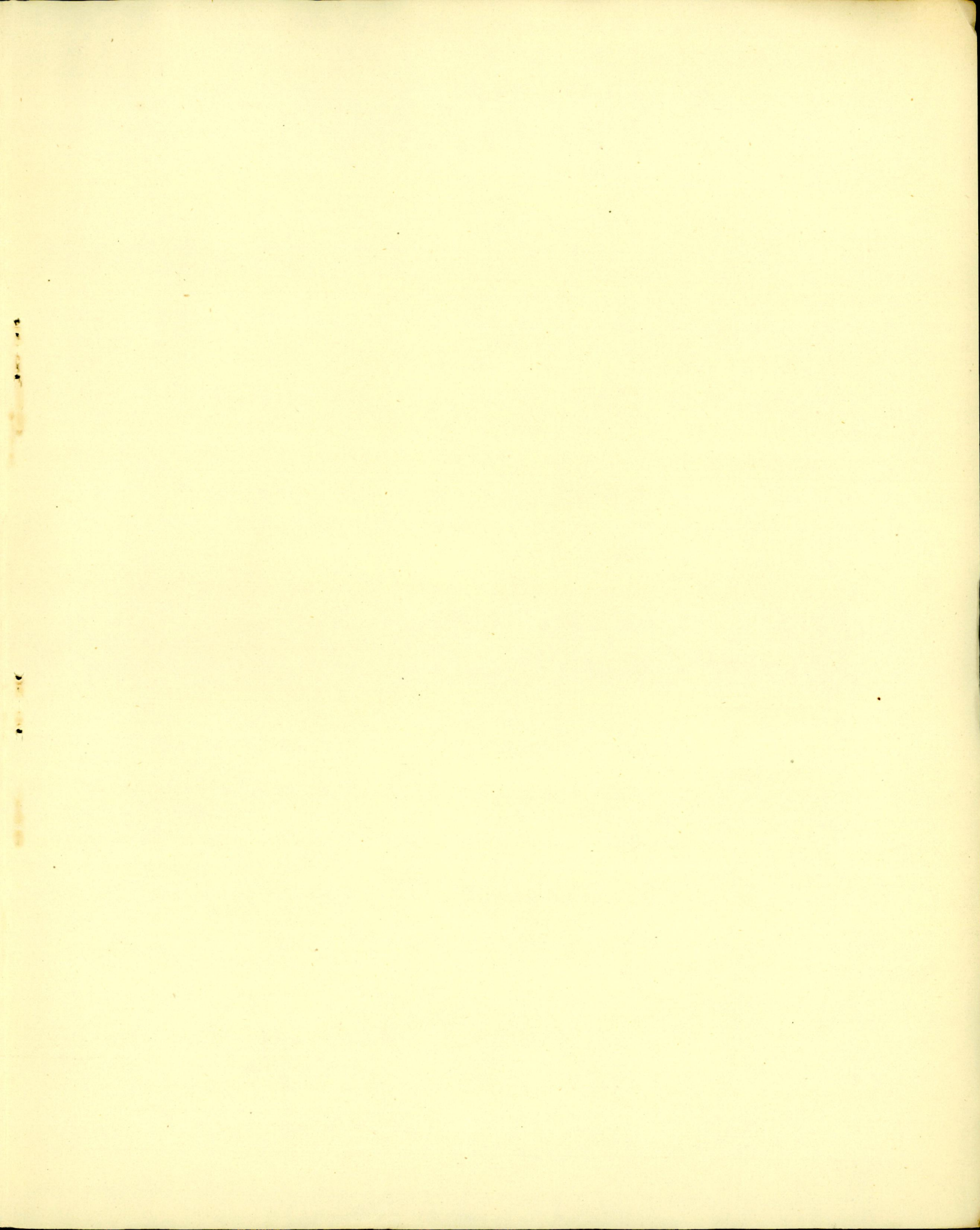
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enacted immediately before the commencement of this Act) of the District Courts Act, 1912, as amended by subsequent Acts, shall be or be deemed ever to have been invalid by reason only of some but not all of the questions  
5 of fact arising in the suit having been so remitted.

(2) All proceedings had in the matrimonial causes jurisdiction of the Supreme Court on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act  
10 pursuant to section 93A (as enacted immediately before the commencement of this Act) of the Matrimonial Causes Act 1899, as amended by subsequent Acts, all decrees and orders pronounced or made in the period aforesaid by the registrar or any deputy registrar pursuant to that  
15 section and all proceedings subsequent to the pronouncement or making of any such decree or order shall be and be deemed always to have been as valid as if this Act, other than section three, had been in force at the date of the proceeding, the date of pronouncing or making the  
20 decree or order, or the date of the subsequent proceeding, as the case may be.









# MATRIMONIAL CAUSES (AMENDMENT) BILL, 1951.

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## EXPLANATORY NOTE.

THE objects of this Bill are—

- (1) to remove doubts as to the validity—
  - (a) of remissions, pursuant to section 133A of the District Courts Act, 1912-1949, for trial in District Courts, of questions arising in certain matrimonial suits;
  - (b) of proceedings before the registrar or a deputy registrar pursuant to section 93A of the Matrimonial Causes Act, 1899-1949, and of decrees and orders made therein;
- (2) to amend the Matrimonial Causes Act, 1899-1949, and the District Courts Act, 1912-1949, to prevent such doubts from arising in the future.



11  
PROOF

No. , 1951.

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## A BILL

To amend the Matrimonial Causes Act 1899, the District Courts Act, 1912, and certain other Acts in certain respects; to remove doubts as to the validity of certain proceedings in the matrimonial causes jurisdiction of the Supreme Court and of certain decrees and orders pronounced and made by the said Court; to validate certain matters; and for purposes connected therewith.

[Mr. MARTIN :—1 November, 1951.]

*Matrimonial Causes (Amendment).*

**B**E 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 "Matrimonial Causes (Amendment) Act, 1951." Short title and citation.

(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1951.

(3) The District Courts Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the District Courts Acts, 1912-1951.

2. (1) The District Courts Act, 1912, as amended by subsequent Acts, is amended— Amendment of Act No. 23, 1912.

(a) by omitting from section one hundred and thirty-two the words "of fact"; Sec. 132. (Issues of fact remitted to District Court for trial.)

(b) (i) by omitting subsection one of section 133A and by inserting in lieu thereof the following subsection :— Sec. 133A. (Questions of fact in undefended matrimonial cases.)

(1) The questions reduced into writing upon settlement of the issues in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, where—

(a) no appearance has been entered;  
(b) the registered office of the solicitor for the petitioner is situated outside the County of Cumberland;  
and

(c) it does not appear on the record that the petitioner has committed adultery,

shall, unless it appears that there is sufficient cause to the contrary, be remitted by the

*Matrimonial Causes (Amendment).*

the Supreme Court to be tried by a judge of a District Court without a jury.

- (ii) by inserting at the end of subsection three of the same section the words—

5 Any such endorsement may be amended, varied or revoked by such registrar or other officer;

- (iii) by omitting paragraph (c) of subsection six of the same section.

10 (2) The Matrimonial Causes Act 1899, as amended by subsequent Acts, is amended—

Amendment of Act No. 14, 1899. Sec. 3. (Interpretation.)

- (a) by inserting in section three at the end of the definition of "The Court" the following new paragraph:—

15 (3) in the case of any proceeding to which section 93A of this Act applies the registrar or any deputy registrar.

- (b) by omitting section 93A and by inserting in lieu thereof the following section:—

Subst. sec. 93A.

20 93A. Where questions in any suit have been remitted for trial pursuant to section 133A of the District Courts Act, 1912, as amended by subsequent Acts, the power, authority and jurisdiction in or in respect of such suit which, but for this section, would be exercisable by the Judge appointed to exercise jurisdiction under this Act or by any Judge acting in his place or having co-ordinate jurisdiction with him, shall be exercisable by the registrar or any deputy registrar.

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Decrees in certain cases to be pronounced by registrar.

3. The Matrimonial Causes Act 1899, as amended by subsequent Acts, is further amended by inserting next after section 93A the following new section:—

Further amendment of Act No. 14, 1899. New sec. 93B.

35 93B. (1) Notwithstanding anything contained in section 93A of this Act, where in any matter coming before the registrar or any deputy registrar after

Registrar to refer certain matters to Judge.

the

*Matrimonial Causes (Amendment).*

the commencement of the Matrimonial Causes (Amendment) Act, 1951, pursuant to section 93A of this Act, it appears to him—

- 5 (a) that any respondent party is desirous of being let in to defend the suit;
- (b) that there is ground on which a finding that the petitioner has been an accessory to or has connived at or condoned the matrimonial offence alleged might be made;
- 10 (c) that there is ground on which the petition might be dismissed or a decree might not be pronounced pursuant to section eighteen or section nineteen of this Act;
- 15 (d) that the making of any order for costs, custody or access is opposed by any party to the suit appearing before him; or
- (e) that a special order under subsection two of section twenty-one upon the pronouncement of a decree *nisi*, is sought by any party,
- 20 the registrar or deputy registrar shall not deal with the matter but shall refer the same to the Judge appointed to exercise jurisdiction under this Act or to any Judge acting in his place or having co-ordinate jurisdiction with him.
- 25 (2) The power to make general rules conferred by subsection one of section ninety-one of this Act shall, without limiting the generality thereof, extend to include power to make general rules for the purpose of carrying out or giving effect to the provisions of this section and of section 93A of this
- 30 Act.

4. (1) No remission of questions of fact arising in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, for trial by a judge of a District Court made on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act, pursuant to section 133A (as enacted

Removal of doubts and validation.



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*Matrimonial Causes (Amendment).*

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enacted immediately before the commencement of this Act) of the District Courts Act, 1912, as amended by subsequent Acts, shall be or be deemed ever to have been invalid by reason only of some but not all of the questions  
5 of fact arising in the suit having been so remitted.

(2) All proceedings had in the matrimonial causes jurisdiction of the Supreme Court on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act  
10 pursuant to section 93A (as enacted immediately before the commencement of this Act) of the Matrimonial Causes Act, 1899, as amended by subsequent Acts, all decrees and orders pronounced or made in the period aforesaid by  
15 the registrar or any deputy registrar pursuant to that section and all proceedings subsequent to the pronouncement or making of any such decree or order shall be and be deemed always to have been as valid as if this Act,  
20 other than section three, had been in force at the date of the proceeding, the date of pronouncing or making the decree or order, or the date of the subsequent proceeding, as the case may be.

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