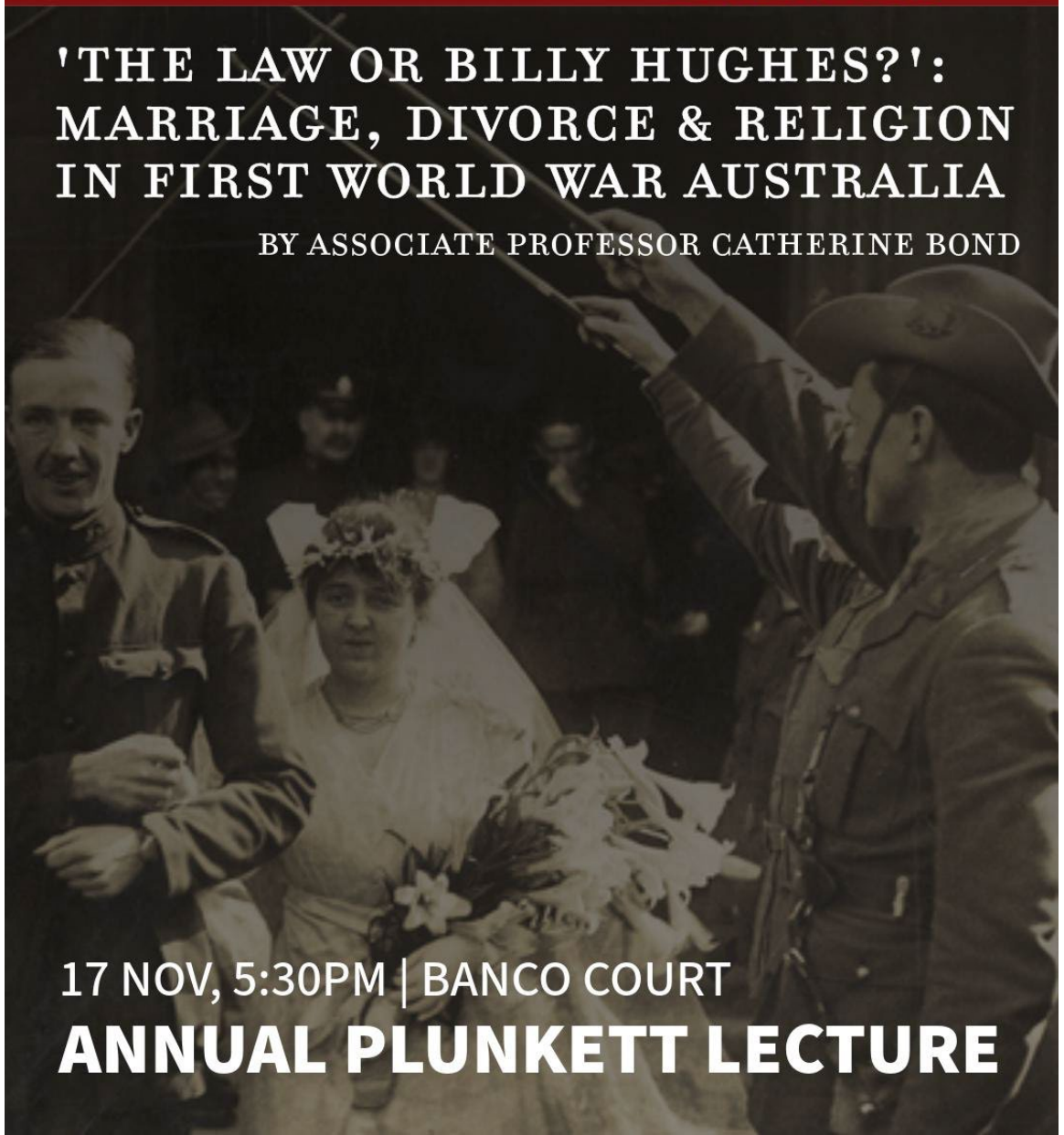
THE FRANCIS FORBES SOCIETY FOR AUSTRALIAN LEGAL HISTORY

# 'THE LAW OR BILLY HUGHES?': MARRIAGE, DIVORCE & RELIGION IN FIRST WORLD WAR AUSTRALIA

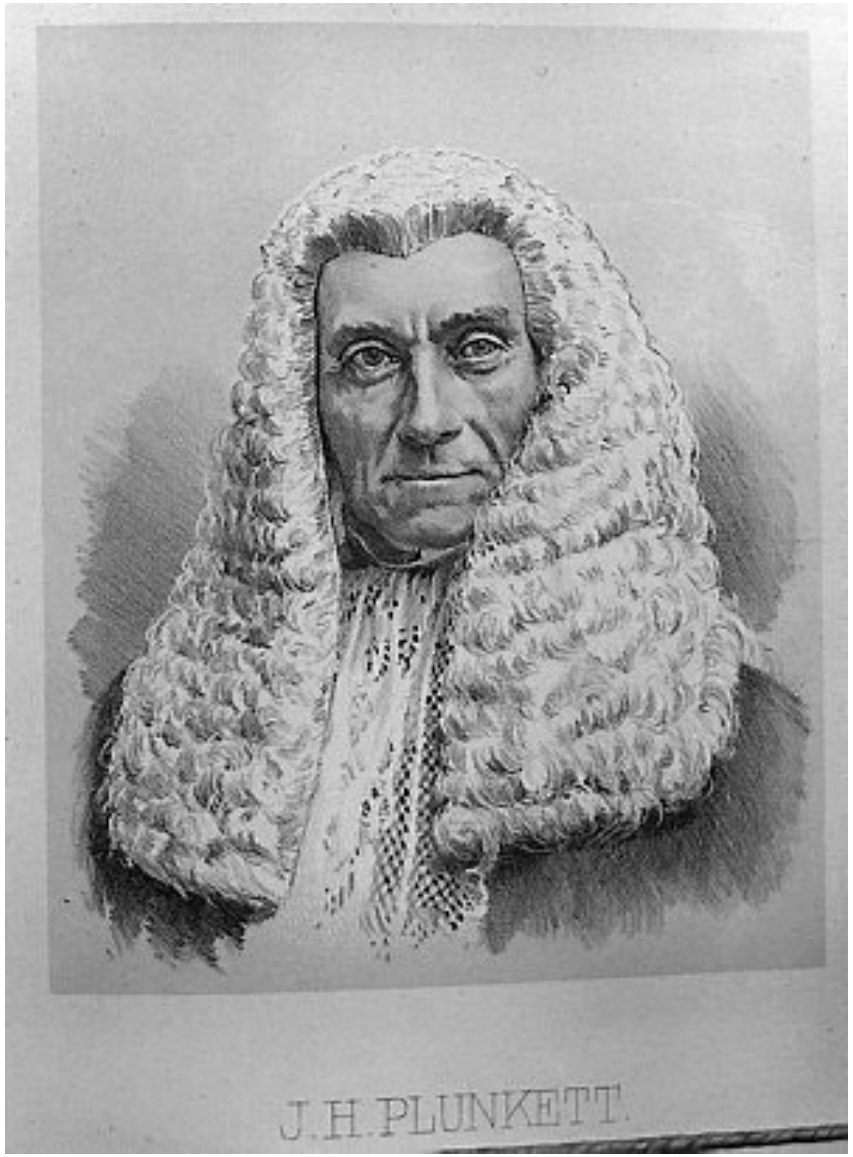
BY ASSOCIATE PROFESSOR CATHERINE BOND



17 NOV, 5:30PM | BANCO COURT

## ANNUAL PLUNKETT LECTURE

UNSW SYDNEY




State Library of New South Wales



National Portrait Gallery of Australia



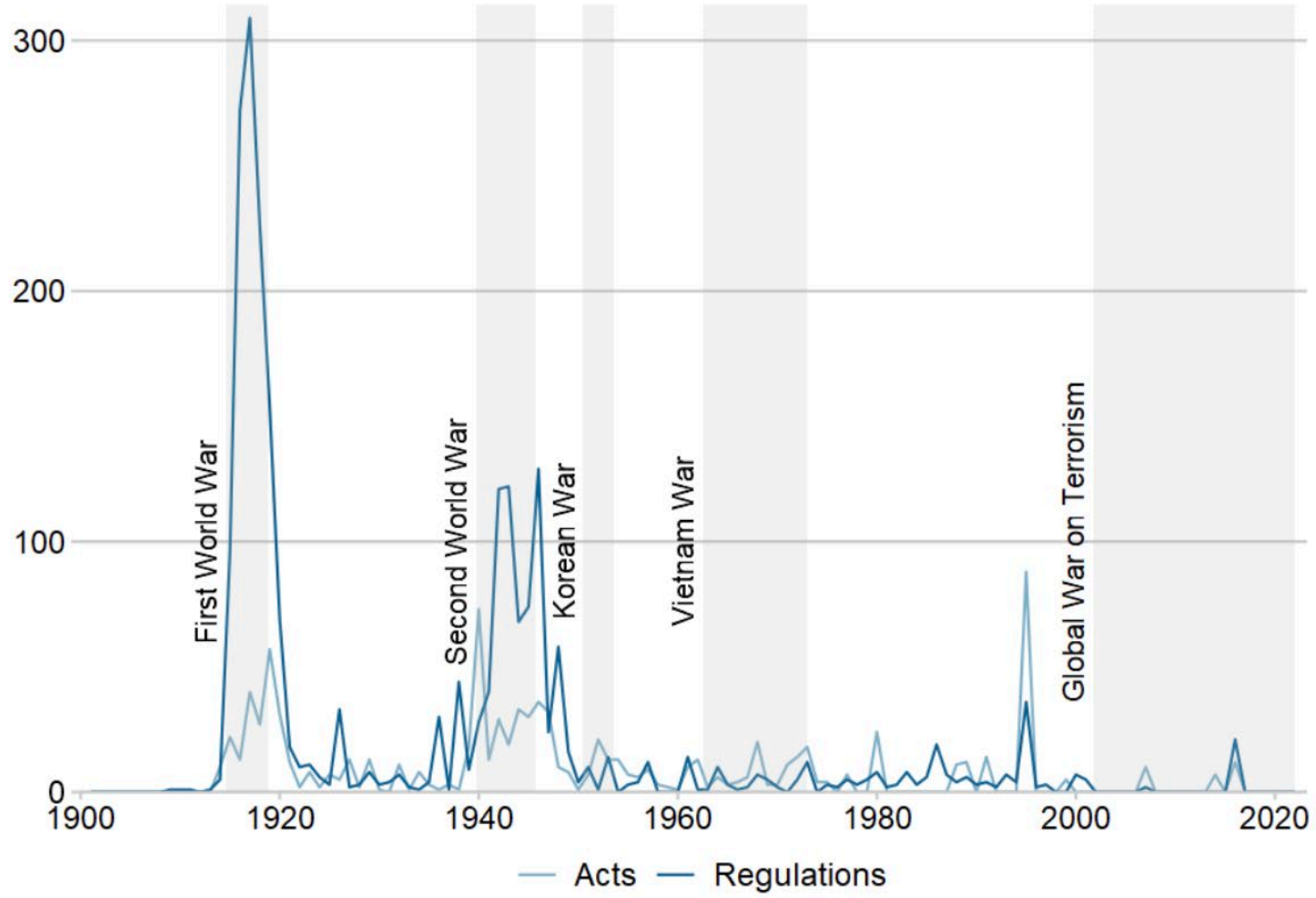
AUSTRALIAN WAR MEMORIAL A03376

Senator Albert Gardiner, 23 October 1919: '… it will place upon our statute-book something which lends a pretty deep colour to many of the statements which have been enlarged upon, time and time again, in regard to our Australian troops. The Government have gone out of their way to provide legislation to meet special cases.'

| | |
|---|---|
| 1914 | *Defence of the Realm Act 1914* (UK) |
| 1914 | *War Precautions Act 1914* (Cth) |
| 1915 | *War Precautions Act 1915* (Cth) |
| 1915 | *War Precautions Act (No 2)* 1915 (Cth) |
| 1916 | *War Precautions Act 1916* (Cth) |
| 1918 | *War Precautions Act 1918* (Cth) |

UNSW SYDNEY

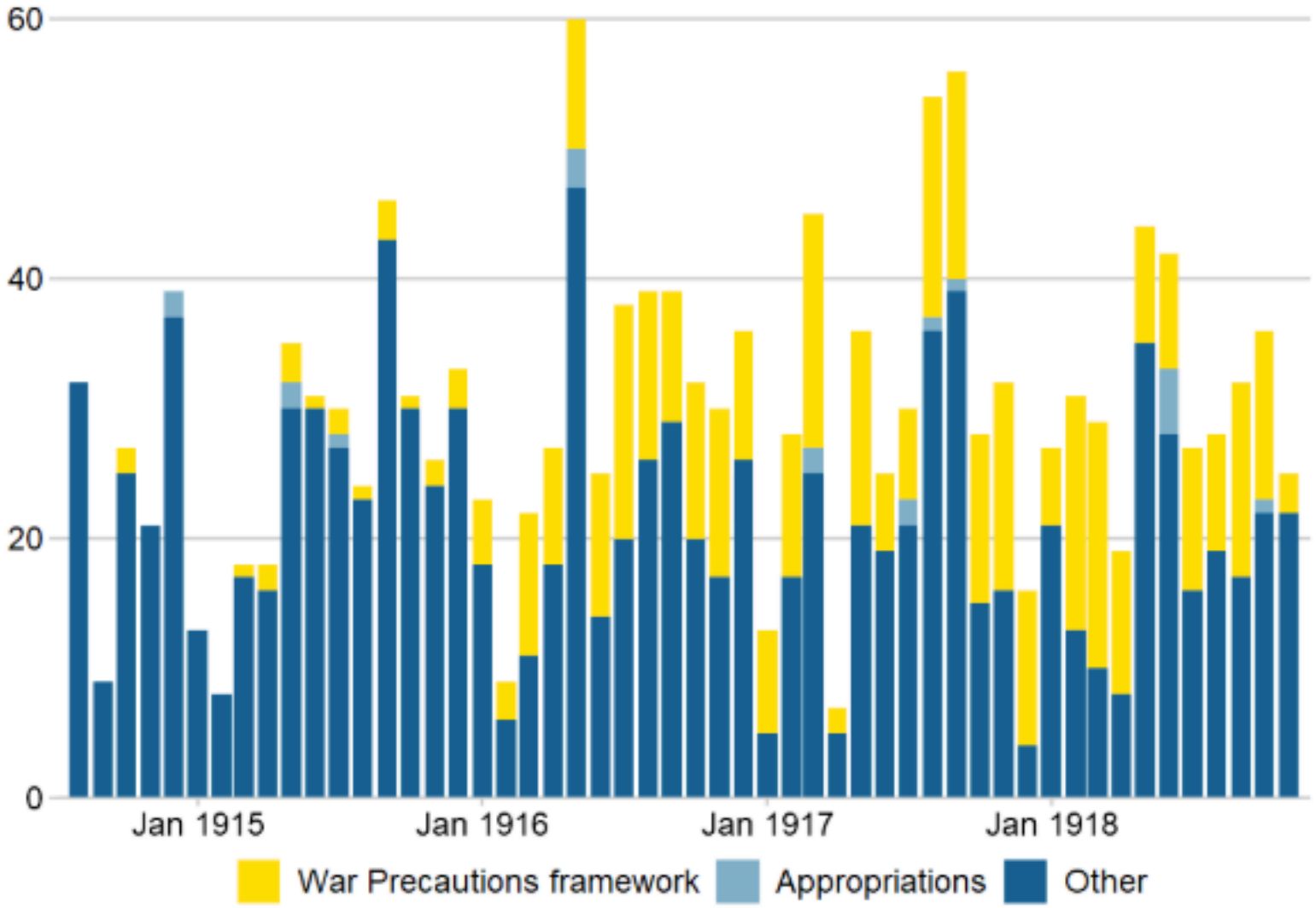
## Figure 1: Pages of war-related Acts and regulations



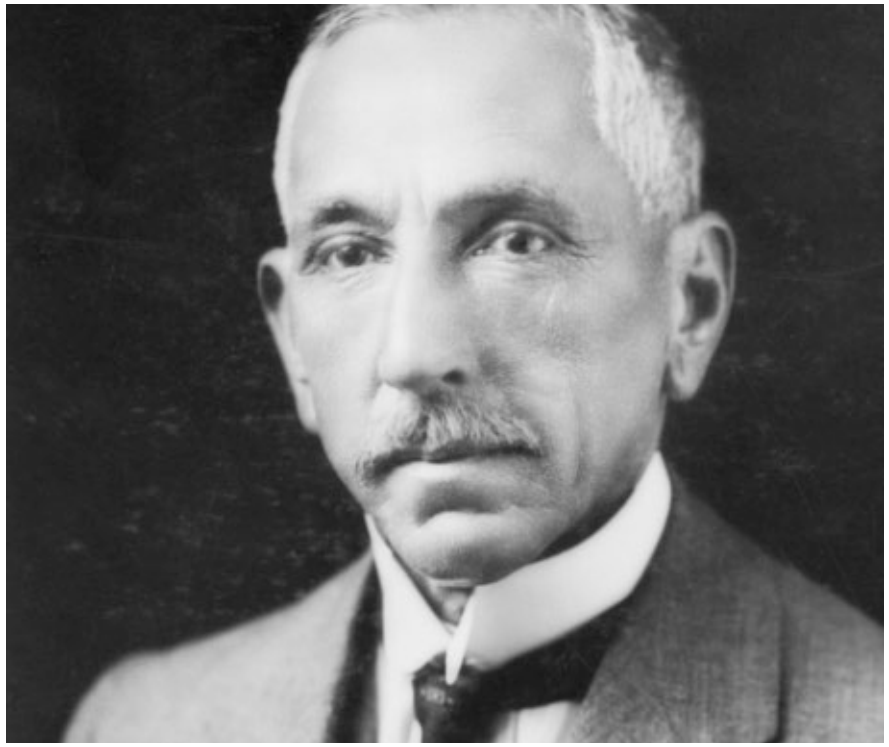

Australian Law Reform Commission, 'Law, War and Peace' (2022)
https://www.alrc.gov.au/datahub/topics-of-interest/law-war-and-peace/

UNSW SYDNEY

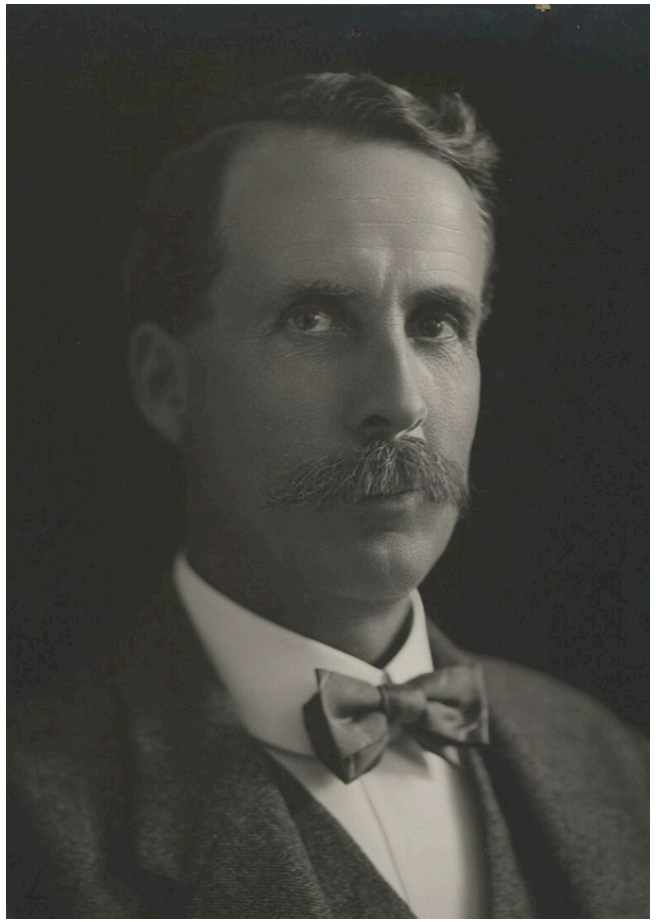
# Figure 2: Acts and regulations in the First World War (28 July 1914–11 November 1918)



# The ‘Axis of Legal’



William ‘Billy’ Hughes
Attorney General (1914 – 1921)
Prime Minister (1915 – 1921)



Senator George Foster Pearce,
Minister for Defence (1914– 1921)



Sir Robert Garran,
Solicitor-General

# FOUNTAIN PEN LEGISLATOR

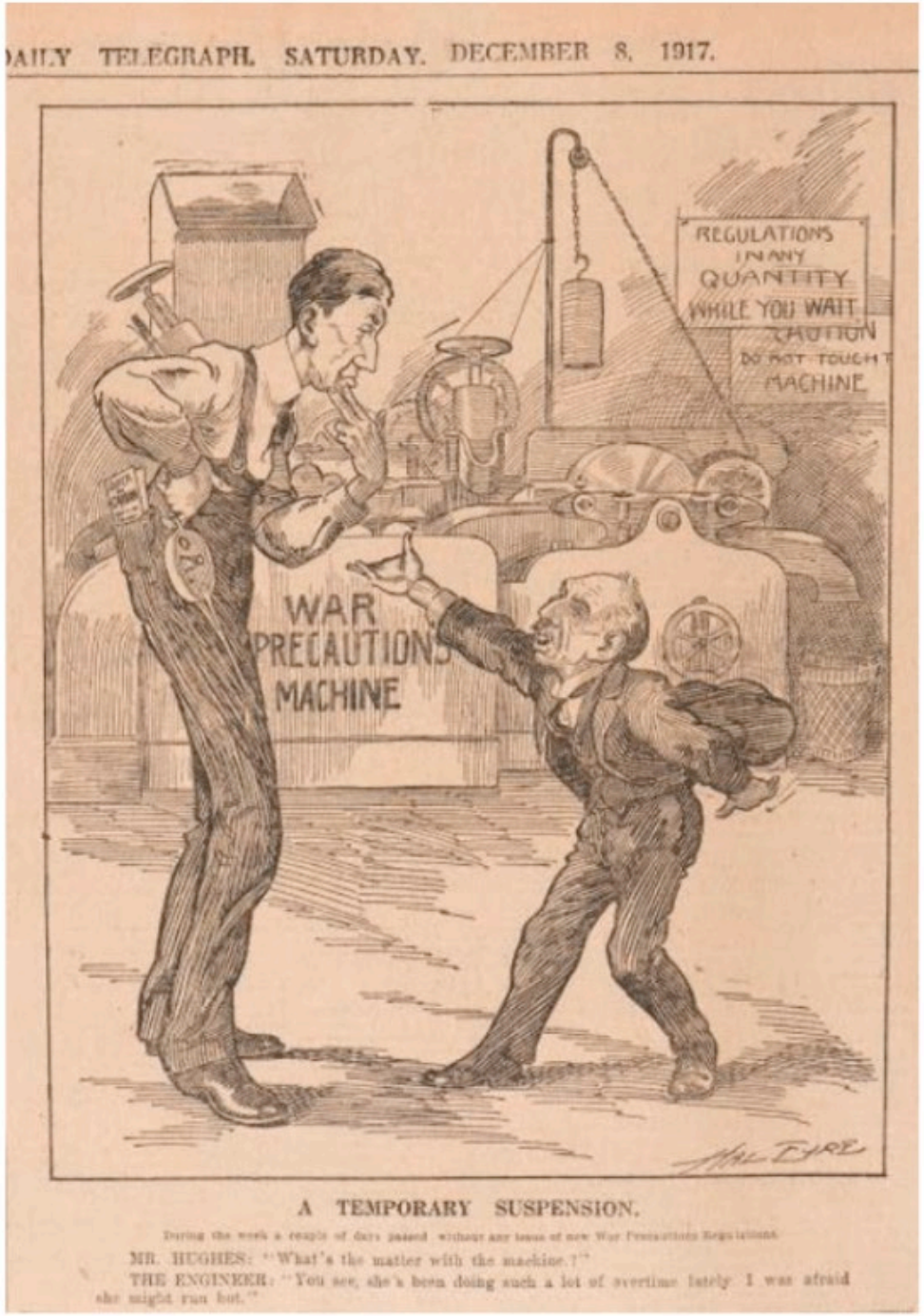
## Mr. Hughes' Humour

THE Federal Minister for Health (Mr. W. M. Hughes) was at his best in a sparkling address at the reception in the Hobart Town Hall on Tuesday night to delegates to the conference of the National Health and Medical Research Council, and to the conference of blind institutions.

"I have even on occasions usurped the functions of Parliament," Mr. Hughes stated, referring to several phases of his career during the Great War period. "It was my privilege in those days to make with a fountain-pen all the laws under which you lived. And you were never so happy as in those days." (Laughter.)



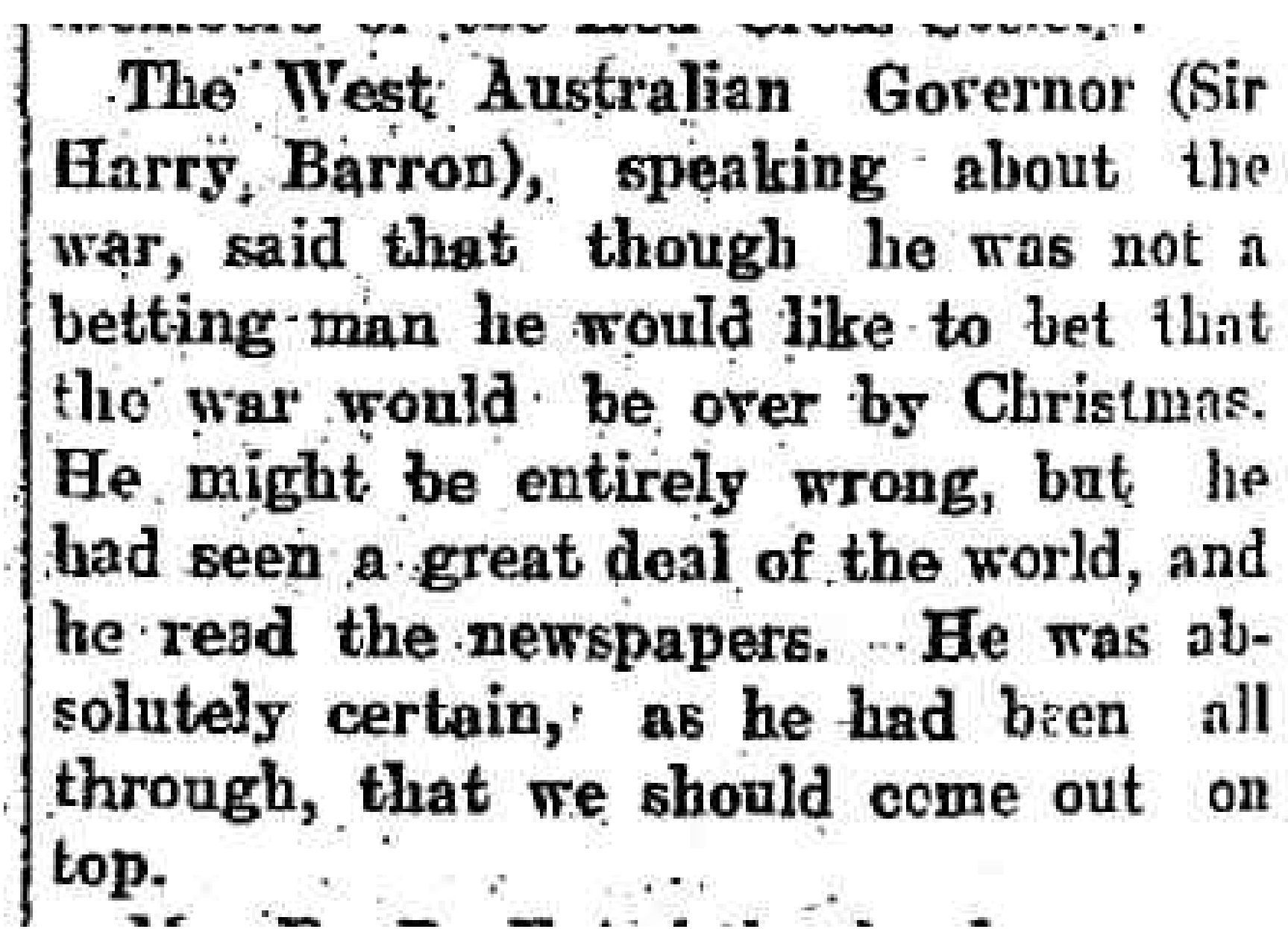
*The Sun*, 16 March 1929




# Sir Robert Garran, *Prosper the Commonwealth* (1958)

P 222-3 'One day Tom Bavin (afterwards Sir Thomas), who was doing some war work with the Prime Minister's Department, came into my office and asked me, "Would it be an offence against the War Precautions Regulations – "

Without waiting for him to finish the sentence, I replied, "Yes", and he retorted, "That's the shortest and the soundest opinion you have ever given."'



The West Australian Governor (Sir Harry Barron), speaking about the war, said that though he was not a betting man he would like to bet that the war would be over by Christmas. He might be entirely wrong, but he had seen a great deal of the world, and he read the newspapers. He was absolutely certain, as he had been all through, that we should come out on top.

*The Armidale Chronicle,* 16 September 1914, p 4




*Truth* (Melbourne),
25 December 1915, p 1

## ANZAC MARRIAGE RUSH

An official at the Australian Commonwealth offices yesterday said:—"Ever since our men returned from Gallipoli there has been a rush of marriages (says an issue of the "Daily Mail," London, received by the last mail). Many young women of good family have come over to the old country to be married to their soldier heroes. Their meetings have been encouraged by the authorities. The wedding is hastened on, the bridegroom has to conform to the law allotting a certain proportion of his pay to his wife—in the case of an ordinary soldier it is about 4/ a day—and if the wife desires it she can be sent back home at the cost of £4 or £5.

"Unfortunately some Australian soldiers have made too hasty marriages. The women have done the proposing and made all the arrangements. In two or three days the soldier is wooed and married and back at the front, and his wife, little more than a stranger to him, is on her way to her new home in Australia.

"One trooper recently out of hospital told me the other day that he had been proposed to by thirty three different girls. He was amused at first; then became frightened. Finally he overcomes the difficulty by declaring that he is already married. He can remain single only by repeating the assurance that he is the father of a family.

"Most of the men who marry are those who are on extended furlough, and a good proportion are wounded soldiers who have married their nurses."

## MARRIAGE EPIDEMIC.

### CONVALESCENT AUSTRALIANS.

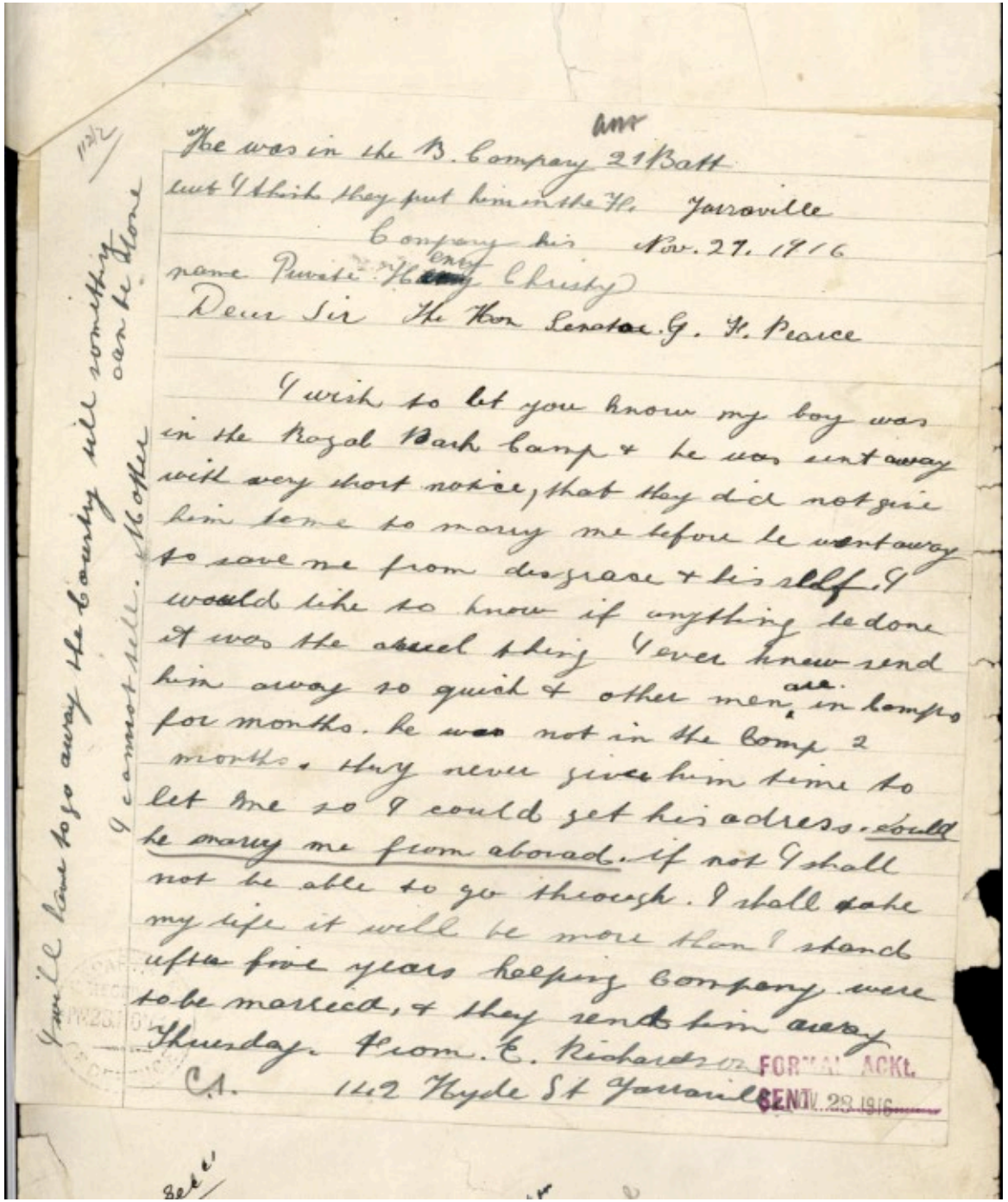
**LONDON, Thursday.—There is an epidemic of marriages among convalescent Australian soldiers. Five marriages from Abbeywood Depot took place this week. A West Australian officer married the girl who nursed him at Wandsworth Hospital.**

## MARRIAGE BY PROXY

### A SAFEGUARD FOR SOLDIERS.

### RISKS THEY RUN IN LONDON.

The Australian soldier on the other side is beginning to find that the dangers of peace are even more serious than those of war. He risks his life in the trenches, and, if he comes through safely, probably gets a few days or a week's leave and has a trip to London. There, though his life is fairly well guarded, he risks his whole future from the onslaughts of fair maids who want to be more than sisters to him.



He was in the B. Company 21 Batt
but I think they put him in the H. Jarraville
Company his Nov. 27. 1916
name Private H. Christy
Dear Sir The Hon Senator G. F. Pearce

I wish to let you know my boy was
in the Royal Park Camp & he was sent away
with very short notice, that they did not give
him time to marry me before he went away
to save me from disgrace & himself. I
would like to know if anything is done
it was the shock thing I ever knew send
him away so quick & other men are in camps
for months. he was not in the camp 2
months. they never gave him time to
let me so I could get his adress. could
he marry me from abroad. if not I shall
not be able to go through. I shall take
my life it will be more than I stand
after five years keeping company were
to be married, & they sends him away
Thursday. From. E. Richardson
C.A. 142 Hyde St Yarraville

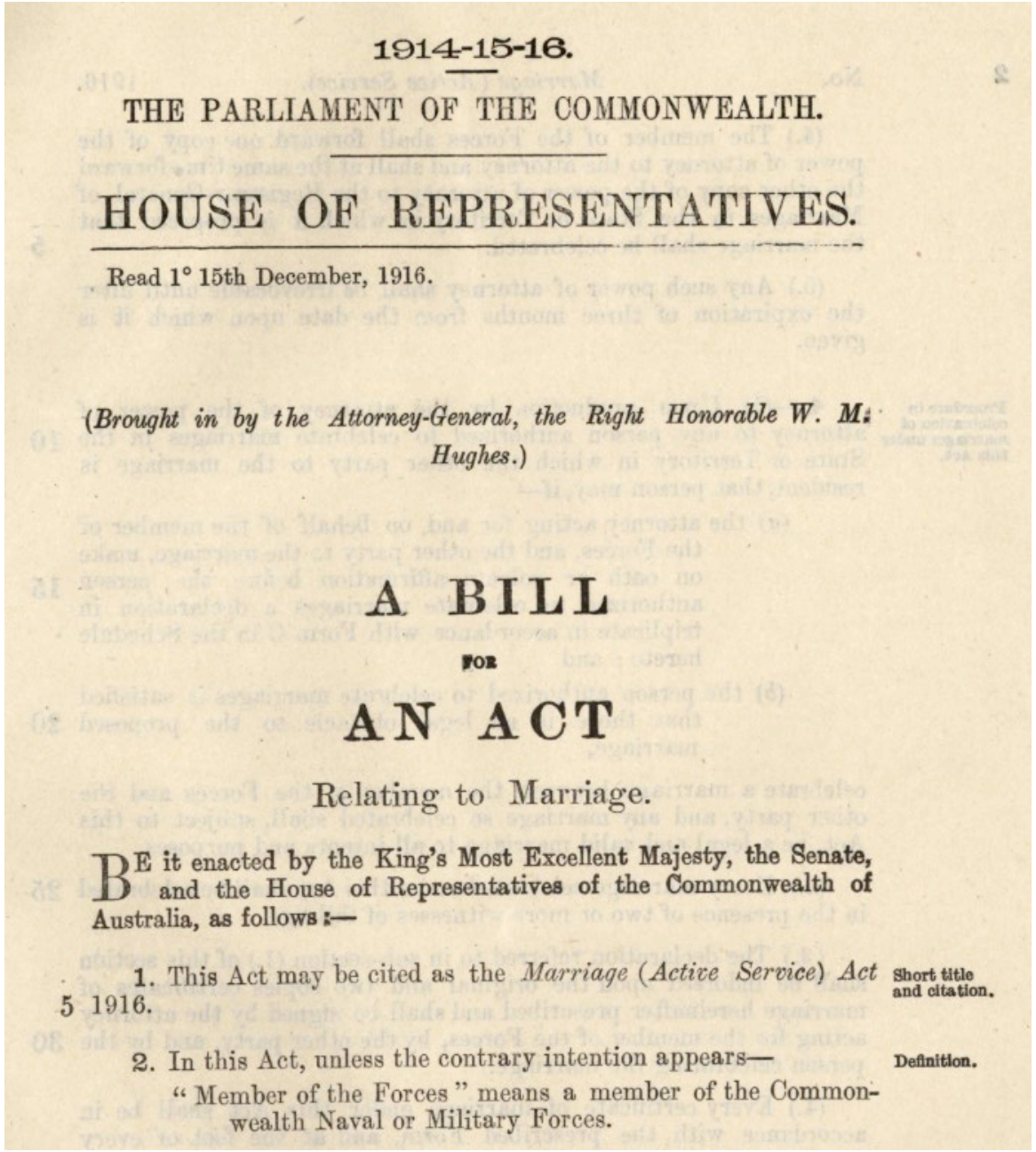
FORWARDED
SENT NOV. 28 1916

‘I wish to let you know my boy was in the Royal Park Camp and he was sent away with very short notice, that they did not give him time to marry me before he went away to save me from disgrace …

[C]ould he marry me from abroad, if not I shall not be able to go through. I shall take my own life …’

E Richardson, 27 November 1916

UNSW SYDNEY



1914-15-16.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

Read 1° 15th December, 1916.

*(Brought in by the Attorney-General, the Right Honorable W. M. Hughes.)*

A BILL

FOR

AN ACT

Relating to Marriage.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Marriage (Active Service) Act* 1916. Short title and citation.

2. In this Act, unless the contrary intention appears— Definition.

"Member of the Forces" means a member of the Commonwealth Naval or Military Forces.

Cl 3(1): 'For the purposes of the proposed marriage of a member of the Forces serving outside Australia to a person resident in Australia, the member of the Forces may appoint any person resident in Australia (in this Act referred to as "the attorney") to act for him in the celebration of the marriage.'

UNSW SYDNEY

Cl 4(1): Upon production by the attorney of the power of attorney to any person authorized to celebrate marriages in the State or Territory in which the other party to the marriage is resident, that person may, if -

> (a) the attorney acting for and on behalf of the member of the Fores, and the other party before the person authorized to celebrate marriages a declaration in triplicate in accordance with Form C in the Schedule hereto; and
>
> (b) The person authorized to celebrate marriages is satisfied that there is no legal obstacle to the proposed marriage,

celebrate a marriage between the member of the Forces and the other party, and any marriage so celebrated shall, subject to this Act, be a legal and valid marriage to all intents and purposes.

UNSW SYDNEY




BILL COMES BACK TO HIS PROXY BRIDE.

# SPECIALLY FOR WOMEN

## MARRIAGE BY PROXY.

### MARRIAGE BY PROXY.

SOLDIERS NOT ANXIOUS.

PROPOSALS NOT WELCOMED BY AUSTRALIANS IN LONDON.

‘What are our legislators thinking about to waste valuable time on such mad schemes as daylight saving and proxy marriage. … It can hardly be pretended that proxy marriage will increase the population. The tendency will be the other way, for soldiers who have married by proxy “for a joke,” or a bet, or out of bravado, are not likely to return to this country. …

The whole scheme is utter madness, such as only a wild Welshman could conceive.’

*Truth*, 17 March 1917, p 5



‘I think that the passing of a Bill would be only fair to hundreds of girls, who, like myself, did not hesitate to let their fiancés go to serve their country and humanity.

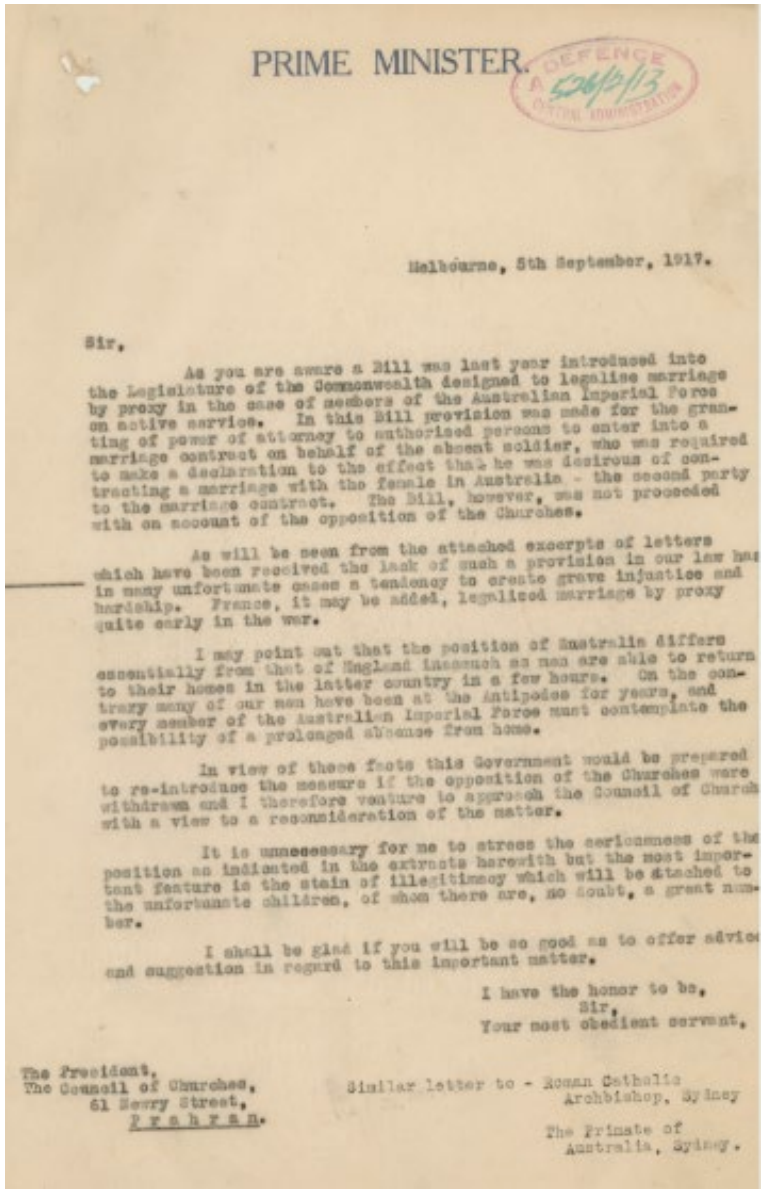
It is now nearly three years since my fiancé left, and it seems there to be no hope of the 1st Division returning unless incapacited [sic] …’

Annie Hobbs, 24 July 1917

‘I am an Australian … and would sooner see our Boys married to our own girls where possible and I am also out to protect those left behind, as things stand at present no matter how much a man may want to marry a girl … should anything happen to him the women he would make his wife is left without means and if there be an “off-spring” it is left destitute and nameless’

JD McGee, 7 August 1917

UNSW SYDNEY



PRIME MINISTER.

Melbourne, 5th September, 1917.

Sir,

As you are aware a Bill was last year introduced into the Legislature of the Commonwealth designed to legalise marriage by proxy in the case of members of the Australian Imperial Force on active service. In this Bill provision was made for the granting of power of attorney to authorised persons to enter into a marriage contract on behalf of the absent soldier, who was required to make a declaration to the effect that he was desirous of contracting a marriage with the female in Australia - the second party to the marriage contract. The Bill, however, was not proceeded with on account of the opposition of the Churches.

As will be seen from the attached excerpts of letters which have been received the lack of such a provision in our law has in many unfortunate cases a tendency to create grave injustice and hardship. France, it may be added, legalised marriage by proxy quite early in the war.

I may point out that the position of Australia differs essentially from that of England inasmuch as men are able to return to their homes in the latter country in a few hours. On the contrary many of our men have been at the Antipodes for years, and every member of the Australian Imperial Force must contemplate the possibility of a prolonged absence from home.

In view of these facts this Government would be prepared to re-introduce the measure if the opposition of the Churches were withdrawn and I therefore venture to approach the Council of Church with a view to a reconsideration of the matter.

It is unnecessary for me to stress the seriousness of the position as indicated in the extracts herewith but the most important feature is the stain of illegitimacy which will be attached to the unfortunate children, of whom there are, no doubt, a great number.

I shall be glad if you will be so good as to offer advice and suggestion in regard to this important matter.

I have the honor to be,
Sir,
Your most obedient servant,

The President,
The Council of Churches,
61 Bowry Street,
Prahran.

Similar letter to - Roman Catholic Archbishop, Sydney
The Primate of Australia, Sydney.

'As you are aware a Bill was last year introduced into the Legislature of the Commonwealth designed to legalise marriage by proxy in the case of members of the Australian Imperial Force on active service. … The Bill, however, was not proceeded with on account of the opposition of the Churches. …

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UNSW SYDNEY

# Religion in Australia prior to the Great War

## 4.—POPULATION OF THE COMMONWEALTH

### At the Censuses of 1891, 1901, and 1911, Classified according to Religion and Sex

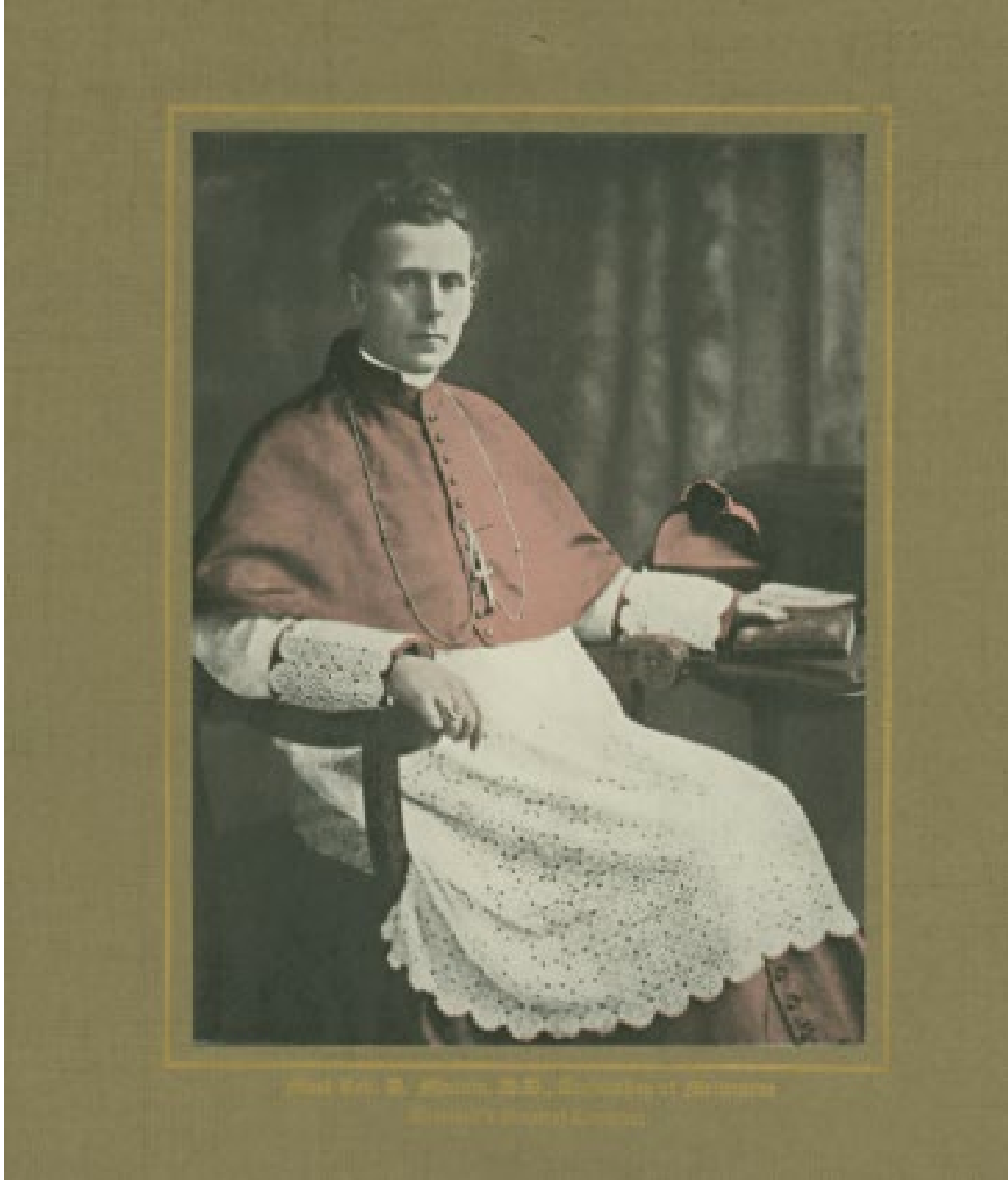
### (Exclusive of Full-blooded Aboriginals).

| Religion. | Males. | | | Females. | | | Persons. | | |
|---|---|---|---|---|---|---|---|---|---|
| | Census of 5th April 1891. | Census of 31st Mch. 1901. | Census of 3rd April 1911. | Census of 5th April 1891. | Census of 31st Mch. 1901. | Census of 3rd April 1911. | Census of 5th April 1891. | Census of 31st Mch. 1901. | Census of 3rd April 1911. |
| I. Christian— | | | | | | | | | |
| Church of England | 660,126 | 783,413 | 884,634 | 574,087 | 714,163 | 825,809 | 1,234,213 | 1,497,576 | 1,710,443 |
| Presbyterian .. | 187,328 | 221,601 | 289,591 | 164,592 | 204,504 | 268,745 | 351,920 | 426,105 | 558,336 |
| Methodist .. .. | 199,597 | 251,611 | 269,641 | 197,769 | 252,490 | 278,165 | 397,366 | 504,101 | 547,806 |
| Baptist .. .. | 35,129 | 42,662 | 45,661 | 37,149 | 46,676 | 51,413 | 72,278 | 89,338 | 97,074 |
| Congregational .. | 36,289 | 35,603 | 35,367 | 36,426 | 37,958 | 38,679 | 72,715 | 73,561 | 74,046 |
| Lutheran .. .. | 41,795 | 43,329 | 40,993 | 29,031 | 31,692 | 31,402 | 70,826 | 75,021 | 72,395 |
| Church of Christ .. | 7,128 | 11,265 | 17,382 | 7,714 | 12,927 | 21,366 | 14,842 | 24,192 | 38,748 |
| Salvation Army .. | 16,806 | 14,802 | 12,322 | 16,625 | 16,298 | 14,343 | 33,431 | 31,100 | 26,665 |
| Seventh Day Adventist | 336 | 1,411 | 2,536 | 377 | 1,921 | 3,559 | 713 | 3,332 | 6,095 |
| Unitarian .. .. | 2,501 | 1,620 | 1,307 | 1,388 | 1,009 | 868 | 3,889 | 2,629 | 2,175 |
| Protestant (undefined) | 17,416 | 11,485 | 63,079 | 12,449 | 9,073 | 46,782 | 29,865 | 20,558 | 109,861 |
| Roman Catholic .. | 363,780 | 433,504 | 465,803 | 341,627 | 417,116 | 455,622 | 705,407 | 850,620 | 921,425 |
| Greek Catholic .. | 559 | 1,075 | 2,172 | 63 | 239 | 474 | 622 | 1,314 | 2,646 |
| Catholic (undefined) | 4,351 | 2,748 | 38,772 | 4,089 | 2,431 | 36,607 | 8,440 | 5,179 | 75,379 |
| Others .. .. | 10,252 | 10,944 | 15,796 | 9,150 | 10,879 | 15,524 | 19,402 | 21,823 | 31,320 |
| Total .. .. | 1,583,393 | 1,867,073 | 2,185,056 | 1,432,536 | 1,759,376 | 2,089,358 | 3,015,929 | 3,626,449 | 4,274,414 |

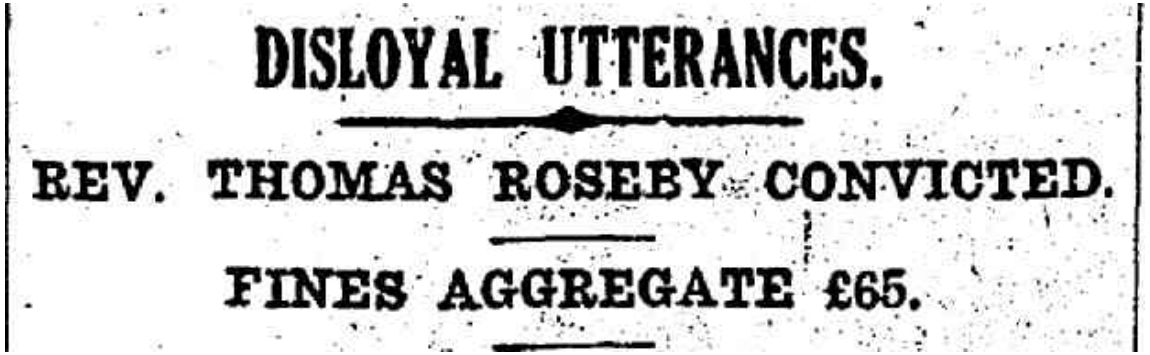
UNSW SYDNEY

# Social & wartime tensions

- Catholic position of neutrality and keeping war from the pulpit seen as disloyal within the Australian community
- Catholic voters blamed for failure of the 1916 conscription plebiscite
- High overlap between Catholicism and Irish heritage in Australia
- Hughes engaged in public dispute with Irish-born Archbishop of Melbourne, Daniel Mannix; Hughes even writes to the Vatican requesting it restrain Mannix



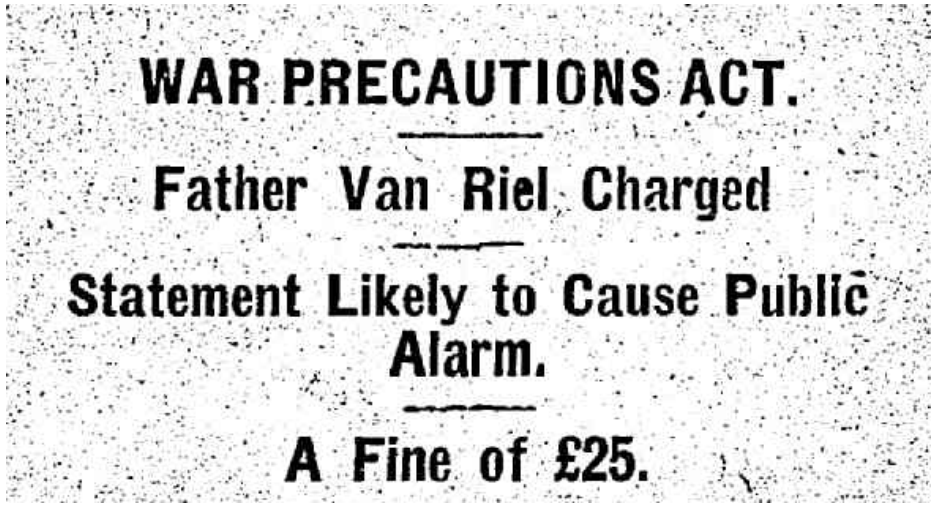
# Prosecution of religious figures …



DISLOYAL UTTERANCES.

REV. THOMAS ROSEBY CONVICTED.

FINES AGGREGATE £65.

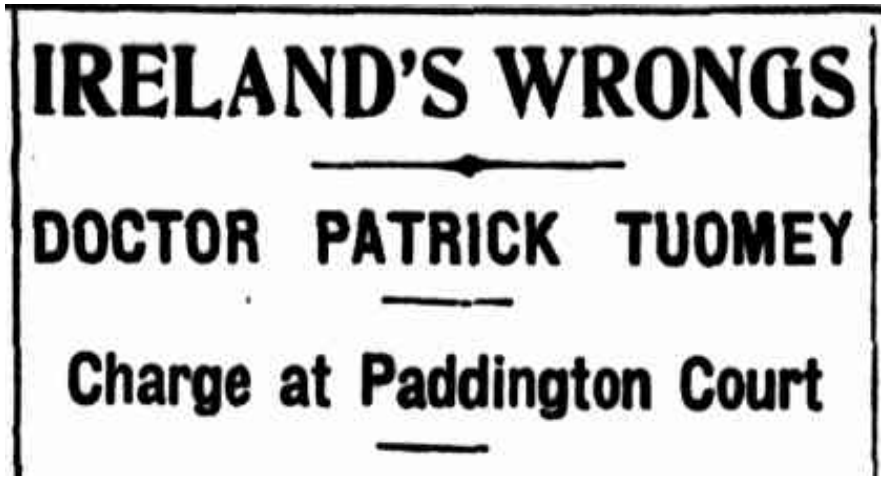


WAR PRECAUTIONS ACT.

Father Van Riel Charged

Statement Likely to Cause Public Alarm.

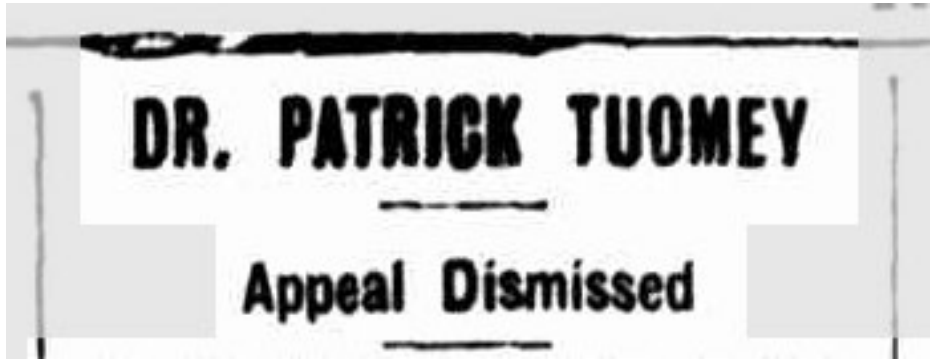
A Fine of £25.



IRELAND'S WRONGS

DOCTOR PATRICK TUOMEY

Charge at Paddington Court



DR. PATRICK TUOMEY

Appeal Dismissed

# Internment of religious figures …

28th August '18

The Secretary,

Department of Defence,

MELBOURNE

With reference to your 69954.C.512/3/712 of 9th instant, regarding interned Clergymen, Buddhist Priests and Missionaries receiving Officers treatment, and paying for the food they receive on the same scale as the interned Officers. I beg to report as follows:-

MAIN COMPOUND.

ROMAN CATHOLIC PRIEST. Father Jerger. Will accept the conditions, but cannot pay for food.

ROMAN CATHOLIC LAY-BROTHER. Father Niedurny. Will accept the conditions, but cannot pay for food.

PASTORS. Pastor Treuta. ) Will accept the conditions.
" Fischer. )
" Seyboldt. Will accept the conditions, but cannot pay for food.

" Millat. (BERRIMA) Will accept the conditions, but at present he is unable to pay for food; has written to his wife in Queensland for assistance.

EASTERN COMPOUND.

" Steck. ) EASTERN
" Gutekunst. ) Will accept the conditions.
" Fuhlbohm. ) COMPOUND.
" Frank. )
" Poland. " Will accept the conditions, but will not dine with the Officers.

MISSIONARIES.

Flierl.W. ) Will accept the conditions.
Raum.H. )

BUDDHIST PRIESTS.

STOLZ.L. ) Will not accept the conditions.
STOMPS.V. )

Major.
for Lieut-Col.
Commandant, Concentration Camps.



# And further division over marriage by proxy?

**NOT OPPOSED TO DOCTRINE OF ROMAN CATHOLIC CHURCH**

"Properly safeguarded, marriages by proxy are not opposed to the doctrine of the Roman Catholic Church," was the view expressed by the Very Rev. J. M'Carthy, Dean of the Archdiocese of Melbourne, when questioned on the subject today.

Dean M'Carthy mentioned instances in which royal personages belonging to the Roman Catholic Church had been married by proxy, and added :

"Of course, these marriages have, when performed, received the assent of the Church. They have invariably been confined to royalty. The principle, however, does not alter merely because the parties concerned are of humbler origin. All I desire to show is that the Church does not offer an insuperable obstacle to the suggested marriages by proxy."

**MARRIAGE BY PROXY.**

With regard to the telegram recently published from Melbourne stating that the Minister for Defence viewed favorably a proposal to legalise the marriage by proxy of soldiers at the front to girls in Australia, the Bishop of Adelaide was asked to give his views on the subject. He said: "Until the Minister for Defence explains further for what reasons he is disposed to favor marriage by proxy, I do not wish to criticise the statement with which he is credited. But I cannot imagine that under any circumstances the Church of England will countenance such a proposal."

‘Marriage by Proxy. Church of England opposition’, *The Telegraph* (Brisbane), 3 October 1917

‘At the opening session of the Church of England Synod in Melbourne, last night, Archbishop Clarke read the reply of the Archbishop of Sydney in the same church. … None of the causes for which matrimony was ordained was provided for in a marriage by proxy: Cases of hardship to which reference had been made, had been already generously provided for by the Commonwealth on the financial side, and the argument that the laws should intervene to cancel the consequences of indiscretion was morally unsound.’

## 7th BATTALION

| No | Rank | Name | Date and place of marriage | By whom married | Maiden name of wife | Place of birth of wife. |
|---|---|---|---|---|---|---|
| | LT | HAMILTON W.E. | 1.12.16 Eastbourne England | ? | Olive Mynnong COUTTS | Mynnong Powlett Plains Victoria. |
| 3574 | Pte | Woods J.E. | 2.10.16. Newcastle-under-Lyne Staffs.Eng. | Rev.Dunn. St Giles Staffs. | Mary Elizabeth HEATH | England |
| 1623 | Pte | Tonks A | October 1916 Nuneaton England | ? | Nellie DAVENPORT | England |
| 1829 | Pte | Smith W.T. | 10.12.15 Moseley England | Rev.Baggot | - WOODING | England |
| 7072 | Pte | Smith A | 20.3.17 Leyton England | ? | Olga Caroline METT | England |
| 949 | Pte | Newbound G | 22.5.16. Epsom. England | Rev. Metcalf | Elsie FORD | Swallowcliffe Tilbury England |
| 948 | Cpl | Nelson A.G. | 28.3.17. Birmingham England | Registrar | Jennie Jane BUTLER | Birmingham. |
| 1905 | Pte | Anderson O.C. | 7.10.16. Leyton Essex Eng. | ? | Dorothy May JAMES | Leyton Essex England |
| 4773 | Pte | Earl C.O. | 7.3.17 Registry Office. Marylebone London | Registrar. | Agnetta Mary HAGGAR | London. |



AUSTRALIAN WAR MEMORIAL P04219.001

# AUSSIES IN ENGLAND.

## FAREWELL TO MR. HUGHES.

## THE DIVORCE BILL.

## MR. HUGHES LEAVES IN JULY.

LONDON, Sunday.

A farewell dinner to Mr. Hughes is being arranged, to take place in London on June 27. It is expected that Mr. Hughes will leave England for Australia early in July.

## HASTY ENGLISH MARRIAGES.

Many Australian soldiers are delaying their return in order to take advantage of the Divorce Bill. But the measure cannot be applied until the various Australian States pass bills prescribing the date of its operation.



"D.M."

Mr. W. M. Hughes,

A snapshot just before he left London for home. One of the soldiers who assembled to see him off lifted the Prime Minister's hat off and replaced it with his own.

## SOLDIER'S DIVORCE SUIT.

SYDNEY, Friday.—Mr. Justice Gordon found, in the Divorce Court to-day, that the wife of a soldier during his absence in France misconducted herself with three co-respondents. She had, he said, proved little better than an abandoned woman. He granted a decree nisi, returnable in six months.

## RETURNED SOLDIER SEEKS DIVORCE.

Harry William King, a sergeant in the Australian Imperial Forces, petitioned for a divorce from his wife, Love Eunice King, on the grounds of adultery with Frank L. McVity, a driver in the Army Service Corps, who was named as co-respondent.

# AUSSIES IN ENGLAND.

## FAREWELL TO MR. HUGHES.

## THE DIVORCE BILL.

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A farewell dinner to Mr. Hughes is being arranged, to take place in London on June 27. It is expected that Mr. Hughes will leave England for Australia early in July.

## HASTY ENGLISH MARRIAGES.

Many Australian soldiers are delaying their return in order to take advantage of the Divorce Bill. But the measure cannot be applied until the various Australian States pass bills prescribing the date of its operation.

This is a bill to enable the law courts of England to deal with Dominion soldiers' marriages. Its second reading in the House of Lords was cabled on April 8. In explaining the bill, it was pointed out that many soldiers from the Dominions had married English women, and the law provided that the divorce must be taken in the country of the husband's domicile. The bill enabled such proceedings to be taken in the English courts. The Australian and New Zealand Governments had approved of the measure, which would remove hardships.

The Lord Chancellor (Lord Birkenhead), 10 April 1919: ‘Very strong representations were made to the authorities on behalf of the Australian Government and the New Zealand Government, which takes the same view, that a great miscarriage and even denial of justice is likely to follow in the wholly abnormal condition prevailing to-day in the application of the strict rule, and it is proposed in the present Bill to enable the appropriate Courts in the United Kingdom to entertain matrimonial proceedings in cases of marriages contracted during the war by members of His Majesty's Forces with women of this country, even although the husbands in those cases were domiciled outside the United Kingdom.’



## CHAPTER 28.

An Act to enable the competent courts in the United Kingdom to entertain matrimonial proceedings in respect of certain marriages contracted during the war by members of His Majesty's Forces domiciled outside the United Kingdom. [22nd July 1919.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to entertain proceedings.

**1.** Where a marriage has been contracted in the United Kingdom during the present war by a member of His Majesty's Forces domiciled in any of His Majesty's possessions or protectorates to which this Act applies, the competent court in that part of the United Kingdom where the marriage took place shall, any question of domicile or residence notwithstanding, have full jurisdiction and power to entertain, hear and determine any of the matrimonial proceedings specified in the Schedule to this Act, where such proceedings are instituted by either party to the marriage, and to make decrees and orders in relation to such proceedings, as though the parties to the marriage were domiciled or (where the jurisdiction of the court depends upon residence) resident in that part of the United Kingdom:

Provided that this Act shall not apply in any case where the parties to the marriage have at any time since the marriage resided together in the country of the husband's domicile.

For the purposes of this section, "the competent court" means, as respects England and Ireland the High Court, and as respects Scotland the Court of Session.

‘I have to explain that the Prime Minister of the Commonwealth of Australia drew attention to a number of cases of hardship which, he suggested, constituted a strong case for an amendment of the law of the United Kingdom relating to divorce. Mr. Hughes pointed out that a large number of members of the overseas forces have married in England and have subsequently found their wives guilty of misconduct.’

- Alfred Milner, 1st Viscount Milner, Secretary of State for the Colonies, 24 April 1919

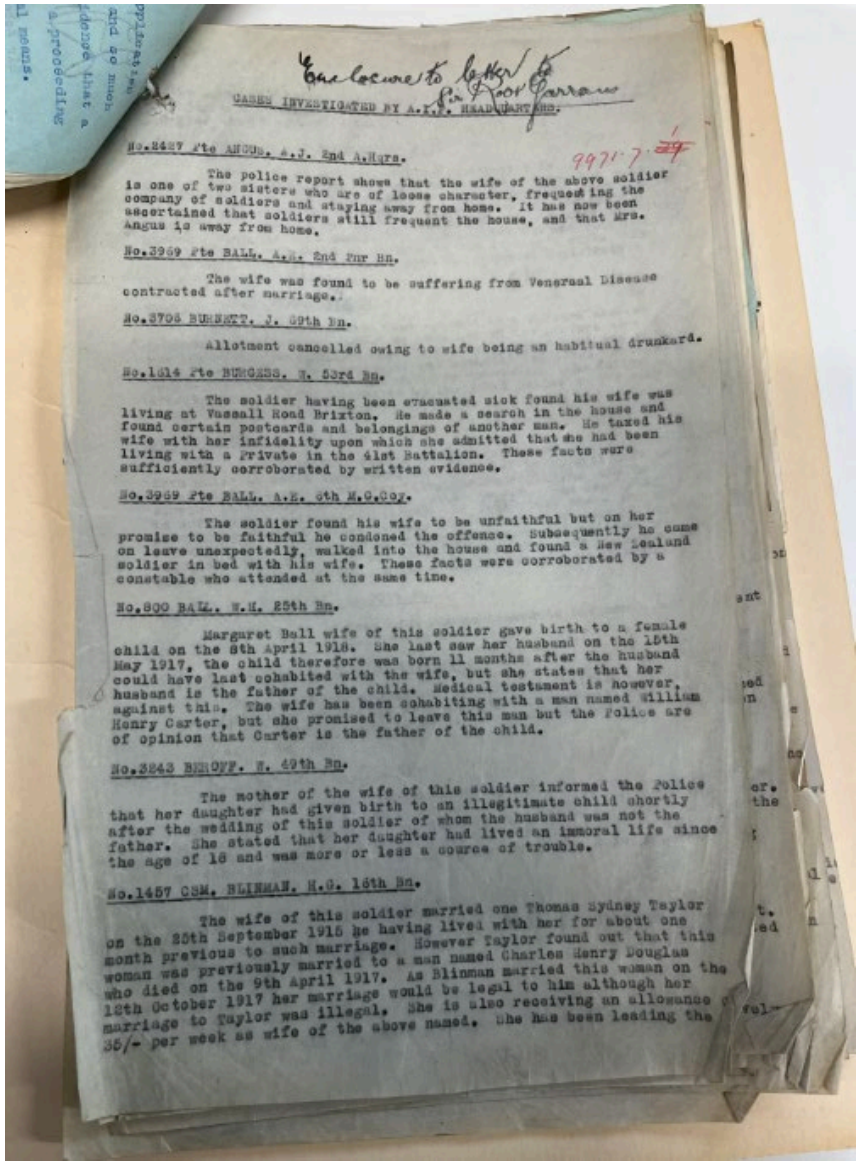


‘While it was fully appreciated that serious hardship resulted in cases of the kind to which Mr. Hughes called attention, it was felt that it was desirable in the first instance to endeavour to ascertain whether there was a sufficiently large number of the cases in question to make legislation worth while …

… Mr. Hughes stated that approximately 5,000 members of the [AIF] had married in this country and that out of these there had been nearly 100 cases of cancellations of allotments on the ground of infidelity or other misconduct of the wife. He had seen a précis of upwards of 40 of these cases and was satisfied that in nearly all of them grounds for divorce existed.’

- Alfred Milner, 1st Viscount Milner, Secretary of State for the Colonies, 24 April 1919

UNSW SYDNEY



Enclosure to letter [illegible] Parramatta

CASES INVESTIGATED BY A.F.W. HEADQUARTERS.

No.2427 Pte ANGUS, A.J. 2nd A.Hqrs.

The police report shows that the wife of the above soldier is one of two sisters who are of loose character, frequenting the company of soldiers and staying away from home. It has now been ascertained that soldiers still frequent the house, and that Mrs. Angus is away from home.

No.3969 Pte BALL, A.E. 2nd Pur Bn.

The wife was found to be suffering from Venereal Disease contracted after marriage.

No.3798 BURNETT, J. 49th Bn.

Allotment cancelled owing to wife being an habitual drunkard.

No.1814 Pte BURGESS, H. 53rd Bn.

The soldier having been evacuated sick found his wife was living at Vassall Road Brixton. He made a search in the house and found certain postcards and belongings of another man. He taxed his wife with her infidelity upon which she admitted that she had been living with a Private in the 41st Battalion. These facts were sufficiently corroborated by written evidence.

No.3969 Pte BALL, A.E. 6th M.G.Coy.

The soldier found his wife to be unfaithful but on her promise to be faithful he condoned the offence. Subsequently he came on leave unexpectedly, walked into the house and found a New Zealand soldier in bed with his wife. These facts were corroborated by a constable who attended at the same time.

No.800 BALL, W.H. 25th Bn.

Margaret Ball wife of this soldier gave birth to a female child on the 8th April 1918. She last saw her husband on the 15th May 1917, the child therefore was born 11 months after the husband could have last cohabited with the wife, but she states that her husband is the father of the child. Medical testament is however, against this. The wife has been cohabiting with a man named William Henry Carter, but she promised to leave this man but the Police are of opinion that Carter is the father of the child.

No.3243 BUROFF, H. 49th Bn.

The mother of the wife of this soldier informed the Police that her daughter had given birth to an illegitimate child shortly after the wedding of this soldier of whom the husband was not the father. She stated that her daughter had lived an immoral life since the age of 16 and was more or less a source of trouble.

No.1457 CSM. BLINMAN, H.G. 16th Bn.

The wife of this soldier married one Thomas Sydney Taylor on the 25th September 1915 he having lived with her for about one month previous to such marriage. However Taylor found out that this woman was previously married to a man named Charles Henry Douglas who died on the 9th April 1917. As Blinman married this woman on the 12th October 1917 her marriage would be legal to him although her marriage to Taylor was illegal. She is also receiving an allowance of 35/- per week as wife of the above named. She has been leading the

# No. 800 BALL. W.H. 25th Bn.

Margaret Ball wife of this soldier gave birth to a female child on the 8th April 1918. She last saw her husband on the 15th May 1917, the child therefore was born 11 months after the husband could have last cohabited with the wife, but she states that her husband is the father of the child. Medical testament is however against this.

Senator Edward Russell, 23 October 1919: ‘It is proposed by this Bill to apply the Act to Australia. Quite a number of our Australian troops, unfortunately, loved not too wisely but too well during their stay in the Old Country. Sometimes, owing to indulgence in rather more drink than was good for them, soldiers have been taken advantage of, and, before they have realized their position, have found themselves married to undesirable women. We do not want that type of creature in Australia … and we do not desire the soldier should be tied to such a wife.’



# MATRIMONIAL CAUSES (EXPEDITIONARY FORCES).

**No. 15 of 1919.**

An Act to apply the Imperial Act known as the *Matrimonial Causes* (*Dominion Troops*) *Act* 1919 to the Commonwealth of Australia.

[Assented to 28th October, 1919.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title.

1. This Act may be cited as the *Matrimonial Causes* (*Expeditionary Forces*) *Act* 1919.

Application of *Matrimonial Causes* (*Dominion Troops*) *Act* 1919 to Commonwealth.

2. The Imperial Act known as the *Matrimonial Causes* (*Dominion Troops*) *Act*, 1919, a copy of which is set out in the Schedule to this Act, shall apply to the Commonwealth as from the coming into operation of this Act.



Prob., Divorce, and Adm. Div. (Sir Henry Duke, P.) } 1920. Nov. 26, 29.

GIBSON v. GIBSON.*

Divorce—Evidence—Adoption of Imperial Act by Dominion Parliament—Evidence (Colonial Statutes) Act, 1907 (7 Edw. VII., c. 16), s. 1 (1)—Matrimonial Causes (Dominions Troops) Act, 1919 (9 and 10 Geo. V., c. 28), s. 2.

In cases under the Matrimonial Causes (Dominions Troops) Act, 1919, s. 1 (1) of the Evidence (Colonial Statutes) Act, 1907, makes it unnecessary, in order to prove that the Act has been adopted by a self-governing Dominion, to file an affidavit by an expert verifying the Government printer's copy of the Act of the Dominion Parliament.

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**This undefended suit for divorce, in which Mrs. Alice Maud Gibson sued for the dissolution of her marriage with Harold William Gibson, a corporal of the Australian Forces, who had returned to Australia, where he was domiciled, was instituted under the Matrimonial Causes (Dominions Troops) Act, 1919 (9 and 10 Geo. V., c. 28).**

UNSW SYDNEY

# Second War, Second Law …



The Telegraph

*Queensland Owned and Controlled*

BRISBANE, SEPTEMBER 2, 1940 PAGE 9

## Soldiers Overseas May Be Able to Get Married by Proxy Soon

**Marriage by proxy for Australian soldiers overseas to girls in this country may be possible soon.**

The question was discussed to-day by Cabinet, but a decision on an amendment of the law to permit proxy marriages was not reached. In the meantime the Premier (Mr. W. Forgan Smith) intends to obtain the views of other States.



## MARRIAGE BY PROXY

Any action to make possible the marriage by proxy of members of the A.I.F. abroad and their fiancees in Australia is a matter for the State Governments, according to Senator McBride, Army Minister.

He recalled yesterday that action by the Federal Government to make such marriages possible was discussed during the last war, but no action was taken.

The Federal Government, he said, could use its emergency regulation power to authorise proxy marriages, but it was unlikely to do so.

The State Government does not intend to introduce a bill to permit marriage by proxy in Victoria, the Premier said last night. Mr. Dunstan explained that the Commonwealth had inquired what the States thought or intended on the matter, and as far as he knew they were taking no action.

# MATRIMONIAL CAUSES.

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**No. 22 of 1945.**

## An Act relating to Matrimonial Causes.

[Assented to 16th August, 1945.]

[Date of commencement, 13th September, 1945.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

### PART II.—INSTITUTION OF MATRIMONIAL CAUSES AGAINST MEMBERS OF OVERSEAS FORCES, AND CERTAIN OTHER PERSONS, NOT DOMICILED IN AUSTRALIA.

**4.** This Part shall apply in relation to marriages celebrated in Australia, on or after the third day of September, One thousand nine hundred and thirty-nine, and before the appointed day, where the husband (whether a member of an overseas Naval, Military or Air Force, or not) was, at the time of the marriage, not domiciled in Australia, and the wife was, immediately before the marriage, domiciled in a State or Territory.

# HUGHES WEAK ON WAR LAWS

The Federal Attorney-General (Mr. Hughes) said last night that he did not know very much about the 250 regulations gazetted under the National Security Act since the outbreak of war.

He was asked to comment on a suggestion by the leader of the Opposition (Mr. Curtin) that the regulations should be consolidated and republished.

Mr. Curtin said officials and the public have had difficulty in keeping track of the regulations.

Asked if he knew all the regulations, Mr. Hughes replied: "Now, then, I'm not an encyclopaedia.

"If you set me an examination on details of the regulations, I should fail dismally."

Mr. Hughes added that a man would do much better to read the Bible than the National Security Regulations.

*The Daily Telegraph*, 10 March 1941, p 4

UNSW SYDNEY

# Thank you and further information:

- '"Cupid and the Anzacs": Law, Marriage and Divorce in First World War Australia' (2025) 44(3) *War & Society* 411-29

- 'A Trial for Father Charles Jerger' [2026] 12(2) *law&history* (forthcoming)



BILLY HUGHES MAKES A SPEECH.