CHAPTER 58.

An Act to amend the law with respect to the determination by justices of disputes in matters of matrimony, bastardy and the guardianship of infants and other similar matters; to extend the duties of probation officers; and for purposes connected therewith. [30th July 1937.]

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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:—

Constitution of courts of summary jurisdiction for domestic proceedings.

1. Subject to the provisions of this Act, courts of summary jurisdiction sitting for the purpose of the hearing and determination of any of the proceedings specified in the Schedule to this Act (in this Act referred to as "domestic proceedings") shall be constituted of not more than three justices of the peace, and shall be so constituted as to include, so far as practicable, both a man and a woman.

Sittings of courts of summary jurisdiction for domestic proceedings.

2.—(1) The business of courts of summary jurisdiction shall, so far as is consistent with the due dispatch of business, be arranged in such manner as may be requisite for separating the hearing and determination of domestic proceedings from other business.

(2) No person shall be present during the hearing and determination by a court of summary jurisdiction of any domestic proceedings, except—

(*a*) members and officers of the court;

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(*b*) parties to the case before the court, their solicitors and counsel, witnesses and other persons directly concerned in that case, and other persons whom either party desires to be present;

(*c*) solicitors and counsel in attendance for other cases;

(*d*) representatives of newspapers or news agencies;

(*e*) any other person whom the court may permit to be present, so, however, that permission shall not be withheld in the case of a person who appears to the court to have adequate grounds for attendance.

(3) During the taking in any domestic proceedings of any evidence of an indecent character, the court may, if it thinks necessary in the interest of the administration of justice or of public decency, direct that all or any persons, not being members or officers of the court or parties to the case, their solicitors or counsel, or other persons directly concerned in the case, be excluded from the court during the taking of that evidence.

(4) Where the same parties are parties to domestic proceedings and to proceedings for the enforcement of an order made under any of the Acts mentioned in the Schedule to this Act, or for the variation of any provision of an order made under any of those Acts for the payment of money, and the proceedings are heard together by a court of summary jurisdiction, the provisions of the two last foregoing subsections shall, unless the court otherwise determines, have effect as if the whole of those proceedings were domestic proceedings.

(5) The powers conferred on a court of summary jurisdiction by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings in camerâ.

(6) Nothing in this section shall affect the exercise by a court of summary jurisdiction of the power to direct that witnesses shall be excluded from the court until they are called for examination.

Newspaper reports of domestic proceedings.

3.—(1) It shall not be lawful for the proprietor, editor or publisher of a newspaper or periodical to print or publish therein, or cause or procure to be printed or published therein, in relation to any domestic proceedings,

any particulars other than the following, that is to say :—

(*a*) the names, addresses and occupations of the parties and witnesses;

(*b*) the grounds of the application, and a concise statement of the charges, defences and counter-charges in support of which evidence has been given;

(*c*) submissions on any point of law arising in the course of the proceedings and the decision of the court thereon;

(*d*) the decision of the court, and any observations made by the court in giving its decision.

(2) If any person acts in contravention of the provisions of this section, he shall be liable on summary conviction to imprisonment for a term not exceeding four months or to a fine not exceeding one hundred pounds, or to both such imprisonment and fine.

(3) No prosecution for an offence under this section shall be begun by any person without the consent of the Attorney-General.

(4) Nothing in this section shall apply to the printing or publishing of any matter in any newspaper or periodical of a technical character bonâ fide intended for circulation among members of the legal or medical professions.

Procedure in certain domestic proceedings.

4.—(1) Where in any domestic proceedings under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1925, a court of summary jurisdiction or a justice of the peace has requested a probation officer or any other person to attempt to effect a conciliation between the parties thereto, the probation officer or that other person may, if the attempt has proved unsuccessful and he thinks fit in the circumstances of the case so to do, furnish to the court statements (in this Act referred to as "statements of allegations") made in such form as may be prescribed by rules made by the Lord Chancellor under this section and containing—

(*a*) the allegations made by the applicant and the defendant respectively; and

(*b*) information as to such other matters relating to the proceedings or to the parties thereto as may be so prescribed:

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Provided that no allegation made by a party to any such proceedings shall be included in a statement of allegations without the consent in writing of that party.

(2) Where statements of allegations are furnished to the court under this section, the probation officer or other person by whom the statements were so furnished shall cause copies thereof to be delivered to the applicant and the defendant, or sent by post addressed to each of them at his or her last or usual place of abode.

(3) Where statements of allegations have been furnished to the court and delivered or sent to the applicant and the defendant under this section, the court may, if it thinks fit, make use of the statements of allegations for the purpose of putting or causing to be put questions to any witness, so, however, that nothing contained in a statement of allegations shall be received by the court as evidence.

Investigation by courts of summary jurisdiction as to means.

5.—(1) Where in any domestic proceedings in which an order may be made for the periodical payment of money by any person, or in any proceedings for the enforcement or variation of any such order, or in any proceedings in any matter of bastardy, a court of summary jurisdiction or a justice of the peace has requested a probation officer to conduct an investigation into the means of the parties to the proceedings, the court may direct the probation officer to report the result of his investigation to the court in accordance with the provisions of this section:

Provided that, in the case of any such domestic proceedings or of proceedings for an affiliation order, no direction to report to the court shall be given to a probation officer under this subsection until the court has determined all issues arising in the proceedings other than the issue as to the amount to be directed to be paid by such an order.

(2) Where a probation officer is directed under this section to report to the court the result of any such investigation as aforesaid, the court may require the probation officer—

(*a*) to furnish to the court a statement in writing as to his investigation, which shall be read aloud in

the presence of such parties to the proceedings as may be present at the hearing; or

(*b*) to make an oral statement to the court as to his investigation.

(3) Immediately after the statement of the probation officer has been read aloud or made, as the case may be, under the last foregoing subsection, the court shall ask each party to the proceedings whether he or she objects to anything contained in the statement, and where objection is made the court shall require the probation officer to give evidence on oath as to his investigation.

(4) Any statement made by a probation officer in a statement furnished or made by him under subsection (2) of this section, or in evidence which he is required to give under subsection (3) of this section, may be received by the court as evidence, notwithstanding anything to the contrary in any enactment or rule of law relating to the admissibility of evidence.

Examination of witnesses where parties are not legally represented.

6. Where in any domestic proceedings, or in any proceedings for the enforcement or variation of an order made in domestic proceedings, or in proceedings in any matter of bastardy, it appears to a court of summary jurisdiction that any party to the proceedings who is not legally represented is unable effectively to examine or cross-examine a witness, the court shall ascertain from that party what are the matters about which the witness may be able to depose or on which the witness ought to be cross-examined, as the case may be, and shall put, or cause to be put, to the witness such questions in the interests of that party as may appear to the court to be proper.

Extension of duties of probation officers.

7. Acts done by a probation officer—

(*a*) in the exercise of functions under any of the foregoing provisions of this Act; or

(*b*) in the course of attempts made, at the request of a court of summary jurisdiction or of a justice of the peace, to effect conciliation between the parties to domestic proceedings under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1925; or

(*c*) in conducting, at such a request as aforesaid, investigations as to the means of parties to

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domestic proceedings, or to proceedings for the enforcement or variation of orders made in domestic proceedings, or to proceedings in any matter of bastardy;

shall be deemed for the purposes of Part I of the Criminal Justice Act, 1925, to be acts done by him in the performance of his duties under that Act.

15 & 16 Geo. 5. c. 86.

Religious persuasion to be regarded in selection of conciliators in certain domestic proceedings.

8. Where a court of summary jurisdiction or a justice of the peace determines to request a probation officer or other person to attempt to effect conciliation between parties to any domestic proceedings under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1925, the court or justice, as the case may be, shall have regard to the religious persuasion of the parties, and, if the court or justice determines to request a probation officer to attempt to effect conciliation, the court or justice shall, where the religious persuasion of both parties is the same, select for that purpose a probation officer of that religious persuasion if such a probation officer is available.

Provision as to London and stipendiary magistrates.

9.—(1) The provisions of section one of this Act shall not apply to the constitution of courts of summary jurisdiction for the City of London or the metropolitan police court area.

(2) Courts of summary jurisdiction for the City of London sitting for the purpose of the hearing and determination of domestic proceedings shall be constituted in such manner as the court of the Lord Mayor and Aldermen of the City may from time to time determine.

(3) His Majesty may by Order in Council provide for the constitution of courts of summary jurisdiction for the metropolitan police court area, or for any part of that area, for the purpose of the hearing and determination of all or any proceedings under the Acts mentioned in the Schedule to this Act, and any such Order may provide for the sittings of those courts for that purpose at such places as may be specified in the Order, and for the assignment to each such court of such part of that area as may be specified, and a court of summary jurisdiction constituted in accordance with, and sitting at a place specified in, the provisions of any Order so made, shall be deemed to be a metropolitan police court.

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(4) An Order in Council made under this section shall have effect notwithstanding anything in the Metropolitan Police Courts Acts, 1839 and 1840, and may contain such supplemental, incidental and consequential provisions as appear to His Majesty in Council to be necessary or proper for the purposes of the Order, and may be varied or revoked by any subsequent Order.

2 & 3 Vict. c. 71.
3 & 4 Vict. c. 84.

(5) In this section the expression "metropolitan police court area" means the area consisting of the police court divisions for the time being constituted under the Metropolitan Police Courts Acts, 1839 and 1840.

(6) Nothing in this Act shall prevent the hearing and determination of any domestic proceedings by a stipendiary magistrate, or by a metropolitan police magistrate, when sitting alone.

Short title, construction, extent and commencement.

10.—(1) This Act may be cited as the Summary Procedure (Domestic Proceedings) Act, 1937.

(2) References in this Act to any other enactment shall be construed as references to that enactment as amended by any subsequent enactment including this Act.

(3) This Act shall not extend to Scotland or to Northern Ireland.

(4) This Act shall come into operation on the first day of October, nineteen hundred and thirty-seven.

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SCHEDULE.

Sections 1, 2, 9.

DOMESTIC PROCEEDINGS.

Proceedings—

(*a*) under the Guardianship of Infants Acts, 1886 and 1925;

(*b*) under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1925;

other than proceedings for the enforcement of an order made under any of those Acts, or for the variation of any provision of an order made under any of those Acts for the payment of money.

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