

AL 1536

# Summary Jurisdiction (Married Women).

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## B I L L

To amend the Law relating to the Summary Jurisdiction of Magistrates in reference to Married Women.

*(Prepared and brought in by  
Mr. Byrne, Sir Richard Webster, Mr. Cozens  
Hardy, Mr. Bucknill, and Mr. Haldane.)*

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*Ordered, by The House of Commons, to be Printed,  
20 February 1895.*

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## Summary Jurisdiction (Married Women) Bill.

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### MEMORANDUM.

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The object of this Bill is to consolidate and amend two Acts mentioned in the schedule which give summary relief to married women in cases of aggravated assault by means of orders for separation, alimony, and custody of children, and in cases of desertion by means of orders for alimony.

The chief alterations in the law sought to be effected are:—

- (1.) To keep distinct the administration of civil and criminal remedies, and thereby to avoid existing anomalies and defects.
- (2.) To assimilate the extent of relief which may be given in cases of aggravated assault and desertion.
- (3.) To extend relief to cases of such persistent cruelty and neglect to maintain as force a wife to separate herself from her husband.
- (4.) To enable payments of alimony to be made in such a way as to avoid the necessity of a personal application by the wife to the husband.

A comparison of the Acts mentioned in the schedule with the Bill will show the extent of the proposed alterations in the law.

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Summary Jurisdiction (Married Women) Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Short title.
2. Application of Act.
3. Commencement of Act.
4. By and to whom orders may be applied for.
5. Powers of court.
6. Limitation of powers.
7. Court may vary or discharge order.
8. Procedure.
9. Enforcement of orders for payment of money.
10. Court may refuse orders in cases fit for High Court.
11. Appeal.
12. Repeal of Acts.

SCHEDULE.

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B I L L

TO

Amend the Law relating to the Summary Jurisdiction of Magistrates in reference to Married Women. A.D. 1895.

BE it enacted by the Queen'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 :

- 5 1. This Act may be cited for all purposes as the Summary Jurisdiction (Married Women) Act, 1895. Short title.
- 2. This Act shall not extend to Scotland or Ireland. Application of Act.
- 3. This Act shall come into operation on the *first day of January one thousand eight hundred and ninety-six.* Commencement of Act.
- 10 4. Any married woman whose husband shall have been convicted summarily of an aggravated assault upon her within the meaning of section forty-three of the Offences against the Person Act, 1861, or whose husband shall have been convicted by a court of competent jurisdiction of an assault upon her, and sentenced to pay a fine of more than *five pounds* or to a term of imprisonment exceeding *two* By and to whom orders may be applied for. 24 & 25 Vict. c. 100.
- 15 *months*, or whose husband shall have deserted her, or whose husband shall have been guilty of persistent cruelty or wilful neglect to provide reasonable maintenance for her or her infant children, and shall thereby have caused her justifiably to leave and live separately
- 20 and apart from him, may apply to any court of summary jurisdiction acting within the city, borough, petty sessional, or other division or district in which any such conviction has taken place, or in which the cause of complaint shall have wholly or partially arisen, for an order or orders under this Act.
- 25 5. The court of summary jurisdiction to which any application under this Act is made may make an order or orders containing all or any of the provisions following, viz. :— Powers of court.
- (a.) A provision that the applicant be no longer bound to cohabit with her husband (which provision while in force shall have

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the effect in all respects of a decree of judicial separation on the ground of cruelty).

(b.) A provision that the legal custody of any children of the marriage between the applicant and her husband, while under the age of *sixteen years*, be committed to the applicant. 5

(c.) A provision that the husband shall pay to the applicant personally, or for her use, to any officer of the court or third person on her behalf, such weekly sum not exceeding *two pounds* as the court shall, having regard to the means both of the husband and wife, consider reasonable. 10

(d.) A provision for payment by the applicant or the husband, or both of them, of the costs of the court and such reasonable costs of either of the parties as the court may think fit.

Limitations of powers of court.

6. No orders shall be made under this Act on the application of a married woman if it shall be proved that such married woman 15 has committed an act of adultery which has not been condoned.

Court may vary or discharge order.

7. A court of summary jurisdiction acting within the city, borough, petty sessional, or other division or district in which any order under this Act or the Acts mentioned in the schedule hereto, or either of them, has been made, may, on the application of the married woman or of her husband, and upon cause being shown upon fresh evidence to the satisfaction of the court at any time, alter, vary, or discharge any such order, and may upon any such application from time to time increase or diminish the amount of any weekly payment ordered to be made, so that the same do not 25 in any case exceed the weekly sum of *two pounds*. If any married woman upon whose application an order shall have been made under this Act or the Acts mentioned in the schedule hereto, or either of them, shall voluntarily resume cohabitation with her husband, or shall commit an act of adultery, such order shall upon 30 proof thereof be discharged.

Procedure.

8. All applications under this Act shall be made in accordance with the Summary Jurisdiction Acts, and in the case of a conviction of a husband for aggravated assault upon his wife, her application may, by leave of the court, be made by summons to be issued and 35 made returnable immediately upon such conviction.

Enforcement of orders for payment of money.

9. The payment of any sum of money directed to be paid by any order under this Act may be enforced in the same manner as the payment of money is enforced under an order of affiliation.

Court may refuse an

10. If in the opinion of a court of summary jurisdiction the 40 matters in question between the parties or any of them would be

more conveniently dealt with by the High Court, the court of summary jurisdiction may refuse to make an order under this Act, and in such case no appeal shall lie from the decision of the court of summary jurisdiction: Provided always, that the High Court or 5 a judge thereof shall have power by order in any proceeding in the High Court relating to or comprising the same subject matter as the application so refused as aforesaid, or any part thereof, to direct the court of summary jurisdiction to rehear and determine the same.

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order in cases more fit for the High Court.

11. Save as is herein-before provided, an appeal shall lie from Appeal. any order or the refusal of any order by a court of summary jurisdiction under this Act to the Probate and Admiralty Division of the High Court of Justice. Rules of court may from time to time be made regulating the practice and procedure in such appeals.

15 12. The Acts specified in the schedule to this Act are hereby repealed to the extent therein mentioned, except so far as they apply to Ireland. Repeal of Acts.

## SCHEDULE.

### ENACTMENTS REPEALED.

Year and Chapter.	Title or Short Title.	Extent of Repeal.
41 & 42 Vict. c. 19.	Matrimonial Causes Act, 1878	Section four.
49 & 50 Vict. c. 52.	Married Women Maintenance in Case of Desertion Act.	The whole Act.