The Law Commission was set up by section 1 of the Law Commissions Act 1965 for the purpose of promoting the reform of the law. The Commissioners are—

The Honourable Mr. Justice Scarman, O.B.E., *Chairman*
Mr. L. C. B. Gower, M.B.E.
Mr. Neil Lawson, Q.C.
Mr. N. S. Marsh
Mr. Andrew Martin, Q.C.

Mr. Arthur Stapleton Cotton is a special consultant to the Commission. The Secretary of the Commission is Mr. H. Boggis-Rolfe, C.B.E., and its offices are at Lacon House, Theobald's Road, London, W.C.1.

REPORT ON THE POWERS OF APPEAL COURTS TO SIT IN PRIVATE AND THE RESTRICTIONS UPON PUBLICITY IN DOMESTIC PROCEEDINGS

Cmnd. 3149

CORRECTION

Page 3—all page references to be increased by 1.

Page 6—last line of para. 5, *for* " in " *read* " on ".

Page 7—footnote 4, *for* " Infant " *read* " Infants ".

Page 8—last line but two, *for* " appears " *read* " appear "—penultimate line, *for* " interest of " *read* " interests of ".

Page 11—penultimate line, *for* " it is clear " *read* " it is not clear ".

LONDON:
Printed and published by Her Majesty's Stationery Office
1966

CONTENTS

Appendix

LAW COMMISSION

REPORT ON THE POWERS OF APPEAL COURTS TO SIT IN PRIVATE

and

THE RESTRICTIONS UPON PUBLICITY IN DOMESTIC PROCEEDINGS

Report by the Law Commission on a Reference under section 3(1)(*e*) *of the Law Commissions Act* 1965

To the Right Honourable the Lord Gardiner, Lord High Chancellor of Great Britain

MY LORD,

INTRODUCTION

As an immediate response to the recent decision in *B.* (*otherwise P.*) v. *A. G.*, now reported in [1965] 3 All E.R. 253, and [1966] 2 W.L.R. 58, the Law Commission began an investigation into whether the court should have power to sit in private when hearing an application for a legitimacy declaration. In the course of this investigation it became clear that there was a widespread feeling that it was equally urgent to consider a change in the law which would confer on the Court of Appeal the power (which it has in recent years held itself precluded under the existing law from exercising) of sitting in private, especially in custody and wardship cases. Accordingly, on 10th February 1966 you directed us to extend the inquiry " so as to include an examination of the desirability of the Court of Appeal's having the same powers to sit in private or in chambers as are enjoyed by the court from whose decision the appeal is brought " and to provide advice on the subject in pursuance of section 3(1)(*e*) of the Law Commisions Act, 1965.

2. Hence these Proposals relate primarily to two different but related topics. However, we have considered these in the broader context which we proceed to summarise, and, for reasons which will appear, have made certain recommendations which extend somewhat more widely.

THE PRESENT POSITION

Sittings in Open Court, in Camera, and in Chambers

3. Normally a judge (or magistrate) must sit in open court to which the public are admitted. Sometimes, however, he may sit in private. There are two ways in which he can do so. The first, technically known as a hearing in camera, is when the judge orders the court to be closed during the whole or part of the trial. The second is when the judge is technically not sitting in court at all but in chambers. Although he may then sit in his usual courtroom, wigs and gowns are not worn, and there is a wider right of audience, for, even in the High Court, solicitors and, with the leave of the judge, their clerks may be heard. In both cases the public are not admitted.

it was held that this practice was authorised by r. 58B of the Matrimonial Causes Rules 1957 and that the Rule was *intra vires* under the general power to delegate jurisdiction to a single judge (see paragraph 5). Analogous actions in the Chancery Division under the Inheritance (Family Provision) Act 1938 are, however, dealt with in open court unless the interests of an infant or other person under disability are affected, in which event there may be a hearing in chambers.[8]

10. Applications to a county court under Part IV of the Mental Health Act 1959 must, unless otherwise ordered, be heard and determined in chambers,[9] and applications under Part VIII of that Act are normally heard in chambers.[10]

11. Further, it is now a statutory rule that in nullity proceedings evidence on the question of sexual capacity must be heard in camera—thus overruling the actual decision in *Scott* v. *Scott*—unless the judge is satisfied that, in the interests of justice, any such evidence ought to be heard in open court.[11] This, however, is limited to evidence of sexual capacity. Hence it does not apply to evidence of attempts to have sexual intercourse in petitions for nullity based on wilful refusal to consummate the marriage. A number of Divorce Judges have drawn our attention to the acute and stultifying embarrassment frequently suffered by parties of both sexes when they are required to give evidence in open court about attempted consummation. Under the Magistrates' Courts Act 1952, the general public have no right to be present during the hearing of domestic proceedings[12] and, although the Press have a right to be present, the court may be cleared and the Press excluded during the taking of any indecent evidence if this is thought necessary in the interests of the administration of justice or of public decency.[13] However if an appeal is brought, whether to quarter sessions or the High Court, from a determination of a magistrates' court in a domestic proceeding, it seems that the protection afforded to the case as a domestic proceeding no longer attaches. The Children and Young Persons Act 1933 imposes similar restrictions on the right of the public to be present at sittings of juvenile courts[14] (except in proceedings under Part I of the Children Act 1958[15] or under Part IV of the Adoption Act 1958,[16]) and entitles the bench to clear the court (but not to exclude the Press) while children are giving evidence in cases involving conduct contrary to decency or morality.[17]

12. Section 4(2) of the Defence Contracts Act 1958 provides for the determination of certain disputes by the High Court, and by virtue of section 4(3) the court may make such orders for the exclusion of the public from proceedings under that section and for prohibiting the publication of certain information so far as disclosed or recorded in the proceedings, as appears to the court to be necessary or expedient in the public interest or in the interest of any parties to the proceedings.

---

[8] R.S.C., O. 99 r. 4.
[9] C.C.R., O. 46 r. 18.
[10] Court of Protection Rules 1959, r. 44.
[11] Matrimonial Causes Act 1965, s. 43(3).
[12] S. 57(2).
[13] S. 57(3).
[14] S. 47(2).
[15] See s. 10 of that Act.
[16] See s. 47 of that Act.
[17] S. 37.

13. The Court of Appeal has no chambers and accordingly an appeal to it from a Judge in chambers has to be heard in open court (see paragraph 19 below) unless the circumstances are such as to fall within an exception recognised by *Scott* v. *Scott, supra,* or unless there is express statutory authority to sit in camera. A similar rule presumably applies to other appeal courts which have no chambers (see paragraph 23 below).

Publication of Proceedings

14. When the trial is heard in open court it follows that the Press can be present and normally is free to publish a full report. This freedom is protected by section 3 of the Law of Libel Amendment Act 1888 and section 8 of the Defamation Act 1952, whereby a fair and accurate report in any newspaper of proceedings publicly heard before any court exercising judicial authority within the United Kingdom is immune from an action of defamation if published contemporaneously with the proceedings.[18] This protection has been extended to news broadcasts by section 9(2) of the Defamation Act 1952. It will be observed that the privilege does not extend to matters heard in camera or in chambers. Such publication is not itself contempt of court, but will be if the proceedings relate to wardship, adoption, guardianship, custody, maintenance or upbringing of, or rights of access to, an infant ; or to certain provisions of the Mental Health Act 1959 ; or if the court sits in private for reasons of national security ; or if the information relates to a secret process, etc., in issue in the proceedings ; or if " the court (having power to do so) expressly prohibits the publication of all information . . . or of information of the description which is published "[19]. And if the published information is incorrect it may be contempt and an actionable libel. But even in these cases publication of the text or summary of *an order* made in private will not of itself be contempt of court unless the court has exercised its power expressly to prohibit the publication,[20] and any person may obtain copies of such orders and of the writ or other originating process.[21]

15. There are also certain statutory restrictions on the right to publish details of judicial proceedings heard in public. The Judicial Proceedings (Regulation of Reports) Act 1926 forbids the publication in relation to any judicial proceedings of " any indecent matter or indecent medical, surgical or physiological details being matters or details the publication of which would be calculated to injure public morals ".[22] Further, in relation to any judicial proceedings for dissolution or nullity of marriage or for judicial separation or restitution of conjugal rights, no particulars may be published other than the names, addresses and occupations of the parties and witnesses ; a concise statement of the charges, defences and counter charges ; submissions and decisions on any point of law ; and the summing up of the judge, the finding of the jury, and the judgment of the court and observations made by the judge in giving judgment.[23] This prohibition does not extend to legitimacy

---

[18] As regards reports of proceedings outside the United Kingdom, see the Defamation Act 1952, s. 7 and Part I of the Schedule, and *Webb* v. *Times Publishing Co.*, [1960] 2 Q.B. 535.

[19] Administration of Justice Act 1960, s. 12.

[20] *Ibid* s. 12(2).

[21] Under R.S.C., O. 63 r. 4.

[22] S. 1(1)(*a*).

[23] S. 1(1)(*b*).

declarations. Nor does it apply to applications for periodical payments, based on wilful neglect to maintain, under section 22 of the Matrimonial Causes Act 1965. As these applications are heard in open court (although the actual quantum of the award may be settled in chambers after liability has been established) they receive none of the protection from publicity afforded to other types of application for maintenance which are normally dealt with in chambers and which in any case fall within the Act of 1926 as proceedings ancillary to those mentioned in the Act. Under section 58 of the Magistrates' Courts Act 1952 there is a similar limitation on publication of evidence in domestic proceedings (which include affiliation proceedings) in magistrates' courts, and under section 57(3),[24] press representatives are among those who may be excluded during the taking of indecent evidence. Under section 39[25] of the Children and Young Persons Act 1933, a court may direct that no newspaper report or picture or sound or television broadcast shall be published which might lead to the identification of any child or young person concerned as a party or witness in the case or in respect of whom the proceedings are taken. It seems that this applies to all civil and criminal proceedings, notwithstanding the heading to the Part of the Act in which the section appears, but this is frequently overlooked. In proceedings in juvenile courts and on any appeal therefrom any such publication is prohibited without the need for a direction to that effect.[26]

16. The Tucker Committee on Proceedings before Examining Justices[27] recommended that there should be restrictions on reporting committal proceedings. This recommendation has not yet been implemented, but it is understood that it is to be dealt with in the forthcoming Criminal Justice Bill.

Need for General Review

17. It will be observed that there are now quite extensive exceptions to the general rule that proceedings must be conducted in public and can be freely reported. The extensions since *Scott* v. *Scott, supra,* seem all to be based either upon the protection of public decency (thus reversing *Scott* v. *Scott* which held that this was not a sufficient reason for hearing a case in private) or on the need to protect infants or mental patients. But the present position can hardly be regarded as satisfactory. Although the House of Lords in *Scott* v. *Scott* stressed the paramount need to hear in public cases involving status, it is precisely in such cases that the main exceptions have been recognised. In other civil litigation there have been no extensions to the exceptions recognised in *Scott* v. *Scott,* notwithstanding that it has been repeatedly stressed that the general rule deters resort to the courts and encourages the use of arbitration instead; see, for example, the Report of the Commercial Court Users' Conference[28]. The prohibition on publishing the evidence in divorce and similar cases, though it protects the public from being titillated by morning and evening accounts of the salacious details brought out in evidence, does not prevent it from learning these details in due course if the judge thinks it necessary or desirable to review the evidence in full in his judgment

---

[24] *Supra,* paragraph 11.

[25] As amended by s. 57 of the Children and Young Persons Act 1963.

[26] *Ibid.* s. 49 as amended by s. 57 of the 1963 Act.

[27] Cmnd. 479 of 1958.

[28] Cmnd. 1616 of 1962.

20. The Evershed Committee on Supreme Court Practice and Procedure[29] considered a suggestion that, for the hearing of interlocutory appeals from a judge in chambers, the Court of Appeal should itself sit in private. They pointed out that: " It would appear logical at first sight that the business which is habitually dealt with in chambers below should be similarly dealt with in the Court of Appeal . . .", though they emphasised that " legislation would be required for such purpose, there being no ' chambers ' of the Court of Appeal and no statutory power for the Court of Appeal—as there is for the Judges of the High Court under the Judicature Act—to ' sit in chambers ' "[30]. Two arguments were put forward in support of the suggestion: reduction of costs and avoidance of " blackmailing " appeals taken for the express purpose of obtaining publicity. The Committee did not recommend the adoption of the suggestion. They said[31]: " In our view the powers conferred by *Scott* v. *Scott* are adequate to protect any litigant whose interests would be prejudiced by a hearing in public ". They did recommend, however, that " where application is made to the Court of Appeal to exercise the powers conferred by *Scott* v. *Scott* to hear an appeal in camera that application should itself be heard in camera[32] ". That recommendation has not been embodied in legislation and the practice seems to vary.[33]

21. The Evershed Committee did not consider the matter except in relation to interlocutory appeals. It is clear, however, that the Committee assumed that the Court of Appeal had power to sit in private—as it then used to—when concerned with the parental jurisdiction over infants. Specific reference was made to this in paragraph 608 of the Report: " It was pointed out that the Court of Appeal already has occasion from time to time to sit in camera, *e.g.* when dealing with any question relating to the custody of an infant." That practice has now been discontinued. The court now sits in public but the Press is requested to refrain from publishing the names of the parties and the case is reported as *Re A* or the like. Although the Press loyally comply with the request this does not necessarily prevent the parties and their children from being identified by people in their locality since the published facts will often leave no doubt who they are.

22. It would seem that the Court of Appeal has taken the view that, when matters are heard at first instance in chambers, this is not because they are matters which come within recognised exceptions to the general rule upheld in *Scott* v. *Scott*, but rather because " chambers " are a special institution distinct from open court. Since the Court of Appeal has no chambers, in an appeal to it the case has to be heard in open court unless its particular facts are such as to justify a hearing in camera because the ends of justice would otherwise be liable to be defeated. In the light of the decision in *B.* (*otherwise P.*) v. *A. G.*, *supra*, it appears that the formula is narrower than was often thought (for example by the Evershed Committee), since it is not sufficient to show that a litigant would be reasonably deterred from proceeding with the action.

---

[29] Cmd. 8878 of 1953.
[30] Paragraph 608.
[31] Paragraph 612.
[32] *Ibid.*
[33] Cf. *Re Agricultural Industries Ltd.*, *supra* and *Re Green*, *supra*.

> an order from the Master which is affirmed on appeal to the Judge in chambers. The defendant, however, obtains leave to appeal to the Court of Appeal and this involves that under the present procedure the scandalous accusations will be discussed in public. What is the plaintiff to do? If he allows the appeal to proceed, even though he wins the appeal, the damage will have been done—for the accusations will have been ventilated in public. His only alternative is to discontinue his action, thereby perhaps suffering an injustice through having to abandon a perfectly good claim."

This is an extreme example and therefore an extremely rare one; so extreme that one wonders how the defendant could succeed in obtaining leave to appeal. But the injustice is just as great where the case of the plaintiff is not so overwhelmingly strong and the conduct of the defendant not so obviously inexcusable—a much more common case. This sometimes occurs where the defendant is resisting an application for summary judgment under Order 14. In his affidavit he may make accusations reflecting on the conduct or reputation of the plaintiff. If he is refused leave to defend he has a right of appeal (without leave) from the judge in chambers to the Court of Appeal[36] and can thus ensure that his accusations are made public. This has been known to cause the plaintiff to give up.

26. In our opinion, if a litigant has legitimate grounds for bringing or defending an appeal from an interlocutory decision made in private, he should not be forced to forego his rights because he is not prepared to face a public hearing at that stage. It is the nature of the proceedings, not the elevation of the court, which should be decisive. If it is appropriate that interlocutory matters should normally be dealt with in private, there should be power to deal with them in private irrespective whether the tribunal concerned is a master, judge or the Court of Appeal. Unless there is such a power one party will be encouraged to appeal against a rejection of his scurrilous attacks on the other and that other will be discouraged from defending the appeal.

27. It appears that the Evershed Committee refrained from making a similar recommendation only because they believed that " the powers conferred by *Scott* v. *Scott* are adequate to protect any litigant whose interests would be prejudiced by a hearing in public ". But *B.* (*otherwise P.*) v. *A. G.* has now held that *Scott* v. *Scott* does not empower the court to sit in private because a litigant would be reasonably deterred from pursuing his claim if it were heard in open court.

28. We consider that the case for empowering the Court of Appeal to sit in private is even stronger in the case of appeals in non-interlocutory matters in which the court from which the appeal is brought sits in chambers or otherwise in private. This is especially so in guardianship and wardship cases, where the present practice is liable to destroy the infant's protection against publicity so carefully preserved in the court below. It seems that the Evershed Committee assumed that the Court of Appeal could sit in private—as it then did—in such cases.

---

[36] Judicature Act 1925 s. 31(2).

29. Although your reference to the Law Commission was expressed to relate to the powers of the Court of Appeal, it would obviously be undesirable if any legislation which results were to leave in doubt the powers of other appeal courts to sit in private. As pointed out in paragraph 23 above, certain courts which exercise an appellate jurisdiction (for example quarter sessions) appear to be in the same position as the Court of Appeal, while the position of others (for example Divisional Courts and the House of Lords) is obscure. Divisional Courts and quarter sessions when hearing appeals in domestic proceedings should obviously be empowered to sit in private. It is not very likely that either the Appellate Committee or the Appeal Committee of the House of Lords would often wish to sit in private but it seems to us that it should certainly be able to do so in an appeal in a custody, adoption or wardship case.

30. It is not considered that the power of the appeal court to sit in private should be solely dependent on whether the court below has sat in camera or in chambers. Nor do we think it is necessary to draw any distinction between cases where the court below was bound to sit in private and cases where it has exercised a discretion to do so. It is recommended that the appeal court should be empowered in its unfettered discretion to hear the whole or any part of the appeal in private if the court from which the appeal is brought had power to sit in private or in chambers for any part of the hearing. This would enable the appeal court to sit in private notwithstanding that the court below had not exercised its power to do so and to refrain from sitting in private notwithstanding that the court below had done so. It would also enable part only of the hearing—for example delivery of judgment—to be in open court.

31. The power to sit in private should extend not only to the hearing of the appeal itself, but also to the hearing of any application for leave to appeal. It would obviously be pointless to hear an appeal in private if all the issues had already been ventilated in public on an application for leave to appeal.

32. We also consider that, as recommended by the Evershed Committee, where application is made to hear an appeal in private, the application should itself normally be heard in private. Once again, however, it is considered that the court should have a discretion and that it should suffice if it were laid down that the application should be heard in private unless the court otherwise directs. It seems that this flexibility is needed; it might be desirable, for example, to adjourn into open court for the purpose of giving judgment on the application, as the court did in *Re Agricultural Industries Ltd., supra.*

33. It is not recommended that chambers should be created in the Court of Appeal or other courts where they do not at present exist. All that is sought to be achieved is a power to sit in private and for this purpose there is no point in creating chambers where none exist at present. Of the other distinctions between open court and chambers the only one, apart from privacy, which may be of any relevance is the slightly lesser degree of formality that prevails in chambers and the fact that solicitors have a right of audience. It is argued that this might reduce costs and it was on this ground

Present Power to Sit in Private in Legitimacy Proceedings

37. The present position relating to publicity in applications for legitimacy declarations was highlighted by the recent decision in *B.* (*otherwise P.*) v. *A.G.* to which reference has already been made. That case concerned consolidated petitions for declarations of legitimacy brought by two small children through their mother acting as next friend. At the commencement of the hearing, counsel for the children applied for the petitions to be heard in camera. Wrangham, J., in his judgment rejecting this application, stated:

> " I was told, and accept of course from counsel who appears for the infant petitioners, that their mother took the view that the public discussion of the matters which would have to be disclosed in evidence in order to support the petitions would be so harmful to the interests of the children that she would not think it right on their behalf to proceed with these petitions unless they were heard in private. . . .
>
> " It is not necessary for me either to agree or disagree with the views which the mother has expressed. It is sufficient for me to say that it seems to me to be a view that could perfectly reasonably be held upon full consideration.
>
> " The position, therefore, is that in this particular case there is ground for supposing that the litigants would be reasonably deterred from bringing their consolidated suits to a final hearing if that final hearing were not ordered to be in private. The question that arises, therefore, is whether the reasonable apprehension that they would be so deterred is sufficient justification in law for making the order that the hearing shall be held in camera ".[38]

38. Applying *Greenway* v. *A.G.* (1927) 44 T.L.R. 124, the learned Judge came to the conclusion that:

> " I have no jurisdiction, whatever my wishes might be, to order that this trial take place in camera ".[39]

The Judge, at the request of counsel, then passed on an appeal that to save the infants from harm the public should withdraw and the Press refrain from publishing anything which would enable the parties to be identified.[40] It would appear that he could have given a direction to the Press under section 39 of the Children and Young Persons Act 1933, as amended by the 1963 Act,[41] but this does not seem to have been suggested. After a short adjournment counsel stated that the mother " while never doubting the integrity of the Press, was not prepared to run the risk of the suit coming to the notice of the children involved, and was not prepared to continue ".[42] The hearing was then adjourned generally. There has been no appeal against the Judge's decision, which seems to have been inevitable in the present state of the authorities. It is understood that adoption proceedings were

---

[38] [1966] 2 W.L.R. at p. 59.
[39] *Ibid.* p. 63A.
[40] *Ibid.* at p. 63.
[41] *Supra*, paragraph 15.
[42] *The Times*, 16th June 1965.

instituted instead, thus achieving in privacy the aim of regularising the position of the children, though in a manner that could be less advantageous to them.

39. Legitimacy petitions are, no doubt, distinguishable from adoption and the other proceedings concerning children which are heard in chambers or in camera in that they do not inevitably concern infants and, even where they do, are less likely to require the infants to give evidence. Moreover while adoption proceedings are designed to conceal natural parenthood, legitimacy proceedings are designed to establish it. This affords valid reasons for not insisting that legitimacy procedings shall be in private, but does not seem a valid ground for denying the court the right to sit in private if satisfied that a hearing in public would adversely affect infants. In most respects the analogy between legitimacy and adoption proceedings is very close, for both raise the same issues of status and citizenship. Moreover, in legitimacy petitions there is an additional protection against any abuse resulting from privacy because the Attorney General has to be made a respondent.[43]

40. Legitimacy petitions are also distinguished from most other forms of relief dealt with in the Matrimonial Causes Act in that the restriction on the publication of evidence imposed by section 1(1)(*b*) of the Judicial Proceedings (Regulation of Reports) Act 1926 does not apply to them. Hence there is no legal restriction on the publication of all the details except the general prohibition in section 1(1)(*a*) of publication of indecent matter calculated to injure public morals. Protection of infants against harmful publicity is therefore dependent on the self-restraint of the public and the Press and on their response to any appeal or direction from the Bench. Although it seems that under the amended section 39 of the Children and Young Persons Act 1933 a direction to the Press can be given in legitimacy proceedings, that is so only if the children are concerned as parties or witnesses, which may or may not be the case. While judicial appeals for discretion seem generally to be effective, the layman can scarcely be blamed for not being willing to rely on this. Moreover, no judicial appeal or direction will necessarily be effective in preventing local gossip. In any case it is unsatisfactory that everything should depend on the discretion of the Press and such members of the public as happen to be present in court.

Law Commission's Proposals

A. Legitimacy Proceedings

41. It appears to us to be wrong in principle and liable to result in a denial of justice that people should be deterred from establishing their legitimacy or that of their children through a reasonable fear of the adverse effects that publicity may have on the children. Accordingly we recommend that section 39 of the Matrimonial Causes Act 1965 should be amended by conferring on the court (including the county court) a discretion to sit in private when hearing applications for legitimacy declarations. This discretionary power should be exercisable in respect of the whole or any part of the proceedings. It is not envisaged that the discretion would

---

[43] Matrimonial Causes Act 1965, s. 39(6).

APPENDIX

DRAFT CLAUSES

Power of court hearing certain appeals and applications to sit in private.

1.—(1) Where an appeal is brought against a decision of any of the courts mentioned in subsection (3) below, or an application is made for leave to appeal against a decision of any of those courts, and that court had power to sit in private during the whole or any part of the proceedings in which the decision was given, then, subject to subsection (2) below, the court hearing the appeal or application shall have power to sit in private during the whole or any part of the proceedings on the appeal or application.

(2) Where the decision of any of the courts mentioned in subsection (3) below against which an appeal is brought—

(*a*) is a conviction, or a sentence or other order made on conviction, or

(*b*) was given in the exercise of jurisdiction to punish for contempt of court,

the court hearing the appeal or any further appeal arising out of the same proceedings shall, notwithstanding that it sat in private during the whole or any part of the proceedings on the appeal, state in open court the order made by it on the appeal.

(3) The courts referred to in subsections (1) and (2) above are the Court of Appeal, the High Court, the Chancery Court of a County Palatine, the Crown Court at Liverpool, the Crown Court at Manchester, a court of quarter sessions, a county court and a magistrates' court.

(4) An application to a court to sit in private during the whole or any part of the proceedings on such an appeal or application as is mentioned in subsection (1) above shall be heard in private unless the court otherwise directs.

(5) The powers conferred on a court by this section shall be in addition to any other power of the court to sit in private.

(6) In this section references to a power to sit in private are references to a power to sit in camera or in chambers, but the power conferred by this section on a court which has no power to sit in chambers is a power to sit in camera only.

(7) In this section " appeal " includes appeal by case stated, and references to a court include references to a judge exercising the powers of a court.

Restriction of publicity for legitimacy proceedings, etc. and certain proceedings by a wife for maintenance.

2.—(1) The following provisions of this section shall have effect with a view to preventing or restricting publicity for—

(*a*) proceedings under section 39 of the Matrimonial Causes Act 1965 (which relates to declarations of legitimacy and the like), including any proceedings begun before the commencement of that Act and carried on under that section ; and

(*b*) proceedings under section 22 of that Act (which relates to proceedings by a wife against her husband for maintenance), including any proceedings begun before the said commencement and carried on under that section and any proceedings for the discharge or variation of an order made or deemed to have been made under that section or for the temporary suspension of any provision of any such order or the revival of the operation of any provision so suspended.

(2) At the end of the said section 39 there shall be added the following subsection:—

> "(9) The court (including a county court) by which any proceedings under this section are heard may direct that the whole or any part of the proceedings shall be heard in camera, and an application for a direction under this subsection shall be heard in camera unless the court otherwise directs."

(3) Section 1(1)(*b*) of the Judicial Proceedings (Regulation of Reports) Act 1926 (which restricts the reporting of matrimonial causes) shall extend to any such proceedings as are mentioned in subsection (1) above subject, in the case of the proceedings mentioned in subsection (1)(*a*) above, to the modification that the matters allowed to be printed or published by virtue of sub-paragraph (ii) of the said section 1(1)(*b*) shall be particulars of the declaration sought by a petition (instead of a concise statement of the charges, defences and countercharges in support of which evidence has been given).

(31384) Dd. 126843 K20 11/66 St.S.

Printed and published by
HER MAJESTY'S STATIONERY OFFICE

To be purchased from
49 High Holborn, London W.C.1
423 Oxford Street, London W.1
13A Castle Street, Edinburgh 2
109 St. Mary Street, Cardiff
Brazennose Street, Manchester 2
50 Fairfax Street, Bristol 1
35 Smallbrook, Ringway, Birmingham 5
80 Chichester Street, Belfast 1
or through any bookseller

Printed in England