

# Supplementary Order Paper

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## HOUSE OF REPRESENTATIVES

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Friday, the 29th Day of November 1968

### MATRIMONIAL PROPERTY AMENDMENT BILL

#### *Further Proposed Amendment*

Hon. Mr HANAN, in Committee, to move the following further amendment:

*New clause 1A:* To insert, after clause 1, the following new clause:

**1A. Jurisdiction of Magistrate's Court**—Section 5 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) A Magistrate's Court may exercise jurisdiction under this section where the value of the property in dispute is not more than fourteen thousand dollars in the case of an estate or interest in land or of a matrimonial home and not more than five thousand dollars in the case of any other property:

“Provided that a Magistrate's Court may make an order under this section granting to the husband or wife the right to occupy the matrimonial home or to possession of the furniture therein irrespective of the value thereof.”

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#### EXPLANATORY NOTE

Section 6 (4) of the principal Act declares that a Magistrate's Court may exercise jurisdiction under that section where the value of the property in dispute is within the jurisdiction of that Court, but the Court may make an order granting to the husband or wife the right to occupy the matrimonial home irrespective of the value thereof.

Under the Magistrate's Courts Act 1948, the Court's jurisdiction varies according to the type of the proceedings, and doubts have arisen as to the meaning of the phrase “within the limits of the jurisdiction of that Court” appearing in section 6 (4) of the principal Act. This clause provides that a Magistrate's Court will have jurisdiction where the value of the property in dispute does not exceed \$14,000 in the case of an estate or interest in land or of a matrimonial home or \$5,000 in the case of other property. The existing provision that the Court may make an order granting the right to occupy the matrimonial home irrespective of its value is retained and is extended to orders granting possession of the furniture in the matrimonial home.

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