upon the English Statute of 1857. Several of the private Bills which have been referred to your Committee propose their inclusion as such a ground, as have several witnesses, including the Canadian Bar Association. Most proposals for the inclusion of these grounds generally include them under the heading of adultery, and ineed this is logical, because they are clearly a rejection of the sexual commitment by one marriage partner toward the other. It is perhaps arguable that they are included in the meaning of adultery itself but the courts may not be prepared to accept this interpretation. The Barristers' Society of New Brunswick following the practice of the State of New York, suggested a definition of adultery for inclusion in a statute which encompasses these offences within the same general category:

> "The commission of an act of sexual or deviate sexual intercourse voluntarily performed by the defendant after marriage with a person other than the plaintiff (Petitioner) or with an animal."

This definition would also have the advantage of putting both sexes upon an equal footing.

While a statutory definition is unnecessary and undesirable, your Committee is of the opinion that these marital offences should be included as grounds for the dissolution of marriage.

3. *Cruelty*

The real defect of the matrimonial offence theory as now in practice in Canada seems to be not its existence but that the offences recognized as grounds for divorce are inadequate. The concept of what is to be expected from and endured in marriage changes with the times. There is more to modern marriage than merely abiding by a standard of sexual fidelity. The obligation of husband and wife to love and cherish one another, as expressed in the marriage ceremony, should be observed by each of the parties and should be recognized in law. Cruelty by one spouse toward the other is a violation of this elementary undertaking. It threatens the life and health of the injured spouse and is detrimental to the children. Cruelty may create intolerable conditions in the home, intense suffering both physical and mental to the offended spouse and an unhealthy environment for the children. Nova Scotia alone of the Canadian provinces recognizes the right of a spouse to petition for divorce on the ground of cruelty. Other Canadians require a similar right.

Cruelty is now recognized in all but one province of Canada as ground for judicial separation. Cruel conduct is considered in all these provinces as sufficient ground for divorce *a mensa et thoro*, which is, in more modern terms, judicial separation, and which terminates cohabitation thus destroying the essentials of the marriage. Yet it is in Nova Scotia only that cruelty is recognized as a ground for the complete dissolution of marriage.

Canadian divorce law has not changed with the times. Society now believes that cruelty is sufficient ground for the dissolution of a marriage. Husbands are no longer thought to own their wives nor to possess the right to beat and ill use them. Nor does modern society tolerate brutality on the part of the wife.

Witnesses appearing before your Committee were of the opinion that cruelty in order to constitute grounds for divorce should be of a substantial character. The Canadian Bar Association suggests that cruelty must be conduct such as to