

## CRUELTY

Cruelty by one spouse towards another is a violation of the marriage undertaking. Cruel conduct on the part of one spouse may create intolerable conditions in the home that are highly detrimental to the children and dangerous to the life and health of the victim spouse.

Cruelty is so abhorrent in the matrimonial relationship that it has been made a ground for the dissolution of marriage in most civilized countries, including England, Australia and the States to our south.

Cruel conduct in order to constitute grounds for divorce should of course be of substantial character, and, for the determination of this, reliance may be placed upon the wisdom and good sense of Canadian judges, guided as they are by decisions made in our own country in actions for judicial separation and for both judicial separation and divorce in Nova Scotia, and elsewhere in the divorce practice of the United Kingdom, and Australia. Some witnesses before the committee expressed concern lest trivial actions be included as cruelty, but the jurisprudence developed in the experienced tribunals mentioned would be considered by the Canadian Bench as authoritative and would be followed, without the need of a detailed definition of the offence. In fact, a comprehensive and satisfactory definition of marital cruelty is not possible, nor is it desirable for the good reason that acceptable conduct within the home differs from time to time and from place to place and among differing classes in society. On the other hand, a competent judge has no difficulty in recognizing cruelty for what it is when the circumstances are before him.

## RECOMMENDATION

Your Committee, therefore, recommends that cruelty be made a ground for the dissolution of marriage, and that for the present at least, this ground should be undefined and its administration be left to the learning, good sense, responsibility and wisdom of Canadian judges, guided as they are by the jurisprudence of our own courts and those of England.

## DESERTION

Desertion is a marital offence which is much too common in Canada and when the husband is the deserter it is usually a cruel disaster to the wife and family and, as well, an injustice to the community. Marriage creates a duality of responsibility. The husband is normally the breadwinner while the wife takes care of the children and the home, and acting together they supply the essentials of fatherly guidance and motherly love, the essential elements of a home.

When a wife deserts, the husband is left without the comforts and supports of married life and the children are forsaken. Desertion by the husband can be even more cruel for it leaves the home without the guidance and discipline which a father can supply and often without the financial support essential to the household.

In Canada, many thousands of wives have been left by their husbands in lonely neglect to bear the burden of their own support and that of the children, and many deserted wives are struggling heroically to maintain as well as to care for their family households and to feed, clothe and educate their children.

Family Courts in some of the provinces make a real effort to enforce maintenance orders, but deserting husbands are frequently difficult to locate