The case law in England has been fully dealt with in Rayden's *Practice and Law of Divorce,* in its Ninth Edition published in London by Butterworths, 1964. I think it is pretty well up to date. This is the source of what I am now saying.

"Legal cruelty" has been broadly defined in England as conduct of such character as to have caused danger to life, limb or health (bodily or mental), or as to give rise to reasonable apprehension of such danger. Where conduct over a period of years is relied on, it is very difficult to prove to the satisfaction of the court that there was reasonable apprehension of danger to health where actual injury is not proved. The fact that a marriage has broken down is not of itself a sufficient reason for a finding of cruelty. Deliberately inducing a belief in an adulterous situation may constitute cruelty where there is injury, actual or apprehended, to the other spouse's health; and wilful neglect to maintain, wilful refusal to maintain, may constitute cruelty or an act of cruelty in a series of such acts sufficient to justify a finding of cruelty. See, inter alia, *Russell* v *Russell,* (1897) A.C. 395, 467; *Jamieson* v *Jamieson,* (1952) A.C. 525, 544; *Simpson* v *Simpson,* (1951) p. 320, 328; *Gollins* v *Gollins,* (1963) 2 All E.R., 966; *Williams* v *Williams,* (1963) 2 All E.R., 994. (*Gollins* v *Gollins,* read with *Williams v Williams,* has been said to be "the most important decision on cruelty in modern times".)

To find cruelty it is not necessary to show actual physical violence. The general rule in all questions of cruelty is that all of the matrimonial relations between the spouses must be considered, specially when the alleged cruelty consists not of violent acts but of persistent and injurious reproaches, complaints, accusations, taunts, or "nagging". The knowledge and intention of the respondent, the nature of his or her conduct, and the character and physical and mental weaknesses of the spouses, must all be fully considered. It has been said that the divorce acts were not intended to punish but "to afford a practical alleviation of intolerable situations with as little hardship as may be against the party against whom relief is sought". See, inter alia, *King* v *King,* (1953) A.C. 124, 129, and the leading cases cited under the preceding paragraph.

Senator CROLL: What is the year of that decision—*Gollins* v *Gollins*?

Mr. HOPKINS: 1963.

Senator BURCHILL: Is the phrase "mental cruelty" used there at all?

Mr. HOPKINS: The way they treat that is that, unless it results in physical or mental deterioration in the person by whom the cruelty is alleged, it is not cruelty.

The CO-CHAIRMAN (*Senator Roebuck*): By the victim?

Mr. HOPKINS: In *Gollins v Gollins,* to which I have already referred as a very recent leading case—and, if I may say so, a sensible sort of case—the House of Lords held that an actual or presumed intention to hurt is not a necessary element in cruelty, the real test being actual or probable injury to life, limb or health. Lord Pearce in that case stated that when reprehensible conduct or departure from the normal standards of conjugal kindness caused injury to health or an apprehension of it, it was cruelty if a reasonable person, after taking account of the temperament of the parties and all the other particular circumstances, would consider that the conduct complained of was such that "this spouse should not be called on to endure it".

It is pretty hard to go much further than that.

Senator BURCHILL: That is pretty wide.

Mr. HOPKINS: It is a question of fact in each case whether the conduct of this man or this woman, or vice versa, is cruelty.

It has been held that a single act of violence might be so grievous as to constitute cruelty of itself, but that this is seldom the case. However, a single blow followed by minor injurious acts may be sufficient. Cruelty may well