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Emergency Laws

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statutory grounds of cruelty, drunkenness and desertion. Proof of specific acts, which is elemental in the remedial law of the statutory grounds is still a part of the adjective law where incompatibility is clearly distinguished. But acts which are not potent enough in a strict interpretation of the ground of cruelty to warrant a decree are sufficient where the courts recognize incompatibility. Under the liberal construction of the statutory grounds, indignities, continued frictions—mere inability to get along with each other—is defined as a form of cruelty. Under a statutory ground of incompatibility the adjective law would be as materially changed as the substantive law. That is, proof more definite than of a temperamental incapacity to live peaceably together would be unnecessary.

"Whatever the ground claimed by the libellant, whether it is habitual drunkenness, desertion, adultery, or cruel and inhuman treatment, there must originally have been some incompatibility between the spouses to give cause for the action or reason for suspicion. And the legal dissolution of a marriage on account of incompatibility certainly makes a more wholesome impression on the minds of the children than a public finding that father is an adulterer or mother is an adultress, or have been guilty of cruel and inhuman treatment, endangering the lives of members of the family. For the sake of innocent children, such facts should be left for the clandestine findings of those who make the wagging of tongues one of their daily tasks."

NORTH DAKOTA DECISIONS

State v. Berenson. (Filed April 9th, 1935): Held, among other things, that evidence of independent collateral crimes is not admissible in a criminal prosecution merely to prove the depravity of a defendant or his criminal disposition. But if evidence otherwise relevant is offered the fact that incidentally it tends to establish collateral matters or to prove collateral crimes does not render it inadmissible. (Opinion by Nuessle, J.)

Crabtree v. Kelly et al. (Filed April 9th, 1935.): Held, that it is not error on the part of the lower court to refuse to charge the executor with interest upon a deposit under the facts in the case and where it does not appear that the executor received interest. (Opinion by Morris, J.)

Burns v. Northwestern National Bank of Minneapolis. (Filed April 9th, 1935): Held, (1) Under Title 12, USCA, Section 94, the Courts of North Dakota have no jurisdiction to entertain a suit in a transitory action against a national bank located in another state.

(2) Under the facts in this case it is held, that the defendant by answering and trying the case on the merits, did not waive its objections to the jurisdiction of the court made by motion to vacate service of summons and to dismiss action. (Opinion by Morris, J.)

THE EMERGENCY LAWS

The secretary has received a number of letters from members of the Association who express their approval of the publication, through a Bismarck newspaper, of some of the emergency measures adopted by the 1935 Legislative Assembly. In each case such letters of commendation have been accompanied by a contribution of fifty cents to assist in defraying the expense of printing and mailing. However, above ninety-five per cent of the members have not as yet given us credit for the enterprise nor cash for the expense thereof.