

1984 September 3

[A LOIZOU, J.]

KYRIAKOS ANDREOU,

Petitioner,

v.

JAROSLAVA ANDREAOVA,

Respondent

(*Matrimonial Petition No 14/84*),

*Matrimonial Causes—Divorce—Cruelty—Legal cruelty—Meaning—
Drunkenness—When does it amount to cruelty.*

This was a husband's petition for divorce on the ground of the wife's cruelty. At some stage of the marital life the respondent started drinking and misbehaving towards her husband. Her behaviour included at times assaults against the person of the petitioner and her drunkenness persisted in spite of the suffering it caused to the petitioner and after making it known to her that her conduct on account of her drunkenness was injuring his health

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Held, that legal cruelty consists of conduct of such a character as to have caused danger to life, limb or health, bodily or mental, or as to give rise to a reasonable apprehension of such danger, that though drunkenness as such does not amount to cruelty persistence in drunkenness after learning that such conduct is injuring the other spouse's health may amount to cruelty, that, furthermore, the spouse is entitled to the protection of the Court against acts of cruelty committed by the other spouse that suffered from the acts of drunkenness, that these principles are satisfied by the facts of this case; and that, accordingly, a decree of divorce nisi will be granted on the ground of cruelty.

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Decree nisi granted.

cases referred to:

Charalambous v. Charalambous (1968) 1 C.L.R. 347;

Joseph v. Joseph (1982) 1 C L R. 95;

Skoullou v. Skoullou (1983) 1 C.L.R. 95.

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Matrimonial Petition.

Husband's petition for divorce on the ground of cruelty.

D. Koutras, for the petitioner.

Respondent absent.

- 5 A. LOIZOU J. gave the following judgment. This is a husband's petition for divorce on the ground of cruelty by the respondent/wife, who though duly served failed to enter an appearance or contest the proceedings.

- 10 The parties were married on the 12th June, 1976 at the Regional National Council in Brno in Czechoslovakia. After a two weeks stay in that town they moved to Zambia where they stayed until November 1977, when they came and settled in Cyprus. Out of this marriage they had two children, namely Kyriaki and Loucas.

- 15 At some stage of their marital life and in fact when they were in Zambia the respondent/wife started drinking and misbehaving towards her husband. Her behaviour included at times assaults against the person of the petitioner and her drunkenness persisted in spite of the suffering it caused to the petitioner and
20 after making it known to her that her conduct on account of her drunkenness was injuring his health.

- I shall not enter into the details of the conduct of the respondent resulting from her drunkenness. For the purposes of this judgment I need only say that on the totality of the
25 evidence adduced, which consists of that of the petitioner and two other witnesses, I am satisfied that a case of cruelty has been established.

- Legal cruelty has been dealt with in a number of cases and I need not refer to them in extenso. It is enough to say that
30 it consists of conduct of such a character as to have caused danger to life, limb or health, bodily or mental, or as to give rise to a reasonable apprehension of such danger. (See *Charalambous v. Charalambous* (1968) 1 C.L.R. p. 347; *Joseph v. Joseph* (1982) 1 C.L.R. 95; and *Skoullou v. Skoullou* (1983)
35 1 C.L.R. p. 865 and the other cases therein referred to). In particular as regards drunkenness and when it amounts to legal cruelty the principles involved as summed up in *Rayden on*

Divorce 8th Edition p. 135. They in effect are that drunkenness as such does not amount to cruelty but persistence in drunkenness after learning that such conduct is injuring the other spouse's health may amount to cruelty. Furthermore the spouse is entitled to the protection of the Court against acts of cruelty committed by the other spouse that suffered from the act of drunkenness. 5

These principles are indeed satisfied by the facts of this case, hence I grant to the petitioner husband a decree of divorce nisi against the respondent-wife, on the ground of cruelty. 10
There will be, however, no order as to costs as none are claimed.

Arrangements as regards the custody of the children and heir maintenance will be considered at the appropriate stage.

Decree nisi granted.
No order as to costs. 15