COMMENT

LEGAL PROBLEMS OF ELECTRONIC INFORMATION STORAGE

By F. M. AUBURN*

In the last five years much attention has been paid throughout the world to the legal problems connected with the large-scale utilisation of electronic data processing, and the matter has even reached the United Nations.[1] The resultant debate has often yielded more heat than light. On the one hand there is a fear of computers and their operators among the general public which is frequently reflected in newspaper articles.[2] On the other hand, it is argued that consideration of computerised information systems has no relevance in any discussion of privacy as 'invasions of privacy are the result of misuses of the data retrieved and not a function of the storage medium'.[3] In this survey it will be suggested that the better view lies somewhere between the two extremes and that legal problems arising from the misuse of computers cannot be separated from the wider problems of the right to privacy.

The question whether a general right of privacy exists at common law is not settled. Despite assertions that there is no general right of privacy recognised by the common law,[4] and the possibility that Canadian common law jurisdictions might recognise a general right of privacy apart from statute,[5] it is generally accepted that no English court has given a remedy for invading the privacy of an individual *per se*, apart from his occupancy of land or his possession of property.[6]

On the other hand, indirect protection is afforded by various heads of action in tort. But such actions are generally limited. For instance, trespass usually demands some physical interference which may be absent in cases of abuse of confidentiality of computerised data. Defamation is only of limited utility.[7] Similar limitations appear in attempts to use other torts for the indirect safeguarding of privacy. In United States jurisdictions a right to privacy has been developed from the

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1 Report of the Secretary-General, 'Human Rights and Scientific and Technological Developments', E./C.N.4/1028/Add. 3, 4 Mar. 1970.

2 'Are computer-programmers human beings? ... will the computer disciples consistently use their special powers for the good of mankind? Or will they launch into a course of tyranny?' N.Z. *Truth*, 15 Sept. 1970.

3 T. J. Vander Noot, 'The Computer and Privacy: No relationship' Conference on Computers: Privacy and Freedom of Information, Queen's University, 21-24 May 1970.

4 Per Evatt J., *Victoria Park Racing and Recreation Co. Ltd.* v. *Taylor* (1937) 58 C.L.R. 479, 521.

5 *Krouse* v. *Chrysler Canada Ltd.* (1970) 12 D.L.R. 463.

6 D. A. Cornfield, 'The Right to Privacy in Canada', (1967) 25 *Univ. of Toronto Law Rev.* 103, 108.

7 *Justice, Privacy and the Law* (1970) at p. 11.

argument of Warren and Brandeis.[8] This right was in part based upon the English common law, and particular emphasis was placed upon the well-known case of *Prince Albert* v. *Strange*,[9] in which Lord Cottenham L.C. specifically stated that privacy was the right invaded.[10] Whilst Warren and Brandeis regarded this case as a recognition of a more liberal doctrine than the protection of property,[11] it has also been argued that the decision of the court was based primarily on the plaintiff's proprietary rights.[12]

Even if the American concept of a general right of privacy is viewed as superior to the present English and New Zealand approach,[13] the problems set by electronic data processing are not solved. If there is a general right of privacy we are still no nearer to a definition of the circumstances in which it is applicable to computers.

A possible approach to the definition of a duty of confidentiality of some particularity is to be found in *Furniss* v. *Fitchett*.[14] Dr. Fitchett, the regular medical attendant of Mr. and Mrs. Furniss, gave Mr. Furniss a letter concerning his wife's health which was later produced in court by Mr. Furniss' solicitor. Mrs. Furniss sued Dr. Fitchett on two causes of action. Her claim for libel was abandoned, the court holding that the defence of justification was bound to succeed. The second cause of action could, the court held, have been grounded in contract[15] on an implied term of confidentiality, but was actually pursued in tort.

The certificate was not deliberately false, incorrect or untrue. Dr. Fitchett's negligence lay in the manner in which he released the report and in not foreseeing that at some stage Mrs. Furniss could be confronted with it in circumstances which might injure her.[16] Here there was physical injury by shock bringing this novel situation within the rule in *Donoghue* v. *Stevenson*.[17] Liability was incurred for a negligent act, not for a negligent use of words.[18] But the distinction between words and conduct in such cases is often a fine one.[19] Moreover, liability arose from the manner of communication not from the fact of communication.[20]

It would therefore appear that there are some privacy safeguards at common law in regard to the medical use of confidential information about clients, and that these would apply where the information was computerised. In an appropriate case it also might be possible to invoke

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8 Warren and Brandeis, 'The Right to Privacy', (1890) 4 *H.L.R.* 193.
9 (1849) 1 Mac. & G. 25.
10 *Ibid.*, 47.
11 *Supra.*, n. 8, at p. 204.
12 B. Neill, 'The Protection of Privacy', (1962) 25 *M.L.R.* 393, 395.
13 For a possible contrary view, see E. H. Flitton and G. Palmer, 'The Right to Privacy: A Comparison of New Zealand and American Law', (1968) 3 (4) *Recent Law* 86, 97.
14 [1958] N.Z.L.R. 396.
15 At p. 400.
16 At p. 401.
17 [1932] A.C. 562.
18 Stevens, *Negligent Statements causing financial loss* (1970) at p. 48.
19 J.F.B., '*Hedley Byrne* and Financial Loss' (1971) *N.Z.L.J.* 55.
20 B. D. Inglis, '*Furniss* v. *Fitchett*: A Footnote' (1958) *N.Z.L.J.* 235.

the sanctions of the Medical Practitioners Act 1968 ranging from a fine up to $200 for professional misconduct,[21] to removal of the offender's name from the register for disgraceful conduct in a professional respect.[22] Some indication of the content of such offences may be gained from the very strict duty of confidentiality enjoined upon practitioners by their code of ethics. Such penalties could only be applied to a medical practitioner, and would therefore not be applicable to persons such as programmers and other employees of computer service firms. On the other hand it is arguable that a medical practitioner could be held responsible for the unauthorised divulgence of such information by other persons if he should have foreseen such a possibility. The particular duties of medical practitioners appear to be capable of stringent definition from the point of view of civil liability[23] and disciplinary sanctions.[24] Computerisation of patients' medical records, as suggested in New Zealand,[25] therefore demands not only protection of the patient's privacy[26] but also clarification of the medical practitioner's liability.

Whilst the duty of a medical practitioner in relation to computer privacy may well be adequate, the same cannot be said in regard to hospitals. By section 62 of the Hospitals Act 1957 (N.Z.) no person employed by a hospital board shall give a person not so employed any information concerning the condition or treatment of any patient in any institution without the prior consent of the patient or his representative. But nothing in the section applies to information connected with further treatment or required in the course of official duties by officers of the Health, Justice, Social Security, Transport, Defence or Police Departments or any officer of Her Majesty's forces. Nor does the section affect information required pursuant to any Act or needed for health statistical purposes or required by persons prescribed by the Minister. Whilst the intent of these exceptions is clearly to enable such disclosure, it is not clear whether this intent is carried out. It is stated that 'nothing in this section shall apply with respect to'[27] the exceptions. In other words the section does not, *prima facie*, affect the medical practitioner's duties of confidentiality previously described. Clearly this will raise serious problems if patients' records are computerised and are thus easily accessible to (for instance) the government departments or the persons named by the Minister under s.62 (2) (h). Similar problems could well arise from the requirement of compulsory reporting by medical practitioners of deaths during and shortly after termination of pregnancy.[28]

The provisions of the Statistics Act, 1955 are not, it is submitted,

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21 S. 43 (2) (a).
22 S. 58 (2) (a).
23 Cf. also, *Wyatt* v. *Wilson* (unreported) cited in *Prince Albert* v. *Strange*, *supra*. n. 9 at p. 46.
24 For other aspects of medical computing liability see R. N. Freed, 'Legal Aspects of Computer Use in Medicine', (1967) 32 *Law and Contemporary Problems*, 674.
25 *Supra*.
26 *Ibid*., p. 307.
27 S. 62 (2).
28 Maternal Mortality Research Act 1968, S. 9.

suited to the current computerised census. Information furnished under the provisions of the Act shall be used for statistical purposes only.[29] There is no definition of 'statistical purposes' and therefore no inherent limitation of use of information only for purposes not requiring individual identification. 'A person working under arrangements with the Department' may be permitted to see individual schedules.[30] The central privacy provisions[31] forbid separate publication or communication of individual answers or parts of completed schedules to other Departments of State without prior written consent of the individual concerned.[32] In the computer context it is not clear what may be meant by 'communication'. Does this only cover the actual handing over of print-outs? Legal safeguards which may have been adequate in 1955 do not appear to be so today.

An area of business which is suitable for computerisation is credit reporting, and this has taken place in the United States.[33] Credit reporting has been the subject of recent study in Canada[34] and some disturbing reports have appeared. In Ontario a case arose in which a man could not obtain work due to an unspecified charge of loose morals. He was unable to get the reporting company to show him the file which any subscribing firm could see for about $25 a time nor did he have any means of compelling removal of the information.[35] Again, a professional man in Winnipeg purchased a car and decided to pay the balance by instalments. Shortly afterwards he learnt that a 19 year-old girl had been asking personal questions about him in the neighbourhood.[36]

The Legal Research Institute of the University of Manitoba has investigated the problem and recommended licensing legislation, prohibiting non-disclosure of the agency's identity and obliging credit agencies to furnish copies of reports to the individual reported on.[37] The Associated Credit Bureaus of Canada have published a policy statement to the effect that information on the file will be disclosed to the consumer, no reference is to be made to race, religion, political affiliation or personality, and judgments will only be reported for seven years.[38] Most Canadian credit organisations consider that computerisation of credit reporting is inevitable.[39] Two Bills have been introduced into Canadian provincial legislatures to regulate credit reporting. One Bill provides, *inter alia*, for licensing by a Registrar of Credit Reporting Agencies and

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29 S. 18 (1).
30 S. 18 (2).
31 Not applicable to persons under S. 18 (2).
32 S. 18 (3).
33 See Miller, *supra* n. 35, at pages 1140-1154.
34 J. M. Sharp, *Credit Reporting and Privacy* (1970).
35 Hon. A. Mackling, Q.C., Attorney-General, Manitoba, Debates of Legislature of Manitoba, 24 June 1970, 3170, 3172, quoting C. Tower, 'The Credit-Spy can ruin you. He knows — and tells', *Maclean's Magazine*, Mar. 1970.
36 R. McKeown, 'Your private life is public knowledge', *Montreal Star Weekend Magazine*, 22 Nov. 1969.
37 R. D. Gibson and J. M. Sharp, *Privacy and Commercial Reporting Agencies* (1968) at p. 31.
38 M. T. Pearson, 'Data Banks for Credit Bureaus', in Conference, n. 3 *supra*.
39 *Ibid.*

for penalties up to $25,000 for contraventions.[40] The second Bill has no such registration provisions and has a maximum penalty of $2,500.[41] The Ontario Bill specified the information which may be collected or stored by an agency.[42] The Manitoba Bill does not do this but forbids personal reports containing specified information such as reference to race, religion, ethnic origin or political affiliation unless voluntarily supplied by the subject.[43] Both Bills will demand careful study when such legislation is contemplated in New Zealand, but it may be suggested that neither deals with computerised file problems.

A central concept in the functioning of nationwide computer databanks is a unique identifying system or number. Such a databank may also function by record linkage without a unique identifying system but record linkage is far from perfect and presents many difficulties. On 1 January 1973, 'several years ahead of Orwellian projection', every West German citizen will have a twelve-digit number as the government's registration system is being computerised.[44] The West German Interior Ministry asserted that there was no desire to encroach upon privacy.[45] The Japanese Administrative Management Agency hopes to have a national identity number in 1972.[46] A government inter-departmental committee is discussing the question in the United Kingdom.[47] The possibility of an E.E.C. uniform computer-supported identification system has already been mooted.[48] Such a number would permit the free exchange of information between government departments and to commercial undertakings. The most rigorous presently known technological safeguards would be quite insufficient to prevent abuse.

It has been pointed out that the existing law relating to privacy was fragmentary and ineffective before the advent of computers. It is suggested that attention could be given to the Privacy and Computers Task Force established by the Canadian Departments of Communications and Justice, constituted of officers of the Departments and fifteen consultants. The Task Force is undertaking a multi-disciplinary study of the whole problem including *inter alia*, study of present and future computer systems, statistical databanks, security procedures, legal remedies, administrative and regulatory measures, self-regulatory provisions and constitutional considerations.[49] It is submitted that such a comprehensive investigation is needed before embarking upon the drafting of Bills, Codes of Ethics and administrative procedures. Numerous Computer

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40 The Consumer Credit Reporting Bill 1971, Ontario.
41 The Personal Investigations Bill 1971, Manitoba.
42 S. 21, n. 40, *supra*.
43 S. 4, n. 41, *supra*.
44 'Just Call Him 181213 312345', *Time*, 12 July 1971.
45 'Germans to get Identity Numbers', *The Bulletin*, 13 July 1971.
46 'Numbers game in Japanese Bureaucracy', *Auckland Star*, 22 Apr. 1971.
47 British Medical Association, Planning Unit Report No. 3, 'Computers in Medicine', p. 32.
48 'Common Market and Uncommon Privacy', *New Scientist and Science Journal*, 11 Mar. 1971, at p. 529.
49 A. E. Gottlieb, Symposium on Computers and Privacy, University of Toronto, June 1971.

Privacy Bills have been drafted,[50] but there is not yet, in New Zealand or elsewhere, a comprehensive review of the present and future impact of electronic data processing on society. Such a review is a prerequisite to legislative and administrative action affecting a vital and rapidly growing industry which impinges upon every aspect of the citizen's life.

EXCEPTIONAL HARDSHIP AND RECONCILIATION REVISITED

by FRANK BATES*

It is provided by s.43 of the Commonwealth Matrimonial Causes Act 1959-1966 that proceedings for dissolution of marriage, except in cases of petitions brought under subsections (a), (c) and (e) of s.28,[1] shall not be instituted within three years after the date of marriage except by leave of the Court. Section 43 goes on to provide,

> (3) The Court shall not grant leave under this section to institute proceedings except on the ground that to refuse to grant that leave would impose exceptional hardship on the applicant or that the case is one involving exceptional depravity on the part of the other party to the marriage.
>
> (4) In determining an application for leave to institute proceedings under this section the court shall have regard to the interests of any children of the marriage and to the question of whether there is any reasonable probability of a reconciliation between the parties before the expiration of the period of three years after the date of the marriage.

The relationship between subsection 4 and the remainder of s.43 has been of a difference of judicial opinion, and it is the purpose of this note to examine the relevant decisions in the light of the aims and effects of s.43 as a whole.

The aim of s.43 is clear. It is, as Barry J. said in *Hickson* v. *Hickson*[2] '... designed to prevent the premature filing of petitions, and one of its objects is to ensure that a reasonable trial shall be given to marriage so far as that can be achieved by enforced duration'. At the same time it seems to the present writer that enforced duration is unlikely to contribute to the success, rather than the mere subsistence, of the marriage. Furthermore, it is suggested that s.43 ought to be interpreted as a discouragement to obviously unreasonably precipitate petitions rather than as an irrational and artificial protection for the collapsed marriage. It is the failure of a number of the judiciary to take this factor adequately into account which has been the cause of most of the problems which surround s.43.

In *Osborn* v. *Osborn*,[3] the wife had made an application under s.43

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50 See, for instance, Personal Records (Computers) Bill (1969) (H.L.).

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1 Adultery, wilful refusal to consummate, and rape, sodomy or bestiality.

2 (1961) 2 F.L.R. 123 at p. 125.

3 (1961) 2 F.L.R. 29.

on the grounds of her husband's desertion. Her affidavit in support disclosed that, during the seven months between the marriage and the desertion, the husband had gambled and failed to provide the wife with support and proper accommodation and that finally he had asked her to leave. The hardship alleged was that she had found difficulty in explaining her marital status to her friends. Not altogether surprisingly, the Full Court of the Supreme Court of New South Wales refused the wife's application on the grounds that she had failed to show either exceptional hardship to herself or exceptional depravity on the part of the husband. It was argued on behalf of the applicant, first, that regard must be had to the policy of the Matrimonial Causes Act as a whole, which greatly emphasised the idea of reconciliation; secondly, that the similarity of the English legislation[4] necessitated a consideration of English authorities. The Court, in a joint judgment, disposed of this latter suggestion by pointing out the differences in the legislation. In the English Act, they stated,[5] the only grounds on which leave to petition had to be sought, apart from cruelty, were adultery, rape, sodomy and bestiality, which were expressly excluded from the requirements of s.43. The Court also suggested that the requirement of hardship under the English legislation was in the past tense, whereas under s.43 it was the future which was to be considered. However, the Court seemed also to be of the view that both the past and future ought to be considered when dealing with both Acts. They accordingly considered[6] that the wording of s.43 made it impossible to accept Lord Denning's *dictum* in *Bowman* v. *Bowman*[7] where he had said that the '... really important consideration in all these cases is to see whether there is any chance of reconciliation'. Their Honours then considered[8] the general legal principles which were involved in the exercise of the Court's discretion. They were of the view that although the prospect of reconciliation was a matter to which the Court must have regard, it was by no means the sole test, and the importance of the aspect of exceptionality was emphasised as ... 'in almost every case some hardship is imposed on any party to the marriage whose spouse has been guilty of some matrimonial offence'.

A somewhat different view of s.43 was taken by Joske J. in the controversial case of *Drzola* v. *Drzola*.[9] In that case, the learned judge criticised[10] the judgment in *Osborn* on the ground that the discretion conferred by s.43 was not absolute but was qualified by s.43 (4), and further commented that the Court

> ... is enjoined to have regard to the question of reconciliation, and is so enjoined not merely by an opinion of judges which could

4 Matrimonial Causes Act 1950 s. 2 (1).
5 At p. 32.
6 At p. 36.
7 [1949] P. 353 at p. 357.
8 At p. 34.
9 (1968) 11 F.L.R. 215.
10 At p. 217.

> not fetter the discretion, but by a statutory command which renders the discretion far less absolute.

Joske J. emphasised the importance of the likelihood of reconciliation and stated that the Court was under a positive obligation to take that possibility into account when he said,[11]

> If there is no chance of reconciliation then in such a case the purpose of the legislation in delaying proceedings cannot be achieved. But the legislature has provided for such a case by enabling the Court to give leave to proceed.

In *Drzola* an application to proceed was granted where the applicant, at the time of the marriage, was pregnant by the respondent. From the outset, he frequently assaulted her and had reduced her to such a state of terror that she left him, from which time the respondent had failed to support her. She had, as a result, sought the protection of another man by whom she had since had a child.

Mr. H. Finlay, in a valuable article,[12] has suggested that Joske J.'s interpretation of s.43 exceeds both what a strict reading of the section permits and what the Courts both here and in England held to be permitted by reversing the order of the propositions contained in s.43. He reiterates[13] and reinforces the view expressed by Bucknill L.J. in *Fisher* v. *Fisher*[14] that

> ... the judge had to decide whether the case was one of exceptional hardship or depravity and that when he had come to a conclusion on that, he had to exercise his discretion and decide the case was one in which he should give leave.

There are thus two stages in the process; first, the Court must decide on the particular facts whether exceptional hardship or depravity has occurred. If not, then that is an end of the matter. If, however, the Court decides that such has occurred it must then proceed to the exercise of its discretion and decide whether to allow a petition to be instituted, taking the provisions of s.43 (4) into account.

In *Bentley* v. *Bentley*[15] Kerr J. approved an application under s.43 where the applicant wife was subject to serious cruelty. There can be no dispute on the facts as to the correctness of the decision, but the case is notable for the learned judge's approval of Joske J.'s statements in *Drzola*.[16] However, Mr. Finlay points out[17] that Kerr J. does not seem to accept them wholeheartedly as he emphasises the close relationship between the subsections of s.43. In the present writer's view the attitude of Kerr J.[18] towards the operation of the section seems to provide both a rational and humane solution to the problems which it presents. As he himself puts it,

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11 At p. 218.
12 'The Unexceptional Exception' (1970) 1 *A.C.L.R.* 81 at p. 82.
13 At p. 83.
14 [1948] P. 263 at p. 264. See also *Charlesby* v. *Charlesby* (1947) 176 L.T. 432.
15 (1968) 11 F.L.R. 408.
16 Indeed, the only instance to date of another Judge so doing.
17 *Loc. cit.* p. 85.
18 At p. 412.

> It is not easy to imagine a case in which a Court made a positive finding that there was a probability of reconciliation between the parties within the relevant three-year period, but found, nevertheless, that leave should be granted because to refuse to do so would impose exceptional hardship on the proposed petitioner. In such a case sub-section (4) ensures that the probability of reconciliation is taken into account, when it exists, before a decision is made that refusal of leave would impose exceptional hardship. This having regard to the policy of s.43 is understandable. That policy being what it is, it is easy to see why the legislature would be concerned to ensure that if there is, in truth, a reasonable probability of reconciliation, this should be positively weighed on the issue of exceptional hardship.

Lush J. of the Supreme Court of Victoria, adopted the traditional approach. In *Warford* v. *Warford*[19] a wife's application was refused where the marriage had collapsed owing to the husband's sexual maladjustment and physical violence towards the wife. Lush J. disagreed[20] with the interpretation placed on s.43 by Joske J. in *Drzola* on the ground that in practice it would lead to the result that if evidence that there was no chance of reconciliation were to be accepted, then the applicant would *prima facie* be entitled to proceed. However, he did not fully accept the strictly progressive view advanced by Bucknill L.J. in *Fisher* and Mr. Finlay when he said,[21]

> ... the absence of any chance of reconciliation may be relevant to the question whether in fact there will be exceptional hardship, or it may be relevant to the exercise of discretion only, and in a case in which exceptional depravity is alleged it is likely that the chance of reconciliation will be relevant only to the exercise of the discretion when the fact of depravity is otherwise proved.

Perhaps the least satisfactory of the decisions on the relationship between s.43 (4) and the remainder of s.43 is the decision of Selby J. of the Supreme Court of New South Wales in *Szagmeister* v. *Szagmeister*,[22] where the wife had sought leave to petition on the ground of cruelty. The evidence which she adduced of injury to health was slight, but she relied chiefly on the contention that there was no likelihood of reconciliation. Selby J. refused the application, considering himself to be bound by *Osborn*, at the same time stating,[23] 'If I were free to exercise an unfettered discretion in the matter now before me and able to decide it by the dictates of reason and commonsense, I would grant the application.' This statement when coupled with Selby J.'s comment that he could envisage situations in which the applicant's circumstances could amount to exceptional hardship seems to demonstrate a somewhat disturbing lack of flexibility and sensitivity. It is not easy to escape the conclusion that Selby J. failed to utilise such discretion as was clearly his under the most strict view of s.43; when divorce law ignores com-

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19 (1969) 15 F.L.R. 125.
20 At p. 130.
21 At p. 128.
22 (1969) 15 F.L.R. 240. See also a note by the present writer in (1970) 3 *Tas. U.L.R.* 382.

monsense formally, as in the present instance, the necessity for some drastic revision is only too obvious. *Szagmeister* therefore cannot be considered a strong case, particularly as Selby J. did not himself consider the wider aspects of the problem.

Most recently, the question was considered by Joske J. in *Cooke* v. *Cooke*,[23] where he was highly critical of Lush J.'s judgment in *Warford*. In *Cooke* an application made by the wife was granted where the applicant had suffered considerable emotional stress caused by doubt about the validity and legality of her marriage, which had resulted from her husband's deceit. The learned judge explained his comments in *Drzola* when he said that,[24]

> ... an attempt was made to link the question of reconciliation with the question of exceptional hardship and to show how the absence of any prospect of reconciliation works in with exceptional hardship, so as to seek to explain why the Parliament expressly provides as it does in s.43 (4). The passage was not intended to indicate that such absence was enough in itself to create exceptional hardship and the actual decision ... shows that it was only taken into account with other circumstances of the case.

He then remarked[25] that the prospect of reconciliation was an important consideration in applications under s.43 and that, 'The phrase "an important consideration" is substantially different as a matter of plain English from the phrase "the sole test", but it seems that it is not always so regarded'.

There can be little doubt that the state of the law disclosed by an examination of these six cases is scarcely short of chaotic. It is further contended that this unsatisfactory situation has been caused by the failure of the courts to get to immediate grips with basic principle. There can be little doubt that the likelihood of reconciliation is, from the point of view of justice and commonsense, a fundamentally important factor in deciding whether an applicant has suffered exceptional hardship. Hence the progressive approach enunciated by Bucknill L.J., Mr. Finlay and those members of the judiciary who have followed the reasoning in *Osborn*, would appear to be out of touch with reality. Similarly, where the intended respondent has been guilty of exceptional depravity, cases where the petitioner has not suffered exceptional hardship will be rare indeed. Therefore, a liberal approach to the interpretation of s.43 is to be encouraged at least until, as Mr. Finlay suggests,[26] reform of the law is effected by Parliament. It is surely in the interests of everyone that the broken marriage be dissolved as quickly and effectively as possible.

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23 [1971] A.L.R. 597.
24 At p. 599.
25 At p. 600.
26 *Loc. cit.* p. 88.