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DIVORCE, PART III

In-laws can be ground for suit

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It is customary for the immediate members of an alien family to live together under one roof because a family that stays together is supposedly more formidable to the stress and strain inherent in living in a foreign land. The trouble comes, however, when the family extends to other relatives, especially in-laws. For there is a household saying which goes: You may live with anybody, including a stranger, but never with your in-laws.

Whether this saying is valid or not is beside the point. What matters is that if either the husband or the wife is annoyed by the presence of the other's relatives and that the latter does not want to part with his or her said relatives, the former may leave the place. And when the spouse leaves, the other may be sued for divorce on the ground of abandonment.

In a typical case, the husband chose to live with his parents, although he had sufficient money to maintain a separate home. Friction developed between the wife and the mother-in-law and the wife made the demand of "me or your mother, but not both." The court said that the wife was justified in moving out and the husband was guilty of abandon-

ment.

This rule may seem at first glance to conflict with the right of the husband to choose the family domicile. But, according to the court, this husband's right which is based on the common law theory of family unity must be denied if such situation would be unsafe or imprudent for the wife.

How about a wife who refuses to follow her husband in the United States? There seems to be a basis for considering the wife as guilty of abandoning the husband. Said the court is one case: "The law is clear that the wife must go to the home which her husband provides... If the husband desires to move to another locality and, in good faith, offers a home and maintenance to his wife, if she then refuses to accompany him, except for good cause, she has in a legal sense abandoned him."

There are other forms of abandonment as a ground for divorce. The most obvious is of course the abandonment of a spouse by the other for at least one year with no intent to return. A less common but more intriguing kind is the unjustified refusal to engage in sexual relations with the other spouse.

In an interesting case the wife

refused to engage in sexual relations unless the husband submitted to a religious ceremony. The court found the reason for her refusal as unjustified and granted divorce to the husband.

Speaking of sex, if lack of It could be a ground, so with the other way around. The only problem is that adultery is often committed in a clandestine manner and direct proof is usually difficult to come by. In such situation, circumstantial evidence may play a prominent role.

Circumstantial evidence is required to show opportunity, inclination and intent of the parties in question. There are numerous fact patterns that have been considered as adequate to establish adultery. Take these common scenes for instance: Man and woman were in light clothing in the woman's apartment. Then they walked towards the rear of the apartment. The next day they were again there in the same mode of attire. Or a man registered in a hotel with a woman and were given adjoining rooms separated by communicating doors. The hotel bill was made out to the man and his "wife." These were considered as adultery.

In one case, the court accepted as part of the evidence the fact that the husband has been infected with a venereal disease or that he infected his wife with a venereal disease.