

*Filed*  
*1935*  
*Ch. App. B. 174*

No. 2

TRANSCRIPT FROM THE CHANCERY COURT AT MARYVILLE,  
BLOUNT COUNTY, TENNESSEE, TO COURT OF  
APPEALS.

NEOMA HUFFSTETLER CANNON )

)

VS. )

NO. 2265

)

JERVA CANNON )

)

ATTORNEY FOR COMPLAINANT,

Goddard & Gamble,

Maryville, Tennessee.

ATTORNEYS FOR DEFENDANT,

Kramer & Morton,

Drinnen & Drinnen,

Maryville, Tennessee.

*Filed January 4<sup>#</sup> 1936*

*[Signature]*

*Clerk*

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I N D E X ORIGINAL BILL

Filed Feb. 1, 1935.

U. S. Dist. Court, S. & W.

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NEOMA HUFFSTETLER CANNON, a resident  
 of Blount County, Tennessee,  
COMPLAINANT.

vs.

NO. 2265.

JENVA CANNON, a resident of Blount  
 County, Tennessee,  
DEFENDANT.

Complainant would respectfully show to the Court

That she and the defendant were married in Blount  
 County, Tennessee, on April 15, 1931, and that for about three  
 months after said marriage they lived and resided in Blount  
 County, Tennessee, until the defendant was removed from the  
 State as will hereinafter be shown.

ORIGINAL BILL

Filed Feb. 1, 1935.

R. Dot Wynn, C. & M.

TO THE HONORABLE JAMES L. DRINNON, CHANCELLOR,  
HOLDING THE CHANCERY COURT AT MARYVILLE FOR BLOUNT COUNTY,  
TENNESSEE.

NEOMA HUFFSTETLER CANNON, a resident  
of Blount County, Tennessee,

COMPLAINANT.

VS.

JERVA CANNON, a resident of Blount  
County, Tennessee,

DEFENDANT.

NO. 2265.

Complainant would respectfully show to the Court:

I.

That she and the defendant were married in Blount  
County, Tennessee, on April 13, 1921, and that for about three  
months after said marriage they lived and resided in Blount  
County, Tennessee, until the defendant was forced to leave this  
State as will hereinafter be shown.



II.

Complainant further alleges that soon after their said marriage the defendant was forced to leave this State under threat of criminal prosecution, the nature of which this complainant was not advised at the time of their marriage and at the time of the defendant leaving this State. Complainant alleges that under threat of prosecution the defendant left the State of Tennessee and went to Florida, and that at the time he left she did not know that he was being forced to leave. Complainant further alleges that she met him in the State of Florida and did not know what the trouble was until the Sheriff of Blount County came to Florida to bring defendant back to the State of Tennessee. She was informed by said Sheriff that her husband, the said defendant, had been involved in crime by the issuance of certain checks and notes. The defendant and this complainant returned to Blount County where said complainant and her father helped defendant borrow certain money to settle the claim which were the basis of the said criminal prosecution, and that for sometime thereafter the defendant having returned to Florida employed himself very well in the payment of the borrowed money, as aforesaid.

Complainant alleges that on or about August 15, 1923, she returned from Florida to the home of her parents in Blount County upon the advise of her husband, the said defendant, for the birth of her first child in order that complainant's father and mother might care for her during her confinement and convalescence.

Complainant alleges that the defendant came to Blount County about four weeks after said first child was born when he again became involved on account of the issuance by him of certain checks and notes, and that she with her father again helped defendant obtain the money to pay the claims which were the basis of the criminal prosecutions.

Defendant then returned to the State of Florida and complainant soon went to Florida to him, and when her first baby was about nine months old defendant again sent her to her father's home in Blount County, Tennessee, on account of a physical break down which complainant had had. Complainant alleges, upon information and belief, which she believes to be true, and which came from reliable sources, that while she was at the home of her parents and the defendant in Florida he began keeping company with certain other women and began to indulge in drinking to an excessive extent. This information was conveyed to complainant by letters from various friends of her's in Florida. After they had been separated for approximately four months complainant went to Florida to defendant.

Sometime thereafter she returned to the home of her parents in Blount County, Tennessee, for the birth of her second child, which was born on June 6, 1926, the defendant who had come to Blount County again returned to Florida when this child was about one week old, and having returned to Florida he wrote back various letters to this complainant accusing her of unfaithfulness, and alleged that said second child was not his child,

knowing all the while that said allegations and accusations were entirely false.

When the child was approximately six months old this complainant again went to Florida in company with her parents at which time the defendant persuaded her to return to him, which she did in the winter of 1926.

Complainant alleges upon information and belief, which information came from a reliable source, that during her last absence from the defendant, as aforesaid, he again kept company with other women and indulged in the use of intoxicants to an excessive degree.

Complainant further alleges that she and the defendant returned to Maryville in the Spring of 1927, and from there went to the State of Indiana, where they staid until the fall of 1927, when they returned to Blount County, Tennessee, and from there to Florida, where they spent the winter of 1927-1928. In the spring of 1928 complainant and defendant again came through Blount County on their way to Indiana, where they staid during the summer of 1928. During their stay in Indiana the defendant became pregnant with child and defendant upon learning of this became very ill and unreasonable and threatened to leave this complainant and upon this threat complainant had the defendant taken in custody by an officer and upon his promise to support her and the children he was released and defendant apologized for his conduct. Sometime thereafter complainant



and defendant with their children returned to Florida for a brief stay, and then returned to Blount County where the third child was born, but this child lived only about thirty-six hours. About three weeks after the birth of this child the complainant went to the home of her parents in Blount County, Tennessee, and defendant went to the State of Indiana where complainant met the defendant when she became physically able. In the fall of 1929 complainant and defendant returned to Blount County and have since that time lived upon the farm of complainant's father until a few months ago.

Complainant further alleges that on October 26, 1930, her fourth child was born, and before the birth of said child and immediately afterward, the defendant was caught with certain other women in and around Blount County, and often times around said date he became intoxicated, which conduct the defendant admitted to complainant on various occasions.

On March 26, 1934, the defendant left complainant at her father's home in Blount County and went to the State of Indiana where he staid for some three months.

Complainant further alleges that in the Fall of 1933, defendant became very angry at complainant and her father and mother and cursed and abused them all, and <sup>h</sup>procured a shot gun and loaded the same and threatened to kill complainant and her mother and father, and abused them with vile and improper language, and he took this complainant and their children in their

and have been living there since that time up until about two automobiles together with the gun to defendant's sister's and told them all before they started and afterward if any of them opened their mouth he would shoot them, all the while using very vile and improper language toward this complainant, her father and mother and their children.

Complainant further alleges that at various times during their married life he has threatened her life and would curse and abuse her, all of which will be shown at the hearing of this case.

Complainant alleges that from March 26, 1934 to July 24, 1934, defendant furnished her for the support of herself and children the sum of Six Dollars and furnished to her two girls two dresses each, and to their boy one suit and one pair of overalls.

Complainant further alleges that the defendant returned to Blount County from Indidna about June 1, 1934, at which time this complainant filed suit for divorce in this Court alleging in substance the matters hereinabove set out.

When this bill was served upon said defendant and before the same came to trial he contacted the complainant by letter and otherwise and offered to come back to her and support her and the children and stop drinking and treat her as he should, and upon these promises this complainant agreed to try to live with him again. Thereupon this complainant returned to the defendant and they went to Calderwood, Tennessee, to live and

and have been living there since that time up until about two weeks ago when they came to Maryville.

Soon after this complainant returned to defendant to live with him he started again to abuse her and the children. He forbade her to go to the store or postoffice and forbade her to go to any of the neighbors and forbade her to go to her home or to come to Maryville. Defendant also endeavored to get the bus and taxi drivers from Calderwood to Maryville to promise not to bring this complainant to Maryville.

Since this complainant has returned to live with defendant, as aforesaid, he has cursed and abused her and threatened her life. About Christmas of 1934 he left their home in Calderwood to go to Maryville and told her that when he returned he would kill her. And he often times threatened to kill her if she attempted to leave him or leave Calderwood, telling her that he was having her watched and if she attempted to leave he would kill her, and that he would not be satisfied until he killed her.

Complainant, for these reasons, has been afraid of defendant and has been afraid to stay with him on the one hand and afraid to leave him on the other hand, because she was afraid that defendant would kill her.

At various and sundry times since her return to him, as aforesaid, he has accused her of being unfaithful and paying her attentions to other men, all of which is absolutely false.

Some two weeks ago the defendant moved his family



my facts and this was well known to the defendant, he knowing to Maryville where they lived until the complainant left him as will hereinafter be shown. Some few days ago upon learning that complainant had procured a prescription belonging to her sister from his tool box the defendant choked her and threatened to kill her and was interrupted only by the pleas of their small daughter, and at which time he also slapped his small daughter for interfering with him. The defendant then went to Maryville and in company with an officer of Blount County returned to the home where the complainant was and in the presence of the officer forbade her leaving or taking the children away and when he left the house he said that he was going to Knoxville to procure a criminal warrant and would have complainant in jail before night. On the same day between six and seven o'clock defendant returned with another officer with a warrant which he had sworn out before W. P. Abbott, a Justice of the Peace for Blount County, Tennessee, charging complainant with criminal abortion, and she was placed under arrest and told by the officer to appear at the office of C. C. Smith, Justice of the Peace for Blount County at 10:00 o'clock Saturday January 26, 1935. At that time this defendant was required to make bond for her appearance before the Justice of the Peace at 9:00 o'clock January 28, 1935. At this time the complainant appeared at the Justice of the Peace office, and through her attorney made motion to dismiss the case which was immediately done. The defendant had no witnesses summoned to appear against complainant, and she now alleges that said prosecution was frivolous, malicious and unwarranted by

any facts and this was well known to the defendant, he knowing at all times that the complainant was not guilty of the charge made.

On the night that defendant threatened to have complainant arrested one of their children was sick, but notwithstanding this the next morning this complainant arranged to leave defendant and take the children with her, which she did, going to the home of her brother in the 7th Civil District of Blount County, Tennessee, where she has been residing with her children ever since.

Complainant further alleges that at no time during their married life has defendant properly supported and cared for herself and their three children, and that her father and mother, and she herself, and her sisters, have been compelled to take care of and support said minor children.

Complainant further alleges that at the time of their marriage she did not know that defendant became intoxicated but a various times since their marriage he has become extremely intoxicated, both at home and away from home, and has indulged in the use of intoxicating liquors extensively.

### III.

In view of all the circumstances complainant alleges that defendant has been guilty of habitual drunkenness, which habit has been contracted since their marriage.

IV.

In view of all the above alleged facts complainant alleges that the defendant has abandoned her, and has refused and neglected to provide for her and her three minor children.

defendant to appear and answer this bill, but his oath to his answer is expressly waived V.

3. That at the hearing the bonds of matrimony uniting compl In view of all the above alleged facts and circumstances complainant further alleges that the defendant has been guilty of such cruel and inhuman treatment or conduct toward her as render cohabitation with him unsafe and improper, and as renders it improper and unsafe for her to be under his dominion and control. children, Mildred, and Jean and Ray.

4. That she be decreed alimony for the support of herself and the said three children, and that said defendant be required to pay into this Court for the benefit of herself

VI.

Complainant further alleges that the living and said children monthly payments to be used in the care and upkeep of herself and said eleven children are as follows: Mildred age approximately ~~four~~ eleven years; Jean age approximately eight years; Ray age approximately four years.

5. That said complainant have such further and other relief as she may be entitled to upon the hearing of this cause.

VII.

Complainant further alleges that she has given defendant no just cause or excuse for the misconduct above X alleged and that she has been guilty of no misconduct on her own part, nor has she condoned the misconduct of said defendant.



VIII.

STATE OF TENNESSEE

DEKALB COUNTY

THE PREMISES CONSIDERED, COMPLAINANT PRAYS:

1. That proper process issue to compel the defendant to appear and answer this bill, but his oath to his answer is expressly waived.
2. That at the hearing the bonds of matrimony uniting complainant and defendant be absolutely and perpetually dissolved and that complainant be forever freed from the obligations thereof and be restored to all the rights and privileges of an unmarried person.
3. That she be decreed the exclusive custody of their minor children, Mildred, ~~and~~ Jean and Ray.
4. That she be decreed alimony for the support of herself and the said three children, and that said defendant be required to pay into this Court for the benefit of herself and said children monthly payments to be used in the care and unkeep of herself and said children.
5. That said complainant have such further and other relief as she may be entitled to upon the hearing of this cause.

Neoma Huffstetler Cannon

Goddard & Gamble  
SOLICITORS.

STATE OF TENNESSEE  
BLOUNT COUNTY.

Neoma Huffstetler Cannon, being duly sworn, makes oath that the statements made in her foregoing bill are true to the best of her knowledge and belief; and that the complaint is not made out of levity, or by collusion with the defendant, but in sincerity and truth, for the causes mentioned in the bill.

Neoma Huffstetler Cannon

Sworn and subscribed to before me this the 29th <sup>day</sup> of January A. D. 1935.

J. C. Gamble

NOTARY PUBLIC.

My Commission expires Oct. 6, 1937.

(Seal)

PAUPER'S OATH

SUBPOENA TO ANSWER AT HOUSE

ISSUED February 1, 1935.

R. Dot Wynn, C. & M.

STATE OF TENNESSEE  
BLOUNT COUNTY.

STATE OF TENNESSEE

CHANCERY COURT I, Neoma Huffstetler Cannon, do solemnly swear that I am a resident of said State, and that owing to my poverty, I am not able to bear the expenses of the suit I am about to commence in the Chancery Court of Blount County, against Jerva Cannon, and that I am justly entitled to the redress sought, to the best of my belief.

Neoma Huffstetler Cannon

Witness R. DOT WYNN, Clerk and Master of our said Court, at \_\_\_\_\_, this \_\_\_\_\_ day of February, 1935.  
Sworn to and subscribed before me this the 29th day of January A. D. 1935.

J. C. Gamble  
NOTARY PUBLIC

My commission expires Oct. 6, 1937.

(Seal)

To the above named Defendant Jerva Cannon.

You are hereby notified that you are required to make defense in this case on or before the Third Monday of February next, or judgment pro confesso will be entered against you.

R. Dot Wynn, Clerk and Master.



SUBPOENA TO ANSWER AT RULES  
IN CHANCERY AT MARYVILLE, TENNESSEE.

SUBPOENA TO ANSWER AT RULES

NEOMA HUFFSTETLER CANNON )

ISSUED February 1, 1935.

vs. )

NO. 2265

JERVA CANNON )

R. Dot Wynn, C. & M.

Issued 1st day of February, 1935.

STATE OF TENNESSEE

R. Dot Wynn, Clerk and Master.

CHANCERY COURT AT MARYVILLE

TO THE SHERIFF OF BLOUNT COUNTY---GREETING:

Summon Jerva Cannon to appear before the Chancery Court at Maryville, on or before the Third Monday of February next to answer the Original bill which Neoma Huffstetler Cannon has filed in said Court against Jerva Cannon and have you then and there this writ.

Witness R. DOT WYNN, Clerk and Master of our said Court, at office in Maryville, this 1st day of February, 1935.

R. Dot Wynn, Clerk and Master.

NOTICE

To the above named defendant Jerva Cannon.

You are hereby notified that you are required to make defense in this case on or before the Third Monday of February next, or judgment pro confesso will be entered against you.

R. Dot Wynn, Clerk and Master.

SUBPOENA TO ANSWER AT RULES  
IN CHANCERY AT MARYVILLE, TENNESSEE.

NEOMA HUFFSTETLER CANNON )  
VS. ) NO. 2265  
JERVA CANNON )

Issued 1st day of February, 1935.

R. Dot Wynn, Clerk and Master.

He admits that he and the complainant were married  
April 13, 1901 as recited in Section I of the original bill.

He admits that he got in trouble and had to leave  
Maryville. Came to hand 2 day of Feb. 1935. Executed as commanded  
and left a copy of the bill with Jerva Cannon and a copy of this  
Subpoena to answer with each defendant. but he went there because  
he had to. This 2 Feb. 1935. there and that he and the complainant  
lived happily together there and she never made any accusation  
against him while they were in J. D. Waters, D. Sheriff.

she complains, in her original bill, of having happened while  
living in Florida. The defendant positively denies that he had  
any relations with ~~-----~~ to excess while  
in Florida but he avers that if there was any misconduct on his  
part at that time that the complainant occupied the case and can  
not rely upon same as ground.

ANSWER OF THE DEFENDANT.

FILED March 11, 1935.

R. Dot Wynn, C. & M.

NEOMA HUFFSTETLER CANNON )  
VS. ) NO. 2265.  
JERVA CANNON )

ANSWER OF THE DEFENDANT

The defendant, Jerva Cannon, for answer to the original bill against him in this cause, says:

I.

He admits that he and the complainant were married April 13, 1921 as averred in Section I of the original bill.

He denies that he got in trouble and had to leave Maryville soon after their marriage. He admits they have lived in Florida part of the time but denies that he went there to avoid criminal prosecution. He avers that he went there because he had obtained employment there and that he and the complainant lived happily together there and she never made any accusation against him while they were living together of any of the things she complains, in her original bill, of having happened while living in Florida. The defendant positively denies that he had any relations with other women or that he drank to excess while in Florida but he avers that if there was any misconduct on his part at that time that the complainant condoned the same and can not rely upon same as grounds for divorce in this cause.

He also admits that they lived in the State of Indiana for some time but he denies that there was any misconduct on his part in that State. He avers, however, that if there was any misconduct that it was condoned by the defendant and she can not rely upon it as grounds for divorce in this cause. He denies that he ever questioned the paternity of any of the children.

This defendant denies that on October 26, 1930 he had



any improper conduct or relations with any woman in Blount County or that he drank to excess. He avers that if there was any such misconduct that the complainant condoned same and can not rely upon it as grounds for divorce in this cause.

This defendant denies that in the fall of 1933 he cursed or abused either complainant or any of her relatives and he denies that he threatened them with a shot gun or in any other manner. He also denies that he used vile and improper language toward either the complainant or their children or the relatives of the complainant.

He denies also he has ever abused, used improper or threatened his children. He avers that he has always been good to his children and worked hard to provide a living for the complainant and the children. He denies that he has ever abused her.

He denies that from March until June, 1934, he provided only \$6.00 toward the support of the family and avers that he furnished during that time sufficient money and clothing to properly provide for all of their needs.

He denies that while they were living at Calderwood in 1934 he forbade his wife to go to the store or post office or to the neighbors or that he cursed or abused her in any way, and he also denies that he threatened her life as averred in the original bill. He denies that about Christmas 1934 that he came to Maryville and told her when he returned he would kill her and

denies that he made any threat of killing her or that he told her that he would not be satisfied until he had killed her.

He denies that he has ever made any unjust or untrue accusation against complainant.

He denies that a few days ago he choked her or abused her or threatened to kill her and denies that he slapped their daughter or abused her in any way. He admits that a warrant was sworn out for the complainant but denies that the charge was frivolous, malicious or <sup>unw</sup>arranted though he does admit he permitted the case to be dismissed without trial.

This defendant denies that he has failed to provide for complainant and the children properly and avers that he has, at all times, provided for them within reason and to the best of his ability. He avers that he has provided a proper supply of food and clothing for both the complainant and the children at all times during their married life and he denies that he has ever drunk to excess.

He denies that he has been guilty of habitual drunkenness contracted since their marriage and denies that he has abandoned her and turned her out of doors, or has refused or neglected to provide for her and the children. He denies that he has been guilty of such cruel and inhuman treatment toward the complainant as to render co-habitation unsafe or improper or as to render it improper and unsafe to be under his dominion and control.

MONDAY MARCH 11, 1885.

He avers that practically all of their disagreements have come about because the relatives of the complainant have encouraged her to disagree with and separate from the defendant and he charges that there never would have been any separation if it had not been for the relatives of the complainant interfering.

He admits that the children are as set out in Section VI of the original bill. He denies, however, that she is a fit and proper person to have the custody of said children.

This defendant, further answering, denies each and every allegation in the original bill that are not hereinbefore specifically denies and denies them as thoroughly and completely as though specifically denied and asks that the cause be dismissed with his reasonable costs.

Jerva Cannon

By D. Sylvan Kramer

Solicitor.

Kramer & Morton  
Solicitors.

WEDNESDAY MARCH 14, 1885.



MONDAY MARCH 11, 1935.

STATE OF TENNESSEE

BLOUNT COUNTY

VS.

Be it remembered that on this the 11th day of March, 1935, it being the second Monday of said month, and the time fixed by law for holding the regular Term of the Chancery Court at Maryville, Tennessee, for Blount County, present and presiding the regular Chancellor, the Honorable Jas. L. Drinnon, assigned by law to hold the Chancery Court, when the following proceedings were had and entered of record to-wit:

children of complainant and defendant, which amount shall be paid weekly until the next term of this court, unless otherwise ordered.

Thereupon Court adjourned until tomorrow morning at 8:30 o'clock. A.M.

Jas. L. Drinnon  
CHANCELLOR.

\* \* \* \* \*

THURSDAY MARCH 14, 1935.

Court met pursuant to adjournment, present and presiding the Honorable Jas. L. Drinnon, Chancellor, as on

the Minutes of yesterday  
yesterday/were read and signed, following proceedings were had  
and entered of record, to-wit:

TO THE HONORABLE JAMES W. DRINNON, CHANCELLOR,  
 HOLDING THE PROBATE COURT AT MARYVILLE:

NEOMA HUFFSTETLER CANNON, )  
 VS. ) NO. 2265  
 JERVA CANNON )  
 JERVA CANNON, a resident of Mount County,

In this cause on motion of the complainant the  
defendant Jerva Cannon is ordered to pay into the office of the  
Clerk and Master of this court the sum of \$6.00 per week to be  
paid to the complainant for the support of herself and the  
children of complainant and defendant, which amount shall be  
paid weekly until the next term of this court, unless otherwise  
ordered.

This cause is continued to the next term of this  
Court by consent.

- - -

Thereupon Court adjourned until Court in course.

and Neoma Huffstetler Cannon filed her original bill for divorce  
 in this Court against your complainant, setting forth therein  
 that they were married on April 13, 1911, and she was forced to  
 leave the State shortly after their marriage under a threat of  
 criminal prosecution. That she went to Florida to him and they  
 later came back to Tennessee and the threatened criminal case

Jas. L. Drinnon  
 CHANCELLOR.

CROSS-BILL OF DEFENDANT.

Filed August 29, 1935.

R. Dot Wynn, C. & M.

Involving notes and checks, was compromised and settled. She states further that he was involved again with reference to notes and checks after they came back to Tennessee, and she says that about the time their first child was born in 1921 he kept company with other women and indulged in the use of intoxicants.

TO THE HONORABLE JAMES L. DRINNON, CHANCELLOR,  
HOLDING THE CHANCERY COURT AT MARYVILLE:

The bill further states that they spent the years JERVA CANNON, a resident of Blount County, COMPLAINANT.

VS.

No. 2265

NEOMI HUFFSTETLER CANNON, a resident of

Blount County,

She alleges that four children have been born to their marriage, that the youngest was born in 1930 and near the time it was born the defendant was caught with other women and drank on various occasions.

DEFENDANT.

Complainant respectfully shows to the Court:

The bill alleges that in the fall of 1934 the defendant became angry and cursed and abused her, and procured a shot gun and threatened to kill her and her father and mother

I.

and took her and her children to her sisters and used vile language toward them. That on the 1st day of February, 1935, the defendant Neomi Huffstetler Cannon filed her original bill for divorce in this Court against your complainant, setting forth therein that they were married on April 13, 1921, and he was forced to leave the State shortly after their marriage under a threat of criminal prosecution. That she went to Florida to him and they later came back to Tennessee and the threatened criminal case

neighbors, or to Maryville.



involving notes and checks, was compromised and settled. She states further that he was involved again with reference to notes and checks after they came back to Tennessee; and charges that about the time their first <sup>2<sup>th</sup></sup> child was born in 1926 he kept company with other women and indulged in the use of intoxicants.

The bill further states that they spent the years 1927 and 1928 in Florida and Indiana; and while they were in Indiana that he threatened to leave her and she had an officer to take him in custody and then had him released and he apologized to her. That since 1929 they have lived in Blount County.

She alleges that four children have been born to their marriage, that the youngest was <sup>born</sup> ~~born~~ in 1930 and near the time it was born the defendant was caught with other women and drank on various occasions.

The bill alleges that in the fall of 1933 the defendant became angry and cursed and abused her, and procured a shot gun and threatened to kill her and her father and mother and took her and her children to her sisters and used vile language toward her; she also states that he did not fully provide for her from March 26, 1934, to July 24, 1934, and that about June 1, 1934, she filed a divorce suit against him, setting out in substance the same as she set out in this bill, but they settled those matters on his promises, and her agreement to try to live with him again. That they then moved to Calderwood and he forbade her to go to the store or post office, or to the neighbors, or to Maryville.

That about Christmas 1934 he left their home in Calderwood and threatened to kill her and she was afraid of him, and at sundry times he accused her of being unfaithful and paying attention to other men. That some few days ago they had some words about the prescription and he choked her and slapped their daughter. That he swore out a criminal warrant against her for abortion, and this case was dismissed. That he had not properly supported her and their children.

On the facts she charged him with habitual drunkenness, contracted since marriage, that he had abandoned her and refused and neglected to provide for her and that he was guilty of such cruel and inhuman treatment as rendered it unsafe and improper for her to cohabit with him and be under his dominion and control.

The bill prayed for a divorce and the custody of their three minor children and for alimony for the support of herself and said children.

On March 11, 1935, this complainant answered the bill in said cause and denied that he was guilty of any wrongs toward the complainant or that he had threatened or cursed or abused her or that he had failed to provide for her and his children and denied all the allegations of wrongs in said bill.

## II.

Complainant in this cross-bill further shows to your Honor that in the spring of 1928 the defendant commenced

using drugs, furnished by her sister, for the purpose of abortion. He objected and she became angry and cursed and abused him, saying with an oath that it was none of his business that her sister was paying for it. She sold dresses and an electric iron that he had bought to pay for these medicines to be used for said unlawful purpose.

In August 1930 she procured drugs to produce an abortion before their youngest child was born. This medicine was furnished by her sister, Clara Carver, and the prescriptions were filled by the Eustis Pharmacy, Eustis, Florida. When he learned of this he again objected and tried to destroy the drugs she had left and she then became mad and cursed and abused him, and she has nagged and scolded and cursed him almost continuously while he was at home from his work. He is a contractor and has been employed much of his time and has supported his family well, but his wife is usually mad and nagging him about something when he would return home tired from his work.

In August 1932 she was pregnant and she asked him to permit her to get drugs to produce an abortion and he objected. She got the drugs without his knowledge and took them and produced an abortion in December 1932 and she called him to her bed and told him what she had done and told him where the remainder of the medicine was and asked him to destroy it before the doctor or the neighbors came in. He got the drugs with the prescription and a letter where she told him they were and locked them up and kept them until January 22, 1935, when she procured



the keys to his tool box and unlocked it and got the drugs and prescription and the letter. He asked her about it and she stated with an oath that it was none of his business and grabbed a poker and tried to strike him with it and attempted his life, and she struck him with same until he wrenched it out of her hands, and that is the time she charges in her bill that he choked her, which he denies and says he used only such force as was necessary to disarm her; she stated she had been living with him for the last eight months in order to get said drugs and prescription and letter, and on the next day she left him without any cause. That is the time that he procured a State Warrant for her.

In May 1933 her mother procured for her some instrument to prevent pregnancy and asked complainant to permit it to be installed, which he refused, but the same was done by Dr. Lovingood, and this prevented normal coition. Since this time she has been improperly associating and noticing other men.

About Dec. 24, 1934, she told your complainant that he had better get all he intended for the children for Christmas, that he was going to the job some of these days and would never return; and about the 28th. he caught her putting something in her coffee, and before that he detected something wrong and poured it out. He alleges she was attempting to poison him, she said it was put in the coffee to kill his appetite for whiskey.

She and their children are now staying with her father, who is more than seventy years of age, and who has upheld her and her sister in their said wrongs and her sister is now in

his home and they are not the proper persons to have the care and custody of his said children and the defendant is not the proper person to have the custody of said children.

He alleges that her people have caused much of the trouble between them and caused the defendant to nag and scold and curse him continuously for a number of years before their separation. They lived happily until her sister became pregnant and they wanted complainant to take her and conceal her in Florida and he refused to do so and after he went back to Florida to his work, the defendant wired him that she was bringing her sister and he was forced to provide for her as well as his family and on July 26, 1923, she gave birth to a child, and she was unmarried, and she returned home about August 10, and the defendant came with her and your complainant had to borrow the money to send them here.

On June 1, 1925, the defendant came to Tennessee to the home of her father where she stayed for some months and returned to him where he lived at Fort Lauderdale, Florida, on October 28, 1925. He sent her \$50.00 to return to September of that year. On October 29, 1925, she was taken to her family doctor, Dr. Stanford, and after examination he stated she was pregnant, and had been some six weeks or two months, and she gave birth to her second child on June 6, 1926. On about June 16, 1926, he returned to his work in Florida, where he was contracting, meaning to live separate from her, but she wrote and asked him to let her return and promised to treat him right and she did return to him. He had been contracting in Florida and also

working in Indiana some during the last few years before they separated and while she was in Florida she would return home for a few months each year and he always paid the expenses of her and their children. He has been a resident of Blount County since 1929.

Some of the facts in this cross-bill have come to complainant's knowledge since the filing of his answer, which he here refers to and makes a part of this cross-bill, and his counsel has been sick and unable to prepare his cross-bill.

The complainant alleges that the defendant is guilty of such cruel and inhuman treatment as renders it unsafe and improper for him to cohabit with her.

He also alleges that she had an uncontrollable temper and that she attempted his life, maliciously as above set out.

Complainant has <sup>not</sup> ~~not~~ condoned the wrongs of the defendant and has provided a home and supported her and their children to the best of his ability. He is a contractor and is well able to care for their said children and to educate them and is the proper person to have their custody.

Sworn to and affirmed before me, this 28th day of August, 1936.

The premises considered, the complainant prays:

1st: That proper process issue to compel the defendant, Neomi Huffstetler Cannon, to answer this cross-bill, but her oath to her answer is waived.



PROSECUTION BOND

2nd: That upon the hearing this-cross-complainant be granted an absolute divorce and be given all the rights of an unmarried person; and that the exclusive custody of their minor children, Mildred Cannon, Jean Cannon, and Ray Cannon, be decreed to him.

3rd: That the cross-complainant have such further, other and general relief as he may be entitled to upon the hearing.

Jerva Cannon

STATE OF TENNESSEE  
BLOUNT COUNTY

Jerva Cannon, being duly sworn, makes oath that the statements made in his foregoing cross-bill are true to the best of his knowledge and belief; and that his complaint is not made out of levity or by collusion with the defendant, but in sincerity and truth for the causes mentioned in the bill.

R. Dot Wynn Clerk      J. E. Irwin      Jerva Cannon      John Hill

Sworn to and subscribed before me, this 29th day of August, 1935.

R. Dot Wynn, C. & M.

My com. expires  
(Seal)

SUBPOENA TO ANSWER AT BOND

Issued by PROSECUTION BOND

R. Dot Wynn Filed August 29, 1935.

R. Dot Wynn, C. & M.

STATE OF TENNESSEE

CHANCERY COURT AT MARYVILLE

STATE OF TENNESSEE, BLOUNT COUNTY.

In The Sheriff of Blount County-- Greeting:

CHANCERY COURT AT MARYVILLE.

Suspect Neoma Huffstetler Cannon to appear before  
 Know all Men by these Presents, That we, Jerva Cannon, John Hill and C. M. Huffstetler  
 Cannon, Geo. Huffstetler, J. E. Irwin and W. T. Kagly/are held  
 and firmly bound unto Neoma Huffstetler Cannon in the penal sum  
 of Two Hundred and Fifty Dollars, to be void on condition that  
 Jerva Cannon prosecute with effect a Cross bill which he is  
 about to commence in said Court, against Neoma Huffstetler  
 Cannon or pay all cost and damages, incident on failure thereof,  
 or which may be adjudged against us.

August 27, 1935.

Jerva Cannon (seal)

Attest: Geo. Huffstetler Cannon (seal)

R. Dot Wynn, J. E. Irwin (seal)

Clerk

W. T. Kagly (seal)

John Hill

C. M. Huffstetler

By \_\_\_\_\_ Deputy C. & M.

EXHIBIT OF BACK

No. 2855

SUBPOENA TO ANSWER AT MARYVILLE

ISSUED August 29, 1935.

NEOMI HUFFSTETLER CANNON vs. R. Dot Wynn, Clerk & Master.

vs.

JERVA CANNON

STATE OF TENNESSEE

CHANCERY COURT AT MARYVILLE

To The Sheriff of Blount County-- Greeting:

Summon Neomi Huffstetler Cannon to appear before the Chancery Court at Maryville, on or before the 2nd Monday of Sept. next to answer the Cross-bill which Jerva Cannon has filed in said Court against Neomi Huffstetler Cannon and have you then and there this writ.

Witness R. DOT WYNN, Clerk and Master of our said Court, at office in Maryville, this 29th day of August 1935.

R. Dot Wynn, Clerk and Master

NOTICE

To the above named defendant Neomi Huffstetler Cannon.

You are hereby notified that you are required to make defense in this case on or before the 2nd Monday of September next, or judgment pro confesso will be entered against you.

R. Dot Wynn, Clerk and Master

By \_\_\_\_\_ Deputy C. & M.

NEOMI HUFFSTETLER CANNON

vs.

JERVA CANNON



No. 2265

SUBPOENA TO ANSWER AT RULES

IN CHANCERY AT MARYVILLE, TENNESSEE.

NEOMA HUFFSTETLER CANNON )

VS. )

JERVA CANNON )

Issued 29th day of August 1935.

R. Dot Wynn, Clerk and Master.

Court:

Came to hand 29 day of Aug. 1935. Executed as commanded and left a copy of the cross-bill with Neomi Huffstetler Cannon and a copy of this Subpoena to answer with each defendant.

This Aug. 29, 1935.

C. A. Harmon, D. Sheriff.

Il.

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That process was served on the defendant, Jerva Cannon, on February 2, 1935, requiring him to answer the original bill on or before the third Monday of February 1935.

PETITION OF NEOMA HUFFSTETLER CANNON FOR THE ATTACHMENT FOR CONTEMPT.

Filed Sept. 5, 1935.  
R. Dot Wynn, C. & M.

NEOMA HUFFSTETLER CANNON )

VS. )

JERVA CANNON )

NO. 2265

the Court, which amount was decreed to be paid in weekly installments.

THE PETITION OF NEOMA HUFFSTETLER CANNON FOR  
THE ATTACHMENT FOR CONTEMPT.

That since the March Term of this Court the defendant had paid into the hands of the Clerk and Master the sum of Thirty (\$30.00) Dollars which has been turned over to this petitioner for the support of herself and her children. That in

Your petitioner would respectfully show to the Court:

In addition to this amount the said defendant has sent to the children the sum of Fifteen (\$15.00) Dollars, making a total paid to herself and to the children of Forty-Five (\$45.00) Dollars, and

I.

That on February 1, 1935 your petitioner filed an original bill in this court for divorce against the defendant Jerva Cannon. That in said original bill she prayed for an absolute divorce, custody of her children and alimony for the support of herself and the said children.

II.

That process was served on the defendant, Jerva Cannon, on February 2, 1935, requiring him to answer the original bill on or before the Third Monday of February 1935.

III.

That at the March 1935 Term of this Court an order was entered directing the defendant Jerva Cannon to pay into the office of the Clerk and Master of this Court the sum of Six (\$6.00) Dollars per week, to be paid to this petitioner for the support of herself and her children until the September Term of

the Court, which amount was decreed to be paid in weekly install-  
ments.

That since the March Term of this Court the defendant had paid into the hands of the Clerk and Master the sum of Thirty (\$30.00) Dollars which has been turned over to this petitioner for the support of herself and her children. That in addition to this amount the said defendant has sent to the children the sum of Fifteen (\$15.00) Dollars, making a total paid to herself and to the children of Forty-Five (\$45.00) Dollars, and this is all the money that has been paid to her or to the children in pursuance to said order.

That this failure and refusal on the part of defendant to pay the amount decreed by the Court at the March Term is in wilful and utter disregard of the decree and order of this court and is in wilful and wanton disobedience thereto, and in contempt of this Honorable court.

IV.

The petitioner therefore prays for an attachment for the body of the defendant Jerva Cannon and that he be placed in custody to answer this petition at the next term of this Court.

This is the first application for an attachment in this cause.

Neoma Huffstetler Cannon

Goddard & Gamble, Attys.



STATE OF TENNESSEE

BLOUNT COUNTY.

Personally appeared before me the undersigned authority Neoma Huffstetler Cannon who makes oath in due form of law that she is the petitioner herein and is the original complainant in this cause, and that she has read the foregoing petition, and that the statements therein made are true and correct.

Jas. L. Drummer  
Neoma Huffstetler Cannon.

Sworn and subscribed to before me this the 2nd day of September A. D. 1935.

J. C. Gamble  
NOTARY PUBLIC

My commission expires Oct 6, 1937.

(Seal) COUNTY

TO THE SHERIFF OF BLOUNT COUNTY:

NEOMA HUFFSTETLER CANNON )  
VS. ) NO. 2265.  
JERVA CANNON )

TO THE CLERK AND MASTER, MARYVILLE, TENNESSEE.

File the foregoing petition and attachment for the

body of Jerva Cannon returnable to the first day of the next term of this Court. The Sheriff will take a bail bond from the defendant for his appearance at the next term of Court in the penalty of \$250.00, with two good sureties, condition to be void if the defendant appear, file his answer to said petition as required herein and does not depart from the Court without its leave.

This 4th day of September 1935.

WITNESS R. Dot Wynn, Clerk and Master of said Court at office in Maryville, Tenn. Jas. L. Drinnon CHANCELLOR. September 5th, 1935.

R. Dot Wynn, Clerk & Master

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ENFORCEMENT OF WRIT

WRIT OF ATTACHMENT

Case to mind 5th day of September, 1935. Executed

Issued September 5th, 1935.  
R. Dot Wynn, Clerk & Master.

STATE OF TENNESSEE  
BLOUNT COUNTY

TO THE SHERIFF OF BLOUNT COUNTY:

C. A. Harp  
Deputy Sheriff.

We, command you to attach Jerva Cannon, so as to have his body before our Chancery Court at Maryville, Tenn. at its next term, then and there to show cause why he should not be fined or committed, according to law, for contempt by him committed against the State, in failing to perform the decree of

APPEARANCE BOND

Filed Sept. 8, 1935.  
R. Dot Wynn, C. & M.

the Chancellor in the cause of NEOMA HUFFSTETLER CANNON -vs-  
JERVA CANNON.

BLOUNT COUNTY.

You will take a bail bond from the said Jerva Cannon with two good sureties in the penalty of \$250.00, conditioned for his appearance at the time and place above designated to show cause as aforesaid. Herein fail not and have you then and there this writ with a return showing how you have executed the same.

WITNESS R. Dot Wynn, Clerk and Master of said Court at office in Maryville, Tennessee, September 5th, 1935.

Witness our hands, this 5th day of Sept. 1935.

R. Dot Wynn, Clerk & Master

ENDORSEMENT ON BACK

Approved

Sept. 8, 1935.

Came to hand 5th day of September, 1935, Executed as commanded by reading the within attachment to Jerva Cannon and leaving a copy of same. Jerva Cannon having made bond and filing same with Sheriff McReynolds.

This September 6th., 1935.

C. A. Harmon  
Deputy Sheriff.



APPEARANCE BOND

Filed Sept. 6, 1935.  
R. Dot Wynn, C. & M.

STATE OF TENNESSEE, DAY SEPTEMBER 6,  
BLOUNT COUNTY. 1935.

We Jerva Cannon, C. M. Huffstetler and T. S. McConnell agree to pay the State of Tennessee the sum of Two Hundred & Fifty Dollars unless the said Jerva Cannon appear at the next term of the Chansler (Chancery) Court of said County, and from term to term until the case is finally disposed of, to answer for the offense of contempt by him committed against the State and does not depart the Court without leave.

Witness our hands, this the 6th day of Sept. 1935.

Chancery Court at Maryville, Tennessee, for Blount County,  
present and presiding the regular and acting, the Honorable  
Jas. L. Bryman, assigned by law to said Chancery Court,  
Approved \_\_\_\_\_  
J. N. Cannon  
C. M. Huffstetler  
T. S. McConnell

Sept. 6, 1935.

NEOMA HUFFSTETLER CANNON )  
VS. ) NO. 2262  
JERVA CANNON )

Comes the original complainant, Neoma Huffstetler Cannon, by attorneys and moves the court to strike the cross-bill of Jerva Cannon from his record for the reason that the said Jerva Cannon is in contempt of court in failing and refusing to abide and perform the decree of this court heretofore entered requiring him to pay into the office of the Clerk and Master the

sum of \$6.00 per week for the support of the original complainant and their children, because he cannot be heard in this Court until he purge himself of his contempt.

MONDAY SEPTEMBER 9,  
1935.

Giddard & Gamble, Attys.  
For Neoma Huffstetler Cannon.

STATE OF TENNESSEE

BLOUNT COUNTY.

NEOMA HUFFSTETLER CANNON )

Be it remembered that on this the 9th day of September 1935, it being the Second Monday of said month, and the time fixed by law for holding the regular Term of the Chancery Court at Maryville, Tennessee, for Blount County, present and presiding the regular Chancellor, the Honorable Jas. L. Drinnon, assigned by law to hold such Chancery Court, when the following proceedings were had and entered of record to-wit:

NEOMA HUFFSTETLER CANNON )

VS. ) NO. 2265

JERVA CANNON )

Comes the original complainant, Neoma Huffstetler Cannon, by attorneys and moves the court to strike the cross-bill of Jerva Cannon from the record for the reason that the said Jerva Cannon is in contempt of court in failing and refusing to abide and perform the decree of this court heretofore entered requiring him to pay into the office of the Clerk and Master the

sum of \$6.00 per week for the support of the original complainant and their children, because he cannot be heard in this Court until he purges himself of his contempt.

It is therefore, honorably ordered, adjudged and decreed by the Court that Goddard & Gamble, Attys and For Neoma Huffstetler Cannon. and the same is dismissed. It is further ordered, adjudged and decreed by the Court that the complainant Neoma Huffstetler Cannon have and recover from the said Jerva Cannon and Geo. Huffstetler, trustees of his estate, all the costs of this cross-bill for which execution will issue.

NEOMA HUFFSTETLER CANNON )  
VS. ) NO. 2265  
JERVA CANNON )

This cause came on to be heard on the motion to dismiss the Cross-Bill of the defendant Jerva Cannon, thereupon the defendant moved the Court to continue said motion to a later day of this term that he might produce proof to show that he was not in contempt of Court, which motion the Court overruled.

Thereupon Court adjourned until tomorrow morning at 2:30 o'clock P. M.

NEOMA HUFFSTETLER CANNON )  
VS. ) NO. 2265  
JERVA CANNON )

This cause came on to be heard on this the 9th day of September 1935 upon the motion of complainant to dismiss



the cross-bill of the original defendant, Jerva Cannon, when the Court was of the opinion that said motion is well taken and he therefore sustains the same.

It is therefore, accordingly ordered, adjudged and decreed by the Court that the cross-bill of Jerva Cannon be and the same is dismissed. It is further ordered, adjudged and decreed by the Court that the complainant Neoma Huffstetler Cannon have and recover from the said Jerva Cannon and Geo. Huffstetler, J. E. Irwin, W. T. Kagly, John Hill and C. M. Huffstetler, sureties on his cost bond, all the costs of this cross-bill for which execution will issue.

It is further ordered by the Court that the defendant Jerva Cannon have until Sept. 10th, 1935 at one o'clock P.M. to make defense to the Petition for Contempt.

Defendant excepts to the action of the Court, and prays an appeal to the Court of Appeals, which appeal is disallowed at this time.

Thereupon Court adjourned until tomorrow morning at 8:30 o'clock A. M.

Thereupon Court adjourned until tomorrow morning at 8:30 o'clock A. M.

Jas. L. Drinnon  
CHANCELLOR.



NEOMA HUFFSTETLER CANNON )  
VS. ) NO. 2265  
JERVA CANNON )

This cause came on to be heard upon the petition of Neoma Huffstetler Cannon on an attachment for contempt charging the defendant with wilful and wanton disobedience and failure and refusal to perform the decree of this Court in the favor of alimony.

After hearing the evidence offered and the argument of Counsel the Court finds that the defendant was not guilty as charged and said petition for attachment is accordingly dismissed and the defendant discharged.

The costs of the contempt proceeding is adjudged against the defendant and execution will issue for the same.

Thereupon Court adjourned until tomorrow morning at 8:30 o'clock A. M.

Jas. L. Drinnon  
CHANCELLOR.



That the procedure THURSDAY SEPTEMBER their  
youngest child was born 12, 1935. He was furnished by her  
sister, Clara Gervar, and the prescription by the Rustis Pharmacy,  
Rustis Florida. He tried to destroy the drugs she had left and  
she became angry. Court met pursuant to adjournment, present and  
presiding the Honorable Jas. L. Drinnon, Chancellor, as on at  
yesterday. The minutes of yesterday were read and signed, the  
following proceedings were had and entered of record, to-wit:

He also avers that in August 1934, she was pregnant  
NEOMA HUFFSTETLER CANNON ) to get drugs to produce an abortion  
and he objected and she got ) the drugs to produce an abortion and  
VS. led him to her bed and ) NO. 2265  
the medicine before the Doc ) or or the neighbors came in. He got  
JERVA CANNON with the prescri ) tion and a letter where she told  
him they were and looked them up until January 21, 1935, when  
she procured

In this cause on motion of the defendant and by  
leave of the Court he is allowed to amend his answer as follows  
at the end of page three of his answer that he may add the follow-  
ing: The defendant avers that the trouble between him and the  
complainant was caused by her conduct that in the spring of 1928  
that the defendant commenced using drugs furnished her by her  
sister for the purpose of abortion and when he objected to this  
conduct she became angry and cursed and abused him and with an  
oath saying that it was none of his business that his sister was  
paying for it; and that she sold dresses and her electric iron  
that he had bought to pay for that medicine used for the unlaw-  
ful purpose. In May 1935, her mother procured for her some

That she procured drugs to produce abortion before their youngest child was born and this medicine was furnished by her sister, Clara Carver, and the prescription by the Eustis Pharmacy, Eustis Florida. He tried to destroy the drugs she had left and she became angry and cursed and abused him, and she neglected and scolded and cursed him almost continuously while he was at home from work. He is a contractor and has been employed much of his time and has supported his family well.

He also avers that in August 1932, she was pregnant and asked him to permit her to get drugs to produce an abortion and he objected and she got the drugs to produce an abortion and called him to her bed and told him to destroy the remainder of the medicine before the Doctor or the neighbors came in. He got the medicine with the prescription and a letter where she told him they were and locked them up until January 21, 1935, when she procured the key to his tool box and got the drug prescription and the letter. He asked her about it and she said with an oath that it was none of his business and grabbed a poker and tried to strike him and did strike him and attempted his life and he ~~XXXXX~~ wrenched the weapon out of her hands, and this is the time that she charged in the bill that he choked her which he denies and avers that he used only such force as was necessary to disarm her. She states that she had been living with him for the last eight months in order to get said drug prescription and letter and on the next day she left him without cause. That is the time he procured the warrant for her.

In May 1933, her mother procured for her some

instrument to prevent pregnancy and asked complainant to permit it to be installed, which he refused but the same was done by Dr. Lovingood, and this permitted normal oction. Since this time she has been improperly associating and noticing other men. He also avers that about December 1934, she told complainant that he had better get ready to get all he intended for the children for Christmas that he was going to be golted some of these days and would never return; and on about the 28th. he caught her putting something in his coffee, and before that he detected something wrong and poured it out. He avers she was attempting to poison him. She said she was putting it in the coffee to kill his appetite for whiskey. He avers that she is not the proper person to have the custody of said children and that they have been staying with her father who is more than 70 years of age and who has unheld<sup>h</sup>er sister in the wrongs herein set out and he is not the proper person to have the custody of said children. He avers also that her people have caused much of the trouble between him and the complainant, and that they lived happily until her sister wanted them to take her and conceal her pregnancy while they lived in Florida, which he refused to do, but the complainant brought her to their home against his wishes where she gave birth to an illegitimate child. Complainant would often return to her fathers house while they were in Florida and he would furnish her the money, on June 1, 1925, the defendant came to the home of her fathers in Tennessee and returned to him at Fort Lauderdale on October 28, 1925, He sent her \$50.00 in



September of that year to return on October 29, 1925, she was taken to her family doctor, Doctor Stanford, and after an examination he stated she was pregnant and had been for some six weeks to two months and she gave birth to her second child on January 6, 1926.

JERVA CANNON

These visits and her conduct caused much of the trouble between them, and was not his fault.

This cause came on to be heard before the Hon. James A. DeLoach, Chancellor, on this the 12th day of September 1926 upon the original bill of the complainant, Neoma Huffstetler

NEOMA HUFFSTETLER CANNON )

VS. )

JERVA CANNON )

NO. 2265

Comes the complainant by attorneys and moves the court to strike the amendment to the answer of Jerva Cannon heretofore filed for the reason that the said amendment now comes too late, and for the further reason that the matters therein alleged are not germane to the issues raised by the pleadings, which motion being considered by the court, is sustained and the said amendment is hereby stricken.

To which action of the Court the defendant excepts, and prays an appeal to the Court of Appeals, which is denied at this time.

NEOMA HUFFSTETLER CANNON )

VS. )

JERVA CANNON )

NO. 2265 IN THE CHANCERY

COURT OF BLOUNT COUNTY.

FINAL DECREE

This cause came on to be heard before the Hon. James L. Drinnon, Chancellor, on this the 12th day of September 1935 upon the original bill of the complainant, Neoma Huffstetler Cannon, and the answer of Jerva Cannon, and upon the testimony introduced in open court, from all of which the Court is of the opinion that the allegations set out in the original bill are true, and that the defendant, Jerva Cannon, has been guilty of such cruel and inhuman treatment or conduct toward the complainant as renders cohabitation with him unsafe and improper and renders it improper and unsafe for her to be under his dominion and control, and that the complainant, Neoma Huffstetler Cannon, has given the defendant no just cause or excuse for his said misconduct, and that she has not condoned the same.

It is therefore ordered, adjudged and decreed by the court that the bonds of matrimony subsisting between the complainant and defendant be and are hereby absolutely and forever dissolved, and that complainant be vested with all of the rights of unmarried woman.

NEOMA HUFFSTETLER CANNON )

VS. )

JERVA CANNON )

NO. 2265 IN THE CHANCERY

COURT OF BLOUNT COUNTY.

FINAL DECREE

This cause came on to be heard before the Hon. James L. Drinnon, Chancellor, on this the 12th day of September 1935 upon the original bill of the complainant, Neoma Huffstetler Cannon, and the answer of Jerva Cannon, and upon the testimony introduced in open court, from all of which the Court is of the opinion that the allegations set out in the original bill are true, and that the defendant, Jerva Cannon, has been guilty of such cruel and inhuman treatment or conduct toward the complainant as renders cohabitation with him unsafe and improper and renders it improper and unsafe for her to be under his dominion and control, and that the complainant, Neoma Huffstetler Cannon, has given the defendant no just cause or excuse for his said misconduct, and that she has not condoned the same.

It is therefore ordered, adjudged and decreed by the court that the bonds of matrimony subsisting between the complainant and defendant be and are hereby absolutely and forever dissolved, and that complainant be vested with all of the rights of unmarried woman.



It further appearing to the Court that the complainant, Neoma Huffstetler Cannon, is a fit and proper person to have the custody and control of the children of the complainant and defendant, it is therefore accordingly ordered, adjudged and decreed by the court that the complainant have the exclusive custody of the minor children of complainant and defendant to-wit: Mildred Cannon, Jean Cannon and Roy Cannon, provided however that the defendant may visit said children at any convenient time and place.

It is further ordered, adjudged and decreed by the Court that the defendant, Jerva Cannon, pay to the Clerk and Master of this Court for the support and maintenance of the complainant and the said minor children the sum of \$10.00 per month until the next term of this Court, in addition to the amount he is in arrears upon the alimony he was ordered to pay at the last term, which amount he is ordered to bring to date before the next term of this Court, and that he further pay the sum of \$50.00 to the said Clerk and Master as a fee for attorneys for the complainant. It is further ordered, adjudged and decreed by the Court that the complainant have and recover of the defendant all the costs of this cause, for which execution will issue.

It is further ordered that this case be retained in court for the enforcement of this decree whenever necessary, and as to further orders concerning alimony at subsequent terms of this court.

APPEAL BOND

Filed October 7, 1935.

It is further ordered by the court that in case of an appeal of this cause to the appellate court, the defendant shall execute a good and solvent appeal bond, From which orders and decrees of the Court the defendant prays an appeal to the next term of the Court of Appeals which appeal is granted, and the defendant is given 30 days from the entry of this decree to file his bill of exceptions, and complete his appeal

Approved for Entry,

Jas. L. Drinnon, Chancellor.

--- Sept 29, 1935.

Thereupon Court adjourned until Court in course.

CHANCELLOR.

APPEAL BOND

Filed October 7, 1935.  
R. Dot Wynn, C. & M.

Filed October 9, 1935.

R. Dot Wynn, C. & M.

STATE OF TENNESSEE,  
BLOUNT COUNTY  
CHANCERY COURT AT MARYVILLE

Know all Men by these Presents, That we, Jerva Cannon, Cas Huffstetler, E. B. Goddard and S. T. Hammontree are held and firmly bound unto Neoma Huffstetler Cannon in the penal sum of Two Hundred and Fifty Dollars, to be void on condition that Jerva Cannon prosecute with effect an appeal which was prayed and granted, from the decree of the Chancellor, to the Court of Appeals or pay all cost and damages, incident on failure thereof, or which may be adjudged against us.

Sept. 25, 1935.

Jerva Cannon (Seal)

Cas Huffstetler (seal)

E. B. Goddard (seal)

S. T. Hammontree

Attest:

R. Dot Wynn,

Clerk.



June 5, 1935, by which BILL OF EXCEPTIONS be returned to  
Florida when this child was about Filed October 9, 1935. In this  
second child was not his and was by R. Dot Wynn, C. & M. together  
with other men.

In the spring of 1927 we returned from Florida  
NEOMA HUFFSTETLER CANNON ) to the State of Indiana where he had  
VS. ) and stayed there until ) NO. 2265  
JERVA CANNON ) in where they spent the winters of 1927  
and 1928. After our child was born, October 26, 1928, he was

intoxicated often. On BILL OF EXCEPTIONS left the next to the  
State of Indiana, and from then until July he was as only one

The Complainant Offered the following evidence: In the fall

Neoma Huffstetler Cannon, being duly sworn, testified as follows:

I am the complainant in this case. The defend-  
ant, Jerva Cannon and I were married in Blount County, Tennessee,  
on April 13, 1921. Soon after our marriage we went to Florida,  
I did not know of any trouble he had been into here until the  
Sheriff of Blount County came down there after him, I understood  
he was involved about some checks and notes. He was in trouble  
again in about 1923, when we came here for the birth of our  
first child and my father helped him to get the money to pay out  
of it.

He had trouble at an election, and he came in  
about 2 o'clock A. M. and cursed me and called me vile names.  
I again returned home for the birth of my second child which was

born June 6, 1926, my husband came with me and he returned to Florida when this child was about a week old, and he said this second child was not his and wrote letters accusing me of wrongs with other men.

In the spring of 1927 we returned from Florida where he worked and we went to the State of Indiana where he had work and stayed there until the fall of 1927, when they came back here and then went to Florida where they spent the winters of 1927 and 1928. After our child was born, October 26, 1930, he was intoxicated often. On March 26, 1934 he left and went to the State of Indiana, and from then until July he sent me only six dollars, and bought a few clothes for the children. In the fall of 1933 the defendant came to my fathers house he became very angry at my father and mother and was made at me, and cursed and abused us all. He got a shot gun and threatened to kill me and my father and mother, and abused us all by cursing and calling us vile names. He finally took me and the children in the automobile with the gun and we went to my sister's house. He threatened to kill any of us if we opened our mouths and cursed me in the presence of our children. We lived together after this. I sued him for divorce in 1934 and he came and promised to treat me right if I would go back and live with him and said he would stop drinking and he also wrote a letter begging me to take him back again and saying that he would treat me and the children right. After we got back together we went to Calderwood and lived there until a short time before I filed the bill when we came to

Maryville to live.

After we moved to Calderwood in 1934, he became jealous of me without any cause and he cursed me and called me a whore, he accused me with talking with other men, he forbid me to go to the Post Office or to the store or to Maryville, or to go out with my friends. He tried to get the bus drivers to promise not to bring me to Maryville.

We moved to Maryville about two weeks before the bill in this case was filed and I learned that he had taken a prescription that belonged to my sister, and she had been feeling hard toward me because I could not return it. I got the keys and took the prescription that belonged to my sister from his tool box, as my sister had been giving the children clothes and other things and she was not feeling right toward us because I did not return the prescription and had quit giving them anything; when he found that I had taken the prescription he came in and was mad and cursed me and choked me and cursed the whole Huffstetler generation. He <sup>h</sup>oked me and threatened to kill me and when our small daughter came up to interfere he slapped her. We were living then in Miss Kittrell's house. He came back directly with a deputy sheriff and came in and told me in the presence of the deputy sheriff to not take the children away from there, and said that he was going to get a warrant for me and put me in jail. He got a warrant, charged me with abortion, and the officer came and read the warrant and told me to appear before C. C. Smith, Justice of the Peace at 10:00 o'clock on Saturday, January 26, 1935.



I appeared before the Justice of the Peace at the time stated and my husband was not there, and the Justice of the Peace dismissed the case. I think the Justice of the Peace talked to my husband over the phone while I was there. When the defendant threatened to have me arrested, I took the children and went to my brother's home in the 7th District of this county.

The defendant has been drinking many times since we were married. He has often cursed me and called me vile names and has not supported his family as he should.

I have lived true to him and did not give him any excuse for the way he treated me. I received this letter from him.

Letter, Filed Oct. 9, 1935.  
R. Dot Wynn, C. & M.

March 4, 1935.

Maryville,

431 Washington Ave., Tenn.

dear Neoma and kids

I would love to see you all tonight hope you and the kids are well. Neoma I guess you dont intend to rite me or let the dear little kids rite but I can stand it fifteen days more, by god, being my helper. You dont realise how it is or in other word you cant simpathise

untill you are standing without them. Neoma if you wont rite please let Ruth and Jean rite.

My loyalty to my family the best of people where we have lived both in Maryville & Calderwood. I had a letter dictated to me last night over in town you rote to your best friend in Calderwood, you told her you would reveal our secrets to her sometime before long. I am sorry your secrets has revealed itsefe as she has already rote you. I am sorry for our sweet little kids, that will have to live under what disgrace, that will be opened before the eyes in a fiew days, and will have to carry it to their graves. I hope and pray to god that them three little sweet one will never have the stain an disgrace on them me an you will have on us the 18 day of this month. Neoma I am sorry to have to bring before the eyes of the public what I have to. Neoma "I love you I can and will take you back forgive and forget if you can do the same. Neoma me an you have once been as happy as to people as ever been together before our trouble started 18 months ago, you know, but thank god my worry with your people as far as my interest towart them is over. I told you what you an them would drive me to so it did. Neoma what we have got will be sold the 14 as you have red it in the Maryville Times.

Neoma if you still intend to push your divorce case for god sake come on up here and us get it over with the 18th.

I have got my job in Ft. Lauderdale I had to put them off untill April 1st. About comming I am making good when I am working. After all the trouble that this bunch has put Mr. Gervin \_\_\_\_\_ to he gave me a raise to \$6.00 per day. he has got another theater at Kingsport, Tenn. 90 miles from here 6 months of work. he wants me to go with him but I am going to Lauderdale, just as soon as me an you gets our business in shape and for godsake want you to be here an be ready I am ready. Neoma you know I have always took ever burden and ever thing and all blames for your sake and for the kids sake, but this is one time the tide has turned my an your carrier is just 15 days off, the biggest disappointment for you in life is only a few day off. Neoma I love you an would die than to do what I will have to in order to clear my ~~life~~ life with you but when it comes a time like this when nothing else will do. Jerva happened to have ~~what~~ <sup>what</sup> it takes an I am thankfull to god I am in a position to shoe it plain so when its all over with all you can say, Neoma did it all, because I have denied mysefe for you an the kids to try to keep you an them in respect, but after all I have done it had to come.

So these little local affairs we have here on earth is only to wright the wrongs, so I am ready to stand and take all of mine but there is one thing sure when Jerva is judged with our Judge in heaven there wont be any



murder charges against me or any that has run out of date,  
I am thankful for that.

Neoma I am sorrow for you I have prayed over this  
an our affairs at what has happened to you because I love  
you. You have done me rong, I have done you rong, honey  
listen we may never live another day together but when you  
come to die you will have to say when departing from this  
world there one man that loved me and nothing I could do  
to break his love for me.

Honey you know you can make me made enough to  
nearly do any thing but when I get in a good humor there  
that old love back. (honey we may never live together if  
this case comes on to a trial an I have to prove and  
shoe things as I will I wont live with you but I am  
going to my grave with a hart full of love for you that I  
never intend to try to destroy one bit of it for you,  
god knows I love you ever body else knows I do and I am  
going to tell the judge the day we have our trial I love  
you, honey you couldn't bit more get a divorce from me  
providing I don't agree to give you one than you can fly.)  
Billy ~~Moteer~~ the man that was to draw our contract you  
know the day we went down to his office and you wouldn't  
sign it because I wouldn't give you up, that stuff he has  
down an told me he would clear my way an that he herd  
ever word we said while we was there him an the girl in

the office both he said just to have him an the girl both summoned he said he knew then me an you couldn't never live together so that will be the end of your storry an that you let that stuff you stold ruin our selves, and dam our little kids. Characters to the last degree, so you see after all Neoma did it all.

Honey, less quit our foolishness, let me keep what money I am fixing to pay out for the good of our little ones that god ~~they~~ <sup>knows they</sup> need ever penny of it and to and lets go to Lauderdale where nobody knows our troubles and try to make life a pleasure for our sweet little kids. I have done an paid out twice over enought to have Ruth operation an to put the little pitiful thing in good helth, but who did it Neoma did it all. You wasn't satisfied with a good living you had to tar it all up, but the worse is to yoursefe you done an see it now, but the worst is yet to come, I am sorry for Leona, also you dady an mother, but the truth has to come, ever thing will be uncovered by the 15th. I have stood in the dark long enough. I will give Montvail \_\_\_\_\_ one eye opening that sure be a surprise just like one of your good neighbors told me yesterday she said I had helt things longer than she ever thought I could under the pressur that I was in, so honey if you think you can hurt me any worse than I can you an your people, we will just have to match to see who will win an

CROSS-EXAMINATION.

To were married in April 1931, and I had known  
Jesse Gannon then about eight weeks. I had never seen him  
as far as the kids, I can win them by law beyond any  
doubt your atty will tell you I can if he hasn't already.  
I guess I have disappointed you and Joe Gamble, they  
thought I would leave the country so you could get your  
divorce and alimony, but I just got my business in shape  
to stay its staying time with me. so I am here an if no  
other arrangements can be mad. I will meet you the 18th  
at the Court house if you havn't got any proposition you  
want to make to me by return mail, don't ask me for any  
when we meet at the Courthouse. I am ready <sup>to</sup> meet you on  
ever charge, I intend to keep ready. Honey I would send  
you some money in this letter but I haven't got it in  
shape to any credit in this suit I have paid out several  
dollars but thank god I only have got to put out \$10.00  
more until ever thing is settled I have got \$25.00 to-  
night I have done an paid my bankruptcy in full. I have  
got to pay Kramer 10.00 more between now an the 18th.

Honey I will send you some money if you will ans  
my letter but I will send a check, so I can shoe credit  
for it.

Honey I hope you are in a good humor, and have  
considered things as I have, if you havn't please do this  
kiss the kids for me, tell my sweet little dady would give  
the world to see him tonight. so good night. Ans soon.

J. N. C.



## CROSS-EXAMINATION.

We were married in April 1921, and I had known Jerva Cannon then about eight months. I had never seen him drink before we were married. He did not drink to excess before we were married. The checks and notes that He was in trouble about were given before we were married, after he got out of this trouble my father paid his way to Florida and sent me down there to him. My sister also sent to Florida with me. He denied that our second child was his. He said that I came down there on October 28, 1925 but I went in September.

When he went to Indiana in March, 1934, the meat he left there was two shoulders and two small hams and a midling. We lived in Calderwood seven months. I did not flirt with any man while we were living there. He did not find bloomers, napkins, or rubbers under the bath tub in our bathroom in Calderwood.

The prescription we had trouble about was made for my sister, Mrs. Carver, when she was at my home. He was always hunting around for something. He swiped the prescription from my sister and later told me that he had just took it for revenge on our family.. My sister was sore about him taking this prescription and had quit giving us anything. While we lived in Florida I would come back home each year for a while; I would not stay away from my parents all year. In order to get the prescription, I got Jerva's key to his tool box and opened it on the 28th day of January, 1935, and that is the time he got mad at me and choked me. I left him the next day because he accused me

falsely in the warrant that he got before the Justice of the Peace. Six (6) Dollars was all he sent me from March to July 1934. We had some meat and molasses but we did not have any canned goods. When he choked me because I would not give up the prescription, I attempted to strike him with the poker and did strike him and I told him if he spoke to the children I would hit him. That was before he got the state's warrant. There was no medicine with the prescription. He would slap our children; I would not correct them except in a mild way.

He brought that letter to the house and didn't give it to me; I took it from his clothe~~ts~~s. This is the letter.

Wed. eve.  
Dec. 12, 1934.

J. N. Cannon

Dear Sir :

In regard to what we was talking about. it is impossible for me to see you Sat. as I cant be at home haft to be away. Is for as I know now If you dont see me don't look for me. dont say anything about what we was talking about as I have not told B. or anyone else. so play dumb, will see you later:

Your friend.

Filed Oct. 9, 1935.  
R. Dot Wynn, C. & M.

C. C. Smith, being duly sworn, testified as follows:

There was a warrant returned before me asking the arrest of Mrs. Cannon. I think the warrant was issued by W.P. Abbot, Esq. It was returned to my office and I don't know whether she made bond or not. When she came there for trial Mr. Cannon called me from the Penny Building. He did not come down there and I do not know whether there were any witnesses summoned or not, but there were none there. The warrant charged the death of a child by abortion. The warrant which was returned before me is as follows:

STATE WARRANT.

FILED Oct. 9, 1935.

R. Dot Wynn, C. & M.

STATE OF TENNESSEE

BLOUNT COUNTY

PERSONALLY came before me, W. P. Abbott, Justice of Peace for Blount County the undersigned, who, being duly sworn, states that in December 1931 in the County and State aforesaid the offense of Criminal abortion was committed by Neoma Cannon by taking drugs. She, in this manner, caused the death of a baby boy, has been committed and charges thereof and therefore he prays a warrant of arrest.

J. N. Cannon, Prosecutor



ENDORSEMENT ON BACK.

No. 2347

THE STATE OF TENNESSEE

VS.  
22, 1935.

NEOMA CANNON

J. N. CANNON, Pres.

Sworn to and subscribed before me this January

W. P. Abbott  
Justice of Peace for Blount County.

State of Tennessee and setting case for trial before J. O. Blount County Justice of Peace on Jan'y 25, at 10 o'clock A.M.

**TO ANY LAWFUL OFFICE OF BLOUNT COUNTY--GREETINGS:**

The foregoing affidavit having been made before me that the offense of Criminal abortion has been committed within the corporate limits of said county. You are therefore commanded in the name of the State and the County of Blount, forthwith to arrest and bring before me, W. P. Abbott the undersigned Justice of Peace of said County, the accused, the said Neoma Cannon to answer the above charge and be dealt with as the law and ordinances direct.

Issued this January 22, 1935.

This Jan'y 22nd, 1935 W. P. Abbott,  
Justice of Peace

C. O. Smith, Justice of Peace

**SUBPOENA:** You are further commanded to summon the following witnesses to personally be and appear at my office, and testify in behalf of the County of \_\_\_\_\_, State of Tennessee, aforesaid, on \_\_\_\_\_ at 8:00 O'clock A. M.

No. 1 \_\_\_\_\_ Address \_\_\_\_\_ Works at \_\_\_\_\_ Phone \_\_\_\_\_

ENDORSEMENT ON BACK.

No. 2247

THE STATE OF TENNESSEE

VS.

NEOMA CANNON

J. N. CANNON, Pros.

Came to hand same day issued. Executed by  
arresting Defendant and setting case for trial before C. C.  
Smith, Justice of the Peace on Jany 26, at 10 o'clock A.M.

W. O. Spangler  
Deputy Sheriff.

CONTINUED BY STATE to 9:00 A.M. Jany 28.

THE STATE

VS.

NEOMA CANNON

In this case, after hearing all the evidence,  
both on behalf of the State and Defendant, I find the Defendant  
not guilty.

This Jany 28th, 1935.

C. C. Smith, Justice of Peace

CROSS-EXAMINATION

Mrs. Cannon refused to talk to Jerva on the phone  
when she came to my office for trial. The charge was not press-  
ed and the case was dismissed.

The next witness, J. M. Pryor, being duly sworn, deposed as follows:

I am a deputy sheriff. I know Jerva Cannon and his wife, I just know them-- not very well acquainted. Jerva came over and wanted me to go over to his home on Washington Avenue and when we got there he wanted me to tell his wife not to take the children away but I would not do it because it was not part of my duty as an officer and she spoke something to him. I don't know what she said. He did not curse her he just told her not to take the children away, and told her that he was telling her this in front of an officer of the law.

The next witness, Bob Hannah, being duly sworn, deposed as follows:

I had a conversation with Jerva Cannon and he told me that he had told Nath Hughes not to bring his wife into Maryville any more, and he said that Nath Hughes was not of good character and was a bootlegger. Nath had brought her into Maryville a few days before. He told me he suspected her of having to do with other men and accused her of adultery with other men.

CROSS-EXAM.

Nath Hughes had brought Mrs. Cannon into town the day before Jerva talked to me. Jerva also said that Bert Smelcer had been coming there to his house and that his children had told him about it and that there was a place at the window



where the weeds were tramped down. Jerva didn't tell me not to bring his wife to town; I don't know whether she ever rode with me to town or not. I run a taxi. Mrs. Cannon came to me and wanted me to advise her about whether to get a peace warrant for Jerva and I told her that I would not advise her and for her to go to an attorney.

RE-EX

I know Mrs. Cannon and know her character in the community. It is good, I would give her full faith and credit on oath as a witness.

RE-CROSS-EX.

I know Jerva Cannon's character in that community and it is good; I would give him full faith and credit on oath as a witness. I never saw Jerva drunk up there.

The next witness, S. J. Huffstetler, being duly sworn, deposed as follows:

I am the father of Mrs. Cannon and live in this county down here at Carpenter's Camp Ground. I am 69 years of age. I paid a note for Jerva Cannon two years ago of \$216.00. I have given them a good deal. I have been taking care of their children. I have seen Jerva drinking lots of times. I never saw him drunk.

*Filed Oct 9, 1935  
R. Dot wynn et al.*

AUTOMOBILE TITLE NOTE

I came home one Sunday and they were on the front porch. When I returned I heard him curse her and he was cursing her about her not coming to town and buying a lot of furniture. He got a shot gun and I <sup>saw</sup> ~~asw~~ him load it and he said he was going to take the children if he had to do so over someone's dead body. She asked me what to do. I told her they were her children and she could do as she pleased with them. He got in his old car and took his wife and children and put the gun in the car and left with them. I paid off two notes as surety for Jerva. They are as follows:

*Filed Oct 9-1935- R. Dot wynn et al.*

Maryville, Tenn. Aug. 24, 1931.  
Twelve months after date we, or either of us, promise to pay to the order of Will Best \$100.00, One Hundred Dollars, ~~at~~ Int from date, of Maryville, Tenn., for value received.

The undersigned principal and endorsers of this note which is filled up before signing, waive demand notice, and protest thereof, and we agree that if this note is placed in the hands of an attorney-at-law for collection, or has to be sued on, that we will pay ten per cent attorney's fees in addition to the principal and interest, which fees shall be added to and become a part of judgment. We also sign with a full understanding of this notice.

Due Aug. 24, 1932.

J. N. Cannon

S. J. Huffstetler

J. P. Huffstetler

Filed Oct 9, 1935  
R. Detwyn, ex-m.

AUTOMOBILE TITLE NOTE

\$172.00

Maryville, Tenn. Oct. 15th, 1931.

90 days after date we promise to pay to the order of McNutt Motor Co. at Maryville, Tenn. One Hundred Seventy Two & no/100 dollars in renewal of a note given 9-19-1930 on a ford sedan, Motor 1303241 this day sold and delivered to the maker of this note, but with the distinct understanding and agreement between the maker of this note and the payee, that the title to said property is and shall remain in said McNutt Motor Company or assigns until this note is paid in full.

If this property or any part of same is sold or removed or attempted to be removed from Blount County, Tennessee, the entire note becomes due and collectable at the option of the holder of the note.

This note is to be paid in stallments or payments as follows:

Ninety days after date.

Any installments or payments becomes due and unpaid, then the entire amount of this note becomes due and collectable at the option of the holder of the note.

It is further agreed and understood that if this note is placed in the hands of an Attorney for collection or has to be sued on, that ten percent Attorneys fees shall be added to the principal and interest and become a part of said note. We the undersigned principals and endorsers of this note which is filled



the mill and butter while we were away. I told them they could  
up before signing, waive, demand notice and protest thereof.

auto license. He helped cover my barn and kitchen and bought a  
few groceries, while he was living with me.

J. N. Cannon

things through the place and brought them to him and sold them  
and we bought the things back; and  
all the time Jerva was eating at my table.

ENDORSEMENT ON BACK OF NOTE

It is understood and agreed that this note is given  
in renewal of Title note, in order to extend the payment of  
note of 9-10-1930.

sworn, Amount as follows:

J. N. Cannon

Nov. 1, 1931. c. \$8.00

Hugh McNutt

McNutt Motor Co.

S. J. Huffstetler

H. T. McNutt

J. P. Huffstetler

--

I know Mrs. Cannon. I think her character is good.  
I would give her full faith and credit as a witness.

CROSS-EXAM.

I thought Jerva was drinking on the day we had our  
little fight.  
He never tried to use the shot gun, just made  
threats, and I told his wife to take the children and go if she  
wanted to that they were her's.

I never told Jerva I'd blow his damed brains out,  
I haven't sworn an oath in twenty-five years. We have been  
going to Florida for the winter and Jerva and his family have  
stayed in our house while we were gone. He worked all right  
there, nearly all he had to do was feed the cows and they got

the milk and butter while we were away. I told them they could stay and have the cows and chickens. I lent him money to buy auto license. He helped cover my barn and kitchen and bought a few groceries, while he was living there with us. He raised things thereon the place and brought them to town and sold them and we bought them and brought the very same things back; And all the time Jerva was eating at my table.

The next witness, Arthur Costner, being duly sworn, deposed as follows:

Me and Jerva had some trouble in March 1934 at the election. I thought he was drinking, there was a few licks struck, not much of a fight. After he left here, on Monday after the election, I went and hauled wood for Mrs. Cannon. I hauled it to her house where she was living and she had no wood to burn.

I know Mrs. Cannon. I think her character is good. I would give her full faith and credit on oath as a witness.

I thought Jerva was drinking on the day we had our little fight.

Complainant rested her case.

The defendant moved the Court to dismiss the case because the complainant had not made out her case under the

pleadings and the evidence.

The Court overruled the motion and the defendant excepted to the ruling of the Court.

The defendant offered the following evidence:

Jerva Cannon, being duly sworn, deposed as follows:

I am the defendant in this case. The first trouble that came up between me and my wife was because she brought her sister into our home, she came there to give birth to an illegitimate child. She stayed there from February until June before the child was born and did not return back to her home until about the 10th of August, I was working on the Baptist Church at Fort Lauderdale, Florida at that time and was getting Seven (\$7.00) Dollars for eight hours. I never heard my wife complain about not being well supported until this suit was brought.

Our trouble came up about what her people wanted her to do and about her trying to produce abortions. In 1928 she said her sister sent her medicine to produce abortions and told me about it after her baby died. The next time was before our last baby was born, she got the prescription from her sister and got two bottles and had taken them and a few doses out of the third bottle. I looked for it and found it and destroyed it and our little boy was under care of the doctor for two years after he was born. I told her the next time I caught her trying to produce abortions I would let the law take its course, that it was murder and not right. In 1932 she wanted to get medicine for that purpose and I told her not to do it. In October of that year she got the medicine and ~~xxxx~~ I could smell it on her



breath. She took about three bottles. In December she called me and said she was sick, was going to miscarry, and told me where she had her medicine and prescription, and told me to get it and destroy the remainder of medicine before the doctor and neighbors came in. I got the prescription and medicine and put them in my tool box and locked them up. About January 22, 1935 she got the key and took the prescription, medicine, and letter out of my tool box, and when asked about it she got mad and grabbed the poker and struck at me and I grabbed her arm and wrenched it out of her hands. That is the time she claims that I choked her. I did not choke her and just used enough force to disarm her and to keep her from striking me with the iron poker. She stated to me then that she had been living with me for the last eight months for no other purpose than to get her hands on that prescription and the medicine and letter. She left me the next day and I got the warrant for her because I told her if she did that again I would let the law take its course.

I worked in Florida four or five years and she would return home for a month or so each year and I would pay her way and would send her money to come back to Florida where I had been working.

I have always provided well for my family, and a few times I was out of work and could not do as much for them as I would. I sent my children to school and took them to Church and Sunday School.

I never denied I did not threaten to shoot Mr. Huffstetler or my wife at the time they speak of my going to his home after my wife and children. They refused to let my children come with me and I just went down there and got them and my wife got in the car with us and we went to my sister's. I had the gun but I did not attempt to shoot or threaten anybody with it. On Dec. 3, 1934, I found her bloomers and rubber that had been used and a napkin all rolled up together under the bath tub in the bathroom. I hid them in the attic. On the 6th. day of Dec. 1934, she put on her best under clothes when she got up, and that day without my knowledge, she she came to Maryville with Nath Hughes. That night I came in from work and went to take a bath and under the dirty clothes in the bath tub I found the bloomers she put on that morning with a mans handkerchief in the leg of them all messed up. I got them and the rubber I had found and called her, and she grabbed them out of my hands and threw them in the heating stove. She admitted she went to town with Nath Hughes the day before; then I went and told him not to take her any where any more. We were living at Calderwood then.

CROSS-EXAMINATION.

I got the gun I locked my tool box with the prescription and medicine in there and did not intend that she should have them. I told Bob Hannah what the children said about Mr. Bert Smelcer coming there and about the weeds being tramped down at the window.

I never denied any of my children. I doubted one of the children being mine. On June 1, 1925 she came home to Tennessee and left me in Fort Lauderdale, Florida where I was working and she did not return until October 28, 1925. I sent her Fifty (\$50) Dollars to return in September of that year. On October 29, I took her to our family doctor, Dr. Stanford, she had been sick since she had returned home, and after the doctor examined her, he stated that she was pregnant and had been so for some six weeks or two months and her child was born June 6, 1926. That is why I doubted. I will not say that the children are mine. I do not know now if they are mine.

I wrote the letter to her that was offered in evidence. I do love my wife and children. Love isn't something you can throw off at once. I love her although she has accused me of all these wrongs and I am not guilty of them. I did not get the gun and curse her down there at her father's. I went there after my children and I was going to take them with me. That trouble came up over the fact that I had sued her brother and the case was tried on Saturday and they were mad about it and on Sunday I was going to see my sister and went down there to get my children and her father said if I undertook to take those children away he would blow my dammed brains out. I got the gun but I did not attempt to shoot anyone with it. Mr. Huffstetler has signed a note for me. He never give us money to live on. The time we had the fuss there on Sunday was the only time I ever heard him swear. I wrote the letter after all the things I have testified about happened. I love my wife



even tho I have accused her of adultery.

RE-EXAMINATION

Mr. Huffstetler and I have taken a drink together. It was while we were on fishing trips.

RE-CROSS

I have two suits of clothes. I did not buy them since this suit was brought.

The way I happened to find the rubbers and other things I spoke of under the bath tub, I dropped a pencil and it rolled under there and I was getting it out and I found them. This was on Dec. 3, 1935. We have not lived together as man and wife since that time.

The letter that she introduced, I got it and had no idea who it was from and I took it right to her and gave it to her. I didn't have the gun there to shoot anybody at the time the trouble occurred at Mr. Huffstetler's house. The gun was just there, I did take it away with me, I wrote a letter to Bob Howard on May 11, 1935. It is as follows:

Letter  
Filed Oct. 9, 1935.  
R. Dot Wynn, C. & M.

May 11, 1935  
633 South West, 4th Ave.,  
Ft. Lauderdale, Fla.

Hello Bob:

Just wander what you are doing today. I was down

to see you the day before I left but no body was at home. Well I guess you are buisy with your crop, everything down here is looking fine lots of work, looks like another boom fixing to start. I have got ~~xx~~ a job only worked three days, lumber is hard to get here at the present time lots of work in Miami an Palm Beech. (I have been to Miami several times still lots of people here I knew while I was here before lots of attraction to, but I cant indolge in it as you know ha ha.)

Well Bob any time you want a job down here just rite an let me know wages are not so good only 1/2 as they were before but we will make more money before long. Well how is ever thing up there I guess the strawberry business is rushing. Say Bob just as soon as Clara comes home will you let me know an also if Carl Conklin comes up there let me know at once, please.

Well Bob, are you going to any of the Decrations hope you will have a big time at them well this is Saturday no body workes only 40 hours week here any more so I have two days to be off, so hoping this finds you O.K. tell all the rest hello for me hoping they are all well.

I am as ever,

J. N. Cannon

P.S. Well Bob I forgot to tell you I have got an apartment rented me Cas Huffstetler an his two boys are

The next witness, Mrs. Bert Snelcer.

batching board is awfull high here \$10.00 per week.

we rented a nice appartment completly furnished for \$15.00 per month so we can throw our hat down any where we want to, ha ha. an so on.) wish you was here you could soon forget lots of thing an so on.) so hoping to here from you soon.

I know Mrs. Cannon & she is a high typed woman I know her reputation to be good and she is entitled to full faith & credit on oath.

Floyd Russell, being duly sworn, deposed as

The next witness, Bob Howard, being duly sworn, deposed as follows:

Mrs. Cannon was down at home on July 4, 1934 and she said then that her and Jerva would have been living together yet if it hadn't been for her people.

I have been running around with Jerva. He is my brother-in-law. I haven't seen him drunk since he was married and so far as I know he has always supported his family well.

CROSS EXAM.

I don't know whether that is my wife's dress that Mrs. Cannon has on to day or not because she doesn't stay home enough for me to know her dresses.



The next witness, Mrs. Bert Smelcer.

I don't know any thing about how Mr. Cannon  
provided for his family.

CROSS EX.

I know Mrs. Cannon & she is a high typed woman  
I know her reputation to be good and she is entitled to full  
faith & credit on oath.

Floyd Russel, being duly sworn, deposed as  
follows:

I have seen Mrs. Cannon flirting with George Pierce  
down at our Pressing Club. When she would come by I saw her  
grinning at him.

Jerva Cannon has brought clothes to our Pressing  
Club to be cleaned. He would bring his clothes, his wife's  
clothes, and the children's clothes. They dressed as well as  
the ordinary people.

CROSS EXAM.

All Mrs. Cannon did was to grin at Pierce.

Cas Huffstetler, being duly sworn, testified as  
follows:

I am a second cousin to Mrs. Cannon and have known

her and her husband for many years. I worked in Florida for some years with Mr. Cannon. I know that he worked and supported his family while we were working together there. I did not hear of any trouble between them then. Work was scarce in Florida where we were this last summer and we just got odd jobs here and there, and I left there and came back here a month before Jerva did because I could hardly pay my expenses with the work I was getting and he was getting about the same amount of work I was. There was no medicine in his tool box and the only thing that I got out of there was the prescriptive that belonged to my sister. I didn't take any medicine to produce an abortion.

Nanny Kittrell, being duly sworn, testified as follows: I have had one miscarriage and Dr. Field was my doctor at the time. Mr. Cannon and his wife and children lived in our house for a while before they were separated. The children and his wife dressed very well and the children were kept in school. I did not know anything about their trouble.

F. O. Huffstetter recalled testified:  
Florence Kittrell, being duly sworn, testified as follows: I never did drink. I will soon be seventy years of age and I Mr. Cannon and his family lived in our house the last of last year and up until January of this year. Their children were in school. I do not know anything about what trouble they had.

R. L. Buford, being duly sworn, testified as follows:  
I have a grocery store and Mr. Cannon traded with me for quite a while the last part of last year and up to this

The following REBUTTAL testimony was introduced by complainant:

Noami Huffstetler Cannon, recalled testified:

I deny that my husband ever found any rubbers in the dirty clothes or in the bathroom. There were no rubbers there. There was no medicine in his tool box and the only thing that I got out of there was the prescription that belonged to my sister. I didn't to take any medicine to produce an abortion.

I have had one miscarriage and Dr. Ellis was my doctor at that time. I have never at any time produced or attempted to produce an abortion upon myself, In Dec. 1932 or at any other time, I did not tell Jerva to hide any medicine from the doctor or the neighbors.

F. G. Huffstetler recalled testified:

I never did drink. I will soon be seventy years of age and I haven't touched a dram in sixteen years.

G. L. Buford, being duly sworn, testified as follows:

I have a grocery store and Mr. Cannon traded with me for seven months the last part of last year and up to the

first of this year. His wife came to the grocery store and got whatever she wanted and Mr. Cannon paid for it. They have traded with us for two or three years and I extended him credit and he has always paid it.

JERVA CANNON, a resident of Flint County, )

Sterling Taylor, being duly sworn, testified as follows:

Mr. Cannon and his family have traded with me in my store over a period of three and a half years, 1931, 1932, and after. I extended credit to Jerva Cannon and his wife came to the store and got what she wanted.

S. G. Huffstetler never did get any credit for the Cannon family. Jerva Cannon's family dressed as well as any people in that community. He bankrupted a note of One Hundred and Ten (\$110.00) Dollars he owed me but he has since given me a note for it.

On motion the Court orders the cross-bill and amended answer heretofore stricken out to be copied as a part of the bill of exceptions.

er Cannon filed her original bill for divorce in this Court against your complainant, setting forth therein that they were married on April 13, 1921, and he was forced to leave the State shortly after their marriage under a threat of criminal prosecution. That she went to Florida to him and they



later came back to Tennessee and the threatened divorce case involving me TO THE HONORABLE JAMES L. DRINNON, CHANCELLOR, the state of Tennessee HOLDING THE CHANCERY COURT AT MARYVILLE: notes and checks after they came back to Tennessee; and charges that about the time their first child was born in 1922 he kept

JERVA CANNON, a resident of Blount County, )

The bill further Complainant ) by about the years 1917 and 1920 in Florida and Indiana; and ) like they were in

Vs. ) she had an officer to take him into custody and then had him released and he again ) NO. 2265

NEOMI HUFFSTETLER CANNON, a resident of ) in Blount County, Blount County, ) she alleges that four children ) have been born to

their marriage, that the year Defendant ) in 1920 and that the time it was born the defendant was drunk and had other women and drank on various occasions.

Complainant respectfully shows to the Court:

I.

That on the 1st day of February, 1935, the defendant Neomi Huffstetler Cannon filed her original bill for divorce in this Court against your complainant, setting forth therein that they were married on April 13, 1921, and he was forced to leave the State shortly after their marriage under a threat of criminal prosecution. That she went to Florida to him and they

later came back to Tennessee and the threatened criminal case involving notes and checks, was compromised and settled. She states further that he was involved again with reference to notes and checks after they came back to Tennessee; and charges that about the time their first child was born in 1926 he kept company with other women and indulged in the use of intoxicants.

The bill further states that they <sup>sp</sup> spent the years 1927 and 1928 in Florida and Indiana; and while they were in Indiana that he threatened to leave her and she had an officer to take him in custody and then had him released and he apologized to her. That since 1929 they have lived in Blount County.

She alleges that four children have been born to their marriage, that the youngest was born in 1930 and near the time it was born the defendant was caught with other women and drank on various occasions.

The bill alleges that in the fall of 1933 the defendant became angry and cursed and abused her, and procured a shot gun and threatened to kill her and her father and mother and took her and her children to her sisters and used vile language toward her: she also states that he did not fully provide for her from March 26, 1934, to July 24, 1934, and that about June 1, 1934, she filed a divorce suit against him, setting out in substance the same as she set out in this bill, but they settled those matters on his promises, and her agreement to try to live with him again. That they then moved to Calderwood

and he forbade her to go to the store or post office, or to the neighbors, or to Maryville.

That about Christmas 1934 he left their home in Calderwood and threatened to kill her and she was afraid of him, and at sundry times he accused her of being unfaithful and paying attention to other men. That some few days ago they had some words about the prescription and he choked her and slapped their daughter. That he swore out a criminal warrant against her for abortion, and this case was dismissed. That he had not properly supported her and their children.

On the facts she charged him with habitual drunkenness, contracted since marriage, that he had abandoned her and refused and neglected to provide for her and that he was guilty of such cruel and inhuman treatment as rendered it unsafe and improper for her to cohabit with him and be under his dominion and control.

The bill prayed for a divorce and the custody of their three minor children and for alimony for the support of herself and said children.

On March 11, 1935, this complainant answered the bill in said cause and denied that he was guilty of any wrongs toward the complainant or that he had threatened or cursed or abused her or that he had failed to provide for her and his children and denied all the allegations of wrongs in said bill.

and told him what she had II. and told him where the remainder of the medicine was and asked him to destroy it before the doctor of the Complainant in this cross-bill further shows to your Honor that in the spring of 1928 the defendant commenced using drugs, furnished by her sister, for the purpose of abortion. He objected and she became angry and cursed and abused him, saying with an oath that it was none of his business that her sister was paying for it. She sold dresses and an electric iron that he had bought to pay for these medicines to be used for said unlawful purpose.

In August 1930 she procured drugs to produce an abortion before their youngest child was born. This medicine was furnished by her sister, Clara Carver, and the prescriptions were filled by the Eustis Pharmacy, Eustis, Florida. When he learned of this he again objected and tried to destroy the drugs she had left and she then became mad and cursed and abused him, and she has bagged and scolded and cursed him almost continuously while he was at home from his work. He is a contractor and has been employed much of his time and has supported his family well, but his wife is usually mad and nagging him about something when he would return home tired from his work.

In August 1932 she was pregnant and she asked him to permit her to get drugs to produce an abortion and he objected. She got the drugs without his knowledge and took them and produced an abortion in December 1932 and she called him to her



and told him what she had done and told him where the remainder of the medicine was and asked him to destroy it before the doctor or the neighbors came in. He got the drugs with the prescription and a letter where she told him they were and locked them up and kept them until January 22, 1935, when she procured the keys to his tool box and unlocked it and got the drugs and prescription and the letter. He asked her about it and she stated with an oath that it was none of his business and grabbed a poker and tried to strike him with it and attempted his life, and she struck him with same until he wrenched it out of her hands, and that is the time she charges in her bill that he choked her, which he denies and says he used only such force as was necessary to disarm her; she stated she had been living with him for the last eight months in order to get said drugs and prescription and letter, and on the next day she left him without any cause. That is the time that he procured a State Warrant for her.

In May 1933 her mother procured for her some instrument to prevent pregnancy and asked complainant to permit it to be installed, which he refused, but the same was done by Dr. Lovingood, and this prevented normal coition. Since this time she has been improperly associating and noticing other men.

About Dec. 24, 1934, she told your complainant that he had better get all he intended for the children for Christmas, that he was going to the job some of these days and

would never return; and about the 28th. he caught her putting something in her coffee, and before that he detected something <sup>w</sup> wrong and poured it out. He alleges she was attempting to poison him, she said it was put in the coffee to kill his appetite for whiskey.

She and their children are now staying with her father, who is more than seventy years of age, and who has upheld her and her sister in their said wrongs and her sister is now in his home and they are not the proper persons to have the care and custody of his said children and the defendant is not the proper person to have the custody of said children.

He alleges that her people have caused much of the trouble between them and caused the defendant to nag and scold and curse him continuously for a number of years before their separation. They lived happily until her sister became pregnant and they wanted complainant to take her and conceal her in Florida and he refused to do so and after he went back to Florida to his work, the defendant wired him that she was bringing her sister and he was forced to provide for her as well as his family and on July 26, 1923, she gave birth to a child, and she was unmarried, and she returned home about August 10, and the defendant came with her and your complainant had to borrow the money to send them here.

On June 1, 1925, the defendant came to Tennessee to the home of her father where she stayed for some months and returned to him where he lived at Fort Lauderdale, Florida, on

Defendant and has provided a home and supported her and their  
October 28, 1925. He sent her \$50.00 to return in September of  
that year. On October 29, 1925, she was taken to her family  
doctor, Dr. Stanford, and after examination he stated she was  
pregnant, and had been some six weeks or two months, and she  
gave birth to her second child on June 3, 1926. On about June  
16, 1926, he returned to his work in Florida, where he was con-  
tracting, meaning to live separate from her, but she wrote and  
asked him to let her return and promised to treat him right and  
she did return to him. He had been contracting in Florida and  
also working in Indiana some during the last few years before  
they separated and while she was in Florida she would return  
home for a few months each year and he always paid the expenses  
of her and their children. He has been a resident of Blount  
County since 1929.

Some of the facts in this cross-bill have come  
to complainant's knowledge since the filing of his answer, which  
he here refers to and makes a part of this cross-bill, and his  
counsel has been sick and unable to prepare his corss-bill.

The complainant alleges that the defendant is  
guilty of such cruel and inhuman treatment as renders it unsafe  
and improper for him to cohabit with her.

He also alleges that she had an uncontrollable  
temper and that she attempted his life, maliciously as above  
set out.

Complainant has <sup>not</sup> ~~not~~ condoned the wrongs of the

defendant and has provided a home and supported her and their children to the best of his ability. He is a contractor and is well able to care for their said children and to educate them and is the proper person to have their custody.

III.

The premises considered, the complainant prays:

1st: That proper process issue to compel the defendant, Neomi Huffstetler Cannon, to answer this cross-bill, but her oath to her answer is waived.

2nd: That upon the hearing this cross-complainant be granted an absolute divorce and be given all the rights of an unmarried person: and that the exclusive custody of their minor children, Mildred Cannon, Jean Cannon, and Ray Cannon, be decreed to him.

3rd; That the cross-complainant have such further, other and general relief as he may be entitled to upon the hearing.

Jerva Cannon

STATE OF TENNESSEE

BLOUNT COUNTY.

Jerva Cannon, being duly sworn, makes oath



RULE DECREE

EDWARD HUYSTERMAN GAMBLES,

Plaintiff of said County, Tennessee.

that the statements made in his foregoing cross-bill are true to the best of his knowledge and belief; and that his complaint is not made out of levity or by collusion with the defendant, but in sincerity and truth for the causes mentioned in the bill.

DEFENDANT.

Jerva Cannon

Original Bill filed Feb. 1, 1935.

Sworn to and subscribed before me, this 29th day of August, 1935.

Roberts & Seale, Attorneys for Complainant.

Ernest A. Hutton,

R. Dot Wynn, C. & M.

(Seal)

Feb. 1, 1935... Subpoena for return of copy of bill... County for left to... before the said...  
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Feb. 3, 1935... Subpoena for return of bill... returned...  
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Complainant rested his case.

This was all the evidence offered in this case. Feb. 5, 1935... Subpoena for witness... returned...  
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The defendant tenders this his Bill of

Exceptions which is signed by the Court and made part of the record in this case.

R. L. Means, Deputy Sheriff.  
Jas. L. Drinnon, Chancellor.

O.K. J. C. Gamble, for plaintiff.

RULE DOCKET

Mar. 11, 1935... answer of the Defendant, filed, after motion  
 NEOMA HUFFSTETLER CANNON, )  
 a resident of Blount County, Tenn. )  
 vs. ) COMPLAINT )  
 ) NO. 2265 )  
 JERVA CANNON, a resident of )  
 Blount County, Tennessee. )  
 DEFENDANT. )

Mar. 11, 1935... Original Bill filed Feb. 1, 1935.  
 Paupers Oath Filed Feb. 1, 1935.  
 Mar. 13, 1935... Goddard & Gamble, Attorneys for Complainant.

Kramer & Morton,  
 Drinnen & Drinnen, attorneys for Defendant.

Feb. 1, 1935... Subpoena to Answer with copy & copy of bill issued to Sheriff of Blount County for deft to appear and answer on or before the 3rd Monday of Feb. next.

Feb. 2, 1935... Above Subpoena to answer returned, Endorsed, "Came to hand 2nd day of Feb. 1935, Executed as commanded and left a copy of the bill with Jerva Cannon and a copy of this Subpoena to answer with each defendant. This 2nd Feb. 1935.

Mar. 8, 1935... Subpoena for witnesses issued for 12 witnesses. J. D. Waters, Dept. Sheriff.

Mar. 9, 1935... Above Subpoena for witness returned, Endorsed, "Came to hand March 8, 1935. Executed as commanded by summoning the within named witnesses, except Mts. Sophia Cannon who is in Loudon County. This March 9, 1935.

R. L. Rasar, Deputy Sheriff.

Mar. 11, 1935.... Answer of the Defendant, filed, atty notified.

Mar. 11, 1935.... Subpoena for witness/summoning one witness.  
issued

Mar. 11, 1935.... Subpoena for witness issued, summoning two (2) witnesses.

Mar. 12, 1935.... Subpoena for witness issued, summoning eleven (11) witnesses.

Mar. 12, 1935.... Subpoena for witness issued, summoning six (6) witnesses.

Mar. 12, 1935.... Subpoena for witness issued, summoning two (2) witnesses.

Mar. 13, 1935.... Above Subpoena for witness returned, Endorsed, "Executed as commanded. This March 13, 1935.  
J. R. Nichols, Dept. Sheriff.

Mar. 13, 1935.... Above Subpoena for witness returned, Endorsed, "Came to hand Mar. 12, 1935. Executed in full as commanded. This Mar. 13, 1935.  
R. L. Rasor, Dept. Sheriff.

Mar. 13, 1935... Subpoena for witness issued, summoning ten (10) witnesses.

Mar. 14, 1935.... Above Subpoena for witness returned, Endorsed, "Came to hand this the 13th day of March, 1935. Executed as commanded, except Jenson Milsaps, cannot be found in my county. Returned this March 14, 1935.  
J. M. Pryor, Deputy Sheriff.

Mar. 14, 1935.... Above Sub. for witness returned, Endorsed, "Came to hand March 11, 1935. Executed as commanded in full, this March 14, 1935.  
J. R. Hannah, Deputy Sheriff.

Mar. 14, 1935.... Above Subpoena for witness returned, Endorsed, "Came to hand March 13, 1935. Executed in full as commanded. This March 14, 1935.  
J. D. Waters, Deputy Sheriff.



Mar. 14, 1935.... Above Subpoena for witness returned, endorsed,  
 "Came to hand Mch. 12, 1935. Executed as  
 commanded, Except Mrs. P.P. Campbell and Geo.  
 Griffiths. This Mar. 14, 1935.

J. R. Hannah, Deputy Sheriff.

Mar. 14, 1935.... Order entered, Minute book 14, page 189.

Aug. 27, 1935.... Subpoena for witness issued, summoning two  
 (2) witnesses.

Aug. 29, 1935.... Cross-bill of Jerva Cannon, filed, attorneys  
 notified.

Aug. 29, 1935..... P. Bond to Cross bill, signed by Jerva Cannon,  
 Geo. Huffstetler, J. E. Irwin, W. T. Kagly,  
 John Hill and C. M. Huffstetler, filed.

Aug. 29, 1935..... Subpoena to answer with copy and copy of  
 Cross-bill issued to Sheriff of Blount County  
 for deft. to appear and answer on or before  
 the 2nd Monday of Sept. next.

Aug. 29, 1935.... Above Subpoena to answer returned, Endorsed,  
 "Came to hand 29 day of August, 1935. Executed  
 as commanded and left a copy of the cross-  
 bill with Neomi Huffstetler Cannon and a copy  
 of Subpoena to Answer with each defendant.  
 This Aug. 29, 1935.

C. A. Harmon, Deputy Sheriff.

Aug. 30, 1935.... Above subpoena for witness returned, Endorsed,  
 "Executed as commanded. Aug. 30, 1935

J. R. Hannah, Deputy Sheriff.

Sept. 3, 1935.... Subpoena for witness issued, summoning one  
 (1) witness.

Sept. 3, 1935.... Above Subpoena for witness returned, Endorsed,  
 "Came to hand Sept. 3rd, 1935. Executed as  
 commanded by reading within to Mrs. Ellen  
 Etter and summoning her to appear before the  
 Clerk & Master at Maryville, Tenn. at 9 o'clock  
 Sept 9th, 1935.  
 This 3rd day of Sept. 1935.

R.E. Rudder & W.F. Lones, Deputy Sheriff,  
 Knox County, Tenn.



- Sept. 3, 1935.... Subpoena for witness issued, summoning  
 Sept. 11, 1935.... nineteen (19) witnesses.
- Sept. 5, 1935.... Petition of Neoma Huffstetler Cannon for the  
 Attachment for Contempt, Filed, atty notified.
- Sept. 5, 1935.... Writ of Attachment issued.
- Sept. 5, 1935.... Above Subpoena for witness, returned, Endorsed,  
 "Came to hand Sept. 5, Executed in full,  
 Except 4 witnesses.  
 W. R. Jones, Deputy Sheriff.
- Sept. 6, 1935.... Above Attachment returned, Endorsed, "Came to  
 hand 5th day of Sept. 1935. Executed as  
 Sept. 12, 1935.... commanded by reading the within attachment to  
 Jerva Cannon and leaving a copy of same.  
 Jerva Cannon having made bond and filing same  
 with Sheriff McReynolds.  
 This September 6th, 1935.  
 C. A. Harmon, Deputy Sheriff.
- Sept. 9, 1935.... Subpoena for witness issued, summoning (2) two  
 witnesses.
- Sept. 9, 1935.... Above Subpoena for witness returned, endorsed,  
 "Came to hand, Executed as commanded in full.  
 This 9 day of Sept. 1935. Returned this 10th  
 day of Sept. 1935.  
 J.M. Pryor, Deputy Sheriff.
- Sept. 9, 1935.... Order, Entered Minute Book 14, page 252-253.
- Sept. 10, 1935... Subpoena for witness issued summoning nine (9)  
 witnesses.
- Sept. 10, 1935. Above subpoena for witness returned, endorsed,  
 "Executed as commanded. This Sept. 12th, 1935.  
 J.R. Hannah, Deputy Sheriff.
- Sept. 10, 1935. Subpoena for witness issued summoning twelve  
 (12) witnesses.
- Sept. 10, 1935... Subpoena for witness issued, summoning one (1)  
 witness.
- Sept. 10, 1935... Subpoena for witness issued, summoning six (6)  
 witnesses.
- Sept. 10, 1935... Subpoena for witness issued, summoning four  
 (4) witnesses.

BILL OF COSTS

Sept. 11, 1935.... Order entered, Minute Book 14, page 286.

Sept. 12, 1935.... Above Subpoena for witness returned, Endorsed,  
"Executed as commanded. This Sept. 12, 1935.

R.L. Razor, Deputy Sheriff.

Sept. 12, 1935.... Above Subpoena for witness returned, endorsed,  
"Executed as commanded and summoned within  
named party to appear in Chancery Court at  
Maryville, Tenn. on Sept. 12, 1935, at 1 P.M.  
This Sept. 12, 1935.

J.A. Brooks, Deputy Sheriff, Loudon County.

Sept. 12, 1935.... Above Subpoena for witness returned, endorsed,  
"Came to hand same day issued. Executed as  
commanded except as to Hack Garland and  
Charlie Griffiths. This 12th day of Sept.  
1935.

W.R. Jones Deputy Sheriff.

Sept. 12, 1935.... Above Subpoena for witness issued returned,  
Endorsed, "Executed as commanded.  
This Sept. 12, 1935.

C.A. Harmon, Deputy Sheriff.

Sept. 12, 1935.... Amendment to Answer, Minute Book 14, page 292.

Sept. 12, 1935.... Order entered, Minute Book 14, page 293.

Sept. 12, 1935.... Final Decree, Minute Book 14, page 318, entered.

October 7, 1935... Appeal Bond, signed by Jerva Cannon, Cas  
Huffstetler, E. B. Goddard and S.T. Hammontree,  
filed, attorneys notified.

October 9, 1935.. Bill of Exceptions, filed, attys notified.

October 9, 1935.. Six (6) Exhibits filed.

BILL OF COST

NEOMA HUFFSTETLER CANNON )  
 VS. )  
 JERVA CANNON )

NO. 2265

O. Bill Filed Feb. 1, 1935.  
 Decree September 12, 1935.

State Tax ..... \$2.50  
 County Tax ..... \$3.50

R. Dot Wynn, C. & M :

File bill 25¢, 2 copies .50¢, Paupers oath  
 .25¢, Issue Subpoena .75¢, copy .25¢, copy bill  
 \$2.00, cert .25¢, returns .25¢, answer filed .25¢,  
 notice .25¢, order entered .25¢, File Cross-bill  
 .25¢, copy .25¢, Prosecution bond to cross bill  
 .75¢, issue process .75¢, copy 25¢, copy cross-  
 bill \$2.00, certificate .25¢, returns .25¢, file  
 Petition .25¢, copy .25¢, issue attachment \$1.00,  
 returns .25¢, enter 3 orders .75¢, Amendment to  
 Answer entered .75¢, Issue 102 subpoenas for  
 witnesses \$10.20, 16 returns \$4.00, Decree .75¢,  
 Appeal Bond .75¢, Bill of Exceptions filed .25¢,  
 50 rules \$5.00, 3 dockets .30¢, notice .25¢,  
 6 exhibits filed \$1.50 Bill of cost .50¢.....\$36.25

Goddard & Gamble, Attys - attorney fees .....\$50.00

R.L. Rasor, Dept. Sheriff - ex sub attest	17.00
J. R. Nichols, " " " "	.50
J. M. Pryor, " " " "	5.50
J. R. Hannah, " " " "	8.50
R. E. Rudder, " " " "	.50
W. R. Jones, " " " "	9.50
J. D. Waters, " " " "	3.00
C. A. Harmon, " " " "	6.00
J. T. Brooks, " " " "	.50



Witness:	Days	Milage	Amount
J. A. Costner	2	\$	\$2.00
Mrs. J. A. Costner	2		2.00
Mrs. Riley Millsaps	2	\$10.85	12.85
J. R. Hannah	4	10.85	14.85
Mrs. S. L. Taylor	2		2.00
Mrs. Stella Ward	1		1.00
Herma Ramsey	1	1.55	2.55
Jack Cate	1	1.55	2.55
Mrs. J. N. Hughes	3	9.30	12.30
Ferma Carpenter	3		3.00
Wayna Millsaps	1	1.55	2.55
C. E. Huffstetler	1		1.00
Press Huffstetler	1		1.00
Wiley Millsaps	1	1.55	2.55
Mrs. J. I. Woodard	1		1.00
Lidge Whitehead	2		2.00
Mrs. Lloyd Carpenter	1		1.00
Mrs. P. P. Campbell	2	6.20	8.20
Mrs. E. N. Palmer	2	6.20	8.20
Mrs. B. O. Smelser	3	9.30	12.30
B. O. Smelser	1	3.10	4.10
George Griffitts	2	6.00	8.00
Willie Baker	1		1.00
Bob Houser	1		1.00
Mrs. W. J. Porter	1		1.00
W. J. Porter	1		1.00
Nannie Kittrell	2		2.00
Florence Kittrell	1		1.00
Gentry Millsaps	1		1.00
Frank Nichols	1	3.00	4.00
Hugh Hannah	2	6.00	8.00
Mrs. Ferma Carpenter	2		2.00
S. L. Taylor	1		1.00
Cecil Cochran	1	2.00	3.00
Walter Vaughn	1		1.00
Floyd Huffstetler	1		1.00
			<hr/>
			\$377.25

R. DOT WYNN, CLERK & MASTER:

To Making transcript to Court of Appeals,

27,648 words - \$27.65; seal and postage \$1.00.....\$28.65

*End of appt Bond*

*75*  
*29.40*



TYPESET BOND

STATE OF TENNESSEE

BLOUNT COUNTY

I, R. Dot Wynn, Clerk & Master of the Chancery Court, in and for the County and State aforesaid, Hereby certify that the foregoing is a true and complete transcript in the case of NEOMA HUFFSTETLER CANNON -vs- JERVA CANNON, No. 2265, as the same appears of record in my office at Maryville, Tennessee.

Witness my hand and seal, this the 9 day of Dec. 1935.

R Dot Wynn  
CLERK & MASTER.

HOMER A. GODDARD  
J. C. GAMBLE

GODDARD & GAMBLE  
ATTORNEYS AND SOLICITORS  
MARYVILLE, TENNESSEE

May 13, 1936.

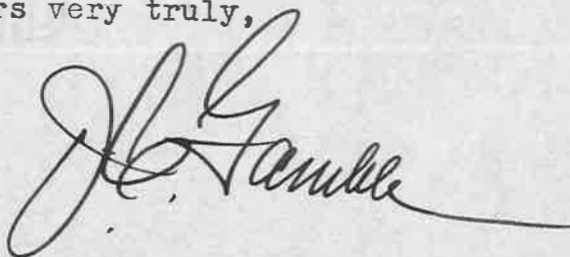
Hon. S.E. Cleage,  
Clerk of the Court of Appeals,  
Knoxville, Tennessee.

Dear Sir:

The other day when we were appearing  
before the Court of Appeals we made a motion for  
Attorney fees for representing the defendant in error  
in the case of Neoma Huffstetler Cannon vs. Jerva  
Cannon.

We are enclosing this motion to you  
to be entered.

Yours very truly,



JCG-g

ENCLS.







IN THE COURT OF SPECIAL SESSIONS

AT WASHINGTON.

HERALD BOWYER, ET AL.,

vs.

THE NATIONAL ASSOCIATION

OF AMERICA.

*[Handwritten signature]*

...that they be allowed additional compensation for services rendered in connection with the said National Association of America in this court.



IN THE COURT OF APPEALS OF TENNESSEE,

AT KNOXVILLE.

NEOMA HUFFSTETLER CANNON,

vs

JERVA CANNON.

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EQUITY CAUSE NO. 3,  
FROM BLOUNT COUNTY.

REPLY OF COMPLAINANT TO ASSIGNMENTS OF ERROR  
AND BRIEF AND ARGUMENT IN SUPPORT THEREOF.

I.

For the sake of convenience and consistency, we will in this Brief refer to Neoma Huffstetler Cannon, who was the complainant below as "complainant" and to Jerva Cannon, the appellant in this Court, who was the defendant below, as the "defendant".

On February 1, 1935, the original bill of the complainant was filed in the Chancery Court of Blount County, Tennessee, in which bill the complainant alleged facts concerning the marriage and married life of complainant and defendant from the time of their marriage up to the time of the filing of the bill and in which bill she alleged facts which was claimed to be equivalent to cruel and inhuman treatment and facts which



she claimed showed the defendant was guilty of habitual drunkenness, which habit had been contracted subsequent to the marriage, and facts which she claimed that the defendant had abandoned her and had refused and neglected to provide for her and their three minor children. In the prayer of the bill she prayed for an absolute divorce, alimony and custody of the children.

See record pp. 1 to 14, inclusive.

On March 11, 1935 Jerva Cannon filed his answer to the original bill denying substantially all the allegations in the original bill.

See record pp. 15 to 19, inclusive.

On March 14, 1935, it being the regular March Term, the case was continued, and on motion of the complainant the defendant was ordered to pay into the office of the Clerk and Master, the sum of \$6.00 per week for the support of complainant and her children until the next term of the Court.

See record p. 21.

On August 29, 1935, the defendant Jerva Cannon, filed a cross-bill in which he set out facts which he claimed amounted to cruel and inhuman treatment on the part of the original complainant, and in the prayer thereof he prayed for divorce and the custody of the children.

See record pp. 22 to 32.

On September 5, 1935 the original complainant filed a petition for an attachment for contempt on account of the failure of the original defendant to perform the decree



of the court in regard to the payment of alimony pendente lite. This petition set up the fact of the decree requiring him to pay \$6.00 per week which would have amounted to the sum of \$144.00 from the time the decree went down until the date of the filing of the petition. It further alleged that the defendant had paid only the sum of \$45.00, and that said neglect or refusal to pay was in wilful disobedience of the decree of the court. The petition prayed for an attachment for the body of the defendant, which was allowed by the court, and he was arrested upon said writ and made bond of \$250.00 for his appearance at the September Term.

See record pp. 32 to 38.

On September 9, 1935, it being the first day of September Term the complainant through her attorneys moved the court to strike the cross-bill of the defendant from the record for the reason he was in contempt of court and therefore could not be heard in the Court.

See record pp. 39 to 40 inclusive.

On the same day the defendant moved the Court to continue the motion until a later day, which motion was by the Court overruled.

See record p. 40.

Thereupon on the same day the motion of the complainant to dismiss the cross-bill was heard, and it was adjudged by the court that the cross-bill be dismissed and that the defendant have until one o'clock on September 10th to make defense to the petition for contempt. The defendant excepted

to the action of the court and prayed an appeal, which was disallowed at that time.

See record pp. 40 and 41.

On September 11, 1935, the case was heard on the petition for contempt and the court was of the opinion that the defendant was not guilty as charged and the petition for attachment was dismissed and the defendant discharged, but the costs of the contempt proceedings were adjudged against the defendant.

See record page 43.

Thereupon on the same day the defendant moved the court that he be allowed to re-file his cross-bill which was filed on August 29, 1935, which motion was overruled and the defendant prayed an appeal which was denied at that time.

See record page 42.

On September 12, 1935 the defendant moved the court that he be allowed to amend his answer setting up in substance the matters charged in his ~~cross~~-bill which was stricken, and the court allowed him leave to file said amendment.

See record pp. 44 to 47.

On the same day the complainant moved the court to strike the amendment for the reason that the same came too late and for the reason that the matters therein allowed were not germane to the issues raised by the pleadings, which motion was sustained by the court, to which action the defendant excepted and prayed an appeal which was denied at that time.

See record page 47



On the 12th day of September 1935 the cause came on to be heard upon the original bill of the complainant and the answer of the defendant when the court was of the opinion that the allegations in the original bill were sustained and that the defendant had been guilty of such cruel and inhuman treatment or conduct toward the complainant as rendered cohabitation with him unsafe and improper and which rendered it improper and unsafe for her to be under his dominion and control. A divorce was accordingly granted upon that ground and the control and custody of the children was awarded to the complainant, and the defendant was ordered to pay the sum of \$10.00 per month for the support of the children, and further the sum of \$50.00 as a fee for attorneys for the complainant.

From this decree the defendant prayed an appeal to the next term of the Court of Appeals, which appeal was granted, and the defendant was given thirty days in which to file his Bill of Exceptions and complete his appeal.

See record 48 to 50.

On October 7, 1935 the Appeal Bond of the defendant was filed.

See record page 51.

On October 9, 1935, the Bill of Exceptions was filed.

See record page 52 to 91.



## II.

### STATEMENT OF THE FACTS.

The complainant, Neoma Huffstetler Cannon, and the defendant, Jerva Cannon, were married in Blount County on April 13, 1921. Soon after their marriage they went to the State of Florida and while there it appeared that the defendant had become involved in crime in Blount County before their marriage, in connection with the issuance of some checks or notes, and the Sheriff of Blount County came to their home in Florida to bring the defendant back to Tennessee. The complainant and her father helped the defendant pay out of his trouble and they again returned to Florida to live. The defendant did not deny this trouble, nor did he deny that the complainant was ignorant of the fact of the trouble at the time she married him.

See testimony of Mrs. Cannon record p. 52.

In 1923 the parties came back to Tennessee in order that the complainant might be at her mother's home when their first child was born, and while they were here the defendant again became involved in crime and again the complainant and her father helped pay him out. These facts were undenied by the defendant.

See testimony of Mrs. Cannon record p. 52.

They again made their home in Florida until sometime in May or June of 1926 when they again returned to Blount County for the birth of their second child. When the child was about a week old the defendant returned to Florida and wrote

letters back to the complainant and accusing her of wrongs with other men and denying that he was the father of the child.

See testimony of Mrs. Cannon p. 53.

In this regard the defendant testified that he did not deny any of his children, but that he doubted that one of them was his. He testified that he did not know if the child were his or not.

See testimony of Jerva Cannon record p. 75

In the Spring of 1927 the parties returned from Florida and went to the State of Indiana and they staid there until the Fall of 1927 and again went to Florida for the winters of 1927 and 1928.

See testimony of Mrs. Cannon record p. 53

The third child was born on October 26, 1930.

See testimony of Mrs. Cannon record p. 53.

In March of 1934 the defendant left and went to the State of Indiana and while he was there from March until July he sent home for the support of the complainant and the children only \$6.00 and bought them a few clothes.

See testimony of Mrs. Cannon record p. 53.



In the Fall of 1933 while they were in Blount County the complainant being at the home of her father the defendant came to the home of Mrs. Cannon's father and was very angry because she was there and he became very angry at complainant's father and mother and cursed them all and abused them all. He procured a shot gun and threatened to kill complainant and her father and mother, and he finally took the complainant and the children in an automobile to her sister's house and on this trip he took the shot gun with him, threatening to kill complainant if she opened her mouth and he cursed her in the presence of the children.

Testimony of Mrs: Cannon record p. 53.

Mr. S.J. Huffstetler, the father of complainant, testified concerning the occurrence at his home that they were on the front porch and heard the defendant curse the complainant something about going to town and buying some furniture. That he got a shotgun and loaded it and said he was going to take the children if he had to do it over somebody's dead body. He took Mrs. Cannon and the children with the gun into the car and took them away.

Testimony of S.J. Huffstetler record p. 68

In reference to this occurrence the defendant said he did not threaten to shoot Mr. Huffstetler or his wife. He said that they refused to let the children go with him and that he just went down there and got them and took them to his sister's. He testified that he had the gun but did not attempt to shoot anyone. He testified further " I went there after my children and I was going to take them with me."

Testimony of Jerva Cannon record p. 74 & 75



Mrs. Cannon sued the defendant for divorce in 1934 and he came and promised to treat her right if she would live with him again and promised that he would stop drinking and wrote her a letter begging her to take him back, promising that he would treat the complainant and the children right. She went back to him and they went to Calderwood, Tennessee, to live. The defendant did not deny the fact that he begged her to take him back and that he promised to treat her right.

See testimony of Mrs. Cannon record p. 53.

After they went back together the defendant did not keep his promise but he again began abusing complainant and called her on one occasion a whore and accused her of talking with other men, and forbid her going to the postoffice or to the store or to town.

See testimony of Mrs. Cannon record p. 54

The defendant did not deny that he mistreated her in Calderwood, nor did he deny that he forbade her going to the store and to town.

The parties moved from Calderwood to Maryville about two weeks before the bill was filed in the present case. The complainant learned that the defendant had a certain prescription which had belonged to the complainant's sister and about which there was some hard feelings between complainant and her sister on account of the fact that the sister could not procure the prescription, and she got the defendant's keys one day and took the prescription from his tool box. When the defendant found that she had taken the prescription he became very angry and cursed her



her and choked her and threatened to kill her and he slapped their small daughter when she attempted to interfere. He left the house saying that he was going to have her arrested and he brought J.M. Pryor, a Deputy Sheriff back to the house and told her in the presence of the Deputy Sheriff not to take the children away and that he was going to get a warrant and put her in jail.

See testimony of Mrs. Cannon record p. 54.

J.M. Pryor, Deputy Sheriff, testified that defendant came to the jail and got him and took him to the defendant's home on Washington Avenue and wanted him, the Deputy Sheriff, to tell his wife not to take the children away, but that he refused to do so because it was not within his duty as an officer. He testified that he told the complainant that he was telling her not to take the children away and that he was telling her this in the presence of an officer of the law.

See testimony J.M. Pryor, record p. 66.

The defendant testified that she procured the keys and took the prescription, but that the prescription was for some kind of medicine to procure an abortion, and he testified that when he asked her about taking the prescription she got mad and attempted to hit him with a poker and that he used only enough force to disarm her.

See Testimony of Jerva Cannon record p. 73.



Immediately after this trouble at their home on Washington Avenue the defendant went to W.P. Abbott, a Justice of the Peace in an outlying district of the County and procured a warrant for his wife charging her with abortion and the officer came and read the warrant to Mrs. Cannon, and she was compelled to appear before C.C. Smith, a Justice of the Peace on Saturday, January 26, 1935. She appeared before the Justice of the Peace, but Jerva Cannon was not there and upon motion of the complainant's counsel, the warrant was dismissed. The Justice of the Peace talked to the defendant over the telephone before the warrant was dismissed.

See testimony of Mrs. Cannon record pp. 54 & 55

C.C. Smith, the Justice of the Peace testified that he did not issue the warrant, but that it was returned before him, and that when the time for trial came the defendant called him from where he was working, but did not come to appear at the trial, and that there were no witnesses there to appear against Mrs. Cannon. The warrant charging the complainant with abortion is copied in the record.

See testimony of C.C. Smith, record p. 63, 64 and 65.

The defendant testified that he got the warrant for his wife because he had told her if she ever tried to get the prescription or the medicine that he would let the law take its course.

See testimony of Jerva Cannon record p. 73.



Mrs. Cannon testified that she had not mistreated her husband, and that she had been true to her marriage vows.

See testimony Mrs. Cannon record p. 55.

Bob Hannah testified that he had a conversation with Jerva Cannon in which he, Cannon, told him that he suspected his wife of having to do with other men and in which he accused her of adultery with other men. In this conversation Cannon told him that one Bert Smelcer had been coming to his house in his absence and that the weeds were tramped down around the house.

See testimony of Bob Hannah record p. 66 and 67.

S.J. Huffstetler, the father of complainant, testified that he had helped care for the children during most of the married life of Mr. and Mrs. Cannon, and that he had paid off various notes for Cannon.

See Testimony S.J. Huffstetler, record pp. 67 and 68

The witnesses Bob Hannah and Arthur Costner produced by the complainant and the witness Mrs. Bert Smelcer, produced by the defendant, all testified that Mrs. Cannon was a woman of good character and that she was entitled to full faith and credit on oath as a witness.

See record p. 67, 71 and 79.

The defendant in his testimony claimed that the trouble between him and his wife began with the interference by the complainant's father and mother and by the complainant trying to produce abortions. He testified that the complainant's sister sent her medicine to produce abortions, and that she had used the medicine on various occasions. He testified that in December of 1932 that she was sick and claimed that she was going to miscarry and told him to hide the medicine and the prescription.

See testimony of Jerva Cannon, record pp. 72 and 73.

All of this testimony on the part of the defendant was emphatically and specifically denied by the complainant she saying that at no time did she ever attempt to produce abortions.

See testimony of Mrs. Cannon record p.81

The defendant Jerva Cannon also testified that in December 1934 he found under the bath tub a pair of bloomers and some menshandkerchiefs which had been messed up and that he had found a rubber with them.

See testimony of Jerva Cannon record p. 74.

This the complainant specifically and emphatically denied.

See testimony of Mrs. Cannon record p. 81



After claiming to his wife that he was not the father of some of her children, and after accusing her of adultery, and after telling Bob Hannah and perhaps others that he suspected her of adultery, and after he claimed he found rubbers among her clothes, he wrote her a letter while he was in Florida on March 4, 1935, in which he said that he loved her, and in which he said "Neoma I love you I can and will take you back forgive and forget if you can do the same." In this letter he also said "Neoma I love you and would die than to do what I will have to in order to clear my self with you but when it comes a time like this when nothing else will do". In this letter he admitted that he had done her wrong and among other things said " Homey we may never live together if this case comes to a trial an I have to prove and shoe things as I will I wont live with you but I am going to my grave with a hart full of love for you that I never intend to destroy one bit of it for you, god knows I love you ever body else knows I do and I am going to tell the judge the day we have our trial I love you, honey you couldn't bit more get a divorce from me providing I don't agree to give you one than you can fly."

See testimony of Mrs. Cannon record p. 55 to 60.

While Cannon was in Florida he wrote <sup>a letter to</sup> Bob Hannah on May 11, 1935, in which he claimed to have a good position, and in which he said among other things " I have been to Miami several times still lots of people here I knew while I was here before lots of attraction to, but I cant indulge in it as you know ha ha."

See testimony of Jerva Cannon record pp 76 & 77.



III.

BRIEF AND ARGUMENT.

ANSWER TO FIRST ASSIGNMENT OF ERROR.

The First Assignment of Error made by the defendant is as follows:

"The Chancellor committed error in refusing to allow the defendant to file his cross-bill in this cause.

The Chancellor should have held that the defendant had a right to file his cross bill, that his rights might be passed upon, and his cause of divorce heard and adjudicated."

We concede that the general propositions of law relative to the law of pleadings in the Courts of Tennessee are substantially as claimed by the defendant in his brief of the First Assignments of Error, but we deny that these general principles have any application to the question raised by the First Assignment.

The Original bill was filed on February 1, 1935. The next succeeding term of the Chancery Court of Blount County convened on the Second Monday of March, which was March 11, 1935. It was on the First day of Court to-wit March 11, 1935 that the Defendant, Jerva Cannon, filed his answer to the original bill.

See record page 15.

On March 14, 1935 the case was continued and the defendant was ordered by the court to pay the sum of \$6.00 per week for the support of complainant and her children until the next term of the court.

See record page 21.

On August 29, 1935 the defendant filed a cross-bill and on September 5, 1935 before the September Term which convened on September 9, 1935 a petition for an attachment for contempt was filed against the defendant setting out his contempt of court in not performing the order of the court made at the March Term.

See Record page 22 to 32.

On the First day of the September Term 1935 the complainant moved the court to strike the cross-bill of the defendant for the reason that he was in contempt of court and could not be heard relative to the matters set up in said cross-bill, and for the reason he was in contempt of court at the time the cross-bill was filed.

We insist that there was no error committed by the Chancellor in this regard.

The Code of Tennessee in Section on Contempts provides among other things that the power of the several courts to issue attachments, and inflict punishments for contempts of Courts, shall not be construed to extend to any except one or more specific cases, among which is:

"The wilful disobedience or resistance of any officer of the said courts, party, juror, witness or any other person, to any lawful writ, process, order, rule, decree or command of said courts."

See Code of Tennessee Sec. 10119.

In Gibson's Suits in Chancery the provision of the above cited section of the Code is quoted as being the law relative to contempts of court.

See Gibson Suits in Chancery Sec. 919.



Also in Gibson's Suits in Chancery appears the following:

"He who seeks Equity must do Equity, and he who has done iniquity shall not have Equity. Therefore, it is a general rule that a party who is in contempt will not be heard by the Court, when he wishes to make a motion or ask a favor; and, if the contempt consists in his failure to answer, he will not be allowed to file any other ~~other~~ pleading, in the particular cause wherein the contempt arose. His first duty is to purge his contempt, and the only steps he can take are to apply to the Court (1) to set aside the proceedings against him because they are irregular, and (2) to be discharged on the ground that he has purged himself of his contempt, by doing the act for the non-performance of which the contempt was incurred, and confessing judgment for the costs occasioned by his contumacy."

See Gibson's Suits in Chancery Sec. 924 page 733.

We therefore insist that as long as the defendant was in contempt of court for failing to perform the decree of the court he could not be heard on any matter pertaining to the <sup>suit</sup> law/except to take steps to purge himself of his contempt and it was therefore not error for the Chancellor to strike from the files his cross-bill which was filed while he was in contempt, the motion to strike the same having been made while he was in contempt of Court.

We concede that Sections 399 and 400 of Gibson's Suits in Chancery cited by the defendant is proper statement of law, but we do not see that these sections are pertinent to the point under discussion. The same is true of Sections 725, 728 and 1092 of Gibson's Suits in Chancery/<sup>cited</sup> in defendant's brief. Nor do we see the pertinency of Sections 10401 and 8713 of the Code. All of these Sections of Gibson's Suits in Chancery and of the Code are relative to the propriety of filing cross-bill



in suits in Chancery and have nothing whatsoever to do with the question of the effect of a defendant's contempt upon his right to file a cross-bill.

We, therefore, insist that the Chancellor was not in error in striking the cross -bill from the files, especially in view of the fact that the proper time for filing a cross-bill is at the time the answer is filed, unless some excuse or reason is given for not so filing it.

See Gibson's Suits in Chancery, Section 400.

ANSWER TO SECOND ASSIGNMENT OF ERROR.

The second assignment of error made by the defendant is as follows:

"The Chancellor erred in striking from the file the amendment to the answer of the defendant.

The Chancellor after giving leave to file the amendment to the answer should not have held later that it came to late and should have permitted the defendant to set up his defenses as set out in the amendment."

This Assignment of Error raises the question of the propriety of the Chancellor's refusing to allow the defendant to amend his answer.

It should be remembered that the defendant answered the original bill at the March Term of the Chancery Court 1935, and that at that time he must of necessity have known the matters alleged in the proposed amendment for the reason

that they were matters which had happened or which he alleged had happened some years before and he did not at any time allege that these matters had come to his knowledge or attention at a recent date.

It was not until the case was called for trial at the September Term of court 1935 and after the court had dismissed defendant's cross-bill that he attempted to amend his answer to allege substantially the matters set up in his proposed cross-bill, which was also attempted to be filed six months after the filing of his answer.

The court refused the amendment on the grounds that it came too late and would of necessity require a continuance of the case, and upon the further grounds that the matters alleged in the proposed amendment were not germane to the issues in the law suit. The proposed amendment is set out verbatim on pages 44 et seq of the record. All the matters alleged in this proposed amendment were matters, if they were true, <sup>which</sup> were well known to the defendant. Most of them alleged to have happened in 1928 up to 1932. Most of the matters set up in this proposed amendment had to do with the complainant's alleged mis-conduct in attempting to produce abortions upon herself and her alleged misconduct with other men.

The matter of amendments to pleadings and especially amendments to answers is in the sound discretion of the Trial Court and as a general rule when the same are made in due time and when they are proper and germane to the issues raised by the pleadings they will be allowed, but in the case at bar the proposed amendment was made some six months after the original answer and no excuse or reason is given for the failure to include the matters alleged in the proposed amendment at the time the original answer was filed. This proposed amendment came on the



very day of the trial and would have necessitated a continuance of the case had the amendment been allowed. Under the facts of this case we insist that the Chancellor was ~~error~~ correct in refusing the amendment for the reason that it was not made at the first opportunity after the defendant knew of the material therein set forth. In Gibson's Suits in Chancery it is said: "The application to amend should be made at the first opportunity after the applicant has learned of the necessity of the amendment, of of the existence of the facts on which his application is based."

Gibson's Suits in Chancery, Section 428,  
Sub-section 2.

In the case of McCarthy vs. Catholic Knights, it was held that the court's refusal to permit amendment of an answer at the hearing constitutes no abuse of discretion ~~when~~ it would necessitate a continuance, and the matter of amendment had long been within the defendant's knowledge, and no reason ~~was~~ assigned why it had not been presented earlier.

McCarthy vs. Catholic Knights 102  
Tennessee page 345.

We also insist that the Chancellor was not in error in refusing to allow the amendment for the reason that the matters set up in the proposed amendment were not germane to the issues in the law suit.

If the matters set out in the original bill <sup>and</sup> constitute grounds for divorce ~~were~~ true and the complainant therefore entitled to a divorce, then the matters set up in the proposed amendment would be irrelevant.

We, therefore, insist that the Chancellor committed no error in refusing to allow the proposed amendment,



and that therefore the Second Assignment of Error is not well taken.

REPLY TO THIRD ASSIGNMENT OF ERROR.

The Third Assignment of Error is as follows:

"The Chancellor committed error in granting the complainant a divorce on the grounds of cruel and inhuman treatment, and in giving the exclusive custody of their minor children to her.

The Court should have denied her divorce on this ground as well as the other two grounds alleged in the bill."

This Assignment raises the question of the correctness of the Chancellor in holding that under the facts alleged in the original bill and the evidence introduced in open court that the complainant was entitled to a divorce from the defendant.

The grounds upon which the divorce was granted was cruel and inhuman treatment, and we are of the opinion that this ground is amply made out by the proof introduced at the hearing. The present law suit is not the first of the troubles between complainant and defendant which have gotten into the courts of the State. In 1934 the complainant filed a bill for divorce against the defendant, but dismissed it upon the defendant's promise that he would not mistreat her again and upon his promise that he would stop drinking, she went back with him and lived with him up until a short time before the time of the filing of the bill, in the present case.

which  
The first trouble/arose between the complainant and defendant grew out of some trouble which defendant got into by reason of the forgery by him of certain checks in Blount County, Tennessee. This forgery happened before the marriage of complainant and defendant, and the first the complainant knew of it <sup>was</sup> when the officers from Blount County, Tennessee, came to Florida where they had gone to live and brought the defendant back to Tennessee. The defendant did not deny any of this trouble and he did not deny that the complainant was ignorant of the trouble at the time of their marriage.

See Testimony of Mrs. Cannon Record p. 52.

During their married life the complainant and defendant lived part of the time in Blount County, Tennessee, part of the time in Florida and part of the time in Indiana.

The next trouble between the complainant and defendant disclosed by the record occurred soon after the birth of their second child in June of 1926. At this time the defendant accused the complainant of wrongs with other men, and denied he was the father of the second child. He testified himself that he did not know now if the child was his, that he did not deny the child, but that he doubted if it was his.

See Testimony of Jerva Cannon Record  
Page 75.

In the Fall of 1933, while the parties were living in Blount County, Tennessee, the defendant came to the complainant's father's home with a shot gun and threatened to kill the complainant and her father and mother.

See Testimony of Mrs. Cannon Record p.53.



The testimony of Mrs. Cannon relative to this incident is corroborated by the testimony of her father, S.J. Huffstetler.

See Testimony of S.J. Huffstetler Record Record page 68.

The defendant did not deny that he got and loaded his gun and he testified that he went there after his children and was going to get them.

See Testimony of Jerva Cannon Record page 74, and 75.

The defendant testified that in 1932 that the defendant was sick and claimed that she was going to miscarry and told him to hide the medicine which he claimed she had been taking to produce an abortion upon herself.

See Testimony of Jerva Cannon Record pages 72 and 73.

All of this trouble between the complainant and defendant and this occurrence which the defendant claimed to have happened was before Mrs. Cannon instituted her first suit for divorce, and the defendant did not answer that bill, but begged the complainant to come back and live with him, making her various promises as to his future conduct. The defendant did not deny the fact that he prevailed upon her to take him back and did not deny his promises to treat her right.

See Testimony of Mrs. Cannon Record page 53.



The defendant claimed that in December 1934 he found under the bath tub at their home a pair of bloomers and some men's handkerchiefs which had been messed up, and that he had found a rubber with them, but in his original answer he made no mention of this fact, and he continued to live with her on up until she finally left him just prior to the filing of this bill.

See Testimony Jerva Cannon Record page 74.

After the parties went back together in 1934 they moved to Calderwood, Tennessee, to live and the defendant did not deny that he mistreated her while they lived there, nor did he deny that he forbade her going to town or to the store. While they lived there the defendant accused the complainant with misconduct with other men including one Bert Smelcer, and he did not deny that he told various persons including Bob Hannah that he suspected his wife of misconduct with other men and he did not deny that he accused her of adultery with other men, and he did not deny that he told Bob Hannah that he had found the weeds around his house tramped down and that he suspected Bert Smelcer of having been there.

See Testimony of Bob Hannah Record p. 66 and 67

Notwithstanding all of these facts and all the accusations that the defendant made relative to the complainant's conduct during their married life he lived with her up until just prior to the filing of the bill in this case and he wrote her a letter while he was in Florida telling her how much he loved her and how much he hated to lose her.

See Testimony of Mrs. Cannon Record pages 55 to 60.

The occurrence which finally brought on the last separation was when the defendant had the complainant arrested and brought before Esquire C.C. Smith under a criminal warrant charging her with criminal abortion, and at the trial he did not appear, nor did he have any witnesses, doctors or otherwise to testify concerning facts alleged in the warrant.

See Testimony of C.C. Smith, Record pages 63, 64 and 65.

At the hearing of the case the defendant was found not guilty and the case dismissed.

See warrant copied in Record page 65.

Not a witness introduced on either side at the hearing of the case at bar testified any fact against the complainant, nor was there any intimation in the record of any misconduct whatsoever on the part of complainant, except the unsupported testimony of the defendant himself, and three of the witnesses including the witness Mrs. Bert Smelcer produced by the defendant testified that she was a woman of good character and she was entitled to full faith and credit on oath as a witness.

See Record page 67, 71 and 79.

After claiming to his wife that he was not the father of one of their children and after accusing her of adultery and after telling Bon Hannah and perhaps others that he suspected her of adultery and after he claimed to have found rubbers among her clothes and after he claimed she was guilty of criminal abortion he lived with her all the time up until shortly before the filing of the bill and as late as March 4, 1935 he wrote her a letter in which he expressed his love for her and



expressed his desire that they again live together. In this letter he admitted that he had treated her wrong.

See testimony of Mrs. Cannon Record pages 55 and 60.

We do not believe that there is any question but that the testimony introduced at the hearing was ample upon which to base a judgment for the complainant, and that therefore we respectfully insist that she was entitled to a divorce upon the hearing and that therefore the Chancellor was not in error in granting this divorce upon the grounds alleged in the original bill.

We are of the opinion that the questions made by the defendant under the First and Second Assignments of error became irrelevant if the complainant was entitled to a divorce at the hearing for the reason that if she was entitled to a divorce, he was not, and if she had not been so entitled he would not have been prejudiced because her bill would have been dismissed and he would have been in the same position as he was before the proceedings were instituted.

In conclusion therefore we respectfully insist that there was no error in the holdings of the Chancellor and that none of the Assignments of Error made by the defendant are well taken and that therefore this case should be affirmed.

Respectfully submitted,

Goddard T. Gamble  
Marquette, Wisconsin

A copy of this Brief has been furnished Attorneys for Defendant.

Goddard T. Gamble



Neoma Huffstetler Cannon,

*Entered June 20-36*

vs.

Reversed and Remanded.

Jerva Cannon,

This cause came on to be heard on the transcript of the record from the Chancery Court of Blount County, assignments of error, briefs and argument of counsel; and upon consideration thereof the Court is of opinion that there is error in the decree of the Chancellor as shown in the opinion of the Court filed and made a part of the record in this cause, and for the reasons stated in said opinion, the decree of the Chancellor is reversed.

It is, therefore, ordered, adjudged and decreed by the Court that the decree of the Chancellor be, and the same is reversed and set aside, and this cause is remanded to the Chancery Court of Blount County for the purpose of permitting the defendant to file his amended answer and cross-bill in order that the case may be fully developed on the proposed issues, and especially upon a proper disposition of the children whose interests are of first consideration. A copy of the opinion of the Court will accompany the procedendo on the remand of the case to the court below.

The defendant  Jerva Cannon and sureties on his appeal bond, Cas Huffstetler, E. B. Goddard and S.T. Hammtreee, will pay the costs of the appeal to this Court, for which let execution issue.



IN THE COURT OF APPEALS AT KNOXVILLE, TENNESSEE

NEOMA HUFFSTETLER CANNON,

COMPLAINANT

-versus-

JERVA CANNON,

DEFENDANT

ASSIGNMENTS OF ERROR AND BRIEF  
OF JERVA CANNON, APPELLANT.

The complainant, Neoma Hufstetler Cannon, filed the bill in this cause against her husband, Jerva Cannon, on February 1, 1935, in the Chancery Court of Blount County, Tennessee, asking for a divorce on the grounds of habitual drunkenness contracted after their marriage; and that he refused and neglected to provide for her, and on the further grounds of cruel and inhuman treatment. She prayed for the custody of their three minor children and for alimony for her self and said three children.

Tr. 1-11.



The defendant filed his answer to the bill on March 11, 1935, and denied the allegations that he has been guilty of habitual drunkenness or that he refused and neglected to provide for his wife and children or that he has been guilty of cruel and inhuman treatment toward his wife, or that she should have the custody of their children. Tr. 15, 19.

At the March term of the Chancery Court the cause was continued until the next term by consent, and the Court ordered the defendant to pay to the Clerk and Master Six dollars per week for the support of the complainant and their children. Tr. 21.

On August 29, 1935, the defendant, Jervaa Cannon, filed a cross bill against the complainant in said cause setting out the facts alleged in her original bill, and setting out wrongs committed by her against him which amounted to cruel and inhuman treatment; and prayed for an absolute divorce, and the exclusive custody of their minor children, Gean Cannon, Mildred Cannon and Ray Cannon. Tr. 22-29.

On September 5, 1935, the complainant filed a petition for an attachment for contempt against the defendant and cross complainant, Jervaa Cannon, on account of his failure to pay into Court the full amount of alimony allowed, at the last term of the Court. The attachment was served and the defendant made bond for his appearance before the Chancellor. Tr. 33-38.

On Monday, September 9, 1935, the Complainant, Neoma Hufstetler Cannon, moved the Court to strike the cross bill of Jervaa Cannon from the record for the reason that he is in the contempt of Court in failing and refusing to perform the decree of the Court requiring him to pay into the Court six dollars per week for the complainant and her children. This motion to dismiss the cross bill came on for hearing and the defendant moved the



*Ballman*  
HIGHWAY BOND

Court to continue said motion to a later day of this term that he might produce proof to show that he was not in contempt of Court, which motion the Court overruled; and thereupon dismissed the cross bill of Jervia Cannon and gave him until September 10, at one o'clock to make defense ~~to~~ the petition ~~for~~ contempt.

Tr. 39-41

The Chancellor heard the petition for contempt filed against Jervia Cannon, on September 10, 1935, and found him not guilty and ~~charged~~ <sup>filed</sup> him; and thereupon he, as complainant in his cross bill, moved the Court to be allowed to refile his cross bill which was stricken from the docket August 29, on account of said contempt proceedings. The Chancellor disallowed his motion and he prayed an appeal which was denied at that stage of the case.

Tr. 42,43.

On September 12, the defendant Jervia Cannon by leave of the Court amended his answer and set out many wrongs and crimes committed against him by the complainant which caused their domestic troubles.

On the same date the complainant moved the Court to strike the amendment of Jervia Cannon on the ground that the amendment comes too late and for the further reason that the matters therein ~~alleged are not germane to the issues raised by the pleadings~~ and the Chancellor sustained said motion and struck the amendment from the file. The defendant accepted and prayed an appeal which the Court denied at that time. Tr. 44-48.

With the defendant's cross bill and his amended answer stricken from the pleadings, the Chancellor tried the cause on September 12, 1935, and sustained the bill on the ground of cruel and inhuman treatment and granted the complainant a divorce on that ground; and gave her the custody of their minor children and ordered the defendant to pay ten dollars a month for their support

Baltimore

and maintenance until the next term of the Court, in addition to any amount he is in ~~arrears~~, and that he further pay the sum of fifty dollars as attorneys fees for the complainant, and that he pay all the cost of the cause and awarded execution for same. And the Court further ordered, that in case of an appeal, the defendant shall execute a good and solvent appeal bond. The defendant prayed and was granted an appeal to this Honorable Court, and completed his appeal by filing his bill of exceptions and appeal bond within the time required.

Tr. 48-52.

ASSIGNMENTS OF ERROR.

I.

The Chancellor committed error in refusing to allow the defendant to file his cross bill in this cause.

The Chancellor should have held that the defendant had a right to file his cross bill, that his rights might be <sup>ed</sup> pass/upon, and his cause of divorce heard and adjudicated.

II.

The Chancellor erred in striking from the file the amendment to the answer of the defendant.

The Chancellor after giving leave to file the amendment to the answer should not have held later that it came to late and should have permitted the defendant to set up his defenses as set out in the amendment.



### III.

The Chancellor committed error in granting the complainant a divorce on the grounds of cruel and inhuman treatment, and in giving the exclusive custody of their minor children to her.

The Court should have denied her divorce on this ground as well as the other two grounds alleged in the bill.

#### BRIEF OF FIRST ASSIGNMENT.

The Chancellor committed error in refusing to allow the defendant to file his cross bill in this cause.

The Chancellor should have held that the defendant had a right to file his cross bill, that his rights might be passed upon, and his cause of divorce heard and adjudicated.

The Chancellor denied the defendant his legal rights in this cause when he refused to allow him to file a cross bill. His cross bill had already been filed and a copy served on the cross defendant, and she filed a petition for contempt, and in the mean time moved that the cross bill filed by the defendant be stricken from the docket for the reason that he was in contempt of Court; thereupon the defendant moved the Court to continue the matter of striking his cross bill from the file until the Court passed upon the case as to whether he was in contempt. The Court overruled this motion and struck the cross bill from the file and the defendant was tried on the contempt proceedings and found not guilty, and at that time the Court refused him the right to file his cross bill. *The*

It is the Law of Pleadings in the Courts of Tennessee to bring the entire subject matter of every litigation into the pleadings that the Courts may do complete justice to all the parties according to their alleged rights, and to fully dispose of the matters in one law-suit. The defendant had a right to file his



cross bill to bring before the Court new matter in aid of the defense to the original bill, and to be heard on the affirmative relief which he asked in his cross bill. The many matters in dispute in this divorce case then was not completely before the Court and the defendant had a right to file his cross bill and set out the facts as he contended.

Gibsons Suits in Chancery Secs. 399-400, 725-728, 1092.  
Code Sec. 10401, and 8713

*Sloan v Sloan 105 Term 422*

BRIEF OF SECOND ASSIGNMENT.

The Chancellor erred in striking from the file the amendment to the answer of the defendant.

The Chancellor after giving leave to file the amendment to the answer should not have held later that it came too late and should have permitted the defendant to set up his defenses as set out in the amendment.

Under the Statute relating to amendments, the Chancellor properly allowed the amendment to the answer in order that the proper averments might be supplied, and that the defendant might meet and defend the allegations of **cruel** and inhuman treatment. Tr. 44-47. But the Chancellor was in error when he ordered the amendments stricken from the pleadings on the grounds that it came too late and that the matters ~~are not~~ alleged <sup>are</sup> and not germane to the issues of the pleadings. Tr. 47. In the amendment the defendant set out the troubles that had occurred between him and the complainant, facts that she had committed the crime of abortion against his will, and that she had attempted his life, and that she had denied him normal coition, <sup>these</sup> ~~were~~ set out in the cross bill that had been served on the complainant and she had knowledge of same, and these averments in the answer are germane to the issues of the



the case between the parties, because the defendant has a right to set up his a defense to the allegations of her bill, the wrongs and cruel and inhuman treatment <sup>ant</sup> the complain/ has committed against him.

The Statutory right is as follows:

"If the cause assigned for a divorce be any of those specified in section 8427, the defendant may make defense by alleging and proving the ill Conduct of the complainant as a justifiable cause for the conduct complained of; and, on making out the defense to the satisfaction of the Court, the bill may be dismissed with or without costs, in the discretion of the Court!"

Code of Tenn. Sec. 8444.

The cause of action on which the Chancellor granted the complainant a divorce in this case, namely, cruel and inhuman treatment, is one of the grounds set out in Sec. 8427 of the Code.

The Chancellors refusal to allow the defendant to file his cross bill, and his action in striking from the file the ammendment to his answer deprived the defendant of his legal rights to defend the charges made against him in this case and to set up and rely upon the wrongs committed against him by the complainant.

The ammendment to the answer of the defendant which the Court allowed to be filed is copied in the transcript pages 44 to 47. He then strikes this ammendment from the file on the ground that it came to late and was <sup>not</sup> germane to the issues raised by the pleadings.

Tr. 47.

Pleadings may be ammended at any time before the case is heard in order that all pertinent matters between the parties may be settled in one case, and the complainant knew of these grounds of defense because they were stated in the cross bill served on her, and which had been stricken from the file by order of the Court.

All the allegations in said ammendment are germane to the issues in this divorce case. The defendant in this ammendment



sets out the facts that he thinks caused the trouble between the parties that lead up to this litigation, and when he was not allowed to rely upon them, he was deprived of his legal rights to make defense to allegations against him filed in the Chancery Court in this cause. Tr. 44-46

BRIEF OF THIRD ASSIGNMENT.

The Chancellor committed error in granting the complainant a divorce on the grounds of cruel and inhuman treatment, and in giving the exclusive custody of their minor children to her.

The Court should have denied her divorce on this ground as well as the other two grounds alleged in the bill.

The bill in this cause alleges that the parties were married on April 13, 1921, and that the defendant was soon thereafter threatened and left the State on account of some trouble over notes and checks. That they went to Florida and returned to Tennessee in 1923, when their first child was born, and he had some further trouble about the notes and checks about which she was informed he might have been prosecuted, and while she was at home in Tennessee she had information that the defendant was keeping company with other women and indulged in drinking. That she returned home and her second child was born January 6, 1926, that the defendant returned here at that time and went back to Florida when this child was about a week old and stated this child was not his, and that she went back to Florida when the child was about six months old. That she and the defendant returned to Maryville, Tennessee, in 1927, and went to the State of Indiana and they had some trouble



while in Indiana. In 1929 they returned to Blount County and lived on a farm until a few months ago.

And their third child was born October 26, 1930. In March 1934 the defendant went to Indiana and stayed about three months, and in the fall of 1933, defendant threatened her and her father and took her and her children to her sisters and threatened them. That from March 26, 1934 to July 1934 he furnished her only six dollars and bought certain clothes for the children. That she filed a divorce suit on June 1, 1934, against the defendant but they settled their differences and the suit was dismissed. They moved to Calderwood in 1934, and she says he threatened to kill her if she attempted to leave and that he was having her watched and that she was afraid of him. That a few days before the bill was filed she got his key and obtained a prescription that belonged to her sister, and says he had locked it in his tool box, and that he choked her and threatened to kill her, and that he got a warrant charging her with criminal abortion and on motion of her attorney it was dismissed.

In view of these circumstances she charges that the defendant is guilty of habitual drunkenness, that he has abandoned her and neglected to provide for her; and that he is guilty of cruel and inhuman treatment toward her. Tr. 1-11. The defendant answered the bill and admitted their marriage as stated and that they had lived in Florida and Indiana a part of the time since their marriage, denies the allegations of habitual drunkenness, failure to provide and cruel and inhuman treatment as is alleged in the bill. Tr. 16-19.

Complainant's testimony in chief is supported by her bill as set out in the Transcript pages 52-55. To support her allegations she says that the defendant said their second child was not his. That in the fall of 1933 he came to her father's house and



and got a shot gun and threatened to kill her and her father and mother and cursed them. And he took her and the children ~~with~~ an automobile and the gun and went to his sisters house and threatened to kill any of us that opened our mouth. That after they moved to Caulderwood in 1934, he was jealous of her and forbid her to go to the store or post office or to come to Maryville. Two weeks before the bill was filed she got his keys and took a prescription out of his tool box that belonged to his ~~her~~ sister and that he got mad and choked her and threatened to kill her, and that he went to the Justice of the Peace and obtained a warrant for her for abortion. Then she files a long letter from the defendant in which he expresses his love and censure. Tr. 55 - 60.

On Cross examination she admits when they got in trouble over the prescription, that she struck him with a poker and in a scramble over the paper she had taken. Tr. 62.

Complainants witness, J. M. Prior stated that he is a Deputy Sheriff and the defendant wanted him to tell her not to take their children away but he did not do so as that was not his duty and the defendant told her not to take them away but did not curse her.

Bob Hannah testified for her, that he had a conversation with Jerva Cannon in which he stated that he told Nathan Hughes not to bring his wife to Maryville any more. That Nathan Hughes was a bad character and a bootleger. He knew Nathan had brought her to Maryville a few days before, and Jerva had accused her of adultery. Jerva also said that his children told him that Bert Smelser was coming to his house. I am a taxi driver and Jerva did not tell me not to bring his wife to town. This witness testifies to the good character of both the parties. Tr. 61, 62.

The complainants father also testified for her and told of the trouble that occurred at his house and stated that he cursed



her. That he got a shot gun and loaded it and said he was going to take his children if he had to do so over some ones dead body. He states on cross examination that the defendant did not try to use the gun but just made threats. Tr.67-71

She then introduced Arthur Costner who states that he had some trouble with Jerva along in March 1934, and they had a little fight and he thought Jerva was drinking and that on Monday after election he hauled some wood to Mrs. Cannon where she was living, and he supports her good character.

The complainant rested her case and the defendant moved the Court to dismiss the case because the complainant had not made out a cause for divorce under the pleadings and the evidence. The Court overruled this motion. Tr. 71.

The defendant insists that this motion should have been sustained.

The defendant testified that the first trouble that arose between him and his wife was because she brought her sister to their home in Fort Lauderdale, Florida to give birth to an illegitimate child. That their troubles came up over what her people wanted her to do and about her trying to produce abortions, and of his attempts to prevent her from committing these wrongs. He states that about January 1935 she got his key and took the prescription and medicine out of his tool box where he had kept it out of her reach, that she got a poker and struck at him and that he grabbed her arm and wrenched it out of her hands, he did not choke her but only used force enough to prevent her from striking him with the iron poker. He sets out some of her wrongs charged in the cross bill and amended answer. He explains why he doubted his second child, stating that his wife came home to Tennessee on June 1, 1925 and he stayed in Fort Lauderdale, Florida and worked and she did not return until October 28, 1935, and she gave birth to the child June 6, 1926. Tr. 72-77



He offers the testimony of Bob Howard who states that the complainant stated down at their home on July 4, 1934, that she and Jerva would have been living together yet if it had not been for her people. He also examined Floyd Russell who stated some in-désecrations of the complainant, and stated that the defendant dressed his family as well as the ordinary people. Tr. 78,79.

Cas Hufstetler a second cousin of the complainant testified that he had known the parties for many years, and that he worked in Florida with Mr. Cannon and knows that he supported his family while he was there, and that he did not hear of any trouble between them then. That him and Mr. Cannon came back here because work was scarce and they were hardly making expenses. Tr. 79-80. Miss Nannie and Miss Florence Kittrell testified that Mr. Cannon and his wife and their children lived in their house for a while before they were separated. His wife and children were dressed well and the children were kept in school but they knew nothing about any trouble. Tr. 80.

G. L. Buford and Sterling Taylor are merchants and both testified that Mr. Cannon traded with them and they extended him credit, and that his wife came to the store and got what she wanted and Mr. Cannon paid for it. Tr. 81, 82.

This was ~~the~~ <sup>the</sup> substantial evidence on which the decree of the divorce was granted.

The defendants cross bill and the amendment to his answer, which were stricken from the file were made a part of the bill of exceptions, and are in the transcript. Tr. 44, 47, 83-90.

The whole proof in this cause shows that the defendant is ~~enterjetic~~ enterjetic and makes good wages and is better able financially to care for his children than the complainant is. The evidence also shows that he loves his children and has clothed them and kept them in school, and that they would be better cared for in his custody

than in the custody of the complainant. Certainly this defendant should not be deprived of the custody of his children until he is permitted to file proper pleadings in the court and be heard upon them. The decree of the Chancellor should be reversed and the case remanded to the Chancery Court with an order that this defendant be permitted to file his cross bill, and such pleadings as he deems necessary to meet the allegations in the complainants bill. Under the record as it comes to this Honorable Court the defendant has been denied his legal rights to be heard on affirmative relief, and his rights to fully defend against alleged wrongs in complainants bill.

Respectfully submitted.

  
Counsel for Appellant.

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Copy of this brief furnished Counsel for Complainant, Neoma Hufstetler Cannon, on Jan. \_\_\_\_, 1936.

