

LENA M. RAGSDALE, Complainant

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-VS-

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LEWIS A. RAGSDALE, Defendant.

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*Filed Dec. 4, 1893.*

*A. W. Goodpasture, ex*

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Transcript of the Record in the cause of

Mrs. Lena M. Ragsdale, Complainant

-VS-

Lewis A. Ragsdale, Defendant

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Messrs. Burney & Gholson      -0-      Solicitor for Complainant

$$\frac{1}{\sqrt{\pi}} \int_{-\infty}^{\infty} f(x) e^{-x^2} dx = \frac{1}{\sqrt{\pi}} \int_{-\infty}^{\infty} f(x) e^{-x^2} dx$$

Messrs Baxter Smith )  
 )  
 ) -0- Solicitors for Defendant  
 And Wm. M. Daniel )

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-----: PROSECUTION BOND.:-----

We, Mrs. Lena M. Ragsdale, principal and Burney and Gholson, securities, acknowledge ourselves bound and indebted unto Lewis A. Ragsdale, in the sum of Two Hundred and Fifty Dollars, to be void if the said Mrs. Lena M. Ragsdale, shall prosecute with effect a bill this day filed by her ~~againxx~~ in the Chancery Court, at Clarksville, against the said Lewis A. Ragsdale, or in case of failure therein, shall pay all such costs and damages as may at any time be awarded against them. This 20th day of April 1893.

Mrs. Lena M. Ragsdale, by

R. H. Burney, Att'y

Burney & Gholson, Securities.

$$\frac{1}{2}, \frac{1}{3}, \frac{1}{4}, \frac{1}{5}, \frac{1}{6}, \frac{1}{7}, \frac{1}{8}, \frac{1}{9}, \frac{1}{10}, \frac{1}{11}, \frac{1}{12}, \frac{1}{13}, \frac{1}{14}, \frac{1}{15}, \frac{1}{16}, \frac{1}{17}, \frac{1}{18}, \frac{1}{19}, \frac{1}{20}, \frac{1}{21}, \frac{1}{22}, \frac{1}{23}, \frac{1}{24}, \frac{1}{25}, \frac{1}{26}, \frac{1}{27}, \frac{1}{28}, \frac{1}{29}, \frac{1}{30}, \frac{1}{31}, \frac{1}{32}, \frac{1}{33}, \frac{1}{34}, \frac{1}{35}, \frac{1}{36}, \frac{1}{37}, \frac{1}{38}, \frac{1}{39}, \frac{1}{40}, \frac{1}{41}, \frac{1}{42}, \frac{1}{43}, \frac{1}{44}, \frac{1}{45}, \frac{1}{46}, \frac{1}{47}, \frac{1}{48}, \frac{1}{49}, \frac{1}{50}, \frac{1}{51}, \frac{1}{52}, \frac{1}{53}, \frac{1}{54}, \frac{1}{55}, \frac{1}{56}, \frac{1}{57}, \frac{1}{58}, \frac{1}{59}, \frac{1}{60}, \frac{1}{61}, \frac{1}{62}, \frac{1}{63}, \frac{1}{64}, \frac{1}{65}, \frac{1}{66}, \frac{1}{67}, \frac{1}{68}, \frac{1}{69}, \frac{1}{70}, \frac{1}{71}, \frac{1}{72}, \frac{1}{73}, \frac{1}{74}, \frac{1}{75}, \frac{1}{76}, \frac{1}{77}, \frac{1}{78}, \frac{1}{79}, \frac{1}{80}, \frac{1}{81}, \frac{1}{82}, \frac{1}{83}, \frac{1}{84}, \frac{1}{85}, \frac{1}{86}, \frac{1}{87}, \frac{1}{88}, \frac{1}{89}, \frac{1}{90}, \frac{1}{91}, \frac{1}{92}, \frac{1}{93}, \frac{1}{94}, \frac{1}{95}, \frac{1}{96}, \frac{1}{97}, \frac{1}{98}, \frac{1}{99}, \frac{1}{100}$$

-:ORIGINAL AND DIVORCE BILL.:-

To the Hon. George E. Seay Chancellor, sitting in equity at  
Clarksville, Tenn.

This is the Bill of Complaint of Lena M. Ragsdale, of Montgomery County Tenn.

-VS-

Lewis A. Ragsdale and H. N. Leech, of the same County and State.

-:0:-

Complainant respectfully represents to you Honor that she and the defendant were married in Clarksville on 28th. day of September, 1887.

The defendant was at the time a citizen of Mississippi residing in the city of Meridian in said State.

After their marriage they went to his home where they lived for about one and a half years, when he purchased and fitted up a home near Clarksville, Tenn., to which they removed and where they have since resided.

At the time of their marriage Mr. Ragsdale was about twenty one years old, was engaged in winding up the estate of his father who <sup>had</sup> recently died leaving large property and he embarked in no other business until after their removal to Clarksville.

At this time he invested largely in trotting horses and went in to the business of training and racing his horses and breeding trotters on a considerable scale for this country.

The defendant at the time of the marriage and for more than a year thereafter was a man of exemplary habits in all respects and especially was he free from intemperance and for a number of years their married life was a happy one. But when he began to travel over the country with his horses attending races in a number of different States he unfortunately contracted the habit of drinking to excess and it turned out that he was one of those men who could not touch drink at all without running to excess, and the effect upon him was not only to apparently to deprive him of his reason but to make him desperate as well.

3.

This habit grew upon him until in time he became an habitual drunkard.

After this habit was formed naturally there was no more happiness in their house-hold. He time and again threatened her life avowing that he would take his own as well, was almost constantly cross, suspicious, vindictive, unreasonable and cruel to her, abusing her and denouncing her and her family in the coarsest and unreasonable manner and that too without any reasonable ~~provocation~~ provocation.

In November 1891 on one occasion while drunk, he with oaths and threats drew his open knife saying he would kill her at the time making demonstrations as though he would carry out his alleged design, when her Aunt placing herself between him and Complainant for her protection finally succeeded in quiting him or at any rate diverting his mind until Complainant had an opportunity to escape which she did and left his house alarmed for her life and went to her father's alone. This was perhaps ten O'clock at night. Her father lived about one fourth of a mile away. She however returned the next day determined if possible to live with him and save the scandal of a separation hoping that at some time he would leave off this unfortunate habit. She continued to live with him although in a constant state of apprehension, for several months during which time he continued to abuse, denounce and maltreat her, at one time ~~xx~~ he threatened to kill her with a pistol which he held at her head.

Again in a few months she was compelled to seek safety in ~~xx~~ flight from his home and went to her father's the second time for protection. Her father on this occasion took her back and her husband made the most solemn promises to him and to her of reformation and relying upon this she again took up her abode in his house. But notwithstanding these solemn pledges he continued to



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drink, indeed grew constantly worse and more and more abusive going armed with his pistol some times more than one, frequently threatening to kill her and her family on the slightest provocation or indeed without provocation at all, making all sorts of charges against her and them until finally on the 13th of October 1892 she again fled from his home determined never to return as she verily believed her life was in danger and there was no hope of any change in his conduct.

Soon thereafter he became apparently most penitent interceding with her friends to bring about a reconciliation, professing the greatest devotion to her and affection for her. He sought various interviews with her which she at first declined but finally yielded and allowed him to see her. He promised her a complete reformation, offered to do any and everything she might demand if she would return and live with him again.

He solemnly promised that he would abstain altogether from drink, saying that if he ever took another drink he would blow his brains out and to avoid temptation that might arise from the business he promised to sell his race horses and give up the turf. She at first doubted his sincerity or his ability to abstain from liquor but after three interviews with him she accepted his pledges and agreed to return. She feared but hoped.

Her great desire was to reclaim the one happy home and save her husband if possible. She was absent that time about two weeks

Mr. Bagsdale is a man of large fortune, having about the time of their removal to Clarksville sold his interest in and near Meridian Mississippi for something more than two hundred thousand dollars. He also had his life insured for her benefit in the sum of \$35,000.00.

At the time of the last separation mentioned, he proposed to settle upon her for her sole and separate use \$25,000.00, she ac-

5.

-cept that in lieu of her interest in his estate of whatever kind and also to relinquish to him the \$35,000.00 insurance on his life above mentioned. She after consideration to this thinking that whatever misfortune might befall them she could hold this sum for a comfortable support. She agreed to use the income for the benefit of the family. The contract was reduced to writing signed in duplicate and is here filed as Exhibit A but not to be copied.

Mr. Ragsdale for a time faithfully kept his pledge, but in February last began to drink heavily and renew with exaggerated force his abuse to her. He seemed not only to hate her with a most intense hatred but have a violent enmity toward her father and family. He at one time, so he told her, went to the train upon which he expected her father to arrive, with the intention as he expressed "of shooting it out with him" but her father did not come. This too without any cause, for her father had treated him in no other way than with kindness and consideration. He time and time again threatened to kill her, said she had ruined his life, that she was a tool of a gang of thieves who had banded together to rob him, she had robbed him of \$25,000.00, that her father was dishonorable and this and many other things were said by him time and again to her unnecessary to be quoted here.

He one evening became very violent and angry so much so she did not go to her bed until about two O'clock A.M.. The next morning before she got up he came to her bed in a towering passion, acted like one deprived of his reason, spoke as though he were desperate, threw off the cover and violently assaulted her.

He caught her, declaring he would kill her on the spot, pressed his pistol to her side and made such demonstrations that she in terror wrested herself from his grasp and ran for her life. While fleeing from him he fired at her in the room with his pistol and she ran in her nightclothing into the yard intending to escape when he overtook her and with force brought her back into

the house where he again told her with his pistol at her heart "her time had come" but for some reason he did not fire. Afterwards he stated that he had intended to kill her but at the time he shot he did not intend to hit her but only fired to frighten her.

She has for several years been in most delicate health, her condition has been nervous in the extreme and treatment of this kind was not calculated to improve her in that respect. At the time of the occurrence last recited her father was absent from the City, she had no one to whom she could go for protection, in deed she could not well escape as he for some time kept close watch upon her.

He continued his drinking and his abusive conduct toward her until about three weeks ago when at night she saw unmistakable signs of the approach of one of his most violent spells she saw that his enmity was turned toward her even more than usual, she foresaw what was coming and she by stealth left the place between 10 and 11 O'clock at night, and went to a neighbor's where she remained until about daylight she went to her father's where she now is. She is informed and believes he is still drinking and she has no reasonable hope of his reformation, his promises have been so often made and broken so she is determined to apply to your for the dissolution of the bonds of matrimony.

There were no children born of their marriage.

In order to secure the \$25,000.00 above referred to the defendant, at the time transferred by agreement with her to H. N. Leech that amount of a note then in suit in Meridian Miss. And the transfer of this interest was legally completed. The note so transferred was to bear 8 per cent interest and the agreement was that the \$25,000.00 should also bear that rate of interest until paid over to her but it was to be collected as soon as possible.

She desires to stand by the agreement she then made, as she



7. contracted, to take this sum in lieu of alimony but if for any reason the contract should not be enforced by your Honor, she asks that a reasonable alimony allowed out of her husband's estate.

She at the time of her marriage had very little property herself, her husband having received from her only \$1600.00 which ~~in~~ fact she states incidentally and not with a view to recover it. She at the time and has absolute confidence in Mr. Leech by whom this fund was to be collected for her benefit, but he is her husband's confidential attorney and she thinks in view of the circumstances now existing, to represent her also in respect to the collection and payment of this money would probably result in complications unpleasant to him, and she thinks a receiver or some one by whatever name he may be called should be appointed by your Honor to collect this money for her, and she has no doubt Mr. Leech will readily see the propriety of this application.

She state to your Honor that she has certain personal effects or house-hold articles belonging to her in the possession of her husband but as he has offered to turn these over to her which she has no doubt he will do upon demand, she does not seek in this ~~to~~ to recover anything of that kind.

Complainant therefore prays that the defendant be made such by process from your Honor's Court, that he answer this bill to the July rules but not on oath which is waived, that a receiver be appointed to collect and turn over the said \$25,000.00 with interest, that upon a hearing an absolute divorce be granted Complainant, that this \$25,000.00 be decreed her with its accumulations ~~in~~ in lieu of alimony absolutely, or failing in that that she be decreed reasonable alimony, that the defendant be charged with the expense of this litigation including attorney's fees and for general relief.

Burney & Gholson, Solicitors.

8.

State of Tennessee )

Montgomery County

Personally appeared before me, Q. C. Atkin-  
-son, Jr., C.&M. of the Chancery Court at

Clarksville, Mrs. Lena M. Ragsdale, who made oath in due form of law that the statements contained in the foregoing bill are true to the best of her knowledge, information 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.

Lena M. Ragsdale.

Sworn to and subscribed before me April 20th 1898.

Q. C. Atkinson, Jr., C.&M.

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BILL Endorsed: "Filed April 20th. 1893.

Q. C. Atkinson, Jr., C.&M.

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$$\frac{1}{2}, \frac{1}{3}, \frac{1}{4}, \frac{1}{5}, \frac{1}{6}, \frac{1}{7}, \frac{1}{8}, \frac{1}{9}, \frac{1}{10}, \frac{1}{11}, \frac{1}{12}$$

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EXHIBIT "A" TO ORIGINAL & DIVORCE BILL.

Agreement of settlement this day made and entered into between  
Lewis A. Baggdale and Lena M. Baggdale.

L. A. Ragsdale gives to his wife Lena M. Ragsdale the sum of twenty five thousand dollars. She is to invest this in good interest bearing bonds, or other good interest or dividend paying securities, and is to devote the income therefrom to the payment of the family expenses as far as it may go. In the event of any separation of the parties to this contract, said sum is to be accepted in full satisfaction of all claims for alimony and support by Mrs Ragsdale against her said husband. It is, also accepted in full of all claims against his estate, in the event the said husband makes a will not additionally providing for her. Mrs. Ragsdale gives up and transfers to her husband a'l interest she has in the existing policies on the life of said husband. H. N. Leach, the attorney,

for Mr. Ragsdale, will collect the sum herein provided for, twenty five thousand dollares, as of this date, due the said Ragsdale by the Meridian Land & Industrial Company, pay the same to Mrs. Ragsdale, taking her receipt, to be ~~xxxxxx~~ by her invested as herein provided for. This Oct 31 - 1892.

L. A. Ragsdale

Lena M. Ragsdale.

Endorsed: "Filed April 20th. 1893.

O. C. Atknison, Jr., C.&M.

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Spa. to answer on O & Divorce) Endorsed: "Issued April 21st. 1893  
Bill issued to July Rules. ) O. C. Atkinson, Jr., C.&M."

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Spa. Ans. returned: "Came to hand when issued and executed by reading the within Spa. to L. A. Ragsdale and leaving copy of Bill with him ~~xxxx~~. Returned same this April 22 - 1893.

J. O. Turner, D. Sheriff.

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A M E N D E D B I L L . B O N D .

PROSECUTION BOND.

We, Mrs. Lena M. Ragsdale, principal and Burney & Gholson, securities, acknowledge ourselves bound and indebted unto Lewis A. Ragsdale, in the sum of Two Hundred and Fifty Dollars, to be void if the said Mrs. Ragsdale, shall prosecute with effect a bill this day filed by her in the Chancery Court, at Clarksville, against the said Lewis A. Ragsdale, or in case of failure therein, shall pay all such costs and damages as may at any time be awarded against them. This 27th day of June, 1893.

Mrs. Lena M. Ragsdale,

By R. H. Burney, Att'y

Burney & Gholson, Securities.

## AMENDED BILL.

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To the Hon. George W. Seay Chancellor, sitting in equity  
at Clarksville.

This the amended bill of Lena M. Ragsdale

-VS-

Lewis A. Ragsdale.

-:O:-

The Complainant in this amended bill respectfully states to  
your Honor that on the 20th. day of April 1893 she filed a divorce  
bill in your Honor's Court against Lewis A. Ragsdale ~~XXXXXXXXXXXX~~  
~~XXXXXX~~ her husband and also made H. N. Leech a party to said suit.

In said bill she alleged that she theretofore married  
defendant Ragsdale, and that after the marriage he had contract-  
ed the habit of drinking until he had become an habitual drunkard.  
She also alleged as further ground for divorce, cruel and inhuman  
treatment and that the conduct on his part toward her was so as  
to render her condition intolerable and render her further co-hab-  
itation with him dangerous to ~~xx~~ her life.

In said bill she stated that she had been forced to leave the  
home of her husband and when she left she left behind her in his  
possession certain articles of personal property which belonged to  
her, but which she did not sue for, in as much as he at that time  
professed a willingness to surrender them up. She also set out the  
fact in ~~xxxxxxx~~ said bill that her said husband had transferred  
to her in lieu of alimony, in case of a separation, and in lieu  
of all other claims against his estate in any event and her inter-  
est in a certain insurance policy, \$25,000. of his interest in a  
certain law suit then pending at Meridian in the State of Missis-  
sippi between him and the Meridian Land and Industrial Co., and  
she asked in said bill that this \$25,000. be collected for her

benefit and that she be paid that, expressing her willingness to accept it in lieu of allimony.

After filing said bill, she twice applied through her attorneys for said articles of personal property belonging to her, and her husband has not in any way recognized her claims, or even so much as replied to communications made to him on this subject.

He holds said property and declines to give it up, and she now amends her bill by asking the court to decree that the same be turned over to her by him, as it is property that belongs to her, much of which is of little value intrinsically, but is of great value to her by reason of the fact that it was given her by her father or other friends and belonged to her for her sole and separate use, free from any claim or control by her said husband.

She cannot accurately describe all these articles but will do so as best as she can:

1 set of Encyclopedia Britanica, 1 sewing machine, 1 swinging silver pitcher, 1 small silver pitcher, 2 feather beds, 1 copy of Poe's Raven (illustrated) 1 small Bible, large History of the United States, her albums and photographs, 1 set of embroidered towels, 1 pr of fruit vases, 1 pr of imitation bronze vases, the pictures belonging to her, the vases were <sup>hand</sup> painted by her and the pictures are mainly her own work, three silver jewelry cases, two cracker jars, Whittier's poems, all of her books impossible to be enumerated but having her name on them, 1 pie knife, several pieces of jewelry such as pins and rings without jewels, one ring with ruby and diamonds left in a purse, all fancy work of hers except a yellow pin-cushion ~~kgrexxxxxxpink~~ one hand painted pin cushion (green and pink) and all of her wearing apparel.

She asks that she recover this property and that he be required to deliver it up to her.

She state that since the filing of the original bill, she has



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learned more particularly of the character of the litigation in Meridian Mississippi, and finds that the controversy between said Ragsdale and said land Co., grows out of the fact that the land Co., purchased large quantities of real estate from him, and it was provided in the contract of said parties that he should furnish certain titles to all of this land, or failing to do so as to any particular tract, (land having been sold in tracts) that such tract of land or tracts, to which the required title could not be furnished should fall out, and the notes for the purchase money should be credited by the value of such lands so falling out. There are certain large and valuable tracts of this land which there can be no real question as to the title, but the land Company claims that the did not contract for such titles, but only for record titles and therefore insists that these lands be reconveyed to Mr. Ragsdale and they be credited by their value.

It is impossible for her to say or any one else in advance of the ultimate decision of the question how much of this property will fall out or how much credit the Land Co., will get on the purchase price of the property, until the final decision of the suit.

But she is informed that her husband claims that there are from fifty to sixty thousand dollars due which he will recover if the titles to these lands come up to the contract, but if he shall fail to so recover, he will still have the land and the amount of his estate will not thereby be reduced. The Land Co., claim in that suit that they owe him nothing, or if any thing very ~~xxxxxxx~~ much less than five thousand dollars, and she asks that she be decreed alimony out of the estate of her husband in case she does not receive the said \$25,000 with interest at 8%, that being legal in Miss, and the expenses of this litigation, or if the amount of her recovery from the Land Company shall fail to come up to \$25,000 that it be supplemented by a decree against his estate, or a

12.

13.

judgement be rendered to be credited by the amount secured from the Land Company.

He has in addition to this claim, in Mississippi, a judgement against his sister Mrs. Coffee for \$15,000. which is perfectly solvent and good. He has also other real estate which she is informed he values at something like \$20,000. in Meridian. He also has his residence in Clarksville which is worth at least \$12,000 and other real estate here to the value of about \$10,000. He also has a large number of very fine trotting horses, which she is informed he values at something like \$100,000. and she thinks they certainly should be worth \$50,000. she does not know the exact number of such horses but she supposes there are as many as twenty five head. One, a stallion one of the finest in the United States (said to be ) for which he has, she is informed he claims to have refused \$50,000. She alleges that his property is worth more than \$125,000.

She makes a statement of the value or the supposed value of his property not pretending to enumerate it all for he may have other, but in order that the Court may have some idea of the value of his estate in fixing the amount of alimony.

Finally she prays that he answer this amended bill, but not on oath, that being waived, and upon a hearing Your Honor will in addition to the relief prayed for on the original bill, give her a decree for her personal effects above enumerated, and such decree as Your Honor may think best respecting the \$25,000 referred to and for general relief.

Burney & Gholson.

State of Tennessee )  
 )  
 Montgomery County )

Personally appeared before me, Q. C. Atkinson, Jr., C.&M., R. H. Burney agent and attorney, who made oath in due form of law that the statements in the foregoing bill made of his own knowledge are true and those made upon information upon information he believes to be true.

R. H. Burney

Sworn to and subscribed before me 27th day of June, 1893.

Q. C. Atkinson, Jr., C.&M.

-:0:-

A. Bill endorsed: "Filed 27th day of June, 1893.

Q. C. Atkinson, Jr., C.&M.

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Spa endorsed.

Spa on A Bill to July Rules ) "Issued April 28th 1893.

"Spa returned" )

Q. C. Atkinson Jr. C. & M."

"Came to hand when issued and executed by reading the within Spa to L. A. Ragsdale and leaving copy of the Bill with him this June 28. 1893.

J. M. Collier. Sheriff.

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Proconfessor taken against Defendants.

Mrs. Lena M. Ragsdale ) This cause was heard by Q. C. Atkinson  
 )  
 vs ) Jr. C. & M. on this August 7th 1893, it  
 )  
 Lewis A. Ragsdale. ) being the regular Rule day in August  
 when it appeared that regular process of copies and Spas on the original and amended Bills in the cause was issued and served on the defendants L. A. Ragsdale and H. N. Leach more than five days

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before the First Monday in July 1893, requiring them to appear and answer at that time, and it appearing that they have made default and failed to appear and defend in any way as required.

It is therefore on motion of, Complainant, ordered, adjudged and decreed that said Original and amended bills be and are taken for confessed as to said L. A. Ragsdale and H. N. Leech, and set for hearing ex parte as to them. Q. C. Atkinson, Jr., C.&M.

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#### ANSWER OF DEFENDANT.

The defendant, in this case answering such parts of the bill as he deems necessary, says that it is true that he was married to Complainant, at the time and place stated. His age at the time was as stated, and that they lived happily together in Miss. for more than a year, and then moved to a location in Clarksville. It is also true, that he had wealth - an unfortunate truth - they lived together for some time happily. Respondent used his wealth lavishly for the comfort of his wife, whom he loved almost to idolatry, it being his first and only love.

It is true that Respondent invested money in trotting stock, and it is also true that after moving to Clarksville he used in toxicating drinks, but he most positive ly denies that he did so to drunkenness. The money he spent induced Complainant, through the influence of her family to fear that he would squander his fortune. And this, and not any treatment Complt received, was the cause of the disagreement between Complt and Deft.

Respondant and his wife had many differences, and both being high tempered both often indulged in language and threats which both were ashamed of. But their quarrels were settled - pardons prayed for and granted, and they resumed their honeymoons. Respondent noticed that his wife was far more fault-finding and far less

loving to him and reliant on him when they lived in Clarksville, less than a year, than she had been, and he attributed this to the advice and influence of her family. More than once Complt left her home at night, because of her high temper and anger, resulting from dispute, and without the knowledge of ~~Ex~~ Respondent. At such times Respondent was distressed beyond description, and sought her at the neighbors. Respt most positively denies that he ever seriously threatened violence to his wife, or that any time she left her home because she feared personal violence. He never used violence and he now states that but for the interference of her father, Respt. and Complt would be living together and enjoying the luxuries of their home.

While denying the validity and binding effect of the contract exhibited to the O. B. Respt claims that the contract and the circumstances under which Complt returned to Respt. at the date of the contract was a condonation of all past wrongs if there were any, which would entitle Complt to a divorce, and he now states that Complt after the next to the last leaving was anxious to return to him from her father's house, and would have done so but for the influence of her father. She would have done so without a settlement of others security than Respt assurance of good treatment. But her father interfered to prevent her return. He, relying on the well known devotion of the Respt for his wife planned and arranged the exhibit, and this Respt says that this was an unfair advantage taken of him to extort \$25,000. of him. After the date of said Ex Complt returned to her home, more unreasonable than before. Her whole conduct manifested a desire to leave, and that she wanted a pretence to do so. She deserted Respt again, and finally within 5 months but she had no good reason to do so. The last leaving was about half past 10 O'C A. M. March 30th 93.



He had had some dispute but it was without violent language, and Respt had returned to bed, he was sober and had not been drinking indeed he had not been half drunk at any time since the date of Ex. She took with her the jewelry Respt had given her, worth \$1500. Our altercations were not half so violent after her last return because Respt saw that Complt sought a pretence to leave, and that alarmed him into forbearance.

On April 2nd 1893, Respt called once and had an interview with his wife in her father's house, when she embraced him affectionately, and said that she would return home, and this was prevented by the interference of her father. And this Respt respectfully suggests that this fact a willingness to return is irreconcilable with the charges made in the bill.

It is true as stated in the bill that Respt, insured his life, at \$35,000. for the benefit of the Complt, and this shows that Respt provided against misfortune in her favor.

Respt denies that "went to the train" to "shoot it out" with her father or that he so told Complt. Respt denies Complt's right to divorce. He believes that she will return to him. He will not give up this hope. He will make no claim to her paraphernalia or any other property which she may justly claim to be her own.

Respt insists that the settlement and re-union at the date of said Ex was a condonation of all wrongs, if there were any suffered by Complt. and that such wrongs cannot now be the basis for a divorce he repeats that his treatment of his wife, after said condonation was kind and forbearing, at least that he did not do anything to justify her in deserting him.

As to the estimate of the value of Respt property set out in the amendment to the O. B. Respt cannot answer with any degree of certainty, but he is certain that after paying all his debts

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he is not worth one half of that estimate. The proof will show to whom belongs the various articles claimed by Complt. which are now in the home house.

T. L. Yancey. Atty. for Deft.

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Ans. endorsed, "Filed 4 Oct. 93, Q. C. Atkinson, Jr., C.&M.

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COMPLAINANT'S PROOF.

DEPOSITION OF ANTHONY D. HUNTER

Lena M. Ragsdale, Complt.,     ) Deposition of Anthony D. Hunter, a  
                                      ) Vs.                             ) witness on behalf of the Complt.,  
                                      )                             )  
Lewis A. Ragsdale, Defendant.) taken before me, B.O. White, Chancery

-----  
Clerk of Lauderdale County, State of Mississippi, in the City of Meridian, on Monday, Sept., 11th, 1893, at my office in said City.

1 State your name, age, residence and occupation.?

A Anthony D. Hunter, 31 years. Meridian Miss. Cotton and warehouse-  
2. man.

2. State if you are acquainted with the parties to this suit, if ye you are, how long have you known them?.

A. I am acquainted with them, have known L. A. Ragsdale ever since we were boys, and have known Lena M. Ragsdale since 1888.

3. Please state if you resided with L. A. Ragsdale and his wife, Lena M. Ragsdale in the City of Clarksville, Tennessee and if so please state when it was and how long you so resided?

A. I did reside with them at their home in Clarksville, Tennessee I commenced working for L. A. Ragsdale in Clarksville, Tennessee and

17.    ~~XXX~~

residing in his family as well as I recollect in October 1890, and continued with him until November, 1891, when I returned home to Meridian Miss. a part of the time ~~given~~ between the dates given above when I was working for L. A. Ragsdale, I was travelling with him and others.

4.    Please state fully what you know, if anything, with reference to the habitual drunkenness of L. A. Ragsdale, since his marriage with Lena M. Ragsdale, and also, all you may know with reference to any cruel or inhuman treatment or conduct on his part toward his said wife.

A.    He was in the habit of getting drunk, and was never from under the influence of liquor long at any time, he drank greatly to excess, and I have seen him when so drinking, that I have considered him crazy, on one occasion at night when I had gone to bed in my room in his house, Mrs. Ragsdale knocked on my door and asked me to get up and go to Lewis, and I got ~~up~~ up and went to his room, he was sitting in a chair with his night shirt on. I asked him "what is the matter", expecting to find him very sick, he said when he wanted me he would call me, I then went out on the gallery and I found Mrs. Ragsdale and Miss Mary Mosely about the head of the stairway, Mrs. Ragsdale said that Lewis had a knife and she was afraid that he would hurt himself, and asked me to go back in there. I went back and found him in the same fix and I returned on the gallery and went up in front of my room. Mrs. Ragsdale and "Aunt Mary" followed me up stairs and met Lewis there, He asked his wife to go with him into their room. She told him that she was afraid, Mrs. Ragsdale told me that he had a knife and tried to cut her, Lewis remarked that Mr. Hunter says that he is sick and its a lie, he advanced toward my door and I went inside and closed the door and locked it. He knocked on the door until he broke the lock and while he was knocking on the door he said a great many



5. When you went to your room as above stated and Lewis was knocking on your room door, where was Mrs. Ragsdale?

A. I dont know where she was. She did not go to his room when he ordered her to do so.

6. Where was Mrs. Fagsdale when you came down out of your room and started away?

A. She was at the front door.

7. Why did you advise Mrs. Ragsdale at that time to leave the house?

A. I did not know whether he intended to kill me or her.

8. Do you remember of any other occasion when he treated her in a cruel or inhuman manner, if so, state fully.

A. I dont remember of any other time.

9. State any thing else you may know that would be of interest to either party to this suit without being especially interrogated thereto.

A. I dont know of any thing else.

A. D. Hunter.

Sworn to and subscribed before me this 11th day of September 1893

B. O. White Clerk.

By J. E. Nunnery D. C.

( Seal )

State of Mississippi ) The foregoing deposition was taken before  
                              )  
Lauderdale County     ) me, as stated in the caption, and reduced  
  
to writing by me, And I certify that I am not interested in the  
  
cause nor of kin or <sup>in</sup> connection to either ~~party~~ of the parties.

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And that I sealed them up and put them in the Post- office without being out of my possession, or altered after they were taken.

From under my hand, the 11th day of Sept 1893.

B. O. White Clerk.

By J. E. Munnery. D. C.

*Deposition endorsed "Filed -:0:- September 14-1893"*

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-: BILL OF EXCEPTIONS. :-  
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Mrs. Lena M. Ragsdale )

-VS-

Lewis A. Ragsdale )

) In the Chancery Court of Montgomery  
) County, Tennessee.

Bill of Exceptions.

On the trial of this cause the following is all the evidence that was submitted to the Court.

Evidence in behalf of the Complainant.

The Complainant, aged 24 years, being duly sworn testified in words and figures as follows:

We, I and the defendant, were married in Clarksville Tennessee September 28th 1887 and lived in Meridian Mississippi until February 1889 when we came to Clarksville Tennessee and lived at my father's house until September 28th 1889 - just two years from our marriage - when we moved to the Beaumont place which was purchased by Mr. Ragsdale where we lived until our separation.

Mr Ragsdale was made the executor of his father's estate and he was attending to this while in Mississippi. He went into the brokers business when we came to Clarksville to live and stayed in it until he went in to the race horse business in 1890, buying and breeding them on an extensive scale; and for two seasons he was with them on the track traveling all over the Country, when I was married I was just eighteen years old. Mr. Ragsdale was a tem-



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perate man before our marriage, and this continued until about ~~the~~ three and one half years ago when he commenced to drink, but not hard until about two years ago. Since which time he has been drinking very heavily, nearly all of the time. I have known him to drink as much as a quart during the day and a quart at night, making a half gallon in twenty four hours. He usually drank harder at night than in the day. It seemed to me when drinking so heavily that he would take a drink every ten minutes and stay up all night - sleeping during the day. ~~XXXXXX~~

I have four different times; the first was in November 1891. The circumstances connected with that are as follows: He was drinking very hard, and one night after supper I was sitting in the library with my aunt and Mr. Hunter - Mr. and Mrs. Scott McCoy were in the house at the time - He came partly down stairs very early before the servant had finished washing the dishes and insisted on my going up stairs, which I refused to do until the servant finished her work and left so that the house could be locked. He came down finally and forced us all up stairs. I went on ~~thru~~ through our room and seeing that he was mad went into my aunts ~~room~~ room and asked her what I should do. She told me to go on into my room and pay no attention to him. He ~~xxxx~~ in the mean time came into her room, and blew out the light. I followed him into my room and upon reaching the door I saw him raise his bottle and say "this is what makes a married drink". I paid no attention to it until he told me to come home, that he did not want me there any longer. I again sought my aunt and asked her to come with me, which she refused to do, saying that it was raining and turning very cold. He followed me into her room and told my aunt to bring me home, and with his open knife in his hand, said that he would plunge it into his heart as soon as I passed out the door. Aunt

Mary told me to go and arouse Mr. Hunter and that she would in the mean time prevent Mr. Ragsdale from doing any violence to himself. Mr. Hunter came and tried to quiet him but failed and went back to his own room and Mr. Ragsdale followed him and burst the lock off the door, threatening to kill him. I in the mean time had made my escape, and gone around the house to the front. Aunt Mary called him to the front, fearing that he would kill Mr. Hunter - He came and caught me by the arm and carried me up stairs, I saw his open knife partly up his sleeve and screamed. He asked if I wanted Mr. and Mrs. McCoy to hear it and I told him no. He then asked me what right I had to ~~xx~~ tell Mr. Hunter to come to his room. I told him Aunt Mary told me to call him, that she feared he would do violence to himself. In the meantime Aunt Mary had come between us. He drew back his knife and said he was a great mind to plunge it in both of us. Aunt Mary diverted his attention by telling him we were all wet and cold (we had been out in the rain) and asked him if he did not want a toddy. This gave me a chance to get away from him and I carried the bottle with me and threw it away as I came to my father's. I suppose it must have been ten or half past ten O'clock at night when I reached my father's house. I suppose it to be a quarter from where we lived to my father's. I went back the next morning, accompanied by my brother and reached there ~~xxx~~ about six O'clock. Mr. Ragsdale seemed mortified when I saw him.

The next time I left was in August 1892, he gave me \$20.00 that afternoon, I spent \$5.00, as he considered, very injudiciously. He was drinking and very cross and contrary - He threw up to me his own wealth and my dependence. I came to my father's and stayed about an hour, when my father went back with me and talked to Mr. Ragsdale.

Mr. Ragsdale when drinking heavily was very contentious, contrary, obstinate and overbearing.

He continued to drink heavily almost constantly, keeping whiskey at home - This state of affairs continued and instead of getting better grew worse all the time. And on the 12th of the following October, because I came to my father's on a visit against his wishes, he said to me that when I came back I would find the gate locked against me. After staying about an hour I returned and upon reaching home my Cook told me that he had given her orders to get supper but for two people - Mr. Ragsdale and his brother, who was staying there at the time - At the supper table I and my Aunt, who lived with us, merely waited on the table, not being asked to partake of anything. And upon this occasion he asked me why I came back and told me that I was an unwelcome guest. That night he was so quarrelsome and overbearing, keeping me awake until after midnight, that I could not stand it. I found that I could not get along with him, that patience had ceased to be a virtue and I determined to leave him, so I left the next day and came to my father's.

I did not see him for about two days when he came and asked permission to see me. I was afraid to see him except in the presence of my father and so notified him. I did see him and had my father present. He wanted to know what was the situation. I told him that we were separated. I did not see him again until he had sobered up and when after a number of visits to me and after making the most solemn promises never to drink, that he would sell his race horses and in every way to lead a more moral life. I consented to go back. But at the same time I told him that I would leave him if he ever drank again. He told me not to leave him if he drank again until I had first taken him to Dwight and had him treated for whisky habit.

I went back about the last of October 1892, after staying at home for two weeks. Mr. Ragsdale abstained from the use of liquor until January following when I detected that he had been drinking.

I upbraided him for it and he said that he did it because he was sick. He took several drinks in January- not over half a dozen I would suppose - until the 30th of the month which came on Monday. On Sunday I received a telegram from my father at Bell Buckle <sup>who</sup> stating that my brother, was there at ~~the~~ school, was very ill with pneumonia but no worse than the evening before. We took a drive in the afternoon and on reaching home I suggested that we go to church that night he assented and told the boy not to take the harness off the horse but to feed and water him and hitch him up after supper. We ate supper and were sitting in our room when he turned to me and said that there was something going on in the house that he could not and would not stand. I asked him what it was when he replied that I did not speak to his brother who was staying in the house - (his brother had been disrespectful to me and my aunt a few days before and had not apologized for it) I replied that it was his brother's duty to apologize to me, he thought differently because his brother was younger than I was. I told him that I would never apologize to his brother. I said, however, let's not discuss that but go to church and went out thinking the carriage was waiting, but found that it was not. I ordered it and he said that he would not go. I told him that I would go by myself and went out and got in the carriage and started, had not gone far when he ran and overtook us got in and went as far as corner of tenth street which leads to the passenger depot, when he got out and I went on to church by myself, returned and found him at home. He was reading a Memphis paper which he must have purchased at the depot that night. I retired in a little while and pretty soon the door bell rang and Mr. Ragsdale answered it and found that it was a letter from my father written at Bell Buckle that day and sent by Dr. Beaumont whom he had to go up there to see my brother and had returned that night. The letter

stated how very sick my brother was and it was of an alarming character. I was very uneasy about his condition; I knew that there were several doctors with him and I wanted to go to see him. I told Mrl Ragsdale that I wanted to go the next morning, he refused to give his consent. I took a few things and went upstairs and told him that I would go but would not wake him up when I started. He quarreled a good deal about my wanting to go but gave no reason why I should not. I told him that if his brother was away from home sick that I would do all in my power to aid him to go, even to giving him the last cent that I had. After going up stairs he came up there and said he would write some letters. I went down stairs for kindling but could find none, so I staid down stairs and laid down awhile - I suppose it was then between two and three o'clock. I dropped off to sleep just about day light. He told me afterwards that while I was asleep he went down the back stairs and went to town and got some whiskey - a pint - The first I knew in the morning was his coming in my room and told me to get up that I had slept long enough., that I had ruined his life, He caught hold of me and jerked me off the bed striking my cheek with his pistol which he had in his hand. He told me that I was a tool in the hands of a band of thieves who had planned to rob him and that I had to give him back his money. He choked me and left the prints of his fingers on my throat and struck me several times. I made my escape from him and ran up stairs but the door that would have given me an outlet was locked. He caught me and brought me back down stairs. I made my escape the second time and ran into the dining room where my cook - Ella Gossett - was clearing off the table. I caught hold of her arm and called to her for help. She replied that she could do me no good now. He followed me and as I made the turn around the table he fired in my direction the bullet going into the wall beyond



me. I ran out into the yard nearly to the vineyard when he caught me and brought me back to the house by ~~my~~ hair it being plaited and hanging down. The cook, not wishing to see him kill me, grabbed her children and left. I had on only my night clothes during this time. He told me as he carried me back that my time had come, he carried me into the house and threw me on the bed pulled off his coat and laid down beside me and told me that he was going to kill me and himself. I tried to talk to him and divert his mind - Told him my tongue was thick and asked him for water, he gave me only a sip and when I called for more he told me that I did not deserve any, that many a time that my indifference had made him feel that his tongue was as thick as his foot. He then pressed his pistol into my side and said that he would blow out my heart and I thought for sometime that he had either broke or cracked one of my ribs. The bruise was there for several days. My cook saw the bruise on my face, neck and side. Finally he got up and went into the dining room to get another drink, I suppose but turned very sick and came back into my room and had a hard vomiting spell. Afterwards he had a hard cry and did every thing to make amends for what he had done. I did not go to my father's then for I had no protector in Clarksville, my father being away.

He remained sober and tried to make amends for what he had done. This continued through the month of February. In March he began to drink hard again and for two weeks before our final separation he drank continuously. During which time I used all my influence to get him to go to Dwight and be treated for the whisky habit, which he positively refused to do. He repeatedly told me after the trouble on the 30th of January that if it ever went that far again it would go farther. And on the night that I did leave I saw from his conduct that there was going to be an outbreak by his telling me that there were ~~three~~ <sup>on</sup> three men in this world, whom he

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expected to have his revenge, and expected to drink the blood of  
no eof them - indicating in every way that it was my father. He  
told me that night that he did not expect to live longer than six  
months but before he died he wanted me to lift one stain off of my  
name and that was that he had bought me. And that if I ever tried  
to leave him that he would follow me to the ends of the earth  
to have his revenge if I got any of his father's money. Becoming  
alarmed I went out and called the cook to go in and talk to him  
as she had a great deal of influence over him. I was afraid and  
went over to Mr. Robert Daniel's (a neighbor) staid all night and  
came to my father's and have not lived with him since. This was M  
Mch 30th 1893.

My father had nothing to do with my leaving him - he sent me  
back and went with me back once, advised me to go back once and w  
when I left the last time and told him that I was not going back  
again he told me to do as I liked about it.

After the trouble was over on Jany 30th 93 Mr Ragsdale told  
me that he had gone to the train that morning to meet my father  
had carried two pistols and intended one to my father and shooting  
it out with him then and then he thought that he would buy a  
ticket and leave on the train, and then thought as I belonged to  
him and he to me that if we could not live tigtetner we could die  
together and came home. This statement about meeting my father at  
the train could not move him there as my father could not come  
on that train. He led me to believe th t he intended to kill me  
that morning, and ~~now~~ I now think so if his attention had not been  
diverted and then turning sick..

The various articles in my amender bill are my own property.  
(Defendant and his solicitors here admitted that they were the  
property of Complainant and consented that she might have them.

Miss Mary Mosely aged 45 years next sworn testified as follows:-

Witness for Complainant.

I am Complainant's aunt and lived with Mr. and Mrs. Ragsdale at their home until October last when Mrs. Ragsdale left home. After she returned I left and have not lived with them since. Mr. Ragsdale made a habit of drinking to excess, this was his usual condition for perhaps a year before I left. He would drink at home usually at night frequently keeping his wife up all night that is I would hear them during the night and Mrs. Ragsdale would tell me in the morning that she had been kept awake all night, when drinking he was quarrelsome with his wife. He would drink something like a quart of whisky in the course of the night.

On one occasion when Mrs. Ragsdale's sister was in the house ill unable to leave her room he became angry and turned out the coal oil and threatened to burn up the house calling for matches, his brother and wife asked me to go to him and I did so and succeeded in quieting him. I think this was August 1892. One night he threatened to kill himself and his wife in alarm called me. I went in and told her to go for Mr. Hunter a man on the place, which she did and Mr. Ragsdale became very angry at this and caught her in his arms and said "I could kill you with this" drawing back his open knife. She got behind me he did not strike with his knife. We finally quieted him. I did not see him strike her at any time. He swore terribly when drunk. They were at times very affectionate. I thought at times my niece was not as patient with him as she might have been. I was not afraid of him but his wife was., she was at this time in very delicate health.

After Mrs. Ragsdale left the last time about the last of March last she had bruises on her ankles where she said he kicked her and said she had them on her neck and side. (this matter respecting bruises was brought out by the Deft ) I had not seen her for.t

for two months before. Mr. Ragdale usually carried his pistol.

At this point in the case the Court said he did not desire to hear further from the Complainant unless necessary in rebuttal whereupon the Defendant's testimony was introduced.

After this the Complainant introduced: E. D. Mosely.

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#### DEFENDANT'S TESTIMONY.

The defendant first introduced Julius Weill aged 26 years who being sworn testified as follows:-

I am 26 years old and live about 300 yards from the Deft. Own  
trotting stock and have had some experience on the trotting  
~~xxxxxxx~~ turf. Have known Deft since he has lived in Clarksville but not  
intimately until March 16th 1893. He rented a part of my stable  
on March 16th I was with him daily from then until now. I had  
trotting horses in the stable which was at my training track, and  
our stock were being trained there I remember the time his wife left  
him, the last time. It was the last of March. Dont recollect  
the day of the month. The Deft was sober all the time from the 16  
of March until after his wife left, I am sure of this, Two or three  
three times he brought sour wine to the stable and drank it, but  
it had no intoxicating effect on him. He had no alcoholic liquor  
at the stable and was sober the day his wife left. Soon after his  
wife left he began drinking spriritous liquors and has continued  
to do so. I never saw him actually drink but twice and then he lay  
down and slept it off. I have been almost constantly with Deft si  
since the 16th of April last. He has boarded with my mother and I  
have slept with him and been with him daily. Whisky does not  
take him off mentally or make him misbehave he is always a gentle  
man. He keeps whusky at home buying about half a gallon in two  
days. I am in Ragdale's employ and go with him everywhere.



28.

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The Defendant was next sworn and testified as follows.

X For one and half years after marriage I lived happily with my wife we were devoted to each other until her family interfered between us. She left my house several times and went to her father's without a good cause to do so. She was whimsical but she returned home soon and we were happy together until Oct 1892. In October she left my house and went to her father's, I saw her there several times, and she was willing and anxious to return home she was affectionate to me, professed undying love, but said that her father required that I should settle \$50,000. I refused to do this, said that I could not afford to buy my wife. I told my wife that I would drink no more, and this she said was sufficient for her, but that her father would not allow her to return home unless I made a settlement on her. Her father R. D. Mosely first proposed a settlement to me and she told me afterwards that he insisted that it should be \$50,000. and said that she would be governed entirely by her father. Her father and I discussed the matter and finally Exhibit to this bill was agreed on and executed. I was miserable at my wife's desertion and ready to do anything to regain her, I saw that her father controlled her, and he demanded the settlement. I intended to move with my wife believing that if I did so away from her family there would be no more trouble between us, and that the settlement would be practically in operation.

X She returned to me when the exhibit was executed. think she was absent about two weeks, and we lived together pleasantly until the evening of the 29th day of January 1892. I had taken but three drinks of spiritous liquors. Once at Hopkinsville with her consent as a medicine. Once at Cincinnati which I told my wife of and the circumstances and she approved. The other was at Lexington Ky. being whisky, laudernum and ginger compounded by a druggist, as a remedy for diarrhea.



X The druggist gave me a vial of the medicine I took a spoonful of this just before getting home. My wife smelt it and from that time until she left constantly threatened to leave me and evidently ~~xxxx~~ wanted a pretence to do so. This return from Lexington Ky was in Dec 1892. I did not drink another drop of liquor after this in any shape until the morning of the 30th of Jan 1893. I had a disposition to do so which I allayed ~~with~~ at times by drinking sour wine, with no intoxicating effects

X On the 29th day of January 1893 I returned home at night. My wife was in ill humor, and very disagreeable, she aggravated me in every manner, refused to go to bed or let me sleep finally we went to bed each of us in our rooms, but she returned to my room and continued to quarrel, and I knew from experience that she would not allow me to sleep and I spent the remainder of the night writing business letters. Between four and five O'C. I went to town and took a drink of sour wine, bought a pint of whisky and took a drink of it, took it home and on the way gave a drink to a machanic who was at work on Mr. Mumford's house. I went home sober and at breakfast my wife continued her aggravations and we had a violent ~~xxxxxx~~ dispute, I did not use violence and did not attempt to shoot her, shot over my shoulder in opposite direction from her. I did not injure her in any way. We made friends before night and resumed our usual demeanor towards each other, she was not afraid of me and always told me she was not, this state of things continued until the day she left at night on the 30th March last. On that day I went in my buggy to town in the morning on business, I returned home at noon, my wife met me at the door with affection, she knew of my business, and asked me about it and I explained it, she sitting on my lap while I did so, and while this was going on the telephone rang, she went to signal and made answer "all right Papa" Her manner to me changed to me at

once when dinner was over she ordered my buggy to the door and told me to go to town on the business, I did so and, <sup>in</sup> about half an hour after I got to town she came ther in the %carrisge and went at once to her father's office in the First National Bank, same t time after this, may be an hour, I met her father on the street, He asked me if I was drinking, I told him that it was non eef his busineess He said I sympathize with you I told him that since his sympathy led him ti interfere in my family affairs I did not want them. After, may be an hour I met my wife, I was on the side walk she in the barouche - driving, I saluted her, she turned her head, and pretended not to see me, I thought she was returning home, About five O'C in the evening I returned home, passing the house I went to Weall's stable where I had staok.

My wife came there about six O'C and wanted me to go home, she we went home and I got there about dark, I was sober, had not drank a drop of liquor, I emaraced my wife when I got home, she threw herself away she was cross and angry, I tried to reason with her, I did nothing and said nothing to provoke her.

After supper she renewed her aggravations, I began reading the paper, she anatched it away and tore it, said that I should not read. The next thing I remember, I was in bed, she came there, said I should not read, and we had a quarrel, then she seemed to get in a better humor,- and asked me to go tog to the Privy with her, I told her to go along herself, It is in the house she had n never feared to go alone, she left, I thught for the Privy, she was gone so long that I looked for her, saw and heard her talking to Ella the cook, and thught she had gone to the Privy in the yard - I returned to bed. After a while I became uneasy for her return. made inquiries of the servant who would give no infor- mation of her; sought her all around in vain, I then seat Jerry G Gossett to F, Daniel and to W. A. Daniel's aalso to Robt Daniel's word came back that she was at none of these places. She was at

31.

X Robert Daniels and went next morning to her father's. I sent Jerry to her father's to let him know that she was gone. Her father came at once, I told him what had happened, I told him that she had oftener threatened suicide, and the I feared that she had thrown herself from the bluff near by. We went to the Porter place and to the bluff, and returned to the house, her father returned home and I went to the bluff, and examined everywhere for my wife until daybreak, when I heard that she was at her father's house, she had gone there in the morning from Robert Daniel's.

-:0:-

CROSS - EXAMINATION.

X The surrender value of the life policies is seven thousand dollars At least that is what I have been offered.

+++++

ELLA GOSSETT, (Col.), age 43 was next sworn and testified as follows:

X I am 35 years old, live in Clarksville and do washing. I do Mr. Moseley's washing. I was the defendant's cook and lived in his yard at the time his wife left him the last time. I had been cooking there some time when Mrs. Ragsdale left the ~~ix~~ last time, some time in January but it was in the morning before breakfast, I was in the dining room, defendant came in and went to his wife's room. He was drinking I thought he was, I soon heard a quarrel in the room, and loud and angry talk but could not tell what was said. I heard him say as he went into the room, Wake up I intend to kill you, you have robbed me of \$25,000.00 and I will have it back or have blood. He used oaths along. When Miss. Lena ran out of the room to me in the dining room, threw her arms ~~xx~~ around me calling me - I said I ~~xx~~ can do you no good now, defendant came along after her, swearing and threatening to kill her, ~~she ran out of the dining room into the yard~~

she ran out of the dining room into the yard, he followed, over took her 50 yards from the house, caught her by the hair, then I left the place, I thought he would kill her. As she ran out of the dining room he shot at her. Cant say how far off he was when he shot nor whether he tried to hit her or not, but he shot towards her, the mark of the ball is about seven feet from the door, and she was about in the door when he shot.

-:0:-

#### CROSS - EXAMINED

When I saw him catch Miss. Lena by the hair I left and did not see any more, but returned in ~~xx~~ a short time and saw Miss. Lena with bruises on her throat, in her side and on her legs, also on her cheek. On the night Miss. Lena left she came by the cabin and said Mr. Ragsdale was drinking and she was afraid, she asked me to go into the house and see if I could quiet him, I told her I could not do so, she left and in a few days I left.

I was there the night he threatened to burn the house and he emptied a five gallon can of coal-oil on the porch. The lamps had been filled only once out of it.

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#### REBUTTAL TESTIMONY.

The defendiant here closed his testimony and the Complainant introduced the following evidence in rebuttal.

R. D. Moseley, aged - years, being sworn, testified as follows I did not propose to have a settlement made on my daughter at any time. Mr. Ragsdale made the proposition himself and urged me to ~~x~~ advise her to accept it and return to him, said he would sell his race horses, quit drinking and do anything she would require. I allowed her to act as she desired in the matter, never advised her to leave him, but always told her and him, that he could not

force her to leave my house against her will and could not abuse her at my house.

--:0:--

H. N. LEECH.

The transfer to me was as follows; "In pursuance of a contract this day executed between myself and wife, I hereby transfer to H. N. Leech the sum of Twenty Five Thousand Dollars (\$25,000.00) of the amount due me be the Meridian, Land and Industrial Company, to be by him collected and paid to Mrs. Ragsdale, to be by her invested as provided in said contract. This Oct. 31, 1893.

L. A. Ragsdale."

I at once gave notice to the Land Company..

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This was all the evidence in the cause and the Court decreed as follows:

DECREE OF COURT.

State of Tennessee.

-0-

Be it remembered that at a Chancery Court begun and held at the Court House, in the City of Clarksville, for the County of Montgomery and State aforesaid, on the First Monday in October, 1893, the same being the 2nd. day of said month and the time fixed by law for holding said Court; present and presiding the Honorable George E. Seay, Chancellor for the eighth Chancery Division of Tennessee, when the following proceedings were had, to-wit:

Friday, October 13th., 1893.

Lena M. Ragsdale )

Vs. )

L. A. Ragsdale, et als. )

This cause was this day heard by the  
Chancellor upon the bill, amended bill  
answer of defendant, L. A. Ragsdale,



(the proconfesso against him having been set aside by consent) and proof, when it appearing to the Court that the Complainant and Defendant, L. A. Ragsdale, were married in 1887 and have lived in Clarksville Tennessee continuously more than two years prior to the filing of the bill. And it appearing to the satisfaction of the Court that Complainant has fully sustained by the proof the charge that the defendant was guilty of such cruel and inhuman treatment of her as rendered it unsafe and improper for her to cohabit with him and be under his dominion and control, therefore the bonds of matrimony heretofore subsisting between the parties are dissolved and the Complainant is granted an absolute divorce from the defendant.

And it appearing that on the 31st day of October, 1892, Complainant and Defendant entered into the following agreement;

"Agreement of settlement this day made and entered into ~~between~~ between Lewis A. Ragsdale and Lena M. Ragsdale.

L. A. Ragsdale gives to his wife Lena M. Ragsdale the sum of Twenty five thousand dollars. She is to invest this in good interest bearing bonds or other good interest or dividend paying securities, and is to devote the income therefrom to the payment of the family expenses, as far as it may go. In the event of any separation of the parties to this contract, said sum is to be accepted in full satisfaction of all claims for alimony and support by Mrs. Ragsdale against her said husband. It is, also, accepted in full of all claims against his estate in the event the said husband makes a will not additionally providing for her. Mrs. Ragsdale gives up and transfers to her husband all interest she has in the existing policies on the life of said husband. H. N. Leech, the attorney for Mr. Ragsdale, will collect the sum herein provided for, twenty five thousand dollars, as of this date, due said Ragsdale by Meridian Land and Industrial Company, pay the same to Mrs

Ragsdale, taking her receipt, to be by her invested as herein provided for. This October 31st. 1892.

L. A. Ragsdale.

Lena M. Ragsdale."

And pursuant thereto a transfer was made to H. N. Leech as follows  
 " In pursuance of a contract this day executed between myself and wife, I hereby transfer to H. N. Leech the sum of twenty five thousand dollars (\$25,000.00) of the amount due me by the Meridian Land and Industrial Company, to be by him collected and paid to Mrs. Ragsdale, to be by her invested as provided in said contract.

This October 31st. 1892.

L. A. Ragsdale."

And it further appearing that the transfer was perfected by notice served upon said Land and Industrial Company. And it appearing that Complainant is now willing and proposes in good faith to carry out said agreement, and take the amount therein named as alimony and through her counsel proposes to submit to a decree divesting her of any right in the life policies mentioned in the pleadings which said policies are shown by the proof to have a surrender value of seven thousand dollars.

It appearing that Complainant left the Defendant in March 1893 being perfectly justified in so doing at the time, and no part of said twenty five thousand dollars or interest has been paid her, the Court is of opinion that the conditions provided for viz, the separation of the parties has happened, and that complainant is entitled to recover said sum of twenty five thousand dollars, with six per cent interest, making the whole amount twenty six thousand four hundred and twenty & 80/100 dollars, which under all the circumstances is proper alimony, and complainant will therefore recover same against the defendant together with the costs of the cause for which execution may issue. But the transfer made to Mr. Leech will be held as collateral ~~xxxxxxx~~ for the security of this judgment, it appearing that said claim is in litigation and it cannot

now be determined whether it will pay the judgment in full.

As to the insurance policies it is decree that all interest complainant may have therein be divested out of her, and vested in the defendant Ragsdale, but this part of the decree depriving complainant of any right in the said policies of insurance, shall not take effect until the judgment hereinbefore rendered shall be paid in full, or she shall otherwise release her interest in said insurance, which she shall do if the judgment be properly secured.

It appearing that the following articles of personal property ~~x~~ are the separate estate of complainant and are in possession of defendant, viz, her wearing apparel, one set of Encyclopedia Britannica with her name in it, one sewing machine, one swinging silver pitcher engraved "Lena", one small silver pitcher engraved "L.M.", two feather beds, one copy of Poe's Raven, illustrated, with her name on it, one small Bible with her name written in it, Stevens history of the United States, her albums (two) and photographs, one set embroidered towels, one pair of fruit vases (bunch of grapes painted on them) one pair of imitation bronze vases, the pictures belonging to her, being one panel Merechal Neil roses one picture pink roses, one large crayon dog-head, one crayon Louis the Dauphin, one plaque of Azalras, two large pictures of Mrs. Ragsdale, picture of the A.T.O. Fraternity, three silver jewelry cases, two china cracker jars, Whittier's poems, all books marked in her name, one silver pie knife, one ring with ruby and diamonds left in a purse, all her fancy work except a yellow pin-cushion. The Clerk will issue to the Sheriff a writ directing him to take said articles and ~~xxxx~~ turn them over to the complainant at defendant's costs. ~~xxxx~~ ~~xxxx~~

From this decree the defendant prays an appeal to the next ~~x~~ term of the Supreme Court which is granted upon the execution of a bond as required by law.

Friday October, 13th. 1893.

Mrs. Lena M. Ragsdale )

-Vs- )

L.A. Ragsdale )

In this cause, for good cause shown, the

defendant is given until November 1st.

1893 to execute bond for appeal.

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The defendant moved the Court for a new trial which was over-ruled to which action of the Court defendant excepted and now excepts, because of error in the decree and especially in allowing interest on the \$25,000.00 alimony from the date of the contract, exhibited to complainant's bill, from its date to the date of the decree; defendant also especially excepts, to that part of the decree ~~xxx~~ which sustains the validity of said exhibit, and tenders this his bill of exception to all of said matters, which bill is signed by the Chancellor and made a part of the record in this cause.

This October 13th. 1893.

George W. Seay,

Chancellor 8th. Division.

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 Bill of Costs.  
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State tax, 2.50; County tax, 2.50; Railroad tax, 2.50;	7.50
Q. C. Atkinson, Jr., C.&M.	
Bill. 25; aff. 25; bond. 25; sec. 25; reg. 25; copy 2.80; cer. 25;	4.30
Spa. 75; filing Ex. 25; A. bill. 25; aff. 25; bond. 25; sec. 25;	2.00
Reg. 25; sopy. 1.50; cer. 25; Spa. 75; judgt. 75; order. 25;	3.75
Doc. 30; 40 spa. test'y. 4.00; ans. 25; not. 25; <del>not. 25</del>	4.80
Decree 3.00; judgt. 75; judgt for Costs. 25;	4.00
Bill Costs. 50; copy B.C. & fifa. 65.	<u>1.15-20.00</u>
J. O. Turner, 1 Spa. Ans 1.00; 18 spa. test'y 2.50;	
2 non est. 20	3.70
J.M. Collier, 1 Spa. ans. 1.00; 21 spa. tes'ty. 5.25;	6.25



41.

Am't bro't for'd.

37.45

Sam Dabney, 1 spa.test'y

.25

Ella Gossett - witness 2 days . . . . .

2.00

A. C. Stafford, " 1. "

1.00

J. O. Turner - " 1. "

1.00

Chas. Williams " 1. "

1.00

Hugh Howell " 1. "

1.00

Louis Michel " " 1. "

1.00

J. W. Stone " 1. "

1.00

Julius Wiell " 1. "

1.00

Jerry Gossett " 1. "

1.00

Dr. C. W. Beaumont " 1. "

1.00

\$ 48.70

Q. C. Atkinson, Jr., Clerk &amp; Master for making

transcript \$18.45; certificate and Seal <sup>56</sup> .75.19.20\$ 67.90

## Certificate.

State of Tennessee )  
 )ss.  
 Montgomery County )

I, Q. C. Atkinson, Jr., Clerk and Master of  
 the Chancery Court at Clarksville, do hereby certify that the fore-  
 -going is a full, true, perfect and complete transcript of the  
 record in the cause of Mrs. Lena M. Ragsdale ~~against~~ Complainant  
 against Lewis A. Ragsdale, Defendant, and the bill of costs there-  
 to appertaining, as the same appears ~~to~~ of record now on file in  
 my office.

WITNESS, my hand and the Seal of said Chancery Court  
 at office, in the Court House, in the City of Clarks-  
 -ville, this November 29th. 1893.

Q. C. Atkinson, Jr. Clerk & Master.



IN THE SUPREME COURT OF TENNESSEE

AT

NASHVILLE, TENNESSEE.

LENA M. RAGSDALE )

VS. )

LEWIS A. RAGSDALE )

BRIEF FOR THE COMPLAINANT.

I

The first assignment of error by the defendant, is that the Chancellor improperly held the contract of settlement made October 31st 1892 valid and binding upon the parties, the contention being that such agreements tend to induce separations of husband and wife, and are therefore against public policy and void. Is this a void contract? Ragsdale had shortly before received something more than two hundred thousand (\$200,00) Dollars by a sale of certain real estate in Mississippi, and owned other landed property there valued by him at twenty-thousand dollars (\$20,000) He was drinking very heavily - in fact habitually drunk, and was wasting his estate at a most reckless rate, showing in his answer filed in this cause (trans.p.16) that in two or three years it had dwindled to less than one hundred thousand

dollars. Mrs. Ragsdale had been by his brutal treatment and violence, occasioned by his drinking, driven from his home and had taken temporary refuge at her father's.

See her original bill, Trans.pp 1 et seq.

He became sober and upon his promises of reformation and persistent entreaties she agreed to return to her home and again live with him. During this separation he proposed to make this settlement upon her, and it was accordingly done. It was not made to induce her to return; but as she says in her bill, and as the circumstances show, to protect them both from probable if not inevitable financial ruin and actual want. It gave her twenty-five thousand dollars, as of that date, for the support and maintenance of herself and her husband and to secure it he transferred that much of a claim against a Land Company Of Meridian, Miss., then in the hands of his Attorney H. N. Leech for collection, and the transfer was made to Mr. Leech for her, and he perfected it by notifying the Land Company of it. See her original bill and the testimony of Mr. Leech, Trans. P.36.

Whether this was an obligation to pay the sum named, secured by collateral, or whether it was intended simply to be a transfer of twenty-five thousand dollars of the claim against the Land Company to her, is in our mind immaterial as in the latter case he would be bound to make it good for that amount if the contract was valid at all.

Ragsdale under the contract, took thirty-five thousand dollars of insurance on his life in her favor which was a property right in her and which she

surrendered. The surrender value of this to the Company was then seven thousand dollars.

See Ragsdale's Dep., Trans.p.34.

Whether he has since collected that, or has permitted it to be forfeited by non-payment of premiums does not appear in the record. But this agreement having been supported by a consideration is valid unless against public policy. It has also, to the extent of the value of the claim against the Land Company been executed. The gift is in the possession of her Trustee, Mr. Leech, and his holding of the title, is her holding of it.

The agreement upon her part to accept this settlement in lieu of alimony or dower was not binding upon her as an original proposition, but she was put to her election and sued for this sum which binds her. She could have assert her right under this contract or taken what the law gives, and having elected to take the former is bound by it.

Watkins Vs. Watkins, 7 Yerg., 272.

Parham Vs. Parham, 6 Hume, 287.

Goodrich Vs. Bryant, 5 Sneed, 325.

A valid settlement made by the husband, during coverture, is not affected by divorce.

Bishop On Mar. and Div. 5th Ed. Vol. 2, p 599  
Section 717.

A settlement by a man upon his wife, while living apart is valid; indeed they are always valid unless they tend to induce a separation.

Walker vs. ~~Boat~~ <sup>Walker</sup>, 9 Wall. 818. 743

Bishop on Mar. and Div. Vol 1, 5th Ed.,  
Section 640, et seq.

The Tennessee cases, supra



The test is this; If the settlement by its terms is made to depend upon a separation it is void, otherwise it is valid.

Bishop on Mar. and Div. 5th. ed. Vol. 1, Sec. 537

This case does not come within that rule. It was to be her's whether she lived with her husband or not. This case does not fall within the dictum of Judge Turney in the case of Copeland Vs. Boaz, 9 Baxter, 223, for it was not made to depend upon Mrs. Ragsdale's returning to her husband. We are unable to see how it could be against public policy to induce a woman to return and cohabit with her husband and do not therefore see the reason for the statement made by the learned Judge in that case. But the question was not involved, the case having been decided upon another ground altogether, and we do not think the dictum in the opinion is sound law.

Again the Complainant did not voluntarily leave the home of her husband with a view of living separately from him, but she left for reasons the law recognizes as proper. She left in fear of her life after her husband in a drunken fit had beaten her outrageously and had attempted to kill her. This was the kind of separation contemplated by the contract, and not an illegal separation. The stipulation that Mrs. Ragsdale should in case of separation or her husband's death accept this in full of all claims against his estate was an independent provision upon which the contract or settlement in no sense depended, and although these may not be binding or may be against public policy, yet the entire contract is not thereby rendered

invalid.

Bishop on Mar. and Div. Vol. 1, 5th. ed. Sec. 637.

I I

It is objected that the Chancellor allowed interest while Complainant lived with her husband. This amounts to very little anyway, but is right. The contract provided for interest from its date, and while after it was paid to her she agreed to spend it for the benefit of the family it could not have been contemplated that an account of family expenses should be stated and she charged with her part from a definite time. She had not collected the interest and therefore <sup>had</sup> nothing to appropriate for family expenses and should not have been charged with them. Moreover she was entitled to Attorneys' fees under the doctrine of Stillman vs. Stillman, 7th Baxter, 170 and 4th Lea, the case having again come before the Court on the question of Attorneys' fees. Her bill prayed for this allowance but it was not granted.

I I I

It does not, however, seem to us material whether the contract be sustained, except to the extent it has been executed by the transfer to Mr. Leech, inasmuch as the Chancellor, with the whole question before him held that the amount allowed was under all circumstances proper alimony and he accordingly gave judgement. This judgement



was not on the contract alone, but the Chancellor found it valid and placed his decree upon the further ground that it was a proper allowance as alimony.

See Decree, Transcript, page 38.

M. & V. Code, Sections 3225-6, authorizes an allowance of alimony 'according to the nature of the case and the circumstances of the parties.' The Chancellor having the whole question before him, decided this question and it will not be interfered with unless manifestly erroneous.

The facts make out a most outrageous case against the defendant. She, a refined woman, in most delicate health, was time and again abused and denounced by him, frequently kept awake all night and her life threatened a half dozen or more times; a knife drawn once, a pistol several times, and finally she was beaten and bruised, dragged across the yard by her hair in her night dress, and shot at while fleeing for her life.

This defendant with all his fortune as it originally was could not compensate her for her humiliation and suffering, while her duty impelled her to live with him in the vain hope she might reform him or he might be induced to do better.

We call the Court's attention to the fact that after we had introduced the complainant and Miss Mary Mosley, the Court declined to hear further from our side.

Transcript, page 27.

Mrs. Ragsdale's testimony begins on page 21

Miss Mary Moseley's on page 26.

The Defendant introduced Ella Gossett, who made one of the best witnesses the Complainant had, and we especially call attention to her testimony,

Transcript, page 34.

The defendant denied it all but the Court declined to believe a word he said. He was contradicted by his wife, Miss Mary Moseley and by his own witness, Ella Gossett, and also by R. R. Moseley,

Transcript page 35.

His testimony upon all material facts is flatly contradicted by these witnesses, some in one thing, and some in another. He is shown to be a moral wreck of the worst kind.

The testimony of Anthony Hunter appears in the transcript but the bill of exceptions shows this deposition was not read on the trial.

Under the facts shown by the proof it was the duty of the Chancellor to give liberal alimony.

The Amended Bill (Trans. pp. 10 et seq.) sets up the fact that the claim against the Land Company is in dispute and probably will not be realized upon, and sets out the value of defendant's estate with a view of having a decree for alimony. She asks that she be given a judgment for the amount allowed to be credited by whatever may be realized on the Land Company claim. She says this debt against the Land Company is from fifty to sixty thousand dollars, but that it is contended by said Company that the debt is really less than five thousand dollars. This does not affect the value of his estate for if he fails to

established the debt he will have the land. The bill further alleges that the defendant has a judgment against his sister, Mrs. Coffee for fifteen thousand dollars. Other land in Mississippi worth twenty thousand dollars; real estate in Clarksville worth twenty-two thousand dollars; race horses which he values at a hundred thousand dollars, but which she to be on the safe side, puts at fifty thousand dollars, one of these being a celebrated stallion for which he claims he has been offered fifty thousand dollars. This makes the total at her lowest calculation one hundred and fifty-seven thousand dollars. She however winds up, not by admitting it is worth only a hundred and twenty-five thousand dollars, but says it "is worth more than a hundred and twenty-five thousand dollars."

He says in his answer that he is not worth one half of her estimate after paying his debts.

Transcript, pages 17 and 18.

This admits at least sixty-two thousand five hundred dollars of unencumbered property, and whether to make it so little as this he strained his conscience and counted the obligation of twenty-five thousand dollars as one of his liabilities, we can not say. But, with the estate he admits, twenty-six thousand dollars is not an excessive allowance. One-half is said to be the usual allowance in Stillman vs. Stillman 7th Baxter, 169. All the defendants had, were taken for the wife in Chunn vs. Chunn, Meggs Reports 133. Chenault vs. Chenault, 5th, Sneed 243.

Again, the allowance is not twenty-six thousand



dollars in fact, for she had a property right in the insurance policies, the cash value of which was seven thousand dollars.

I V.

We acquired rights by the recovery of the judgment against the defendant in October in preference to other creditors and it is a very serious matter to this Complainant to surrender such rights. We do not deem it proper to make any statement not shown by the record and do not think we do so when we say this defendant is a complete and irredeemable, moral, physical and financial wreck. With an estate of two hundred and twenty thousand dollars and more, two or three years ago he had at the time of the filing of his answer less than seventy-five thousand according to his statement. At this ratio of loss it is perhaps all gone by this time, or at least covered by mortgages, attachments etc.

He disclosed by his answer that he was in debt and it is but fair to argue that long ere this these creditors have been looking after their interests. When a man gets to the point of habitual drunkenness he is little suited to look after race horses or anything else as to that.

BURNEY & GHOLSON,  
Solicitors for Compt.

Lena M. Ragsdale

VS:

Lewis A. Ragsdale

Montgomery Chan-

cery, No.

Statement of the Case:

*Filed Dec. 4, 1893  
A. W. Goodpastor, C.*

The complainant filed her bill praying for a decree divorcing her from the defendant, and to have a contract enforced made between complainant and defendant while living together, by which he conveyed to her an interest of \$25,000, in a certain note due the defendant in Mississippi. The contract seems to have had a two fold object: one to carve out that much of defendant's estate and devote the income from it to defraying the family expenses as long as the parties lived together, and the other that if a separation should take place in the future, the complainant was to take the \$25,000 in full satisfaction of all claims for alimony and support. And in the same contract complainant gives up and transfers to the defendant all interest she had in certain policies of life insurance which he had previously taken out for complainant's benefit.

The concluding prayer of the bill is that a receiver be appointed to collect and turn over said \$25,000, with interest, and that the same be decreed to her absolutely in lieu of alimony, or, failing in that, she have reasonable alimony. Complainant filed an amended bill, alleging, among other things, that defendant's property is worth over \$125,000.

Defendant answered and stated that he did not have one half the amount of property that complainant had stated he had, and there was no proof of the amount and value of defendant's estate.

The Chancellor granted the divorce, and further decreed that the condition provided for in said contract, viz: "the separation of the parties has happened, and that complainant is entitled to recover said \$25,000, with six per cent interest from the date of



the contract (Oct. 31, 1892), which was five or six months before the separation."

The same decree recites that it appeared to the Court "that complainant is now willing and proposes in good faith to carry out said agreement, and take the amount therein named as alimony, and through her counsel proposes to submit to a decree divesting her of any right in the life policies" shown to be worth (surrender value) \$7,000, which sum decreed (\$26,400.80) is as the decree proceeds "under all the circumstances, proper alimony." The Court, after giving a lien on the Mississippi property for the said judgment then proceeds "as to the insurance policies, that all interest complainant may have therein, be divested out of her and vested in defendant, but this part of the decree depriving complainant of any right in said policies of insurance shall not take effect until the judgment hereinbefore rendered shall be paid in full, or she shall otherwise release her interest in said insurance, which she shall do if the judgment be properly secured."

#### Assignment of Errors.

Defendant assigns as error that part of the decree of the Chancellor setting up and enforcing the contract made between complainant and defendant Oct. 31, 1892, providing therein for a future separation, as being a contract contrary to public policy, and one holding out an inducement to the wife to separate. That part of the decree is referred to on p.p. 37-8 of the Record, and is as follows:

"And it appearing that on the 31st. of Oct. 1892 complt. and defendant entered into the following agreement: Agreement of settlement this day made and entered into between Lewis A. Ragsdale and Lena M. Ragsdale, L.A. Ragsdale gives to his wife Lena M. Ragsdale

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the sum of \$25,000. She is to invest this in good interest bearing bonds, or other good interest or dividend paying securities, and is to devote the income therefrom to the payment of the family expenses, as far as it may go. In the event of any separation of any of the parties to this contract, said sum is to be accepted in full satisfaction of all claims for alimony and support, by Mrs. Ragsdale, against her said husband." The Court then proceeds to decree: That the conditions provided for in said contract, viz: the separation of the parties has happened, and complainant is therefore entitled to recover said sum, amounting, with interest, to \$26,420.80, and decrees accordingly.

2. Defendant further assigns as error that part of the decree of the Chancellor on p. 58 of the Record allowing interest on said \$25,000 from the date of the contract Oct. 31, 1892, to the date of the decree below, said part of the decree is as follows: "It appearing that complainant left the defendant in March 1893, being perfectly justified in so doing at the time and no part of said \$25,000 or interest has been paid her, the court is of opinion that the condition provided for, viz: the separation of the parties has happened, and that complainant is entitled to recover said sum of \$25,000, with interest, making the whole sum \$26,420.80 &c."

3. The defendant assigns as error that part of the decree of the Chancellor wherein he on the one hand upholds and enforces the contract, one of the considerations of which was the releasing by Mrs. Ragsdale of all interest in the policies of insurance, and still decrees that: "As to the insurance policies it is decreed that all interest that complainant may have therein be divested out of her and vested in defendant Ragsdale, but this part of the decree depriving complainant of any right in said

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policies of insurance shall not take effect until the judgment hereinbefore rendered shall be paid in full & c. Record p.39.

4. Defendant assigns as error that part of the decree of the Chancellor wherein he undertakes to set up and enforce the contract, as shown by the references above, and then proceeds to render a general decree or judgment against the defendant for \$26,420.80, when the contract on its face provides that defendant assigns to the complainant a specific claim, viz: \$25,000 of a certain note in Mississippi, which bore 8% interest, being the assignment duly perfected--and not \$25,000 out of his general estate. See contract, Record pp.37-8, and decree, p.38, where the chancellor gives a money decree against defendant for \$26,420.80

5. Defendant assigns as error that part of the Chancellor's decree on page 38 of the record, as follows: Complainant is entitled to recover said sum of \$25,000, with interest, making \$26,420.80, which, under all the circumstances, is proper alimony &c. when there is no proof in the record of the amount and value of defendant's estate. Complainant alleges in her amended bill that the value of defendant's estate is worth more than \$125,000. See record, p.13. Defendant, in his answer, denies this allegation. R.p.17-18, and there is no proof on the subject, and the decree is based alone on a contract between husband and wife which was nudum pactum, they being legally incapable so to contract with each other.

Smith & Dickinson,  
W. M. Daniel, soly



Lena M. Ragsdale  
vs  $\frac{3}{12}$  Monaghan Equity  
Lewis A. Ragsdale

Lena M. Ragsdale

VS:

Lewis A. Ragsdale.

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Montgomery Chan-  
cery #

Statement of the Case.

The complainant filed her bill praying for a decree divorcing her from the defendant, and to have a contract enforced, made between complainant and defendant while living together, by which he conveyed to her an interest of \$25,000 in a certain note due the defendant in Mississippi. The contract seems to have had a two fold object: one to carve out that much of defendant's estate and devote the income from it to defraying the family expenses as long as the parties lived together and the other that if a separation should take place in the future, the complainant was to take the \$25,000 in full satisfaction of all claims for alimony and support. And in the same contract complainant gives up and transfers to the defendant all interest she had in certain policies of life insurance which he had previously taken out for complainant's benefit.

The concluding prayer of the bill is that a Receiver be appointed to collect and turn over said \$25,000, with interest, and that the same be decreed to her absolutely in lieu of alimony, or, failing in that, she have reasonable alimony. Complainant filed an amended bill, alleging, among other things, that defendant's property is worth \$125,000.

Defendant answered, and stated that he did not have one half that amount of property that complainant had stated he had, and there was no proof of the amount and value of defendant's estate.

The Chancellor granted the divorce, and further decreed that the condition provided for in said contract, viz: "the separation of the parties, has happened, and that complainant is entitled to recover said \$25,000, with six per cent interest from the date of the contract (Oct. 31, 1892) which was five or six months before the separation."



The same decree recites that it appeared to the Court "that complainant is now willing and proposes, in good faith, to carry out said agreement, and take the amount there in named as alimony, and through her counsel proposes to submit to a decree divesting her of any right in the life policies" shown to be worth (surrender value) \$7,000--which said decree (\$23,20.80) is, as the decree proceeds, "under all the circumstances, proper alimony". The Court, after giving a lien on the Mississippi property for the said judgment, then proceed, "as to the insurance policies, that all interest complainant may have therein, be divested out of her and vested in defendant, but this part of the decree, depriving complainant of any right in said policies of insurance shall not take effect until the judgment hereinbefore rendered shall be paid in full,, or she shall otherwise release her interest in said insurance, which she shall do if the judgment be properly secured."

#### ASSIGNMENT OF ERRORS.

Defendant assigns as error that part of the decree of the Chancellor setting up and enforcing the contract made between complainant and defendant Oct. 31 1892, providing therein for a future separation, as being a contract contrary to public policy, and one holding out an inducement to the wife to separate. That part of the decree of the Chancellor is referred to on pp. 37-8 of the record, and is as follows: And it appearing that on the 31st. of Oct. 1892 complainant and defendant entered into the following agreement: Agreement of settlement this day made and entered into between Lewis A. Ragsdale and Lena M. Ragsdale. L. A. Ragsdale gives to his wife Lena M. Ragsdale the sum of \$23,000. She is to invest this in good interest bearing bonds, or other good interest or dividend paying securities, and is to devote the ~~interest~~ income to the payment of the family expenses, as far as it may go. In the event of any separation of any of the parties to this contract,

said sum is to be accepted in full satisfaction of all claims for alimony and support by Mrs. Ragsdale against her said husband."

The Court then proceeds to decree: That the conditions provided for in said contract, viz: the separation of the parties has happened, and complainant is therefore entitled to recover said sum, amounting, with interest, to \$23,420.80, and decrees accordingly

2. The defendant further assigns as error that part of the decree of the Chancellor on p.38 of the Record, allowing interest on said \$25,000 from the date of the contract, Oct. 31 1892, to the date of the decree below. Said part of the decree is as follows: "It appearing that complainant left the defendant in March 1893, being perfectly justified in doing so at the time, and no part of said \$25,000 or interest has been paid her, the court is of opinion that the condition provided for, viz: the separation of the parties has happened, and that complainant is entitled to recover said sum of \$25,000, with interest, making the whole sum \$23,420.80" &c.

3. The defendant assigns as error that part of the decree of the Chancellor wherein he on the one hand upholds and enforces the contract, one of the considerations of which was the releasing by Mrs. Ragsdale of all interest in the policies of insurance, and still decrees: "As to the insurance policies, it is decreed that all interest that complainant may have therein be divested out of her, and vested in defendant Ragsdale, but this part of the decree depriving complainant of any right in said policies of insurance, shall not take effect until the judgment hereinbefore rendered shall be paid in full &c. Record p.39.

4. Defendant assigns as error that part of the decree of the Chancellor wherein he undertakes to set up and enforce the

contract, as shown by the references above, and then proceeds to render a general decree of judgment against the defendant for \$23,420.80, when the contract on its face provides that defendant assigns to the complainant a specific claim, viz: \$25,000 of a certain note in Mississippi, which bore 8 per cent interest--the assignment being duly perfected--and not \$25,000 out of his general estate.

See contract Record pp.37-8, and decree p.38., where the Chancellor gives a money decree against the defendant for \$23,420.80.

3. Defendant assigns as error that part of the decree of the Chancellor on page 38 of the Record as follows:  
Complainant is entitled to recover said sum of \$25,000, with interest, making \$23,420.80, which, under all the circumstances, is proper alimony &c.--when there is no proof in the record of the amount and value of defendant's estate. Complainant alleges in her amended bill that the value of defendant's estate is worth more than \$125,000. See Record p.13. Defendant, in his answer, denies this allegation. Rec.pp.17 & 18. And there is no proof on the subject, and the decree is based alone on a contract between husband and wife, which was nudum pactum, they being legally incapable so to contract with each other.

#### BRIEF & ARGUMENT FOR DEFT.

In support of defendant's first assignment of error reference is first made to the nature of the oath prescribed by the Code (C. & V) Sec.3311, that complainant must take when a bill for divorce is filed, negating all idea of collusion and agreement between the parties leading up to such step.

The contract between husband and wife is impeached by defendant's first assignment of error, on the ground that it is

against public policy that husband and wife should be permitted to contract for a future separation. The contract in question is illustrative of the impolicy of permitting such contracts to stand. By the terms of the contract the income arising from the \$25,000 was to be expended for the use and support of the family while living together. In case of separation the whole was to go to the wife absolutely, thus making it to the interest of the wife that the separation should take place. The elementary works on the subject state the doctrine in general terms to be that prima facie marriage is beneficial, and a divorce detrimental to the public, and that agreements promotive of marriage are valid, and those in aid of separation void.

See 1 Vol. Bishop on Marriage Divorce & Separation, Sec. 76.

See Same Authority, Sec. 1261, where the doctrine is again asserted, even more forcibly, as follows: "But since the law makes the public a party to every suit for dissolution or separation, and forbids either form of divorce on the mutual agreement of the parties, or on the connivance of one of them to the other's wrongs, any bargaining between them for a future separation or tending to a like end, being contrary to the law and legal policy is void."

See to same effect same authority, Vol. 2, Sec. 698.

This court has spoken in no uncertain language on the subject of contracts between husband and wife being against public policy, and therefore nudum pactum. See the case of Copeland vs Boaz, 9 Bax. p. 223, where it was held that a note executed by the husband, living separate from his wife to a trustee for her, as an inducement for her to return to him is nudum pactum, contrary to public policy, and is not tolerable in law. This Court puts it upon the ground, even in such case as that, viz: a contract to bring the parties then living separate together as "contravening public policy is promotive of separation of husband and wife", and not to be



tolerated..

The case of Walker v. Seal, 78 U.S. p.818, will be found, when carefully examined, not to be out of harmony with the above-cited authority, the extent of the holding there being that where a separation exists, provision may be made by the husband for the support and maintenance of the wife. In the case at Bar, by the terms of the contract, a premium is offered to the wife to separate from the husband.

2. The second assignment of error is good, even if the court should uphold the contract, because the decree allows interest on the \$25,000 from the date of the contract, Oct. 31 1892, when the separation did not take place til March 1893. The contract (Exhibit p. ) provides that the income on the \$25,000 shall go to the benefit of the family while the parties live together, and the corpus when the parties separate shall go to the wife. Under a fair interpretation of the contract interest could only be chargeable against the defendant from the date of the separation, or the filing of the bill. The contract shows that it was the manifest intention of the parties thereto that the defendant should pay no interest while they lived together. See the case of Lishey vs Lishey, 6 Lea 418, sustaining this position, as we insist.

3. The third assignment we contend is good if the contract is to be upheld, for the reason that by the very terms of the contract, in consideration of Mrs. Ragsdale's releasing all claims that she had on the policies of insurance which the defendant had taken out on his life for her benefit, he assigned to her \$25,000 of a certain specific claim, which assignment was perfected by legal notice. The Chancellor sets up and enforces the contract, but decrees that the policies of insurance are to be held as



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collateral security for the payment of the \$23,420.80 decree, which goes even beyond the scope of the bill, which seeks to set up the contract, and disclaims all interest in the policies of insurance. See Record p.

Our contention is that if the contract is enforced, the complainant has no further claim on the policies.

4. The fourth assignment we contend is good.

The object of the bill is two fold: One for divorce and the other to specifically enforce the contract of Dec. 31, 1892. Both prayers are granted, but instead of simply enforcing the contract assigning to complainant \$25,000 of a claim due defendant in Mississippi, the court rendered a general decree against defendant for \$23,420.80, and ordered execution to issue against defendant's estate generally. There is no proof in the record to show that the claim assigned by defendant to complainant is not abundantly good to satisfy the \$25,000.00, and therefore no necessity for the Chancellor to go beyond the property assigned or to consider the question of alimony.

5. The fifth assignment of error is to that part of the decree to the effect that "complainant is entitled to recover said sum of \$25,000, with interest, making \$23,420.80, which under all the circumstances is proper alimony." Record p. 38. No proof is made in the record as to the capacity of the defendant to earn money, his income, the amount or value of his estate, and therefore there is nothing in the record upon which a decree for alimony can rest. In allowing alimony the Court should have proof of the earnings, income, fixed property and the capacity of the husband to make money. See 2 Vol. Bishop on Marriage, Divorce & Separation, Sec. 888 et seq.

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