

1910-005 Chancery Causes: Julia Bourne Hearn vs Seth W. Hearn
Isle of Wight County

77

Other SURNAMES: Nelms,
Hearn

2
N

LULA BOURNE HEARN

VS.

SETH W. HEARN.

B I L L.

2nd November rules 1909
Process returned ex-
ced. Bill filed - Decree
missd

3rd November rules 1909
Defendants not appear-
ing to plead, answers or
demur also set down
for hearing

OFFICES OF
NELMS & McMURRAN
SILSBY BUILDING
NEWPORT NEWS, VA.

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA:

LULA BOURNE HEARN

VS.

SETH W. HEARN.

TO THE HONORABLE CIRCUIT COURT OF ISLE OF WIGHT COUNTY:

Your complainant, Lula Bourne Hearn, respectfully represents: that, on the 19th day of April, 1899, your complainant, whose maiden name was Lula Bourne Nelms, was lawfully married in Smithfield, in the County of Isle of Wight, Virginia, to Seth W. Hearn, as will appear from a certificate of marriage herewith filed, marked Exhibit "A", and made a part of this bill; and, that continuously from the date of the said marriage until the 29th day of April, 1906, your complainant and the said Seth W. Hearn, lived together as husband and wife at Smithfield, Virginia; and, that the said Seth W. Hearn has willfully deserted and abandoned your complainant for a period of more than three years; that is to say, on the 29th day of April, 1906, the said Seth W. Hearn, did voluntarily, willfully and without any justification whatever, leave his home, with your complainant residing therein and not return, nor has he returned or lived with your complainant since the 29th day of April, 1906.

And, that the said Seth W. Hearn, has on divers occasions been cruel and abusive to your said complainant; that scarcely was their honeymoon over when your complainant had been a bride for only about three weeks, when without any cause whatever, he cursed your complainant; that this was indulged in from time to time, and that during their married life

this was no infrequent occurrence;

That on or about the 11th day of May, 1902, he not only cursed your complainant, but without any just cause, he slapped your complainant's jaws; that on other occasions, without any just cause whatever, the said Seth W. Hearn, did become enraged and did strike at your complainant, but your complainant, with the exception of the above mentioned time, evaded the blows; that on the 29th day of April, 1906, the said Seth W. Hearn, accused your complainant of violating her marriage vows and shortly thereafter instituted in this court a suit for divorce from the bond of matrimony; that the defendant has utterly failed to establish the truth of his allegations and the suit was dismissed at his costs;

That your ^{Complainant} ~~defendant~~ forgave the cursings and blow which she received, conditioned upon the fact that there should be no repetition; that after the accusations for which the said Seth W. Hearn instituted the said suit above mentioned she has not condoned or forgiven any of the said offenses;

That there was born to your complainant and the said defendant one child, Francis Burton Hearn, now of the age of nine years; that in the decree dismissing the complainant's bill the custody of the said child was awarded to your complainant; your complainant alleges that there is every reason why the child should be continued in her custody;

That your complainant last cohabited with the said Seth W. Hearn in Smithfield, in the County of Isle of Wight, Virginia;

That your complainant is without any means whatsoever of support or for the support of said child, except the alimony which was provided by the decree in the said suit above men-

tioned; nor is she provided with funds or means whatsoever with which to prosecute this suit;

That the said defendant has not given her any money at all since the 29th day of April, 1906, except such sums as he was directed to pay by the order of this honorable court; nor has he furnished her with necessaries of any description;

That her husband, the said Seth W. Hearn is a carpenter and contractor, with a prosperous business and actively engaged in the construction and repairing of buildings and from the said employment he makes or should make, over one thousand dollars per year; and that besides this the said Seth W. Hearn is one of the children of the late B. W. Hearn, who died in this County seized and possessed of real estate and other property of the value of from probably fifty or sixty thousand dollars; that a copy of the will of the said B. W. Hearn is herewith filed, marked Exhibit "B" and prayed to be read as a part of this bill;

That your complainant believes and charges that the said Seth W. Hearn will convert, assign or dispose of his property to prevent your complainant from obtaining alimony, unless restrained and enjoined from so doing.

In consideration whereof and forasmuch as your complainant is remediless in the premises, save in a Court of Equity, your complainant prays that the said Seth W. Hearn may be made a party, defendant, to this bill and be required, but not on oath, to answer the same, the oath being hereby waived; that a divorce from the bond of matrimony, which was created by the aforesaid marriage, be decreed her; that the said Seth W. Hearn be required to furnish to your complainant sufficient money to prosecute this suit and to employ counsel therefor;

that the said Seth W. Hearn be required to pay to your complainant temporary alimony pending the same; that it be decreed that the said Seth W. Hearn shall pay to your complainant as permanent alimony, monthly, so long as both your complainant and the said Seth W. Hearn shall live, such sums of money as ^t the court may seem right and proper; that the care and custody of the said child be awarded to your complainant; that it be decreed that the said child shall remain with your complainant; that it be decreed that the said Seth W. Hearn shall furnish such amounts as shall be necessary and proper for the maintenance, support and education of the said child, so long as he shall remain under the age of twenty-one years; that the said Seth W. Hearn be restrained and enjoined from converting, assigning, or in any way disposing of his property, whatsoever, until further order of this court;

That the court may not require that any notice shall be given to the said Seth W. Hearn, or any one else, before the said injunction is awarded; and that your complainant may have all such ~~furth~~er and other and general relief in the premises as the nature of her case may require or to equity shall seem meet.

Lula Bourne Hearn
Schus & M. M. M. M. M.
 N. Y.

STATE OF VIRGINIA.

CITY OF NEWPORT NEWS, TO-WIT:-

Lula Bourne Hearn, the complainant named in the foregoing bill, being duly sworn, says that the facts and allegations therein contained are true, except so far as they are therein stated to be upon information, and that so far as they are therein stated to be upon information, she believes them to be true.

Lula Bourne Hearn

Taken, sworn to and subscribed before me L.A.
McMurray, a Notary Public, of and for the City and
State aforesaid, in my City aforesaid, this 16th day of
November, 1909.

L.A. McMurray
Notary Public.

The Commonwealth of Virginia,

To the Sheriff of the County of Isle of Wight, Greeting:

WE COMMAND YOU that you summon

Sith M. Hearn

to appear at the Clerk's office of the

County

Court of the

County

of *Isle of Wight*

at the rules to be held for the said Court, on the

3rd

Monday in

November

1909,

to answer a bill in chancery, exhibited against

him

in our said court for

by Louisa Bousne Hearn

And have then there this writ.

Witness *Nathaniel F. Young*, Clerk of our said court, at

the court-house, the

13th

day of

November

1909, and in the

12th

year of the Commonwealth.

Nathaniel F. Young Clerk

Executed the within process according to
15th 1909, by serving a true copy thereof on Seth
W. Stearn in person, at his residence in the
town of Smith Field, County of Suffolk.

W. A. Edwards, Clerk
of Suffolk County

Seth W. Stearn

VS.

SUBPOENA
IN
CHANCERY.

Seth W. Stearn

John M. Stearns p. 9

To 2nd March Rules,

Circuit Court.

1909

B3119

In the Clerk's Office of the
Circuit Court,

OF THE

COUNTY OF ISLE OF WIGHT

this 15 day of Nov 1909

Witness my hand

Doct, 1909

W. A. Edwards

Attest for me

IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT,
VIRGINIA.

L. B. HERN, Plaintiff,

vs.

S. W. HERN, Defendant.

IN CHANCERY.

Depositions taken at Newport News,
February 3rd, 1910.

—oOo—

H. C. IVY,
LAW STENOGRAPHER,
NEWPORT NEWS, VIRGINIA.

DEPOSITIONS OF WITNESSES,

taken before W. B. Colonna, a Commissioner in Chancery for the Corporation Court of the City of Newport News, Virginia, at the office of Nelms & McMurren, in said City, on the 3rd day of February, 1910, to be read as evidence on behalf of the defendant in a certain suit in chancery pending in the Circuit Court of the County of Isle of Wight, Virginia, wherein L. B. Hern is plaintiff and S. W. Hern is defendant; these depositions being taken pursuant to agreement between counsel, formal notice of the taking thereof being waived, and by like consent of counsel the signature of the witnesses is also waived.

PRESENT:

E. H. WILLIAMS, ESQ., Counsel for S. W. Hern,

W. J. NELMS, ESQ., Counsel for L. B. Hern.

MRS. A. E. NELMS,

a witness introduced on behalf of the defendant, being duly sworn, deposes and saith as follows on Direct Examination:

(BY MR. NELMS):

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

A. Mrs. A. E. Nelms; my age is 62; my home is in Hampton.

Q. You are housekeeping?

A. No, we board.

Living with my daughter, Mrs. Hern.

Q. Were you at the home of Mr. and Mrs. S. W. Hern, in Smithfield, Virginia, the latter part of April, nineteen hundred

and six, at the time of some misunderstanding between Mr. and Mrs. Hern? A. Yes.

Q. Do you know whether or not Mr. Hern left his home on the day you were there, and, if so, where did he go, and what were the circumstances, and what statements did he make, if any, in your presence in regard to his wife? Now, under that, you can simply state that you went there in the morning, and what happened while you were there.

A. Well, on Sunday morning I went - - -

Q. (Interposing): Sunday morning, the last of April?

A. Yes, sir. And he just told me that I could take her and do what I choose with her; that he never expected to live with her again.

Q. He told you to take her and do what you choose with her, that he never expected to live with her again - - -

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. Did he leave the house?
did. He went to his mother's.

A. Yes, sir, he

Q. He left the house?

A. Yes, sir; and went to his mothers.

Q. Has he lived with her since that time?

A. No, sir.

Q. Where is Mrs. Hearn living?

A. What Mrs. Hern?

Q. Mrs. L. B. Hern?

A. In Hampton.

Q. Did she and her husband last live together in Smithfield?

A. Yes, sir.

Q. What is she doing in Hampton?

A. What is she

doing?

Q. Yes.

A. She is just living - Housekeeping, and sewing - Taking in sewing.

Q. Has she any boarders or lodgers?

A. No, sir.

Q. Who constitutes the family?

A. Bourne (that is Mrs. Hern), Effie and Francis and myself. Francis is the son of Mrs. Hern.

Q. Has she any means of support other than what she earns by her sewing, and the amount of alimony ---

A. No, sir.

Q. (Continued) --- that she gets, allowed her by the circuit court of Isle of Wight County in the suit of

S. W. Hern against L. B. Hern ?

A. None at all.

Q. How old is this boy Francis Burton Hern?

A. He is nine years old, I believe.

Q. In what frame of mind did Mr. Hern seem to be when he made the statement in your presence, that you could take her and do what you choose with her; that he never expected to live with her again?

A. He was very angry.

Q. Did Mr. Hern have any justifiable cause for getting angry with his wife and leaving her?

A. I don't think so; no, sir.

Q. What business is Mr. Hern engaged in?

A. Mechanic.

Q. Carpenter?

A. Yes, sir.

Q. Is he a contractor also?

A. Yes, sir; I think so. He used to be. I don't know whether he is now or not.

Q. Is Mrs. Hern a faithful mother, and is she fully competent to take care of, and nurture and raise, or bring up, the child, Francis Burton Hern?

A. Yes, sir; she is.

Q. Do you, personally, give the child any supervision or care?

A. Yes, sir. I am most always there, and I always assist in helping to lookout for him.

Q. Is it your present purpose to continue living together --

A. Yes, sir.

Q. (Continued) -- with Mrs. Hern?

A. Yes, sir, I expect to continue living with her. And Effie is there; and we are all there together.

Q. You have no intention of changing the present arrangement?

A. No, sir, none at all. Effie works in Hampton, and she boards with Bourne.

CROSS EXAMINATION.

(BY MR. WILLIAMS):

Q. Mrs. Nelms, have you any source of income, at all?

A. Yes, sir, I have money of my own. I am not dependent on any one. My husband left me provided for.

And further this deponent saith not.

BY MR. HELMS: Counsel for Mrs. Hern here offers in evidence an office copy of the final decree entered in the suit of S. W. Hern against L. B. Hern for divorce, in the Circuit Court of the County of Ilse of Wight, Virginia, and which it is agreed may be used as a certified copy thereof.

MRS. L. B. HERN, being duly sworn, testified as follows on Direct Examination.

(BY MR. HELMS):

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

A. Mrs. L. B. Hern; twenty-nine years old; I take in sewing.

Q. Where do you reside? A. In Hampton.

Q. Are you the plaintiff in this suit? A. I am.

Q. When were you married to Mr. Hern? A. In April, 1899.

Q. You and your husband continued to live together until when? A. Four years ago, the 29th of April.

Q. What happened on that day that caused him to leave you?

A. Why, on the 29th he accused me of writing a letter. But he didn't leave until Saturday; and on Saturday he left (Saturday afternoon), I think about five o'clock. And he told me at that time that he never expected to live with me again; and I asked him where he was going to live, and he said he was going to live with his mother.

Q. Did he leave that day? A. He did; he took his trunk out that afternoon.

- Q. Where did he send his trunk to? A. To his mother's.
- Q. Where were you living at that time? A. Smithfield.
- Q. In Isle of Wight County? A. Yes, sir.
- Q. Have you since lived together? A. We have not.
- Q. Has he since that time asked you to live with him?
- A. He has not.
- Q. This letter to which you have referred is the letter about which testimony was taken in the suit of S. W. Hern against L. B. Hern, for divorce, in the circuit court of Isle of Wight County, was it not? A. Yes, sir.
- Q. Have you any children? A. One.
- Q. What is his name? A. Francis Burton.
- Q. How old is he? A. He was nine years old last May.
- Q. Was his leaving you justified by anything that you had done? A. Not at all.
- Q. Is Francis Burton now in good health - usual good health?
- A. Usual - Yes, sir. He is not very well to-day. He has a cold; that is all.
- Q. Are you bestowing upon him the best of care that you know?
- A. I am.
- Q. Do you still wish to continue him with you? A. I do.
- Q. What means have you for support except the alimony which you are now receiving under the decree directing Mr. Hern to pay you, under the suit of S. W. Hern against L. B. Hern?
- A. I have none except what I earn myself for the sewing I do.
- Q. Has Mr. Hern furnished you with anything whatsoever except

the alimony - - -

A. (Interposing): He has not.

Q. (Continued) - - - directed by that decree?

A. He has not.

Q. What business is he engaged in? A. Contractor.

Q. Have you any money? A. No, I have not.

Q. Have you any property? A. No, sir.

Q. What is the amount of actual money that you have at this time?

A. You mean the amount?

Q. Yes. A. About a dollar, I think.

(No cross examination.)

And further this deponent saith not.

*The signatures of the witnesses were
waived by counsel for both parties*
-----oo-----

State of Virginia,

City of Newport News, to wit:

I, W. B. Colonna, a Commissioner in Chancery for the Corporation Court of the City of Newport News, Virginia, do certify that the foregoing depositions of (Mrs.) A. E. Nelms and (Mrs). L. B. Hern, were duly taken before me stenographically (and afterwards reduced to writing) at the time and place in the caption thereto stated, and for the purpose therein mentioned. Given under my hand this 10th day of February, 1910.

Commissioner's Fee — \$1.00
Stenographer's — \$2.50
\$3.50

W. B. Colonna
Commissioner in Chancery.

4

Hearn

vs s Chauncy

Hearn

Depositem of Witnesses

Received from W.B. Colman
Communes in Chauncy,
under seal, February 16/1910
and filed
Jt. Comm. Clk.

\$2.50



4/1/1910 — 190

Received from: Wesley McMurran Atty
Two & 50/100 — 100 Dollars

For reproductions taken in Hearn & Hearn

H. C. Lutz

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA:

LULA BOURNE HEARN

VS.

SETH W. HEARN.

Issue summons in Chancery to Second October Rules. 909

John McHanna p. q.

Loula B. Hearn
vs }
Rich W. Hearn

Memorandum.

Hearn³ Lula B.

vs

Hearn Seth W.

C. O. B. No. 6, page 637.

Dea.

1909.

Dec. 6.

Enter this.

W.D.W.

Lula B. Hearn

^{vs}
Seth W. Hearn

in which the defendant has been duly served with process.
This Cause came on this
day to be heard on the
plaintiff's bill regularly
proceeded on at sides, with ex-
hibits therewith filed, and taken for
confessed as to the defendant
S. W. Hearn, and on the mo-
tion of the plaintiff to be al-
lowed counsel fees and suit
money, to enable her to pro-
secute her suit, and was
argued by counsel.

On consideration, whereof
the court doth adjudge, order
and decree that the defend-
ant S. W. Hearn, do pay to
Lula B. Hearn, or to Nelson
and Mc Murran, her attorneys
the sum of Fifty ————— dollars
as counsel fees and Twenty five —
————— dollars as suit money
to enable her to prosecute her
suit, at this time.

5

Lula B. Hearn,

vs) Chancery

S. W. Hearn,

DEGREE.
1940 Feb. 16
Enter this AW.

Chancery Order Book No.

7. Page 17

E. H. WILLIAMS,
ATTORNEY-AT-LAW
SMITHFIELD, VA.

IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

Lula Bourne Hearn, ... Plaintiff,

vs.) Chancery.

S. W. Hearn,

This cause came on this day to be again heard upon the papers formerly read, and was argued by counsel;

And by consent of all parties entered of record, in open court, the Court doth adjudge, order and decree that ~~all~~ such orders and decrees may be made and entered herein in vacation as might be made in term time.

In the Circuit Court of
Isle of Wight County,
Virginia.

LOLA BOURNE HEARN

VS.

S. W. HEARN.

D E C R E E.

C.O.B. No 7

Page 23.

LAW OFFICES OF
NELMS & McMURRAN
SUITE 401 SILSBY BUILDING
NEWPORT NEWS,
VIRGINIA

77

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA:

In vacation, on the 22nd day of April 1910.
LULA BOURNE HEARN,

VS.

S. W. HEARN.

- o-o -

This cause came on this day to be heard upon the complainant's bill and exhibits filed therewith regularly proceeded on at rules, to which said bill, with exhibits therewith filed, the defendant, S. W. Hearn, has neither demurred, pleaded nor answered, and the depositions taken before W. B. Colonna, Commissioner in Chancery, and filed on behalf of the complainant; and was argued by counsel.

On consideration whereof it appearing to the Court independently of the admissions of either party in the pleadings, or otherwise, that the said parties were lawfully married on the 19th day of April, 1899, and the Court being of opinion from the evidence taken in this suit that the said defendant, S. W. Hearn, ^{willfully} deserted the complainant, Lula Bourne Hearn, on or about the 29th day of April, 1906, and being further of the opinion, from the evidence taken in this suit in support of the complainant's bill that no reconciliation has taken place, or is probable; that a separation has continued, without interruption, since the date of the said desertion; and that the said Lula Bourne Hearn and S. W. Hearn have resided and have been domiciled in this State ever since before the aforesaid marriage and for more than one year next preceding the commencement of this suit; and that the said LULA Bourne Hearn and S. W. Hearn last cohabited in the County of Isle of Wight, Virginia, the Court doth adjudge, order and decree that the said Lula Bourne Hearn and S. W. Hearn be and

they are hereby divorced from the bonds of matrimony, which was created by the aforesaid marriage; and that the said marriage be and the same hereby is dissolved and annulled; and *since the taking of the evidence has been concluded* it appearing to the Court that the said Plaintiff and Defendant have entered into an agreement as touching their respective property rights, alimony, support for the child, Francis Barton Hearn, costs of this suit, suit money, counsel fees and the custody of the said child, which is in the following words and figures, to-wit:-

"Whereas, Lula Bourne Hearn has instituted a suit for divorce a vinculo matrimonii from her husband, S. W. Hearn, which said suit is now pending in the Circuit Court of Isle of Wight County, Virginia; and,

"WHEREAS, the law permits and sanctions agreements in such cases regarding property rights of the parties.

"NOW, THEREFORE, THIS AGREEMENT, made and entered into this 11th day of March, 1910, by and between the said S. W. Hearn, of the County of Isle of Wight, State of Virginia, party of the first part, and the said Lula Bourne Hearn, of the town of Hampton, State of Virginia, party of the second part;

"WITNESSETH: That for and in consideration of the mutual covenants and agreements, promises and undertakings herein contained, the following contract is made and entered into;

"The said S. W. Hearn agrees to pay to the said Lula Bourne Hearn the sum of Twenty Dollars (\$20.00) per month as and for alimony, until he shall come into possession of the part of the estate of the late B. W. Hearn, to which he shall be entitled, or until he shall be entitled to receive the same. Upon the happening of that event, he agrees to pay to the said Lula Bourne Hearn the sum of Twenty-five (\$25.00) per month,

#3.

but it is understood and agreed that the payments for alimony as aforesaid shall cease should the said Lula Bourne Hearn remarry, or upon her death, or upon the death of the said S. W. Hearn.

"IT is mutually covenanted and agreed that the said Lula Bourne Hearn shall have the care and custody of Francis Barton Hearn during the school period of each and every year, the said period being the term of the school attended by the said child; and during the vacation of the said school, the said S. W. Hearn shall have the custody of the said child, Francis Barton Hearn; and the said S. W. Hearn shall also have the right and privilege of having the custody of the said child from Friday evening until Monday morning once in every two months during the said school period, the said S. W. Hearn to go for and return the said child to the said Lula Bourne Hearn, when he shall have the care and custody of the said child, either in person, or by a competent representative, during such period of the time as the said child shall be of such tender years as to require the same; but should the said S. W. Hearn so desire, the said LULA Bourne Hearn, will, upon the said S. W. Hearn's paying to the said Lula Bourne Hearn her expenses and the expenses of the said child, take the said child to the nearest convenient means of transportation and place him on such steamer, or train, as will be convenient for him to reach the said S. W. Hearn's home; this to be in lieu of any personal attendant with the said child. And on the return of the said child, the said S. W. Hearn is to pay the same expense of taking the child from the steam-train, or steamboat, back to the home of the said Lula Bourne Hearn. The transportation charges of the said child to and from the home of the said S. W. Hearn are to be paid by the said S. W. Hearn.

"In case of sickness of the said child, when in the custody of the said Lula Bourne Hearn, the said S. W. Hearn is to have the right to visit the said child at suitable and reasonable times and occasions; and, the said Lula Bourne Hearn shall have the right, in case of the child's sickness when in the custody of the said S. W. Hearn, of visiting the said child at suitable and reasonable times and occasions.

"The said payments for alimony provided for shall be made on or before the 10th day of each and every month.

"The said S. W. Hearn agrees to pay to the said L. B. Hearn the sum of Ten Dollars (\$10.00) per month during the school period, or while the said child shall be with the said Lula Bourne Hearn, and the sum of Five Dollars (\$5.00) per month during the vacation period, or when the said child shall be with the said S. W. Hearn, until the said S. W. Hearn shall come into possession of the part of the estate of the Late E. W. Hearn to which he shall be entitled, or until he shall be entitled to receive the same, then the said S. W. Hearn shall pay to the said Lula Bourne Hearn the sum of Fifteen Dollars (\$15.00) per month during the school period, or when the said child shall be with the said Lula Bourne Hearn, and five Dollars (\$5.00) per month during the vacation, or when the said child shall be with the said S. W. Hearn.

"Should the said Francis Burton Hearn die, or should the said Lula Bourne Hearn for any reason discontinue to support or in any wise provide for the said Francis Burton Hearn, to the extent of expending the amount herein provided for said child, then in that event the payments provided to be made for the benefit of the said child as aforesaid shall cease.

X ^ "The said Lula Bourne Hearn agrees to release and doth hereby release all her right and claim of whatsoever nature, in and to any and all of the property, real and personal

X The said S. W. Hearn hereby releases all interest & every thing which he now has or may have to any property now owned or which said S. W. Hearn may hereafter acquire

of the said S. W. Hearn, except in so far as to the payment of the above mentioned amounts provided for in this agreement and the decree which it is proposed to enter confirming the same shall operate as a judgment for the said amounts herein provided to be paid against the said S. W. Hearn.

"It is further agreed that in the decree to be entered confirming this agreement, it shall be provided that the said S. W. Hearn shall pay, in addition to the counsel fees and suit money heretofore allowed, a further sum of Thirty-seven Dollars and Fifty Cents (\$37.50) and balance of costs of this suit.

"WITNESS THE following signatures and seals:"

(signed) S. W. Hearn. (SEAL)
Lula Bourne Hearn. (SEAL)

The Court doth hereby ratify and confirm the said agreement and doth adjudge, order and decree that the said property rights, alimony, maintenance of the child, Francis Burton Hearn, costs of the suit, counsel fees and suit money be and the same is hereby ordered to be paid and received in accordance with the terms of the said agreement.

And it is further adjudged, ordered and decreed *upon default in the payments or any of them herein provided* that this decree shall operate as a judgment against the said S. W. Hearn, for the respective amounts set out in the said agreement, to be paid in accordance with the terms thereof.

And the Court doth further adjudge, order and decree *upon default in the payments or any of them herein provided* that the said S. W. Hearn do pay the said amounts for alimony, support of the child, counsel fees and suit money to the said Lula Bourne Hearn, or Helms and McMurrin, her attorneys, in the amounts specified in the said agreement and in accordance with the terms of the same, and the costs of this suit.

The Court doth further adjudge , order and decree that the custody of the said child, Francis Burton Hearn, be awarded to the said complainant and defendant in accordance with the terms of the agreement.

And, it appearing that the object for which this suit was instituted has been accomplished, it is ~~adjudged~~, ordered ~~and decreed~~ that the said cause be stricken from the docket, to be reinstated upon the motion of either party, if it shall be deemed necessary, to enforce the performance of the terms of this decree, by any of the parties hereto.

All of which is certified to the Clerk of this Court to be entered in the Chancery Order book.

J. L. White

Virginia: Clerk's Office of the Circuit Court of the County of Isle of Wight April 23rd. 1910, this vacation decree was received and entered of record.

Teste,

[Signature]
Clerk.

MARRIAGE * LICENSE



Virginia, Isle of Wight County to wit:

To any Person Licensed to Celebrate Marriages:

You are hereby authorized to join together in the Holy State of Matrimony, according to the rites and ceremonies of your Church, or religious denomination, and the laws of the Commonwealth of Virginia,

S. W. Hearn

and Louisa B. Hearn

Given under my hand, as Clerk of the County Court of Isle of Wight this 18th day of April 1899
N. J. Young Clerk.

CERTIFICATE TO OBTAIN A MARRIAGE LICENSE,

TO BE ANNEXED TO THE LICENSE, REQUIRED BY SECTION 2229 OF THE CODE OF VIRGINIA, AS AMENDED BY ACT OF FEBRUARY 3, 1900.

Time of Marriage, April 19, 1899	Place of Husband's Birth, Delaware
Place of Marriage, Smithfield Va	Place of Wife's Birth, Isle of Wight
Full Names of Parties Married, S. W. Hearn and Louisa B. Hearn	Place of Husband's Residence, do
Color, White	Place of Wife's Residence, do
Age of Husband, 30 years	Names of Husband's Parents, B. H. & M. W.
Age of Wife, 19 do	Names of Wife's Parents, A. J. & M. A.
Condition of Husband (widowed or single or divorced) Single	Occupation of Husband, Contractor
Condition of Wife (widowed or single or divorced) Single	

Given under my hand this 18th day of April 1899
N. J. Young Clerk.

Certificate of Time and Place of Marriage.

I, _____, a _____ of the _____ Church, or religious order of that name, do certify that on the 19th day of April 1899, at Smithfield Va, under authority of the above License, I united in Marriage the persons named and described therein.

Given under my hand this _____ day of _____ 19____.

Jas. H. Jolley

The Minister celebrating a marriage is required, within two months thereafter, to return the License to the Office of the Clerk who issued the same, with an endorsement thereon of the FACT of such marriage, and of the TIME and PLACE of celebrating the same.

A copy, Test. J. H. Jolley Clerk

2-a

J. W. Hearn
to
Louisa B. Hearn

A copy of marriage
license, filed with
Bis in Hearn vs
Hearn 2nd Novem
ber 1904 Circuit
Court of Ill of Wight
County, Ex. bit A

IN THE NAME OF GOD. AMEN. I, B. W. Hearn, of the County of Isle of Wight and State of Virginia, being of sound and disposing mind and memory, do make and ordain this to be my last will and testament, in manner and form as follows; hereby revoking all former wills by me at any time made.

First. It is my will and desire that all of my just debts and funeral expenses be paid, as soon after my death as possible.

Second: I give and bequeath to my grand-children, George Burton Hearn and Grace Hearn, infant children of my deceased son Lee W. Hearn, the sum of one hundred dollars, each, to be deemed and taken in full or all of their, or their deceased fathers share in my estate.

Third. All the rest and residue of my estate, real, personal and mixed, of every kind, nature and description whatsoever, I give, devise and bequeath to my wife, Martha W. Hearn, for life, and at her death to be equally divided between and among my children William Allen Edwards, wife of Joel T. Edwards, Seth W. Hearn, Athlin A. Hearn and Edith V. Hearn, in equal proportions, share and share alike. And if at the time of my death, or at the time of the death of my said wife, any child or children, in this clause mentioned, should be dead leaving a child or children, such child or children shall take its deceased parents share, per stirpes. But if at the time of my death, or at the time of the death of my said wife, any child or children, in this clause mentioned should be dead, leaving no child or children, then and in that event the share or shares of any such deceased child or child or children shall be equally divided between my surviving children in this clause mentioned, share and share alike.

Fourth. It is my will and desire, and I hereby direct, that upon the death of my wife, for the purpose of distribution of my estate, all of my real and personal estate be sold, and the proceeds of sale be equally divided between and among my said children in the third clause of my will mentioned, and as therein directed, in equal proportions, share and share alike.

Fifth. I hereby empower my said wife, who is herein after appointed executrix of this my last will and testament, at any time, in her discretion, to sell and dispose of my estate, real and personal, or any part thereof, either at public auction or private sale;

to change any investments made by me, and to reinvest the proceeds of such sale, or amounts derived from the change of investments, such proceeds and amounts to be held and used by her upon the trusts of this will, and at her death to pass as hereinbefore provided. The purchasers of such estate shall not be required to see to the application of the purchase money.

Sixth. I hereby empower my said wife, at any time, in her discretion, to make advancements out of my estate to any of my said children in the third clause of my will mentioned, as she may deem advisable, the propriety and necessity of such advancements, the amount thereof, and to whom to be made, being entirely in the discretion of my said wife; provided, however, that no child or children shall receive advancements beyond the proportion of my estate to which he, or they, would be entitled upon the death of my said wife, in the event that he or they had survived her.

Seventh. It is my will and desire that my wife, out of the estate devised to her for life, will provide a home with her, and proper support and maintenance to my daughter, Edith V. Hearn, until her marriage, which shall not be in any manner chargeable to her, or be regarded as an advancement under this will.

Eighth. I have heretofore made advancements to some of my said children, but it is my will and desire that the amounts respectively advanced to them by me shall not be chargeable to their interest in my estate, or the amounts devised to them by my will, as in the main, by advancements, education, or otherwise, they have received very nearly equal amounts.

Ninth. In the event that the life estate in all of my property hereby devised and bequeathed to my said wife, should be inadequate, and insufficient for her proper support and maintenance during her life, of which she shall be the sole and exclusive judge, then and in that event, she shall be entitled, and is hereby empowered to use annually of the principal or corpus of my estate, real or personal, or of the proceeds of sale thereof, the sum of three hundred dollars, during each year of her life, but not to exceed that sum annually.

I hereby nominate and appoint my wife, the said Martha W. Hearn, executrix of this my last will and testament, and request that

she be permitted to qualify as such executrix without security.
In witness whereof I have, to this my last will and testament,
consisting, with the attestation clause of four sheets of paper,
set my hand to each sheet this 24th. day of July, 1897.

B. W. Hearn.

Signed, published and declared by the testator, B. W. Hearn, as
and for his last will and testament, in the presence of us, who,
in his presence, and at his request, and in the presence of one
another have hereunto signed our names as witnesses thereto.

R. E. Boykin

E. W. Wilson.

Whereas, I, B. W. Hearn have made my last will in writing bearing
date on the 24th. day of July 1897, Now I do hereby make this cod-
icil thereto, to taken as a part thereof.

I do hereby revoke the devise or bequest contained in
the 1st. clause of my said will in so far as it affects my two
grand-children George Burton Hearn and Grace Hearn, to two infant
children of my deceased son Lee W. Hearn and in lieu of said be-
quest to them I hereby give and bequeath to them, the said George
Burton Hearn and Grace Hearn one Tenth (1/10) of my entire estate,
to be taken in full of all of their or of their deceased Fathers
share of my estate.

Further;- I do hereby revoke the bequest made to my
daughter, William Allen Edwards, the widow of Joel T. Edwards,
deceased, and in lieu thereof I give and bequeath to her an equal
share of my estate with my other children just as mentioned and
devised in clause 3rd., of my said will coupled with the provision
that I instruct my administrator to deposit her share in Bank on
interest and to pay over to her the sum of Three Hundred Dollars
a year, together with the interest on the entire amount during
each year of her life and at her death should any residue of
such share be left, then I give and bequeath said residue to be
divided between my children then living.

In witness whereof I have hereunto affixed my hand
this 1st. day of June, 1907.

B. W. Hearn.

Signed, published and declared by B. W. Hearn, as and for a codicil to his last will, in the presence of us, who, in his presence and at his request, and in the presence of one another, have hereunto signed our names as witnesses thereto.

W. D. Folk

J. W. Holloway.

CLERK'S OFFICE OF THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT, JUNE 24TH. 1909.

A paper purporting to be the last will and testament of B. W. Hearn, deceased, with a codicil thereto, was presented for proof, to which purported will, it appears, E. W. Wilson and R. E. Boykin were witnesses, and to the codicil thereto, it appears that J. W. Holloway and W. D. Folk were witnesses. Whereupon, the said purported will was proved in part by the oath of E. W. Wilson, and it further appearing that the said R. E. Boykin, the other subscribing witness to the said purported will, since signing the same has departed this life, J. W. Holloway and L. C. McClelland were severally sworn and deposed that they are well acquainted with the hand writing of the said R. E. Boykin, and verily believe that the signature of the said R. E. Boykin signed thereto to be his true and genuine signature. The codicil to the said purported will was thereupon proved in part by the oath of J. W. Holloway, one of the subscribing witnesses thereto, and continued for further proof.

Teste, A. S. Johnson, Clerk.

CLERK'S OFFICE OF THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT
JULY 5TH. 1909.

This day came W. D. Folk, one of the subscribing witnesses to the codicil of the purported will of B. W. Hearn, deceased, and it appearing from the oath of the said W. D. Folk, that the said codicil was signed, published and declared in the manner prescribed by law, and the said purported last will and testament and codicil thereto of the said B. W. Hearn, deceased, being now fully proved, it is ordered to be recorded as the true last will and testament of the said B. W. Hearn, deceased.

Teste, A. S. Johnson, Clerk.

A copy,

Teste, *A. S. Johnson* Clerk.

27

Rowe B Hearn

W. J. Pharmacy

S. W. Hearn

Copy of Will of B. H. Hearn

filed with Will as Exhibit

"D" 7 Nov 1909

S. W. Hearn,

Vs. In Chancery.

Lula Bourn Hearn,

This cause came on this day to be again heard on the complainant's original and amended bill, exhibits therewith filed, the answers of the defendant to the complainant's bills, the depositions of witnesses, exhibits therewith filed, agreed statements, and plans in said depositions mentioned with general replication to said bills and was argued by Counsel.

On consideration whereof, the Court being of opinion that the complainant has failed to establish the allegations and charges in his said original and amended bill of complaint contained, or either of them, doth refuse the prayer of the said bills, and doth decline and refuse to grant to the said complainant, S. W. Hearn a divorce from his wife, the said Lula Bourn Hearn.

And it appearing to the Court that the defendant, Lula Bourn Hearn, is a fit and proper person for the care and custody of the infant, Francis Burton Hearn her child, and that it is best for the said child's present welfare that it be committed to the custody of the said defendant, until the further order of this Court; the Court doth further adjudge, order and decree, until the further order of this Court, that the custody of the child, Francis Burton Hearn, be, and the same is hereby, awarded to the said defendant, Lula Bourn Hearn, for and during the school period of each and every year, the said period being the term of the school attended by the said child; and during the remainder of said year, to-wit: during the vacation of such school, the custody of the said child, Francis Burton Hearn, is awarded to the said complainant, S. W. Hearn, together with the right and privilege to the said S. W. Hearn, of having the custody of said child from Friday evening till Monday morning, once in every two months during the said school period: the said S. W. Hearn to go for and return the said child to

the said Lula Bourn Hearn, when he shall have the care and custody of it, either in person or by a competent representative during such period of time as the said child shall be of such tender years as to require the same, with the further right to the said S. W. Hearn in case of sickness of the said child, when in the custody of the said Lula Bourn Hearn, to visit the said child at suitable and reasonable times and occasions.

And the Court doth further adjudge, order and decree, that the complainant, S. W. Hearn, do pay to the said defendant, Lula Bourn Hearn, on the 10th. day of each and every month, the sum of TWENTY DOLLARS as and for alimony to the said Lula Bourn Hearn, and the further sum of TEN DOLLARS on the 10th. day of each and every month, until the further order of this Court, for the education, maintenance and support of the said child, Francis Burton Hearn, except, however, during the school vacation, when the care and custody of the said child is hereby awarded to the said S. W. Hearn, he shall pay to the said Lula Bourn Hearn on account of the maintenance and support of the said child, the sum of FIVE DOLLARS per month, instead of the sum of TEN DOLLARS per month, as hereinbefore decreed to be paid, during the school period aforesaid.

And the Court doth further adjudge, order and decree, that the said complainant, S. W. Hearn, do pay to W. J. Nelms, Counsel for the defendant, the sum of FIFTY DOLLARS in addition to the fees heretofore allowed Counsel for the defendant in this cause, and that the said S. W. Hearn do pay the unpaid costs of this suit.

And it appearing to the Court that there is nothing further remaining to be done in this cause, the same is ordered to be removed from the docket, with leave to any party to have the same re-instated for the purpose of enforcing any of the provisions of this decree.

A copy, Teste,  C.C.

Hearn
vs {
Hearn