

1911-013
Nansemond Co (Suffolk) Chancery Causes: William H. Kirn vs Amelia E. Kirn

Baker, Johnson, Faulks, Bess, Armistead, Adams, Deans, Redd, Wright,
Griffin, Smith, Foster

Folder 1 of 3

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

WILLIAM H. KIRN

vs.

) In Chancery.

AMELIA ELIZABETH KIRN

The motion of William H. Kirn, plaintiff, to dismiss the amended petition of Amelia Elizabeth Kirn, defendant, filed herein on the 6th day of June, 1910.

The said William H. Kirn moves to dismiss the said petition and alleges the following grounds for his said motion:-

1st. Because the proceedings in the suit in which the decree complained of in her petition was entered show that said suit was pending in a court which had full jurisdiction; that of its pendency the petitioner had full notice; that in said suit she was represented by able counsel and full opportunity to be heard was afforded her; that all the proceedings in said court were regular; that the court in which the said proceedings were had, after full consideration of the evidence offered and the argument of counsel, determined said suit, on its merits, by entering the decree complained of; and that the said decree so entered constitutes a full and complete bar to any other proceedings between the same parties on all matters directly involved in and within the purview of the pleadings in said suit.

2nd. Because all the facts, circumstances and considerations alleged in the petition have already been duly and regularly litigated between the parties, and the revocation, modification or revision of the decree as prayed for in said petition would a reversal of said decree without adequate cause and in a manner not provided by law.

Wherefore, the said William H. Kirn prays that the said petition may be dismissed.

E. W. Coleman
E. C. Holland
D. Tucker Brown } *Eq.*

TO AMELIA E. KIRN.

Take notice that on the 6th day of July, in the year nineteen hundred and ten, at the office of D. S. Phlegar, at 532-533 Law Building, Corner Plume and Granby Streets, in the City of Norfolk, Virginia, between the hours of six A. M. and six P. M. of that day, I shall proceed to take the depositions of W. H. Kirn and others, to be read ^{as} evidence in my behalf in a certain suit in Equity depending in the Circuit Court of Nansemond County, Virginia, wherein I am plaintiff and you are defendant, and in a certain petition filed by me in said suit on the day of May, 1910, and if, from any cause, the taking of the said depositions be not commenced, or, if commenced, be not concluded on that day, the taking thereof will be adjourned from time to time at the same place and between the same hours until same shall be completed.

Given under my hand this 25th day of June, 1910.

W. H. Kirn
By C. M. Coleman
of his Counsel.

Executed this 25th day of
June, 1910 by serving a
True copy of the within
notice on the within mentioned
Amelia E. Keim in person
in the county of Norfolk.

L. C. Coomesworth Shff
By B. F. Adams Deputy
Shff

In Chancery.

INDEX.

MONTROSS & CLARKE CO., 51 NASSAU ST., N. Y.

D. S. PHLEGAR,
SHORTHAND REPORTER
532-533 LAW BLDG., NORTOLAND, VA.
BELL PHONE 504

1 IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

2
3 -----*
4 WILLIAM H. KIRN, *

5 v. *

In Chancery.

6 AMELIA E. KIRN. *

7 -----*
8
9 The depositions of witnesses, taken before me, D. S.
10 Phlegar, a Commissioner in Chancery for the Circuit Court of
11 the City of Norfolk, Virginia, pursuant to notice hereto
12 attached, at the office of D. S. Phlegar, 532-533 Law
13 Building, Norfolk, Virginia, June 6th, 1910, to be read as
14 evidence on behalf of the plaintiff in the above entitled
15 cause pending in the Circuit Court of Nansemond County,
16 Virginia.

17 PRESENT:

18 Messrs C. W. Coleman and D. Tucker Brooke, on
19 behalf of the plaintiff,

20 Mr. R. R. Hicks, on behalf of the defendant.

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25 D S Phlegar,
26 Shorthand Reporter,
Norfolk, Virginia.

1 B. F. ADAMS, on behalf of the plaintiff, being duly sworn,
2 testified as follows:

3 Examined by Judge Brooke:

4 Q. Mr. Adams, what is your name, age, residence and occupa-
5 tion?

6 A. B. F. Adams; West Norfolk, Norfolk
7 County, Virginia; 64; rental agent.

8 Q. Are you acquainted with Mr. William H. Kirn and Amelia
9 E. Kirn, the parties to this suit?

A. I am.

10 Q. How long have you known them?

11 A. Between 15 and 18 years.

12 Q. Did you know them before they were married?

13 A. No, I can't say I did. I knew Mr. Kirn, but I did not
14 know her.

15 Q. Have you known Mrs. Amelia E. Kirn in the last four or
16 five years?

A. Yes, sir.

17 Q. In what way have you known her in that period, or about
18 that period?

19 A. Well, I have known her as the
20 wife of William H. Kirn, and also as a tenant of mine. She
21 rents from me.

22 Q. How long has she been a tenant of yours?

23 A. Since June, 1907.

24 Q. How did she happen to become a tenant of yours? As I
25 understand it, when you say a tenant of yours, you mean some
26 house which you have the rental of?

A. Yes, sir.

Q. How did she become a tenant of yours?

1 A. She made application for a house in West Norfolk.

2 Q. Did she, herself, make that application, or did Mr.

3 Kirn make it?

4 A. No, sir, she made it. She
5 made it first through my wife. She sent me word to reserve
6 her a house, if I had one, and afterwards came to me and rented
7 the house.

8 Q. But the final consummation of the rental was with her
9 individually?

A. Yes, sir.

10 Q. Have you been renting to her continuously since that time?

11 A. I have.

12 Q. Have you had any dealings with Mr. William H. Kirn, her
13 husband, in connection with the rental of that property?

14 A. None in the world.

15 Q. She rented it individually?

A. Yes, sir.

16 Q. Where is the house situated - I mean generally?

17 A. West Norfolk.

18 Q. Who has paid the rent to you from that time?

19 A. Mrs. Kirn.

20 Q. The contract of rental, as I understand it, was with
21 Mrs. Kirn, and she individually has paid the rent from that
22 time?

A. Yes, sir.

23 Q. Do you know the parties to this suit, Mr. William H. Kirn
24 and Mrs. Amelia Kirn?

A. Yes, sir.

25 Q. Do you know whether they have been living separately
26 for the last three years?

A. I know that I have never seen Mr. Kirn down there, and she

1 has been living there the last three years.

2 Q. Do you know where Mr. Kirn has been living the last
3 three years?

A. Yes, sir.

4 Q. Where has he been living?

5 A. In Nansemond, on the farm.

6 Q. As I understand it, then, you rented to Mrs. Kirn in
7 June, 1907, a house in West Norfolk; she has paid you the
8 rent ever since?

9 A. Yes, sir, except for the last
10 month.

11 Q. And you have never seen Mr. Kirn at that house?

12 A. No, sir.

13 CROSS EXAMINATION

14 By Mr. Hicks:

15 Q. Mr. Adams, what rent does Mrs. Kirn pay?

16 A. \$9.00.

17 Q. How many rooms are in the house?

18 A. I think there are eight.

19 Q. Who is the owner of the house?

20 A. R. L. Raby.

21 Q. How far do you live from this house?

22 A. I suppose about 200 yards.

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- 1 of a mile of me, or a mile. We see each other daily and
2 almost nightly.
- 3 Q. That is in Nansemond County? A. Yes, sir.
- 4 Q. His home now and since that time has been in Nansemond
5 County? A. Yes, sir.
- 6 Q. Has Mrs. Kirn been living with him at his home in
7 Nansemond County since March 15th, 1907?
- 8 A. Not to my knowledge.
- 9 Q. If she had been, would you have known it?
- 10 A. I think so.
- 11 Q. You say you see him daily and possibly nightly?
- 12 A. Yes, sir, speak to him over the phone and go over there.
- 13 Q. You are in position, therefore, to know whether he and she
14 were living together since that time?
- 15 A. I think so.
- 16 Q. Were they living together since that time?
- 17 A. Not to my knowledge.
- 18 Q. You have said you knew of this decree of divorce on the
19 15th day of March, 1907, between Mr. W. H. Kirn and Amelia
20 Elizabeth Kirn, his wife; do you know whether there has been
21 any reconciliation since that time?
- 22 A. I do not.
- 23 Q. Do you know that there has not been any reconciliation?
- 24 A. I think not.
- 25 Q. You would have known it if there had been?
- 26 A. I would.

1 BY MR. HICKS: Objected to as leading.

2 By Judge Brooke:

3 Q. Have you ever seen Mrs. Kirn, the defendant in this suit
4 at Mr. Kirn's home in Nansemond since the decree of divorce?

5 A. I have not.

6 Q. So far as you know, she has never been there since the
7 decree of divorce?

A. No.

8 BY MR. HICKS: Objected to as leading.

9 By Judge Brooke:

10 Q. You say you have been in daily communication with him
11 and his home?

A. Yes, sir.

12 Q. Do you know whether any reconciliation has ever been
13 brought about between those two parties?

14 A. I do not.

15 Q. Do you know that it has not been brought about?

16 A. Yes, I think I do know.

17 BY MR. HICKS: I object to that as leading.

18 Witness: I will answer the question in this way, I have had
19 numerous conversations with Mr. Kirn relative to this matter,
20 and he has always expressed himself absolutely as being opposed
21 to any reconciliation in any way.

22 BY MR. HICKS: I object to so much of the answer as
23 purports to be a statement from Mr. Kirn, on the
24 ground that it is not the best evidence.
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1 By Judge Brooke:

2 Q. From your knowledge of the situation, would you say
3 that there was any probability of reconciliation between them?

4 A. I should say not.

5 BY MR. HICKS: The above question and answer are
6 excepted to on the ground that no qualification
7 has been shown the witness to give an opinion called
8 for by the question, and that said question calls
9 for, and said answer gives, a mere guess on the part
10 of the witness.

11 By Judge Brooke:

12 Q. Am I right in understanding your answer to the preceding
13 question to be that from your knowledge of the situation there
14 is no probability of a reconciliation?

15 A. Absolutely none.

16 BY MR. HICKS: Objected to, on the ground that the
17 question is leading and calls for an immaterial answer.
18

19 CROSS EXAMINATION

20 By Mr. Hicks:

21 Q. Mr. Armistead, you said you lived three-quarters of a
22 mile from Mr. Kirn?

23 A. I do not think it is hardly half a mile.

24 Q. Does your farm join his?

25 A. Yes, sir.

26 Q. How many acres do you farm? A. About 100.

1 Q. How many acres does he farm?

2 A. About 130.

3 Q. You are his brother-in-law, as I understand?

4 A. Yes, sir.

5 Q. And you married the daughter of Henry Kirn, and he is
6 the son of Henry Kirn, of Norfolk County?

7 A. Yes.

8 Q. Mr. Henry Kirn is a very wealthy man, isn't he?

9 A. He don't seem to think so. He is comfortably fixed.

10 Q. That is his reputation in the community?

11 BY JUDGE BROOKE: We object.

12 By Mr. Hicks:

13 Q. Is not he a very wealthy man?

14 A. I don't know what you consider wealthy.

15 BY JUDGE BROOKE: We object.

16 By Mr. Hicks:

17 Q. Is not he considered one of the wealthiest men in Norfolk
18 County?
19 A. He is considered, comparatively
20 speaking, one of the wealthiest men in Norfolk County.

21 BY JUDGE BROOKE: We object to the question.

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1 W. H. KIRN, being duly sworn, testified as follows:

2 Examined by Judge Brooke:

3 Q. Mr. Kirn, what is your name, age and occupation?

4 A. William H. Kirn; age 49; truck farming.

5 Q. You are the plaintiff in this original suit for divorce
6 against Amelia Elizabeth Kirn, your former wife, are you?

7 A. Yes, sir.

8 Q. Mr. Kirn, do you remember when this decree of divorce
9 in your favor against Amelia Elizabeth Kirn was granted?

10 A. March, 1907.

11 Q. March 15th, 1907, was it not? A. Yes, sir.

12 Q. Since that time, have you lived with your former wife,
13 Amelia Elizabeth Kirn? A. No, sir, I have not.

14 Q. Since that time, where has been your residence and where
15 has been hers? A. In Nansemond County, and she has
16 been living in Norfolk County. I might say the first year
17 after this happened I lived with my father in Norfolk County,
18 the first seven or eight months.

19 Q. Where were you living when the divorce occurred?

20 A. In Norfolk County.

21 Q. Were you living at your own home, or somewhere else?

22 A. I was living somewhere else.

23 Q. Where? A. At my father's in Norfolk County.

24 Q. With whom? A. With my father.

25 Q. Where was she living when the divorce occurred?

26 A. At my home in Nansemond County.

1 Q. Then, before the decree of divorce was granted, you and
2 your wife were not living together?

3 A. No, sir.

4 Q. For how long prior to March 15th, 1907, the date of the
5 decree of divorce, had you been living in Norfolk County at
6 your father's house, and had she been living at your former
7 home in Nansemond County?

8 A. I left my home in September, 1906, and I went to my
9 father's house in October, 1906.

10 Q. Then, from September, or October, 1906, you and your
11 wife have been living separately?

12 A. Yes, sir.

13 Q. Have you ever lived together since then?

14 A. No, sir, we have not.

15 Q. Since the decree of divorce was granted on March 15th,
16 1907, have you and your wife ever lived together?

17 A. No, sir.

18 Q. Since that time, has there ever been any reconciliation
19 between you?

A. No, sir.

20 Q. Since that time, have you ever been willing to be
21 reconciled to your wife?

A. No, sir, I have not.

22 Q. Is there now any probability that you will ever be
23 reconciled to her?

A. None whatever.

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CROSS EXAMINATION

By Mr. Hicks:

Q. Mr. Kirn, when were you married?

A. In November, 1883, I think it was.

Q. Where were you married?

A. In Philadelphia.

Q. You married at that time Amelia Elizabeth Kirn, the
defendant in this proceeding?

A. Yes.

Q. You lived with her from 1883 until September, 1906,
did you?

A. Yes.

Q. When did you first begin to have trouble with her?

BY JUDGE BROOKE: Objected to as irrelevant.

A. In about ten years after we were married.

By Mr. Hicks:

Q. Did you ever have any children?

A. We had one.

Q. When was that child born?

BY JUDGE BROOKE: We object to all this line of
testimony.

A. In the fall of 1885 or 1886.

By Mr. Hicks:

Q. Is the child living?

A. No, sir.

BY JUDGE BROOKE: Same objection.

By Mr. Hicks:

Q. When did the child die?

1 BY JUDGE BROOKE: Same objection.

2 A. It lived to be six months old.

3 By Mr. Hicks:

4 Q. So it died in infancy?

5 BY JUDGE BROOKE: Same objection.

6 A. Yes, sir.

7 By Mr. Hicks:

8 Q. You began first to have trouble ten years after you were
9 married.

10 BY JUDGE BROOKS: Same objection.

11 A. I think so.

12 By Mr. Hicks:

13 Q. What was the character of the trouble you had ten
14 years after you were married?

15 BY JUDGE BROOKE: Same objection.

16 A. It was ill temper on her part, is about all.

17 By Mr. Hicks:

18 Q. But you had no trouble prior to that time?

19 BY JUDGE BROOKE: Same objection.

20 A. Spats, such as that.

21 By Mr. Hicks:

22 Q. Such as other married people?

23 BY JUDGE BROOKE: Same objection.

24 A. Yes, sir.

25

26

1 By Mr. Hicks:

2 Q. Then ten years after you were married she began to
3 develop these qualities to which you objected; is that correct?
4

5 BY JUDGE BROOKE: Same objection.

6 A. Yes; a little before that.

7 By Mr. Hicks:

8 Q. What was the manifestation that she developed at that
9 time?- jealousy, or what, that made life unpleasant?

10 BY JUDGE BROOKE: Same objection.

11 A. Jealousy was one cause of it.

12 By Mr. Hicks:

13 Q. Did she have, at that time, any womb trouble?

14 BY JUDGE BROOKE: Same objection.

15 A. Not to my knowledge.

16 By Mr. Hicks:

17 Q. Did you ever consult a physician about her at that time?

18 BY JUDGE BROOKE: Same objection.

19 A. Yes, she did.

20 By Mr. Hicks:

21 Q. Did you ever?

22 BY JUDGE BROOKE: Same objection.

23 A. No, because I took her word.

24 By Mr. Hicks:

25 Q. Did not she, at that time, develop an abnormal jealousy
26 of your actions with reference to other women?

1 BY JUDGE BROOKE: Same objection.

2 A. I don't know about that.

3 By Mr. Hicks:

4 Q. Did not she develop such a jealousy of your actions
5 towards other women as to make life uncomfortable to you?
6

7 BY JUDGE BROOKE: We object.

8 A. I know this much, I could not speak to anybody at all
9 hardly, that there was not a row about it.

10 By Mr. Hicks:

11 Q. Do you mean you could not speak to any woman?

12 BY JUDGE BROOKE: Same objection.

13 A. Any lady at all.

14 By Mr. Hicks:

15 Q. And that condition continued for ten years?

16 BY JUDGE BROOKE: Same objection.

17 A. Continued until the end of my leaving there.

18 By Mr. Hicks:

19 Q. Did you ever give her any cause for jealousy?

20 BY JUDGE BROOKE: Same objection.

21 A. No, sir, never in my life.

22 By Mr. Hicks:

23 Q. Then this jealousy developed without cause?

24 BY JUDGE BROOKE: Same objection.

25 A. So far as I know it did.

26

1 By Mr. Hicks:

2 Q. Was there ever any other trouble between you except this
3 abnormal jealousy? A. No, I don't know that there was.

4 BY JUDGE BROOKE: Same objection.
5

6 By Mr. Hicks:

7 Q. Have you seen your wife since the divorce?

8 A. I have seen her, yes. I have passed her on the road,
9 and have passed her on the street.

10 Q. Did you speak to her? A. No, sir.

11 Q. Did she speak to you?

12 A. Once she did.

13 Q. What did you say to her?

14 A. I told her I did not want to exchange any words with her.

15 Q. That is the only greeting and the only words you have
16 spoken to her since this divorce?

17 A. Yes.

18 Q. Did she, at that time, tell you she loved you, and was a
19 faithful wife to you?

20 A. I don't know what she told me. I did not pay much
21 attention to what she told me. I was after getting out of
22 her way.

23 Q. Did she, at that time, realize that you had gotten a
24 divorce from her?

25 A. I don't know whether she did,
26 or not.

Q. When was that? A. I think that was last spring
sometime, but I don't know exactly.

1 Q. This last spring?

2 A. I think so, but it might have been longer than that.
3 I can't recall the time when it was.

4 Q. Did not she, at that time, tell you she wanted to go
5 back and live with you, and that she loved you, and wanted
6 to be your wife?

7 A. She may have told me so.

8 Q. Don't you know that it is true that she does love you,
9 and wants to be your wife, and wants to be reconciled to you?

10 A. Well, there is no hope of that.

11 Q. You say she showed this jealousy; how would that jealousy
12 take form? What would she do?

13 A. She would come there and talk, and then fly off and get
14 mad, and I don't know what she would do.

15 Q. Did she act like a sane or an insane person?

16 A. She acted like a sane person - anybody mad.

17 Q. Do people who fly off and talk mad talk like sane or
18 insane people?

19 A. They talk like sane people, I
reckon.

20 Q. Would not she accuse you of improper conduct towards
21 any woman you had any talk with?

22 A. I think she would.

23 Q. Did she seem to be under the illusion that you were
24 running around with other women?

25 A. Yes, sir.

26 Q. You never gave her any cause to do that?

1 A. No.

2 Q. As a matter of fact, you never did, did you, Mr. Kirn?

3 A. No.

4 Q. What is the age of your wife at the present time?

5 A. I think about 50.

6 Q. What is your age? A. 49.

7 Q. Did you have any talk with your wife just prior to getting
8 this divorce?

9 A. No, sir.

10 Q. Did you have any conversation between the time you left
11 her in September, 1906, and the obtainment of the divorce?

12 A. No, sir.

13 Q. Did you ever see her during that time?

14 A. I passed her on the street.

15 Q. But had no conversation with her?

16 A. She got after me on the street, and I got away from her.
17 One Sunday at church I told Mr. Adams to tell her if she
18 ever molested me I would have her arrested, and she came up
19 and asked me about it, and I told her to go on away.

20 Q. What did she ask you?

21 A. She asked did I tell Mr. Adams I would have her arrested
22 if she bothered me, but I did not tell her, but told her
23 to go on back where she came from.

24 Q. When was that? A. Two or three years ago.

25 Q. It was between the time you left her and the time you got
26 the divorce, was it? A. I think it was after I
got the divorce.

1 Q. I was asking you about what occurred between you?
2 Did you have any conversation then?

3 A. No, sir.

4 Q. Did you see her then?

5 A. I passed her on the street.

6 Q. Did she speak to you?

7 A. I passed her on a West Norfolk bridge, but I never spoke
8 to her.

9 Q. Did she speak to you?

10 A. I don't know whether she did, or not.

11 Q. Don't you know that she did speak to you?

12 A. No, sir, I do not.

13 Q. Did you listen to what she said?

14 A. No, sir, I didn't listen.

15 Q. What was the condition of her health at the time you left
16 her in September, 1906?

A. Good.

17 Q. Did she have any female trouble?

18 A. Not so far as I know.

19 Q. Did she have a doctor to examine her?

20 A. Yes.

21 Q. What doctor? A. Dr. Wright and Dr. Redd.

22 Q. Did they go up there and treat her?

23 A. Yes.

24 Q. Was she constantly under their care during that time?

25 A. No.

26

1 BY JUDGE BROOKE: Our objection applies to this
2 line of inquiry as well as to the former line.
3 By Mr. Hicks:
4 Q. How many acres of land do you farm?
5 BY MR. COLEMAN: We object to this line of inquiry,
6 also.
7 A. I think there are about 140 acres in the tract.
8 By Mr. Hicks:
9 Q. What do you raise - are you a truck farmer?
10 A. Yes, sir.
11 Q. Do you own the farm on which you live?
12 BY MR. COLEMAN: Same objection.
13 A. No, sir.
14 By Mr. Hicks:
15 Q. Who owns it?
16 BY MR. COLEMAN: Same objection.
17 A. My father.
18 By Mr. Hicks:
19 Q. What was the value of your crops last year.
20 BY MR. COLEMAN: Same objection.
21 A. I don't know.
22 By Mr. Hicks:
23 Q. Can you approximate it? A. No, sir.
24 BY MR. COLEMAN: Same objection.
25
26

1 By Mr. Hicks:

2 Q. Was it as much as \$5,000? A. No, sir.

3 BY MR. COLEMAN: Same objection.

4 By Mr. Hicks:

5 Q. You don't know?

6 BY JUDGE BROOKE: We object to this line of inquiry
7 also.

8 A. No, but I know it was not \$5,000.

9 By Mr. Hicks:

10 Q. You did not make \$5,000?

11 BY JUDGE BROOKE: Same objection.

12 A. No.

13 By Mr. Hicks:

14 Q. Did you make it the year before?

15 BY JUDGE BROOKE: Same objection.

16 A. No.

17 By Mr. Hicks:

18 Q. Did you make it the year before that?

19 BY JUDGE BROOKE: Same objection.

20 A. I don't know about that.

21 By Mr. Hicks:

22 Q. How about the year before that, the last year of your
23 married life?

24 BY JUDGE BROOKE: Same objection.

25 A. I could not tell you about that.

26

1 By Mr. Hicks:

2 Q. Have you anybody depending on you?

3 BY JUDGE BROOKE: Same objection.

4 A. Not that I know of.

5 By Mr. Hicks:

6 Q. Did you make as much as \$4,000 last year?

7 BY JUDGE BROOKE: Same objection.

8 A. I could not tell you without referring to my books.

9 By Mr. Hicks:

10 Q. Can't you approximate it?

11 BY JUDGE BROOKE: Same objection.

12 A. I might have made it, and I might not.

13 By Mr. Hicks:

14 Q. Don't you know?

15 BY JUDGE BROOKE: Same objection.

16 A. No, I don't know.

17 By Mr. Hicks:

18 Q. Do you farm any other land than that which you just
19 described?

20 BY JUDGE BROOKE: We object to this line of testimony
21 also.

22 A. Yes, sir, I have a small farm there.

23 By Mr. Hicks:

24 Q. Whereabouts is it - in Nansemond County?

25 BY JUDGE BROOKE: Same objection.

26 A. Yes.

1 By Mr. Hicks:

2 Q. How many acres are in that?

3 BY JUDGE BROOKE: Same objection.

4 A. About 80 acres, but I do not tend it all.

5 By Mr. Hicks:

6 Q. What do you do with it?

7 BY JUDGE BROOKE: Same objection.

8 A. I have a darkey there, and he works it on the shares.

9 By Mr. Hicks:

10 Q. Did you buy that farm yourself?

11 BY JUDGE BROOKE: Same objection.

12 A. No, sir.

13 By Mr. Hicks:

14 Q. Was it given you by your father?

15 BY JUDGE BROOKE: Same objection.

16 A. No, sir; my brother and I bought it together.

17 By Mr. Hicks:

18 Q. What did you pay for that farm?

19 BY JUDGE BROOKE: Same objection.

20 A. I think about \$2,800.

21 By Mr. Hicks:

22 Q. When did you buy it?

23 BY JUDGE BROOKE: Same objection.

24 A. I don't remember.

25 By Mr. Hicks:

26 Q. What is its value today?

1 BY JUDGE BROOKE: Same objection.

2 A. Just about what I paid for it.

3 By Mr. Hicks:

4 Q. When you said just now that there was no chance of a
5 reconciliation between you and your wife, you meant you would
6 not be reconciled to her, did you not?

7 A. Yes, under any circumstances.

8 Q. Regardless of what her conduct might be towards you,
9 you would never live with her again?

10 A. No, sir, never.

11

12 RE DIRECT EXAMINATION

13 By Judge Brooke:

14 Q. Was the time you talked with your wife (and I understood
15 it was only one time) after the divorce, or prior to the
16 divorce?

A. It was after the divorce.

17

-----oOo-----

18

19 By Mr. Hicks: I offer now to introduce testimony now on
20 behalf of the defendant, Amelia Elizabeth Kirn, to the taking
21 of which testimony counsel for William H. Kirn object on the
22 ground that no notice of the taking of said testimony has been
23 given; and, thereupon, counsel for Amelia Elizabeth Kirn
24 asked them to state a date on which it would be satisfactory
25 for him to take his depositions.
26

1 By Judge Brooke: In reply thereto, counsel for Mr. W. H. Kirn
2 says we will await the notice of the taking of depositions to
3 be served in accordance with law upon the proper party.
4

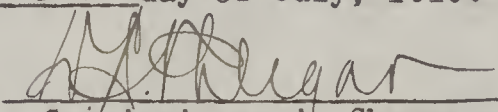
5 -----oOo-----
6
7

8 VIRGINIA,
9

10 City of Norfolk, to-wit:

11 I, D. S. Phlegar, a Commissioner in Chancery for the
12 Circuit Court of the City of Norfolk, Virginia, certify that
13 the foregoing depositions of B. F. Adams, M. W. Armistead
14 and W. H. Kirn were duly taken and sworn to at the time and
15 place and for the purpose in the caption mentioned, and that
16 signatures thereto were waived by counsel.

17 Given under my hand this 8th day of July, 1910.

18 
19 Commissioner in Chancery for
20 Circuit Court of the City of
21 Norfolk, Virginia.
22
23

24 -----oOo-----
25
26

CONFIDENTIAL

1. The purpose of this document is to provide information regarding the activities of the [redacted] and the [redacted] in the [redacted] area.

2. The [redacted] has been identified as a [redacted] and has been [redacted] by the [redacted] and the [redacted] in the [redacted] area.

3. The [redacted] has been identified as a [redacted] and has been [redacted] by the [redacted] and the [redacted] in the [redacted] area.

4. The [redacted] has been identified as a [redacted] and has been [redacted] by the [redacted] and the [redacted] in the [redacted] area.

5. The [redacted] has been identified as a [redacted] and has been [redacted] by the [redacted] and the [redacted] in the [redacted] area.

6. The [redacted] has been identified as a [redacted] and has been [redacted] by the [redacted] and the [redacted] in the [redacted] area.

7. The [redacted] has been identified as a [redacted] and has been [redacted] by the [redacted] and the [redacted] in the [redacted] area.

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9. The [redacted] has been identified as a [redacted] and has been [redacted] by the [redacted] and the [redacted] in the [redacted] area.

10. The [redacted] has been identified as a [redacted] and has been [redacted] by the [redacted] and the [redacted] in the [redacted] area.

11. The [redacted] has been identified as a [redacted] and has been [redacted] by the [redacted] and the [redacted] in the [redacted] area.

Reported by ASR
Transcribed by MMJ
Compared by ASR

STENOGRAPHER'S TRANSCRIPT.

191

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

WM. H. KIRN

vs.) In Chancery.

AMELIA ELIZABETH KIRN.

This cause cameon this day to be heard on the papers formerly read, on the petition of the said William H. Kirn herein filed on the 6th day of June, 1910, praying that the decree a mensa et thoro entered herein on the 15th day of March, 1907, be merged into a decree from the bonds of matrimony between the said William H. Kirn and the said Amelia Elizabeth Kirn; upon the amended and supplemental petition of the said Amelia Elizabeth Kirn filed herein on the 6th day of June, 1910; upon the demurrer thereto of the said William H. Kirn; upon the motion of the said William H. Kirn to dismiss said petition; on the answer and cross-petition of said William H. Kirn to said amended and supplemental petition of said Amelia Elizabeth Kirn, all this day filed; on the depositions of witnesses taken to sustain the said petition, and the said amended and supplemental petition of the said Amelia Elizabeth Kirn, and the said answers and cross-petitions of the said William H. Kirn to said petition and amended and supplemental^{petition}; and was argued by counsel.

Upon consideration whereof the court doth adjudge, order and decree that the decree a mensa et thoro between the said William H. Kirn and the said Amelia Elizabeth Kirn heretofore entered in this cause on the 15th day of March, 1907, be and the same is hereby merged into a divorce a vinculo matrimonii between the said William H. Kirn and the said Amelia Elizabeth Kirn, and that they be perpetually separated from the bonds of matrimony with each other, each being perpetually divorced

from the other in their persons and estates. And the court doth further adjudge, order and decree that the plaintiff William H. Kirn, pay to the defendant, Amelia Elizabeth Hirn, for alimony ~~hereafter~~, the sum of ONE HUNDRED (\$100.00) DOLLARS, per month on or before the tenth day of each calendar month ~~as long as she shall live~~; that the plaintiff pay to the said R. Randolph Hicks, attorney for the defendant, the further sum of One Hundred and Fifty (\$150.00) Dollars, as fees in her behalf; that the plaintiff pay to the said R. Randolph Hicks, the further ^{latter} sum of Ninety-Five and 96/100 (\$95.96) Dollars, which said/sum together with the one hundred and fifteen Dollars heretofore paid to the said Hicks, is to be paid out as follows:- To L. M. Baily, \$2.10; to the Norfolk Protestant Hospital \$63.90 (balance due on its bill of \$148.80), to H. Tilden Smith, \$75.00 to L. L. S. Foster, \$70.00.

~~And the defendant indicating an intention of appealing from this decree, same is suspended for sixty days from this date.~~

But if the said W.H. Kirn shall die before the said Amelia E. Kirn then the matter of the continuance of the said alimony for said amount may be then determined by the Court, as the law may be, at the instance of any party in interest. Neither party being concluded as to such continuance by this provision.

In witness whereof

William H. Kim

¹⁰
Amelia E. Kim

Deans:

Enter, Feb. 25th 1911.

James L. L. Moore

Entered in Chancery Order
Book No. 4. Page 461.

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

WILLIAM H. KIRN,

vs:

AMELIA ELIZABETH KIRN.

IN CHANCERY.

Your petitioner, Amelia Elizabeth Kirn, would respectfully show unto the court, that heretofore, to-wit, in this court, at the September Rules, 1906, William H. Kirn, filed his bill in chancery against your petitioner, asking for a divorce a mensa et toro, the original of which bill is prayed to be read in connection with this petition. Process issued on said bill and on January 16th, 1907, petitioner filed her answer to said bill. Subsequently, to-wit, on the 15th day of March, 1907, the Circuit Court of Nansemond County, entered a decree by which it adjudged, ordered and decreed that William H. Kirn, be divorced a mensa et toro, from your petitioner and further adjudged, ordered and decreed that until the further order of the court, that said William H. Kirn, pay to petitioner, for her maintenance and support, monthly on the first day of each and every calendar month, the sum of \$50.00 and further adjudged, ordered and decreed that said William H. Kirn, pay to Thomas H. Willcox, and A. P. Warrington, counsel for your petitioner, an additional fee of \$200. and also the costs of suit, and then provided as follows: "But this decree is not to be construed as a decree of perpetual separation, and leave is granted to each of the parties to this suit to apply to the court for a revocation there of or for a revision or modification of this decree, as prescribed by law!"

Your petitioner shows to the court, that from the time of the inception of said suit, up to the time of the entry of the decree

above referred to as having been entered on the 15th day of March, 1907, your petitioner was in an exceedingly nervous state and on the verge of nervous collapse, and while she is now improved in health, she still is in a nervous condition, Indeed her condition was such at the time of the entry of the decree of the 15th of March, 1907, that she hardly realized its nature, and has only recently done so.

Your petitioner lived with the said William H. Kirn, as his wife for more than twenty years and during the whole of said time, was to him a devoted and faithful wife and did her duty towards him as best she could, and your orator is now devoted to her said husband and is anxious to again resume marital relations with him.

The decree above referred to, provides for the payment to your petitioner of \$50. per month, a sum totally inadequate to support her in the condition of life in which she is entitled to live and is not commensurate with the means of the said William H. Kirn, he being at this time well provided with worldly goods and the son of one of the wealthiest citizens of this section. The \$50. provided to your petitioner is not sufficient to enable her to have proper medical attention and is hardly sufficient to furnish a healthy woman with the ordinary necessities of life.

Your orator requires immediate medical attention and the record in this case does not disclose any grounds of divorce from your petitioner. The decree granted on the 15th of March, 1908, is not a divorce ~~and hence of force~~ *for perpetual separation* and under said decree, your petitioner is entitled to come into this court and ask for a revocation thereof and for a revision or modification of said decree.

Your petitioner wishes said decree now modified in so far as it separates her from her husband and wishes that said husband be required to make adequate arrangements for her support and

medical attention.

Therefore, your petitioner prays that she be allowed to file this her petition; that said decree of the 15th, of March, 1907, be revoked in so far as it separates her from her husband, William H. Kirn; that this court provide for adequate support of and medical attention to your petitioner, and that she be allowed reasonable attorney's fees for the prosecution of her rights and she prays that the said William H. Kirn be made party defendant to this petition and required to answer same, though an answer under oath is waived. May the decree of March 15th, be revoked and petitioner prays for all such other and further relief as the nature of her case requires or to equity shall seem meet.

And she will ever pray, etc.

R. Randolph May
RZ

PETITION.

WILLIAM H. KIRN,

VS:

AMELIA ELIZABETH KIRN.

Dec 28th 08

R. RANDOLPH HICKS.
ATTORNEY AT LAW.
NORFOLK, VA.

*Filed Dec. 28th, 1908.
M.M.W. D.C.*

IN THE CIRCUIT COURT OF HANSEMOND COUNTY, VIRGINIA.

WILLIAM H. KIRN,

vs:

AMELIA ELIZABETH KIRN.

Your petitioner, Amelia Elizabeth Kirn, would respectfully show unto the court, that on the 28th day of December, 1908, she filed in this cause, her petition which is in words and figures following:

"IN THE CIRCUIT COURT OF HANSEMOND COUNTY, VIRGINIA.

WILLIAM H. KIRN,

vs:

AMELIA ELIZABETH KIRN.

IN CHANCERY.

Your petitioner, Amelia Elizabeth Kirn, would respectfully show unto the court, that heretofore, to-wit, in this court, at the September Rules, 1906, William H. Kirn, filed his bill in chancery against your petitioner, asking for a divorce a mensa et toro, the original of which bill is prayed to be read in connection with this petition. Process issued on said bill and on January 16th, 1907, petitioner filed her answer to said bill. Subsequently, to-wit, on the 15th day of March, 1907, the Circuit Court of Hansemond County, entered a decree by which it adjudged, ordered and decreed that William H. Kirn be divorced a mensa et toro, from your petitioner and further adjudged, ordered and decreed that until the further order of the court, that said William H. Kirn, pay to petitioner, for her maintenance and support, monthly on the first day of each and every calendar month, the sum of \$50.00 and further adjudged, ordered and decreed that the said William H. Kirn, pay to Thomas H.

Willcox, and A. P. Warrington, counsels for your petitioner, an additional fee of \$200. and also the costs of suit, and then provided as follows: "But this decree is not to be construed as a decree of perpetual separation, and leave is granted to each of the parties to this suit to apply to the court for a revocation thereof or for a revision or modification of this decree, as prescribed by law!"

Your petitioner shows to the court, that from the time of the inception of said suit, up to the time of the entry of the decree above referred to as having been entered on the 15th day of March, 1907, your petitioner was in an exceedingly nervous state and on the verge of nervous collapse, and while she is now improved in health, she still is in a nervous condition, Indeed her condition was such at the time of the entry of the decree of the 15th of March, 1907, that she hardly realized its nature, and has only recently done so.

Your petitioner lived with the said William H. Kirn, as his wife for more than twenty years and during the whole of said time, was to him a devoted and faithful wife and did her duty towards him as best she could, and your oratrix is now devoted to her said husband and is anxious to again resume marital relations with him.

The decree above referred to, provides for the payment to your petitioner of \$50. per month, a sum totally inadequate to support her in the condition of life in which she is entitled to live and is not commensurate with the means of the said William H. Kirn, he being at this time well provided with worldly goods and the son of one of the wealthiest citizens of this section. The \$50. provided to your petitioner is not sufficient to enable her to have proper medical attention and is hardly sufficient to furnish a healthy woman with the ordinary necessities of life.

Your oratrix requires immediate medical attention and

the record in this case does not disclose any grounds of divorce from your petitioner. The decree granted on the 16th of March, 1908, is not a divorce a mensa et toro and under said decree your petitioner is entitled to come into this court and ask for a revocation thereof and for a revision or modification of said decree.

Your petitioner wishes said decree now modified in so far as it separates her from her husband and wishes that said husband be required to make adequate arrangements for her support and medical attention.

Therefore, your petitioner prays that she be allowed to file this her petition; that said decree of the 10th of March, 1907, be revoked in so far as it separates her from her husband, William H. Kirn; that this court provide for adequate support of and medical attention to your petitioner, and that she be allowed reasonable attorney's fees for the prosecution of her rights and she prays that the said William H. Kirn be made party defendant to this petition and required to answer same, though an answer under oath is waived. May the decree of March 15th, be revoked and petitioner prays for all such other and further relief as the nature of her case requires or to equity shall seem meet. And she will ever pray, etc."

Your petitioner here reiterates all of the allegations of the above set out original petition and prays that they be herein treated as herein again alleged, and petitioner avers by way of amendment and supplement to said original petition, that the decree referred to in said original petition allows her the sum of \$50.00 per month for her maintenance and support.

Petitioner has no means of her own and no one to whom she can look for succor, save her husband, William H. Kirn. The sum of \$50.00 per month allowed in said decree is not sufficient to afford her the ordinary comforts of life and

is insufficient to maintain her in the condition in life to which she is entitled. Since said allowance was made the prices of the necessities of life have greatly increased and petitioner finds herself unable to live on the sum of \$50.00 per month.

Since the entry of the decree of March 15th, 1907, referred to, which decree is referred to as a part hereof and attached as a part hereof marked exhibit "A", petitioner's health has become much impaired and to-day, she is a nervous and physical wreck requiring the most skillful treatment by medical practitioners and is now in urgent need of treatment in some sanatorium where she can have rest and freedom from the worries of every-day life. Petitioner is entirely without funds to obtain medical treatment of any character. As has been stated, the sum of \$50.00 per month hereinabove referred to, is all that petitioner has and said sum is insufficient to supply the ordinary necessities of life much less medical treatment necessary to her recovery and unless the sums necessary to defray the expenses of such medical treatment are supplied by her said husband, William H. Kirn, there is no way in which she can obtain such funds.

Petitioner is without the means of paying counsel to assert her rights in this cause and her condition is such that she is peculiarly in need of counsel to represent her and protect her rights.

Since the entrance of the decree of March 15th, 1907, petitioner's husband, William H. Kirn, has increased his

wealth and is now in affluent circumstances. He is now amply able to provide for petitioner, not only the necessities of life but the comforts of life and even luxuries. While petitioner is thus living in the greatest penury with no means of obtaining the medical attention which her physical and mental condition requires, her husband, William H. Kirn, is living in the enjoyment of the comforts and luxuries of life.

The decree of March 15th, 1907, was entered on the alleged ground of cruelty of your petitioner towards the said William H. Kirn. If your petitioner was ever guilty of any of the acts of cruelty alleged to have been committed by her, she has no knowledge thereof and if said acts of cruelty were committed by her then petitioner was in such mental and physical condition at the time they were alleged to have been committed, that she did not appreciate the character of said acts. Petitioner, however, denies that she is guilty of ever having committed said acts of cruelty. While your petitioner is now ill as above alleged, she is now mentally and physically unable to at this time be cruel to her said husband William H. Kirn, except in so far as the care of a delicate wife may be the infliction of cruelty upon her husband.

Your petitioner reiterates the prayer of her original petition and in addition thereto, she prays that this court decree that the said William H. Kirn, shall pay to her monthly, a sum of money adequate for her support under the conditions obtaining to-day, and in addition thereto, provide the medical attention to your petitioner which her condition demands as hereinabove set out; that said William H. Kirn be required to pay to your petitioner or her attorney, reasonable attorney's fees for the prosecution of her rights and may the said William H. Kirn be made party defendant to

this amended and supplemental petition and required to answer the same though an answer under oath is expressly waived, and your petitioner prays for all such other and further relief as the nature of her case may require or to equity shall seem meet.

And in duty bound, she will ever pray etc.

Amelia Elizabeth Kew
by Counsel

R. Han Bepth Bely
Counsel

P E T I T I O N .

WILLIAM H. KIRN,

VS:

AMELIA ELIZABETH KIRN.

1910 June 6th. filed
JLM.

R. RANDOLPH HICKS.
ATTORNEY AT LAW,
NORFOLK, VA.

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

William H. Kirn.

vs.

Amelia Elizabeth Kirn

)
)
)
)
)

IN CHANCERY.

The petition of William H. Kirn, complainant in the above entitled cause, respectfully shews unto your Honor the following case:-

1. That heretofore, to-wit, on the 15th day of March, 1907, this cause came on to be heard upon the bill and answer, the depositions of witnesses duly taken according to law, and upon the other proceedings theretofore had therein, and was argued by counsel; whereupon the Court having duly considered of its decree to be entered therein, did adjudge, order and decree that the plaintiff be divorced a mensa et thoro from the said defendant;

2. That the grounds upon which the said decree was entered were cruelty on the part of the said defendant toward the said plaintiff, and the fear of bodily harm to the said plaintiff at and from the hands of the said defendant;

3. That three years have fully elapsed since the entering of the said decree, and no reconciliation between the parties has taken place, nor is one probable, and the separation between them decreed has continued without interruption since the granting of the said divorce.

Wherefore the petitioner prays that the said decree of divorce so granted, as aforesaid, may be merged into a decree for a divorce of the said petitioner from the bonds of matrimony with the said defendant. And he, the said petitioner, will ever pray &c.

Columan, Brooks & Hall and
P. yf.

Wm H. Kirn
By Counsel

1910 June 6th field
H.M.

WILLIAM H. KIRN,)
vs) IN CHANCERY.
AMELIA ELIZABETH KIRN,))

E. W. Coleman
E. E. Holland
Theodor Brooke
Atty for W. H. Brown

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

WILLIAM H. KIRN

vs.

In Chancery.

AMELIA ELIZABETH KIRN.

The motion of William H. Kirn, plaintiff, to dismiss the petition of Amelia Elizabeth Kirn, defendant, filed herein on the 28th day of December, 1908.

The said William H. Kirn moves to dismiss the said petition and alleges the following grounds for his said motion:

1st. Because the proceedings in the suit in which the decree complained of in her petition was entered show that said suit was pending in a court which had full jurisdiction; that of its pendency the petitioner had full notice; that in said suit she was represented by able counsel and full opportunity to be heard was afforded her; that all the proceedings in said suit were regular; that the court in which said proceedings were had, after full consideration of the evidence offered and the argument of counsel, determined said suit, on its merits, by entering the decree complained of; and that said decree so entered constitutes a full and complete bar to any other proceedings between the same parties on all matters directly involved in and within the purview of the pleadings in said suit.

2nd. Because all the facts, circumstances and conditions alleged in the petition have already been duly and regularly litigated between the parties, and the revocation, modification or revision of the decree as prayed for in said petition would be a reversal of said decree without adequate cause and in a manner not provided for by law.

WHEREFORE, the said William H. Kirn prays that said petition may be dismissed.

W. H. Coleman
E. E. Halland
Thomas Brown } p. 97

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

William H. Kirn,

Plaintiff,

VS.

Amelia E. Kirn.

Defendant.

To the Honorable Judge of said Court:-

The Answer of Amelia E. Kirn to a Bill in chancery exhibited against her in the above named court by the above named plaintiff.

For answer to said bill, or to so much thereof as she is advised it is material and proper for her to answer, and without waiving any exception to said bill by reason of the many errors and imperfections therein contained, this respondent answers and says:

(1) That she admits she was married to the said William H. Kirn as in said bill alleged, and that they have lived together until last September, in the County of Nansemond, near the village of Churchland.

(2) This respondent denies, however, that she has been guilty of any of the alleged misconduct set out and charged in said bill, or that she has been cruel or unkind to her said husband, or that she has been guilty of any conduct which justifies him in being apprehensive or in danger of any bodily harm or injury at her hands; and she calls for strict proof of such allegation.

And having fully answered, this respondent prays to
be hence dismissed. *G. P. Warrington* 2-1

G. B. Warrington
Mrs A. H. Warrington

Circuit Court Nansemond Co

Wm. H. Kirn, Pltf.

vs.

Amelia E. Kirn, Dft.

ANSWER.

Filed Jan'y 16th 1907

THOMAS H. WILLCOX,
ATTORNEY AT LAW,
206 MAIN STREET,
NORFOLK, VA.

Burke & Gregory, Print. Norfolk

William H. Kirn,)
vs) In Chancery.
Amelia Elizabeth Kirn,)

amended

Your respondent and petitioner admits as true the recitals in the said petition of the proceedings had herein prior to the filing of the said petition, but ~~his~~ he denies the allegations in the said petition contained, that the said Amelia Elizabeth

He further denies that the amount of \$50.00 per month allowed her for her maintenance by said decree is inadequate for her proper support.

And further answering this respondent and petitioner says that he is advised and therefore charges that the decree of March 15,

1907, above referred to, is a decree a mensa et toro, as it purports to be; that the provision therein inserted that it "is not to be

"construed as a decree of perpetual separation",

was so inserted to prevent the said decree from operating under sec. 2264, Code of 1904, "upon the property thereafter acquired, and

"upon the personal rights and legal capacities of the parties

"as a decree for a divorce from the bond of matrimony",

and thus make effective the further provision in the said decree

"that each party may have leave to apply to the court

"for a revocation thereof, or for a revision or modification

"thereof, as prescribed by law".

but that no modification, revision or revocation thereof can or will be granted without the allegations and proof of new matter arising since the entry of the decree aforesaid; and that to revoke, modify or revise the said decree solely upon the record as it stood at the date of said decree would be simply to reverse the former decree for error therein, which is not contemplated by the statutes, and make no end of controversy.

And, now, having fully answered the said petition of the said Anelia Elizabeth Kirk, your petitioner by way of cross petition thereto respectfully alleged and prays as follows:-

I. That the said decree of March 15, 1907, was a decree of divorce from bed and board; that the said decree was based upon the ground of cruelty, and not desertion; that more than three years have elapsed since the entry of said decree; that no reconciliation has taken place or is probable, between the parties hereto; and that the separation granted by said decree has continued without interruption since the entry of said decree;

2 Therefore your petitioner prays that the said Anelia Elizabeth Kirk may be made a party to this his cross petition and required to answer the same, but an answer under oath is expressly waived; and that the said decree of separation from bed and board, entered

herein on the 15th day of March 1907, may be merged into a decree
of divorce from the bonds of matrimony between the parties hereto.
And he will ever pray &c. &c.

C. W. Coe
E. E. Holland
D. Tucker Brooks

atys for
W. H. Kent.

IN THE CIRCUIT COURT OF NORFOLK COUNTY
TO THE HON. R. R. PRENTIS,

JUDGE OF SAID COURT.

Your orator, Wm. H. Kirn, humbly complaining, sheweth unto the court the following case.

1st.--On the first day of November, in the year 1883, in the City of Philadelphia, in the State of Pennsylvania, your orator was lawfully married by Rev. Enock Stubbs to Amelia E. Kirn, whose maiden name was Amelia E. Baker.

2nd.--From the time of their marriage until a short time ago, your orator and his wife lived together in the County of Hansemond, in the State of Virginia, in which county they last cohabited as man and wife.

3rd.--About ten years ago, there was born unto your orator and his wife a son, who died when he was about six months old. This child was the only child that has ever been born unto your orator and his wife, so that they are now without children.

4th.-- Your orator does not pretend that during his married life he has been wholly faultless, or that he is free from the common infirmities of human nature, but he does aver and allege that he has never given to his wife provocation for bad treatment, and that, except when driven to exasperation by her unreasonable, cruel and relentless conduct, he has ever been a tender and loving husband to her, and that, under all circumstances, even the most trying, he has always been true, faithful, dutiful and indulgent towards her, providing for her support, comfort and happiness as best he could.

5th.-- Your orator further avers and alleges that about seven or eight years ago, the conduct of his wife became unreasonable and all but intolerable; that she began to accuse him of infidelity to her and improper conduct and adultery with other women, and that, although he assured her that her accusations and charges were absolutely groundless, she persisted in them,

that in the hope that confidence, domestic peace, harmony and happiness might be restored, he submitted to such humiliations and indignities from his wife as, he believes no husband is required to endure,- but in this hope he has been disappointed, matters having grown from bad to worse.

6th.-- Your orator further charges and alleges that notwithstanding his long-suffering, patience, and endurance, his wife, without just cause or any cause, did often fly into the most violent fits of passion and use the most abusive language to him, that she would not allow the servants to cook food for him, that often, after the food was cooked, she would throw it from the table to prevent him from eating it; that to keep her from doing him threatened bodily hurt, he has been often forced to leave his bed and room and home and spend nights in the barn and outhouses, that she sometimes kept him locked out of the house at night for hours at the time, while she was in the house; that she wantonly killed the shrubbery and trees in his yard by pouring kerosene oil around them; and that she broke up some of his furniture and sold some without his consent, leaving his home bare and desolate; that time and again when he refused to submit to the most unreasonable demands, she has struck him and torn his clothing from him; that she often threatened, unless he submitted to the most unreasonable and humiliating demands made by her, to do him bodily hurt; sometimes she threatened to throw a lighted lamp into his face; sometimes to throw boiling water on him, sometimes to stab him with a knife, and even threatened him with a pistol.

7th.-- Your orator avers that he submitted to all these annoyances, threats and dangers at the risk of endangering his health and of suffering most serious bodily hurt, in the hope that her conduct might be changed and the peace and happiness of his home restored- but again and again he has been disappointed.

Recently, in the beginning of this month of September, the

conduct of your orator's wife became so violent that it could not longer be borne- she struck your orator repeatedly in the side in the middle of the night, and threatened him with a lighted lamp and knife, if he should attempt to leave the room. To protect himself your orator was compelled to hold her hands to keep her from doing him bodily hurt. And he has been forced to leave his home and fears to return to it and again to attempt to live with his wife.

From all these and other acts of cruelty and outrage, your orator charges and alleges that he cannot live with his said wife without the greatest danger to his health and without reasonable apprehension of bodily hurt.

In consideration where of and for as much as your orator is remediless, save in a court of equity, he prays that the said Amelia E. Kirn may be made defendant to this bill and be required to answer the same, answer under oath being expressly waived, that she be restrained and enjoined from interfering with or in any way molesting your orator, or any property that belongs to him, that your orator may be divorced from the said Amelia E. Kirn, a mensa et thoro; and that all such other, further and general relief may be afforded to your orator as may be just and right in the premises--And your orator will ever pray, etc.

*b. W. Coleman
E. E. Hall and Reg.*

STATE OF VIRGINIA

To-wit;

William H. Kirn

COUNTY OF HANSEMOND

I, *E. F. Mitty*, a Notary Public for the County aforesaid, in the State of Virginia, do certify that W. H. Kirn personally appeared before me in my *county* aforesaid, and made oath that the allegations contained in the foregoing bill are true.

Given under my hand this *18th* day of September, 1906.

My commission expires on the *30th* day of *April* 19*10*

E. F. Mitty

Notary Public

Bill.

C. W. COLEMAN
ATTORNEY AT LAW
KIRN BUILDING, PORTSMOUTH, VA.

Wm H Keim
VS Chancery
Amelia E Keim

1906. Sept. 5th Process issued returnable
to September rules 3rd Monday.
" " 17 Process returned executed
on the defendant
Bill filed and decree
nisi against her.
" Octo 1. Decree nisi confirmed
and Cause set for hearing

Chancery
Notes.

Office of R. Randolph Hicks, Esq.,

Norfolk, Virginia, January 5th, 1911.

Met pursuant to adjournment.

PRESENT: Same parties as heretofore.

DR. W. TILDEH SMITH, being duly sworn, testified as follows:

Examined by Mr. Hicks:

Q. Please state your age, occupation and residence?

A. Thirty-four years old; 30 Olney Road, Norfolk, Virginia; physician.

Q. How long have you resided in Norfolk, Doctor?

A. Since 1904.

Q. Are you acquainted with Mrs. Amelia Elizabeth Kirn, the wife of William H. Kirn?

A. She came to me as Mrs. W. H. Kirn; she told me when I first saw her she was Mrs. W. H. Kirn, and I have her on my books by that name.

Q. Have you ever treated her? A. I have.

Q. When did you first begin to treat her?

A. In April, 1910.

Q. What was the trouble for which you treated her at that time?

A. I had better go to the beginning when I first saw her.

1 Q. Give the history of your treatment of her?

2 A. She came to me sometime in April with inflammation of the
3 vagina, or vaginitis, and some trouble with her left limb;
4 she complained of not being able to walk - not satisfactorily.
5 She came to my office once in April to consult me about it. I
6 treated her vagina for leukorrhea, commonly known as the whites,
7 and painful urination and frequent urination. She saw me
8 again in May and in June, at which times she was not suffering
9 so intensely, but at times more than others, suffering so much
10 she could not get around, could not walk about very much. She
11 saw me in July. At that time she sent for me to come to West
12 Norfolk. I saw her there, and she was running some temperature,
13 and seemed to be suffering a great deal, and unable to treat
14 her as well as I would like, and as I would like, in West
15 Norfolk, I asked her if she could not come into the hospital,
16 and she said she was not able to go into the hospital, and
17 referred me to Mr.Hicks. I communicated with Mr.Hicks, and
18 Mr.Hicks advised me if it was necessary to take her to the
19 hospital. I sent her to the Protestant Hospital, and treated
20 her there for these troubles I have just mentioned for about
21 four weeks. I do not remember just the exact time she was
22 there, but about four weeks. She was at the same time suffer-
23 ing with some neurasthenia - neurasthenia or nervous trouble.
24 After being at the hospital possibly a week or more I suggested
25 to Mr.Hicks that somebody should see her, a specialist along
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1 that line, and I suggested Dr. Foster, who saw her with me
2 from then on. From that time until she left the hospital,
3 which was possibly three weeks, Dr. Foster saw her with me.
4 Sometimes we would see her together, and then he would see her,
5 and I would not, and I would see her when he would not. Dr.
6 Gwathmey also saw her in consultation, and made the vaginal
7 examination, and found vaginitis, and I treated her with
8 medicated tampons - that is, pieces of cotton with medicine
9 put on the cotton and placed high up in the vagina; also
10 had electricity and massage given her left limb, tonics and
11 some forced feeding. While she was there possibly one time
12 she menstruated, the least little bit. I would hardly know
13 whether it was menstruation or some blood being discharged
14 on account of severe vaginitis. Would it be well for me to
15 go into the history that she gave me?

16 Q. Yes, I would like for you to go into it fully.

17 A. In finding out her condition, since it was my first seeing
18 her, it was necessary for me to go into details about her
19 past sickness, etc., which I think is the custom of all
20 physicians. I questioned her as to her age, as to her regularity
21 or irregularity of her menses and as to childbirth, etc., and
22 whether or not she was married, etc. She told me she had
23 given birth to one child, and had had one miscarriage, at
24 which time her child had died, from which miscarriage she
25 was sick a long time, and lost the use of her left limb about
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1 a year. She might have told me the number of months, but
2 about a year, I think she did not walk at all on her left
3 limb, and had profuse hemorrhages. For the last two or
4 three years she has been very irregular in her menstrual
5 period, sometimes two and three times a month. Again,
6 possibly two or three months not seeing any menstrual flow,
7 and some of the times flowing very profusely - as she express-
8 ed it to me flooded almost away. Also she told me that this
9 limb had never been right since she had this miscarriage,
10 and following this flooding, as she expressed it. She said
11 sometimes the left limb would give away, and she would fall
12 in the street, and without any pain or reason for it. She
13 would fall in the street, or walking along at any place.
14 She seemed to be quite nervous. On her second, third or
15 possibly fourth visit to my office I went into the question
16 of the nervousness, and she broke down and cried about it,
17 and said she did not feel like telling me all her affairs;
18 I thought possibly I could help remove some of them in some
19 way, and come to a conclusion to definite treatment. I saw
20 in time she told me about her affairs, that she and her
21 husband did not get along well, and at that time they were
22 not living together, and it seemed to be worrying her a great
23 deal that her husband was trying to get a divorce from her,
24 or rather, as she expressed it to me, her husband's father.
25 She did not think her husband wanted a divorce, that she loved
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Dr Tilden Smith

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1 him as well as she ever did in her life, and she did not
2 want a divorce, and she did not think he wanted a divorce
3 from her, but it seemed her husband's father, for some reason,
4 despised her, and wanted Billy to get a divorce from her.
5 Every time she would come to my office she would mention it
6 in some way, shape or form. After she was at the hospital,
7 in consulting with Dr. Foster, we decided we would not let
8 anybody see her at the hospital to bring up this matter especial-
9 ly, because of her nervous condition, and seemingly every time
10 it was mentioned it would excite her and make her much more
11 nervous. During this time at the hospital she was not
12 questioned one way or the other, or allowed to talk to us or to
13 the nurses or anybody concerning her nervousness. After she
14 came back from the hospital I would not let her mention any
15 of this unpleasant, we may call it, part of her life, and
16 she improved in all her conditions, and ate better, and was
17 not so nervous. When she left the hospital she was really
18 more improved than we expected. Her vaginitis was cured,
19 her leukorrhea was nothing at all, and she was sent from the
20 hospital practically, as far as that time was concerned,
21 cured, with the possibility of some little nervousness, but
22 for the things I treated her for she was all in good shape
23 with the exception possibly of that limb; that limb gave
24 her some little trouble. She left the hospital some little
25 time in August, coming to my office possibly once in a week
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D. S. PHLEGAR
SHORT-ND REPORTER
832-533 LAW BLDG.
NORFOLK, VA.

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Dr Linden Smith

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1 or ten days until September or October. In October she sent
2 for me again. I saw her in West Norfolk, and found her suffer-
3 ing from a terrible sciatic rheumatism in this limb, which
4 had given her trouble for so long, and prescribed for her, but
5 she continued to suffer a great deal, and sent for me several
6 times, and in such an out of the way place to get to I again
7 called up Mr. Hicks, and told him it was out of reason for me
8 to go back and forth to West Norfolk to see her as often as
9 necessary, and asked him for advice. He said if the woman
10 was suffering a great deal, and if I thought it was necessary
11 to take her to the hospital again. I had the ambulance to go
12 over and take her to the hospital, and treated her about three
13 weeks. I think she left the hospital the day before Thanks-
14 giving, and she was in very good shape. She was taking practical-
15 ly no medicine except tonic, some salicylate. That was about
16 the only thing she was taking at that time. She went home
17 in good shape, and has seen me in my office two or three times
18 since then, and had improved from the trouble that she had,
19 the sciatic rheumatism, a great deal. While she was there,
20 it was necessary also to blister the whole limb. It was a
21 very stubborn case of sciatic rheumatism. Those who know
22 anything about it know that it is a troublesome thing to treat.
23 She came to my office possibly ten days ago, saying that she had
24 been to Mr. Hicks' office, and said "I am afraid, Doctor, that
25 Billy wants to get a divorce from me, and I wish you would,
26

1 since I feel you have been interested in my case. I certainly
2 hope you will bring everything to bear possible for him not
3 to get the divorce." She said "I know I told you not to say
4 anything about it, but I have just been to Mr.Hicks' office,
5 and I want to mentioned it before I leave." She was standing
6 at the door about to leave.

7 Q. Can you state whether or not she has passed through what
8 is commonly known as change of life?

9 A. I think she has, although she may yet menstruate. To my
10 knowledge she has not menstruated since she was at the hospital,
11 and she tells me she has not for the last four or five months.

12 Q. How long does the change of life in a woman ordinarily
13 last?

14 A. Usually two or three years, and it may run on to seven or
15 eight. She may stop her menstruating, and never have any symptoms
16 at all attending her.

17 Q. Did she have any symptoms described to you of a woman
18 going through the change of life?

19 A. Yes, sir, a great many; the hot flushing she complained
20 of and the flooding she complained of and the vaginitis and
21 the leukorrhea. They are all symptoms. There is not any
22 one particular symptom of it, but if taken all together are the
23 large majority of cases.

24 Q. Would the nervous condition be indicative?

25 A. The nervous condition in possibly fifty per cent of the
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1 cases, and it even goes on to insanity sometimes.

2 Q. Was it your opinion at that time she was going through
3 the period of change of life since you had been treating her?

4 A. It seems what I have treated her for a good deal of it
5 has been due to change of life.

6 Q. Doctor, can you state whether or not she knows that she
7 is divorced?

8 A. I can state firmly that she absolutely knows that she
9 is not divorced. She tells me that they are separated, that
10 they have not lived together for a while. The last time she
11 was at my office she told me Billy was trying to get a divorce
12 from her.

13 Q. Is her condition of health such as requires careful treat-
14 ment and great care, or not?

15 A. I think it is, yes. For sometime yet I think it will be
16 necessary for her to be cared for and treated. Certainly
17 until she passes through what she is passing through now.
18 I do not think she is entirely over the change of life, and
19 I think it will be necessary for sometime.

20 Q. To what do you attribute that condition of the left limb
21 you described?

22 A. It is possible she suffered a slight stroke of paralysis
23 in that limb, from what she tells me, not being able to use
24 it for over a year. She told me just before she was confined
25 to her bed she had this profuse flooding following the
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1 miscarriage. She might have had the milk leg, as they call
2 it. I do not know what it was due to unless slight paralysis.
3 Q. Do you notice that the discussion of her marital relations
4 has any effect on her, or not?
5 A. How is that?
6 Q. Does the discussion of her marital relations with Mr.
7 Kirn have any effect upon her nervous condition?
8 A. A great deal every time it is mentioned.
9 Q. How does it affect her?
10 A. Twitching of muscles, or fitting her hat on straight, or
11 pulling her cuffs, or pulling on her gloves, and especially
12 a twitching of the head. I do not mean that is every time,
13 but she has a nervous tension brought out possibly by a flush,
14 or talking almost at random. She seems to forget where she is
15 when you mention the question of her married life, or divorce,
16 or the question of separation. It seems to excite her.
17 Q. Does it produce any decided effect on her?
18 A. It does. That is why we always tell her not to mention
19 it, when she came to the office.
20 Q. Does she talk connectedly about it?
21 A. She does not. She goes from one thing to another right
22 along.
23 Q. Do you believe, from your treatment of her, that she
24 knows that a divorce was obtained by her husband from her
25 three years ago - that she is aware of it to-day?
26

1 A. No, sir, absolutely.

2 Q. From your treatment of her, did you ascertain from her
3 that she was a divorced woman up to this time?

4 A. Until I was told by you yesterday, I did not know that
5 she was divorced. It was a surprise to me - until yesterday
6 when you told me.

7 Q. Can she discuss the question of her relations with W.H.
8 Kirm coherently with you?

9 A. Not entirely satisfactorily. Of course she can touch
10 on things and tell how she got along for the twenty years
11 that they were married, and how she did, and then she will
12 begin to say "How I ran down the road to meet him," or how
13 she ran down in the field to carry messages to the colored
14 hands, and began flooding, and that he deserted her at the
15 time she most needs him, and breaks down and cries. She
16 will not satisfy you on any subject on which you are trying
17 to gather anything from her, and go along on that line.

18 Q. Doctor, what is the amount of your medical bill against
19 her for the services you have rendered?

20 A. I believe I have it in my pocket. (Witness refers to paper).
21 Do you want the itemized statement? The amount is \$75. That
22 is up to date. I have sent a statement of \$45, and it is
23 \$29 since then.

24 Q. Will you file it.

25 NOTE: The paper referred to is filed as an exhibit
26

1 in this case.

2 Q. Is her condition such that she requires careful medical
3 attention?

A. I think so.

4 Q. What character of medical treatment do you think she
5 ought to have?

6 A. This limb is not entirely all right, for one thing.
7 She has what is commonly called neurasthenia at times. She
8 seems to be nervous, and at times - she will need treatment
9 for that, I expect, longer than some other things. She is
10 likely, until this menstrual period is settled or over, a
11 change of life, she will need treatment along that line.

12 Q. From the symptoms you observed in her, do you consider
13 that this period of change of life has been going on for
14 some time?

15 A. Yes, certainly since I
16 have been seeing her.

17 Q. What is your opinion of prior to that time?

18 A. I think she has been having change of life possibly two
19 or three years - that is from the history that she gave me.
20 I have no reason to think so except the history she gave me
21 about her irregular menstruation, etc.

22 Q. Could you observe in her any belief on her part of a
23 conspiracy against her of any kind?

24 A. Before going to the hospital she came to my office and
25 asked that I would not let Mr. Kirn - I don't know what his
26 initials are, but the father - that she would not go to the

1 hospital unless I promised her that I would not let him know
2 it, or not let any outside party know it except Mr.Hicks,
3 and those who had to treat her in the hospital. She just
4 believed that Billy's father, if he could, would, since he is
5 so rich, he would pay anybody anything in the world to do her
6 an injury, and may be even take her life. She said "I don't
7 hardly know what to think about it now, but I have been to
8 his house, and he has it in for me some how, and it has
9 broken up our home, Billy and myself." She said "If I go there,
10 I don't want you to let any company or anybody come to see me
11 at all, and not let anybody know I am in the hospital."
12

13 Q. Are those the terms upon which you put her in the
14 hospital?

15 A. She would not go to the
16 hospital unless I promised that, and the nurses, so far as I
17 know, don't know - they know that it is Mrs.W.H.Kirn, as it
18 appeared on the admittance card, from West Norfolk. That is
19 the only thing, so far as I know, that they know about it,
20 or the entrance in the hospital, or any other physician except
21 Dr.Foster.

22 Q. Can Mrs.Kirn get the medical attention that her condition
23 requires for the monthly \$50?

24 A. Not since I have been attending her.

25 BY JUDGE BROOKE: Note that all of the foregoing
26 questions and answers which relate to the cause of
the decree of divorce hereinbefore entered, and all

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Dr Selden Smith

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1 which relate to the causes of such decree, and all which
2 relate to matters which anti-date the said decree,
3 are objected to as irrelevant, and because the said
4 decree of divorce is res adjudicata between the
5 parties thereto, and cannot be reopened by any matters
6 existing theretofore which were then the subject matter
7 of the suit brought for that purpose; that all of the
8 testimony of the witness giving the statements made to
9 him by the defendant are objected to as hearsay, and
10 especially all those statements which did not consti-
11 tute apart of the history of her sickness; that all
12 of the testimony relating to her condition since the
13 decree of divorce was granted, and at the present time,
14 is irrelevant and inadmissible under these proceedings,
15 especially in that if they are intended to affect the
16 decree of divorce aforesaid as to the alimony allowed
17 her under that decree, because the conditions have
18 not been shown to exist in this case which under the
19 statutes authorize the re-opening of that decree for
20 the purpose of making any other disposition of the
21 property of the plaintiff. By consent of counsel,
22 these objections are here noted at the conclusion of
23 the direct examination of this witness instead of
24 concurrently as it was taken.
25
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CROSS EXAMINATION

By Judge Brooke: Without waiving the objections heretofore noted, counsel proceeds to cross examine the witness as follows:

Q. Doctor, you say you first saw Mrs. Kirn in April, 1910?

A. Yes, sir.

Q. You know nothing of her condition, or circumstances of life, or marital relations, or marital troubles, prior to that time except as acquired by information given by her to you, or by some one else to you?

A. Nothing at all.

Q. When was the last time you saw her professionally?

A. About ten days ago; I don't remember the date. I could if I had my call book here.

Q. I think you said that she left the hospital the last time, you think, the day before Thanksgiving?

A. I think so.

Q. And that she called on you professionally at your office - it was at your office, wasn't it?

A. Yes, sir.

Q. (Resuming first part of last question) - - thereafter about every week or ten days, or something like that?

A. That referred to the first time she was at the hospital. The last time she was at the hospital she called on me two or three times at my office since the 24th of November.

1 Q. Then I understand since she left the hospital the last
2 time, the day before Thanksgiving Day, she has called on you
3 professionally two or three times?

4 A. Two or three times.

5 Q. For what specific phase, if any, of her trouble did you
6 treat her on these two or three occasions that she came to
7 see you after leaving the hospital in November last?

8 A. To consult me whether or not to continue the medicine
9 which she was taking and rubbing with, and the last time she
10 was there she did not consult me about anything specially,
11 but said that she was feeling pretty good now, and she said
12 "I am getting around pretty good now without much discomfort,
13 and if you do not think it necessary I will not get the
14 medicine filled any more."
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18 DR. L.S. FOSTER, being duly sworn, testified as follows:

19 Examined by Mr. Hicks:

20 Q. Doctor, will you state your age, residence and occupation?

21 A. Age fifty-four; my actual residence is Williamsburg,
22 but I am staying in Norfolk.

23 Q. Do you make any specialty?

24 A. I make a specialty of the diseases of the nervous system.

25 Q. Are you acquainted with Mrs. W.H. Kirn?

26 A. Yes, sir.

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Dr. L. S. Foster.

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1 Q. Have you ever treated her? A. I have.

2 Q. Will you please state when, and for what you treated her,
3 and what was her condition?

4 A. She came to my office on the 9th of July, I think. I
5 made an examination on that day, and found that she was
6 suffering with neurasthenia.

7 Q. Will you please describe her condition?

8 A. I found her a typical case of neurasthenia. She was very
9 nervous, depressed at times, especially when the subject of
10 her marital relations were mentioned. She also had habit
11 spasm, which was due to her nervous condition. Neurasthenia
12 is simply a fatigue neurosis.

13 Q. How long was she under your care, and what treatment did
14 you give her?

15 A. I attended her from that time, the 8th of July, until -
16 I think the last time I saw her in my office was the 6th of
17 September. She was at the Protestant Hospital, I think, four
18 weeks, and I attended her there. Four weeks of that time I
19 see that she was in the hospital. I see from my books I
20 visited her at the hospital on the 12th of July, but what date
21 she went there I don't know. I saw her at my office on the
22 9th, and next saw her on the 12th.

23 Q. You say she has neurasthenia; what is it produced by?

24 A. From my examination I concluded that the trouble was
25 brought on by mental worry and anxiety, and that is one of
26

1 the most fatal troubles, barring overwork.

2 Q. Could you form any estimate of the extent of it, and
3 how long it lasted?

4 A. From the condition I found her in, she evidently had it a
5 long time; I would not like to say, but two or three years,
6 at least.

7 Q. What is neurasthenia? How does it affect? Inform us as
8 to what are the symptoms?

9 A. Do you want to know the definition?

10 Q. No, but I want to know what it is. What was her condition?

11 A. Neurasthenia is simply nervous exhaustion. It is a
12 fatigue neurosis, brought on from worry, overwork and mental
13 excitement - that is care, mental care.

14 Q. What effect would the fact that a woman was going through
15 what is known as change of life have on a condition of that
16 kind? Would one produce the other?

17 A. The change of life symptoms, accompanied with worry,
18 is frequently the cause of neurasthenia.

19 Q. Was she, at that period, undergoing a change of life?

20 A. She was.

21 Q. In the examination of her, did you ascertain anything about
22 her domestic relations?

23 A. I only discovered that her husband had left her.

24 Q. What was the condition of her mind when the matter of her
25 marital relations were discussed?
26

1 A. She was very much disturbed at that time, and seemed to
2 be greatly distressed. She seemed to be afraid that Mr.
3 Kirn was going to get a divorce.
4

5 Q. Did she know that a divorce had been obtained from her?

6 A. She had no idea of it.

7 Q. Do you think her domestic relations had anything to do
8 with her nervous condition?

9 A. I think so. I do not think there is any question about
10 it - that, together with the other trouble, all going on at the
11 same time, made the woman depressed and nervous and irritable,
12 and also made her suspicious.

13 Q. Did she seem to be under any illusion or delusion about
14 the cause of her domestic trouble?

15 A. I would not like to say that they were either illusions
16 or delusions, but it was natural reasoning with her; she
17 suspected that Mr. Kirn, Sr., had influenced her husband to
18 leave her. That seemed to be the extent of the knowledge
19 of the relationship, that Billy, as she called him, had left
20 her, and he was not giving her sufficient money to take care
21 of her, and that was enough to make her nervous.

22 Q. From your examination of her, did she have any knowledge
23 of why Billy had left her?

24 A. She did not seem to know. It would be improper for me to
25 say what she said, but in the course of my examination I found
26 that she was very fond of him, and especially of his sister and

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Dr L S Foster

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1 mother, and attributed all her troubles to Mr. Kirn, Sr., and
2 said that he didn't like her, and that influenced her husband
3 to leave her, and that if Billy came back to her she would be
4 the same as she had always been, that she had been very kind,
5 and would tell me about the work that she would even go so far
6 as to take water out in the field for him to drink and for
7 his hands, to help him out.

8 Q. I understand from you, she always appeared perfectly
9 willing to go back to him if he would come back to live with
10 her?

11 A. Yes. I want to say after my
12 first examination, and finding out the cause of this trouble,
13 I tried to keep the subject from her as much as possible, and
14 would not allow it to be discussed, and when she was in the
15 hospital we gave instructions that she was not to discuss the
16 subject, and nobody was to discuss it with her. Showing
17 my instructions were right, the last time she was in the office,
18 which was on the 6th of September, she came in greatly distress-
19 ed because some one had informed her that Billy was going to get
20 a divorce. At that time I had an idea that he was trying to
21 get a divorce, but had no idea that he had the divorce, and
22 I tried to console her by telling her you had her cause in hand,
23 and was satisfied you would resist anything of that kind, and
24 that seemed to pacify her.

25 Q. Have you seen her since then?

26 A. I have not.

1 Q. What, in your judgment, treatment does her nervous
2 condition require?

3 A. An entire change - a change of surroundings, a new mode
4 of life from what she is having now. I think she ought to
5 go into a sanitorium, and it will take a long time to get
6 her straightened out.

7 Q. What do you mean by "a long time?"

8 A. Ten or twelve months at least.

9 Q. Do you think that she is now in any condition to know
10 or defend her rights in any divorce proceeding between herself
11 and W.H.Kirn?

12 A. I do not think she could compose herself long enough to
13 tell her attorney or anybody else.

14 Q. What is her attitude in this divorce proceeding?

15 A. It is violently opposed to Mr.Kirn obtaining the divorce.
16 I judge from my examination that she is expecting that he will
17 come back and live with her finally as they used to do.

18 Q. What is your bill, Doctor?

19 A. I sent you my bill. As far as I can remember it is
20 \$70.

21 Q. What can she get sanitorium treatment for - proper
22 treatment?

A. \$25 a week.

23 BY JUDGE BROOKE: The same objections to the fore-
24 going testimony of this witness are noted by the same
25 consent at this place as were noted to the testimony
26 given by the former witness, Dr.Smith.

CROSS EXAMINATION

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By Judge Brooke: Without waiving the objections heretofore taken, I proceed to cross examine the witness as follows:

Q. Doctor, did you know Mrs. Kirn prior to July 9th, 1910?

A. I did not.

Q. Have you seen her professionally since September 6th, 1910?

A. I have not.

Q. Your professional acquaintance and attendance upon her, then, was a little less than sixty days?

A. It covered a period from the 9th of July until the 6th of September.

Q. July to August would be thirty, and to September sixty?

A. Yes, sir.

Q. That includes the period during which she was at the hospital?

A. Yes. If I could have had my way about it I would have kept her at the hospital, but I could not be responsible for her bill there.

Q. You saw her first at the hospital on July 12th, 1910?

A. The first time I saw her at the hospital, yes.

Q. And after that interview you directed that the subject of her marital relations should not be spoken of to her?

A. I gave those directions at the hospital, and instructed her when she first came to see me on the 9th also.

Q. It was on the occasion of her going to the hospital, then,

1 that you gave the directions to the people at the hospital,
2 having previously instructed her? A. Yes, sir.
3 Q. You naturally, therefore, did not discuss these questions
4 with her of your own accord after the 12th of July, 1910?
5 A. Except the day that she came into my office on the 6th of
6 September, when she mentioned the matter herself.
7 Q. Did you see her professionally after the 6th day of
8 September, 1910?
9 A. No, I have not seen her since.
10 Q. Do you know when she left the hospital?
11 A. I don't remember what day she left there; sometime in
12 August; I don't remember the day.
13 Q. She has, herself, testified that she was at the hospital
14 four weeks and one day the first time, and nearly a month the
15 second time. How often did she visit you at your office
16 between the time she left the hospital and the 6th of September?
17 A. She was there some four or five times.
18 Q. For what specific phase, if any, did she call on you
19 at your office?
20 A. I was treating her entirely for her nervous condition.
21 Dr. Smith was looking after the local trouble.
22 Q. What was her condition when she left the hospital?
23 A. Very much improved.
24 Q. Was she any worse when she left you on September 6th, 1910?
25 A. Than she was when she left the hospital?
26

1 Q. Yes.

A. I think so.

2 Q. The information which she gave you as to her marital
3 troubles, and what you doctors call history of her case, was
4 given you, I understand, on the occasion of her visit to your
5 office on the 9th of July and on the occasion when she went
6 to the hospital on the 12th of July, thereafter, you would not
7 permit any one to talk with her on this subject?

8 A. No.

9 Q. And did not yourself?

A. No.

10 Q. Did you ever ask her on either of those two occasions
11 whether she was divorced from her husband, or not?

12 A. I did not. I took for granted the conditions were as she
13 stated, - that he had simply left her.

14 Q. You did not go into that question definitely at all?

15 A. No. I was surprised when Mr. Hicks told me in my office
16 on yesterday that he had gotten a divorce.

17 Q. Your opinion, therefore, heretofore expressed in the
18 depositions that she did not know that she had been divorced
19 was based simply upon her statement that her husband had left
20 her, from which you inferred - -

21 A. (Interposing) I inferred that he had stopped living with
22 her, and that he was now suing for divorce.

23 Q. Doctor, did I understand you right in your direct testimony
24 that the condition commonly known as change of life, if it
25 existed, might be at least a contributing cause of neurasthenia?
26

1 A. Yes, a contributing cause. Of course I do not mean to
2 say that alone would produce neurasthenia, but that, coupled
3 with other troubles.

4 Q. I understand, to get at it in a layman's way, that
5 neurasthenia means a worn out or fatigued nervous condition?

6 A. Yes. It does not mean that any part of the nervous
7 system is absolutely disabled, but what laymen might term
8 crippled - weakened. It is a fatigue neurosis.

9 Q. Would not we get an practically the idea by calling it
10 tired nerves?

11 A. Yes, very much - nervous exhaustion.

12 Q. If that is so, might it not be brought on by a long
13 course or period of ill health?

14 A. Oh, yes.

15 Q. Would you be surprised, as a physician, to find a case
16 of neurasthenia without the previous history of mental
17 suffering or care?

18 A. Well, yes, I would, because in neurasthenia it may be
19 three classes of neurasthenia: A mental effect of neuras-
20 thenia: A spinal type of neurasthenia and a sexual type of
21 neurasthenia.

22 Q. Which one, if any of these types, is special traceable
23 to mental worry or anxiety?

24 A. The mental type.

25 Q. And even that might be aggravated by physical suffering?

1 A. Oh, yes.

2 Q. This nervous condition, which is termed neurasthenia,
3 is evidenced outwardly by excitement, the appearance of
4 excitement, and tears and hysteria, and things of that sort?

5 A. There is a difference between neurasthenia and hysteria
6 that a doctor would make that a laymen would probably not.
7 She was suffering from insomnia also; I do not think I
8 mentioned it. She had the nervous twitching, which showed
9 the nervous fatigue of the muscles.

10 Q. I was speaking mainly of the outward manifestation
11 of neurasthenia to the outward observer.

12 A. Yes, and those cases are very frequently introspective;
13 they have their minds upon themselves all the time.

14 Q. Have you seen excitable, and what we laymen would call
15 hysterical women who were not suffering from neurasthenia?

16 A. Oh, yes.

17 Q. Haven't you seen people of that character under such
18 excitement that they would be scarcely or practically in-
19 capable of directing at that moment important business affairs?

20 A. Temporarily, yes.

21 Q. And yet, after the passing of the immediate paroxysm
22 of excitement or anger, they would be again capable of attend-
23 ing to business?

24 A. Yes, be more composed.

25 Q. Doctor, leukorrhoea or the whites, as it is commonly
26

1 called, is not an unusual trouble with women, is it?

2 A. A great many women have that trouble. Sometimes the
3 condition spoken of by Dr. Smith, the irritation in the vagina
4 is frequently brought on by frequent urination, and the patient
5 not drinking a sufficient quantity of water, the urine becomes
6 very acid and irritates the parts.

7 Q. That is the result of leukorrhea?

8 A. Yes, the leukorrhea condition will produce that condition
9 of the bladder.

10 Q. Will that condition of the bladder produce that condition
11 of the vagina?

12 A. Yes, inflammation there as secretions.

13 Q. What I want to know is, is leukorrhea found only or even
14 mainly in people who are suffering from neurasthenia?

15 A. No. A great many women have leukorrhea who are not
16 suffering from neurasthenia.

17 Q. What would you define vaginitis to be?

18 A. Inflammation of the vagina.

19 Q. That also does not appear only in people who are
20 neurasthenic?

21 A. Oh, no.

22 Q. Doctor any method or course of life tending to build up
23 the physical system would tend to improve the condition of the
24 neurasthenic patient, would it not?

25 A. It depends on the circumstances. A great many neurasthenic
26

1 patients are thin and broken down in health, and not by any
2 means are all thin people neurasthenic, because we frequently
3 see them in very fleshy people, as is the case in this patient.
4 She is very fleshy.
5

6 Q. I did not have relation in my question to the mere adding
7 of flesh to the frame, but any course of life which would tend
8 to build up the system, the general system, would tend to
9 improve the condition of the nerves, would it not?

10 A. I would infer from your question that you would like to
11 know the best method of taking care of a neurasthenic.

12 Q. No, I do not care to know the best method. I want to
13 know whether the best method is the essential method?

14 A. I think so.

15 Q. Well, we do not understand each other. From a professional
16 medical standpoint of course I would have expected your answer.
17 What I mean is, might not treatment outside a sanatorium
18 improve the condition of the patient?

19 A. Now, I can answer your question by saying this: The
20 proper way to be effectual - I may say the honest way to
21 treat a case of neurasthenia is to take the patient from
22 their environments and surroundings. They need a change
23 of conditions altogether. They need the various baths, that
24 you cannot get outside of private institutions, and they
25 need the rest; that is one of the most effectual means of
26 curing neurasthenia, is the rest cure, accompanied by forced

1 feeding, proper baths and exercise.

2 Q. Do I understand you to say that neurasthenia is incurable
3 except by treatment in a sanatorium?

4 A. Oh, no, I do not mean to say that. I mean to say that a
5 chronic case of neurasthenia ought to go to a sanatorium for
6 treatment. Taken in its insipieny it may not be necessary,
7 if you can have the proper home surroundings.

8 Q. Neurasthenia being caused, as I understand, largely by
9 mental worry or by overwork, possibly by disease, an essential
10 element is its treatment would be such a change of the method
11 of life or environment as to give rest to the body and to the
12 mind?

13 A. Yes, and exercise in the
14 proper proportion as is necessary. In some cases the rest
15 cure entirely will be better, and in other cases moderate
16 exercise.

17 Q. If it was largely due in a particular case to mental
18 worry and anxiety, the removal of the cause of the mental
19 worry and anxiety would be a potent cause in its cure?

20 A. Yes.

21 Q. If it was due to overwork, it would be rest?

22 A. Yes.

23 Q. If it was due to continual disease, the restoration
24 to health?

A. Yes.

25 Q. And any of these might be obtained outside of a sanatorium?

26 A. Not as effectually. You must get your patient from the

1 surroundings; the locality must be taken away, and taken
2 away from the home influences. Neighbors sometimes keep a
3 neurasthenic a neurasthenic.
4

5 Q. It would be a good idea to sometimes get a neurasthenic
6 away from her husband, wouldn't it?

7 A. (Laughter).

8 RE DIRECT EXAMINATION

9 By Mr. Hicks:

10 Q. What effect does the agitation of her domestic relations
11 have upon her?

12 A. It tends to keep up the nervous condition.

13 Q. In discussing her domestic relations, what did you
14 observe as to her condition in discussing it?

15 A. I observed that she would be more excited at that time
16 than at any other time.

17 Q. Did she ever give you any coherent statement of her
18 troubles?

19 A. Well, no, she did not. She seemed to try to impress the
20 fact upon my mind that Mr. Kirn, Sr., was the cause of her
21 husband leaving her, and that he was still trying to persuade
22 him to stay away from her, and was helping him to get a
23 divorce from her. She did not realize there was any divorce
24 at all, and seemed to think that Billy, as she called him,
25 would come back to her if Mr. Kirn would get out of the way and
26 let him alone.

-----oOo-----

1
2 The further taking of depositions in this case adjourned
3 until January 11th, 1911.
4

5 -----oOo-----

6 Office of R.Randolph Hicks, Esq.,
7 Norfolk, Virginia, January 11th, 1911.
8

9 By consent of counsel, the further taking of depositions
10 in this case was adjourned to January 14th, 1911.
11

12 -----oOo-----
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STENOGRAPHER'S TRANSCRIPT.

19

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

WILLIAM H. KIRN

v

AMELIA E. KIRN

In Chancery.

The depositions of witnesses taken before me, D. S. Phlegar, a Commissioner in Chancery for the Circuit Court of the City of Norfolk, Virginia, pursuant to notice hereto-annexed, at the office of R. Randolph Hicks, Citizens Bank Building, Norfolk, Virginia, Wednesday, December 28th, 1910, between the hours of 10 A. M. and 6 P. M. of that day, to be read as evidence on behalf of the defendant in the above entitled cause pending in the Circuit Court of Nansemond County, Virginia.

PRESENT: Messrs C. W. Coleman, E. E. Holland
and D. Tucker Brooke, for the plaintiff.
Mr. R. Randolph Hicks for the defendant.

-----oOo-----

D. S. Phlegar,
Shorthand Reporter,
Norfolk, Virginia.

1 AMELIA E. KIRN, the defendant, being duly sworn, testified
2 as follows:

3 Examined by Mr. Hicks:

4 Q. Mrs. Kirn, please state your age and residence?

5 A. I am forty-three years old now, going in, and I live in
6 West Norfolk.

7 Q. Are you the wife of William H. Kirn? A. Yes, sir.

8 Q. Have you ever testified before in this case?

9 A. No, sir.

10 Q. When were you married to Mr. Kirn?

11 A. I have got my certificate at home, but I have forgotten
12 now.

13 Q. Can you approximate the number of years?

14 A. I think Gertie is going in 26, and we were married six
15 months before that.

16 Q. How long did you live with your husband?

17 A. Twenty-two years.

18 Q. What was the cause of the separation?

19
20 BY MR. BROOKE: We object to the question because
21 the ground of the divorce for separation obtained
22 by William H. Kirn against the witness Amelia E.
23 Kirn is a matter of record in this cause, and is a
24 matter of res adjudicata between the parties, and
25 no testimony upon that question is now admissible.

26 A. All I know is ill health.

1 By Mr. Hicks:

2 Q. What are the circumstances attending the separation?

3 BY JUDGE BROOKE: I object on the same ground.

4 A. I do not know that; I can't tell, only I was sick.

5 By Mr. Hicks:

6 Q. Do you know when he left you, or when you were separated
7 from him?

8 A. I can't hardly remember like that.

9 BY JUDGE BROOKE: Let it be understood that the
10 same objection to all this line of investigation
11 applies without repetition.

12 NOTE: This is agreed to by counsel for the de-
13 fendant.

14 By Mr. Hicks:

15 Q. Did he leave you, or you leave him?

16 A. He left me.

17 Q. When did he leave you, and what was the cause of it,
18 do you know?

19 A. I just had ill health. I broke my health down going
20 out in the field. As I said before, I fainted that year.
21 Rufus told me to stop the train, and I had to go out in the
22 field, and I fainted in the lane, and was caught in the storm, and
23 that brought on chills.

24 Q. When did your husband leave, and what happened at that
25 time?
26

MPD

Amelia E. Kirn

4

1 A. I don't know. I told you then my health was so low,
2 and I had to depend on anybody who would be good to me.

3 Q. Have you any knowledge why he left you?

4 A. No, I can tell you nothing about that. I am dead to
5 the world with that. For a month I didn't know hardly
6 where he was. I didn't know that he was going hardly.

7 Q. Where were you then living?

8 A. I was at home.

9 Q. Where was your home then? A. In Nansemond.

10 Q. In Nansemond County, Virginia?

11 A. Yes, sir, about three miles off the main road.

12 Q. Did he leave you there?

13 A. Yes, sir, all alone.

14 Q. And then do you know anything about that divorce?

15 A. No, sir, I don't know nothing about that. I didn't
16 know a thing about it until I was authorized to get the
17 depositions. I didn't know anything; I didn't know nothing
18 any more than you did. The day I was in town I seen all
19 the folks in Mr. Coleman's office, and I didn't know what
20 it meant, and they told me I had to get out.

21
22 BY JUDGE BROOKE: Does the objection I have already
23 taken to this line of testimony include the proposition
24 res adjudicata as applied not only to the
25 grounds of the divorce, but to the circumstances
26 under which the divorce was granted?

MPD

Amelia E. Kirn

5

1
2 BY MR. HICKS: Yes, sir.

3 By Mr. Hicks:

4 Q. Mrs. Kirn, how did you come to leave your home in Nanse-
5 mond?

A. Why, they put me out.

6 Q. Who put you out?

7 A. The constable. Mr. Kilby come out there and told me
8 in a verbal way, and I suppose he thought I was done with
9 that, but if I had not been sick, and could collect my thoughts
10 more, and my mind would come and go, and I had a diary, and
11 when I could not think for myself they destroyed it, and a
12 lot of my letters, and my jewelry are all gone; my jewelry
13 I found in different places. When my mind would come, I
14 would look for different things, but I could not find them,
15 and my mind would leave me. If I had my diary I could show
16 it to you.

17 Q. You say somebody put you out of the house?

18 A. Yes, sir, Mr. Kilby come first, and I told him "Mr. Kilby,
19 I am sick, and I am not in condition to talk to you," and
20 then he went and told somebody I was not trying to look for
21 a house. I says "Mr. Kilby, I am not able to look for a house."
22 Different people told me not to bother my head over it. Then
23 there was a Mr. Deberry from Suffolk, come, and he was mighty
24 courteous and mighty polite, and then there was a Mr. Baker
25 come the same week to put me out, and I was too sick. My
26 mother being 84 years old, she got mighty bothered, and he

MPD

Amelia E. Kirn

6

1 talked to her, and said "I would rather give you \$25 than to
2 put you out," and he said "Don't worry," and he come the next
3 week, and he went to Moss Armistead to stay all night, and he
4 said Moss told him I would be hard to get out, and I said
5 "Mr. Baker, I will do anything you tell me to do."

6
7 Q. What did he tell you to do?

8 A. He said I could go to a hotel or anything I wanted, for
9 my comfort, and would stand for me, because I was a sick woman.
10 He was mighty nice to me, and Mr. Deans was mighty nice, and
11 he offered me his carriage, and told me anything he could do
12 for me, he would do it.

13 Q. Where did you go to live then?

14 A. West Norfolk.

15 Q. Have you lived there ever since?

16 A. I lived in Mr. Raby's house, and Miss Kelly's, and she
17 wanted me to take her house, and she thought it was better for
18 me, and the doctor thought so too, and it was for my comfort.

19 Q. Do you know anything about the terms of the divorce obtained
20 by your husband?

21 A. No, sir, that is kind of flat to me. I can't remember much
22 about it. It looks to me I don't know nothing about it. When
23 I went, I was half dead. Many a time I went and was sick.

24 Q. At that time were you suffering from any trouble?

25 A. Yes, sir, I told you when I first come here I was suffering
26 from stomach trouble, and wanted to get a physician. I was

MPD

Amelia E. Kirn

7

1 near dead.

2 Q. Were you at any critical period of your life at that time?

3 A. Well, as far as physicians say, they say it is the worst
4 time a woman can pass through.

5 Q. Was it a change of life, or anything like that?

6 A. Yes, sir.

7 Q. Was this divorce obtained at the time you were undergoing
8 that change?

9 A. Yes, sir, that was the time I was. I think my physician
10 will answer all those questions.

11 Q. Who was the physician at that time, or did you have
12 any physician at that time?

13 A. I will be plain, and I would not tell Dr. Wright; he
14 would tell everything over the neighborhood. I wanted a good
15 physician to keep things to himself.

16 Q. How much of your time in the past few months have you
17 spent in the hospital?

18 A. Four weeks and one day the first, and three weeks the last.

19 BY JUDGE BROOKE; An additional objection to that
20 question upon the ground that it is irrelevant,-
21 has no bearing.

22 By Mr. Hicks:

23 Q. Is \$50 .00 a month sufficient to pay your hospital charges
24 and support you?

25 A. I think every body ought to know it.
26

MPD

Amelia E. Kirn

8

1 Q. Have you any way to pay your hospital charges unless your
2 husband provides for it?

3 A. No.

4 Q. Have you any means of support save what is given you
5 by your husband?

6 A. No, sir.

7 BY JUDGE BROOKE; Make a further objection - -

8 BY MR. HICKS: I will make this agreement, that
9 you can note at the foot any objection you want.

10 By Mr. Hicks:

11 Q. You say you have no means of support? A. No, sir:

12 Q. Mrs. Kirn, are you willing to be reconciled to your husband?

13 A. I was from the first. I told you I did not believe in
14 anything like that, and I even sent for Mr. Coleman to come up
15 there. I thought Mr. Coleman was a married man, and he knew me
16 just as long as he did Billy, and I wanted him to tell Billy
17 to let me go away, and when he come he was not there.

18 Q. You wanted to go away for what - for your health?

19 A. For my health. It seemed I was failing and everything
20 was dull, and I had this swimming in the head. I told Dr.
21 Wright I fainted in the yard. I am in this fix, and it is very
22 unpleasant. I do not think it is ladylike to be sitting here
23 talking like this. It was a change of life and I even fell
24 in my blood, and I was sick, and my mother had to take the shoe
25 off my foot. It is not ladylike, and I feel sensitive over it.
26

1 I feel like that this is a war against God and woman. I am a
2 woman, and had to take what was put on me, and I don't like it.
3 I know I am going to be sick again.

4 By Judge Brooke: We are all married men here, and all of us
5 have great sympathy for you. Do not get excited at all.

6 By Mr. Hicks:

7 Q. Are you entirely dependent on \$50.00 a month allowed you
8 in this court by your husband?

9 A. That is what ails me now; my shoes are so thin, and I have
10 a deep cold.

11 Q. Have you the means at your disposal to clothe yourself
12 properly and have the ordinary comforts of life?

13 A. No, sir.

14 Q. Are you forced to live in a circumscribed and close
15 manner.

16 A. Yes, sir, I am. I guess
17 I can get a hundred people to state it for me. They told me
18 this morning "Mrs. Kirn, go there this morning, and be brave
19 about it." I said I think it is awful not to have a home in
20 change of life.

21 Q. Do you suffer now from your nervous condition, or are you
22 getting better?

23 A. I am better, but, of course, it is like a broken limb.
24 If you keep on folding it and broke all the time it will not
25 get better. As long as I am in things like this - I don't
26 think it is lawful.

1 Q. Is your husband well off? A. Yes, sir, he has means.

2 Q. Do you know whether his father is a wealthy man, or not?

3 A. Yes, sir, I know that.

4 BY JUDGE BROOKE: I do not know that it appears here
5 who his father is.

6 BY MR. HICKS: I want the records to show that it is
7 W. H. Kirn.

8 BY MR. COLEMAN: The other depositions show that.

9 By Mr. Hicks:

10 Q. Have you the means of having the medical attention you re-
11 quire? A. No, sir; everybody knows that.

12 Q. You have no means, except this \$50, of getting medical
13 services. A. No, sir.

14 Q. Do you know what your bill at the hospital was?

15 A. No, sir; they would not tell me nothing. They wanted me
16 to get well, and whenever they would come they would bring smiles.
17 Miss Smith told me to cheer up, I would get well.

18 Q. Did you have any trouble with your husband prior to the
19 time he got this divorce?

20 A. No, sir, not that I knew of. I did not know of any trouble.
21 If he knows it, I don't know it. I was not there, and if he had
22 any it must have been by himself; I didn't know it.

23 Q. Did you ever use any violence of any kind towards him?

24 A. No. I know that he hit me in the face for going to Mrs.
25 Norfleet's. He did not want me to go there. I went there,
26

1 and she told me not to go there, that Billy wouldn't want me to
2 go.

3 Q. How long was it ago?

4 A. I don't know, my
5 health was not good, and I went there and confided in her, and
6 I was going through this trouble, and she seemed to be so fond of
7 me.

8 Q. You are willing to go back with him at any time, are you,
9 or not?

10 A. Oh, I never was cross. This ain't my fuss. It is not my
11 fuss; it is all their fuss. Billy's father started it up.
12 When Billy extends the hand of friendship to me, I am willing
13 to go back. Clara and Bess all were good to me.

14 Q. Are you perfectly willing to go back and live with him
15 now?

16 A. If he treats me right.

17 Q. Do you want a divorce, or not?

18 A. I told you all along it was not my fault, and I can bring
19 them up by the hundreds. I was three miles from the main road,
20 and they would go off and lock the horse up, and I was there by
21 myself. I can prove that.

22 Q. Do you want a divorce, Mrs. Kirm?

23 A. No, sir, I do not believe in them, and this is not my fault.
24 All this put on me was manifold; it was all done through them,
25 and I didn't know anything about it.

26 Q. Who do you mean by "them."?

1 A. All these people. I was struck when I got all these
2 depositions. I was struck when I saw these people's
3 names on them. I said living in a neighborhood twenty-three
4 years with no friends, I thought it pretty hard, and I never
5 done one thing against those people who spoke against me.
6 They can stare me in the face before the bar of God after
7 saying all they did. Because I didn't tell my business to
8 everybody, maybe I was a little queer that way.

9 Q. Did you ever have any children, Mrs. Kirn?

10 A. Yes, sir, my little boy lies in the Churchland grave-yard.
11 Mrs. Ben was buried in the morning; Mrs. Griffin come up
12 and shook hands with me.

13 Q. Do you realize now that your husband has gotten a divorce
14 from you?

15 A. No, I don't know nothing about it. I didn't know no more
16 than if I was a baby. I didn't know nothing. Everything is
17 a dream to me. I didn't know one thing.

18 Q. Have you any family to whom you can look for help or succor?

19 A. No. I think that is a mighty foolish thing to ask. I
20 got married and expected support from my husband. My mother
21 and father are both dead. They gave me to Billy and he said
22 he would treat me right, or I would not leave them.

23 Q. You never left home, as I understand?

24 A. No, sir; I was put out.

25 Q. You were put out?

A. Yes, sir.

1 Q. Has your health been bad ever since this separation?

2 A. Yes, sir. Everybody can tell you if it was not for the
3 goodness of the neighbors and country people I would have
4 suffered.

5 Q. Suffered for the necessities of life? A. Yes, sir.

6 Q. Did you have any proper medical treatment until the court
7 ordered it last summer when you were sent to the hospital?

8 A. They were all good to me, and nobody refused me, but when
9 Dr. Ernest come he said I ought to go to the hospital, and I
10 was afraid to go because every body was doing me so wrong.
11 Those I had confidence in they fooled me, and I thought if I
12 went to the hospital, I didn't know what they would do to me,
13 and I was afraid of everybody.

14 Q. Your health was very much improved while you were at the
15 hospital?

16 A. Oh, yes, they were very good to me there. I had everything
17 that my heart could wish for.

18 BY MR. HICKS: I am through.

19 BY JUDGE BROOKE: Note that all of the foregoing
20 questions which relate to the causes of the decree
21 entered herein of divorce, and all of the preceding
22 questions and testimony which relate to the causes
23 of such decree, and all of the preceding testimony
24 which relates to matters which ante-date the said
25 decree, are objected to as irrelevant, and because
26

1 the said decree of divorce is res adjudicata
2 between the parties thereto, and cannot be reopened
3 for any matters existing theretofore which is within
4 the subject matter of the suit brought for that pur-
5 pose. By consent of counsel these objections are
6 noted at the conclusion of the testimony instead of
7 as it was taken.

CROSS EXAMINATION

8
9
10 By Judge Brooks: The cross examination is undertaken without
11 waiving any objections heretofore taken.

12 Q. Do you remember how long ago it was that you were put out,
13 as you express it, of your home in Nansemond?

14 A. As I told you before, I was flat about those things. I
15 didn't have no mind to think.

16 Q. Then you don't know how long ago it was that you were put
17 out of your home in Nansemond County?

18 A. Only by the time I was living in West Norfolk; that is all.

19 Q. Did you go to West Norfolk immediately from Nansemond?

20 A. Yes, sir.

21 Q. How long have you been living in West Norfolk?

22 A. Three years and three months in one house, and three months
23 in this one.

24 Q. You have been living three years and six months in West
25 Norfolk?
26

MPD

Amelia E. Kira

15

1

A. Yes, sir.

2

Q. Do you mean to be exact about that?

3

A. That is all I can go by. As I told you when I was put out
I was flat, and that is all I can go by. I have no recollection
of that, and when I can't think, I can't answer for it.

6

Q. Do you remember when Mr. Kilby came to you?

7

A. Yes. He said Mr. Coleman told him to come up and put me
out, and I told him I didn't believe it.

9

Q. It was Mr. Kilby who first brought you the news?

10

A. Yes; he told me in a verbal way. He didn't tell me
in any other than a verbal way, and that is why I told him I
didn't believe Mr. Coleman did it.

13

Q. It was Mr. Kilby who first notified you that you would
have to vacate ?

15

A. Yes.

Q. Do you know whether that Nansemond property belonged to
your husband, or to his father?

17

A. I will tell you about that: Billy kept spending money on
it, and I said "Billy why don't you save and buy a home for
ourselves." And he said "This is ours." I didn't know it
except verbally; I have never seen a deed for it.

21

Q. Did not you know that the Nansemond property on which
you lived was the property of your husband's father, and not his
property?

24

A. I did not know except what my husband told me.

25

Q. Did he tell you it was his property?

26

1 A. Yes; when he commenced to spend it on the farm, he said
2 "This is mine," and I said "That is all right, Billy, go ahead."
3 If you told me this building was yours, I would not know any
4 more than that it was.

5 Q. You were under the impression that the property was his?

6 A. Yes, sir.

7 Q. Did your husband tell you that it would be his when his
8 father died?

9 A. No, sir, he never told me that.

10 Q. You cannot fix the date at which you were told to move,
11 further than saying that you came immediately to West Norfolk,
12 and you have been living in West Norfolk now three years and
13 six months?

14 A. Yes, sir; ever since I left the farm I have been living
15 there.

16 Q. And it is now three years and six months?

17 A. Yes, sir, as near as I can get at it.

18 Q. You get \$50 a month, don't you?

19 A. Yes, sir, I get whatever they gave me. I didn't know
20 nothing; they didn't ask me nothing, and I don't know one thing.

21 Q. But you know you have been getting money.

22 A. I don't know where I got it. I know two or three names,
23 and recognize his writing, but I don't know where it comes
24 from.

25 Q. The check that you get is his signature?
26

1 A. Yes, sir.

2 Q. And you get that every month?

A. Yes, sir.

3 Q. And that is \$50?

A. Yes, sir.

4 Q. Then you take the check to bank and get the money for it?

5 A. Not always. They told me over in the county that any
6 of the merchants herewill cash the check for you.

7 Q. Then you get this check with your husband's signature on it
8 for \$50 every month, and get the money either from some merchant
9 or the bank?

10 A. Yes, sir, I can go to any of the stores in Norfolk, and any
11 of them will cash it.

12 Q. Do you live by yourself in West Norfolk?

13 A. No, sir; I have my brother living with me.

14 Q. Do you remember what rent you paid for the house in West
15 Norfolk?

A. Do I have to tell him all that?

16 By Mr. Hicks: Yes.

17 A. Yes, sir. The reason I asked you that is because Mr.
18 Parsons favored me, and I like to be honorable; he told me not
19 to tell anybody, and I like to treat him right, because
20 Mr. Kelly was good to me, and he let me have it for \$9.00, but
21 no body else. That is the reason I was so particular in an-
22 swering that question; I like to do right.

23 By Judge Brooke:

24 Q. Do you pay \$9 a month for the house?

25 A. Yes, sir, but he would not let anybody else have it.
26

MPD

Amelia E. Kirn

18

1

Q. What does your brother do?

2

A. He stays there to protect me, because I am infirm. Before
3 I had the colored man there, and paid him.

4

Q. How old is he - younger or older than you?

5

A. He is the oldest of seven.

6

Q. Does he do any work except to look after you?

7

A. He would do, but I just can't spare him.

8

Q. He don't pay you any board?

9

A. I think I owe him instead of him owing me.

10

Q. You pay him for his services? A. Certainly.

11

Q. He does not pay you any board?

12

A. I can prove that by the neighbors I would have suffered
13 if it had not been for my brother. I got a letter from
14 the minister's wife as to that.

15

Q. Do you pay him any regular amount?

16

A. No. He is my brother, and he takes that into consideration.

17

Q. About what do you pay .

18

A. I never figured on anything.

19

Q. Did you pay him any actual cash money?

20

A. No, not very often. People around there give him garden
21 work. Two of them this morning said "Mrs. Kirn, if anything
22 ever happens to you, your brother will be well thought of in
23 this community."

24

Q. So you do not pay him any cash money for his services?

25

A. No.

26

1

Q. He stays there and takes care of you?

2

A. He is my protection.

3

4

Q. Are there any other members of your family living there except you and your brother?

5

6

A. No, but any of the neighbors will come and stay all night when I am bad off, but they will not charge me anything. If it had not been for the goodness of the people I would have suffered.

9

10

Q. Do you know Judge Willcox?

11

A. Yes, sir, I know him.

12

Q. How long have you known him, do you know - several years?

13

14

A. I don't know him, only - I don't know nothing about the man, and don't know anything about him only - -

15

Q. (Interposing) In a business way.

16

A. That is all.

17

Q. In what business way do you know him?

18

A. Do I have to answer that.

19

By Mr. Hicks: Yes.

20

A. When I first got into trouble I went to him for protection.

21

By Judge Brooke:

22

Q. You employed him as your lawyer when Mr. Kirm brought this suit against you?

23

A. Yes, sir.

24

Q. Do you know a Mr. A. E. Warrington, in Norfolk?

25

A. Yes, sir, but I don't believe I could recognize that man on the street now.

26

MPD

Amelia E. Kirn

20

1 Q. What I mean did you go to him when you got into this trouble?

2 A. Yes, sir, because Moss told me - he said Billy was having
3 a half dozen lawyers, and you go and get half a dozen, and
4 I said "What for?"

5 Q. So you employed Judge Willcox and Mr. Warrington to defend
6 you in this case?

7 A. Yes, sir.

8 Q. You saw them several times, while the case was going on,
9 before the decision, did you not?

10 A. Judge Willcox, I can remember his favor, but, as I said,
11 I can't remember Mr. Warrington's favor.

12 Q. They were your lawyers, and Judge Willcox or Mr. Warring-
13 ton talked with you about the case while it was going on?

14 A. I didn't see much about it.

15 Q. Did they see you about it?

16 A. No, sir. Mr. Hicks has been more of a friend to me, and
17 opened up everything to me plainer.

18 Q. When did you employ Mr. Hicks?

19 A. I forget. I was sick then. He was recommended to me so
20 highly.

21 Q. This was after the divorce had been granted?

22 A. I don't know nothing about that, I tell you. I don't know
23 nothing about granted or not granted.

24 Q. It was after you moved to West Norfolk?

25 A. Yes, sir.

26

1 Q. It has been about a year ago, or two years ago?

2 A. Has it been about that long?

3 By Mr. Hicks: Yes, about two years I should think.

4 Witness: I was sick, and told you I was not in condition to
5 talk, but they said it was best for me to go, that Mr. Hicks
6 would suit my disposition better, that he generally took his time.
7 I think it was a right good opinion. A gentleman said so.

8 By Judge Brooke: I have a right good opinion of him myself.

9 A. I can't stand anybody cross. I want them to be honorable.

10 Q. You were talking about having had Dr. Wright as your physi-
11 cian?

A. Yes, sir.

12 Q. Did you have any other physician?

13 A. Yes, sir, I had Dr. Redd, but he did not seem to understand
14 my case.

15 Q. You say you would not talk fully to Dr. Wright, because
16 he talked too much?

17 A. Yes, sir, and I will be plain about it. Mr. Coleman knows
18 I am telling the truth. Mr. Coleman, you know I have been in
19 your Sunday School class, and I will tell what is right.

20 This is a serious time, and not a time for smiling. I am stand-
21 ing between God and man, and I do not think it is a time to
22 laugh.

23 By Mr. Coleman: I am not laughing at you, Mrs. Kirn.

24 By Judge Brooke: We all believe you are telling the truth.

25 Witness: I would not tell a story.

1 By Judge Brooks:

2 Q. We are trying to find out what you know?

3 A. All my early life I spent on the farm, and any body can
4 tell you I don't know much about the world; I spent all my
5 early life out there with Billy, and I worked hard for him,
6 and went out in the field to help him accumulate, and Mr.
7 Eberhard knew it, and to come to this crisis I have not had a
8 bed of roses, and this is embarrassing for me to sit here with
9 a lot of men.

10 Q. We all understand that, Mrs. Kirn. You had Dr. Redd
11 as well as Dr. Wright?

12 A. Yes, sir.

13 Q. You say Dr. Redd did not seem to understand your case?

14 A. No, sir.

15 Q. Did you talk freely with him so as to let him know?

16 A. No, sir, I did not talk freely with him. I wanted a town
17 physician, or somebody who was really up on this here, and then
18 I would read the paper, and would see where it was such a
19 serious time in a woman's life, and she ought to take care of
20 herself. I know I have been laughed at a lot, and the like of
21 that, but the ones who laugh first might have to laugh last.

22 Q. I understood you to say that you have not suffered for
23 want of medical attention, that every body you went to treated
24 you right.

25 A. Yes, sir, but still they never presented no bills, but I know
26 that they ought to have their money. I was not capable of pay-

1 ing them, and they didn't threaten me with it.

2 Q. You did not suffer for want of medical attention?

3 A. No. They come regularly, and while they have not been
4 paid, I had to pay the nurse out of my own money, \$6.00, but,
5 of course, I will present all that to Mr. Hicks. All I have
6 got in my pocket-book now is \$1.00, but every body said if
7 I wanted money that they would lend it to me, and I said that
8 they could take anything in my house.

9 Q. You got the \$50.00 every month from your husband?

10 A. Yes, sir, but by the time you get fuel and raiment for your
11 body, you don't have much left.

12 Q. You still live in this house in West Norfolk?

13 A. Yes, sir.

14 Q. Have you and your husband, Mrs. Kirn, ever lived together
15 since this divorce was granted?

16 A. He has been to my house there.

17 Q. But you have never lived together was man and wife?

18 A. No, sir. He wanted to come back, but his father wouldn't
19 let him, but he has been there twice to my house.

20 Q. Twice in the three years and a half?

21 A. Yes, sir, and I have been up home once.

22 Q. Did you send for him at all?

A. No, sir.

23 Q. You did not want him to come back unless he was willing,
24 did you?

25 A. It is just like everything else, I wanted him - when he
26

1 married me he was willing to marry me, and I wanted him to
2 volunteer, because this ain't my fault.

3 Q. I am trying to get at the facts. You said that you were
4 willing to come back to him if he would treat you right?

5 A. Why certainly, yes sir.

6 Q. Have you ever had an interview with him on that subject?

7 A. He talked with mother. He met me going across the bridge;
8 I was with two ladies in the community, and he said "Where is
9 Nellie going?"

10 Q. Who did he say that to?

A. Mother.

11 Q. Did you hear it.

12 A. No, sir, but the neighborhood knows it was --

13 Q. Wait a moment. We are not going to quarrel.

14 A. (Interposing) I am not going to quarrel with you.

15 Q. I am trying to be as gentle and nice as possible.

16 BY JUDGE BROOKE: I want to object to the statement
17 as hearsay.

18 Witness: I can prove it by the neighborhood.

19 By Judge Brooke:

20 Q. Go on and tell what you want to say?

21 A. You see I met him on the bridge, and I did just this way
22 (indicating by waving hand), and the buggy track was there,
23 and he went past us, and the foot-prints were on the carpet.
24 He said "Nellie is fixed comfortably," and he said "I did not
25 want this to be; Pa did this." Judge Prentis said that.
26

1 Q. Who did he say this to? A. To mother.

2 Q. You were not present when he said this.

3 A. No, sir.

4 BY JUDGE BROOKE: All of this is objected to as
5 hearsay testimony.

6 By Judge Brooke:

7 Q. How long ago was was this, do you know?

8 A. No, sir, I can't tell you that.

9 Q. How long was it after you came to West Norfolk?

10 A. I don't know; I can't tell you that.

11 Q. You spoke of his saying that to mother; do you mean your
12 mother, or his mother?

13 A. My mother.

14 Q. Is your mother still living?

15 A. No, sir; she has been dead three years, going in.

16 Q. Then this was over three years ago?

17 A. Yes, sir. It has been since I have been in West Norfolk.

18 Q. She has been dead three years?

19 A. It is not three years, because she has been dead going
20 in three years.

21 Q. And this was, of course, before she died? A. Yes, sir.

22 Q. It was very soon after you came to West Norfolk, wasn't it?

23 A. Yes, sir, as near as I can get at it - I don't know
24 whether I am right or wrong; I guess it was about six months.

25 Q. After you came?

26

1 A. Yes, sir. That is a rough guess, and I am not telling
2 it for right or wrong.

3 Q. Have you ever seen him since then? A. Yes, sir.

4 Q. How many times?

5 A. I spoke to him once on the bridge, and then I saw him
6 up home.

7 Q. Did you have any talk with him? A. Yes, sir.

8 Q. Did he offer to come back to you?

9 A. We did not talk on that subject.

10 Q. So the only talk that there has been on that subject
11 since this separation happened was the talk that he had with
12 your mother that you have spoken of?

13 A. No, I told you I had seen him, too, besides talking with
14 mother.

15 Q. I may be wrong myself, but I am trying to get it right.
16 You have never had any talk with him on that subject since
17 he talked with your mother, as you just described?

18 A. He told me it was his father's fault.

19 Q. That was before he had this talk with your mother?

20 A. Yes, sir, it was before he had this talk with mother, and
21 then I seen him twice after that, and both times he told me
22 it was his father's fault.

23 Q. I may be wrong, but I understood you to say when you saw him
24 after he had this talk with your mother you did not discuss
25 this question at all?
26

1 A. We did not talk about separating. I told you about that.
2 He told me it was his father's fault.

3 Q. Nothing was said about your getting together again,
4 and living together again?

5 A. He did not talk about it. He said "Nellie, Pa did it."
6 He told Judge Prentis that it was his father's fault. Judge
7 Prentis told me that, that it was Billy's doings.
8

9 RE DIRECT EXAMINATION

10 By Mr. Hicks:

11 Q. You mentioned in connection with the employment of counsel
12 Moss; do you mean Moss Armistead?

13 A. Yes, and he molested me.

14 Q. Was it at his suggestion you employed counsel?

15 A. No, sir.

16 Q. At whose suggestion? A. They told me
17 to keep that to myself, and, of course, I want to be as good
18 as my word. If they tell it is all right. I like for people
19 to have confidence in me.
20

21 -----oOo-----

22 The further taking of depositions in this case adjourn-
23 ed until December 30th, 1910, at 12:30 o'clock P. M.
24

25 -----oOo-----
26

D. S. PHLEGAR
SHORT AND REPORTER
832-833 LAW BLDG.
NORFOLK, VA.

MPD

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Office of R. Randolph Hicks, Esq.

Norfolk, Va., December 30, 1910.

By agreement of counsel the further taking of depositions
in this case adjourned until January 5, 1911, at the same
place.

STENOGRAPHER'S TRANSCRIPT.

190

1 IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

2 -----*

3 WILLIAM H. KIRN, *

4 v. *

In Chancery.

5 AMELIA E. KIRN. *

6 -----*

7
8 The depositions of witnesses, taken before me, D. S.
9 Phlegar, a Commissioner in Chancery for the Circuit Court of
10 the City of Norfolk, Virginia, pursuant to notice hereto
11 attached, at the office of D. S. Phlegar, 532-533 Law
12 Building, Norfolk, Virginia, June 6th, 1910, to be read as
13 evidence on behalf of the plaintiff in the above entitled
14 cause pending in the Circuit Court of Nansemond County,
15 Virginia.
16

17 PRESENT:

18 Messrs C. W. Coleman and D. Tucker Brooke, on
19 behalf of the plaintiff,

20 Mr. R. R. Hicks, on behalf of the defendant.

21 -----oOo-----

22
23
24 D S Phlegar,
25 Shorthand Reporter,
26 Norfolk, Virginia.

1 B. F. ADAMS, on behalf of the plaintiff, being duly sworn,
2 testified as follows:

3 Examined by Judge Brooke:

4 Q. Mr. Adams, what is your name, age, residence and occupa-
5 tion?

6 A. B. F. Adams; West Norfolk, Norfolk
County, Virginia; 64; rental agent.

7 Q. Are you acquainted with Mr. William H. Kirn and Amelia
8 E. Kirn, the parties to this suit?

A. I am.

9 Q. How long have you known them?

10 A. Between 15 and 18 years.

11 Q. Did you know them before they were married?

12 A. No, I can't say I did. I knew Mr. Kirn, but I did not
13 know her.

14 Q. Have you known Mrs. Amelia E. Kirn in the last four or
15 five years?

A. Yes, sir.

16 Q. In what way have you known her in that period, or about
17 that period?

18 A. Well, I have known her as the
19 wife of William H. Kirn, and also as a tenant of mine. She
rents from me.

20 Q. How long has she been a tenant of yours?

21 A. Since June, 1907.

22 Q. How did she happen to become a tenant of yours? As I
23 understand it, when you say a tenant of yours, you mean some
24 house which you have the rental of?

25 A. Yes, sir.

26 Q. How did she become a tenant of yours?

- 1 A. She made application for a house in West Norfolk.
- 2 Q. Did she, herself, make that application, or did Mr.
- 3 Kirn make it? A. No, sir, she made it. She
- 4 made it first through my wife. She sent me word to reserve
- 5 her a house, if I had one, and afterwards came to me and rented
- 6 the house.
- 7 Q. But the final consummation of the rental was with her
- 8 individually? A. Yes, sir.
- 9 Q. Have you been renting to her continuously since that time?
- 10 A. I have.
- 11 Q. Have you had any dealings with Mr. William H. Kirn, her
- 12 husband, in connection with the rental of that property?
- 13 A. None in the world.
- 14 Q. She rented it individually? A. Yes, sir.
- 15 Q. Where is the house situated - I mean generally?
- 16 A. West Norfolk.
- 17 Q. Who has paid the rent to you from that time?
- 18 A. Mrs. Kirn.
- 19 Q. The contract of rental, as I understand it, was with
- 20 Mrs. Kirn, and she individually has paid the rent from that
- 21 time? A. Yes, sir.
- 22 Q. Do you know the parties to this suit, Mr. William H. Kirn
- 23 and Mrs. Amelia Kirn? A. Yes, sir.
- 24 Q. Do you know whether they have been living separately
- 25 for the last three years?
- 26 A. I know that I have never seen Mr. Kirn down there, and she

1 has been living there the last three years.

2 Q. Do you know where Mr. Kirn has been living the last
3 three years?

4 A. Yes, sir.

5 Q. Where has he been living?

6 A. In Nansemond, on the farm.

7 Q. As I understand it, then, you rented to Mrs. Kirn in
8 June, 1907, a house in West Norfolk; she has paid you the
9 rent ever since?

10 A. Yes, sir, except for the last
11 month.

12 Q. And you have never seen Mr. Kirn at that house?

13 A. No, sir.

14 CROSS EXAMINATION

15 By Mr. Hicks:

16 Q. Mr. Adams, what rent does Mrs. Kirn pay?

17 A. \$9.00.

18 Q. How many rooms are in the house?

19 A. I think there are eight.

20 Q. Who is the owner of the house?

21 A. R. L. Raby.

22 Q. How far do you live from this house?

23 A. I suppose about 200 yards.

24 -----oOo-----
25
26

1 M. W. ARMISTEAD, on behalf of the plaintiff, being duly
2 sworn, testified as follows:

3 Examined by Judge Brooke:

4 Q. What is your name? A. M. W. Armistead.

5 Q. Your age? A. 50.

6 Q. Your residence? A. Norfolk County. 8

7 Q. Your occupation? A. Trucker and farmer.

8 Q. Have you any relationship, by blood or marriage with
9 William H. Kirn, the plaintiff, and Amelia Elizabeth Kirn,
10 the defendant in this suit?

11 A. I am the brother-in-law of Mr. W. H. Kirn.

12 Q. You married the sister of W. H. Kirn?

13 A. Yes, sir.

14 Q. How long ago was that?

15 A. About 26 years ago, I believe.

16 Q. Have your relations with Mr. W. H. Kirn and his family
17 been intimate since that time? A. I think so.

18 Q. Do you remember the fact of the decree of divorce in
19 favor of Mr. W. H. Kirn against his wife, Mrs. Amelia Elizabeth
20 Kirn? A. I do.

21 Q. That occurred in March, 1907, did it not?

22 A. Yes, sir.

23 Q. Since that time, have you been familiarly acquainted
24 with Mr. W. H. Kirn? A. I have.

25 Q. Do you know where he has lived since that time?

26 A. To my knowledge at home; I reckon it is three-quarters

1 of a mile of me, or a mile. We see each other daily and
2 almost nightly.

3 Q. That is in Nansemond County? A. Yes, sir.

4 Q. His home now and since that time has been in Nansemond
5 County? A. Yes, sir.

6 Q. Has Mrs. Kirn been living with him at his home in
7 Nansemond County since March 15th, 1907?

8 A. Not to my knowledge.

9 Q. If she had been, would you have known it?

10 A. I think so.

11 Q. You say you see him daily and possibly nightly?

12 A. Yes, sir, speak to him over the phone and go over there.

13 Q. You are in position, therefore, to know whether he and she
14 were living together since that time?

15 A. I think so.

16 Q. Were they living together since that time?

17 A. Not to my knowledge.

18 Q. You have said you knew of this decree of divorce on the
19 15th day of March, 1907, between Mr. W. H. Kirn and Amelia
20 Elizabeth Kirn, his wife; do you know whether there has been
21 any reconciliation since that time?

22 A. I do not.

23 Q. Do you know that there has not been any reconciliation?

24 A. I think not.

25 Q. You would have known it if there had been?

26 A. I would.

1 BY MR. HICKS: Objected to as leading.

2 By Judge Brooke:

3 Q. Have you ever seen Mrs. Kirn, the defendant in this suit
4 at Mr. Kirn's home in Nansemond since the decree of divorce?

5 A. I have not.

6 Q. So far as you know, she has never been there since the
7 decree of divorce?

A. No.

8 BY MR. HICKS: Objected to as leading.

9 By Judge Brooke:

10 Q. You say you have been in daily communication with him
11 and his home?

A. Yes, sir.

12 Q. Do you know whether any reconciliation has ever been
13 brought about between those two parties?

14 A. I do not.

15 Q. Do you know that it has not been brought about?

16 A. Yes, I think I do know.

17 BY MR. HICKS: I object to that as leading.

18 Witness: I will answer the question in this way, I have had
19 numerous conversations with Mr. Kirn relative to this matter,
20 and he has always expressed himself absolutely as being opposed
21 to any reconciliation in any way.

22 BY MR. HICKS: I object to so much of the answer as
23 purports to be a statement from Mr. Kirn, on the
24 ground that it is not the best evidence.
25
26

1 By Judge Brooke:

2 Q. From your knowledge of the situation, would you say
3 that there was any probability of reconciliation between them?

4 A. I should say not.

5 BY MR. HICKS: The above question and answer are
6 excepted to on the ground that no qualification
7 has been shown the witness to give an opinion called
8 for by the question, and that said question calls
9 for, and said answer gives, a mere guess on the part
10 of the witness.

11 By Judge Brooke:

12 Q. Am I right in understanding your answer to the preceding
13 question to be that from your knowledge of the situation there
14 is no probability of a reconciliation?

15 A. Absolutely none.

16 BY MR. HICKS: Objected to, on the ground that the
17 question is leading and calls for an immaterial answer.

18
19 CROSS EXAMINATION

20 By Mr. Hicks:

21 Q. Mr. Armistead, you said you lived three-quarters of a
22 mile from Mr. Kirn?

23 A. I do not think it is hardly half a mile.

24 Q. Does your farm join his?

25 A. Yes, sir.

26 Q. How many acres do you farm? A. About 100.

1 Q. How many acres does he farm?

2 A. About 130.

3 Q. You are his brother-in-law, as I understand?

4 A. Yes, sir.

5 Q. And you married the daughter of Henry Kirn, and he is
6 the son of Henry Kirn, of Norfolk County?

7 A. Yes.

8 Q. Mr. Henry Kirn is a very wealthy man, isn't he?

9 A. He don't seem to think so. He is comfortably fixed.

10 Q. That is his reputation in the community?

11 BY JUDGE BROOKE: We object.

12 By Mr. Hicks:

13 Q. Is not he a very wealthy man?

14 A. I don't know what you consider wealthy.

15 BY JUDGE BROOKE: We object.

16 By Mr. Hicks:

17 Q. Is not he considered one of the wealthiest men in Norfolk
18 County?

19 A. He is considered, comparatively
20 speaking, one of the wealthiest men in Norfolk County.

21 BY JUDGE BROOKE: We object to the question.

22

-----oOo-----

23

24

25

26

1 W. H. KIRN, being duly sworn, testified as follows:

2 Examined by Judge Brooke:

3 Q. Mr. Kirn, what is your name, age and occupation?

4 A. William H. Kirn; age 49; truck farming.

5 Q. You are the plaintiff in this original suit for divorce
6 against Amelia Elizabeth Kirn, your former wife, are you?

7 A. Yes, sir.

8 Q. Mr. Kirn, do you remember when this decree of divorce
9 in your favor against Amelia Elizabeth Kirn was granted?

10 A. March, 1907.

11 Q. March 15th, 1907, was it not? A. Yes, sir.

12 Q. Since that time, have you lived with your former wife,
13 Amelia Elizabeth Kirn? A. No, sir, I have not.

14 Q. Since that time, where has been your residence and where
15 has been hers? A. In Nansemond County, and she has
16 been living in Norfolk County. I might say the first year
17 after this happened I lived with my father in Norfolk County,
18 the first seven or eight months.

19 Q. Where were you living when the divorce occurred?

20 A. In Norfolk County.

21 Q. Were you living at your own home, or somewhere else?

22 A. I was living somewhere else.

23 Q. Where? A. At my father's in Norfolk County.

24 Q. With whom? A. With my father.

25 Q. Where was she living when the divorce occurred?

26 A. At my home in Nansemond County.

1 Q. Then, before the decree of divorce was granted, you and
2 your wife were not living together?

3 A. No, sir.

4 Q. For how long prior to March 15th, 1907, the date of the
5 decree of divorce, had you been living in Norfolk County at
6 your father's house, and had she been living at your former
7 home in Nansemond County?

8 A. I left my home in September, 1906, and I went to my
9 father's house in October, 1906.

10 Q. Then, from September, or October, 1906, you and your
11 wife have been living separately?

12 A. Yes, sir.

13 Q. Have you ever lived together since then?

14 A. No, sir, we have not.

15 Q. Since the decree of divorce was granted on March 15th,
16 1907, have you and your wife ever lived together?

17 A. No, sir.

18 Q. Since that time, has there ever been any reconciliation
19 between you? A. No, sir.

20 Q. Since that time, have you ever been willing to be
21 reconciled to your wife? A. No, sir, I have not.

22 Q. Is there now any probability that you will ever be
23 reconciled to her? A. None whatever.

24

25

26

1

CROSS EXAMINATION

2

By Mr. Hicks:

3

Q. Mr. Kirn, when were you married?

4

A. In November, 1883, I think it was.

5

Q. Where were you married?

6

A. In Philadelphia.

7

Q. You married at that time Amelia Elizabeth Kirn, the
defendant in this proceeding?

8

A. Yes.

9

Q. You lived with her from 1883 until September, 1906,
did you?

10

A. Yes.

11

Q. When did you first begin to have trouble with her?

12

BY JUDGE BROOKE: Objected to as irrelevant.

13

A. In about ten years after we were married.

14

By Mr. Hicks:

15

Q. Did you ever have any children?

16

A. We had one.

17

Q. When was that child born?

18

BY JUDGE BROOKE: We object to all this line of
testimony.

19

20

A. In the fall of 1885 or 1886.

21

By Mr. Hicks:

22

Q. Is the child living?

23

A. No, sir.

24

BY JUDGE BROOKE: Same objection.

25

By Mr. Hicks:

26

Q. When did the child die?

26

1 BY JUDGE BROOKE: Same objection.

2 A. It lived to be six months old.

3 By Mr. Hicks:

4 Q. So it died in infancy?

5 BY JUDGE BROOKE: Same objection.

6 A. Yes, sir.

7 By Mr. Hicks:

8 Q. You began first to have trouble ten years after you were
9 married.

10 BY JUDGE BROOKS: Same objection.

11 A. I think so.

12 By Mr. Hicks:

13 Q. What was the character of the trouble you had ten
14 years after you were married?

15 BY JUDGE BROOKE: Same objection.

16 A. It was ill temper on her part, is about all.

17 By Mr. Hicks:

18 Q. But you had no trouble prior to that time?

19 BY JUDGE BROOKE: Same objection.

20 A. Spats, such as that.

21 By Mr. Hicks:

22 Q. Such as other married people?

23 BY JUDGE BROOKE: Same objection.

24 A. Yes, sir.

25

26

1 By Mr. Hicks:

2 Q. Then ten years after you were married she began to
3 develop these qualities to which you objected; is that correct?

4 BY JUDGE BROOKE: Same objection.

5 A. Yes; a little before that.

6 By Mr. Hicks:

7 Q. What was the manifestation that she developed at that
8 time?- jealousy, or what, that made life unpleasant?

9 BY JUDGE BROOKE: Same objection.

10 A. Jealousy was one cause of it.

11 By Mr. Hicks:

12 Q. Did she have, at that time, any womb trouble?

13 BY JUDGE BROOKE: Same objection.

14 A. Not to my knowledge.

15 By Mr. Hicks:

16 Q. Did you ever consult a physician about her at that time?

17 BY JUDGE BROOKE: Same objection.

18 A. Yes, she did.

19 By Mr. Hicks:

20 Q. Did you ever?

21 BY JUDGE BROOKE: Same objection.

22 A. No, because I took her word.

23 By Mr. Hicks:

24 Q. Did not she, at that time, develop an abnormal jealousy
25 of your actions with reference to other women?
26

1

BY JUDGE BROOKE: Same objection.

2

A. I don't know about that.

3

By Mr. Hicks:

4

5

Q. Did not she develop such a jealousy of your actions towards other women as to make life uncomfortable to you?

6

7

BY JUDGE BROOKE: We object.

8

A. I know this much, I could not speak to anybody at all hardly, that there was not a row about it.

9

10

By Mr. Hicks:

11

Q. Do you mean you could not speak to any woman?

12

BY JUDGE BROOKE: Same objection.

13

A. Any lady at all.

14

By Mr. Hicks:

15

Q. And that condition continued for ten years?

16

BY JUDGE BROOKE: Same objection.

17

A. Continued until the end of my leaving there.

18

By Mr. Hicks:

19

Q. Did you ever give her any cause for jealousy?

20

BY JUDGE BROOKE: Same objection.

21

A. No, sir, never in my life.

22

By Mr. Hicks:

23

Q. Then this jealousy developed without cause?

24

BY JUDGE BROOKE: Same objection.

25

A. So far as I know it did.

26

26

1 By Mr. Hicks:

2 Q. Was there ever any other trouble between you except this
3 abnormal jealousy? A. No, I don't know that there was.

4 BY JUDGE BROOKE: Same objection.

5 By Mr. Hicks:

6 Q. Have you seen your wife since the divorce?

7 A. I have seen her, yes. I have passed her on the road,
8 and have passed her on the street.

9 Q. Did you speak to her? A. No, sir.

10 Q. Did she speak to you?

11 A. Once she did.

12 Q. What did you say to her?

13 A. I told her I did not want to exchange any words with her.

14 Q. That is the only greeting and the only words you have
15 spoken to her since this divorce?

16 A. Yes.

17 Q. Did she, at that time, tell you she loved you, and was a
18 faithful wife to you?

19 A. I don't know what she told me. I did not pay much
20 attention to what she told me. I was after getting out of
21 her way.

22 Q. Did she, at that time, realize that you had gotten a
23 divorce from her? A. I don't know whether she did,
24 or not.

25 Q. When was that? A. I think that was last spring
26 sometime, but I don't know exactly.

1

Q. This last spring?

2

3

A. I think so, but it might have been longer than that.

4

I can't recall the time when it was.

5

6

Q. Did not she, at that time, tell you she wanted to go back and live with you, and that she loved you, and wanted to be your wife?

7

A. She may have told me so.

8

9

Q. Don't you know that it is true that she does love you, and wants to be your wife, and wants to be reconciled to you?

10

A. Well, there is no hope of that.

11

12

Q. You say she showed this jealousy; how would that jealousy take form? What would she do?

13

14

A. She would come there and talk, and then fly off and get mad, and I don't know what she would do.

15

16

Q. Did she act like a sane or an insane person?

17

18

A. She acted like a sane person - anybody mad.

19

20

Q. Do people who fly off and talk mad talk like sane or insane people?

21

22

A. They talk like sane people, I reckon.

23

24

Q. Would not she accuse you of improper conduct towards any woman you had any talk with?

25

26

A. I think she would.

27

28

Q. Did she seem to be under the illusion that you were running around with other women?

29

30

A. Yes, sir.

31

32

Q. You never gave her any cause to do that?

33

34

1 A. No.

2 Q. As a matter of fact, you never did, did you, Mr. Kirn?

3 A. No.

4 Q. What is the age of your wife at the present time?

5 A. I think about 50.

6 Q. What is your age? A. 49.

7 Q. Did you have any talk with your wife just prior to getting
8 this divorce? A. No, sir.

9 Q. Did you have any conversation between the time you left
10 her in September, 1906, and the obtainment of the divorce?

11 A. No, sir.

12 Q. Did you ever see her during that time?

13 A. I passed her on the street.

14 Q. But had no conversation with her?

15 A. She got after me on the street, and I got away from her.
16 One Sunday at church I told Mr. Adams to tell her if she
17 ever molested me I would have her arrested, and she came up
18 and asked me about it, and I told her to go on away.

19 Q. What did she ask you?

20 A. She asked did I tell Mr. Adams I would have her arrested
21 if she bothered me, but I did not tell her, but told her
22 to go on back where she came from.

23 Q. When was that? A. Two or three years ago.

24 Q. It was between the time you left her and the time you got
25 the divorce, was it? A. I think it was after I

26 got the divorce.

1 Q. I was asking you about what occurred between you?
2 Did you have any conversation then?
3

4 A. No, sir.

5 Q. Did you see her then?

6 A. I passed her on the street.

7 Q. Did she speak to you?

8 A. I passed her on a West Norfolk bridge, but I never spoke
9 to her.

10 Q. Did she speak to you?

11 A. I don't know whether she did, or not.

12 Q. Don't you know that she did speak to you?

13 A. No, sir, I do not.

14 Q. Did you listen to what she said?

15 A. No, sir, I didn't listen.

16 Q. What was the condition of her health at the time you left
17 her in September, 1906? A. Good.

18 Q. Did she have any female trouble?

19 A. Not so far as I know.

20 Q. Did she have a doctor to examine her?

21 A. Yes.

22 Q. What doctor? A. Dr. Wright and Dr. Redd.

23 Q. Did they go up there and treat her?

24 A. Yes.

25 Q. Was she constantly under their care during that time?

26 A. No.

1 BY JUDGE BROOKE: Our objection applies to this
2 line of inquiry as well as to the former line.

3 By Mr. Hicks:

4 Q. How many acres of land do you farm?

5 BY MR. COLEMAN: We object to this line of inquiry,
6 also.

7 A. I think there are about 140 acres in the tract.

8 By Mr. Hicks:

9 Q. What do you raise - are you a truck farmer?

10 A. Yes, sir.

11 Q. Do you own the farm on which you live?

12 BY MR. COLEMAN: Same objection.

13 A. No, sir.

14 By Mr. Hicks:

15 Q. Who owns it?

16 BY MR. COLEMAN: Same objection.

17 A. My father.

18 By Mr. Hicks:

19 Q. What was the value of your crops last year.

20 BY MR. COLEMAN: Same objection.

21 A. I don't know.

22 By Mr. Hicks:

23 Q. Can you approximate it? A. No, sir.

24 BY MR. COLEMAN: Same objection.

25

26

1 By Mr. Hicks:

2 Q. Was it as much as \$5,000?

A. No, sir.

3 BY MR. COLEMAN: Same objection.

4 By Mr. Hicks:

5 Q. You don't know?

6 BY JUDGE BROOKE: We object to this line of inquiry
7 also.

8 A. No, but I know it was not \$5,000.

9 By Mr. Hicks:

10 Q. You did not make \$5,000?

11 BY JUDGE BROOKE: Same objection.

12 A. No.

13 By Mr. Hicks:

14 Q. Did you make it the year before?

15 BY JUDGE BROOKE: Same objection.

16 A. No.

17 By Mr. Hicks:

18 Q. Did you make it the year before that?

19 BY JUDGE BROOKE: Same objection.

20 A. I don't know about that.

21 By Mr. Hicks:

22 Q. How about the year before that, the last year of your
23 married life?

24 BY JUDGE BROOKE: Same objection.

25 A. I could not tell you about that.

26

1 By Mr. Hicks:

2 Q. Have you anybody depending on you?

3 BY JUDGE BROOKE: Same objection.

4 A. Not that I know of.

5 By Mr. Hicks:

6 Q. Did you make as much as \$4,000 last year?

7 BY JUDGE BROOKE: Same objection.

8 A. I could not tell you without referring to my books.

9 By Mr. Hicks:

10 Q. Can't you approximate it?

11 BY JUDGE BROOKE: Same objection.

12 A. I might have made it, and I might not.

13 By Mr. Hicks:

14 Q. Don't you know?

15 BY JUDGE BROOKE: Same objection.

16 A. No, I don't know.

17 By Mr. Hicks:

18 Q. Do you farm any other land than that which you just
19 described?

20 BY JUDGE BROOKE: We object to this line of testimony
21 also.

22 A. Yes, sir, I have a small farm there.

23 By Mr. Hicks:

24 Q. Whereabouts is it - in Nansemond County?

25 BY JUDGE BROOKE: Same objection.

26 A. Yes.

1 By Mr. Hicks:

2 Q. How many acres are in that?

3 BY JUDGE BROOKE: Same objection.

4 A. About 80 acres, but I do not tend it all.

5 By Mr. Hicks:

6 Q. What do you do with it?

7 BY JUDGE BROOKE: Same objection.

8 A. I have a darkey there, and he works it on the shares.

9 By Mr. Hicks:

10 Q. Did you buy that farm yourself?

11 BY JUDGE BROOKE: Same objection.

12 A. No, sir.

13 By Mr. Hicks:

14 Q. Was it given you by your father?

15 BY JUDGE BROOKE: Same objection.

16 A. No, sir: my brother and I bought it together.

17 By Mr. Hicks:

18 Q. What did you pay for that farm?

19 BY JUDGE BROOKE: Same objection.

20 A. I think about \$2,800.

21 By Mr. Hicks:

22 Q. When did you buy it?

23 BY JUDGE BROOKE: Same objection.

24 A. I don't remember.

25 By Mr. Hicks:

26 Q. What is its value today?

1 BY JUDGE BROOKE: Same objection.

2 A. Just about what I paid for it.

3 By Mr. Hicks:

4 Q. When you said just now that there was no chance of a
5 reconciliation between you and your wife, you meant you would
6 not be reconciled to her, did you not?

7 A. Yes, under any circumstances.

8 Q. Regardless of what her conduct might be towards you,
9 you would never live with her again?

10 A. No, sir, never.

11

12 RE DIRECT EXAMINATION

13 By Judge Brooke:

14 Q. Was the time you talked with your wife (and I understood
15 it was only one time) after the divorce, or prior to the
16 divorce? A. It was after the divorce.

17

-----oCo-----

18

19 By Mr. Hicks: I offer now to introduce testimony now on
20 behalf of the defendant, Amelia Elizabeth Kirn, to the taking
21 of which testimony counsel for William H. Kirn object on the
22 ground that no notice of the taking of said testimony has been
23 given; and, thereupon, counsel for Amelia Elizabeth Kirn
24 asked them to state a date on which it would be satisfactory
25 for him to take his depositions.

26

1 By Judge Brooke: In reply thereto, counsel for Mr. W. H. Kirn
2 says we will await the notice of the taking of depositions to
3 be served in accordance with law upon the proper party.
4

5 -----oOo-----
6

7
8 VIRGINIA,
9

10 City of Norfolk, to-wit:

11 I, D. S. Phlegar, a Commissioner in Chancery for the
12 Circuit Court of the City of Norfolk, Virginia, certify that
13 the foregoing depositions of E. F. Adams, W. W. Armistead
14 and W. H. Kirn were duly taken and sworn to at the time and
15 place and for the purpose in the caption mentioned, and that
16 signatures thereto were waived by counsel.

17 Given under my hand this _____ day of July, 1910.
18

19 Commissioner in Chancery for
20 Circuit Court of the City of
21 Norfolk, Virginia.
22

23 -----oOo-----
24
25
26

Reported by *ASP*
Transcribed by *MM*
Compared by *ASP*

B. N. Robinson

STENOGRAPHER'S MINUTES.

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

WILLIAM H. KIRN,

Before

v.

D. S. Phlegar, Commissioner.

AMELIA E. KIRN.

In Chancery.

Norfolk, Virginia, June 6th, 19 10.

INDEX.

WITNESSES.	DIRECT.	CROSS.	RE-DIRECT.	RE-CROSS.
B. F. Adams	2	4	--	--
M. W. Armistead	5	8	--	--
W. H. Kirn	10	12	24	--

MONTESS & CLARKE CO., 51 NASSAU ST., N. Y.

D. S. PHLEGAR.
 SHORTHAND REPORTER
 532-533 LAW BLDG., NORFOLK, VA.
 BELL PHONE 504

STENOGRAPHER'S TRANSCRIPT.

191

1 IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA,

2
3 -----*
4 WILLIAM H. KIRN, *

5 vs. *

In Chancery.

6 AMELIA E. KIRN, *

7 -----*
8
9 The deposition of M.O. Johnson and others, taken before
10 me, Harry A. Brinkley, a Commissioner in Chancery for the
11 Circuit Court of the City of Portsmouth, Virginia, pursuant
12 to notice hereto annexed, at the office of C.W. Coleran, in
13 the City of Portsmouth, Virginia, on the 8th day of November,
14 1906, between the hours of six A.M. and six P.M. to be read
15 as evidence in a certain suit in chancery depending in the
16 Circuit Court of Nansemond County, wherein William H. Kirn
17 is plaintiff and Amelia E. Kirn is defendant, to be read on
18 behalf of William H. Kirn, the plaintiff.

19 No witnesses appearing, the further taking of these de-
20 positions is adjourned until the 23rd day of November, 1906,
21 at the same place and between the same hours.

22 -----oOo-----

23 At the office of C.W. Coleran

24 Portsmouth, Virginia, November 23rd, 1906.

25 Met pursuant to adjournment.

26 PRESENT: C.W. Coleran and E.F. Holland, for the plaintiff.

Thomas H. Willcox for the defendant.

1 M.O.JOHNSON, being duly sworn, testified as follows:

2 Examined by Mr.Coleman:

3 Q. What is your name, age, occupation and residence?

4 A. Name M.O.Johnson; age twenty-four; occupation farming;
5 residence Churchland.

6 Q. Mr.Johnson, you say your residence is in Churchland;
7 where are you engaged now in farming?

8 A. Pig Point; the Post Office is Churchland; Nansemond County.

9 Q On what farm are you engaged in farming?

10 A. On Mr.Henry Kirn's farm.

11 Q. Mr.Johnson, how long have you been engaged on the farm
12 on which you are now farming?

13 A. Three years the last day of this month.

14 Q. When you first were engaged on that farm, how were you
15 employed?

16 A. Employed by Mr.W.H.Kirn.

17 Q. Will you state how you are engaged on that farm now?

18 A. With Mr.Henry Kirn, working on the shares with him now.

19 Q. When you first were employed on the farm, where, on the
20 farm, did you live?

21 A. I lived in the house with Mr.Kirn.

22 Q. Who lived in the house besides you and Mr.Kirn?

23 A. Mr.William H.Kirn, Mrs.Amelia E.Kirn, his wife, and
24 myself.

25 Q. How long have you known Mr.William H.Kirn and his wife?

26 A. I don't know, sir; as long as I can remember anyone, I

M.O. Johnson

1 reckon.

2 Q. Before you began to farm in Nansemond County, where was
3 your home? A. Norfolk County.

4 Q. Can you state more definitely near what place it was?

5 A. I was in Norfolk two years - near West Norfolk, the second
6 farm from West Norfolk.

7 Q. And after that time where did you live?

8 A. At home, in Norfolk County, about the center between
9 Churchland and West Norfolk.

10 Q. How far from Churchland was your father's home?

11 A. About two and a half miles.

12 Q. How far from Churchland was the home of William H. Kirn
13 and his wife?

14 A. About three miles, I should think.

15 Q. Mr. Johnson, please state fully, in your own language,
16 the relations that have existed between Mr. William H. Kirn
17 and his wife, Amelia E. Kirn, from the time you first went there
18 to live until Mr. William H. Kirn left the farm?

19 A. Well, Mr. Coleman, she was always nagging after Mr. Kirn
20 ever since I have been up there, and said she was dissatisfied,
21 and that she wanted to leave, and wanted a separation. She
22 has always been saying that ever since I have been up there,
23 and always nagging and nagging, and caused Mr. Kirn to go off,
24 and lose a lot of sleep, and he had to go to the barn late, at
25 twelve o'clock at night, to sleep, and she said she did not
26 care anything for him many a time, and she was only there for

1 what she got out of him, and her victuals and clothes. He has
2 been compelled to leave the farm and go away to get something
3 to eat, and she would not allow anything to be cooked, or any-
4 thing like that, and we had to leave the farm to get our food.

5 Q. Where were you compelled to go to get your food?

6 A. We have been to Mr. Armistead's, and we have been to Mr.
7 Kirn's father. We have got some of the women on the farm once
8 or twice to cook something for us to eat.

9 Q. Can you state definitely what happened about her refusing
10 to allow you to have food, or to have food cooked?

11 A. No, sir, I don't think I can.

12 Q. When you first went there to live, where was your room
13 located?

14 A. It was on the second floor.

15 Q. How close was your room to the room occupied by Mr. and
16 Mrs. Kirn?

17 A. My room was on the Northward of the house, and their room
18 was right back in the L. The front of the house had four
19 rooms, and it ran back into an L, and the dining room was be-
20 low, and Mr. Kirn's was above.

21 Q. Was your room on the same floor with Mr. and Mrs. Kirn?

22 A. Yes, sir.

23 Q. You said that Mrs. Kirn was continually nagging after Mr. Kirn;
24 what do you mean by "nagging after him"?

25 A. She was always after him, and said she was dissatisfied, and
26

1 fussing and doing and all.

2 Q. What kind of language did she employ towards him? I
3 would like for you to explain what you mean by "nagging"?

4 A. She was always after him, and fussing, and I call that
5 nagging after him? I don't know what she used, but first one
6 thing and then another.

7 Q. You say that she was always fussing with him?

8 A. Yes, sir, continually.

9 Q. Was her language violent or abusive, or did she make any
10 charges of any sort against him?

11 A. She was always after him, and she was in a high temper
12 every time she was doing it.

13 Q. State whether or not you ever heard her make any threats
14 of any kind against him?

15 A. Only once.

16 Q. Please state what that was, and when?

17 A. I don't know exactly when it was, but some time last
18 year, towards the end of the year.

19 Q. Please state what the threat was?

20 A. She claimed that Mr. Kirn had struck her, I think, and
21 she told him if he ever laid his hands on her again she would
22 fix him, and she did not say what with, and she said she had
23 something to fix him, and would do it. That was all the threat
24 I ever heard her make.

25 Q. Did you ever know Mr. Kirn to maltreat her, or quarrel with
26 her, while there?

1 A. No, sir.

2 Q. You stated previously that you and Mr. Kirn were forced
3 to go to Mr. Armistead's sometimes for your meals. Why were
4 you forced to go there for your meals?

5 A. She would not allow anything to be cooked at the house.
6 She would run the cook off, discharge her, and send her home,
7 and we were compelled to go somewhere to get something to eat.

8 Q. Did you continue to occupy a room in the house from the
9 time you first went there until the present time?

10 A. No, sir.

11 Q. Will you please state why, and when you ceased to occupy
12 a room in the house?

13 A. I don't know why. I never done anything to her, but
14 she got mad with me, and said I could not stay in the house,
15 and I went into one of the other houses to finish out the
16 last year. It was some time last January, I think, I left.

17 Q. Can you state anything about how your beds etc. were
18 moved out of the house?

19 A. No, sir. All I know is when I went in they were moved
20 out.

21 By Mr. Holland:

22 Q. Mr. Johnson, you stated just now that Mr. Kirn was frequently
23 compelled to leave the house and sleep elsewhere; what was
24 the cause of this?

25 A. Well, she was continually nagging after him all the time,
26 and at night it was the same way, and at one time there Mr.

1 Coleman asked me at first where was my room when I first went
2 there, but my room was moved. I only stayed in that room
3 three or four months, and then my room was put next to theirs,
4 and the headboards of the beds were just against the partition,
5 and it seems that she would pull the cover off him, and I
6 heard him holler sometimes and tell her to keep the lamp out
7 of the bed - just anything to keep him awake, and about twelve
8 or one o'clock he would get up and go to the barn.

9 Q. What accommodations were there in the barn?

10 A. There was not any but hay up there.

11 Q. How often did that happen, Mr. Johnson?

12 A. I hardly know, Mr. Holland. Right frequently.

13 Q. Now, you stated just now something about being required
14 to go elsewhere to get your meals; about how often did that
15 happen?

16 A. I reckon once every two or three weeks, or something like
17 that.

18 Q. Was that due to the fact that Mrs. Kirn had no help at the
19 house?

A. No, sir.

20 Q. What was the cause of it?

21 A. Through her meanness, I reckon.

22 Q. You have stated here several times that she was constantly
23 nagging at him. Did I understand you, by "nagging" to mean
24 quarrelling, or what?

25 A. Yes, sir, she was always fussing and quarrelling with him,
26 and saying she was dissatisfied, and said she had lost all love

1 for him, but I don't know for what cause.

2 Q. She said she had lost her love for him?

3 A. Yes, sir.

4 Q. How often would these quarrels or naggings take place?

5 A. About once a week. Sometimes they would last the best
6 part of it.

7 Q. You mean they would last the best part of a week, some-
8 times? A. Yes, sir.

9 Q. When she would have these quarrels with him, was she
10 apparently in anger, or not?

11 A. She looked to be.

12 Q. During those quarrels, what accusations, if any, would
13 she bring against him?

14 A. I don't know hardly, Mr. Holland. I will tell you the
15 honest truth: when they would get in a fuss like that, if it
16 was at night, I would leave and go to my room, and I did not
17 see any more of it than I could help. I kept out of all of it
18 I possibly could.

19 Q. Do you know whether or not on any occasion, if so, what,
20 that he was locked out of the house when he came home at night?

21 A. Yes, on two or three occasions, I think, we were compelled
22 to leave home and go down to Mr. Kirn's one day, and we came back
23 that day about sunset, and the whole house was locked up, and
24 the blinds pulled in, and everything, and she was in the house,
25 and he was compelled to break out the shutter and get in the
26 window.

1 Q. What effort, if any, was made to wake her, or call her,
2 or arouse her in any way?

3 A. She was not asleep, and you could hear her in the house,
4 and Mr. Kirn knocked on the door several times, and she heard
5 him, I know, because she was in the house, and it was just
6 about sunset.

7 Q. During those quarrels, what accusations of infidelity
8 on the part of Mr. Kirn, if any, did you hear her make?

9 A. I don't know, sir.

10 Q. What statement, if any, did you ever hear Mrs. Kirn make
11 about making or breaking Mr. Kirn?

12 A. I heard her tell him once or twice she would either make
13 or break him. By making or breaking I don't know what she
14 meant. I heard her tell him two or three times she would
15 either make or break him, but I don't know what she meant
16 by it.

17 By Mr. Coleman:

18 Q. Mr. Johnson, Mr. Holland asked you what accusations, if any,
19 you had heard; do you mean to say you never heard Mrs. Kirn
20 accuse Mr. Kirn of being unfaithful to her?

21 BY JUDGE WILLCOX: The question is objected to
22 upon the ground that it is leading, and also be-
23 cause it is calculated to make the witness contra-
24 dict his previous testimony.

25 A. No, sir.

26 (No cross examination)

(Signature waived)

1 RACHAEL FAULKS, (Colored), being duly sworn, testified
2 as follows:

3 Examined by Mr. Coleman:

4 Q. What is your name? A. Rachael Faulks.

5 Q. Do you know how old you are, Aunt Rachael?

6 A. Lord have mercy, no, sir. When the house got burned down
7 before the War - -

8 Q. Where do you live? A. In Huntersville now.

9 Q. In what County is that? A. Nansemond.

10 Q. What is your occupation?

11 A. I never got out of the Kirn family. I am over at Mr.
12 Moss Armistead's.

13 Q. What kind of work do you do there?

14 A. Housekeeping and help cook and clean the house.

15 Q. How long have you known Mr. William H. Kirn?

16 A. Ever since he has been birthed. I know his birth home,
17 and his birth home was in Norfolk County.

18 Q. Did you ever live with Mr. William H. Kirn, or work for him

19 A. Yes, sir.

20 Q. When did you work for him, and what kind of work did you
21 do for him?

22 A. House work - general house work and cooking.
23
24
25
26

1 Q. When did you last work for him?

2 A. I left there August before last.

3 Q. Do you know the name of his wife?

4 A. I don't know any more than Miss Mell Kirn. Her mother
5 calls her Millie.

6 Q. Aunt Rachael, will you please state how Mr. and Mrs. Kirn
7 have been getting along together in recent years?

8 A. Way back, or just about eight years ago

9 Q. Just tell what you know about it in recent years, for
10 about the last eight or ten years?

11 A. Mr. Kirn has been getting along mighty bad with his wife.

12 Q. Tell everything you know right along fully?

13 A. I didn't see anything that he done. He lived with his
14 wife, and she had a good husband, and the Lord knows that man
15 certainly did love his wife, and if he didn't love her he
16 would not have stayed and taken what he did, because I don't
17 think there was a man on earth that would have stayed there
18 and taken what he did. I cooked there, and I reckon I was
19 there over and often fifteen years with them. He would get
20 up some mornings, and some mornings she would say "Rachael,
21 you ain't going to cook any breakfast to-day for Billy", and I
22 said "All right, you are the mistress, and if you say I can't
23 cook it, I can't get it without you say so". Sometimes there
24 would be some cold biscuits left over from supper, and coming
25 through the sitting room and into the dining room and into
26 the kitchen he would get some cold buscuits and put them in

1 his pocket, and get a drink of water at the pump and go into
2 the field, and he would go on until twelve o'clock, and by
3 twelve o'clock if she was a little over her rough he might
4 get his dinner, and then he might not get his supper. He was
5 a man for buying everything to eat, and everything she wished
6 he would get it. Go when she wanted to go, and Sundays come
7 she got so one spell she would not eat meals with him, and he
8 had to sit and eat by himself; I said "Miss Mell, don't do
9 like that; take a fool's advice; you have a good husband, and
10 don't treat him so, he loves you". "Oh, he don't. Oh,
11 Rachael, I don't love him". I said to Miss Mell "You ought
12 not to say that, I don't see anything that he don't love you,
13 and you have a sweet home, look at your home, and it don't
14 matter what she wanted he would go down and buy many a picture
15 and pay for it. When she would not let me cook she would send
16 me over home, right out of the house, and he used to get so
17 hungry he would come up and say "Aunt Rachael, have you a bis-
18 cuit done to give me one piece". As much as he had he had to
19 come like a beggar, and you know he loved her. Sometimes after
20 twelve o'clock at night, and sometimes after eleven, and some-
21 times one and two o'clock and sometimes three o'clock he would
22 have to get out of bed and go and look for me, and he would have
23 to go up in the barn and sleep in the hay, just like a truck
24 hand, and I said "Captain Bill, pay me, for I don't want to
25 stay here; you are hiring me and paying me your money and I
26 don't feel satisfied cooking for you and you can't enjoy your

1 meals, and he said "Rachael, that don't make any difference,
2 keep on cooking", and I was all to pieces. One Sunday morning
3 he come in, - on Sunday mornings they don't get up soon - and he
4 come in, and I don't wait for Captain Billy and his wife to get
5 up, because I can get out without waiting, and he come in and
6 sat down, and I don't suppose he had eat more than two or
7 three mouthfuls when she come in. Whew! I reckon she
8 thought he had eaten long enough, and she caught hold of the
9 plates like she was going to take something to eat off, and
10 she didn't take it off, and Captain Billy was sitting down
11 eating, and she stood there and quarreled, and he laid his
12 knife and fork on his plate, and he looked up at her like
13 this (indicating), and I had the kettle on the stove, and she
14 took the ladle and took boiling water out and said "Billy,
15 if you say a word I will pour it on your face", and she
16 scared me, and she ran to him, and I said "Suppose she would
17 pour it into his race, they would say I did it", and I have
18 thought about it from that Sunday to this, and there would not
19 have been a soul there to speak. At home Captain Billy had
20 no pleasure at home, and he done everything to please his wife,
21 and what Miss Mell stayed upset for I don't know. If he had
22 been mean to her, and she asked him for things and he did not
23 give them to her - Sundays she would go to church every
24 Sunday, and he did not go to church, and he must stay at home
25 until she come, and she would come and eat her dinner, and he
26 would say "Mellie, I believe I will go down to Pa's", and she

1 said "No, you aint going a step", and the horse was out there
2 hitched, and he stayed there, and he didn't go. A man who
3 went through that, he certainly loved his wife. He was mighty
4 kind, and he was a kind child, and he ought to have been
5 a woman instead of a man from the temper he got, and he looked
6 like he was a grown man when he was growing up, and when he was
7 a school boy. You never saw him running with the other
8 children, and he looked odd by himself, and he and his sister,
9 like himself - she didn't attend to anybody's business but her
10 own. I can speak for them two children, but the others have grown
11 up since I left Mr.Kirn's.

12 Q. You have stated that on one occasion Mrs.Kirn threatened to
13 throw hot water in her husband's face?

14 A. Yes, sir.

15 Q. Did you ever know her to threaten him in any other way?

16 A. She got a butcher knife at him, and he taken it away from
17 her. That is all I know about that.

18 Q. Aunt Rachael,I do not want you to give the names of any
19 persons; state whether or not you ever knew Mrs.Kirn to accuse
20 him in regard to other women?

21 A. Yes, sir. He would get it for breakfast, and he would get
22 it for his dinner, and for his luncheon, in the middle of the
23 day, every day. It did not stop on his color, but to white
24 and black both.

25 By Mr.Holland:

26 Q. You said just now that she refused to give him his food?

1 A. Yes, sir.

2 Q. About how often did that happen?

3 A. Lord have mercy, I could not tell that, how often that did
4 happen. She had him all the time on the go. He was as apt to
5 get it as not to get it, but I did not keep account of the
6 time.

7 Q. You stated just now that he was frequently required to
8 leave home at night, and sleep in the barn?

9 A. Yes, sir.

10 Q. About how often did that happen?

11 A. I reckon he stayed in the barn a whole winter, putting it
12 all together, and it made him sick, and he did not have anything
13 to sleep under bht the hay, and he would come back with his
14 back full of hay seed. Then she would lock him out of doors.
15 She would lock him out of the house, and she would lock me up
16 in there, and I got scared. She locked me up there twice,
17 and I said "Oh, Miss Mellie, don't lock me up there", and he
18 knew I was there, and I reckon he thought I ought to open the
19 door, but she did not lock me up there but twice. One morn-
20 ing it was cold and he come out of the barn and wanted to get
21 in, and she saw him coming, and was looking for him, because
22 she had not seen him all night long, and she saw him coming to the
23 house, and she ran and locked every one of the doors. She did
24 not hoist the window, but lowered it, and he said "Mellie, un-
25 lock the door, and let me come in", and she said "Billy, you
26 ain't coming here", and he said "Mellie, let me come in, I want

1 to talk over the phone," and she would not, and she said "He
2 makes out like he is so cold", and he walked the porch and
3 cried, and wrung his hands. I was with him from growing up,
4 and when I am with white children like that I feel like they
5 are mine, but I don't know how he got in that morning. I don't
6 know how he got in there, but he got in quiet. One night
7 again it was cold, and Miss Mellie locked him out, and Mattie
8 made out like she was going to ask her something, and he
9 was so far behind that she locked him out again, and he came
10 and asked if she could fix for him to get in the house, and I
11 asked her to get some matches, and when she opened the door
12 for me he got in, and that is the way he got in that night.

13 Q. You stated just now that sometimes, at eleven o'clock
14 and different hours, he would come and get you to go to her?

15 A. Yes, sir.

16 Q. What was the matter with her?

17 A. For my life I don't know. If I knew anything about him
18 I would tell it.

19 Q. What would she do after you got there?

20 A. She tormented him. It was one thing all the time, quar-
21 rel, quarrel, quarrel all the time. I don't know when she
22 slept.

23 Q. Now, after Mr. Kirn left the house, what would she do?

24 A. When he would go up in the field?

25 Q. At night?

26 A. She would sit there and quarrel and cry. I never could

1 go to sleep. It was nothing but "Billy, Billy." She would
2 sit there and quarrel all night, and it was nothing but "Billy,
3 Billy", and I did not see anything for her to get in a fret
4 over like that. I don't know what she was fretting about.
5 If you have everything in this world you want to eat and drink,
6 and go where you want, and have money, what do you want to
7 fret about?

8 Q. You stated just now that she sometimes discharged the
9 servants?

10 A. Yes, sir.

11 Q. How often did that happen?

12 A. I would sometimes go there and stay a week, and some-
13 times one or two days, and get out.

14 Q. why did she do that?

15 A. She said she done it to spite Billy. That is what she
16 told me.

17 Q. Sometimes when you were cooking there she would refuse
18 to let you cook the food?

19 A. Yes, sir.

20 Q. How often did that happen?

21 A. I could not tell, it happened so many times. I did not
22 take notice of the times.

23 Q. When Mr. Kirn could not get his food at home, where did he
24 go to get it?

25 A. Sometimes he would go to his sister's, and then she told
26 him if he would go to his sister's and eat she would have them

1 indicted for feeding him over there. Then he used to go with-
2 out his meals.

3 Q. Whose sister was that, Mr. Kirn's or Mrs. Kirn's?

4 A. His sister, Miss Annie Armistead. I stayed over to his
5 sister's.

6 Q. When she sent Mr. Kirn away, and would not cook any food
7 for him, what sort of food did she have for herself?

8 A. Just what we had, whether beefsteak or ham. She would
9 call me to come and get my meals, and she would feed her mother
10 and the children, but she would not let him have any.

11 Q. Do I understand from your statement that she would have
12 the stuff cooked for herself, but would not allow him to eat?

13 A. Yes, sir, and when he would sit down she would say "If
14 you take any of that stuff I will throw it out of doors", and
15 he said "I can go without it", and sometimes he would get
16 up without a mouthful, and walk around the field.

17 Q. After Mr. Kirn had left the house and gone out into the
18 field, how often, if at all, would she go out there to look
19 for him?

20 A. May the Lord have mercy! I could not tell you. For the
21 Lord have mercy, I could not tell you about that.

22 Q. Talk louder.

23 A. I could not tell you. Whenever Miss Mellie would get
24 into those frets, if it was raining she would go out there
25 with nothing in the world on her head, and it would be raining,
26 and she would have a thin tea-sack on, and she would go to the

1 field to get him to quarrel.

2 Q. What would she do with the clothes after she got back?

3 A. She would pull them off and give them to me. I have one
4 now. I had more than one, but I have worn all out but one.
5 Captain Billy asked what she done with those shoes, and I didn't
6 tell him, but I have worn them out. That is the first time
7 he knows where those shoes are.

8 Q. To what extent did she bother the other hands other than
9 the cook?

10 A. About the same. She did all about the same. Don't no-
11 body on earth know what that man went through except the man
12 himself and the Lord and the cook. None of the hands there
13 know that stayed in the field - yes, Mr. Johnson could tell.

14 Q. Tell us now just what she would do when he came to the
15 house - what would she do to him?

16 A. She would do everything she could do. I could not tell
17 you that. She was kicking up after him, and calling him
18 names, nick names, and everything she could mention. Sometime
19 if I got a chance I would slip out, because she used to worry
20 me so.

21
22 CROSS EXAMINATION

23 By Judge Willcox:

24 Q. Aunt Rachael, how long have you lived with them all put
25 together?

26 A. All put together I know I have stayed there fifteen years.

1 Miss Mell got mad there once. I left in the ten years, and I
2 went away, and stayed one season, and came back again.

3 Q. Were you living with them when their baby was born?

4 A. No, sir.

5 Q. You knew her before her baby was born?

6 A. Yes, sir, I knew her, but I had not been living with her.

7 Q. Up to the time that the little baby was born, they got
8 along nicely together, didn't they?

9 A. Oh, Lord, yes.

10 Q. After the baby died she began to change then, didn't she?

11 A. I was not there when the baby was. They lived all right.

12 Q. At that time?

13 A. Yes, sir, they lived happy.

14 Q. She gets pretty wild when she gets into these frets, don't
15 she?

16 A. You are right, she is wild.

17 Q. Are you afraid of her when she gets that way?

18 A. I don't bother her, but everything I could to please her.

19 Q. Did she act like a person who was crazy at that time?

20 A. I don't know whether she was crazy, or not. You know
21 your temper. Don't you ever let your temper boss you, but
22 she let her temper boss her all the time.

23 Q. Tell me, do you think she loved her husband when she was
24 not in this temper?

25 A. After she got into these frets she said so much I can't
26 tell you what she said, and she said she didn't love him.

1 Q. How long has she been that way?

2 A. Captain Billy, aint it been over eight years ago?

3 Q. You can't ask him that.

4 A. I reckon eight years.

5 Q. What started it?

6 A. I don't know.

7 Q. Up to eight years ago she had been all right, hadn't she?

8 A. I don't know what started it.

9 Q. I say, up to eight years ago she had been all right, hadn't
10 she?

11 A. They lived just as happy.

12 Q. Both of them were as happy as they could be up to eight
13 years ago?

14 A. Yes, sir. I don't know what started Miss Mell to getting
15 dishappy about.

16 Q. You have never seen anything on the part of Mr. Kirn to
17 make her get mad, have you?

18 A. No, sir, not a thing on earth have I seen for her to
19 fret and treat him as she did.

20 Q. Do you know anything that anybody did to make her do that
21 way?

22 A. No, sir, I don't know nothing.

23 Q. She had everything she wanted?

24 A. She had everything she wanted.

25 Q. And so far as you know, and so far as what you saw, there
26 was not any reason why she should get into these passions?

1 A. No, sir, because I used to tell her so.

2 Q. And when she got into these passions, there was no peace
3 with her at all?

4 A. No peace at all, day or night. I don't know what time
5 she slept.

6 Q. You say she did not sleep at all while you were there?

7 A. It must have been while I was stepping outdoors. She
8 must have taken cat naps.

9 Q. She was as wild as a March hare?

10 A. She was something.

11 RE DIRECT EXAMINATION
12

13 By Mr. Holland:

14 Q. Has she been that way during the whole time for the eight
15 years?

16 A. Yes, sir; he has never seen any pleasure.

17 Q. What changes have you seen in her during the past eight
18 years?

19 A. None. If she would change and stay one day she would do
20 well. Some mornings I would come in and Miss Mell would be
21 singing and carrying on, and before I could get back into the
22 cook room Miss Mell would be up on hinges, and I would say
23 "Miss Mell, what on earth is the matter", and I said "I don't
24 see nothing on earth for you to fret about; you have a sweet
25 home, and what are you fretting about?" She said "Aunt Rachael,
26 I could not tell you my troubles", and I don't reckon she could

1 tell her troubles, because I don't reckon she had any.

2 Q. Who would bother her when she had those quarrels, and when
3 she got into these spells?

4 A. Nobody would not bother her. None of us would say a word.
5 Captain Billy, and Mr. Johnson; and none of us would say a
6 word.

7 Q. What would Mr. Kirn say?

8 A. He would not say a word.

9 Q. Who was afraid of her, if anybody?

10 A. Captain Billy was afraid of her. He was sure afraid
11 of her.

12 Q. Why was he afraid of her?

13 A. Because she made it dangerous. You know the hot water
14 was dangerous, and the butcher knife was dangerous, and it was
15 enough to make him afraid of her wasn't it? He did every-
16 thing he could for peace, and he would not say anything, be-
17 cause if he said one word, or two words, Miss Mell would
18 say a thousand, I reckon, on one or two breaths.

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1 SARAH BESS, (Colored), being duly sworn, testified as
2 follows:

3 Examined by Mr. Coleman:

4 Q. Do you know about how old you are? A. No, sir, I
5 don't know exactly. My age got lost before my father died,
6 and I could not get it right.

7 Q. Where do you live? A. Nansemond.

8 Q. Whereabouts in Nansemond? A. Right there on Mr.
9 Deane's land, in Huntersville.

10 Q. Did you ever do any work for Mr. William H. Kirn?

11 A. Yes, sir, I worked for him first and last sixteen years.
12 I washed for him because I was there before he got married.
13 The very day he got married and brought his wife there I was
14 in the field.

15 Q. You say you washed for him; where did you do the washing
16 for him and his wife? A. Where they are living now.

17 Q. You did not carry the washing to your house?

18 A. No, sir.

19 Q. But you went to his house? A. Yes, sir, I walked
20 back and forward.

21 Q. How often did you go? A. Every Monday when it was
22 fit, and when it was not fit I would go Tuesday, and along.

23 Q. Do you know the name of his wife? A. Mrs. Mellie,
24 yes, sir.

25 Q. Aunt Sarah, will you just tell how Mr. Kirn and his wife
26 have been getting along? When you first begun to wash, how

1 did they get along? A. When I first commenced they
2 got along good and nicely.

3 Q. Have they always gotten along well?

4 A. No, sir.

5 Q. Can you tell about when they began to get along badly?

6 A. I think, to the best of my judgment, - I just tell you
7 to the best of my judgment, while I was there as a goer and
8 comer. The first of my hearing her kick up this row was
9 about three Augusts ago. It might have been going on before,
10 but that was the first of my hearing it.

11 Q. Tell how they got along, how he treated her, and how she
12 treated him?

13 A. He treated her as a perfect
14 gentleman, and how I know, I worked with his father before
15 he come free, and I never heard a word wrong from him in the
16 field or out of the field; he was a perfect gentleman, and
17 during all this row I never heard him say a word, but take
18 his hat and walk out.

19 Q. Tell how she treated him? A. I don't know hardly
20 how to tell you. She treated him like a dog. He would
21 have to take his hat and go away to get something to eat. He
22 went to Mr. Armistead's two or three times while I was there
23 to get something to eat. That is the truth. She said she
24 would hit him with a stick, or throw hot water in his face.
25 She walked across the floor, and told me them words. One
26 morning I went there to do washing, and she was in a wroth
then, and she took the tea-kettle and threw it, and like to

1 have struck me. She was in a rage, and when she would get
2 in a rage the man looked just like a mourner, and he looked
3 like he didn't know what to do. The man was scared of her,
4 and that is the truth. I saw by his appearance that he was
5 scared. Many a day he has been sitting around the house all
6 day, and I was in the house, and he would have to stay around
7 the house, and he was afraid to go away. They got along
8 terribly.

9 Q. Did you say that she would sometimes throw the food away?

10 A. Yes, sir, I was there, and she throwed it out to the
11 dogs. That was a day he started away.

12 Q. Why did she throw it away? A. She was in a wroth,
13 and she throwed it away so he could not get any, and he went
14 away to get his dinner, and that is the truth.

15 By Mr. Holland:

16 Q. What would she say to him? A. I reckon she said
17 everything. You know she was in the house, and I was out.

18 Q. Tell us what you heard her say? A. I don't know
19 what it first started from. All I could hear her say was
20 a muttering and quarreling after him. She called some things,
21 but I would not like to call them.

22 Q. That is what we want? A. No, sir, it ain't right.

23 Q. What sort of charges about having something to do with
24 other women? Don't give the names. A. Yes, sir, she
25 throwed them up in his face. I reckon that is what it come
26 from. She would throw it up in his face, but I would not like

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1 to call it for nothing. I am colored, but I thinks something
2 of myself. I can tell the truth, because I am telling it.

3 Q. How often would that happen? A. Every time I washed
4 there. I don't reckon I went there over twice but what there
5 was a fray. She would walk out in the yard and back.

6 Q. And sometimes she would force him to stay in the house,
7 and sometimes she would let him walk out?

8 A. Sometimes he would take his hat and walk out.

9 Q. You said just now he was afraid of her; why was he afraid
10 of her? A. Of course she is not such a small woman,
11 but she can do right smart things. You know what kind of
12 temper women have, all you gentlemen who have got wives. That
13 is the truth.

14 Q. You stated just now that she would force him to stay in the
15 house; how would she do that? Would she tell him he would have
16 to stay in? A. She would tell him to stay in there, because
17 she would want to keep on ding-donging, ding-donging, at the
18 man, and if he went out she could not follow him about, but
19 sometimes she would follow him about.

20 Q. When she told him he would have to stay in the house,
21 what would Mr. Kirm do - would he stay?

22 A. Yes, sir, he would stay for satisfaction. He tried to do
23 everything for that woman, to please that woman, everything
24 a man could do, and that is the truth. She did not need for
25 even as much as a pin point, and it was right there at her
26 hand. She certainly did not give him no pleasure in this world,

1 and he made it pleasant for her, and all the white folks there know
2 it.

4 CROSS EXAMINATION

5 By Judge Willcox:

6 Q. When Mrs. Kirn got into this temper she was pretty mad,
7 wasn't she? A. Yes, sir, that she was mad.

8 Q. You were afraid of her yourself, were you not?

9 A. I would not have anything to say; I was in the part of the
10 house doing my work, and I would not have a word to say.

11 Q. You say you first learned of this trouble about three
12 years ago? A. Yes, sir, but it might have been going
13 on before, but it did not burst out.

14 Q. What made her get into these tempers, do you know?

15 A. I don't know, unless it came by jealousy from these
16 women.

17 Q. She did not have any reason to get mad with Mr. Kirn,
18 did she? A. No, sir, without she saw it all.

19 I don't think she saw anything around home.

20 Q. When she was in these tempers did she act like a woman
21 of good sense, or like a crazy person? A. She acted all
22 right, but I don't know her ways.

23 Q. Her ways were not very agreeable, were they?

24 A. Sometimes they were agreeable.

25 Q. She treated you all right, didn't she? A. Yes, sir,
26 she treated me all right.

1 Q. She seemed not to get along with her husband?

2 A. Yes, sir, of course.

3 Q. Did you ever see him unkind to her?

4 A. No, sir.

5 Q. Did he ever talk back to her? A. No, sir; when he
6 talked anything he would say it pleasant.

7 Q. He did not give her any excuse whatever for getting mad?

8 A. No, sir.

9 Q. What made her get mad? Was she out of her senses,
10 or not? A. I don't know whether she was out of
11 her senses, or unbright, or what, but she was said to be
12 all right when she first come. I don't know why she got into
13 this quarrelsome fussy ways.

14 Q. When they were first married they got along nicely?

15 A. Oh, yes, sir, they got along nicely..

16 (Signature waived).

17 -----oOo-----

18
19
20 MATTIE FAULKS, (Colored), being duly sworn, testified
21 as follows:

22 Examined by Mr. Coleman:

23 Q. How old are you? A. 34 years the 27th of September.

24 Q. Where do you live?

25 A. In Huntersville.

26

- 1 Q. What county? A. Nansemond.
- 2 Q. How far from Mr. W. H. Kirn? A. About three miles.
- 3 Q. Have you ever been employed by Mr. W. H. Kirn?
- 4 A. Yes, sir.
- 5 Q. About how long have you worked for him?
- 6 A. I worked for him one time three years right straight, and
- 7 then four months or five months.
- 8 Q. What did you do for him? A. Cooked.
- 9 Q. When did you work there last? A. The last gone
- 10 spring, quit in February.
- 11 Q. When you first went to work there, how did Mr. Kirn and
- 12 his wife get along? A. They got along good, to my
- 13 knowing.
- 14 Q. Just before you left there how were they getting along?
- 15 A. Bad then.
- 16 Q. Tell how she treated him, and how he treated her?
- 17 A. He treated her as a husband, but she did not treat him as
- 18 a wife. She would make him leave home in the night, and he
- 19 has been over to my house at nights, and I would give him
- 20 a chair and ask if he was cold, and he would say yes.
- 21 Q. How about cooking food for him, and things of that sort?
- 22 A. I have cooked his meals, and put it on the table, and
- 23 she would throw it out of doors, and would not let him eat,
- 24 and I have seen him come to his sister's to get something to
- 25 eat.
- 26 Q. Did you ever hear her make any threats against him, or any-

1 thing like that? A. Yes, sir, I seen her threaten him
2 with a heated poker one Sunday morning to hit him with it,
3 and she told him she would buy a pistol and carry it up stairs
4 to shoot him with.

5 Q. Did you ever hear her make any charges against him?

6 A. How do you mean?

7 Q. Accuse him of anything? A. Yes, sir, I have heard
8 her accuse him of both white and colored women.

9 By Mr. Holland:

10 Q. How often would she quarrel with him? A. Three or
11 four times a week, and sometimes a whole week right out.

12 Q. Did she appear to have good sense, or just high temper?

13 A. Well, she had good sense because we all used to talk to
14 her, and she would take our word for it, and then go and do
15 the same thing over.

16 Q. Who else would she quarrel with beside Mr. Kirn - anybody?

17 A. Yes, sir, Mr. Johnson and the cook. She discharged me,
18 or sent me home, twice.

19 Q. Did Mr. Kirn have any trouble about his food, or have to
20 go anywhere else to get his meals? A. Yes, sir, he would
21 go to his sister's, and often to my house, and ask for bread,
22 and he has been to my house late hours of the night to get
23 warm. She and Mr. Johnson sat down to eat and she threw a
24 dish of sausage down on the floor, and would not let him eat,
25 and he went down to his sister's, and she went down and came
26 back that day.

1 Q. How often would she go in the field and bother with his
2 hands? A. Whenever she got ready she
3 would go out there.

4 Q. You said just now she had good sense, so far as you knew?

5 A. Yes, sir.

6 Q. When she commenced to quarrel, did it seem to be the
7 result of high temper, or what?

8 A. She done it because she was mad, I reckon.

9

10 CROSS EXAMINATION

11 By Judge Willcox:

12 Q. Did Mr. Kirn ever do anything to her to make her mad?

13 A. No, sir; if he did I did not see it.

14 Q. She got mad without any reason in the world? A. Some-
15 times mornings she would come down in one of those spells,
16 and I don't know what occurred, but she would quarrel.

17 Q. Were those spells often? A. Yes, sir.

18 Q. Did you see any reason for those spells?

19 A. No, sir, I never saw anything Mr. Kirn did.

20 Q. How long have you known them? A. 12 years.

21 Q. When did these spells commence? A. I don't know. I
22 was not living there then, but I was living in Huntersville,
23 and they had been going on about four years.

24 Q. When you first knew them, they got along well?

25 A. Yes, sir, and I have seen Mr. Kirn stay there Sunday after
26 Sunday.

1 Q. When she would get into these tempers, would she act
2 like a crazy person, or not?

3 A. She would act like you or me either one, in her right
4 mind, and she would talk like it.

5 (Signature waived).
6

7 -----oOo-----
8

9
10 The further taking of depositions in this case adjourned
11 until Friday, November 30th, 1906, at the same place, at
12 10 o'clock A.M.
13

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15 -----oOo-----
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1 At the office of C.W.Coleman,

2 Portsmouth, Virginia, November 30th, 1906.

3
4 Met pursuant to adjournment.

5 PRESENT:

6 Same parties as heretofore.

7 -----oOo-----

8
9 M.W.ARMISTEAD, being duly sworn, testified as follows:

10 Examined by Mr.Coleman:

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

12 A. M.W.Armistead; age forty-six; occupation farmer; residence
13 Nansemond County.

14 Q. Are you in any way related to either of the parties to
15 this suit?

16 A. I married Mr.Kirn's sister.

17 Q. How far do you live from the place at which Mr.W.H.Kirn
18 has been living?

19 A. About half a mile.

20 Q. Does your farm adjoin his farm? A. It does.

21 Q. Do you know about how long Mr.Kirn and his wife have been
22 married?

23 A. They have been married about twenty-three years.

24 Q. Where have they been living since their marriage - in what
25 County? A. Nansemond.

26 Q. Did they last live together in Nansemond County?

1 A. Yes, sir.

2 Q. Is Mr.W.H.Kirn now living with his wife?

3 A. I think not.

4 Q. Do you know how long since he ceased to live with her?

5 A. About two months and a half ago, I think.

6 Q. Mr.Armistead, will you state how they got along when they
7 were first married?

8 A. So far as I knew, very well indeed.

9 Q. Have they been getting along well together recently?

10 A. Not in the last three or four years, - four or five years,
11 you might say.

12 Q. Mr.Armistead, will you please tell, in your own way, any-
13 thing you know about their difficulties, or misunderstandings
14 and disagreements and troubles?

15 A. I have been present on numerous occasions when Mrs.Kirn
16 quarreled very violently with her husband. During those times
17 I have always tried to pacify her, and advised them to stop
18 quarrelling, and to live together as they should. It was
19 time and words thrown away to give any advice along those lines.
20 The whole basis of her trouble seemed to be her belief that he
21 was untrue to her.

22 Q. State whether or not you ever heard her make any charges
23 against him in his presence, of infidelity?

24 A. She has.

25 Q. Were those charges made more than once?

26 A. Most every time I was present when they quarreled. In fact,

1 there was the sameness of abuse every time that they met.

2 I advised them to stop it so often I got disgusted and left on
3 several occasions.

4 Q. When they quarreled, will you tell how Mr.Kirn treated his
5 wife?

6 A. He would say nothing, and she would generally do all the
7 talking, accusing him of different things, and occasionally
8 he would deny them. I heard him say to her several times
9 "Oh, Mellie, hush; it is the same old thing; I am sick and
10 tired of it". I heard her say that she had lost all affection
11 for him, and never expected to love him any more, and say that
12 he was an ignorant man, never knew anything except from the
13 negroes in the field, and her idea of a man was one who had
14 travelled around the world more, and knew more than he did.
15 In fact, it is hard to tell what she did not say. I have ad-
16 vised her time and again to stop all this trouble, to let by-
17 gones be bygones, and to make up and live like they should.
18 All her troubles, in my opinion, were imaginary ones, and I do
19 not think there was any truth in what she accused him of, and
20 she would several times - in fact, in the presence of her mother -
21 agree that they were, and would go and live all right with him, but
22 I did not think much of it.

23 Q. State whether or not Mr.Kirn ever came over to your house
24 for his meals under unusual and peculiar circumstances?

25 A. Yes, he and Mr.Johnson also came over there several times,
26 and asked to get meals; they said she made it so hot there

1 they could not stay at home, and she would not give him anything
2 to eat, and he wanted to know if we could not give him some-
3 thing to eat.

4 Q. State whether or not he ever brought any food to your
5 house to be cooked?

6 A. To my knowledge I can't say. I was not there the day
7 that he brought the food. I came in after it was all over.

8 Q. Mr.Armistead, what is the disposition of Mr.William H.
9 Kirn?

A. He is one of the easiest
10 most patient men I think I ever knew. It is anything for
11 peace with him, not only with reference to his wife, but with
12 reference to all his dealings and transactions; he is the
13 quietest man I know of.

14 Q. State whether or not he was kind or unkind, exacting or
15 indulgent with his wife?

16 A. To my knowledge he was all that a husband should be to-
17 wards his wife. He allowed her to buy anything she wanted to.
18 She left the farm whenever she pleased, stayed as long as she
19 pleased, and, in fact, did as she pleased. In my opinion
20 she always has been the boss of the household.

21 Q. Can you state whether or not he provided any means for
22 her going and visiting when she wanted to go?

23 A. I hardly know how to answer the question. I expect he
24 did. She could not have gone unless she had the money, and
25 she could not get the money any where but from him.

26 Q. You do not understand my question. I do not refer to

1 the money, but the means of transportation?

2 A. Oh, yes, she had a horse and buggy at her disposal night
3 and day, to do as she pleased.

4 Q. Mr.Armistead, you have testified you live about half a
5 mile from the farm on which Mr.William H.Kirn lived, on the
6 adjoining farm; state whether or not you were frequently there,
7 and saw much of the farm, or not?

8 A. It has always been our custom to visit each other almost
9 daily, backward and forwards on the farm, and Mr.Kirn I always
10 considered a very good farmer, a much better one than myself,
11 and I always thought it well to consult with him as to how to
12 carry on my work, and in that way I was there practically daily.

13 Q. Mr.Armistead, if you recall anything else that bears upon
14 their matrimonial infelicities, please state it?

15 A. I knew on one occasion she came over to my house when Mr.
16 Kirn was there, and to command him to leave the house and go
17 home with her. He was there talking with me, and he refused
18 for a while, and during that time she walked up and down the
19 road, and gave him all the abuse she could, and finally he
20 seemed to get disgusted with it, or out of respect to my house-
21 hold; she was out there, and she told him to get in the buggy,
22 and the last I saw of them he was walking down the road and
23 she was in the buggy - the last I saw of them she had her hand
24 going up and down this way (indicating), and I inferred it was
25 the same old abuse.

26 Q. Do you mean that she was driving him home on foot, and she

1 was in the buggy driving behind? A. Yes. I felt so
2 much disgust for Billy in allowing her to treat him that way
3 I made the remark that I would not care if she would get out
4 of the buggy and give him fifty. I should not have gone
5 to his protection at all.

6 BY MR.COLEMAN: I am through with the witness.

7 BY JUDGE WILLCOX: I would like to reserve the
8 right to cross examine him at some future time.

9
10 -----oOo-----

11 L.A.DEANS, being duly sworn, testified as follows:

12 Examined by Mr.Coleman:

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

14 A. Name L.A.Deans; age sixty-one years old yesterday; res-
15 idence Nansemond County, near Churchland; occupation farmer.

16 Q. How far do you live from the place at which Mr. and Mrs.
17 William H.Kirn recently lived?

18 A. In an air line I suppose half or three quarters of a mile.

19 Q. State whether or not you know them both well?

20 A. I have known them all their lives. They were raised in
21 the community - that is Bill was, but I have known his wife
22 since they were married.

23 Q. Will you please state what kind of disposition Mr.William
24 H.Kirn has?

25 A. I always considered that he had a very excellent disposition.

26 Q. State whether or not he has been kind or unkind, or indul-

1 gent or exacting, in his treatment of his wife?

2 A. So far as I know I have always considered him very indul-
3 gent and very kind - a very kind husband.

4 Q. State whether or not she has had the privilege, and has
5 been in the habit of driving around and visiting when she
6 desired.

7 A. I have seen her frequently, and so far as I know she had
8 a horse and buggy at hand, and she could go whenever she pleased.
9 I have seen her frequently.

10 Q. Is Mr. Kirn of a quarrelsome disposition, or otherwise?

11 A. I never considered him so. We always speak of him in
12 the community as an old shoe - easy and gentle.

13 Q. Do you know anything of your own knowledge, Mr. Deans, of
14 any matrimonial unpleasantness or disagreement between them?

15 A. I do not. All I know is just hearsay and neighborhood
16 rumors. I don't know anything personal myself at all.

17 Q. You have never known either one of them to treat the other
18 in an improper or unkind manner?

19 A. No, sir, not of my own knowledge, but only from hearsay.

20

-----cCo-----

21

22 The further taking of depositions in this case
23 adjourned until a time to be agreed upon by the parties.

24

25 -----cCo-----

26

At the office of C.W.Coleman,
Portsmouth, Virginia, December 21st, 1906.

PRESENT:

Mr. Coleman on behalf of the plaintiff,
Mr. Willcox on behalf of the defendant,
Mr. Brinkley, the Commissioner.

Met pursuant to adjournment.

DR. JAMES T. REDD, being duly sworn, testified as
follows:

Examined by Mr. Coleman:

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

A. James T. Redd; age forty-three; residence Churchland,
Norfolk County, Virginia; occupation physician.

Q. Do you know W.H.Kirn and his wife Amelia E. Kirn?

A. Yes, sir.

Q. How long have you known them? A. About 20 years.

Q. Have you ever practiced in Mr. Kirn's family?

A. Yes, sir.

Q. Have you ever practiced on his wife? A. Yes, sir.

Q. Do you know, Doctor, that Mr. Kirn and his wife are not
living happily together? A. Yes, sir.

Q. Do you know the causes of their unhappiness and disagree-
ments? A. I can't say I do know any just

1 cause for it. Of course both he and she have stated causes
2 to me, but then there has been some conflicting testimony in
3 their statements to me, and so I don't know much about it that
4 I could swear to.

5 Q. Do you know whether or not Mrs. Kirn has been jealous
6 of her husband? A. Yes, sir, she has been.

7 Q. Without giving the names, do you know whether or not
8 she has accused him of infidelity towards other women?

9 A. Yes, she has.

10 Q. Doctor, as a physician, what is your opinion as to her
11 mental condition - that is is she sane or insane?

12 A. I should say she is sane. I am not an expert on that
13 line, but I have not seen anything to justify me in thinking
14 she is insane.

15 Q. She is quite an excitable woman, is she not?

16 A. Yes, sir.

17 Q. You have been called to treat her on numerous occasions,
18 have you not?

A. Yes, sir.

19 Q. And your opinion is that she is sane? A. Yes, sir.

20

21

CROSS EXAMINATION

22

By Judge Willcox:

23

24 Q. Has her conduct at any time suggested to your mind that
25 for the time being she was laboring under anything like mental
26 delusion, or anything of that kind, with reference to her husband,
and his conduct?

A. Yes, sir, that has been

1 suggested to my mind by the accusations she has brought against
2 her husband.

3 Q. In other words, from what you knew of the matter you could
4 not reconcile it except for the time being she was unbalanced
5 on that subject?

6 A. I have considered the
7 possibility of that, and the charges she has made against him,
8 which are not at all in keeping with my knowledge and opinion
9 of him, but still I do not know whether she had any information
10 that I did not have, and I considered that question whether
or not she was morbidly jealous.

11 Q. You consider her, though, from what you have seen of her,
12 mentally capable of transacting ordinary affairs in business
13 life?

14 A. Yes, sir.

15 Q. In other words, she is able to think and act for herself
16 intelligently?

17 A. Yes, sir.

18 Q. She is a very nervous woman, is she not?

19 A. Yes, sir.

20 Q. Is that due to temperament or is it due to any physical
21 ailment or disease under which she is laboring?

22 A. I think, perhaps, it is due partly to both. She has told
23 me that she has had some female trouble, but I have never treated
24 her for that, and, of course, that is right often associated
25 with more or less mental impairment.

26 Q. Is her physical condition such that she could take care
of herself?

A. Support herself?

Q. Yes?

A. I would not like to say about that.

1 I hardly know whether she could, or not.

2 Q. This jealousy she exhibits with reference to her husband,
3 which, I judge from what you say, amounts to almost morbidness
4 on her part - is that the result partly of physical infirmity
5 and partly from temperament? A. Yes.

6 Q. She is naturally a nervous woman, and things which would
7 hardly make any impression on a person in normal condition
8 would affect seriously a person in her condition?

9 A. Yes.

10

11

RE DIRECT EXAMINATION

12 By Mr. Coleman:

13 Q. Would not the female troubles from which you say she
14 may be suffering, make women ordinarily nervous and excitable?

15 A. Yes.

16 Q. You said just now that you were unable to state whether
17 her physical condition is such as to render her incapable
18 of supporting herself. Do you mean to say that she has not
19 sufficient intelligence to conduct the ordinary affairs of
20 life?

21 A. No, I do not mean that. It is a
22 right general broad sort of question. For instance, here
23 is what I mean to say: Suppose, for instance she wanted
24 to take in washing for a living, I do not think she would be
able to do it properly.

25 BY MR. WILLCOX: My question had reference to her
26 physical and not mental condition.

1 By Mr. Coleman:

2 Q. Did I understand you to say, on your direct examination,
3 that you considered her a sane woman? A. Yes, sir.

4 Q. That, in your treatment of her, you had seen nothing to
5 lead you to consider her an insane woman? A. No, sir.
6

7 -----c0c-----
8

9 W.H.KIRN, the plaintiff, being duly sworn, testified
10 as follows:

11 Examined by Mr. Coleman:

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

13 A. Name W.H.Kirn; age forty-six; residence, I am now living
14 with my father, near Churchland, Norfolk County, Virginia;
15 occupation farmer.

16 Q. Are you the plaintiff in this suit? A. Yes, sir.

17 Q. You have stated that you are now living with your father,
18 near Churchland, in Norfolk County. Until recently where
19 have you been residing?

20 A. Pig Point, Nansemond
21 County.

22 Q. How long had you lived in Nansemond County, Virginia?

23 A. 25 years.

24 Q. When did you cease living in Nansemond County?

25 A. About the 4th of September, this year.

26 Q. Mr. Kirn, when were you married? A. The 1st day of
November, 1883.

1 Q. To whom were you married? A. Amelia F. Baker,

2 Q. Where were you married? A. In Philadelphia.

3 Q. By whom were you married? A. Enoch Stubbs, I believe
4 was the minister's name.

5 Q. Immediately after your marriage where did you and your
6 wife live? A. At the same place, Pig Point,

7 Nansemond County.

8 Q. How long did you and she live together in Nansemond County,
9 Virginia? A. Not quite 23 years, looking

10 about a month, or so, - two months, you may say.

11 Q. Where did you last cohabit with your wife?

12 A. Nansemond County, at Pig Point.

13 Q. Are you living with your wife now? A. No, sir.

14 Q. When did you cease to live with her? A. I left there
15 the 4th of September, 1906.

16 Q. Mr. Kirn, please state in your own language, fully, and
17 at the same time concisely, the reasons why you and your
18 wife are not living together now? A. Well, I have been

19 treated so bad, and abused, and one thing another, that she
20 has made my life miserable, and threatened to do me bodily

21 harm. She would not allow the servants to prepare any food

22 for me, and has driven me out night after night, and I had to

23 sleep in the barn. She would tell the servants if they cooked

24 anything for me, without she telling them, that she would dis-

25 charge them, and she has often taken and thrown the food away.

26 She threatened to throw a lighted lamp at me, and to hit me with

1 a poker, and she has torn my clothing from me.

2 Q. State whether or not, you could, with safety to your
3 health or to your life, live with her? A. No, I did not
4 think it was safe for me to live with her. I lived with
5 her as long as I could, and I thought I had better get out,
6 I might do her some bodily harm, or she might do me some, and
7 I thought it best to get out. I had been three or four years
8 making up my mind to do this, and held off and held off as
9 long as I could, and I thought probably she would get better,
10 but instead of getting better she got worse, and therefore I
11 left.

12 Q. How long has your home been made unhappy by the conduct
13 of your wife? A. About ten or eleven years.
14 It was not so bad then, but in the past five or six years
15 it commenced to get worse all the time.

16 Q. You said you had tried to put up with the mistreatment
17 in the hope that conditions would improve. Have they improved?

18 A. No, sir, they have gotten worse.

19 Q. Have you made an honest effort to live happily with your
20 wife? A. I have. I never have given her
21 any cause to make her do the way she has done and treated me.

22 Q. Have you been kind to her? A. Yes, sir, - more
23 than kind I should say. She has had everything she wanted,
24 go when she pleased and come when she pleased, and she certainly
25 had pretty near what money she wanted to spend and clothing
26

1 to wear, and all such as that. I have never cut her off
2 from anything, only once, about two or three years ago, she
3 went home, to Philadelphia, and she said she wanted a coat.
4 I asked what kind of coat she wanted. She said she wanted a
5 coat to cost about \$125, and I said "That kind of coat is not
6 fit for you to ride on these country roads; that if you lived
7 in the city it would be different". I said a thirty or forty
8 dollar coat is plenty good for you to ride up and down these
9 country roads, and she reared about it, and she said wanted
10 one, and I just would not give it to her. I gave her \$40
11 to get a coat, and instead of getting a coat North, she went
12 to Portsmouth, and got the goods, and had it made up in Ports-
13 mouth by a dressmaker, and when she came home she told me
14 she got it in Philadelphia, but she had it made in Portsmouth,
15 and said the dressmaker charged her \$9 for making it.

16 Q. Have you provided means by which she could go and visit
17 her friends? A. I have.

18 Q. What have you done in that respect? A. She had a
19 horse and buggy, and she could drive herself, and had a surry,
20 and I have often had a driver to take her at any time she
21 wanted to go. She would come to town here once or twice a
22 week to the theatre, to the Granby at least, and would come
23 home when she got ready, and there was nothing said.

24 Q. You stated she refused to allow the servants to cook food
25 which you had provided; did that happen often?

26 A. Yes, quite often, and she would not let the woman go in the

1 cook room. She made the woman take the food over to her
2 house - a colored woman who had a family, this Rachel Faulks,
3 and she had a son and daughter there, and was cooking for us
4 at the time, and she would not let her cook in our cook room
5 at the house, but carried it to her house, and I had to go
6 there and eat my meals, and then Mellie would go and take
7 her food to the house, and eat it. but still I would have to
8 eat there. I have been to two or three of the houses for
9 food when she would not allow them to cook for me, and she would
10 take the food and throw it away, and I have done that two or
11 three times, and sometimes I was forced to go to my sister's
12 to get food.

13 Q. You have stated that she would not allow you to sleep
14 at night. Tell us about that?

15 A. On several occasions I would be in bed, and she would
16 commence talking to me, and said "Billy get up and go down
17 and get me a drink of water", and I said "All right, I will
18 get up and get a drink of water", and she would follow me down,
19 and I said "Mellie, there ain't any use in your going down if
20 I am going", and she would say "Yes, I am going", and I would get
21 the water, and she would drink it and sit down there and talk
22 and talk, and I would have to stay probably an hour and talk
23 to her. Finally I would say "Mellie, I am going to bed, I
24 can't stay any longer", and sometimes she would not let me go,
25 and then sometimes if I would go to bed, she would not let me
26 go to sleep, and on several occasions I had to put my clothes on

1 and go to the barn to sleep.

2 Q. Were you often forced to leave the house because of not
3 being able to sleep in the house? A. Yes. I remember
4 at the end of the year, say New Year's Day, when they watch
5 the old year out and the new year in, that night I went to bed
6 about 9 o'clock, and she came up and went to bed. I had been
7 in bed not over fifteen minutes when she commenced after me,
8 and I had to leave, and I went to the barn and got up in the
9 loft, and got three lar robes and a horse blanket, and went
10 up in the barn loft and laid down, and about 12 o'clock I heard
11 the guns and whistles blowing at Newport News, and that woke
12 me up, and I laid there awhile, and dropped off in a doze again,
13 and presently she came out to the barn, going all around the
14 barn, hollering "Billy, Billy", and presently I heard her say
15 "Who is that", and when I heard her say that I slipped down the
16 barn loft, and she said "Is that you, Billy", and I said "Yes",
17 and she says "I want you to go over and get Letia", and I said
18 "All right, I will go". She says "If you go I will go, too,"
19 so I says "All right, go on". It happened we met Letia, and
20 three more colored women, and Mary Walker and Mattie Faulks,
21 and they were talking. My wife heard them talking, and she
22 said "Is that you Letia?" She said "Yes, ma'm". She said
23 "I did not tell Billy to come over here after you", and I said
24 "Mellie you did tell me, and if you had not come I would not
25 have come". She said "I am real glad I met you; you and Mary
26 Walker go on each side of me and go back to the house", and they

1 said "Allright", and I turned around and went to the house,
2 and lit the lamp, and she came in after I had lit the lamp.
3 She said "Billy, I want you to heat me some water", and I got
4 the oil stove, and got the basin of water, heated it, and
5 when it got warm enough, as I thought she ought to have it,
6 I put it on the table, and got a cloth, and I said "There is
7 the water". I sat down in my chair, which was a desk chair,
8 and was leaning back, and she got up and went to the basin
9 of water, and taken it up, and deliberately threw it in my
10 face, and then she picked up a lamp, and said "If you come
11 towards me I will throw this lamp in your face". I left the
12 room. I went out of doors awhile, and then came back, and
13 went upstairs, and she did not say anything more for quite a
14 little while, and then she said her side hurt her. She said
15 "I want you to get something to rub my side with". I got the
16 camphor and carried that up there to her. She bathed her
17 side, and went off to sleep, and there was no more of that
18 until the next day. The next day I went down to my father's.
19 I left a servant there with her. I hardly know what she did
20 when I got back that night.

21 Q. You have stated, Mr. Kirn, that she often threatened
22 to do you bodily harm. What did she do? A. On another
23 occasion, I think throwing a lamp at you, I should call that
24 bodily harm. This summer, in September, when I left, that
25 same morning when I left she attempted to throw the light at
26 me, and would not let me go down stairs, and I tried to force by

1 her, and she would not allow me to do so, and she had the
2 lamp in her hand, and so I was afraid to go by for fear she
3 would drop the lamp, and do some damage there. I went back
4 in the room, and she says to me "I am a great mind to throw
5 this lamp at you". I did not say anything, but sat down in
6 the chair, and she sat the lamp down presently, and went and
7 got a penknife about two inches long, or some where about
8 two inches. I attempted to get through the room again. There
9 are two ways to get out of the room, by going through another
10 room, and the passage from the room I was sleeping in. She
11 could keep me from going out of either one of those rooms by
12 getting at the head of the passage way, as both lead into the
13 passage way. She could get in the head of the passage way
14 and keep me from going by. I found out I could not get by,
15 and I went back in the room again, and sat down. She said
16 "I am going to bed, and you shall not go, and you will have to
17 sit up". When she lay down on the bed I started to go
18 out, and she jumped up and went into the other room, and there
19 is where we hung fire again, and I could not get by.

20 Q. Mr. Kirn, the last trouble that you have narrated occurred
21 in September, when you left your home, as I understand?

22 A. Yes.

23 Q. Were you, up to that time, trying to live happily with
24 your wife?

A. I was.

25 Q. Had these troubles and difficulties occurred repeatedly?

26 A. Yes, sir.

1 Q. Will you state in detail and fully everything that happen-
2 ed that night when you left home? A. I went to bed,
3 and had not been to bed very long before she commenced, and
4 said she wanted some water. I got up and got the water.
5 Then I carried the water up to her that time. Then she
6 drank the water, and I lay down in bed again, and about a
7 couple of hours after that she commenced to jab me in the
8 side with her fist. I said "Mellie, stop that", and she
9 said "You have to get out of here", and she kept it up, and
10 finally I got out, and I got her around each wrist, and she
11 held her head down and bite me on the wrist, and I said
12 "Look what you have done", and she said "I don't care", and
13 I said that might give me blood poison, and she said "I
14 don't care if it does".. Now, about the knife and the lamp.

15 Q. Just state it all again?

16 A. I wanted to go down, and she would not let me, and she
17 went into the room and got a lamp, and said "If you go down
18 or get by me I will throw this lamp at you". I said "I will
19 not do that, I will not give you cause to throw that lamp at
20 me". So I went back again. Then she went after that little
21 knife with the blade about two inches long, I judge. I had
22 to make the best of it I could, and had to stay in the room
23 and let her abuse me, and talk to me any kind of fashion. I
24 could not go down - I could have gotten down by force, but
25 I did not want to hurt her in any way. When day came, the
26 hands had all gone to work, and then I got up and went down;

1 I went down and got my hat and coat, and sat down in a chair,
2 and was lacing my shoes up, and she came down in her night
3 dress, and sat down there in a chair, and got to nagging after
4 me, and running after me again. So I stayed there and taken
5 it, and in about five minutes she went upstairs to dress, and
6 as she went upstairs to dress - I have been back to get some
7 of my clothes, but I have not had any conversation with her
8 at all.

9 Q. Mr. Kirn, Rachel Faulks testified that on one occasion
10 she threatened to throw boiling water on you from a tea kettle
11 of boiling water; is that true? A. Yes, sir, that is true.

12 Q. Another witness testified that on one occasion she threat-
13 ened to strike you with a heater poker; is that true?

14 A. Yes, sir.

15 Q. It has been testified that she said she had something
16 with which she would fix you. What can you say about that?

17 A. She said once that she was going to buy her a pistol, and
18 going to shoot me, I judge.

19 Q. Did she ever threaten to shoot you? A. She never
20 pulled a pistol on me, but she said she would do it. She
21 said when she went to Philadelphia and come back she was
22 going to bring a pistol so she could fix me, so I judge by
23 the "fixing part" she would shoot me.

24 Q. She said she was going to get a pistol so she could fix
25 you? A. Yes, sir.

26 Q. Without giving the names of the parties, has your wife ever

1 accused you of infidelity in regard to other women?

2 A. Yes, sir, and I have gotten down on my knees and told
3 her there was not anything in it - nothing in it at all.

4 Q. Has she more than once made charges against you of that
5 sort? A. Yes, more than once.

6 Q. Much more than once? A. I used to get it quite often;
7 about two or three times a week she would get after me about
8 it, and charge me with doing wrong.

9 Q. I understand you testified that she was frequently
10 charging you with infidelity in regard to other women?

11 A. Yes, sir.

12 Q. And you have stated that you have gotten down on your
13 knees and told her that there was no ground for it?

14 A. Yes, sir.

15 Q. And do you now testify that there was no ground
16 for the charge at all? A. Yes, sir.

17 Q. That you were absolutely faithful to her? A. Yes, sir.

18 Q. Mr. Kirn could you live with your wife in safety for
19 health and yourself? A. No, sir, I could not.

20 Q. I understood you to testify that you had ceased to live
21 with her because you thought either some great harm would be
22 done you, or that she might provoke you to do her some great
23 harm? A. Yes, sir.

24 Q. Where is your wife living now? A. Pig Point, Nanse-
25 mond County, I presume; that is where she was the last time
26 I heard from her.

Q. Have you any doubts that she was living there at the time

1 you brought this suit, in Nansemond County?

2 A. She was living there.

3 Q. Is Nansemond County the last county in which you cohabited
4 with her? A. Yes, sir.

6 CROSS EXAMINATION

7 By Judge Willcox:

8 Q. Mr. Kirn, as I understand it, this unhappy condition
9 of affairs began from eight or ten years ago; was it the re-
10 sult of any sickness at that time on the part of your wife,
11 or physical infirmity of any kind? A. No, sir, not that
12 I know of. I have had Dr. Wright to attend her, and Dr. Redd
13 has attended her, and I have never heard of any at all.

14 Q. She lost one child before its regular birth, didn't she,
15 - did not she have a miscarriage? A. No, sir.

16 Q. Were there any children born to you and your wife?

17 A. Yes, sir, one.

18 Q. In 1888 - the 16th of October, 1888.

19 Q. How long did that child live? A. To be about six
20 months old. It died on the 19th of April, I think it was,
21 1889.

22 Q. Did the death of the child produce a bad effect on your
23 wife? A. No, sir, I think not.

24 Q. What is her physical condition now, Mr. Kirn?

25 A. Fairly good, I think.

26 Q. She is very nervous, isn't she? A. I don't know. You

1 might say she is a little nervous, but she has got an ungovern-
2 able temper, and that makes her more so than if she did not.

3 Q. When you would have these unpleasantnesses you described,
4 how would they commence - by charging you with infidelity,
5 or something of that kind? A. Yes, sir, that is the way
6 it would frequently commence.

7
8 -----oOo-----
9

10 DR. T. J. WRIGHT, being duly sworn, testified as follows:

11 Examined by Mr. Coleman:

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

13 A. T.J.Wright; age sixty; Churchland; occupation physician.

14 Q. Doctor, how long have you known Mr. W.H.Kirn and his wife?

15 A. I have known Mr. Kirn from his boyhood - thirty-five or
16 forty years.

17 Q. How long have you known his wife? A. 20 or 25 years.

18 Q. Are you their regular family physician?

19 A. Yes, sir, for the last two or three years I have done most
20 of their work in that line.

21 Q. Doctor, do you know how they have been living together for
22 the last several years? A. Only from what they tell

23 me. I have never seen personally any evidence of any discord.

24 Q. Do you know whether or not Mrs. Kirn has ever brought
25 charges of infidelity against Mr. Kirn? A. Yes, sir, I know
26 that she has brought those charges.

1 Q. Do you know whether or not she has been jealous of him?

2 A. Oh, yes, very jealous.

3 Q. Doctor, what would you say as to her mental condition? Is
4 she sane or insane? A. I will say, without

5 testifying in any sense as an expert, that from my observation
6 from day to day that if Mrs. Kirn is insane to-day, she was
7 insane 25 years ago. I say emphatically that I can see no
8 difference in her condition now from what it was when I first
9 met her.

10 Q. Then, would you say she was sane or insane?

11 A. I would say she was sane, from the intercourse from day
12 to day.

13 Q. During the last few years, have you seen her frequently?

14 A. Very frequently.

15 Q. You have been called in? A. At all times of day
16 and night.

17 Q. You say you have known Mr. Kirn from his boyhood up?

18 A. Very well I would say for 31 or 32 years - 31 years, any-
19 how; since 1875.

20 Q. What kind of disposition has Mr. Kirn?

21 A. I think he has as amiable disposition as any man I know of.
22 I have never seen him vexed but once in my life, and that was
23 the first time he ever mentioned this trouble to me. I can
24 frankly say it was the only time I ever saw him mad.

25 Q. Are you able to testify as to the manner in which Mr. Kirn
26 has treated his wife? I mean has he been kind or unkind to her,

1 indulgent or harsh with her? A. I think I can say
2 he has certainly been indulgent to her. I do not think I know
3 of a lady whose wants, so far as money is concerned, have been
4 better supplied than hers, and not only in money but I think
5 he has been unusually indulgent in allowing her other privileges,
6 travelling, for instance going when she wanted to go, and coming
7 when she wanted to come.

8
9 CROSS EXAMINATION

10 By Judge Willcox:

11 Q. Please give me your opinion as to the present physical
12 and mental condition of Mrs. Amelia E. Kirn; whether, in your
13 judgment, she is mentally and physically capable of looking
14 after her own affairs, or would be capable, if required to do
15 so, to earn her own living by her own efforts?

16 A. I see no difference in her mental capacity from the day
17 I first knew her up to the present time. As to her physical
18 condition, I know of no organic trouble she has at all. I will
19 say she is as capable now as she ever was, mentally and physically,
20 to take care of her affairs.

21
22 RE DIRECT EXAMINATION

23 By Mr. Coleman:

24 Q. Is it not a fact, Doctor, that people generally, both
25 men and women of unquestioned sound minds and sound bodies, differ
26 greatly in their ability to earn a livelihood?

1 A. That is certainly so.

2 Q. From your previous answer I understand that you testify
3 that you know of no mental incapacity which would prevent Mrs.
4 Kim from earning a support for herself, provided she was
5 capable to do so in other respects?

6 A. Yes, that is my answer to that question.
7

8 -----c0o-----
9

10 The further taking of deposition in this case adjourned
11 to a time to be agreed upon between counsel..
12

13 -----b0o-----
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At the office of C.W.Coleman, Esq.,
Portsmouth, Virginia, January 10th, 1907.

Met Pursuant to agreement of counsel.

PRESENT:

C.W.Coleman, for the plaintiff,

Thos. H. Willcox for the defendant.

JOHN T. GRIFFIN, being duly sworn, testified as
follows:

Examined by Mr. Coleman:

Q. What is your business? A. I am engaged in truck
farming and banking.

Q. Where is your residence? A. Norfolk County, near
Churchland.

Q. Do you know Mr. Wm. H. Kirn and his wife Amelia E.
Kirn? A. I do.

Q. How long have you known them? A. I have known
them ever since they were married, but I don't know how long
that has been. I have known Mr. Kirn from infancy.

Q. Do you, of your own knowledge, know anything of the
domestic troubles between Mr. and Mrs. Kirn?

A. Nothing but what I have heard.

Q. Mr. Griffin, what is the disposition and character of
Mr. W.H.Kirn?

1 BY JUDGE WILLCOX: The question is objected to
2 as immaterial and irrelevant.

3 A. I have always regarded him as a man of very high character
4 and agreeable disposition.

5 By Mr. Coleman:

6 Q. Do you know whether or not he has been kind or unkind,
7 indulgent or harsh with his wife?

8 BY JUDGE WILLCOX: The same objection.

9 A. I can only say when I have seen them together he seemed
10 to be very indulgent and very considerate for her.

11 By Mr. Coleman:

12 Q. Did not Mr. Kirn and his wife, several years ago, spend
13 a portion of a summer at the Blue Ridge Springs while you
14 were spending your vacation there? A. They did.

15 Q. Can you state what his treatment towards her was at that
16 time?

17 BY JUDGE WILLCOX: Same objection.

18 A. I understand that a part of the time she was there she
19 was ill, and Mr. Kirn seemed to be very attentive, and while
20 she was well he seemed to be very indulgent with her.

21
22 -----oOo-----
23
24
25
26

VIRGINIA:

City of Portsmouth, to-wit:

I, H.A.Brinkley, a Commissioner in Chancery for the Circuit Court of the City of Portsmouth, virginia, do certify that the foregoing depositions of M.O.Johnson, Racheal Faulks, Sarah Bess, Mattie Faulks, M.W.Armistead, L.A.Deans, Dr. James T. Redd, W.H.Kirn, Dr. T.J.Wright and J.T.Griffin, were duly taken and sworn to at the times and place, and for the purpose in the caption mentioned, and that signatures thereto were waived by agreement of counsel.

Given under my hand this 14th day of January, 1907.

Harry A. Brinkley
Commissioner in Chancery for the
Circuit Court of the City of
Portsmouth, Virginia.

-----oOo-----

Fee of H.A.Brinkley, Commissioner \$ 25.00
Fee of D.S.Phlegar, \$ 36.70
100

STENOGRAPHER'S MINUTES.

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

WILLIAM H. KIRN,

vs.

AMELIA E. KIRN.

Before

Harry A. Brinkley, Commissioner.

In Chancery.

Portsmouth, Virginia, Nov. 23rd, 1906.

Jan. 10th, 1907. 190

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MONTROSS, CLARKE & EMMONS, 51 NASSAU ST., N. Y.

D. S. PHLEGAR,
SHORTHAND REPORTER,
NORFOLK, VA.

1907 Jan 15th Filed

A.P.S.

STENOGRAPHER'S TRANSCRIPT.

190

R

E E Holland } p q
L W Coleman }

William A Kinn
W Chancery
Amelia E. Kinn

Costs

Clerk- \$5.64

Tax 1.50

Shff 1.00

Uty 18.00

Comm. 25.00

Type water 36.70

\$ 84.84

to 7 kin

46 kin 17

51 " 3 at day

53 " 7

53 " 16 at day

54 " 19

Dr Wright 57

58 1

58 1

" 10

J. T. Griffin

charged with
infidelity and
2 or 3 times
a week

On kin says

death of child

did not affect
her

says she has an

angry temper

Dr Wright says

she is sane

physically able
to care for
her self

McJohnson page 3

19

20

21

Rachel Janku

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Sarah Rees

26

27

29

Mattie Faulk

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31

32

Mildred

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37

38

Sharon

42

Dr J. H. Redd

42

42

42

43

Sharon, since a week

married 23 yrs

not getting along well
for 3 or 4 yrs

Dr Redd says he took
her to his home

with her

To the Clerk of the Circuit Court of Nansemond County:

William H. Kirm

Plaintiff

vs

Amelia E. Kirm

Defendant

Issue summons in chancery to Rules on the 3rd Monday in September, 1906.

Pay \$1.50

*E. E. Hoggans
C. W. Coleman*

A. E.

William A Kim
vs } Chancery
Amelia E Kim

Memorandum

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

William H. Kirn.
vs.
Amelia Elizabeth Kirn

)
)
)

IN CHANCERY.

The petition of William H. Kirn, complainant in the above entitled cause, respectfully shews unto your Honor the following case:-

1. That heretofore, to-wit, on the 15th day of March, 1907, this cause came on to be heard upon the bill and answer, the depositions of witnesses duly taken according to law, and upon the other proceedings theretofore had therein, and was argued by counsel; whereupon the Court having duly considered of its decree to be entered therein, did adjudge, order and decree that the plaintiff be divorced a mensa et thoro from the said defendant;

2. That the grounds upon which the said decree was entered were cruelty on the part of the said defendant toward the said plaintiff, and the fear of bodily harm to the said plaintiff at and from the hands of the said defendant;

3. That three years have fully elapsed since the entering of the said decree, and no reconciliation between the parties has taken place, nor is one probable, and the separation between them decreed has continued without interruption since the granting of the said divorce .

Wherefore the petitioner prays that the said decree of divorce so granted, as aforesaid, may be merged into a decree for a divorce of the said petitioner from the bonds of matrimony with the said defendant. And he, the said petitioner, will ever pray, &c.

Coleman, Brook & Holland, Wm. H. Kirn.

A Copy, Teste:

P. q.

By Counsel.

R. R. Smith, Clerk
By M. M. Harrison, etc.

1910 June 6th filed
J. L. M.

TO THE SHERIFF OF ~~NANSEMOND~~ COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO ~~SUMMON~~ *serve on*
Amelia Elizabeth Kinn, the annexed petition

to appear at the Clerk's Office of the ~~Circuit~~ Court of Nansemond County, at the Rules to be
held for the said Court, on the ~~Monday~~ in ~~the~~, to answer
Bill in Chancery, exhibited against
in the said Court by

~~And have then and there this summons.~~

Witness, R. R. SMITH, Clerk of our said Court, at his office, this *8th* day of
June, 19*10*, in the 134th year of the Commonwealth.

~~A copy Teste:~~

CLERK.

Teste:

CLERK.

E. E. Holland & Co.
C. W. Coleman } p. q.

William H. Kinn

vs. }

IN CHANCERY.

Amelia Elizabeth Kinn

1910

X Rules.

X Monday.

NANSEMOND CIRCUIT COURT.

PROCESS BOOK, No.

PAGE

Executed this 18th day
of June, 1910, by serving a
true copy of the within
petition on Amelia Elizabeth
Kinn, in the County of
Norfolk, Virginia, in person.

A. C. Bromwell Clerk
of Norfolk Co.

By B. F. Adams Deputy
Clerk

CHANCERY SUMMONS

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON *Amelia E Kim*

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be held for the said Court, on the *Third* Monday in *September 1906* to answer *a* Bill in Chancery, exhibited against *her* in the said Court by *William A Kim*

And have then and there this summons.

Witness, R. R. SMITH, Clerk of our said Court, at his office, this *5th* day of *September*, 190*6*, in the 13^{*th*} year of the Commonwealth.

A copy—Teste :

CLERK. }

Teste :

R R Smith, CLERK.

By A G Gomer Deputy Clerk

E. E. Holland }
E. W. Coleman } , p. q.

William H. Kirn

VS. } IN CHANCERY.

Amelia E. Kirn

1906
September Rules.
Third Monday.

NANSEMOND CIRCUIT COURT.

Process Book No. 3

Page 20

Executed this the 6th day of September, 1906. Within the open-
of Nansmond, by delivering a true copy of the within summons
to Amelia E. Kirn in person.

Attest
By O. L. Moulton Clerk

VIRGINIA:

*At a Circuit Court continued and held
for the County of Nansemond at the Courthouse
in the Town of Suffolk on Monday
the 6th day of June , 1910.*

William H. Kirn,

Complainant.

vs.) In Chancery

Amelia Elizabeth Kirn,

Defendant.

This day, came Amelia Elizabeth Kirn, and by leave
of Court filed her amended and supplemental petition.

A Copy, Teste:

R. R. Smith, Clerk
By M. M. Watkins D.C.

THE COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO ~~SUMMON~~ *serve on*
William H. Kinn, the annexed decree

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be
 held for the said Court, on the ~~Monday~~ in ~~the~~ ~~month~~ of ~~the~~ ~~year~~ 1910, to answer
 Bill in Chancery, exhibited against
 in the said Court by

~~And have then and there this summons.~~

Witness. R. R. SMITH, Clerk of our said Court. at his office, this *8th* day of
July, 1910, in the 135th year of the Commonwealth.

~~A copy~~ Teste:

~~CLERK~~

Teste:

CLERK.

R. R. Smith
By M. M. Maxson

..... p. q.

William H. Kevin

vs.

} IN CHANCERY.

Amelia Elizabeth Kevin

1910.....

✓ Rules.

✓ Monday.

NANSEMOND CIRCUIT COURT.

PROCESS BOOK, No.....

PAGE.....

Executed this the
18th day of July 1910
by delivering a true
copy to W. H. Kevin
in person
A. H. Baker, Sheriff
By J. E. Jordan, Deputy.

Virginia:

In the Office of the Clerk of the Circuit Court
for the County of Nansemond on Monday the 28th
day of December, 1908, the following decree pronounced
this day by the Hon. James L. McLemore, Judge, is
received and ordered to be entered of record.

This day, came Amelia Elizabeth Kirn, and by leave of court,
filed her petition herein. On consideration whereof it is
ordered that William H. Kirn, be summoned to appear before this
court at its next term, to answer said petition.

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

James L. McLemore.

A copy

Teste:

R. R. Smith Clerk

By A. B. Gomez D.C.

Entered in Chancery Order Book No 4. Page 300.

He called this day
Jan 1909 by delivering
a true copy of the within
process to Wm H. Kirk
or person if W B. Bailey
Shuff

R. Randolph Hicks, p. q.

Amelia Elizabeth Kinn

vs.

}

IN CHANCERY.

W^m H Kinn

1909---

January ~~Rules.~~

the 11th ~~Monday.~~

NANSEMOND CIRCUIT COURT.

Process Book No. 3

Page 63

This certificate shows that
Jan 1909 my attorney at law
sitting at the North West
address to me to Kinn in person
H. H. Baker Sheriff

C.W. COLEMAN
Attorney at Law
PORTSMOUTH, VA.

Jan. 8, 1909.

W. B. Gomer, Esq.,
Suffolk, Va.

My dear Mr. Gomer:-

I am returning herewith the summons in the petition of Amelia E. Kirn vs. W. H. Kirn. Mr. Kirn is a resident of Nansemond County. I retained the summons, intending to accept service for Mr. Kirn, but after maturer deliberation we have decided that that would not be wise or prudent. Mr. Kirn will be in Suffolk Monday, and the Sheriff can then serve the summons on him.

Yours truly,

C.W. C. - L.

C.W. Coleman

3293

Only thing he
36
Clerk is not
asides down

A Munga
no other

family relations

May give
jurisdiction, The
Court already
has jurisdiction
it is a question
of fact.
§ 2259.

Court open
up to when
evidence



760⁰⁰ 760⁰⁰

760⁰⁰

R. RANDOLPH HICKS

JAMES L. MILLS

HUGH B. G. GALT

LAW OFFICES
R. RANDOLPH HICKS

CITIZENS BANK BLDG.

NORFOLK, VA. Oct. 8th, 1910.

SUBJECT:-

To Clerk of Court of Nansemond County,
Suffolk, Va.

Dear Sir:-

Will you kindly file the enclosed letter with
the papers in the case of W. H. Kirn v. Amelia Elizabeth Kirn,
now pending in your court, and oblige,

Very truly yours,

H-B.

R. Randolph Hicks

R

R. RANDOLPH HICKS

JAMES H. HUGHES
HUGHES & CALY

LAW OFFICES
R. RANDOLPH HICKS
CITIZENS BANK BLDG.
NORFOLK, VA.

Oct., 8th, 1910.

SUBJECT:-

Messrs. D. Tucker Brooke,

C. W. Coleman, and E. B. Holland,

Gentlemen:-

I beg to acknowledge receipt of yours of Oct., 4th, enclosing a notice returnable on Oct. 13th,

I object to the statement in your motion that I suggested to the court that Mrs. Kirn was not mentally capable of defending her interest. As a matter of fact, I stated that her nervous condition was such at that time that she was in no condition to defend her interest.

As I have heretofore stated to you, Mrs. Kirn's nervous condition seems to be largely due to the litigation, but, in as much as she has had hospital treatment (through the order of the court) and improved under it, I hope that she will re-gain her strength. During the time that she was in the hospital, her doctors advised me that she should not be allowed to talk about the case and that any discussion of it would be the worst thing possible for her. For this reason, I have not taken her deposition, but as soon as I am advised by her physician that she is in a condition of health to permit it, I will take her deposition and the depositions of others to sustain the allegations of her petition and to resist the application for a divorce a vinculo.

I would have prepared the case before this, but for the facts above outlined.

Very truly yours,

H-B.

Copy for the Clerk

R. Allen DeBevoise

R. RANDOLPH HICKS

HUGH B. G. GALT

LAW OFFICES
R. RANDOLPH HICKS
CITIZENS BANK BLDG.

NORFOLK, VA. February 23rd, 1911.

SUBJECT:-

Judge D. Tucker Brooke,
City.

Dea Judge:-

I am returning to you, decree in matter of Kirn
v. Kirn.

I have re-written the last page and added the additional
charges to be paid by Mr. Kirn. I have also added a clause sus-
pending operations of the decree. I put this in because I have
not yet communicated with Mrs. Kirn and ascertained her wishes.
If, however, the decree is held up a few days, I think it likely
that she may not wish to prosecute an appeal, but I would wish
this clause in unless I have an opportunity to communicate with
her.

Very truly yours,

H-B.

R. Randolph Hicks

*I don't think the cause should be dismissed, but intend
to adjourn any question in regard to the payment of
alimony. I am working this as I were in the
U.S. Court this morning.*

W. R. R.

R. RANDOLPH HICKS
JAMES L. MILLS

LAW OFFICES
R. RANDOLPH HICKS
CITIZENS BANK BLDG.
NORFOLK, VA.

July 7th, 1910.

SUBJECT:-

To Clerk of Circuit Court Nansemond County,

Dear Sir:-

Will you please have copy of the decree filing the amended and supplemental petition of Amelia Elizabeth Kirn in the cause of Wm. H. Kirn v. Amelia Elizabeth Kirn, served on William H. Kirn, and oblige,

Very truly yours,

R. Randolph Hicks
R.D.

of record
Copy placed in hands
of Sheriff Baker July 8/10
for service &c

LAW OFFICES
R. RANDOLPH HICKS,
304-6 CITIZENS BANK BLDG.

NORFOLK, VA. June 17th, 1908.

SUBJECT:-

To Clerk of Circuit Court of Nansemond County,
Suffolk, Va.

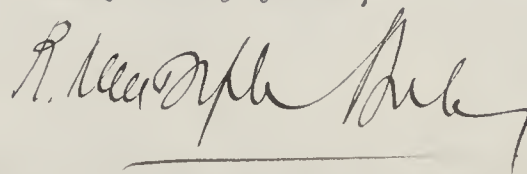
Dear Sir:-

I am anxious to examine the papers in the case of
William Henry Kirn v. Amelia Elizabeth Kirn, a divorce suit insti-
tuted in your court and determined about a year ago.

I called Judge MacLemore up over the phone to-day, and he
stated that he would request you to let me have the papers.
I would therefore, esteem it a favor if you would let me have said
papers on receipt of this letter, by mail or express.

Very truly yours,

Dict. H-B.


A handwritten signature in cursive script, likely reading "R. Randolph Hicks", with a horizontal line underneath.

READ THIS CONTRACT

The Company's charges are based upon the value of the shipment and Classification thereof, which must be declared by the shipper.

FORM 15
JANUARY, 1908

SOUTHERN EXPRESS COMPANY, INC.

(RECEIPT FOR MERCHANDISE)
Non-Negotiable and Non-Assignable

SUFFOLK, VA.

0/1888
1908

Received from

*W. P. Smith
Pa
Wal Paper*

Valued at \$

25.00

Said to contain

AND ON WHICH VALUATION AND CLASSIFICATION THE COMPANY'S CHARGES ARE MADE.

Marked

*W. P. Smith
Wal Paper*

Which the Southern Express Company agrees to carry upon the following terms and conditions to which the shipper expressly agrees, and as evidence thereof, accepts this receipt:
1. In consideration of the rate of charges for carrying said property which is regulated by the valuation and classification thereof, and is based upon a valuation of not exceeding fifty dollars, unless a greater value is declared, the shipper agrees that the value of said property is not more than fifty dollars, unless a greater value is stated herein, and that the Company shall not be liable in any event for more than the value so stated, nor for more than fifty dollars if no value is stated herein.

It is agreed that, if this shipment is received under any special rate, the value of this shipment does not exceed the valuation applicable to said special rates.

2. If the Express Company has no agency at the point of destination, it will carry the shipment to its agency nearest or most convenient thereto, and there notify the consignee, or deliver the property to some other carrier to continue the transportation. The Express Company shall not be liable for loss or damage occurring after such delivery, nor for detention, loss or damage thereto after having tendered the shipment to connecting carriers.

3. The Express Company shall not be required to make free delivery at points where it maintains no free delivery service, nor at any point beyond its established delivery limits.

4. The Express Company, unless grossly negligent, shall not be liable for loss, damage or detention of said shipment caused by civil or military authority, piracy, insurrection, strikes or riot, or by the act of any person acting as an officer of the law, whether with or without lawful process, warrant or authority, it being agreed that this shipment may be delivered to any person demanding same under color of the law, nor will it be liable for loss, damage or detention caused by the dangers of railroad transportation, the perils of navigation, the change of temperature, heat, cold, wet or decay, or for the death, injury or escape of live freight.

5. Said shipment is accepted as merchandise only, and the shipper represents the same to contain no money, specie, bonds, coupons or other negotiable paper, or jewelry or other

matter of extraordinary value. The Express Company provides other means of transportation of such matters, and accepts them only when the contents are expressly declared to it, and a special receipt issued therefor.

6. The Express Company shall not be liable for loss, damage or detention of said property unless a claim therefor shall be presented to it in writing verified by affidavit to its agent at the destination office of said shipment, within ninety days from the date of the loss, damage or detention of said shipment, which affidavit shall be accompanied by this contract. Nor shall the said Company be liable in any suit to recover for the loss, damage or detention of this shipment, unless the same shall be commenced within one year after said loss, damage or detention shall occur and not afterwards.

7. Articles of glass, articles contained in glass and fragile articles are accepted at owner's risk.

8. If any C. O. D. is not paid within 30 days, the shipper agrees that the Express Company may return the property, and that he will pay the charges for transportation thereof both ways.

9. No negligence shall be presumed against the Express Company upon proof of loss, damage or detention of shipment, but the burden of proving such negligence shall be upon the person who asserts it. It is agreed that any cause of action arising out of the relation created hereby may be removed to or asserted in the Courts of the United States without incurring any pain or penalty on account thereof, any statute to the contrary notwithstanding.

10. The terms and conditions of this contract shall apply to any forwarding or return of said property, and shall inure to the benefit of every carrier to whom the same may be entrusted to complete the transportation.

11. In the event this shipment is consigned by the consignor to himself, it is agreed that the Express Company need not make delivery thereof except upon surrender of this receipt.

Charge on Value,

Freight,

(FOR THE COMPANY)

Long

The Interstate Commerce Law requires a proper and an accurate statement of value and classification of the shipments. A failure to so value or classify the shipments, or an improper valuation or classification of the same, subjects the shipper to liability for criminal prosecution.

SOUTHERN EXPRESS CO.

TO ALL PARTS OF THE COUNTRY.

THE SOUTHERN EXPRESS COMPANY

AND ITS IMMEDIATE CONNECTIONS

Represent 200,000 Miles of Express Routes and over 30,000 Agencies,

—WITH—

Lines in 46 States and Territories and the British Provinces and Connections
with European Expresses.

All matter shipped by Southern Express Company is forwarded in charge of experienced Messengers by the fastest trains.

Goods are handled at offices and en route with due care and consideration.

This old and responsible Express Company and its connections afford the QUICKEST and the SAFEST means for the transportation of CURRENCY, GOLD, SILVER, BULLION, JEWELRY and VALUABLES of all descriptions, FREIGHT PARCELS, etc.

Collections made with or without goods.

Favorable Rates on Farm Products, Fruit, Vegetables, Butter, Eggs, Etc., and for Game, Fish and Oysters.

Buy all your Money Orders from the Southern Express Company.

RATES ARE AS FOLLOWS

	Express Co.'s Charges
Not Over \$ 2.50.....	.03
Not Over 5.00.....	.05
Not Over 10.00.....	.08
Not Over 20.00.....	.10
Not Over 30.00.....	.12
Not Over 40.00.....	.15
Not Over 50.00.....	.18
Not Over 60.00.....	.20
Not Over 75.00.....	.25
Not Over 100.00.....	.30
Over 100.00.....	at above rates.

LAW OFFICES
P RANDOLPH HICKS,
304-6 CITIZENS BANK BLDG.
NORFOLK, VA.

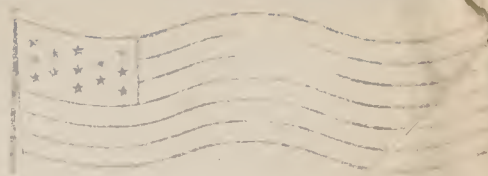


Clerk of Circuit Court of Nansemond County,
NORFOLK, VIRGINIA.

*Kim
Dys*

Kim

Sent to R Hicks



Thomas H. Willcox,
Counsellor at Law,
206 Main Street,
Norfolk, Virginia.

January 16th, 1907

Honorable R. R. Prentiss,
Suffolk, Va.,

My dear Judge,-

I send herewith Answer of Mrs. Amelia E. Kirn in the suit instituted against her by her husband, Wm. H. Kirn. I also enclose a short order allowing the Answer to be filed.

If not too much trouble, will you kindly hand these to the Clerk for me.

Mr. Coleman tells me the matter will be heard on the 3rd approximo.

Very truly yours,

Thomas H. Willcox

C.W.COLEMAN
Attorney at Law
PORTSMOUTH, VA.

Dec. 29, 1908.

R. R. Smith, Esq., Clerk,
Suffolk, Va.

Dear Sir:-

Please send me at once a copy of the petition
filed in the suit of Wm. H. Kirn vs. Amelia A. Kirn on
the 28th inst.

Yours truly,

C. W. Coleman

C. W. C. - L.

\$1.00 for Copy.

L

Wm St Kern

v
Aurelia Elizabeth Kern

This cause came on this day to be heard ~~on the papers formerly read on Contested~~ and on the motion of the Defendant through her Counsel for an allowance for attorneys fees and for medical treatment of the Defendant on consideration whereof the Court doth sustain said motion and doth adjudge order and decree that the plaintiff in this cause pay to R. Randolph Hicks ~~as~~ as attorney for the Defendant a sum of \$150⁰⁰ and without passing upon any other question doth adjudge order and decree that the plaintiff pay to the said attorney of the Defendant the sum of \$200 to be expended on medical treatment of the Defendant with the view of enlightening the Court as to the physical and nervous condition.

Wm H. Kinn

To

Amelia E. Kinn

Given July 16th 1910

James M. Moore

Entered in Chancery
Order Book No. 4.
Page 428.

[Faint, mostly illegible handwritten text, likely bleed-through from the reverse side of the page.]

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

William H. Kirn	)	
	)	
vs.	)	IN CHANCERY.
	)	
Amelia Elizabeth Kirn	)	

This cause came on this day to be heard on the petition of the defendant, Amelia Elizabeth Kirn, heretofore filed on the 28th day of December, 1908, and upon the motion of the said plaintiff, William H. Kirn, to dismiss the said petition, and was argued by counsel. Upon consideration whereof the Court doth adjudge, order and decree that the said motion be granted and the said petition be and the same is hereby dismissed.

And thereupon, on the motion of the said plaintiff, William H. Kirn, leave is granted him to file his petition praying that the decree of divorce, a mensa et thoro, heretofore granted him in this cause, on the 15th day of March, 1907, against the said defendant, Amelia Elizabeth Kirn, be merged into an absolute divorce a vinculo matrimonii, and the same is accordingly filed. And it is ordered that a copy of the said petition of the said plaintiff be served on the said defendant, Amelia Elizabeth Kirn, and that she be required to answer the same. And leave is given the said plaintiff to proceed at once to take evidence in support of his said petition, due notice of the taking thereof be first given the said defendant, or Randolph Hicks, her attorney of record.

1
Enter June 6. 1910
John S. Moore

Entered in Chancery Order
Book No. 4. Page 421.

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

WILLIAM H. KIRN, :
 :
VS: :
 :
AMELIA ELIZABETH KIRN. :

THIS DAY, came Amelia Elizabeth Kirn, and by leave of
court filed her amended and supplemental petition.

2
D E C R E E.

WILLIAM H. KIRN,

VS:

AMELIA ELIZABETH KIRN.

1910 June 6th

Enter

James L. W. Moore

Entered in Chancery.
Order Book No. 4. Page 422.

Virginia, In Vacation.

IN THE CIRCUIT COURT OF HANSEMOND COUNTY, VIRGINIA. *December 28, 1908*

WILLIAM H. KIRN,

VS:

AMELIA ELIZABETH KIRN.

THIS DAY, came Amelia Elizabeth Kirn, and by leave of court, filed her petition herein. On consideration whereof, it is ordered that William H. Kirn, be summoned to appear before this court at its next term, to answer said petition.

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

James S. M. Moore

D E C R E E

WILLIAM H. KIRN,

VS:

AMELIA ELIZABETH KIRN.

Enter, Decr. 28. 1908.

James S. McInnis

Entered in Chancery
Order Book No 4
Page 300—

Handwritten
IN THE CIRCUIT COURT OF ~~NORFOLK~~ COUNTY.

William H. Kirn

vs.

In Chancery.

Amelia E. Kirn.

It appearing that the defendant refused to submit to medical treatment the court requiring her to do so is not advised thereof and annulled, and
In vacation, on the ~~11th~~ day of March, 1907,
This cause came on this day to be again heard

on the papers formerly read, and was argued by counsel;

On consideration whereof, the court doth adjudge, order and decree that the plaintiff, William H. Kirn be divorced a mensa et toro, from his wife, the said Amelia E. Kirn;

and the court doth further adjudge, order and decree that *until the further order of this court,* the said plaintiff pay to the said defendant, for her

maintenance and support, monthly, on the first day of each and every calendar month, the sum of FIFTY DOLLARS (\$50); ~~and~~ that sum being, in the opinion of the court, a sufficient maintenance and support for the said defendant,

the court doth further adjudge, order and decree that the said defendant shall have no other claim upon the said

for her maintenance and
William H. Kirn, ~~her claim or rights upon the estate of the said William H. Kirn, save and except the said monthly payment of FIFTY DOLLARS (\$50), as aforesaid.~~

The Court doth further adjudge, order and decree that the said plaintiff pay unto T. H. Willcox and A. P. Warrington, counsel for the defendant, an additional fee

of TWO HUNDRED DOLLARS (\$200), and also the costs of this

but this decree is not to be construed as a
suit; ~~and nothing further remaining to be done in this cause, decree of perpetual separation, and it is ordered that it be removed from the docket, but~~

leave is granted to each of the parties to this suit to *a revocation thereof or for* apply to the court for a revision or modification of this decree, as prescribed by law.

IN THE CIRCUIT COURT

OF NORFOLK COUNTY.

William H. Kirn

vs.

Amelia E. Kirn

)
)
) In Chancery.

DECREE.

*I have seen the within
decree*

Thos H. Hill esq

*hd
Enter March 15, 1907*

Robert H. Hill

*Entered in Chancery
Order Book no 4 Pg 133.*

C. W. COLEMAN

ATTORNEY AT LAW

KIRN BUILDING, PORTSMOUTH, VA.

IN THE CIRCUIT COURT OF THE COUNTY OF NANSEMOND, VIRGINIA.
on the 12th day of February 1907 in vacation

WILLIAM H. KIRN,

Plaintiff,

vs.

In Chancery

AMELIA E. KIRN,

Defendant.

UPON READING the Bill and Answer in this cause and the depositions heretofore taken, the Court, being of the opinion that the defendant, Amelia E. Kirn, should receive medical treatment before any of the questions raised in the pleadings in this cause shall be determined, and being further of the opinion that the Richard Gundry Home, at Catonsville, Maryland, is a proper and suitable place where the defendant may receive proper medical attention; and without at this time passing upon any of the questions raised in the pleadings herein, doth adjudge, order and decree that the said Amelia E. Kirn do submit herself for medical treatment by Dr. Richard F. Gundry at the RICHARD GUNDRY HOME, Harlem Lodge, Catonsville, Maryland, within ten days after the entry of this decree, and do remain at said Home until the further order of this court; and that said defendant shall be accompanied to the said Home by either Dr. T. J. Wright or Dr. J. T. Redd, Jr., *(as she may prefer)* each of whom is familiar with the condition of, and has been at some previous time the physician of, the defendant; the cost of such treatment and all the travelling expenses necessary in order to receive such treatment to be borne and paid by William H. Kirn, the plaintiff in this suit.

But the Court doth adjudge, order and decree that, pending said treatment, the allowance of Fifty Dollars a month heretofore made to the said Amelia E. Kirn for her support and maintenance, shall be suspended.

The Court doth further adjudge, order and decree that all of the furniture in the residence now occupied by said Amelia E. Kirn and lately by said William H. Kirn, and belonging to the said William H. Kirn, shall remain in the custody of the said plaintiff and shall not be disposed of by him until after the said Amelia E. Kirn shall have received the medical treatment aforesaid.

And the Court doth further adjudge, order and decree that the said Amelia E. Kirn shall not interfere with or dispose of any of the personal property in said residence ~~belonging to the said William H. Kirn~~ until after the further order of this court. All of

which is hereby certified to the Clerk of this court to be entered in the chancery order book.

Robert R. Prentiss

In the
Circuit Court of Nansemond Co.

WILLIAM H. KIRN, Pltf.
)
vs.) In Chancery.
)
AMELIA E. KIRN, Dft.

DECRET.

I think this decree
is in conformity with
the views expressed
by the Comtee

Thos A. Bullock

Enter Feb. 12, 1907
Robert A. Huntis

Entered in Chancery
Order Book No. 4. Page 124

In the Circuit Court of Kansas
William H. Kim

v

In Charge

Amelia A. Kim

By undersigned parties by
counsel given in open court
this cause is submitted to
the judge of this Court for
such decision and decree
to be entered ^{in vacation} therein as
might be entered in law
terms

William H. Kinn

✓ 3 In Chancery

Amelia E. Kinn

Devere submitting
cause for decision
in vacation.

We concur
E. E. Hove and
C. M. Coleman
Thos. H. Hilleas
Jd.

Enter Jan. 30, 1907

Robert R. Dantes

Entered in Chancery
Order Book No. 4. Page 119.

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VA.

William H. Kirn,

Plaintiff,

vs.

Amelia E. Kirn,

Defendant.

ON MOTION of the defendant Amelia E. Kirn, by counsel,
leave is granted her to file her answer in this cause;
and thereupon the same is accordingly filed.

Circuit Court of
Nansemond Co., Va.

WM. H. KIRN, Pltf.

vs.

Amelia E. Kirn, Dft.

ORDER
Allowing Dft. to file

Answer.

Entered Jan. 16, 1907
Robert R. Smith

Entered in Chancery
Order Book No 4
Page 117.

In the Circuit Court of the County
of Kansas and in vacation, on
the 19th day of November 1906.
William H. Kim Plaintiff

v

Amelia E. Kim Defendant

On motion of the defendant
by counsel for an allowance
for her support pending this suit,
and for an allowance to counsel
for their services in preparing her
defense the Court doth adjudge
order and decree that the plain-
tiff do pay to Asst. Warington
and Thomas H. Gillespie counsel
for the defendant the sum of
Two hundred dollars as a fee
for their services in preparing
her defense in this suit, and
that until the further order of the
Court the plaintiff do pay to the
defendant the sum of fifty dol-
lars per month for her support
pending this suit.

ROBERT R. MARTIN

To the Clerk of the }
Circuit Court of the }
County of Kansas }

Wm H Kinn

v $\sum$ In Chancery

Amelia E Kinn

Order for pay.
with allowance for
the support during
sickness

Entered ~~Nov~~ 19, 1906

Robert R. Dentis

Recd Nov 22 1905

Entered in Chancery
Order Book no 4 Page
104.

This couple had lived together since
their marriage for 23 yrs. It seems that
up to about 10 yrs ago they had gotten along
agreeably. Since that time the wife has
shown signs of a temper that may or may
not have been caused by physical or mental infir-
mity. The husband says that it is an un-
governable temper - one witness says that she
acted as she has since the death of her
child - ~~all~~ ~~she~~ she seems to have
had an insane delusion about her husband's
~~of~~ fidelity. Dr. Bell Wright says she
is sane. Testimony discloses: that she

~~she is~~
quarrels almost incessantly with her hus-
band. Declared she did not love him, refuses
to prepare his meals at times locks him
out of the house that she has thrown hot water
on him threatened to throw a heated poker
and lighted lamp at him bitten his
wrist. That she commands him
about. That she charges him with
infidelity from 2 to 3 times a week.
Dr. Wright says she is jealous.

Testimony shows that he is a kind
and indulgent ~~the latter~~ husband that
he would sleep in the barn to avoid her; that
he would generally do anything that she wanted
to preserve peace.

Witnesses are likewise men in two early
^{old} two negro women ~~the same~~ two family
physicians & now two others.

TO AMELIA E. KIRN.

Take notice that on the 8th day of November, 1906, at the office of C. W. Coleman in the City of Portsmouth, Virginia, between the hours of six A. M. and six P. M. of that day, before Harry A. Brinkley, a Commissioner in Chancery for the Circuit Court of the City of Portsmouth, I shall proceed to take the depositions of M. O. Johnson and others, to be read as evidence in my behalf in a certain suit in Equity depending in the Circuit Court of Nansemond County, Virginia, wherein I am plaintiff and you are defendant, and if, from any cause, the taking of the said depositions be not commenced, or, if commenced, be not concluded on that day, the taking thereof will be adjourned from time to time at the same place and between the same hours until same shall be completed.

Given under my hand this 23rd day of October, 1906.

Oct 23rd, 1906,

W. H. Kirn
by C. W. Coleman &
E. E. Hall and
his attys.

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Asst Baker Sheriff
By J. F. W. Berry Deputy