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Family Law: Second Semester 1970-1971 (May 21, 1971)

William & Mary Law School

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Family Law (L60)

Second Semester 1970-71

Friday, May 21, 1971
Room 213

Mr. Phelps

I

M, a man, was engaged to W, a woman, and they opened a joint account at the bank. M supplied most of the money and W drew it all out and informed M she would not go through with the marriage. M seeks restitution of the money he put into the account. Discuss the problem, especially in the light of modern statutes which may affect the answer.

II

H (husband) filed a bill for divorce from W (wife) on the ground of desertion for one year. W requested separate maintenance by cross-bill. The court dismissed H's bill on the ground the evidence did not show desertion, and granted W's request for separate maintenance. Immediately after the decree, W was admitted as a patient at a mental hospital, where she remained just over two years. H then brought a bill for divorce under the ground of separation by the parties for the statutory period. W defended on the ground that she had been in the mental hospital for almost the entire period of two years; that the separate maintenance decree and dismissal of the husband's original bill for a divorce had determined her rights; and she filed a cross-bill for a decree a mensa et thoro on the ground of cruelty. She attempted to show the cruelty by testimony of herself and admissions of her husband. The court granted a divorce to H but refused to grant alimony to W because H proved his wife had committed adultery subsequent to her return to her parents home from the hospital. Discuss the problems raised by the case and state how they should be resolved.

III

and support
A Pennsylvania court with jurisdiction of H granted a divorce to W with alimony ~~sufficient~~ for children of \$250 which H did not pay. H is currently living in West Virginia and W seeks in Pennsylvania enforcement of \$3,000 arrearages in the order for alimony and support of the children and under the enforcement of the order for \$250, Uniform Reciprocal Enforcement of Support Act. The original order as to alimony and support in Pennsylvania can be modified there, even as to arrearages on proper petition, but H has never sought such modification of the decree. The court in West Virginia made a finding that the arrearages were \$2,400 and granted judgment for that amount and ordered H to pay \$250 continuing support. H argues the decree does not have the requisite finality to be entitled to be enforced under the full faith and credit clause in West Virginia. Can W secure enforcement of her claims in this way? Explain.

IV

W filed a bill for divorce a mensa et thoro against H for constructive desertion. H filed a cross-bill for divorce a mensa et thoro on the ground of desertion by W. While the suit was pending the parties entered into a property settlement agreement according to which H was to pay W \$100 a month for W's support and maintenance with no conditions as to what events might cause it to end. A decree a mensa et thoro was granted H and this decree was later merged by the husband into a full divorce, the order approving, ratifying and confirming the agreement and incorporating it into the decree by reference. W later remarried and H requested the court to reinstate the case on the docket and to relieve him of any obligation under the decree to support his wife. W sought enforcement of the decree by a contempt order, and by enforcement against land owned by H. What are the respective rights of the parties? Explain.

V

H, a resident of West Virginia, secured a Mexican divorce. W had by agreement prior to the divorce given permanent custody to H of the children, and this agreement was incorporated in the Mexican decree. W, however, claims she made no appearance and received no notice of the Mexican decree. After the Mexican divorce the parties were both living in West Virginia, and the wife while taking the children on a picnic abducted them and took them to her parents home in another county. H brings an action of habeas corpus for their return. W requests the court to declare the Mexican divorce a nullity and to remand the children to her custody. She advances some evidence to show she is a proper person to have custody. How should the rights of the parties be determined? Explain.