

No. 12956

Supreme Court of Illinois

Townsend

vs.

Townsend et al

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SUPREME COURT OF ILLINOIS,

Third Division—April Term, 1859.

LOUISA TOWNSAND
vs.
THOMAS A. TOWNSAND et al. } *Error to Kankakee.*

pp. 1, 2 April 2d, 185, Jonathan B. Townsend, who was the father of the de-
fendants in error, filed his bill against the plaintiff in error for a divorce.
and 3 The bill alleges marriage of the parties in Canada in 1852, their removal
to Illinois, 1853.

4. 5 Summons issued same day. The summons was returned not served, the
defendant not being found in the county. A copy of an affidavit of one
4 George Chipman, that he read and delivered a copy of the bill to the
plaintiff in error in Chicago, April 2d, 1855; but that affidavit is not
made a part of the record in any way.

A decree of divorce was rendered May 16th, 1855.

Since this writ of error was brought, Jonathan B. Townsend died. The
defendants in error are his heirs at law.

ERRORS ASSIGNED.

The court erred in rendering a decree without having service of process
therein.

POINT.

The only point we make is, that the court below had no jurisdiction of
the person of the plaintiff in error.

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Townsend. vs. Townsend

Albts. & Plffs. Brief

Filed May 11. 1859
Leland
Clerk

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The People of the State of Illinois to all to whom these presents shall come, greeting:

Know ye that we having caused to be inspected the Records and proceedings now remaining in the office of our clerk of our circuit court in and for our county of Hancock, do find there remaining certain Records of proceedings in the words and figures following, to wit,

Proceedings in Chancery before circuit court in and for said county of Hancock and State of Illinois, on the day of May 1855 one thousand eight hundred and fifty five, wherein Jonathan B. Townsend was complainant and Lavinia Townsend was defendant.

Be it remembered, that heretofore, to wit, on the second day of April 1855, Jonathan B. Townsend filed in the office of the clerk of the circuit court aforesaid a certain Bill in Chancery, in the words and figures following, to wit,

State of Illinois

Hancock County $\frac{3}{4}$ ss. Hancock County Circuit Court
of the May term eighteen
hundred and fifty five.

To the Honorable S W Randall
Judge of the 11th Judicial Circuit Court of the State
of Illinois, in Chancery sitting.

Humbly complaining sheweth
unto your Honor, Jonathan B. Townsend a citizen of said

bounty of Kankakee, that he has resided in said bounty,
for some two years past, or more that he was lawfully
married to and with his present wife Louisa Townsend
in the province of Canada in the year eighteen hundred
and fifty two by whom he had as the fruits of such
marriage four children now living aged and named as
follows, to wit, Mary B. aged 9 years, Thomas A aged
7 years, William B. aged 5 years and Louisa Townsend about
4 years of age that in the year 1852 your Orator
came to this State to the territory now embraced in
Kankakee County & commenced a laudable business
and sent to Canada for his said wife and children
and they came in the month of July 1853, your
Orator further charges and states shortly after the
arrival of his said wife and children in Illinois
he commenced business in the new village of Kankakee
city so called, and diligently and faithfully worked and
performed his duties as a husband and a father
for the support and lively hood of his said wife and
children making the best provision and providing the
best he could for their support and maintenance but
notwithstanding which she the said Louisa his wife
from her first coming here to Illinois was dissatisfied
with the country, abused from time to time your Orator
and carried matters as far as to refuse your Orator
sexual ~~intimacy~~ connexion with her from that time
up to the time of her leaving as hereinafter mentioned,
although she was usually during said time a healthy and

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strong woman. That during the time she has been here she has been usually abusive, overbearing and imperious towards your Orator, that some three or four days since she left this place your Orator resided and still resides with the two female children above mentioned in the night time and has gone to some place unknown to your Orator and your Orator further states and charges that a short time before her his said wife leaving as aforesaid, she did as he verily believes commit the offence of adultery with two different men, which last charge he never fully believed until after her leaving as aforesaid but which he now charges to be true, from information which he ~~believes~~ has received and verily believes, Your Orator would further state that to please said Louisa he has disposed of valuable property and given her most of the proceeds just before leaving as aforesaid, which was nearly he had, much to his detriment and injury in a pecuniary point of view. Therefore in tender consideration of the premises, your Orator prays your Honor that the bonds of marriage between him and the said Louisa his wife be forever dissolved and that they be fully divorced and that such further ~~order~~ ^{and} other order be made as shall be according to equity and good conscience, in the premises, and that summons according to the Statute in such case made and provided be issued to his said wife the said Louisa to answer all and singular the matters and things set forth and charged in his bill of complaint and your Orator

4 as in duty bound will ever pray &

Reddock & Ward

Jon. B. Townsend

Compts. Lotter $\frac{3}{2}$
and on the 9th day of April said complainant attached an affidavit to said
State of Illinois

$\frac{3}{2}$ ss. George Shipman. being duly sworn
according to law deposes and says, that on the 2nd day of
April A.D. 1855, he served by reading and delivering a
to Louisa Townsend the defendant in the bill in the City
of Chicago Illinois, to which this is attached, a true and
perfect copy of the bill and endorsements thereon, hereto
attached wherein Jonathan B. Townsend is complainant
and the said Louisa his wife is defendant in which
said Bill said Jonathan B. Townsend prays for a
Divorce from said Louisa.

Witness my hand before me this the 9th
day of April A.D. 1855.

George Shipman

Philip Worcester Clerk

By Thomas P. Boufield Dep't.

Whereupon & ~~summons~~ the following summons was
issued out of the Clerk's office aforesaid, to wit,
State of Illinois

$\frac{3}{2}$ ss. The People of the State of Illinois to
the Sheriff of said County: We

command you ~~summons~~ Louisa Townsend, if she be
found in your County, personally
to be and appear before our Circuit
Court of our said County, on the
first day of the next term thereof, to be held at the Court

5
Now in Barabakee County in said County, on the second
Monday of May 1855, I answer Jonathan B. Townsend in his
Bill of Complaint lately filed in our said Court, on the
chancery side thereof, and all and singular the matters
and things therein contained & abide by all orders awards
decrees & that shall be entered in said premises. And
have you then there this wit. Witness Philip Worcester
Clerk of our said Court and the seal thereof, hereto affixed
in said Barabakee County this second day of April
A.D. 1855.

Philip Worcester Clerk
By Thomas R. Bowfield Dep't.

And afterwards, to wit, on the 2^d day of April A.D. 1855, the
Sheriff of said County of Barabakee, returned the said
summons endorsed as follows, to wit,

I received this writ this the 2^d day of April A.D. 1855, and
return the same not served, the said defendant
not being found in my county. Dated this April
A.D. 1855.

James Rogers Sheriff
By Lorenzo Rice Dep't.

And afterwards to wit, on the 16th day of May A.D. 1855, this
cause came on ~~to be heard upon~~ for hearing upon the complainant's
davitants ~~filed~~ bill of complaint exhibits and testimony
and the defendant still failing to appear, plead answer
or demur to the complainant's bill of complaint the same is
taken as true and confessed by said defendant, and the
Court finds from the evidence that the complainant's bill
of complaint is true, and that the defendant has been guilty
of the crime of adultery as therein alleged, it is therefore

adjudged, ordered and decreed by said Court, that the marriage contract heretofore existing between the complainant and the defendant is hereby dissolved and annulled and both parties released and divorced ~~therefrom~~ from the obligations therefrom.

State of Illinois

Waukegan County³

I Philip Worcester Clerk of the Circuit Court of said County, do hereby certify that the foregoing is truly taken and copied from the records of the proceedings of the Circuit Court for said County of Waukegan and State of Illinois. In testimony whereof I hereunto subscribe my name and affix the seal of said Court, this 30th day of April A.D. 1858.

Philip Worcester Clerk
By T. Bonfield Depk.

And now comes the said Louis Town
and says that in the recore of procedure
aforesaid and in rendering of the
Decree aforesaid in manner
and form aforesaid there
is manifest error in this Court.

- 1st - The Court erred in rendering
the Decree aforesaid in manner
form; aforesaid
- 2nd - The Court had no jurisdic-
tion of the person of the Defendant

Glover Leach
Atty for Pltffs in Error

Jonathan B Townsend

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Louisa Townsend

Manuscript of Record

Error to Kankakee

Filed May 24. 1888.
L. Leland Clk.