

## David Berry and Malinda Perdue Berry - divorce

*David Berry was married at least four times – to Sarah Nutter, Elizabeth Lemmon, Malinda Perdue and Elmira Martin. Sarah died, the marriage to Elizabeth was annulled, and that to Elmira (Myra) ended with his death.*

Union Circuit Court Spring Term 1858 p 216

Circuit Court begun and held at the Court house in Liberty, Union County and fourth judicial Circuit of the State in Indiana on the fourth Monday and twenty second day of February AD 1858 Before the Honorable Reuben D. Logan the judge of said court,

Malinda Berry vs David Berry, Complaint for a Divorce

Be it remembered that heretofore to wit on the 26<sup>th</sup> day of January AD 1858 comes the said plaintiff by Yaryan and Bennett her counsel and filed in the Clerk's Office of the Union Circuit Court her complaint in this behalf reading in these words to wit: State of Indiana Union County Circuit Court Spring Term 1858 Melinda Berry vs. David Berry. Complaint for a Divorce to the Hon. Reuben D. Logan Judge, Melinda Berry a resident of Union County and state of Indiana plaintiff complains of David Berry defendant and says that the plaintiff and defendant were legally intermarried on the 11<sup>th</sup> day of May 1848, at the county of Union aforesaid. She would further aver that after their said marriage they lived together as husband and wife from the time of their said marriage until the \_\_\_\_\_ day of March 1855 when she left the said defendant and abandoned him. She would further aver that during all the time that she lived with the defendant she demeaned herself at all times as a good kind and dutiful wife should do but that the defendant on the contrary wholly disregarding his duty and obligations, often abused your complainant, and mistreated her to such an extent that she could not live with the said defendant or have any peace or comfort in attempting so to do. She would further aver that the said defendant while the plaintiff was lying sick and confined to her bed utterly neglected to provide for her comfort and refused to furnish her with food, medicine and other necessaries for her comfort and well-being, but on the contrary cursed her and wished her dead, and otherwise abused her to such an extent that her father took her to his house while she was yet sick and unable to leave her bed. She would further aver that often the said defendant abused and beat the plaintiff with sticks, clubs and with his fist, in consequence whereof her flesh was sore, bruised and swollen for several days thereafter and that in consequence of his said inhuman and brutal treatment, the said plaintiff was compelled to abandon the defendant which she did on the day above mentioned. She would further aver that they have one child by said marriage which is a female child aged eight years, and which is now in the care and custody of the plaintiff. Wherefore she prays a writ of subpoena against the said defendant, Commanding him to appear and full answers make to all the material

allegations herein contained and on the final hearing hereof may your honor grant to your Complainant a Divorce from the Bonds of Matrimony heretofore and now existing between the plaintiff and the defendant and may your Honor grant the care and custody of their said infant to the plaintiff and such other relief as your honor may think just and equitable in the premises. And your Complainant will ever pray &c Yaryan & Bennett for plaintiff. And Be it further Remembered that on this day to wit: Thursday the fourth judicial day of the Spring Term 1858 of the said court come the parties by Counsel and by agreement this cause is submitted to the Court for trial, And the Court having heard the evidence and fully seen and examined the premises, pronounce the following judgement and decree in the premises to wit;

It is therefore Ordered adjudged and decreed by the Court that the marriage Contract heretofore existing between the said parties be and they are hereby repudiated annulled, set aside and rendered wholly void and of no effect as though the same had never been entered into between the said parties. And it is further ordered and decreed by the Court that the said plaintiff be allowed to keep in her Care and Custody her infant daughter until the further Order of this Court, and that the plaintiff recover against the said defendant her costs and charges by her laid out and expended.

Recorded March 29<sup>th</sup> AD 1858

Lewis J Cline Clerk  
Union Circuit Court