

# Maria J. [Bethel Dodd] Chilcote versus Denton Chilcote and Others: Summary of Civil Case 4165 from Coffey County, Kansas, 1900

Original Records on File at District Court in Burlington, Kansas

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January 2019

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## Introduction

This is a report on the contents of a district court record of a civil complaint that was filed in May 1900 and settled and dismissed the next year in Coffey County, Kansas (Case 4165). The report includes discussion, commentary, a transcript, and supporting information. The purpose of the report is to capture a bit of family history for the interest of future generations. Background on the plaintiff, Maria J. [Bethel?] Dodd Chilcote (1848–1929) and the settlement of the estate of her late husband Hethcote Chilcote (1821–1900, Coffey County Probate Case 923) is contained in a separate report. Three of the documents from that probate court estate report, which are relevant to this civil complaint, are appended here.

Hethcote Chilcote was born in 1821, likely in Huntingdon County, Pennsylvania, or possibly in Licking County, Ohio. His father, also named Hethcote, first purchased real estate in Licking County in 1830. Hethcote the son moved to Harmony Township, in Morrow County, Ohio, probably in the 1840s. He is believed to have married twice in Ohio, and was a widower when he sold most of his farm land in Harmony Township and migrated from Ohio to Coffey County in eastern Kansas, around 1884 at age 63. Hethcote married Maria J. Dodd of Coffey County three years later, in 1887. Some records suggest that Maria herself was born in Ohio. Hethcote died on January 30, 1900, at his home south of the village of Waverly, in Rock Creek Township, Coffey County. His remains were interred at the Waverly Cemetery.

U.S. Census and other genealogical records show that Hethcote had 12 children with his first two wives (Mary Elizabeth Snair/Snare and Catherine Warner Hulse). Eight of the 12 children lived to survive Hethcote in 1900, as shown in the unshaded rows of the table below.

Name	Birth Yr	Death Yr	Comments
Denton Chilcote	1843	1917	Resided in Ohio
Nicodemus Chilcote	1844	1848	<i>Died ~age 4 yrs</i>
Susan Doty Hendrix	1845	1934	Migrated to Kansas
Mary Jane Chilcote	1849	1854	<i>Died ~age 5 yrs</i>
Nancy Corwin	1851-53?	after 1900	Migrated to Kansas
Matilda Kelly	1854	1942	Migrated to Kansas
Wilbert Chilcote	1857	1926	Resided in Ohio
Lyman/Lymon Chilcote	1859	1862	<i>Died ~age 3 yrs</i>
Viola Goodman	1862	1906	Migrated to Kansas
Martha Ulrey	1864	1935	Resided in Ohio
Lewis Chilcote	1866	1912	Migrated to Kansas
Wilson Chilcote	1869	1891	<i>Died ~age 22 yrs</i>

## How this Report Was Prepared

The brothers Vincent J. Brown and Steven K. Brown, who are direct descendants of Hethcote and Denton Chilcote, took a brief genealogy trip in September/October 2018, to visit Fillmore Cemetery in east central Illinois and pay respects at the grave of a man believed to be Hethcote's older brother, Nicodemus Chilcote (1806-1878), and that of his wife Anna Warner Chilcote, north of Chesterville, Illinois, in Douglas County. Vincent then continued westward to Waverly and Burlington, in Coffey County, Kansas, to pay respects at the graves of Hethcote and Maria J. Chilcote. Along the way both brothers collected information from public records in courthouses, libraries, and museums.

The records on which this summary report was based are stored in digital electronic image form by the District Court in Burlington, Kansas, as Case 4165. They are indexed by name on a computer that is available to the public, and court clerks can print copies of the records for a nominal fee. Your author obtained approximately 80 pages, constituting a copy of the entire case file. He then reviewed and transcribed the contents of these pages. The reliance on second-generation digital page images and the variation in handwriting, not to mention idiosyncratic spelling and punctuation, means that some information in this transcript is uncertain. When an entry is doubtful, a [??] symbol appears in the transcript. Likewise, the documentation may be imperfect. The author of this transcript has attempted to make the information as complete, understandable, and accurate as possible. The purpose was not to produce a perfect copy of the case records, but rather to present the raw information and offer a general discussion of the motives behind the case as well as its outcomes.

The full transcript is provided in Appendix A. Three items from the related Probate Court estate record (Case 923) are presented in Appendix B. These include a Journal Entry documenting an agreement to dismiss the lawsuit, a copy of the formal agreement between the plaintiff and the defendants, and a receipt acknowledging the terms of the out-of-court settlement and the payment of an agreed-upon sum of money from the other heirs to Mrs. Chilcote. As a sidelight, Appendix C summarizes two of the six loans that Hethcote was known to have made to his wife during their marriage, one in 1888 and a second in 1894. These two loans were secured by mortgages on real estate that Maria herself owned before their wedding, and both were repaid to Hethcote on time, evidently with interest. A list of all personal names appearing in the District Court records is provided in Appendix D. Extracts and highlights from the transcript, accompanying discussion, and interpretation appear below.

### **Background and Basis of Civil Suit**

As a background to the civil suit filed in May 1900, the 1887 prenuptial agreement between Hethcote Chilcote and Maria J. Dodd is described and discussed in the separate estate report,<sup>1</sup> as is Hethcote's last will and testament executed in 1897, three years prior to his death. Copies of these documents were also entered into the record for this civil suit and are included in the transcript below.

Several principles of domestic or family law appear to have been in play. In English common law, the old concept of *coverture* provided that upon marriage, the husband and wife became one legal entity, with the husband acquiring ownership and complete control over all of his wife's personal property, real estate, and other financial interests. This concept declined in practice over time in the U.S., especially in the 19<sup>th</sup> century. In fact, according to Wikipedia, "The original state constitutions of **Kansas (1859)**, Nevada (1864), and Oregon (1857) guaranteed the right of women to own property without respect to marital status" (Married Women's Property Acts in the United States). Another concept was *dower* (as distinct from *dowry*). The principle of dower was, according to Wikipedia, "a legal declaration of a wife's right to property, while the husband lived, which he would manage; which would transfer to the wife's children when they were born; and which would secure her livelihood were she widowed" (Dower).

Someone trained in the law, especially Kansas state domestic relations law in the 19<sup>th</sup> century, would be better able than your author to explain the bases for the claims and replies in this suit. However, one

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<sup>1</sup> Chilcote, Hethcote (1821-1900) Summary of Probate Estate Records from Coffey County, Kansas. Case 923, Burlington, Kansas, Courthouse. Prepared by Vincent J. Brown, November 2018.

amateur historian's summary would be that

- A. The prenuptial agreement attempted to override the normal claims of a widowed husband or wife to certain shares of marital property upon the death of one of the two, in favor of each party's own children; and
- B. Maria attempted to demonstrate to the court not only that the prenuptial agreement had been based on false and fraudulent information given to her, but also that she had misplaced her trust in her fiancé and an attorney who participated in the signing, witnessing, and delivery of the prenuptial agreement; and
- C. Maria believed that she had a legal right to a larger share of her late husband's estate than the share defined in the prenuptial agreement.

There is one more inescapable part of the family dynamic and background to this case, both personally and actuarially: Hethcote was about age 66 and Maria was about age 39 (a 27-year age difference) at the time of their marriage in 1887. Put another way, of Hethcote's eight surviving adult children, two of them, Denton and Susan, were older than their new stepmother. Three more, Nancy, Matilda, and Wilbert, were close to Maria in age, or less than 10 years younger than their stepmother.

#### **Land Ownership, the Dodds in Kansas, and Dodd/Chilcote Genealogy**

*[Point of clarification: By some confusing coincidence, there are two "Section 31s" represented in this family. One is in survey Township 17 (Rock Creek Township), south and slightly east of the village of Waverly, and close to the Chilcotes' main farm. The other is in survey Township 16 (Key West Township), several miles diagonally southwest of Waverly, near the village of Halls Summit. As described below, the 160-acre western farm in Section 31 of Key West Township was owned by J.S. Dodd and later by M.J. Dodd prior to the Chilcote wedding. The 40-acre eastern farm in Section 31 of Rock Creek Township had been purchased by Hethcote after his wedding to Maria.]*

**Maria J. Dodd** owned her own real estate prior to, during, and after her marriage to Hethcote. The Kansas Historical Society web site [www.kansasmemory.org](http://www.kansasmemory.org) has an 1878 plat map, page 27 of which shows a J.S. Dodd owning the northeast quarter of Section 31 in Township 19 South, Range 16 East of the 6<sup>th</sup> Principal Meridian, or a farm of about 160 acres. The 1878 plat would have been published about 6 years before Hethcote migrated to Kansas, and about 9 years before the wedding of Hethcote and Maria. This parcel is in the far southeast corner of Key West Township, adjacent to the north-south line bordering Rock Creek Township.

The same web site also has a 1901 plat map, page 6 of which shows M.J. Chilcote owning the same 160-acre parcel previously held by J.S. Dodd. Her farm was about 4 miles straight west of the 80-acre Chilcote farm in Section 25 of the same township and range. On the next available plat map, from 1919, this 160-acre parcel in Section 31 of Range 16, by Halls Summit, was owned by C.V. Northcott.

It is assumed from the 1875 Kansas State Census that the J.S. Dodd named on the plat map (who was listed under the name U.S. Dodd in that census, and residing in Olivet Township in Osage County just north of Coffey County) was Maria's previous husband. The initials "U.S." in the Kansas State Census are assumed to be a transcription error for "J.S."; other evidence points toward these being the same person. The two Mr. Dodds could, however, be father-son, or some other relation, or unrelated. In the

census, U.S. Dodd is listed as being age 37, born in Ohio c. 1838. In the same household were listed M.J. Dodd, female, age 27, born c. 1848 in Ohio; C.A. Dodd, male, age 7, born in Ohio c. 1868; M.L. Dodd, female, age 5, born in Kansas c. 1870; and C. Dodd, female, age 2, born in Kansas c. 1873. Several items to note with respect to this census:

- The birthplaces of the children suggest that U.S./J.S. Dodd and M.J. Dodd migrated from Ohio to Kansas around 1868 to 1870.
- Some of the records in both the estate file and the civil court case file cite someone named C.A. or Charles A. Dodd as likely to be a relative of Maria's, assumed to be her oldest son.
- Later in the same year as Hethcote's death, Maria was counted in the 1900 U.S. Census as a widow residing in Rock Creek Township at age 52, with Ida Marian, age 20, born c. 1880, and Jesse, age 17, born c. 1883, residing in her household. The census also reports that Maria has six living children. Jesse would have been about 4 years of age at the time of the wedding to Hethcote.
- Near the graves of Jesse J. Dodd and Maria J. Chilcote at Waverly Cemetery is the grave of a Guy M. Dodd, born in 1876. This may have been another son of Maria's, or a different relative.
- Hethcote's 1900 obituary says that, in addition to his own eight children, he had seven stepchildren. It does not specify if any or all of these are stepchildren from his marriage to Maria Dodd, or to either of his wives in Ohio. His second wife had the maiden name Catherine Warner, but went by Catherine Hulse at the time of the marriage to Hethcote in 1856, when she was age 30 and Hethcote was age 35, suggesting that Catherine may have been a widow with her own children when she married Hethcote. More genealogical work is needed.

There is a Joseph S. Dodd listed as the father of the bride on the marriage certificate of Carrie F. Dodd; as the father of the deceased on the death certificate of Mary Luella Dodd Rock (born 1871); and as the father of the deceased on the death certificate of Guy M. Dodd. All of these records list Joseph's wife's maiden name as Maria J. Bethel, and one indicates that Maria was born in Columbus, Ohio. To reconstruct the possible names of Joseph and Maria Dodd's children, we have records for the following seven:

- C.A. (Charles?) Dodd, born 1868 [per the 1875 census]
- M.L. (Mary Luella?) Dodd (Rock), born 23 March 1871, died 1927 [per 1875 census and her death certificate]
- C. Dodd, female, born 1873 [per 1875 census]
- Guy M. Dodd, born 10 November 1873 or 1876 (??), died 1941 [per Waverly Cemetery marker, which says 1876, and his own death certificate, which says 1873]
- Carrie F. Dodd (Powers), born 1876 [per marriage certificate]
- Ida Marian Dodd, born 1880 [per 1900 U.S. census]
- Jesse Dodd, born 1883, died 1939 [per 1900 U.S. census and Waverly Cemetery marker].

As for the "seven stepchildren" cited in Hethcote's obituary, it is not known if that count is accurate, or if so, who exactly the seven were. If Joseph and Maria had seven children between 1868 and 1883, not all of them may have survived until 1900, when the obituary was written and when Maria reported on

the U.S. census that she had six children. Also, there is an Ohio death certificate for an Olive [Hulse] Green (born 1846, died 1928), whose parents were Thomas Hulse and Catherine Warner Hulse. This mother was almost certainly Hethcote's second wife. The 1850 U.S. census for South Bloomfield Township of Morrow County, Ohio, says that Thomas (born c. 1824) and Catherine (born c. 1827) had two children in their household: Olive (born c. 1846) and Jane A. (born c. 1848). One or both of these Hulse daughters/stepdaughters could have been included in the count of "seven stepchildren" in 1900.

No attempt has yet been made to search the Osage County or Coffey County deed records for other lands that the Dodds might have owned during this period, nor to determine where Maria lived during her widowhood between 1900 and 1929. A Mrs. Winifred Hetzel Huntsucker (born c. 1922) wrote your author a letter in 1977 in which she remembered Maria Chilcote as a neighbor, about whom Mrs. Huntsucker's parents spoke often. According to this letter, Maria was then living at or near the 80-acre farm in Section 25, adjacent to where Hetzels then owned land. The letter says that the Hetzels eventually purchased Mrs. Chilcote's farm some years after her death. A quick search of the Coffey County death records, obituaries, and probate court indexes in 2018 turned up little or no information about Maria, suggesting that she may have been living outside Coffey County at the time of her death, even though her grave is next to Hethcote's in Waverly Cemetery.

**Hethcote Chilcote** also owned two parcels of real estate, and he held title to these lands at the time of his death.

- **80 Acres:** The East half of the South West Quarter of Section Twenty Five (25), Township Nineteen (19), Range Sixteen (16) East in Coffey County, Kansas. Value: \$2,400.00
- **40 Acres:** The South East Quarter of the North West Quarter of Section Thirty One (31), Township Nineteen (19), Range Seventeen (17) East in Coffey County, Kansas. Value: \$720.00

Section 25 is about 2 miles southeast of Waverly, and Section 31 of Range 17 is adjacent to and diagonally southeast of Section 25. Both of these parcels are situated in Rock Creek Township, but a survey township dividing line runs north and south between them.

Hethcote had purchased the 80 acres in Section 25 on October 17, 1884, from Isaac N. Hays and S.A. Hays, his wife, for \$1,600, plus Hethcote agreed to assume and pay a mortgage balance of \$600 due to James Buckingham. This transfer is recorded at Burlington in Deeds Volume 36: page 490. This parcel was purchased at roughly the time Hethcote arrived in Kansas, and about 3 years prior to Hethcote's marriage to Maria.

Hethcote purchased the 40 acres in Section 31 along with 120 adjoining acres (total of 160 acres or a quarter section) on October 1, 1889, about 2 years after his marriage to Maria. This is described as the northwest quarter of Section 31, Township 19, Range 17. It was purchased for \$4,000 from Alicia Bleakley and Joseph Bleakley, her husband, of Leavenworth, Kansas. The seller reserved 2/5 of the grain as rent for 1889. This transfer is recorded at Burlington in Deeds Volume 47: page 355.

Notably, Hethcote and Maria sold 40 of the 160 acres in Section 31 to his son Lewis Chilcote on April 26, 1894, for \$1,000. This was the southwest quarter of the northwest quarter. The transfer is recorded at Burlington in Deeds Volume 55: page 52. It is not known how, when, or to whom Hethcote and/or Maria sold the remaining 80 acres of this quarter-section, but presumably this happened prior to Hethcote's death in 1900. The sale to Lewis is notable, with respect to the civil suit, in that both Hethcote and Maria

were listed as grantors of the real estate when it was transferred in 1894. This suggests that by law Maria had some ownership rights in the real estate in Section 31. The remaining 40 acres in Section 31 of Township 17, which Hethcote owned at the time of his death, are shown in the Kansas Historical Society plat map of 1919 as belonging to the estate of a J.J. Nutt.

Both of Hethcote's parcels, the 80 acres in Section 25 and the 40 acres in Section 31, were the subjects of dispute in the civil suit, as to whether the lands were Hethcote's "separate property" as defined in the prenuptial agreement or whether Maria as Hethcote's widow had a legal right to and interest in some or all of the real estate. It is believed that the 80-acre parcel was the site of the house where Hethcote and Maria resided together from 1887 until his death in 1900. Maria may have continued to live there as a widow. The 1919 plat map of Rock Creek Township still shows M.J. Chilcote as the owner. There is discussion below, from the district court records and probate court estate records, concerning what is believed to have happened with the 80-acre farm after 1900. More research is needed to determine further details and context on who bought and sold which lands when, and to understand the terms of any relevant transactions.

### **Narrative Summary of the Civil Suit**

The first record related to the suit was an agreement to cover court costs by the plaintiff, signed by M.J. Chilcote and Chas. A. Dodd on April 19, 1900 [DC001]. A month later, on May 22, 1900, the plaintiff's attorneys, H.E. Ganse and E.N. Connal, filed the **petition** that initiated the suit [DC002]. The suit named as defendants Hethcote's eight surviving adult children plus two of his daughters' husbands (the executors I.T. Goodman and J.M. Kelly) plus another party, Adam Emerick, who had entered into a contract with the executors in March 1900 to purchase the 80-acre farm in Section 25 from the estate, with the buyer to take possession by January 1901.<sup>2</sup> It is presumed that this sale contract was one of the causes, if not the immediate cause, of the lawsuit.

The petition was divided into four causes of action, or the grounds for the suit, as listed below:

#### First Cause of Action:

- Maria alleges that Hethcote told her that he had about \$1,000 in personal property before the marriage. In fact he had more than \$15,000, besides his real estate, at the time of the prenuptial agreement, and about \$10,000 in personal property at the time of his death.
- Hethcote told Maria that without the prenuptial agreement, once they were married, he would have the right to control and dispose of all of his wife's real estate and personal property. This statement may have run counter to provisions in Kansas law protecting a wife's or a widow's property interests.

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<sup>2</sup> The FamilySearch web site shows an Adam Emerick residing in Waverly, Rock Creek Township, Coffey County, Kansas, as of the 1900 U.S. Census. Born in Germany and immigrated in 1869. Born February 1860. An Adam Emmerich, born in 1860, was married to Ruth Melissa Wright in Cherokee County, Kansas, on 11 June 1881. Cherokee County is in the extreme southeast corner of Kansas. Concurrent with the Chilcote estate settlement and the civil suit, on January 12, 1901, Adam Emmerich sued the executors for breach of contract (Coffey County Journal 7 p. 81). The executors paid Mr. Emmerich \$91.85 in damages to settle this suit.

- Hethcote told Maria that, because his will left all of his property to his own relatives, if he died before Maria did, she would not receive anything from his estate unless she signed the prenuptial agreement. Evidently the thought of his modifying the will did not come up.
- Maria alleges that she had never seen the prenuptial agreement, did not know its contents until she was asked to sign it, and—trusting in her fiancé—had not consulted with any other person regarding her legal rights as a wife and as a possible widow in the future.

Second Cause of Action:

- Maria claims that she owns an undivided half interest in the 80-acre farm in Section 25, in fee simple and with actual possession.
- The claims of the other heirs must be inferior and subordinate to her title, claim, and interest.

Third Cause of Action:

- Maria is a tenant in common with the other defendants, and notes the agreement or contract to sell the 80-acre parcel in Section 25 to Adam Emrick.

Fourth Cause of Action:

- Maria owns an undivided half interest of the 40-acre parcel in Section 31, Township 17, in fee simple and is entitled to immediate possession.

The petition asks the court to declare that the prenuptial agreement is null and void, that Maria owns one half of the estate of Hethcote Chilcote, and that commissioners be appointed either to divide the real estate or to sell it and divide the proceeds according to the legal interests or shares of the lawful heirs.

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On June 12, the defendants' attorneys, John Martin and H.L. Cooper, filed their **first answer** to the plaintiff's petition [DC006].

First Defense:

- The defendants allege that both Hethcote and Maria had canvassed and discussed together all of the terms and conditions of the prenuptial agreement long before it was signed, and that both parties knew the amount and extent of property owned by the other.

Second Defense:

- By virtue of the prenuptial agreement and Hethcote's will, the defendants are the sole and exclusive owners of all of the real estate listed in the plaintiff's petition.
- Plaintiff has no right or interest in any of the real estate, and possesses only a small part as a tenant of the executors.

Third Defense:

- Defendants acknowledge that the executors entered into a contract to sell some of the estate's land to Adam Emrick during 1900.

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Various motions, answers, clarifications, and other items were filed in the summer of 1900, culminating in an agreed upon deadline that the defendants were to file an amended answer by October 15, 1900 [DC011]. This cutoff date becomes important in the chronology of the case.

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The district court judge filed a notable Journal Entry, which had been signed on October 22, 1900 [DC012]. This entry said that the defendants had not submitted their amended answer, nor had the defendants or their attorneys appeared at the October 22 hearing, so the court found in favor of the plaintiff and ordered the following:

- Plaintiff owns half of all of Hethcote's real estate (80 acres in Section 25 and 40 acres in Section 31, Township 17)
- Plaintiff owns half of all of the personal property that Hethcote held at the time of his death
- The prenuptial agreement of November 1887 is "set aside vacated and held for naught"
- Three disinterested commissioners from Coffey County, J.L. Senior, H.P. Donnell, and C.N. Converse, are appointed to appraise and partition the real estate
- Case is continued to the next court term.

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Here the story takes a strange twist, as first documented in **Stipulations** filed the next day, October 23, 1900 [DC013]. The defense had prepared its amended answer, and tried to have it delivered to the court in advance of the deadline, but the delivery went awry. In the stipulation, both the plaintiff and defendant agree that the October 22 judgment in favor of the plaintiff should be vacated and set aside, and that the case should be heard in the January 1901 term of the court.

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Similarly to the Stipulations of October 23, a **defense motion** filed November 15, 1900, says that "for the reason and on account of surprise and accident," the amended answer had been mislaid by the "private bearer" asked to deliver the documents [DC014].

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Two persons involved in the intended/attempted delivery of the defense's amended answer, E.G. VanNess and W.M. Palen, both swore **affidavits** at the new year, describing the attempted delivery of the documents and why they were delayed [DC015]. Two days before the October 15 deadline, H.L. Cooper (attorney for the defense) gave VanNess a package of papers to deliver to E.H. Wade, Clerk of the District Court. Finding Mr. Wade's office locked, VanNess took the package to a different office, that of the County Clerk, W.M. Palen, who promised to deliver the package to the Clerk of the Court that same day.

In his own affidavit, Mr. Palen said that he, instead of delivering the papers to Mr. Wade, "laid them away and forgot to do so," and both VanNess and Palen swore that no one on the defense team had

directed or requested them to do anything other than to deliver the package of papers on time. So the court found that the defense was not at fault in the delay affecting the amended answer due in October.

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On January 1, 1901, the defendants filed their **Amended Answer**, that had evidently been prepared in October [DC016]. The amended answer appears to be very similar to the first answer, except that the amended answer includes a copy of Hethcote Chilcote's last will and testament and a copy of the prenuptial agreement. This was added to spell out how the real estate and personal property were to be divided, in accordance with the will and the prenuptial agreement, and how both parties had agreed to waive their normal property rights and interests as surviving spouses.

Also, at the end of Section I, the amended answer contains a handwritten editorial change that appears to exempt the 40 acres in Section 31, Township 17, from the lands owned solely and exclusively by Hethcote at the time of his death. Both the Section 25 and the Section 31 lands were listed in the plaintiff's petition.

Aside from these two differences, and some changes in spelling and capitalization or typography, the two answers from the defendants are basically the same.

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On January 7, the court filed a **Journal Entry** appearing to declare that the October 22-23 decision that had been filed in favor of the plaintiff, because the defendants failed to file an answer by October 15, "is hereby vacated annulled set aside and rendered void" [DC017].

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On April 2, 1901, another **Journal Entry**, which was filed on April 3, documents that the plaintiff's attorneys Ganse and Connal appeared before the court and applied to have the case dismissed, "said cause having been settled by the parties and costs thereof paid" [DC019]. The amount of the settlement itself was \$1,644.40, as documented in several of the estate records, which show the amount having been paid to Maria J. Chilcote on March 16, 1901. The settlement is actually documented better in the estate record for Case 923, portions of which are in Appendix B below, than it is in these district court records.

### **Theories and Speculations**

One open question is how the dollar amount of the settlement (\$1,644.40) was calculated. With reference to the probate court estate records, the following track is offered as only a theory:

1. Hethcote's 80-acre farm in Section 25 was appraised at \$2,400 and his 40-acre farm in Section 31 of Township 17 was appraised at \$720. Total value = \$3,120.
2. Maria settled the lawsuit for a payment of \$1,644.40 from the estate to her. Twice of that settlement amount = \$3,288.80.
3. The complaint or petition in the district court case speaks of Maria wanting her "undivided half interest" in the real estate, both the 80 acres where she lived in Section 25 and the 40 acres in Section 31, which latter parce Hethcote had purchased after the wedding. The law and the court may have recognized such an interest, regardless of the prenuptial

agreement.

4. In the probate appraisal (Case 923), the value of chattels/property reserved by the widow totaled \$189. So  $\$3,120 + \$189 = \$3,309$ . Divide this in half =  $\$1654.50$
5. This brings us to within about \$11 of the final settlement amount, which seems too close to be a coincidence.

Another open question is the understanding of the status of Hethcote's two Chilcote farms through these legal filings. Some records appear to include both the 80 acres in Section 25 and the 40 acres in Section 31, Township 17, whereas other records appear to include one but not the other, or to mark one of the two properties as an exception to a claim or allegation. Further study of the later transfers of these lands is required to understand the final outcome of the settlement of both Hethcote's probate estate and the related civil court suit.

More in the area of psychology or human relations, we do not know the motives of Hethcote and Maria at the time they contemplated the prenuptial agreement and the marriage up to November 1887, nor what life was like in their household during the 12 or 13 years of their marriage. From the allegations of the plaintiff and the answers and cross-allegations of the defendants, it is hard to tell whether the prenuptial agreement was intended more to protect the interests of Hethcote and his heirs or Maria and her heirs. Ideally, it would seem, a prenuptial agreement should clearly set forth and fairly protect the interests of both parties.

Three pieces of evidence suggest that the prenuptial agreement was intended more to protect Hethcote's heirs from Maria trying to claim the widow's share (half?) of all of Hethcote's real estate and personal property upon his death:

- The difference in their ages and thus their expected mortality relative to each other
- Six known loans that Hethcote made to Maria, which would indicate that Maria and her own close family members did not have access to large amounts of ready cash at all times (see Appendix C and the probate court estate notes below)
- Maria's allegations that she did not review—let alone draft the language or have her own independent legal counsel review—the terms and conditions of the prenuptial agreement until it was, by her account, sprung on her at the time of signing, just prior to the wedding.

Following on the theme of Maria's financial status during the marriage, besides the two mortgages summarized in Appendix C, the probate court estate record of Hethcote Chilcote (Case 923) documents four other loans from Hethcote to Maria as either the borrower or co-signer:

- \$100 loan and \$25 loan to M.J.C., presumably paid off to the estate on March 16, 1901, in the amount of \$144.40, or a total interest rate of 15.5%.
- \$615 loan to C.A. Dodd and M.J.C., paid off to the estate sometime in 1900, in the amount of \$705.80 (equal to \$649.97 from C.A. Dodd plus \$55.83 from Guy Dodd), or a total interest rate of 14.8%.

- \$300 loan to C.A. Dodd, Lee Dodd,<sup>3</sup> and M.J.C., paid off to the estate sometime in 1900 in the amount of \$315, or a total interest rate of 5%.

These four loans must have been in addition to the two mortgages found at the Coffey County Courthouse, which were documented as being paid off by Maria in 1891 and 1898, long before Hethcote’s death. It seems noteworthy from a family relations viewpoint that these latter four loans, which Maria had either taken out herself or co-signed, were evidently repaid by the borrowers with interest and applied to the cash balance in Hethcote’s estate rather than being written off by the executors as gifts or incidental benefits to the widow and her family.

Trying to understand the various motives, and veering further into speculation or, worse, creative fiction, assume for a moment that Hethcote owns 120 acres and \$10,000. Then assume that Maria his wife owns 160 acres but has no cash or other assets. She may be barely hanging onto the farm that she inherited from her late husband J.S. Dodd. Assume that Hethcote is prosperous at age 66 and Maria is of relatively modest means at age 39 when they marry. Assume that there had been no prenuptial agreement and no will. It would depend on Kansas law at the time, but if Maria dies first, then Hethcote might have had some claim on a share of only her 160-acre farm and nothing else. However, if Hethcote dies first, then Maria would have had greater motivation to press for her share of the value in the land and the far more valuable personal property (cash) of the deceased. The total appraised value of Hethcote’s estate from the probate court records was \$11,773.44 in February 1900, or the equivalent of about \$400,000 expressed in 2018 dollars. Factor into this imagined scenario the reality that in October 1900, the district court had already awarded Maria half of all of her late husband’s assets, a decision that was later annulled.

With the annuity, or the annual payments of the interest on a \$1,000 investment as specified in the prenuptial agreement and as required in Hethcote’s will, Maria would stand to receive about \$100 per year from the estate for life, but nothing else. We do not know whether the promised annuity was a small or large sum relative to the cost of living in Kansas in 1900. According to one source ([www.halfhill.com](http://www.halfhill.com), Tom’s Inflation Calculator, JS v3.12), \$100 in the year 1900 is the equivalent of about \$3,400 in 2018, using the consumer price index as a basis.

In place of this annuity, the agreed upon settlement amount may have enabled Maria to buy back from her late husband’s estate the 80-acre farm where she was living in 1900-1901. By the settlement of the civil case, Maria had agreed to sign a deed transferring her interest in Hethcote’s lands to the executors of Hethcote’s estate. The agreement indicates that she will “execute deed to any or all of the land belonging to said estate, and relinquish all her right to further participate in the distribution of the property of said estate.” There is evidence, however, that she subsequently made payments back into the estate for land purchases. In the probate estate record for Hethcote (Case 923), at least three payments are documented as being made by Maria to the estate:

\$50.00 on July 22, 1901, labeled “Widow Chilcote sale 80 acres,” likely a down payment  
 \$1,340.00 on July 27, 1901, labeled “Widow Chilcote sale 80 acres”  
\$1,596.00 on August 16, 1902, labeled “M.J. Chilcote Note”  
**\$2,986.00 TOTAL**

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<sup>3</sup> Lee Dodd has not been identified. He may have been a brother-in-law, cousin, or nephew of Maria’s. There is a Lee Dodd listed on the FindaGrave web site as born in 1871, died in 1916, and interred at Iola, in Allen County, Kansas, about 30 miles south of Waverly.

At the time of Hethcote's death, the total appraised value of the 80-acre farm in Section 25 and the nearby 40-acre farm in Section 31 of Township 17 combined was \$3,120, a difference of only \$134 from the amounts paid by Maria to the estate in 1901 and 1902, after the civil case had been settled and dismissed.

We do not know why the prenuptial agreement failed to do three things: (a) identify the real estate and personal property owned by each party before the marriage, (b) clarify which property was to be considered separately held by each, and (c) specify how any real estate or personal property that was acquired by either party during the marriage was to be divided eventually. It may be that whoever wrote the prenuptial agreement made a mistake or was careless. Or it may be that the omissions or ambiguities were intentional and strategic. One clue is Maria's allegation that Hethcote told her he owned only about \$1,000 in personal property, when in reality he owned about \$15,000. It might not have been in Hethcote's interest to disclose this actual value to Maria before the wedding. In her petition [DC002], Maria says that she did not know the "amount, kind, and value" of her husband's real and personal property "until long after the marriage."

Back to the civil suit, and the reasons for the parties to settle: As 1900 stretched into 1901, the parties may have realized that, as in the novel *Bleak House* by Charles Dickens, attorney's fees and other expenses would soon drain much of the estate's assets, were the case to proceed to trial. The court documented \$524 in legal fees for the defense alone [DC021]. Amounts paid to the plaintiff's attorneys and other court costs do not appear in the record. As a point of reference for the scale of the legal fees for the defense, each of the six of Hethcote's adult children who were bequeathed equal shares of the estate received \$1,438.10. (In accordance with Hethcote's will, the other two heirs received substantially less, for some reason.)

It may be that Maria had a strong case under Kansas law for the court to annul or override the prenuptial agreement and for claiming a dower interest in half of Hethcote's entire estate. The court may have viewed the prenuptial agreement as grossly unfair to Maria on its face, regardless of the circumstances of its negotiation and execution. The defendants may have reasoned that settling for a one-time payment of \$1,644.40 instead of the annuity on \$1,000 was a safer course than risking the district court finding for the plaintiff (as indeed the court did on October 22, 1900), and losing up to \$5,800 or half of the estate's total value of \$11,773.

Justice is supposed to be blind, and courts are supposed to operate irrespective of person. Given the rural or small-town life of Coffey County in 1900, where as the saying goes everyone probably knew everyone else, one cannot help wondering if the personalities of Hethcote and Maria may have been factors in the settlement. The attorneys on both sides may have asked themselves whether the court would recognize the Widow Chilcote in this case as more the victim, more the perpetrator, or an equal partner in what was basically a fair, open, and mutual agreement between consenting adults. One amateur's opinion is that Maria and her attorneys realized that the prenuptial agreement left Maria with far less than she deserved as Hethcote's widow under law, so they brought the suit. The result was that the widow ended up with a compromise that helped to even the score and increase her financial security, if only by a small amount.

## **Comments on the Transcript and Miscellaneous Observations**

Both the married name of one of Hethcote's daughters, Matilda Kelly, and the surname of her husband, J.M. Kelly, are spelled variously as Kelley or Kelly, but the latter form is prevalent.

The surname of the defendant Adam Emrick is also spelled Emerick or Emmerich or Emmerick in other documents.

Some records, notably the handwritten version of the prenuptial agreement, spell the husband's given name as Hethcoat. Most other records, however, spell it Hethcote.

One curiosity is that there are receipts documenting the payment of legal fees to the defendants' attorneys [DC021; DC022; DC023], but no record of the plaintiff paying any legal fees. In the final settlement, the plaintiff agreed to pay all court costs.

Before the suit was filed, Maria Chilcote and Charles A. Dodd filed an undertaking for costs, certifying that they would pay the court costs as needed, and that each of the two was worth \$200 [DC001]. No other references appear in the district court record to document Maria's personal property or other holdings.

It is noteworthy that Maria alleges in the petition that the purported witness J.L. Senior was not actually present and did not witness the signing of the prenuptial agreement. This adds to the impression that the process of signing the agreement was rushed, or questionable, and less than open and fair. As an aside, the web site "WeclomeToWaverly.com" says that "Waverly was incorporated on July 5, 1886, and the first city election was held on July 16, 1886. J.L. Senior was elected as the first mayor of Waverly."

**Appendix A. Annotated Transcript from District Court Record, Case 4165**

*This transcript was prepared in 2018-2019 from photocopies of the originals by Vincent J. Brown, Mount Gilead, Morrow County, Ohio.*

- *Items in this transcript are sorted in approximately chronological order. Some items were written or prepared well before they were filed with the court.*
- *Unique sequence/identifying numbers and boldface titles in square brackets above each item were added by the author of this summary, for convenience in tracking and cross-referencing information. These titles and numbers were not in the original records. The prefix “DC” in the identifying numbers signifies “District Court,” to distinguish numbers in this report from similar identifying numbers in the report on the probate estate records for Hethcote Chilcote (Case 923).*
- *Other information in square brackets has been added for clarity, to comment or elaborate on the contents of the record, or to indicate physical page breaks within the original record.*

**[DC001            Undertaking for Costs, signed 19 April 1900; filed 22 May 1900]**

No. 4165  
Coffey County District Court  
Maria J. Chilcote, Plaintiff  
vs.  
Denton Chilcote et al., Defendants

Undertaking for Costs

Filed 5/22/1900  
E.H. Wade, Clerk

E.N. Connal, Plaintiff’s Attorney

[pg. 2]

State of Kansas            )  
Coffey County            ) ss.    In District Court in and for said County,

Maria J. Chilcote, Plaintiff

vs.

Denton Chilcote, Wilbert Chilcote, Lewis Chilcote, Matilda Kelley, Viola Goodman, Martha Ulrey, Nancy Corwin, Susan M. Hendrix, Adam Emerick, and J.M. Kelly and Isaac T. Goodman as executors of the Last Will & Testament of Hethcote Chilcote deceased.

The undersigned hereby undertake that the above named plaintiff shall pay all costs that may accrue in said action in case she shall be adjudged to pay them, or in case the same cannot be collected from the

said defendants, if judgment be obtained against said defendant, that said plaintiff shall pay the cost made by said plaintiff.

M.J. Chilcote  
Chas. A. Dodd

Taken and approved by me this 22<sup>nd</sup> day of May, A.D. 1900.

E.H. Wade, Clerk of the District Court

[pg. 3]

State of Kansas            )  
Coffey County            ) ss.

We, the undersigned, sureties on the within undertaking, do solemnly swear that we are residents of the County of Coffey and State of Kansas, and that we are each of us worth \$200.00 over and above all exemptions, debts and liabilities, so help us God.

Sureties            (        M.J. Chilcote  
                          (        Chas. A. Dodd

Subscribed and sworn to before me this 19<sup>th</sup> day of April, A.D. 1900

Davis W. Linsday [??] Notary Public  
Clerk of the District Court

My commission expires April 20<sup>th</sup> 1900

**[DC002            Petition, 22 May 1900]**

Maria J. Chilcote  
vs.

Denton Chilcote, Wilber Chilcote, Lewis Chilcote, Matilda Kelley, Viola Goodman, Martha Ulrey, Nancy Corwin, Susan M. Hendrix, Adam Emerick, and Isaac T. Goodman and J.M. Kelly Ex. of the Last Will and Testament of Hethcote Chilcote deceased.

#4165

[pg. 2]

Chilcote  
vs  
Chilcote et al

Petition,

No. 4165  
5/22/1900

E.H. Wade

[pg. 3]

IN THE DISTRICT COURT OF COFFEY COUNTY, KANSAS.

Maria J. Chilcote, Plaintiff

vs.

Denton Chilcote, Wilbert Chilcote, Lewis Chilcote, Matilda Kelley, Viola Goodman, Martha Ulrey, Nancy Corwin, Susan M. Hendrix, Adam Emrick and Isaac T. Goodman, and J.M. Kelley, Executors of the Last Will and Testament of Hethcoat Chilcote, deceased, Defendants.

PETITION

Comes now said plaintiff and for her petition against the said defendants alleges:

First Cause of Action.

For her first cause of action that prior to the 12<sup>th</sup> day of November, A.D. 1887, the said plaintiff's name being then Maria J. Dodd, became and was engaged to be married to one Hethcoat Chilcote, a widower, both said plaintiff and said Hethcoat Chilcote being residents of Coffey County, Kansas; that at the time of said engagement and the signing of the ante-nuptial agreement hereinafter set forth, she, the said plaintiff, was possessed in her own right of certain property, real and personal, situate in said county of Coffey, the kind, amount, and value thereof being then well known to the said Hethcoat Chilcote; that at said time the said Hethcoat Chilcote was also possessed in his own right of real and personal property, situate in said county, the amount, kind, and value whereof being unknown to said plaintiff until long after the marriage of the said plaintiff and said Hethcoat Chilcote, save

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and except as hereinafter alleged; that while the said plaintiff and the said Hethcoat Chilcote were so engaged to be married as aforesaid and on the said 12<sup>th</sup> day of November, A.D. 1887, she, the said plaintiff, having implicit faith, confidence and trust in him, the said Hethcoat Chilcote, was induced by the false and fraudulent representations of the said Hethcoat Chilcote to sign and deliver to him the instrument in writing, a copy of which is hereto attached as Exhibit "A", and made a part hereof, which said false and fraudulent representations were as follows, to wit:

That said Hethcoat Chilcote, by himself and by his agent and attorney, A.B. Hutchinson, who was then and there duly authorized to so act for the said Hethcoat Chilcote in that behalf, falsely represented to her, the said plaintiff, that he, the said Hethcoat Chilcote, was the owner and possessed of only about one thousand dollars in personal property, over and above the real estate hereinafter described, when in truth and in fact, he, the said Hethcoat Chilcote, was then the owner and possessed of a much larger amount of personal property, to wit, in the sum and value of more than fifteen thousand dollars.

That said Hethcoat Chilcote and his said agent further falsely represented to her, the said plaintiff, who was not versed in the law and who did not know the rights of a married woman in the state of Kansas, and her right to control and manage her own property, all of which was then well known to the said Hethcoat Chilcote and his said agent, that in the event of their marriage, without the execution by her of

said agreement, he the said Hethcoat Chilcote, as her husband, would have the legal right to control and dispose of all her property, real and personal, and that she being a married woman, would have no right of control or disposition thereof; that at the time of said representations she had implicit confidence in the integrity and ability as a lawyer of the

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said agent and attorney of the said Hethcoat Chilcote, which was then well known to the said Hethcoat Chilcote.

That the said Hethcote Chilcote, by himself and his said agent further represented to her, the said plaintiff, that he, the said Hethcoat Chilcote, had before that time executed his last will and testament, which was then in full force and had not been revoked, by which he had bequeathed all his property to his own relatives, and that having done so, in the event of his dying, leaving the said plaintiff his widow, she, as such widow, would not receive for herself any part of his estate on account of such will, unless she signed and delivered to him the said agreement, shown by said Exhibit "A"; that she, the said plaintiff, believed said representations to be true, and so believing and relying on the same, consulted no other person as to her rights, but relied implicitly upon the said representations of the said Hethcoat Chilcote and his said agent and attorney, all of which he, the said Hethcoat Chilcote, well knew.

That each and all said representations were so made to her personally by the said Hethcoat Chilcote and also by said agent and attorney, personally, alone and apart from the said Hethcoat Chilcote, and also by the said agent and attorney to her in the presence of the said Hethcoat Chilcote, and to which representations so made by the said agent in his presence, the said Hethcoat Chilcote, at the time assented and acquiesced therein.

That said agreement had been prepared under the directions of the said Hethcoat Chilcote by his said agent and attorney and by him reduced to writing at the request of the said Hethcoat Chilcote, but not at the request of said plaintiff; and said plaintiff avers that she did not know the contents thereof and never saw the same until she was asked to sign the same by the said agent

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and attorney of the said Hethcoat Chilcote; that the said J.L. Senior, whose name appears as a witness to the signatures to said agreement, was not present when the same was signed by the parties, no one being present, except the said Hethcoat Chilcote and his said agent and attorney.

That relying on the said statements and representations of the said Hethcoat Chilcote and his agent and attorney and believing the same to be true and being deceived and induced thereby, and for no other reason or consideration therefor, she signed said agreement, when had she known or believed that the said representations were not true, or that any part of the same were not true, she would not have signed said instrument.

That each and all said representations, except that he, the said Hethcoat Chilcote, had executed his will as aforesaid, were false and well known by the said Hethcoat Chilcote and his said agent and attorney to be false at the time they made the same, but that said plaintiff did not learn that the said

representations were false, or that any of them were false, until long after she married said Hethcoat Chilcote and since his decease as hereinafter alleged.

That after she signed said agreement and on the same day, and before she had learned of the false and fraudulent character of said representations, and while she believed the same to be true, and relying upon the supposed truthfulness of the same and being so as aforesaid deceived and induced thereby, she married the said Hethcoat Chilcote, and cohabited continuously with him as his wife until his death as hereinafter alleged.

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That on the 30<sup>th</sup> day of January A.D. 1900, the said Hethcoat Chilcote deceased in said county, testate, and afterwards, on the 15<sup>th</sup> day of February, A.D. 1900, his said will was duly probated in the Probate Court, within and for said county, and the said defendants, Isaac T. Goodman and J.M. Kelley, were by said Probate Court duly appointed executors of the last will and testament of the said Hethcoat Chilcote, and are now duly appointed, qualified and acting executors of said last will and testament, and that said plaintiff as the widow of the said Hethcoat Chilcote has not elected to take under said last will.

That the said defendants include all the legatees and devisees in said last will named and that no other persons than above mentioned have any interest in the estate of the said Hethcoat Chilcote, either as legatees or devisees.

That at the time of the signing of said agreement by said plaintiff and at the time of the death of the said Hethcoat Chilcote, he the said Hethcoat Chilcote, was the owner in fee simple of the East half of the southwest quarter of section twenty-five in township nineteen of range sixteen, and southeast quarter of the northwest quarter of section thirty-one in township nineteen of range seventeen, all in Coffey County, Kansas,

also personal property of the value of about ten thousand dollars.

“2<sup>nd</sup> Cause of Action.

And for her second cause of action against the said defendants the said plaintiff hereby adopts all of the allegations of the said “First Cause of Action,” except the last line thereof, and makes the same a part hereof as fully and completely as if written out herein in full.

And further alleges that she is the owner in fee simple and in the actual possession of the undivided half of the said real estate above described

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except the last tract mentioned and that each and all said defendants claim some right title or interest therein adverse to the right, title and interest of the said plaintiff therein, the exact nature of which is unknown to the said plaintiff, but whatever right, title claim or interest the said defendants, or any of them may have therein, the plaintiff avers is inferior, subject, and subordinate to the right, title, claim and interest of the said plaintiff therein.

### 3<sup>rd</sup> Cause of Action.

And for her third cause of action against the said defendants the said plaintiff hereby adopts all of the allegations of her said first cause of action, save and except the last line thereof, as fully as if the same were written out herein in full.

And further alleges that she, the said plaintiff, is a tenant in common with said defendants in the real estate above described and that she is the owner in fee simple and in possession of the undivided half thereof; that said defendants claim to own some interest therein, the exact proportions and interests thereof being unknown to said plaintiff, except that under and by virtue of the said last will and testament of the said Hethcoat Chilcote the said executors, Isaac T. Goodman and J.M. Kelley, claim to have the right to sell and convey said premises and divide the proceeds thereof among said other defendants and that said Adam Emrick, defendant, claims some right or interest therein by virtue of some agreement or contract with said executors, the exact nature of which is unknown to said plaintiff.

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### Fourth Cause of Action

And for her fourth cause of action against said defendants said plaintiff alleges that she is the owner in fee simple and entitled to the immediate possession of the undivided half of the southeast quarter of the northwest quarter of section thirty-one in township nineteen of range seventeen, all in Coffey County, Kansas, and hereby adopts all the allegations of her said first cause of action herein, save and except the last line thereof and makes the same a part of this cause of action as fully as if written out herein in full; that said defendants unlawfully keep her out of the possession thereof.

*[Below is a copy of the ante-nuptial or prenuptial agreement, incorporated as an exhibit into the plaintiff's original petition.]*

[pg. 10]

### Exhibit A

These Articles of Agreement Ante-Nuptial made and concluded this the Twelfth day of November in the Year of Our Lord One thousand and Eight hundred and Eighty Seven by and between Hethcoat Chilcote of the first part and Maria J. Dodd of the second part all of the County of Coffey and State of Kansas.

WITNESSETH That the said Hethcoat Chilcote party of the first part does by these presents for and in consideration of a marriage to be celebrated between the parties hereto in the near future and for other good considerations agree to and with the said Maria J. Dodd as follows to-wit.

FIRST said party of the first part agrees that at his death leaving to survive him the said Maria J. Dodd as his widow that One thousand Dollars of the estate of the said party of the first part shall at once be invested securely by the Executor of the Last Will and Testament of said first party or the proper Administrator of his said Estate or other legal representative and the interest or profits of said investment of said One thousand Dollars shall be paid to the said (over)

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[Maria J. Dodd annually during the life] of said Maria J. Dodd so long as she remains the widow of said party of the first part and in the event her remarriage or at her death the said principal sum of One thousand Dollars Shall then revert to and become part of the Estate of said party of the first part and descend to his heirs or legatees in the same manner as the same would have descended had this contract not been made. And the said Hethcoat Chilcote hereby declares that by this contract the Last Will and Testament which he has heretofore made shall not otherwise be modified than as above set forth but is by this contract reaffirmed and republished as modified thereby.

*[Note reference to a will for H.C. prior to the 1897 last will that was probated in 1900.]*

SECOND Said party of the first part for the considerations aforesaid does hereby agree that at and after the said Marriage now contemplated, and the sole basis of this contract, the said Maria J. Dodd shall have sole and exclusive control of all her property real and personal during said marriage and said first party for

[pg. 12]

the consideration aforesaid hereby waives all the rights and interests which he would acquire in the property of said party of the second part by such marriage and hereby consents and agrees that in the event he shall survive the said Maria J. Dodd that at her death then being the wife of party of the first part her estate real and personal shall descend to and be distributed amongst her heirs according to law or in any manner by her directed by her last Will and Testament free and clear of any claim or interest the party of the first part might have had in said Estate as surviving husband. And the said Maria J. Dodd party of the second part in consideration of the marriage aforementioned and the covenants of the party of the first part herein does agree as follows to-wit.

FIRST. That said Maria J. Dodd does assent to and ratify any disposition of the real and personal property now made or to be made by said Hethcoat Chilcote by a Last Will and Testament save as to the One thousand Dollars secured to her by these articles and

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in the event of her surviving the said Hethcoat Chilcote as his widow does agree to waive all her interests and rights as such widow in the estate of said party of the first part upon the said sum of One thousand Dollars being secured to her use as agreed upon, and agrees to file in such case in the Court of proper jurisdiction her election to accept the provisions of such last will and Testament as said party of the first part has or may execute or in the event of his dying intestate it is hereby by said party of the second part agreed that said estate shall descend to the heirs of said party of the first part free of all incumbrance or interest said party of the second part might otherwise have in said estate upon the use of the One thousand Dollars being secured and paid to her as aforesaid so long as she may survive as widow of said Hethcoat Chilcote.

SECOND Said party of the Second part hereby agrees that during said marriage the said party of the first part shall have sole and exclusive control of his separate property in like manner as she

[pg. 14]

is by these articles entitled to the control of her separate property.

It is mutually agreed by the parties hereto that in the event of the marriage aforementioned being dissolved by reason of desertion neglect of duty or unfaithfulness of either party to the marital relation that the provisions of these articles shall be null and void as to any rights acquired thereby by the party in default.

In witness whereof the parties hereto have set their hands the day and year first above-written.

Signed in duplicate        )       Hethcoat Chilcote  
in presence of—         )       Maria J. Dodd  
A.B. Hutchison         )  
J.L. Senior             )

*[This is the end of the copy or exhibit of the prenuptial agreement. The plaintiff's petition resumes below.]*

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Wherefore plaintiff prays for a judgment and decree against each and all said defendants for the recovery of the possession of the undivided half of SE ¼ of NW ¼ Sec. 31. Tp 19 R 17 in Coffey Co, Ks, declaring the said ante-nuptial agreement set forth in her said first cause of action to be null and void and setting the same aside and holding the same for naught, and adjudging her to be the owner of one half of the Estate of said Hethcoat Chilcote, and a further decree quieting the title and possession of plaintiff in and to the said undivided half of said real estate as against each and all said defendants and declaring any interest they may have therein subject, inferior and subordinate to the right and title of said plaintiff therein, and further adjudging that said real estate be partitioned among said parties according to their respective interests therein, first requiring said defendants to appear herein and set up any interest they may have therein, and adjudging and decreeing to said plaintiff an undivided half of all said real estate, and to appoint commissioners to partition said real estate if the same can be partitioned without manifest injury thereto and if not that such commissioners return their appraisement and valuation thereof and that the same be sold as provided by law and the proceeds thereof be divided among said parties according to their respective interests, and for such other and further relief as in equity she may be entitled to and for costs of suit.

By her Attorneys

H.E. Ganse &  
E.N. Connal

**[DC003        Precipe for Summons, 22 May 1900]**

No. 4165  
Chilcote  
vs.  
Chilcote et al.

Precipe for Summons  
Filed 5/22/1900  
E.H. Wade  
Clerk of the District Court

[pg. 2]

State of Kansas                     )  
Coffey County                     ) ss.     In District Court in and for said County,

Maria J. Chilcote, Plaintiff                     )  
vs.                                                     )             Precipe  
Denton Chilcote et al., Defendants             )

The clerk of said court will issue Summons in the above entitled cause, directed to the sheriff of Coffey County, Kansas, and make the same returnable in ten days.

H.E. Ganse &  
E.N. Connal  
Attorney for Plaintiff

*[A "precipe" is a writ commanding someone to do something, or a written order directed to an official of the court.]*

**[DC004             Summons, 22 May 1900]**

No. 4165

Summons

Maria J. Chilcote, Plaintiff  
vs.  
Denton Chilcote et al., Defendant

Issued May 22, 1900  
Returnable June 1, 1900  
Filed May 29, 1900

E.H. Wade, Clerk

H.E. Ganse and E.N. Connal, Plaintiff's Attorneys

[pg. 2]

State of Kansas,                     )  
Coffey County,                     ) ss.

The State of Kansas to the Sheriff of Coffey County:

You are hereby commanded to notify Denton Chilcote, Wilber Chilcote, Lewis Chilcote, Matilda Kelley, Viola Goodman, Martha Ulrey, Nancy Corwin, Susan M. Hendrix, Adam Emerick, and Isaac T. Goodman and J.M. Kelley, Executors of the last Will and Testament of Heathcoat Chilcote deceased

that they have been sued by Maria J. Chilcote in the district court of Coffey county, and that they must answer the petition of the said Maria J. Chilcote filed against them in the clerk's office of said court, on or before the 21<sup>st</sup> day of June A.D. 1900 or said petition will be taken as true and judgment rendered accordingly.

You will make due return of this summons on or before the 1<sup>st</sup> day of June A.D. 1900.

Given under my hand and seal of said court this 22<sup>nd</sup> day of May, A.D. 1900.

E.H. Wade, Clerk

Suit brought for \_\_\_\_\_

If defendant fail to answer, judgment will be taken for the sum of \$\_\_\_\_\_, with interest at the rate of \_\_\_\_\_ per cent per annum from the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 189\_\_\_\_, and cost of suit.

E.H. Wade, Clerk.

I hereby certify that the within is a true copy of the original summons, with all the indorsements thereon, in my hands this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 189\_\_\_\_.

\_\_\_\_\_, Sheriff of Coffey County, Kansas

\_\_\_\_\_ Deputy

[pg. 3]

I received this summons on the 22 day of May, A.D. 1900, and executed the same in my county on the 28 day of May A.D. 1900, by Delivering personally a true copy of this summons with all the endorsements thereon to Matilda Kelly, Lewis Chilcote, Nancy Corwin, Susan M. Hendrix, Adam Emerick and by leaving a true copy of this Summons at the usual place of residence of J.M. Kelly, Isaac T. Goodman, and Viola Goodman.

The following named defendants not found in this county: Wilber Chilcote, Denton Chilcote Martha Ulrey.

W.B. Green, Sheriff of Coffey County, Kansas

\_\_\_\_\_ Deputy

FEES

Service and return, first person,	\$ .50
7 additional persons,	\$ 2.75
Mileage, 50 miles	\$ 5.00
3 not found,	\$ .15
_____ cop _____	

Total, \$8.40

**[DC005 Statement of Mileage, 29 May 1900]**

No. 4165  
 Filed 5/29/1900  
 E.H. Wade  
 Clerk of the Dist. Court

[pg. 2]

Statement of Mileage

From Burlington	to	Lewis Chilcote	21 miles
From Chilcote	to	J.M. Kelly	2 miles
From Kellys	to	Isaac T. Goodman	2 miles
From Goodmans	to	Adam Emerick	3 miles
From Emerick	to	Susan M. Hendrix	1 miles
From Hendrix	to	Nancy Corwin	2 miles
From Corwin	to	Burlington	19 miles
		Total,	50 miles

W.B. Green, Sheriff

By \_\_\_\_\_ Under Sheriff

**[DC006 Answer, 12 June 1900]**

Maria J. Chilcote, Ptff.

vs.

Denton Chilcote Deft.

Answer

No. 4165  
 Filed 6/12/1900  
 E.H. Wade

John Martin



canvassed, discussed and agreed to by and between said Plaintiff and said Hethcoat Chilcote long prior to the said 12<sup>th</sup> day of November, A.D. 1887, and that said agreement and contract was so made, entered into and executed by Plaintiff and said Hethcoat Chilcote freely and voluntarily with a full knowledge of all the facts, circumstances and conditions thereof, and with a full knowledge on the part of each of said parties respecting the property of the other, and that when Plaintiff signed said agreement she had full knowledge of all the terms, conditions and contents thereof.

Defendants further admit that on this said 12<sup>th</sup> day of November A.D. 1887, and after the execution and delivering of said Ante-Nuptial agreement, the Plaintiff and said Hethcoat Chilcote were duly married, and continued to live and co-habit together as man and wife, until the death of said Hethcoat Chilcote on the 30<sup>th</sup> day of January A.D. 1900, at his residence and home in Coffey County, Kansas. That during his lifetime said Hethcoat Chilcote duly and lawfully made, executed and published his last will and testament, nominating and appointing as the Executors thereof the Defendants Isaac T. Goodman and J. M. Kelley. That on the 15 of February, 1900, said last will and testament was duly probated in and by the Probate Court of Coffey County, Kansas, and thereupon the defendants Goodman and Kelley duly qualified as such Executors as afore said and entered upon their duties as such and have so continued to be and act ever since and now.

The defendants further admit that they include and constitute all

[pg. 4]

(3)

the legatees and devisees named in said will and that no other persons than these defendants have any right, title or interest in the Estate of said Hethcote Chilcote, as legatees, devisees or otherwise, except as provided in and by the terms of said will.

The defendants further admit that said Hethcote Chilcote was at the time of the signing of said agreement known as Exhibit "A" and at the time of his death the owner of the real estate described in Plaintiff's Petition.

II. Defendants for a further answer and second defense to the First Count or Cause of Action, stated in Plaintiff's Petition, deny each and every allegation and averment stated and contained therein, except such matters and facts as were herein before specifically admitted.

III. The defendants for a further and Third answer and defense to the said First cause of action stated in Plaintiff's Petition admit,

That the said agreement and contract of November 12<sup>th</sup> A.D. 1887 attached to and made a part of Plaintiff's Petition as Exhibit "A" was written by A.B. Hutchinson Esq., who is now deceased, but defendants deny that said Hutchinson was at any time the agent, attorney, or otherwise employed, authorized or empowered to negotiate, do, manage or contract any business matters or concerns of any kind for said Hethcote Chilcote, in respect to any matter or affair of business, or other interest or affair of any name or nature between, about or concerning the Plaintiff and said Hethcote Chilcote, except to reduce to writing the said agreement of November 12<sup>th</sup>, A.D. 1887 as the same was and had been previously agreed upon by and between the Plaintiff and said Hethcote Chilcote, nor was said Hutchinson ever at any time authorized or empowered by said Hethcote Chilcote to make any of the

statements or representations mentioned and stated in Plaintiff's Petition, nor were such statements and

[pg. 5]

(4)

representations of a like kind or character made to the Plaintiff by said Hutchinson or by said Hethcote Chilcote at all, at any time or for any purpose whatever.

IV. The defendants for a further answer and Fourth defense to the First cause of action stated in Plaintiff's Petition say, that the said First cause of action stated in Plaintiff's Petition did not accrue within two years, next before this action was consummated.

V. The defendants for answer to the Second cause of action, stated in said Plaintiff's Petition, deny each and every allegation and averment therein stated and made, except as hereinbefore and hereinafter specifically admitted.

VI. The defendants for a further answer to Second defense to second cause of action, stated in Plaintiff's Petition, admit that they claim some right, title and interest in the real estate referred to in said second count, or cause of action, and these defendants allege and charge the fact to be that they are the sole and exclusive owners in fee simple of said real estate, and are entitled to the possession thereof, and that said Plaintiff has no right, title or interest in or to said land or any part thereof, nor is she in the possession of the same, except a small part thereof, which she occupies as a tenant of defendants Goodman and Kelley as Executors of the said last Will and Testament of the said Hethcote Chilcote and not otherwise.

VII. The defendants for answer to the Third cause of action stated in Plaintiff's Petition, deny each and every allegation and averment therein stated and contained, except as hereinbefore and hereinafter specifically admitted.

VIII. The defendants for a further answer and Second defense to

[pg. 6]

(5)

the third cause of action stated in Plaintiff's Petition, admit that they all, except, the defendant Emrick, claim to own some interests in the Real Estate referred to in said Third cause of action, and defendants allege the facts to be that they, with the exception of said Emrick are the sole surviving heirs, legatees and devisees of the said Hethcote Chilcote, and that under and by virtue of his said last will and testament they are the sole and exclusive owners in fee simple of the Real Estate, referred to in said Third cause of action states in Plaintiff's Petition, and that said Plaintiff has no right, title or interest in or to any part of the Estate of said Hethcote Chilcote, except as specifically provided for by said Will and the said agreement of November 12<sup>th</sup> A.D. 1887.

And defendants further admit that the said defendants Goodman and Kelley as executors aforesaid have agreed to sell said land to defendant Emrick and to deliver to him the possession thereof January 1<sup>st</sup> A.D. 1901.

IX. The defendants for answer to the Fourth cause of action, stated in the Plaintiff's Petition, deny each and every allegation and averment therein contained and stated, except as hereinbefore admitted.

Wherefore defendants pray judgment, that this action be dismissed and they have judgment against the Plaintiff for their costs herein.

John Martin  
H.L. Cooper  
Attorneys for Defendants.

[pg. 7]

(6)

State of Kansas  
County of Coffey, ss.

Isaac T. Goodman and J.M. Kelley being duly sworn say, that they are the duly qualified and acting Executors of the last Will and Testament of Hethcote Chilcote, and are defendants in the foregoing entitled action. That they have each read the Third defense contained in the foregoing answer to the Third cause of action stated in Plaintiff's Petition and they know the contents of said Third defense and affiants believe the facts stated in said Pleading to be true as therein stated.

Isaac T. Goodman  
J.M. Kelly

Subscribed in my presence and sworn to before me by Isaac T. Goodman and J.M. Kelley this 9<sup>th</sup> day of June A.D. 1900.

C. O'Neil  
Notary Public  
Com expires, 8/23/00

**[DC007 Journal Entry, 5 July 1900]**

Chilcote  
vs.  
Chilcote et al.

J.E.

No. 4165  
Filed 7/5/1900  
E.H. Wade, Clerk of the Dist. Court

M-291

[pg. 2]

In the District Court of Coffey, Kansas,

Maria J. Chilcote, Plaintiff )

vs.

Denton Chilcote et al. )  
Defendants ) Journal Entry

And now on this 13<sup>th</sup> day of June A.D. 1900 came the said plaintiff, by her attorneys H.E. Ganse and E.N. Connal, said defendants not being present in person or by attorneys, and asked and obtained leave of the court to amend the first cause of action in plaintiff's petition filed herein by interlining therein on page three thereof the words "and since his decease as hereinafter alleged," which amendment was made instanter accordingly and with pen and ink.

Said court gives the said defendants twenty days from said date in which to amend their said answer or plead in said cause and said plaintiff is given by the court twenty days therefrom in which to plead or motion said amended or original answer.

O.K. [??]

H.A. Randolph [??]  
Judge

*[Editor's note: The referenced new language or interlined text as cited above was found on page 4 (not page 3) of the copy of the petition in the District Court record. It was added at the end of the paragraph that begins "That each and all said....."]*

**[DC008 Reply to 2<sup>nd</sup> Def, 25 July 1900]**

Maria J. Chilcote, Ptf

vs.

Denton Chilcote et al., Dfts

Reply to 2<sup>nd</sup> Def. to 2<sup>nd</sup> Cause of Action of Ptf

No. 4165

Filed 7/25/1900

E.H. Wade, Clerk of the Dist. Court

[pg. 2]

In the District Court of Coffey County, Kansas

Maria J. Chilcote Plaintiff )

vs. )

Denton Chilcote et al. Defendants )

Ptf's Reply to Dft's

2<sup>nd</sup> Def to 2<sup>nd</sup> Cause of Action

Comes now said plaintiff and for Reply to said defendant's 2<sup>nd</sup> defense to 2<sup>nd</sup> cause of action in plaintiff's petition alleges:

That she denies each and every allegation therein which are in any wise inconsistent with the allegations of plaintiff's petition.

By H.E. Ganse & E.N. Connal  
Attys for Plaintiff

**[DC009 Motion of Plaintiff, 25 July 1900]**

M.J. Chilcote, Ptff  
vs.  
Denton Chilcote et al. Dfts

Motion of Ptff

No. 4165  
Filed 7/25/1900  
E.H. Wade, Clerk of the Dist. Court

[pg. 2]

In the District Court of Coffey County, Kansas.

Maria J. Chilcote, Plaintiff )  
vs. )  
Denton Chilcote, Wilber Chilcote, ) Motion  
Lewis Chilcote et al. Defendants. )

Comes now said plaintiff and moves the court to require the said defendants to make their answer filed herein definite and certain in the following particulars, to wit:

1. By striking out all that part of the third defense to the first cause of action, beginning after the words "Plaintiff's Petition" on the last line of page 3 of said answer.
2. By setting forth therein in their second [??] defense to plaintiff's 3<sup>rd</sup> cause of action the particular interest or proportion of said real estate claimed to be owned by each of said defendants.

By her Attorneys, H.E. Ganse & E.N. Connal

*[Although the language is not completely clear, it is assumed that this motion above refers to the Answer that was filed 12 June 1900. Item #1 of this motion may refer to the section "nor were such statements and representations ... or for any purpose whatever." This starts on the bottom of page (3) and extends to the top of page (4). Item #2 of this motion appears to refer to the section of the Answer marked VIII, starting on page (4) and continuing to the top half of page (5), regarding the interests of Hethcote Chilcote's family heirs plus the defendant Adam Emrick/Emerick.]*

**[DC010 Demurrer of Plaintiff, 25 July 1900]**

Maria J. Chilcote Ptff  
vs.  
Denton Chilcote et al. Defts

Demurrer of Ptff

No. 4165  
Filed 7/25/1900  
E.H. Wade  
Clerk of the Dist. Court

[pg. 2]

In the District Court of Coffey County, Kansas

Maria J. Chilcote, Plaintiff )  
vs. ) Demurrer  
Denton Chilcote et al. Defendants )

Comes now said plaintiff and demurs to the First Defense to the First cause of action of plaintiff's petition, set out in Defendants answer, for the reason and upon the ground that the said First Defense does not state facts sufficient to constitute any defense to the said First Cause of Action of Plaintiff's Petition.

Said plaintiff also demurs to Defendants "Fourth Defense" to the First Cause of Action stated in Plaintiff's Petition, for the reason and upon the ground that that [sic] the said "Fourth Defense" does not state facts sufficient to constitute any defense to said First Cause of action.

H.E. Ganse & E.N. Connal  
Attys for Plaintiff

**[DC011 Stipulation, signed 9 October 1900; filed 1 January 1901]**

Chilcote  
vs.  
Chilcote et al

Stipulation

No. 4165  
Filed 1/1/1901  
E.H. Wade  
Clerk of the Dist. Court

[pg. 2]

In the District Court within and for Coffey County in the State of Kansas

Maria J. Chilcote, Plaintiff )  
vs. )  
Denton Chilcote et al. )  
Defendants ) Oct. 9, 1900

We the undersigned attorneys for the plaintiff in the above entitled action, do hereby agree to and do hereby waive the order of court requiring defendants to file their amended answer herein within 20 days from Sept. 12, 1900, and hereby extend the time in which to file said Defendant's amended answer to the 15 day of October 1900.

H.E. Ganse  
Atty for Plaintiff

**[DC012 Journal Entry, signed 22 October 1900; filed 1 (??) January 1901]**

Chilcote  
vs.  
Chilcote

J.E.

OK  
J.T. [??] Randolph  
Judge

No. 4165  
Filed 1/1/1901 [??]  
E.H. Wade  
Clerk of the Dist. Court

M-381

[pg. 2]

IN THE DISTRICT COURT OF COFFEY COUNTY, KANSAS.

Maria J. Chilcote, Plaintiff )  
vs. )  
Denton Chilcote et al )  
Defendants ) Journal Entry

And now comes the said plaintiff by her attorneys, E.N. Connal and H.E. Ganse, as also came said defendants by their Attorneys, H.L. Cooper and John Martin, on this 7th day of September A.D. 1900 at the September A.D. 1900 term of said District Court, and the motion of said plaintiff asking the court to require the said defendants to make their petition filed herein definite and certain coming on to be

heard by the court, the said defendants by their said attorneys in open court confessed said motion to be well taken and the court thereupon sustained the said motion.

Afterwards on the same day came on the demurrer of said plaintiff to defendants petition to be heard by the court and thereupon the said defendants by their said attorneys confessed said demurrer in open court and the court therefore sustained the same.

Thereupon the said defendants ask and obtain leave of the court to file their amended answer herein in twenty days from this day. And afterwards on the 22 day of October A.D. 1900 at the said September term of said court, the said defendants having failed to file their amended answer herein or to otherwise plead in said action and being in default of such answer, the said plaintiff called said action up for trial, said defendants nor any of them nor their attorneys being present, and said cause being by the court called for trial in its regular order, said cause came on for trial to the court, a jury being waived by said plaintiff by consent of the court in open court, upon the pleadings and the evidence; and the said court after hearing all the evidence and being fully advised in the premises does find for the said plaintiff and against the said defendants and that all the allegations of said plaintiff's said petition are true; that said plaintiff is a tenant in common with said defendants in the real estate described in said petition and is the owner in fee of an undivided half thereof, to wit: The east half of the southwest quarter of section twenty-five township nineteen of range sixteen and the southeast quarter of the northwest quarter of section thirty-one in township nineteen of range seventeen all in Coffey County, Kansas, and that said plaintiff is also the owner of an undivided half of all the property, real and personal, of which the said Hethcote Chilcote died seized and possessed and that said plaintiff is entitled to the possession of an undivided half of all the real estate of said deceased.

It is by the court therefore considered, ordered and adjudged that the said plaintiff do have and recover of and from said defendants the possession of the undivided half of the following described lands in said county of Coffey and state of Kansas, to wit: ~~The east half of the southwest quarter of section twenty-five township nineteen and~~ the southeast quarter of the northwest quarter of section thirty-one of township nineteen of range seventeen; and that the ante-nuptial agreement set out in the said plaintiff's petition filed in this action be and the same is hereby set aside vacated and held for naught and that all said real estate be partitioned between said plaintiff and the said Isaac T. Goodman and J.M. Kelley executors as follows: one half in value thereof to said plaintiff Maria J. Chilcote and the other

[pg. 3]

half thereof in value to the said Isaac T. Goodman and J.M. Kelley as executors of the last will and testament of the said Hethcote Chilcote.

*[Editor's note: Some of this next paragraph was added to the typed Journal Entry in ink by hand between the lines and up the left margin, and is nearly illegible.]*

It is further ordered and adjudged by the said court that J.L. Senior, H.P. Donnell and C.N. Converse, three disinterested residents of said county [??] be and they are hereby appointed commissioners on their action of appraisment thereof [??] to partion [sic] said real estate to wit: the east half of the southwest quarter of section twenty-five and the southeast quarter of the northwest quarter of Section thirty one [??] all in township nineteen of range seventeen [??] Coffey County Kansas, if the same can be done without manifest injury thereto, [or] if not then that said commissioners upon oath and actual

view of said real estate return their appraisal of each of said tracts separately to said court and that they make report of their doings under this order at the next term of said court.

It is further ordered and adjudged that a writ or [of?] partition issue herein to said commissioners upon demand therefor by said plaintiff and that said commissioners take and subscribe to an oath that they will each faithfully discharge his duties as such commissioner as required by lay [law].

It is further ordered and adjudged that said executors pay over to the said plaintiff one half of the personal estate of the said Hethcote Chilcote deceased as her share as his widow.

This cause is continued to the next term of said court.

**[DC013                      Stipulations, 23 October 1900]**

Chilcote  
vs.  
Chilcote

Stipulations

No. 4165  
Filed 10/23/1900  
E.H. Wade

[pg. 2]

In the District Court of Coffey County, Kansas,

Maria J. Chilcote, Plaintiff            )  
vs.                                            )            Stipulations  
Denton Chilcote, Defendants        )

Come now said plaintiff by her attorneys H.E. Ganse and E.N. Connal, as also said defendants by their attorney H.L. Coper, and stipulate and agree as follows:

Whereas by accident the amended answer of said defendants which was to be filed in said action on or before the 15<sup>th</sup> day of October, A.D. 1900, was not so filed but left with a party in the city of Burlington for that purpose and in due time, and whereas the said defendants were in default in said action on that account on the 23<sup>rd</sup> day of October at the session of court held on said day last above mentioned, and being so in default the said court rendered judgment in said action against said defendants and in favor of said plaintiff as prayed for in her said petition at the request of said plaintiff's attorneys,

Now therefore it is hereby agreed by and between said parties that said judgment may be vacated and set aside by said court at the next term of said court and stand as though no judgment had been rendered therein and that said defendants may then file their amended answer therein and that said plaintiff shall have thirty days therefrom in which to plead, answer, demur or reply to said amended petition and that said cause shall stand for trial at said January term 1901 at the option of said plaintiff; all of which upon condition that said court shall then be of the opinion that said plaintiff's attorneys

shall not be liable in damages to said plaintiff for their action herein in making this stipulation and consenting that said judgment be so vacated and set aside, this stipulation being made by said attorneys believing that as a matter of justice and right the said stipulation should be made and carried out.

Dated this 23<sup>rd</sup> day of October, A.D. 1900.

H.E. Ganse & E.N. Connal  
Attorneys for Plaintiff

Martin & Cooper  
Attorney for Defendants.

**[DC014 Motion, 15 November 1900]**

Maria J. Chilcote  
vs  
Denton Chilcote et al.

Motion

No. 4165  
Filed 11/15/1900  
E.H. Wade  
Clerk of the Dist. Court

[pg. 2]

State of Kansas )  
Coffey County ) ss.

In the district court in and for the county of Coffey and state of Kansas.

Maria J. Chilcote, Plaintiff, )

vs. )

Denton Chilcote, )

Wilbert Chilcote, )

Lewis Chilcote, )

Matilda Kelly, )

Viola Goodman, )

Martha Ulrey, )

Susan M. Hendrix, )

Nancy J. Corwin, and )

J.M. Kelly and )

Isaac T. Goodman, )

Ex'rs, Defendants, )

Motion

The Defendants Denton Chilcote, Wilbert Chilcote, Lewis Chilcote, Matilda Kelly, Viola Goodman, Martha Ulrey, Susan M. Hendrix, Nancy J. Corwin, J.M. Kelly and Isaac T. Goodman Ex'rs. of the last will and testament of Hethcote Chilcote deceased late of Coffey County in the state of Kansas and moves the court in the above entitled cause to set aside and vacate the judgement or order made herin [sic] on the 22th day of October 1900. For the reason and on account of surprise and accident and respectfully states that the time given defendants in which to file their amended answer herein was extended by mutual consent to the 15<sup>th</sup> day of October 1900, and in compliance with said agreement said defendants did forward said amended answer to the clerk of the district court of Coffey County in said state on the 13<sup>th</sup> day of said month by private bearer who instead of delivering the same to the said clerk of the district court, delivered said amended answer to the clerk of Coffey County in the city of Burlington and state of Kansas on the 13<sup>th</sup> day of October 1900.

And for the furthur [sic] reason that the attorneys in this action have filed their agreement herein, wherein it is stipulated that said order or judgment [may?] be vacated set aside and annulled and that this cause stand for hearing the same as [if] no order or judgment had been made herein by said court subject to the conditions threin [sic; read: therein] stated.

Denton Chilcote et al., Defendants.

By John Martin  
H.L. Cooper  
Their Attorneys.

State of Kansas )  
Coffey County ) ss.

We the undersigned attorneys hereby waive notice of the filing of the above motion this 10<sup>th</sup> day of November 1900.

H.E. Ganse,  
Att'ys for plaintiff.

**[DC015 VanNess and Palen Affidavits, 1 January 1901]**

Chilcote  
vs.  
Chilcote et al  
Afv.

No. 4165  
Filed 1/1/1901  
E.H. Wade  
Clerk of the Dist. Court

[pg. 2]

In the District Court in and for Coffey County State of Kansas.

State Of Kansas            )  
                                          )        ss  
Coffey County            )

Maria J. Chilcote Plaintiff        )  
vs.                                        )        Affidavit.  
Denton Chilcote et al Defend's    )

The affiant E.G. Vanness, of lawful age, being first duly sworn according to law, on his oath says, that he is a resident of Waverly, Coffey County, Kansas, and that on the moring [sic; read: morning] of October, 13<sup>th</sup>, 1900, H.L. Cooper of Waverly, Kansas delivered to me a package of papers addressed to E.H. Wade Clerk of the district Court at Burlington, Coffey County Kansas, and instructed me to hand said package of papers to said Clerk of the Court. I called at a place I supposed to be the office of the said E.H. Wade and found the door locked, whereupon I took the package of papers to the County Clerks Office in said County and State and left the same with Mr. W.M. Palen, who promised to deliver the papers to the Clerk of the Court that same day, and affiant further saith not.

E.G. VanNess

Subscribed and sworn to before me this 31<sup>st</sup> day of December 1900.

C. O'Neil  
Notary Public  
Com. Ex. Aug 23, 1904.

[pg. 3]

In the district court in and for Coffey County and state of Kansas,

State of Kansas            )  
                                          )        ss.  
Coffey County            )

Maria J. Chilcote Plaintiff,        )  
vs.                                        )        Affidavit  
Denton Chilcote et al. Def'ts     )

I, W.M. Palen of lawful age being first duly sworn according to law on his oath says;- that one E.G. Van Ness did on the 13<sup>th</sup> day of October 1900. leave with me a certain package of papers addressed to Mr. E.H. Wade Clerk of the district court within and for Coffey County and state of Kansas, which package of papers I agreed to deliver to the said E.H. Wade Clerk of the Court that same day but laid them away and forgot to do so, and my failure so to do was not caused by any action or request on the part of the above named defendants or their council, so help me God.

W.M. Palen

Subscribed and sworn to before me this 1 day of Jany 1901

Minnie Gilman  
Register of Deeds.

**[DC016 Amended Answer with Copy of Prenuptial Agreement and Will, 1 January 1901]**

No. 4165  
Maria J. Chilcote  
-vs.-  
Denton Chilcote  
-et al.-

Amended Answer of all the Defendants.

No. 4165  
Filed 1/1/1901  
E.H. Wade  
Clerk of the Dist. Court

John Martin and H.L. Cooper- Attys for Defendants

[pg. 2]

State of Kansas  
County of Coffey            S.S.

In the district Court for Coffey County, Kansas.

Maria J. Chilcote,            Plaintiff.  
vs.

Denton Chilcote, Wilber Chilcote, Lewis Chilcote, Matilda Kelley, Viola Goodman, Martha Ulrey, Nancy Corwiss [sic], Susan N. Hendrix, Adam Emrick, and Isaac T. Goodman, and J.M. Kelley as Executors of the Last Will and Testament of Hethcoat Chilcote, deceased,            Defendants.

JOINT AND SEVERAL AMENDED ANSWER OF ALL THE DEFENDANTS.

I.        The defendants for their joint and several answer and first defense to the first cause of action stated in the plaintiff's petition admit

That on and prior to the 12<sup>th</sup> day of November, A.D., 1887, the plaintiff's name was Maria J. Dodd and that she was a widow and a resident of the county of Coffey in the State of Kansas. That on said 12<sup>th</sup> day of November, A.D. 1887, and for a long time prior thereto, she was and had been engaged to be married to one Hethcoat Chilcote, who was then a widower and a resident of said county of Coffey. That at the time of said engagement, and at the time of the signing of the ante-nuptial agreement, mentioned in plaintiff's petition, both the plaintiff and said Hethcoat Chilcote owned and possessed in their own right, separately and severally, both real and personal property situated in Coffey County, Kansas.

Defendants further admit that on this said 12<sup>th</sup> day of November, A.D. 1887, and while the said plaintiff and said Hethcoat Chilcote were so engaged to be married, and prior to such marriage, but in

anticipation that such marriage would in due time be consummated, the plaintiff and said Hethcoat Chilcote mutually, freely and voluntarily executed

[pg. 3]

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the marriage contract and ante-nuptial agreement marked exhibit "A" attached to and made a part of said plaintiff's petition, and the defendants allege and charge the fact to be that all the terms, conditions and provisions of said agreement and contract, were canvassed, discussed and argued by and between said plaintiff and said Hethcoat Chilcote long prior to the said 12<sup>th</sup> day of November, A.D., 1887, and that said agreement and contract was so made, entered into and executed by plaintiff and said Hethcoat Chilcote freely and voluntarily with a full knowledge of all the facts, circumstances and conditions thereof, and with a full knowledge on the part of each of said parties respecting the property of the other, and that when plaintiff signed said agreement she had full knowledge of all the terms, conditions and contents thereof.

Defendants further admit that on this 12<sup>th</sup> day of November, A.D., 1887, and after the execution and delivering of said ante-nuptial agreement, the plaintiff and said Hethcoat Chilcote were duly married and continued to live and co-habit together as man and wife, until the death of said Hethcoat Chilcote on the 30<sup>th</sup> day of January, A.D., 1900, at his residence and home in Coffey County, Kansas. That during his lifetime said Hethcoat Chilcote duly and lawfully made, executed and published his last will and testament, nominating and appointing as the Executors thereof the defendants Isaac T. Goodman and J.M. Kelley. That on the 15<sup>th</sup> of February, 1900, said last will and testament was duly probated in and by the probate court of Coffey County, Kansas, and there upon the defendants Goodman and Kelley duly qualified as such Executors as aforesaid, and entered upon their duties as such and have so continued to be and act ever since and now.

The defendants further admit that they include and constitute all the legatees and devisees named in said will and that no other persons than these defendants have any right, title or interest in the estate

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of said Hethcoat Chilcote, as legatees, devisees or otherwise, except as provided in and by the terms of said will. A copy of said last will and testament is hereto attached, marked exhibit "A" and made a part of this answer.

The defendants further admit that said Hethcoat Chilcote was at the time of the signing of said agreement known as exhibit "A", and at the time of his death the owner of the real estate described in plaintiff's petition except the SE 4 [1/4] of the NW 4 [1/4] Sec 31 [Twp] 19 [Range] 17 at the time of signing the agreement, *[this legal description of real estate was added to the typed page in extremely small handwriting and is nearly illegible]* but these defendants deny each and every other allegation and averment stated and contained in the first cause of action stated in said plaintiff's petition.

*[Not sure about this, but the exception added above for the 40 acres in Section 31 may reflect the distinction—in the minds of the defendants and their counsel—that Hethcote was the sole owner of the 80 acres in Section 25, but that, because Hethcote purchased the lands in Section 31 after his marriage, then Maria had some ownership or dower interest in the*

*Section 31 lands. That is, Hethcote was the sole owner of the 80 acres in Section 25, but only one of the two owners of the 40 acres in Section 31.]*

II. The defendants for a further and second answer and defense to the said first cause of action stated in plaintiff's petition admit, that the said agreement and contract of November 12<sup>th</sup>, A.D. 1887, attached to and made a part of plaintiff's petition as exhibit "A" was written by A.B. Hutchinson, Esq., who is now deceased, but defendants deny that said Hutchinson was at any time the agent, attorney, or otherwise employed, authorized or empowered to negotiate, do, manage or contract any business matters or concessions of any kind for said Hethcoat Chilcote, in respect, any matter or affair of business or other interest or affair of any mane [sic; read: "manner"?] or nature between, about or concerning the plaintiff and said Hethcoat Chilcote, except to reduce to writing the said agreement of November 12<sup>th</sup>, A.D. 1887 as the same was and had been previously agreed upon by and between the plaintiff and said Hethcoat Chilcote, nor was said Hutchinson ever at any time authorized or empowered by said Hethcoat Chilcote to make any of the statements or representations mentioned and stated in plaintiff's petition, nor were such statements and representations of a like kind or character made to this plaintiff by said Hutchinson or by said Hethcoat Chilcote at all, at any time or for any purpose whatever.

III. The defendants, for a further answer and third defense to the first cause of action stated in plaintiff's petition say, that the

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said first cause of action stated in plaintiff's petition did not accrue to her within two years, next before this action was commenced.

IV. The defendants, for answer to the second cause of action, stated in said plaintiffs petition, deny each and every allegation and averment therein stated and made, except as hereinbefore and hereinafter specifically admitted.

V. The defendants, for a further answer and second defense to the second cause of action, stated in plaintiff's petition, admit that they claim some right, title and interest in the real estate described in said second count, or cause of action, and to the proceeds thereof, and these defendants allege and charge the fact to be that they are the sole and exclusive owners of said real estate and the proceeds thereof, and are entitled to the possession thereof, and that the nature, extent and character of their several and respective interests in and to said real estate and the proceeds thereof is fully stated and set forth in the last will and testament of the said Hethcoat Chilcote, a copy of which is attached to this answer, marked "A", and by adoption is now referred to as a part of this defense as fully as if herein written, and that said plaintiff has no right, title or interest in or to said land or any part thereof, nor is she in the possession of this, except a small part thereof, which she occupies as a tenant of defendants Goodman and Kelley as Executors of the said last will and testament of the said Hethcoat Chilcote and not otherwise.

VI. The defendants for answer to the third cause of action stated in plaintiffs petition, deny each and every allegation and averment therein stated and contained, except as hereinbefore and hereinafter specifically admitted.

VII. The defendants for a further answer and second defense to the third cause of action stated in plaintiff's petition, admit that they all except the defendants Emrick's claim [*sic; may mean "they all, except the defendant Emrick, claim..."*] to own some interests in the real estate referred to in said third cause of action, and defendants

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allege the fact to be that they, with the exception of said Emrick, are the sole surviving heirs, legatees and devisees of the said Hethcoat Chilcote, and that under and by virtue of his said last will and testament, they are the sole and exclusive owners of the real estate, referred in said third cause of action stated in plaintiff's petition, and that said plaintiff has no right, title or interest in or to any part of the estate of said Hethcoat Chilcote, except as specifically provided for by said will and the said agreement of November, A.D. 1887.

And defendants further admit that the said defendants Goodman and Kelley as Executors aforesaid have agreed to sell said land to defendant Emrick and to deliver to him the possession thereof January 1<sup>st</sup> A.D. 1901.

VIII. The defendants for an answer to the fourth cause of action stated in plaintiff's petition, deny each and every allegation and averment therein contained and stated, except as hereinbefore admitted.

Wherefore defendants pray judgment, that this action be dismissed and that they have judgment against the plaintiff for their costs herein.

J.W. Martin  
H.L. Cooper  
Attorneys for defendants.

State of Kansas            )  
                                          )        S.S.  
County of Coffey        )

Isaac T. Goodman and J.M. Kelley being duly sworn say that they are the duly qualified and acting executors of the last will and testament of Hethcoat Chilcote, and are defendants in the foregoing entitled action; that they have each read the second defense contained in the foregoing answer to the first cause of action stated in plaintiff's petition, and they know the contents of said second defense, and affiants believe the facts stated in said pleading to be true as therein stated.

Isaac T. Goodman  
J.M. Kelly

Subscribed in my presence and sworn to before me by Isaac T. Goodman & J.M. Kelley this 9<sup>th</sup> day of October, A.D. 1900.

C. O'Neil N.P  
Commission Ex. 8/23/04 [??]

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No 4165

Maria J. Chilcote  
vs.  
Denton Chilcote et al.

Amended Answer of all the Defendants

[Exhibit "A"]

*[Editor's note: The typed copy of the will from the civil suit record, and the typed copy of the imbedded ante-nuptial agreement, shown below as appended to the Amended Answer signed on 9 October 1900 and filed 1 January 1901, both have certain minor, typographical differences from the copies of these same documents in the H. Chilcote probate estate record, No. 923.]*

Last Will and Testament.

I, Hethcote Chilcote of Waverly Coffey County Kansas, being aware of the uncertainty of life but in sound mind and memory,

Do make and declare this to be my last will and testament in manner and form following, to wit:

- 1<sup>st</sup>. I desire that all my just debts be fully paid and that a suitable monument be erected at my grave.
- 2<sup>nd</sup>. I give devise and bequeath unto my wife Maria J. Chilcote the interest on one thousand dollars, said interest to be paid to her annually, the said one thousand dollars shall be loaned by my executors at the highest rate of interest and paid to her each year so long as she remains my widow, and should she re-marry, then the payment of the said interest shall cease, and the one thousand dollars shall revert to my estate and be divided between my legal heirs as hereinafter mentioned. And the contract hereunto attached shall be and is made a part of this my last will and testament, and my executors are instructed to see that the same is fully carried out, and complied with, to-wit:

*[Editor's note: In this civil suit record, a copy of the ante-nuptial agreement is imbedded into the copy of the will here, as if they were a single document. In the copy of the ante-nuptial agreement, some lines at the bottom of pages appear to have been cut off. These are supplied from the copy of the corresponding document in the H. Chilcote estate record, and are noted in square brackets below.]*

These Articles of Agreement Ante Nuptial made and concluded this Twelfth day of November, in the year of our Lord, One thousand and Eight hundred and Eighty-Seven by and between Hethcote Chilcote of the first part and Maria J. Dodd of the second part, all of the County of Coffey, and State of Kansas.

WITNESSETH: That the said Hethcoat Chilcote part [sic] of the first part does by these presents for and in consideration of a marriage to be celebrated between the parties hereto in the near future and for other good considerations agree to and with the said Maria J. Dodd as follows, to-wit:

FIRST-- Said party of the first part agrees that at his death

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[leaving to survive him the said Maria J. Dodd as his widow that One] thousand Dollars of the estate of the said party of the first part shall at once be invested securely by the Executor of the last will and testament of said first party, or the proper administrator of his said estate, or other legal representative and the interest or profits of said investment of said One thousand Dollars shall be paid to the said Maria J. Dodd annually during the life of said Maria J. Dodd, so long as she remains the widow of said party of the first part, and in the event her re-marriage, or at her death the said principal, sum of One thousand Dollars shall then revert to and become part of the estate of said party of the first part and descend to his heirs or legatees in the same manner as the same would have descended had this contract not been made. And the said Hethcoat Chilcote hereby declares that by this contract the last will and testament which he has made heretofore shall not otherwise be modified than as above set forth but is by this contract reaffirmed and republished as modified thereby.

*[Note reference to a will for H.C. prior to the 1897 last will that was probated in 1900.]*

SECOND- Said party of the first part for the consideration aforesaid does hereby agree that at and after the said marriage now contemplated, and the sole basis of this contract the said Maria J. Dodd shall have sole and exclusive control of all her property real and personal during said marriage and said first party for the consideration aforesaid hereby waives all the rights and interests which he would acquire in the property of said party of the second part by such marriage and hereby consents and agrees that in the event he shall survive the said Maria J. Dodd that at her death then being the wife of party of the first part her estate, real and personal shall descend to and be distributed amongst her heirs according to law, or in any manner by her directed by her last will and testament free and clear of any claim or interest the party of the first part might have had in said estate as surviving husband. And the [said Maria J. Dodd party of the second part in consideration of the]

[pg. 3]

marriage aforementioned and the covenants of the party of the first part herein does agree as follows, to-wit:

FIRST- That said Maria J. Dodd does assent to and ratify any disposition of the real and personal property now made or to be made by said Hethcoat Chilcote by a Last Will and Testament, save as to the One thousand Dollars secured to her by these articles and in the event of her surviving the said Hethcoat Chilcote as his widow does agree to waive all her interests and rights as such widow in the estate of said party of the first part upon the said sum of One thousand Dollars being secured to her use as agreed upon, and agrees to file in such case in the court of proper jurisdiction her election to accept the provisions of such last will and testament as said party of the first part has or may execute or in the event of his dying intestate it is hereby by the party of the second part agrees [sic; read: agreed] that said estate shall descend to the heirs of said party of the first part free of all incumbrance or interest said party of the second part might otherwise have in said estate upon the use of the One thousand

Dollars being secured and paid to her as aforesaid so long as she may survive as widow of said Hethcoat Chilcote.

SECOND- Said party of the second part hereby agrees that during said marriage the said party of the first part shall have sole and exclusive control of his separate property in like manner as she is by these articles entitled to the control of her separate property.

It is mutually agreed by the parties hereto that in the event of the marriage aforementioned being dissolved by reason of desertion neglect of duty or unfaithfulness of either party to the marital relation that the provisions of these articles shall be null and void as to any rights acquired thereby by the party in default.

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In witness whereof the parties hereto have set their hands the day and year first above written-

Signed in duplicate	)	Hethcoat Chilcote
in presence of	)	Maria J. Dodd
A.B. Hutchinson	)	
J.L. Senior	)	

*[Editor's note: The last will and testament resumes here.]*

[3- I give devise and bequeath unto my daughter Nancy Corwin,] the sum of \$300.00, to be paid to her by my executors, and should she refuse to accept it, it is then my will that this sum be equally divided between her children.

4- I give devise and bequeath unto my daughter Susan M. Hendrix the sum of \$10.00, and the following promissory notes, to-wit:

One note for \$150.00 dated January 1<sup>st</sup> 1884,  
One note for \$247.00 dated July 7<sup>th</sup> 1882,  
One note for \$300.00 dated July 16<sup>th</sup> 1882,  
One note for 200.00 dated December 7<sup>th</sup> 1882,

all the above notes bearing 6% interest from date and the same notes that was executed to me by E.W. Doty former husband of Susan M. Hendrix my daughter.

5- I give devise and bequeath unto my sons Denton Chilcote, Wilbert Chilcote, And Lewis Chilcote, and unto my daughters Matilda Kelley, (wife of J. M. Kelley), Viola Goodman (wife of Isaac T. Goodman), and Martha Ulrey (wife of Silas Ulrey), all the remainder of my property of which I shall die seized of or be the owner of at the time of my death the same to be equally divided between [them], both my personal and real property.

6- I do hereby nominate make and appoint my son Denton Chilcote and my sons in law J.M. Kelley and Isaac T. Goodman executors of this my last will and testament and hereby authorizing and empowering them to collect compromise adjust and release all claims due me as to them shall seem just and best, and I also empower them to sell all

my property both personal and real either at public or private sale as to them shall seem best, and at such time or times, and at such place or places and upon such terms or credit or otherwise as they shall think proper, and of my real estate to make deeds in fee simple without any order of court so to do, and the proceeds to be divided as herein above directed.

I also direct that they be not required to give bond as such executors.

[I also direct that no appraisal and inventory of my] estate be made, and I hereby authorize and request that the Probate Court direct the omission of the same according to the Statute in such cases made and provided.

In witness whereof I have hereunto set my hand and seal, This 27th day of September 1897.

Hethcote Chilcote

Signed by Hethcote Chilcote as and for his last will and testament in the presence of us who at his request and in his presents and in the presents of each other have subscribed our names hereto as witnesses hereof.

A.P. Reed  
H.L. Cooper

[pg. 5]

The State of Kansas,    )  
                                          )        ss.     In the Probate Court in and for said County.  
Coffey County,            )

I, W.H. Vermillion, Judge of said Court, the same being a court of record and [of?] law having a seal, and the Judge thereof being his own clerk and the only proper custodian of the records and seal of said Court, do hereby certify that the attached instrument of writing is the last will and testament of Hethcote Chilcote Deceased Late of Coffey County State of Kansas and admitted to Probate and Recorded in Book of Wills No. 3 Pages 271 to 314 of the Probate Court of said County and State.

In Testimony Whereof, I have hereunto signed my name and affixed the seal of said Court at my office in Burlington, county and state aforesaid, this 10<sup>th</sup> day of October, A.D. 1900.

W.H. Vermillion  
Probate Judge

**DC017        Journal Entry, 7 January 1901]**

Chilcote  
vs.  
Chilcote et al

J.E.

No. 4165  
Filed 1/7/1901  
E.H. Wade  
Clerk of the Dist. Court

M-395

[pg. 2]

Maria J. Chilcote, Plaintiff,	)	
	)	
vs.	)	
	)	
Denton Chilcote,	)	
Wilbert Chilcote,	)	Order vacating judgment of October
Lewis Chilcote,	)	22 <sup>nd</sup> 1900.
Matilda Kelly,	)	
Viola Goodman,	)	No. 4165.--
Martha Ulrey,	)	
Susan M. Hendrix, and,	)	
Nancy J. Corwin, (and	)	
J.M. Kelly & Isaac T. Goodman	)	
Ex'rs of Hethcote Chilcote dec'd),	)	
-----Defendants,)	)	

And now on this 1<sup>st</sup> day of January A.D. 1901, at the January A.D. 1901 term of said district court, came said plaintiff and by leave of court withdraws the stipulation filed herein on Oct. 22, 1900 concerning the setting aside of plaintiff's judgment here recorded [rendered??] Oct. 23, 1900 and \_\_\_\_\_ [??] came the defendants by their attorneys, and the said plaintiff by her attorneys appeared, and defendants motion to set aside vacate and annul the judgement rendered in this action on October 22<sup>nd</sup> A.D. 1900. came on to be heard by the court. And the court after hearing the evidence and being fully advised in the premises sustained said motion, and ordered and adjudged that the said judgment as above referred to be and the same is hereby vacated annulled set aside and rendered void, and that said defendants be permitted to file their amended answer herein instanter which is done, and that this cause stands for hearing the same as if no judgement had been rendered herein to which \_\_\_\_\_ the said plaintiff at the time duly excepted [sic; read: accepted??]. It is further ordered and adjudged by the court that the said plaintiff herein have thirty days in which to plead.

It is also ordered by the court that this cause be continued.

O.K.-

John Martin	)	
H.L Cooper	)	Att'ys for Defendants

O.K. as amended by same [??]	)	
E.N. Connal 1/7/01	)	Att'ys for Plaintiff.

**[DC018          Reply, 29 January 1901]**

Chilcote  
vs.  
Chilcote et al

Reply

No. 4165  
Filed 1/29/1901  
E.H. Wade  
Clerk of the Dist. Court

[pg. 2]

In the District Court of Coffey County, Kansas.

Maria J. Chilcote, Plaintiff          )

vs.                                          Reply.

Denton Chilcote et al.  
                                                Defendants          )

Comes now said plaintiff and for her reply to the answer of said defendants filed herein say:

That she denies each and every allegation therein contained which in anywise are inconsistent with the allegations of her petition herein.

Wherefore she prays judgment as prayed for in her petition.

By her Attorneys,  
                                                H.E. Ganse  
                                                E.N. Connal

**[DC019          Journal Entry: Settlement, 3 April 1901]**

Chilcote  
vs.  
Chilcote

J.E.

No. 4165  
Filed 4/3/1901  
E.H. Wade  
Clerk of the Dist. Court

M-477

[pg. 2]

Chilcote vs. Chilcote

J.E.

(Title)

And now on this 2<sup>nd</sup> day of April A.D. 1901 at the regular April term of the District Court of Coffey County Kansas comes in plaintiff by her attorneys H.E. Ganse & E.N. Connal and upon application therefor & for good cause said cause is by said court dismissed said cause having been settled by the parties and costs thereof paid.

O.K. E.N.C. for Ptff

H.L. Cooper Atty for Defts.

**[DC020            Witness Claims, 3 April 1901]**

No. 4165

WITNESS CLAIMS

Chilcote

vs.

Chilcote et al

Filed 4/3/1901

E.H. Wade

Clerk of the District Court

[pg. 2]

Chilcote vs. Chilcote et al.  
April Term, 1901

In the District Court Thereof

State of Kansas )  
Coffey County ) SS.

Witness Claims

Jas. Redmond

Days: 1

Miles Traveled:

Fees:

\$1.50

Being first duly sworn, on oath depose and said that the services were actually rendered, and the fees have not been claimed or received in any other case for the same period of time.

James Redmond

Subscribed and sworn to before me this 3<sup>rd</sup> day of April A.D. 1901

E.H. Wade, Clerk

**[DC021          Journal Entry: Defendants' Attorneys' Fees, 3 April 1901]**

Maria J. Chilcote, Ptff.  
vs.  
Denton Chilcote et al, Defts

Journal Entry

No. 4165  
Filed 4/3/1901  
E.H. Wade  
Clerk of the Dist. Court

M-477

[pg. 2]

In the District Court in Coffey County Kansas

Maria J. Chilcote, Ptff    )  
vs.                                )          Journal Entry  
Denton Chilcote et al.    )  
                                  Defts        )

And now on this 3d day of April A.D. 1901, comes John Martin and H.L. Cooper Attorneys and counselors for all the Defendants in the above entitled case, and said Attorneys presented their claim for services rendered on behalf of said Defendants by whom they were retained, and thereupon this matter came on for hearing upon the claim herein, and the evidence, and in open court, and the court after hearing the evidence finds the claim to be true, just, fair, and right.

It is therefore considered ordered and adjudged by the court that John Martin have and recover the sum of \$250.00 attys fee & that H.L. Cooper have and recover the sum of \$250.00 attys fee, and the further sum of \$24.00 actual expenses, of and from said defendants, and the executors J.M. Kelly and I.T. Goodman are hereby ordered to pay the above sum of \$524.00 as herein designated.

Dennis Webster [??]  
Judge

**[DC022          Sat. of Jug't. for Cooper, 19 November 1902]**

Chilcote  
vs.  
Chilcote et al.

Sat. of Jug't.

4165  
11/19/1902

E.H. Wade

[pg. 2]

No. 3

April 9<sup>th</sup>, 1901

Received of J.M. Kelly and I.T. Goodman as Executors of the last Will and Testament of Hethcote Chilcote, deceased, late of Coffey County, Kansas, Three hundred and seventy four dollars (\$374.00) in full for all professional services performed by me in any matter, manner or form whatever for the estate of said Chilcote as well as for all services rendered said Executors concerning said estate, including my services in the case of Maria J. Chilcote vs. Denton Chilcote and others in the District Court for Coffey County, Kansas.

(Filed) 4-9-01

H.L. Cooper.

State of Kansas.	)		
	)	SS.	In the Probate Court Thereof.
Coffey County.	)		

I, A.B. Moore, Probate Judge of the said Court do hereby certify that the above receipt is a true, complete and correct copy of the original as the same now appears from the files in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of this Court this \_\_ day of November, A.D. 1902.

A.B. Moore  
Probate Judge.

*[This document above may have been signed on 15 November, based on the similar "Satisfaction of Judgment" signed that day for Mr. Martin, below.]*

**[DC023 Sat. of Jug't. for Martin, 19 November 1902]**

Chilcote  
vs.  
Chilcote et al.

Sat. of Jugt.

4165  
11/19/1902  
E.H. Wade

[pg. 2]

John Martin  
Attorney at Law  
\_\_\_\_\_ [??]

P.O. Box 186

Topeka, Kansas Nov. 15<sup>th</sup> 1902

To Whom it may Concern-

I John Martin an Attorney at Law, residing in Topeka Shawnee County Kansas do hereby certify that all fees due to me for Professional Services as one of the attorneys for Defendants in the case of Chilcote vs. Chilcote et al. no. 4165 in the District Court for Coffey County Kansas have been fully paid and I hereby release and discharge any and all Lands and property belonging to the Chilcote heirs and Estate from any & all Liens that may exist or has existed for the payment of such fees.

Dated this 15<sup>th</sup> day of November A.D. 1902

J.W. Martin  
Attorney at Law

**Appendix B. Relevant materials from the Probate Court Record No. 923, Coffey County, in the settlement of the estate of Hethcote Chilcote (1821-1900)**

Item 61 is a Journal Entry describing the request for the estate to pay Mrs. Chilcote a sum of money in lieu of the annuity that she was to receive per the prenuptial agreement and the will of her late husband.

Item 63 is a copy of the agreement between Mrs. Chilcote and the other named heirs (defendants) describing the terms under which the plaintiff will drop or dismiss the lawsuit (Case 4165) in exchange for a sum of money to be paid to her by the estate.

Item 64 is Mrs. Chilcote’s receipt acknowledging that she has been paid the agreed upon sum of money, and identifying the two parcels of real estate (in Section 25 and Section 31) in which she had previously claimed an interest, which she has now agreed to convey to the estate free and clear.

**[061 Journal Entry, 15 March 1901]**

Hethcote Chilcote  
Estate  
J.E.  
Page 146

3/15

[pg. 2]

In the matter of the estate of Hethcote Chilcote dec’d.

State of Kansas                    )  
Coffey Co.                        ) ss     In the Probate Court of said County

And now on this 15<sup>th</sup> day of March 1901, comes the executors of the estate of Hethcote Chilcote dec’d, and asks permission of said probate court to pay to Mrs. Maria J. Chilcote widow of said Hethcote Chilcote decd the sum of \$1644.40 in lieu of the interest on \$1000.00 as provided for her in the last will and testament

[pg. 3]

of the said Hethcote Chilcote decd, the same being duly admitted to probate in the Probate Court of county and state aforesaid. And when the said sum of \$1644.40 is so paid, the same shall be in full of all demands said widow may have against said estate.

The above named Executors also file an agreement in which the above facts are set forth, said agreement being signed by Maria J. Chilcote widow, Isaac T. Goodman and J.M. Kelly Executors and Witnessed by B.L. Kelly and C.A. Dodd.

The Court having duly considered the matter and being fully advised in the premises, orders, and it is hereby ordered that Isaac T. Goodman and J.M. Kelly Executors of the Last Will and Testament of

Hethcote Chilcote decd, pay to

[pg. 4]

Mrs. Maria J. Chilcote widow of Hethcote Chilcote decd the sum of \$1644.40 as stipulated in said agreement, taking proper receipt therefor.

Done in open court this 15<sup>th</sup> day of March 1901.

A.B. Moore  
Probate Judge

**[063 Agreement, 15 March 1901]**

Agreement

Filed March 15<sup>th</sup> 1901

A.B. Moore  
Probate Judge

[pg. 2]

-- Agreement. --

It is agreed by and between Mrs Maria J. Chilcote party of the first part and Denton Chilcote Lewis Chilcote Wilbert Chilcote, Mrs Martha Ulrey, Mrs Viola Goodman, Mrs Matilda Kelly, , by Isaac T. Goodman and J.M. Kelly, Executors of the last will and testament of Hethcote Chilcote deceased late of Coffey County Kansas.

Witnesseth:- That whereas, the said Hethcote Chilcote died leaving a last will and that said will pr[o]vided the interest on \$1000 to be paid annually to his widow so long as she remained such, and the said widow who is party of the first part, refused to accept under the said will, and has commenced suit in the district court of Coffey County to recover the amount she claims due her,

It is therefore agreed by the party of the first part and the said executors herein, that, the said Maria J. Chilcote shall have said action in the said district court dismissed, she to pay all the costs accrued or may accrue in said action, and her council, and all and every expense occasioned by the commencement of this action in said court. And execute deed to any or all of the land belonging to said estate, and relinquish all her right to further participate in the distribution of the property of said estate, and in consideration of the agreements and covenants as above set forth the said executors bind themselves to give and pay unto the said party of the first part the sum of \$1644.40 as follows to wit: \$343.30 to be paid in advance the receipt of which is hereby acknowledged, and \$1301.10 as soon as an order can be obtained from the Probate Judge authorizing the said executors to pay the above sum, which when so paid shall be in full of and for all the claim or claims or demands of what ever nature or kind against the property of said estate either personal or real. and the sum above refer[r]ed to shall be in full satisfaction of the \$1000. provided for said widow in the said last will above refer[r]ed to. and the interest thereon.

Witness our hands this 14<sup>th</sup> day of March 1901.

Witness, B.L. Kelly  
C.A. Dodd

Maria J. Chilcote, widow  
Isaac T. Goodman        )  
J.M. Kelly                 ) Ex's

**[064    Receipt and Release, 16 March 1901]**

#2  
Maria J. Chilcote  
\$1644.40  
Mch. 16. 1901

[pg. 2]

-(RECEIPT.- and Release.--)

--For Value received in the sum of \$1644.40- (sixteen hundred forty four, and 40/100 dollars), the receipt of which is hereby acknowledged, is in full of and for all my claim or claims of what nature or kind that I may have or has had heretofore against the estate of my deceased husband Hethcote Chilcote, either against his personal property or real estate described as follows to wit:- The east half of the south west quarter of section twenty five (25), township nineteen (19), range sixteen (16), in Coffey County in the state of Kansas, and the south east quarter of the north west quarter of section thirty one (31) township nineteen (19), range seventeen (17), in said county and state. It is understood that this sum of \$1644.40 is in full settlement of the amount agreed to be paid to me by the executors of the said estate, which agreement is now on file in the office of the Probate Judge in Coffey County and state of Kansas. and also is to cover in full the sum or sums that was provided for me by the last will and testament of the said Hethcote Chilcote deceased late of Coffey County Kansas, and this shall be my acceptance under said will,

Witness  
Chas. A. Dodd  
H.L. Cooper

Duplicate

Maria J. Chilcote

No. 2

### **Appendix C. Mortgage Records Between Hethcote Chilcote and Maria J. Dodd Chilcote**

Although they may not be relevant to the civil suit filed by the Widow Chilcote against the remaining named heirs and executors of her late husband, two interesting records were found at the Coffey County Register of Deeds. These were discovered incidentally in the course of identifying and locating real estate bought and sold by Hethcote Chilcote in Kansas.

On October 1, 1888, about a month before their first wedding anniversary, Hethcote loaned Maria, his wife, \$350. This loan was secured by a mortgage recorded at Volume 27: page 443. The collateral was a mortgage deed to land in Coffey County, identified as the east half of the northeast quarter of Section 31, Township 19, Range 16 East of the 6<sup>th</sup> Principal Meridian, containing 80 acres. For reference, the 80 acres securing this mortgage lie in the southeast corner of Key West Township, not Rock Creek Township. Maria appears to have owned the whole quarter-section, or 160 acres, near the village of Hall's Summit about 4 miles west of the 80-acre parcel in Section 25 that Hethcote owned at the time of his death. This 1888 mortgage was due payable in 3 years at 12 percent interest per annum. The record shows that the note was paid in full and released 3 years later on October 10, 1891.

On September 1, 1894, Hethcote again loaned money to Maria, his wife. This time the principal amount was \$500. The repayment was secured by a mortgage deed to the same 80-acre parcel in Range 16 of Key West Township that was cited in the 1888 mortgage. The 1894 mortgage indicated that M.J. Chilcote and C.A. Dodd were to deliver a promissory note due in 5 years drawing 10 percent interest payable annually. The note was signed August 3, 1894. The loan was repaid in full satisfaction in 4 years, on August 30, 1898, the receipt of which was duly recorded on September 16, 1898.

## Appendix D. Name Index

Last Name	First/Middle Name	Notes, Comments, Variant Spellings
Chilcote	Denton	
Chilcote	Hethcote	Spelled "Hethcoat" in the prenuptial agreement 11/12/1887, which was inscribed by Hutchison [?].
Chilcote	Lewis	
Chilcote	Maria J.	Previous surnames Dodd and Bethel [?]
Chilcote	Wilbert	Wilber
Connal	E.N.	Attorney
Converse	Chas. N.	
Cooper	H.L.	Attorney
Corwin	Nancy	
Dodd	Chas. A.	
Dodd	Maria J.	This was her married name before she married Hethcote. Unsure of her maiden name, possibly Bethel or Bethell.
Donnell	H.P.	
Doty	E.W.	
Emerick/Emmerich	Adam	
Ganse	H.E.	Attorney
Goodman	Isaac T.	
Goodman	Viola	
Green	W.B.	Sheriff
Hendrix	Susan M.	Also: Hendricks; prior married name "Doty."
Hutchnison	A.B.	Also: Hutchison; witness to prenuptial agreement
Kelly	B.L.	
Kelly	J.M.	
Kelly	Matilda	
Lindsay	Davis W.	Lindsay [?]
Martin	John W.	Attorney, Topeka
Moore	A.B.	Probate Judge after 1/1/1901?
O'Neil	C.	
Palen	W.M.	County Clerk
Randolph	H.A.	Also: J.T. [?]; Judge
Redmond	James	
Reed	A.P.	
Senior	J.L.	Witness to prenuptial agreement; first mayor of Waverly
Ulrey	Martha	
Ulrey	Silas	
VanNess	E.G.	
Vermillion	W.H.	Probate Judge until 12/31/1900?
Wade	E.H.	Clerk of District Court
Webster	Dennis	Judge