

stranger, an alien to his blood, introduced, recognized and educated as his own legitimate offspring." And in this case the submission of the question of fraud to the jury was held to have been proper. The child was born seven months after the marriage.

In *Scroggins v. Scroggins*, 3 Dev. (N. C.), 535, the child was born five months after the marriage, and the husband would not swear that he believed her chaste at the time of the marriage. Ruffin, J., said: "Concealment is not a fraud in such a case—disclosure is not looked for—active misrepresentations and studied and effectual contrivances to deceive are at least to be required, to give it that character; and the other party must appear not to have been voluntarily blind, but to have been the victim of a deception which would have beguiled a person of ordinary prudence. I know not how far the principle contended for would extend. If it embrace a case of pregnancy, it will next claim that of incontinence; it will be said the husband was well acquainted with the female and never suspected her, and has been deceived; then, that he was a stranger to her, smitten at first sight, and drawn on the sudden into a marriage with a prostitute; that he was young and inexperienced, hurried on by impetuous passion, or that he was in his dotage, and advantage taken of the lusts of his imagination, which were stronger than his understanding. From uncleanness it may descend to the minor faults of temper, idleness, sluttishness, extravagance, coldness, or even to fortune inadequate to representations, or perhaps expectations. There is in general no safe rule but this: that persons who marry agree to take each other as they are. \* \* \* He who marries a wanton, knowing her true character, submits himself to the lowest degradation, and imposes on himself. No fraud can be said to be practiced on him by mere silence and concealment of other observations. \* \* \* His attention must have been attracted to the person of the woman he was about marrying, and the long intimacy and courtship which he mentions must have enabled him to detect her situation. Why did he marry her? It may be possible that he was deceived, and not by his own negligence, at that period. But it is impossible that any art or device could have long prevented him from knowing the truth, that is, as far as this, that she was pregnant. If not by

him, why did he live with her?" This was followed in *Long v. Long*, 77 N. C. 304; S. C., 24 Am. Rep. 449.

In *Reynolds v. Reynolds*, 3 Allen, 605, the wife was delivered five months after marriage; and the husband was 17, the wife 30 years old. The marriage was set aside. Bigelow, C. J., said: "The material distinction between such a case and a misrepresentation as to the previous chastity of a woman is obvious and palpable. The latter relates only to her character and conduct prior to the contract, while the former touches her actual present condition and her fitness to execute the marriage contract and take on herself the duties of a chaste and faithful wife. It is not going too far to say, that a woman who has not only submitted to the embraces of another man, but who also bears in her womb the fruit of such illicit intercourse, has during the period of her gestation incapacitated herself from making and executing a valid contract of marriage with a man who takes her as his wife in ignorance of her condition and on the faith of representations that she is chaste and virtuous. In such a case, the concealment and false statement go directly to the essentials of the marriage contract, and operate as a fraud of the gravest character on him with whom she enters into that relation." The court lay stress on the difficulty of ascertaining the fact before marriage by personal intercourse or inquiry, or after marriage, "where, as in the case at bar, the husband was immature and inexperienced." The court also expressly conceded the doctrine of continuance of cohabitation, after good reason to know the fact, and except the case where the pregnancy was known beforehand and the husband was deceived into the belief that he was the father. (The latter state of facts existed in *Foss v. Foss*, 12 Allen, 26, and a divorce was denied; and much to the same effect is *Hoffman v. Hoffman*, 30 Penn. St. 417.) *Reynolds v. Reynolds* was followed in *Donovan v. Donovan*, 9 Allen, 140, where it was also held that evidence of express representations of chastity was unnecessary.

In *Baker v. Baker*, 13 Cal. 87, the child was born between four and five months after the marriage. The divorce was granted. The court said: "We do not attach much importance to the suggestion that the plaintiff must have discovered the situation of the defendant