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Domestic Relations--No Revival of Alimony Following an Annulled Remarriage--Glass v. Glass

Larry W. Beucke

demands of the new subdivision, but that burden is necessary if the costs of providing land for parks are to be distributed fairly.

DOUGLAS Y. CURRAN

DOMESTIC RELATIONS—NO REVIVAL OF ALIMONY FOLLOWING AN ANNULLED "REMARRIAGE"

Glass v. Glass[1]

Sandra Glass was awarded $183 per month alimony when she obtained a divorce from her first husband, Max. Sandra subsequently married a man named Wedding. Upon learning of Sandra's remarriage, Max discontinued alimony payments in accordance with Missouri statute.[2] Sandra later obtained an annulment of her remarriage to Wedding based upon Wedding's fraudulent concealment of his alcoholism. She requested that Max resume alimony payments and, upon his refusal, had his wages garnished. This prompted a suit by Max to annul and enjoin enforcement of the alimony judgment in favor of Sandra. Max alleged that her marriage to Wedding terminated his obligation to pay alimony under section 452.075, RSMo 1969. The circuit court denied Max's petition. The Kansas City District of the Missouri Court of Appeals reversed, holding that the statute does not require a *valid* remarriage to terminate alimony; the remarriage ceremony was sufficient.

Statutes in many states including Missouri provide that the remarriage of a supported spouse terminates the supporting spouse's obligation to pay alimony. Whether the annulment of the supported spouse's remarriage revives the supporting spouse's obligation to pay alimony is a question which has been frequently litigated in other jurisdictions with a wide variety of results. Courts confronted with the issue have ranged from holding that the annulment of a remarriage automatically results in a revival of alimony payments[3] to the adoption of a position that the

1. 546 S.W.2d 738 (Mo. App., D.K.C. 1977).

2. § 452.075, RSMo 1969 provides: "[T]he remarriage of the former wife shall relieve the former husband from further payment of alimony to the former wife from the date of the remarriage without the necessity of further court action . . . ."

3. Sutton v. Leib, 199 F.2d 163 (7th Cir. 1952); Reese v. Reese, 193 So. 2d 656 (Fla. Ct. App. 1967); Minder v. Minder, 83 N.J. Super. 159, 199 A.2d 69 (1964). *See also* Annot., 45 A.L.R.3d 1033 (1972).

remarriage ceremony alone is sufficient to terminate the obligation of the supporting spouse and that a subsequent annulment has no effect.[4] Some jurisdictions have adopted a middle position: remarriage, whether valid or not, is one factor to be taken into account in determining if there has been a sufficient change in circumstances to warrant a modification of the original decree.[5]

In earlier cases courts tended to handle the problem mechanically, basing their decisions on whether the remarriage was void or voidable.[6] A void remarriage was considered not to have been a marriage at all, and the alimony obligation of the supporting spouse was revived following the annulment.[7] On the other hand, there was no revival of alimony upon the annulment of a voidable marriage,[8] because such a marriage was considered valid while it lasted. This mechanical test sometimes was qualified by the relation back doctrine, a legal fiction used to revive the support obligation, even when the remarriage was merely voidable,[9] by relating the invalidity back in time to the date of the remarriage. Courts applied the relation back concept to those situations where an equitable result would be obtained.[10] The current trend

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4. MacPherson v. MacPherson, 496 F.2d 258 (6th Cir. 1974); Torgan v. Torgan, 159 Colo. 93, 410 P.2d 167 (1966); Beebe v. Beebe, 227 Ga. 248, 179 S.E.2d 758 (1971); Keeney v. Keeney, 211 La. 585, 30 So. 2d 549 (1947); Surabian v. Surabian, 285 N.E.2d 909 (Mass. 1972); Richards v. Richards, 139 N.J. Super. 207, 353 A.2d 141 (1976); Chavez v. Chavez, 82 N.M. 624, 485 P.2d 735 (1971).

5. DeWall v. Rhoderick, 258 Iowa 433, 138 N.W.2d 124 (1965); Robbins v. Robbins, 343 Mass. 247, 178 N.E.2d 281 (1961); Boiteau v. Boiteau, 227 Minn. 26, 33 N.W.2d 703 (1948); Cecil v. Cecil, 11 Utah 2d 155, 356 P.2d 279 (1960). *Cf.* Ballew v. Ballew, 187 Neb. 397, 191 N.W.2d 462 (1971) (remarriage establishes a prima facie case requiring the court to terminate alimony absent proof of extraordinary circumstances).

6. Reese v. Reese, 19e So. 2d 656 (Fla. Ct. App. 1967); Johnson County Nat'l Bank & Trust Co. v. Bach, 189 Kan. 291, 369 P.2d 231 (1962); Minder v. Minder, 83 N.J. Super. 159, 199 A.2d 69 (1964).

7. Sutton v. Leib, 199 F.2d 163 (7th Cir. 1952); Reese v. Reese, 193 So. 2d 656 (Fla. Ct. App. 1967); Minder v. Minder, 83 N.J. Super. 159, 199 A.2d 69 (1964).

8. Sefton v. Sefton, 45 Cal. 2d 872, 291 P.2d 439 (1955); Beckett v. Beckett, 272 Cal. App. 2d 70, 77 Cal. Rptr. 134 (1969); Torgan v. Torgan, 159 Colo. 93, 410 P.2d 167 (1966); Evans v. Evans, 212 So. 2d 107 (Fla. Ct. App. 1968); Dodd v. Dodd, 210 Kan. 50, 499 P.2d 518 (1972); Gerrig v. Sneirson, 344 Mass. 518, 183 N.E.2d 131 (1962); Bridges v. Bridges, 217 So. 2d 281 (Miss. 1968); Flaxman v. Flaxman, 57 N.J. 458, 273 A.2d 567 (1971); Chavez v. Chavez, 82 N.M. 624, 485 P.2d 735 (1971).

9. Peters v. Peters, 214 N.W.2d 151 (Iowa 1974); Sleicher v. Sleicher, 251 N.Y. 366, 167 N.E. 501 (1929); Butler v. Butler, 204 App. Div. 602, 198 N.Y.S. 391, *appeal dismissed,* 236 N.Y. 642 (1923).

10. Sefton v. Sefton, 45 Cal. 2d 872, 291 P.2d 439 (1955); Flaxman v. Flaxman, 57 N.J. 458, 273 A.2d 567 (1971); Sleicher v. Sleicher, 251 N.Y. 366, 167 N.E. 501 (1929).

seems to be moving away from use of this mechanical void-voidable distinction; some courts have explicitly discarded it as irrelevant.[11]

More recently, statutory law has been an important factor in the decisions in this area. In jurisdictions without a statute terminating alimony upon remarriage,[12] if the parties fail to provide in the decree for the termination of the support obligation upon remarriage, then reference must be made to the statutory provision permitting modification of support. These modification statutes normally provide that the court may consider all relevant circumstances to determine whether the remarriage has produced a sufficient change to warrant modification of the original decree.[13] These statutes allow a more flexible, although less certain, approach to the issue whether the support obligation should be revived after annulment of the remarriage.

In states with a statute terminating alimony upon the remarriage of the supported spouse (or where the divorce decree contains such a provision) courts are apt to confront the revival upon annulment issue by seeking out the proper meaning of "remarriage."[14] If the term is incorporated into the decree, courts have looked to the intent of the parties and of the court granting the decree to interpret "remarriage."[15] "[T]he terms of the enactment itself and the reasons of the lawmaker" are important if a statute is controlling.[16] If it is determined that "remarriage" refers to a *valid* remarriage, an annulment would revive the alimony obligation of the supporting spouse;[17] if a ceremony alone is sufficient to constitute a "remarriage," then the obligation is not revived by the annulment of that marriage.[18] Rarely, however, has a court interpreted "remarriage" as referring to a *valid* remarriage when a statute is involved.[19]

Missouri has such a statute, section 452.075, RSMo 1959. Although the court in *Glass* approached the revival issue by interpreting the statutory term "remarriage,"[20] the basis of the decision was really the

11. 546 S.W.2d at 740. *See also* Beebe v. Beebe, 227 Ga. 248, 179 S.E.2d 758 (1971); Gaines v. Jacobsen, 308 N.Y. 218, 124 N.E.2d 290 (1954).

12. *E.g.*, § 452.075, RSMo 1969.

13. *See, e.g.*, MINN. STAT. ANN. § 518.64 (West 1966); § 452.370, RSMo 1969.

14. 546 S.W.2d at 740.

15. Peters v. Peters, 214 N.W.2d 151 (Iowa 1974).

16. 546 S.W.2d at 740.

17. Peters v. Peters, 214 N.W.2d 151 (Iowa 1974); DeWall v. Rhoderick, 258 Iowa 433, 138 N.W.2d 124 (1965); Johnson County Nat'l Bank & Trust Co. v. Bach, 189 Kan. 291, 369 P.2d 231 (1962); Minder v. Minder, 83 N.J. Super. 159, 199 A.2d 69 (1964).

18. Sefton v. Sefton, 45 Cal. 2d 872, 291 P.2d 439 (1955); Beckett v. Beckett, 272 Cal. App. 2d 70, 77 Cal. Rptr. 134 (1969); Berkely v. Berkely, 269 Cal. App. 2d 872, 75 Cal. Rptr. 294 (1969); Husted v. Husted, 222 Cal. App. 2d 50, 35 Cal. Rptr. 698 (1963); Keeney v. Keeney, 211 La. 585, 30 So. 2d 549 (1947); Sharpe v. Sharpe, 57 N.J. 468, 273 A.2d 572 (1971).

19. Minder v. Minder, 83 N.J. Super. 159, 199 A.2d 69 (1964).

20. 546 S.W.2d at 740.

public policy seen by the court reflected in section 452.075.[21] The Missouri court agreed with the California Supreme Court in *Sefton v. Sefton*[22] that three factors are important in the decision to deny revival of alimony following an annulment: the right of the first spouse to rely on the apparent marital status of his former partner, the lack of standing of the first spouse to challenge the invalidity of the "remarriage," and the feeling that of the two parties the spouse taking the initiative to remarry should bear the consequences.[23]

If revival of alimony were permitted following an annulled remarriage, the supporting spouse might never be sure of his financial status. Although released from his obligation to pay alimony at the time of the remarriage, this would be tentative only, subject to revival at any time in the future if the validity of the remarriage were challenged and overturned. The Missouri court felt that the normal needs of a person to plan for his future and family require that the supporting spouse be entitled to rely on the apparent marital status of his former partner without regard to its actual legality.[24]

The supporting spouse's lack of standing to determine the validity of his former spouse's remarriage prevents him from taking the initiative in settling the question of his continued support obligation. The supporting spouse remains vulnerable to the possibility that the supported spouse will attack the validity of the remarriage. Even then the supporting spouse is barred from participating in the proceedings. On the other hand, the formerly supported spouse not only has this option open, but alternative remedies also are available. The formerly supported spouse may sue for divorce as an alternative to annulment and thus be entitled to support from the partner of the second marriage.[25] The supported spouse also may have an available remedy through a suit against the second partner for loss of support from the supporting spouse. This may, for example, be based upon the fraud of the second partner which led to the annulment of the remarriage.[26] While the supporting spouse simply must wait for the outcome of the affair, the supported spouse has an opportunity to rectify this situation if he chooses to act.

The existence of a statute providing that a decree of annulment is conclusive only as against parties to the annulment proceeding[27] has been an important factor in cases denying the revival of a support obli-

21. *Id.* at 742.
22. 45 Cal. 2d 872, 291 P.2d 439 (1955).
23. 546 S.W.2d at 741.
24. *Id.* at 743.
25. MacPherson v. MacPherson, 496 F.2d 258 (6th Cir. 1974).
26. Flaxman v. Flaxman, 57 N.J. 458, 467, 273 A.2d 567, 572 (1971).
27. CAL. CIVIL CODE § 86 (West 1954) (current version at CAL. CIVIL CODE § 4451 (West 1970)).

gation.[28] The courts have reasoned that because the order nullifying the remarriage was not binding on the first spouse, he could not be held to the terms of that decree. The first spouse thus would be entitled to rely on the remarriage to claim that his obligation to make alimony payments had been extinguished.

Some states, possibly including Missouri, have statutes which allow a court to grant maintenance awards in annulment proceedings.[29] Such provisions have been a decisive factor in cases refusing to revive the support obligation on the theory that the formerly supported spouse can look to the second marriage partner for support.[30] The absence of such a statute also has been a factor considered by the courts,[31] although the Missouri court in *Glass* stated that the existence of such a statute would be a "separate expression of domestic policy"[32] which was not relevant to the court's decision on the revival issue. The New Jersey Supreme Court has taken the view that the existence of such a statute is not decisive, but the court's reasoning was influenced by the fact that the former spouse has an alternative remedy against the partner of the annulled remarriage: a suit for fraud to recover the loss of support sustained.[33]

It is possible that Missouri law authorizes the award of maintenance in an annulment proceeding. The Missouri Divorce Reform Act was based on The Uniform Marriage and Divorce Act. The comments of the Commissioners on Uniform State Laws indicate that an effort was made to limit the granting of annulments, referred to as declarations of invalidity, and to provide for a procedure permitting courts to make annulment decrees nonretroactive, because retroactive annulments often have deprived spouses of financial support and the marital status to qualify for certain benefits.[34] There are several references in the Mis-

28. Estate of Gosnell, 63 Cal. App. 2d 38, 146 P.2d 42 (1944); Price v. Price, 24 Cal. App. 2d 462, 75 P.2d 655 (1938); Linneman v. Linneman, 1 Ill. App. 2d 48, 116 N.E.2d 185 (1952).

29. N.Y. DOM. REL. LAW § 236 (McKinney 1977); N.J. STAT. ANN. § 2A:34-23 (West Supp. 1977).

30. MacPherson v. MacPherson, 496 F.2d 258 (6th Cir. 1974); Gaines v. Jacobsen, 308 N.Y. 218, 124 N.E.2d 290 (1954). *Compare Gaines with* Denberg v. Frischman, 24 App. Div. 2d 100, 264 N.Y.S.2d 114 (1965), *aff'd,* 17 N.Y.2d 778, 270 N.Y.S.2d 627, 217 N.E.2d 675, *cert. denied,* 385 U.S. 884 (1966) *and* Herscher v. Herscher, 51 Misc. 2d 921, 274 N.Y.S.2d 295 (1966). In both *Denberg* and *Herscher* the courts concluded that the decision in *Gaines* of necessity included the premise that it was immaterial that a statute existed granting alimony in an annulment proceeding. There was a strong dissent in *Denberg.*

31. DeWall v. Rhoderick, 258 Iowa 433, 138 N.W.2d 124 (1965); Robbins v. Robbins, 343 Mass. 247, 178 N.E.2d 281 (1961); Minder v. Minder, 83 N.J. Super. 159, 199 A.2d 69 (1964).

32. 546 S.W.2d at 743.

33. Flaxman v. Flaxman, 57 N.J. 458, 467, 273 A.2d 567, 572 (1971).

34. HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS 177 (1970). Such affected benefits include Social Security and Workman's Compensation, wrongful death recoveries, and the financial benefit of property passing as part of the deceased spouse's estate.

souri statute to "proceedings for nonretroactive invalidity."[35] Section 208(e) of the Uniform Act[36] authorizes the court to treat an annulment essentially as a substitute for divorce. The decree can be made nonretroactive and the maintenance and property division sections of the Act would apply just as if a dissolution were being obtained.[37] This section permitting declarations of invalidity was not adopted in Missouri. It therefore could be argued that the retention of the term "nonretroactive invalidity" in the maintenance, property division, and child support sections of the Missouri Act was simply a drafting oversight. It is interesting to note, however, that the maintenance, property division, and child support sections of the Uniform Act do not specifically mention declarations of invalidity;[38] the sections on maintenance, property division, and child support in the Missouri Act specifically include a "proceeding for nonretroactive invalidity" as an instance in which these types of relief may be awarded.[39] In light of this language and the evident intention of the draftsmen of the Uniform Act to treat an annulment as a divorce, an argument can be made that maintenance is an available remedy in an annulment action in Missouri.[40] If so, it would follow that the supporting spouse should be relieved of his alimony obligation upon the remarriage of the supported spouse, and support should be sought from the partner in the annulled remarriage.

The *Glass* court pointed out that by taking the initiative to remarry, the supported spouse chose to look exclusively to the second marital partner for future support.[41] Section 452.075 terminates alimony at this point; the supporting spouse should have no duty to support the spouse of another. The *Glass* court saw no justification for a change in the policy of the statute due to a subsequent annulment.[42] The supported spouse simply may have made a mistake, but the court did not acknowledge a need for such special protection that the burden of this mistake

35. §§ 452.300, .330.1, .335.1, .340, RSMo (Supp. 1975).

36. HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS 188 (1970).

37. *Id.* at 190.

38. 9 UNIFORM LAWS ANNOTATED 490, 493, 494 (1973).

39. §§ 452.330.1, .335.1, .340, RSMo (Supp. 1975).

40. The legislative history of the Missouri Divorce Reform Act sheds little light on the problem. The Missouri Bar Family Law Committee minutes of January 23, 1971 indicate that the Committee desired that § 308(a) of the Uniform Act be amended to provide for maintenance "to a party who has in good faith entered into a marriage subsequently declared invalid under § 208." This was contrary to the Report of the Uniform Marriage and Divorce Act Subcommittee on § 308(a). Although this change appeared in Senate Bill 11 of the 76th General Assembly, it was deleted (as was § 208) from the final version of § 452.335. The reference to "nonretroactive invalidity" was added to Senate Bill 11 and retained in § 452.335.

41. 546 S.W.2d at 743.

42. *Id.*

should be shifted onto the first spouse. Indeed, if revival of alimony were granted, the supporting spouse might be forced to pay alimony for the period that his former spouse was remarried, thus entitling that spouse to two sources of support in the interim between remarriage and annulment.[43]

The arguments in favor of the supported spouse bearing the burden of the consequences of an invalidated remarriage are sound; the *Glass* court perhaps was correct in its decision that the supported spouse was both the most culpable and in the best position to remedy the situation. In most cases, however, the supported spouse will be the non-wage-earning spouse, traditionally the wife. The *Glass* court's dismissal of the wife's contention that a strong public policy exists to provide for the support of a divorced wife[44] was perhaps too hasty. Missouri courts historically have viewed alimony in terms of a damage award, as a means of compensating the spouse for the loss of support by termination of the marriage.[45] Concern for the support of the divorced wife has been evident in awards of alimony by the courts.[46] Although this damages theory of alimony was discarded by the Divorce Reform Act,[47] evidence still exists of a continuing strong concern for the provision of support for the divorced wife.

The requirement of proof of fault and the availability of defenses that might preclude either party from obtaining a divorce provided an important bargaining tool for the wife in divorce proceedings under the old Missouri law.[48] The wife could effectively delay or even prevent a divorce until an equitable provision for her support was made. The reform act eliminated the wife's leverage with its no-fault concepts. Indeed, much of the opposition to the new act arose out of fear that the innocent and deserving spouse would be left without adequate financial support following a divorce.[49] The new law recognized the wife's loss of bargaining power and provided an alternative avenue for her support

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43. Sutton v. Leib, 199 F.2d 163 (7th Cir. 1952); Cecil v. Cecil, 11 Utah 2d 155, 356 P.2d 279 (1960). This result can be ameliorated by limiting the application of the relation back doctrine to cover only the time after the annulment. Sleicher v. Sleicher, 251 N.Y. 366, 167 N.E. 501 (1929).

44. 546 S.W.2d at 743.

45. Nelson v. Nelson, 282 Mo. 412, 221 S.W. 1066 (En Banc 1920); Ruhland, *Maintenance and Support,* 29 J. Mo. B. 516 (1973).

46. Smith v. Smith, 300 S.W.2d 275 (Spr. Mo. App. 1957); Shilkett v. Shilkett, 285 S.W.2d 67 (Spr. Mo. App. 1955); Phillips v. Phillips, 219 S.W.2d 249 (K.C. Mo. App. 1949); Schulze v. Schulze, 212 Mo. App. 75, 251 S.W. 117 (St. L. Ct. App. 1923).

47. Ch. 452, RSMo 1969.

48. *See* Kulzer, *Law and the Housewife: Property, Divorce, and Death,* 28 FLA. L.R. 1, 6 (1975).

49. Krauskopf, *Maintenance: Theory and Negotiation,* 33 J. Mo. B. 24, 28 (1977).

through the property division[50] and maintenance[51] provisions, which give weight to the traditional wife's role as homemaker.[52] If division of the marital property does not produce an amount sufficient for the wife's support, the new act provides that she may receive an award of maintenance based in part on her established standard of living during the marriage.[53]

The court in *Glass* recognized the partnership concept underlying the new divorce reform act and noted that the act was designed to make the spouses equally responsible in their domestic relations.[54] Equality in responsibility, however, does not mean equality in reality. The traditional role of women in society has been that of serving the family. As a result, the typical wife has had no opportunity to develop earning power. The common case is that the man is able to pay and the woman is in need.[55] So long as societal roles continue in this respect it will be necessary for the courts to make provision for the divorced wife. If not, the family and society will have to bear the consequences.[56]

The Supreme Court of Iowa recently reversed a lower court decision for failure to award alimony to a wife in a divorce proceeding.[57] The lower court had concluded that, due to the changing philosophy in alimony awards and the recent social and economic emancipation of women in society, an award was not justified for a divorced wife clearly able to provide for herself.[58] The supreme court rejected this reasoning and stated:

> There is no evidence before us, nor can we judicially note, that women have yet achieved social and economic equality with men. It may be when that nirvana is attained the role of alimony in the ordinary dissolution case, for either spouse, will be insignificant. In the meantime, we are not persuaded a 40-year-old divorced woman with three minor children in the home has been so "liberated" it necessarily follows consideration of alimony is impermissible.[59]

The Oregon Supreme Court has gone a step further by refusing to permit a dissolution decree to provide for the automatic termination of spouse support payments unless based on a valid property settlement or

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50. § 452.330, RSMo 1969.
51. § 452.335, RSMo 1969.
52. § 452.330.1(1), RSMo 1969.
53. § 452.335.2(3), RSMo 1969.
54. 546 S.W.2d at 743.
55. Krauskopf, *Applying the Maintenance Statute,* 33 J. Mo. B. 93, 104 (1977). *See also* Grove v. Grove, 571 P.2d 477 (Ore. 1977), *In re* Marriage of Beeh, 214 N.W.2d 170, 174 (Iowa 1974).
56. Krauskopf, *supra* note 55, at 104.
57. *In re* Marriage of Beeh, 214 N.W.2d 170 (Iowa 1974).
58. *Id.* at 173.
59. *Id.* at 174.

prenuptial contract.[60] The court based its decision on the considerations that women entering a marriage often are led to believe they need develop only domestic skills and that automatic termination would preclude remarriage to persons unable to provide support for them.[61]

The Utah Supreme Court has guaranteed support for the divorced wife in a situation such as the one in *Glass* by declaring a public policy which insured the right to support.[62] The divorced wife's right to support also was protected by the New Jersey Supreme Court[63] and the United States Court of Appeals for the Seventh Circuit[64] by allowing revival of alimony following an annulled second marriage. Awards of maintenance under the new act by lower Missouri courts[65] as well as by courts in other jurisdictions with similar statutes[66] reinforce the fact that courts recognize the need for continuing support for the divorced spouse. In light of these strong public policy arguments, it seems unfair that a spouse who innocently contracts a marriage that is later annulled should have to bear the consequences when the need for her support is revived.

Although the decision in *Glass* rested its policy considerations on the philosophy put forth in the new dissolution law, it seems to run contrary to the basic objectives of the Act. The Commissioners on

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60. Grove v. Grove, 571 P.2d 477 (Ore. 1977).

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> Public policy does not require that a woman whose first marriage has been dissolved be free to remarry only if her new husband is able to support her ....
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> We will not ignore the fact that, at least until recent years, young women entering marriage were led to believe—if not expressly by their husbands-to-be, certainly implicitly by the entire culture in which they had come to maturity—that they need not develop any special skills or abilities beyond those necessary to homemaking and child care, because their husbands, if they married would provide their financial support and security. We cannot hold that women who relied on that assurance, regardless of whether they sacrificed any specific career plans of their own when they married, must as a matter of principle be limited to the standard of living they can provide for themselves if "employed at a job commensurate with [their] skills and abilities." The marriage itself may well have prevented the development of those skills and abilities.

Id. at 485-86.

62. Cecil v. Cecil, 11 Utah 2d 155, 158, 356 P.2d 279, 281 (1960).

63. Minder v. Minder, 83 N.J. Super. 159, 199 A.2d 69 (1964).

64. Sutton v. Leib, 199 F.2d 163 (7th Cir. 1952).

65. Butcher v. Butcher, 544 S.W.2d 249 (Mo. App., D.K.C. 1976); Cain v. Cain, 536 S.W.2d 866 (Mo. App., D. Spr. 1976); *In re* Marriage of Powers, 527 S.W.2d 949 (Mo. App., D. St. L. 1975).

66. *In re* Marriage of Sharp, 539 P.2d 1306 (Colo. Ct. App. 1975); *In re* Marriage of Beeh, 214 N.W.2d 170 (Iowa 1974); In the Matter of Cupp, 539 P.2d 1120 (Ore. Ct. App. 1975).

Uniform State Laws stated that one of the underlying purposes of the Uniform Marriage and Divorce Act, from which Missouri adopted its law, was "to mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of marriage. . . ."[67] The real objective should be protection for both parties involved.[68] The decision in *Glass* protects the supporting spouse, the husband, but accords too little weight to the policies behind ensuring support for the supported spouse, the wife, and consequently leaves her to fend for herself.

It has been suggested that justice best could be served by giving the trial judge discretion to revive the support obligation.[69] Evidence of detrimental reliance by the supporting spouse would be balanced against evidence of need and the absence of collusion in the annulment proceeding. Although this method would avoid some of the inequities to the supported spouse present in the *Glass* decision, its uncertainty and varied application would promote more confusion in an already troubled area.

Perhaps the best remedy available is a statutory provision comparable to those in effect in New York and New Jersey which permit a court to award alimony or maintenance in an annulment action.[70] This would free the supporting spouse of his obligation as of the date of the "remarriage," whether it is in reality valid or not, yet provide a means of support for a needy spouse. The amount of support available from the partner of the annulled "remarriage" would be limited because the duration of the marriage is considered by the courts when making maintenance awards,[71] but at least an available source would exist. An argument can be made that the current Missouri law provides this remedy. Until this question is resolved by the courts or the legislature, the best solution to the problem in *Glass* rests in the hands of the parties themselves—a definitive declaration in the original dissolution decree on the course to be taken should a subsequent remarriage be annulled.

LARRY W. BEUCKE

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67. HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS 180 (1970).

68. 29 So. CAL. L. REV. 367, 368 (1955).

69. Sefton v. Sefton, 45 Cal. 2d 872, 878, 291 P.2d 439, 443 (1955).

70. N.Y. DOM. REL. LAW § 236 (McKinney Supp. 1977); N.J. STAT. ANN. § 2A:34-23 (West 1952).

71. § 452.335.2(4) RSMo 1969.