

queathed to the wife of the bankrupt for life; and it was claimed by the assignees of her husband; the court made a reference to receive proposals from the husband for a settlement on his wife, and he proposed that the whole should be settled on her, which was ordered accordingly. It was said that there was a want of form in calling for proposals from the bankrupt husband; because he, of course, would propose that the whole should be given to his wife, rather than any part to his assignees, and that the assignees must have consented to the arrangement. (n) And it is sufficient that such consent of the husband be expressed in any clear and distinct form, either before or after the institution of the suit. As where the husband, upon whose consent the quantum depended, had, in a letter to a third person, expressed a desire that the whole might be settled, it was held to be an honest, conscientious, and absolute appropriation of the whole fortune, and a settlement of the whole was decreed accordingly. (o)

From all which it appears to be well established that the husband, or his assignees, who stand in his place, may consent that the whole fortune shall be settled on the wife, and that if such consent be freely and deliberately given in any form, the court will hold the husband's interest bound by it, upon the ground that such agreement, without at all conflicting with the sacred principles and policy of the marriage contract, comes in aid of the equity which gives her a provision out of her own fortune, when she is not maintained by her husband; and also in aid of 'the wife's equity,' which are now admitted, on all hands, to be wholesome and useful modifications of the rigid rules of the common law, and because such consent merely reduces to certainty that, as to which the court had the power to exercise a just and liberal discretion.

In this case the agreement of the 29th of August, 1823, between *Lewis Helms* and *Anna* his wife, so far as it declares the marriage contract to be dissolved, must be regarded as a nullity. But it is now well settled, that agreements of this description may be entirely void as to part, and valid as to the rest. If a husband and wife enter into articles of agreement to separate, and that she shall have a separate maintenance, the agreement to live apart is void; but the stipulation to pay a separate maintenance is legal, and may be enforced; and in many situations, husband and wife may treat together, provided they treat fairly. Here the subject of

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(n) *Beresford v. Hobson*, 1 Mad. Rep. 363.—(o) *Grosvenor v. Lane*, 2 Atk. 180.