

CHANCERY EXECUTION

BILL OF COSTS

No. 9876

John T. Muller and Rose Muller vs. *John T. Muller and Rose Muller*

Plaintiff

Defendant

FEES OF REGISTER		Dollars	Cents	Brought Forward	
Filing each bill and other papers	\$ 10	1	20	For Receiving, keeping and paying out or distributing money, etc.; 1st \$1,000, 1%, all over \$1,000, and not over \$5,000, 3-4 of 1%; all over \$5,000 and not exceeding \$10,000, 1-2 of 1%, all over \$10,000 1-4 of 1%.	\$915
Issuing each subpoena	50	1	00	Receiving, keeping and paying out money paid into court, etc., 1-2 of 1% of amount received.	
Issuing each copy thereof	40	1	60	Each notice sent by mail to creditor	15
Entering each return thereof	15	3	20	Filing, receipting for and docketing each claim, etc.	25
For each order of publication	1 00			For all entries on subpoena docket, etc.	50
Issuing writ of injunction	1 50			For all entries on commission docket, etc.	50
For each copy thereof	50			Making final record, per 100 words	15
Entering each return thereof	15			Certified copy of decree	1 00
Issuing Writ of Attachment	1 00			Report of divorce to State Health Office (Acts 1915)	50
Entering each return thereof	15			Total Fees of Register	1915
Docketing each case	1 00	1	00	FEES OF SHERIFF	
Entering each appearance	25			Serving and returning subpoena on deft.	\$1 50
Issuing each decree pro confesso on per. ser.	1 00			Serving and returning subpoena for witness	65
Issuing each decree pro confesso on publica.	1 00			Levy and attachment	3 00
Each order appointing guardian	1 00			Entering and returning same	25
Any other order by Register	50			Selling property attached	75
Issuing commission to take testimony	50			Impaneling Jury	2 50
Receiving and filing	10			Executing writ of possession	1 50
Endorsing each package	10			Collecting execution for costs	65
Entering order submitting cause	50			Serving and returning sci. fa., each	65
Entering any other order of court	25			Serving and returning notice	65
Noting all testimony	50			Serving and returning writ of injunction	1 50
Abstract of cause, etc.	1 00			Serving and returning writ of exeat	1 50
Entering each decree	75			Taking and approving bonds, each	75
For every 100 words over 500	15			Collecting money on execution	2 50
Taking account, etc.	3 00			Making deed	1 00
Taking testimony, etc.	15			Serving and returning application, etc.	1 50
Each report, 500 words or less	2 50			Serving attachment, contempt of court	1 50
For every 100 words over 500	15			Total Fees of Sheriff	750
Amount claimed less than \$500, etc.	2 00			RECAPITULATION	
Issuing each subpoena	25			Register's Fees	1915
Witness certificate, each	25			Sheriff's Fees	750
Issuing execution, each	75			Commissioner's Fees	900
Entering each return	15			Solicitor's Fees	6400
Taking and approving bond, each	1 00			Witness Fees	
Making copy of bill, etc.	15			Guardian Ad Litem	
Each notice not otherwise provided for	50			Printer's Fees	
Each certificate or affidavit, with seal	50			Trial Tax	3 00
Each certificate or affidavit, no seal	25			Recording Decree in Probate Court	150
Hearing and passing on application, etc.	3 00			Total	7395
Each settlement with receiver, etc.	3 00				
Examining each voucher of Receiver, etc.	10				
Examining each answer, etc.	3 00				
Recording resignation, etc.	75				
Entering each certificate to Supreme Court	50				
Taking questions and answers, etc.	25				
For all other ser relating to such proceedings	1 00				
For services in proceeding to relieve minors, etc.. same fee as in similar cases.					
Commission on sales, etc.: 1st \$100, 2 per ct.; all over \$100 and not exceeding \$1,000, 1 1-2 per ct.; all over \$1,000, and not exceeding \$20,000, 1 per ct.; all over \$20,000, 1-4 of 1 per ct.					
Sub Total Carried Forward					

The State of Alabama,

No. 9876

Baldwin County.

Circuit Court, In Equity Spring Term, 1936

To Any Sheriff of the State of Alabama—GREETING:

You are hereby commanded, That of the goods and chattels, lands and tenements of

John Muller and Rose Muller Defendant

you cause to be made the sum of *Three thousand and 950* Dollars,

which *John T. Muller and Rose Muller* Plaintiff

recovered of *John T. Muller and Rose Muller* on the *13* day of *June* 193*6*

by the judgment of our Circuit Court, held for the county of Baldwin, besides the sum of

Three thousand and 950 Dollars,

costs of suit, and have the same to render to the said *John T. Muller and Rose Muller* and make return of this Writ and the execution thereof, according to law.

Interest from *193* to date of collection.

Witness my hand, this *25* day of *June* 193*6*

R. H. [Signature], Register.

No. _____

The State of Alabama,
Baldwin County.

Circuit Court, In Equity.

vs.

CHANCERY EXECUTION
Fi. Fa.

\$ _____

Total - - - \$ _____

Fee Book _____ Page _____

Execution Docket _____ Page _____

Complainant's Solicitor.

The State of Alabama,
Baldwin County.

ha _____ duly waived _____ right
to the exemption of personal property as to
the collection of the debt for which this execu-
tion is issued.

Register.

Received in office this _____
day of _____ 193 ____

Sheriff

Execution Docket _____ Page _____

MOORE PRINTING CO., BAY MINETTE, ALA.

The State of Alabama, }
Baldwin County.

By virtue of the within execution I have levied _____

JOHN F. MUELLER & CHRISTINE
MUELLER

COMPLAINANTS

VS.

JOHN MUELLER JR. & ROSE
MUELLER

RESPONDENTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

NO. 9876

In this case it is ordered that the decree rendered
herein on the 13th day of June, 1936, be, and the same
hereby is, suspended until the further orders of this
Court.

Dated the 11th day of July, 1936.

J. W. Star

Judge.

RECORDED

Duck

2-215

Order

Filed July 14 1936
Robert S. Smith, Payee

BEEBE & HALL

LAWYERS

BAY MINETTE, ALABAMA

W. C. BEEBE

H. M. HALL

J. P. BEEBE

To O'Byrne Jones, Commissioner.

Taking testimony of John Mueller, Jr., Rose Mueller, Eleanor
Mueller, Johnnie Mueller, Frank Schwartz, John Zollikofer,
and Joe Mestrinelli,

Original \$15.00

JOHN F. MUELLER and CHRISTINE
MUELLER,
Complainants,

VS.

JOHN MUELLER, JR. and ROSE
MUELLER,
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
IN EQUITY

NO. 9876.

And now come the Respondents and move the Court to grant
a rehearing or new trial in the above cause, and for grounds there-
of say:

FIRST:

That the decree of the Court rendered herein, on June
13th, 1936, is contrary to the law.

SECOND:

That the decree of the Court rendered herein, on June
13th, 1936, is contrary to evidence.

THIRD:

That the decree of the Court rendered herein, on June
13th, 1936, is contrary to law and evidence.

FOURTH:

That the decree rendered by the Court, on June 13th,
1936, is silent as to whether or not the Respondents shall have
the right to harvest the growing crop, which according to the evi-
dence in the case is now on the said property.

B. B. B. B. B.
Solicitors for the Respondents.

Duck
6-424
MOTION FOR NEW TRIAL *Met. 58*

JOHN F. MUELLER and
CHRISTINE MUELLER,

Complainants,

VS.

JOHN MUELLER, JR. and
ROSE MUELLER,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

IN EQUITY

NO. 9876.

Filed July 9, 1936
Robert S. Duck,
Reg.

JOHN F. MUELLER and
CHRISTINE MUELLER,

Complainants,

-vs-

JOHN MUELLER JR., and
ROSE MUELLER,

Respondents.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

This cause coming on to be heard is submitted on the Application for Rehearing as filed by the Respondents, and it appearing to the Court that there is now a growing crop on the lands involved in this suit, which said crop is owned by the Respondents, and on hearing the evidence as to the rental value of the lands which are herein involved and which are now in cultivation, the Court is of the opinion that the rental value thereof is Twenty-two & 50/100 Dollars (\$22.50), and the Court is of the further opinion that process should not now be issued for that portion of the land which is now in cultivation on the lands involved in this proceedings, provided the Respondents will either pay in to the Register of this Court the sum of Twenty-two & 50/100 Dollars (\$22.50) within the next fourteen days, or shall make a good and sufficient Bond with two sureties, to be approved by the Register, and payable to the Complainants, and conditioned to pay the aforesaid Twenty-two & 50/100 Dollars (\$22.50) to the Complainants on or before October 1st, 1936.

And it further appearing that the Respondents are now in the possession of the house on said lands, and that it will be about two weeks before they can secure a place to live in; IT IS THEREFORE ORDERED that process be held up for the possession of the dwelling house on the lands involved herein for fourteen days from the date of this Decree, at which time a Writ of Restitution is to issue in favor of the Complainants, said Writ directing the Sheriff of Baldwin County, Alabama, to put the said Respondents out of possession of the dwelling house and out houses on said lands, and to place the Complainants in possession of the same.

It is further ORDERED, ADJUDGED AND DECREED that a Writ

(page two)

of Restitution be issued on January 1st, 1937, directing the Sheriff of Baldwin County, Alabama, to put the Respondents out of possession of the lands involved in this suit, other than the dwelling house and out houses, and put the Complainants into possession of the same.

In the event that the Respondents fail to pay the rental value as hereinbefore set out within fourteen days from the date hereof, or fail to execute a good and sufficient Bond, with two sureties, as provided herein, within fourteen days from the date hereof, payable to the Complainants, and conditioned to pay the aforesaid Twenty-two & 50/100 Dollars (\$22.50) on or before October 1st, 1936, it is ^{then} ordered that a Writ of Restitution is to issue in favor of the Complainant directing the Sheriff of Baldwin County, Alabama, to put the said Respondents out of possession of said property, and to place Complainants in possession of the same.

It is further ordered that the Respondents are not to in any way damage the dwelling house, out houses, fences or other property involved in this suit during the time that they are in possession thereof.

Dated this 15th day of July, 1936.

J. W. Hare
Judge.

RECORDED

Suck
2.2/5

Filed July 15, 1936
Robert A. Suck,
Reg.

7/15/36

JOHN F. MUELLER and
CHRISTINE MUELLER,

Complainants,

-vs-

JOHN MUELLER JR., and
ROSE MUELLER,

Defendants.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

TO HON. F. W. HARE, JUDGE OF THE TWENTY-FIRST JUDICIAL CIRCUIT:-

Your Orators , John F. Mueller and Christine Mueller,
humbly complaining of the Defendants in a matter as will herein-
after appear, show unto your Honor as follows:-

FIRST:

That your Orators and the Defendants are resident
citizens of Baldwin County, Alabama, and are over the age of twen-
ty-one years.

SECOND:

Your Orators further show unto your Honor that on, to-
wit, the 7th day of January, 1935, they were the owners of the
Northwest Quarter of Northwest Quarter of Section 29, Township
7 South of Range 6 East, Baldwin County, Alabama; that said sub-
divisions contained approximately 40 acres of land; that on said
day and on the importunities of their son, John Mueller Jr., and
their daughter-in-law, Rose Mueller, with the understanding and
agreement on the part of the said John Mueller Jr., and Rose
Mueller, that they would take the best of care of your Orators,
and supply them with the necessities of life for the balance of
their respective lives, rendering to them the best of care in
sickness and in health, and on this agreement and for no other
consideration, your Orators agreed, and did convey, to the said
John Mueller Jr., and Rose Mueller, the West half of the Northwest
quarter of the Northwest quarter of Section 29, Township 7 South
of Range 6 East, said conveyance being recorded in Deed Book 53
N. S., pages 531-2, Probate Office of Baldwin County, Alabama, a
copy of which said Deed is hereto attached, marked Exhibit "A"

(page two)

and made a part of this Bill of Complaint.

THIRD:

Your Orators further show unto your Honor that on said day, for the same consideration, your Orators entered into the following agreement relative to the East half of the Northwest quarter of the Northwest quarter of Section 29, Township 7 South of Range 6 East:-

"State of Alabama

Baldwin County

This Contract made this 7th day of January 1933 between John F. Mueller and Christine Mueller, party of first part and John Mueller Jr. and Rose Mueller party of second part, Witnesseth:-

For value received from party of first part, Party of second part hereby a agrees and promisses to keep and take the best care of party of first part (John F. Mueller and Christine Mueller their parents) on their own place, during theier life time in sickness and in health.

Should it however happen, that either party should not be satisfied with this arrangement, then party of second part shall pay to party of first part the sum of One Hundred Fifty Dollars per year.

It is also agreed, that party of second part shall have the full benefit and use of the East half of the North West quarter of the North West quarter of Section Twenty Nine Township Seven, So. of Range Five East, during the life time of party of first part.

John F. Mueller

Christine Mueller

John Mueller Jr.

Rose Mueller";

said Agreement being recorded in Deed Book 56 N. S., page 98, Probate Records of Baldwin County, Alabama.

(Page two)

(page three)

Your Orators further show unto your Honor that the said John Mueller Jr., and his said wife, Rose Mueller, have failed and refused to carry out their said agreement relative to the support of your Orators, or to pay any rent for the use of said property or any part of the same; that after they executed the aforesaid agreements the said John Mueller Jr., and his wife, Rose Mueller, have refused to let your Orators eat at the family table and have forced them to go out into the smokehouse to eat, and have treated them with numerous indignities, and have totally failed to carry out any part of the understanding that they had with your Orators, which was the basis of the consideration of the aforementioned contracts. That your Orators are now old people, and on account of the importunities of their said son, John Mueller Jr., and his wife, Rose Mueller, they have been stripped of their property, and are now in destitute circumstances, being unable to support themselves, and have long since found out that they cannot depend upon the promises of support made them by their son and their son's wife, and that there is nothing for them left to do but to come to this Court of Conscience and Equity and ask that said contracts and conveyances be declared null and void, and that they be restored to their property, as by the misrepresentations, fraud and wrong perpetrated upon them by the Defendants, they are now in most necessitous circumstances.

PRAYER FOR PROCESS.

To the end that equity may be had in the premises your Orators pray that the usual writ of process issue to the defendants, John Mueller Jr., and Rose Mueller, requiring them to plead, answer or demur to the same within the time and under the practice and rules of this Honorable Court.

PRAYER FOR RELIEF.

THE PREMISES CONSIDERED, your Orators pray that on a

(page three)

(page four)

final hearing of this cause that your Honor will declare said Deed, together with said Contract heretofore referred to, to be null and void and of no force and effect, and that by appropriate order decree that the same be expunged from the records as a cloud upon your Orators title in and to said property. That your Honor will cause to be issued a Writ of Possession against said Defendants, directing the Sheriff of Baldwin County, Alabama, to put your Orators back into possession of the aforesaid property, and to remove the said Defendants therefrom; that your Honor will order a reference to ascertain the rental value of the aforesaid property during the time that the Defendants have been in possession of the same, and that your Honor will decree that they be charged with such rental value so ascertained, and that an execution be issued against them in favor of your Orators for the recovery of the amount ascertained to be due your Orators for rent of said premises. Your Orators pray for such other, further, different and general relief as in equity may seem just and meet, and your Orators will ever pray, etc.

Wm. B. Henderson
Solicitors for Complainants.

FOOT NOTE:-

Defendants are required to answer paragraphs "First" to "Third", inclusive, of the foregoing Bill of Complaint, but answer under oath is hereby expressly waived.

Wm. B. Henderson
Solicitors for Complainants.

EXHIBIT "A".

DEED WITH WARRANTY.

This indenture made the 7th day of January, 1933, between John F. Mueller and Christine Mueller, his wife, of the first part and John Mueller Jr., and Rose Mueller of the second part:

Witnesseth, that the part of the first part in consideration of One Dollar and other consideration, hereby acknowledged to have been paid the party of the first part by the party of the second part, do grant, bargain, sell and convey unto said party of the second part, their heirs and assigns, all the real property in Baldwin County, Alabama, described as follows:-

West half of the Northwest quarter of the Northwest quarter ($W\frac{1}{2}$ of $NW\frac{1}{4}$ of $NW\frac{1}{4}$) of Section Twenty-nine (29) Township Seven (7) South of Range Six (6) East. Said parcel of land containing Twenty (20) acres, more or less.

Together with all the rights and appurtenances to said described premises in anywise belonging.

TO HAVE AND TO HOLD the same forever. And we John F. Mueller and Christine Mueller for us and our heirs the said described premises and appurtenances, will forever warrant and defend unto the said party of the second part, their heirs and assigns, against the lawful claims of all persons whatsoever.

IN WITNESS WHEREOF, the said party of the first part have hereunto set their hand and seal the day and year above written.

John F. Mueller (SEAL)
Christine Mueller (SEAL)

50¢ U. S. I. R. Stamp Attached.
Cancelled J. F. M. 1-7-33

STATE OF ALABAMA,

BALDWIN COUNTY.

I, L. Lindoerfer, a Notary Public in and for said State and County, do hereby certify that John F. Mueller and Christine Mueller, his wife, whose names are signed to the foregoing conveyance and who are known to me, acknowledged before me, on this day, that being informed of the contents of the conveyance they executed the same voluntarily on the day the same bears date.

Given under my hand (if before a foreign Notary add "notarial seal") this 7th day of January, 1933.

(SEAL)

L. Lindoerfer, Notary Public.

STATE OF ALABAMA,

BALDWIN COUNTY.

I, L. Lindoerfer, a Notary Public in and for said State and County, do hereby certify that on the 7th day of January,

(page two)

1933, came before me the within named Christine Mueller, known to me to be the wife of the within named John F. Mueller, who being examined separate and apart from the husband touching her signature to the within conveyance, acknowledged that she signed the same of her own free will and accord and without fear, constraint or threats on the part of the husband.

Given under my hand (if before foreign notary add "Notarial Seal") this 7th day of January, 1933.

(SEAL)

L. Lindorfer,
Notary Public.

Filed for record February 6th, 1933.
Recorded in 53 N. S., pages 331-2.

JOHN F. MUELLER AND CHRISTINE MUELLER,)
Complainants,)
VS.)
JOHN MUELLER, JR. AND ROSE MUELLER,)
Respondents..)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY.

This cause coming on to be heard is submitted on the bill of complaint, the answer thereto, the cross bill and answer to cross bill and the testimony as noted by the Register, together with certain exhibits, and warranty deed from Baldwin County Colonization Company to John F. Mueller and Christine Mueller, all of which the Court has considered and understands. And it appearing from the evidence in the case that on, to-wit, January 7, 1933, the Complainants were the joint owners of the following described real estate situated in Baldwin County, Alabama, to-wit:

West Half of Northwest Quarter of the
Northwest Quarter ($W\frac{1}{2}$ of $NW\frac{1}{4}$ of $NW\frac{1}{4}$) of
Section Twenty Nine (29), Township (7)
South of Range Six (6), East. Said parcel
of land containing Twenty (20) acres, more
or less.

That on said date the said complainants conveyed said property to the Respondents, John Mueller, Jr. and Rose Mueller, and that the material part of the consideration for said conveyance was the agreement of the said Respondents, John Mueller, Jr., and Rose Mueller to support the complainants during their life.

And it further appearing to the Court that the said Complainants have exercised their option as conferred upon them by Section 8046 of the 1923 Code of Alabama, to have said conveyance declared null and void. And it further appearing to the Court that under the right and authority of the complainants as conferred upon them by said Statute, there appears no authority or right upon this Court to refuse the relief of the Complainants, or to fasten any conditions precedent as a basis for their relief.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED
by the Court that that certain conveyance executed by John F. Mueller
and Christine Mueller to John Mueller, Jr. and Rose Mueller, on the
7th day of January, 1933, which purports to convey the

West Half of Northwest Quarter of Northwest
Quarter, Section 29, Township 7, South of
Range 6 East, said parcel of land containing
20 acres, more or less, situated in Baldwin
County, Alabama,

which said deed was filed for record in the Probate Office of Baldwin
County, Alabama, on February 6, 1933, and recorded in Deed Book
53 N. S. pages 331-2 to be null and void and of no force and effect
and no longer binding upon the said Complainants, John F. Mueller
and Christine Mueller.

It is further ordered, adjudged and decreed
that the Register of this Court shall have this decree recorded in
the Probate Office of Baldwin County, Alabama, and that said decree
shall be indexed in the name of John F. Mueller and Christine
Muller, and John Mueller Jr. and Rose Mueller, and that the recording
fee of the same be, and is taxed as a part of the cost in this
proceeding.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED
that the Register of this Court mark, or write on the margin of the
record where the conveyance is recorded in Volume 53 N. S. page 331-2
in the Probate Office of Baldwin County, Alabama, that said deed has
been declared to be void by a decree of the Circuit Court of Baldwin
County, Alabama, sitting in equity and is no longer in force and
effect, together with the information as to where this decree is re-
corded in the Records of the Probate Office of Baldwin County,
Alabama.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED
that the Respondents be taxed with the cost of this proceeding, for
which let execution issue.

Dated at Monroeville, Alabama, this 13th day of
June, 1936.

D. M. Ware
JUDGE

RECORDED
Book
2-214

Decree
John F. + Christine Mueller
Complainants

vs
John Mueller Jr + Rose
Mueller

Respondents
6/13/36

State of Alabama, { Probate Court,
Bullock County.
Filed in case No. 17 day of June
1936, at 2 PM, and recorded
in Deed Book No. 59 n.s. at page 334.
and I certify that \$...cts. Deed
tax and \$...cts. Mfg. tax, has
been paid as required by law.

W. Robertson
Judge of Probate

Filed June 15, 1936
Robert S. Duck
Register

W. S. Duck
City R 120

JOHN F. MUELLER
CHRISTINE MUELLER,
Complainants

vs

JOHN MUELLER, Jr.
ROSE MUELLER,
DEFENDANTS,

IN THE CIRCUIT COURT, -EQUITY SIDE

STATE OF ALABAMA

BALDWIN COUNTY

TO THE HONORABLE THE CIRCUIT COURT, EQUITY SIDE, STATE OF
ALABAMA, BALDWIN COUNTY, AND THE HON. FRANCIS W. HARE,
JUDGE THEREOF, SITTING IN EQUITY:

COMES YOUR COMPLAINANTS, John F. Mueller and Christine Mueller, and exhibit this their bill of Complainant against John Mueller, Jr., and Rose Mueller, and for grounds thereof shows;

FIRST:

That your Complainants are both bona fide residents of Baldwin county, Alabama, residing near Elberta, and are both over the age of twenty one years.

SECOND:

That the subject matter of this suit is real estate located in Baldwin County, Alabama.

THIRD:

That each of the respondents is over the age of twenty one years, and is a resident of the state of Alabama and county of Baldwin, residing near Elberta.

Fourth:

That on heretofore, to-wit, January 7, 1933, your Complainants made, executed and delivered to the respondents, John Mueller, Jr. and Rose Mueller, a deed conveying the following described property in Baldwin County, Alabama, namely;-

The west half of the north west quarter ($\frac{1}{2}$ NW $\frac{1}{4}$) of the north west quarter (NW $\frac{1}{4}$) of section twenty-nine (29) township seven (7) south, range six (6) east;

which said deed was by the said Respondents, as Grantees named therein, duly filed for record and now is recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 53 NS., pages 331-2, a copy thereof being hereto attached, marked "Exhibit A" and made a part hereof as though fully incorporated herein, with leave of reference prayed.

FIFTH;

That the only material consideration for the conveyance of said real estate under said deed by your Complainants to the said respondents was the agreement of the Grantees, the above named respondents, to support and take care of the Grantors during their life. A copy of which said agreement is hereto attached

and marked "EXHIBIT B", and made a part hereof for all purposes, with leave of reference thereto prayed.

SIXTH:

That your Complainants have elected and do hereby elect and exercise their option to cancel, rescind and avoid said deed.

PRA YER FOR PROCESS AND RELIEF.

THE PREMISES CONSIDERED, your Complainants prays that the above named Respondents and each of them be made parties defendant to this cause by the usual process of this court, requiring them to appear and plead, answer or demur to this Bill of Complaint within the time and under the pains and penalties prescribed by the rules of this Court and the statutes in such cases made and provided.

That upon a final hearing of this cause your Honor will cancel and adjudge and decree said deed to be void and of no force and effect, and by proper order cause such cancellation to be made a matter of record in the same office where said deed stands recorded, and that your honor will grant unto your Complainants, in ~~xxxx~~ event they be mistaken in the relief herein prayed for, such other, further, different or general relief to which he may be in equity and good conscience entitled.

And, as in duty bound, they will ever pray, etc.

x John F. Mueller
Christine Mueller
Complainants.
A. H. Crovatt
A. H. CROVATT.
Solicitor for Complainants.

FOOT NOTE: The respondents and each of them are required to answer each and every paragraph of the foregoing Bill of Complaint from FIRST to SIXTH, both inclusive, but answer under oath is expressly waived.

A. H. Crovatt
A. H. CROVATT,
Solicitor for Complainants.

STATE OF ALABAMA,
BALDWIN COUNTY.

Before me, the undersigned authority in and for said county and state, personally appeared JOHN F. MUELLER and CHRISTINE MUELLER, who are known to me and who, after being by me first duly and legally sworn, doth depose and say under oath as follows;

That their name are John F. Mueller and Christine Mueller; that they are the same persons whose names are signed as Complainants to the foregoing Bill of Complaint; that they have had read over to them and are fully acquainted with all of the facts therein alleged and that the same are true.
Subscribed and sworn to before me
this the 22nd day of September, 1933.

Frank W. [illegible]
[illegible] PUBLIC CLERK, BALDWIN COUNTY

x John F. Mueller
Christine Mueller

Ehibit A

C O P Y

DEED WITH WARRANTY

THIS INDENTURE, Made the 7th. day of January 1933, between John F. Mueller and Christine Mueller his wife of the first part, and John Mueller Jr. and Rose Mueller of the second part: Witnesseth, that the part of the first part in consideration of One Dollar and other considerations, hereby acknowledged to have been paid the party of the first part by the party of the second part, do grant, bargain, sell and convey unto said party of the second part, their heirs and assigns, all the real property in Baldwin Co. Ala. described as follows:

West half of the North West Quarter of the North West Quarter ($W\frac{1}{2}$ of $NW\frac{1}{4}$ of $NW\frac{1}{4}$) of Section Twenty Nine (29) Township Seven (7) South of Range Six (6) East. Said parcel of land containing Twenty (20) acres more or less.

Together with all the rights and appurtenances to said described premises in anywise belonging: To have and to hold the same forever.

And we John F. Mueller and Christine Mueller for us and our heirs, the said described premises and appurtenances, will forever Warrant and Defend unto the said party of the second part, their heirs and assigns, against the lawful claims of all persons whatsoever.

IN WITNESS WHEREOF, The said party of the first part have hereunto set their hand and seal the day and year above written.

John F. Mueller (SEAL)
Christine Mueller (SEAL)

50¢ U. S. I. R. Stamp attached.
Cancelled J F M 1-7-33

STATE OF ALABAMA)
BALDWIN COUNTY)

I, L. Lindoerfer a Notary Public in and for said State and County, do hereby certify that John F. Mueller and Christine Mueller his wife whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me, on this day that being informed of the contents of the conveyance they executed the same voluntarily on the day the same bears date.

Given under my hand (if before a foreign notary add "notarial seal") this 7th. day of January 1933.

SEAL

L. Lindoerfer N P

STATE OF ALABAMA)
BALDWIN COUNTY)

I, L. Lindoerfer a Notary Public in and for said State and County, do hereby certify that on the 7th. day of January 1933, came before me the within named Christine Mueller, known to me to be the wife of the within named John F. Mueller, who being examined separate and apart from the husband, touching her signature to the within conveyance, acknowledged that she signed the same of her own free will and accord and without fear, constraints or threats on the part of the husband.

Given under my hand (if before a foreign notary add "notarial seal") this 7th. day of January 1933.

SEAL

L. Lindoerfer N P

THE STATE OF ALABAMA)
BALDWIN COUNTY) PROBATE COURT

Filed in office this 6 day of Feby., 1933, 12:00 Noon and duly recorded in Deed Book No. 53 N. S., pages 331-2; and I certify that \$-- cts 50 license or privilege tax, paid as required by an Act of the Legislature, approved September 14, 1923.

G. W. Humphries, Judge of Probate By J. L. Kessler, Clerk.
G. W. Humphries, Judge of Probate.

-----0000000-----

C O P Y .

Exhibit B

State of Alabama,

Baldwin County.

This contract made this 7th. day of January 1933 between John F. Mueller and Christine Mueller party of first part and John Mueller Jr. and Rose Mueller party of second part.

Witnesseth;-

For value received from party of first part, Party of second part hereby agrees and promises to keep and take the best care of party of first part (John F. Mueller and Christine Mueller their parents) on their own place, during their life time in sickness and health. Should it however happen, that either party should not be satisfied with this arrangement, then party of second part shall pay to party of first part the sum of One Hundred Fifty Dollars per year.

It is also agreed, that party of second part shall have the full benefit and use of the East half of the North West quarter of the North West Quarter of section Twenty Nine Township Seven, So. of Range Five East, during the life time of Party of first part.

(Signed)

John F. Mueller
Christine Mueller
John Mueller Jr.
Rose Mueller.

JOHN F. MUELLER and
CHRISTINE MUELLER,

Complainants,

-VS-

JOHN MUELLER JR., and
ROSE MUELLER,

Defendants.

IN THE CIRCUIT COURT-IN EQUITY
STATE OF ALABAMA
BALDWIN COUNTY.

NOTICE OF LIS PENDENS.

TO ANY PERSON INTERESTED:-

You are hereby notified that on this day John F. Mueller and his wife, Christine Mueller, as Complainants, have filed in the Circuit Court of Baldwin County, Alabama, their Bill of Complaint, making John Mueller Jr., and Rose Mueller Defendants to the same; that said Bill of Complaint sets forth that the said Complainants are the owners of the Northwest quarter of Northwest quarter of Section 29, Township 7 South of Range 6 East, and that the purpose and object of said Bill of Complaint is to have that certain Deed executed on, to-wit, the 7th day of January, 1933, by John F. Mueller and Christine Mueller, to John Mueller Jr., and Rose Mueller, to the West half of the Northwest quarter of the Northwest quarter of Section 29, Township 7 South of Range 6 East, declared null and void and as a cloud upon the title of the aforesaid Complainants, said Deed being recorded in Deed Book 53 N. S., pages 331-2, and also the purpose of said Bill is to have declared null and void that certain Contract entered into by and between John F. Mueller and Christine Mueller and John Mueller Jr., and Rose Mueller, executed on the 7th day of January, 1933, in regard to the use and occupancy of the East half of the Northwest quarter of Northwest quarter of Section 29, Township 7 South of Range 6 East, said Contract being recorded in Deed Book 56 N. S., page 98, Probate Records of Baldwin County, Alabama.

You will therefore take notice and govern yourself accordingly.

Hyatt, Hend & Chason
Attorneys for John F. Mueller
and Christine Mueller.

NOTICE OF THE FIDELITY

95776

RECORDED

JOHN F. MUELLER and CHRISTINE MUELLER, Complainants,

JOHN MUELLER, JR., and ROSE MUELLER, Defendants.

NOTICE OF THE FIDELITY

You are hereby notified that on this day John F. Mueller and his wife, Christine Mueller, have filed in the Circuit Court of Baldwin County, Alabama, a Bill of Complaint, making John Mueller, Jr., and Rose Mueller Defendants to the same; that said Bill of Complaint sets forth that the said Complainants are the owners of the Northwest Quarter of Northwest Quarter of Section 29, Township 7 South of Range 4 East, and that the purpose and object of said Bill of Complaint is to have that certain Deed executed on, to-wit, the 7th day of January, 1933, by John F. Mueller and Christine Mueller, to John Mueller, Jr., and Rose Mueller, to the west half of the Northwest Quarter of the Northwest Quarter of Section 29, Township 7 South of Range 4 East, declared null and void and as a cloud upon the title of the aforesaid Complainants, said Deed being recorded in Deed Book 53 N. 2., pages 331-2, and also the purpose of said Bill is to have declared null and void that certain Contract entered into between John F. Mueller and Christine Mueller and John Mueller, Jr., and Rose Mueller, executed on the 7th day of January, 1933, in regard to the use and occupancy of the East half of the Northwest Quarter of Northwest Quarter of Section 29, Township 7 South of Range 4 East, said Contract being recorded in Deed Book 53 N. 2., page 33, Probate Records of Baldwin County, Alabama.

You will therefore take notice and govern yourself accordingly.

John F. Mueller
 Attorney for John F. Mueller and Christine Mueller

JOHN F. MUELLER and CHRISTINE MUELLER, Complainants,
 vs.
 JOHN MUELLER, JR., and ROSE MUELLER, Defendants.

IN THE CIRCUIT COURT-IN EQUITY
 STATE OF ALABAMA
 BALDWIN COUNTY.

Filed October 1, 1934
 1934

NOTE OF TESTIMONY:

JOHN F. MUELLER and
CHRISTINE MUELLER;

Complainants,

VS.

JOHN MUELLER, JR. and
ROSE MUELLER,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY.

This cause is submitted on behalf of the Respondents
on the following:

1. Answer and Cross Bill.
2. Testimony of John Mueller, Jr.; Rose Mueller;
Eleanor Mueller; Johnnie Mueller; Frank Schwartz; John Zolli-
kofer; and Joe Mestrinelli.
3. Agreement of Counsel.


Register.

1872
2. 197
NOTE OF TESTIMONY:

JOHN F. MUELLER and
CHRISTINE MUELLER,

Complainants,

VS.

JOHN MUELLER, JR. and
ROSE MUELLER,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
IN EQUITY.

Filed this 7th day Feb 1936

John S. Duck
Clerk-Register

JOHN F. MUELLER and CHRISTINE
MUELLER,

Complainants,

VS.

JOHN MUELLER, JR. and ROSE
MUELLER,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

IN EQUITY.

And now come the Respondents, and for answer to the
Complainants' Bill of Complaint and to each count thereof,
separately and severally, say:

ONE:

That they deny each and every allegation therein con-
tained, not herein specifically admitted, and demand strict
proof of the same.

TWO:

That they admit the allegation contained in Paragraph
First.

THREE:

That they deny the allegations contained in Paragraphs
Second and Third, and demand strict proof of the same.

And further answering the Complainants' Bill of Com-
plaint, the Respondents say that at the request of the Complain-
ants the Respondents abandoned their home in Ohio and moved to
Baldwin County, Alabama, at a great expense to themselves; that
they have, since moving here, repaired the improvements located
on the said lands described in the Bill of Complaint, built new
improvements thereon at a great expense to themselves; that they
have never, at any time, refused to support and care for the
Complainants.

WHEREFORE, the premises considered, the Respondents pray that this be taken as their answer and cross bill, and that the said John F. Mueller and Christine Mueller be made Cross-Respondents hereto, and required to answer the allegations hereof, within the time and under the penalties prescribed by law and the practice of this Honorable Court.

The Respondents and Cross-Complainants further pray that upon a final hearing hereof that this Honorable Court enter a decree that they are the owners of the said lands described in the Bill of Complaint, to-wit:

The West half of the Northwest quarter of the Northwest quarter of Section 29, Township 7 South of Range 6 East.

The Respondents and Cross-Complainants further pray that in the event they are not entitled to the relief prayed for that your Honor will then enter an order and decree requiring the Complainants and Cross-Respondents to pay to them the monies that they have expended in and about the said premises, and for the permanent improvements thereto.

The Respondents and Cross-Complainants further pray that your Honor will give and grant unto them such other, further, different or general relief as they may be in Equity and good conscience entitled to receive, and as in duty bound they will ever pray.

Beebe & Hare
Solicitors for Respondents-
Cross-Complainants.

FOOT NOTE:

The Complainants and Cross-Respondents are required to answer each and every allegation contained in the foregoing Answer and Cross Bill, but not under oath, oath being hereby expressly waived.

Beebe & Hare
Solicitors for Respondents-
Cross-Complainants.

Copy 5
We hereby accept Service of Writ
of Habeas Corpus and Cross-Bills this
30th day of July 1935
Hyatt Thason

ANSWER AND CROSS BILL

JOHN F. MUELLER and CHRISTINE
MUELLER,

Complainants,

VS.

JOHN MUELLER, JR. and ROSE
MUELLER,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
IN EQUITY.

Filed July 30 1935
~~2-12-1936~~
Robert S. Duck, (2)
Clock,
Register

THE STATE OF ILLINOIS, } ss.
COOK COUNTY.

1,

A. F. Buchanan

a Notary Public, in and for said County in said State, hereby certify that
C. M. STANGER, whose name as President of the Baldwin County
Colonization Company, a corporation, is signed to the foregoing con-
veyance, and who is known to me, acknowledged before me on this day
that being informed of the contents of the conveyance, he as such officer
and with full authority, executed the same voluntarily for and as the act
of said corporation.

Given under my hand this

fourteenth

day

of

October

1912

My commission expires

Sept 9 - 1914

Notary Public

A. F. Buchanan

The State of Alabama, } Office of the Judge of
Baldwin County. } the Probate Court,

I, J. H. H. SMITH, Judge of said Court
in and for said County, do hereby cer-
tify that the within instrument was filed

in this office for record on the *28th*

day of *December* 19*12*, at

..... o'clock, and I further

certify that the same is duly recorded in

Record Book No. *1978* Page *529*

and duly examined.

In witness my hand this the day of *20th*

December 19*12*.

J. H. H. Smith

O.K.
WARRANTY DEED

Baldwin County Colonization Company

Incorporated under the Laws of the State of Alabama.

TO

John and Christina Mueller

L. Lindner

Swift

12/28/12

Ala

This Indenture Witnesseth, That the Grantor,
BALDWIN COUNTY COLONIZATION COMPANY, a corpora-
tion organized under the laws of the State of Alabama, for and in consideration of the sum of

One Dollar and other good and valuable considerations Dollars,
to it in hand paid,

Conveys and Warrants to John and Christina Mueller

of the Village of Elberta in the county of Baldwin

in the State of Alabama the following described Real Estate, to wit: the

North West Quarter (NW $\frac{1}{4}$) of the North West

Quarter (NW $\frac{1}{4}$) of Section Twenty nine (29) Township Seven

(7) South Range Six (6) East of St. Stephen's Meridian, otherwise known

as lot numbered Four (4) in said Section Twenty nine (29)

upon the plat of the lands of said Grantor now on file in its office, said parcel of land
containing Forty acres of land, more or less, save and except such part thereof
as, by said plat, may be shown to be reserved for roads—situated in Baldwin County, in the State of
Alabama,

To Have and to Hold to the said John and Christina Mueller
their heirs and

assigns forever, and the said Grantor does hereby covenant with the said Grantee: That it is seized
in fee of the above described lands; That it has the right to sell and convey the same; That the
said lands are free from all incumbrances; That it will, and its successors and assigns will forever
Warrant and Defend the same to the said Grantee, their heirs and assigns against the lawful
claims of all persons whomsoever.

In Witness Whereof, the said Grantor, BALDWIN COUNTY COLONIZATION COMPANY, has caused
its Corporate Name to be hereunto signed under the hand of its President, duly authorized thereto,
and its Corporate Seal to be affixed this First day of

October A. D. 1912

BALDWIN COUNTY COLONIZATION COMPANY.

C. M. Hager
President.

Henry C. Bartley
Attest. Secretary.

JOHN MUELLER SR., andCHRISTINE MUELLER,vs. Complainants,JOHN MUELLER JR., and ROSEMUELLER,Respondents.

THE STATE OF ALABAMA
Baldwin County

IN EQUITY
Circuit Court of Baldwin County

This cause is submitted in behalf of Complainant upon the original Bill of Complaint

Bill of Complaint filed October 19th, 1934, Admissions in the Answer, Answer to Cross-Bill, Testimony of the following witnesses:- John F. Mueller Sr., Christine Mueller, Christine Bartels, L. Lindoerfer, Herman Bartels, Paul Kaiser, Paul Haupt, together with the Exhibits thereto; also Warranty Deed from Baldwin County Colonization Company to John and Christina Mueller, recorded in Deed Book 19 N. S., page 529.

and in behalf of Defendant upon

Robert S. Duck,

Register.

No. 9876

The State of Alabama
BALDWIN COUNTY

IN EQUITY
Circuit Court of Baldwin County

John Mueller et al

VS.

John Mueller Jr et al

NOTE OF TESTIMONY

Filed in Open Court this

27th

day of

Feb

1936

Robert S. Duck

REGISTER

JOHN F. MUELLER and
CHRISTINE MUELLER,

Complainants,

-VS-

JOHN MUELLER JR., and
ROSE MUELLER,

Respondents.

IN THE CIRCUIT COURT--IN EQUITY
STATE OF ALABAMA
BALDWIN COUNTY.

Now comes John F. Mueller and Christine Mueller, and for answer to the Cross-Bill filed by John Mueller Jr., and Rose Mueller, Respondents, say that on, to-wit, the 7th day of January, 1935, they were the owners of the Northwest quarter of Northwest quarter of Section Twenty-nine, Township Seven South of Range Six East, Baldwin County, Alabama, and that on that day they made a Deed to John Mueller Jr., and Rose Mueller conveying the West half of Northwest quarter of Northwest quarter of Section Twenty-nine, Township Seven South of Range Six East to them; that a material part of the consideration for said Deed was an Agreement of the grantees to support the grantors during their life, and that on said day they entered into an Agreement with the said John Mueller Jr., and Rose Mueller in regard to the East half of the Northwest quarter of the Northwest quarter of Section Twenty-nine, Township Seven South of Range Six East, Baldwin County, Alabama, as set forth in Paragraph Three of the Original Bill of Complaint, and that a material part of the consideration for this Agreement was that the grantees agreed to support the grantors during their life, or, as expressed therein, "To keep and take the best care of the party of the first part (John F. Mueller and Christine Mueller their parents) on their own place, during their lifetime, in sickness and in health", and Cross-Complainants say that the said John Mueller Jr., and Rose Mueller did not carry out their agreement as they agreed and promised to do, but whether they did or not, Cross-Complainants have elected, and do now elect, to rescind said conveyance and agreement, as provided for by Section 8046 of the 1923 Code of Alabama.

(page two)

Having answered the Cross-Bill herein, Cross-Complainants respectfully ask that they be discharged, etc.

Hyland & Shanon
Solicitors for Complainants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
IN EQUITY.

JOHN F. MUELLER and CHRISTINE
MUELLER,

Complainants,

VS.

JOHN MUELLER, JR., and ROSE
MUELLER,

Respondents.

BRIEF AND ARGUMENT

BY

BEERE & HALL,

Solicitors for Respondents,

Bay Minette, Alabama.

JOHN F. MUELLER and
CHRISTINE MUELLER,

Complainants,

VS.

JOHN MUELLER, JR.,
and ROSE MUELLER,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY.

The Complainants, according to the evidence in this case, were the owners of a tract of land, described in the Bill of Complaint, in Baldwin County, Alabama. The Respondents owned a home in the North where they were getting along nicely and living happily. The Respondents, in answer to the earnest solicitation of the Complainants, and with the assurance of the Complainants that if they would give up their home in the North and come to Baldwin County, Alabama, to make their home, that the Complainants would deed and convey certain properties, in Baldwin County, Alabama, to them, including the land involved in this suit. The Respondents, at a great expense and loss to themselves, gave up their home in the North and moved South. After coming here, the Complainants deeded the tract of land in question to the Respondents. The Respondents, at the same time, or soon thereafter, in consideration of the agreements between the parties, agreed to take care of and provide for the Complainants, who are

the mother and father of one of the Respondents.

It will be noted from the Bill of Complaint that the contract with reference to providing for their parents was to the effect that the Respondents would take care of the Complainants on their own place during their lifetime, in sickness and in health, and it was also agreed in the said contract that the Respondents should have the full benefit and use of twenty acres of land adjoining that deeded by the Complainants to the Respondents.

The Complainants, in their Bill of Complaint, have alleged that the Respondents have completely failed to provide for them.

The evidence of the Respondents is to the effect that they have fully, ably, and amply provided for the Complainants. This is in effect borne out by the testimony of the Complainants, for it is readily seen that the Complainants are at the present time living in the home with the Respondents. If they are not being provided for, then why do they remain there?

It is undoubtedly the law that aged grantors, who deed property on consideration that grantees would care for them and furnish them with with necessities and comforts of life, held entitled to relief by Circuit Court in exercise of its equity jurisdiction when promise had not been kept.

The burden is upon the Complainants to show that the Respondents have not provided for them. We submit that they have fallen down in this.

"A conveyance for support and maintenance founded on love and affection may be annulled either for fraud in procurement of conveyance or for failure to comply with its terms and conditions either precedent or subsequent."

Morrow vs. Morrow,
104 Southern, page 393.

"Conveyances of property by aged persons in consideration of promised support and maintenance are contracts for performance of personal services, which equity will intervene to cancel, when grantee fails or refuses to perform his obligations."

Hannah vs. Culpepper,
104 Southern, page 751.

The Complainant rests his case almost entirely on the fact that the Respondents have only denied the allegations of the Complaint. Not only have the Respondents denied the allegations of the complaint, but by means of a cross-bill have set up affirmative matters.

If the Court is not to consider the law at all, then it should look to the equitable issues between the parties. Can the Court for a moment, bearing in mind that it should see that all parties appealing to the Court are dealt with fairly, for a moment say, that in view of all the facts that the Respondents, as it is contended that there was no actual cash consideration passing, have suf-

ferred material damages by virtue of the promises of the Complainants, for is it not the law that consideration may be in the manner of damages suffered by one party equally as well as benefit derived by the other. If this is the law, then most surely the Respondents have suffered material damages by virtue of the promises of the Complainants. Is it equitable, or in line with good conscience, that the Complainants should promise the Respondents so much and then stand idly by for a year or more, seeing the Respondents spend their money to improve the property, and then just because a little friction arises to kick the Respondents out without reimbursing them in any manner. It would seem to us equitable and in line with good conscience, that if the Complainants are entitled to have the contract or conveyance rescinded, then some decree should be entered whereby the Complainants should reimburse the Respondents for money spent in the improvement of the property. It cannot be argued by the Complainants that the Respondents have enjoyed the use and benefit of the property because at the same time the Complainants have lived there and the Respondents furnished them with the necessities of life.

The Court, in considering this case, will, no doubt, be impressed with the fact that outside influences have entered into this matter. If so, then this outside influence should not be allowed to come in through the prejudices of the Re-

spondents.

The parties, Complainants and Respondents, according to the evidence, are now peaceably living in the home together. The Respondents recognize their duties to the Complainants. They are caring for them; they are providing for them; and they are furnishing them with a home and the comforts of life. If the Court is to place a strict interpretation, as the Complainants would have it do, and not make an effort to see that equitable principles are carried out, then it might be possible that all rights of the Respondents be excluded, but, after a thorough consideration of the matter, bearing in mind the unusual circumstances, we respectfully submit that this Honorable Court will see that equity is done.

We respectfully submit that if the Complainants are entitled to have the right to rescind the conveyance of the property to their son and daughter-in-law, then most surely that same son and daughter-in-law are entitled to some remuneration for their loss and expenditures at the request of the Complainants. The parties are living happily, and we submit that the injured justice and equity would be ably met by leaving the parties as they now are.

Respectfully submitted,

BEEBE & HALL,

By:

Solicitors for Respondents.

We hereby certify that we have this day delivered to
Messrs. Hybart & Chason, Solicitors for Complainants, a
copy of the foregoing brief and argument.

Dated this ____ day of May, 1936.

BEEBE & HALL,

By Solicitors for Respond-
ents.

JOHN F. MUELLER and CHRISTINE
MUELLER,

Complainants,

-VS-

JOHN MUELLER JR., and ROSE
MUELLER,

Respondents.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

It is agreed by and between the parties hereto, through their Solicitors of Record, that Mary Green is to act as Commissioner in taking the testimony of John F. Mueller Sr., Christine Mueller, Christine Bartels, L. Lindoerfer and Herman Bartels; that she is to take the testimony of the several witnesses down in shorthand and is to transcribe the same, and to furnish a copy of the testimony so taken, which is to be taxed as a part of the costs, to Hon. Hubert Hall, Solicitor for Respondents, and Hybart & Chaston, Solicitors for Complainants; that the signing of the testimony by the several witnesses is hereby waived, and the issuance of a commission to Mary Green is also waived.

Dated this 2nd day of August, 1935.

Hybart & Chaston
Solicitors for Complainants.

Beckers
Solicitor for Respondents.

TESTIMONY OF JOHN F. MUELLER, COMPLAINANT. DIRECT EXAMINATION
BY HON. C. L. HYBART, ONE OF SOLICITORS FOR COMPLAINANTS. Interpre-
ted by L. Lindorfer.

Q: Is your name John F. Mueller?

A: Yes sir.

Q: Where do you live?

A: Living on the Elberta-Lillian road East of Elberta in Baldwin County.

Q: Is Mrs. Christine Mueller your wife?

A: Yes.

Q: Were you and she the owners of the Northwest Quarter of Northwest Quarter of Section 29, Township 7 South of Range 6 East in Baldwin County, Alabama, the land involved in this suit, on the 7th day of January, 1933?

A: Yes.

Q: From whom did you and Mrs. Christine Mueller purchase this property?

A: Baldwin County Colonization Company.

Q: Did they give you a Deed to the property?

A: Yes.

Q: Where is that Deed?

A: He left the Deed with his other papers in the room he occupied before there, under the cement floor, to keep it safe.

Q: That's where the Defendants are now living, John Mueller Jr.?

A: Yes.

Q: Have you been able to get ahold of that Deed?

A: He could not get it. He said Mr. Mueller Jr., gave it to Mr. Hall.

Mr. Hybart: Mr. Hall have you got that Deed?

Mr. Hall: No, I've never seen it.

Mr. Hybart: Mr. Mueller, do you have the Deed?

Mr. Mueller Jr.: Yes.

Mr. Hybart: Will you produce the Deed from the Baldwin County Colonization Company and deliver it to the Commissioner in this case, Miss Mary Green?

Mr. Hall: Yes sir, we'll get it.

Q: On the 7th day of January, 1933, did you and your wife, Mrs. Christine Mueller, execute a Deed to John Mueller Jr., and Rose Mueller to the West half of the Northwest Quarter of Northwest Quarter Section 29, Township 7 South of Range 6 East, said parcel of land containing 20 acres, more or less?

A: Yes.

(page two)

Q: Who prepared the Deed?

A: Mr. Lindoerfer.

Q: What was the consideration of the Deed?

A: One Dollar and other good consideration.

Q: What was the real consideration, was it to take care of him, what was the real consideration?

A: That he should keep them during their lifetime in health and in sickness.

Q: Was it to supply them with the necessities of life?

A: He was supposed to take care of all the necessities of their life.

Q: Furnish them with them?

A: Yes.

Q: Did he ever pay him the dollar?

A: He said no.

Q: The real consideration then was that he was to take care of you and your wife during your lifetime, to furnish you with the necessities of life?

A: Yes.

Q: Now were you to live with your son, John Mueller, and Rose Mueller, during your life?

A: It was understood that they was supposed to live together, but in case one of the other of the parties would not be satisfied they could part and John would have to pay him \$150.00 a year consideration.

Q: Has he ever paid you the \$150.00 per year, or any part of it, you and your wife?

A: No, he hasn't paid anything.

Q: Has he paid to your wife, Mrs. Christine Mueller, any part of the \$150.00?

A: No.

Q: Now how long did you all live with your son John Mueller Jr., and Rose Mueller after you executed and delivered this Deed to them?

A: They lived together from the 17th of January, 1933, until October 15th.

Q: The same year?

A: Yes.

Q: Where did you move from there?

A: To his son-in-law, Herman Bartels.

Q: Have you been living there ever since?

A: Yes.

(page two)

(page three)

Q: Is your son-in-law taking care of you and your wife, Christine Mueller?

A: Yes.

Q: How old are you Mr. Mueller?

A: 71 years.

Q: How old is Mrs. Christine Mueller?

A: 68.

Q: How is your health?

A: Fair.

Q: How is your wife's health, Mrs. Christine Mueller?

A: She is sick.

Q: Are you able to do much work now?

A: He can do some work.

Q: Now what was the treatment of you and your wife, Christine Mueller, by your son, John Mueller Jr., and Rose Mueller, after you executed and delivered this Deed to them?

A: He said they wasn't very friendly together but they got along all right until one time his son told him if he should live ten years longer it would cost him \$1500.00.

Q: Did you live in the house with your son and his wife; that is, John Mueller Jr., and Rose Mueller, up until the time that you left there?

A: Yes, he lived there until he moved back to his son-in-laws.

Q: What sort of a house did you have there on the place? Describe the house, whether it was one or two story, or what?

A: He was living in a kitchen little shack besides the house.

Q: How many rooms did they have in the house?

A: Five rooms and a kitchen.

Q: And he put you out in the kitchen? You lived in the kitchen?

A: He lived in the kitchen, yes.

Q: Who assigned him the kitchen, who pointed ^{it} out to him?

A: He made a proposition to them that he would fix up the kitchen and for them to live in there. He says he wasn't compelled to live altogether in that kitchen, but on account of the disagreement together they stayed in there.

Q: Now when you delivered the Deed to your son you were living in the house, weren't you?

A: They were living together there, yes, in the house.

Q: Well, did you eat at your son's table or where did you eat?

(page three)

(page four)

A: Up to May 18th they were eating together at the table, and from then on he got his meals away from the table and carried them out in the kitchen.

Q: In other words, you would then take your meals from the table, you didn't eat at the table, and you would take it out to the kitchen and eat out there? Why was it that this arrangement came up on May 18th, I believe it was?

A: The reason he quit eating at the table was that his son told him if he knew what he knows now he would not have come down here.

Q: Did he say what he knew then?

A: He didn't say what.

Q: And then you and your wife, Mrs. Christine Mueller, moved out in the kitchen to eat?

A: Yes.

Q: Now what was the treatment of your son, John Mueller, and his wife, Rose Mueller, after you all had this arrangement for you all to live out there and eat out in the kitchen up until the time that you left there?

A: He told them from that time on they could not go to the table. If they wanted to eat anything that they could cook in the smokehouse.

Q: Did he furnish you with the supplies to cook in the smokehouse?

A: No.

Q: Ask him as to why he left?

A: Because they didn't have anything to live on.

Q: Didn't have anything to live on?

A: Yes.

Q: Did he quit furnishing them anything to eat?

A: No, he never bought anything for them.

Q: You say he never bought anything, did he furnish them anything?

A: No, he didn't furnish them anything.

Q: He quit furnishing them anything to eat?

A: He quit furnishing them anything, that's the reason he left there, the 15th of October is when they left. They had another rumpus there about some oranges, told him to stay out of the field and so on and then they left.

Q: What was that rumpus about the oranges there?

A: He picked some of these second growth oranges, they didn't get any size any more, some little ones, little partly green ones, he picked them off in order to help the trees along. It really is better for such fruit to pick off.

Q: And that is what they had the rumpus about. What was said to him in that rumpus?

A: He told him to keep his hands off. He said he told him to keep his hands off and then they left.

(page four)

(page five)

Q: Now he had quit furnishing you any provisions at that time, and required you to cook in the smokehouse?

A: No, he didn't provide any provisions.

Q: He quit furnishing any provisions?

A: Yes.

Q: What was the value of this property, this 20 acres of land, in your judgment, at the time that you conveyed it to your son, John Mueller Jr., and his wife, Rose Mueller, on January 7, 1933?

A: He figured about \$4,000.00 at that time.

Q: What improvements were on the place; that is, what sort of buildings were on the place there?

A: One good substantial house, one big barn, five chicken coops, all fenced, and ten acres in oranges.

Q: About how many orange trees did they have on the place?

A: About 350 trees.

Q: Bearing?

A: Yes.

Q: About how old were those orange trees?

A: Well, from 1914 till 1933.

Q: Those orange trees were in healthy condition?

A: Not now any more.

Q: Were they in healthy condition at that time?

A: Yes, in good condition.

Q: Had you taken good care of them?

A: Yes.

CROSS-EXAMINATION BY MR. HALL.

Q: Mr. Mueller, where did your son live before he came down here?

A: He was living in Ohio.

Q: Did he have a home up there?

A: That's what he said.

Q: You wrote your son several letters asking him to come down, didn't you?

A: He says he didn't write for him to come, but he can come.

Q: Didn't you write your son telling him that if he would come down and take the place you would make him a present of it on his fortieth birthday?

A: He said he made him the proposition on the condition that he would have to take care of them, provide for them the necessities of life.

(page five)

(page six)

Q: That was in the form of a letter to your son?

A: He says he wrote him several letters, but he don't exactly remember what he wrote or whether he made the statement to him that he will give him this property with the understanding that he has to take care of them, but he don't know exactly whether he put it in the letter or not.

Q: I believe he answered, Mr. Lindoerfer, that he did write him a letter telling him to come down, but he don't remember what he put in the letter. Your son soon after that came down to your place in response to your letter, didn't he Mr. Mueller?

A: He says he took about three months.

Q: Now when your son and his family came down there did you show him about the house and show him his room?

A: He says he didn't show them any rooms.

Q: Did you and your wife select the room you wanted to live in Mr. Mueller?

A: Yes.

Q: Did they fix that room up for you? Did your son fix the room for you and your wife that you selected?

A: No, he didn't fix up anything.

Q: I believe he said he did select his room?

A: He selected his room, yessir.

Q: Did you have a key to that room, Mr. Mueller?

A: There was no keys, he says, just a curtain from one door to the other.

Q: Wasn't that door locked, Mr. Mueller, and you had a key to you and your wife's room?

A: No, there was no door.

Q: What I want to know Mr. Lindoerfer, is this. I understand that they selected a certain room, and that they had the key to the door to that room; that's the room they occupied there. Must be a door to it. There in the house in the Mueller home?

A: He says that there was no door.

Q: Mr. Mueller isn't it a fact that you have a key to that house now? Ask him if he doesn't have a key to that bedroom that he and Mrs. Mueller occupied?

A: Yes, he said he had a key to the kitchen, but no key to the front room, the one they selected at first.

Q: And up until October, 1935, you lived there with your son and his daughter and ate there, didn't you, you and your wife?

A: He said up to May 28th, not October.

Q: When did you leave that place?

A: October 15th.

(page six)

(page seven)

Q: Who supplied you with food between May and October Mr. Mueller?

A: He said he got food some days and then again he didn't get any.

Q: Has your son ever denied you admittance to that building Mr. Mueller?

A: On June 29th he said he was going to throw them out.

Q: Did he throw you out?

A: No, he didn't throw him out.

Q: Did your son ever refuse to permit you and your wife to eat at the table with him, Mr. Mueller?

A: Yes, he said for them not to come to the table, and cook in the smokehouse.

Q: You filed suit against your son and his wife the day after you left there, didn't you, in October? Mr. Lindoerfer, I mean with Crovatt, the first suit?

A: Yes.

Q: He did file suit the day after he left there?

A: Yes.

Q: Your son-in-law, Herman Bartels, persuaded you to file suit against your son, John Mueller, didn't he?

A: He said no.

RE-DIRECT EXAMINATION BY HON. C. L. HYBART.

Q: You say, Mr. Mueller, that when your son first came down there that you and your wife, Mrs. Christine Mueller, selected a room there in the house?

A: Yes.

Q: Then ask him why it was that he afterwards moved out into the kitchen?

A: It was too noisy. They made too much music for them, and she was sick then.

Q: Since you left there has he furnished you or your wife any money; that's the Defendants in this case, have they furnished you any money?

A: No.

Q: Now when you were writing to your son up there did he write to you that he wanted to come down here?

A: Yes.

Q: And did you pay his expenses down here to come down here?

A: No, he didn't furnish him any money.

Q: Now how long was it after he came here before you went to Mr. Lindoerfer to fix up the Deed?

A: About a month after.

Q: Did you all state to Mr. Lindoerfer there what was the agreement between you all relative to the price or consideration of this land?

(page seven)

(page eight)

A: He said yes.

Q: What did you all tell Mr. Lindoerfer was the agreement between you all as to the consideration there, that is, you and John Mueller and Rose Mueller and Mrs. Christine Mueller, what did you all tell Mr. Lindoerfer as to what the consideration was?

A: He says he told him that he is going to give him a Deed with the understanding that they are going to take care of them, provide them with the necessities of life during their lifetime, and, if not, to pay \$150.00 a year.

Q: Did John Mueller and Rose Mueller agree to those terms?

A: Yes.

Q: And then after that agreement there, that understanding there, Mr. Lindoerfer then fixed up the papers?

A: Yes.

Q: That's the Deed?

A: Yes.

Q: I believe that's all.

TESTIMONY OF MRS. CHRISTINE MUELLER. DIRECT EXAMINATION BY HON.
C. L. HYBART, ONE OF THE SOLICITORS FOR COMPLAINANTS. Interpreted by
Mr. L. Lindoerfer.

Q: Is this Mrs. Christine Mueller?

A: Yes.

Q: Are you the wife of John F. Mueller?

A: Yes.

Q: Are you the mother of John Mueller Jr.?

A: Yes.

Q: And Rose Mueller is your daughter-in-law?

A: Yes.

Q: Where do you live, Mrs. Mueller?

A: With Herman Bartels.

Q: What is your postoffice?

A: Elberta.

Q: Do you live in Baldwin County?

A: Yes.

Q: How old are you, Mrs. Mueller?

A: 68.

Q: Are you in good health?

A: No.

Q: Able to work?

A: No.

Q: Did you execute a Deed with your husband, John F. Mueller, to John Mueller Jr., and Rose Mueller, on the 7th day of January, 1933, which was prepared by Mr. L. Lindoerfer, a Notary Public, at Elberta, in which you conveyed the $\frac{W}{2}$ of $NW\frac{1}{4}$ of $NW\frac{1}{4}$ of Section 29, Township 7 South of Range 6 East, Baldwin County, Alabama, together with your husband, to John Mueller Jr., and Rose Mueller?

A: Yes.

Q: What was the consideration of the Deed? What was the understanding between the parties relative to the Deed?

A: The consideration of keeping them and supporting them during their lifetime.

Q: Supporting both of them?

A: Yes.

Q: Supporting John F. Mueller and Christine Mueller during their lifetime?

A: Yes.

Q: Where did you and your husband get this land?

(page two)

A: Baldwin County Colonization Company.

Q: Did your place have orange trees on it?

A: Yes.

Q: Did you have a house on it?

A: Yes.

Q: How many rooms?

A: Five.

Q: Did you all build the house on it or was the house on the place at the time you bought it?

A: They built the house.

Q: What other improvements, what other houses did you have on the place?

A: Big barn and five chicken houses and fences.

Q: Did you all clear up this land and put it in cultivation, you and your husband?

A: Yes.

Q: Did you have any orange trees on it?

A: Yes.

Q: Did you have a fence around it?

A: Yes.

Q: What kind of a fence did you have?

A: Woven wire.

Q: Was the fence in good repair?

A: Good.

Q: Were the oranges in good shape at the time that you made this Deed?

A: Yes.

Q: Do you know about how many orange trees you had bearing on the place?

A: Somewhere around 300.

Q: Do you know about the value of this place on the 7th of January, 1933?

A: About \$4000.00.

Q: Was the house comfortable?

A: Yes.

Q: Now after you executed this deed before Mr. Lindoerfer there conveying to your son and your daughter-in-law, John Mueller Jr., and his wife, did you all continue to live in the house there?

(page two)

(page three)

A: Yes, they lived together.

Q: Did you start to living in the house proper?

A: Yes.

Q: Did you and Mr. Mueller start out living in a room in the house there? That is after they executed this Deed to John Mueller Jr., and Rose Mueller?

A: Yes.

Q: How long did you live in the house there?

A: She don't know exactly, about six weeks.

Q: Now why was it that you moved out of the house, and where did you move to? When did you move out into the kitchen?

A: She said about six weeks.

Q: Why was it that you moved out of the house into the kitchen?

A: She says was to much noise on account of the music and so on and the young people would rather have them out there.

Q: Did you make any complaint to your son and to his wife about this noise?

A: No, they didn't say anything.

Q: Didn't mention it to them?

A: No.

Q: Did they tell you that they would rather have you out in the kitchen there?

A: She says they would rather have them out there. She says that they didn't say they must go out, but she knew and could feel it that they would rather have them out there, so they agreed.

Q: Did he say anything about fixing up the kitchen for you to live in?

A: Yes, she says there is only one little window there and that was broke, and he promised to put two windows in and fix it up.

Q: Did he do that?

A: Put some paper on but he didn't fix the window.

Q: Put some paper on the wall?

A: Yes.

Q: Did you ask him to fix the window?

A: Yes.

Q: Did the rain blow in this window?

A: Didn't rain in much, but she says there wasn't any air at all. Didn't have no air, no ventilation.

Q: There was no ventilation in the kitchen?

A: Except that little window she says.

(page three)

(page four)

Q: And was he to enlarge this window, make it larger?

A: She says he was going to put in two windows.

Q: And you asked him to do that afterwards?

A: Yes.

Q: And he didn't do it?

A: No.

Q: When you first started out there with them after you gave them the property on the condition that he would suppose you, take care of you and furnish you the necessities of life, did you start out eating at the table there with the family?

A: Yes.

Q: How long did you continue there getting your meals at the family table, at his table?

A: She don't know exactly, four or five or six weeks.

Q: What was the occasion of your quitting eating at the table there?

A: They had some hard words together and then Mr. Mueller didn't come to the table any more and he took some of it and carried it out to the kitchen.

Q: He carried his out there. Did you carry your meals out into the kitchen?

A: Both of us ate outside.

Q: In other words, you would get your meals at the table and carry them out to a table in the kitchen where you would eat?

A: Yes.

Q: When was it that you quit getting the meals from the table, if you did?

A: She says they were getting meals until they left the place entirely, but they did not always find anything.

Q: Well those days when you didn't find anything left there for you to eat where did you get your meals then?

A: She says he went away sometimes and bought something.

Q: And where did you cook then?

A: No, they didn't cook anything then.

Q: Bought something already cooked?

A: Bought sausage, cheese or something like that.

A: Now, Mrs. Mueller, was your daughter-in-law and son kind to you while you were there?

A: They were no good to them.

Q: Did they treat your husband and you kindly or were they cross to you?

(page four)

(page five)

A: Mostly the old gentleman and the son there.

Q: Did your son John fuss with your husband?

A: They had words together, they didn't fight actually, but they had hard words together.

Q: Did he speak unkindly to his father when they had those words, did he speak to him unkindly?

A: She says they were not friendly any more.

Q: Ask her did her son threaten to throw his father out of the house or throw her out of the house there at any time.

A: He said he would throw them out once and he said he was going to blow up the house.

Q: Ask her if he said he was going to get rid of them?

A: She says yes, he wanted them to get out.

Q: What did she say? Just ask her if he didn't say he was going to throw them out?

A: She says yes, but she didn't hear him.

Q: Didn't he tell you that he was going to blow up the house and that he was going to get rid of you or wanted to get rid of you?

A: Yes, he didn't say direct that he wanted to get rid of them.

Q: Did he say at any time how much it would cost him if you all lived a certain length of time?

A: She says that he told Mr. Mueller if he lived ten years longer it would cost him \$1500.00. He told that to Mr. Mueller.

Q: What was the occasion of him telling Mr. Mueller this?

A: They had been working in the field and came back and he told him that.

Q: Now when was it, I believe Mr. Mueller had the rumpus, now when did they have the words there at the table? Put it this way, when did Mr. John Mueller and his son, John Jr., have the first words there on the place?

A: She don't remember.

Q: What was said there during that altercation, that trouble between them, by John Mueller Jr.?

A: It started this way about the first time, that is, that John Mueller Jr., said that if he knew what he knows now he would never have come here, and at the same time the father says if he knew then what he knows now he wouldn't have let them come.

CROSS-EXAMINATION BY HON. HUBERT HALL.

Q: Mrs. Mueller did your son ever mistreat you?

A: No, she says he didn't mistreat her.

Q: Did Mrs. Mueller, his wife, or the daughter, ever mistreat you Mrs. Mueller?

A: She says didn't have no trouble much together except one time

(page five)

(page six)

she says that with that contract he made out they used it for toilet paper.

TESTIMONY OF MRS. CHRISTINE BARTELS. DIRECT EXAMINATION BY HON. C. L. HYBART, ONE OF SOLICITORS FOR COMPLAINANTS.

Q: Your name, please mam?

A: Christine Bartels.

Q: Mr. John Mueller Sr., and Mrs. Christine Mueller, that's your father and mother, is it not?

A: Yes.

Q: Where do you live, Mrs. Bartels?

A: Lillian, Alabama.

Q: John Mueller Jr., is your brother.

A: Yes.

Q: Rose Mueller is your sister-in-law?

A: Yes.

Q: Do you remember about the time the old folks; that is, Mr. and Mrs. John Mueller Sr., conveyed this 20 acres of land here that's involved in this suit to John Mueller Jr., and his wife, Rose Mueller, do you remember about that time?

A: If they saw me?

Q: No, do you remember about the time they made the Deed?

A: No, they didn't ask me, they told me that they was going to do it, and I say that's all right by me, and they went and done it but I wasn't along.

Q: You remember about that time, though?

A: Yes.

Q: Now after your brother, John Mueller--he started to living there in the house, didn't he?

A: Yes.

Q: Did you visit there during that time?

A: Yes, I went over.

Q: That's after January 7th, 1933, and up until the time your father and mother came to your house in October?

A: No, I just went over until about August.

Q: You quit visiting there after August?

A: Yes.

Q: Now during the time you were in the home there from January 7th, 1933, up until August, 1933, did you make any observations as to the way that John Mueller Jr., and Rose Mueller were treating your mother and father?

A: I wasn't there much, but they had something against each other, because one day they had a fuss with each other and I ask what it is all about and the parents claimed they had nothing to eat that night. He says there is something to eat if she would go ahead and get it, but he said it in a nasty way. That's about all I know about it because I wasn't there at the time they had

(page two)

the fuss.

Q: You quit visiting there in August, what was the occasion? Why did you quit?

A: My husband and my brother had some words, and the Justice of the Peace said we shouldn't go over there, and we stayed away, but before that my brother came over and asked me if I wanted to take the parents, mother is kind of sick and he says he can't stand it and she spits and the flies came in and come out on the table, and he ask me , and he says that he have to close the window up so the flies can't get in, and he says you take the parents for a while. He don't want mother because she was sick, she have a spot on her lung and have to spit. He says he can't eat nothing since she was there because mother have to spit all the time.

Q: He wanted you to take your mother?

A: He didn't say all the time, but he says take them for a while.

Q: That he couldn't stand her there spitting around the house?

A: Yes, he said just for a while.

Q: Your mother was sick all during that time?

A: Mother she sick, and one day she fall on the porch and my father took her in neck and he took her legs and he throwed mother on the bed and went out. He didn't even go back to see how mother was, and I went over and said to my sister-in-law, Rose, why John do that way, and Rose, my sister-in-law, she says, well, I was wondering that he did that much for her, that he picked her up. That's what his wife says. My mother is epileptic.

Q: Did she say anything else about them?

A: No, she didn't say anything more.

Q: That was the last time you were in the house?

A: Yes, and then he and my husband had some trouble, and he said stay away. We didn't go back. I never was over there when they had a fight.

Q: You saw the old folks there in the kitchen, did they eat in their bedroom in the kitchen?

A: Yes.

Q: Do you know whether they cooked any?

A: No, they always had it from the table. I couldn't say because I don't know. I saw them eating in there that's all, but I don't know if they sent it in or what.

Q: Now during the time that they have been over to your house has his son contributed anything toward their suppose? Give you any money or provisions to take care of them?

A: No sir.

Q: You don't know of anything?

A: No, he didn't do nothing.

Q: You've been taking care of your mother and father?

A: Yes.

(page two)

(page three)

Q: Your mother is almost helpless now, isn't she?

A: Yes. You know what epileptic means. Any old time she is likely to drop, and we have to watch her all the time.

Q: She has epileptic fits, doesn't she?

A: Yes sir.

Q: Liable to have them at any time?

A: Yes sir, any time, night time or day time. She just drops, and then she gets real sick for a couple of days, and then she is all right.

Q: Then she comes out?

A: Yes sir.

Q: She needs careful attention?

A: Oh, yes, we have to watch her just as close as a child.

Q: How long has she been having these epileptic fits?

A: About four years as far as I can remember.

Q: And when she had one there on the front gallery John did take her up and carry her in and throw her on the bed?

A: Yes, and they didn't look after her, didn't give her a glass of water, didn't even look after her to see how she was getting along and she is sick. We have to keep care of her just like a child.

CROSS-EXAMINATION BY HON. HUBERT HALL.

Q: Mrs. Bartels, your brother asked you to take his mother over to your place for a while, it might help her health, didn't he?

A: They had some trouble, they didn't spoke together any more.

Q: He and his mother?

A: No, all of them didn't spoke together.

Q: There was never any trouble between John Mueller Jr., and your mother, was there?

A: I don't know, I wasn't over there.

Q: Is it not a fact, Mrs. Bartels, that your mother and father wrote to your brother here and his wife to come down and take care of them?

A: I didn't saw the letter and don't know anything about it?

Q: Didn't they tell you about it, that they had written to their son, John Mueller, to come and take care of them?

A: John say he liable to lose his job, they wrote letters we are in a fix, and, grandpa, of course, he was afraid because John was in a fix, and he thought he would help him, and he says why should he go and have nothing and here is the place, and they could live together, and he come and they fixed it up and they lived together and it didn't work.

(page three)

(page four)

Q: Your brother and your husband don't get along together, do they?

A: No, they never did.

Q: They have always fussed?

A: No, they didn't fuss, they have no fuss. He just hate him and he hate him.

Q: They hate each other then?

A: Yes.

Q: That's been going on for years, hasn't it?

A: He was in Cleveland.

TESTIMONY OF MR. L. LINDOERFER. DIRECT EXAMINATION BY HON. CL. HYBART, ONE OF THE SOLICITORS FOR COMPLAINANTS.

Q: This Mr. L. Lindoerfer?

A: Yes sir.

Q: Mr. Lindoerfer you live at Elberta, do you not?

A: Yes sir.

Q: How old are you?

A: Sixty-three, getting younger every day.

Q: Do you know Mr. John F. Mueller Sr., and Mrs. Christine Mueller, his wife, and are you also acquainted with John Mueller Jr., and Rose Mueller?

A: Yes sir.

Q: Are you the postmaster down there at the present time, at Elberta?

A: Yes sir.

Q: And on January 7th, 1933, you were a Notary with the state of Alabama, Baldwin County, were you not?

A: Yes sir.

Q: On that day did John F. Mueller and Christine Mueller; that is, John Mueller Sr., and John Mueller Jr., and Rose Mueller, did they come to your office in the town of Elberta, Alabama?

A: Yes sir.

Q: Did you prepare there on that occasion a Deed, a copy of which is Exhibit "A" to the Bill of Complaint here in this case?

A: Yes sir.

Q: From John F. Mueller Sr., and Christine Mueller to John Mueller Jr., and Rose Mueller, conveying the $W\frac{1}{2}$ of $NW\frac{1}{4}$ of $NW\frac{1}{4}$ of Section 29, Township 7 South of Range 6 East, Baldwin County, Alabama?

A: Yes sir.

Q: You prepared that Deed?

A: Yes sir.

Q: And you also acted as a Notary Public there in taking the acknowledgments of the respective parties?

A: Yes sir.

Q: Did they state to you what the agreement was as to the consideration for the property?

A: They did.

Q: What did they state was the agreement between them?

A: The agreement was that they would supply them with the necessities of life, support them during their lifetime, but in case either one party should be dissatisfied they could move, or make them move out of the house off of the place, but John Mueller Jr., would have to pay them \$150.00 per year during their lifetime.

(page two)

Q: That was the understanding they had, stated to you by all the parties to this transaction, John F. Mueller Sr., Christine Mueller, his wife, John Mueller Jr., and John Mueller Jr.'s wife, Rose Mueller, that was the consideration?

A: Yes sir.

Q: And you then prepared the Deed for them?

A: Yes sir.

Q: And there was no dollar passed there or anything like that, was there?

A: No sir.

Q: You just prepared the usual form of a Deed and put in there \$1.00 and other consideration, and no money passed?

A: Yes sir.

Q: But the actual consideration was that they would support these old folks there during their lifetime there on the place, or if they could not get along, or if they wanted to move away from the premises, John Mueller Jr., was to pay them \$150.00 a year as long as they lived?

A: Yes sir.

Q: And you fixed up the contract there just as they told you?

A: Yes sir.

CROSS-EXAMINATION BY HON. HUBERT HALL.

Q: Mr. Lindoerfer, Mr. Mueller Sr., also owned another twenty acres there, didn't he?

A: He did.

Q: Wasn't it discussed there that he was deeding that to his other son?

A: Yes sir, and the Deed was made out there.

Q: Wasn't it understood that in consideration of the use of that land there by John Mueller Jr., that John Mueller Jr., would support his father and mother?

A: No sir.

Q: Do you know the other son's name?

A: Fred.

Q: And you as a Notary Public made that deed?

A: As good as I can remember that was the same deed.

Q: But you don't know, you don't recall, anything about John Mueller Jr., having the use of that twenty acres?

A: As long as Fred didn't come down he could have the use of it.

Q: Was it understood that John Mueller Jr., was to have the use of it during the life of his father and mother, and at their death his son Fred would have it?

(page two)

(page three)

A: He would not have made out a Deed to him then already.

Q: Wasn't there a reservation in that Deed?

A: I can't recollect there was any reservation in the Deed. The Deed ought to show it.

RE-DIRECT EXAMINATION BY HON. C. L. HYBART.

Q: But the consideration of this Deed from John Mueller Sr., and Christine Mueller to John Mueller Jr., and wife was that they were to take care of the old folks just as you have testified, that was the consideration regardless of this other twenty acres of land?

A: Yes sir.

Q: You're familiar with the property out there, aren't you?

A: Yes sir.

Q: How long have you known it?

A: About thirty years.

Q: Now on this place on January 7th, 1933, there was an orange orchard there, wasn't there?

A: Yes sir.

Q: About how many acres were in oranges?

A: About ten acres.

Q: And was the other part of the land in cultivation?

A: Some of it, I don't know how much, most of it.

Q: What did they grow on this other land?

A: Most anything, potatoes, corn.

Q: And you're familiar with the house there?

A: Yes sir.

Q: And you know about the state of its preservation at that time?

A: Yes sir.

Q: And the other improvements on the place?

A: Yes sir.

Q: And the fences on the place?

A: Yes.

Q: And in your opinion what was that property worth on January 7th, 1933?

A: I think it was correct about \$4000.00.

Q: At that time the orange orchard was good?

A: Yes sir.

Q: Since that time has the orange orchard gone down?

(page three)

TESTIMONY OF HERMAN BARTELS.

DIRECT EXAMINATION BY HON. C. L. HYBART, ONE OF SOLICITORS FOR COMPLAINANT:-

Q: Your name, please sir?

A: Herman Bartels.

Q: Where do you live, Mr. Bartels?

A: At Lillian.

Q: How old are you?

A: 51 next December.

Q: Are you the son-in-law of Mr. John Mueller Sr.?

A: Yes sir.

Q: Mrs. Christine Mueller is your mother-in-law?

A: Yes.

Q: How long have you known these old folks, the Muellers?

A: About 25 years.

Q: When you first knew them they were living down here in Baldwin County?

A: Yes.

Q: Do you know when they bought this piece of property; that is, in litigation here, this 20 acres of land.

A: I do and I do not. They had another farm first and they exchanged that and they got it from the Baldwin County Colonization Company.

Q: They bought this place from the Baldwin County Colonization Company?

A: Yes.

Q: Do you know about how many years ago that was?

A: That must be about twenty-three years, something like that.

Q: Did they put this land in the state of cultivation?

A: Yes, there was a little spot uncleared.

Q: Do you know where the home place was on this place?

A: It is not far away from there.

Q: I'm talking about the home place, the dwelling house.

A: Oh yes, sure.

Q: Are you acquainted with that?

A: Yes.

Q: Do you know about when that was built?

(page four)

A: Yes sir.

Q: Been neglected?

A: No, freeze got it.

Mr. Hybart: What's your mileage, Mr. Lindoerfer?

A: 45 miles each way.

(page two)

A: That was built in different times, first one piece and then another piece.

Q: You mean that the house was added on to?

A: Yes. It was built bye and bye. I think a part of the barn was standing when they bought the place.

Q: And do you know about the time they built the dwelling house, the house they lived in? About how old was it?

A: I guess part of the house was built fifteen years ago, I don't know.

Q: Do you know how many rooms in the house there was in January of 1933?

A: I think the main house had about five rooms, and there was a little house standing they called the kitchen. Altogether the whole business contained about eight rooms.

Q: They have a barn out there?

A: Yes sir.

Q: Some chicken houses?

A: Yes.

Q: And orange trees growing on it?

A: Yes.

Q: And the land was in cultivation?

A: Yes.

Q: Now the time that you heard about the old folks here, the Muellers, deeding this property to their son, John, you heard about that, didn't you?

A: Yes, I knew when they make some kind of transaction, but I didn't know they deeded it, but they made some kind of arrangement for John to have the place.

Q: During the time from January, 1933, to October 15th, 1933-- that's the time the old folks came to your house, wasn't it?

A: Yes, that's about the time.

Q: During that time did you have a conversation with John Mueller Jr., in regard to the old folks and this property?

A: Well, at first we had many conversations, we went over there once in a while--

Q: In regard to the place, did you have any conversations in regard to the place?

A: Well, I went in summer to Cleveland, took John's son. We wasn't such bitter enemies at that time. The boy stayed in Cleveland. We went to John's brother-in-laws, Mike, and when we was with Mike he asked me, say, what's the matter over there, John wrote me that he wants me to find someone here in town that has a house and would like to take a farm, and he wants to swap the farm for a house. I says he can't do that, he got old folks to take care of. He said John left his house here, and so he don't care, he not going to bother about it.

(page two)

(page three)

Q: You had that conversation and came back?

A: Yes.

Q: And did you have a conversation with John then?

A: Yes. I went over and say, John, what's the matter you try to swap the farm off for a house. He says it wasn't any of my business. Well, I say, it's none of my business, but if you swap the farm for a house and go to Cleveland and leave the old folks here then it is my business, they are my wife's parents and I can't let them stay in the street. Well, he say, let them borrow some money and build a house on the other twenty acres, and I say how can they do that, and he said, well, just let them go to hell, and a couple of days I got a letter from the Justice of the Peace not to trespass on his place any more. He didn't even pay me the fare for his boy, the gasoline for the trip.

Q: Just warned you so you couldn't go and get it?

A: Yes.

Q: And he said in that conversation when you were telling him that he couldn't trade this farm off for a house up in Cleveland on account of the old folks, he said, "well, just let them go to hell".

A: Yes, he says just let them go to hell.

Q: And right after that is when you got the notice not to go back there any more?

A: Yes.

Q: What did you say when he said let them go to hell, what did you say?

A: Well, I said you started it, it's your business and I'm not interfering with it, but I just asked because I thought it was my duty.

Q: You were interested in the welfare of your father-in-law and your mother-in-law, weren't you?

A: Yes.

Q: That was solely your reason for inquiring about this matter?

A: Yes, that's it.

Q: And afterwards they came to your house?

A: I came back I think in August.

Q: And in October they came to your place and you took them in?

A: Yes, I wasn't home. I was in Pensacola, and my wife said the old folks came on crying and said they couldn't stand it, and told all these treatments, they have forgotten them now, they haven't even mentioned the worst things they tell us, and they say they have to go into the bay if we didn't take them, and my wife says then if it is that bad you can stay here, and so I accepted them when I came.

Q: And you made them welcome there in your home and have taken care of them since that time?

A: Yes, been there ever since.

(page three)

(page four)

Q: Feeding them and taking care of them?

A: Yes sir.

CROSS-EXAMINATION BY HON. HUBERT HALL.

Q: You persuaded your father-in-law to bring this suit, didn't you?

A: No sir.

Q: You advised him to, didn't you?

A: No sir.

Q: You want this place for yourself?

A: No, don't insult me. I don't want it. I could have had it if I had wanted it.

Q: You're pretty easily insulted, aren't you? I feel sorry for you. Well, don't try to bluff, we don't bluff. You and Mr. Mueller Jr., have been having trouble off and on for years, haven't you?

A: Never.

Q: Without any trouble whatever he wrote you a note to stay away from his place?

A: He wrote me that note because I asked him what he intended to do with the old folks, and he asked me to stay away. I cut his hay and hauled it for him.

Q: And you got quite a bit of the machinery and took it to your place, didn't you?

A: A lie, I didn't take any of his machinery.

Mr. Hybart: Put down Mr. Bartels' mileage, 45 miles each way.

I, Mary Green, as Commissioner, hereby certify that the foregoing depositions on Oral Examination were taken down in writing by me in the words of the witnesses, said witnesses having been duly sworn, at the time and place herein mentioned; that I have personal knowledge of personal identity of said witnesses; that I am not of counsel or of kin to any of the parties to said cause, or in any manner interested in the result thereof.

Given under my hand and seal, this 2nd day of August, 1935.

Mary Green

1000



0

1934
 1935
 1936
 1937
 1938
 1939
 1940
 1941
 1942
 1943
 1944
 1945
 1946
 1947
 1948
 1949
 1950
 1951
 1952
 1953
 1954
 1955
 1956
 1957
 1958
 1959
 1960
 1961
 1962
 1963
 1964
 1965
 1966
 1967
 1968
 1969
 1970
 1971
 1972
 1973
 1974
 1975
 1976
 1977
 1978
 1979
 1980
 1981
 1982
 1983
 1984
 1985
 1986
 1987
 1988
 1989
 1990
 1991
 1992
 1993
 1994
 1995
 1996
 1997
 1998
 1999
 2000
 2001
 2002
 2003
 2004
 2005
 2006
 2007
 2008
 2009
 2010
 2011
 2012
 2013
 2014
 2015
 2016
 2017
 2018
 2019
 2020
 2021
 2022
 2023
 2024
 2025
 2026
 2027
 2028
 2029
 2030
 2031
 2032
 2033
 2034
 2035
 2036
 2037
 2038
 2039
 2040
 2041
 2042
 2043
 2044
 2045
 2046
 2047
 2048
 2049
 2050
 2051
 2052
 2053
 2054
 2055
 2056
 2057
 2058
 2059
 2060
 2061
 2062
 2063
 2064
 2065
 2066
 2067
 2068
 2069
 2070
 2071
 2072
 2073
 2074
 2075
 2076
 2077
 2078
 2079
 2080
 2081
 2082
 2083
 2084
 2085
 2086
 2087
 2088
 2089
 2090
 2091
 2092
 2093
 2094
 2095
 2096
 2097
 2098
 2099
 2100
 2101
 2102
 2103
 2104
 2105
 2106
 2107
 2108
 2109
 2110
 2111
 2112
 2113
 2114
 2115
 2116
 2117
 2118
 2119
 2120
 2121
 2122
 2123
 2124
 2125
 2126
 2127
 2128
 2129
 2130
 2131
 2132
 2133
 2134
 2135
 2136
 2137
 2138
 2139
 2140
 2141
 2142
 2143
 2144
 2145
 2146
 2147
 2148
 2149
 2150
 2151
 2152
 2153
 2154
 2155
 2156
 2157
 2158
 2159
 2160
 2161
 2162
 2163
 2164
 2165
 2166
 2167
 2168
 2169
 2170
 2171
 2172
 2173
 2174
 2175
 2176
 2177
 2178
 2179
 2180
 2181
 2182
 2183
 2184
 2185
 2186
 2187
 2188
 2189
 2190
 2191
 2192
 2193
 2194
 2195
 2196
 2197
 2198
 2199
 2200
 2201
 2202
 2203
 2204
 2205
 2206
 2207
 2208
 2209
 2210
 2211
 2212
 2213
 2214
 2215
 2216
 2217
 2218
 2219
 2220
 2221
 2222
 2223
 2224
 2225
 2226
 2227
 2228
 2229
 2230
 2231
 2232
 2233
 2234
 2235
 2236
 2237
 2238
 2239
 2240
 2241
 2242
 2243
 2244
 2245
 2246
 2247
 2248
 2249
 2250
 2251
 2252
 2253
 2254
 2255
 2256
 2257
 2258
 2259
 2260
 2261
 2262
 2263
 2264
 2265
 2266
 2267
 2268
 2269
 2270
 2271
 2272
 2273
 2274
 2275
 2276
 2277
 2278
 2279
 2280
 2281
 2282
 2283
 2284
 2285
 2286
 2287
 2288
 2289
 2290
 2291
 2292
 2293
 2294
 2295
 2296
 2297
 2298
 2299
 2300
 2301
 2302
 2303
 2304
 2305
 2306
 2307
 2308
 2309
 2310
 2311
 2312
 2313
 2314
 2315
 2316
 2317
 2318
 2319
 2320
 2321
 2322
 2323
 2324
 2325
 2326
 2327
 2328
 2329
 2330
 2331
 2332
 2333
 2334
 2335
 2336
 2337
 2338
 2339
 2340
 2341
 2342
 2343
 2344
 2345
 2346
 2347
 2348
 2349
 2350
 2351
 2352
 2353
 2354
 2355
 2356
 2357
 2358
 2359
 2360
 2361
 2362
 2363
 2364
 2365
 2366
 2367
 2368
 2369
 2370
 2371
 2372
 2373
 2374
 2375
 2376
 2377
 2378
 2379
 2380
 2381
 2382
 2383
 2384
 2385
 2386
 2387
 2388

To Mary F. Green, Commissioner.

Taking testimony of John F. Mueller Sr., Christine Mueller, Christine Bartels, L. Lindoerfer and Herman Bartels, in case of John F. Mueller et ux vs. John Mueller Jr., et ux, original.....	\$12.50
Two copies @ \$6.25 each.....	12.50
One Days' Attendance.....	<u>1.50</u>
Total.....	\$26.50.

Bay Minette, Alabama,

January 16th, 1936.

To Mary F. Green, Commissioner.

Taking testimony of Paul Kaiser,
Paul Haupt and L. Lindoerfer, in
case of John Mueller Sr., et al,
vs. John Mueller Jr., et al,

original.....\$1.25

Two copies..... 1.25

Total.....\$2.50.

JOHN MUELLER SR., and CHRISTINE
MUELLER,

Complainants,

-vs-

JOHN MUELLER JR., and ROSE
MUELLER,

Respondents.

IN THE CIRCUIT COURT--IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

It is agreed by and between the parties, through their Solicitors of Record, that Mary F. Green is to act as Commissioner in taking the testimony of Paul Kaiser, Paul Haupt, and L. Lindorfer, witnesses for Complainants, and is to take the said testimony down in shorthand and is to transcribe the same, and to furnish a copy of the testimony so taken which is to be taxed as a part of the costs to Beebe & Hall, Solicitors for Respondents, and Hybart & Chason, Solicitors for Complainants; that the signing of the testimony by the witnesses and the issuance of a commission to Mary F. Green is hereby waived.

Dated this 16th day of January, 1936.

Beebe & Hybart & Chason
Solicitors for Complainants.

Beebe & Hall
Solicitors for Respondents.

TESTIMONY OF PAUL KAISER, WITNESS FOR COMPLAINANTS. DIRECT
EXAMINATION BY HON. C. L. HYBART.

Q: Your name, please sir?

A: My name is Paul Kaiser.

Q: Where do you live, Mr. Kaiser?

A: Elberta, East of Elberta.

Q: Do you know the property that is involved in this suit here?

A: Yes.

Q: How far do you live from it?

A: About $4\frac{1}{2}$ miles, about $3\frac{1}{2}$ miles, I guess.

Q: You own your place down there, do you not, Mr. Kaiser?

A: Yes sir.

Q: You've bought and sold property there in that neighborhood?

A: Yes.

Q: In your opinion what would be a reasonable value of this property involved in this suit here?

A: The whole forty acres?

Q: Yes sir, the forty acres.

A: The whole forty?

Q: Yes sir. In your opinion, what would be a reasonable market value of the forty?

A: If you had to sell it now it would be my estimation about \$2400.00.

Q: What would you say about the value of the East twenty?

A: Well, there is the buildings on the East twenty.

Q: On the East or the West twenty?

A: On the West.

Q: What, in your opinion, would be the value of the East twenty?

A: Oh, I might say, \$1800.00 or \$2000.00 with the buildings on.

Q: Are the buildings on the East twenty?

A: That's the West twenty.

Q: \$1800.00 or \$2000.00 for the West twenty which the buildings are on?

A: Yes.

Q: What would you say would be the value of the East twenty then?

A: Oh, \$400.00 to \$600.00.

Q: What would be a reasonable rental value for that property a year?

(page two)

A: A year?

Q: Yes sir.

A: Oh, \$100.00.

(No Cross-examination)

TESTIMONY OF PAUL HAUPT, WITNESS FOR COMPLAINANTS. DIRECT EXAMINATION BY HON. C. L. HYBART, SOLICITOR FOR COMPLAINANTS.

Q: Your name, please sir?

A: Paul Haupt.

Q: Are you acquainted with the property in this suit?

A: Yes sir, I was on the place to see it.

Q: Do you live in that neighborhood?

A: Six or seven miles.

Q: How long have you known this place?

A: About twenty years.

Q: Do you own your own place?

A: Yes sir.

Q: You have bought and sold land in that neighborhood?

A: No sir, I'm not in the real estate business.

Q: Well you've bought and sold land, haven't you?

A: I bought my land.

Q: You've known of people buying and selling land, haven't you?

A: Yes sir.

Q: You know what they paid for it and what they sold it for?

A: Yes sir.

Q: In your opinion what is the reasonable market value of the land in this suit?

A: For the forty?

Q: Yes.

A: How it stands, with the buildings and the property, I estimate it to be \$3200.00 for the forty acres with buildings and everything on.

Q: Now what, in your opinion, would be the value of the west half of the forty?

A: With the buildings on?

Q: With the buildings on, yes sir.

A: About \$2400.00 or \$2500.00.

(page two)

(page three)

Q: In your opinion what would be the value of the East half of the forty?

A: About \$500.00.

Q: What, in your opinion, would be a reasonable rental value for the property per year?

A: \$175.00, \$160.00 to \$175.00, something like that.

CROSS EXAMINATION BY HON. HUBERT HALL.

Q: Mr. Haupt, have you been over this land, walked out over it?

A: No, I was on the place this morning, and other times.

Q: Did you go on the South half of that West twenty? Did you go on the back side of it?

A: No sir, only on the front side, on the road, on the fence line along.

Q: Isn't there a pond on the back of it?

A: I know down there is soft, wet.

Q: Is that on the South side?

A: That's on the East side.

Q: Southeast side?

A: Yes sir.

Q: Well isn't there a pond on the South side?

A: No, I go not on the whole land.

Q: Well isn't there a pond on the East side in front of the Swartz place down that way?

A: I can't tell you.

TESTIMONY OF L. LINDOERFER. DIRECT EXAMINATION BY HON. C. L. HYBART, ONE OF THE SOLICITORS FOR COMPLAINANTS.

Q: Your name, please sir?

A: L. Lindoerfer.

Q: Mr. Lindoerfer, are you acquainted with this land here in suit?

A: I am.

Q: I believe you testified you prepared the Deeds and the Agreement?

A: Yes.

Q: How long have you known this land, Mr. Lindoerfer?

A: About thirty years.

(page three)

(page four)

Q: You live at Elberta?

A: Elberta.

Q: And you know land values down in that community there?

A: I used to know it pretty well.

Q: You own your own property, you've bought and sold property?

A: Yes sir.

Q: And known of lots of property being bought and sold, prepared deeds for it and knew what the people paid for it?

A: Yes sir.

Q: In your opinion, Mr. Lindoerfer, what would be the reasonable market value of this forty acres of land involved in this suit here?

A: You mean the whole forty?

Q: Yes sir.

A: At least \$3200.00.

Q: What, in your opinion, would be the value of the west half of the forty?

A: About \$2600.00 or \$2700.00.

Q: In your opinion what would be the reasonable market value of the East half of the forty?

A: Does that mean the present market value?

Q: Yes.

A: \$500.00.

Q: Now, in your opinion, what would the the annual rental value of the forty?

A: About \$175.00.

Q: That's per year?

A: Yes sir.

Q: Mr. Lindoerfer, would you examine this photograph?

A: I saw it the first time today.

Q: What does that represent there? What buildings does that represent?

A: That represents Mr. John Mueller sr.'s property.

Q: His property?

A: Yes sir.

Q: You mean all of it, what about the filling station across the road there?

A: That don't belong to him, never did.

(page four)

(page five)

Q: The residence and barns and other buildings setting back among the trees in the photograph, is his property?

A: Yes sir.

Q: And back behind this appears to be orange trees?

A: Yes sir.

Q: Now the land that appears to be back behind the buildings there to the south and southeast, which appears to have been plowed, is that a part of his premises?

A: Yes.

Q: What is this main road along here, Mr. Lindoerfer?

A: Elberta--Foley Road.

Q: Elberta to Foley?

A: Well, Lillian really, Elberta--Lillian road.

Q: How far is this property from Elberta?

A: Six miles.

Q: Lying in between Lillian and Elberta?

A: Between Lillian and Elberta.

Q: How far is it from Lillian?

A: It is a little better than four miles.

Q: We introduce this photograph in evidence and ask that it be marked Exhibit "A" to Mr. Lindoerfer's testimony by the Commissioner.

CROSS EXAMINATION BY MR. HALL.

Q: Mr. Lindoerfer, is this East twenty and the west twenty the same nature of land, land of the same type?

A: I think the West twenty is a little more adapted to farming than the East.

Q: Now exclusive of the buildings, what is the West twenty worth?

A: The West twenty, I would judge, about \$2600.00.

Q: Without the buildings?

A: I consider the buildings about, well, it is pretty hard to say exactly, I figure the house a thousand and about \$200.00 for the other buildings together.

Q: The improvements then are worth about \$1200.00?

A: Yes.

Q: And that would leave the west twenty valued at \$1400.00?

A: Yes.

Q: And the East twenty at \$500.00?

A: Yes.

(page five)

(page six)

Q: Didn't John Mueller Jr., clear quite a bit of land out there, the Respondent in this case?

A: I really don't know. I expect he did do some clearing when he was down before.

Q: I mean this time.

A: I don't think he did much clearing.

Q: Didn't he repair the fence out there?

A: I believe he kept it up as long as they were together.

Q: Did he put some improvements in the house and buildings on this property at this time?

A: As much as I know he put a room, a kitchen, or whatever they called it, but that was for the two old people to live in.

Q: Did he paper the house?

A: I don't know.

Q: Re-roof the house?

A: I don't know.

Q: Did he build a crib?

A: He might have done that.

Q: They all live there together now, don't they?

A: They do.

Q: And have been for some time?

A: Yes.

Q: Everything so far as you know is agreeable?

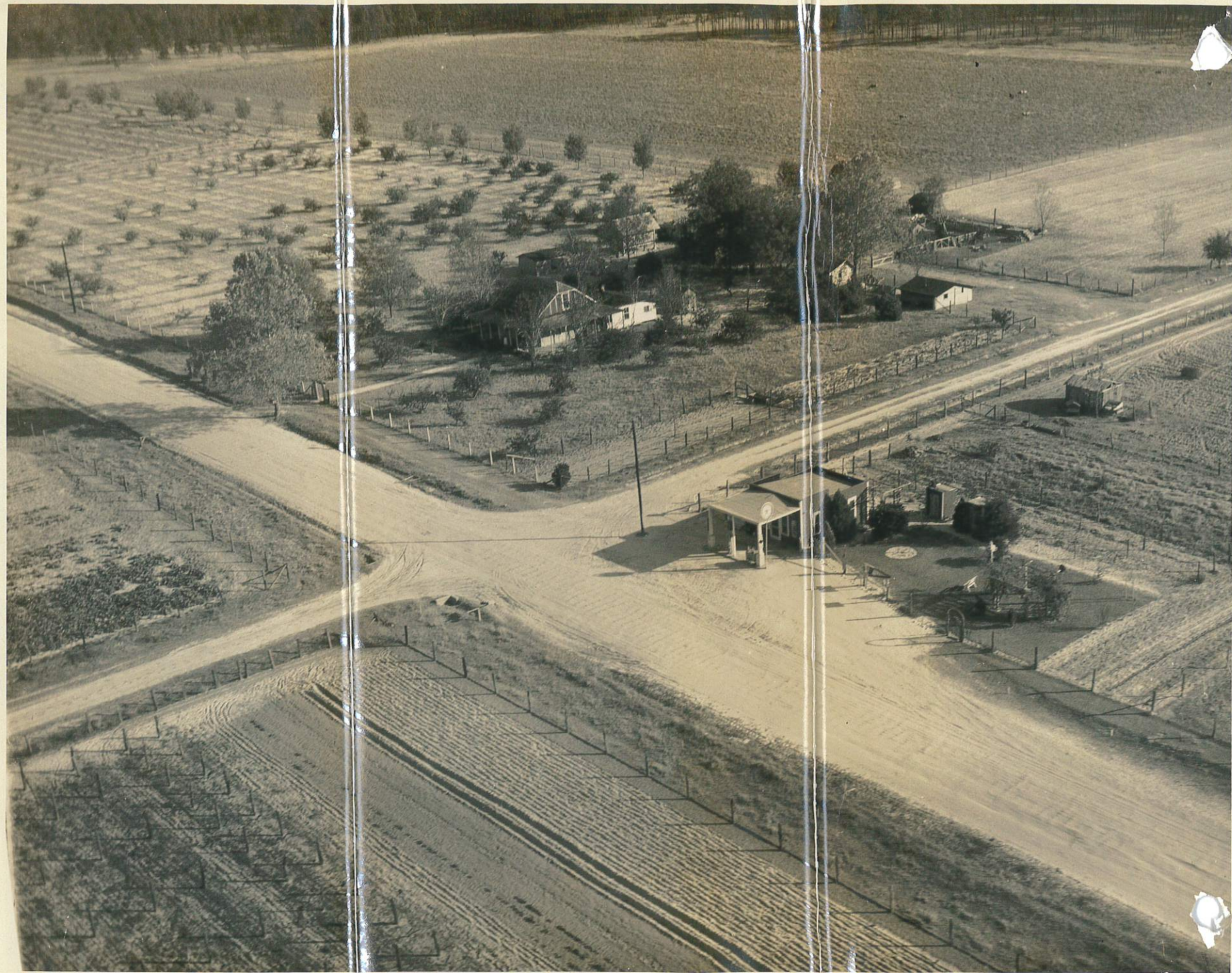
A: I don't believe there is any extra trouble, but they still love each other as much as before.

Q: Just a big family together now?

A: I don't mean it that way that they love each other so much.

Q: Well, they live together?

A: Yes. I don't want to be misunderstood when I say they love each other as much as they did some time ago, that wasn't much.



9876

EXHIBIT "A" TO TESTIMONY OF L. LINDOERFER.

Mueller

vs

Munk

May Green

250

260

290

Filed this 30 day Feb 1936
Richard L. Linder
Clerk-Register

I, Mary F. Green, as Commissioner, hereby certify that the foregoing depositions on Oral Examination were taken down in writing by me in the words of the witnesses, said witnesses having been duly sworn, at the time and place herein mentioned; that I have personal knowledge of personal identity of said witnesses; that I am not of counsel or of kin to any of the parties to said cause, or in any manner interested in the result thereof.

Given under my hand and seal this 15th day of January, 1936.

Mary F. Green.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY.

JOHN F. MUELLER and CHRISTINE
MUELLER,

Complainants,

-VS-

JOHN MUELLER JR., and ROSE
MUELLER,

Respondents.

BRIEF AND ARGUMENT OF COMPLAINANTS
BY HYBART & CHASON
ATTORNEYS FOR COMPLAINANTS.

The Respondents in this case have contented themselves with filing an Answer which is nothing more than a general denial of the equities and rights set forth in the Complaint, and, in addition to this general denial, call for strict proof thereof. The matters and things set forth in Paragraphs Two and Three of the Bill of Complaint, which contain the material averments insofar as the rights of the Complainants are concerned, are, according to said averments, within the knowledge of the Respondents. In substance, Paragraphs Two and Three set forth two transactions that were had with Respondents by Complainants; the first transaction being the conveyance of twenty acres of land by Deed by Complainants to Respondents, and it was alleged therein that the consideration of said Deed was support and maintenance of the Complainants during their natural lives. All of these transactions are within the knowledge, of course, of Respondents, at least prima facie so, and consequently, when Respondents contented themselves with just a general denial of the aforesaid allegations, this, according to the procedure in Chancery in this State, was admission on their part as to the truthfulness of the averments, and no further proof was necessary, and the same situation avails as to the third paragraph that deals with a Contract as between the parties to this suit as to the other twenty acres of land contained in the lands owned by Complainants at the time that the Deed and the Contract were entered into.

(page two)

"Where material matters are stated in the Bill which, prima facie, are within the knowledge or information of the Defendant, if in his answer, he fails to deny them, or to express his belief of their falsity, and does not state that he cannot form any belief respecting their truth, they must be considered as admitted. A general denial is insufficient. Still less will a mere demand for proof suffice. There must be a clear and distinct response to each averment of the Bill, otherwise the answer will be construed against the Defendant." United States Fidelity & Guaranty Company vs. Pittman, 183 Ala. 602, 607.

"Where material facts are stated in the Bill which, prima facie, are within the knowledge, information or belief of the Defendant, his failure to deny them, or to express the belief of their falsity, or to state that he cannot form any belief respecting their falsity, is a virtual admission that they are true. He cannot shelter himself behind equivocal, evasive or doubtful terms, nor behind the literal denial which amounts to no more than a negative pregnant." Grady vs. Robinson, 28 Ala. 289; Smilie vs. Siler, 35 Ala. 94; Moog vs. Barrow, 101 Ala. 212; A. Shiff & Son vs. Andress, 147 Ala. 690.

"The answer of Prestridge and Johnson to the Amended Bill was, after stating the case, as follows:- The Defendants for answer, say that they deny as true all the paragraphs of said Original and Amended Bill, and every allegation therein contained, and call for strict proof thereof. Oath to answer was waived in the note to the Bill. Rule 34, Chancery Practice. Generally speaking an Answer is insufficient that does not confess or traverse the material allegations of the Bill, insofar as they relate to the answering defendant. A literal denial is, of course, not the equivalent of the requisite fullness and explicitness of the answer. Gamble vs. Aultman, 125 Ala. 372. And where material allegations set forth in the Bill charge matters prima facie within the knowledge of the answering respondent, and the answer fails to deny them, they will be taken as confessed. The denial here was of the most general character, and was entirely insufficient to meet the positive averments of the Bill--It is clear that, under the rule,

(page two)

(page three)

the effect of the answer was to confess the averments of fraudulent acts and purposes which, obviously, were prima facie within the knowledge of this appellant." Prestridge vs. Wallace, 155 Ala. 540.

"The Answer contains nothing but a mere general denial of the allegations of facts charged in the Bill, and was utterly insufficient to relieve the Respondent of the prima facie case made against him and upon whom rested the burden of overcoming not only by clear proof the presumption of unfairness mala fides, but by a clear and distinct response to each averment of the Bill." Penney vs. McCulloch, 134 Ala. 580.

"The Answer consists of only two paragraphs to these important allegations of the Bill. The first is that they, and each of them, deny the allegations and charges in each paragraph of Complainants' Bill of Complaint, from Paragraphs one to Six, both inclusive. This is the only response of Bernard Moog to the Bill. By a second paragraph the wife answers that she purchased the property in good faith, and parted with the value by paying money therefor, without notice of Complainants' alleged equity. The charge of Complainants, that her husband conducted the entire transaction, and furnished to her the money, and that the payment was in satisfaction of the Mortgage debt, is not denied or referred to in her Answer. An Answer is not sufficient that states a general denial of the matters charged. There should be a clear and distinct response to each averment of the Bill. When a material matter is charged in the Bill, which prima facie is within the knowledge of the Defendant and he fails to deny it, it must be considered as admitted." Moog vs. Barrow, 101 Ala. 209.

"The form of denial used by the Respondents in this case is called a negative pregnant, and is not sufficient because it does not deny even the slightest variation from the form of allegation in the Bill, even though the substantial fact be the same". Sims Chancery Practice, page 330.

No defense of the Respondent can be entertained by the Court, even though testimony has been taken in support of his contentions, unless and until that defense is set forth specifically

(page three)

within his Answer.

"It is, however, of great importance to the pleader, in preparing his Answer, to bear in mind that besides answering the Plaintiff's case as made by the Bill, he has to state to the Court, upon the Answer, all the circumstances of which the Defendant intends to avail himself by way of defense, for it is a rule that a Defendant is bound to apprise the Plaintiff by his Answer of the nature of the case he intends to set up, and that a Defendant cannot avail himself of any matter in defense which is not stated in his Answer, even though it should appear in his evidence." Sims Chancery Practice, page 326, Section 488.

So it appears that from the contents of the record, the Respondents, by answering the Bill of Complaint in the manner and form that they have elected to do, have admitted the Complainants' case, which, as heretofore stated, is set forth in Paragraphs Two and Three of the Bill of Complaint. By distinct admission in said Answer, they have admitted the allegations contained in Paragraph One. The entire Complaint consists of only three paragraphs, and, on the other hand, by not stating any defense in their Answer as to the matters charged in the Bill of Complaint, then this Court cannot look to the evidence for the purpose of winnowing out a defense for the Respondents if they have one, which they have not.

In the history of the State of Alabama there seems to have grown a scheme or system by which a great many younger men and women, by begging, beseeching and chiding, caused their parents, who had grown old in evident well doing, to make over to them their property, with the understanding that they would

(page five)

support the old folks for their lives. On the face of the offer, and in a great many cases due to persuasion, and on account of the fact that senility had set in with many of these old people, they frequently parted with their property on such promises, to their extreme regret, and up until possibly the Code of 1923, the Chancery Court was the only haven for relief when they found that their confidence had been violated and their grantees had failed to carry out their agreements. Chancery, recognizing this scheme, was very liberal even when it operated under its own rules, which had come to it from the common law. The Legislature of Alabama in 1923 recognized the fact that these old people were being exploited by their sons-in-law and daughters on these promises that were often delusions, so consequently they have left it within the will and discretion of such grantors to revoke at their pleasure any such conveyances, Section 8046 of the Code being as follows:-

"Any conveyance of realty, of which a material part of the consideration is the agreement of the grantee to support the grantor during life, is void at the option of the grantor, except as to bona fide purchasers for value, lienees or Mortgagees without notice, if, during the life of the grantor, he takes proceedings in equity to annul such conveyance".

All the testimony in this case shows that the material part of the consideration of the Deed and the Contract was based upon an agreement of John Mueller Jr., and his wife to take care of the Complainants for the balance of their lives. The Complainants now express a desire, and request this Court, to declare said conveyance null and void, and of no force and effect. We

(page five)

(page six)

might say further, though it is not necessary, we take it, under the law in this state, that the proof shows that in addition to all this that the old folks had been badly treated at the time that they filed the Bill of Complaint in this cause and this Court assumed jurisdiction of the matter. The evidence, we take it, is overwhelming to this effect, and a more pleasing situation can prevail in this home, we feel sure, even though John Mueller Jr., and his wife continue to live with the old folks, if the title is in the hands of the mother and father, who, according to the records, will soon pass on, and then, if John Mueller Jr., has redeemed himself in the eyes of his father and mother, the chances are that the property, or a portion of the property, will go on to him at the time of his father's and mother's death, but whether this will be true or not has nothing to do with his father's and mother's rights under the Statutes heretofore set forth and referred to.

We respectfully submit that from any angle; that is, from the evidence and from the law in the case, Complainants are entitled to relief at the hands of this Court.

Hyatt & Kesson
Solicitors for Complainants.

We hereby certify that we have this day delivered to Messrs. Beebe & Hall, Solicitors for Respondents in the aforesaid cause, a copy of the foregoing brief and argument.

This 27th day of March, 1936.

Hyatt & Chason
Solicitors for Complainants.

The State of Alabama, }
Baldwin County. } Circuit Court of Baldwin County, In Equity.

To any Sheriff of the State of Alabama—GREETING:

WE COMMAND YOU, That you summon John Mueller, Jr., and
Rose Mueller

of Baldwin County, to be and appear before the Judge of the Circuit Court
of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Sum-
mons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by
John F. Mueller, and Christine Mueller

against said John Mueller, Jr., and Rose Mueller,

and further to do and perform what said Judge shall order and direct in that behalf. And this the
said Defendant shall in no wise omit, under penalty, etc. And we further command that you return
this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.
WITNESS, T. W. Richardson, Register of said Circuit Court, this 25th
September 1935

M. A. Stone Register

docket page 61

SERVE ON ¹⁸²⁰ John Mueller, et al

Circuit Court of Baldwin County
In Equity.

No. _____

SUMMONS

John E. Mueller

Christina Mueller

vs.

John Mueller, Jr.,

Rose Mueller

A. H. Crockett
Solicitor for Complainant

Recorded in Vol. _____ Page _____

RECORDED
THE STATE OF ALABAMA,
BALDWIN COUNTY

Received in office this _____

day of _____ 192 _____

_____ Sheriff.

Executed this ^{5th} _____ day of

~~September~~ ^{October} 192 ³

by leaving a copy of the within Summons with

John Mueller Jr

_____ Defendant,

W R Stuart

_____ Sheriff.

By _____

_____ Deputy Sheriff.

The State of Alabama, { Circuit Court of Baldwin County, In Equity.
Baldwin County.

To Any Sheriff of the State of Alabama--GREETING:

WE COMMAND YOU, That you summon John Mueller Jr., and Rose Mueller

of Baldwin County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Summons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by John F. Mueller and Christine Mueller

against said John Mueller Jr., and Rose Mueller,

and further to do and perform what said Judge shall order and direct in that behalf. And this the said Defendant shall in no wise omit, under penalty, etc. And we further command that you return this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, M. A. Stone, Register of said Circuit Court, this 19th day of October 1934

M. A. Stone Register

N. B.—Any party defendant is entitled to a copy of the bill upon application to the Register.

Dec 14 Page 90

SERVE ON 787

Circuit Court of Baldwin County
IN EQUITY

No. 85
SUMMONS

John F. Mueller
Christine Mueller
John Mueller Jr.
Rose Mueller

VS.

VS.

John Mueller Jr.
Rose Mueller

Hybart Heard & Chason
Solicitor for Complainant

THE STATE OF ALABAMA,
BALDWIN COUNTY

Received in office this _____
day of _____ 193 _____

SHERIFF

Executed this 2nd day of
November 193 4

by leaving a copy of the within Summons with

John Mueller Jr.
Rose Mueller

Defendant

W R Stuart
Sheriff

By _____
Deputy Sheriff

BAY MINETTE, ALA.,

JUN 17 1936

193

RS DuckCity

IN ACCOUNT WITH

G. W. ROBERTSON

JUDGE OF PROBATE, BALDWIN COUNTY

Please Return Bill With Remittance

Privilege Tax

Rec. Fee

Total

Deed
Rec. Mort. fromJno F Mueller

to

vs Jno Mueller Jr1 20

JOHN F. MUELLER, SR., and
CHRISTINE MUELLER,

Complainants,

-VS-

JOHN MUELLER, JR., and
ROSE MUELLER,

Respondents.

IN THE CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA. IN EQUITY.

BRIEF AND ARGUMENT OF COMPLAINANTS.

BY

HYBART & CHASON,
Bay Minette, Alabama.

In view of Section 8046 of the Code of 1923, which is based upon wisdom of experienced and observing people, it is hardly necessary as we construe the law to reply to the brief of respondents, which speaks in generalities and cites cases that were long decided before the enactment of the foregoing statute, but be that as it may, even those cases would be applicable in this proceeding.

It seems from the record that Mr. and Mrs. John Mueller, Sr., prior to 1933, had both lived long in Baldwin County. That during this time they had acquired forty acres of land on which they built a home; that they had both grown old. That Mrs. John Mueller, Sr. at the time of the execution of the deed was evidently suffering from tuberculosis, as well as epileptic fits.

The record further discloses that this old couple had at least three children - John Mueller, Jr., Fred Mueller and Mrs. Christine Bartels. That in the latter part of the year, 1933 - in December - John Mueller, Jr., who had previously lived with his parents in Baldwin County, Alabama, returned to Baldwin County, together with his wife, Rose Mueller. It appears from the record that there was some correspondence by mail between John Mueller, Jr., and John Mueller, Sr., relative to John, Jr. coming back to Baldwin County, but as to what this was, or rather we should say the contents of the letters, from a legal point of view we are not advised. John, Jr. attempts to testify as to the contents of these letters, but the record discloses that no predicate was laid for the admission of such testimony, and the law requires the Chancellor to reject such testimony in determining the issues in this case. For aught appearing

these original letters are in existence and were available to John Mueller, Jr. at the time he testified.

SECTION 6565 of the 1923 CODE-- Objection to and consideration of testimony.--"In the trial of an equity case in the circuit court or other Court of competent jurisdiction in this State, it shall not be required or necessary that objection be made to any testimony which may be offered by either party, and on the consideration of an equity case the court shall consider only such testimony as is relevant, material and competent, and shall exclude and not consider any testimony which is irrelevant, immaterial or incompetent, whether objection shall have been made thereto or not, and on appeal the supreme court shall consider only the testimony which is relevant, material and competent, and it shall not be required or necessary for either the trial court or the supreme court to point out or indicate what testimony, if any should be excluded or not considered. Nothing in this section, however, shall prohibit any party from calling attention to testimony which is considered objectionable either by objection thereto or by brief and argument."

Brief of Respondents speaks of their owning a house in the north where they were getting along nicely and happily. However, the record is silent as to their owning a home; as to its adornments or the tranquility and happiness that permeated its confines or environment, but history does tell us that in 1932 there was a financial depression of immense intensity sweeping over this Country and that its effects were felt most in the large centers of population, and it does not record that the City of Cleveland was an exception to its ravages.

However, we find Mr. and Mrs. Mueller, Sr. Mr. and Mrs. Mueller, Jr. on January 7, 1933, entering into an agreement in the presence of Mr. Lindoerfer, a Notary Public, that if Mr. and Mrs. Mueller, Sr. would convey to Mr. and Mrs. Mueller, Jr., the twenty acres of land involved in this suit that they, Mr. and Mrs. Mueller, Jr., would take care of these old people on their place during their life - in sickness and in health - so these old folks, taking the Respondents at their word, stripped themselves of their home and thereby made their future shelter questionable. After this, by the indifference, coldness and cruelty on the part of the Respondents, these old people's lives were made miserable and they had to resort to the home of Mr. and Mrs. Bartels - Their daughter's husband very kindly agreed to take the in.

The record discloses that these old people made a bona fide effort to stay in the home with their son and their daughter-in-law, and underwent such indignities that no decent person could have stood. When the Mueller Junior's took charge of the premises the old people were living in the house proper, but this situation did not continue long until we find them being removed to the kitchen. It may be that the kitchen was clean and all of that, but the evidence show, without dispute, that there was only one little window in this kitchen. The evidence further discloses that Mrs. Mueller, Sr. was suffering from tuberculosis and medical science has taught us long since that in the treatment of such trouble and for the continuity of the patient's life, that plenty of fresh air is necessary. Mrs. Mueller, Sr. testified, and this is not disputed, that she called the attention of

her son, John, who had charge of the place there, and whose duties under the agreement, and under the consideration of the deed, was to take care of her in sickness, as well as in health, that it was necessary to have more openings in the room. That this he failed and refused to provide for, and in addition to this, such inhumane treatment on the part of the son is bound to have had a demoralizing effect mentally upon this old lady as well as her husband, who had lived with her through a long period of years and who was bound to be interested in her welfare and health.

This incident, within itself, under the old law as it existed would be sufficient to have terminated the agreement and permitted these old people to recapture their property. The evidence further shows, and it is not disputed, that on another occasion during the time that these old people were there in 1933, that Mrs. Mueller, Sr., who was susceptible to epileptic fits, had one of these spells on the gallery or about the house there and that her son John caught hold of her legs and threw her on the bed and walked away without making any effort to render her any assistance.

The record further discloses that about six weeks after the deed was signed that John Mueller, Jr. told his father that if he had known what he did that he would have never come down south and entered into this agreement and that if his father lived ten years longer that it would cost him \$1500.00, and that John, Jr's. Attitude towards his father was so inhuman and vexing and unreasonable that the old folks were forced to leave the table and have their meals in the kitchen - their bed room- that is, if they had any, and it happened

on several occasions that they were not furnished with provisions or food and that they had to go out and buy things to eat. That John Mueller, Jr. refused to let his wife take meals in to their room, stating that if they wanted anything to eat they could come to the table and get it, regardless of the fact that his mother was suffering with tuberculosis and had to be looked after like a child, according to Mrs. Bartels' testimony, whose testimony, speaking to the average mind, was bound to impress it with the fact that she was a good woman and a good daughter. John Mueller, Jr., himself, in his testimony, said that he told his wife not to take any meals in there to them and it appears on numerous occasions that when they would go to the table to get their meals that the John Mueller, Jr. family had made way with the food and often there was not even the scraps there for them.

If this is not cruelty of the meanest form, there is no such emotion or feeling. It does not mean to be cruel that you have to use physical force. To harass, to nag, to insult, is frequently more cruel than to make an assault with the hand or fist.

It seems that in the summer of 1933, or sometime prior to that, that John Mueller, Jr., figuring that he had stripped the old people of this property, and not wanting to be a farmer, as he testified in the record, he did not like it, conceived the idea of swapping this place in Baldwin County for a home in Cleveland and he wrote to his brother-in-law, Mike somebody, about bringing about a change of this kind. That Herman Bartels, who is a son-in-law of the Muller, Sr. was in Cleveland and he saw this party and this party told him that Mueller, Jr. was contemplating changing this property for a house in Cleveland.

That Bartels, being a son-in-law, and knowing something about the contract between the oldfolks and John Mueller, Jr. and the consideration of the deed, on his return to Baldwin County, which was the most natural thing to have done, went over and informed John Mueller, Jr. about this conversation that he had with this party in Cleveland. John, Jr. never denied any such conversation, but stated to Herman Bartels that it was none of his business and Bartels told him that it was his business if he was going to strip these old people of their support and maintenance and force them to become an object upon charity. It would have been very unnatural for the son-in-law, who loved his wife, not to have been interested in the welfare of his wife's mother and father.

The record further discloses that John Mueller, Jr. became so enraged about the matter that he told Bartels that the old folks could go to Hell as far as he was concerned and ordered Bartels to stay away from his place and saw the Justice of the Peace and had the Justice of the Peace to give him notice to stay away from there.

The whole plan or scheme from beginning to end was to strip these old people of their property; to pull off this same old racket that has been pulled off so many times in Alabama by the son or son-in-law, obtaining a deed to the home on the fair promise of support and maintenance, and it shows that just as soon as they had the deed recorded, and as soon as they got settled in the house, the plan of the Muller, Jrs. began to develop by reducing these old people to a state where they had to live in the kitchen of the home that they once owned and had to obtain what was left on the table after the

Mueller Jr. family had participated to their full desire of what had been prepared for the meal.

The old law in Alabama was, that Regardless of what the equity in the bill was based upon that a grantee in such a deed could not keep the fruits of the contract without carrying out his part in a fair, just and equitable manner. There is something more than giving a person a home and carrying for them than permitting them to live under its shelter than to eat the food that comes upon the table. There should be a certain amount of kindness, attention, tenderness and those emotions that go to make up the normal home life. The conduct towards the inmates has got to be reasonable and the record discloses that no such privileges and attention were accorded these old people after they executed the deed.

John Mueller, Jr. in his effort to strip these old people of their home, has talked about the great expense that he has gone to in connection with this transaction, placed the amount at \$2,000.00, but on cross examination it appears that ^{only} a few things that he expended money for around the place and he repaired this with his own labor nothing like the amount that he claimed to have expended on direct examination, and his evidence on cross examination is very uncertain as to these expenditures, which goes to show that he is not fair; that he is not straight; that during all of this time the Mueller, Jr. family had the use of the premises; they have had the products from the soil and been vested with the income of every kind that is flowing from it. That, within itself, according to the record in this case, was more than enough to offset any repairs or improvements that might have been made upon the place.

The evidence shows that the place was in good shape in 1933; the fences all up, the buildings in repair and in the light of the record, there is no sense or meaning in the contention of Mueller, Jr. as to his great expense. It is just an effort on his part to pull the wool over some body's eyes.

The Respondents have brought in several witnesses, neighbors, who know nothing about the transaction, and they testified on their cross examination that they were casual visitors in the home, and naturally, when the neighbors come around the inmates of the home put on the company manners and also, as a rule they put the best foot forward, and if there are any skeletons in the closets, the doors are closed and they are kept in there until their departure, and it is an absurdity for the neighbors to give a conclusion gathered from what they saw on these visits, which were all more or less of short duration.

The Respondents bring in their son, John, to testify as to the treatment of these old folks, and it turns out on corss examination that he was in Cleveland during the summer that these transactions were occurring.

It is in the record that since this suit was filed and after the Mueller, Srs. had lived with the Bartels for some thing like one and one half years, that they returned to the Mueller, Jr. home and that they were getting along fine, according to what John, Jr. and Rose Mueller have to say about the matter, but that has nothing to do with this case. When they see that the whip handle is passing; when they see that the old folks are liable to capture the property; when they see this property slipping from their grasp, and knowing that there are

such things as wills and conveyances, and things of that kind, it is time for them to back up in their attitude and conduct towards their parents, and if this Court, as we believe it will do under the law in this case, will order that this deed be cancelled and held for naught, this Court will then insure the happiness and tranquillity and peace of mind of these old people and will make John, Jr. and Rose more dutiful children.

Respectfully submitted,

Hyatt & Chasman
Solicitors for Complainants.

We hereby certify that we have this day forwarded to Messrs. Beebe & Hall, Attorneys for Respondents, a copy of the foregoing brief, postage prepaid.

This 29th day of May, 1936.

Hyatt & Chasman
Solicitors for Complainant.

JOHN F. MUELLER and
CHRISTINE MUELLER,

Complainants.

VS.

JOHN MUELLER, JR. and
ROSE MUELLER,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY.

It is agreed by and between the respective solicitors of record that the testimony of the following witnesses: John Mueller, Jr; Rose Mueller; Eleanor Mueller; Johnnie Mueller; Frank Schwartz; John Zollikofer; and Joe Mestrinelli, be taken by Miss O'Byrne Jones, as Commissioner; that the issuance of commission is hereby waived; that the testimony of the witnesses be taken in the form of questions and answers and transcribed as such by said commissioner; that the necessity for the said witnesses to sign their respective testimony is hereby waived; that the testimony of said witnesses, as hereto attached, be and the same is hereby taken as the true testimony of said witnesses; that any and all irregularities with reference to the taking of said testimony are hereby expressly waived, and that the said testimony be considered in all things as if taken strictly in accordance with the requirements of law.

Hyatt & Phason
Solicitors for the Complainants.

Beebe & Lee
Solicitors for the Respondents.

TESTIMONY OF JOHN MUELLER, JR., DEFENDANT, DIRECT EXAMINATION
BY HON. HUBERT M. HALL, SOLICITOR FOR DEFENDANTS.

Q: This is Mr. John Mueller, Jr?

A: Yes, sir.

Q: Mrs. Rose Mueller, that is your wife?

A: My wife.

Q: Now the Complainants, Mr. John F. Mueller and Christine Mueller, that is your Father and Mother?

A: Yes, sir.

Q: Mr. Mueller, sometime ago did your father and mother deed you some property?

A: Yes, sir.

Q: Down near Lillian, in Baldwin County, Alabama?

A: Yes, sir.

Q: That land was described as the West half of the Northwest quarter of the Northwest quarter of Section 29, Township 7 South of Range 6 East, wasn't it?

A: Yes, sir.

Q: At that time where were your father and mother living?

A: At the same place.

Q: Where did you live before you came down?

A: At Cleveland, Ohio.

Q: Who first suggested the taking over of this property by you?

A: Father and mother.

Q: How?

A: They wrote me a letter. The first letter I got when I was forty years old. Mother and father talked it over and decided to give me twenty acres of land for my fortieth birthday, if I would come down.

Q: If you would come and arrange to live with them?

A: Yes, sir.

Q: Did you correspond back and forth?

A: We did at times. I was here one time before. Father wrote

①

mother had had a stroke and he could not keep the house and they did not have anyone and that if I would come down right-away and take care of them the rest of their lives, they would give me the twenty acres of land for keeping them.

Q: Twenty acres of land for keeping them?

A: Yes, sir.

Q: At that time did you break up house keeping in Cleveland?

A: Yes, sir.

Q: Did your father and mother give you a deed to the West twenty acres?

A: Yes, sir.

Q: At that time what did you do about the place?

A: When I came down everything was run down. Mother said everything was running down. Dad wasn't able to do things. The building was not painted. Place was running down more and more.

Q: What did you do about the place?

A: The floor was rotting. The building repaired. I bought pretty near everything. No stock on it, two cows and a heifer. I bought all that and different things and wired the place.

Q: In repairing the house, how much money did you spend?

A: I had everything marked down.

Q: Approximately how much?

A: The repairing part I would not say was so awfully much. Everything around \$1800 to \$2000.00. Doors, fences and everything.

Q: Did you clear any land?

A: Cleared Dad a few acres.

Q: On the strength of this deed from him and your mother, you broke up house keeping and came down and expected to take care of them?

A: Yes, sir.

Q: What did it cost you to come down?

A: My expenses?

Q: Yes.

A: It costs \$100.00 coming down. I lost my job. Dad said he had all the oranges in the barn and they would rot. I rushed and tried to make it. I went in the . It cost me around \$100.00.

Q: After you came down, you and your family, you took your family in the house?

A: Yes, sir.

(5)

Q: Did you provide a place for your father and mother?

A: They lived in the two rooms. The one room is real large, the one they asked for. They had the other room for a kitchen. They never used the other room. They lived partly in the back part of the house, in these two rooms. They said we could fix up that one room and we could take the other room and have that for a kitchen. We did that.

Q: You did prepare this room as they wanted it?

A: We painted it. Painted every space in the room. We papered it.

Q: That was in accordance with their wish?

A: That was after they asked for that room. I papered it for them.

Q: Was bedding and furniture in there. The necessary furniture?

A: Yes, sir. Everything they needed. They moved everything in that room they needed. They did not ask for anything else.

Q: Was that room kept up and cleaned?

A: It was left up to them.

Q: Did they have a key to it?

A: They had a key.

Q: During that time who cooked for your mother and father?

A: My wife.

Q: Was your daughter there?

A: Yes, sir.

Q: And your son?

A: Yes, sir.

Q: Did they also not look out for them?

A: From time to time.

Q: Wait on them around the place?

A: The daughter did, but the boy did not. He had his work outside.

Q: Was your father and mother treated or provided for as members of your family?

A: They had as good a time as they have had. They told me that.

Q: Did you refuse to let them come to the table?

A: No, sir.

(3)

Q: Did you refuse to provide them with food?

A: No, sir.

Q: Did you order them out of the house?

A: No, sir.

Q: About how long did they stay there at that time?

A: I couldn't exactly say. They were gone off and on. They were not there steady. Sometime Herman Bartles called them over to help pick figs and oranges. They stayed there two or three days at a time, sometimes a week. They asked me whether my parents could come up. I said to my sister they could do what they pleased. It is satisfactory with me. They stayed there three or four days at a time. They come back and stayed a little while. Herman Bartles came over and he said "John what are we going to do about your parents". I said "About my parents." He said "\$150.00 is the consideration". I said "You may as well leave the parents here, they have got a good home." I gave him that answer.

Q: Did your father and mother leave at that time?

A: No, they stayed a little while.

Q: At the time they would go away Mr. Mueller, what would happen to their quarters?

A: They was locked.

Q: Who had the key?

A: They did. I sent them word to come and let a little air in and that they should come and clean it. One out of ten times they came. I don't think they opened the room more than two hours.

Q: At the present time where are your father and mother living?

A: With me.

Q: How long have they been there with you?

A: About three of four months.

Q: During this three of four months what part of the house do they have?

A: The same room as always. They have access to the living room and other parts of the house. When Mother was in the house and we would go out in the field, if Bartles would come and she heard the horn blow, she would go out and go off with him. She is that way. She leaves the house open when she goes out with Bartles. We have the front part of the house, this room, they had one piece of furniture in the room. They said they did not want to change it, and we spent more time in there and they did not.

Q: You keep the front door to the house locked when you are out?

A: Yes, sir. We do not all the time. We have to have someone at the house all the time now with mother.

4

Q: Whom do you leave there with her?

A: Either my wife or the girl.

Q: You do, at all times, leave someone with her?

A: We cannot leave her alone a minute. Someone is there all the time.

Q: Where do they eat?

A: With us.

Q: Do they have a friendly reception about the house?

A: It could not be any nicer. They will tell you the same thing.

Q: When, at the time that you got this deed from your mother and father, was there a contract with reference to some other land?

A: The lower twenty, the Southeast twenty. We have separate papers for that. I was to take care of them as long as they lived.

Q: It was understood that if you should take care of them for the balance of their lives, the other twenty would belong to you?

A: No, my brother.

Q: Where does your brother live?

A: In Cleveland.

Q: There was an agreement that if they should become dissatisfied you were to pay \$150.00 to them? That is, per year?

A: That was the agreement, that if either party was not satisfied, I was to pay \$150.00 to them.

Q: After they were gone for a week to two, did you see your father?

A: No, I did not see him.

Q: Did you ask him if he was dissatisfied?

A: He came up one afternoon and said "John, I came for a settlement." I said "What do you want a settlement for. Nothing is wrong." We talked on and I said "How would it be to build a house. How would it be to cut the back part of the house. That was their house when I came down. How would it be to cut the house up and put a front porch on it. Dad thought it was best for them to stay to themselves.

Q: What did he say to that?

A: He said he was agreeable. I said "Dad can't we do anything." I said "Let's settle it." He promised he would. We talked all the way to the road. I was painting the Lillian School house. Bartles came up and told my wife he would build it.

Q: Bartles, your brother-in-law?

A: Yes, sir.



Q: Have you ever failed to support or care for your mother and father?

A: No.

Q: Have you ever refused to support them, food and clothing?

A: No, sir.

Q: Did you ever at any time force them in the yard to do their cooking?

A: No, sir.

Q: Have they ever had to do any cooking?

A: No, sir.

Q: They did not come to the table for a while to get their meals?

A: They took them from the table. That was satisfactory for a little while, then they wanted my wife to bring it in to them. I told my wife that she could not take it in to them. I said "If they do not want to eat from the table, they will have to take it from the table." I told mother if she wanted to do her own cooking she could do it. She said if she could do her own cooking she would not have called me. Then she said there wasn't enough room on the stove. I said it was big enough for three, not two. I said "There is another stove outside in the smoke house. If you can't do anything with us, there is another stove."

Q: When you first came down, you and your father worked on the farm all right?

A: Yes, sir. Everything was all right until the Elberta Bank went under. Dad gave each of the girls \$500.00 in shares. Dad said I should come along, that he wasn't able to take care of it anymore. I asked Mr. Neumann if it was all right. He said it was all right. A little while later Herman Bartels came over and he wanted to know what I was going to do with the shares. That was the beginning of the trouble. I said "Listen Herman, I wrote Dad I would come down and take care of them." He told me what I could do with the shares. I did not get them. You gave them to me when they were no good."

Q: On the strength of your father and mother's letters to you in Cleveland, you broke up house keeping and came down to take care of them?

A: Yes, sir.

Q: You did break up house keeping and come down?

A: Yes, sir. I had to fix the whole house over. I painted it and everything.

Q: You bought farm implements for the place and stock?

A: Yes, sir, and wired his fence. Got the post and had the land cleared.

Q: You and your father cleared it?

A: Yes, sir.

Q: At the present time and for sometime passed your mother and father are living with and as members of the family with you, and so far as you know, perfectly contented?

A: Yes, sir. Where the trouble came in, I was laying on the davenport in the evening. Mother and Dad were out on the porch in the swing. They sit out there lots of evenings for an hour or so. All of a sudden mother said "Why don't you go in and eat." We had a good supper. She said "Why don't you go and eat." Dad said "We just had supper. You were at the table when we were there." She said "That is more than I know about it." The next day I did not say anything to her. I asked Dad what it was all about. He said that at times spells would bring her that way. She goes out of her head. I did not know she had a spell until Dad told me afterwards that she had a spell when she said that.

Q: Do your father and mother have to do any work about the place?

A: No. I never ask them to do a thing. I stop Dad when he works hard. I tell him to have a few good days before his days are over. Mother does not do anything. One day she went out in the corn crib and father told me he thought she would get this spell again. I said "Well, Dad, what's the idea of taking her out there." He said that she forgets about things. She has time to overcome things.

Q: Mr. Mueller you have never failed or refused to perform your obligations to your father and mother?

A: No, sir.

CROSS-EXAMINATION BY HONORABLE C. L. HYBART, ONE OF THE SOLICITORS FOR THE COMPLAINANTS.

Q: This is Mr. John Mueller, Jr?

A: Yes, sir.

Q: When did you come down to Baldwin County to live?

A: Three years the 15th of this month.

Q: That was in 1932?

A: I guess that's when it was. Just three years ago.

Q: How long has your father been living here?

A: He must have been here for the last twenty-seven or twenty-eight years.

Q: He and your mother live down here?

A: Yes, sir. I was here when they first came down. I have been here two or three different times.

Q: You went back to Cleveland and lived there until 1932?

A: Yes, sir.

Q: Then you returned?

A: Yes, sir.

(7)

Q: Your father is living in South Baldwin on this land involved in this suit?

A: Not always on the same land, but in Baldwin County.

Q: He was on this when you came here?

A: Yes, sir.

Q: Twenty acres of land?

A: Twenty acres fenced.

Q: How long has the house been on it?

A: The back part of it eighteen or nineteen years. I built the front part of it.

Q: How many rooms did you build on the front?

A: Four. I furnished the material.

Q: At that time?

A: Yes, sir. There was misunderstanding. I expected my brother to come down when I left. He said he could not come down. He said he might get along with mother and if he should ever marry someday, maybe they could not get along. I went to the Post Office and wrote brother a letter. Dad said "You go and Fred will come down."

Q: You went back to Cleveland?

A: Yes, sir.

Q: At that particular time you furnished the material for the house, the four rooms?

A: Yes, sir.

Q: You paid for it?

A: Yes, sir. My brother paid me for it.

Q: Your brother paid you back the money?

A: Yes, sir. He wanted to come back down here.

Q: Your father owned the place at that time?

A: Yes, sir.

Q: When you returned to Baldwin County, Alabama, in 1932, your father owned the place?

A: Yes, sir.

Q: When you got here you went to Mr. Lindoerfer's at Elberta and made up the contract?

A: Yes, sir.

Q: The understanding between you and your father and mother was that you would have the property and the consideration was that you take care of them?

A: Yes, sir.

Q: That was the consideration of the contract?

A: Yes, sir.

Q: After you entered into this contract with your father and mother you commenced to live there in the home and they were living with you?

A: I couldn't understand that.

Q: After you entered into the contract you took charge of the property and they lived with you?

A: We lived together.

Q: You were taking care of them?

A: We did the work, cooking and washing, taking care of them.

Q: Now what were you making on that place? I mean in the way of farm trucking and etc.

A: Everything was wild when we came down.

Q: Didn't you have some oranges on there?

A: Yes, sir.

Q: How many satsuma oranges?

A: 7 acres, but half were dead.

Q: How many satsuma oranges in your best judgment?

A: I couldn't say.

Q: Five or six hundred?

A: I guess so. They did not have a crop on them the first year.

Q: That was when you came down? There was nothing on them?

A: The crop was over with at this time. They were all shipped. Dad told me he had two hundred bushels to get rid of. He told me to come down and help get rid of them. They were going to rot.

Q: Did you sell the oranges when you got here?

A: Yes, but Dad collected all the money. He gave me the money and I gave him the

Q: You took that money and put some repairs on the place?

A: Not with that money. That was just to plant with.

Q: What repairs did you put on the house.

A: Every other board was loose and the whole upstairs I floor-ed it.

Q: Did you buy the material for that place?

A: Yes, sir.

Q: Where?

A: Some at Pensacola and some at the Foley Lumber Company.

Q: How much lumber did you buy for that place?

A: I couldn't tell you exactly. I bought it in small amounts.

Q: Couldn't you estimate how much you bought for that place?

A: No, sir. I really don't know.

Q: You have no idea?

A: No.

Q: You are not a carpenter?

A: No, sir.

Q: You have had no experience in that line?

A: No. I bought a board here and a board there.

Q: How much material went in the house?

A: I figured it up and gave you a list. I think the house is 20 x 30, if I am not mistaken. No, 22 x 24. I put a whole floor upstairs. The back part of the house, I put a floor back there. I repaired different parts of the house.

Q: Did you do that in '32 or when?

A: I did that in '32.

Q: Now fifteen days after you came down here you floored the upstairs?

A: No, that was later. It was two or three months.

Q: You took charge of the farm, who got the benefit of the produce?

A: There was none.

Q: Did you sell the oranges in '33?

A: We did not have any. This year we had some. I took them and got \$17.50. It was from \$17.50 to \$18.00.

Q: Did you cultivate any of the land there?

A: All the time it was in shape.

Q: Is it in a good state of cultivation?

A: As good as you can make it.

Q: You have had the use and benefit of it?

A: Yes, sir.

(10)

Q: How many acres were in cultivation when you came down in '32?

A: I don't know. Twenty or twenty-two.

Q: On that twenty acres?

A: It was about fourteen on the forty acres.

Q: About fourteen on the forty?

A: Yes, sir.

Q: Since that time, how much has been cleared up?

A: I think there is ten acres.

Q: Around ten acres?

A: No, eight acres.

Q: Who cleared it?

A: We cleared it.

Q: Who do you mean by we?

A: The family and I.

Q: Your father?

A: Yes, he was along.

Q: Did your mother work any?

A: At the time we cleared, you could not depend on father. He did not work hard. He just helped along.

Q: Did your mother help any?

A: No, sir. She is not able. Dad told me afterwards that she was not able to do anything.

Q: What grew on this land before you cleared it?

A: Saplings, stumps and all different things.

Q: Did you stump it?

A: We burned out the stumps.

Q: What did it cost per acre to clear that land?

A: I wouldn't clear it for anything.

Q: What can you get it cleared for?

A: Twenty-five dollars.

Q: What do you mean, per acre?

A: Yes, sir. Per acre.

115

Q: You and your father and other members of your family cleared it up?

A: Yes, sir. We did it just for ourselves.

Q: You painted the house?

A: Yes, sir. I brought it along from Cleveland. I was a painter in Cleveland and I brought the paint along. I bought some here.

Q: How many days did you paint the house.

A: I did not do it all at once. It would take at least four or five days.

Q: What was that time worth?

A: A whole lot.

Q: I mean as a reasonable price, what is it worth. You have judgment.

A: I would not do it for less than \$50.00 or \$60.00. There was repairing along with it.

Q: What else did you do there?

A: Everything was running down.

Q: What do you mean?

A: All post had to be replaced in the barn.

Q: What size barn is that?

A: Dad said once that it was 30 x 60.

Q: How many post did you put in there. In the barn?

A: I did not put in all it would take.

Q: About how many?

A: Four or five.

Q: Where did you get the post?

A: I cut them from the land.

Q: What else did you do about the farm?

A: The doors had to be fixed. Hinges put on and all different things.

Q: How many doors to be fixed?

A: Two.

Q: Did you buy the material or did you use the material around the place?

A: I got it.

Q: Where?

A: From my neighbor.

Q: What did that cost?

A: I did not pay any money.

Q: What was the value of the material you put in there?

A: A door like that you can build for about \$5.00.

Q: You could build one for \$1.00.

A: No. Not when you have to do the work.

Q: How long does it take to build one of those doors?

A: A day.

Q: Did you put strap hinges on?

A: No, the other kind.

Q: How many hinges did you use?

A: Each door has two hinges.

Q: What did they cost?

A: I can't remember all those things. I bought some from Mr. Zollikofer for thirty-five cents.

Q: What else did you do there?

A: Fixed the fences. Put fence through the forty.

Q: The wire was there?

A: Part of it.

Q: What did you do toward fixing the fences?

A: Put different post in.

Q: How many post?

A: Fifty I bought.

Q: You bought fifty and cut some off the land?

A: Not off that land.

Q: How many post did you get from Mr. Schwartz place?

A: I have set in 150 post since I have been there.

Q: What was that worth?

A: I paid \$5.00 for the fifty.

Q: Did your father help you at this time?

A: No. Not that time. He is helping now fix some more.

Q: This fence is around the forty acres of land?

A: Yes, sir.

Q: You put in 150 post?

A: 150 around the fence.

Q: How long did it take you to fix the fence?

A: It took about two or three days. The two of us. The boy and I.

Q: What was the value of your work per day?

A: You know what the prices are.

Q: I didn't ask if I knew the prices, I asked if you did?

A: Well, the values are as much as you make them. When you plant ten acres of irish-potatoes, you make just what you get out of them. It makes no difference if you make \$50.00 or \$10.00. You have to be satisfied with what you get. That is the way I figure it.

Q: What could you have hired someone to fix the fence for?

A: I don't know. I don't hire anyone.

Q: You fixed the fence, the barn and the house, what else did you do?

A: I fixed the pump. I put a new cylinder in and a different pump. I put in a water system and tank and different things.

Q: Did your father pay for any of that?

A: No, sir.

Q: You can move the pump?

A: Yes, sir.

Q: The engine can be moved, can't it?

A: Yes, sir.

Q: What else have you done besides putting in the pump?

A: The house is next to the well and through the center there is the . I put a petition there.

Q: What was the value of that?

A: I cannot tell you. I bought forty acres of land. There were some windows on that land.

Q: You bought forty acres of land and the window were over there on the land?

A: Yes.

Q: You have no value of that?

A: No.

Q: What was the value of the pump and the cylinder?

A: The pump and cylinder, I paid approximately \$30.00.

That is, tank, engine and everything. I paid \$20.00 for it.

Q: What else did you do in the way of repairs?

A: Built some screens.

Q: What did they cost?

A: There are eight to ten windows. I don't know what I paid for them. I made the screens.

Q: What size are the windows?

A: I didn't measure them.

Q: You don't have any judgment about the size of the windows? Were they about three to four feet?

A: I couldn't tell you.

Q: What else have you done besides that?

A: I can't remember everything. I fixed the roof.

Q: What did you do on the roof?

A: I put some tar paper and shingles on it.

Q: How many shingles did you put on the roof?

A: About one thousand in one place and some tar paper.

Q: What was the value of the shingles?

A: \$2.50 per thousand.

Q: How long did it take you to put them on?

A: One-half day.

Q: What was your time worth?

A: There were two of us working. Mr. Schwartz and myself. We work back and forth and swap work with each other. He helps me and I help him.

Q: What was the reasonable price for your day's work?

A: Whatever the day's charge would be.

Q: You do not know?

A: I do not.

Q: You do not hire anybody, or know what anybody else would pay?

A: I am not interested in what anybody else is paying.

Q: You put some tar paper on. How many rolls?

A: One roll.

Q: What did you pay for that?

A: I don't know. I think it was over \$2.00.

Q: Did you put that on?

A: Yes, sir.

Q: How long did it take you to put that on?

A: I have fixed on that roof a dozen times. I put in one-half day at least.

Q: How long did it take you to put on the tar paper?

A: One-half day.

Q: What else have you done on the place? You have the barn, house, fence, pump, now what else?

A: I made some cement work.

Q: What cement work?

A: I made two side walks. Then I made about thirty-five cement post, and all different things.

Q: What are the post worth?

A: I think they are worth 30¢ a piece. That is, without the work.

Q: Now, the walks, what are they worth?

A: I would not sell any for less than 50¢.

Q: You put a cement walk in?

A: Yes, sir.

Q: How long is that walk?

A: About twelve feet.

Q: About twelve feet long. How wide is it?

A: Three feet wide.

Q: What is the value of that?

A: I worked a good one-half day. You have to mix your cement and everything.

Q: What is all that worth in your judgment?

A: About three dollars.

Q: What else have you done that you have not eliminated by the way of repairs on the place?

A: I built a corn crib.

Q: What size?

A: 30 x 8.

Q: What material did you build it out of?

A: Pine wood and cypress shingles.

Q: Is it ceiled inside?

A: No, sir.

Q: What is a reasonable value of that corn crib?

A: I couldn't tell you.

Q: How many shingles did you use? Also cypress boards?

A: I paid \$25.00 for nails and shingles.

Q: What about the boards that went into it?

A: Most of the boards we cut out of the land and timbers.

Q: Is there anything else?

A: I'll tell you the truth, sometime you do things and forget about them. I marked everything down on a piece of paper.

Q: You can't remember anything else?

A: Well, I bought some wire for a whole forty link.

Q: How many rolls of wire?

A: It cost me about \$30.00. I bought some chicken wire for around \$10.00. That is, besides the staples.

Q: What else?

A: I bought two rolls of barbed wire. Paid around \$7.00 for it. That is, without going and getting it. I went to Pensacola and spent time getting it. That was just what I paid to the store.

Q: What was a reasonable price for the fence?

A: What I paid for it besides the posts?

Q: What would you say that would be?

A: It is worth \$40.00,

Q: Including the material?

A: Yes, sir.

Q: What about the chicken fence. What is a reasonable price for it?

A: \$20.00 at least.

Q: Now, that is a pretty good place, this forty acres you are

living on?

A: Good enough to live on.

Q: The land is good?

A: No. The land is not good.

Q: Do you make a good crop on it?

A: No, not on that. It is sandy land. You cannot raise anything on sandy land. The land is no good.

Q: What is a fair rental value of that place per year?

A: I would not give \$100.00 for it. You can starve on the place and that is all.

Q: Where have you been farming, other than this place?

A: Two other places.

Q: You bought one piece.

A: No, rented it.

Q: What did you plant on this place this year?

A: On the other place?

Q: On the one of your father's.

A: Corn and sweet potatoes.

Q: Well, you had a poor market for these.

A: My sweet potatoes just rotted.

Q: You made a good sweet potato crop?

A: No, I did not. The land is not good for nothing.

Q: You did not plant them in time.
How many bushels of corn did you make to the acre?

A: I don't know. I made good corn, I'll admit that.

Q: You had a poor market?

A: Poor market and too much fertilizer.

Q: And the consideration of this place was that you take care of your father and mother?

A: Yes, sir. If they had asked me to take care of them without that, it would have been the same thing.

RE-DIRECT BY HONORABLE HUBERT M. HALL.

Q: On the strength of this deed from your mother and father to you, you made this additional expense and moved down to take care of your parents.

A: Yes, sir. When I came down they told me to take the place over.

RE-CROSS BY HONORABLE C. L. HYBART.

Q: Mr. Mueller a good many of these repairs were made since this law suit started?

A: Yes, sir. Mr. Hall told me not to do anything more. Dad came back and said he was back and I could do whatever I wanted.

Q: Who said you could do anything you wanted?

A: Dad. He helped me. He works better now than I ever seen him in my life.

Q: You would have done all of this for your father regardless of any deed, would you not?

A: Sure. Any child would do anything.

Q: You are not willing to deed them this property back?

A: If they pay me my interest back. It cost over \$200.00 to move down, \$100.00 by machine, and I spent at least \$300.00 at Cleveland before I left. I had to do lots of things that would not have had to be done if I had stayed there. Everything would run higher than \$2,000.00.

Q: All of the time you have had the use and benefit of this property?

A: Yes, but I left my job up there.

Q: Well, don't you have a pretty good one here?

A: I don't want to be a farmer.

TESTIMONY OF MRS. ROSE MUELLER, ONE OF THE DEFENDANTS, DIRECT
EXAMINATION BY HON. HUBERT M. HALL, SOLICITOR FOR THE DEFENDANTS.

Q: This is Mrs. Rose Mueller?

A: Yes, sir.

Q: You are the wife of Mr. John Mueller, Jr.?

A: Yes, sir.

Q: You and your husband live down near Lillian?

A: Yes, sir.

Q: Does anyone else live with you?

A: The old folks.

Q: That is Mr. John F. Mueller and Mrs. Christine Mueller?

A: Yes, sir.

Q: How long have you been living there, Mrs. Mueller?

A: Three years.

Q: At the time you came down was anyone living there?

A: Just the parents.

Q: When you came down, did your family and the father and mother live there together?

A: Yes, sir. We all lived together.

Q: Who cooked and provided for the father and mother?

A: I did.

Q: You waited on them?

A: I did.

Q: You cared for the house?

A: I did.

Q: Did they have a room there all their own?

A: They had their own bed room.

Q: Did they have a key?

A: Yes, sir.

Q: Who had the key?

A: They did.

Q: Who cooked for them?

Q: Where did they eat?

A: At the table.

Q: Did they have free access to the house?

A: Just like us.

Q: When they would go away, how long did they stay?

A: They would come and go. They went over to a sister of my husband's and stay a few days at a time, especially mother.

Q: Did they take the key to the place?

A: Yes, sir.

Q: Did they lock the room?

A: Yes, sir.

Q: At all times they did take the key?

A: Every time they left.

Q: During the time they were away the house was left just as it was?

A: Their room was locked, but the other part of the house was just the same.

Q: Did you or your husband or any other member of your family refuse to cook or provide for the old folks?

A: Not that I know of. I did the cooking.

Q: You provided for them as they wanted it?

A: Yes, sir.

Q: Did Mr. Mueller do any work about the place?

A: No, sir, not any hard work. He helped around.

Q: You always cared for them just as members of the family and waited on them?

A: Yes, sir.

Q: When they were sick and ailing did you help them?

A: No one was sick. Just mother a few hours at a time.

Q: You always waited on them just as you would your own father and mother?

A: You bet I did.

Q: Did your husband or you force them out in the yard to cook their meals?

A: Never did.

Q: Did you tell them they could not come about the house?

A: Never did.

Q: Did you ever refuse them anything about the house that was available?

A: No, sir.

Q: Your husband, at the time, did he receive any correspondence from Mr. and Mrs. Mueller?

A: When we were in Cleveland?

Q: Yes ma'am.

A: Yes, sir.

Q: Do you know how the place passed on to your husband?

A: Father wrote different letters, several, and said that mother was not well. He said Mother was not in a condition to be left alone and he thought someone should be with her. He asked us if we would come down.

Q: Did you have a home in Cleveland?

A: Yes, sir.

Q: Did you break up house keeping?

A: Yes, sir. We had to.

Q: Did you do anything about repairing the place?

A: Yes, sir. A lot.

Q: The father and mother were living with you?

A: Yes, sir.

Q: Where are they living now?

A: At our house.

Q: Are you caring for them?

A: Yes, sir.

Q: You have never refused to care for or to support them?

A: I don't know what you mean.

Q: You have always cared for them just as you would your own parents?

A: Yes, sir.

Q: Your father and mother-in-law, were they satisfied?

A: They never complained. They seemed really satisfied.

Q: It was through no fault of yours?

A: Not that I know of.

Q: Did any member of your family ever mistreat the old folks?

A: No, sir.

CROSS-EXAMINATION BY MR. CHASON, ONE OF THE SOLICITORS FOR THE COMPLAINANTS.

Q: When did you come down from Cleveland?

A: Three years in December.

Q: In December of 1932?

A: Yes, sir.

Q: Did you own your own furniture in Cleveland?

A: Yes, sir.

Q: Did you bring it with you?

A: Yes, sir. Part of it. There was some we could not bring. The piano, for instance.

Q: Was this house furnished you are now living in?

A: They had some furniture, but little.

Q: You took the furniture they had?

A: No, sir. They had what they wanted in their room.

Q: How many rooms in the house?

A: Five.

Q: How many rooms are you and your children and husband using?

A: Four rooms and kitchen. The old folks have a separate bedroom.

Q: They lock their room when they leave?

A: Yes, sir.

Q: You lock the front of your house when you leave?

A: Mr. Bartels used to come and call for mother. Mother would go out with him and leave all the house open. We would be out in the field when she left and she always left the house open.

Q: When you leave you lock up all the house?

A: Not all the house, just the front part. The kitchen, porch and pantry and everything is open to them.

Q: The four rooms you are using is locked when you leave?

A: Yes, sir.

Q: Do you have a smoke house?

A: It was a smoke house. We use it for a washing house.

Q: They eat at your table?

A: Yes, sir.

Q: Have they been eating at your table all the time they have been there?

A: Not all the time. From the beginning they did. Father all of a sudden stayed away. He said so many different things.

Q: Where did he eat when he did not come to the table?

A: He ate in his room.

Q: Where did he get his food from?

A: At first he would not accept anything. Nothing that we cooked. Mother said he would not come to the table to eat. She wanted to know what we were going to do with the old man. My husband said "What am I going to do about it?"

Q: Your husband did not take any food in to him?

A: No, not that I know of.

Q: He would not let you take any to him?

A: No, sir.

Q: Your husband would not let you. Did you not suggest taking some food to Mr. Mueller, and he said he could look out for himself?

A: I would not say he said "Let him look out for himself." I was not allowed to take any food in.

Q: Did he eat out of cans?

A: It was not necessary because I had plenty in the house.

Q: They did have a stove in the smoke house?

A: It used to be their old stove.

Q: You put that stove in the smoke house for them to cook on?

A: No, sir.

Q: They cooked on that stove?

A: No, sir.

Q: Did it have a pipe?

A: We had a pipe because I used to do my washing out there.

Q: Did you cook out there?

A: Sometime when it was too hot, in order to avoid the heat. I did the cooking out there on real hot days.

Q: Their bed room is right next to the kitchen and it gets mighty hot?

A: It would not get hot if they would keep the door closed.

Q: Do they keep it open or closed?

A: Yes, sir, open. I try to get them to keep it closed.

Q: Are there any windows in the room?

A: There are two windows.

Q: Are they large windows or small windows?

A: They are not quite as large as ours. Maybe two or three inches shorter. The back part of the house is lower than the front part. They are not what you would call a regular size window.

Q: Did you buy any clothes for your parents?

A: They said they had all the clothes they needed.

Q: You did not buy any clothes for them?

A: We would get little things they needed as they asked for them.

Q: That is since 1932?

A: Yes, sir.

Q: You have bought shoes since this suit was begun?

A: Yes, sir.

Q: You have been much better to them than you were before?

A: Not that I know of. I treated them best as I could. I have nothing against them.

Q: You said you saw the letters written to you?

A: Yes, sir.

Q: Did you go with them to Mr. Lindoerfer's when the deed was drawn?

A: Yes, sir.

Q: Do you know what the agreement was?

A: Father wrote to us that the twenty acres and building would belong to us, if we would come down and take care of them.

Q: He was to deed you the property, you and your husband, provided you looked out for them the rest of their lives?

A: Yes, sir.

Q: You did not pay anything for the property?

A: No, sir. They just asked that we take care of them.

Q: You went with them to Mr. Lindoerfer's to prepare these papers?

A: Yes, sir.

Q: You had the understanding in the presence of Mr. Lindoerfer?

A: Yes, sir.

Q: You were to take care of the old folks the balance of their lives and they were to deed you the property. That agreement was in writing?

A: In writing. Yes, sir.

RE-DIRECT BY HONORABLE HUBERT M. HALL.

Q: In addition to this taking care of them as consideration of the deed, it was understood that your husband would make these improvements to the place?

A: They did not really say. They imagined we would.

Q: In fact your husband had made quite a bit of improvement before the deed was made?

A: Maybe three or four weeks before the deed was signed.

RE-CROSS BY HONORABLE C. L. HYBART.

Q: Mrs. Mueller, you got here on December 15th, 1932, from Cleveland?

A: Around that. Yes, sir.

Q: There was nothing done on the place until January?

A: Well, we did not build anything, but we did all we could.

Q: What did you do?

A: We cleaned up around the place and fixed odds and ends that the old folks just couldn't take care of.

Q: What are these odds and ends?

A: They are hard to remember. There were lots of things to be done.

Q: What?

A: Cleaned up the yard and the attic and things the old folks just couldn't manage. We put a floor in the attic.

Q: You did not lay the floor until January?

A: Well, after that.

Q: Up until the time you got the deed you cleaned up the attic, swept yards and different things. What else?

A: Just straightened up the house and took care of everything.

We papered and cleaned up their room. Their room was used as a kitchen when we came.

Q: Wasn't it after the deed was made that you put the paper on?

A: After, yes.

Q: You just cleaned and straightened the place before you went to Mr. Lindoerfer's?

A: We couldn't do everything in three weeks.

Q: You straightened up the attic, house, yards and in the barn. What did you do about the barn?

A: I couldn't tell you, not exactly what it was.

Q: I understand that was done between the 15th day of December, and the 7th day of January, 1933?

A: Yes, sir. I was busy in the house. I did not know what they were doing outside. Mother even helped me. She said it was so nice for me to do things right away.

Q: Since the filing of the suit the old folks have come back to your home?

A: Yes, sir. The suit was filed while they were staying with us.

Q: They went away?

A: Yes, sir, and came back.

Q: That is the only home they have?

A: Yes, sir.

TESTIMONY OF ELEANOR MUELLER, A WITNESS FOR THE DEFENDANT, DIRECT EXAMINATION BY HONORABLE HUBERT M. HALL, SOLICITOR FOR THE DEFENDANT.

Q: This is Eleanor Mueller?

A: Yes, sir.

Q: You are the daughter of Mr. John Mueller and Rose Mueller?

A: Yes, sir.

Q: And the grand-daughter of Mr. John F. Mueller and Mrs. Christine Mueller?

A: Yes, sir.

Q: You live with your father and mother now and have been all your life?

A: Yes, sir.

Q: You remember when your father and mother moved to Baldwin County?

A: Yes, sir.

Q: You moved into the house with your grandfather and grandmother?

A: Yes, sir.

Q: You all lived together?

A: Yes, sir.

Q: While you were there living with your grandfather and grandmother, did your father and mother and your family care and provide for them?

A: Yes, sir.

Q: You gave them food and whatever they needed?

A: Yes, sir.

Q: Did you help them about the house?

A: Yes, sir.

Q: When you first came down did they complain about any treatment they were getting from your father and mother?

A: Not at first.

Q: When you came down, where did your grandfather and grandmother stay?

A: With us.

Q: Did they have a room all their own?

A: Yes, sir.

Q: Where did they eat?

A: With us.

Q: Did your father, mother or any other member of your family refuse to give them food?

A: No, sir.

Q: They were treated as members of the family?

A: Yes, sir.

Q: They went away sometime later and stayed awhile?

A: Yes, sir.

Q: Just prior to that, they went away for a day or two or a week at a time?

A: Yes, sir.

Q: When they went away from time to time, what happened to their room?

A: It was locked. They locked it.

Q: Who took the key?

A: They did.

Q: Did they access to the house at all times?

A: Yes, sir.

Q: Did your father, mother or any other member of your family forbid them entering the house?

A: No, sir.

Q: They are back there now?

A: Yes, sir.

Q: They are eating at the table?

A: Yes, sir.

Q: They have their same room?

A: Yes, sir.

Q: Do they work about the place?

A: Yes, sir.

Q: Just as they see fit?

A: Yes, sir.

Q: Your father and mother do not call on them for work?

A: No, sir.

Q: Did your father and mother at any time force your grandparents out in the yard to do their cooking?

A: No.

Q: Have they ever refused to give them food or clothing?

A: No, sir.

Q: Treated them just as members of the family?

A: Yes, sir.

CROSS-EXAMINATION BY HONORABLE C. L. HYBART, ONE OF THE SOLICITORS
FOR THE COMPLAINANTS.

Q: When you first came down you did not hear any complaint from your grandparents?

A: No.

Q: How long was it until you heard them complaining?

A: I don't know. About one year or two afterwards.

Q: They quit eating at the table?

A: Yes, sir.

Q: How long did that happen?

A: I don't remember.

Q: Where did they get their meals?

A: They got them from us, but ate them in their room.

Q: How long was that?

A: I couldn't tell you.

Q: Don't you have some recollection?

A: I don't know. About six months. It might have been longer, I don't remember.

Q: You knew at that time your grandparents were not pleased with what was going on?

A: No.

Q: Were they doing their cooking?

A: No. We were doing the cooking.

Q: How would they get their meals?

A: Sometime they would get them and sometime mother would take them in.

Q: Didn't you know your father forbid your mother taking their meals to them?

A: Not exactly. He said they could come to the table. He said they should eat, but that they should come to the table. They did not come to the table.

Q: They were doing their own cooking?

A: No, we were.

Q: Was there a stove outside in the smoke house?

A: Yes, sir.

Q: Did they ever move out in the kitchen?

A: You mean do their own cooking?

Q: Yes.

A: No. We did all the cooking.

Q: There was a time for quite awhile you could not take any meals to them?

A: They always had something to eat.

Q: Where did they get it?

A: From us.

Q: They went away after that?

A: Yes, sir.

Q: How long did they stay away?

A: About two years, but I wouldn't say for sure.

Q: Where did they live during that time?

A: With Mr. Bartels.

Q: He is a son-in-law?

A: Yes, sir.

Q: For two years they lived over there?

A: It was something like that.

Q: When did they come back?

A: Not so long ago.

Q: You have been mighty nice to them?

A: We have tried to be.

Q: You do not know anything about the agreement between your father and mother and your grandparents about this place?

A: No, sir.

RE-DIRECT BY HONORABLE HUBERT M. HALL.

Q: You have always been as nice to them as you are now?

A: We always tried to do our best for them.

TESTIMONY OF JOHNNIE MUELLER, A WITNESS FOR THE DEFENDANTS, DIRECT
EXAMINATION BY HONORABLE HUBERT M. HALL, SOLICITOR FOR THE DEFEND-
ANTS.

Q: Your name is Johnnie Mueller?

A: Yes, sir.

Q: Your father is John Mueller and your mother Rose Mueller?

A: Yes, sir.

Q: And your grandparents are John F. Mueller and Christine Mueller?

A: Yes, sir.

Q: You live with your father and mother?

A: Yes, sir.

Q: You came from Cleveland with them?

A: Yes, sir.

Q: At that time where did they first live?

A: When we first came down?

Q: Yes.

A: Where we are living now.

Q: Where did your grandfather and grandmother live then?

A: There too.

Q: You all lived in the house together?

A: Yes, sir.

Q: Did your grandfather and grandmother have quarters there, a place to stay?

A: Yes, sir.

Q: Where did they eat?

A: With us.

Q: At the same table?

A: Yes, sir.

Q: Did your father or mother, so far as you know, refuse to cook for them?

A: No.

Q: Have they ever refused to give them food and things they needed?

A: Never.

Q: Did they ever force them in the yard to do their own cooking?

A: Never.

Q: Did they ever do any cooking for themselves?

A: No.

Q: When they went away from time to time what happened to their room?

A: It was locked.

Q: Who had the key?

A: They did.

Q: They went away and stayed quite sometime with Mr. Bartels, didn't they?

A: Yes, sir.

Q: Did they pass back and forth by your place?

A: Yes, sir.

Q: What happened to their room?

A: It was locked.

Q: They had the key?

A: Yes, sir.

Q: Where do they live now?

A: With us.

Q: Where do they eat?

A: With us.

Q: Do they free access to the other part of the house?

A: Yes, sir.

Q: Have you, your father, mother or sister ever refused to care for them?

A: No, never.

CROSS-EXAMINATION BY MR. CHASON, ONE OF THE SOLICITORS FOR THE COMPLAINANTS.

Q: Have you lived with your father and mother since you came to Baldwin County?

A: No, I have been gone.

Q: Where?

A: Back to Cleveland. I arrived in Cleveland Labor Day two years ago.

Q: Labor Day of 1933?

A: It was in September, I believe, September of 1933.

Q: How long did you stay back in Cleveland?

A: Until the first week in February, 1935.

Q: You stayed there a little over a year, about a year and five or six months?

A: Yes, sir.

Q: You went in 1933 and stayed until in February, 1935?

A: Yes, sir.

Q: You were back before this law suit was begun?

A:

Q: You do not know what kind of treatment your grandfather and grandmother received there in October, November and December of 1934?

A: No.

Q: You do not know whether they had anything to eat or not?

A: No.

Q: You do not know whether they had to do their own cooking or not?

A: No, I do not know.

Q: While you were there they received food from your father?

A: Yes.

Q: Did they always eat at the table?

A: I don't know.

Q: There was quite a length of time that they did not come to the table wasn't there?

A: No, sir.

Q: Isn't it a fact that they stayed away about six months while they were living with your father?

A: No, sir.

Q: Wasn't there a period of time when they did not come to the table to eat?

A: No, sir. Just an occasional time. Only three times that I know of.

Q: How long did they stay away on these occasions?

A: Two days that I know of.

Q: Wasn't it fact that they cooked on the stove in the smoke house while you were there?

A: No.

Q: There is a stove out there fixed up to cook on?

A: Yes, sir.

Q: They just have one room in the house?

A: One room.

Q: You all have four or five rooms?

A: They have privilege of the whole house.

Q: You do not stay around the house while you are there?

A: Yes, I do.

Q: You are out in the field?

A: Yes, sir.

Q: You do not know what kind of treatment they get?

RE-DIRECT BY HONORABLE HUBERT M. HALL.

Q: You always come in at meal times?

A: Yes, sir.

TESTIMONY OF FRANK SCHWARTZ, ONE OF THE WITNESSES FOR THE DEFENDANTS,
DIRECT EXAMINATION BY HONORABLE HUBERT M. HALL, SOLICITOR FOR THE
DEFENDANTS.

Q: Mr. Schwartz, where do you live?

A: Elberta - Lillian. I get my mail at Elberta.

Q: Do you know where Mr. John Mueller lives?

A: Right across the street from me.

Q: Do you know Mr. John F. Mueller and Christine Mueller?

A: Yes, sir.

Q: Where did they live?

A: They lived with Mr. John Mueller. In December of 1932, Mr. John Mueller moved to Baldwin County.

Q: Were you there from time to time?

A: Yes, sir.

Q: Did you know where the father and mother lived about the house, what part of the house?

A: They had a room of their own.

Q: Was it furnished?

A: Yes, sir.

Q: Do you know whether there was a key to the door?

A: I do not know.

Q: Were you there from time to time?

A: Yes, sir.

Q: Did you ever hear the son and daughter refuse the old folks food?

A: Not that I know of.

Q: Soon after that John Mueller, Sr. and his wife left?

A: Yes, sir.

Q: Where did they go?

A: To Mr. Bartels. They had been going and coming and one time they went and did not come back.

Q: You go there from time to time?

A: Yes, sir.

Q: You know from observation how the young Muellers treat the old folks?

A: They treat them mighty nice.

Q: Since Mr. John Mueller, Jr. has been down he has made some improvements about the place?

A: Yes, sir.

CROSS-EXAMINATION BY HONORABLE C. L. HYBART, ONE OF THE SOLICITORS
FOR THE COMPLAINANTS.

Q: Mr. Schwartz how far is your home from Mr. Mueller's?

A: Not any further than three hundred yards.

Q: How often have you been over to their house in the last three years?

A: I couldn't tell you. Mighty often though. Sometime twice a day.

Q: Is it regular for you to go over there twice a day?

A: No.

Q: Do you go there once a week?

A: I go on the average of two or three times a week.

Q: Do you go in the house?

A: Yes, sir. In the yard and house too.

Q: Did you know at one time the old folks did not eat at the table?

A: I remember that.

Q: Did you go over during that time?

A: Yes, sir. I have been there when they did not eat there.

Q: How long did they stay away from the table?

A: I couldn't tell you.

Q: Did they stay away as long as six months?

A: I couldn't tell you. I know they stayed away.

Q: You did not know the reason for that?

A: No. It was not bad treatment.

Q: You did not know everything that went on in that house?

A: No, not everything.

Q: You did not know whether their feelings had been hurt?

A: They never talked rough to them when I was there.

Q: They might have been on good behavior when you were there.

Those things do happen sometime.

A: That is not the rule in that house. They were quarreling one morning when I was there and they did not quit.

Q: They have been nicer since the law suit was begun?

A: Not that I know of.

Q: You and Mr. John Mueller, Jr. are pretty good friends and swap work with each other?

A: Yes, sir.

RE-DIRECT BY HONORABLE HUBERT M. HALL.

Q: You are good friends to Mr. Mueller, Sr. and Mrs. Mueller?

A: Just as neighbors ought to be.

TESTIMONY OF JOHN ZOLLIKOFE, ONE OF THE WITNESSES FOR THE DEFENDANTS, DIRECT EXAMINATION BY HONORABLE HUBERT M. HALL, SOLICITOR FOR THE DEFENDANTS.

Q: Mr. Zollikofer, where do you live?

A: I live, I judge about - -

Q: At Lillian?

A: Yes, sir. About one hundred yards from Mr. Mueller.

Q: Have you had occasion to be around the Mueller home from time to time during the last three years?

A: Yes, sir.

Q: Have you been around the house when the Sr. and his wife and the Jr. and his family were there?

A: Yes, sir.

Q: From your observation, how were the old folks treated?

A: When the young Mr. Mueller came down the old folks were treated just fine. Mr. Mueller said his son would not let him work any more. That he just walked around for exercise.

Q: Have you been there from time to time?

A: Yes, sir.

Q: Have you ever seen him mistreat his parents?

A: No, sir.

Q: Do you know where the old folks live?

A: They have a room next to the kitchen.

Q: That is their own room?

A: Yes, sir.

Q: Is it furnished?

A: Yes, sir.

Q: You are there from day to day and when you go there they have free access to the house?

A: Yes, sir.

Q: Are you there during meal times?

A: Sometime.

Q: Sometime the old folks were over to Mr. Bartels?

A: Yes, sir.

Q: They got along with the others all right?

A: Yes, sir.

Q: And were apparently satisfied?

A: Yes, sir.

CROSS-EXAMINATION BY HONORABLE JOHN CHASON, ONE OF THE SOLICITORS
FOR THE COMPLAINANTS.

Q: How long have you been living there?

A: Off and on eleven years.

Q: How often do you go over to the Mueller house?

A: I am working in Pensacola at present. I go over sometime once a week or twice a week.

Q: A year ago how often did you go over there?

A: We were together all the time.

Q: You swapped work?

A: No, sir.

Q: You are not there much during meals?

A: Not during meal times.

Q: You do not know whether the old folks ate at the table all the time or not?

A: No, I do not.

Q: Do they leave the room door open or closed?

A: The room is open when they are there.

Q: Part of the time it was closed?

A: No.

Q: Did you say it was under lock and key?

A: Yes.

Q: How did you know?

A: I have been around there.

Q: Did you know of your own personal knowledge that it was locked?

A: Well, no. Elsie came up one day to get something and the place was under lock and key and they tried to get my sister-in-law - -

Q: Who is your sister-in-law?

A: Elsie Zollikofer.

Q: Are you related to the Muellers?

A: No. Elsie wanted to get something - -

Q: And they told you the room was locked?

A: They said it was under lock and key all the time when they were not there.

Q: You did not know how they were treated when you were not there?

A: I couldn't say about that.

Q: You say the room was under lock and key. You testified on direct examination that it was under lock and key?

A: I did not try it.

Q: You swore to it on direct examination. Are you basing what you say just on what you hear?

A: I shouldn't have done that.

Q: You were told about the lock and key?

A: I did not have anything to do over there. I never tried the door. If I had they would want to know what I was doing.

Q: You did not know where Mr. Mueller, Sr. got his meals?

A: There with the Muellers.

Q: Who did the cooking, of your own personal knowledge?

A: As far as I know, Mrs. Mueller, Jr. did the cooking.

Q: That is what they told you?

A: They did not tell me anything.

Q: Isn't it a fact that the Muellers cooked for themselves in the smoke house?

A: No, sir.

Q: Did you know that there is a stove in the smoke house?

A: I couldn't say.

Q: Didn't you ever see Mrs. Mueller, Jr. cooking on the stove in the smoke house?

A: No, sir. Every time I went there they were cooking in the house.

TESTIMONY OF JOE MESTRINELLI, ONE OF THE WITNESSES FOR THE DEFEND-
ANTS, DIRECT EXAMINATION BY HONORABLE HUBERT M. HALL, SOLICITOR
FOR THE DEFENDANTS.

Q: Joe, where do you live?

A: At Lillian.

Q: Do you know John Mueller, Sr. and his wife?

A: Yes, sir.

Q: Do you know John Mueller, Jr. and his family?

A: Yes, sir.

Q: How far do you live from them?

A: Exactly $1\frac{1}{4}$ miles from him.

Q: From the Jr?

A: Yes, sir.

Q: Do you know where the father and mother live?

A: With them.

Q: In the same house?

A: Yes, sir.

Q: Have you been there much?

A: Not so much.

Q: Do you know whether they have a room or not?

A: Yes, I know that.

Q: Do you know where they live about the house?

A: No.

Q: When they first came down they all lived together?

A: Yes, sir.

Q: Later on the father and mother went over to Bartels and stayed?

A: Yes, sir.

Q: Did you see them over there?

A: Once a week or twice.

Q: Did you have any conversations with him from time to time?

A: I talked with him many times.

Q: How would he talk about it?

A: Lots of times he would say he would get along all right with the children and the wife, but John is mighty hot-headed.

I know more about farming than he does.

Q: Did he say anything about his son-in-law, Bartels?

A: Yes, sir. I got a lease from him one time - -

MR. HYBART: He did not ask about that.

A: - - that was the time he was talking about settling.

CROSS-EXAMINATION BY MR. HYBART, ONE OF THE SOLICITORS FOR THE COMPLAINANTS.

Q: How far do you live from John Mueller, Jr?

A: One and a quarter miles.

Q: You know him?

A: I know him.

Q: Have you ever talked this case over with him?

A: No.

Q: You have never mentioned it. You have never talked the case over with him?

A: With John Mueller Jr? No.

Q: He asked you to come up with him?

A: Yes, sir.

Q: Did he tell you what he wanted?

A: Yes, sir.

Q: Did you tell John Mueller, Jr. what the old man had been telling you?

A: Yes.

Q: When did you tell him what the old man told you?

A: Off and on.

Q: You had talked it over?

A: Not so much.

Q: Some though?

A: Yes, sir.

Q: When was the last conversation you had with him before his Dad came home?

A: Three months ago.

Q: Three months?

A: I think so.

Q: Where were you when you had the conversation?

A: Athis place.

Q: How long did you stay there?

A: Not so long.

Q: One-half hour?

A: Something like that.

Q: You were talking about that all the time?

A: No, not all the time.

Q: How long?

A: Oh, just a few words.

Q: As long as ten minutes?

A: Maybe so.

Q: Did you visit over at John Mueller, Jr.'s house any time while his father was staying there with him?

A: I was there sometime. Two or three times.

Q: How long did you stay on these visits?

A: Couple of minutes.

Q: Did you go in the house?

A: Sometime.

Q: You do not know what kind of treatment they got from him?

A: I don't know. Mr. Mueller said he was getting along with him, but they could not agree on the farm.

Q: He said he was hot-headed?

A: He said he knew more about it than John did.

Q: Where was Mr. Mueller, Sr. when he told you that?

A: At Mr. Bartels' place.

Q: Bartels was good to him?

A: I did not see him.

Q: You do not like Bartels, do you?

A: I have nothing against him.

Q: You do not visit him?

A: No.

Q: You are a good friend to John Mueller, Sr.?

A: He is much older than I am.

Q: How old are you?

A: I am thirty-eight.

Q: How old is he?

A: I don't know. He has grown children.

Q: Would you say he was fifty years old?

A: I guess he is.

Q: You do not know anything about the treatment the old man received, or his wife?

A: No. I did not see anything.

Q: You heard there was a misunderstanding?

A: I heard what I told you about getting along with the daughter and children.

Q: You knew he was living at John Mueller's house and left there, and how long did he stay away from there?

A: I don't know exactly.

Q: Was it one and one-half or two years?

A: He stayed at Mr. Bartels' house, but I don't know how long he was there.

Q: You know that that was the old man's home?

A: Sure. He told me John was coming from Cleveland.

Q: You knew that John was to take care of him?

A: Yes, he told me that himself.

Q: Did you find it out any other way besides what he told you?

A: No.

STATE OF ALABAMA,
BALDWIN COUNTY.

I, O'Byrne Jones, Commissioner, hereby certify
that the foregoing pages numbered 1 to 45, inclusive, is a
true, complete and exact transcript of the questions propo-
ounded to and answers given by the witnesses therein named.

O'Byrne Jones
Commissioner.