FRANK V. BARCHARD, Complainant, VS. MYRTLE BARCHARD, Respondent.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

ANSWER AND CROSS BILL

Now comes the Respondent, Myrtle Barchard, and for answer to the Bill of Complaint filed against her in this cause and for her Cross Bill says:

1. She admits the allegations of paragraph Numbered 1 of the Bill of Complaint.

2. Respondent admits that she and the Complainant were married on May 1, 1924 but expressly denies all of the other allegations of paragraph Numbered 2.

3. Respondent denies each and all of the other allegations of the said Bill of Complaint which have not been specifically answered herein.

4. For further answer to the Bill of Complaint the Respondent alleges that she and the Complainant lived together as man and wife at Foley, in Baldwin County, Alabama from the time of their said marriage until on to-wit, November 25, 1940 when the Complainant, who was then a commissioned officer in the United States Army, was called into active service.

There was born to the Respondent and the said Complainant three children, namely, Frank v. Barchard, Jr., a son, now seventeen years of age; Marie Barchard, a daughter, now fifteen years of age, and Kathryn Barchard, a daughter, now twelve years of age, each and all of whom now reside with the Respondent, their mother, who is in all respects a fit and proper person to have the permanent care, custody and control of the said minor children and the Respondent further alleges that it is to the best interest of the said minor children that they remain in her custody and under her control.

FRANK V. BARCHARD, Complainant and Cross Respondent, VS MYRTLE BARCHARD, Respondent and Cross Complainant.		IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA IN EQUITY. NUMBER 695.

AFFIDAVIT FOR GARNISHMENT ON DECREE

Before me, the undersigned authority within and for said County in said State, personally appeared J. B. Blackburn, who, being by me first duly and legally sworn, deposes and says: That he is the solicitor for Myrtle Barchard, the Respondent and Cross Complainant named in this suit. That in the final decree rendered in this cause, dated April 14, 1945, Frank V. Barchard, the Complainant and Cross Respondent, was ordered to pay to the said Respondent and Cross Complainant the sum of Two Hundred Dollars ($200.00) a month for each and every month, commencing with the month of April, 1945 for the maintenance and support of the minor children named in the said decree, Twelve Hundred and Seventy-five Dollars ($1275.00) of which is now past due; that he believes process of garnishment against the Baldwin County Bank, a Corporation, is necessary to obtain satisfaction of the said decree and that the said Baldwin County Bank is supposed to be indebted to or have effects of the said Complainant and Cross Respondent, in its possession or under its control.

J. B. Blackburn

Sworn to and subscribed before me
this the 15th day of February, 1946.

Lillie M. Franklin
J. B. Blackburn
Notary Public, Baldwin County, Ala.

14.

8905

RECORDED

Barford

vs

Barford

Answer to Cross Bill

Filed Jan 8/1945

[illegible]

Rec. 1/27/45

Executed 1/27 19 45
by serving copy of within ~~Summons and Complaint~~ Interrogatories on
H. M. Hall
Solicitor on Complainant

C. E. Garrett Sheriff
By ..... Deputy Sheriff

INTERROGATORIES TO BE PROPOUNDED
TO A. T. LISENBY, OZARK, ALABAMA

FRANK V. BARCHARD,

Complainant and Cross-Respondent,

VS.

MYRTLE BARCHARD,

Respondent and Cross-Complainant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY. NUMBER 895.

Filed Jan 27 1945

FRANK V. BARCHARD,	
Complainant and Cross-Respondent,	IN THE CIRCUIT COURT OF
VS.	BALDWIN COUNTY, ALABAMA.
MYRTLE M. BARCHARD,	IN EQUITY. NUMBER 895.
Respondent and Cross-Complainant.	

MOTION

TO THE HONORABLE F. S. HAME, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

Now comes the Respondent and Cross Complainant by her Solicitor and respectfully represents unto the Court and your Honor that this cause was heretofore submitted for Decree confirming the Registrar's Report heretofore made in this cause and that after the said submission and during the last week in July, 1944 the Respondent and Cross Complainant, together with her Solicitor, agreed on a settlement of this cause with the Solicitor for the Complainant and Cross Respondent but after this settlement was agreed upon the Complainant and Cross Respondent failed or refused to carry out the terms of the said settlement. The Respondent and Cross Complainant now desires to amend the Cross Bill filed by her in this cause:

WHEREFORE Respondent and Cross Complainant moves the Court to withdraw the said submission heretofore had in this cause and permit her to amend the Cross Bill filed by her in this cause Petitioner further prays that such other orders be made and decrees rendered as may be requisite and proper in the premises.

Solicitor for Respondent and Cross-Complainant.

Filed
Aug 8th 1944

RECORDED

NOTE OF TESTIMONY

FRANK V. BARCHARD,

Complainant and Cross Respondent,

VS.

MYRTLE BARCHARD,

Respondent and Cross Complainant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY. NUMBER 895.

Rec. 1/27/45

Executed 1/27 1945
by serving copy of within ~~Summons and Complaint~~ Interrogatories on
H. M. Hall
Solicitor for Complainant

C. E. Garrett Sheriff
By Deputy Sheriff

INTERROGATORIES TO BE PROPOUNDED TO MRS. BRANCH YOUNG, OZARK, ALABAMA.

FRANK V. BARCHARD,

Complainant and Cross-Respondent,

VS.

MYRTLE BARCHARD,

Respondent and Cross-Complainant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY. NUMBER 895.

Filed January 27-1945
R. Hall
Register

NO. 895

THE STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

Frank V Barchard,

Complainant

VS.

Myrtle Barchard.

Defendant

Commission To Take Deposition

COMMISSIONER:

Miss Thelma. Martin.

Witnesses:

F.

That the said conveyances, and the lease herein mentioned, were made by the Complainant to the Respondent and their children voluntarily after the Respondent had abandoned the Complainant, and for the separate maintenance and support of the Respondent and said children; that the said property and the income therefrom was and is intended, and is sufficient for the separate maintenance and support of the Respondent and the said children.

That the salary received by the Complainant from the United States Government is not sufficient to support himself, the Respondent and the Children, and the payment of an attorneys fee.

G.

The Complainant denies each allegation contained in the Respondent's cross bill not herein specifically admitted, and demands strict proof of the same.

BEEBE & HALL

BY [signature]

Solicitors for Complainant.

AFFIDAVIT

STATE OF ALABAMA }
COUNTY OF BALDWIN }

Before me, a Notary Public in and for said County in said State, personally appeared S. F. HOLMES, who, being first duly sworn, deposes and says as follows:

"My name is S. F. HOLMES and I am the President of The Baldwin County Bank, a Corporation organized under the laws of the State of Alabama. As such President I am authorized and empowered to act for and on behalf of said Bank. I have personal knowledge of the facts contained in the foregoing ANSWER OF GARNISHEE, and I know that said facts are true as therein stated."

S. F. Holmes

Sworn to and subscribed before me on this the 14th day

FRANK V. BARCHARD, Complainant and Cross Respondent, Vs. MYRTLE BARCHARD, Respondent and Cross Complainant.	EQUITY NO._____ IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA IN EQUITY.

ANSWER OF GARNISHEE.

And now, on this day, comes The Baldwin County Bank, a Corporation, by S. F. HOLMES, its President, garnishee in the above stated cause, and for answer to the writ of garnishment served upon it on the 14th day of February, 1946, upon oath says that it was not indebted to FRANK V. BARCHARD, at the time of the service of the garnishment in the above stated cause, or at the time of making this answer; and that it will not be indebted in the future to the said FRANK V. BARCHARD by a contract then existing, or at the time of this summons; and that it does not have in its possession, or under its control, personal or real property, or choses in action, belonging to the said FRANK V. BARCHARD.

And garnishee having fully answered, prays to be discharged with his reasonable costs in this behalf expended.

BALDWIN COUNTY BANK

By S. F. Holmes
S. F. HOLMES, President

Sworn to and subscribed before me on this the 13th day of February, 1945.

Thelma Martin
Commissioner.

THE STATE OF ALABAMA,
DALE COUNTY.

I, Thelma Martin, the Commissioner named in the annexed commission, hereby certify that the foregoing testimony and answers reduced to writing by me are in the words of the witnesses, and were read over to them, that they assented, swore to and subscribed the same in my presence, on the 13th day of February, 1945, at my office in Ozark, Dale County, Alabama; that I have personal knowledge of, or had proof made before me of the identity of the said witnesses, and that I am not of counsel or kin to any of the parties to said cause, or in any manner interested in the result thereof.

And I enclose the said Deposition, together with the Commission, the Interrogatories, Direct, no documents were deposed to, and send to the Register of the Circuit Court, in Equity, Baldwin County, at Bay Minette, Alabama, where the cause is pending.

Given under my hand and seal on this the 13th day of February, 1945.

Thelma Martin
Commissioner.

To first interrogatory she says:

My name is Billie Herring Young, or Mrs. Branch Young. I live in Ozark, Dale County, Alabama. I am over twenty-one years of age.

To second interrogatory she says:

A woman who I knew as Mrs. Frank V. Barchard and was living in an apartment owned by Mr. A. T. Lisenby, in May, 1942, came to my place where I was living and wanted to know if she could get an apartment ~~xxx~~ from me, as I was then having a house of two apartments constructed. She stated she was not wanting the apartment at that time, but would later, and I told her I would let her know. In a few days I went to Mr. Lisenby's place and traded with her on the apartment. She left Mr. Lisenby's place, and about June 20th, Major Barchard, or the man I had been seeing with this lady and going out and in at Mr. Lisenby's came by to inquire if the place was ready, stating he desired to go for his wife and baby in a day or two, as she and the baby were ready to leave the hospital. The apartment was not ready, but the person building my place, began working as fast as possible to get the portion of the house in which they were to live ready, and they moved in on either June 23rd or 27th, but I am not definite as to the date. They then lived in my apartment from June, 1942, to the latter part of February or early part of March, 1943, when I understood he was being transferred from Camp Rucker, Alabama.

To third interrogatory she says:

As a matter of fact, I did not rent to Major Barchard, but rented to the woman I knew as Mrs. Barchard. This apartment was occupied by the man and woman I knew as Mr. and Mrs. Frank V. Barchard and a small baby, about two or three weeks of age, when they moved to my place. As stated above this occupancy continued until February or March, 1943.

To fourth interrogatory she says:

I did not rent to Mr. Barchard, but as above stated the apartment was occupied by a Major in the Army, known to me as Major Barchard, his wife and child. He brought the woman, known as his wife, and the baby to the apartment, and as the baby was very young, either Mr. Barchard or Mrs. Barchard, I cannot definitely say which, requested me to see if I could locate a colored woman or girl ~~and~~ some white lady to stay with her and the baby and look after them for a few days. I was unable to locate any one.

To fifth interrogatory she says:

The parties ~~xxxxxxxxxxxx~~ who occupied the apartment rented from my were known to me and held themselves out as man and wife. I knew them as Mr. and Mrs. Frank V. Barchard.

To sixth interrogatory she says:

At the time the woman, who I knew as Mrs. Barchard, rented the apartment from me, she was pregnant, and when she and the man, known as her husband, moved into the apartment they moved a very small baby, a boy, with them. They represented the baby as being their child. I do not remember the full name of the child, but they called the child by the name of "Vernon", and when they moved away from my place, the child was beginning to pull up and walk by holding to something.

Mrs. Branch Young

Billie Herring Young

FRANK V. BARCHARD, Complainant and Cross Respondent, VS. MYRTLE BARCHARD, Respondent and Cross Complainant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

INTERROGATORIES TO BE PROPOUNDED TO MRS. BRANCH YOUNG, OZARK, ALABAMA.

1. Please give your name and place of residence and state if you are over twenty-one years of age.

2. Did you know Major Frank V. Barchard at the time he was stationed at Camp Rucker near Ozark, Alabama? If so, when did you first know him and how long did your acquaintance with him continue?

3. Did you at any time rent him a house, apartment or rooms? If so, when did Mr. Barchard first occupy this property and how long did this occupancy continue?

4. Who occupied the premises that Mr. Barchard rented from you with him during the time he was renting the property?

5. Was the party who occupied the said rented property known as the wife of Frank V. Barchard and did he hold her out and represent her to be his wife?

6. Did Mr. Frank V. Barchard and the woman who lived with him have a child? If so, did they represent this to be their child?

J. B. Blackburn

Solicitor for Respondent and Cross-Complainant.

Respondent and Cross Complainant suggests Miss Thelma Martin, Ozark, Alabama, as a suitable person to be appointed Commissioner to take the testimony of the witness, Mrs. Branch Young.

J. B. Blackburn

Solicitor for Respondent and Cross-Complainant.

To first interrogatory he says:

A. T. Lisenby, 60 years of age, I live in Ozark, Dale County, Alabama. I am Mayor of the City of Ozark.

To second interrogatory he says:

A man who was known to me as Major Frank V. Barchard came to my place and rented an apartment from me in the early part of 1942, and stated he was at Camp Rucker, Alabama. I do not remember the exact date he came to my place, but it was about the time the first soldiers began coming in at Camp Rucker, Alabama.

To Third interrogatory he says:

As stated above he did rent an apartment from me, and this property is located at 166 Eufaula Street, Ozark, Alabama. It is my recollection that this man, known to me as Major Frank V. Barchard, lived in my apartment for a period of five to six months.

To fourth interrogatory he says:

Yes, a woman occupied the apartment with him, and he introduced her to me as his wife.

To fifth interrogatory he says:

This woman, whom I understood or knew as his wife, came with him to rent the apartment and lived with him in the apartment during the time it was occupied by Major Barchard.

To sixth interrogatory he says:

She was known as Mrs. Frank V. Barchard.

To seventh interrogatory he says:

He introduced her to me and my wife as Mrs. Barchard. They did not mix and mingle with the other citizens in the community but very little. She was more friendly with a sister-in-law of mine, Mrs. J. E. Lisenby, than with any other person in the community. She was known to my sister-in-law as Mrs. Barchard and others who knew her in any way.

To eighth interrogatory he says:

Yes, she certainly was pregnant, and I understood that when they left my apartment she was going to the State of Georgia for the purpose of confinement at a hospital, and I was told by Mr. Barchard he was carrying his wife to a hospital in Thomasville, Georgia.

A. T. Lisenby

Sworn to and subscribed before me on this the 13th day of February, 1945.

Thelma Martin
Commissioner.

FRANK V. BARCHARD, Complainant and Cross -Respondent, vs. MYRTLE BARCHARD, Respondent and Cross-Complainant.	IN CIRCUIT COURT IN EQUITY, BALDWIN COUNTY, ALABAMA.

DEPOSITIONS OF A. T. Lisenby and Mrs. Branch Young.

By virtue of the Commission hereto annexed, issued by R. S. Duck, Register of the Circuit Court, in Equity of Baldwin County, Alabama, in a certain cause pending, wherein Frank V. Barchard, Complainant and Cross-Respondent, and Myrtle Barchard, Respondent and Cross-Complainant, I, Thelma Martin, the Commissioner named therein, have called and caused to come before me A. T. Lisenby and Mrs. Branch Young (Billie Herring Young) the witnesses named in said Commission, and having first duly sworn the said witnesses to apeak the truth, the whole truth and nothing but the truth, the said witnesses depose and say as follows, in answer to the direct interrogatories propounded to them, and which were attached to the Commission in said cause, viz:

Commission To Take Depositions. Printed by The Baldwin Times, Bay Minette.

THE STATE OF ALABAMA,
Baldwin County

CIRCUIT COURT

TO Miss Thelma Martin, Ozark Alabama.

KNOW YE: That we, having full faith in your prudence and competency, have appointed you Commissioner, and by these presents do authorize you, at such time and place as you may appoint, to call before you and examine A T Lisenby and Mrs Branch Young,

as witnesses in behalf of Respondant and Cross Complainant in a cause pending in our Circuit Court of Baldwin County, of said State, wherein Frank V Barchard,

Complainant, and Cross Respondant

XXXXXXXXXX Complainant

and Myrtle Barchard. Respondant and Cross Complainant

Defendant,

on oath to be by you administered, upon Them

to take and certify the deposition of the witness and return the same to our Court, with all Convenient speed, under your hand.

Witness 8th day of February, 1945.

REGISTER

Commissioner's Fee $ 4.00

Witness' Fees, $ 3.00

FRANK V. BARCHARD, Complainant and Cross Respondent, VS. MYRTLE BARCHARD, Respondent and Cross Complainant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

NOTE OF TESTIMONY

This cause is submitted for Final Decree on behalf of the Respondent and Cross Complainant upon the following:

1. Original Answer and Cross Bill.

2. Stipulation of parties dated February 21, 1945.

3. Oral Depositions of Myrtle Barchard, John Chason and Charles J. Ebert taken on reference before Register.

4. Motion dated July 13, 1944.

5. Decree of July 15, 1944.

6. Motion filed November 6, 1944.

7. Decree of November 8, 1944.

8. Amended Answer and Cross Bill. 11-18-44

9. Oral Depositions of A. T. Lisenby and Mrs. Branch Young taken before Thelma Martin, Commissioner.

10. Oral Depositions of Myrtle Barchard and Harvey L. Windbigler taken before Ora S. Nelson, acting as Commissioner.

Dated this 1st day of March, 1945.

P. H. Weed

Register.

J. B. Blackburn

Solicitor for Respondent and Cross Complainant.

upon the fact that he has a wife and three children, the Respondent and his children.

E.

The Complainant denies the fact that the Respondent and the said minor children have no property to adequately maintain and support themselves but, on the contrary, states that the Respondent and the three minor children own in their own right property of the value, and not less than, $9000.00; that the Respondent and the said children have an income of not less than $7500.00 per year; that a short while ago the Complainant conveyed to the Respondent the home place of a value of not less than $3000.00, the lots and building on and in which the "Foley Onlooker" business is carried on, of a value of not less than $4000.00, and also to the children property not less in value than $2000.00; that in addition to this he executed to the Respondent a lease for the duration of the war and six months thereafter, all machinery, equipment and good will, etc., of the "Foley Onlooker" which the Respondent is now operating and retaining the income therefrom; that the equipment leased by the Complainant to the Respondent has an annual rental value of not less than $2000.00; that in addition to this the Complainant some time ago sold a piece of property in Foley and divided the proceeds thereof, from which the Respondent received some five or six hundred dollars in cash;

That the property owned by the Complainant consists of only vacant property in which there is no income, and which is more or less of a liability in view of the taxes;

That the only income of the Complainant is the money paid to him by the United States government;

That the son, Frank V. Barchard, Jr., has now finished high school and is capable of maintaining and supporting himself;

That the Complainant necessarily has heavy expenses which are deducted from his salary as a commissioned officer in the United States Army and that after such deductions are made he has barely enough to maintain and support himself in line with the commission he holds.

The Complainant further says that the Respondent is much more financially able to employ counsel and support herself and children, especially in view of the fact that the Complainant has already conveyed to her and the children all property producing any revenue;

FRANK BARCHARD COMPLAINANT VS MYRTLE BARCHARD RESPONDENT	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA IN EQUITY. #695

And now comes the Complainant, FRANK V. BARCHARD and, for answer to the Respondent's Cross-Bill, says:

A.

He admits that he was, on to-wit November 25th, 1940, called into active service and now has a commission as a Major in the United States Army.

B.

He admits that he and the Respondent have three children, namely Frank V. Barchard, Jr., a son seventeen years of age, Marie Barchard, a daughter fifteenyears of age, and Kathryn Barchard, a daughter twelve years of age, and that the said children reside with the Respondent, their mother, who is in all respects a fit and proper person to have the permanent care, custody and control of the said minor children.

C.

He admits that at the time of entering the military service he left the printing and publishing business known as "Foley Onlooker" in charge of the Respondent, who has since that time operated the same and retained all the income therefrom; he denies that he left outstanding debts amounting to much more than $1,000.00; that the only debts left were current outstanding bills for paper and other materials used in the publication of the paper; that the insurance policies mentioned are payable to the Respondent or to the children as beneficiaries and that it was optional with the Respondent as to whether or not she kept the premiums thereon paid.

D.

The Complainant admits that he is, at this time, a commissioned officer in the United States Army, his present commission being that of a Major and that the amount of the allowances and compensation which are paid to him as such officer monthly amount to not less than $450.00; however, his pay is based

FRANK V. BARCHARD COMPLAINANT	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
MYRTLE BARCHARD RESPONDENT	)	IN EQUITY NO. 895

And now comes Beebe & Hall, as Solicitors of record for the Complainant and for answer to the cross bill of the Respondent says:

1. They deny each and every allegation contained in the cross bill, not herein expressly admitted and demands strict proof of the same.

They refiled the answer to the Respondent's original cross bill and asked that it be taken and considered as though herein fully set out.

3. That this suit was filed several years ago, while the Complainant was in the United States; that testimony on behalf of the Complainant was taken soon after suit was filed; that the matter was permitted to drag along without any fault on the part of the Complainant until he was sent without the boundaries of the United States, as a Soldier in the United States Army; that the Complainant is now serving in the United States Army without the boundaries of the United States, and it is impossible for his Solicitors to consult with him as to the facts alleged in the Respondent's amended cross bill.

4. That the Solicitors of record for the Complainant now pray that this cause may be held in abeyance, pending the absence, without the boundaries of the United States, of the Complainant, and until he is regularly discharged from the United States Army.

BEEBE & HALL

BY: [signature]
Solicitors for the Complainant
Frank Barchard

FRANK V. BARCHARD, Complainant and Cross-Respondent, VS. MYRTLE M. BARCHARD, Respondent and Cross-Complainant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

MOTION

TO THE HONORABLE F. W. HARE, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

Now comes the Respondent and Cross Complainant by her Solicitor and respectfully represents unto the Court and your Honor that this cause was heretofore submitted for Decree confirming the Register's Report heretofore made in this cause and that after the said submission and during the last week in July, 1944 the Respondent and Cross Complainant, together with her Solicitor, agreed on a settlement of this cause with the Solicitor for the Complainant and Cross Respondent but after this settlement was agreed upon the Complainant and Cross Respondent failed or refused to carry out the terms of the said settlement. The Respondent and Cross Complainant now desires to amend the Cross Bill filed by her in this cause:

WHEREFORE Respondent and Cross Complainant moves the Court to withdraw the said submission heretofore had in this cause and permit her to amend the Cross Bill filed by her in this cause Petitioner further prays that such other orders be made and decrees rendered as may be requisite and proper in the premises.

J. B. Blackburn

Solicitor for Respondent and Cross-Complainant.

Respondent and Cross Complainant suggests Miss Thelma Martin, Ozark, Alabama, as a suitable person to be appointed Commissioner to take the testimony of the witness, A. T. Lisenby.

J. B. Blackburn

Solicitor for Respondent and Cross-Complainant.

STATE OF ALABAMA |
BALDWIN COUNTY |

Before me, the undersigned authority within and for said County in said State, personally appeared J. B. Blackburn, who, after being by me first duly and legally sworn, deposes and says: That the above and foregoing interrogatories, if well and truly answered, will be material evidence for the Respondent and Cross-Complainant in the above cause. Affiant further deposes and says that the said witness lives more than one hundred miles from Bay Minette, Alabama.

J. B. Blackburn

Sworn to and subscribed before me on this the 26th day of January, 1945.

Ora L. Nelson

Notary Public, State of Alabama at Large.

maintain and support them and it is necessary that they be maintained and supported by the said Complainant, whose failure to properly support them is without fault on their part.

Respondent alleges that it has been necessary for her to employ an attorney to represent her in this suit which was brought by the said Complainant and that she is without funds to pay her said attorney for the services rendered and to be rendered by him in this cause.

PRAYER FOR PROCESS

Respondent prays that this Answer be taken and treated in all respects as a Cross Bill and that the usual process of this Honorable Court issue to the Complainant and Cross Respondent, Frank V. Barchard, requiring him to appear and plead, answer or demur to this Cross Bill within the time prescribed by law and under the rules and practice of this Honorable Court.

PRAYER FOR RELIEF

Respondent and Cross Complainant respectfully prays for the following separate and several relief:

1. That a reference be held to ascertain and fix a reasonable sum to be paid to Respondent and Cross Complainant as alimony pendente lite and to ascertain and fix a reasonable amount to be paid to Respondent and Cross Complainant's Solicitor of record for services rendered and to be rendered by him in this cause.

2. That when the said reference is held and the Register's Report thereof made, a decree be rendered fixing the amount of alimony pendente lite and an amount to be paid to Respondent and Cross Complainant's solicitor of record for services rendered and to be rendered by him in this cause.

3. That on a final hearing of this cause the Court will make and enter a proper decree granting to the Respondent and Cross Complainant the permanent custody and control of the said minor children, Frank V. Barchard, Jr., Marie Barchard and Kathryn

Barchard and fixing a reasonable monthly amount to be paid to her by the Complainant and Cross Respondent for permanent alimony by way of separate maintenance.

4. Respondent and Cross Complainant further prays for such other, further and general relief as she may be equitably entitled to the premises considered.

Respectfully submitted,

J. D. Blackburn

Solicitor for Respondent.

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA, BALDWIN COUNTY } No. 895.

CIRCUIT COURT BALDWIN COUNTY

Jan TERM, 194 3

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon MYRTLE BARCHARD.

to appear and plead, answer or demur, within thirty days from the service hereof, to the Complaint filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against

Myrtle Barchard., Defendant

by Frank V Barchard.

Plaintiff

Witness my hand this 14th day of January. 194 3

R L Huck Clerk.

FRANK V. BARCHARD, COMPLAINANT

VS.

MYRTLE BARCHARD, RESPONDENT

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

TO HONORABLE F. W. HARE, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY:

Your Complainant, FRANK V. BARCHARD, humbly complaining against the Respondent MYRTLE BARCHARD, respectfully represents and shows unto your Honor and This Honorable Court as follows:

1.

That the Complainant and the Respondent are both over twenty-one years of age and Bona Fide residents of Baldwin County, Alabama;

2.

That your Complainant and the Respondent are husband and wife, having intermarried on May 1, 1924.

That also, to-wit: December 26, 1940, the Respondent voluntary abandoned the bed and board of your Complainant, and has remained away voluntary and continously since that time.

WHEREFORE, the premises considered, your complainant prays that your Honor will by proper process, make the said MYRTLE BARCHARD, party respondent to this Bill of Complaint, requiring her to plead answer or demur to the same within the time and under the penalties prescribed by law and the practice of this Honorable Court.

Your Complainant further prays that upon final hearing hereof, this Honorable Court will enter a final decree forever barring the bonds of matrimony existing between him and the Respondent.

The Complainant prays for such other, further, different and general relief as he may be in equity and good concience entitled to receive, and as in duty bound he will ever pray.

BEEBE & HALL

By _____
Solicitors for Complainant

FRANK V. BARCHARD, Complainant, VS. MYRTLE BARCHARD, Respondent.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

TO THE HONORABLE F. W. HARE, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

WHEREAS, by a Decree of this Court and enrolled in the above entitled cause on the 14th day of April, 1943, it was Ordered and Decreed, among other things, as follows:

"This cause coming on to be heard on this date and being submitted on Respondent and Cross Complainant's Cross Bill, WHEREUPON it is Ordered, Adjudged and Decreed by the Court that the said Cross Bill be and it is hereby referred to the Register of this Court to hold a reference of the time of which he shall give notice to the Respondent as provided by law and at such reference he shall:

1. Hear testimony and report to the Court what sums should be paid to the Respondent and Cross Complainant as alimony pendente lite.

2. He shall hear testimony, ascertain and report to the Court what is a reasonable solicitor's fee to be paid to Respondent and Cross Complainant's solicitor of record for services rendered by him in this cause.

All other matters are reserved by the Court for further action in the said cause.

Ordered, Adjudged and Decree this 14th day of April, 1943.

(Signed) F. W. Hare
Judge."

NOW THEREFORE, having held a reference for the purpose of ascertaining the matters called for in the said Decree of Reference I report as follows:

1. I report that the hearing of the reference was had at my office in the Court House at Bay Minette, in Baldwin County, Alabama, on the 3rd day of June, 1943, due notice of which was given H. M. Hall, Solicitor of Record for the Complainant, and that at the said hearing there were present the following: H. M. Hall, Solicitor for the Complainant, Myrtle Barchard, Respondent, and J. B. Blackburn, Solicitor for the Respondent, at which time the testimony of the following witnesses was taken: Myrtle Barchard, Charles J. Ebert and

John Chason, all of which was reduced to writing as provided by Chancery Rule Number 80 and at which reference the testimony of the Complainant heretofore taken in this cause was also introduced in evidence by the Respondent.

2. I find and report that the sum of $175.00 is a reasonable amount to be paid to the Respondent monthly as and for alimony pendente lite in this cause.

3. I find and report that the sum of $350.00 is a fair and reasonable amount to be allowed and compensation to J. B. Blackburn, the Respondent's Solicitor of Record in this cause.

All of which is respectfully submitted this 30th day of November, 1943.

R S Duck

Register in Chancery.

6. 895- RECORDED

REPORT OF REGISTER ON REFERENCE

FRANK W. BARCHARD,

Complainant,

VS.

MYRTLE BARCHARD,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY. NO. 895.

FRANK V. BARCHARD, Complainant and Cross Respondent, VS. MYRTLE BARCHARD, Respondent and Cross Complainant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

FINAL DECREE

This cause is submitted for Final Decree on behalf of the parties upon the original Bill of Complaint, Stipulation of Parties relative to the taking of the testimony of the Complainant and Cross Respondent; original Answer and Cross Bill; Motion dated July 13, 1944; Decree dated July 15, 1944; Motion filed November 6, 1944; Decree dated November 8, 1944; Amended Answer and Cross Bill filed November 18, 1944; Stipulation of Parties dated February 21, 1945; Amended Answer and Cross Bill filed April 11, 1945; Answer to Original and Amended Cross Bills and the Testimony as noted by the Register; upon consideration of which it is therefore ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. The Complainant and Cross Respondent having failed to prove the allegations of the original Bill of Complaint filed by him in this cause, the relief prayed for by him therein is hereby denied.

2. The permanent custody and control of the minor children, Frank V. Barchard, Jr., and Kathryn Barchard, is hereby granted to the Respondent and Cross Complainant, Myrtle Barchard, and the Complainant and Cross Respondent, Frank V. Barchard, shall pay to the Respondent and Cross Complainant, Myrtle Barchard, the monthly sum of $200.00 for each and every month commencing with the month of April, 1945, for the maintenance and support of the said minor children, which amount, after April, 1945, shall be paid between the 1st and 15th day of each and every month. No provision is made in this Decree for the custody and control and

maintenance and support of Marie Barchard, who has married since the commencement of this suit. The Respondent and Cross Complainant, Myrtle Barchard, shall have a lien on all of the real and personal property of the Complainant and Cross Respondent to secure payment of the amounts provided for in this paragraph of this Decree but this lien shall not apply to or be a charge upon the property hereinafter conveyed to the Respondent and Cross Complainant, Myrtle Barchard.

3. The bonds of matrimony heretofore existing between the Respondent and Cross Complainant, Myrtle Barchard, and the Complainant and Cross Respondent, Frank V. Barchard, be, and they are hereby dissolved and the said Respondent and Cross Complainant is forever divorced from the Complainant and Cross Respondent on the ground of adultry. The parties hereto having been divorced because of the misconduct of the said Complainant and Cross Respondent, the said Respondent and Cross Complainant is entitled to permanent alimony from him and the unencumbered fee simple title to the printing and publishing business known as the Folwy Onlooker and the Baldwin News-Herald located at Foley, in Baldwin County, Alabama, the subscription lists, stock in trade, furniture, fixtures, machinery, apparatta, good will and all other property of every kind and nature owned by the Complainant and Cross Respondent and used in the said business is hereby fully and completely divested out of the said Complainant and Cross Respondent, Frank V. Barchard, and fully and completely vested in the said Respondent and Cross Complainant, Myrtle Barchard, as her own property for permanent alimony as fully and completely in all respects as the said Complainant and Cross Respondent could or ought to convey the said property.

4. The parties hereto are each hereby permitted to again contract marriage but they shall not marry except to each other until after the expiration of sixty days from the date of this decree and if an appeal is taken in this cause within sixty days the

said parties shall not marry except to each other during the pendency of the said appeal.

5. The Register of this Court shall, within ten days after the rendition of this Decree, file a certified copy of this Decree for record in the office of the Judge of Probate of Baldwin County, Alabama and tax the costs of such recording as a part of the costs of this proceeding and the Probate Judge of Baldwin County, Alabama is directed to index the said Decree in the direct index in the name of Frank V. Barchard and in the reverse index in the name of Myrtle Barchard.

6. The costs of this proceeding are hereby taxed against the Complainant and Cross Respondent, Frank V. Barchard, for which execution may issue but the costs so taxed do not include compensation for Respondent and Cross Complainant's solicitor as such fee is not, in the opinion of the Court, a proper charge to be paid by the Complainant and Cross Respondent.

7. Jurisdiction of this cause is reserved for the purpose of making such other and further orders and decrees relative to the custody and control and maintenance and support of the minor children named in this Decree, as may be necessary or proper.

ORDERED, ADJUDGED AND DECREED this 14th day of April, 1945.

F. W. Hare

Judge.

FRANK V. BARCHARD,

Complainant,

vs

MYRTLE BARCHARD,

Respondant.

SUMMONS AND COMPLAINT

RECORDED

No. 895. Page

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

Frank V Barchard.

Plaintiffs

vs.

Myrtle Barchard.

Defendants

SUMMONS AND COMPLAINT

Filed Jan 14th 1943

R L Duck Clerk

Beebe & Hall.
Plaintiff's Attorney

Defendant's Attorney

Moore Printing Co., Bay Minette, Ala.

Defendant lives at

Foley.

RECEIVED IN OFFICE

Jan 14 1943

W R Stuart Sheriff

I have executed this summons

this Jan 19th 1943

by leaving a copy with

Myrtle Barchard

W R Stuart Sheriff

John R Davis Deputy Sheriff

FRANK V. BARCHARD, Complainant and Cross Respondent, VS. MYRTLE M. BARCHARD, Respondent and Cross Complainant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

STIPULATION

IT IS AGREED between H. M. Hall, Solicitor for the Complainant and Cross Respondent and J. B. Blackburn, Solicitor for the Respondent and Cross Complainant, that Ora S. Nelson, act as Commissioner in taking testimony of the Respondent and Cross Complainant, Myrtle M. Barchard, and of Harvey L. Windbigler, and that a commission to her is hereby waived. She is to take the testimony of the said witnesses in shorthand, transcribe the same and furnish a copy thereof to H. M. Hall, and a copy to J. B. Blackburn, solicitors for the respective parties interested in this proceeding.

IT IS FURTHER AGREED that the signing of the said testimony by each of the said witnesses is hereby waived and that the testimony so taken may be used on final hearing or any other hearing which may be had in this cause. IT IS FURTHER AGREED that the Court is to use only legal and competent testimony, that objections to questions and motions to exclude are hereby waived, subject however, to the right of either party to point out objections to testimony on final hearing.

IT IS FURTHER AGREED that either party to this cause may introduce in evidence the testimony of any witness taken on the reference heretofore held before the Register in this cause on final hearing hereof.

Dated this 21st day of February, 1945.

H. M. Hall

J. B. Blackburn

ORAL DEPOSITION

Printed by The Baldwin Times, Bay Minette.

THE STATE OF ALABAMA,
Baldwin County.

Circuit Court of Baldwin County, Alabama
(In Equity)

FRANK V. BARCHARD, Complainant

VS.

MYRTLE BARCHARD, Respondent

I, Ora S. Nelson as ~~Registerxand~~ Commissioner have called and caused to come before me Myrtle Barchard and Harvey L. Windbigler

witness~~es~~ named in the Requirement for Oral Examination, on the 21st day of February 1945, at the office of J. B. Blackburn in Bay Minette, Alabama, and having first sworn said Witness~~es~~ to speak the truth, the whole truth, and nothing but the truth, the said Myrtle Barchard and Harvey L. Windbigler doth depose and say as follows:

Feb 21 1945

FRANK V. BARCHARD,

Complainant and
Cross Respondent,

VS.

MYRTLE BARCHARD,

Respondent and
Cross Complainant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NUMBER 895.

TESTIMONY OF MYRTLE BARCHARD AND
HARVEY L. WINDBIGLER, WITNESSES FOR
THE RESPONDENT AND CROSS COMPLAINANT

DIRECT EXAMINATION OF MYRTLE BARCHARD, by J. B. Blackburn, Solicitor for the Respondent and Cross Complainant:

Q. Mrs. Barchard, when were you and Mr. Barchard married?

A. May 1, 1924.

Q. And where were you living at the time he went into the military service?

A. Foley.

Q. Do you remember when he went into the military service?

A. The twenty-fifth of November, 1940.

Q. And he was at that time a commissioned officer in the United States Army?

A. He was a major.

Q. And he was called into service at that time?

A. That was the time he was inducted.

Q. How many children do you and Mr. Barchard have?

A. Three.

Q. What are their names, please ma'm?

A. Frank, Jr., Marie and Kathryn.

Q. How old is Frank?

A. Nineteen.

Q. And when these proceedings were started he was seventeen?

A. That's right.

Q. What is Marie's age?

A. Seventeen.

Q. And Kathryn?

A. Fourteen.

Q. Of course, Miss Marie and Kathryn were each two years younger when this started?

A. That's right.

Q. Were your children living with you at the time this suit was filed?

A. That's right.

Q. And have since lived with you?

A. Yes.

Q. One of the girls is married is she not?

A. That's right.

Q. Is she living with you now?

A. They're living with me right now. They can't find a house or an apartment.

Q. I will ask you whether you are a fit and proper person to have the permanent care, custody and control of those children?

A. Yes.

Q. Is it to their best interest that they remain with you?

A. Yes, sir.

Q. Mrs. Barchard, when Mr. Barchard went into the active military service, what kind of business did he leave at Foley?

A. He left a printing and publishing business.

Q. What was it known as?

A. Barchard Publishing Company.

Q. What were the names of the papers or publications?

A. The Onlooker and the Baldwin News Hearald.

Q. What was the condition of the business at that time?

A. Run down.

Q. Owe any debts?

A. Yes, sir.

Q. Do you remember the approximate amount?

A. I should imagine about $650.00. That was the approximate amount. I am not certain.

A. No, he could not secure such accommodations.

Q. Did you receive any letter or letters from Mr. Barchard in which he stated that he could not secure a place for you to stay near Camp Blanding?

A. I did receive a letter dated October 12, 1942 which was written while he was stationed at Camp Blanding.

RESPONDENT AND CROSS COMPLAINANT INTRODUCES SAID ORIGINAL LETTER FROM COMPLAINANT AND CROSS RESPONDENT, DATED OCTOBER 12, 1941 AND ASKS THAT IT BE MARKED AND IDENTIFIED AS RESPONDENT AND CROSS COMPLAINANT'S EXHIBIT "2"

8581. NOTE OF TESTIMONY

Moore Printing Co.

FRANK V. BARCHARD

COMPLAINANT

VS.

MYRTLE BARCHARD

RESPONDENT

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, , stipulation as to the taking of testimony of Frank V. Barchard; and testimony of Frank V. Barchard, Answer of Complainant to Respondent's Cross Bill, Exception of the Complainant to the Report of the Register on Reference

and in behalf of Defendant upon

R. L. Beck Register.

HEADQUARTERS 3D BATTALION 106TH QUARTERMASTER REGIMENT
OFFICE OF THE BATTALION COMMANDER

Oct. 12, 1941

Exhibit "2" to Testimony of Respondent
and Cross Complainant.
Ora S Nelson
Commissioner

SUBJECT:

My Darling Myrtle:

TO:

It was surely good to hear you today. I had thought around noon that I would call and then got busy down at E company and had just came back from there when you called. All of the men there are working too today, as usual. We have several officers and enlisted men coming in some time today to be here for a week to 10 days making inspection of all vehicles. They are from the office of the Inspector General, Washington. Division put out an order yesterday making me responsible for the schedule and all arrangements for the inspections throughout the division.

Lance got away yesterday just before the order came from division cancelling all leaves and furloughs for both officers and men until after November. There are many that are pretty much upset about it, including my men who had stayed here for a few days to get things straight before trying to go home. F and Willingham however had already taken advantage of it. He was gone when I arrived. However, there will be no more that will leave. Oscar, however, plans to try and get off Saturday by plane and fly to the wedding, returning Sunday also by plane. Don't know whether he will be able to make the arrangements or not.

There is really a lot to be done and I doubt whether we'll ever get through. I have to also get rid of all old vehicles in the entire division before we start leaving.

Col. Spengler came in around 8 last night from Carolina. He changed clothes and then went on to St. Augustine.

I have to go by camp headquarters and also division headquarters yet this afternoon. But thought I'd better get this letter off right away with the application blansk for the car tag. I had intended sending them this afternoon even before you mentioned it. Please fill in the remainder as to number, etc.

Doubt if it will be possible to get a place for you to stay near here. I'll call Thursday as planned.

Tell the children all hello. Bushels of love,

Frank

xoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxoxox

IN THE CIRCUIT COURT IN AND FOR BRADFORD

COUNTY, FLORIDA. IN CHANCERY.

FRANK V. BARCHARD,

Plaintiff

-vs-

MYRTLE M. BARCHARD,

Defendant.

Exhibit "1" to testimony of Respondent and Cross Complainant
Ora R. Nelson
Commissioner

BILL OF COMPLAINT

Frank V. Barchard, a resident of the State of Florida, by his attorney, Richard D. Sutton, brings this his bill of complaint against the defendant, Myrtle M. Barchard, whose residence and address as particularly as is known to this plaintiff is Foley, Alabama, and alleges:

I.

That this plaintiff is and has been for more than ninety days past and prior to the filing of this his bill of complaint a bona fide resident of the State of Florida, residing in Bradford County, Florida.

II.

That your plaintiff and the defendant were lawfully married each to the other at Magnolia Springs, Alabama on the May 1, 1924, and that such status still exists.

III.

That as a result of said marriage there were three children born, to-wit: Frank V. Barchard, Jr., Myrtle Marie Barchars, and Kathryn Laverne Barchard. That said children is in the care, custody and control of the defendant, and that both the plaintiff and the defendant are fit and proper persons to have the custody of the minor children.

IV.

That both the plaintiff and the defendant are over and above the age of twenty-one years of age.

V.

And your plaintiff would further show that the defendant is guilty of willful, obstinate and continued desertion of your

(Exhibit "1" to Testimony of Respondent and Cross Complainant)
Ora R. Nelson
Commissioner.

plaintiff for a period of one year and longer; that the defendant willfully deserted your plaintiff in the city of Foley, Alabama, on or about the 24th day of November, 1940 and such desertion has been willful, obstinate and continuous since that time; that the plaintiff was forced to leave the defendant because of the continued and habitual nagging, fussing and bickering on the part of the defendant towards your plaintiff for a period of at least two years prior to the separation of the parties; that during the month of April, 1940 the defendant while in a rage threatened to leave the plaintiff and did on several other occasions prior to the separation of the parties threatened to leave your plaintiff; that on several occasions during the two years immediately preceding the separation of the parties the defendant has threatened to commit suicide and has displayed hysterical rages towards your plaintiff and has stated on numerous occasions that she did not want to continue to have a home with the plaintiff; that all of the aforesaid treatment was without cause or provocation on the part of the plaintiff who has always conducted himself in a proper and fitting manner; that the parties hereto are still living separate and apart by reason of the wilful, obstinate and continued desertion of your plaintiff by the defendant and it has made it impractical and impossible for your plaintiff to further discharge his martial duties.

VI.

And your plaintiff further alleges that the defendant is well able to provide a livelihood for herself and the minor children, that the defendant is and has been receiving for the past year the profits of the plaintiff's business in Foley, Alabama and the defendant will continue to receive the profits of said business; that the plaintiff has also provided to the defendant a home for herself and the minor children as well as the use of various other parcels of property located in Foley, Alabama.

VII.

And the plaintiff further alleges that the residence and address of the defendant, Myrtle M. Barchard, as particularly as is

known to this plaintiff is Foley, Alabama and that the defendant is over and above the age of twenty-one years of age, and that there is no one in the State of Florida that the service of a subpoena upon would be binding on the defendant.

WHEREFORE, Your Plaintiff prays:

1. That the bonds of matrimony now and heretofore existing between the plaintiff and the defendant may be dissolved and that a divorce a vinculo matrimonii be entered in said cause, divorcing the plaintiff and the defendant each from the other.

Frank V. Barchard
Plaintiff.

Richard D. Sutton
Attorney for Plaintiff.

AFFIDAVIT FOR ORDER OF CONSTRUCTIVE SERVICE

STATE OF FLORIDA :

COUNTY OF DUVAL :

Personally appeared before me the undersigned authority, Frank V. Barchard, who being first duly sworn deposes and says:

That he is the plaintiff in the above styled case and that he has read the contents of the bill of complaint and that the same are true and correct. That the residence and address of the defendant, Myrtle M. Barchard, as particularly as is known to this affiant is Foley, Alabama, that the defendant is over and above the age of twenty-one years, and that there is no one in the State of Florida that the service of a subponea upon would bind the defendant. That this suit is brought in good faith with no intention of annoying the defendant.

Frank V. Barchard
Plaintiff.

Sworn to and subscribed before me

this 24 day of November, 1941.

D. Byron King (OFFICIAL SEAL)
Notary, Public, State of Florida at Large.
My Commission Expires Jan. 21, 1945.
Notary Public, At Large, My Commission
Expires:

Filed in office of Clerk of Court on the 25th. day of Nov. 1941.

A. J. Thomas Clerk.

By J. R. Kelly D. C.

FRANK V. BARCHARD, Complainant and Cross Respondent, VS. MYRTLE BARCHARD, Respondent and Cross Complainant.		IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

AMENDED ANSWER AND CROSS BILL

Now comes the Respondent and Cross Complainant and amends the prayer for relief in the last Amended Answer and Cross Bill filed by her in this cause so that the prayer for relief as amended will read as follows:

PRAYER FOR RELIEF

The Respondent and Cross Complainant respectfully pray for the following separate and several relief:

1. That the Court will make and enter a proper decree giving and granting to the Respondent and Cross Complainant the permanent custody and control of the said minor children, Frank V. Barchard, Jr., Marie Barchard and Kathryn Barchard, and fix a reasonable amount to be paid monthly to Respondent and Cross Complainant for maintenance and support of the said minor children

2. That the Court will make and enter a proper decree divorcing the Respondent and Cross Complainant from the Complainan and Cross Respondent on the ground of adultry and vest in her by proper decree the unencumbered fee simple title to the printing and publishing business known as the Foley Onlooker and the Baldwi News-Herald, the subscription lists, stock in trade, furniture, fixtures, machinery, apparatta, good will and all other property of every kind and nature owned by the Complainant and Cross Responden and used in connection with the said business as permanent alimony

3. That a lien be fixed and established on all of the property owned by Complainant and Cross Respondent in Baldwin County, Alabama to secure payment of the amounts decreed to be pai to Respondent and Cross Complainant for maintenance and support of the said minor children.

4. Respondent and Cross Complainant further prays for such other, further and general relief as she may be equitably entitled to the premises considered.

Respectfully submitted,

J. B. Blackburn

Solicitor for Respondent and Cross Complainant.

FRANK V. BARCHARD COMPLAINANT VS MYRTLE BARCHARD, RESPONDENT	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA IN EQUITY. No. 895 .

And now comes the Complainant and without waiving his motion to strike, excepts to the report of the Register on reference on the following separate and several grounds:

1.

That prior to the reference the complainant had conveyed to the Respondent and the minor children property of the value of not less than $9,000.00; that the Respondent and the said minor children have an income of not less than $7,500.00 per year;

2.

That the Complainant, before the reference, conveyed to the Respondent the home place in the Town of Foley, of a value of not less than $3,000.00, the lots and buildings on and in which the "Foley Onlooker" business was carried on, of the value of not less than $4,000.00, and also to the children property of not less in value than $2,000.00; that in addition to this he executed to the Respondent a lease for the duration of the war and six months after, all machinery, equipment, and good will of the "Foley Onlooker" which the Respondent is now operating and retaining the income therefrom; that the equipment, machinery leased by the Complainant to the Respondent has an annual rental value of not less than $2,000.00.

3.

That the only income of the Complainant is his salary, paid by the United States Government as an officer in the United States army; that the Respondent has an ample income and ample property to provide for herself the minor children, and the payment of all expenses, including the attorneys fee;

The Complainant states that all the conveyances to the Respondent and the minor children were made voluntarily, after the Respondent had abandoned the Complainant, and for the separate maintenance and support of the Respondent and said children; that the said property and the income therefrom was and is intended and is sufficient for the separate maintenance and support of the Respondent and said Children.

BEEBE & HALL

BY Shurlace

Solicitors for the Complainant.

FRANK BARCHARD COMPLAINANT VS MYRTLE BARCHARD RESPONDENT	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA IN EQUITY. #895

And now comes the Complainant, FRANK V. BARCHARD and, for answer to the Respondent's Cross-Bill, says:

A.

He admits that he was, on to-wit November 25th, 1940, called into active service and now has a commission as a Major in the United States Army.

B.

He admits that he and the Respondent have three children, namely Frank V. Barchard, Jr., a son seventeen years of age, Marie Barchard, a daughter fifteen years of age, and Kathryn Barchard, a daughter twelve years of age, and that the said children reside with the Respondent, their mother, who is in all respects a fit and proper person to have the permanent care, custody and control of the said minor children.

C.

He admits that at the time of entering the military service he left the printing and publishing business known as "Foley Onlooker" in charge of the Respondent, who has since that time operated the same and retained all the income therefrom; he denies that he left outstanding debts amounting to much more than $1,000.00; that the only debts left were current outstanding bills for paper and other materials used in the publication of the paper; that the insurance policies mentioned are payable to the Respondent or to the children as beneficiaries and that it was optional with the Respondent as to whether or not she kept the premiums thereon paid.

D.

The Complainant admits that he is, at this time, a commissioned officer in the United States Army, his present commission being that of a Major and that the amount of the allowances and compensation which are paid to him as such officer monthly amount to not less than $450.00; however, his pay is based

upon the fact that he has a wife and three children, the Respondent and his children.

E.

The Complainant denies the fact that the Respondent and the said minor children have no property to adequately maintain and support themselves but, on the contrary, states that the Respondent and the three minor children own in their own right property of the value, and not less than, $9000.00; that the Respondent and the said children have an income of not less than $7500.00 per year; that a short while ago the Complainant conveyed to the Respondent the home place of a value of not less than $3000.00, the lots and building on and in which the "Foley Onlooker" business is carried on, of a value of not less than $4000.00, and also to the children property not less in value than $2000.00; that in addition to this he executed to the Respondent a lease for the duration of the war and six months thereafter, all machinery, equipment and good will, etc., of the "Foley Onlooker" which the Respondent is now operating and retaining the income therefrom; that the equipment leased by the Complainant to the Respondent has an annual rental value of not less than $2000.00; that in addition to this the Complainant some time ago sold a piece of property in Foley and divided the proceeds thereof, from which the Respondent received some five or six hundred dollars in cash;

That the property owned by the Complainant consists of only vacant property in which there is no income, and which is more or less of a liability in view of the taxes;

That the only income of the Complainant is the money paid to him by the United States government;

That the son, Frank V. Barchard, Jr., has now finished high school and is capable of maintaining and supporting himself;

That the Complainant necessarily has heavy expenses which are deducted from his salary as a commissioned officer in the United States Army and that after such deductions are made he has barely enough to maintain and support himself in line with the commission he holds.

The Complainant further says that the Respondent is much more financially able to employ counsel and support herself and children, especially in view of the fact that the Complainant has already conveyed to her and the children all property producing any revenue;

F.

That the said conveyances and the lease herein mentioned, were made by the Complainant to the Respondent and their children voluntarily after the Respondent had abandoned the Complainant, and for the separate maintenance and support of the Respondent and said children; that the said property and the income therefrom was and is intended, and is sufficient for the separate maintenance and support of the Respondent and the said children.

That the salary received by the Complainant from the United States Government is not sufficient to support himself, the Respondent and the Children, and the payment of an attorneys fee.

G.

The Complainant denies each allegation contained in the Respondent's cross bill not herein specifically admitted, and demands strict proof of the same.

BEEBE & HALL

BY [signature]
Solicitors for Complainant.

FRANK V. BARCHARD, Complainant and Cross-Respondent, VS. MYRTLE M. BARCHARD, Respondent and Cross-Complainant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

DECREE

This cause coming on to be heard on this date ~~by agreement of the parties,~~ is submitted on the Respondent and Cross-Complaine Motion filed in this cause on this date to withdraw the submissior heretofore had in this cause for the purpose of allowing her to amend her Cross Bill, upon consideration of all of which IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the submission heretofore had in this cause on the Report of the Registe: be and the same is hereby withdrawn and the said Respondent and Cross Complainant is hereby permitted to amend the Cross Bill filed by her in this cause which amendment shall be filed by her within ten days from the date of this Decree.

ORDERED, ADJUDGED AND DECREED this 8th day of November, 19

F. W. Hare

Judge.

FRANK V. BARCHARD COMPLAINANT VS MYRTLE BARCHARD RESPONDENT.	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA IN EQUITY. No. 895

And now comes the Complainant and moves the Court to strike the report of the Register on reference, and for grounds thereof separately and severally, says:

1.

That the testimony on the reference was not taken as required by law.

2.

That the testimony of the witnesses at the reference was not reduced to writing as required by law.

3.

That the report was filed six months after the reference was held and is therefore invalid.

4.

That the report was not made and filed in manner and within the time required by law.

5.

That the Complainant was at the time of the reference in the armed forces of the United States and therefore did not have the opportunity to appear in person.

BEEBE & HALL

BY [signature]

Solicitors for the Complainant.

No. 895

The State of Alabama,

BALDWIN COUNTY

IN EQUITY

CIRCUIT COURT OF BALDWIN COUNTY

FRANK V. BARCHARD,

COMPLAINANT

VS.

MYRTLE BARCHARD

RESPONDENT

NOTE OF TESTIMONY

Filed in Open Court this 31st

day of January 1944

R. L. Deloach

Register.

Moore Printing Co.

11 Pages

Testimony

Lehi March 1st 1943

R. Deech
Reporter

RECORDED

AMENDED ANSWER AND CROSS BILL

FRANK V. BARCHARD,

Complainant and
Cross Respondent,

VS.

MYRTLE BARCHARD,

Respondent and
Cross Complainant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY. NUMBER 895.

Filed April 11th 1940

F. W. Hare
Judge

RECORDED

FRANK V. BARCHARD

COMPLAINANT

VS

MYRTLE BARCHARD

RESPONDENT.

Exceptions to Referees Report

Filed Dec 4/1943
[illegible]
Clerk
By

RECORDED

FRANK BARCHARD,

Complainant

vs

MYRTLE BARCHARD,

Respondent

ANSWER TO CROSS BILL

Filed June 4th, 1943

DECREE

FRANK V. BARCHARD,

Complainant and Cross-Respondent,

VS.

MYRTLE M. BARCHARD,

Respondent and Cross-Complainant.

IN THE CIRCUIT COUNTY OF

BALDWIN COUNTY, ALABAMA

IN EQUITY. NUMBER 895.

RECORDED

FRANK V. BARCHARD
COMPLAINANT

VS

MYRTLE BARCHARD
RESPONDENT.

Motion to strike

Filed Dec 4.1943
[illegible]
Clk

FRANK V. BARCHARD, Complainant, VS. MYRTLE BARCHARD, Respondent.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY.

It is ordered by the Court that the former order in this cause requiring the Respondent to prepare and file a certain itemized statement to be used by the Register on a reference in said cause be, and the same hereby is altered and amended so as to extend the time from July 15, 1944 to August 15, 1944.

This 15th day of July, 1944.

F. W. Hare
Judge

FRANK V. BARCHARD, Complainant and Cross Respondent, VS. MYRTLE BARCHARD, Respondent and Cross Complainant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

INTERROGATORIES TO BE PROPOUNDED TO A. T. LISENBY, OZARK, ALABAMA.

1. Please give your name, age, place of residence and your present occupation or official position.

2. Did you know Major Frank V. Barchard at the time he was stationed at Camp Rucker near Ozark, Alabama? If so, when did you first become acquainted with him and how long did you know him?

3. State whether or not Frank V. Barchard at any time rented a house, apartment or rooms from you. If so, where was the property located and during what time it was rented or occupied by Frank V. Barchard?

4. During the time that Frank V. Barchard was your tenant, did anyone else occupy the premises which he rented with him?

5. If your Answer to the above interrogatory discloses that the premises were occupied by someone else in addition to Frank V. Barchard, how long did this occupancy continue.

6. By what name was the party who occupied the premises rented from you by Frank V. Barchard known during the time she occupied the premises with Mr. Barchard?

7. Did Mr. Barchard represent this party to be his wife and was she known as his wife in the community where they lived at the time you knew them?

8. During, and at, the time Frank V. Barchard ceased to be your tenant, state whether or not the woman who occupied the premises with him was pregnant.

J. B. Blackburn

Solicitor for Respondent and Cross-Complainant.

FRANK V. BARCHARD, Complainant and Cross Respondent, VS. MYRTLE BARCHARD, Respondent and Cross Complainant,	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA IN EQUITY. NUMBER 695.

GARNISHMENT ON DECREE

STATE OF ALABAMA }
BALDWIN COUNTY }

TO ANY SHERIFF OF THE STATE OF ALABAMA:

WHEREAS, on the 14th day of April 1945, the above named Complainant and Cross Respondent was ordered to pay to the said Respondent and Cross Complainant the sum of Two Hundred Dollars per month, which payments are now in arrears and affidavit having been made by J. B. Blackburn, solicitor for the said Respondent and Cross Complainant that the Baldwin County Bank, a Corporation, is supposed to be indebted to or have effects of the said Frank V. Barchard in its possession or under its control, and that he believes process of garnishment against the said Baldwin County Bank is necessary to obtain satisfaction of the said judgment;

You are therefore hereby commanded to summon the Baldwin County Bank, a Corporation, to be and appear before the Circuit Court of Baldwin County, Alabama, Equity Side, on the 12th day of March 1946 then and there to answer on oath whether it was indebted to the above named Frank V. Barch at the time of the service of this summons or at the time of making its answer hereto and in what sum or sums; and whether it will not be indebted in future to the said Frank V. Barchard by a contract then existing or at the time of the service of this summons; and whether it has not in its possession or under its control personal or real property or things in action belonging to the said Frank V. Barchard.

Wherein fail not and have you then and there this writ.

IN WITNESS WHEREOF, I have hereunto set my hand as Register of the said Court on this the 14th day of February, 1946.

R S Beck

Register.

FRANK V. BARCHARD, COMPLAINANT, VS. MYRTLE BARCHARD, RESPONDENT.	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY. NO. 895.

TO HON. F. W. HARE, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY:

And now comes the Complainant, FRANK V. BARCHARD, and respectfully represents and shows unto your Honor as follows:

1. That a final decree of divorce was entered by this Court on the 14th day of April, 1945.

2. That in and as a part of said decree the Court reserved jurisdiction of the cause for the purpose of making such other and further orders of decree relative to the custody and control and maintenance and support of the minor children, therein named, as may become necessary, or proper.

3. That be said decree the Court awarded the permanent custody and control of the minor children, Frank V. Barchard, Jr., and Kathryn Barchard, to the Respondent, Myrtle Barchard, and required the Complainant to pay to the Respondent, Myrtle Barchard, the monthly sum of $200.00, for the maintenance and support of said minor children.

4. That prior to the rendition of the said decree, the Complainant conveyed to the Respondent the said real property at Foley, in Baldwin County, Alabama, in compliance with his responsibility, to maintain and support said children, with the understanding that said property would be used for that purpose; that the said property conveyed to the Respondent and the said minor children is of the value of $10,000.00.

5. That in and by the decree of the Court vested the Respondent with title to the Printing and Publishing business, known as the Foley Onlooker, and the Baldwin News-Herald, located at Foley, in Baldwin County, Alabama, the subscription list, stock in trade, furniture, fixtures, machinery apparta, good will and all other property of every kind and nature, in connection with the said business; that the Respondent has recently sold the said newspaper business, equipment, etc., for the sum of $14,000.00; that the said property was, and the proceeds of the sale thereof, are for the benefit of the Respondent and the said

minor children;

6. That the Respondent has recently married Mr. G. H. Buley, and is financially well fixed and her husband is fully capable of supporting her.

7. That the Complainant is presently in the United States Army with the rank of Lt. Colonel, and draws a salary of $564.23; that his rank necessarily requires him to expend large sums to maintain his status in the Army; that it is highly probable that the Complainant will shortly resume his original rating of Major, at a monthly salary of approximately $450.00; that it is probable that he may be discharged from the Army.

8. That the Complainant has no income other than his monthly salary as an Army Officer.

9. That the Complainant finds it difficult if not impossible, at the present time to comply with the decree of the Court in the payment of $200.00 per month; that if he is discharged from the Army it will be absolutely impossible for him to comply with the decree of the Court.

10. That the Complainant has dependent upon him, a brother, Ira Barchard, who was sometime ago seriously injured, and is not physically able to follow any gainful occupation.

WHEREFORE, the premises considered, the Complainant prays that your Honor will order a hearing, or enter such additional orders and/or decrees, amending the original decree of this Court, as to the monthly payments, commensurate with the Complainant's ability.

Frank V. Barchard
Complainant

BEEBE & HALL

By: [signature]
Solicitors for the Complainant.

FRANK V. BARCHARD, Complainant and Cross Respondent, VS. MYRTLE BARCHARD, Respondent and Cross Complainant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

DECREE

This cause coming on to be heard on this date, being the date fixed by the rules of this Court for calling the Equity Docket hereof, is submitted on the Motion to Amend Decree filed in this cause by the Complainant and Cross Respondent on the 24th day of August, 1945, and it being made to appear to the Court that the Complainant and Cross Respondent is in contempt of this Court in that he has not paid the monthly payments provided for in the Final Decree heretofore rendered in this cause and upon consideration of all of which IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the said Petition to Amend the Decree and reduce the monthly payments for maintenance and support of the said children be and it is hereby dismissed.

ORDERED, ADJUDGED AND DECREED this 25th day of September, 1945.

G. M. Hare

Judge.

FRANK V. BARCHARD, Complainant, VS. MYRTLE BARCHARD, Respondent.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

DECREE ORDERING REFERENCE

This cause coming on to be heard on this date and being submitted on Respondent and Cross Complainant's Cross Bill, WHEREUPON it is Ordered, Adjudged and Decreed by the Court that the said Cross Bill be and it is hereby referred to the Register of this Court to hold a reference of the time of which he shall give notice to the Respondent as provided by law and at such reference he shall:

1. Hear testimony and report to the Court what sums should be paid to the Respondent and Cross Complainant as alimony pendente lite.

2. He shall hear testimony, ascertain and report to the Court what is a reasonable solicitor's fee to be paid to Respondent and Cross Complainant's solicitor of record for services rendered by him in this cause.

All other matters are reserved by the Court for further action in the said cause.

Ordered, Adjudged and Decreed this 14th day of April, 1943.

G. W. Stare

Judge.

FRANK V. BARCHARD, Complainant, VS. MYRTLE BARCHARD, Respondent.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

AMENDED ANSWER AND CROSS BILL

Now comes the Respondent, Myrtle Barchard, and for amended answer to the Bill of Complaint filed against her in this cause and for her Amended Cross Bill says:

1. She admits the allegations of paragraph Numbered 1 of the Bill of Complaint.

2. Respondent admits that she and the Complainant were married on May 1, 1924 but expressly denies all of the other allegations of paragraph Numbered 2.

3. Respondent denies each and all of the other allegations of the said Bill of Complaint which have not been specifically answered herein.

4. For further answer to the Bill of Complaint the Respondent alleges that she and the Complainant lived together as man and wife at Foley, in Baldwin County, Alabama from the time of their said marriage until on to-wit, November 25, 1940 when the Complainant, who was then a commissioned officer in the United States Army, was called into active service.

There were born to the Respondent and the said Complainant three children, namely, Frank V. Barchard, Jr., a son, now seventeen years of age; Marie Barchard, a daughter, now fifteen years of age and Kathryn Barchard, a daughter, now twelve years of age, each and all of whom now reside with the Respondent, their mother, who is in all respects a fit and proper person to have the permanent care, custody and control of the said minor children and the Respondent further alleges that it is to the best interest of the said minor children that they remain in her custody and under her control.

When the Complainant entered active military service he left the printing and publishing business known as the Foley Onlooker, at Foley, Alabama, which was on the said date in a run-down condition with outstanding debts and obligations amounting to more than one thousand dollars ($1,000.00). Since the Complainant entered the military service this business has been operated by the Respondent who has reduced or paid the indebtedness on the said business in addition to which she has paid premiums on various insurance policies of the Complainant.

From the time the said Complainant entered active military service on to-wit, November 25, 1940 until about the month of October, 1941 he visited the Respondent and his children at Foley, Alabama at various times. On to-wit, November 24, 1941 the Complainant filed a suit for divorce against the Respondent in the Equity Court of Bradford County, Florida, in which he alleged that he was a bona fide resident of Bradford County, Florida and charged the Respondent in the said suit with having abandoned him, all of which statements were false and untrue and were known by the Complainant to be false and untrue at the time the suit was filed. Prosecution of the said suit was abandoned but the Complainant has since the time of the filing of the said suit seldom visited his wife and children who are living at the place in Foley, Alabama where they lived when the Complainant entered into the active military service and he has wholly failed to adequately maintain and support them in the way that persons in their stations of life should be maintained and supported and in keeping with the earnings of the Complainant. At the time the Complainant filed this suit he was a commissioned officer in the United States Army at that time having the rank of Major which paid to him as his total allowance and compensation the monthly sum of not less than Four Hundred Seventy Dollars ($470.00) per month; One Hundred Sixty-eight Dollars ($168.00) of which was paid monthly for subsistence and rental allowance. Since the filing of this suit the Complainant has received a promotion, is now a Lieutenant Colonel which increases his

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the following separate and several relief:

1. That the Court will make and enter a proper Decree giving and granting to the Respondent and Cross Complainant the permanent custody and control of the said minor children, Frank V. Barchard, Jr., Marie Barchard and Kathryn Barchard, fix a reasonable

amount to be paid in a lump sum to the Respondent and Cross Complainant for maintenance and support of the said minor children from the commencement of this suit to the date of the Final Decree rendered in this cause and also fixing a reasonable monthly allowance to be paid to her thereafter for the maintenance and support of the said minor children.

2. That the Court will make and enter a proper Decree divorcing the Respondent and Cross Complainant from the bed and board of the Complainant and Cross Respondent in the manner provided by Title 34, Section 36 of the 1940 Code of Alabama and will fix a reasonable amount to be paid to the Respondent and Cross Complainant in a lump sum for alimony from the time of the commencement of this suit up to the date of this Decree and a reasonable monthly sum to be paid to her as alimony after the date of the said Decree.

3. That a lien be fixed and established on all of the property owned by the Complainant and Cross Respondent in Baldwin County, Alabama to secure payment of the amounts decreed to be paid to the Respondent and Cross Complainant.

4. That the Court will ascertain and fix a reasonable amount to be paid by the Complainant and Cross Respondent to the Respondent and Cross Complainant's solicitor of record for services rendered and to be rendered in this cause.

5. Respondent and Cross Complainant further prays for such other, further and general relief as she may be equitably entitled to the premises considered.

Respectfully submitted,

J. B. Blackburn

Solicitor for Respondent and Cross-Complainant.

DECREE

FRANK V. BARCHARD,

Complainant and Cross
Respondent,

VS.

MYRTLE BARCHARD,

Respondent and Cross
Complainant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY. NUMBER 895.

895

Frank V. Barchard,

Complainant

vs

Myrtle Barchard,

Respondent

MOTION TO AMED DECREE

Fioed this the 24th day of August 1945

R. L. Veach

Register

895

Executed 2-14 19.46
by serving copy of ~~within summons and Complaint~~ writ of garnishment on

C. L. White, Cashier
Baldwin Co. Bank

B. E. Gaskins Sheriff
By ..... Deputy Sheriff

WRIT OF GARNISHMENT

FRANK V. BARCHARD

Complainant and
Cross Respondent

VS

MYRTLE BARCHARD

Respondent and
Cross Complainant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY. NUMBER 695.

6-18-46
Garnishee Discharged

2615
1000
3610

AFFIDAVIT FOR

GARNISHMENT ON DECREE

FRANK V. BARCHARD

Complainant and
Cross Respondent

VS.

MYRTLE BARCHARD

Respondent and
Cross Complainant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY. NUMBER 695.

Filed Feb 14th 1946
R S Beck

FRANK V. BARCHARD	)	IN THE CIRCUIT COURT OF
COMPLAINANT AND CROSS RESPONDENT	)	BALDWIN COUNTY, ALABAMA
	)	IN EQUITY. NO. 895
VS.	)	
MYRTLE BARCHARD	)	
RESPONDENT AND CROSS COMPLAINANT	)	

FINAL DECREE

This cause is submitted for Final Decree on behalf of the parties upon the original Bill of Complaint, Stipulation of Parties relative to the taking of the testimony of the Complainant and Cross Respondent; original answer and Cross Bill; Motion dated July 13, 1944; Decree dated July 15, 1944; Motion filed November 6, 1944; Decree dated November 8, 1944; Amended Answer and Cross Bill filed November 18, 1944; Stipulation of Parties dated February 21, 1945; Amended Answer and Cross Bill filed April 11, 1945; Answer to Original and Amended Cross Bills and the Testimony as noted by the Register; upon consideration of which it is therefore Ordered, Adjudged and Decreed by the Court as Follows;

1.

The Complainant and Cross Respondent having failed to prove the allegations of the original Bill of Complaint filed by him in this cause, the relief prayed for by him therein is hereby denied.

2.

The permanent custody and control of the minor children, Frank V. Barchard, Jr., and Kathyrn Barchard, is hereby granted to the Respondent and Cross Complainant, Myrtle Barchard, and the complainant and Cross Respondent, Frank V. Barchard, shall pay to the Respondent and Cross Complainant, Myrtle Barchard, the monthly sum of $200.00 for each and every month commencing with the month of April, 1945, for the maintenance and support of the said minor children, which amount, after April, 1945, shall be paid between the 1st and 15th day of each and every month. No provision is made in this Decree for the custody and control and maintenance and support of Marie Barchard, who has married since the commencement of this suit. The Respondent and Cross Complainant, Myrtle Barchard, shall have a lien on all of the real and personal property of the Complainant and Cross Respondent to secure payment of the amounts provided for in this paragraph of this Decree but this lien shall not apply to or be a charge upon the property hereinafter conveyed to the Respondent and Cross Complainant, Myrtle Barchard.

3.

The bonds of martimony heretofore existing between the Respondent and Cross Complainant, Myrtle Barchard, and the Complainant and Cross Respondent, Frank V. Barchard, be, and they are hereby dissolved and the said Respondent and Cross Complainant is forever divorced from the Complainant and Cross Respondent on the Grounds of adultry. The parties hereto having been divorced because of the misconduct of the said Complainant and Cross Respondent the said Respondent and Cross Complainant is entitled to permanent alimony from him and the unencumbered fee simple title to the printing and publishing business known as the Foley Onlooker and the Baldwin News-Herald located at Foley, in Baldwin County, Alabama, the subscription lists, stock in trade, furniture, fixtures, machinery, apparatta, good will and all other property of every kind and nature owned by the Complainant and Cross Respondent and used in the said business is hereby fully and completely divested out of the said Complainant and Cross Respondent, Frank V. Barchard, and fully and completely vested in the said Respondent and Cross Complainant, Myrtle Barchard, as her own property for permanent alimony as fully and completely in all respects as the said Complainant and Cross Respondent could or ought to convey the said property.

4.

The parties hereto are each hereby permitted to again contract marriage but they shall not marry except to each other until after the expiration of sixty days from the date of this decree and if an appeal is taken in this cause within sixty days the said parties shall not marry except to each other during the pendency of the said appeal.

5.

The Register of this Court shall, within ten days after the rendition of this Decree file a certified copy of this Decree for record in the office of the Judge of Probate of Baldwin County, Alabama and tax the costs of such recording as a part of the costs of this proceeding and the Probate Judge of Baldwin County, Alabama is directed to index the said Decree in the direct index in the name of Frank V. Barchard and in the reverse index in the name of Myrtle Barchard.

6.

The costs of this proceeding are hereby taxed against the Complainant and Cross Respondent, Frank V. Barchard, for which execution may issue but the costs so taxed do not include compensation for Respondent and Cross Complainant's solicitor as such fee is not, in the opinion of the Court, a proper charge to be paid by the Complainant and Cross Respondent.

7.

Jurisdiction of this cause is reserved for the purpose of making such other and further orders and decrees relative to the custody and control and maintenance and support of the minor children named in this Decree, as may be necessary or proper.

ORDERED, ADJUDGED AND DECREED this 14th day of April, 1945.

F. W. Hare
Judge

W. R. STUART
PROBATE JUDGE

No. 602 Bay Minette, Ala., april 26, 1945

Received of R. L. Duck

No.		Deed Tax $	Deed Tax Cts.	Mortgage Tax $	Mortgage Tax Cts.	Recording Fees $	Recording Fees Cts.	Total $	Total Cts.
	Certified Copy								
	Frank V Burkhalter								
	vs								
	Myrtle Burkhalter					1	80	1	80
								1	80

FOR RECORD

TOTAL $ 1 80

W R Stuart
Judge of Probate.

87045 MARSHALL & BRUCE-NASHVILLE

1. Complainant and Cross Respondent does not offer to do equity.

2. No facts are alleged to show that the Complainant and Cross Respondent has complied with the terms and provisions of the said Decree.

3. No facts are alleged to show any excuse for Complainant and Cross Respondent's failure to comply with the terms and provisions of the said Decree.

4. No facts are alleged to show such change in circumstances as is necessary to entitle Complainant and Cross Respondent to a reduction of the amount allowed for maintenance and support of the minor children named in the said Decree.

5. It affirmatively appears from the said Petition that the Complainant and Cross Respondent is now earning the same amount of money that he was earning when the Decree heretofore rendered in this cause was made.

6. No facts are alleged to entitle the Complainant and Cross Respondent to the relief prayed for by his said Petition.

J. B. Blackburn

Solicitor for Respondent and Cross Complainant.

895

DEMURRER

FRANK V. BARCHARD,

Complainant and Cross Respondent,

VS.

MYRTLE BARCHARD,
Respondent and Cross Complainant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY. NUMBER 895.

Filed
9-20-45-
R.S. Luck
Reg.

April 2, 1945

Mr. R. S. Duck
Register in Chancery
Bay Minette, Alabama

In Account With-

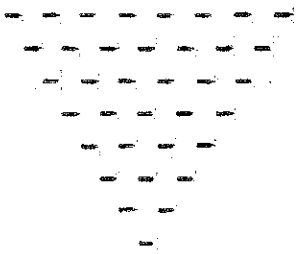
Ora S. Nelson

Taking and transcribing testimony of witnesses for Complainant and Cross Respondent, Respondent and Cross Complainant and on Reference before Register in case of Barchard v. Barchard, Equity Case 895.

18,000 words @ 20¢ per 100 words.....$36.00

RESPONDENT AND CROSS COMPLAINANT'S BRIEF
ON SUBMISSION FOR FINAL DECREE

FRANK V. BARCHARD, Complainant and Cross Respondent, VS. MYRTLE BARCHARD, Respondent and Cross Complainant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.



FRANK V. BARCHARD, Complainant and Cross Respondent, VS. MYRTLE BARCHARD, Respondent and Cross Complainant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

STATEMENT OF THE CASE

This suit was filed by the Complainant and Cross Respondent, Frank V. Barchard, while in the military service of the United States, seeking a divorce from his wife, Myrtle Barchard, the Respondent and Cross Complainant, on the ground of abandonment.

The Respondent and Cross Complainant filed an Answer and Cross Bill in the cause, in which she prayed for the custody and control of the minor children of the said parties; that a Decree be rendered requiring the Complainant and Cross Respondent to maintain and support them and that she be granted separate maintenance. The cause was referred to the Register of this Court, testimony was taken and the matter was submitted for an interlocutory decree on the Register's Report and the exceptions of the Complainant and Cross Respondent thereto.

Later, the Respondent and Cross Complainant filed a motion to withdraw the submission that was heretofore had on the

Register's Report and the exceptions thereto, after which the Court rendered a Decree withdrawing the submission and permitting the Respondent and Cross Complainant to amend her Answer and Cross Bill. The Respondent and Cross Complainant later amended her Cross Bill, alleged in substance that the Complainant and Cross Respondent had made prior efforts to divorce her; that he was living in adultry; that she had the custody and control of the said minor children; was a fit and proper person to have the permanent custody and control of the said children; that she was unable to maintain and support them; that the Complainant and Cross Respondent was a man of means, able to support them, in which Amended Answer and Cross Bill she prayed that a Decree be rendered granting to her the permanent custody and control of the children, requiring the Complainant and Cross Respondent to maintain and support them; granting to her a divorce from bed and board and rendering a Decree for alimony in her favor.

The testimony of the parties and their witnesses has been taken and the cause has been submitted for Final Decree by the Respondent and Cross Complainant on her Amended Cross Bill and on the testimony as noted by the Register which for the help and information of the Court includes the testimony that was taken on the reference before the Register.

POINTS AND AUTHORITIES

Chancery Court has general jurisdiction respecting duty of father to support his minor children. Pleading which shows on its face that welfare of infant requires order respecting its custody and maintenance sufficient to invoke equity jurisdiction. Bridges v. Bridges, 227 Ala. 144, 148 So. 816.

Upon granting a divorce the Court may give the custody and education of the children of the marriage to either father or mother, as may seem right and proper, having regard to the moral character and prudence of the parents- - - - - -Title 34, Section 35, 1940 Code of Alabama.

If the divorce is in favor of the wife for the misconduct of the husband, the judge trying the case shall have the right to make an allowance to the wife out of the husband's estate or not make her an allowance as the circumstances of the case may justify and if an allowance is made it must be just and liberal as the assets of the husband will permit regard being had to the condition of his family and to all of the circumstances of the case. Title 34 Section 32 of the 1940 Code of Alabama.

Allowance to the wife (alimony) may be made in gross out of the husband's estate payable presently or as directed; or it may be made as for continuous maintenance payable monthly or other periodical installments during the life of the wife; or it may be made by a combination of both of these methods. Smith v. Rogers, 215 Ala. page 581, 112 So. 190 and authorities there cited.

ARGUMENT

There are several things in this case which we do not believe can be seriously questioned. These things are as follows:

1. The Complainant and Cross Respondent has not proved the allegations of his Bill of Complaint and is therefore not entitled to a divorce from the Respondent on the ground of abandonment.

2. The Respondent and Cross Complainant has proved beyond the question of any doubt the adultry alleged in her Amended Cross Bill and is therefore entitled to a divorce from bed and board of the Complainant and Cross Respondent.

3. The Respondent and Cross Complainant is in all respects a fit and proper person to have the permanent custody and control of her minor children and the Complainant and Cross Respondent is not such person.

4. The Complainant and Cross Respondent has not provided for the maintenance and support of his children.

We shall discuss these things in the order in which they appear above.

The Complainant and Cross Respondent alleged in his Bill of Complaint that the Respondent and Cross Complainant abandoned him on December 26, 1940. There is no dispute as to certain facts in this case which are to the effect that the Complainant and Cross Respondent who lived in Foley, Baldwin County, Alabama, entered the

military service until Mr. Barchard left there in November, 1940 (See page 1 of his testimony) and that the Respondent and Cross Complainant is living in the same house today in which she was living when her husband entered the military service (See page 3, testimony of Mr. Barchard). He further admitted at this place in the testimony that the children were in school at Foley around Christmas, 1940. In this same connection Mrs. Barchard testified (See page 3 of her testimony) that from the time Mr. Barchard entered the military service in 1940 he continued to visit her and the family at various times until October, 1941, shortly after which he filed suit for divorce in the State of Florida. Mrs. Barchard further testified that she had not abandoned him (Page 3 of her testimony) and that he was transferred from Camp Blanding, Florida to Camp Bowie, Texas; from there to Camp Lee Maryland and from Camp Lee, Maryland to Camp Rucker, Alabama, all between the fall of 1941 and the spring of 1942 (Her testimony, page 5), which makes it apparent to any reasonable person that a lady with an established home and three fine children in school could not follow a man in the military service to his various stations, in all or practically all of which there were no satisfactory accommodations and certainly no satisfactory places for educating children who obviously could not stay in any school long enough to reap any benefit or secure any credit therefrom. It further appears from Mrs. Barchard's testimony that she did not at anytime refuse to live with Mr. Barchard at the various stations to which he was assigned but only insisted that some reaspnable accommodations be

provided for herself and her children so that their education would not be unduly interrupted. From the letter attached to Mrs. Barchard's testimony marked Exhibit "2" it appears that Mr. Barchard, himself, recognized that there was no place that even Mrs. Barchard could stay, which letter was written in the fall of 1941, almost one year after Mr. Barchard claims that she abandoned him.

It is hard to conceive more flagrant violations of the rights and duties which a husband and father owes to his wife and children than that which has been shown by Mr. Barchard's conduct toward his wife and children. It is apparent from all of the testimony in this case, that he was the head of a happy family group until the time he was called into the military service in the fall of 1940. It is apparent, while there is no direct evidence on this particular point, that as soon as he went to Camp Blanding, Florida, he became involved in an affair with a woman named Evelyn Keller which caused him to lose all sense of respect for and duty toward his wife and children and which resulted in the fraudulent effort which he made during the fall of 1941 to secure a divorce in the State of Florida from Mrs. Barchard. In this connection we call the Court's attention to the testimony of Mr. Harvey Windbigler, a man whose character and reputation is not and cannot be questioned. He testified that Mr. Barchard came to see him in the fall of 1941 and attempted to secure his help in seeing that Mrs. Barchard was divorced in order that he, Mr. Barchard, could thereby untangle himself from his affair with the woman, Evelyn Keller. (See testimony of this witness, page 9).

Later, in further violation of the duties and obligations which Mr. Barchard owed to his wife and children and in a manner not becoming to an officer in the United States Army or to any gentleman, he carried the woman, Evelyn Keller, to Ozark, Alabama, a town situated near Camp Rucker, where the two of them lived for awhile in the apartment of Mr. A. T. Lisenby, held themselves out and were known in the community where they lived as man and wife even though they were at that time living in adultry in violation of all rules known and observed by decent people and within approximately one hundred fifty miles of where Mrs. Barchard and the children resided. While they were living there, or before they went to the Lisenby home, the woman, Evelyn Keller, became pregnant. They later left the Lisenby home while the woman was pregnant, to go to the State of Georgia where the woman could be confined in a hospital until the illegitimate child could be born. Later, Mr. Barchard, Evelyn Keller and the illegitimate child returned to Ozark, Alabama and occupied an apartment in the home of Mrs. Branch Young, who is also known as Billie Herring Young, again holding themselves out as husband, wife and child (See testimony of A. T. Lisenby and Mrs. Branch Young).

There is further evidence which is contained in Mr. Windbigler's testimony that Mr. Barchard is a person whose reputation is not good. Because of all of these things Mrs. Barchard is certainly entitled to a divorce from bed and board which is part of the relief prayed for in her Bill of Complaint because of the above described misconduct on the part of her husband. The Court will further notice that this suit was filed during January, 1943,

at which time Mr. Barchard was living in adultry in Ozark, Alabama at the places described above. How a man, while so conducting himself, can come into an Equity Court, a court of conscience, and thereby seek its aid in destroying the ties and obligations due by him to his wife and children, is more than we can conceive. If ever a case has been presented to a court where all of the equities are on one side of the case as much as in this one, we do not know where or when such case could have been submitted.

For reasons pointed out above Mrs. Barchard is in all respects a fit and proper person to have the custody and control of her children while the Complainant is not fit to have the custody and control of them so it will be useless and unnecessary to burden the Court with any lengthy discussion on this point as the Complainant, Barchard himself, does not dispute this fact.

It affirmatively appears in this case from the Complainant, Barchard's own testimony (Page 10 thereof) that at the time this suit was filed he was receiving as salary or compensation from the United States of America the sum of $473.90 per month, of which $63.00 was subsistence and rental allowance was $105.00, the last two items of which total $168.00. This amount is money provided by the army to its officers to enable them to maintain themselves and their families in a proper way. It further appears from the testimony in this case (See page 4 of Mrs. Barchard's testimony) that the last payment made by Mr. Barchard to Mrs. Barchard and the children was $150.00 which was made during the month of February, 1943, therefore he has failed to provide in any way for his children

for a period of more than two years while he has at all times continued to draw the above amount each month and more since his promotion to Lieutenant Colonel, all of which has been in effect high-jacked or embezzled by him and used to maintain women of bad repute and illegitimate children while his wife and children are allowed to suffer in so far as he is concerned. These facts alone entitle the Respondent and Cross Complainant in this case to a substantial decree against the Complainant and Cross Respondent for maintenance and support of the children for the said two year period which should be paid to them in a lump sum, which method of payment is fully authorized by the procedure of this Court. Mr. Barchard, himself, realized that there was some obligation on him to make this payment as he paid $150.00 per month until February, 1943. Because he paid $150.00 does not make this the correct or proper amount. He should pay to his wife and children a sum of $170.00 per month for the period from February, 1943 through March, 1945, which is twenty-five months, or a total of $4250.00. As he is now receiving from the United States, because of his promotion to Lieutenant Colonel the approximate sum of $670.00 per month instead of the approximate amount of $474.00 while serving as a Major, the approximate monthly sum which he should hereafter pay for the maintenance and support of his children who are in high school or college should not be less than $225.00 per month, which should commence with the month of April, 1945.

The only question that should cause the Court any concern whatever in this case is the amount of alimony that should be awarded

to Mrs. Barchard. She has asked in her Amended Cross Bill that she be allowed a lump sum for the period of time involved in this litigation when Mr. Barchard has paid nothing to her and that he be required to pay to her a monthly sum hereafter. This method of handling such matters is justified by the relevant statutes of the State and also by the rule in the case of Smith v. Rogers, supra. In order that the Court will have the benefit of all relevant testimony this case is submitted for final decree on the testimony taken before the Register on reference even though the submission on the Register's Report and Exceptions thereto were withdrawn.

Mr. Charles J. Ebert, who is a disinterested witness and who is a man of ability and who has an outstanding reputation, testified that Mr. Barchard owned at the time the testimony was taken tracts of land having the following values: $1600.00; $500.00; $500.00; $1,000.00; $1,000.00 and the printing business woth $8,000.00 making a total property value of $12,600.00 which is in addition to his monthly compensation as an officer in the United States Army (See Testimony of this witness, pages 15-16). Mr. Ebert also testified as to the value of the property that was conveyed by Mr. Barchard to his wife and children. These valuations are as follows: Onlooker building and lots conveyed to Mrs. Barchard, $4,000.00; Home $3,000.00; the building and lot conveyed to Frank Barchard, Jr, $1500.00 and the lots conveyed to the girls $400.00, making a total gross valuation of $8900.00, showing that Mr. Barchard owned property worth approximately $21,500.00 at the time these proceedings were commenced. It appears,

however, from other testimony in this case that the home which was conveyed to Mrs. Barchard was mortgaged and that she was required to pay off this mortgage and further that Mr. Barchard left many debts and obligations when he entered the military service which have been paid off by her. It is true, of course, that he did execute to Mrs. Barchard a lease on the Onlooker plant which covers the period of the duration of the war and a reasonable time thereafter. We call the Court's attention to these things in an effort to aid it in arriving at the proper amount of alimony to be allowed Mrs. Barchard. Mr. Barchard has taken the position that Mrs. Barchard is, because of the things outlined above, self-supporting and that consequently he should not now be required to contribute to her support, to the support and maintenance of the children or to pay her alimony. It appears from Mrs. Barchard's testimony that she was not required to operate a newspaper plant until the actions of Mr. Barchard which have caused the differences between them. I do not see, therefore, how Mr. Barchard can seriously contend that he owes no obligation to Mrs. Barchard or the children. I think his position is definitely untenable and about as unreasonable as mine would be if I provided my wife with a washtub and wash board to support herself and child and then took the position that she was self-supporting because she could wash clothes and earn a living or thereby starve. Morals of a civilized country and duties and responsibilities of a husband to his wife and children cannot be brushed away in any such simple manner. We confidently believe

that this Court will give to Mrs. Barchard a substantial sum for alimony which amount, when considered in view of all of the circumstances outlined above, should not be less than $5,000.00 in a lump sum for the period of time up to the date of the Court's Decree when Mr. Barchard has made no provision for his wife and he should thereafter be required to pay to her monthly a sum of not less than $200.00 per month which would leave Mr. Barchard, after deducting the $225.00 per month for the maintenance and support of his children as outlined earlier in this argument $245.00 per month to be used by him in maintaining himself, his concubine and his illegitimate child.

The testimony in this case, taken before the Register on Reference, shows that Mrs. Barchard's attorney is entitled to a minimum attorney's fee of $350.00. We feel sure that the Court, after considering this case, will agree that this charge is most reasonable and if anything, too little, rather than too much. As this is a matter more or less for the Court's discretion, we are submitting it along with the other matters without further argument.

In conclusion, we confidently believe that the Court, when it considers this entire record, will grant the prayer of the Respondent's Amended Answer and Cross Bill, grant to Mrs. Barchard a divorce from bed and board from Mr. Barchard, give to her the custody and control of the children of the marriage, make and enter decrees for the amounts for maintenance and support and alimony which have been pointed out and insisted upon in this Brief.

Respectfully submitted,

J. B. Blackburn.

Solicitor for Respondent and Cross Complainant

FRANK V. BARCHARD,

Complainant,

VS.

MYRTLE BARCHARD,

Respondent.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

IN EQUITY. NO. 895

MOTION

Now comes the Respondent and Cross-Complainant, by her Solicitor, and respectfully represents that it has been and will be impossible for her to comply with the Court's decree rendered in this cause, dated June 15, 1944, within the thirty day period of time called for therein due to the fact that it has been impossible for her to conduct her other business and at the same time prepare the itemized statement of the operating expense of the Foley Onlooker called for in the said decree.

WHEREFORE, the said Respondent and Cross-Complainant moves the Court to set aside the said decree and render in lieu thereof a decree allowing until August 1, 1944 to hold the said reference and take and file her testimony in this cause.

Respondent and Cross-Complainant further moves the Court to grant unto her such other, further and general relief as she may be equitably entitled to, the premises considered.

Respectfully submitted,

J. B. Blackburn

Solicitor for Respondent and Cross-Complainant.

TO H. M. HALL, ESQ., SOLICITOR FOR THE COMPLAINANT AND CROSS-RESPONDENT, FRANK V. BARCHARD:

You are hereby notified that the foregoing motion will be presented to the Honorable F. W. Hare, Judge of the Circuit Court of Baldwin County, Alabama, at Monroeville, Alabama at four o'clock P. M. on Saturday, July 15, 1944.

Dated this 13th day of July, 1944.

J. B. Blackburn

Solicitor for Respondent and Cross-Complainant.

FRANK V. BARCHARD, Complainant and Cross-Respondent, VS. MYRTLE M. BARCHARD, Respondent and Cross-Complainant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

MOTION

TO THE HONORABLE F. W. HARE, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

Now comes the Respondent and Cross Complainant by her Solicitor and respectfully represents unto the Court and your Honor that this cause was heretofore submitted for Decree confirming the Register's Report heretofore made in this cause and that after the said submission and during the last week in July, 1944 the Respondent and Cross Complainant, together with her Solicitor, agreed on a settlement of this cause with the Solicitor for the Complainant and Cross Respondent but after this settlement was agreed upon the Complainant and Cross Respondent failed or refused to carry out the terms of the said settlement. The Respondent and Cross Complainant now desires to amend the Cross Bill filed by her in this cause:

WHEREFORE Respondent and Cross Complainant moves the Court to withdraw the said submission heretofore had in this cause and permit her to amend the Cross Bill filed by her in this cause Petitioner further prays that such other orders be made and decrees rendered as may be requisite and proper in the premises.

J. B. Blackburn

Solicitor for Respondent and Cross-Complainant.

Service of the above accepted and further notice waived - this the 6th day of Nov. 1944

Beebe Hall
by [illegible]

FRANK V. BARCHARD, Complainant, VS. MYRTLE M. BARCHARD, Respondent.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

STIPULATION

IT IS AGREED between H. M. Hall, Solicitor for the Complainant and Cross Respondent and J. B. Blackburn, Solicitor for the Respondent and Cross Complainant that Ora S. Nelson act as Commissioner in the taking of the testimony of Frank V.Barchard, the Complainant and Cross Respondent and that a commission to her is hereby waived; that she is to take the testimony of the said witness in shorthand, transcribe the same and furnish a copy thereof to H. M. Hall and a copy to J. B. Blackburn, Solicitors for the parties hereto.

It is further agreed that the signing of the said testimony by the said witness is hereby waived and that the testimony so taken may be used on final hearing or any other hearing which may be had in this cause, including a reference or references.

It is further agreed that the Court is to consider only legal and competent testimony introduced in evidence and that objections to the questions and motion to exclude are hereby waived but either of the parties may point out objections to testimony on final hearing or in any other hearing where the said testimony is introduced.

Beebe & Hall (SEAL)

J. B. Blackburn (SEAL)

FRANK V. BARCHARD, Complainant, VS. MYRTLE BARCHARD, Respondent.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

TESTIMONY OF FRANK V. BARCHARD

DIRECT EXAMINATION OF FRANK V. BARCHARD BY
H. M. HALL, Attorney for Complainant.

Q. Mr. Barchard, you are the Complinant in the case of Frank V. Barchard versus Myrtle Barchard now pending in the Circuit Court of Baldwin County, Alabama, in Equity, Number 895, are you not?

A. Yes.

Q. Mr. Barchard, are you a bona fide resident of Baldwin County, Alabama?

A. Yes, I think I am.

Q. Are you over twenty-one years of age?

A. I am.

Q. Mrs. Myrtle Barchard, is she a bona fide resident of Baldwin County?

A. Yes.

Q. Is she over twenty-one years of age?

A. Yes.

Q. Mr. Barchard, you and Mrs. Barchard are husband and wife, when were you married?

A. May 1, about 1924.

Q. Where were you married?

A. Magnolia Springs.

Q. That in Baldwin County, Alabama?

A. Right.

Q. Now, how long and where did you live together as husband and wife?

A. At Foley.

Q. Until when?

A. Until I left there in November, 1940.

A. Mr. Barchard, have you and Mrs. Barchard lived together as husband and wife since December 16, 1940?

A. No sir.

Q. Since that time have you made any effort to get Mrs. Barchard to come and live with you?

A. Yes, I have.

Q. What has she said or done?

Q. She has written that she would but other than coming down and talking about it she has declined to do anything.

A. Since December 26,1940 you have not lived together?

A. No sir.

Q. What business have you been in?

A. In the army.

Q. Were you in the army on December 26,1940?

A. Yes.

Q. Where were you stationed about that time?

A. Camp Blanding, Florida.

Q. Did you about that time, or just prior to then ask her to come down?

A. Yes.

Q. In preparation, what, did you make any arrangements?

A. Later on I did, yes. I had a house that I made a deposit on.

Q. Rented a place?

A. Rented a place. She would only come down and discuss it.

Q. Have you repeatedly tried to get her to come live with you?

A. I think I have.

Q. And each time she has refused?

A. Yes.

Q. Have you done anyting at all to prevent her from living with you?

A. Not to my knowledge.

Q. It has all been solely on her part?

A. Yes.

CROSS EXAMINATION OF COMPLAINANT
By J. B. Blackburn, Attorney for Recpondent.

Q. Mr. Barchard, when did you say it was that you left Foley?

A. November, 1940.

Q. At this time were you a commissioned officer?

A. Yes.

Q. What was your rank at that time?

A. Major.

Q. You know, of course, where you and Mrs. Barchard were living at the time you left Foley in 1940, do you not?

A. Yes.

Q. Isn't Mrs. Barchard living in the same house today that you were living in when you were here?

A. To my knowledge they are.

Q. You all have how many children?

A. Three.

Q. What are their names and ages, stated with the oldest one first?

A. Frank Vernon, seventeen; Myrtle Marie, fifteen and Katheryn, twelve.

Q. Now, after you left Foley in 1940, when was the first time after that did you know where you would be permanently stationed?

A. In the latter part of December I was in Montgomery about a week or two weeks to my recollection.

Q. In December, where were you stationed?

A. Camp Blanding.

Q. How soon thereafter did you make an effort to get Mrs. Barchard to move there?

A. We talked about it prior to leaving and also as to what we would do and - when I was home at Christmastime.

Q. Christmas, 1940?

A. That's right.

Q. At that time all of the children were in school at Foley?

A. They were.

Q. Camp Blanding is a camp that was just built in the woods more or less was it not?

A. It's about seven miles from Starke, Florida.

Q. What size town is Starke, Florida?

A. I think possibly about the same as Bay Minette.

Q. About seventeen or eighteen hundred?

A. Larger than that.

Q. How much larger?

A. Roughly around two thousand I think it was at that time.

Q. Living conditions were not good there?

A. Not around the camp, no.

Q. Were they good in Starke, Florida?

A. They were.

Q. Where did you obtain a house?

A. Between Starke and Camp Blanding.

Q. Now, when did you next make an effort to get Mrs. Barchard to go down and live with you?

A. I have the correspondence at the room, you want the exact date?

Q. As best you remember?

A. Well, we had discussed it of course each time I seen her from then on, I don't think I had anything in writing until about ten months later.

Q. About ten months later, would that have been in November?

A. If you would rather have the exact dates I'll give them to you.

A. I have a letter of November 14th from her.

Q. What year?

A. '41. In which she offers to bring the children and live with me if I will establish a residence; a telegram of December 29, 1941 I sent to her in which I asked her to come to Florida and resid

Q. She reply to that?

A. Yes, I had a wire.

Q. That the wire you sent to her? This then is a copy of the instrument you sent?

A. That's right.

Q. Now, on the date of that, December 29,1941?

A. Right.

Q. At that time the children were in school?

A. Yes, sure; I don't know, that was holidays, they were in that session.

Q. Mr. Barchard, do you have any dates before that?

A. Let's see, I have another letter written December 31st, following that, 1941.

Q. You have any more after or before that?

A. January 16, 1942.

Q. Any others?

A. I have a reply from her same letter January 20,1942.

Q. Do you have anything prior to November 1941?

A. Not in writing, no, I don't belive I have.

Q. Isn't it a fact that you made no effort to have Mrs. Myrtle Barchard and your children come to Florida and live with you until those dates in November?

A. No, it is not.

Q. Isn't it a further fact that about the 24th day of November, 1941 you filed a suit against Mrs. Barchard in the Equity Court of Bradford County, Florida in which you stated or alleged that you were a bona fide resident of Bradford, Florida and in which you charged Mrs. Barchard with having abandoned you?

A. That's right.

Q. You didn't prosecute that suit to completion?

A. No.

Q. Dismiss it?

A. Dismissed it.

Q. Do you recall the date that suit was dismissed?

A. In January if I recall correctly, in 1942.

Q. These wires and letters to which you have just referred in your testimony, they were all written while that litigation was pending?

A. No, some after that date.

Q. After the time you decided you wanted to separate from Mrs. Barchard?

A. I said separation agreement, she had her -

Q. These various wires and letters you referred to, were written after you decided you wanted to separate from Mrs. Barchard?

A. No.

Q. They were not? You don't have any prior to November, 1941?

A. I don't think I have any letters prior to that time.

Q. Were you not trying to establish something by those wires and letters to show that Mrs. Barchard had abandoned you?

A. No. Even if there were no letters prior to that time we had discussed the possibility the summer before.

Q. As husband and wife? Mr. Barchard, when that suit was filed in Bradford County, Florida, you were not a bona fide resident of that county and state were you?

A. I was under the impression I was considered as such.

Q. Your only residence was while a member of the military service?

A. That's right.

Q. Do you remember what provision you made for supporting your wife and children between the time you went into the army in 1940 up until the time you filed suit against Mrs. Barchard in Bradford County, Florida?

A. She had the business, the income plus the money I sent her each month.

Q. How much?

A. At that time it varied, $150.00 to $200.00, never less than $150.00. There were one or two months I believe, November and December in 1941, as I recall, I didn't send any money over that period but it was sufficient to average $150.00.

Q. When you entered the military service you left considerable debts did you not?

A. I have asked for a statement as to what the debts were that I left.

Q. To the best of your recollection, you recall when you went into the military service, didn't you leave a bill, a paper bill of approximately $475.00 with the Partin Paper Company in Mobile?

A. I don't recall the exact amount of the bill.

Q. What was the date?

A. I have no dates. I would like to know-

Q. Did you owe Partin Paper Company approximately $475.00?

A. As customary, I know there was a paper bill. I didn't know it was $400.00.

Q. Would you say it was or was not $400.00?

A. I don't believe it was that much. I'm not sure.

Q. Wasn't there a further bill to E. C. Palmer of New Orleans?

A. Not that I recall.

Q. Would you say positively that there wasn't?

A. I left there not knowing I was going to make any accounting. The bills were current bills, maybe over a period of thirty or sixty days.

Q. I'll ask you about a further bill. Did you owe the Walker's Cleaners $250.00?

A. No.

Q. You didn't? Did you owe them any amount?

A. I don't know. There was a cleaning bill between Walkers and us for exchange - printing in exchange for the bill. There's never been a statement rendered over a period of several months.

Q. Then you did owe them something?

A. Something, yes.

Q. Since you left there, have you paid any of those bills?

A. I haven't paid any of the three you mentioned.

Q. You also owned two residences in Foley?

A. That's right.

Q. Isn't it a fact that they were both mortgaged?

A. Yes.

Q. Do you remember the amount due on the home place at the time you entered the military service?

A. No, I don't. That wouldn't be hard to get.

Q. The payments amounted to $25.00 per month?

A. Twenty-five dollars roughly.

Q. What payments, amount of payments on other property?

A. $11.08 I think. That other place has been since sold. During that time it rented for $15.00 per month, more than enough to-

Q. Any taxes due on it?

A. I paid the taxes.

Q. On all the property for the year 1940?

A. Yes.

Q. Did you pay it for 1941?

A. Yes.

Q. For 1942?

A. Not for 1942.

Q. The property you owned in Foley also had some special assessments against it did it not?

A. There was special assessments against one or two lots, the payment for which was made with the town by an exchange agreement whereby they were renting the store building and the rent was to apply on the special assessment payments.

Q. Now what do you have, Mr. Barchard, in the way of insurance policies?

A. I have two, - three in all.

Q. Describe each one.

A. One with New York Life and one with Equitable, total two and one thousand.

Q. Whose name as beneficiary?

A. My wife.

Q. Have you paid any premiums on those?

A. I have not. All them she has paid, all except one period on one - paid up for three months or six I think -

Q. You said three. What is the other?

A. Government insurance.

Q. What amount?

A. Ten Thousand Dollars.

Q. To whom is that payable?

A. To my wife and children, Frank V. Barchard, Jr., Myrtle Marie and Katherine.

Q. What property, Mr. Barchard, do you own?

A. I own a few lots around Foley.

Q. Do you remember how they are described?

A. I couldn't give a description from memory, no.

Q. Any improvements situated on any of them?

A. None.

Q. What is a fair and reasonable market value of those lots today?

A. I would be glad to sell them for anything I could get.

Q. What would you take?

A. Any offer.

Q. Would you say Ten Dollars?

A. Ten dollars a piece.

Q. How many have you? The sale value is $10.00 per lot?

A. I guess the value would be a little more than that.

Q. How much more?

A. I guess twenty-five or fifty dollars

Q. Do you own any interest in any other lands?

A. No, except some acreage on the canal.

Q. How many acres?

A. Sixty-five in one piece.

Q. What is that worth?

A. Two tracts twenty acres each and one forty.

Q. What is the sixty-five acres on the canal worth?

A. I wouldn't think more than three hundred fifty dollars.

Q. What is each twenty acre tract worth?

A. Well, about a hundred dollars. I had an offer of a hundred.

Q. Any improvements?

A. No improvements.

Q. What's the forty acre tract worth?

A. About two or three hundred.

Q. Farm lands or woods?

A. Just cut over lands.

Q. No improvements?

A. No improvements.

Q. What is your present rank in the army?

A. Major.

Q. What outfit are you attached to?

A. Eighty-first Division - Quarter Master Corps 81st Division.

Q. You are now stationed where?

A. Camp Rucker - near Ozark.

Q. What is the gross amount paid you by the United States now Mr. Barchard?

A. You want the exact figure?

Q. Exact.

A. I'll answer for the last month, $473.90.

Q. Break that down, please sir, what part the various payments are for?

A. I haven't done that for my own information.

Q. I'm getting at each particular thing for which you receive compensation from the Government?

A. I wrote a letter to my wife on September 3, 1942, the figures at that time was - $63.00 was for subsistence; rental allowance $105.

Q. That makes a total of $168. You said $473., when $168.00 is taken from that?

A. At that time it was about $468.00.

Q. You have a difference of approximately $300.

A. That represents and longevity pay.

Q. Can you separate that?

A. No.

Q. That's the amount actually paid to you each month by the Government?

A. That's right.

Q. No deductions?

A. The $473.90 included the deductions - total amount.

Q. Does the Government make any deductions?

A. For insurance.

Q. How much for insurance?

A. $7.70 per month. Allotment of $150.00

Q. Any other deductions?

A. None other than for field rations occasionally. Rations run around $30.00.

Q. You mentioned a figure of $473.90 as being last month's pay, this month be any larger?

A. No, roughly about the average.

Q. Should you receive a promotion to the next rank, it would be what?

A. Lieutenant Colonel. I don't think that's necessary. I'm

not anticipating any promption. In my case I think thirty to fifty dollars per month increase.

Q. Your wife, Mrs. Myrtle Barchard, is in all respects a fit and proper person to have the custody and control of these children isn't she?

A. I don't see any reason why she wouldn't be.

Q. Do they have any property of their own?

A. Yes, a little.

Q. What is that?

A. Frankie has two lots and a store building in Foley.

Q. Is that the store building that you referred to a moment ago that the rents received from it retired the paving assessment?

A. Same one - should be paid up now. My wife can answer that question.

Q. Does he have any other property?

A. No.

Q. He doesn't? About the two young ladies, do they have any?

A. They each have two lots each with no improvements.

Q. Do you own any other real property?

A. No.

Q. Do you own any personal property in the way of equipment - shop?

A. The newspaper plant.

Q. Is that the plant known as the "Foley Onlooker"?

A. Yes.

Q. What is a fair and reasonable market value of that Mr. Barchard?

A. I don't imagine - Forty-five Hundred to Five Thousand Dollars for all equipment.

Q. That means the entire business?

A. Stock and trade.

Q. That the property you referred to? You mean everything when you say four to five thousand dollars?

A. Yes.

Q. Mr. Barchard, your children and your family are among the outstanding citizens of Foley?

RECORDED

895

9.

FRANK V. BARCHARD,

Complainant,

VS.

MYRTLE BARCHARD,

Respondent.

Filed July 13 1944
[illegible]
Register

MOTION

FRANK V. BARCHARD
COMPLAINANT

vs.

MYRTLE BARCHARD
RESPONDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NO. 895

MOTION

Now comes the Respondent and Cross-Complainant, by her Solicitor, and respectfully represents that it has been and will be impossible for her to comply with the Court's decree rendered in this cause, dated June 15, 1944, within the thirty day period of time called for therein due to the fact that it has been impossible for her to conduct her other business and at the same time prepare the itemized statement of the operating expense of the Foley Umbrella called for in the said decree.

WHEREFORE, the said Respondent and Cross-Complainant moves the Court to set aside the said decree and render in lieu thereof a decree allowing until August 1, 1944 to hold the said reference and take and file her testimony in this cause.

Respondent and Cross-Complainant further moves the Court to grant unto her such other, further and general relief as she may be equitably entitled to, the premises considered.

Respectfully submitted,

Solicitor for Respondent and Cross-Complainant.

TO H. M. HALL, ESQ., SOLICITOR FOR THE COMPLAINANT AND CROSS-RESPONDENT, FRANK V. BARCHARD:

You are hereby notified that the foregoing motion will be presented to the Honorable F. W. Hare, Judge of the Circuit Court of Baldwin County, Alabama, at Monroeville, Alabama at four o'clock P. M. on Saturday, July 15, 1944.

Dated this 13th day of July, 1944.

Solicitor for Respondent and Cross-Complainant.

11

RECORDED

MOTION

FRANK V. BARCHARD,

Complainant and Cross-Respondent,

VS.

MYRTLE M. BARCHARD,

Respondent and Cross-Complainant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY. NUMBER 895.

(6th)

Filed Jan 6th 1944

R. K. Bolegl
Deputy

Q. They travel in the highest plane in society there don't they?

A. That's a funny question to ask, society in a town the size of Foley.

Q. You understand what I mean?

A. Yes.

Q. The cost of maintaining that station in life for them is quite expensive?

A. Why should it be? No. No, I didn't think there was much society - life-

Q. I'm speaking - trying to differentiate your family from families who have not been used to having the various necessities of life?

A. I don't think they have ever had more than the necessities.

Q. Costs considerable amount of money to educate children?

A. Costs money? Sure, naturally.

Q. As a matter of fact, it's impossible for your wife to properly maintain, educate, feed and clothe those children, pay these various payments, your mortgages and things of that kind and insurance premiums on $150.00 a month isn't it?

A. How much revenue is she making on the paper?

Q. Just answer my question please?

A. I think she could do it on $150.00. The only payments approximately $25.00, they'll soon be paid for.

Q. Fire insurance has to be paid? You're not paying it?

A. No.

Q. Has anything been paid on the obligations that has not been paid by your wife?

A. It's been paid with my money that I sent her, one hundred fifty to two hundred dollars, yes.

Q. The property that your children own is not sufficient to adequately maintain and support them?

A. No revenue from it other than the small amount from the store building.

Q. Mr. Barchard, do you own any property or any interest in any property on Perdido Bay?

A. No.

Q. Is your brother indebted to you for any amounts for taxes paid down there?

A. No.

RE-DIRECT EXAMINATION BY MR. H. M. HALL, Attorney for Complainant.

Q. Mr. Barchard, at the time you brought suit in Florida you had local attorneys down there?

A. Yes.

Q. They advise you of your rights in Florida as to what they construed the Florida law to be?

A. Yes.

Q. You have sometime ago mentioned it, made conveyance to your wife and children?

A. Yes.

Q. You made conveyance of property you have mentioned to your son, what is a fair and reasonable value of that property?

A. I would say three thousand dollars.

Q. You made conveyance of property to your two daughters jointly?

A. No, two lots individually.

Q. What was a fair value of those lots?

A. They are pretty good lots, not down on the - tota l possibly two to three thousand dollars.

Q. But equally divided between the two girls?

A. That's right.

Q. Sometime ago you made conveyance to Mrs. Barchard?

A. Yes.

Q. One of the - home place? What is that reasonably worth?

A. Amount of money I had in it, sale value about three thousand dollars.

Q. What would be a fair and reasonable monthly rental in the Town of Foley?

A. As rental values go I don't know right now - in other sections that house would easily rent for $100.00.

Q. In peace times what would be fair?

A. I imagine twenty-five to thirty dollars.

Q. It would range from thirty dollars in peace times to one hundred dollars?

A. Yes.

Q. There was another parcel of property you mentioned, $11.08 monthly?

A. That has since been sold.

Q. What did that bring?

A. We divided the net after paying the mortgage, she got $509.00 and I got $509.00.

Q. You make her conveyance of the plant property in Foley?

A. Conveyed the real property and building to her.

Q. What's fair and reasonable?

A. About four thousand dollars.

Q. What wold be a fair and reasonable rental value of that building per month taken over a period of years?

A. Rental value I would say of twenty-five to thirty dollars per month.

Q. You have granted her a lease on the equipment for what period of time?

A. For the duration plus six months.

Q. Taking into consideration that plant, what is a fair monthly rental of that plant?

A. The plant, the business and equipment - I could have leased it for one hundred fifty to two hundred dollars per month.

Q. How long have you been in the printing business down there?

A. Have to figure, back about - twenty-four years.

Q. During the past ten years Mr. Barchard, what has been the income from the operation of the paper per month?

A. Gross receipts annually run I expect average would be seven to eight thousand dollars.

Q. How - what about - what was the operating expenses over the past ten years, net profits from the operation?

A. Operating expenses would figure about one-third.

Q. It has shown an income ofer a period of ten years of how much?

A. Monthly net would be from two to four hundred dollars.

Q. During the time you have lived there with your wife and children, any income other than from the paper?

A. Nothing to speak of.

Q. No other business?

A. No other business.

Q. You have raised your children on the income from the paper?

A. That's right.

Q. During the past several years Mrs. Barchard has been in the paper business with you?

A. Yes.

Q. She is thoroughly capable?

A. She is.

Q. The paper seems to have been - has gone on as well as before?

A. To my knowledge, yes.

Q. From your observation the income is practically the same now as it was then?

A. I couldn't give a fair answer on that, from general observation I think it -

Q. Income from the paper would be as much now or more than during the spare years of 1932 to 1938?

A. Yes, except I don't know how much help she's got down there. Should be about par.

Q. Is Mrs. Barchard paying you any rental on that equipment?

A. No sir.

Q. In other words, she has the building in which the paper is located, the property on which it is located and the use of all the equipment and you get no revenue whatever?

A. None.

Q. She is permitted to receive and keep all the revenue?

A. That's right.

Q. Do you know whether the boy, your son, works or not?

A. No, I don't know that he does.

Q. You know whether the girls work?

A. I don't think they do.

Q. The only expense that Mrs. Barchard has other than the material that goes into the paper business is the family grocery bill and insurance on the plant and $25.00 per month on the building?

A. That's right.

Q. Mr. Barchard, over a period of ten years and during the time you have been there with your wife and children, in your judgment what has been your monthly income out of which you supported your family and kept your children in school over a period of ten years?

A. At that time I wasn't getting - the income averaged about one hundred to one hundred fifty-dollars per month.

Q. Before your son and daughters were up big enough to do any work?

A. That's right.

Q. They were in school?

A. Yes.

Q. I believe you said you had paid taxes on all properties until 1942?

A. That's right.

Q. Taxes for past years?

A. Yes.

Q. These properties you own in Foley now or any place, are they producing any income to you?

A. None at all.

Q. The only income you have is what you get from the army?

A. Correct.

Q. Mr. Barchard, at the time you entered service did you leave any personal bills at Foley that Mrs. Barchard had been called upon to pay?

A. It appears for the business and cleaning bill. I never knew exactkx amount. Also for the - was on exchange basis. That was the understanding.

Q. These other bills you mentioned, bills of the plant?

A. That's right.

Q. No indebtedness on equipment?

A. None that I recall at that time, only bills were current for paper etc, possibly for thirty to dixty day period.

Q. Any other bills you left you have taken care of yourself?

A. I bought an automobile since then.

Q. When did you buy that?

A. 1941 Chevrolet.

Q. Have you turned that over to Mrs. Barchard?

A. Yes.

Q. She has it now?

A. Yes.

RE-CROSS EXAMINATION BY J. B. BLACKBURN,
Attorney for Respondent.

Q. You referred to this ten year period and certain earnings by the newspaper, what period of time do you mean to cover by that?

A. Ten years preceding my departure from Foley.

Q. Ten years about from 1930 to 1940?

A. That's right.

Q. You said there was nothing for Mrs. Barchard to pay except living expenses, she does have to maintain the premiums on the life insurance does she not?

A. She does have to more or less if she wants the insurance.

Q. You have borrowed the full amount - ?

A. No I haven't borrowed on either one of them. No I have never borrowed any money on them.

* * * * * * * * * * *

I, Ora S. Nelson, the Commissioner named in the Agreement of Counsel herein set forth, do hereby certify that the testimony of the witness, Frank V. Barchard, was taken down by me in writing, at Bay Minette, Alabama, on the 11th day of March, 1943, after I had duly cautioned and sworn the said witness to speak the truth, the whole truth and nothing but the truth, and that he assented to and swore to the same in my presence (the signing of the testimony of the witness having been waived). I further certify that I am not of counsel nor of kin to either of the parties to said cause, nor in any way interested in the result thereof.

And I herewith return the said deposition and the Agreement of Counsel to the office of the Register of the Circuit Court of Baldwin County, Alabama, in Equity, as my full compliance with my duties as such Commissioner under said Agreement of Counsel.

Given under my hand and seal this 11th day of March, 1943.

Ora S. Nelson (SEAL)
Commissioner.

Complainants' Testimony

Barnhart

v.

Barnhart

Testimony

Filed June 3 1943

Commissioner.

11

RECORDED

MOTION

FRANK V. BARCHARD,

Complainant and Cross-Respondent,

VS.

MYRTLE M. BARCHARD,

Respondent and Cross-Complainant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY. NUMBER 895.

(6x)

Filed Jan 6th 1944

R. K. Dodge

Deputy

RECORDED

895

9.

MOTION

FRANK V. BARCHARD
COMPLAINANT

VS.

MYRTLE BARCHARD
RESPONDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NO. 895

Complainant,

VS.

Respondent.

MOTION

Now comes the Respondent and Cross-Complainant, by her Solicitor, and respectfully represents that it has been and will be impossible for her to comply with the Court's decree rendered in this cause, dated June 15, 1944, within the thirty day period of time called for therein due to the fact that it has been impossible for her to conduct her other business and at the same time prepare the itemized statement of the operating expense of the Foley Omloover called for in the said decree.

WHEREFORE, the said Respondent and Cross-Complainant moves the Court to set aside the said decree and render in lieu thereof a decree allowing until August 1, 1944 to hold the said reference and take and file her testimony in this cause.

Respondent and Cross-Complainant further moves the Court to grant unto her such other, further and general relief as she may be equitably entitled to, the premises considered.

Respectfully submitted,

Solicitor for Respondent and Cross-Complainant.

TO H. M. HALL, ESQ., SOLICITOR FOR THE COMPLAINANT AND CROSS-RESPONDENT, FRANK V. BARCHARD:

You are hereby notified that the foregoing motion will be presented to the Honorable P. W. Hare, Judge of the Circuit Court of Baldwin County, Alabama, at Monroeville, Alabama at four o'clock P. M. on Saturday, July 15, 1944.

Dated this 13th day of July, 1944.

Solicitor for Respondent and Cross-Complainant.

Recd July 13 1944
[illegible]
Reporter

FRANK BARCHARD, Complainant and Cross Respondent, VS. MYRTLE BARCHARD, Respondent and Cross Complainant, BALDWIN COUNTY BANK, a Corporation, Garnishee.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY.

MOTION TO REQUIRE ORAL ANSWER OF GARNISHEE

Now comes the Respondent and Cross Complainant in this cause, by her Solicitor, and shows unto the Court that she has contested the Answer of the Baldwin County Bank, a Corporation, the Garnishee named in this cause, and that it is necessary that the said Garnishee be required, through its officers, to answer the said Garnishment orally.

WHEREFORE, Respondent and Cross Complainant moves the Court to require the said corporation to answer the said Garnishment orally and that such orders be made and decrees rendered as may be necessary and proper to compel the said oral answer of the said Garnishee.

J. B. Blackburn

Solicitor for Respondent and Cross Complainant.

Sworn to and subscribed before me
on this the 12th day of April, 1946.

Betty R Buck

Notary Public, Baldwin County, Alabama.

BRIEF AND ARGUMENT

FRANK V. BARCHARD, Complainant, VS. MYRTLE BARCHARD, Respondent.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

By

J. B. Blackburn, Attorney
for Respondent

- - - - - - -

three minor children, one of whom is already of college age and actually in college, this will leave the Complainant the sum of Three Hundred Dollars ($300.00) per month for his own maintenance and support. In one of the authorities cited by the Complainant's solicitors in their brief the opinion said that not more than half of the salary could be allotted as alimony pendente lite. In this case the amount of One Hundred Seventy-five Dollars ($175.00) per month is much less than fifty percent.

The record in this case shows the contention of each of the parties and as the amount of alimony pendente lite is discretionary with the Court we consider it entirely unnecessary to burden the Court with a lengthy discussion of the facts.

It is common knowledge and entirely supported by the testimony that the parties to this suit have three outstanding children and it is a matter of common knowledge that they cannot be supported, much less properly educated, on anything less than One Hundred Seventy-five Dollars ($175.00) per month.

The attorney's fee allowed by the Register is most reasonable and as this item does not seem to be seriously disputed we shall make no extended comment on it.

The Exceptions to the Register's Report should be overruled, the Report sustained and a decree rendered requiring the Complainant to pay the sum of One Hundred Seventy-five Dollars

($175.00) each month during the period of time that this litigation has continued and the attorney's fee allowed by the Register.

In conclusion we will say that there has been some delay in the submission of this cause but during practically all of the time the matter has been delayed extensive negotiations of settlement have been carried on and these negotiations are the sole result of any delay that may have occurred.

Respectfully submitted,

J. B. Blackburn

Solicitor for Respondent and Cross Complainant.

I hereby certify that I mailed a copy of the foregoing Brief and Argument to Messrs. Beebe and Hall, Solicitor for Complainant and Cross Respondent on this the 10 day of May, 1944.

J. B. Blackburn

Solicitor for Respondent and Cross Complainant.

FRANK BARCHARD, Complainant and Cross Respondent, VS. MYRTLE BARCHARD, Respondent and Cross Complainant, BALDWIN COUNTY BANK, a Corporation, Garnishee.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY.

CONTEST OF ANSWER OF GARNISHEE

Now comes the Respondent and Cross Complainant and contests the Answer of the Baldwin County Bank, a Corporation, the Garnishee in this cause, which was filed in the said Court on March 14, 1946, and as grounds for said contest, says:

1. The allegations of the Answer are untrue.

2. The said Garnishee was indebted to the said Frank Barchard at the time of service of Garnishment in this cause and at the time of making its Answer to said Garnishment.

3. The said Garnishee had money belonging to the said Frank Barchard in its possession and under its control at the time of service of the Garnishment in this cause and at the time of making its Answer thereto.

J. B. Blackburn

Solicitor for Respondent and Cross Complainant.

AFFIDAVIT

STATE OF ALABAMA
BALDWIN COUNTY

Before me, the undersigned authority, within and for said County in said State, personally appeared J. B. Blackburn, who, after being by me first duly and legally sworn, deposes and says: That he is Solicitor for the Respondent and Cross Complainant in this cause and that the facts stated in the foregoing instrument are true.

J. B. Blackburn

FRANK V. BARCHARD, Complainant and Cross-Respondent, VS. MYRTLE M. BARCHARD, Respondent and Cross-Complainant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

DECREE

This cause coming on to be heard on this date by agreement of the parties, is submitted on the Respondent and Cross-Complainant' Motion filed in this cause on this date to withdraw the submission heretofore had in this cause for the purpose of allowing her to amend her Cross Bill, upon consideration of all of which IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the submission heretofore had in this cause on the Report of the Register be and the same is hereby withdrawn and the said Respondent and Cross Complainant is hereby permitted to amend the Cross Bill filed by her in this cause which amendment shall be filed by her within ten days from the date of this Decree.

ORDERED, ADJUDGED AND DECREED this ____day of November, 1944.

_____

Judge.

FRANK V. BARCHARD,	)	IN THE CIRCUIT COURT OF
	)	
COMPLAINANT	)	BALDWIN COUNTY, ALABAMA
	)	
VS	)	IN EQUITY.
	)	
MYRTLE BARCHARD	)	No. 895
	)	
RESPONDENT	)	

BRIEF AND ARGUMENT OF

COMPLAINANT.

We wish, that the Court may be advised, and understand the various proceedings up to this time, to set out the pleadings in the order filed.

The original complaint, praying for a divorce on the grounds of voluntary anabdonment, was filed on January 14th, 1943, and service perfected on Jamuary 19th, 1943.

Answer and cross bill of the Respondent was filed February 18th, 1943. The Respondent, in her cross-bill, prayed for alimony and attorney's fees, but did not pray for a divorce.

The Complainant, on June 4th, 1943, filed his answer to the cross-bill of the Respondent;

The Court, in accordance with the prayer of the cross-bill of the Respondent, on April 14th, 1943, ordered a reference to determine the questions as to alimony pen dente lite and attorney's fee.

The Register, on November 30th, 1943, filed his report on reference awarding to the Respondent alimony pen dente lite of $175.00 per month, and attorney's fees of $350.00; the Complainant on December 4th, 1943, filed exception to the report on reference.

The Complainant, on March 11th, 1943, in accordance with the stipulation entered into, took his testimony on the question of whether or not he was entitled to a divorce.

The Court, on September 27th, 1943, has entered an order that this cause be submitted within ninety days.

The Respondent has taken no testimony in the original suit.

The matter, in spite of the fact that the Complainant has

already taken his testimony, has been delayed an unuaually long time. It may be that negotiations were passing between the parties as to a settlement, however, the order of the Court entered on September 27th, 1943, has mot been complied with by the Respondent. The Complainant has submitted his cause on the original bill of complaint, answer to the Respondent's cross-bill, and the testimony of the complainant.

We submit that the Respondent has no right to have the cause delayed awaiting a ruling of the Court on the question of alimony or attorney's fees.

"In a divorce suit, progress of the suit should not be stopped to hear alimony proceedings pen dente lite or enforce its payment, and both features can proceed simultaneously" Ex parte Bragg, 2 So. 2d 393.

The question as to whether or not the complainant is entitled, in a divorce suit, to alimony pen dente lite, is a primary province of the Court in the exercise of sound judiciary discretion to determine whether or not it is proper. Exparte,2 So. 2 d 393. "Under our laws the allowance of temporary alimony to wife is discretionary with the Court". Skinner, 8 SO. 2d 826.

The session of the Legislature of Alabama of 1939, realizing that there may grow up abuses of the temporary alimony provision of law as set forth in the Code of 1923, changed the word "must" to the word "may". If the trial Court does not grant alimony to the Respondent, she can not complain because this allowance is discretionary with the trial court. The Legislature added the further provision that the trial court could not grant temporary alimony for a longer period of time than is necessary for the prosecution of her bill

of divorce.

It is the duty of a husband to support and maintain his wife unless there are special circumstances that relieve him of such obligation. Ex parte Austin, 15 So. 2d 710. If the husband has already provided for the support of the wife and children, the statute can not mean that she is entitled, as a matter of right, to additional support. To hold so would be to say that, although the husband has conveyed all of his property and assets to provide for the support of the wife and children, yet she is entitled to an additional decree for the temporary alimony and attorney's fees. Bulke vs. Bulke, 55 So. 490.

In a suit for alimony, the allowance should not exceed half the husband's income. Brady vs Brady, 39 So. 237.

Though alimony pen dente lite may be allowed in an action for alimony without divorce, this is to be done only when the wife is without means. Brady vs Brady, 39 So. 237.

Alimony will be awarded the wife only when she is without means, and the husband is able to furnish them. Ex parte State ex rel Tissur, 106 So. page 866.

The testimony of the Respondent on reference shows that the complainant is in the armed services, and has an income of approximately $474.00 per month, and that this is his only income so far as she knows. This fact is not materially disputed by the Complainant.

The testimony of the Respondent on the reference also shows that the Complainant, prior to the reference, had conveyed to the Respondent and

the minor children, property of the value of not less than $9,000.00, and that the Respondent and the said minor children have an income of not less than $7,500.00 per year.

The testimony of the Respondent on the reference also shows that the Complainant conveyed to the Respondent, the home place in the Town of Foley of a value of not less than $3,000.00, the lot and buildings on and in which the "Foley Onlooker" business is carried on, of the value of not less than $4,000.00, and also to the children property of not less than $2,000.00 in value; that in addition to this the Complainant executed to the Respondent a lease for the duration of the war and six months thereafter, all machinery equipment, and good will, of the "Foley Onlooker", which the Respondent is now operating and retaining the income therefrom; that the equipment and machinery leased by the Complainant to the Respondent, for which he received no rental, has an annual rental value of not less than $2,000.00, which is retained by the Respondent.

We submit that the evidence of the Respondent alone shows that she has an income of approximately twice that of the Complainant, that is, some $7,500.00 per year, and that the costs of maintaining herself and family will not exceed $250.00 per month, or $3,000.00 per year.

The testimony of the Respondent also shows that the Complainant and the Respondent have maintained themselves and reared a family on the income from the Foley Onlooker, and that the business of the said paper is now as good or better than it has been during the time that they lived together as husband and wife, and were rearing a family.

The Complainant, being a commissioned officer with the armed

forces, as the Court knows, is burdened with undue expenses to maintain himself in the company with which he is necessarily thrown, and to maintain the dignity of his rank.

We submit that the Complainant has been most magnanimous in his efforts to provide for the maintenance and welfare of his wife and children, and has placed her in a position where she is capable, and does earn or make, approximately twice as much per year as the Complainant. The Complainant even went so far as to convey to his son property which produces a monthly income of practically the amount that the Respondent says is necessary to maintain and provide for him.

The Respondent, in her testimony, sets out that she is burdened with certain payments on insurance and taxes, however, it will be observed that she and the children are beneficiaries under the insurance policies, and also that the property on which she pays taxes now stands either in her name or in the names of her children, and is necessarily their responsibility.

The Respondent, with an income of approximately $7,500.00 per year or more, is in a much better position to carry on than the Complainant, on his salary as an officer in the Army.

The Complainant made the necessary arrangements to place the Respondent in her present position, and enable her to earn a livelihood for herself and children.

We therefore submit that as a matter of equity and good conscience, the Complainant having amply provided for his wife and children, and she now not claiming a divorce, she is not entitled to any award as to alimony or attorney's

fees.

We further submit, the Complainant having taken all of his testimony, that such testimony is sufficient and that the Complainant should now be awarded his divorce on the ground of voluntary abandonment. We do not wish to appear as rushing the matter, but do think that if the Respondent wishes to take any testimony to rebutt that of the Complainant that some time, not too long, should be fixed.

Respectfully submitted,

BEEBE & HALL

By J. Hall

Solicitors for the Complainant.

We hereby certify that a copy of the foregoing brief and argument was on the 9 day of February, 1944, mailed to the Hon. J. B. Blackburn, as solicitor for the Respondent.

BEEBE & HALL

By J. Hall

Solicitors for the Complainant.

FRANK V. BARCHARD, Complainant, VS. MYRTLE BARCHARD, Respondent.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

TO FRANK V. BARCHARD OR H. M. HALL, HIS SOLICITOR OF RECORD:

You are hereby notified that a reference will be held in this cause at my office in Bay Minette, Alabama, on Thursday, June 3, 1943, at 2:30 P. M. for the following purposes:

1. To hear testimony and report to the Court what sums should be paid to the Respondent and Cross Complainant as alimony pendente lite.

2. He shall hear testimony, ascertain and report to the Court what is a reasonable solicitor's fee to be paid to Respondent and Cross Complainant's solicitor of record for services rendered by him in this cause.

Dated this 1st day of June, 1943.

Register.

895

Brief

4. RECORDED

(Original) 895

NOTICE OF REFERENCE

FRANK V. BARCHARD,

Complainant,

VS.

MYRTLE BARCHARD,

Respondent.

IN THE CIRCUIT COURT OF.

BALDWIN COUNTY, ALABAMA.

IN EQUITY. NUMBER 895.

Executed by serving a copy of the within notice on H. M. Stull, atty for the complainant. This 1st day of June 1943

W. R. Stuart, Sheriff

By [illegible], D.S.

TESTIMONY ON REFERENCE

FRANK V. BARCHARD, Complainant, VS. MYRTLE BARCHARD, Respondent.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895.

Taken before R. S. Duck,
Register
on
June 3, 1943

FRANK V. BARCHARD, Complainant, VS. MYRTLE BARCHARD, Respondent.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY. NUMBER 895. June 3,1943.

TESTIMONY OF RESPONDENT ON REFERENCE

DIRECT EXAMINATION by J. B. Blackburn

Q. Mrs. Barchard, you are the Respondent and Cross Complainant in this suit?

A. Yes Sir.

Q. Mrs. Barchard, how many children do you and Mr. Barchard have?

A. Three.

Q. Give their names and ages, taking the oldest one first.

A. Frank Vernon, seventeen; Myrtle Marie, fifteen and Kathryn, twelve.

Q. Do those children all live with you?

A. Yes sir, they live with me. My son is in college now.

Q. When did he leave for college?

A. Last Sunday.

Q. At the time the suit was filed were they all living with you?

A. Yes sir.

Q. Continuously up to the time he left for college they all lived with you?

A. Yes sir.

Q. State what grades they were in during the last school year?

A. Frank was in Senior High; he graduated from the twelvth grade; Marie was in the ninth and Kathryn was in the sixth.

Q. Mrs. Barchard, what did it cost you to maintain your family during the months starting at the time this suit was filed up to the present?

A. I should imagine it would be approximately $250.00 to $275.00 a month, something like that.

Q. Mrs. Barchard, explain as best you can what is included in those charges?

A. Well, the groceries -

Q. As best you can arrive at it what is the approximate amount of your grocery bill a month?

A. From seventy to eighty dollars a month, I should imagine.

Q. What other expenses are included in that figure?

A. Lights, water, clothes -

Q. Break down that - lights, water and

A. My light bill usually runs around $10.00 a month; my water bill is approximately two dollars; my laundry is around twelve to fifteen dollars a month and clothes to keep them in school. I don't know where it all goes to but it goes some place.

Q. Roughly, what was the clothes expense and school expense for the children?

A. Well, I should - - it seems like it's money every day for something; not less than twenty to twenty-five dollars each during the last months - that would be for school expense and clothes.

Q. Now, do you have any doctor or dental bills?

A. Yes sir.

Q. Who are they for and how much?

A. I had all their teeth checked over. Marine's teeth alone, I have to have straightened, she was not able to chew her food according to the impressions we had made and it was impairing her health, the bill will be between three fifty and four hundred dollars and I'm having it done.

Q. Do you have any expense in the way of taxes and insurance?

A. Yes sie.

Q. How much do your taxes amount to?

A. I must have paid about two hundred dollars.

Q. Are there any insurance payments? or premiums? If so, what for and the amount?

A. Yes sir. When Frank was here he left two insurances that have almost been paid out by me. One is $21.66 quarterly, with the New York Life Insurance Company. One with the Equitable if $7.92 a quarter and one for Frank, Jr that runs $33.69 semi-annually, and there's one on each of the girls approximately $14.00 a year for each of them.

Q. I'll ask you whether or not there's any expense for - musical expense?

A. Kittie and Frank both take music.

Q. What is the average monthly expense for that Mrs. Barchard?

A. About eight dollars a month for the two of them, four dollars each.

Q. And do you have any more payments of any kind?

A. Yes sir, on the home.

Q. How much?

A. About twenty-five dollars per month.

Q. Do you remember the approximate total balance due on that mortgage?

A. No, I don't.

Q. Do you think of any other expenses?

A. Not right now, I don't.

Q. The gross amount of your monthly expense is about Two Hundred fifty a month?

A. Runs two-fifty to Two-seventh-five, something like that. That's the way it counts up at the end of the month.

Q. Do you know what real and personal property was owned by Mr. Barchard, the Complainant in this case at the time this suit was filed?

A. Well, the business.

Q. When you refer to the business, what is that?

A. Barchard Publishing Company.

Q. Explain just what that is?

A. That's the subscription list of the Onlooker and the Baldwin News Hearald, the machinery and equipment, stock and good will of the business.

Q. How long has that business been operated down there?

A. I should say about twenty-four years.

Q. I'll ask you whether or not he owned a tract of land in Section Seven, Township Six South Range Four East, Baldwin County, Alabama, described as follows: Beginning at the Northwest Corner of the Northeast Quarter of Section Seven, Township Six South Range Four East; thence South 168 feet; thence East 670 feet; North 168 feet; West 670 feet to place of beginning.

A. Yes sir.

Q. Did he own a forty acre tract described as the West Half of West Half of Northwest Quarter of Section Two, Township Nine South Range Four East?

A. Yes sir.

Q. Did he own Lots Eleven and Twelve in Block Seven West Foley?

A. Yes sir.

Q. I'll ask you whether or not he owned Lot Four, Section 31, Township 8 South Range 5 East, consisting of approximately sixty-five acres?

A. Yes sir.

Q. I'll ask if he owned five lots referred to as being in the Childress acreage west of the city limits in Foley.

A. Yes sir.

Q. Mrs. Barchard, what is your husband doing now and what has he done continuously since this suit was filed?

A. He's a Major in the United States Army.

Q. Do you know what he is paid each month?

A. About Four Hundred Seventy-three-ninety-five - somethin like that. About Four Hundred Seventy-four Dollars.

Q. Do you know what part is allotted because of the wife

and three children?

A. The last of my knowledge there was $105.00 each month as rent and $63.00 for subsistence.

Q. Approximately $168.00?

A. Yes, approximately $168.00.

Q. When this suit was filed was he making any monthly payments to you?

A. He had been sending about $150.00 a month home. He stopped sending any money at all for two or three months.

Q. Do you remember how many months he sent $150.00 after filing suit?

A. That was this suit? It would really be about the same thing. He stopped sending it the last two months. Prior to that time he had an allotment of $150.00 but it was withdrawn. I had official notice to that effect.

Q. Mrs. Barchard, you have been connected with the newspaper business for how long?

A. I have been working off and on ever since about ten years ago - almost steady for ten years.

Q. Do you know the value of that printing office, the business, fixtures, speaking of it in its entirety, the whole plant and business.

A. I don't know if I could say that. He refused Ten Thousand for it, he said.

Q. When was that statement made.

A. He told me in January, 1941.

Q. What is the condition of the business now with reference to it now and at that time?

A. As good if not better.

Q. Why do you say"as good if not better?"

A. Because at the time in January, 1941, it had an old press that it was impossible to get along with. I had to buy another one as this old press - with shortage of help - and an electric saw and new equipment.

Q. Any change in the subscription list?

A. No. I should say that it's about the same. At that time we had several not paid up and I have eliminated those. All of mine are paid up.

Q. When asking you about monthly expense, did he leave any bills of any kind unpaid?

A. Yes sir.

Q. Do you have a list of those?

A. I can tell you about what they were. Four Hundred Seventy-five Dollars to Partin Paper Company, $Seventy-five to Palmer and Company; the insurance on the office was not paid for two years, I had to pay up $126.00. Then there was a cleaning bill of Two Hundred Fifty Dollars due Walker.

Q. Have payments of any kind been made on those accounts?

A. I have paid them.

Q. You have paid all of that?

Q. I have paid them all except a small amount to Walker for the cleaning bill. He has been getting work through my office to help pay it. I couldn't pay it out of the cash sales.

Q. Do the children have any property that produces any income?

A. No sir.

Q. Do you own yourself any property that produces any income?

A. No sir.

CROSS EXAMINATION by H. M. Hall, Attorney for Complainant

Q. Mrs. Barchard, you mentioned here this insurance. To whom is that payable in case of the death of the insured?

A. All of it you mean?

Q. Yes.

A. I don't know who is the beneficiary in the girls' policies.

Q. Are not you the beneficiary in them, the other three?

A. To his wife and three children.

Q. To his estate then?

A. I don't know about the two girls'.

Q. The boy's is payable to you?

A. Yes sir.

Q. You mentioned the payment on a mortgage here. On whose property - against whose property is that mortgage?

A. It's in my name now.

Q. You own the improvements?

A. It's in my name now.

Q. You say there's a tax bill of Two Hundred Dollars per year, on whose property is that?

A. That is for the children's property and mine.

Q. None of that against Mr. Barchard's property?

A. Well, the equipment of the Onlooker.

Q. I mean real property. You gave him a list of land at Robertsdale, is that land producing any income?

A. I think there's a small rental each year.

Q. You know how much?

A. No, I don't know.

Q. What is it, improved property or vacant lots?

A. There are no improvements on it. It has been rented by a man for - he has cows in it, live stock.

Q. You have any idea what he pays for it?

A. No, I really don't know.

Q. Is that part of Mr. Perrin's field?

A. It's right on the highway across from Dr. Jordan's office.

Q. Next to a filling station? No improvements?

A. No.

Q. This forty acres in Two, Nine, Four, any improvements on that?

A. No.

Q. Any income fomr it or is it just vacant property?

A. There's timber on it. I don't know how much.

Q. Does it produce any income?

A. I don't think so.

Q. Lot twelve in Block 7 produce any income?

A. I don't know.

Q. Lot 34 in eight-five, is that vacant property?

A. That the sixty-five acres? That all timber land.

Q. No income in so far as you know?

A. Not that I know of.

Q. Thos five lots in the Childress acreage, they all vacant lots? No income?

A. No.

Q. You own a home don't you, Mrs. Barchard?

A. Yes.

Q. What is a fair and reasonable value of that home?

A. I don't know. I should imagine right around three thousand dollars.

Q. What would be a fair rental value under present conditions?

A. I hadn't thought about renting it.

Q. I'm just arriving at some figure.

A. I don't think I could rent it for over forty or forty-five dollars a month.

Q. You own the property on which the Foley Onlooker is located, the lots?

A. That's right.

Q. What are they worth?

A. I don't know.

Q. In your judgment?

A. I just don't know.

Q. Do you have a contract on the building and all the equipment in which the Onlooker is located?

A. I have a lease on the business and equipment.

Q. And you own the building?

A. That's right.

Q. How long is that lease for?

A. For the duration and six months.

Q. What is a fair and reasonable rental value of the equipment you valued at Ten Thousand Dollars?

A. I don't know except that he said he could rent it for One Hundred Fifty to Two Hundred Dollars, I believe he said.

Q. Would you say that was a fair and reasonable rental for a piece of property worth Ten Thousand Dollars of that nature?

A. That's all I could get out of it.

Q. You mentioned an item of clothes, sixty dollars per month, would it run that high, Mrs. Barchard?

A. Did I say sixty dollars per month?

Q. What did you say?

A. I said their incidentals and school expenses would run around twenty-five dollars each.

Q. The children, your son, how much property does he own?

A. He has a lot with a store building on it.

Q. What income does that produce?

A. Twenty dollars but it's liquidating assessments against the two girls' property.

Q. His property produces twenty dollars per month?

A. But it doesn't come to me.

Q. What is a fair and reasonable value of that property?

A. I couldn't say.

Q. Where are those properties located, just inside the town?

A. Just inside.

Q. Next to the Onlooker office? The girls have a lot each?

A. Two lots each.

Q. Directly back of the Onlooker office, they producing any income?

A. No there are assessments against them and the income from the other lot is retiring them.

Q. You mentioned him leaving some bills, four hundred seventy-five dollars to Partin Paper Company, was that for office supplies?

A. Yes sir.

Q. Were the supplies left there at the time he went away?

A. They had been used. That was two months bill.

Q. Palmer the same way?

A. Yes, the same way.

Q. The insurance on the office building, you of course own that building?

A. That's on the equipment and building.

Q. You have a lease on that for the duration of the war and six months?

A. This was back insurance I had to pay.

Q. Walker's cleaning bill was in exchange?

A. Not that I knew about.

Q. You don't know whether he had an agreement to take it out in advertising?

A. According to Mr. Walker, it wasn't.

Q. Had Mr. Barchard been drawing any income whatever from the paper in the business since this suit was filed?

A. No sir.

Q. You had been using all that?

A. Yes.

Q. What income does that business bring in?

A. Gross or net?

Q. Gross? Of course you can break it down monthly?

A. I should imagine about seven thousand per year gross.

Q. Does Mr. Barchard have any income other than his salary from the United States Government?

A. That's all I know of.

Q. Mrs. Barchard, you and Mr. Barchard have lived and reared your family from the income on the Onlooker, you have lived out of and reared the children from the income from the business?

A. Partly.

Q. That was your only source of income was it not?

A. Except what help I had to get. When the children were little my mother and father helped me some.

Q. That's all for the last five or ten years?

A. Yes sir. He had a supplement from the National Guard and he was Mayor of the Town and has a small salary as being Mayor.

Q. Mrs. Barchard, since Mr. Barchard has been away and particularly since the suit has been filed you have kept the bills current?

A. That's right.

Q. You haven't been out and borrowed money to do that with have you?

A. I borrowed some from the bank and some from my mother.

Q. Have you repaid that?

A. Not all of it. I've paid all but my mother.

Q. How much do you owe her?

A. About two hundred dollars.

Q. Does your mother live in the house with you?

A. Yes.

Q. How long has she lived there?

A. Since the death of my father. She doesn't stay with me continually.

Q. She makes that her home doesn't she? Does she pay board?

A. I wouldn't expect her to.

Q. You mentioned this dentist bill, you haven't paid that have you?

A. I had to pay part of it. It's on my bill and I pay some each month.

RE-DIRECT EXAMINATION OF THE RESPONDENT, MYRTLE BARCHARD,
By J. B. Blackburn, Attorney for Respondent.

Q. Mrs. Barchard, he asked you about the rental value of the residence occupied by you?

A. That's right.

Q. If it were rented and you had to acquire other quarters you would have to pay proportionately, which would increase your living expenses?

A. Yes sir.

Q. Mr. Hall asked you what the returns from the Onlooker business amounted to, you gave him gross returns, can you give the

approximate net returns?

A. I should say I net about a hundred dollars a month out of it.

Q. When this suit was filed it was necessary to employ an attorney to represent you?

A. That's right.

Q. Do you have funds of your own with which to pay for this service?

A. No sir.

RE-CROSS EXAMINATION OF RESPONDENT, MYRTLE BARCHARD,
By H. M. Hall, Attorney for Complainant.

Q. Mrs. Barchard, is the operating expense of the Onlooker Fifty-eight Hundred Dollars a year?

A. I'm telling you about what I net out of it when I have all my bills to pay.

Q. Does it cost Fifty-eight Hundred Dollars to operate, Five Hundred Dollars a month?

A. I should image it costs about that. I wouldn't know unless I go and get my records. I'm sorry I didn't bring them.

Q. How many people do you employ down there? What do you pay?

A. Fifty dollars a week or
I have a press boy I pay thirty cents an hour.

Q. How much does that run a week?

A. He doesn't work regularly - eight, twelve to fifteen dollars a week.

Q. What is your material, supplies, costs a month?

A. It will average between two and two-fifty a month - sometimes less than that.

Q. Two hundred dollars would be the peak?

A. No, two-fifty.

Q. What would be your low month?

A. I don't know. I should imagine a low month would be approximately one hundred seventy-five dollars.

DIRECT EXAMINATION OF JOHN CHASON, ATTORNEY,
By J. B. Blackburn, Attorney for Respondent.

Q. Mr. Chason, you are an attorney at law, practicing in Bay Minette, Alabama?

A. Yes.

Q. You know the value - what fees should be for representing at law and in equity?

A. Yes.

Q. Mr. Chason, this is a divorce suit that was filed by Mr. Frank Barchard against Mrs. Barchard, in which she was charged with having abandoned the Complainant. The Respondent filed in this case a cross bill, asked for the custody and control of the three children of the parties, denying the allegations of the Complaint but asking for alimony by way of separate maintenance. According to the testimony of the Complainant, Mr. Barchard, he is a Major in the army and is paid approximately $473.90 each month. According to his testimony he owns property in Baldwin County, valued at approximately Fifty-nine hundred Dollars. According to the testimony of the Respondent and Cross Complainant the property that is owned by Mr. Barchard will vary from $12,600 to $14,600. That is to say, Mrs. Barchard's testimony values it at approximately $14,600. What is, in your opinion, a reasonable fee to the solicitor for the Respondent and Cross Complainant in a case of this kind.

A. I would think the fee would be fixed depending on what the true value is. On a - with an income of about $470.00 I would think that $300.00. If the value, however, was $12,000 to $14,000 I would think a solicitor for the Respondent and Cross Complainant would be entitled to around four hundred to five hundred dollars. I would say three to five hundred dollars. About three fifty.

CROSS EXAMINATION OF MR. JOHN CHASON,
By H. M. Hall, Attorney for Complainant.

Q. Mr. Chason, would the fee be varied if there was no contest.

A. Yes, the question of contest would be used to show how much - - - - if the custody - - - if there were not contested at all-

Q. Suppose the Complainant in this suit filed a straight suit for divorce, doesn't claim custody of the children and the Respondent claims custody of the children and separate maintenance and the Complainant contests neither of them, what would you say would be a reasonable fee?

A. No contest, or alimony or custody?

Q. No contest except as to the amount?

A. Around three hundred to three hundred fifty dollars. In other words with a suit involving alimony where the property owned by the Complainant is ten thousand dollars or in excess of that the Respondent's attorney would certainly be entitled to three hundred dollars.

Q. Do you disregard the fact that the Respondent also has property or do you take that into consideration?

A. I hadn't been advised that she owned any property. I don't think that would come into consideration that would affect the amount of the fee that her solicitor would get. If she has property of her own she should pay part of the fee.

Q. Also this Complainant, which is a fact, had conveyed to the Respondent the home place, the Onlooker properties, that is the lots and building and has also conveyed to the children one lot to the boy and two lots to the girls and have also given to the Respondent a lease on all the equipment and good will of the company with - for a period of the duration and six months after. If you took that into consideration what would be a reasonable attorney's fee?

A. I think that a solicitor, regardless of the fact that she had that should be paid three hundred dollars or better. I think she should pay - /I think the solicitor he is entitled to three hundred dollars or better.

RE-CROSS EXAMINATION OF RESPONDENT
By H. M. Hall, Attorney for Complainant

Q. Mrs. Barchard, one thing I overlooked. About three or four months ago Mr. Barchard conveyed a piece of property in Foley, sold it?

A. Not that I know of.

Q. You mean you didn't get seven hundred dollars? Didn't you and Mr. Barchard sell a piece of property?

A. That was last year. I didn't get seven hundred dollars.

Q. You got right around five hundred?

A. We divided it.

Q. The net selling price for that was right around five hundred dollars? When was that, in November of last year?

A. Nok it was about August.

RE-DIRECT EXAMINATION OF RESPONDENT
By J. B. Blackburn

Q. Mrs. Barchard, that sale was prior to the commencement of this suit?

A. That's right.

EXAMINATION OF CHARLES J. EBERT
By J. B. Blackburn, Attorney for Respondent

Q. Mr. Ebert, I'll ask you if you recently visited and made an examination of a tract of land described as Beginning at the Northwest Corner of the Northeast Quarter of Section Seven, Township Six South Range Four East; thence South 168 feet; thence East 670 feet; North 168 feet; West 670 feet to place of beginning. You are familiar with that piece of property?

A. Yes.

Q. What business are you engaged in?

A. Real estate and insurance business.

Q. You have bought and sold property and know its value?

A. Yes.

Q. What, in your opinion, is a fair and reasonable market value of this two acre tract of land in Section seven, Township six South Range Four East.

A. That's at Robertsdale? Sixteen hundred dollars.

Q. The forty acres in Section two, Township nine south Range four East?

A. Five Hundred Dollars.

Q. Lots eleven and twelve in Block seven, West Foley?

A. Five Hundred Dollars.

Q. The sixty-three acres on Perdido Bay?

A. One thousand dollars.

Q. The five lots ~~in~~ West of Foley?

A. One thousand dollars.

Q. Are you familiar with this newspaper plant known as the Foley Onlooker.

A. Yes sir, I've been in the place of business, have seen it.

Q. What is a fair and reasonable market value of the fixtures

A. Eight thousand dollars.

Q. Do you know any other property that Mr. Barchard owns?

A. I do not.

CROSS EXAMINATION OF WITNESS, MR. CHARLES J. EBERT
By H. M. Hall, Attorney for Complainant

Q. Mr. Ebert, are you acquainted with the home where Mrs. Barchard lives? What is a fair and reasonable value for that?

A. About Three thousand dollars.

Q. You know the lot owned by the boy, Frank, Jr? What is it worth? That is, the value of the lot and improvements?

A. Has a building on it, I imagine fifteen hundred dollars.

Q. The two lots belonging to the girls right back of the Onlooker, what are they worth?

A. Twenty-five foot lots? About four hundred dollars for the two of them.

Q. You know where the lots, where the Onlooker building is located?

A. Yes sir.

Q. What are those lots and building worth, two lots and building?

A. Four thousand dollars.

Q. You say you have been around and about the Onlooker office are you acquainted with the equipment in the building? What would you consider a fair monthly rental, mailing list, subscription list,

good will and all of that business?

A. I don't hardly know. Rental usually is based on a percentage basis.

Q. Taking it on a basis of seven thousand dollars gross what would be a fair rental value?

A. I don't know. You usually base rental on the investment.

Q. What would be a fair rental on the value of eight thousand dollars?

A. Ten per cent.

Q. Mr. Ebert, in checking these properties belonging to Mr. Barchard, you went upon or viewed those properties?

A. Yes sir.

Q. Any producing income at this time that you know of?

A. No sir, I don't think any of them are.

RE-DIRECT EXAMINATION OF MR. EBERT
By J. B. Blackburn, Solicitor for Respondent

Q. Mr. Ebert, in the values placed by you on this property in Foley, that's assuming there are no paving assessments?

A. Yes sir.

RE-CROSS by Mr. Hall

Q. Would the paving enhance or detract from the value? Would the fact that there was an assessment against the property add to or detract from the value?

A. If you wanted to sell it it would detract from the value. My values were based as though there were no assessments against it.

RE-DIRECT EXAMINATION OF Mrs. MYRTLE BARCHARD
By Mr. Blackburn

Q. Mrs. Barchard, are there unpaid paving assessments against the property which Mr. Barchard conveyed to you and the children?

A. Yes.

Q. Do you know the amount?

A. No, I do not.

We introduce in evidence the testimony of Mr. Barchard.