

1300

MILDRED W. COLE,	)	
Complainant,	)	IN THE CIRCUIT COURT OF
VS.	)	
HOWARD T. COLE,	)	BALDWIN COUNTY, ALABAMA
Respondent.	)	IN EQUITY.

Comes the Respondent in the above styled cause and for answer to the amended Bill of Complaint filed in said cause says:-

1.

That he admits that the Complainant is over the age of twenty-one years but he denies that she is a bona fide resident of Baldwin County, Alabama; the Respondent does not know where the Complainant resided for one year immediately preceeding the filing of her Bill of Complaint in this cause. The Respondent admits that he is over the age of twenty-one years and is a non-resident of the State of Alabama and is in the Active Military Services of the United States of America.

2.

The Respondent denies that he and the Complainant were lawfully married to each other on or about the 15th day of March, 1935 in Atlanta, Georgia and denies that they were lawfully married anywhere at any time. The Respondent denies that they resided and cohabited as husband and wife from March 15, 1935 until June 5, 1944 or at any other time. The Respondent denies that he and the Complainant were both residing in Baldwin County, Alabama on or about June 5, 1944 and he denies that they separated at that time. The Respondent denies that on or about the 5th day of June, 1944, he voluntarily abandoned the bed and board of the Complainant in Baldwin County, Alabama.

3.

The Respondent denies that he committed adultery with Margaret Dorothy Balinskas on or about June 5, 1944 or at any other

time.

4.

The Respondent admits that he is in the Active Military Service of the United States of America as a Lieutenant Colonel but he denies that he derives an income of \$500.00 a month and he also denies that he owns personal property of appreciable value.

5.

The Respondent does not know what property is owned by the Complainant or what her income is or what her physical condition is and so he neither admits nor denies these allegations. The Respondent denies that the Complainant is entitled to alimony pending the suit. The Respondent admits that he is not paying anything for the maintenance and support of the Complainant.

6.

The Respondent denies that it was necessary for the Complainant to employ a Solicitor because she has no valid suit against the Respondent. The Respondent does not know what the Complainant has promised to pay her Solicitor for his services but he denies that he should have to pay for her Solicitor.

For further answer to this Bill of Complaint and to each and every paragraph thereof, separately and severally the Respondent says:-

7.

That the Complainant in this suit is not named Mildred W. Cole but her correct name is Mildred Willingham; that he first met Mildred Willingham in the early Winter of 1934; that from that time until the Spring of 1939 the Respondent lived in Atlanta, Georgia in a Hotel where he was registered and lived alone and all during that period of time he was single. That during most of this period of time Mildred Willingham lived in Atlanta, Georgia. That during that period of time she met some of the Respondent's friends

but always under the name of Mildred Willingham; that at no time while they were residing at Atlanta or anywhere else did the Respondent enter into a marriage with Mildred Willingham nor live with her as his wife nor hold her out to be his wife.

That in the Spring of 1939 the Respondent left Atlanta and moved to Macon, Georgia, where he lived alone; that the Respondent moved several times before July 1, 1942 when he entered the Army; that Respondent was transferred to Brookley Field at Mobile, Alabama and that he stayed in a room in the Admiral Semmes Hotel; that while the Respondent was staying in Mobile he and two other officers rented a house for the Summer of 1944 in Daphne, Alabama; that Miss Mildred Willingham came to Mobile of her own velition and not at Respondent's request and he saw her while she was there; that she remained there only about three days; that she did not live with him as his wife at any of the places where he has known her.

On December 11, 1944, the Respondent married Margaret Dorothy Balinskas and he has lived with her as man and wife since that time. The Respondent alleges that he has never married Mildred Willingham and has never introduced her as his wife nor lived with her as his wife; that on the contrary they have only been friends and to his knowledge she had never claimed to be his wife until after he was legally married as above set out. That he did not know that she claimed to be his wife until about the time of the filing of this Bill of Complaint.

Greenwood, J. G. Smith, & Jackson  
Wesley S. Jackson  
Solicitors for Respondent.

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA,  
BALDWIN COUNTY

No. 1300  
~~1380~~

CIRCUIT COURT BALDWIN COUNTY

March. TERM, 194 5

TO ANY SHERIFF OF THE STATE OF ALABAMA :

You are hereby commanded to summon Howard T. Cole.

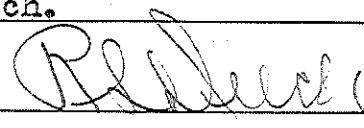
to appear and plead, answer or demur, within thirty days from the service hereof, to the Complaint filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against

Howard T. Cole. Respondant

by Mildred W. Cole.

Complainant

Witness my hand this 16th day of March. 194 5

  
Register.

No. \_\_\_\_\_ Page \_\_\_\_\_

**THE STATE OF ALABAMA**  
BALDWIN COUNTY

**CIRCUIT COURT**

Plaintiffs

vs.

Defendants

**SUMMONS AND COMPLAINT**

Filed \_\_\_\_\_ 194 \_\_\_\_\_

\_\_\_\_\_ Clerk

\_\_\_\_\_ Plaintiff's Attorney

\_\_\_\_\_ Defendant's Attorney

Defendant lives at \_\_\_\_\_

RECEIVED IN OFFICE

\_\_\_\_\_ 194 \_\_\_\_\_

\_\_\_\_\_ Sheriff

I have executed this summons

this \_\_\_\_\_ 194 \_\_\_\_\_

by leaving a copy with \_\_\_\_\_

\_\_\_\_\_ Sheriff

\_\_\_\_\_ Deputy Sheriff

Post Office Department  
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300

POSTMARK OF DELIVERING  
OFFICE

Return to R. S. Duck

(NAME OF SENDER)

Street and Number,  
or Post Office Box,

Circuit Clerk

REGISTERED ARTICLE

No. 1670

Post Office Bay Minette

INSURED PARCEL

State Alabama

No. \_\_\_\_\_

48-12421

*XXXXXXXXXX*  
**RETURN RECEIPT**

*1945*

Received from the Postmaster the Registered or Insured Article, *(the original)*  
number of which appears on the face of this Card.

1 *[Signature]*  
(Signature or name of addressee)

2 \_\_\_\_\_  
(Signature of addressee's agent—Agent should enter addressee's name on line ONE above)

Date of delivery *April 18*, 194*5*

Mildred W. Cole,

Complainant

Vs.

Howard T. Cole,

Respondent

In the Circuit Court of  
Baldwin County, Alabama

In Equity

No. \_\_\_\_\_

TO THE HONORABLE PRESIDING JUDGE OF THE CIRCUIT COURT, SITTING IN  
EQUITY CAUSES FOR BALDWIN COUNTY, ALABAMA:

Comes your Complainant, Mildred W. Cole, most humbly complaining and would show unto your Honor the following state of facts and exhibits this her Bill of Complaint.

1.

That your Complainant, Mildred W. Cole, is a bona fide resident citizen of Baldwin County, Alabama, and that she has bona fide resided in the State of Alabama for more than one year next before the filing of this Bill of Complaint, and that she is over 21 years of age, and that the Respondent, Howard T. Cole, is now a non-resident citizen of the State of Alabama, and that he is in the Active Military Service, and that he is residing or is stationed at Wright Field, Dayton, Ohio, and that his Post Office address is: Lt. Colonel Howard T. Cole, Area "A", Wright Field, Dayton, Ohio, and that he is over 21 years of age.

2.

That your Complainant, Mildred W. Cole, and the Respondent, Howard T. Cole, were married to each other on or about the 15th day of March, 1935, and that they continued to reside together as husband and wife and hold themselves out to the public and their friends as husband and wife until on or about the 5th day of June, 1944, when they separated as husband and wife and were bona fide residing in Baldwin County, Alabama at the time of said separation, and that the said separation as husband and wife has been continuous since June 5th, 1944.

3.

Your Complainant would further show unto the Court that your Complainant is in very poor health, and that she is under the continuous care of doctors and that she has had to undergo operations, and that her nerves are in bad condition, and she avers that her



condition of health has been caused by the violent and cruel treatment to her on the part of the said Respondent, and on account of said injuries and her said condition which is rapidly growing worse, she is finding it very difficult to work and earn a living, and she avers that she is entitled to support and maintenance from the said Respondent in the form of temporary and permanent alimony in accordance with their conditions and stations in life.

4.

Your Complainant avers that the Respondent did commit adultery with a person whose name she is informed is: Margaret Dorothy Balinskas, alias Margaret Dorothy Balinskas Cole, on or about the date of said separation and at other times, and the said acts were committed without connivance on the part of this Complainant, and have not been condoned, and that she now charges said Respondent with adultery.

5.

Your Complainant would further show that the said Respondent, Howard T. Cole is an able bodied man and is now in the Active Military Service as a Lieutenant Colonel, and that he has other business and financial connections, and that he has an income of more than Five hundred dollars (\$500.00) per month, and that he is well able to contribute to the support of your Complainant for her maintenance and for the payment of doctor bills, medicine, and other necessary expenses.

6.

She further avers that she has employed A. L. Patterson, Attorney at Law, Phenix City, Alabama, to represent her as her Solicitor of Record in this case, and it was necessary to employ counsel to represent her generally and to file this suit and to advise her and to bring the proceedings to a conclusion, and that she has obligated herself to pay him a reasonable fee for said services, and that she avers that she is not now able to pay for said services out of her meager present earnings and that she is entitled to have and receive from the said Respondent, a reasonable Attorney's fee to pay her said Solicitor of Record for services rendered and to be rendered in this case.

THE PREMISES CONSIDERED, Complainant prays as follows:

- (a) That the Respondent, Howard T. Cole, be made a party defendant to this Bill of Complaint, and that this Honorable Court will take jurisdiction over all matters and all issues raised in this proceeding, and that proper process issue against the said Defendant, Howard T. Cole, and that he be served by registered mail as required by law and the rules of this Honorable Court.
- (b) And that the said proper process be directed to the said Howard T. Cole requiring him within the time required by law and the rules of practice of this Honorable Court, to plead, answer or demur to this Bill of Complaint within the time allowed by law, or that the same be taken as confessed against him.
- (c) That this Honorable Court will direct the Register of this Court to hold a proper reference and ascertain on proper hearing what will be a reasonable amount for temporary alimony for your Complainant pending this suit and what will be the proper amount to be charged against the said Respondent as a fee for her Solicitor of Record to be paid to her said Attorney for the said Complainant, and also what would be the proper amount for permanent alimony to be paid to this Complainant, or to ascertain all matters required by this Court according to the pleadings in this said case.
- (d) That upon the final hearing of the pleadings and proof in this case that she will be awarded by this Honorable Court, the proper amount of permanent alimony for her support and maintenance out of the estate and earnings of the Respondent according to his ability to pay said alimony and according to their stations in life, and that he be required to pay temporary alimony to your Complainant during the time pending the continuation of this litigation.
- (e) That upon the final hearing of the pleadings and proof in this cause, that your Honor will grant unto your Complainant, an absolute divorce for and on account of adultery, and that by the terms of said decree that she will be allowed to remarry should she desire to do so according to law and the rules of this Honorable Court.

(f) That if your Complainant is in any wise mistaken in the special relief herein prayed for or the general relief herein prayed for, that this Honorable Court will grant unto her such other, further, different and general relief as the facts of her case may seem to warrant and as to this Honorable Court may seem meet and proper in the premises.

Your Complainant in duty bound will ever pray, etc.

*A. F. Sutter*  
Solicitor for Complainant

1300

Mildred W. Cole, RECORDED

Complainant

Vs.

Howard T. Cole,

Respondent

In the Circuit Court of  
Baldwin County, Alabama  
In Equity

Bill of Complaint

1300

Filed in Office this the 16<sup>th</sup>  
day of March, 1945.



Register

Mildred W. Cole  
Complainant  
Vs.  
Howard T. Cole  
Respondent

In the Circuit Court of  
Baldwin County, Alabama  
In Equity

To the Honorable F. W. Hare, Presiding Judge of the Circuit Court  
of Baldwin County, Alabama, in Equity:

Now Comes, Mildred W. Cole, Complainant in the above  
styled cause by her Solicitor, A. L. Patterson, and respectfully  
moves this Honorable Court that the above cause be dismissed  
out of this Court without prejudice to this Complainant and that  
Complainant be taxed with the costs accrued in said cause.

  
Solicitor for Complainant

No. 1300

Mildred W. Cole

Complainant

Vs.

Howard T. Cole

Respondent

In the Circuit Court of  
Baldwin County, Alabama

In Equity

Motion to Dismiss

Filed in this office this the  
18 day of October, 1946

P. S. Luck  
Register  
*P. S. Luck*  
S. R.

*Copy  
in  
Minutes*

IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY

REGISTER

HOWARD T. COLE

COMPLAINANT

MILDRED W. COLE

A. L. PATTERSON  
ATTORNEY-AT-LAW  
209 PHENIX-GIRARD BANK BUILDING  
PHENIX CITY, ALA.  
October 10, 1946.

Honorable R. S. Duck,  
Register Circuit Court,  
Baldwin County,  
Bay Minette, Ala.

Re: Mildred W. Cole  
Vs.  
Howard T. Cole - No. 1300

Dear Mr. Duck:

We are enclosing herewith Motion to Dismiss case out of this Court in the above case. Will you please advise me the Court cost due in same, and I will mail you check at once to cover.

Very truly yours,

  
A. L. Patterson.

ALP:seh  
1 encl.

Mildred W. Cole,  
Complainant

Vs.

Howard T. Cole,  
Respondent

In the Circuit Court of  
Baldwin County, Alabama

In Equity

The Bill of Complaint filed by the Complainant against the Respondent in this cause alleges in paragraph 1 thereof that the Complainant is a bona fide resident citizen of Baldwin County, and that she has bona fide resided in the State of Alabama for more than one year next preceding the filing of said Bill of Complaint, and that she is over the age of 21 years, and that the Respondent is a non resident of the State of Alabama in the Active Military Service of the United States, and that he resides or is stationed at Wright Field, Dayton, Ohio, and his correct Post Office address is given, and he is alleged to be over 21 years of age.

Section 28, Title 34, Code of Alabama, 1940, which fixes the venue of suits for divorce, provides, in so far as the allegations of this Bill of Complaint are concerned, that bills for divorce may be filed in the Circuit Court of the County in which the parties resided when the separation occurred; but if the Defendant is a non resident, then in the Circuit Court of the County in which the other party to the marriage resides.

In paragraph 2 of the Bill, it is alleged that the Complainant and the Respondent were married to each other on or about the 15th day of March, 1935, and that they resided together as husband and wife and so held themselves out to the public and to their friends until the 5th day of June, 1944, when they separated as husband and wife, at which time they were both bona fide residents of Baldwin County, Alabama.

So under Section 28 of the Code, supra, the Bill of Complaint in this case, the Defendant being a non resident, had to be filed in Baldwin County, Alabama, that being the County where the parties resided when the separation is alleged to have occurred, and being also the County in which the Complainant (the other party to the marriage) resides.

Paragraph 4 of the Bill of Complaint alleges that the Respondent committed adultery with Margaret Dorothy Balinskas, alias Margaret Dorothy Balinskas Cole, on or about the date of the separation



between the Complainant and Respondent, that is to say on or about the 5th day of June, 1944, which date is alleged in paragraph 2 of the Bill of Complaint to have been the date of the separation. It is further alleged in said paragraph of said Bill that said acts of adultery committed by the Respondent were without connivance or condonation on the part of Complainant.

Adultery, uncondoned and unforgiven, is the ground upon which the Complainant alleges that she is entitled to have her marriage with the Respondent dissolved, and this ground of divorce is fully recognized and approved by the law of this State, and has been so regarded from the very beginning of the juris-prudence of this State.

The Respondent has filed a demurrer to the Bill of Complaint and in grounds 1, 2, 3, 4 and 5 thereof, he challenges the sufficiency of the allegations of the Bill of Complaint as to the marriage between Respondent and Complainant.

With respect to said demurrer, it may be observed that marriage is, under the law of this State, a contract between the parties. It makes no difference whether the marriage be entered into under ceremonial and statutory form, or entered into without ceremony or solemnization, other than by mutual agreement and consent followed by cohabitation. In either event, it is a marriage. *Hamlet v Hamlet*, 4 So. 2d 901, 902; *Rogers v McCluskey*, 225 Ala. 148, 142 So. 526.

It makes no difference where the marriage occurred because it is well recognized that the validity of a marriage is governed by the law of the place where the marriage is contracted, and if the marriage is valid where contracted, then generally it is valid everywhere, and conversely, if invalid where contracted, it will be held invalid wherever its status is attacked. *Smith v Goldsmith*, 223 Ala. 155; 134 So. 651.

The Bill of Complaint alleges in paragraph 2, that the Complainant and the Respondent were married to each other on or about the 15th day of March, 1935. This allegation is all that was necessary and is entirely sufficient. (See the case of *Exparte McLendon*, 195 So. 733, 735, where the allegation was that the Complainant and Respondent were intermarried).

The burden of proof in this case is and will be upon the

Complainant to establish by the testimony that the Complainant and the Respondent were married to each other as is alleged in the Bill of Complaint. In other words, the Complainant will have to show a valid marriage between her and the Respondent, at the place where contracted, and this burden goes to the capacity of the parties to contract the marriage. The foregoing is, as the Complainant believes, a sufficient answer to the Respondent's 1st, 2nd, 3rd, 4th and 5th grounds of demurrer.

The 6th, 7th and 8th grounds of demurrer are directed to that portion of paragraph 2 of the Bill of Complaint which alleges that the Complainant and Respondent -- "continued to reside together as husband and wife and hold themselves out to the public and their friends as husband and wife until on or about the 5th day of June, 1944, when they separated as husband and wife."

The demurrer challenges said allegation as being a conclusion of the Pleader; because said allegation does not aver whether the Complainant left the Respondent or the Respondent left the Complainant, or whether the separation was mutually agreed upon; and further that it is not alleged who caused such separation.

It is very clear that the allegations of said paragraph of the Bill of Complaint are sufficient to show a separation between the parties on or about the 5th day of June, 1944, which has been continuous in its nature and has resulted in a discontinuance of the marital relationship.

It is further shown by paragraph 4 of the Bill of Complaint that the separation between the husband and wife was due to the adultery of the husband with Margaret Dorothy Balinskas on or about the date of said separation. So the Complainant respectfully submits that there is nothing of real or substantial merit in the 6th, 7th and 8th grounds of said demurrer.

The 9th, 10th, 11th, 12th, 13th and 14th grounds of demurrer are directed to paragraph 3 of the Bill of Complaint, the allegations of which paragraph are directed wholly to the reasons why Complainant alleges that she is entitled to alimony, both temporary and permanent, she, according to the allegations of said paragraph being compelled to work for a living.

As to temporary alimony, Section 30, Title 34, of the Code

of Alabama, 1940, provides, in substance, that while a suit for a divorce is pending, the Court may make an allowance for the support of the wife out of the estate of the husband, suitable to his estate and the condition in life of the parties, for a period of time not longer than necessary for the prosecution of her divorce bill. Said section is also authority for the imposition of reasonable Attorney's fees in favor of the wife to be paid by the husband.

The allegations in paragraph 3 of the Bill of Complaint are sufficient to show and they very distinctly disclose the condition in life of the wife and that she has no separate estate, but is dependent upon her own earnings for maintenance and support, while her husband is an Officer of high rank in the United States Army. It therefore appears that the 9th, 10th, 11th, 12th, 13th and 14th grounds of demurrer are without substantial basis and are merely frivolous.

In paragraph 4 of the Bill of Complaint, the Complainant charges that the Respondent committed adultery with Margaret Dorothy Balinskas, alias Margaret Dorothy Balinskas Cole, on or about the date of the separation of the husband and wife, (on or about the 5th day of June, 1944, Paragraph 2 of the Bill of Complaint), and that said adultery on the part of the husband was without connivance on the part of the Complainant, and that same had not been condoned.

The allegation of this paragraph of the Bill of Complaint are attacked by the demurrer in grounds 15 to 20 thereof. It is alleged in the 18th ground of said demurrer that:

"For aught appearing from this allegation, the Respondent was married to the other party at the time of the alleged adultery."

It is too obvious for serious discussion that if the Respondent was lawfully married to Margaret Dorothy Balinskas, alias Margaret Dorothy Balinskas Cole, at the time the Respondent is charged to have had sexual relationship with her, then said relationship was not adultery but under those conditions said relationship would have been entirely lawful and proper.

The 4th paragraph of the Bill of Complaint charges directly, concisely and distinctly the ground for divorce upon which the Bill of

Complaint in this case is predicated. That ground is the uncondoned and unforgiven adultery of the husband. Said paragraph advises the husband in no unmistakable terms of the ground of divorce upon which the Complaint in this cause relies. It informs him without any equivocation the identical woman with whom he is charged with having committed adultery. The burden of proof will be upon the wife, the Complainant in this cause, to establish her said charge. The Complainant therefore submits to the Court her conclusion and observation that there is no merit in the 15th, 16th, 17th, 18th, 19th and 20th grounds of demurrer.

Paragraph 5 of the Bill of Complaint is in the following words:

"Your Complainant would further show that the said Respondent, Howard T. Cole is an able bodied man and is now in the Active Military Service as a Lieutenant Colonel, and that he has other business and financial connections, and that he has an income of more than five hundred dollars, (\$500.00) per month, and that he is well able to contribute to the support of your Complainant for her maintenance and for the payment of doctor bills, medicine, and other necessary expenses."

The 21st ground of demurrer complains for that the Respondent's alleged income of \$500.00 may be his gross income, while his net income may be much less.

The 22nd ground of demurrer complains because it is not averred whether or not said \$500.00 per month is Respondent's net income or gross income.

The 23rd ground of demurrer complains because paragraph 5 of said Bill of Complaint does not allege that the Respondent is not now supporting the Complainant in a manner to which she may be entitled.

A sufficient answer to these grounds of demurrer is that under the above quoted Section 30, Title 34, of the Code of Alabama, 1940, the allowance of temporary alimony and counsel fees is in the sound discretion of this Honorable Court, and must of course, be charged against the income or salary of the Respondent.

In the case of Thomas v Thomas, 233 Ala Ala. 416, 172 So. 282, 283, our Supreme Court declared that although the husband may have practically no estate, yet if he has an earning capacity, that capacity must be considered in determining what amount, if any, of alimony should be awarded to the wife out of said earnings, citing the case of Adams v Adams, 229 Ala. 588; 159 So. 80.

In the case of Smith v Smith, 10 So. 2d 664, our Supreme Court declared:

"This Court in Drew v Drew, 226 Ala. 43, 145 So. 495, in a suit for separate maintenance observed that good pleading would seem to suggest that if the husband owned property that fact should be averred in the bill, or that he otherwise has an income. And in Jones v Jones, 228 Ala. 178, 153 So. 203, in a similar suit, the old cases are cited to show that an allegation of "faculties" is necessary in a suit for permanent alimony, -- citing Lovett v Lovett, 11 Ala. 763, Lawrence v Lawrence, 141 Ala. 356, 37 So. 379, and Drew v Drew, supra.

But the averments in this respect need not be with great particularity or detail. The court will make due inquiry and ascertain these details. See 17 Amer. Jur. 463, Section 588,

It is sufficient in a divorce suit also seeking permanent alimony to allege the general nature of defendant's property and where it is situated to sustain that aspect of it which seeks permanent alimony. It must not be overlooked also that earnings and earning capacity may be taken into consideration. Epps v Epps, 218 Ala. 667, 120 So. 150."

In the case of Drew v Drew, 226 Ala. 43, 145 So. 495, 496, a demurrer was interposed to the Bill of Complaint on the ground that the bill was defective in not averring that the Respondent has an estate, out of which the Court could grant the allowance. In that case, our Supreme Court very clearly points out that the salary of the husband is a source of income out of which the maintenance and support of the wife should be paid. The cases of Murray v Murray, 84 Ala. 363, 4 So. 239, 240; Gibson v Gibson, 203 Ala. 466, 83 So. 478, 479; Exparte Whitehead, 179 Ala. 652, 60 So. 924, are cited, approved and quoted from all sustaining the proposition that the salary of the husband is a sufficient source of income to justify the court in taxing him with the support of the wife. The Drew case after declaring the rule goes further and shows the justice underlying it in the following observation:

"Were the rule otherwise, a man with a salary of a thousand dollars per month, but otherwise without property, might escape the payment of alimony, and throw upon society the burden of caring for and supporting his abandoned wife. To so hold would violate the plainest principles of justice and equity, and would amount to an open confession that the law and the courts of the state could and would afford no relief to the wife.

The bill does not aver that the husband owns property; yet it does show that he has not only earning capacity, but that he actually earns \$170 per month. The bill was not subject to any ground of demurrer directed to it, and here argued."

What has been said above with respect to the imposition of temporary alimony against the Respondent and in favor of the Complainant also

applies, of course, to Attorney's fees about which complaint is made in the 24th and 25th grounds of said demurrer. An Attorney's fee in favor of the wife and against the husband is in the nature of alimony pendente lite. The decree is for her and not for the Solicitor. Finally it is submitted that the entire question of maintenance and support pending the suit and of permanent alimony in favor of the wife, are all to be decreed by the Court, according to the Court's sound judicial discretion and not otherwise. It will be incumbent upon the wife to establish in the testimony to be submitted in support of her Bill of Complaint, that the Complainant and Respondent were married to each other and that they lived together as husband and wife following their marriage, and that they were so living together in Baldwin County, Alabama, at the time of the alleged separation, and that the husband committed adultery as charged in the Bill of Complaint, and that the Complainant is entitled to maintenance and support by the Respondent, and that the Respondent is able-bodied and that he has an income, or salary, out of which alimony can be paid, and when the wife discharges the burden of proof she will be entitled to a divorce and the award of permanent alimony.

Pending the final determination of this case, Complainant is entitled to temporary alimony, or to maintenance and support including her Solicitor's fee if she can prima facie establish to the satisfaction of the Court, the marriage between herself and the Respondent, and that they are not now living together as husband and wife, and that she is without any estate and that the husband is able, out of his earnings or salary, to provide her with reasonable upkeep. In that event, then in the sound discretion of the Court, a sufficient sum of temporary alimony to enable Complainant to live according to her station in life and to prosecute this suit to its termination, to be charged against the salary of the husband should be awarded to her. The allegations of the Bill of Complaint justify the relief she seeks.


The demurrers to the Bill of Complaint being without substantial merit, should be overruled and denied.

Respectfully submitted.

  
Solicitor for Complainant

I hereby certify that I have this day delivered a copy  
of this brief to Hon. John Chason of Counsel for the Respondent.

Witness my hand this the 29th day of June, 1945.

  
Solicitor for Complainant

100  
not Recd

Mildred W. Cole,  
Complainant  
Vs.  
Howard T. Cole,  
Respondent

In the Circuit Court of  
Baldwin County, Alabama  
In Equity

Brief and Argument of A. L.  
Patterson, Solicitor for the  
Complainant, Upon Submission of  
the Demurrers.

RECEIVED FOR COMMISSIONER

THIS A RECEIVED FOR THE COMMISSIONER OF THE BALDWIN COUNTY ALABAMA  
RECEIVED FOR THE COMMISSIONER OF THE BALDWIN COUNTY ALABAMA



Mildred W. Cole

Complainant

Vs.

Howard T. Cole,

Respondent

In the Circuit Court of  
Baldwin County, Alabama

In Equity

BRIEF AND ARGUMENT ON DEMURRER BY RESPONDENT.

The first, second, third, fourth and fifth grounds of demurrer complains of the averment of the Complainant that she and the respondent were married to each other on or about the 15th day of March, 1935. The basis for this complaint is that she sets up in the same paragraph, which is paragraph "2" of the Bill of Complaint, elements of actions on the part of the parties that would lead the mind to believe that said alleged marriage was what is usually termed a common law marriage, that is, an agreement to enter into the marriage state by man and woman and followed by co-habitation between parties, and if the marriage was what is known as a common law marriage, then it should be made known as to the state in which said common law marriage was attempted to be entered into as while the common law rule in regard to marriages prevails in a great many of our states yet there is quite a few jurisdictions in the United States where it does not prevail. For instance, Arkansas, Maryland, Massachusetts, Vermont, California, Illinois, Kentucky, Louisiana, Missouri, South Carolina, Virginia, Washington and probably other states. Her allegations as to the marriage are that they were married to each other in 1935, but it does not state where they were married and, of course if this was a common law marriage that she is attempting to allege construing the pleading as the law requires against her, then the presumption would be that she attempted to enter into this marital state in one of the states where common law marriages are not recognized. However, our recollections are that your Honor stated at the time our Mr. Chasson argued this case that you would require proof of a statutory marriage, and if so this would eliminate the effect of these several grounds of demurrer.

The several grounds of demurrer that we desire to call your Honor's attention to are grounds 9, 10, 11 and 12, which deal with the third paragraph of the Bill of Complaint in which the complainant sets up cruelty to her upon the part of the respondent,

that said complaint fails to state the acts of cruelty whether mentally or by physical force. Our statute on divorces, which is title 34, Section 22, states that a wife is entitled to a decree of divorce when the husband has committed actual violence on her person attended with danger to life or health, or when from his conduct there is reasonable apprehension of such violence. The allegations as to cruelty on the part of the complainant are but conclusions and it can readily be seen that the same falls far short of the necessary averments as to this ground of divorce.

"Either physical violence endangering life or health is necessary. A divorce on the ground of cruelty is justified only when physical violence endangering life or health has occurred or is reasonably apprehended. Murray vs. Murray, 238 Alabama, 158." While it is true that in complainant's prayer for relief she asked for a divorce on account of adultery, yet this prayer carries the general prayer, that is further different and general relief as the facts of her case may seem to warrant, and on proof of her cruelty charge the general prayer would suffice. However, in the very recent case of Benners vs. First National Bank of Birmingham, 22 Southern, Second Series, 438, the Court speaking through Justice Stakely said, "the nature of a bill in equity is not determined by its prayer but the substance of the allegations, when there is a prayer for general relief. State vs. Lewis Pizitz Dry Goods Co., 243 Alabama, 629," so if the allegations as to cruelty were not questioned by demurrer the Court could grant relief under the general prayer.

The 16th, 17th, 18th, 19th and 20th grounds of demurrer deals with the fourth paragraph of the bill of complaint which appears to be loosely drawn and which in construing the pleading strictly against the pleader where it says that the act of adultery with the woman mentioned and which occurred about the date of said separation, about is relative and could mean any time close at hand, and it could mean that said action complained of could have been committed five days prior to the date of the separation and from the allegations of this paragraph construing the pleading as the rules require, the presumption is that the complainant was conscious of said wrongful act at the time it occurred and even in the face of this, continued to live with the respondent and thereby condoned his act in the premises. Title 34, Section 26, Code, clearly speaks that where there has been a

condonation of adultery by the admission of the offending party to conjugal embraces after knowledge of the commission of the crime that a decree for divorce should not be granted on that ground, that certainly the other acts complained of giving the pleading the proper interpretation were well known to the complainant and in the light of such knowledge she continued to live with the respondent as his wife.

The 13th, 14th, 24th and 25th grounds of demurrer deals with paragraphs five and six of the Bill of Complaint wherein complainant seeks alimony and Solicitor's fees. Under the law a wife in necessitous circumstances when acting in good faith in the sound discretion of the Court is entitled to alimony and Solicitor's fee, but it is necessary that the averments of her complaint should show this situation clearly. On examination of paragraphs five it will be seen that she mentions that the respondent is receiving more than \$500.00 per month, but does not say whether this is net or gross proceeds but says that he is well able to contribute to her support and pay her doctor bills etc. Nothing is said in this paragraph relative to her financial ability to meet all of these demands and consequently, so far as this paragraph is concerned it will be construed against her as the law directs to the effect that she has ample funds or property on hand to take care of the situation. In paragraph six she states that she has employed A. L. Patterson, as her attorney to represent her, which was necessary and that she has agreed with him to pay a reasonable fee for his services and then she avers that she is not able to pay for said services out of her present meager earnings but from aught appearing she has ample moneys in the bank that has flown to her by way of inheritance or otherwise, than her meager earnings to pay the said attorney a reasonable fee for his services. Applying to the averments in said paragraphs the universal rule that all pleading is construed strictly against the pleader if she did not have other moneys and property which came into her hands other than by way of a meager salary, she should so have averred and we most respectfully contend that the demurrer to the complaint should be sustained.

Respectfully submitted,

Albert Thomas  
Solicitors for Respondent

I hereby certify that I have forwarded a copy of the foregoing brief and argument to Mr. A. L. Patterson, attorney-at-law, Phenix City, Alabama, by U. S. mail, postage pre-paid.

Dated this 19th day of July, 1945.

*Ch. H. East*

Solicitor for Respondent

*Ch. H. East*  
*July 19, 1945*

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Brief for  
Respondent  
Demures

Mildred W. Cole,  
Complainant

Vs.

Howard T. Cole,  
Respondent

In the Circuit Court of  
Baldwin County, Alabama

In Equity

Now comes Mildred W. Cole, Complainant in the above cause, and in response to and in compliance with the decree of this Honorable Court pronounced and caused to be entered on the 27th day of July, 1945, upon Respondent's demurrer to her Bill of Complaint, and amends her Bill of Complaint filed in said cause by substituting therefor, her Amended Bill of Complaint in words and figures as follows:

Mildred W. Cole,  
Complainant

Vs.

Howard T. Cole,  
Respondent

In the Circuit Court of  
Baldwin County, Alabama

In Equity

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

Comes Mildred W. Cole, Complainant in this cause, and respectfully shows unto your Honor as follows:

1.

Mildred W. Cole, Complainant, is over the age of 21 years, and is a bona fide resident of Baldwin County, Alabama, and has bona fide resided in the State of Alabama, for more than one year next before the filing of this her Amended Bill of Complaint.

Howard T. Cole, Respondent to this Amended Bill of Complaint, is over the age of 21 years, and is a non resident of the State of Alabama, and is in the Active Military Service of the United States of America, and is now stationed at Wright Field, in the City of Dayton, State of Ohio, and his correct Post Office address is: Lieutenant Colonel Howard T. Cole, Area "A", Wright Field, Dayton, Ohio.

2.

That Mildred W. Cole, this Complainant, and the said Howard T. Cole were lawfully married to each other, on or about the 15th day of March, 1935, in the City of Atlanta, State of Georgia, and that following their said marriage, they resided and cohabited together as husband and wife until on or about the 5th day of June, 1944, when they separated,

at which time they were both residing in Baldwin County, Alabama, and that their said separation has been continuous since that time.

This Complainant avers and charges that on the 5th day of June, 1944, the said Howard T. Cole, Respondent, voluntarily abandoned the bed and board of this Complainant in Baldwin County, Alabama, without fault and without connivance on the part of this Complainant, and that since the 5th day of June, 1944, the said Howard T. Cole, has not cohabited with this Complainant, and this Complainant now charges the said Howard T. Cole with voluntary abandonment from the bed and board of this Complainant for more than one year next preceding the Amendment of this Bill of Complaint.

3.

This Complainant further avers that on or about the 5th day of June, 1944, Howard T. Cole, Respondent in this cause, committed adultery with a woman named Margaret Dorothy Balinskas, and that said act of adultery was committed by the said Howard T. Cole without any connivance or agreement on the part of this Complainant, and that said act of adultery has not been condoned or forgiven by her.

4.

This Complainant further avers that the said Howard T. Cole, Respondent, is an able bodied man and that he is now in the Active Military Service of the United States of America as a Lieutenant Colonel from which he derives an income of to-wit: \$500.00 per month, and that he also owns personal property of appreciable value, the exact amount of which this Complainant does not know.

This Complainant further avers that the said Howard T. Cole is well able to pay alimony to this Complainant, and that he is financially able to provide this Complainant with reasonable maintenance and support according to her condition in life, and also is able to pay her a reasonable sum for the compensation of her Solicitor in this cause, and other reasonable and necessary expenses incident to the prosecution of this suit.

5.

This Complainant further avers that she has no estate of her own; that she has no property, of any kind, out of which she can support herself; that she is without means and financial ability; that she is

compelled by necessity to work for a living; that she is in poor health and that her physical condition is growing worse.

This Complainant further avers that she is entitled, pending this suit for a divorce, to have this Honorable Court make an allowance to her for the maintenance and support of this Complainant, out of the estate of her husband, the said Howard T. Cole, suitable to his estate and the condition in life of this Complainant and of the said Howard T. Cole, for such reasonable length of time as may be necessary for the prosecution of this her Bill of Complaint.

And this Complainant further avers that the said Howard T. Cole, the Respondent, does not pay, or contribute any sum whatsoever to this Complainant for her maintenance and support.

6.

This Complainant further avers that she has employed A. L. Patterson, Attorney at Law, who resides at Phenix City, Russell County, Alabama, to represent her as her Solicitor of Record in this cause. And she avers that it was necessary for her to employ counsel to represent her and to file this suit and to advise her and to prosecute this proceeding to an orderly conclusion in this Honorable Court.

This Complainant further avers that she has promised to pay the said A. L. Patterson a reasonable Solicitor's fee for his said services, which said fee this Complainant avers she is not financially able to pay, and Complainant avers that she is equitably entitled to have and receive from the said Respondent whatever sum this Court may deem just and equitable, to be awarded to her by this Honorable Court for the payment of compensation to her said Attorney for services already rendered and hereafter to be rendered in this cause.

7.

This Complainant further avers that it is proper and necessary for this Honorable Court to order and decree that the Register of this Honorable Court hold a reference and ascertain from said reference,

(1) The financial condition and ability of the said Howard T. Cole, Respondent, to pay an allowance for the support of this Complainant, suitable to his estate and the condition in life of the parties to this cause, for such reasonable time as may be necessary for the prosecution of this cause; and,



(2) What reasonable sum is fair, just and equitable to be paid to this Complainant as a reasonable Solicitor's fee for the compensation of Complainant's Solicitor in this cause; and,

(3) What reasonable sum should be paid by the said Howard T. Cole, Respondent, to this Complainant as permanent alimony.

THE PREMISES CONSIDERED, this Complainant prays that the said Howard T. Cole, be made a party Respondent to this Amended Bill of Complaint, as provided by law and the rules of practice that are of force and effect in this Honorable Court.

This Complainant further prays that this Honorable Court do authorize and direct the Register of this Court to hold a reference and to ascertain, on a hearing under said reference, and upon proper proof, what amount will be reasonable and proper to be awarded to this Complainant for her support out of the estate of the husband, suitable to his estate and the condition in life of the parties, for such reasonable period of time as is reasonably necessary for the prosecution of her Bill for Divorce, and what will be a reasonable and proper amount to be awarded to her for compensation to be paid by her to her Solicitor of Record, all to be charged under said reference against the estate of the said Howard T. Cole, said Respondent, and further what proper and reasonable sum should be paid to her by said Respondent for her permanent alimony.

And this Complainant further prays that upon the holding of said reference and the report thereof to this Court by the Register of this Court, that this Court do command and direct the said Howard T. Cole, Respondent in this cause, to immediately pay over to this Complainant such reasonable sum as this Honorable Court may award to her as an allowance pending this suit including a reasonable Solicitor's fee to be paid to her for compensating her Solicitor of Record for his services in this cause.

This Complainant further prays that upon the final hearing of this cause, your Honor will grant unto this Complainant a decree of divorce, dissolving and annulling the bonds of matrimony now existing between this Complainant and the said Howard T. Cole, Respondent, and that under said decree, your Honor will grant unto this Complainant, such other, further, and general relief as may be necessary, including


the right of this Respondent to marry again, if she should so desire, after the expiration of sixty days from the date of said final decree, and that your Honor do award to her permanent alimony in such sum as the report of the Register of this Court, under the reference hereinabove prayed for, may appear to be just, equitable, reasonable and proper, and that the same be charged against the estate of the said Howard T. Cole, Respondent, and that he be commanded and directed by the terms of said decree to pay the same at such time, or times, as unto your Honor may seem meet and proper, and as the facts and circumstances of this Complainant's cause and of her condition in life may justify and demand.

If this Complainant is mistaken as to the relief herein specifically prayed for, then she prays for such other, further, different and general relief as unto your Honor may seem meet and proper.

  
Solicitor for Complainant

I, A. L. Patterson, Solicitor for the Complainant in the above and foregoing cause, do hereby certify that I have this day delivered a copy of the above and foregoing Amended Bill of Complaint to Messrs. Hybart & Chason, Solicitors of Record for the Respondent, and who represented him upon the submission of the Respondent's demurrers to the Original Bill of Complaint, by mailing a copy of said Amended Bill of Complaint addressed to them at Bay Minette, Baldwin County, Alabama, their correct Post Office address, postage prepaid.

Witness my hand this the 9th day of August, 1945.

  
Solicitor for Mildred W. Cole,  
Complainant.

Mildred W. Cole,

Complainant

Vs.

Howard T. Cole,

Respondent

In the Circuit Court of  
Baldwin County, Alabama

In Equity

Amended Bill of Complaint

Filed in Office this the 11 day  
of August, 1945.

Register

Complainant.  
Solicitor for Mildred W. Cole.  
*[Signature]*

Witness my hand this the 11 day of August, 1945.

their correct Post Office address. Beatae Brasid.  
Complainant advised to them at Mt. Winette, Baldwin County, Alabama.  
Original Bill of Complaint, by me, this copy of said Amended Bill of  
referenced him from the affidavit of the Respondent; and who  
Robert S. Pearson, Solicitor of the Respondent, and who  
s copy of the above and foregoing Amended Bill of Complaint to Messrs.  
and foregoing cases; do hereby certify that I have this day delivered  
I, A. D. Patterson, Solicitor for the Complainant in the above

and that the same be charged against the estate of the said Howard T. Cole, provided for, may appear to be just, equitable, reasonable and proper; the report of the Register of this Court, under the reference hereinabove and that your Honor do award to the Respondent attorney in such sum as after the expiration of sixty days from the date of said final decree, the right of said Respondent to marry again, it she should so desire.

MILDRED W. COLE	)	
Complainant	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
HOWARD T. COLE,	)	
Respondent	)	IN EQUITY.

Comes the Respondent in the above styled cause and demurs to that phase of the Bill of Complaint filed in said cause as set out in paragraph 2 of said Complaint in which the Complainant alleges that the Complainant and Respondent were married to each other on or about the fifteenth day of March, nineteen hundred thirty-five, and as grounds therefor says:-

1. That it is not alleged that the Complainant and Respondent were legally married to each other at the time mentioned.

2. That it is not alleged whether this marriage ceremony was performed according to the Statutes of the State where the alleged marriage took place or whether it was a Common Law marriage.

3. That it is not alleged where said marriage occurred.

4. That if this was a Common Law marriage, that it is not alleged that such marriage was consummated as required in a Common Law marriage.

5. That if this was a Common Law marriage, it is not alleged that the Complainant and the Respondent were capable of entering into such a marriage.

As to that phase of the Bill of Complaint as set forth in paragraph 2 of said Complaint which alleges that the Complainant and the Respondent continued to reside together as husband and wife and hold themselves out to the public and their friends as husband and wife until on or about the 5th day of June, 1944 when they separated as husband and wife, the Respondent demurs and assigns the following grounds viz:-

6. That this is a conclusion of the Pleader.

7. That it is not alleged whether the Complainant left the Respondent or the Respondent left the Complainant or the separation was mutually agreed upon.

8. That it is not alleged who caused such separation.

As to that phase of the Bill of Complaint as set out in paragraph 3 which alleges that the Complainant is in very poor health and is under the continuous care of Doctors and that she has had to undergo operations and that her nerves are in bad condition and that her condition of health has been caused by the violent and cruel treatment to her on the part of said Respondent and that on account of such condition she is finding it very difficult to work and earn a living, the Respondent demurs and assigns as grounds therefor the following:-

9. That this is a conclusion of the Pleader.

10. That she fails to aver in what manner her condition of health was caused by the violent and cruel treatment to her on the part of said Respondent.

11. That she fails to aver what such violent and cruel treatment consisted of.

12. That she fails to aver that such violent and cruel treatment was the cause of their separation.

13. That she fails to aver that she does not have sufficient money or property for her own support including all such expenses.

14. That she fails to aver that it is necessary for the Respondent to support her.

As to that phase of the Bill of Complaint as set forth in paragraph 4 in which the Complainant avers that the Respondent did commit adultery with a person whose name she is informed is Margaret Dorothy Balinskas, alias Margaret Dorothy Balinskas Cole, on or about the date of said separation and at other times, and that said acts were committed without connivance on the part of the Complainant and have not been condoned, the Respondent demurs and assigns the following grounds therefor:-

15. That said allegation is a conclusion of the pleader.

16. That it is not alleged whether such acts of adultery were before or after the separation of the Complainant and the Respondent.

17. That it is not alleged that the Complainant knew of such acts of adultery at the time of the separation.

18. For aught appearing from this allegation the Respondent was married to the other party at the time of the alleged adultery.

19. That it is now alleged where these acts of adultery are supposed to have occurred.

20. That this allegation is vague and indefinite.

As to that phase of the Bill of Complaint as set forth in paragraph 5 which alleges that the Respondent has an income of more than \$500.00 per month and that he is well able to contribute to the support of the Complainant, the Respondent demurs and assigns the following grounds therefor:-

21. For aught appearing his income of \$500.00 per month may be his gross income and his net income may be much less.

22. That it is not alleged whether his income of \$500.00 per month is his net income or gross income.

23. That it is not alleged that the Respondent is not now supporting the Complainant in a manner to which she may be entitled.

As to that phase of the Bill of Complaint as set forth in paragraph 6 in which the Complainant alleges that she has employed A. L. Patterson, Attorney, to represent her in this suit and that she is not now able to pay for his services out of her meager present earnings the Respondent demurs and assigns his grounds therefor:-

24. That it is not alleged that she does not have sufficient money or income from property owned by her out of which she could pay such fees.

25. That it is not alleged that she is dependant on her salary alone.

*Wendell, Luge, Smith, & Johnson*

*Herbert Johnson*  
Solicitors for Respondent.

MILDRED W. COLE ) IN THE CIRCUIT COURT OF  
Complainant )  
VS. ) BALDWIN COUNTY, ALABAMA  
HOWARD T. COLE, ) IN EQUITY.  
Respondent. )

TO MILDRED W. COLE, THE COMPLAINANT IN THE ABOVE STYLED CAUSE OR  
A. L. PATTERSON AS HER SOLICITOR OF RECORD.

You are hereby notified that Howard T. Cole, the Respondent in the above styled cause, acting by and through Armbrecht, Inge, Twitty and Jackson and Hybart & Chason, as his solicitors of record, in accordance with a rule of the court in which this cause is pending, has set the demurrer filed by him in said cause on May 17, 1945, down for hearing before F. W. Hare as Judge of the Circuit Court of Baldwin County, Alabama, In Equity, in the office of said Judge in Monroeville, Alabama, which hearing is to be had on June 29, 1945 at 10:30 o'clock A.M.

You are further notified that said demurrer will be argued orally before said Judge at that time and place.

*Armbrecht, Inge, Twitty & Jackson*  
Solicitors for Respondent.

*Hybart & Chason*  
Solicitors for Respondent.

Mildred W. Cole,  
Complainant

Vs.

Howard T. Cole,  
Respondent

In the Circuit Court of  
Baldwin County, Alabama

In Equity

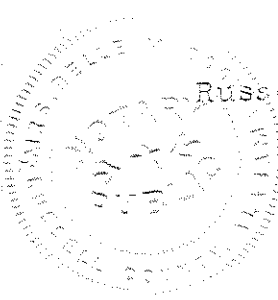
Before the undersigned authority, ~~the Register of the~~ *Notary Public*  
~~Circuit Court~~ of Russell County, Alabama, personally appeared  
A. I. Patterson, Solicitor of Record for the Complainant in the above  
cause, who after being duly sworn deposes and says that he is the  
Solicitor of Record for the Complainant and as such Solicitor of  
Record, that he has the authority to make this affidavit, and that  
he has personal knowledge of the facts stated in said affidavit,  
and that all matters stated from personal knowledge are true and  
correct, and all matters stated from information and belief, that  
he verily believes the same to be true and correct, and that the said  
Respondent, Howard T. Cole is now a non-resident of the State of  
Alabama, and that he does not have any place of residence or Post Office  
address in the State of Alabama, and that he is now in the Active  
Military Service and that he is residing or is stationed at Wright  
Field, Dayton, Ohio, and that his Post Office address is: Lt. Col.  
Howard T. Cole, Area "A", Wright Field, Dayton, Ohio, and that he is  
a necessary party to this suit and that it is necessary to serve this  
Respondent by registered mail as required by law, and that this affi-  
davit is made for the purpose of securing service by registered mail,  
and that he is over 21 years of age.

*A. I. Patterson*

Solicitor for Complainant

Subscribed and sworn to before me at Phenix City,  
Russell County, Alabama, this the 13<sup>th</sup> day of March, 1945.

*Mrs. Belle Maddox*  
Register of Circuit Court,  
Russell County, Alabama.  
*Notary Public*





1300

Mildred W. Cole,

Complainant

Vs.

Howard T. Cole,

Respondent

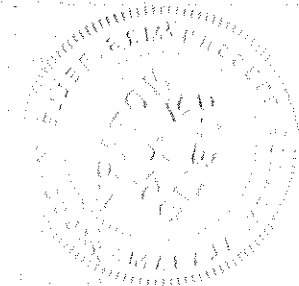
In the Circuit Court of  
Baldwin County, Alabama

In Equity

Affidavit of Non-Residence of  
Respondent And That He is Now  
In the Active Military Service.

Filed in Office this the 16<sup>th</sup>  
day of March, 1945.

*[Signature]*  
Register



*[Vertical stamp: REGISTERED FOR COURT SERVICE]*

*[Handwritten signature: Mildred W. Cole]*



Complainant is allowed thirty days to amend her bill if she so desires.

This July 27th., 1945.

J. W. Hare  
JUDGE

Boyer

Wm. H. Boyer

DO NOT REPLY TO THIS

Wm. H. Boyer

JW

Wm. H. Boyer

Mildred W. Cole

VS.

Howard T. Cole

*Handwritten signature*

Decree Sustaining demurrers  
to Bill of Complaint.

Filed July 30, 1945.

*Rebecca*

130C

OFFICE OF THE CLERK OF THE DISTRICT COURT OF THE DISTRICT OF COLUMBIA  
RECEIVED  
JUL 31 1945