

Names:

Cabaniss, S. D.

Moore,

Wheat, L. B. & S. E.

Places:

Huntsville, AL

Leavenworth, KS

Types:

envelope

legal correspondence

Dates:

Apr 29, 1886

CPB (3) 1886 1B12 (13)

#1260.45. Letter to Clerk of the Court
Nov 11. 1871. Both J. Page 65
decently ~~to~~ ~~the~~ ~~court~~
Letter to B. B. Moore C1

13 1/2 Moore wrote that I will send
to Clerk of the Court on 2nd of Feb 73
checks for about \$750. Each
Book K. page 135-C

#753.20 Case
See letter Book K. page 141 and for
letter of Feb 20. 1873.
Same Book page 145 for letter
of June 21/73
About letter to Borland Cashier
B. B. Moore - Note Book K. p. 135-C

1873 July 29. wrote Book K p. 177
Wrote B. B. Moore of receipt
made in Collins & my
hope of making settlement
by 10 Dec

1873. For Oct 28 Book K p. 193
Reply to a letter from B. B. Moore
in regard to bad conduct
of Jesse McCarty, Treasurer
Children of Parthena and
of them not having been
a valid marriage
- Ask Moore to become guardian
of Children or to have
one appointed

#300 - (dated July 9, 1874)
Letter to Borland Cashier Book L. 71-2
B. B. Moore B. L. p. 65- the letter
of date Dec 20 1873
of #200. dated 17 1877 - Copy letter of
date June 28 1877 to Clerk of the Court
Book L. p. 147 & letter to Clerk of the Court
Book L. page 147.

eM

Names:
Parthena

Borland, M. P.

McCarty, Jesse

Moore, B. B.

Types:
memo

Dates:
1873

CPS ③ 1886 1B12 (15)

1871 March 4 Book the 4th 36 - Moore
 wrote my reply to letter of B. B. Moore he comes
 Safely furnish Carolee with son
 Succession on land sold to her

1872 March 23 - Small check on acct of
 Precious Thomas as a loan used
 in Moore's property in use.

1873.

1878 July 4 1878, to W. B. Moore, owner
 of W. S. Gable's lot - March No. 354
 for this matter to settle of her
 share & necessity of ^{the property} ~~the property~~
 of the children. we are to
 get some clear good man
 to qualify - and marked
 this document referred to
 by Mr. Gable here.

To. Give I would not a short
 time make a further pay
 ment to Carolee
 possibly the next week

Names:

, Caroline

, Parthena

Moore, B. B.

Townsend, Freeman

Types:

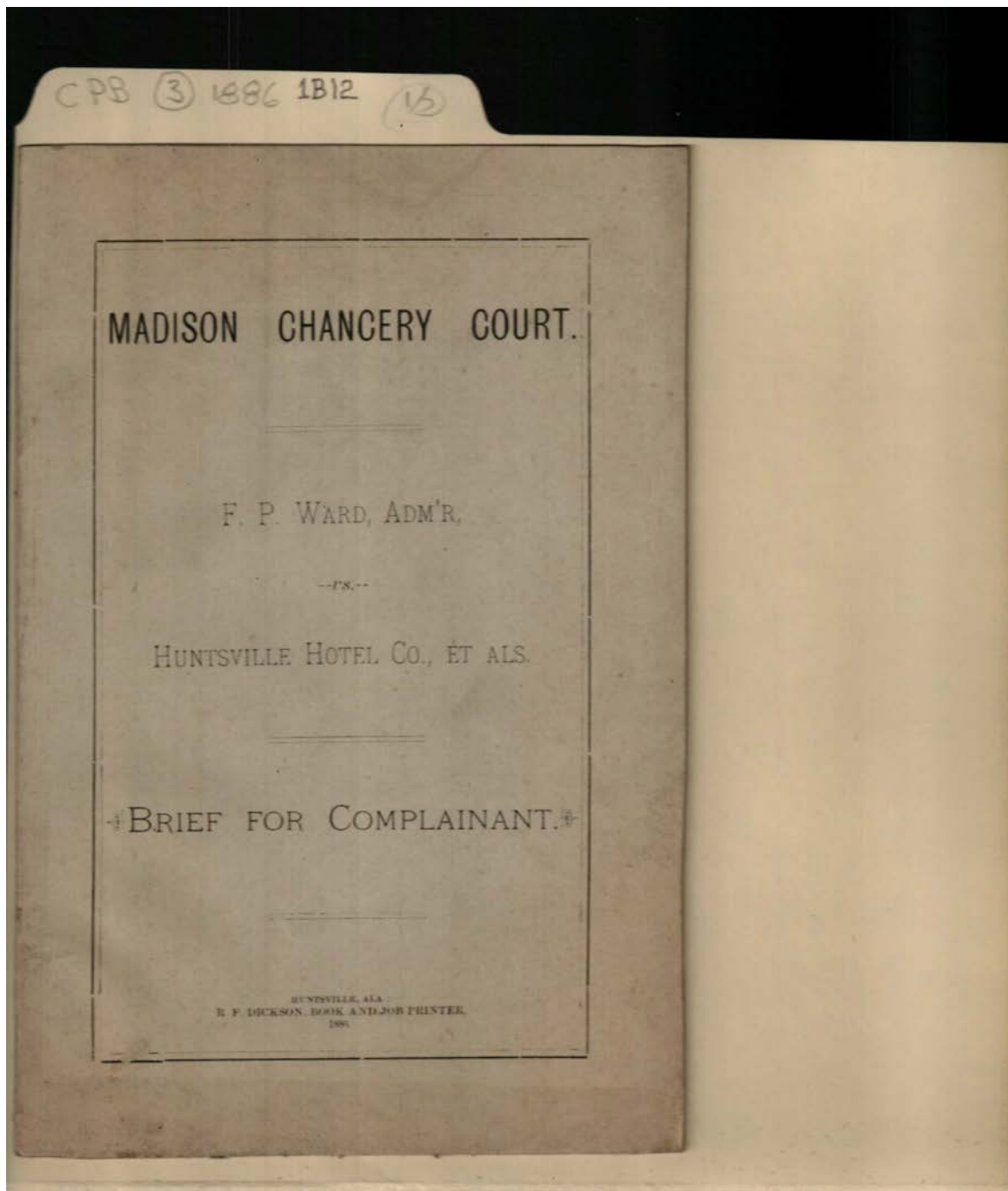
memo

Dates:

Feb 4, 1878

Mar 23, 1872

Mar 9, 1872



Names:

Huntsville Hotel Co.

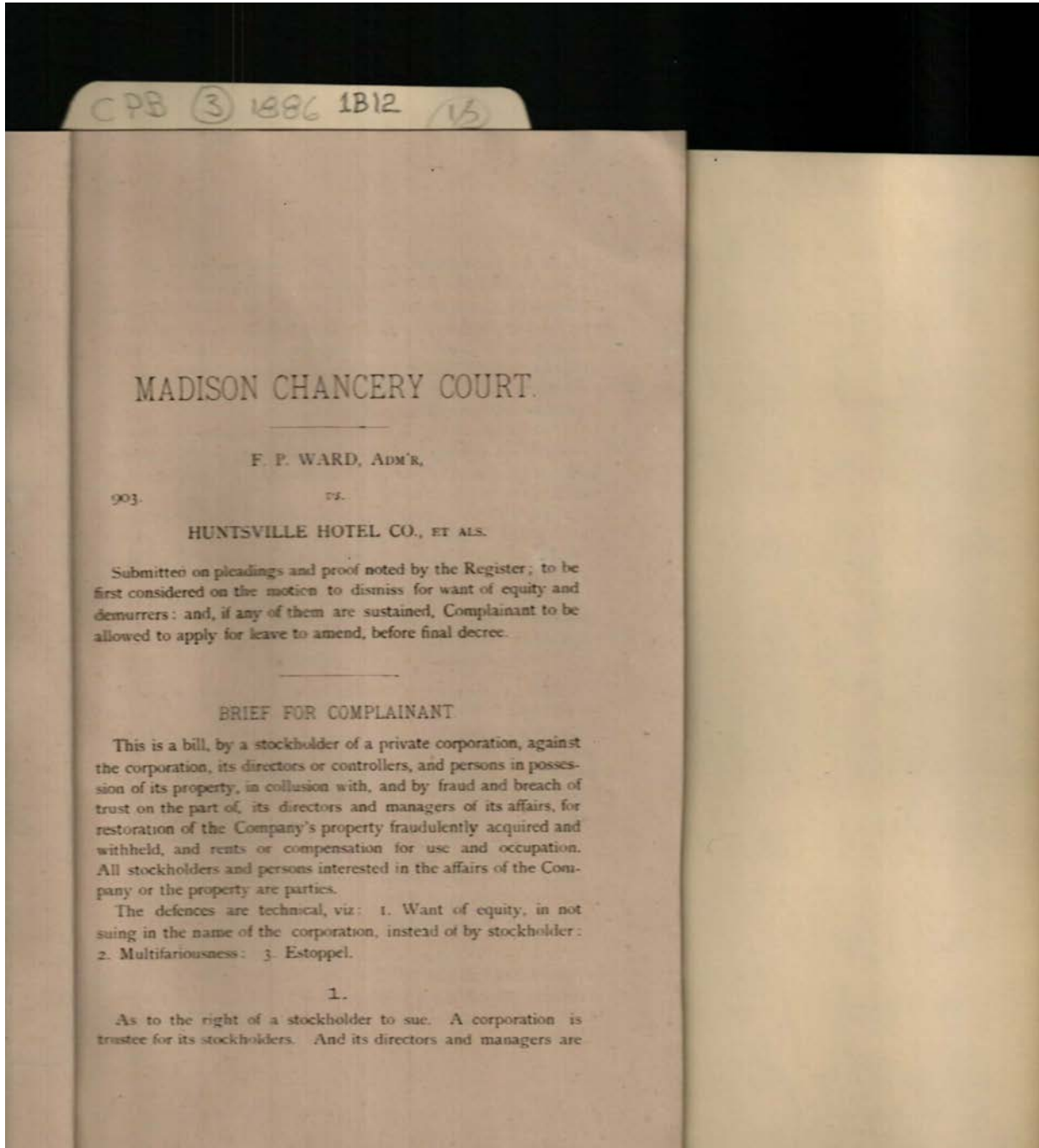
Ward, F. P.

Places:

Madison Co., AL

Types:

chancery court



Names:

Huntsville Hotel Co.

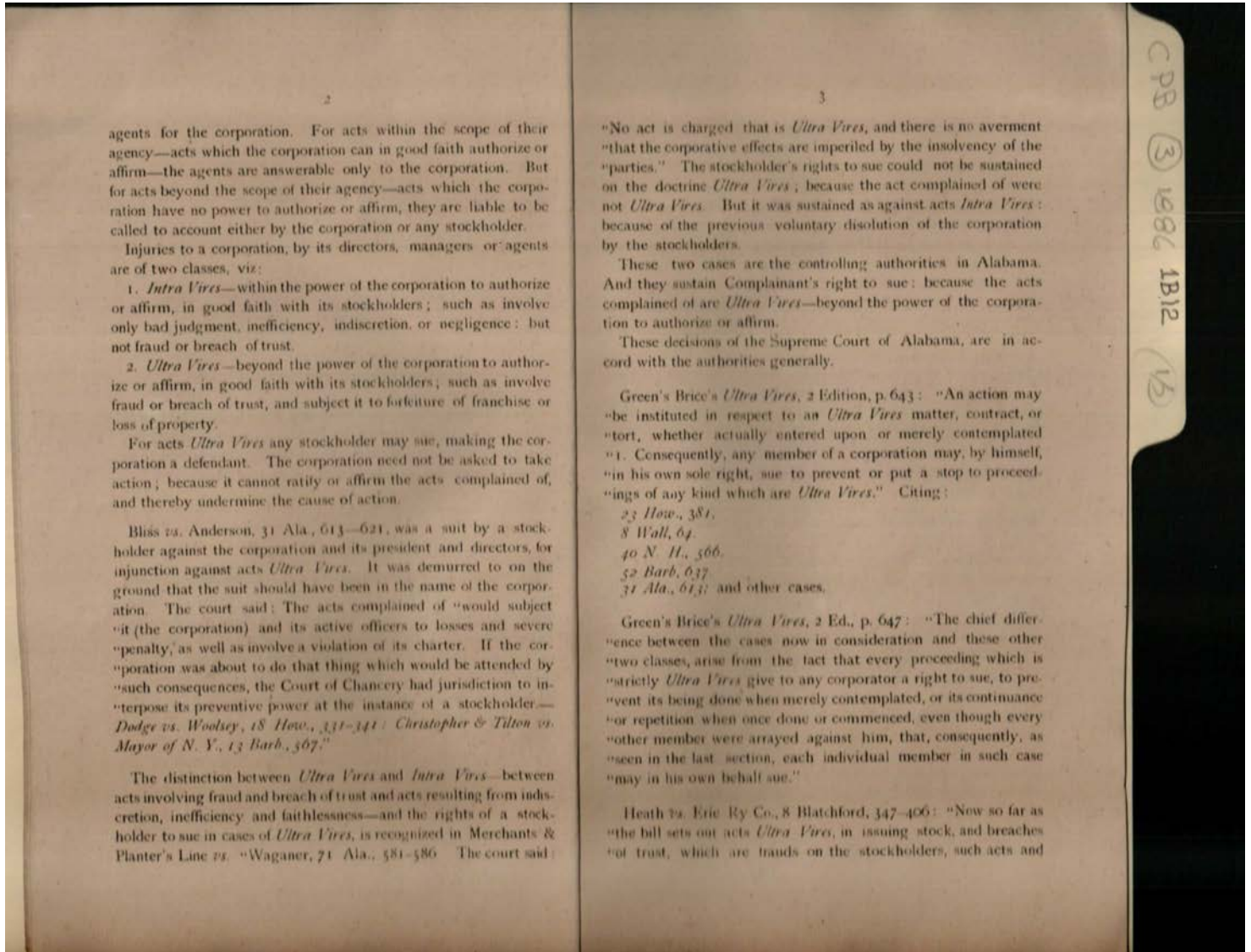
Ward, F. P.

Places:

Madison Co., AL

Types:

chancery court



Names:

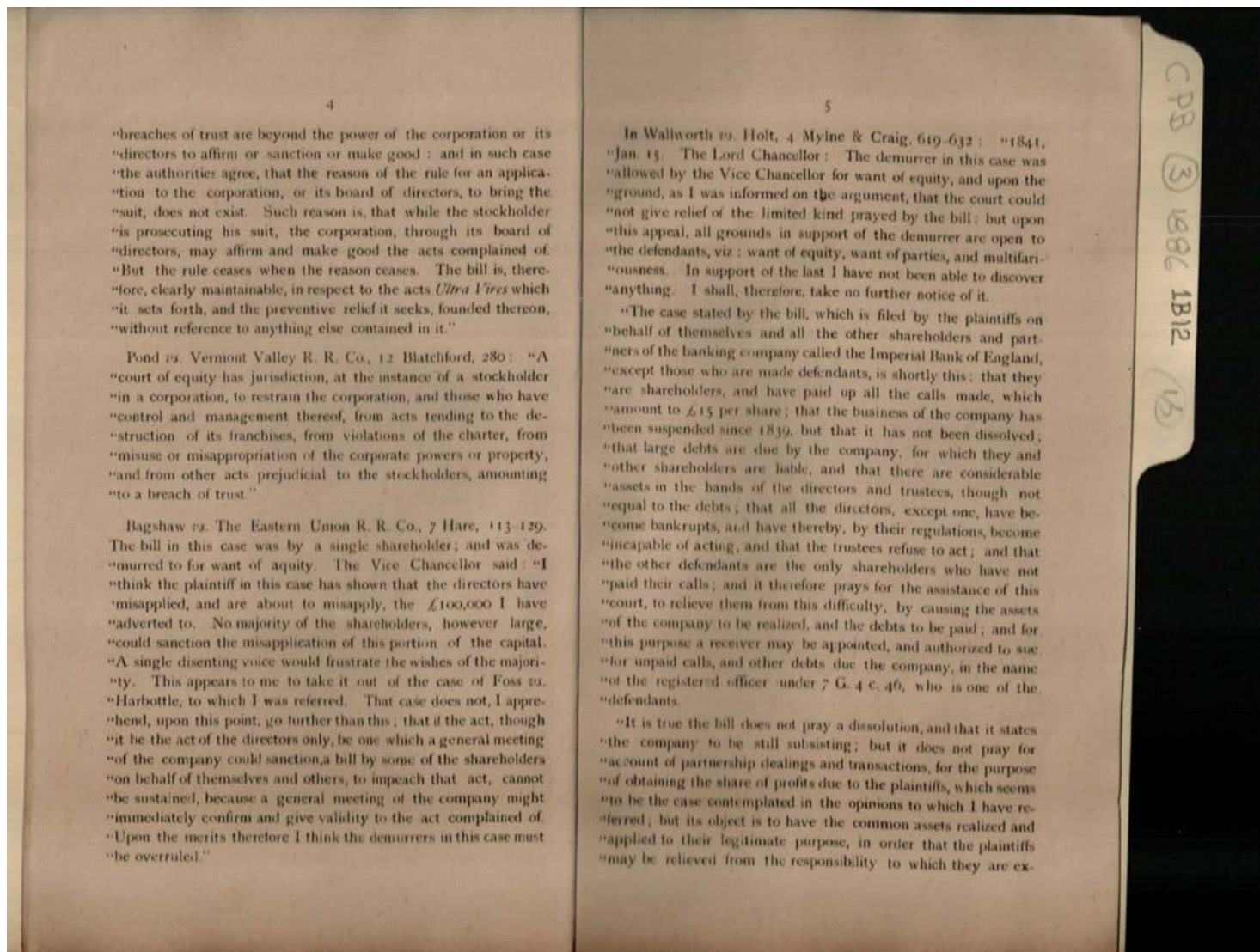
Ward, F. P.

Places:

Madison Co., AL

Types:

chancery court



Names:

Huntsville Hotel Co.

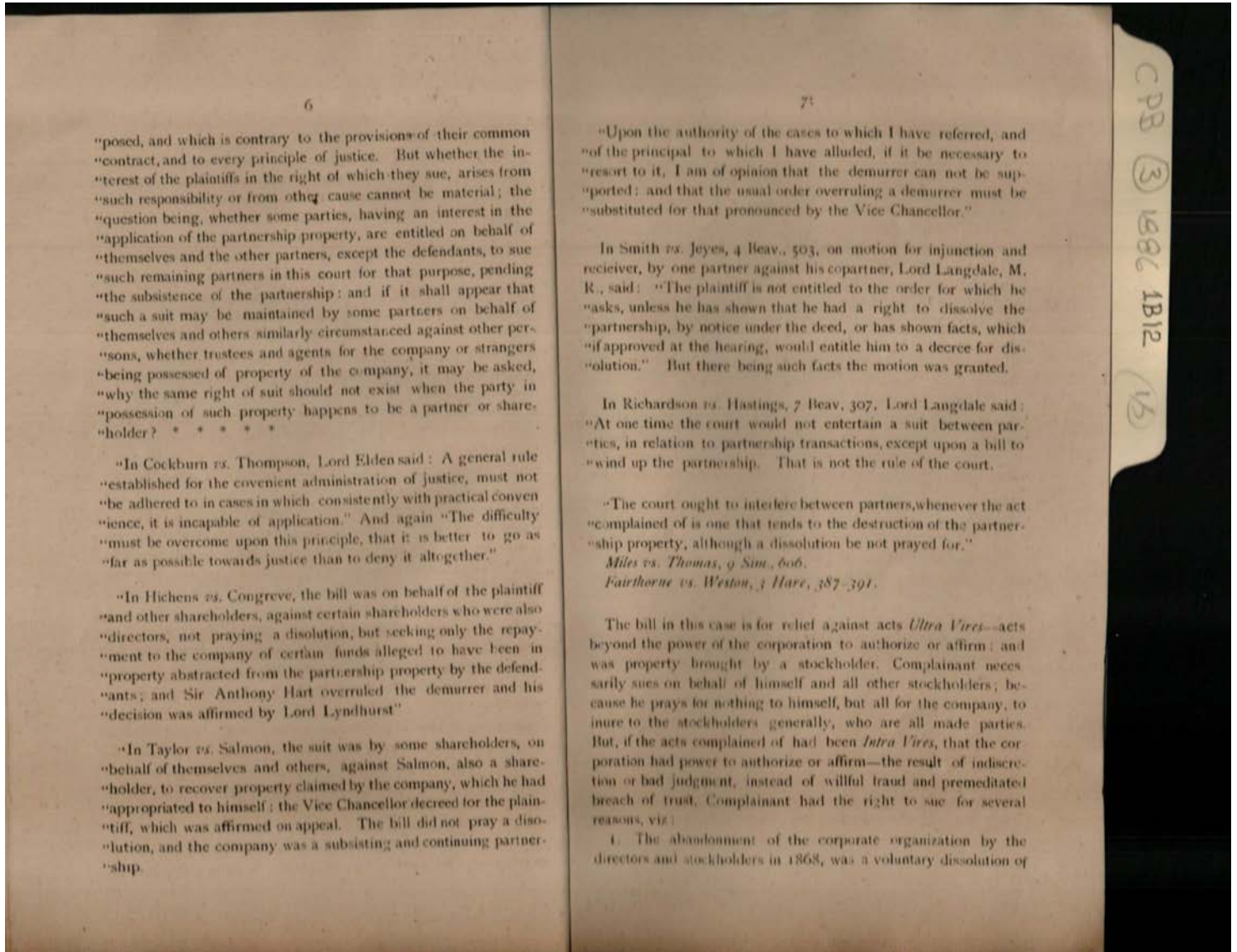
Ward, F. P.

Places:

Madison Co., AL

Types:

chancery court



Names:

Huntsville Hotel Co.

Ward, F. P.

Places:

Madison Co., AL

Types:

chancery court

8

the corporation, reducing it to the condition of a partnership. 71 Ala., 588-9.

2. The guilty parties were the directors who controlled the corporate action; and application to them to sue would have been useless.

"It is held, however, that such refusal" (of the corporation to sue) "is not necessary when it appears that the application would have been useless, as when the guilty parties are the directors who control the corporate action. *Brewer vs. Boston Theatre*, 104 Mass., 378; *Mussina vs. Goltwaite*, 34 Tex., 125; *Morgan vs. R. R. Co.*, 1 Woods, 15; *Greaves vs. Gouge*, 16 Abb. Pr. (N. S.) 377; 69 N. Y. 154; *Black vs. Huggins*, 2 Tenn. Ch. 780; *Samuels vs. Central &c. Exp. Co.*, McCahon 214. Where the board of directors are the wrong doers, or they refuse to prosecute or restrain or redress the wrong, or where one board claiming to be directors are the wrong doers, and the other board claiming and alleged to be the legal directors refuse to prosecute, stockholders may file the bill." * * * * *

"In *Brewer vs. Boston Theatre*, 104 Mass., 378-379, which is chiefly relied on, no request was alleged to have been made, either to the corporation or the directors, and it did not even appear that the directors, in office when the suit was brought, knew of the facts on which it was grounded. A demurrer filed by the corporation was sustained. But even in that case the court remarked that a formal application and refusal need not be alleged, if enough appears to show that such application would be unavailing."

Green's Brice's Ultra Vires, 2 Ed., note a, pages 645-6-7.

2.

MULTIFARIOUSNESS.

Green's Brice's Ultra Vires, 2 Ed., p. 658.

"1. Corporate property, funds, &c. alienated upon the consideration of *Ultra Vires* transactions may be recovered.

"Upon this point *Jessel, M. R.*, thus observed in *Russell vs. Wakefield W. Works Co.* (L. R. 20 Eq., 474-480). "When you

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"have got the second corporation or person a party to the suit, it may happen that, in addition to the relief you are entitled to as regards the first, you are entitled to have relief against the second for something that has been done under the *Ultra Vires* agreement. You may be entitled to have money paid back, which has been paid under the *Ultra Vires* agreement, as in the case of *Salmons vs. Laing* (12 Beav., 377), and you may be entitled to have property returned or other acts done. If the detainer or holder of the money or property, that is the second corporation or other person is already a party to the suit, it would be indeed a lame and halting conclusion, if the court were to say it could not do justice in a suit so framed, by ordering the money to be returned, or the property restored. It is a necessary incident to the first part of the relief which can be obtained by individual corporations, and will do complete justice on each side, and that has always been the practice of the court. Therefore, in a case so framed, there is no objection to a suit by an individual corporation to recover from another corporation, or from any other persons, being strangers to this corporation, the money or property so improperly obtained. But that is not the only case. Any other case, in which the claims of justice require it, is within the exception.

Demurrers for multifariousness were overruled in 5 Paige, 607; 5 Ohio, 162; and 4 Mylen & Craig, 619. These suits were, like this, against the corporation, its directors, and persons in possession of its property. In 25 Ala., 566, and 21 Wallace, 616, similar bills were sustained without demurrer, but with like grounds of demurrer.

Abatement of the suit as to Venable, Bradley and Walker, and striking out Brickell's name as a defendant, leaves nothing in the prayer, but for setting aside conveyances of the Hotel property, and accounts for rent.

3.

RES ADJUDICATA, OR ESTOPPEL.

Because the same person was solicitor of Bruner & Moore and administrator of Dr. Fearn's estate, it is insisted that

CPB (3) 1886 1B12 (15)

Names:

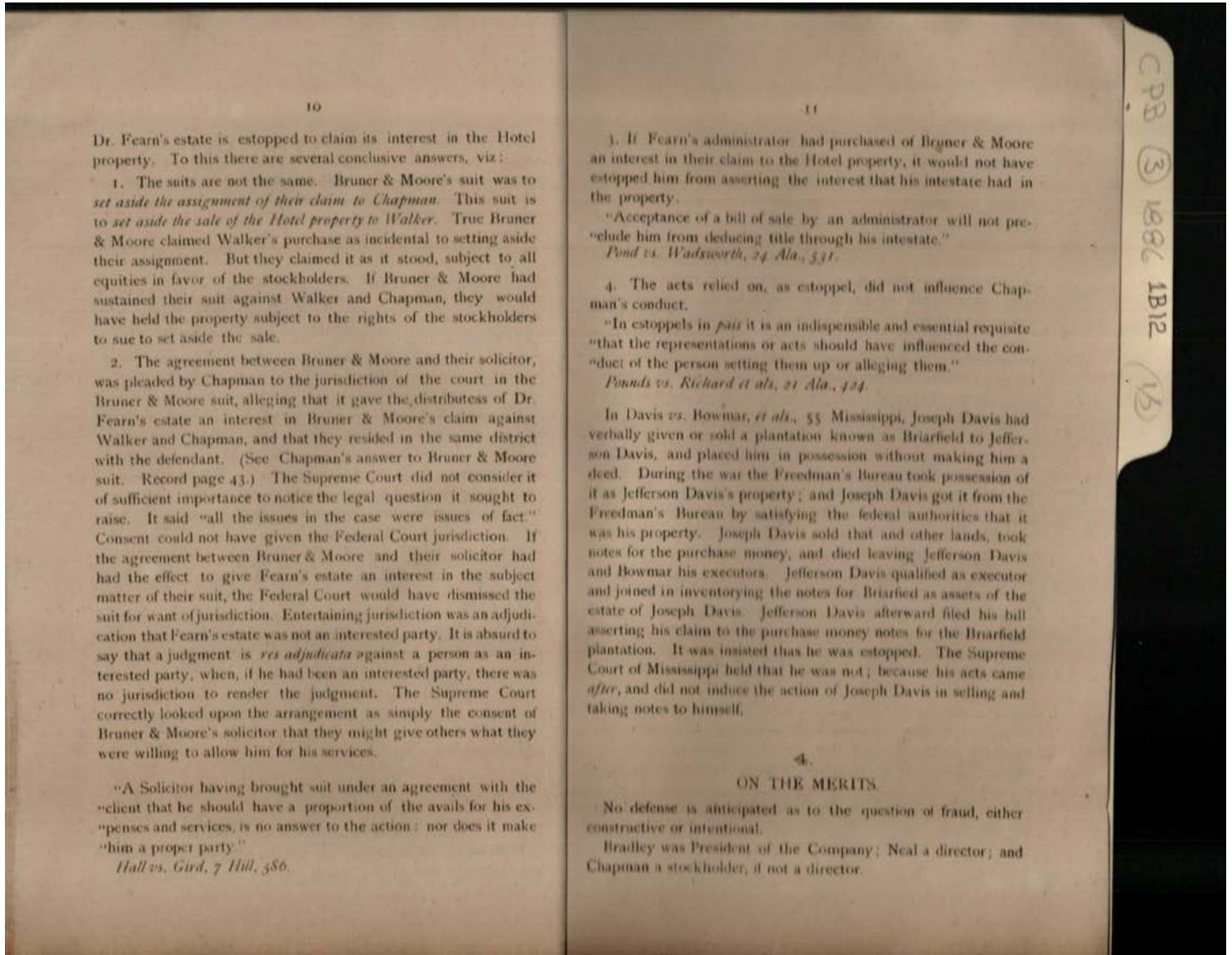
Huntsville Hotel Co. Ward, F. P.

Places:

Madison Co., AL

Types:

chancery court



Names:

Bradley,

Chapman,

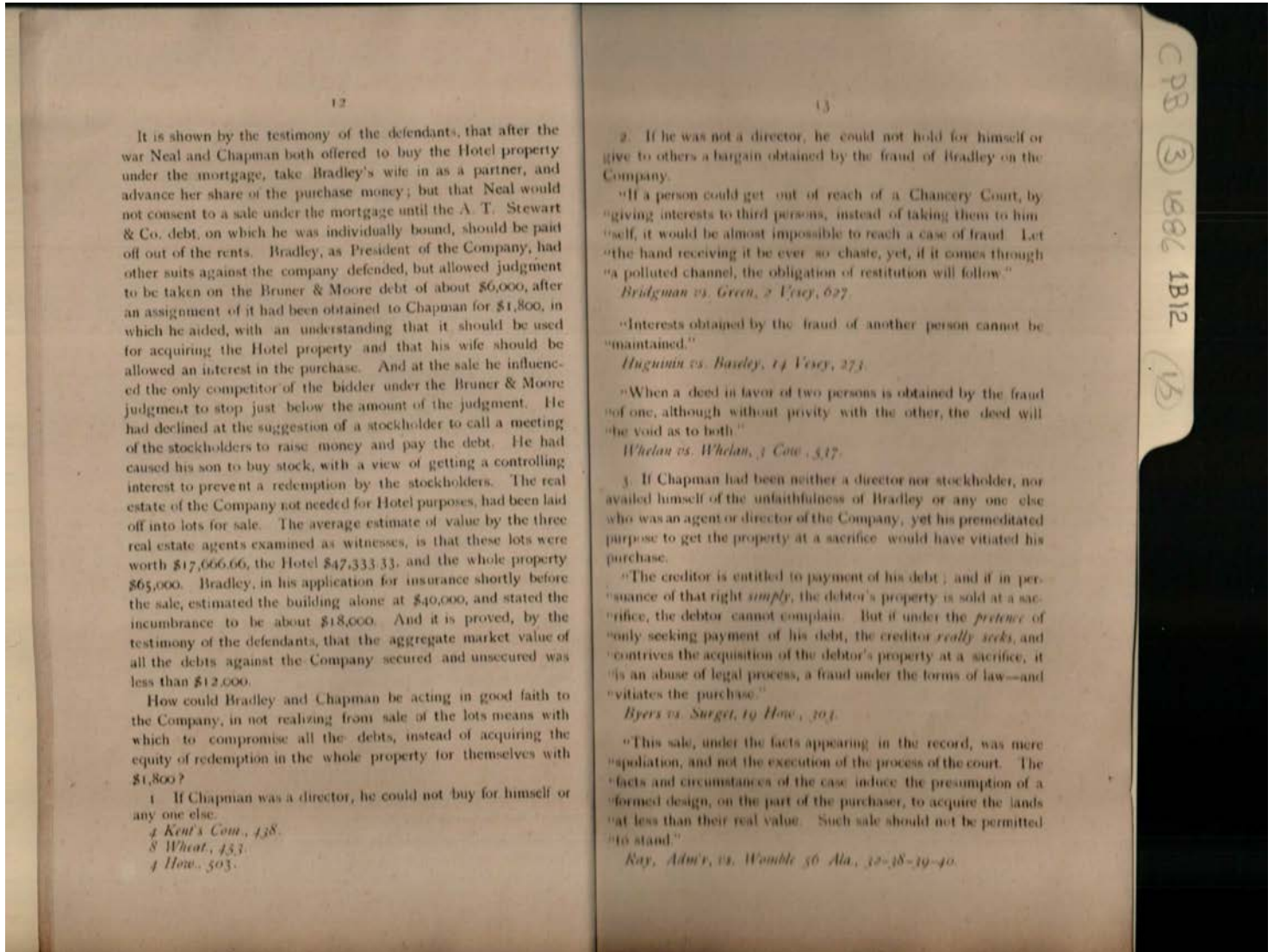
Neal,

Places:

Madison Co., AL

Types:

chancery court



Names:

Bradley,
Bruner,

Chapman,
Moore,

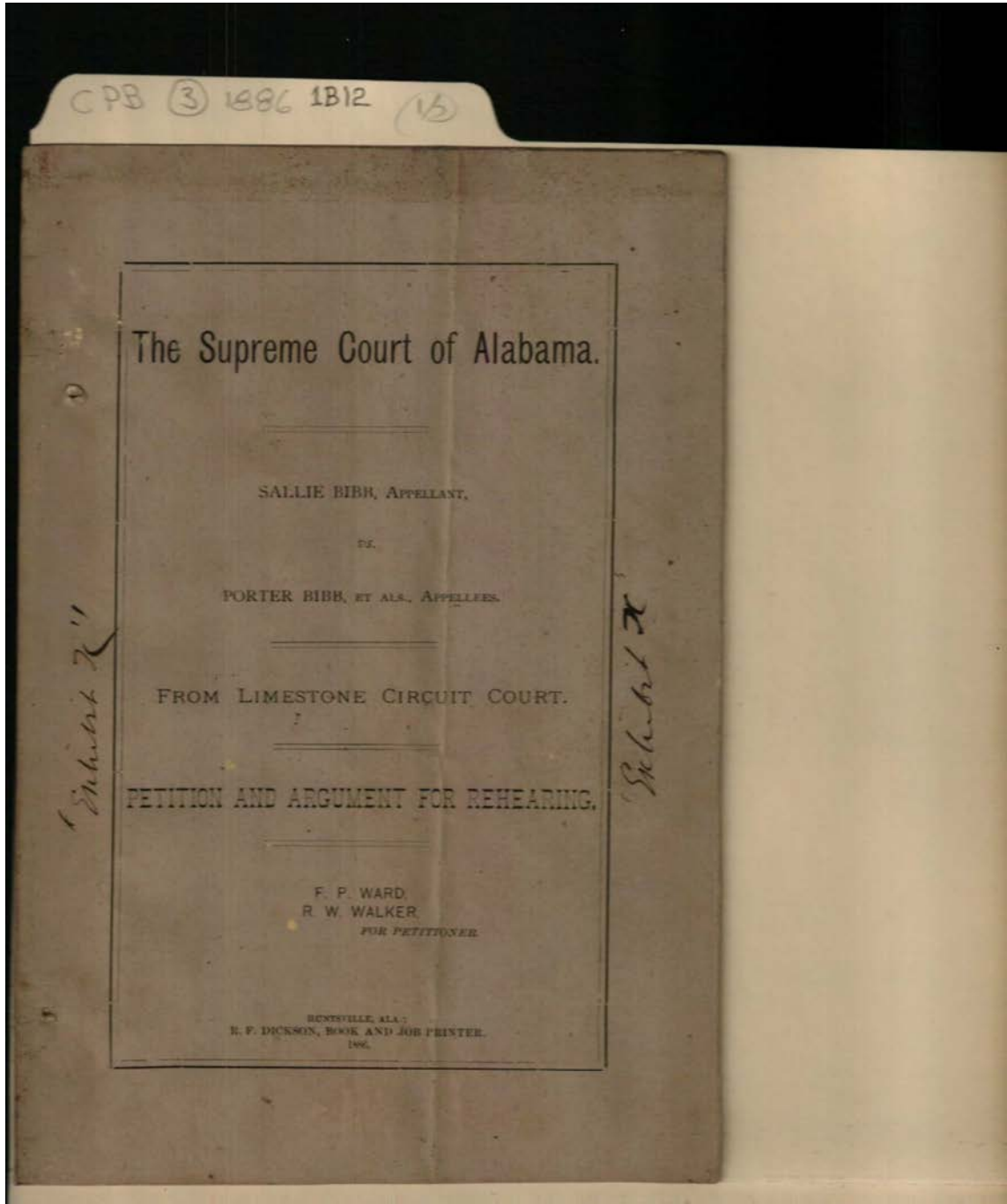
Neal,
Stewart, A. T. & Co.

Places:

Madison Co., AL

Types:

chancery court



Names:

Bibb, Porter

Bibb, Sallie

Walker, R. W.

Ward, F. P.

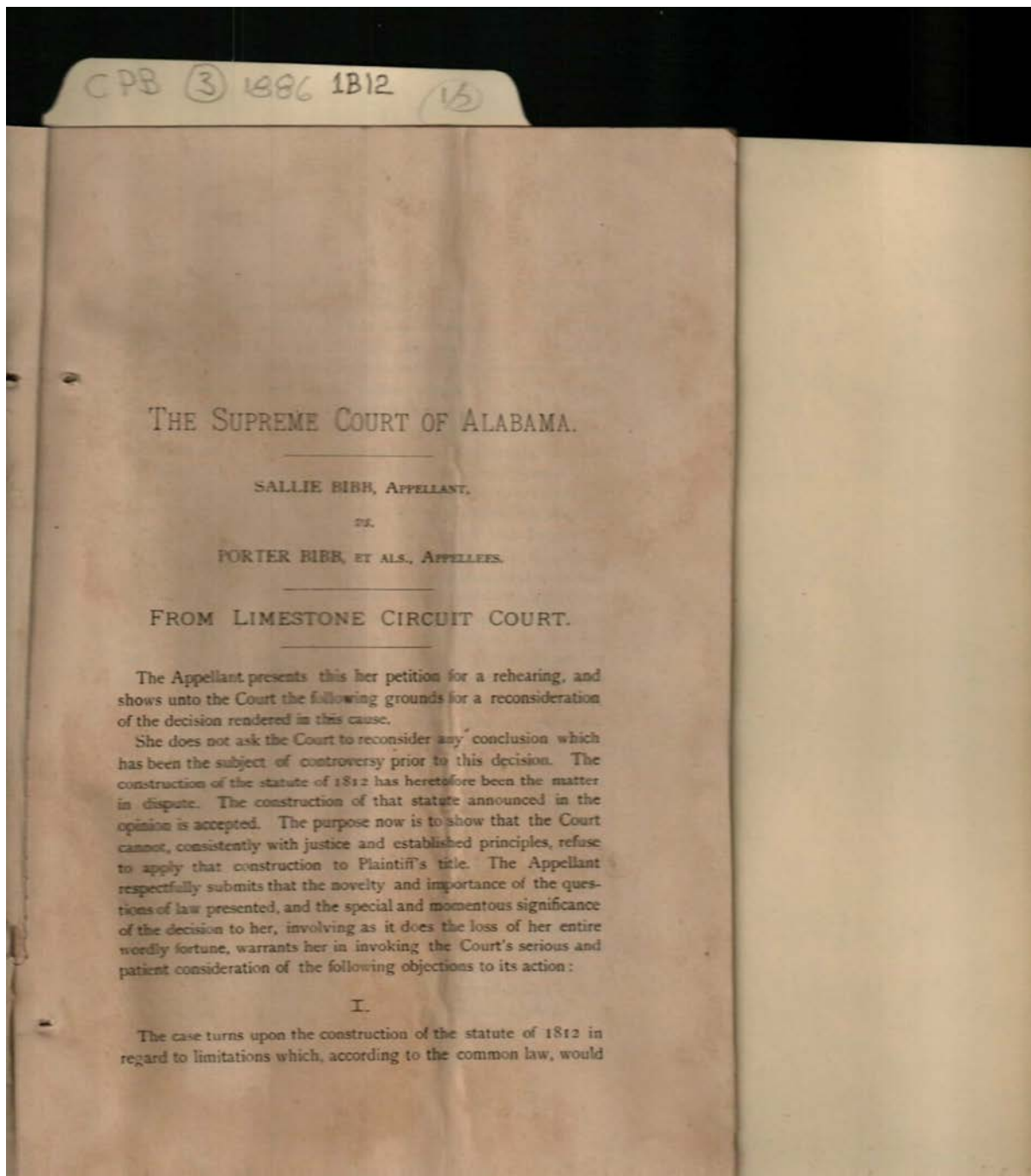
Places:

Limestone Circuit
Court

Montgomery, AL

Types:

supreme court of
Alabama



Names:

Bibb, Sallie

Places:

Limestone Circuit
Court

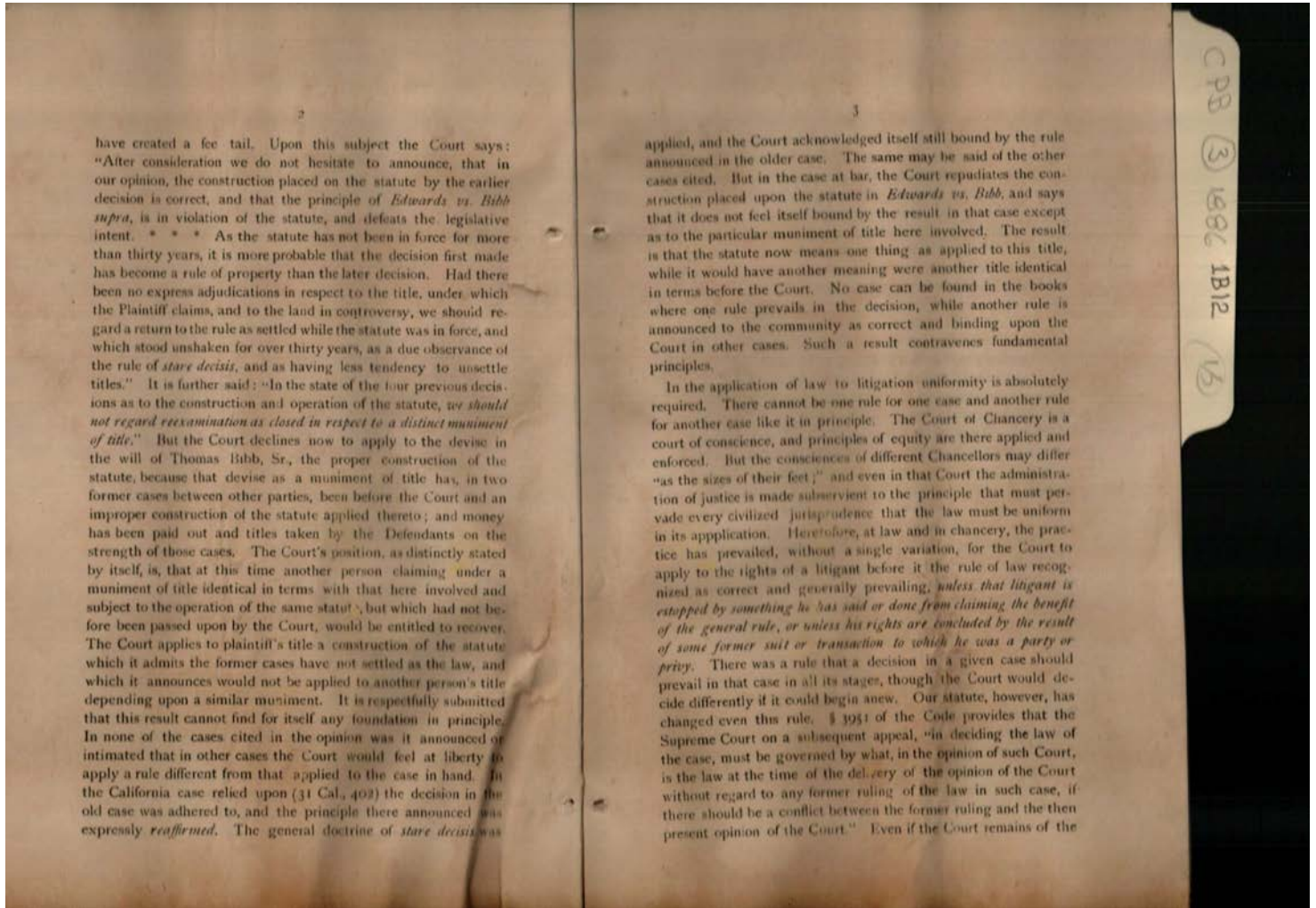
Types:

supreme court of
Alabama

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Legal and court documents, 1886 (1 of 2)

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Names:

Bibb,

Bibb, Porter

Bibb, Thomas, Sr.

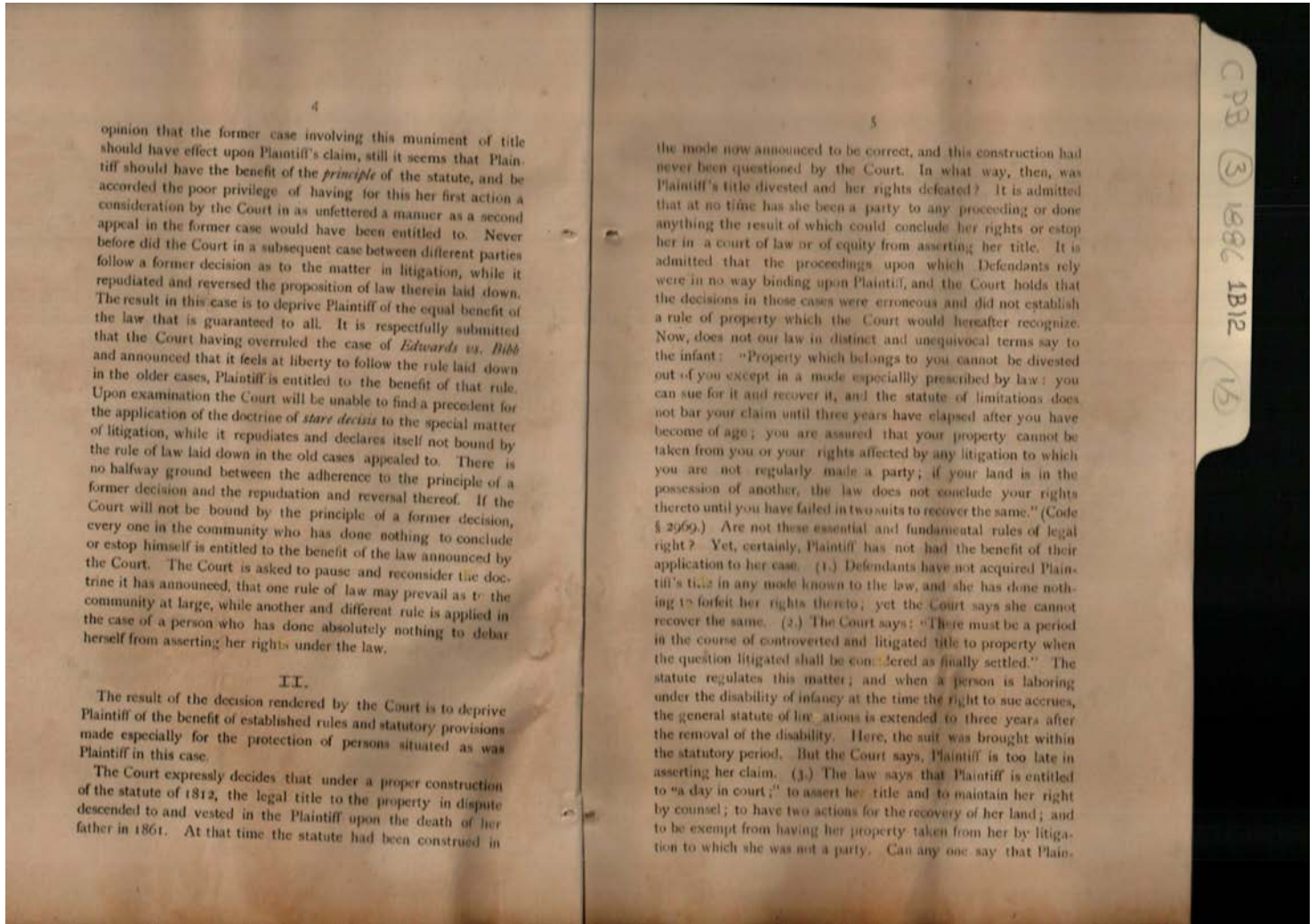
Edwards,

Places:

Limestone Circuit
Court

Types:

supreme court of
Alabama



Names:

Bibb,

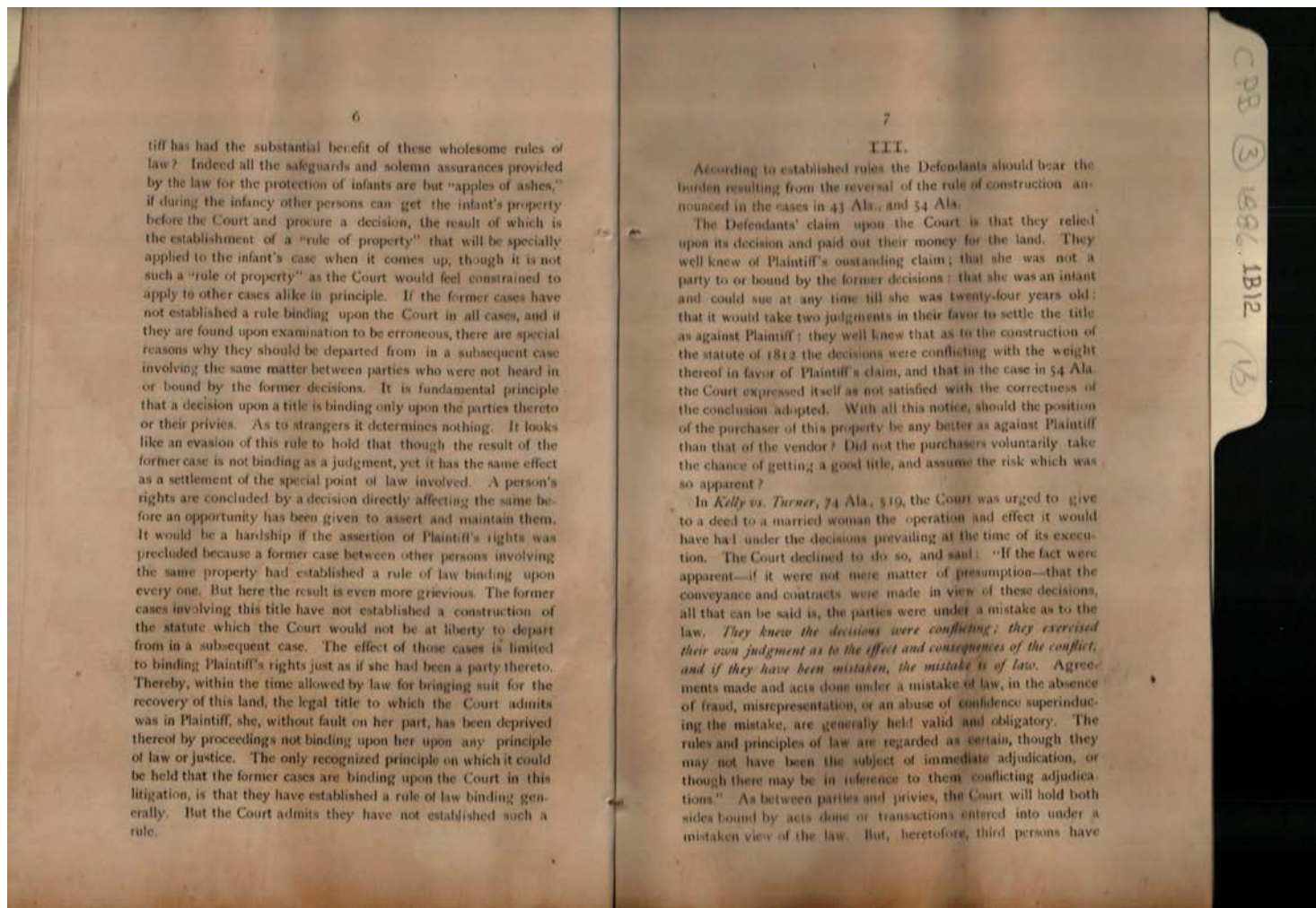
Edwards,

Places:

Limestone Circuit
Court

Types:

supreme court of
Alabama



Names:

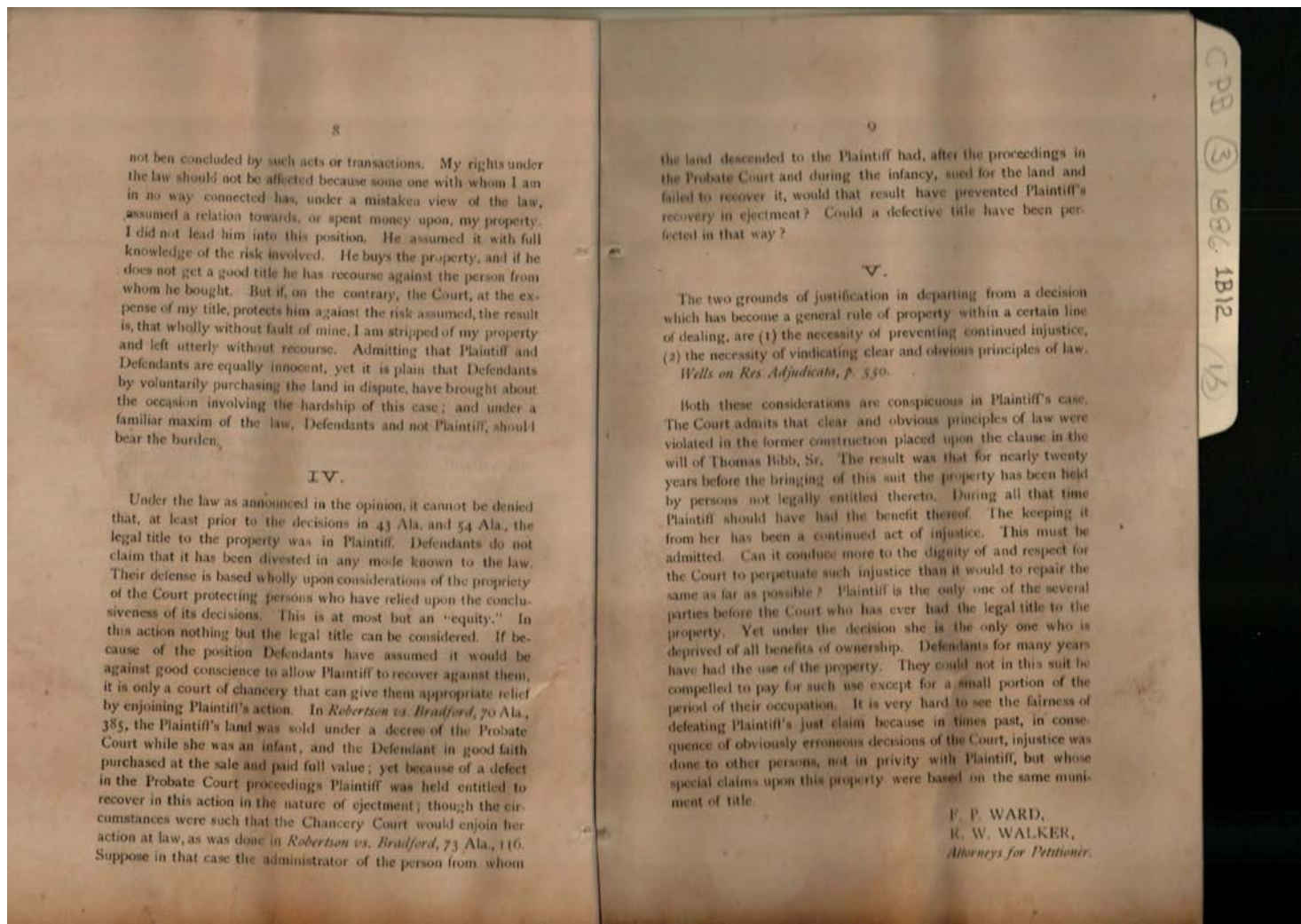
Bibb, Sallie

Places:

Limestone Circuit
Court

Types:

supreme court of
Alabama



Names:

Bibb, Thomas, Sr.

Walker, R. W.

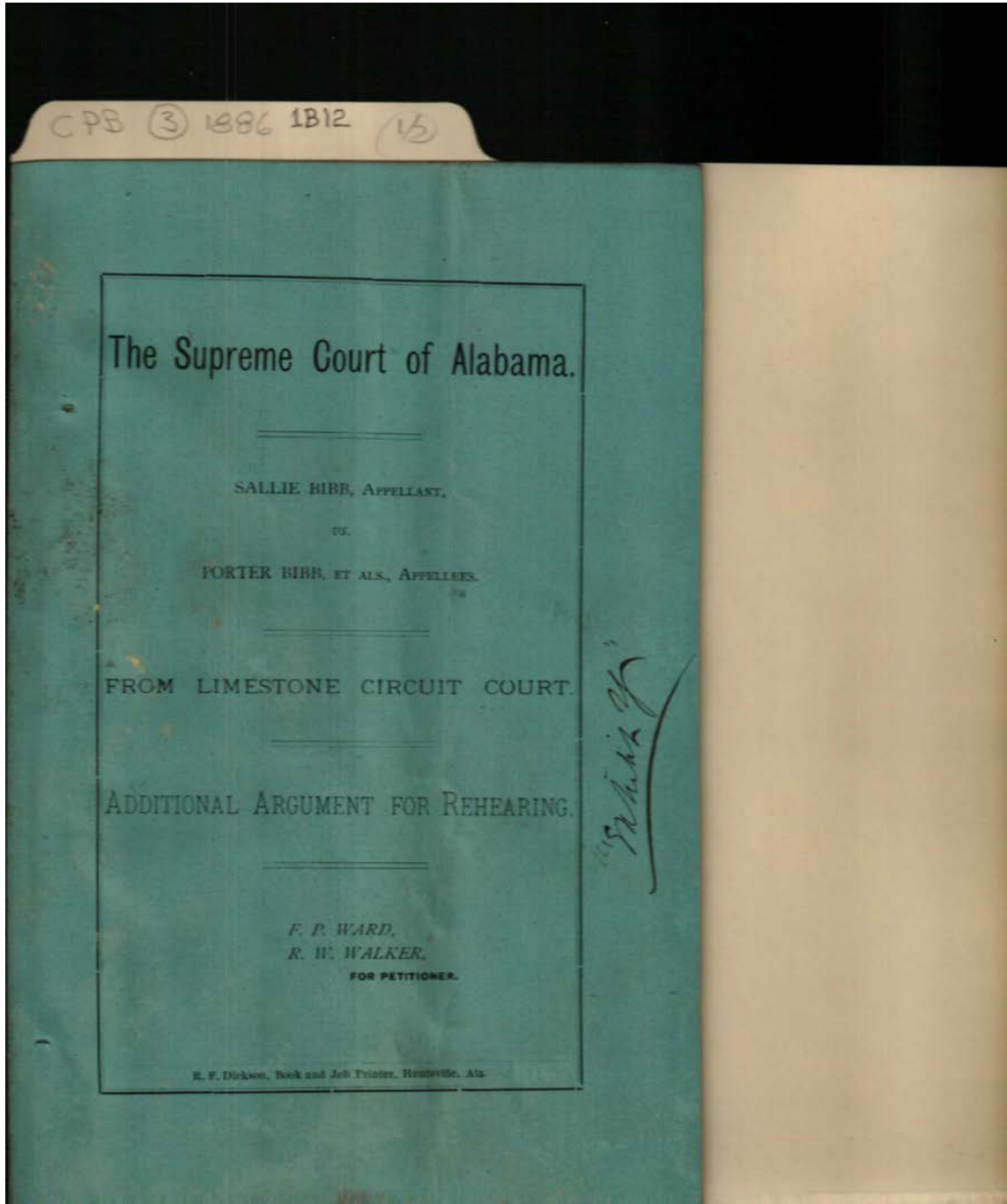
Ward, F. P.

Places:

Limestone Circuit
Court

Types:

supreme court of
Alabama



Names:

Bibb, Porter

Bibb, Sallie

Walker, R. W.

Ward, F. P.

Places:

Limestone Circuit
Court

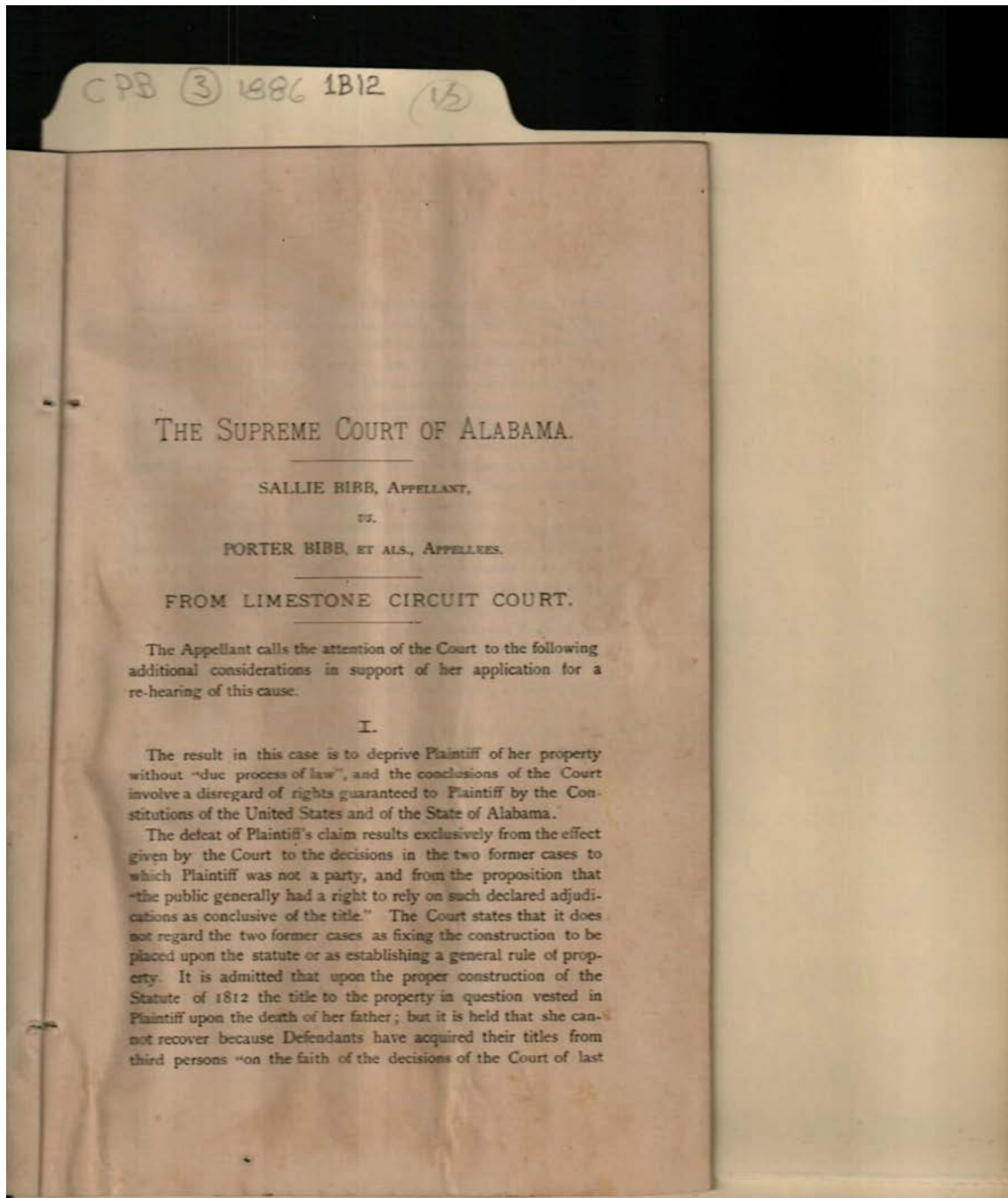
Montgomery, AL

Types:

supreme court of
Alabama

Dates:

1887



Names:

Bibb, Porter

Bibb, Sallie

Places:

Limestone Circuit
Court

Types:

supreme court of
Alabama

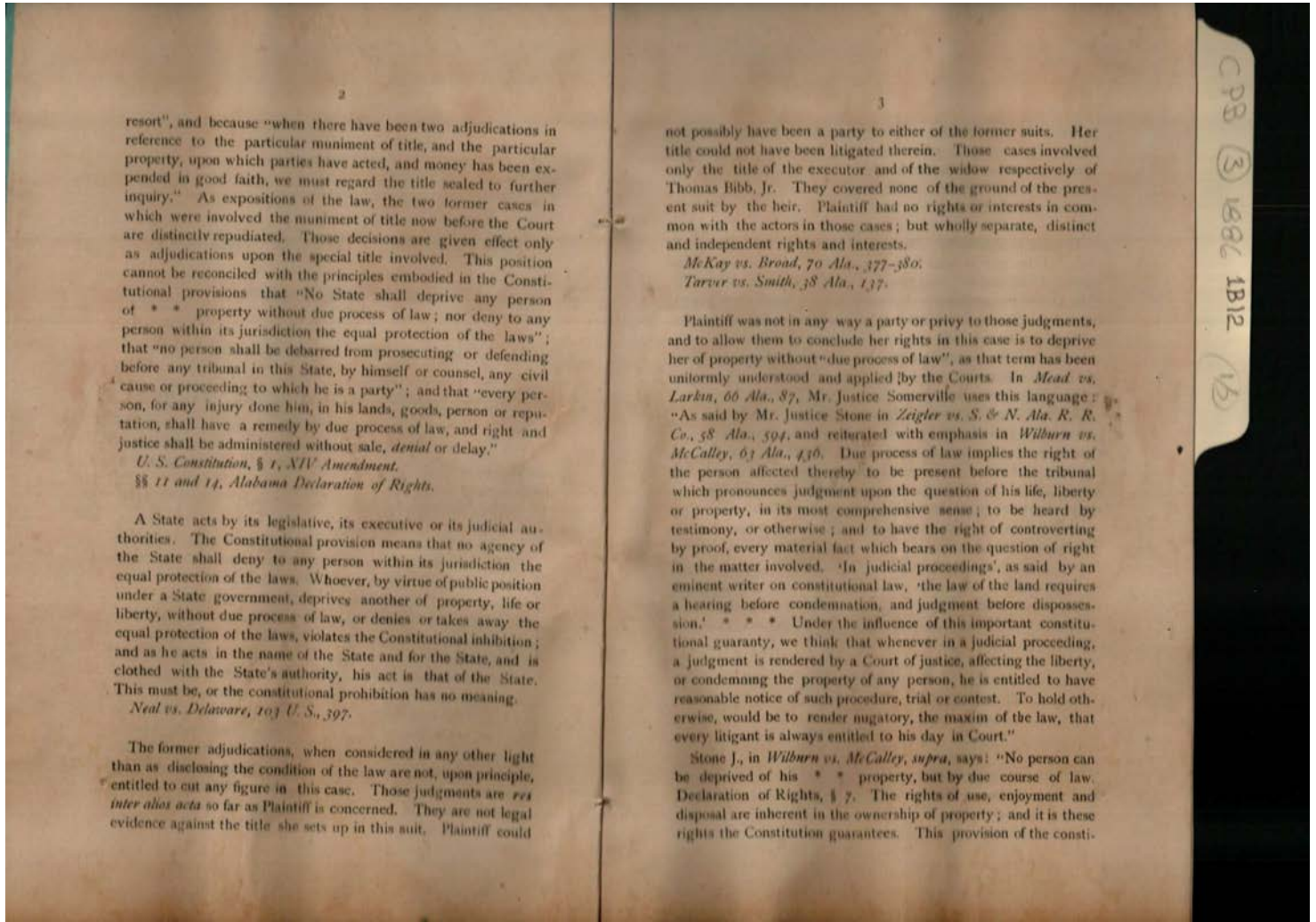
Dates:

1887

Frances Cabaniss Roberts Collection: Series 1, Subseries B, Box 12, Folder 3

Legal and court documents, 1886 (1 of 2)

Image 20 r01b12-03-000-0079 [Contents](#) [Index](#) [About](#)



Names:

Bibb, Thomas, Jr.

Places:

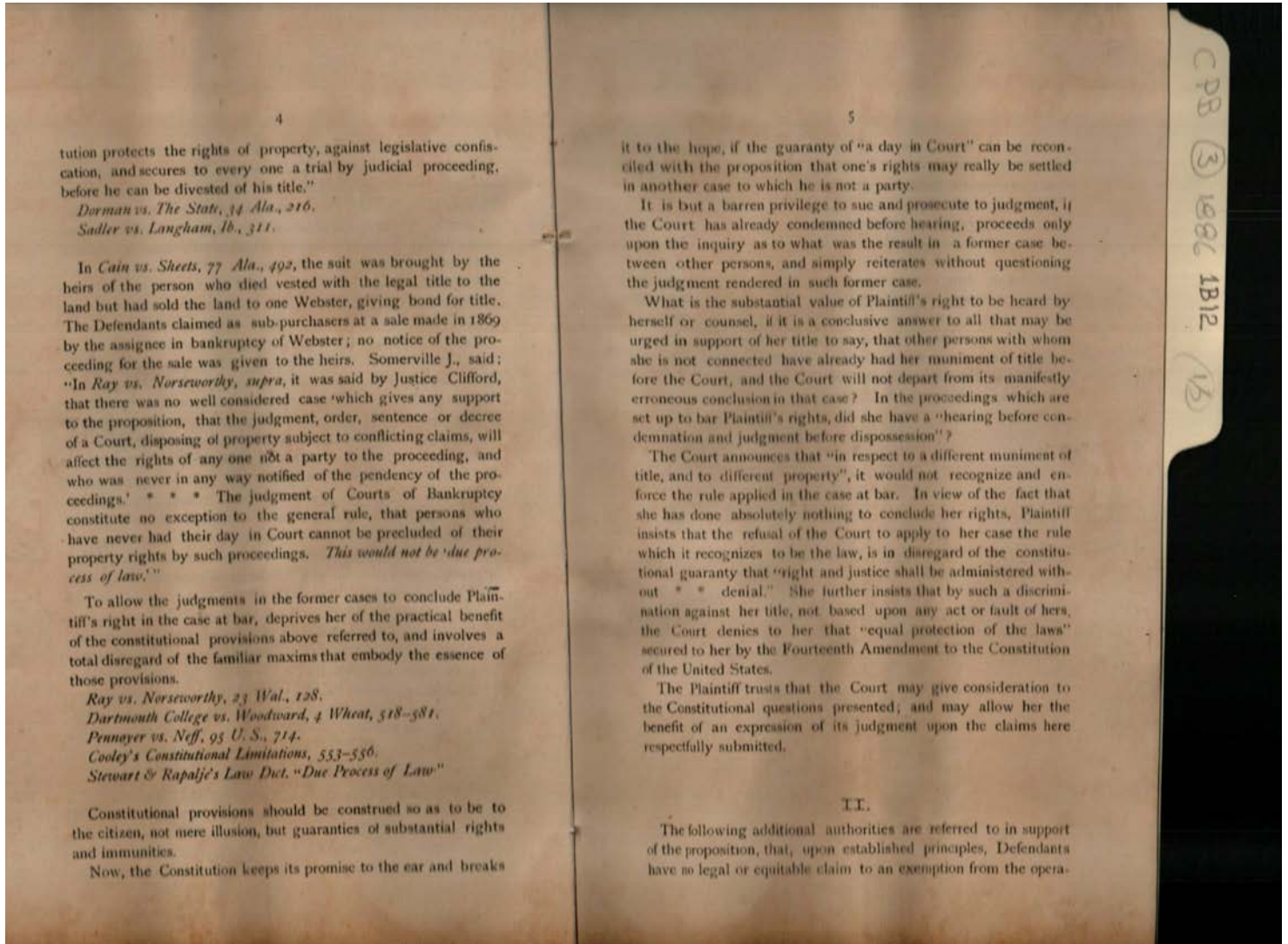
Limestone Circuit
Court

Types:

supreme court of
Alabama

Dates:

1887



Names:

Bibb, Porter

Bibb, Sallie

Places:

Limestone Circuit
Court

Types:

supreme court of
Alabama

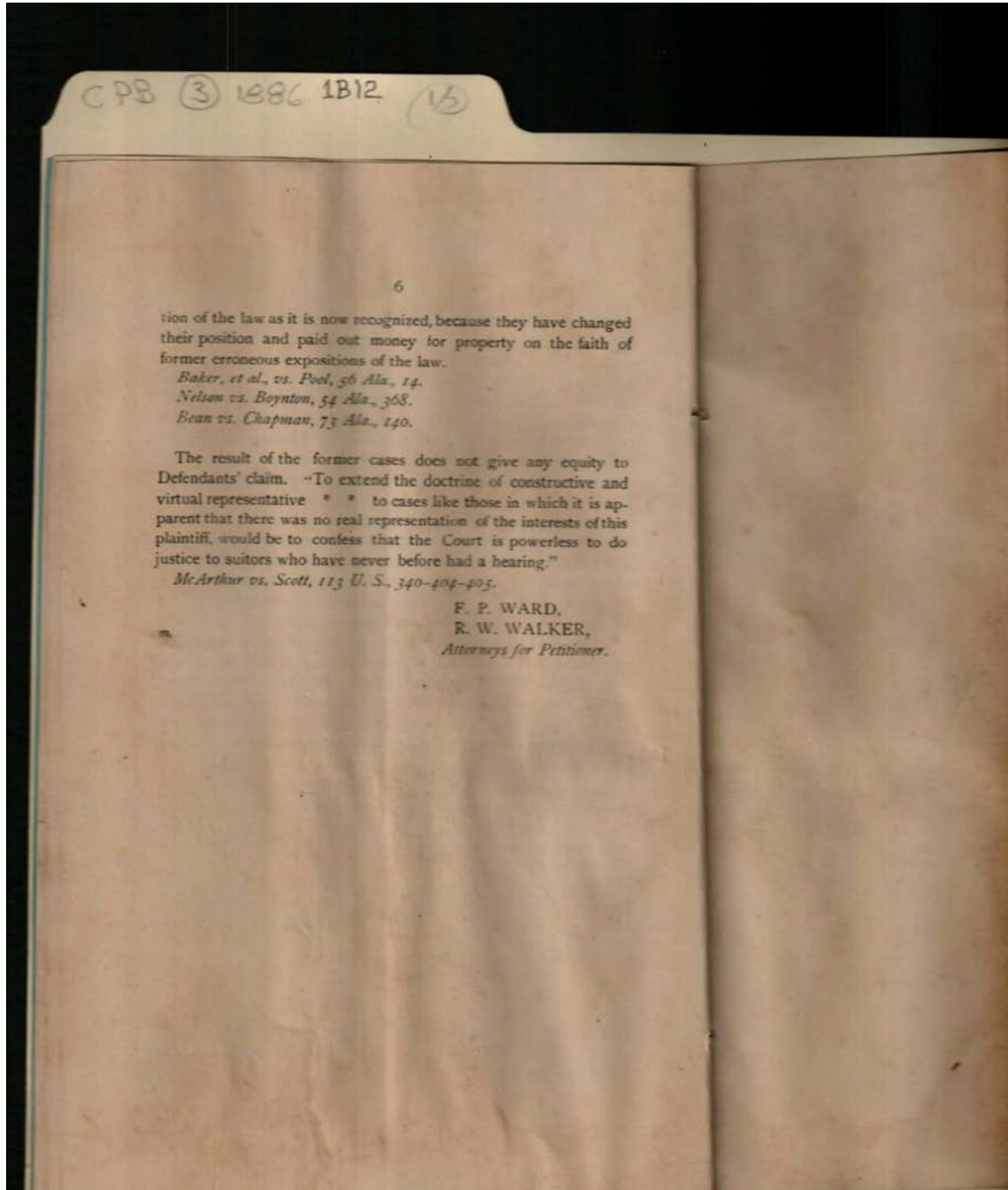
Dates:

1887

Frances Cabaniss Roberts Collection: Series 1, Subseries B, Box 12, Folder 3

Legal and court documents, 1886 (1 of 2)

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Names:

Walker, R. W.

Ward, F. P.

Places:

Limestone Circuit
Court

Types:

supreme court of
Alabama

Dates:

1887

CPB ③ 1886 1B12 16

2

To the Honorable George W. Stone Chief Justice of the
 Supreme Court of Alabama

The Petitioner of
 Sallie Bibb respectfully shows unto Your Honor
 that on the day of 1886 being a day
 of the December 1885 Term of the Supreme Court
 of Alabama a judgment was rendered by said
 Court against Petitioner in the certain cause
 then pending in said Court in which Petitioner
 was Plaintiff and Appellant and Porter Bibb
 and others were Defendants and Appellees;
 that Petitioner herein regularly appeared in
 said cause for a rehearing hereof and
 filed therein her "Petition and Argument
 for Rehearing" and her "Additional Argument
 for Rehearing" Copies whereof marked
 respectively "Exhibit X" and "Exhibit Y" are
 annexed hereto and made a part of this
 Petition that said application for a rehearing
 was taken under consideration by said Supreme
 Court of Alabama and on the 11th day of July 1887
 said application as contained in said
 "Petition and Argument for Rehearing" and
 said "Additional Argument for Rehearing"
 was by the aforesaid Court overruled
 and dissolved. That said Supreme Court
 of the State of Alabama is the highest Court
 of said State in which a decision in said suit
 could be had and the judgment in said case is
 final. Petitioner shows that in and by said
 judgment and said aforesaid refusing and dissolving
 a rehearing said Court wrongfully gave effect
 to the judgment in two former cases (to which Petitioner

Names:

Bibb, Porter

Bibb, Sallie

Stone, George W.

Types:

petition

Dates:

1887

CPB (3) 1886 1B12 (15)

has not a party, or in any way, power, so as to
 allow the result of such former cases, to bar
 Petitioner's right and title, and wrongfully
 held said former adjudications which were
as inter alios acts to be binding and conclusive
 in their effect upon Petitioner's right and title,
 Petitioner shows that in said writ and said
 application for a rehearing she duly claimed
 the benefit of the Revision of the Constitution
 of the United States, that "no state shall
 deprive any person of xx property without
 due process of law; nor deny to any person
 within its jurisdiction the equal protection
 of the laws" and that the decision in said
 case is against the title right privilege and
 immunity specially set up and claimed by
 Petitioner under the Constitution of the United
 States in this that by said judgment and also
 Petitioner was held bound and concluded by
 judgments to which she was not a party or
 in any manner being and thereby deprived
 of her property without due process of law,
 and that she was deprived of the equal protection
 of the laws applicable to the claim and
 title set up by her, all which more
 fully appears in and by the records and
 proceedings in said writ, which are here
 specifically referred to. Petitioner shows that
 said court erred in its said decision against
 the title right privilege and immunity specially
 set up and claimed by the Petitioner under
 the Constitution of the United States, greatly
 to Petitioner's injury. Petitioner prays of the late

Names:

Bibb, Sallie

Types:

petition

Dates:

1887

CPS (3) 1886 1B12 (15)

of the commencement of said suit and
 still is a resident citizen of the State of Virginia
 and all of Defendants in said suit were
 and still are resident citizens of the State
 of Alabama. Wherefore Petitioner
 prays You Honor to allow her a writ of error
 and make the process well to enable
 her to obtain a review of said case and
 a correction of said error by the Supreme
 Court of the United States

Respectfully submitted
 F. P. Ward
 R. W. Walker
 Attorneys for Petitioner

Granted July 12, 1887
 Geo. W. Stone
 Chief Justice Supreme
 Court of Alabama.

United States of America—
 State of Alabama, Sd:
 Petitioner will execute bond
 with proper condition in the pen-
 alty of three hundred dollars.
 July 12, 1887
 Geo. W. Stone,
 Chief Justice Sup
 Court of Alabama.

Names:

Stone, George W.

Walker, R. W.

Ward, F. P.

Places:

Montgomery, AL

Types:

legal correspondence

petition

Dates:

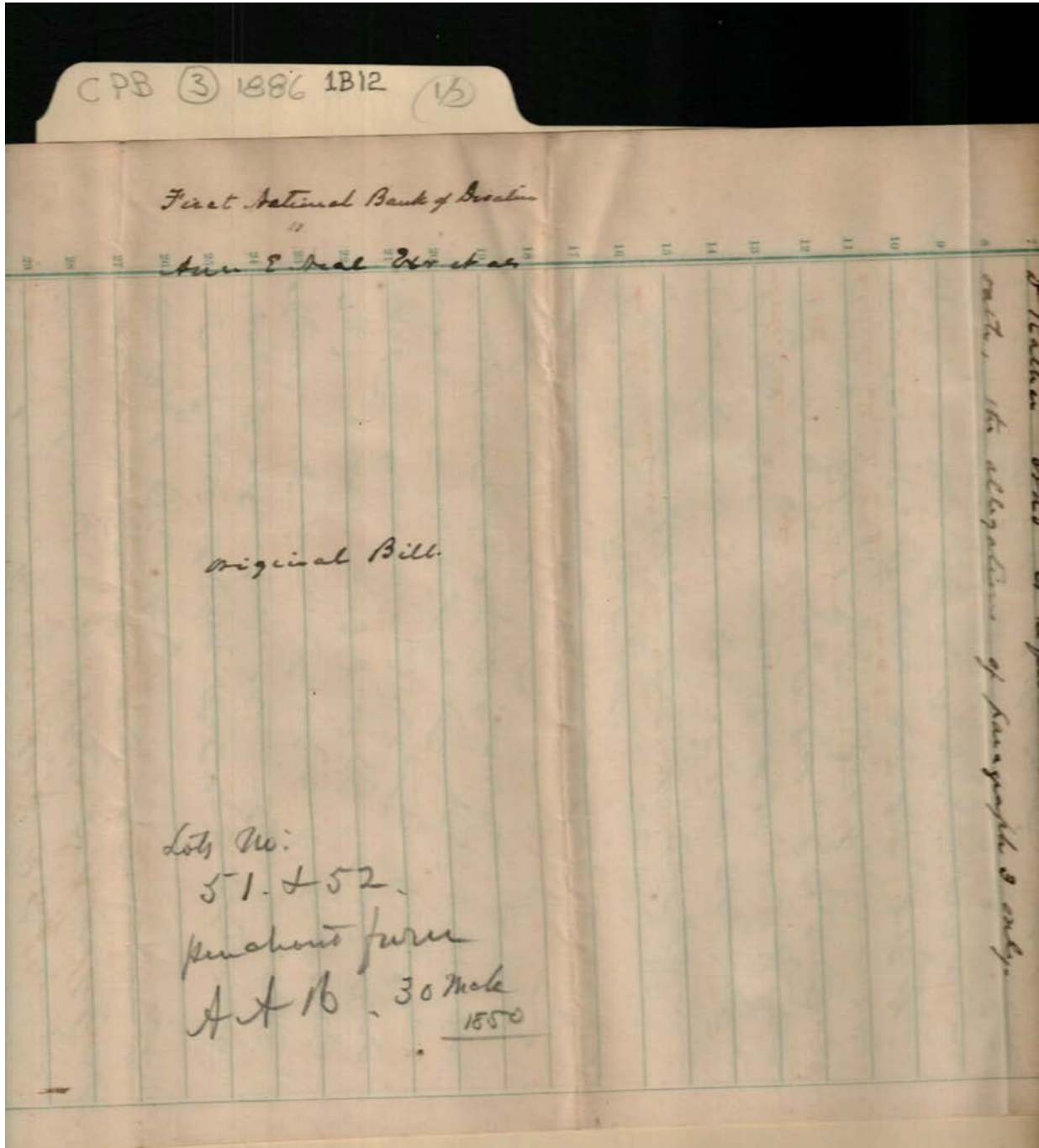
1887

July 12, 1887

Frances Cabaniss Roberts Collection: Series 1, Subseries B, Box 12, Folder 3

Legal and court documents, 1886 (1 of 2)

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Names:

First National Bank
of Decatur

Huntsville Hotel Co.
Neal, Ann E.

Places:

Madison Co., AL

Types:

bill

chancery court

CPB (3) 1886 1B12 (15)

To the Chancellor of the South Western District
of Alabama sitting for the Western District
thereof composed of the County of Morgan at
Somonville

First National Bank of Decatur, a corpo-
ration created under the laws of the United
States, located and doing business in the
Town of Decatur County of Morgan and State
of Alabama, brings this bill against Ann
E Neal as executrix of the will of Frank Neal
deceased who resides in Madison County Alabama,
George W Neal who resides in the City of Indian-
apolis and State of Indiana, J M Curtis and
his wife Robert J Curtis and D M Huson and
his wife America Huson who reside in Morgan
County Alabama, and John D Rather who
resides in Colbert County Alabama.

And therefore your orator complains
and says:

1. Said Frank Neal died on _____ 1888
being at the time of his death an inhabitant
of said County of Morgan, leaving the said
George W Neal his only descendant and heir at
law surviving him, and having executed his
will which was duly probated in the Probate
Court of said County of Morgan on
1888 and letters testamentary thereon duly issued
to said Ann E Neal as executrix thereof.
2. On December 21, 1888 said J M Curtis and his
wife Robert J Curtis and D M Huson and his
wife America Huson sold and conveyed to
said Frank Neal by deed of conveyance of which

Names:

Curtis, J. M.
Curtis, Robert J.

First National Bank
of Decatur
Huson, America

Huson, D. M.
Neal, Ann E.
Neal, Frank

Neal, George W.
Rather, John D.

Places:

Decatur, AL

Types:

bill

CPB (3) 1886 1B12 (15)

a copy is herewith appended marked "Exhibit A" as a part of this bill, there certain lots of land in the town of Decatur Morgan County Alabama known and numbered on the plat of said town of Decatur as numbered forty five (45) fifty one (51) and fifty two (52) fronting part in on Church Lane Alabama and Bell street and containing one and one half acres at the price of three hundred dollars. Said Neal paid in cash of said purchase money six hundred dollars; more and delivered to said J. M. Curtis and D. M. Huson his three several promisory notes of that date each for two hundred dollars with interest from date payable to their order six months and eighteen months after date respectively; and executed to them a mortgage of said lots to secure the payment of said three notes. Said Neal paid the first maturing of said notes. And on December 22 1888 in consideration of two hundred and forty three dollars and by written endorsement thereon said last maturing of said notes and said mortgage were sold and assigned to complainant by said J. M. Curtis and said D. M. Huson.

A copy of said note and mortgage with said arrangement endorsed thereon is herewith appended marked "Exhibit B" as a part of this bill.

Said John D. Rather was one seized and possessed in fee of said lots. He sold them

Names:

Curtis, J. M.

Huson, D. M.

Neal,

Rather, John D.

Places:

Decatur, AL

Types:

bill

CPB ③ 1886 1B12 15

to one Hurt. Said Hurt sold them to M. C. Smyth,
 said Smyth sold them to E. J. Tisdale. And
 Tisdale sold them to said Robert J. Curtis and
 said America Huson. Said Rather received
 the purchase money in full for said lots, but
 never executed any deed of conveyance of
 the legal title thereof.

It is the end thereof that said defendants
 may, if they can, show why your order
 should not have the relief hereby prayed,
 and may, according to the best and utmost
 of their own and imperfect knowledge,
 circumstances information and belief, full
 true direct and perfect answers make to
 each of the allegations as by the vote here
 under written they are imperatively required to
 answer, without oath:

Your order prays that the writ of Habeas
 Corpus may be issued against said defendants
 Ann E. Neal as executrix of the will of Frank
 Neal deceased, George W. Neal, J. M. Curtis and
 his wife Robert J. Curtis, D. M. Huson and his
 wife America Huson, and John D. Rather
 commanding them to appear and answer
 the allegations of this bill and obey and
 perform the order of the Court in the premises
 that an account may be taken to ascertain
 the amount due your order on said vote, and
 said lots sold under the decree of the Court
 and so much of the proceeds of sale as may be
 necessary applied in satisfaction thereof,
 and for such other and further relief

Names:

Curtis, J. M.
 Curtis, Robert J.
 Hurt,

Huson, America
 Huson, D. M.
 Neal, Ann E.

Neal, Frank
 Neal, George W.
 Rather, John D.

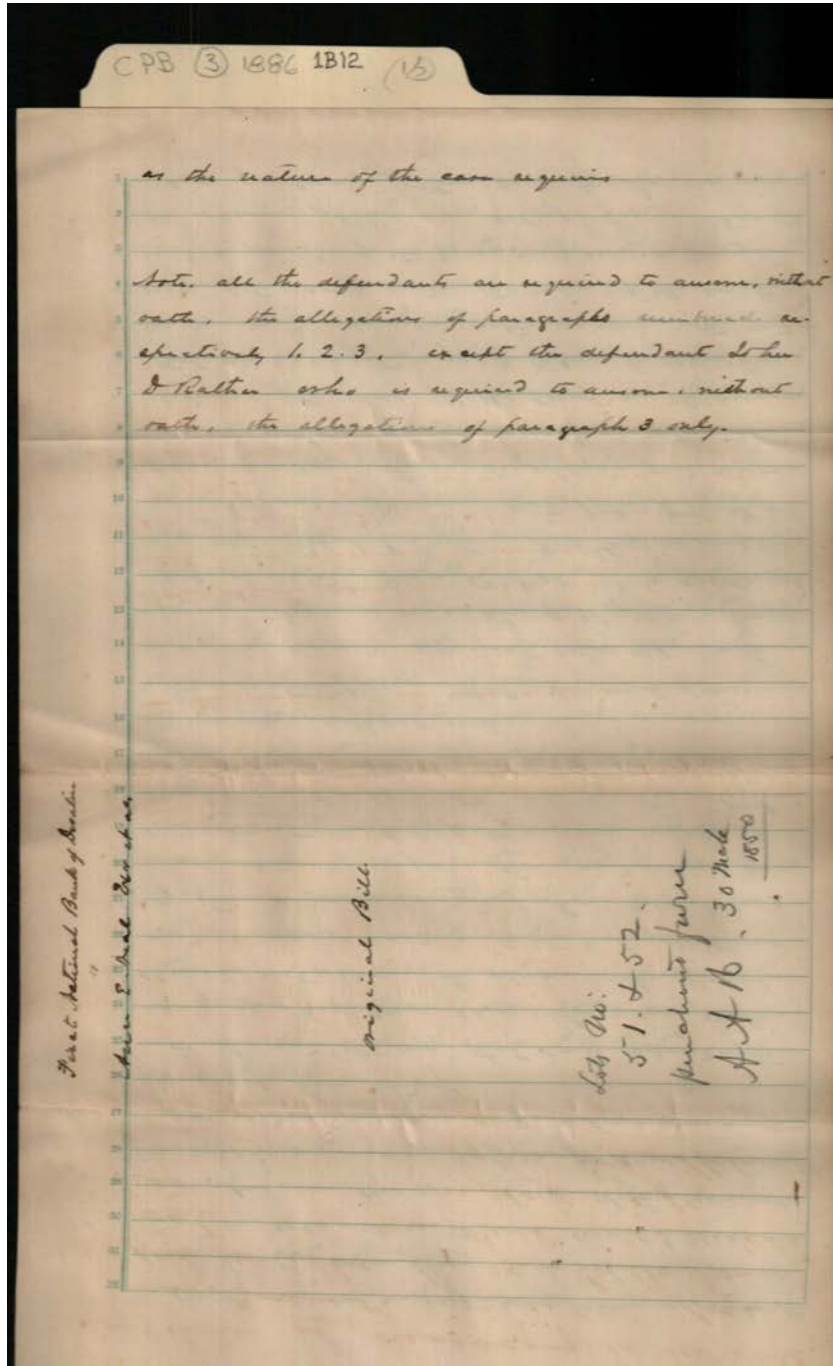
Smyth, M. C.
 Tisdale, E. J.

Places:

Decatur, AL

Types:

bill



Names:

First National Bank
of Decatur

Neal, Ann E.
Rather, John D.

Places:

Decatur, AL

Types:

bill

CPS (3) 1886 1B12 (15)

Tuscumbia May 1st 1887.

Mr Frank Neal
Decatur.
Dear Sir.

Your letter of the 29th ultimo is before me. I regret my inability to give a satisfactory answer to your inquiries. Upon looking to my deeds I find that in 1850. I bought from A. A. Burleson certain real estate in Southfield and Decatur, known as lots numbered 29-, 51-, 52-, 47-, 48-, 49-, 54-, 55- and 56, and in the same year I purchased from William Mailler certain lots in that part of Decatur known as New town, and numbered 49- 50- 53 & 54, but I have no distinct remembrance as to the disposition I made of said lots. My impression is, and it is only an impression, that I contracted to

Names:

Burleson, A. A.

Mailler, William

Neal, Frank

Places:

Decatur, AL

Tuscumbia, AL

Types:

correspondence

Dates:

May 1, 1887

CPB (3) 1886 1B12 (15)

him a bond & the title runs
 upon payment of the deferred install-
 ments, and I think, though I am
 not distinct in my remembrance,
 that Hunt transferred the title bond
 to a Mr Smith, to whom I conveyed
 whatever the said title bond called
 for. — but let me repeat that
 my remembrance is very imperfect
 about this matter, it having faded
 almost entirely from my mind.
 As to the number of the lots sold
 to Hunt, — if I sold him any, — I do
 not retain the slightest recollection,
 nor do I know any thing whatever
 of the right or claim of either
 Tisdell, Hurm, or Carter.

Yours respectfully
 John D. Rather,

P.S.

You must not forget that from 25. to 30.
 years have elapsed since I owned the lots
 above referred to, and having a poor memory
 at best, you must not be surprised at my
 failure to remember.

Names:

Hurt,

Rather, John D.

Smith,

Places:

Tuscumbia, AL

Types:

correspondence

Dates:

May 1, 1887

CPB ③ 1886 1B12 (15)

State of Texas } knows all men by
 Jefferson County } their names, that
 } M. C. Smyth
 County, Texas } of Jefferson
 for and in considera-
 tion of the sum of ten dollars to me
 in hand paid by America Huson and
 R. Curtis do by these presents grant
 bargain sell, demise, release, and give
 quit claim unto the said America Huson
 and Roberta Curtis all my right
 title and interest in and to the
 following described real estate situated
 in the town of Decatur County
 of Morgan and State of Alabama
 to-wit:-
 Lots numbered fifty one (51)
 fifty two (52) and fifty five (55)
 in what is known as new town
 or South Field
 in said town of Decatur
 To possess to have to the foresaid parties
 their heirs and assigns in fee simple form
 In witness whereof I have hereunto
 set my hand and affixed my seal
 the 3^d day of August 1887
 M. C. Smyth. (Seal)

State of Texas }
 Jefferson County } Tom Russell
 a Notary Public in and for said
 State and County do hereby certify that
 M. C. Smyth, whose name is signed

Names:

Curtis, Roberta

Huson, America

Smyth, M. C.

Places:

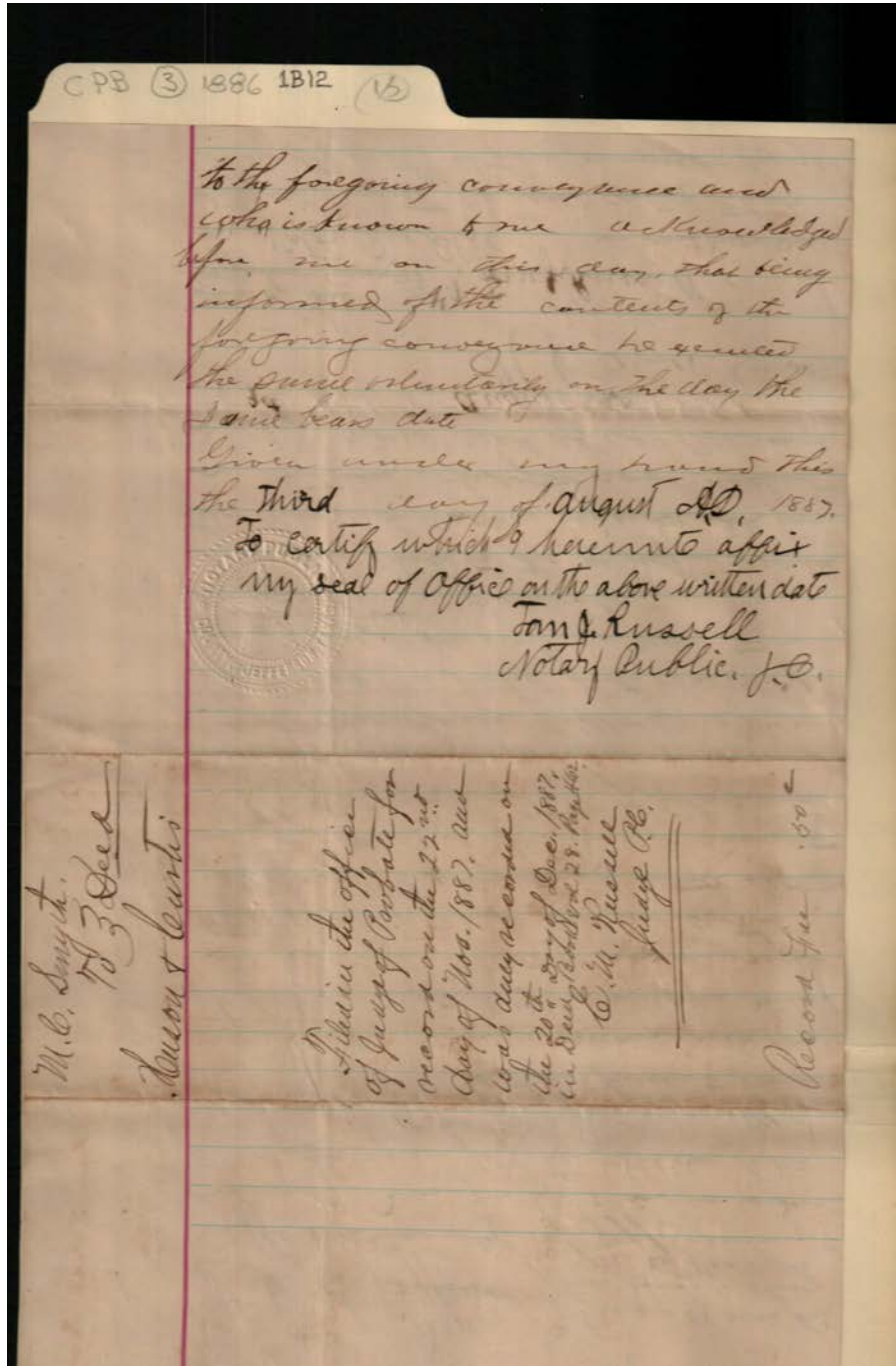
Jefferson Co., TX

Types:

conveyance

Dates:

Aug 3, 1887



Names:

Huson & Curtis

Smyth, M. C.

Places:

Morgan Co., AL

Types:

deed

Dates:

Dec 20, 1887

CPS (3) 1886 1B12 (15)

Tuscumbia Jan 29. 1889.

F. P. Ward Esq.
Huntsville.
Georgia.

While I should like to oblige you in the matter about which you have recently written me, I have upon reflective conclusion that it is not exactly the proper thing for me to voluntarily submit myself to the jurisdiction of the Chancery Court in your contemplated suit. I could give my reasons for this declension, but do not consider it necessary to trouble you therewith. I return the letter written by me to Mr Frank Neal, also you Bill, & the Smiths.

Yrs respectfully,
John D. Rather.

Names:

Neal, Frank

Rather, John D.

Smith,

Ward, F. P.

Places:

Huntsville, AL

Tuscumbia, AL

Types:

correspondence

Dates:

Jan 29, 1889

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Frances Cabaniss Roberts Collection

Preferred Citation: Frances Cabaniss Roberts Collection, Archives and Special Collections, M. Louis Salmon Library, University of Alabama in Huntsville, Huntsville, AL.

Collection Scope and Content: The Collection of 114 Linear ft. includes a total of 156 Archival Boxes. The Frances Cabaniss Roberts collection covers the historical records of the Cabaniss Roberts family. This collection contains extensive correspondence records of the Cabaniss Roberts family circa 1830 to 1930.

Archives/Special Collections Access Restrictions: None

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