

1871-76 McCalley Estate 3/3
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F6

The last will and testament of Caroline M. McCalley.

I Caroline M. McCalley wife of Thomas S. McCalley of the county of Gallatin in the state of Alabama, do make and publish this my last will and testament: That is to say, The undivided one half of all my property real and personal I give and devise to my son Charles S. McCalley upon trust following.

It is to manage direct and control this property absolutely and is to apply the rents, issues and profits thereof in so much as he shall deem necessary and proper for the maintenance and support of my husband Thomas S. McCalley during his life: and at the death of my said husband the corpus of said property with such accumulations from the rents, issues and profits as shall not have been expended by the said trustee for the maintenance and support of my said husband shall be equally divided between my children and the descendants of such children if any be dead - such descendants taking such part thereof as their parents would have been entitled to if living.

I shall die intestate as to the other half of my estate real and personal.

And I hereby appoint my said husband Thomas S. McCalley executor of this my last will and testament to wit that he shall not be required to give any bond or such equivalent.

SEITE

Names:

McCalley, Caroline
M.

McCalley, Charles S.
McCalley, Thomas S.

Types:

will

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④6 1871-76 McCalley Estate 3/5
Aug 16. 1859
R Chapman
For proceeds of W.B. Bradley, Adeline
Bradley & J.C. Bradley & J.J. Pleasants
joint note from J.C. Bradley for \$1000
dated Nov 23 1858 & 12 mo
Cash at date of note 900.
Cash Book 2 - p 139.

Names:

Bradley, Adeline
Bradley, J. C.

Bradley, Joseph C.
Bradley, W. B.

Chapman, R.
Pleasants, J. J.

Types:

receipt

Dates:

Aug 28, 1859

1871-76 McCalley Estate 3/5

This my last will and directions for the distribution of my property after my death. viz:

The following named negro slaves I wish and direct to be equally divided between my five children Caroline M. McCalley and Martha Ann McCalley wives of Thos. and W. S. McCalley; Hannah aged 55 years. Francis aged 15. Emanuel aged 14. Jim aged 10. Jeff aged 30. Mary Jane aged 21. Lucy 24. Ella C. Thompson aged 4. Mary aged 2. Margaret 45. Simon aged 15. Nancy 9. Hannah aged 5. Margret's child 2. Harriet 25. Simon aged 4. Harriet's child 2. Dennis aged 28. Old Simon aged 70. making four in possession of W. S. McCalley -

Charity aged 60. Jim 30. Felix aged 18. Dennis aged 38. making four in possession of Thos. M. McCalley - also Charles whom I mean that is not in possession of either one.

The above named negroes with their accoutrements and all other property or effects that I may have at my death equally divided as above named. which slaves and property named is to be separate and apart from the control of either that I and W. S. McCalley, thus my children's husbands shall be liable for their Thos. & W. S. McCalley, debts or obligations in any way.

And I here appoint Charles M. McCalley,

Names:

(slave), Charles
 (slave), Ella
 (slave), Emanuel
 (slave), Enon
 (slave), Felix
 (slave), Francis
 (slave), Hannah
 (slave), Harriet

(slave), Jeff
 (slave), Jim
 (slave), Lewis
 (slave), Louisa
 (slave), Lucy
 (slave), Margaret
 (slave), Mariah
 (slave), Mary Jane

(slave), May
 (slave), Nancy
 (slave), Old Simon
 (slave), Senior
 (slave), Simon
 (slave), Thompson
 (slave), Charity

McCalley, Caroline M.
 McCalley, Charles M.
 McCalley, Martha Ann
 McCalley, Thomas S.
 McCalley, William J. M.

Types:

will

1871-76 McCalley Estate ^{3/5}

1871
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I of Hunterdon Ala. to take charge
of the above named property as trustee
for my two children Caroline M. and
Martha Ann McCalley and at the
death of my two daughters above named
I wish and desire that the above
named property above shall go
or belong to their my grandchildren
I also desire and request if desired
by either one of my daughters that an
account current shall be rendered out
for the hire of the above negroes including
those that is dead from the year 1847
being the year that I hired or let them
have the negroes. Taking into consid-
eration the breeding and raising the
young negroes. either one being to
pay the other that the balance may
be against.

I have appointed my son in law
Thos S & Wm J McCalley my executors &c
to this my last will as witness
my hand and seal this Hunterdon
Madison County Ala this 7th day
of October 1864.

Ann B Lunsford seal

Witness Wm Jones
Thos S & Wm J McCalley
on 16th December 1864.

Names:

Jones, William
Lunsford, Ann B.

McCalley, Caroline
M.

McCalley, Martha
Ann
McCalley, Thomas S.

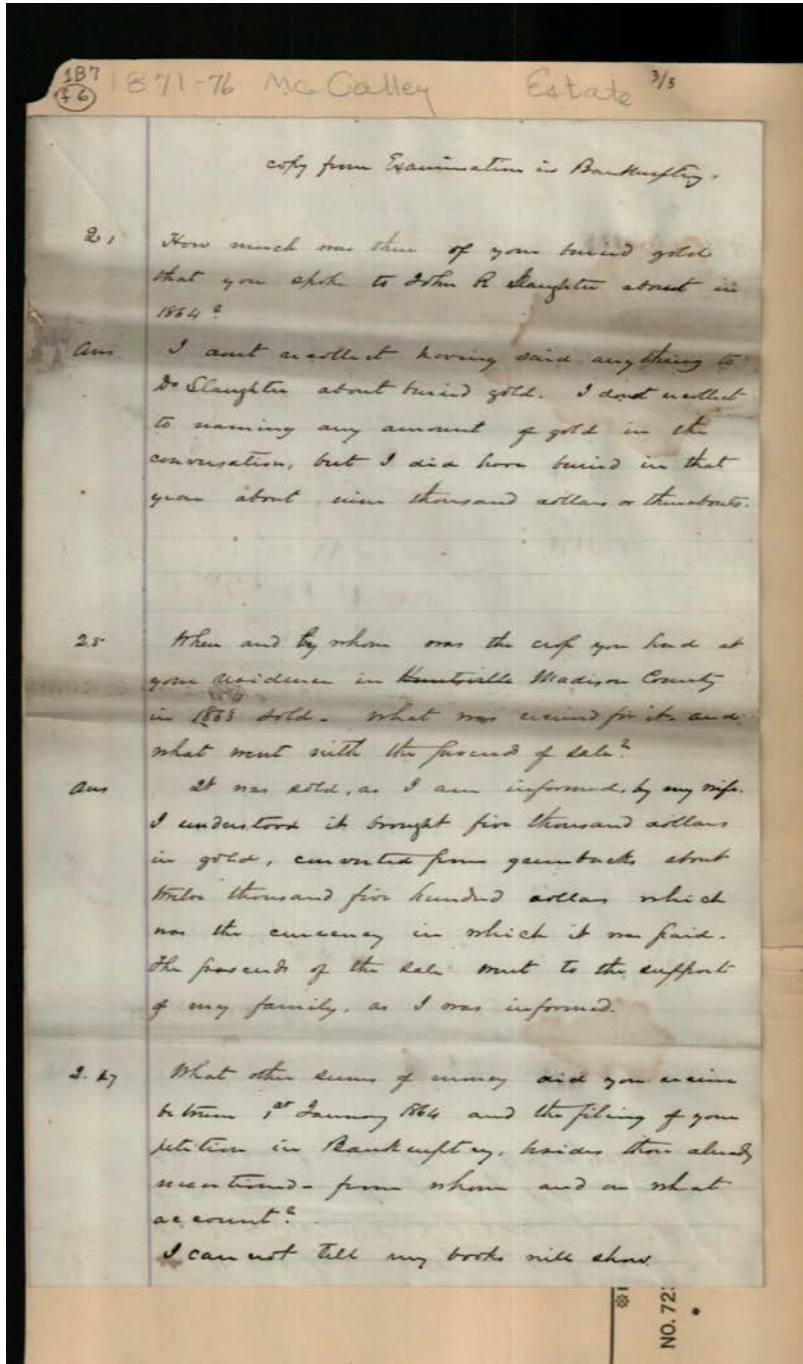
McCalley, William J.
M.

Types:

will

Dates:

Oct 07, 1864



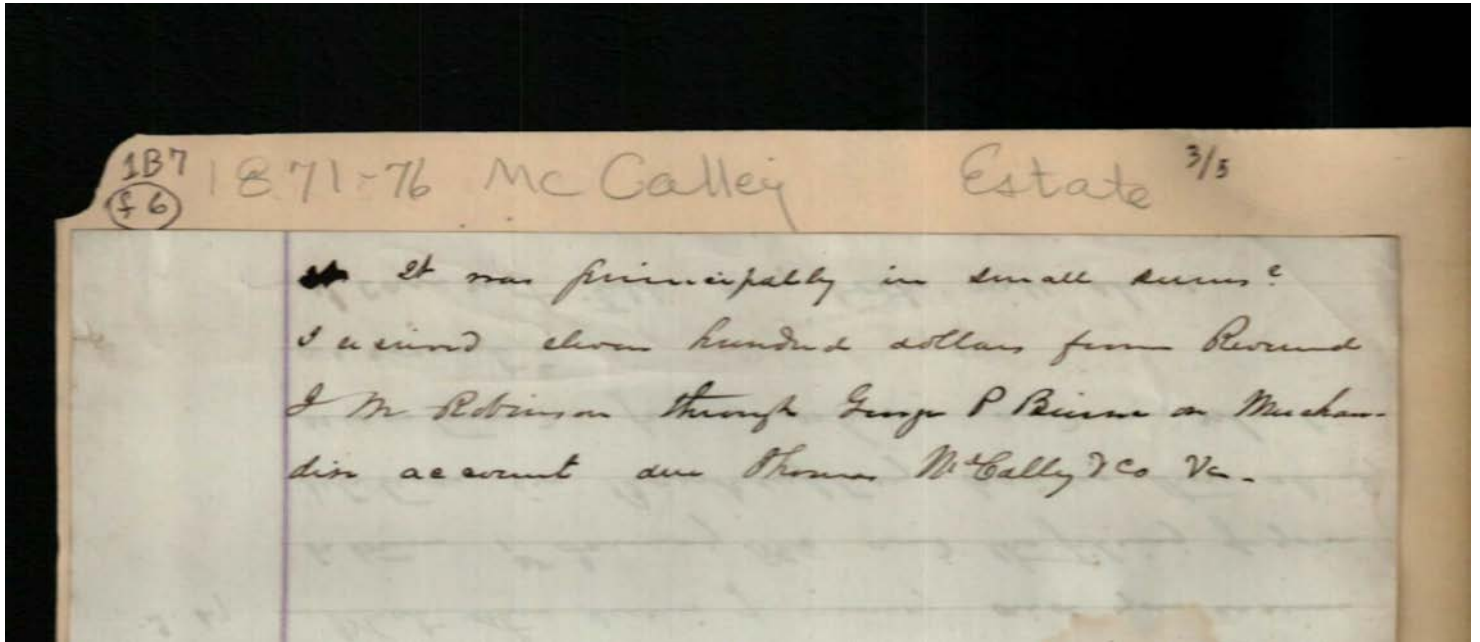
McCalley bankruptcy

Names:

Slaughter, John R., Dr.

Types:

deposition



McCalley bankruptcy

Names:

Bierne, George P.

McCalley, Thomas S.

Robinson, J. M., Rev.

Types:

deposition

1871-76 McCalley Estate 3/5
1871
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In the District Court of the United States
for the Northern District of Alabama:
Hugh L Clay Applicant of
Thomas S McCalley Bankrupt }
vs } In Equity
Thomas S McCalley wife
Caroline Mc Calley and
Ann C Lanford.

It is agreed that on the hearing
of this cause the court shall give the parties
the benefit of the objections to testimony
taken before the Examiner, by disregarding
all testimony so objected to that should
on motion be excluded.

The complainant offers the following testimony
viz: Depositions of J D Cabaniss, J S Fennell
J S Donegan, G P Rice, W F Elgin, J S Dew
William Lanford, Thomas S Taylor, L P Walker
and R B Brickell: Schedule of debts annexed
to the petition of Thomas S McCalley in Bank-
ruptcy: Certified list of debts proved and
allowed against his estate in Bankruptcy.
Certified copy of T S McCalley's deposition
in the cause of his wife vs himself wife
in the State Chancery Court: certified transcript
from the records of the Probate Court of Madison
county Alabama of the relinquishment of
down by Ann C Lanford: and (under
written agreement on file) the will of

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McCalley bankruptcy

Names:

Bierne, G. P.
Brickell, R. G.
Cabiniss, S. D.
Clay, Hugh L.

Dew, J. J.
Donegan, J. J.
Elgin, W. F.
Fennell, J. J.

Lanford, Ann C.
Lanford, William
McCalley, Caroline
M.

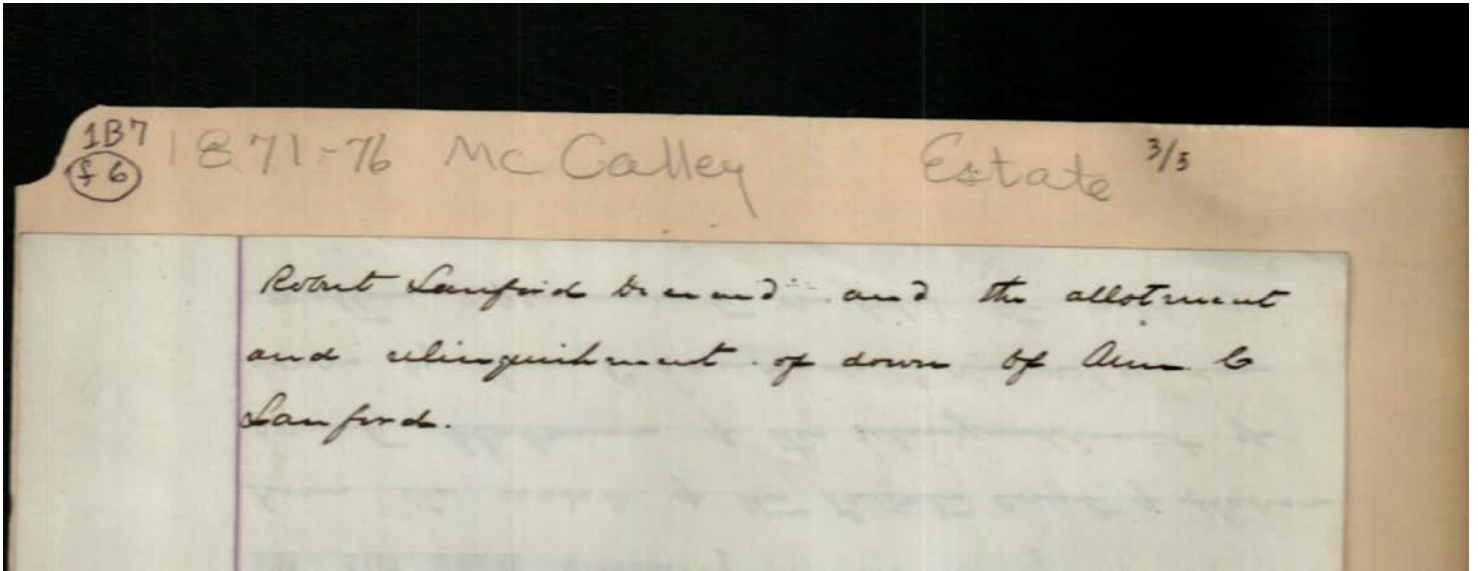
McCalley, Thomas S.
Taylor, Thomas J.
Walker, L. P.

Places:

Northern District
Court, AL

Types:

legal record



McCalley bankruptcy

Names:

Lanford, Ann C.

Lanford, Robert

Places:

Northern District
Court, AL

Types:

legal record

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1871-76 McCalley Estate 3/3

- 1 I am defendant in this case.
- 2 The original deed from me to Ann C Lanford has been lost.
- 3 Copy identified with my initials as exhibit.
- 4 Consideration of estate for hire of negroes and rent of land before execution of deed.
- 5 stated as identified as exhibit.
- 6 Made a bill of exchange J. S. M. C.
- 7 The act bears the true date of its statement.
- 8 It was stated before the deed was executed.
- 9 It is there an error in said account.
- 10 Out of 50 acres for 3 years 1857-1858 1857 more than is right and out of 235 acres when it should have been 273 acres with 9 negroes instead of 11 negroes 1847-1849

McCalley bankruptcy

Names:

Lanford, Ann C.

McCalley, Thomas S.

Types:

deposition

1871-76 McCalley Estate 3/3

11. hired in 1847 eleven negroes with £500.
 7 were field hands - 5 under 20 years -
 3 between 20 and 30 years - 1 between 30 & 40 years -
 2 about 50 years.
 1848 - 1849 - 1850 - same negroes.
 name and ages in 1847

Simon	a man	20	years
Long Henry	"	21	"
x Obidiah	"	58	"
x Pallas	Woman	45	"
Charity	"	35	"
Levin	boy	9	"
Felix	"	4	"
x Margaret	Woman	23	"
x Lou	Girl	5	"
x Harriet	"	3	"
x Laura	"	1	"

Obidiah & Pallas died in 1850.
 from 1851 to 1862 inclusive hired the balance
 except Margaret Lou Harriet Laura with £400.

12 Mr L acquired these negroes as distributee share
 of his husband's estate except the Charity Levin
 and Felix purchased by him in 1844 from Peyton T
 and George F Manning.

13 acres 273 are from 1847 to 1852 inclusive includ-
 ing the dwelling house worth £25 per acre
 from 1857 to 1862 inclusive worth 217 acres of
 land worth from 3 to 5 per acre.

NO. 7

McCalley bankruptcy
Names:

(slave), Charity
 (slave), Felix
 (slave), Harriet
 (slave), Jim

(slave), Laura
 (slave), Long Henry
 (slave), Lou
 (slave), Margaret

(slave), Obidiah
 (slave), Pallas
 (slave), Simon
 Manning, George F.

Manning, Peyton T.

Types:
 deposition

1871-76 McCalley Estate 3/3

14. 203 acres cleared. 70 timbered in grove of dwelling -

15. Timbered land used for stock and worth more than cleared land.

16. entire the dwelling house with the land. Mr L

17. had a life estate in the house. improved by putting in extent of \$6 or \$7000 without consent and against protest of Mrs L. cost of house with \$300-

18. Exp of 1/2 1/2 of 1²⁰ and 19 acres, belonged to his wife -

19. land was worth \$12 or \$15 an acre -

20. Mr L's life estate was worth \$2 to \$3 per acre.

21. 63 years of age - was in low state of health. his inflammation of the bladder. bad enough. general debility. - disordered - still -

22. The deed of Mr L to Mr M^c made Exhibit

24. and bears its true date. was executed subsequently to his deed to Mr L.

25. proceeds of sale of cotton also entered into the consideration for the deed -

McCalley bankruptcy

Names:

L., Mrs.

McC., Mr.

Types:

deposition

1871-76 McCalley Estate 3/5
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X. Interrogations.

1. As stated by me with the assistance of your attorney and examined by Mr. Lanford, afterwards submitted to Elgin for a revision & calculation of interest.
2. Obediah Pallas -
3. Mr. J. was owned any but his own land.
4. and charged me for same land.
5. I did make improvements as fully stated in examination in chief. \$2500 while Mr. J. did other after his purchase from me.
6. At the time of presenting the said - Interrogations about \$200000 in ^{and with} notes bills of Exchange ~~with~~ ~~from~~ ~~from~~. I then thought worth \$100000. Turned out to be worth less than a comparatively of better value - surrendered in Bankruptcy. and I now think \$400000 might have been realized from them - 35 shares of stock in Lumber Co. worth \$10. a share. 80 shares of stock in Huntsville Hotel Co. worth nothing in money - 1/2 interest in 100 acres of land adjoining the city of Huntsville then owned by himself and Mr. J. McCalley worth on hundred dollars per acre - an interest in Huntsville Female College - worth.
7. I did not then think I was ^{indeed} but subsequent events proved me to have been so.
8. Same answer.
9. liabilities of me \$50000 in coin - legal expenses for a long period -
10. I think I have not seen any 1/6 \$20000.
11. has paid \$25. to \$30000 - 15000 to Lumber.

McCalley bankruptcy

Names:

, Elgin
Lanford, Mrs.

McCalley, William J.
Pallas, Obediah

Turner,

Types:

deposition

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1871-76 McCalley Estate 3/5

~~1 page~~

H. L. Clay opinion in Bankrupt Complaint
(7)
Thomas S. McCalley & Alms

That a contract out of the usual course of trade is suspicious and prima facie evidence of fraud if it tends to hinder and delay creditors or defeat the act of Bankrupt (This is true at common law)

2 Bankrupt Repts 165. Hunt (Re)

And effects conveyed may be passed after fraudulent grantor went into Bankrupt. Time, place, character of the act all tend to show the intent of the grantor and grantee see too where the grantor went to hide or to hide his property

3 Bankrupt Repts 53. Lee (C) Leachman

Fraudulent sale is defeated by circumstances overriding the positive evidence of the Bankrupt. See also his brother's case

2 Bankrupt Repts 105. Geo. H. Goodrich (Re) Read this case

Debt in policy circumstances favorable to pay early by creditors - and which his creditor has good cause to believe suppressed & yet takes a confessed judgment. Cannot uphold the law & preference of such judgment. It is a fraud in fact & is after the act of Congress is a fraud on that debt.

2 Bankrupt Repts 149 150 (Wilson & Co) Bader {Part of Law
2 Bankrupt Repts 164. Zanger (Re)
2 Bankrupt Repts 172 Coleman (Re)
3 Bankrupt Repts 55 (in Miller's claim) Archdeacon (Re)
See too {This is so at common law}

Bankrupt act of Congress § 9, clause (5) + § 39, clause (6)

Is it not equally fraudulent apart from the Bankrupt law as intended & in fact to delay & hinder creditors -

McCalley bankruptcy

Names:

Clay, H. L.

McCalley, Thomas S.

Types:

legal notes

1871
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I found the debtor made a public sale at auction and got full value of his effects - yet he sold to fraud and delay his creditors & if Under was aware of this intent this sale is void for fraud

2 Stuart 336 Ayres (v) Moore
4 Ala 208. Norris (v) Prouty
41 Ala 168. Pulliam, Wiley, Rankin & Keely, Adams & Strubing
3 Stuart 243. Boazman (v) Draughon
11 Ala. 207. 213. Zornick (v) Green
14 Ala 537. Tate (v) Hunter & Thomas
15 Ala 525. Corpron (v) Astor
30 Ala 396. Huggins (v) Davine } voluntary debt
38 Ala. 329. Keen, Batten & Keely } subsequent debt
39 Ala 60 Young (v) Dumes }
This last case is dead against us unless we defeat the idea of McCalley indebtedness to Mrs. Langford

Answer is evidence against a party to the suit claiming under the Respondent as an enemy

6. Crank & Bates (v) Holland
9. Wheat. 754. Caborn (v) Old (v) the Family, 29 Am. 11-12
Groley & Am. 210 § 178

Answer false in any material matter, is not to be accorded for any thing & is as a matter of course

32 Ala. 429. Frost (v) Roberts } in this case
20. Ala. 662. Pharis (v) Leachman }
21. Ala. 633. Gunn (v) Prunty }

Answer to a point called for in bill must be answered by two (mitig) or one of opposite party equal to another (mitig)

3. Grunley, Am. § 257. & ends cited
23. Ala. 574. Bean v. Pa. 20

McCalley bankruptcy

Types:

legal notes

1871-76 McCalley Estate 3/5

Answer to a point called for in Plea must be overcome by two (or more) or one if argument facts equal to another party
3 Brimley v. H. § 257. & cases cited
23. Ala. 374 Bean v. R. & Co.

Allegations of matters charged to be in knowledge of Resp. do not assumed to be admitted

14. Ala. 753. 763. Lya v. Proulx
8. Ala. 772. Pk. v. Miller v. Plant & Muley. Pk.
1. Pk. 375. Garner v. Carpenter } Opinion of Court
7 J. Marsh. 388. Mason v. Pk.
3. Pitt. 466-539 143.

If the facts be not charged to be in depts knowledge his plea in Response amounts to nothing

14. Ala. 753 supra
4. Ala. 720 Pitts v. Frost & Valia
8 Ala. 772. supra

An answer which avers facts of fraud on its face

1. Dwaney. C.R. 349. Moore v. Taylor
1. Ingle v. R. 155. Council v. Walton

An answer which denies material allegations given may be overcome by other statements of the answer which force the conclusion that the answer as to its denials are untenable in law

3. Frank. Rep's 98. D. J. Smith (Re)
11. Wendell 240. Cunningham v. Treaborn
18. Wendell 353 Waterbury v. Steute
2. David P. Keferin et al. 574 Fulton v. Day
10. N.Y. 189. Ravis v. Linn (6. Selden)
2. Constable 365. Barry v. Griffin
16. N.Y. 486. Colburn v. Caldwell

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McCalley bankruptcy
Types:
legal notes

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M. H. Lanier's Deposition.

5. Did said Ma'am S own any other slaves between the years 1853 and 1867? If you name them and state when and how she acquired them?

Ans: There were three others bought for her. Their names were Susan and her child Mary, and Georgiana. I bought Susan and child Mary on the block in Huntsville from Sam Ragland's estate & sold by Egbert Jones as trustee. Georgiana I purchased from William H Johnston. I purchased these slaves for my wife Ma'am S Lanier after the year 1855, but can't give the exact date or year.

160	160	1750	1750
320	320	350	350
1750	1750	1750	1750
350	350	350	350

6. Did Sam Georgiana and child belong to her statutory separate estate?

Ans. Emily a Emeline came from her father's estate Sam and Georgiana I bought for her.

7. State any thing else of benefit to complainant.

Ans. I purchased Sam and Georgiana in the name and for the benefit of my wife. Do not remember whether bills of sale were taken in her name, or whether any were taken at all. I do not know to whom this property was applied for taxation.

Names:

,Emily (slave)
,Eustis (slave)
,Georgiana (slave)

,Mary (slave)
,Susan (slave)
Johnston, William H.

Jones, Egbert
Lanier, Marion S.
Lanier, William H.

Ragland, Sam

Types:

deposition

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1871-76 McCalley Estate 3/3

but believe it was apportioned, or all of her separate estate was, probably, to me. I do not remember who signed the bills of sale of the slaves, when they were sold by me, or how long before stated, or whether any bills of sale were given for them. Except this property my wife had no other property except her distributive interest in her father's estate, between the years 54 and 67, as I now remember, except the income of her separate estate. Besides Georgiana & Susan sold by me, I sold of my wife's property the following slaves, Judy Adaline, Emeline & Jennette. For these negroes I got the aggregate sum of thirty five hundred dollars. They were sold by me between the years 1855 & 1860, but in which of these years I don't remember.

(Signed) W. D. Lanier.

Names:

,Adaline (slave)

,Emiline (slave)

,Georgiana (slave)

,Jennette (slave)

,Judy (slave)

,Susan (slave)

Lanier, W. D.

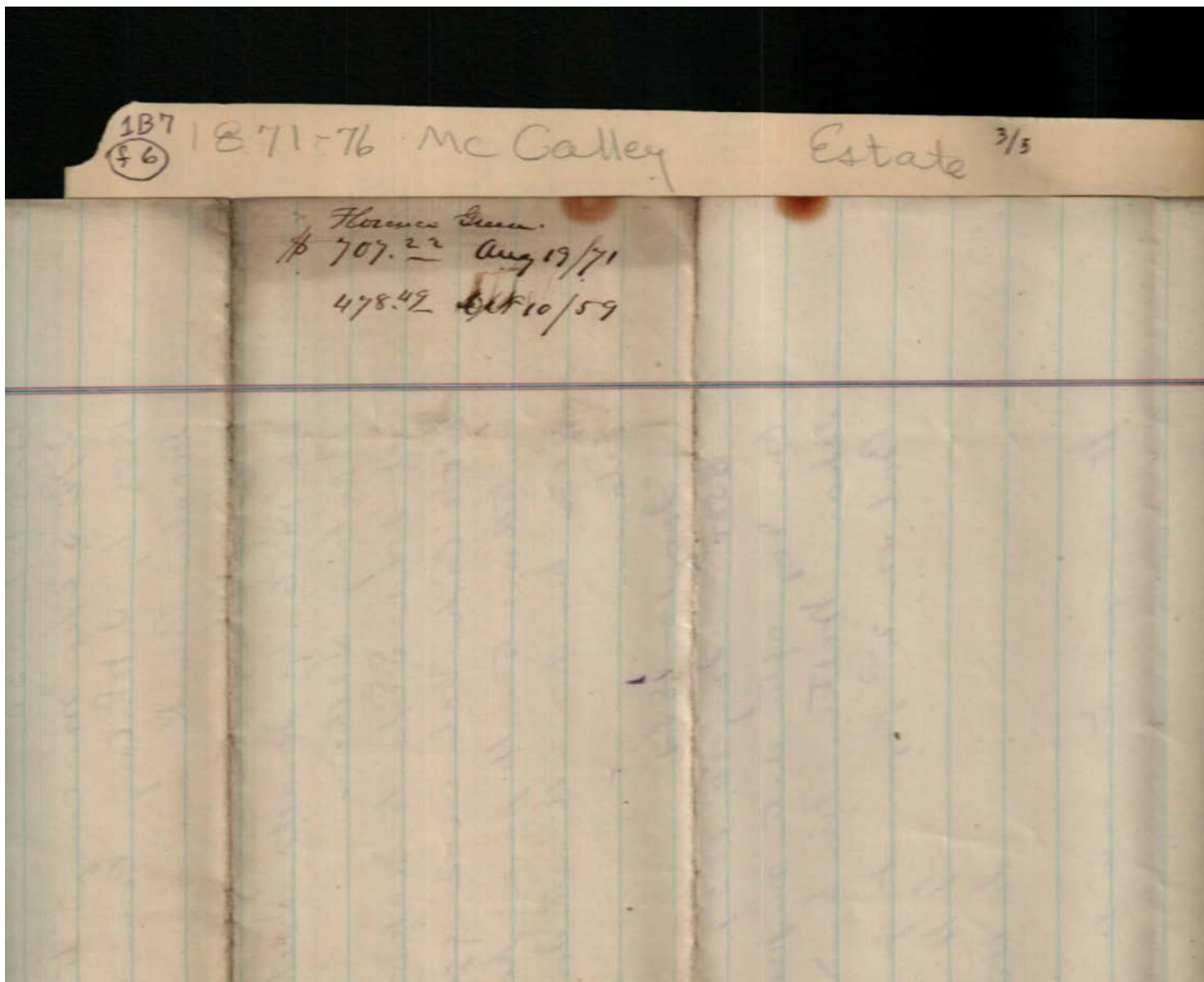
Types:

deposition

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Names:

Green, Florence

Types:

memo

1871-76 McCalley Estate 3/5

Watkins & Nimms note on both sides
for $5\frac{1}{2}$ S 30.

$\frac{1}{2}$ S $\frac{1}{4}$ was conveyed to Watkins Aug 19.
1853 by J Whitney Com & trustee of
Deater Bank.

$\frac{1}{2}$ of S $\frac{1}{4}$ was conveyed to Watkins
26. 1856 by Jonathan Latham adv of
Barbary Latham.

It sold S $\frac{1}{4}$ to Drake for \$3200
\$1000 Cash bal in 2 equal annual
installments - He paid part of 1st and
gave his due bill with Dr H Scruggs for
balance.

July 10 1857
\$500 July 10. 1857.

On day after date in promise to pay
Latham Watkins Five hundred dollars
Bal on 2nd payment of land
G W Drake
Dr H Scruggs

It appeared to be note for 2nd installment
to Wilson and conveyed to him S 30.
It seemed to be portion of same in part
of said note transferred to Wilson by Watkins.

Names:

Drake, G. W.
Latham, Barbary
Latham, Jonathan

Nimms,
Scruggs, James H.
Watkins,

Watkins, Isham
Whitney, J.
Wilson,

Types:

legal notes

This applicant having and reserving to himself all
and all manner of advantage of exception which may
be had and taken to the manifest error uncertain-
ties and insufficiencies of the answer of said de-
fendants, for replication thereof saith, that he doth
and will ever maintain and prove his said bill
to be certain and sufficient in the law to be answered
unto by said defendants and that the answer of said
defendants is very uncertain evasive and insuffi-
cient in the law to be replied unto by this applicant;
without that that any other matter or thing in said
answer contained material or effectual in the law
to be replied unto and set aside and hereby null
and sufficiently replied unto excepted or avoided
toward or denied is true; all which matters and
things this applicant is ready to ever maintain
and prove as this Honorable Court shall direct, and
humbly prays as in and by his said bill he has already
prayed.

Cooper Lewis and Cabaniss & Ward Solrs for Applicant.

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Names:

Cabiness,

Cooper,

Lewis,

Ward,

Types:

legal notes

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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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