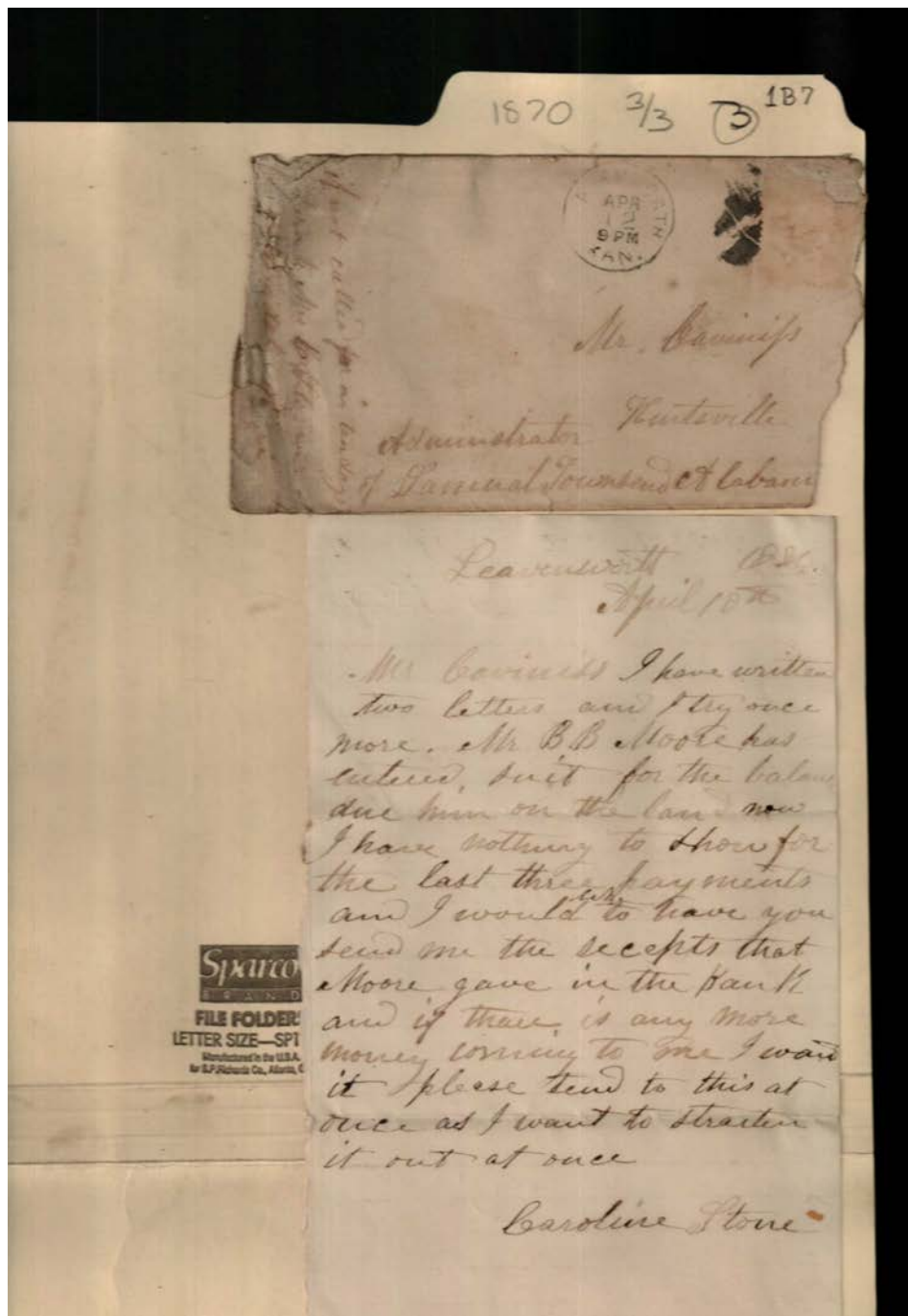


Frances Cabaniss Roberts Collection: Series 1, Subseries B, Box 7, Folder 3

Legal and court documents, 1870 (3 of 3)

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**Names:**

Cabiniss,

Moore, B. B.

Stone, Caroline

Townsend, Samuel

**Places:**

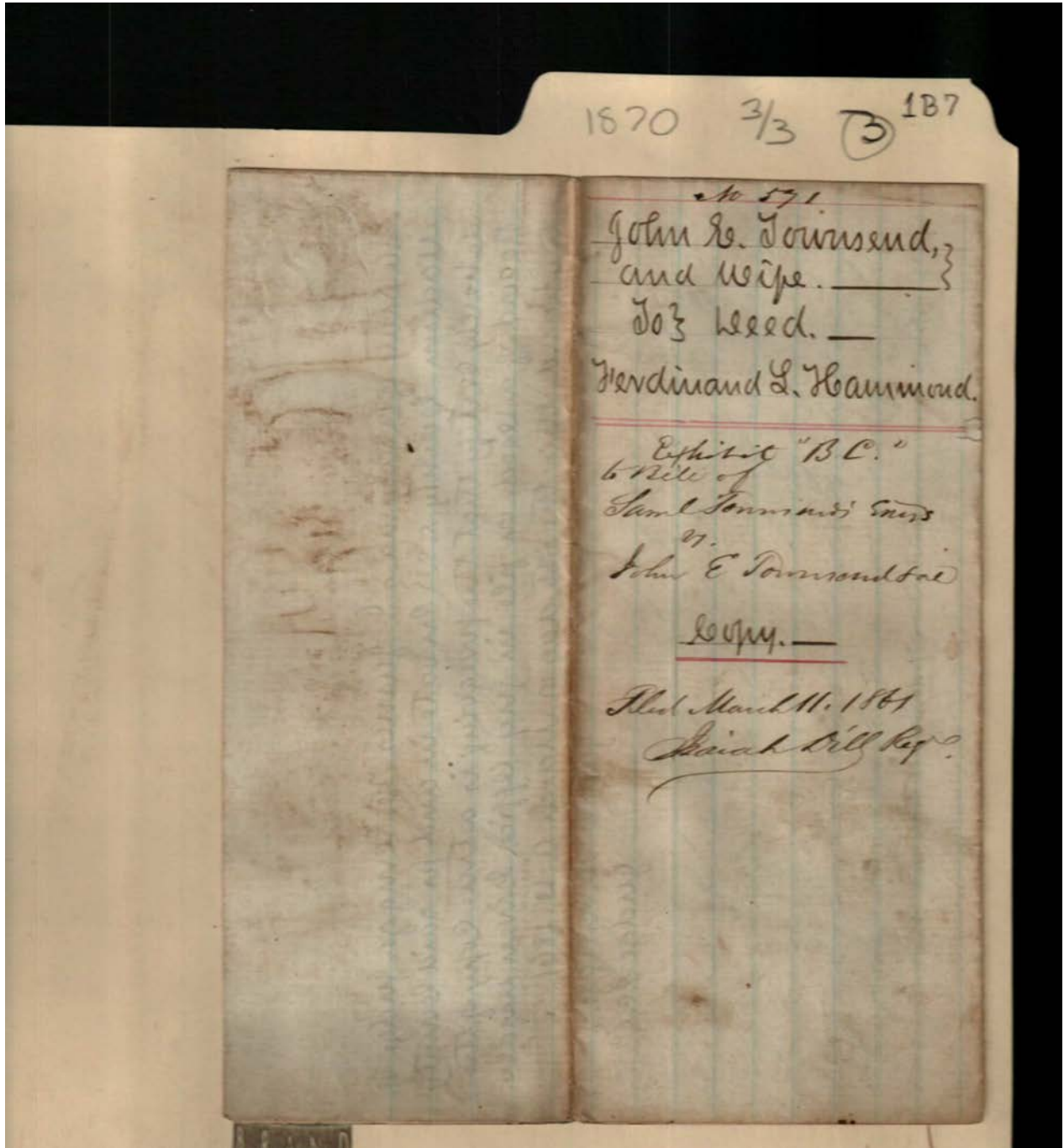
Leavenworth, KS

**Types:**

letter

**Dates:**

Apr 10,



**Names:**

Dill, Isaiah

Hammond, Ferdinand

Townsend, John E.

L.

Townsend, Samuel

**Types:**

memo

**Dates:**

Mar 11, 1861





1870 3/3 (3) 187

being a in any case affecting and the said Ferdinand L  
 Hammond his heirs and assigns forever. And the said John E.  
 Townsend & Sally his wife of the same part their heirs executors  
 and administrators do hereby and in consideration of the sum  
 in payment and will forever release the title to the above described  
 and hereby grant forever and the said Ferdinand L.  
 Hammond his heirs and assigns forever and against any  
 and all persons present or future claiming or holding under  
 than the said John E. Townsend & Sally Townsend his wife and  
 also against the lawful title claims and demands of all and every per-  
 son or persons who may claim or hold any of the premises under  
 the Government of the United States. In Testimony  
 Whereof the said John E. Townsend and Sally Townsend  
 his wife have hereunto subscribed their names and affixed their  
 seals the day and year first above written.  
 Signed sealed and delivered John E. Townsend (Seal)  
 in the presence of } Supt. R. D. Wilson (Seal)  
 \_\_\_\_\_ }

The State of Alabama, J. R. D. Wilson a Justice of the Peace for  
 Madison County, Ala. do hereby certify that John E.  
 Townsend & Sally Townsend (who makes her mark) whose  
 names are written to the foregoing conveyance and who are  
 known to me as the parties thereto on this day that being in  
 presence of the competent jury executed the same without any of the  
 day the same been date given under my hand this 26 day of  
 January A.D. 1858. J. R. D. Wilson, J. P.

The foregoing deed of conveyance was delivered into the  
 office of the Justice of the Peace of Madison County in  
 the State of Alabama for registration on the 26<sup>th</sup> day of January  
 1858 and was duly recorded on the 1<sup>st</sup> day of February 1858.  
 J. R. D. Wilson  
 Justice P.

**Names:**

Hammond, Ferdinand  
L.

Townsend, John E.  
Townsend, Sally

Wilson, J. R. D.  
Wilson, R. D., Jr.

**Places:**

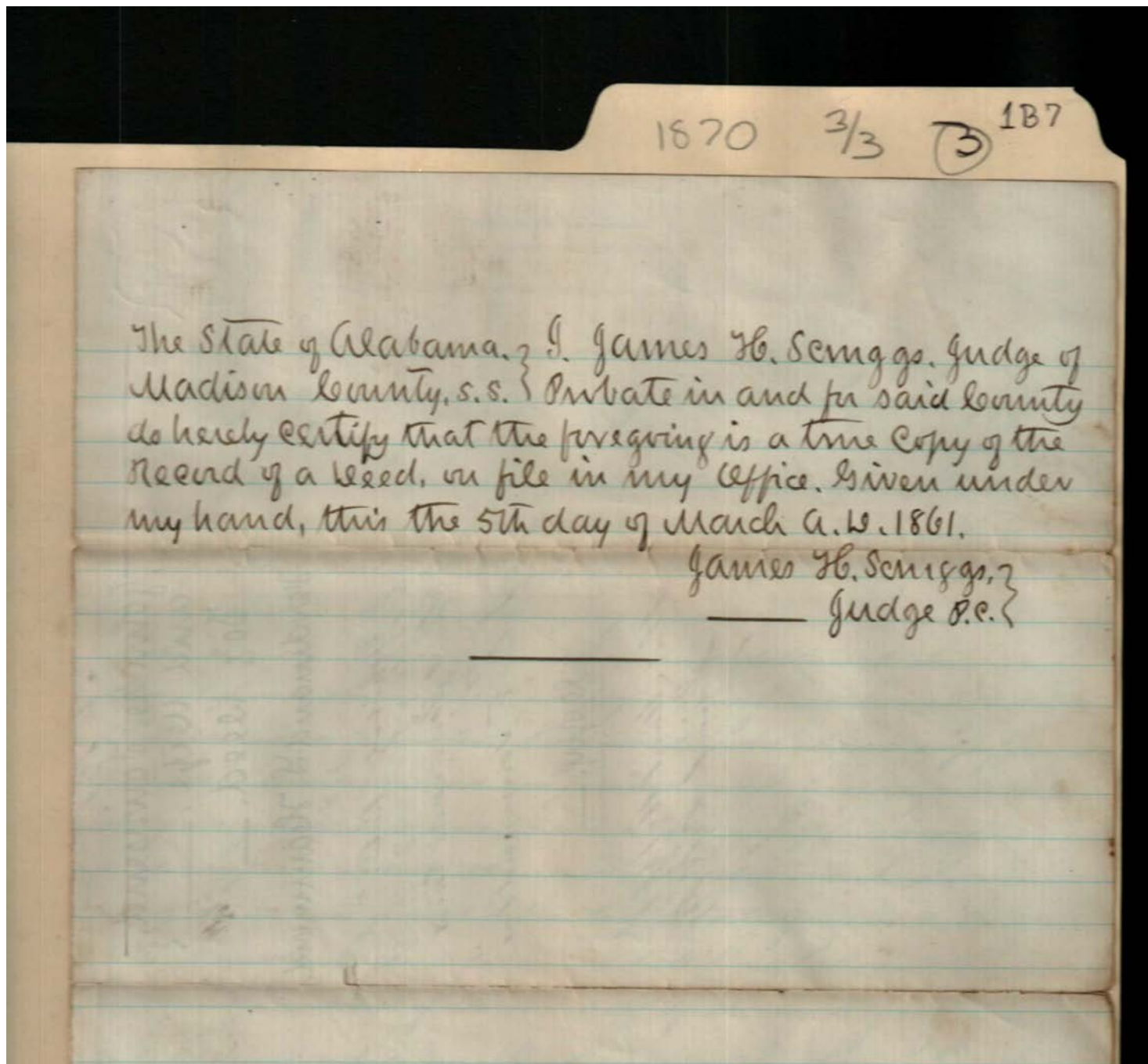
Madison County, AL

**Types:**

deed

**Dates:**

Jan 26, 1858



**Names:**

Scruggs, James H.  
(Probate)

**Places:**

Madison County, AL

**Types:**

deed

**Dates:**

Mar 05, 1861

1870 3/3 3 187

The Answer of Septimus D Cabaniss Executor  
of the Last will and Testament of Samuel  
Townsend deceased, to the bill of Com-  
plainant Dana W. Alexander and Samuel  
C. Townsend administrators of the Estate  
of Thomas Townsend deceased John Lewis and  
John Stanney Exhibited in the Chancery  
Court for Marshall County, State of Tennessee  
held at Sevierville against said respondents  
& Samuel C. Townsend as Executors of said  
Samuel Townsend deceased

This respondent answering all benefits of excep-  
tion to the many errors, omissions & defects in said  
bill of Complaint contained, for Answer thereto or  
unto so much thereof as he is advised it is material  
for him to answer, answering says

He admits the correctness of the allegations  
of the Complainants bill as to the Citoyen  
Ship, said deceased death and intestacy of Thomas  
Townsend deceased - He admits that said  
Complainants Alexander and Townsend were  
appointed & qualified & gave bond as ad-  
ministrators of the estate of said Thomas Town-  
send as alleged in said bill and that the  
other Complainants are creditors upon said  
bond

He admits that he & Samuel C. Townsend  
as Executors of the Will of Samuel Townsend

Townsend Estate

**Names:**

Alexander, Dana W.  
Cabaniss, Septimus

Lewis, John  
Stanney, John

Townsend, Samuel  
Townsend, Samuel C.

Townsend, Thomas

**Places:**

Marshall County, TN

**Types:**

legal report



1870 3/3 ③ 187

late of the County of Madison and State of  
Alabama deceased did in the early part of  
the year 1858 institute a suit in the Circuit  
Court of Marshall County & State of Tennessee  
against complainants Alexander and  
Townsend as administrators of the  
estate of Thomas Townsend deceased to  
recover a debt which said Thomas owed  
to the said Samuel Townsend formerly  
borrowed by the said Thomas of the said  
Samuel in the State of Alabama,  
amounting to five thousand dollars with  
interest from April 1 1854  
And that on the 12<sup>th</sup> twelfth day of June  
A.D. 1860 they recovered a judgment in  
said suit against the aforesaid Admin-  
istrators of Thomas Townsend deceased  
in said Circuit Court for the sum of four  
thousand and seventy six dollars fifty  
six cents \$4076.56 as balance of debt  
with interest of suit.  
And this respondent further answering  
says he is informed and believes it to be  
true that after the rendition of said judg-  
ment and before the issuance of any exe-  
cution thereon the following payments  
were made upon said judgment to Thom-  
as McKnight as the Clerk of said Cir-  
cuit Court by said administrators

Townsend Estate

**Names:**

Alexander,  
McKnight, Thomas

Townsend,  
Townsend, Samuel

Townsend, Thomas

**Places:**

Marshall County, TN

**Types:**

legal report

1870 3/3 187

and paid said sum of three hundred  
dollars to the Clerk of said court on  
the 10<sup>th</sup> October 1860 as shown by the receipt  
of said McKnight on the records of said  
Court that said *Fi Fa* was returned in  
the 12<sup>th</sup> <sup>November</sup> ~~October~~ 1860, and an alias *Fi Fa*  
issued on the 13<sup>th</sup> November 1860 and placed  
in the hands of said deputy Sheriff W. C.  
Green, who as this respondent is informed  
& believes & states ~~dictated~~ and endorsed  
upon said alias *Fi Fa* the sum of eighty  
seven &  $\frac{94}{100}$  dollars collected Decr 5. 1860  
and the further sum of three hundred and  
fifty three and  $\frac{22}{100}$  dollars as collected on  
the 13<sup>th</sup> Decr 1860, and making in all the  
sum of four hundred and forty one &  $\frac{64}{100}$  dol  
lars collected on said alias *Fi Fa*, and  
that all of said ~~com~~ ~~propt~~ ~~tax~~ ~~costs~~ ~~was~~  
paid by said deputy Sheriff Green to  
the then Clerk of said Court McKnight  
on the 11<sup>th</sup> February 1861 as shown by  
the receipt of said McKnight of record in  
said Circuit Court of Marshall County:  
And this respondent denies that said com  
plainants or either of them or any one  
for whom they made any payment upon  
said judgment other than those herein before  
mentioned, so far as this respondent has been  
informed or knows or believes—

Townsend Estate

**Names:**

Green, W. C.

McKnight,

**Places:**

Marshall County, TN

**Types:**

legal report



1870 3/3 (3) 187

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This respondent further answering says that he is informed & believes that the note on which said judgment was recovered (being for \$5000. dated April 1<sup>st</sup> 1859 and bearing interest from its date at Alabama interest 8 per cent per annum) was credited with two payments made to respondent's attorney (prior to the date of rendition of said judgment) and that said credit was indorsed on said note by said attorney; and that said defendants are neither of them dead nor are either of them so far as this respondent is informed and he believes ever pay make any payments to the attorney for said debt at law, other than those credited on said note prior to the rendition of said judgment, one of which was for eight hundred dollars paid on the 10<sup>th</sup> June 1860. and the other was indorsed as having been <sup>for</sup> two thousand one hundred and five dollars and eighty eight cents <sup>paid Sept 25 1858</sup> and this respondent says that said judgment was in fact satisfied for several hundred dollars less than was justly due respondent. This respondent denies that he has ever received any payments on account of said ~~debt~~ judgment or the debt on which it was founded.

Townsend Estate

Types:

legal report

1870 3/3 T 187

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Receipt the sum of two thousand and forty seven dollars and twenty five cents which was paid to him on the day of February 1859 and the sum of long given to the satisfaction of said judgment and the further sum of twelve hundred dollars which was paid to him on the 12<sup>th</sup> day of July 1860 and that both of said sums amounting in the aggregate to three thousand two hundred and forty seven <sup>25</sup>/<sub>100</sub> dollars were sent to him by William F. Kircherel Esq who was respondent's attorney in said suit at law - And this respondent states upon information & belief that no part of said debt or said judgment was ever paid to his co executor Samuel C. Townsend, who departed this life on the 6<sup>th</sup> day of April 1861 - This respondent therefore denies that there is or can be any difficulty in ascertaining what is the balance due from the aforesaid administrators of Thomas Townsend accrued upon said judgment - This respondent states that after examining complaints with all the aforesaid payments made as aforesaid on said or said judgment to the Clerk of said

Townsend Estate

**Names:**

Kircherel, William F.

Townsend, Samuel C.

Townsend, Thomas

**Types:**

legal report



1870 3/3 ③ 187

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Circuit Court and to the said deputy Sheriff from \$16.20 there being applied to the payment of the costs of the suit) there remained on the 13<sup>th</sup> day of Decr 1866 due on said judgment from the defendants therein the sum of one thousand and thirty eight dollars, which with interest thereon from the day 2 year last adjourned is yet unpaid and owing by said administrators to this respondent.

This respondent further answering says that the facts herein before stated as to the payments made on said judgment to the former clerk of said Circuit Court & to said deputy Sheriff from were obtained by respondent in the year 1866 by an examination of the records & files of said Court, and he deems that there is any necessity for an account to be taken by the Clerk & Master of a Chancery Court to ascertain the balance due upon said judgment.

This respondent further answering says it is true that said Thomas Townsend was a legatee under the will of Edmund Townsend deceased and that as one of the heirs at law and next of kin of said Edmund he was entitled to share in the distribution of the estate of <sup>sa</sup> Edmund Townsend late

Townsend Estate

**Names:**

Townsend, Edmund

Townsend, Thomas

**Types:**

legal report



1870 3/3 (B) 187

of the County of Madison & State of Ala-  
 bama deceased; - and it is also true  
 that said Samuel Townsend qualified  
 as one of the Executors of the Will of said  
 Edmund - but this respondent states  
 as of his own personal knowledge that  
 the legacy of four thousand dollars  
 bequeathed by said Edmund to said  
 Thomas, was fully paid & discharged  
 in the lifetime of said Thomas; and  
 that said Thomas at a sale of the estate  
 of Edmund made for distribution per  
 Chancery a large amount of personal  
 property & thereby obtained in his lifetime  
 possession of nearly all of her distributive  
 share of said estate of Edmund  
 that said Samuel Townsend departed  
 this life in the year 1856 ~~two~~ prior to  
 any settlement of the ~~or~~ distribution of  
 the estate of Edmund Townsend and  
 leaving surviving him John E Townsend  
 an executor of said Edmund Town-  
 send who subsequently made a final  
 settlement & distribution of the estate  
 of said Edmund Townsend ~~before~~  
 in the Court of Chancery of the then  
 29th Nov-5th District of the Northern  
 Chancery Division of Alabama in  
 a Court decree, decided in which the  
 said John E Townsend as the surviving

Townsend Estate

**Names:**

, Edmund

Townsend, John E.

Townsend, Samuel

Townsend, Thomas

**Types:**

legal report

1870 3/3 3 187

Executors of Edmund Townsends will  
 complainant and the Executors of said  
 Samuel Townsends, George W. Carmichael  
 as the Administrator of the Estate (wills  
 bona) of Thomas Townsends deceased  
 & the other heirs & distributees of the  
 Estate of Edmund Townsends deceased  
 are defendants, That on such final  
 settlement & distribution the said Executors  
 of Samuel Townsends accounted fully  
 for all assets of said Edmunds Estate  
 which had come to the hands of said  
 Samuel & for which he was charged,  
 and that a decree was rendered in  
 favor said George W. Carmichael  
 as administrator of Thomas Townsends  
 against John E. Townsends as surviving  
 Executor of Edmund Townsends for  
 the balance due ascertained to be due  
 on the distribution share of Edmund  
 said Thomas Townsends in the estate  
 of said Edmund Townsends  
 & ~~was said to be~~ ~~the said~~ ~~the~~  
~~was rendered in the said~~ ~~the~~ ~~the~~  
 and it may be true that said decree  
 is unsatisfied - but respondent says that  
 said decree was for a less sum than the  
 balance due on said judgment in

Townsends Estate

**Names:**

Carmichael, George  
W.

Townsends, Edmund  
Townsends, John E.

Townsends, Samuel  
Townsends, Thomas

**Types:**

legal report



1870 3/3 187

The Circuit Court of said State that if collected by the administrator of the Estate in Alabama of said Thomas Townsua shall be subject to the payment of the expenses of administration & ~~any other expenses~~ ~~of the estate~~ and to the distribution in Alabama among the distributees of the estate of said Thomas Townsua.

And this respondent is advised to believe it to be true & that by reason of the proceedings had in their Honorable Court in a certain cause mentioned in the Complaints filed in which the said Complainants Alexander and D. C. Townsua and the widow & heirs of Thomas Townsua were defendants, the said Complainants are not entitled <sup>to receive the distribution of said Thomas Townsua's</sup> ~~to receive the distribution of said Thomas Townsua's~~ ~~assets~~ ~~of the estate~~ pay said judgment out of any other assets of the Estate of Thomas Townsua ~~and~~ ~~than~~ ~~those~~ ~~set~~ ~~apart~~ ~~for~~ ~~that~~ ~~purpose~~ ~~by~~ ~~the~~ ~~said~~ ~~Honorable~~ ~~Court~~ ~~under~~ ~~its~~ ~~order~~ ~~and~~ ~~without~~ ~~the~~ ~~consent~~ ~~of~~ ~~the~~ ~~distributees~~ ~~of~~ ~~the~~ ~~Estate~~ ~~of~~ ~~said~~ ~~Thomas~~ ~~Townsua~~.

This respondent does not know but believes it to be true that

Townsua Estate

**Names:**

Alexander,

Townsua, D. C.

Townsua, Thomas

**Types:**

legal report



1870 3/3 ③ 187

This respondent has no personal knowledge of the fact but believes it to be true that said complainants Alexander and Townsend as administrators of the estate of the said deceased did file a bill in your Honorable Court of the nature & description set forth on the first & second pages of the bill in this Court and respondent supposes it to be true that such proceedings were had in said Court as are set forth in the said bill but this respondent not having consented to the merits of said bill for greater certainty & safety says the Court to inspect the records files in said Court - if the proceedings in that Court be material in this cause

This respondent was not a party to said bill and is advised & trusts that he ought to enforce the payment of the aforesaid judgment cannot be affected by any proceedings in said Court

This respondent further answers says that in the year 1858 the said complainants filed their bill of complaint in this Honorable Court against this respondent and his then Co. Insulator Samuel C. Townsend, whereby they

Townsend Estate

**Names:**

Alexander,

Townsend,

Townsend, Samuel C.

**Types:**

legal report

1870 3/3 ③ 187

This respondent has no personal knowledge of the fact but believes it to be true that said Complainants Alexander and Townsend as administrators of said deceased did file a bill in your Honorable Court of the nature & description set forth on the first & second pages of the bill in this Court and respondent supposes it to be true that such proceedings were had in said Court as are set forth on their said bill but this respondent not having consented to the merits of said bill for greater certainty & safety prays the Court to withhold the records of the said Court - if the proceedings in that suit be material in this cause

This respondent was not a party to said suit ~~and~~ Chancy is admitted to state that his right to enforce the payment of the aforesaid judgment cannot be affected by any proceedings in said suit

This respondent further ~~assumes~~ says that in the year 1858 the said Complainant filed their bill of complaint in this Honorable Court against this respondent as he then ~~was~~ <sup>was</sup> ~~represented~~ <sup>represented</sup> by Samuel C. Townsend, whereby they

Townsend Estate

**Names:**

Alexander,

Townsend,

Townsend, Samuel C.

**Types:**

legal report

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1870 3/3 B 187

cannot be mistaken that Respondent  
found in her said Com. from <sup>the claim on which</sup> ~~the~~ ~~claim~~ ~~on~~ ~~which~~  
citing by judgment ~~the~~ ~~fact~~ ~~in~~ ~~which~~  
such judgment was subsequently set  
aside on the alleged ground that their  
intestate Thomas Townsend was entitled  
to a distributive share of the estate of  
Edmund Townsend deceased and  
that said Samuel Townsend respondent  
intestate was an executor of the  
Will of said Edmund & had received  
assets of the estate of said Edmund  
but for greater certainty this respon-  
dent prays an injunction of the court  
of said last mentioned court - This  
respondent shows that said bill was  
discontinued by the Defendants thereto  
and that the injunction issued in said  
cause was dissolved & said bill dismissed;  
And this Respondent is advised and  
instructs that the Complainant in this  
suit is precluded by the decree in  
the last mentioned suit from receiving  
or controlling the assets of ~~the~~ ~~complainant~~  
this respondent to enforce the  
payment of the aforesaid judgment  
of said Circuit Court

Townsend Estate

**Names:**

Townsend, Edmund

Townsend, Samuel

Townsend, Thomas

**Types:**

legal report



1870 3/3 ③ 187

13

This respondent further avers, says he is  
informed & believes it to be true that a suit  
has been instituted on the 27<sup>th</sup> day 1869 of  
alleged in said bill of Complaint &  
against the above said Complaint  
on the administration of  
Complainant Alexander and  
said as Advers of the estate of  
Townsend deceased to inform the payment  
of the balance due on said judgment at  
law -

This respondent avers that he is  
a non resident of the State of Tennessee  
and that his business is regular & usual  
in Tennessee who in deed was also at  
the time of her death & during his whole  
life a citizen of the County of Madison  
and State of Alabama and he states  
that said ~~Eliza~~ Samuel Townsend deceased  
was at her many years prior to his  
death also a citizen of said County of  
Madison & State of Alabama

Townsend Estate

**Names:**

Alexander,

Townsend,

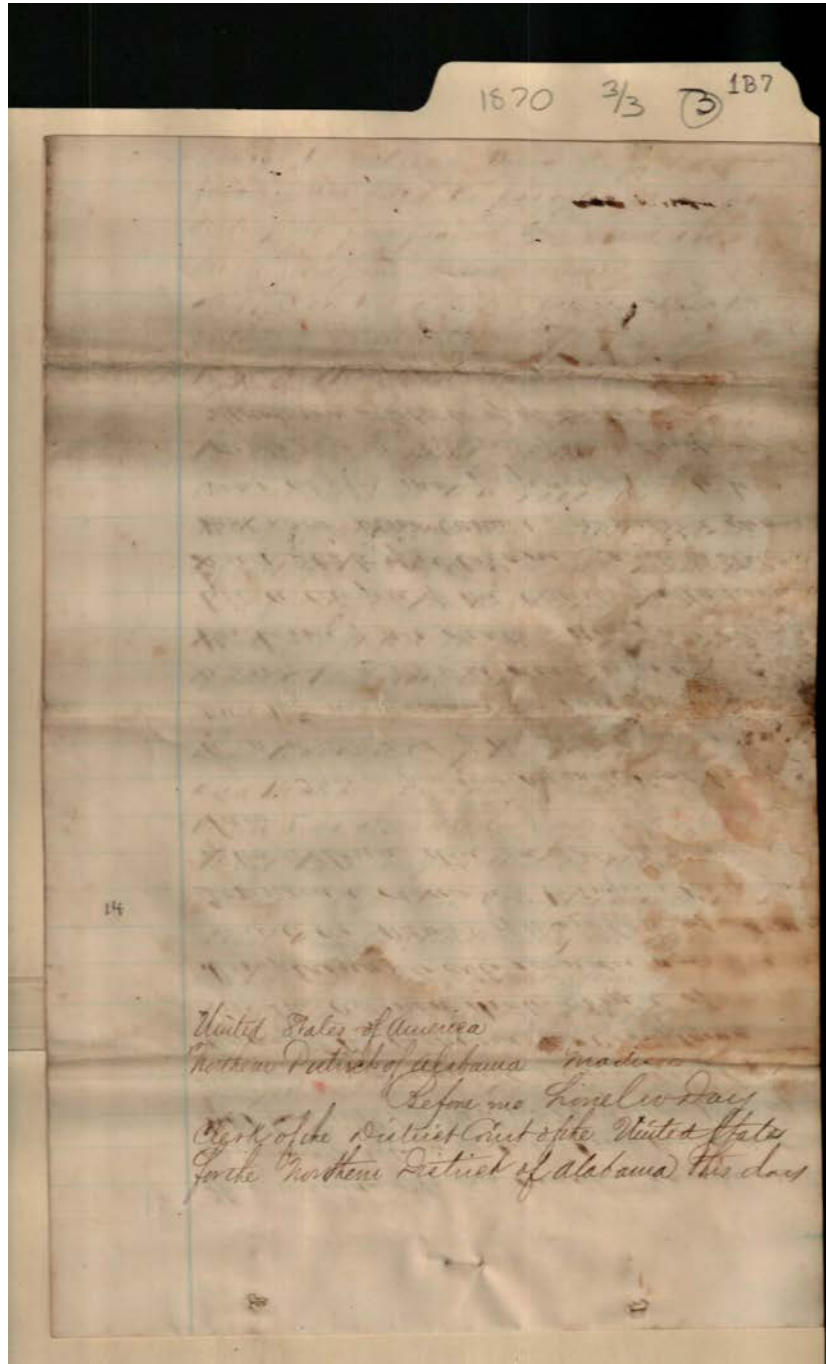
Townsend, Samuel C.

**Types:**

legal report

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Townsend Estate

**Names:**

Day, Linele W.

**Places:**

Northern District of  
AL

**Types:**

memo

15

1870 3/3 ③ 187

cause Septimus Cabaniss Plaintiff of the  
will of Samuel Townsend, dec'd, defendant  
in the foregoing answer who is to me personally  
known and being by me first duly sworn,  
deposes & states that the facts stated  
in the foregoing answer as of his own knowl-  
edge are true and that those stated as  
information he believes to be true.

I do hereby  
I have subscribed to before me  
of May A.D. 1870. and the witness  
I hereunto set my hand and the  
said Court at Huntsville in said

Samuel Townsend  
Clerk of said Court  
Third Court Chatauge

As Witness

Townsend Estate

**Names:**

Cabaniss, Septimus  
D.

Townsend, Samuel

**Places:**

Huntsville, AL

**Types:**

deposition

**Dates:**

08 May 1870



**Frances Cabaniss Roberts Collection: Series 1, Subseries B, Box 7, Folder 3**  
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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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