

Blumenthal, Augustus A

vs.

Roll, Conrad  
Hutchison, E Carter  
Minor, Francis

1856

St. Louis

366/11

583/2

land dispute  
Coyne, surveyor, - testifying what he believes is proper (grew pin area)

Grand Prairie common lots / Chancillier tract

dispute over conflicting surveys (of Hervieux + Conde claims)

conveyed Chancillier to Beaumarchais (Bl. claims)

Spanish Land Grant } portion sets b/w Chancillier + Hervieux

affirmed

opinion of Coyne properly excluded

Leonard

ORIGINAL FILED  
1856

Augustus A. Blumenthal  
Appellant  
vs  
Conrad Rollotters  
Respondents

In the Supreme  
Court  
March Term  
1856

The Appellant by his counsel says there  
is error in the Record of this cause com-  
mitted by the Court below against the  
Plaintiff in this -

1<sup>st</sup> The Court erroneously instructed the  
jury on Motion of the Counsel for the  
Defendant - that upon the case made  
the Plaintiff was not entitled to  
recover -

F. A. Dick for  
Appellant

Respondents say there is no error in the  
Record and Judgment, and none in the instruction  
given by the Court below  
Wm. L. Dickinson att.  
for appellees.

153

Blumenthal

<sup>m</sup>  
Roll of

Assignment of  
Deeds

J. A. Dick  
Snappet,

Filed 22 March 1853.

W. S. Glanville

Amended Filed 26 March 1856.

W. S. Glanville  
cl.

*[Faint handwritten notes on the right page, including the name "Blumenthal" and other illegible text.]*

Transcript,  
For Supreme Court,  
From St. Louis Land Court,  
in case of

Augustus A. Blumenthal,  
against Jeff

Conrad Roll, E. Carter  
Hutchinson, Francis Minor  
et, al. Deft,

F. A. Dick  
for Plff }

Minor & Pollard,  
for Defts, }

1 State of Missouri }  
County of St Louis }

Be it remembered that on the twenty second day August in the year of Our Lord eighteen hundred and fifty four, there was filed in the office of the Clerk of the St Louis Land Court a petition in the words and figures following to wit:

Petition

State of Missouri }  
County of St Louis }

In the St Louis Land Court, October Term 1854

Augustus A. Blumenthal Plaintiff }  
vs }  
Court }  
Couras Race }  
St Louis County }

The plaintiff states that on the first day of June A. D. 1854 he was entitled to the possession of the following described premises to wit a parcel of land in St Louis County being in the Grand Prairie Common Fields and a part of the <sup>tract</sup> of land designated as United States survey number 1561 confirmed by the United States to the legal Representatives of Chancellier, which portion of said larger tract is one half arpent in front from North to South by four arpens in depth from East to West and lies West of Grand Avenue, and is lot marked number four on the plat made by the Sheriff of St Louis County of the land ordered by this Court to be sold on the 14<sup>th</sup> April 1854 in the suit of James Harrison against William Provenier jr others, which plat was made by the Sheriff and a copy of it annexed to the ~~plat~~ made by the Sheriff of St Louis County to the Plaintiff.

2 dated 24 May 1854 & recorded in the office of the Recorder of deeds for this County in Book Number 157 page 553.

Plaintiff further states that on said first of June or some other day not precisely known to the Plaintiff, but before the institution of this suit, the Defendant entered into said premises designated as aforesaid as said lot number four and unlawfully withheld from the Plaintiff the possession thereof.

The Plaintiff asks judgment against the Defendant for the possession of said premises and for the monthly value thereof, and for dollars damages

G. A. Dick

for the Plaintiff.

The Plaintiff being sworn says he believes the foregoing petition and the matters therein as stated to be true,

Augustus A. Blumenthal

Sworn to and subscribed before me

this 2<sup>nd</sup> day of August 1854

C. A. Martz Clerk By J. B. Walsh Deputy.

County of St Louis. ss

Summons

The State of Missouri

To the Sheriff of St Louis County - Meeting

We command you to summon Conrad Hall <sup>to appear</sup> before the Judge of our Saint Louis Land Court, on the first day of the next term thereof, to be held in the City of St Louis, within and for the County of St Louis, on the First Monday of October next, then and there to answer the complaint of Augustus A. Blumenthal as set forth in the annexed petition; and show you then and there

3

this writ,

Witness, Charles A. Mautz, Clerk of our said Court with the seal thereof hereto affixed, at office, in the City of St Louis, this twenty third day of August in the year of our Lord eighteen hundred and fifty four.

Sheriff, return

Executed this writ in the county of St Louis on the 23rd day of August 1854 by leaving a copy of the writ and petition as furnished by the Clerk at Conrad Roll's usual place of abode with a white person of the family, over the age of 16 years. Sheriff, J. M. Adams, Sheriff, J. M. Adams, Sheriff, J. M. Adams.

Chas A. Mautz Clerk

By J. D. Walsh Deputy.

The following proceedings were had in this cause, to wit:

Wednesday, October 4<sup>th</sup> 1854.

Augustus A. Blumenthal,

vs

Conrad Hall,

On Motion, E. Carter Hutchinson, George L. Pollard

and Francis Minor are <sup>co-</sup>defendants in this cause as landlords, and filed there answer herein.

Answer

Saint Louis Land Court,

October Term 1854,

A. A. Blumenthal, Plaintiff,

vs.

Conrad Hall, Defendant and,

E. C. Hutchinson

Geo L. Pollard &

Francis Minor } Co-Defendants

Ejectment

The said Defendants for answer to the petition of the Plaintiff, make the following statement -

They deny that the Plaintiff is entitled to the possession of the land

7 mentioned in his petition, or any part thereof: or that he has sustained any damage at their hands.

They further state that they, & those under whom they claim, have had open, adverse & undisturbed possession of the land in question for twenty years, & more -

And they plead the Statute of Limitations accordingly -

They also state, that independently of this, neither the deed under which the plaintiff claims, nor any other deed or deeds, gives him a legal right to the possession of the premises, such as will entitle him to maintain the action of Ejectment.

They therefore pray that his petition may be dismissed and that said defendants may recover their costs in this behalf expended -

Francis Minor

Geo L. Pollard

Attorneys for the Defendants

answer of  
defts

State of Missouri }  
County of St Louis } P

Francis Minor, for himself & for the other defendants, makes oath & says he believes the foregoing answer and the matters therein contained, as stated, are true,

Francis Minor.

Sworn to & subscribed before me  
the 24<sup>th</sup> day of October 1854  
C. A. Mautz clerk.  
W. B. Walsh deputy

The following further proceedings were had in this cause to wit:



5 Augustus A. Blumenthal } Thursday  
 vs } March 15<sup>th</sup> 1855  
 Conrad Rall } Order of Survey

Order of Survey.

Now at this day comes the said plaintiff by his Attorney, and moves the Court to grant an order of survey of the Real Estate described in the Plaintiffs Petition. Whereupon it is ordered by the Court that survey thereof be made by the Surveyor of St Louis County, and that he make return of his proceedings herein according to law.

The following further proceedings were had in this cause to wit: Tuesday, May 22<sup>nd</sup> 1855-

Augustus A. Blumenthal vs } Continued, on written  
 Conrad Rall, and others } application of plaintiff filed  
 at his costs. Report of survey filed.

Trial, The following further proceedings were had in this cause to wit: Wednesday, October 31<sup>st</sup> 1855-

Augustus A. Blumenthal vs } Ejectment,  
 Conrad Rall, E. Carter Hutchinson, } Nonsuit.  
 George L. Pollard and Francis Minor }

Now at this day come said parties by their respective attorneys and thereupon come also a Jury, to wit: Joseph Baker, John M. C. Henry, Elijah Grant, Daniel Casey, Louis Morel, John Foy, Louis Motier, Felix Schuets, Jonathon Hatch, Francis Mallett, John M. Cooper and Louis Mallett, twelve good and lawful men, who being duly elected, tried and sworn well and truly to try the issues joined in this cause and a true verdict render according to the evidence, therefore the trial progressed, and being fully terminated, the

6 The plaintiff by his attorney, says he will not further prosecute his suit in this behalf, but voluntarily take a nonsuit. It is therefore ordered and adjudged that the plaintiff take nothing by his said suit, but that the defendants go hence without day and recover of the Plaintiff their costs and charges in this behalf expended and have thereof execution. Motion for a new trial filed.

Motion for New Trial.

Augustus A. Blumenthal } In the St Louis Land Court.  
 vs } October Term 1855.  
 G. Roll and others }

The Plaintiff moves the Court to set aside the non-suit taken in this cause and grant a new trial because the Court on the close of the Plaintiff's case gave an instruction to the Jury contrary to Law.

F. A. Dick for Plff.

The following further proceedings were had in this cause to wit:

October Term 1855-

November the 12<sup>th</sup> 1855-

Blumenthal }  
 vs } Bill of exceptions filed  
 Roll and others }

which bill of exceptions is in the words and figures following, to wit:

Augustus A. Blumenthal

vs

Bill of exceptions }  
 Howard Roll, E. Carter } In the St Louis Land Court  
 Hutchinson, George L. Pollard } Oct Term 1855.  
 and Francis Minor }  
 Bill of exceptions.

It is known that on the trial of this cause the following was all the evidence offered.

The Plaintiff read in evidence.

- 1<sup>st</sup> A certificate of confirmation under act of Congress of 29<sup>th</sup> April 1816 of two by forty arpens of land in the St Louis Grand Prairie to the legal representatives of Louis Chancellier.
- 2 Survey no 1561 of same land.
- 3 Deed of Exchange between Louis Chancellier and John B. Gamache with translation thereof.
- 4 Connected plat of the survey of the said Grand Prairie Common fields copied from a plat thereof in the office of the Surveyor General of the United States for Illinois & Missouri and certified to by said officer.  
This plat it is agreed may be used in the Supreme Court, the same as though copied in this bill of Exceptions, for that reason is not here copied.
- 5 Concession to John B. Hennery 1 August 1770.
- 6 Confirmation to Baudé.
- 7 Survey of the same.
- 8 Deed of Aug. Claude to Lebequière dated 1 August 1770.
- 9 Deed by the heirs of Labeyrie to Hempstead.
- 10 Survey of land in the Grand Prairie for Kiercean by Duvalde.
- 11 Record of a suit in partition between James Harrison who had acquired the interest of several of the Heirs of John B. Gamache and the remainder of said Heirs brought to obtain partition of a tract of land which is the southern one half arpent in front by forty arpens deep of said two by forty arpens confirmed to Chancelliers representatives.

8 12 Deed of the Sheriff to the Plaintiff.

13 A survey made by W. F. Hyer under an order of Court in this cause of the land in dispute.

It was admitted on the trial by the defendants that the Plaintiff had acquired the title of the Heirs of John B. Gamache at the time of his death to the land in dispute.

1767 Du vingt Janvier mil sept cent soixante sept sur la demande,  
 Certificate of J<sup>e</sup> Louis Chancelier greffier habitant. Nous lui avons concédé et  
 confirmation Concedons a titre de propriété deux arpens de terre de front  
 1767 situés a la Grand Prairie sur quarante arpens de profondeur  
 Chancelier tenant d'un côté à Jean Bte Herriery et de l'autre côté a  
 Recorded book - - - - - aux conditions de l'établir sous  
 Page 150 l'an et jour et au'elle sera sujette aux charges publiques fait  
 le dit jour et an.

St Ange - Labuyere

See Livre Terrien No. 1, page 10.

Minutes of the Recorder of Land titles, acting as Commissioner  
 under the act of Congress entitled "an act making further  
 provision for settling the claims to Land in the Territory of  
 Missouri" passed the 13<sup>th</sup> day of June 1812, and other acts, sub-  
 sequently passed. Frederick Bates, Commissioner.

St Louis Decr 31<sup>st</sup> 1813.

Confirmed to Le Chancelier cl<sup>g</sup> 2 by 40 - lot fields St Louis Big Prairie No 1  
 he surveyed by Auguste Choréan sworn says this lot cut 40 years ago  
 and till fence was taken down. See Bates Minutes page 187/1.

Office of the Recorder of Land Titles.

"A"

Opinions of the Recorder of Land titles for Missouri Territory as to claims entered of the 3<sup>rd</sup> March 1813. Comprehending also the claims in the late district of 1814 and proven 1<sup>st</sup> of July 1814. Together with the extensions of quantity, proven 12<sup>th</sup> April 1814

under act of 15<sup>th</sup> June 1812, and proven before 1<sup>st</sup> January 1814, as provided by the act of Arkansas, which by act of 2<sup>nd</sup> August 1813, were permitted to be entered until 1<sup>st</sup> January 1814, and confirmed under the act of 4<sup>th</sup> Dec of the act of 3<sup>rd</sup> March 1813, and confirmations under the act of

Warrant or order of survey	Survey	Notice to the Recorder by whom	Quantity	claimed	Where situated	Pop <sup>n</sup> - Inhab. Cult <sup>n</sup>	Opinion of the Recorder
Proc. Land book 1 p 9	not platted	Chancellors Rep <sup>s</sup>	2 by 400 paces	150	St Louis fields Big Prairie	Pop <sup>n</sup> & Cultivation prior to 1803	Confirmed so as to be surveyed

Recorders' Office, St Louis 21 May 1855

I certify that the above is correctly transcribed from pages 1 and 6 of book No 1, being one of the five small books in this office with the following endorsement on the first and also on the fifth book, believed to be in the handwriting of Frederick Bates, to wit: These five small books are originals in the proper handwriting of the undersigned being his decisions on land claims since the adjournment of the late Board. They were arranged and fairly transcribed for report to the Commissioner of the General Land Office, but not yet recorded in the book. Because they have no authority till sanctioned by Government. Saint Louis Nov-1<sup>st</sup> 1815, Frederick Bates Recorder Land titles"

Adolphe Remond U. S. Recorder of Land Titles in the State of Missouri.

9

Saint Louis 21<sup>st</sup> May 1855.

I Certify that the above is correctly copied from the Books and Records in this office,

Adolphe Aumont  
U. S. Recorder of Land Titles  
in the State of Missouri.

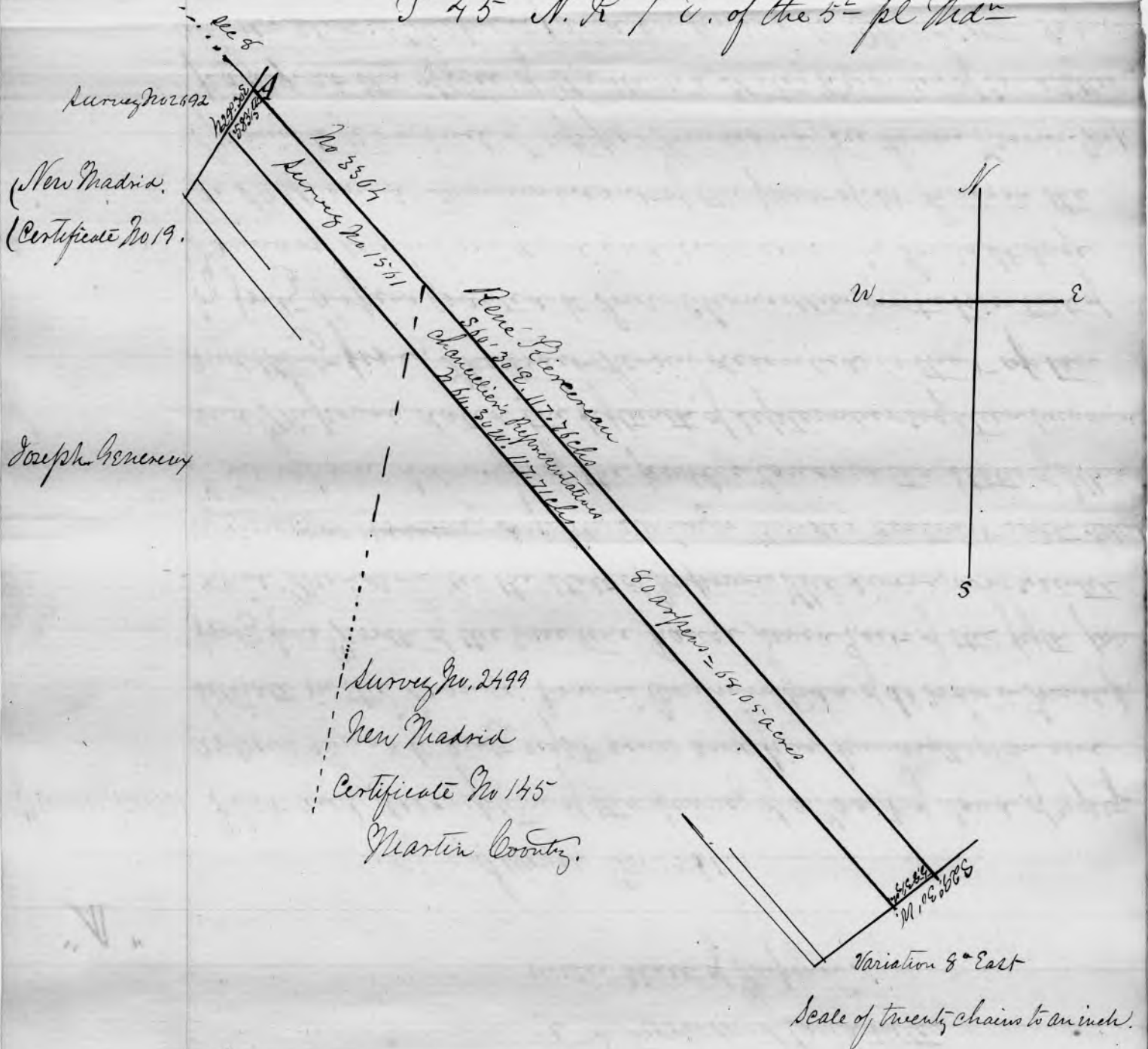
"A"

Survey No 1551

Survey No 1551 Plat and description of the Survey of a Tract of Land of eighty arpens equal to sixty eight acres and five hundredths of an acre situate in the "Grande Prairie Communale de St Louis" in Township forty five North of the base line Range seven East of the fifth principal Meridian, in the State of Missouri. The survey was executed by Joseph C. Browne, Deputy Surveyor, under contract with Elias J. Langham, Surveyor of the public lands in the States of Illinois and Missouri, dated the fifteenth of September eighteen hundred and thirty five. The tract herein described is that of two by forty arpens granted to Louis Chancillier, on the twentieth of January seven hundred and sixty seven by Louis St Ange de Belleisle, Commandant of the port of St Louis in the Spanish province of upper Louisiana (see Livre Terrien Vol. page 9. at the office of the United States Recorder of Land Titles in the State of Missouri) and confirmed to Chancillier Representatives by the second section of the Act of Congress of the Twenty ninth of April eighteen hundred and sixteen, confirming all claims embraced in the reports of the Recorder of Land Titles, acting as Commissioner for ascertaining and adjusting the titles <sup>and</sup> claims to land in the territory

10 of Nipponi, dated November first one thousand eight hundred and fifteen, and February second one thousand eight hundred and sixteen, where the decision of the said Commissioner is in favor of the claimants / see American state papers Vol III page 279. Suff. Green's edition 1834

Q 45 N. R 7 E. of the 5<sup>th</sup> pl Md<sup>n</sup>



Description

Beginning at a stone - the most Western Corner of Rene Clercseau's survey numbered three thousand three hundred and four, the most Northern Corner of this survey, and a corner to fractional

11 Section eight Township forty, five North Range seven east.

Thence South sixty degrees and thirty minutes east, with the South Western boundary of the Kierceean survey, and the North Eastern boundary of this survey - at thirty chains and thirty six links a point from which a Cedar Post set for the North East Corner of Joseph Generoux's survey numbered two thousand six hundred and ninety two bears South twenty nine degrees and thirty minutes West twenty links distant; at ninety-one chains a point, from which a Cedar Post set for the most Southern Corner of Grand Prairie Commonfield as formerly surveyed, and for a Corner of Martin County's survey numbered two thousand four hundred and ninety-nine bears South twenty nine degrees and thirty minutes West thirty links distant; and at one hundred & seventeen chains and ~~sixty~~ sixty-six links a Post - the most Southern Corner of Kierceean survey, and the most Eastern Corner of this survey - from which a Post oak five inches in diameter bears North eighty five degrees & thirty minutes West fifteen links distant, and a Post oak four inches in diameter North fifty-six degrees and thirty minutes West fifteen links distant.

Thence South twenty-nine degrees and thirty minutes West, with the South Eastern boundary of this survey - at five chains and eighty three links and one third of a link a Post - the most Southern Corner of this survey, and the most Eastern corner of survey numbered fifteen hundred and eighty three in the name of Joseph Calve's Representatives - from which a kickory five inches in diameter bears South sixty three degrees West twenty six links distant, and a black Jack three and a half inches in diameter bears North forty two degrees and forty five



12 minutes West forty four and a half links distant,

Thence North fifty degrees and thirty minutes West with the South Western boundary of this survey and the North Eastern boundary of the Calve survey - at twenty six chains and seventy-three links a point from which a stone bears South twenty nine degrees and thirty minutes West thirteen links distant, and at one hundred and seventeen chains and seventy one links a stone seventeen inches long, twelve inches wide four inches thick, set twelve inches deep, marked with a Cross on the top - the most Western corner of this survey, and the most Northern corner of the survey of Calve's Representatives - from which a pin oak eight inches in diameter bears North eighty-seven degrees and forty five minutes East one hundred and eleven links distant and a pin oak six inches in diameter bears North twenty degrees and forty five minutes East one hundred and eighty one links distant.

Thence North twenty-nine degrees and thirty minutes East with the North Western boundary of the survey at five chains and eighty-three links and one third of a link the beginning corner.

Surveyor's Office, St Louis June 4<sup>th</sup> 1855

Survey number fifteen hundred and sixty-one was this day approved as recorded on pages fifty-six and fifty-seven of this book.

Signed J. H. Conway,

Surveyor of the public lands in the States of Illinois & Missouri.

Office of the Surveyor General of Illinois & Missouri  
St Louis 21<sup>st</sup> May 1855.

I certify that the foregoing plat and description of survey numbered Fifteen hundred and fifty one, and the Certificate of approval thereof are correctly copied from pages 56 & 57 of Record Book D. in this office

Geo Soughborough  
Surveyor general

No 122.

J. B. Gamache  
+  
L. Chancelier  
Deed of exchange

A defecto de Escriuano, ante mi don Pedro Pizarro Capitan de infanteria y theniente governador de los establecimientos y dependencias a Illinois, con presencia del señor Martin Durand escriuiente y Eugenio Alvarez Sargento desta guarnicion testigos de asistencia, comparecieron Juan Baptista Gamach en su persona habitante de este puerto de S<sup>ta</sup> Luis, quien por estas presentas declara y confiesa aver vendido, cesado, dexado, y transferido hoy diez de lahya o de ahora y para siempre, y promete de responder de todas turbaciones, deudas, de cano, hypothecas, excoiones, substitutions y querasmente de otro qualquiera impedimento a Luis Chancelier tambien habitante del citado puerto, que se halla presente y consiente para si, sus herederos u otros que tengan derecho, la mitad de una tierra de un Arpan de ancho sobre quaranta arpanes de largo que tiene y le pertenece por averla concedido el Rey en el prado mas proximo y detras de este pueblo, cuya mitad sera inmediata por un lado a la tierra de Luis Buissonet habitante y por el otro lado a la otra mitad con la que se queda el dho vendedor, en cambio de un lieue y de un medio arpan de tierra sobre una lieue y de quaranta arpanes de largo sobre otra que el y propado Luis Chancelier cese al mismo Juan Baptista Gamach de una tierra de mayor dimension que

Tierras y le pertenece. por averla igualmente concedido el Rey en el gran prado situado al verte deste puerto, inmediato por un lado a la tierra de Juan Baptista Hurvieux Armero, y por el otro a la que esta al mismo Luis Chouellier de cuyos objetos de cambio aseguraron ambas partes estar entrajadas en virtud de estas presentes, y quedan reciprocamente satisfechas por averlos bien visto y bien examinado sin que ninguno dellas pueda pedir a la otra cosa alguna, pues convienen en que cada uno pague lo que recibe como que da en cuya consecuencia los referidos Juan Baptista Gamacht y Luis Chouellier se han desposseido y han hecho dexacion uno a favor del otro, del que se ceden reciprocamente, para (que) cada uno en virtud destas presentes, entre deudas ahora en posesion, goze disponga dello como de cosa legitimamente adquirida, pues asi convinieron y aserdayon prometiendo se, obligando se hecho y pasado en S<sup>ta</sup> Luis en la camara del gobierno el diez veinte y nueve de febrero del año de mil setecientos setenta y tres, y firmaron con sus propios testigos y partes sino es J<sup>o</sup> Baptista Gamacht quien interrogado e interpelado segun ardemanza aviendo declarado sus saber firmar hizo su señal des pues de hecha lectura de todo lo que ante cede.

Louis Chouellier  
 M<sup>o</sup> Juralde

Señal de  
 +  
 Gamacht

Eusebio Alvarez  
 testigo

Piomas

Recorded 5<sup>th</sup> January 1828,

Note I delivered the original to Col Loulps 11-7-26-1828 Jo Gamble Jr.

State of Missouri }  
 County of St Louis }

I, the undersigned Recorder in & for the County of St Louis, certify, that the foregoing is a true & complete copy of a deed of exchange between Louis Chancelier & J Baptiste Goumache also of the date of recording & of a note at the bottom of record, as fully as the same remains of record in my office in the first Volume of the French & Spanish Archives, page 1854/156.

Given

Witness my hand & official seal the 19<sup>th</sup> day of  
May 1855,

L. Kerule Recorder

Jean

Jean Baptiste Goumache sells to Louis Chancelier one half of a piece of land of one arpent in width by forty arpents in depth which was granted to him by the King in the Prairie near St Louis, which half is adjoining on one side to the land of Louis Bumpmet & on the other side to the other half, reserved by the grantor, in consideration of an & of a piece of land an arpent in width by forty arpents in depth, which said Louis Chancelier conveys by these presents to the said J. B. Goumache. The said piece of one half by 40 arpents is a part of a large quantity granted by the King to said L Chancelier in the Grand Prairie West of this town. Bounded on one side by the land of Jean Baptiste Hervieux and on the other side by the part which said L Chancelier reserves  
January 29<sup>th</sup> 1773.

Hervieux

Le trente December mil sept cent soixante-dix sur la demande de Jean B<sup>e</sup> Hervieux armurier du Roy, nous luy avons concédé et concédons à titre de propriété deux arpents de terre de front situé à la Grande Prairie, sur quarante arpents de profondeur tenant d'un côté à Louis Chauvelier et de l'autre côté à

aux conditions de l'établir pour l'eau et pour et qui elle sera sujette aux charges publiques. Fait les dits jours au.

St Aug<sup>e</sup>

Fabouine

Recorder office,

Saint Louis, 30<sup>th</sup> October 1855.

The above is correctly transcribed from page 9 of Livre Terrain No 1 in this office. Adolphus Neuvo U. S. Recorder of Land titles in the State of Missouri. To Frederick Baker Esq<sup>r</sup> Recorder of Land titles for the Territory of Louisiana, Sir, Take notice that I claim a tract of land situate Big Prairie District of Saint Louis, formerly the property of M<sup>r</sup> Coude', containing 1 arpent as appear by the Concession remaining in your office. Book No 1, page 31, St Louis 23<sup>rd</sup> May 1808 Louis Coude his + mark, Witness M. P. Ledue.

Book D. p. 165.

Coudé Du dix Janvier mil sept cent soixante dix sur la demande du Sieur Auguste Coude' chirurgien à St Louis, nous lui avons concédé et concédons à titre de propriété pour lui ses heirs ou assigns cause une terre situé à la Grande Prairie de ce village Saint Louis, contenant deux arpents de long sur quarante

17 arpents de profondeur, tenant d'un côté à la terre du Sr Hovieux  
et de l'autre côté à la terre de Louis Deshêtres pour en jouir par  
le dit Sr Coude et ses ayans cause en pleine propriété aux condi-  
tions d'établir la dite terre sous l'and de jour et quelle sera sujette  
aux charges publiques et autres qui il plaira à Sa Majesté d'impo-  
ser. Donnée à St Louis le dit jour & au & avons signé  
Saint Ange - Labeyrie

See Livre Terrien No. 1. p. 31.

Wednesday, November 13, 1855

Board met; Present; John B. C. Lucas, Clement B. Penrose  
& Frederick Bates, Commissioners.

No 1276 - Louis Lemaire assignee of Auguste Coude, claiming one by forty  
arpents of land, situate Big Prairie, District of Saint Louis,  
produces a concession from St Ange and Labeyrie L. G. dated  
10 January 1770.

The Board grant to the representatives of Auguste Coude  
forty arpents of land under the provisions of the 2<sup>nd</sup> section of the  
act of Congress entitled "An Act respecting claims to land" and  
passed 3 March, 1807 - and order that the same be surveyed  
conformably to proposition survey at expense of United States, as  
ascertained by report of survey dated as above 10 January 1770

Board adjourned till tomorrow nine o'clock A. M. John B. C.  
Lucas, Clement B. Penrose, Frederick Bates Sec Minutes of  
the Board, Book No 5 - pgs 398, 399, 407

Recorders Office

St Louis 30<sup>th</sup> October 1855

I certify that the foregoing is correctly copied from the Book

18 and records of this office.

Adolphus Record

Recorder of Land Titles  
in the State of Missouri

Survey No. 1276

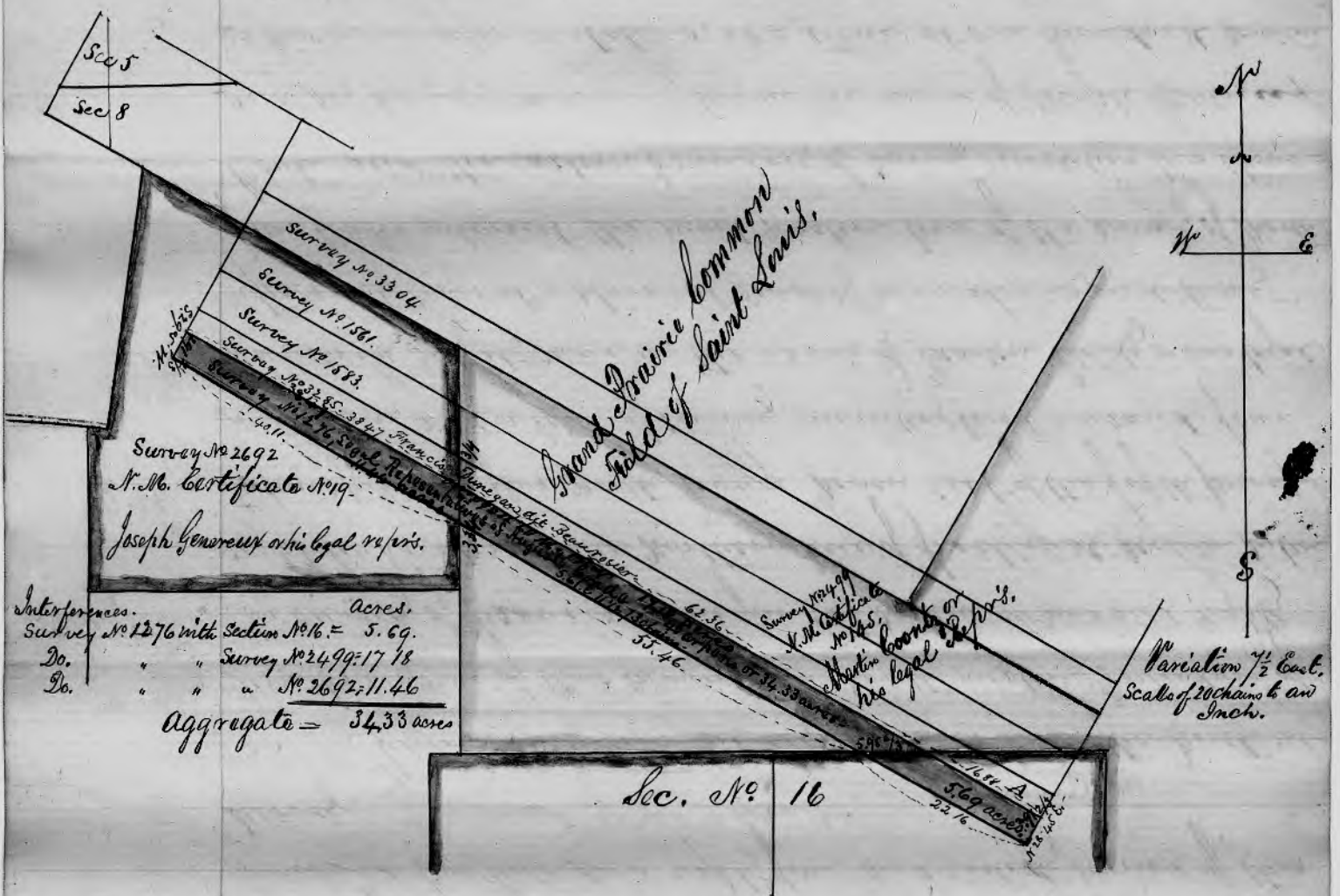
Survey,

No 1276

Plat and Description of the Survey of a lot of 40 arpens, or thirty-four acres and thirty-three hundredths of an acre of land situated in the Grand Prairie Common field of Saint Louis, in township forty-five north of the base line, Range seven east of the fifth principal Meridian in the State of Missouri, executed by W<sup>m</sup> H. Cozens Deputy Surveyor in the years eighteen hundred fifty and eighteen hundred fifty-one under instructions from the Surveyor General for the States of Illinois and Missouri, dated the ninth of May eighteen hundred forty six. This being the south westerly half of the lot of two by forty arpens, which was granted to Auguste Coude, on the 10<sup>th</sup> January 1770 by St. Ange & Babine civil authorized officers for the port of St. Louis in the province of Upper Louisiana (see Livre Terrien No 1 fo 31) and having been claimed before Frederick Postes, United States Recorder of Land titles, by Louis Lemoude, as per notice on the 23<sup>rd</sup> May 1808 (see Book 8 p. 115) to the extent of one by forty arpens, "formerly the property of W<sup>m</sup> Coude" with a reference to the aforesaid concession recorded in Livre Terrien No 1 fo 31) was confirmed to the legal representatives of Auguste Coude under the provisions of the second section of the act of Congress of the 3<sup>rd</sup> March 1807, entitled "An act respecting claims to land in the Territories of Orleans and Louisiana" by the Board of Commissioners, appointed under the 5<sup>th</sup> section of the act of

19 of Congress, approved on the 2<sup>nd</sup> March 1805, entitled "An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and the District of Louisiana" for which confirmation, Certificate No 1276 was issued by the said Board, on the 13<sup>th</sup> November 1811. See minutes of the Board of Commissioners N<sup>o</sup> 5 p 399, also American State papers vol 2 p 601, edition of 1834.

T. 45. N. R. 7 E. 5<sup>th</sup> pl. S. 14





21 Description.

Beginning at an old stone, the southerly corner of the lot of Francis Juneau dit Beausieu, survey number three thousand two hundred eighty five, and easterly corner of this survey.

Thence North sixty one degrees West with the North eastern boundary of this survey and South western boundary of the survey of Francis Juneau: at sixteen chains and eighty eight links intersect the northern line of fractional section fifteen township forty five north, Range seven East of the fifth principal meridian, and a line of survey number two thousand four hundred ninety nine in the name of Morton Couitz or his legal representatives at a stone: at seventy nine chains and twenty four links intersect the most western line of the survey of Morton Couitz, and the eastern boundary of survey number two thousand six hundred ninety two in the name of Joseph Gruesey or his legal representatives; at a stone; at one hundred seven chains and seventy one links an old stone, the westerly corner of the survey of Francis Juneau, and northerly corner of this survey; from which a double Cherry tree, bears South eighty seven degrees East, distant one hundred eighty one and a half links; a Cherry tree, fourteen inches in diameter bears South two degrees East distant one hundred thirty one and a half links, a Pin oak thirteen inches in diameter bears North seventy nine degrees and fifteen minutes West distant one hundred twenty three and a half links, and a spring bears South eight degrees and fifteen minutes West distant two hundred forty eight links.

21 Thence south twenty nine degrees and <sup>five</sup> minutes West with the North western boundary of this survey, at two chains ninety one and two thirds links a stone the westerly corner of this survey, from which the aforesaid spring bears North eighty four degrees East distant one hundred four and a half links.

Thence south sixty one degrees East with the South western boundary of this survey; at forty chains and eleven links intersect the Eastern boundary of Joseph Greener's survey, and Western line of the survey of Martin County, at a stone; at ninety five chains and fifty seven links intersect the Northern line of fractional section fifteen, and leave the tract of Martin County, at a stone; at one hundred seventeen chains and seventy three links a stone, sixteen inches, eight inches wide, and four inches thick, the southerly corner of this survey.

Thence North twenty eight degrees and forty five minutes East with the South eastern boundary of this survey at two chains ninety one links and two thirds of a link the beginning corner.

Office of the Surveyor General for Illinois and Missouri  
St Louis May 5<sup>th</sup> 1851

The foregoing record of the plat and description of Survey number one thousand two hundred and twenty six of the general series for private claims in Missouri, has been examined and is hereby approved.

Signed M. Lewis Clarke  
Surveyor General

Statement of the interferences of survey No 1276, with lands previously located and surveyed, viz -

Survey  
No. 1276

22 1<sup>st</sup> To the extent of 11<sup>46</sup>/<sub>100</sub> acres, with survey No 2692, of a location made on the 12<sup>th</sup> December 1817 by Joshua Barton for Edward Bates of Certificate No 19, issued the 12<sup>th</sup> November 1815 by Frederick Bates, Recorder of Land titles in the Territory of Missouri, to Joseph Greener or his legal representatives for 160 acres of land in conformity with the provisions of the act of 17<sup>th</sup> February 1815, for the relief of the inhabitants of the County of New Madrid, who suffered by earthquakes. Survey No 2692 was executed on the 2<sup>nd</sup> June 1819 by Joseph C Brown under contract with the Surveyor General of the 31<sup>st</sup> March 1817. It is recorded at page 107 of Book A in this office, and it appears that a transcript thereof was returned to the Recorder of Land titles by the Surveyor General on the 5<sup>th</sup> February 1823, and that a patent Certificate, numbered 316 was issued on it by the Recorder on the 4<sup>th</sup> February 1823, and delivered to Edward Bates.

Survey,  
No 1276

2<sup>nd</sup> To the amount of 17<sup>100</sup>/<sub>100</sub> acres with Survey No 2499 of a location made on the 29<sup>th</sup> May 1818 by John W Knight and Thomas Brady as the legal representatives of Martin County of Certificate No 145 issued the 18<sup>th</sup> September 1816 by Frederick Bates, Recorder of Land titles in the Territory of Missouri to Martin County or his legal representatives for 640 acres of land, in conformity with the provisions of the act of 17<sup>th</sup> February 1815 for the relief of the inhabitants of the County of New Madrid, who suffered by earthquakes. Survey No 2499 was executed by Joseph C Brown in July 1818 under contract with the Surveyor General of 31<sup>st</sup> March 1817. It is recorded on pages 101 & 102 of Book A in this office and it appears

2<sup>d</sup> That a transcript thereof was returned to the Recorder of Land titles on the 5<sup>th</sup> November 1822 by the Surveyor General, and that a patent certificate numbered 309 was issued on it by the Recorder on the 17<sup>th</sup> November 1822.

3<sup>rd</sup> To the extent of 5<sup>69</sup> acres with section No 16 in township No 45 North Range 7 East of 5<sup>th</sup> principal Meridian, which is claimed by the schools

Signed, M. Lewis Clark.

Surveyor General

A copy of the foregoing record of Survey No 1276 (including the Statement of interferences) was transmitted to Adolphe Renoude U. S. Recorder of Land titles on the 5<sup>th</sup> May 1851.

Survey  
No 1276

Office of the Surveyor General for Illinois and  
Missouri, Saint Louis October 30<sup>th</sup> 1855

The foregoing plat and description of Survey No 1276, in the name of the legal representatives of Auguste Coude situated in Township 45 North, Range 7 East of 5<sup>th</sup> principal Meridian, also the Certificate of approval, statement of valid interferences and the note of transmission to U. S. Recorder of Land titles - are correctly copied from pages 291 & 292 of Book E of Records of Private Surveys in Missouri, on file in this office.

Jas Loughborough  
Surveyor General,

Deed of A<sup>e</sup> Coude  
to  
J. Labrousse

Pour devant nous Don Pedro Purnas Capitaine & Infantone,  
Lieutenant Gouverneur des Etablissements des Illinois et des

24 dependences appartenant à S. M. Catholique fut présent le  
sieur Auguste Coude chirurgien au poste de St Louis aux Illinois,  
y demeurant lequel par ces présents a fait échange avec le Sr La Baye  
cy devant Notaire royal au dit poste y demeurant a ce present  
et acceptant une terre d'un arpent de long sur quarante arpents  
de profondeur, situé à la grande prairie de ce dit poste de St Louis  
tenant d'un côté à la terre du Sr Heavien et del autre côté à un  
arpent de terre du Sr Coude ainsi que ledit arpent de terre cy dessus  
se comporte et étant de toute part que le dit sieur La Baye a dit  
bien savoir et connaître pour l'avoir vu et visité et dont il est content  
sans s'en rien réserver ny retenir delapart du dit Sr Coude à  
quis la dite terre appartenant comme lui ayant été concédée par  
Messieurs les Commandants et Juge de cette province le dix  
Janvier Mil sept cent soixante et dix étant du domaine du Roy  
sans aucune charges rentes ni redevance jusqu'à ce jour, lequel  
dit Sr Coude promet garantir la dite terre de toutes dettes, troubles  
et hypothèques généralement quelconques pour ce jour, faire et  
disposer par le dit Sr La Baye ses héritiers et ayant causes, comme de  
chose lui appartenant à commencer la jour. Sauf de ce jour d'icy  
en contre échange de laquelle terre le dit sieur Joseph La Baye  
donne cede, quitte et transporte au dit sieur Coude ses héritiers ou  
ayant causes et promet garantir de toutes dettes et hypothèques  
généralement quelconques une terre de toute palourque et longueur  
tenant depuis la cloture que M. Hubert a fait sur le bord du  
ruisseau de la belle fontaine jusques au ruisseau de pierre et  
bornée d'un côté par le Mispippi et de l'autre côté aux cotés  
au chemin public qui va à la prairie La Joye que le dit sieur  
Coude a dit bien savoir et connaître pour l'avoir vu et visité

Survey  
No. 1276

25 et dont il est content plus une terre d'un arpent de large sur quarante arpens de long que le dit sieur La Buziere a acquis de M<sup>r</sup> La Clede situee derriere ce village et entre d'un coté au dit sieur Coude et de l'autre coté à celle du nomme Laroche que le dit sieur Coude a dit aussi bien savoir et connaître et reconnais que le dit sieur La Buziere lui a ce jourd'hui remis letitre de conception et d'achat des deux terres presentement echangees dont il letient quette et de-charge, au moyen de quoi le dit sieur Coude et le dit sieur La Buziere se tiennent respectivement quitte pour raison du dit échange sans autre soult ou retour et consentent que chacun d'eux enpreument possession de ce jour pour en jouir eux et leurs heirs comme de chose leur appartenante se demittant des dites terres echangees pour et au profit l'un de l'autre car ainsi a été convenue et accordé: promittant se obligent se renou- cant de fait el pople a St Louis en l'etude de audit sept cent dixante dix le premier Aoust en presence du Sr Laroche officier de Milice et de M<sup>r</sup> de St Ange sermoins a ce requis qui ont avec nous commandont signe ces presentes apres lecture faite.

A Coude — La Buziere — Laroche sermoins & St Ange — Pedro Pinos. *1<sup>re</sup> Expedition au St Coude & 2<sup>de</sup> Expedition au St La Buziere.*

Recorded this Twenty fifth day of February 1818

M<sup>r</sup> de Leduc Recorder

by A. S. M. Girdle Recorder,

Delivered to Col. A. Chouteau

State of Missouri }  
County of St Louis }

I the undersigned Recorder for said County

Certify that the foregoing is a true and complete copy of a deed from A. Coude to J. Laburiere and of the date of Recording thereof as fully as the same remains of Record in my office in the 1<sup>st</sup> Vol of French & Spanish Archives page 95.

Witness my hand & official seal this 29<sup>th</sup> day of October  
1855, C. Keenle Recorder

*E. Keenle*

By Jas Saugher, Jpt

Deed of

Louis Laburiere et al

To all to whom these presents shall come greeting. Know <sup>ye</sup> that  
 To me Louis Laburiere and Angeline his wife of the town of Cahokia  
 Thomas & Charles and Illinois Territory, Pierre Pelordie and Celeste Laburiere  
 Joseph Blanchissin and Angeline Laburiere Antoine Laburiere  
 Angeline Laburiere wife of Francois Laburiere, and Francois  
 Laburiere son of said deceased. All being the heirs and children  
 of Joseph Laburiere late of the town of St Louis deceased for and  
 in consideration of the sum of sixty dollars to them in hand  
 paid by Thomas & Charles S Kempstead of the Town of St Louis  
 and Territory of Missouri have given granted bargained sold  
 and transferred and by these presents do hereby give grant  
 bargain sell and transfer unto them said Thomas & Charles  
 and to their heirs and assigns forever, all our right title interest  
 claim and property to which we have or may have as heirs  
 and representatives of said Joseph Laburiere deceased in  
 and to a certain tract of land containing 40 arpens be the same  
 more or less situated in the Grand prairie near the town of  
 St Louis and bounded on the one side by lands formerly owned

by the Sr Hervey on the other side by lands of one Auguste Coude,  
 the aforesaid tract of land formerly on the 10<sup>th</sup> day of January, 1770  
 was granted by the Lieutenant Governor of said province, and  
 accorded to said Coude and by him transferred and yeloug-  
 ed to said Joseph Labuxiere deceased, by said Coude which  
 said act of Yelouge is dated August 1, 1770 and No 104  
 and to be found among the ancient archives of the late  
 Government in the office of the Recorder of the County of  
 St Louis reference being had thereto will more fully and  
 at large appear. To have and to hold the aforesaid tract  
 of land be the same more or less, and be it situated where it  
 may unto them said Charles & Thomas, with all the appurtenan-  
 ces as thereunto belonging unto them and their heirs and assigns  
 forever and it is understood that in case the title to the  
 same proves defective then no recourse is to be had by them  
 said Thomas & Charles nor their heirs nor assigns upon us  
 nor our heirs & Executors &c. In Witness whereof we have herunto  
 set our hands and seals this twenty third day of June 1818,

Deed of  
 La Beauvire  
 to  
 Hempstead

Louis Labuxiere (Deal)  
 Angelick <sup>her</sup> <sub>mark</sub> Labuxiere (Deal)  
 Pierre <sup>his</sup> <sub>mark</sub> Pelordie (Deal)  
 Celeste <sup>her</sup> <sub>mark</sub> Pelordie (Deal)  
 Joseph <sup>his</sup> <sub>mark</sub> Beauchemin (Deal)  
 Angelique Labuxiere <sup>his</sup> <sub>mark</sub> Beauchemin (Deal)  
 Antoine <sup>his</sup> <sub>mark</sub> Labuxiere (Deal)  
 Angeline <sup>her</sup> <sub>mark</sub> Labuxiere (Deal)  
 Francois <sup>his</sup> <sub>mark</sub> Labuxiere (Deal)

One word scrawled and seven words interlined before signing.



248 signed sealed and delivered in presence of: . . . as to Louis Sabuyierne  
& Pierre Pelardie ~ Edward I Hempstead,

Witness to the signatures of Joseph Beauchemin and wife, Celeste  
Pelorde ~ and Antoine Sabuyierne ~ Charles Phillips,  
Jeste James Poore

Illinois Territory, East }  
St Clair County }

Deed  
Sabuyierne  
to  
Hempstead

Present in person Angelique Sabuyierne  
wife of Louis Sabuyierne one of within grantors before me a Justice of  
the piece in and for said County and Territory, and being made  
acquainted with the premises and being interrogated thereon  
separately and apart from her said husband the said Louis  
freely and voluntarily acknowledged her signature in the execu-  
tion of the within deed and the passing of her Estate therein  
and the relinquishment of her dower thereof without the coercion  
or compulsion of her said husband the said Louis, and of the  
above acknowledgement and relinquishment of dower I  
do certify from and under my hand and seal at Cahokia in  
said County 15<sup>th</sup> July 1818.

James Poore J. P. Seal

County of St Charles Township of Portage des Sioux & et  
Personally appeared before me Francois Lesieur the under-  
signed a Justice of the piece in and for the County and Town-  
ship aforesaid the within named Angelique Sabuyierne and  
Francois Sabuyierne who severally acknowledged that they  
signed sealed and delivered the within deed of Conveyance  
freely and voluntarily and for the purposes therein mentioned  
Given under my hand this 27<sup>th</sup> day of February 1818, F. Lesieur

29 J.P.

Territory of Missouri, County of St Charles

Personally appeared before me the undersigned a Justice of the Peace in and for the County aforesaid the within named Pierre Pelorde and Celeste his wife Joseph Beauchemin and Angelique his wife and Antoine LaSuzierne who severally acknowledged that they signed sealed and delivered the foregoing and within deed of conveyance freely and voluntarily for the purposes therein contained and said Angelique the wife of said Joseph Beauchemin and Celeste the wife of said Pierre Pelordie having been by me previously acquainted with the contents thereof and examined separately and apart from their respective husbands severally acknowledged and declared that they and each of them executed the said deed freely and voluntarily and without any compulsion restraint or undue influence of their said husbands,  
 Given under my hand this 23<sup>rd</sup> day of June 1818.

Deed of  
 LaBeauvire  
 to  
 Hempstead

Charles Phillips Justice of the Peace

Illinois Territory, St Clair County

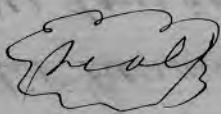
I, John Hays Clerk of the County Court of the said County of St Clair do hereby certify that James Row Esquire the person whose name is signed to the within acknowledgment was at the time of executing and taking the same a Justice of the Peace of said County duly commissioned and sworn and to whose official acts due faith and credit ought to be given Given under my hand and seal of said Court at Belleville this twenty eighth day of July in the Year of our Lord one Thousand eight hundred and eighteen and of the Independence of the United States the forty third, John Hays, C. C. C. S. C.

30 Recorded this 4<sup>th</sup> September 1815. A. Gamble Clerk D.

State of Missouri }  
County of St Louis }

I the undersigned Recorder for said County  
Certify that the foregoing is a true Copy of an Instrument of writing  
executed by Louis Labuxierre et al, to Tho<sup>s</sup> & Ch. S. Hempstead  
of the Certificate of acknowledgement of the date of filing & recording  
thereof as fully as the same remains of Record in my office in book  
& page 354.

Witness my hand and official seal this  
29<sup>th</sup> day of October 1855



A. Gamble Recorder  
by Jas Daugherty, Spt.

Duralde's  
Survey,

Duralde's Survey for Kincrossau

10 Cadastre formé par moy Martin Duralde, arpenteur nommé  
par Monsieur Don Pedro Pizarro, Capitaine d'Infanterie et  
Lieutenant Gouverneur des Etablissements et autres dépendances  
du Gouvernement espagnol des Illinois et rennis aux archives  
du Mesme Gouvernement, en forme de procès verbal pour  
servir à désigner les différentes terres concédées du nom du  
Roy aux habitants de ce poste of St Louis, tant avec titre qu'avec  
consentement verbal par les chefs qui les ont gouvernés  
depuis sa fondation jusq' à ce moment, que j'ai arpentées,  
et qui après les échanges cessions ou ventes que le com-  
munité et avantaq d'un chacun peuvent avoir occasion-  
nés le trouvent actuellement dans la possession de ceux  
à après nommés suivant leur propre attestation et avec  
reciproque situés dans les prairies circonvoisines de ce

même poste dans l'ordre et selon les directions détaillées dessus  
qu'il suit.

Je Martin Duralde, soussigné en vertu du pouvoir dont  
Monsieur Don Pedro Pizarro, Capitaine d'Infanterie et Lieutenant  
Gouverneur des Etablissements et autres parties dépendances au  
gouvernement espagnol des Illinois m'a revêtu à la requête  
des habitants de ce poste Saint Louis demandant que les descrip-  
tions, directions et limites des terres qu'ils possèdent à ses environs  
soient déterminées par personne compétente et autorisée à cette  
fin, déclare à tous qu'il approuvera, qu'à la requête de  
chacun des dits habitants dans le cours de l'autorisation de l'an  
mil sept cent soixante dix, et ceux des printemps des années mil  
sept cent soixante onze et mil sept cent soixante deux (dont  
je ne cite ni les mois, ni les jours, les opérations ayant été faites  
par reprises et sans suite relativement à ceux qui ont des prop-  
riétés distantes les unes des autres et situées en différents  
lieux) et notamment à celle du Sieur René Rucereau,  
dit Renaud, je me suis expressément transporté de mon domicile  
res dans ce susdit poste Saint Louis au lieu appelé la  
grande prairie, et sur une terre d'un arpent et demi de  
long, sur quarante autres de long, à long appartenant aux postes  
laboués et partie en foie, qui est située et tient immédiate-  
ment d'un côté à la terre du nomme Lauglois et de l'autre  
à celle de

et des deux autres bouts au domaine du Roy pour l'arpenter avec  
mon instrument et une chaîne de quarante-cinq pieds de long,  
dont la longueur prise quatre fois fait juste l'arpent usité  
en ce pays qui est de cent quatre-vingt pieds sur chaque face

Duralde's  
Survey

Duvaldés  
Survey

À l'exécution de quoi me faisont accompagner du dit propriétaire et de sa dits voisins les plus immédiats pour me servir de témoins d'audé et à m'indiquer la véritable situation de leurs conceptions respectives, je suis parvenu et l'ai fait bonner en ma présence avec des pierres à ses quatre extrémités après l'avoir mesurée sur ses lignes de largeur et longueur dont les deux premières parallèles, c'est à dire de longueur, vont un peu plus que nord nord est ou plus précisément s'écartent du nord vers l'est de vingt six degrés, et les deux autres c'est à dire de longueur au vi parallèles vont un peu plus que nord ouest, ou mieux s'écartent du ouest vers le nord au vi de vingt six degrés sans aucun égard à la variation du compas qui peut y avoir, et font par conséquent en dirigeant la vue et allant du point de départ vers les points désignés un angle droit compensation faite des différences causées par les inégalités des terres.

À cisi, je l'atteste par mon sang et par l'aveu unanime de tous les propriétaires surnommés assembles dans ce moment avec l'approbation de mon dit sieur Don Pedro Piernas dans la Chambre du Gouvernement pour se servir mutuellement de témoins et affirmer le fait, les uns par leurs sergés et les autres par leurs déclarations à défaut de savoir signer, en présence des Messieurs Don Pedro Piernas, surdit Lieutenant-Gouverneur, et don Louis Saint-Auge de Bellevue, Capitaine reformé et premier Preceptor commandant de ce même port, seront l'un et l'autre, savoir ce dernier à certifier par son sang en sa dite qualité, et en vertu du pouvoir dont il était chargé d'avoir concédé soit avec titre soit verbalement les dits

34 terres au nom de Sa Majesté, et sous dit Sieur Piernas à approu-  
ver, exposer et ratifier ainsi par son sieur ou sa qualité d'ac-  
tuel Lieutenant Gouverneur avec laquelle il est muni du  
même pouvoir de concéder les proprement accordés par mon  
dit Sr de Saint-Auge et spécifiés dans la copie de ce cadastre  
que je remets contenant soixante-huit pages écrites celle-ci  
enclusivement aux archives de ce gouvernement pour y être  
conservé à perpétuité et servir aux besoins, sur sa authenticité  
et seringue de tout ce qui est exposé, à St Louis le vingt  
trois May de l'année mil sept cent soixante-douze,  
M<sup>r</sup> Duralde

Duralde's  
Survey,

Laclede Liguist - Hubert - Jodie - A l'oude'  
Rene' Kierceau - Amable Guyon - Bequet - Sarry  
Cotté - St-Auge - Pedro Piernas.

Records Office

St Louis 30 October 1835-

The foregoing is correctly transcribed from page 1. 2. 65-  
67 & 68 of Livre Terrien No 2 in this office.

Adolphe Renaud

U. S. Recorder of ~~Land~~ Titles  
in the State of Missouri

11

Record of partition suit between James Harrison plaintiff

vs

William Provan Jr & al.

Petition

State of Missouri } In the St Louis Land Court  
County of St Louis } March term 1834

James Harrison, plaintiff

vs

William Provencu Jr, Francois Garneau and Augustus Garneau  
her husband, Marie Delor and Peter Delor her husband, Edward  
Garnache, Euprovine Leitensdorfer, Louis Garnache, Catharine  
Buscha and Richard Buscha her husband, August Garnache,  
senior Augustus A. Blumenthal, Constance Robert, August  
Marie, and Leonore Delisle and Henry Delisle her husband  
defendants. In Partition

The plaintiff states that ~~on~~ a tract or lot  
Record of of land of two by forty arpens in the Grand Prairie common  
Proceeding field in the County of St Louis and State of Missouri, was gran-  
in Land -ted by conception to Louis Chancellier, on the 20<sup>th</sup> day of Jan-  
Court, -uary, 1767, by Louis St. Ange de Bellisle, Commandant  
of the port of St Louis, in the former Spanish province of  
Upper Louisiana, and present State of Missouri, which said  
conception is recorded in Livre Terrier No 1, page 9, in the  
office of the United States Recorder of Land Titles in said  
State, and said lot or tract of land was confirmed to said  
Chancellier's representatives, by an act of Congress, passed  
on the 29<sup>th</sup> of April 1816, and surveyed by the United States  
to said Chancellier's representatives, being United States  
survey No 1561; that the said Chancellier by Archive No 122  
dated January 29<sup>th</sup>, 1773, and recorded in the Recorder's  
office of said County, in volume 1 page 185, conveyed in fee  
simple to the first John Baptiste Garnache, the following  
described portion or part of said lot or tract of land to wit: a  
certain piece or parcel of land, bounded on the South by the northern

Record of  
Proceedings  
in Land  
Court,

boundary line of a lot or tract of land confirmed and surveyed by the United States to Joseph Calves representatives, on the east by the eastern boundary line of said common field, on the north by a line parallel with and one half of an arpen north of the said northern boundary line of said lot or tract confirmed and surveyed by the United States to said Joseph Calves' representatives, and on the west by the western boundary line of said common field, being a narrow strip of land of one half of an arpen in width from northward to southward and forty arpens in length from eastward to westward, taken from the most southern side of the said tract which was confirmed and surveyed by the United States to said Chancellier's representatives, By means of said conveyance from said Chancellier in the year 1773, and said confirmation to said Chancellier's representatives he the said Gamache, as legal representatives of said Chancellier, became the owner in fee simple of said narrow strip of land of one half of an arpen in width by forty arpens in length.

The said first John Baptiste Gamache died intestate many years ago, leaving two sons, whose names are Auguste Gamache, the first and John Baptiste Gamache the second.

The said first Auguste Gamache died intestate, leaving three children, whose names are Auguste Gamache the second, now called Auguste Gamache, senior, Constance Gamache, and Elizabeth Gamache.

The said Elizabeth Gamache married Pierre Marie, and died leaving three children, whose names are Auguste Marie one of the defendants to this suit, Bazile



Marie, who sold and conveyed all of his interest in said land to said James Harrison, and Elizabeth Marie, who married Joseph Mallet, and she and her <sup>said</sup> husband also conveyed all of their interest in said land to said Harrison.

The said second Auguste Gamache conveyed one half of his interest in said land to Augustus A. Blumenthal, and yet owns the other half thereof.

The said Constance Gamache married Paul Robert, now deceased, and she and her said husband said Robert, in his life time, conveyed one half of all their interest in said land to said Blumenthal, and she yet owns the other half thereof.

The <sup>said</sup> second John Baptiste Gamache died intestate, leaving eight children, whose names are John Baptiste Gamache, the third, Joseph Gamache, Nicholas Gamache, Eupronine Gamache, Emilie Gamache, Gabriel Gamache, Louis Gamache and Catherine Gamache.

The said third John Baptiste Gamache died intestate, leaving six children, whose names are Peter Gamache, Margaret Gamache, Eliza Gamache, Francois Gamache, Marie Gamache, and Edward Gamache.

The said Peter Gamache sold and conveyed all of his interest in said land to said Harrison. The said Margaret Gamache married William Proveau, senior and died leaving a child, whose name is William Proveau junior. The said Eliza Gamache after the death of her sister married said William Proveau, senior, and died without leaving any issue. The said Francois Gamache married to Auguste Gervais

38 The said Marie Gamache married Peter Delor,

All of the heirs of said third John Baptiste Gamache own their interest in said land except said Peter Gamache, who sold and conveyed to said Harrison.

The said Joseph Gamache, the son of the said second John Baptiste Gamache, sold and conveyed all of his interest in said land to said Harrison.

Proceedings  
in Land Court

The said Nicholas Gamache the son of the said second John Baptiste Gamache, died leaving one child whose name is ~~Louise~~ who married to Henry Delisle and she and her said husband conveyed all of their interest in said land to said Harrison.

The said Eufrosine Gamache married John Eugene Seiteusdorfer and her said husband died some time ago, and she yet owns her interest in said land.

The said Emilie Gamache, daughter of the said second John Baptiste Gamache married John Baptiste Busha, and she died leaving one child whose name is Nicholas Busha who sold and conveyed all of his interest in said land to the said Harrison.

The said Gabriel Gamache son of the said second John Baptiste Gamache, died leaving one child, whose name is Samuel Gamache and he the said Samuel Gamache has sold and conveyed all of his interest in said land.

The said Louis Gamache, the son of the said second John Baptiste Gamache, is living and yet owns his interest in said land.

The said Catharine Gamache, the daughter of the

39 of the said second John Baptiste Gamache, married Richard Busha and she and her said husband are both living, and yet own their interest in said land,

The said small piece of land of one half of an arpen by forty, herein before described, is all that the parties to this suit own as tenants in common together,

Petition

Proceedings in Land Court

The plaintiff asks for a division and partition of said piece of land of one half of an arpen by forty arpens, according to the respective rights of said parties interested therein and for a sale of said land, if it shall appear to this court that partition thereof can not be made without great prejudice to the interest of said parties therein, and the plaintiff also asks for such other further and general relief in the premises as he may be lawfully entitled to.

State of Missouri  
County of St. Louis  
James Harrison, the plaintiff in the above entitled cause, makes oath and says that he believes the above petition and the matters therein as stated are true. Submitted and sworn to before me this 30<sup>th</sup> day of January, A.D. 1854

E. Capelberry Attorney for Plaintiff.  
John W. Stroud Notary Public. (Seal)

Summons

The State of Missouri

To the sheriff of Saint Louis County - Greeting

We command you to summon William Provan Jr, Francois Gorman and Augustus Geremon her husband Marie Delor and Peter Delor her husband, Edward Gamache Euphrosine Lictensdorfer, Louis Gamache, Catharine Busha and Richard Busha her husband, August Gamache, senior, Augustus A. Blumenthal, Constance Robert, August Marie and Leonore Delisle and Henry Delisle her husband - to appear before the Judge of our St. Louis Land Court, on the first day of the next term thereof, to be held at the City of St. Louis within and for the County of St. Louis, on the first Tuesday

of March next then and there to answer the complaint of  
James Harrison as set forth in the annexed petition, and  
have you then and there this writ-

(Seal)

Witness, Charles A. Mautz, Clerk  
of our said Court with the seal thereof hereto affixed at  
office, in the City of Saint Louis this  
Thirtieth day of January in the year of  
our Lord one thousand eight hundred  
and fifty four.

Charles A. Mautz, Clerk.

Sheriff's return  
Proceedings  
in said Court,

Executed on the 1<sup>st</sup> day of February 1854 by delivering to Auguste  
Garnache a copy of the writ & Petition as furnished by the  
Clerk also by delivering a copy of the writ and offering to  
read the Petition to A Gervon Francois Gervon, Peter Delor  
Marie Delor, Edward Garnache, Euprasine Lidsendorfer  
Richard Busha Catherine Busha, A. A. Blumenthal,  
Constance Robert, August Maria and Leonore Delisle and  
Henry Delisle & W<sup>m</sup> Proveau which they refused to hear in  
St Louis County. Louis Garnache not found in my county

John W. Wimer

Sheriff.

B. J. H. Longlop Jtz.

The following further proceedings were had in this cause, to wit:

James Harrison March Term 1854

Friday March 17<sup>th</sup> 1854

James Harrison

vs

William Provencal Jr. Francois Gervais and  
 Augustus Gervais her husband. Marie Delor  
 and Peter Delor her husband, Edward Gamache  
 Catharine Busba, and Richard Busba her husband  
 Auguste Gamache, Senr. Augustus A. Blumenthal  
 Constance Robert, Auguste Marie and Leonore  
 Delisle and Henry Delisle her husband

In part  
 default.

It appearing to the satisfaction of the Court  
 that said defendants William Provencal Junior, Edward Gamache  
 and Auguste Marie are Minors under the age of twenty one years  
 and have no Guardians to represent them in this cause, *On motion*  
 Edward P. Lapon is appointed by the Court Guardian *ad litem*  
 for said Minors; and the said Guardian comes and accepts  
 said appointment and files his bond herein in the sum of Twenty  
 five hundred dollars with Antoine L. Dujon as his security,  
 which is approved by the Court, And afterwards on the same day  
 the said Guardian files his answer herein for said Minors,  
 And the other defendants, to wit; the said Francois Gervais,  
 Augustus Gervais, her husband, Peter Delor and Marie Delor  
 his wife, Euphrosine Sektensdorfer, Louis Gamache, Catharine  
 Busba and Richard Busba her husband, August Gamache Senior  
 Augustus A. Blumenthal, Constance Robert, and Leonore Delisle and  
 Henry Delisle her husband, although duly summoned, come ~~not~~  
 but make default, therefore, *on motion* of said plaintiff it is ordered  
 and adjudged by the Court that the Plaintiff's petition herein be  
 taken as confessed against the said defendants, thus in default,  
 and that inquiry of damages be had herein.

The following further proceedings were had in this cause to wit:

March Term 1854

Monday March 20<sup>th</sup>

James Harrison

vs

William Poveau et al

Demurrer of Henry Delisle wife

filed.

Said demurrer by the leave of the Court was withdrawn

March Term 1854

Friday March 31<sup>st</sup>;

Decree.

the following proceedings were had in this cause to wit:

James Harrison

vs

William Poveau Jr. Francis Garneau and  
 Augustus Genereux her husband. Marie Delor  
 and Peter Delor her husband. Edward Gamache,  
 Euphronie Lettensdorfer, Louis Gamache, Catharine  
 Busbia and Richard Busbia her husband Auguste  
 Gamache, senior, Augustus A. Blumenthal  
 Constance Robert, August Marie, and Leonore  
 Delisle and Mony Delisle her husband

In Partition  
 Decree.

Now at this day comes the said plaintiff  
 by his attorney, and also come the said minor defendants  
 William Poveau Jr. Edward Gamache and August Marie  
 by their guardian ad litem Edward P. Lepore, and submit  
 this cause to the Court upon the petition, and the facts  
 and allegations therein contained, and upon the answer  
 of said minor defendants, and it appearing to the Court  
 that all the other defendants herein come not but made

43 default, and the Court, being fully advised of and concerning the premises doth ascertain that said parties plaintiff and defendants are the owners of the real Estate described in said petition, as follows to wit: "A Certain piece or parcel of land bounded on the South by the Northern boundary line of a lot or tract of land confirmed and surveyed by the United States to Joseph Calve's representatives, on the East by the Eastern boundary line of said common field, on the North by a line parallel with and one half of an arpen North of the said Northern boundary line of said lot or tract confirmed and surveyed by the United States to said Joseph Calve's representatives, and on the West by the Western boundary line of said Commonfield, being a narrow strip of land of one half of an arpen in width from Northward to Southward and forty arpens in length from Eastward to Westward, taken from the most Southern side of the said tract which was confirmed and surveyed by the United States to said Chauvillier's representatives and which said tract is situated in the Grand Prairie Commonfield in the County of St Louis and State of Missouri." And the Court doth further ascertain and determine the respective rights and interests of said parties and their shares and proportions in said real Estate as follows, that the said plaintiff James Harrison is entitled to two hundred and twenty four, Seven hundred and twentieth parts ( $\frac{224}{720}$ ) that the said defendants William Proveau Jr. Francois Garneau, Thoin Delor and Edward Garnache are each entitled to nine, seven hundred and twentieth parts ( $\frac{9}{720}$ ), that the said defendants Leonne Delisle, Euphroine Letensdorfer, Louis Garnache, and Catharine Busha are each entitled to forty five, seven

Decree,

Decree,

hundred and twentieth parts ( $\frac{45}{720}$ ), that the said defendants Auguste Gamache Senior, and Constance Robert are each entitled to sixty, seven hundred and twentieth parts ( $\frac{60}{720}$ ), that the said defendant Auguste Marie is entitled to forty, seven hundred and twentieth parts ( $\frac{47}{720}$ ) and that the said defendant Augustus A. Blumenthal is entitled to one hundred and twenty, seven hundred and twentieth parts ( $\frac{120}{720}$ ). The Court doth therefore order, adjudge and decree that partition of said Real Estate be made among the said owners thereof, according to their respective rights and interests therein as above ascertained and determined. And for that purpose, the Court doth appoint Peter A. Berthold, Charles P. Choteau and John B. Sarpy three respectable freeholders residents of St Louis County to be Commissioners to make partition of said real Estate according to law; And it is further ordered by the Court that said Commissioners make report of their proceedings herein according to law,

The following further proceedings were had in this cause, to wit; -

March Term 1854.

Saturday April 8<sup>th</sup> 1854.

James Harrison

v

William Proveau Jr, Francois Verenon and Augustus Verenon her husband, Marie Delor and Peter Delor her husband Edward Gamache, Euphrosene Lichtenedorfer, Louis Gamache, Catherine Buska and Richard Buska her husband, Auguste Gamache Senior, Augustus A. Blumenthal, Constance Robert, Auguste Marie and Leonore Delisle and Henry Delisle her husband.

Now at this day come Peter A. Berthold,

Report of  
Commissioners



Charles P. Choteau and John B. Sorpy heretofore appointed Commissioners to make partition of the Real Estate described in the Judgment of partition rendered in this Cause, and file their report in writing that said land is so situated that partition thereof cannot be made without great prejudice to the owners of the same.

The following further proceedings were had in this Cause to-wit,  
March Term 1854  
Friday April 14<sup>th</sup>.

James Harrison

vs

Order of Sale

Order of  
Sale.

William Provencé Jr. Francois Gorman and Augustus Gervon her husband, Marie Delor and Peter Delor her husband, Edward Gouache, Euphrosine Lektensdorfer, Louis Gouache, Catherine Busha and Richard Busha her husband, Augustus Gouache Senior, Augustus A. Blumenthal, Constance Robert, August Marie, and Leonore Delisle and May Delisle her husband,

Now at this day came said plaintiff by his attorney, and said minor defendants William Provencé Junior, Edward Gouache, and August Marie by their Guardian ad litem Edward P. Lepson, and also came the said defendants Henry Delisle and Leonore Delisle by their attorney, and consent to the confirmation of the Report of the Commissioners herein before filed, and all the other defendants herein being in default: and it appearing to the Court from said report of said Commissioners, that partition in kind of Real Estate sought to be divided in this Cause cannot be made without ~~great~~ prejudice to the owners thereof.

46 and the Court being satisfied that said report is just and correct,  
no objection to the contrary being made, it is considered by the Court  
that said report be confirmed. Therefore on motion of said plaintiff, it  
is ordered and adjudged by the Court, that the Sheriff of St Louis County,  
proceed to sell the said Real Estate described in the Judgment of par-  
-tition heretofore rendered in this cause, according to law, and upon the  
following terms, to wit: One third <sup>of the</sup> purchase money to be paid in Cash at the  
time of Sale, One third in One year, one third in two years thereafter,  
the deferred payments to be secured by Notes and deeds of trust on  
the property sold, and to bear interest at the rate of six per cent per  
annum, And it is further ordered by the Court that the Sheriff  
subdivide the said premises in such manner as will seem to him  
to be most for the advantage of the said owners thereof, and that he  
make return of his proceedings herein according to Law.

Order of Sale

The following further proceedings were had in this cause to wit:  
James Harrison  
vs  
William Proveau, Jr, et al.

E. Capelberry Esquire Attorney in this  
cause presents his account for professional services herein, and  
moves the Court to allow the same, and the Court being satisfied  
that said account is reasonable and just, orders that the same  
be allowed in the sum of one hundred fifty dollars.

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James Harrison

In Partition  
By Sheriff to

Augustus A. Blumenthal

To all to whom these Presents shall come, John  
M. Wimer, Sheriff of the County of St Louis, State of  
Missouri - Said Greeting.

47 Whereas on the fourteenth day of April in the year of our Lord  
one thousand eight hundred and fifty four an order of sale  
was made by the St Louis Land Court, in a certain cause then  
pending in said Court of Petition for Partition, wherein James  
Harrison was Plaintiff, and William Pooveau Jr, Francois  
German, and Augustus German her husband, Marie Delor  
and Peter Delor her husband, Edward Gamache, Euphrosyne  
Lutersdorfer, Louis Gamache, Catharine Buska and Richard  
Buska, he husband, August Gamache Sr, Augustus  
Shrffs deed to Blumenthal, A. Blumenthal, Constance Robert, August Marie, Leonne  
Delisle, and Henry Delisle her husband, were defendants  
a copy of which said order of sale is hereto attached, and  
makes a part of this deed, and whereas I, the said John  
M. Winner Sheriff, did in obedience to said order on the  
Twenty first day of April Eighteen hundred and fifty  
four cause the said real Estate mentioned and described  
in the said order and petition in said cause, to be adver-  
tised for sale in the manner prescribed by law, by advertise-  
ment published in the Missouri Democrat a newspaper  
printed in the City and County of St Louis, being at least  
twenty days prior to the day of sale hereinafter mentioned, a  
copy of which said advertisement is hereto annexed and  
makes a part of this deed; and by virtue of said order of sale  
and agreeably to said Advertisement, I the said Sheriff,  
did, on the eighteenth day of May in the year Eighteen hundred  
and fifty four between the hours of nine o'clock in the  
forenoon, and five o'clock in the afternoon of that day,  
at the North front door of the Court House in the City


and County of St Louis, State of Missouri, and during the sitting  
of the St Louis Land Courts being the March Term, Eighteen  
hundred and fifty-four of said Court, upon to sale, at public  
auction, to the highest bidder, on the terms in said order men-  
tioned, all the right, title, interest, claim estate and property  
of them the said parties hereinbefore mentioned, of in and  
to the said real Estate mentioned in said order and described  
in said advertisement, at which said time and place  
Augustus A. Blumenthal became and was the highest  
bidder for the following described real estate in said order  
of sale mentioned, to wit: Lot numbered four (4) contain-  
ing two (2) arpents, as laid down on the surveyed plat, which  
makes a part of this deed — at the price and sum of Five  
hundred and twenty dollars, — the said real Estate  
was therefore then and there stricken off and sold to the  
said Augustus A. Blumenthal for said sum.

Shiff's deed  
to Blumenthal

Now, therefore, Know ye, that J. J. M. Wisner Sheriff  
as aforesaid, in consideration of the premises and of the said  
sum of Five hundred and Twenty dollar and — cents  
to me in hand paid (according to the terms in said order  
mentioned) by the said Augustus A. Blumenthal the receipt  
whereof I do hereby acknowledge; and by virtue of the power  
and authority in me vested by law, I do hereby bargain, sell trans-  
fer and convey to him the said Augustus A. Blumenthal and  
to his heirs and assigns forever all the right, title, interest, claim  
and property of them the said parties hereinbefore named  
of, in and to the said real Estate, hereinbefore described, together  
with all the rights, privileges, and appurtenances thereto

belonging or in any wise appertaining.

In Witness Whereof, I, Jno M. Wiener Sheriff of the County of St Louis, have hereunto set my hand seal, this twenty fourth day of May in the year of our Lord one thousand eight hundred and fifty four,

Jno M. Wiener Sheriff 

Advertisement  
of Sheriff's Sale  
in partition.

James Harrison

vs

William Proveau Jr, Francois Gerneau  
and Augustus Gerneau her husband,  
Morie Delor and Peter Delor her husband,  
Edward Gamache, Euphrosyne Lextensdoper,  
Louis Gamache, Catharine Busha and Richard  
Busha, her husband, August Gamache, Sen., August  
Augustus A. Blumenthal, Courstence Robert,  
August Morie, Leonore Delisle and Henry  
Delisle, her husband

Order of Sale  
in  
Partition.

By authority of an order of sale, made by the St Louis Court, on the fourteenth day of April 1854, in the above entitled cause, the undersigned Sheriff of the County of St Louis, State of Missouri, will on Thursday, the eighteenth day of May next (1854) between the hours of nine in the forenoon and five in the afternoon of that day, at the north front door of the Court House, in the City of St Louis, sell at public vendue, to the highest bidder, all the right, title, interest claim, estate and property of the parties above named in and to the following described real estate, to wit:

50 "A certain piece or parcel of land, bounded on the south by the northern boundary line of a lot or tract of land, confirmed and surveyed by the United States to Joseph Calvo's representatives, on the east by the eastern boundary line of said Common Field, on the north, by a line parallel with and one half of an arpent north of the said northern boundary line of said lot or tract, confirmed and surveyed by the United States to said Joseph Calvo's representatives, and on the west by the western boundary line of said Common Field; being a narrow strip of land of one half of an arpent in width from northward to southward, and forty arpens in length from eastward to westward, taken from the most southern side of the said tract which was confirmed and surveyed by the United States to said Chancillier's representatives, and which said tract is situated in the Grand Prairie Common Field, in the County of St Louis, State of Missouri."

Advertisement

Terms of Sale - One third of the purchase money to be paid in cash at the time of sale, one third in one year, and one third in two years thereafter; the deferred payments to be secured by notes and deeds of trust on the property sold, and to bear interest at the rate of six per cent per annum.

John M. Weiner, Sheriff

April 21<sup>st</sup>, 1854.

A plat of Chancillier's leg-Rep<sup>t</sup>, to go in at this place.

St Louis Land Court March Term 1854

Friday March 31<sup>st</sup> 1854

James Harrison

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St. Louis Supd Court - March Term, 1854 - Friday, March 31<sup>st</sup> 1854.

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James Harrison,

vs.

William Proveau Jr., Francois Gouneau and Augustus Gouneau her husband, Marie Delor and Peter Delor her husband, Edward Gamache's Euprosine Leitensdorfer, Louis Gamache's, Catherine Buska and Richard Buska her husband August Gamache's Senior, Augustus A. Blumenthal, Constance Robert, August Marie and Lenora Delisle and Henry Delisle her husband

In Partition  
Decree

Proceedings  
in said  
Court,

Decree,

Now at this day comes the said Plaintiff by his attorney and also comes the said Minor defendants William Proveau Jr., Edward Gamache's and August Marie by their guardian ad litem Edward P. Lepou and submit this cause to the Court upon the petition and the facts and allegations therein contained and upon the answer of said Minor defendants and it appearing to the Court that all the other defendants herein ~~came~~ not, but made default and the Court being fully advised of and concerning the premises doth ascertain that said parties plaintiff, and Defendants are the owners of the real Estate described in said petition as follows  
A certain piece or parcel of land bounded on the South by the Northern boundary line of a lot or tract of land confirmed and surveyed by the United States to Joseph Calves representatives, on the east by the Eastern boundary line of said Common Field, on the North by a line parallel with and one half of an arpen, North of the said Northern boundary line of said lot or tract confirmed and surveyed by the United States to said Joseph Calves representatives and on the West by the

Proceedings  
in Sand  
Court  
Decree

Western boundary line of said Common field being a narrow strip of land of one half of an arpen in width from Northward to Southward and forty arpens in length from Eastward to Westward Taken from the most Southern side of the said tract which was confirmed and surveyed by the United States to said Chancellier's representatives, and which said tract is situated in the Grand Prairie Common field in the County of St. Louis and State of Missouri, And the Court doth further ascertain and determine the respective rights and interests of said parties and and their shares and proportions in said Real Estate as follows, That the said plaintiff James Harrison is entitled to two hundred and twenty four seven hundred and twentieth parts  $\frac{224}{720}$  that the said defendants William Provencal Jr, Francois Garsen Marie Delor and Edward Gasmachi are each entitled to nine seven hundred and twentieth parts  $\frac{9}{720}$  that the said defendants Lenore Delisle, Euprosine Leitenadorfer, Louis Gasmachi and Catherine Bushka are each entitled to forty five seven hundred and twentieth parts  $\frac{45}{720}$  that the said Auguste Gasmache senior and Constantine Robertone each entitled to sixty seven hundred and twentieth parts  $\frac{67}{720}$  that the said defendants Auguste Marie is entitled to forty seven hundred and twentieth parts  $\frac{47}{720}$  and that the said defendant Augustus A. Blumenthal is entitled to one hundred and twenty seven hundred and twentieth parts  $\frac{127}{720}$ .

The Court therefore order, adjudge and decree that partition of said real Estate be made among the the said owners thereof according to their respective rights and interests therein as



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above ascertained and determined and for that purpose the Court doth appoint Peter A. Berthall, Charles P. Choteau and John B. Darby the respectable freeholders residents of St Louis County, to be commissioners to make partition of said  
Make report of their proceedings herein according to Law,

Decree  
of  
Land Court  
State of Missouri (County of St Louis)

I, Charles A. Mantz, Clerk of the St Louis Land Court within and for the County of St Louis certify the foregoing to be a full and true Copy of the Judgment of Decree Made in the above entitled cause in our said Court as fully as the same remains of record in my office.

my Seal

In testimony whereof I hereunto set my hand and affix the seal of said Court at office in the City of St Louis this 19<sup>th</sup> day of April A.D. 1854.

Charles A. Mantz  
Clerk.

Friday April 14<sup>th</sup> 1854

In Partition Order of sale.

Jamies Harrison

vs

William Proveau Jr. Francois Corneau  
and Augustus Gereon her husband  
Marie Delor and Peter Delor her husband  
Euprosine Leitensdorfer, Louis Genuachi  
Catherine Buska and Richard Buska her

In Partition  
(Order of Sale).

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husband. Auguste Gamache senior Augustus A. Blumenthal  
 Constance Robert. August Marie and Lenora Delisle and Henry  
 Delisle her husband.

Order of Sale

Now at this day come said plaintiff by his  
 attorney and said minor defendants William provan for  
 Edward Gamache and August Marie by their guardian ad  
 litem Edward P. Lepou and also come the said defendants Henry  
 Delisle and Lenora Delisle by their attorney, and consent to the  
 confirmation of the Report of the Commissioners hereinbefore  
 filed and and all the other defendants herein being in default  
 and it appearing to the Court, from said report of said com-  
 missioners, that partition in kind of the Real Estate, sought  
 to be decided, in this cause cannot be made without great  
 prejudice to the owners thereof; and the Court being satisfied  
 that said report is just and correct no objections to the con-  
 trary being made, it is considered by the report that said  
 report be confirmed. Therefore on motion of said plaintiff  
 it is ordered and adjudged by the Court, that the Sheriff  
 of St Louis County proceed to sell the real Estate described  
 in the Judgment of partition heretofore rendered in this  
 cause according to law and upon the following terms to wit:  
 One third of the purchase money to be paid in cash at  
 the time of sale one third in one year and one third in  
 two years thereafter the deferred payments to be secured  
 by notes and deeds of trust on the property sold to bear  
 interest at the rate of six per cent per annum. And it is  
 further ordered by the Court that the Sheriff subdivide  
 the said premises in such manner as will seem to him

55 to be most for the advantage of the said owners thereof and that  
he make return of his proceedings herein according to Law

A true Copy Attest

Charles A. Mautz Clerk

State of Missouri }  
County of St Louis }

Acknowledge

ment of the  
Execution of the  
Deed by the  
Sheriff before  
the Clerk.

Be it remembered that on this Twent-  
fourth day of May A. D. Eighteen Hundred and Fifty four  
in Open Court, came John M. Wimer Esquire Sheriff of the  
County of St Louis, and acknowledged the execution of the  
foregoing deed by him as Sheriff as aforesaid, to Augustus  
A. Blumenthal, which said acknowledgment is entered  
on the Record of the St Louis Land Court of the Twenty fourth  
(24<sup>th</sup>) day of May A. D. Eighteen Hundred and fifty four

In Witness whereof I here to set my hand  
and affix the seal of said Court at office  
in the City of St Louis, this Thirtz First  
day of May A. D. 1854.

Seal

Charles A. Mautz Clerk

13 A survey made by W. F. Hyer under an order of Court  
in this cause, is in another portion of this transcript.

It was admitted on the trial by the Defendants  
that the Plaintiff had acquired the title, the Heirs of John  
B. Gamache at the time of his death to the land in dispute.

The plaintiff then introduced William H. Cozzens  
a witness who testified, that he is a surveyor of lands and has  
been such since the year 1836. He was born Penn. knows the

Cozy's  
Evidence

Grand prairie common field lots, has become acquainted with them in the course of employment of a surveyor - that he located and surveyed many lots in the southern part of said Grand prairie Common fields under engagements with the United States Surveyor General - in the capacity of a deputy of that officer. During the progress of this work he was required to make investigations of claims south of the St Charles road, in the course of which he examined witnesses, amongst whom were the oldest residents of this place from 65 to 80 years of age, who showed him the location of the earliest occupants of land in these Common field lots amongst these witnesses were Antoine Smith and Jacques Labbe; - he knows the Chancellier tract and from his knowledge of the location of lots in the grand prairie in early times before the change of government acquired in manner above stated he believes the true position of it is as located by Brown's survey given in evidence. North of Chancellier lies the lot formerly surveyed by Durande for Hieronim which I believe to be correctly located joining Chancellier on the north -

South of Chancellier a lot is surveyed by the United States for Colve, as appears by the connected plat of the United States survey of the Grand prairie common field lots. The plat here referred to is the same above mentioned & the witness spoke of lots as located thereon looking out the plat while testifying.

In the course of my regular employment as above stated I had to examine the correctness of the survey of the Colve claim and in my opinion it does not belong next south of Chancellier.

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the claim of Hervieux of two by forty arpens belongs there. The Hervieux tract is not located by United States survey at any place - next south of Hervieux the lot of Auguste Claude should be located - The claim of Lealve called for by his conception should be located in the Leal-de-Sac, south of Grand prairie - The survey of the Lealve's claim by the United States was made in 1841 or 1842. The land surveyed for Lealve prior to its being surveyed was open unoccupied land never was located as a common field lot for anyone else by survey by the United States, before it was surveyed for the Lealve's claim -

W. H. Cozzens  
Evidence

I locate Hervieux next south of Chancellier, because he has such location by the calls in the Circuit archives. Claude is located south of where I think Hervieux belongs and Claude's conception calls for Hervieux - Acting as a public officer, employed by the United States I spent three years in locating & in making the investigations for locating the lots in the Grand prairie common fields. The value of the land in dispute is worth from \$10. to \$15 - per month - I have made search in the proper offices for a conception to Lealve for the land surveyed to satisfy his claims could find none - I know the Hervieux conception it lies in my opinion south of Chancellier and covers the land surveyed to Lealve,

+

On cross examination says -

Have known the Chancellier tract since 1837 or 8 - the eastern part of it was not then enclosed - Page had the west part of it - or land south of it - Boyce was on the land in 1838 - As to the Piercean lot as surveyed by Durand's Marshal on the corner

58 - ted plat of the Grand prairie Common field lots, I have examined the records - think it correctly located - Kiercean was the most southern lot surveyed by Duralde & calls for no one on the south -

I surveyed the lot ~~conferred~~ pr Lemende.

The Dunezan survey was made before I commenced in 1842 or 3 - I began my survey in 1845.

No. No. Cozzens, The witness takes the concession to Hervieux in his hand and reads it; says I might locate it either north or south of Chancillier looking at this concession alone - Kiercean was located by Duralde & also by Joseph L. Brown.

I found Kiercean fixed by the United States where it now is & also Dunezan & was told not to touch the surveys then made & acted upon them as though correctly located - but for the survey already made of the Kiercean land where I commenced my work there, it and Chancillier might as well be ten arpens apart so far as I know - I was told by the surveyor General not to disturb the surveys in the Grand prairie already made - I do not now recollect why I located Lemende as it was surveyed by me, as it stands now in this plat -

The Plaintiff here rested his case - whereupon upon Motion of the Defendants the Court instructed the Jury as follows,

"Upon the case made the Plaintiff is not entitled to recover"

To the giving which instruction the Plaintiff then excepted whereupon the plaintiff took a non-suit with leave to move to set the same aside. And forthwith filed the follow-

59. motion to set aside the non-suit & grant a new trial to the Plaintiff.

Which motion is in the words and figures following  
to Wit:

Augustus A. Blumenthal

vs

C. Roll & others

In the St Louis

Land Court October Term 1859

The Plaintiff moves the Court to set aside the non-suit taken in this case and grant a new trial,

Because

The Court in the close of the Plaintiffs case gave an instruction to the Jury ~~contrary~~ to Law,  
G. A. Dick for Plff.

which motion the Court over-ruled & to this action of the Court the Plaintiff then objected & excepted and now tenders this bill of exceptions and asks to have the same signed & made part of the record, which is done

Edw Bates.

T. 45 N

R. 7 E

Survey No. 1583

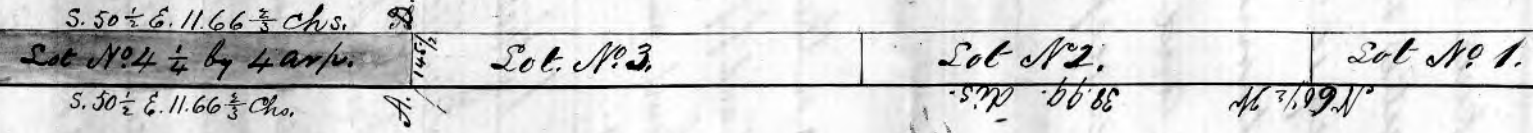
Joseph Calver 2 by 40 arps.

Mountain bounty or 640 acres.

Sec. 16.

Survey No. 3304. Rene Kircereau 1 1/2 by 40 arpts.

Survey No. 1561. Chanceliers legl Rep's 2 by 40 arps.



M. C. an old Cedar Post corner to Survey No. 2499.

Survey No. 2499.

North Var 7 1/2 E.  
Scale 50 chs to 1 inch.



County Surveyors office  
St Louis April 19, 1856

St Louis Land Court  
A. A. Blumenthal

vs

Conrad Roll

By order of the Court in this case  
to me directed and delivered re-  
quiring survey to be made of the  
land in dispute herein, I have, after giving due no-  
tice to the parties executed said order and the result  
of my survey is correctly represented on the map  
herewith returned. The land in dispute is that  
shaded red and designated by the letters A, B, C, D,  
all which is respectfully submitted

N. F. Ayer.

County Surveyor

And afterwards on the fifth day of March in the year of our Lord  
Eighteen Hundred and fifty six, was filed in the office of the Clerk of said  
St Louis Land Court, an appeal bond, which is in the words and figures  
following, to wit:



Appeal  
Bond

Know, all men, by these presents, That we Augustus A. Blumenthal  
as principal, and Peter Wenger as surety are held and firmly bound unto  
Conrad Roll, E. Carter Hutchinson, George L. Pollard & Francis Minor in  
the sum of Three Hundred dollars, for the payment of which, well  
and truly to be made, we bind ourselves, our heirs, executors and administra-  
tors, jointly and severally, firmly by these presents. Sealed with our  
seals, and dated at St Louis, this Fifth day of March A. D. 1856.

The condition of the above obligation is such, that whereas the said


Augustus A. Blumenthal has appealed from the judgment rendered against him and in favor of said Roll, Hutchinson, Pollard & Minor in the St Louis Land Court, for ~~the sum of~~ ~~dollars and~~ cents, together with costs.

Now, if the said appellant will pay all costs and damages that may be awarded against him occasioned by such appeal; and shall prosecute his appeal; and shall perform such judgment as shall be given by the Supreme Court, and such as the Supreme Court may direct the St Louis Land Court to give; and shall, if the judgment or any part thereof be affirmed, comply with and perform the same so far as it may be affirmed; and pay all damages and costs which may be awarded against him by the Supreme Court, then this obligation shall be void, otherwise it shall remain in full force and effect.

Augustus A. Blumenthal   
Peter Wenger 

St. Louis <sup>Land</sup> ~~Circuit~~ Court, In Vacation ~~1855~~, 1856

Be it remembered, that on this Fifth day of March 1856, before the undersigned Clerk appeared Augustus A. Blumenthal the principal, and Peter Wenger the security in the foregoing bond, and acknowledge that they executed the same for the purposes therein expressed

 In Witness Whereof, I hereto set my hand and affix the seal of said Court, at office, in St Louis, the day and year last aforesaid.

Charles A. Mantz Clerk  
By J. B. Walsh Deputy

State of Missouri }  
County of St Louis } ss I, Charles A. Mantz, Clerk of the  
St Louis Land Court in and for said County

certify the foregoing to be a true transcript of the record and  
proceedings in the cause of Augustus A. Blumenthal versus  
Conrad Roll and others, as fully as the same remain in my office  
= cord in my office



In Witness whereof, I hereunto set my  
hand and affix the seal of said Court  
at Office in the City of St. Louis this  
fifth day of March in the year of our  
Lord Eighteen Hundred and fifty six.  
Charles A. Meantz, Clerk

In the Supreme Court for the State of Missouri,  
April Term 1856.

No 153.

A. A. Blumenthal, appellant,  
vs  
Conrad Ball et al, Respondents.

Error, to St Louis Land Court.

Brief for Respondents, filed by Francis Minor.

The Court below committed no error in instructing the Jury that the plaintiff (appellant) was not entitled to recover upon his case as made; nor in refusing to set aside the non-suit taken by him, because

1. The Deed of 1773, from Chancelier to Gamache, which constitutes the foundation of the appellant's title, does not describe the premises in dispute with reasonable or sufficient certainty.

It is impossible to tell, from that Deed, upon which side of the Chancelier claim the twenty arpens were situated. The appellant has chosen to place them upon the South side, but they might, with equal propriety, have been located upon the North side.

The concession to Chancelier calls to be bounded on the one side by Hervieux; on the other side by \_\_\_\_\_.

This claim of Hervieux has never been located, nor even attempted to be located. The United States officers, being fully in possession of all the information bearing upon the subject of the proper location of these claims, have given, as the boundaries of Chancelier, Kircereau on the north, & Calvé on the south. Surely the vague & indefinite evidence relied on by the appellant, will not be permitted, as this

late day, to outweigh the deliberate & impartial action of the Government, or disturb the boundaries that they have established.

See, Evans vs Ashley 8 Mo: Rep: 184.

Rector vs Hart 8 " " 448.

Lander vs Perkins 12 " " 260.

11. The claim of the Appellant is a state one. He has slept upon his rights for more than Eighty years. From 1773, to 1854, neither John B. Gamache, nor any one under him, ever asserted any claim to the land in controversy. It follows necessarily therefore, that the claim is barred by the Statute of limitations, unless the Appellant has shown that he is exempted, by reason of some disability; and it is settled by this Court, in the case of Keeton's Heirs vs Keeton's Adm<sup>r</sup>. 20 Mo: Rep 530, that if a Complainant relies upon a disability as exempting him from the operation of the Statute of limitations, he should set it up in his bill. This, the Appellant has not done. No disability is alleged, nor reason given for this long delay in the assertion of his rights. On the contrary, the Respondents have been permitted to remain in open & undisturbed possession of the property for more than twenty years; bearing all its burdens, & holding & claiming it as their own, and now that it has become valuable, this attempt is made to wrest it from them, by hunting up a claim which, if it ever had any merits, has been long since abandoned, and the precise location of which it is impossible at this late day satisfactorily to ascertain.

Francis Minor

of Counsel for Respondents

Upon my own account I desire to say, that although from the Record, I appear to be a party in interest, such in fact is no longer the case. I parted with all my interest in the property to James E. Yeatman Esq, about 12 months since.

16th April 1856.

Francis Minor

See Statement, filed 18th April 1856.

N<sup>o</sup> 153.

A. A. Blumenthal, appellant  
vs  
Conrad Hall et al, Resp<sup>ts</sup>

Brief for Respondents,  
filed by Francis Minor.

Filed 16 April 1856  
W. L. Garrison

Statement filed 18<sup>th</sup> April /56

In the Supreme Court, March Term 1856.

No 153.

A. A. Blumenthal, Appellant,

vs

Conrad Kall et al, Respondents -

Statement of the Case, by Respondents.

1. This is a suit to recover 2 arpens of ground, part of a larger tract of 20 arpens, described in a Deed of Exchange between Louis Chancelier & John B. Hamache dated in 1773, and which said 20 arpens are a part of a concession of 2 by 40 arpens made in 1767 to Chancelier.

2. The next step in the appellant's chain of title is, what purports to be a partition of the 20 arpens above referred to, and a sale & Sheriff's Deed to Appellant - Those took place in 1854, more than 80 years after the deed to Hamache - Of all this the Respondents had no notice -

3. There is not a particle of evidence to show that Hamache ever had possession under his deed; & the fact is, that he never did have any possession, while the appellant's own witnesses testified that Respondents' grantor had had possession at least from 1838, and if it were allowable to go into the Respondents' side of the case, they could easily show possession long enough to bar the Appellant. It is submitted therefore that the Representatives of Chancelier should have been made parties to the Partition Suit, and thus have had an opportunity of being heard in the question of the location of the 20 arpens -

There are other points, but it is believed that  
sufficient has been said to show, in the language  
of the instruction given by the Court below, that  
"Upon the case made, the plaintiff (appellant) is not  
entitled to recover" - - - - -

Francis Minor  
of Counsel for Respondent.

18th April 1856.

The Court is respectfully referred to my Brief,  
for other points, & for authorities -  
F. Minor





No 153.

A. A. Blumenthal, Appellant

vs

Conrad Ralloral, Resp<sup>t</sup>

Statement of case, filed by  
Respondent's Counsel -

Filed 25 April 1856  
W. S. Garrison

A. A. Blumenthal  
or Appellant  
Conrad Roll  
Respondent

In the Supreme  
October Term 1856

On the 22<sup>d</sup> August 1854 the Plaintiff  
filed his petition in the St. Louis Land  
Court to recover possession of a part  
of U. S. survey 1561 lying in the Grand  
Prairie Common field near St. Louis -  
being lot number 4 on a plot of the land  
made by the Sheriff of St. Louis County  
to carry out an order of sale made by the  
Land Court on the 14<sup>th</sup> of April 1854  
This plot is copied in the Record -

The Defendant Roll was the tenant in  
possession & the other Defendants on  
motion were admitted to defend as  
Landholders.

The answer

1<sup>st</sup> denies the right of the Plaintiff  
to recover -

2<sup>d</sup> alleges twenty years adverse  
possession in the part of the Defend-  
ants -

On the trial to show title in him-self  
the Plaintiff gave evidence as follows -

First - a certificate of confirmation  
under act of Congress of 29<sup>th</sup> April 1816  
of 2 by 40 arpens to the legal Rep-  
resentatives of Louis Chancellier -

The certificate refers to provincial land  
book 1 p. 9 - the place where located is  
St. Louis fields Big Prairie - the grounds

of confirmation - "Possession & cultivation prior  
to 1803" - action of the Recorder - "Confirmed  
to be surveyed"

next - Concession to Louis Chancellier  
dated 20<sup>th</sup> January 1767 for 2 arpens of  
land in front situated in the Grand  
Prairie by 40 arpens in depth bounded  
on one side by Mo. Ste. Hermine & on  
the other side by - - - - -

next United States Survey No. 1561 - it  
purports to be the survey of the land 2  
by 40 arpens granted to Louis Chancel-  
lier on the 20<sup>th</sup> January 1767 - & refers  
to Louis Ferrier No. page 9 - & confi-  
med by act of 29<sup>th</sup> April 1846. -

The plat of this survey is in p. 10. of the  
Record -

The plat & description shows it to lie next  
south of survey 3304 surveyed for Rene  
Kierseman -

next - a deed of exchange between John B,  
Gamache and Louis Chancellier dated  
29<sup>th</sup> January 1773 - by Gamache by which  
Chancellier conveyed to Gamache a  
piece of land ~~of~~ <sup>on</sup> ~~one~~ <sup>one</sup> half  
arpent in width by

40 arpens in depth, which is a part of a larger quantity granted by the King to said Chancellor in the Grand Prairie west of this Town, bounded on one side by Jean Bte. Heriveau - on the other side by the part which the said Chancellor reserved -

This deed is in Spanish - a statement of its contents in English used in the trial is in p. 15 of the Record -

next - Concession to Jno. B. Heriveau dated 30<sup>th</sup> December 1766 for 2 arpens front situated in the Grand Prairie by 40 arpens deep - bounded on one side by Louis Chancellor's on the other side by \_\_\_\_\_

next - the Confirmation of the Southern one arpen of 2 by 40 arpens conceded to Auguste Bode as follows -

1<sup>st</sup> Concession dated 10<sup>th</sup> January 1770 to Auguste Bode for 2 arpens of land in the St. Louis Grand Prairie containing 2 arpens front by 40 deep bounded on one side by land of Heriveau & on the other side by land of Des Metres -

Confirmation by the old Board 13<sup>th</sup> November 1811 -

Next U. S. Survey 1276 of the Southern one  
of the 2 arpens granted to bundle -  
with a connected plat laying down  
the 2 arpens of bundle -  
also a tract of 2 arpens next north of  
it being U. S. Survey 1583 - and  
then Survey 1581 - being the survey  
of the land in question - & next Survey  
3304 of the land granted to Herice-  
reau -

p. 24 -

Next - a deed made by Auguste Bundle  
to LaBussiere - dated 1<sup>st</sup> August  
1770 - for land as follows - a tract of  
land of one arpent front by 40 deep,  
situated in the Grand Prairie at St. Louis,  
bounded on one side by land of Hericeux,  
and on the other side by Bundle -

p. 26,

next a deed by the Heirs of LaBussiere to  
Newstead dated 23<sup>d</sup> June 1818  
a tract of land of 40 arpens in the Grand  
Prairie near the Town of St. Louis bounded  
on one side by lands formerly owned by

Hemlock on the other side by bundle,

p. 30 - ~~That~~ Next Survey by Duralde of lots in the  
Grand Prairie -

p. 55. of Record is -

"It was admitted on the trial  
by the Defts. that the Plff. had acquired the title  
of the Heirs of Mr. B. Gamache at the time of his death  
to the land in dispute"

Next - the Record of the suit in partition  
brought by James Harrison, against  
William Proulx & others - the Parties to  
the suit it being admitted were the  
Heirs & Legal Representatives of Jean  
B. Gamache -

An order of sale was made & the land in  
dispute sold & conveyed to the Plain-  
tiff by Sheriff's deed dated 24<sup>th</sup>  
May 1854 -

Next the Sheriff's deed conveying to  
Plaintiff the interest of the legal  
Representatives of Jean B. Gamache  
in the land in dispute ~~to the Plain~~

Nest the testimony of Wm. H. Cozzens - as follows -

Has been a surveyor since the year 1836 - was born here and has become acquainted with the grand Prairie common field lots in the course of his employment of surveyor - that he has located & surveyed many lots in the Southern part of the said common fields acting for the United States as Deputy Surveyor, and during the progress of the work he was required to make investigations of claims South of the H. Charles Road, in the course of which he examined Old witnesses who showed him the location of the earliest occupants of land in these common fields - He knows the Chancellor's tract & from his knowledge of the location of lots in the grand Prairie before the change of Government acquired as above stated he believes the true position of it is as located by Brown's survey -

That he believes North of Chancellor is properly located land of Kuviceman -

The witness upon examination of the connected plat of the surveys of lots in the grand Prairie says he believes the lots are located correctly in that plat -

This plat is to be used without being copied into the bill of exceptions -

The witness however says as to the Balvé claim he does not think it belongs where it is surveyed next south of Chancellor, but that the Herriens claim or encroachment is next south of Chancellor -

That the Herriens encroachment has not been located anywhere -

That Guide Corner properly next south of Herriens -

That

On cross examination the witness said looking simply at the Herriens encroachment ~~at~~ he could locate it either north or south of Chancellor -

That he found Herriens fixed by surveys of the United States when he began his surveys -

also Dunegan's survey then fixed -

I was directed to disturb no surveys thus fixed

I found Kienean fixed by U.S. where it now is & also Dunegan was told not to touch the surveys already. But for the survey already made of the Kienean land when I commenced my work there, it and Chancellor, might as well be ten miles apart so far as I know.



next - A survey made by order of the  
Land Court in this cause, showing  
the location of the land in dispute  
within U. S. Survey 1561 to Chan-  
cellier's Representatives -

A corrected plat of surveys by the  
United States of the Grand Prairie  
Common field lots was used and  
in evidence & is referred to in the  
testimony of Boyzens - it was not  
by agreement filed in Copied into  
the bill of exceptions

The description of the land given in the  
petition identifies it as described &  
represented in the survey of N. H.  
Hyer given in evidence -

On this testimony the Court instructed  
the jury that ~~the Plaintiff~~ "upon the  
case made the Plaintiff is  
not entitled to recover"

The Plaintiff thereupon took a non suit,  
with leave -  
and in due time filed his motion  
to set the non suit aside, which  
motion the Court over-ruled -

I adopt Mr Decker's statement  
Miss L. Williams  
att<sup>o</sup> for Defendant.

72

Blumenthal  
Applt

vs

Roll - Reimburse

Statement of cost

by Appellant R.

T. A. DECKER

Filed 3<sup>d</sup> October 1856  
Wm. J. Glanville  
Ck

Blumenthal } Supreme Court  
or } Oct. Term 1856,  
Roll }

The only question in this case as it now stands in this Court, was the instruction of the Court below correct, which decided as a question of law, that the evidence of the Plaintiff ~~was~~ did not even tend to show title in him -

The Plaintiff gave evidence as follows -

1<sup>st</sup> of the Confirmation of 2 by 40 arpens of land to the legal Representatives of Louis Chancellier by act of Congress of 29<sup>th</sup> April 1816 -

2<sup>d</sup> The survey of this land by the United States -

3<sup>d</sup> - ~~The~~ Chancellier conveyed to Jns. B. Gamache one arpent front by 40 deep of said 2 by 40 arpens by this description - bounded on one side by Hervilleuse & on the other side by himself -

It was admitted on the trial that the Plaintiff had the title of Gamache -

To show which arpen was conveyed by Chancellier to Gamache ~~and~~

it became necessary to show what land was north & what south of the Chancellier 2 by 40 arpens -

1<sup>st</sup> By the survey of Durvalde - & by the connected plat of surveys & by the testimony of buyers it was shown that the land of Kerice-seau was located on the north side of Chancellier -

2<sup>d</sup> The concession of Chancellier called for Herveux on one side & for no one on the other side -

If Kerice-seau was on the north side of Chancellier, Herveux was necessarily on his South side -

3<sup>d</sup> But the concession of Herveux also called for Chancellier on one side & for no one on the other side -

To locate Herveux the concession of to Coude dated 10<sup>th</sup> January 1770 was given in evidence - This calls for the land of Herveux on one side & Desbatières on the other -

Next the deed of Coude to Labuscère was given in evidence, in which Coude in August 1770 calls for Herveux ~~as~~ lying next his land -

The survey of the land granted to  
Cude was given in evidence, as  
located by the United States - the  
plot of this & the adjoining surveys  
shows these facts -

That the 2 acres comprised to  
Chancellor ~~Adjoin~~ on the South the  
land of Kircereau -  
next - that on the South of Chan-  
celler comes land surveyed to  
balve - being 2 acres -  
next to balve comes  
the land

comprised to Cude -  
Now if the land surveyed to  
balve can be shown to be the  
land granted to Hervieux, then  
it will be apparent that the  
land conveyed by Chancellor to  
Gawache was the Southern  
acre of this two -

The testimony of Boyzant says  
that Hervieux joins Chancellor  
on the South, & joins Cude on  
the North -

The Cude's concession comprises this -  
and the deed by Cude to Laburne  
also comprises it -

With this testimony bearing upon  
the point as to whether Hervieux  
adjoined Chancellor on the  
North side or South side,  
which was the only fact requiring

to be proved, in order to locate  
the Plaintiff's land, the Plaintiff  
contends he had a right to go  
to the jury —

F. A. Driskill for  
Plaintiff

72

Plaintiff  
vs  
Appell

Red

with  
argument to  
appellant

F. A. Driskill  
atty

Filed 3<sup>d</sup> Oct. 1856  
W. F. Glavinie  
clerk

No. 72.

Oct. Term of Supreme Court  
at St. Louis - 1856.

Plumenthal  
Roll et al.

All I have to say is this.

The Court was justified in giving the instruction, that  
"upon the case made, the plaintiffs could not recover".

There was no proof locating the land described, so that  
the jury could say where it was.

Your Honors will observe particularly that the rep-  
resentatives of J. B. Gamache are plaintiffs —  
that they claimed to have title to  $\frac{1}{2} \times 40$  arpens  
which, in an ex parte partition suit, slipped through  
the Court, had been by themselves located on the  
south side of  $2 \times 40$  surveyed to Chauvillier's  
representatives.

The deed, or old conveyance through which  
this land was claimed is as follows (see page 15 of record)

"John B. Gamache sells to Louis Chauvillier one half of a piece  
"of land of one arpent in width by forty arpents in depth, which was  
"granted to him by the King, in the Prairie near St. Louis, which half is ad-  
"joining on one side to the land of Louis Binssonett, and on the other side, to  
"to the other half, reserved by the grantor, in consideration of an ox & of a piece  
"of land an arpent in width by forty arpents in depth, which said Louis Chau-  
"villier conveys by these presents to the said J. B. Gamache. The said piece of  
"one half of 40 arpents is a part of a large quantity granted by the King to said  
"L. Chauvillier in the grand prairie west of this town. Bounded on one side by  
"the land of Jean Baptiste Henriet & on the other side by the part which said L.  
"Chauvillier reserved"

I contended in the Court below & now assert here, that this deed does not convey to J. B. Gamache the land sued for - or any land that was located by the proof - or that can be located by any proof - let us see how it is.

J. B. Gamache (whose rep<sup>s</sup> were plaintiffs below) sells to Louis Chancillier one half of 1x40 - and not Louis Chancillier to Gamache. It is one half of 1x40, that is sued for, and claimed under this deed to be in Gamache.

I say Gamache sold to Chancillier one half of 1x40, and not Chancillier to Gamache. Gamache says that the one half of 1x40, which he sold to Chancillier, was granted to him, and he bounded it on one side by Buissonet, and on the other side by the other half, reserved by grantor - Gamache. He sold one half of 1x40 granted to him, and bounded it on one side by the other half reserved by him.

The consideration is an ox and an arpent of land by ~~40~~ in width, by 40 in depth. Chancillier then was conveying to Gamache 1x40.

The deed then says this - "The said piece of one half by 40, (~~sold~~ by Gamache) is a part of a large quantity granted by the King to L. Chancillier, in grand prairie, bounded on one side by Jean Bte Henneux & on the other by that which L. Chancillier reserves.

If the deed does not put the one half of 1x40 sold by Gamache to Chancillier, within the larger tract granted to Chancillier, I ask what it does do?

I contended below, that Chancillier sold to Gamache one arpent by forty, and not a half by forty, and inasmuch as there was no confirmation or survey of it, and no proof about it, and nothing to show that the plaintiff was entitled to any portion of it, asked the instruction which was given.



But suppose, I am wrong<sup>2</sup> in all this, and the hypothesis of the adverse counsel is correct - then, ought not the instruction to have been given?

Surely there could be no propriety in referring the matter to the jury, when the only evidence touching the location was this - "it is part of a tract that was bounded originally by another - the location of which, locates this piece - and that may as well be placed on the north of Charcellier as on the south" - Why should a jury be asked to say where it was?

I have seldom, if ever, seen a case more decidedly against the plaintiff upon the proof.

No man ought, by ejectment, to recover a claim which has stood unattempted for more than eighty years, without some proof that an intelligent mind can lay hold of.

Wm. S. Williams Att<sup>r</sup> Pl

P.S. As I have to give up the point made upon the translation used by W. Dick below & copied into the record, I fall back upon the other - namely, that in no state of case, was there any thing in the matter, as made out by the plaintiff, which ought to have been permitted to go to the jury. If with such proof, a tract of land may, could or should be recovered, then indeed the tenure by which houses and fields are held, is very frail.

W. S. Williams

The object of this is to give a list of the names of the  
 respondents to the petition for the abolition of the  
 slave trade, in the year 1840, and to give a list of the  
 names of the persons who have since that time  
 taken the same course. The list is given in the  
 alphabetical order, and the names are given in full,  
 with the residence, when known. The list is given  
 in two columns, the names of the persons who have  
 signed the petition in the first column, and the  
 names of the persons who have since taken the same  
 course in the second column. The list is given  
 in the following order: first the names of the  
 persons who have signed the petition in the year  
 1840, and then the names of the persons who  
 have since taken the same course. The list is  
 given in the alphabetical order, and the names  
 are given in full, with the residence, when known.

No 72

Plumenthal  
 of  
 Roll Street

Points of W. L. Williams  
 for respondents

Given 5 Novr. 1856  
 Wm L. Williams

The object of this is to give a list of the names of the  
 respondents to the petition for the abolition of the  
 slave trade, in the year 1840, and to give a list of the  
 names of the persons who have since that time  
 taken the same course. The list is given in the  
 alphabetical order, and the names are given in full,  
 with the residence, when known. The list is given  
 in two columns, the names of the persons who have  
 signed the petition in the first column, and the  
 names of the persons who have since taken the same  
 course in the second column. The list is given  
 in the following order: first the names of the  
 persons who have signed the petition in the year  
 1840, and then the names of the persons who  
 have since taken the same course. The list is  
 given in the alphabetical order, and the names  
 are given in full, with the residence, when known.

No 72 Blumenthal against Roll & others

The question upon the trial of this cause, was as to the proper location of one half of a St Louis common field lot, conveyed by Chancellor to Gamache in January 1773 - under which the plaintiff claimed the premises in question - The only description of the land given in the deed is - in the language of the translation furnished us by the parties "one half of an arpent of land in front, by forty arpents in depth" being "a portion of a larger tract which he (Chancellor) never having had the same conceded to him by the King, situated in the grand prairie, lying to the west of said Post (St Louis) bounded on one side by the land of Jean Baptiste Herrioux, gunsmith and on the other side by the part remaining to the said Chancellor" In order therefore to ascertain the half conveyed to Gamache, it was necessary to determine the position of the Herrioux lot - whether north - or south of the lot conceded to Chancellor - and the only evidence given for this purpose, viz. the deed itself at last into the opinion of Mr Coziers a practical surveyor who gave it as his opinion that the Herrioux lot lay next north of

chancelier and the Herovious lot next south  
of chancelier - in the position now occupied,  
according to the United States surveys, by  
~~Calve~~ the lot conceded to Calve, when the  
witness thought ought to have been sur-  
veyed in the Cal de Sac - and the court  
having declared that on the proof given  
-en, the plaintiff was not entitled to  
recover, the question for our decision  
is whether ~~the~~ the surveyor's opinion as  
to the locality of the Herovious lot was  
sufficient to require the court to sub-  
mit the case to the jury.

Mr Cozzens testified to the effect  
that he was a land surveyor and knew  
the ground prairie common fields - that he  
became acquainted with them in the course  
of his employment under the United States  
Surveyor General, as a deputy of that officer,  
during which he had located many lots  
in the ~~northern~~ northern part of these fields -  
that during the progress of the work - in  
which he was engaged about three years -  
he was required to ~~investigate~~ investigate the  
claims by way south of the St Charles road  
in the course of which he examined old wit-  
-nesses who showed him the location of the  
earliest occupants of the land and that

he had in this manner become acquainted with the position of the lots in the ground parcel - in early times - before the change of government -

In ordinary cases the opinions of a witness cannot be submitted to a jury, for the reason, that it is the province of the jury and not of the witness to draw the proper inferences, for which purpose it is supposed they have sufficient knowledge - When however the solution of the question requires a degree of skill which is usually confined to persons engaged in exercising a particular art or profession and possessed by men generally, persons skilled in such matters are allowed to give their opinions - This class of cases however ought not to be unnecessarily extended - and opinions should not be received except ~~in cases~~ where they are the only means of enabling a jury to come to a correct conclusion - In

against (4 Peck Rep 156) the opinion of a practical surveyor whether piles of stones and marks on trees were monuments of boundaries, was received, ~~and~~ and in *Hess of Farnham against Woolford & wife* (8 Mart. Rep. 695. N.S.) a surveyor was not

allowed to give his opinion as to the proper loca-  
tion of a grant - but was requested to state the  
facts - leaving the court and jury to make the  
proper inference from them - The two  
cases are consistent - and both opinions we  
think are correct. ( Evans against  
Greene 21. Mo. Rep 170 )

Although at the ~~proposed~~  
trial the evidence was received without objec-  
tion, yet we are all clearly of opinion that  
it was insufficient to authorize the court  
to submit the case to the jury - and the  
judgment is therefore affirmed  
A Leonard

72

A. A. Blumenthal

Q.

Conrad Hall sales

Chas Leonard

Filed 15 Dec. 1856  
W. H. Garrison

Am the...

X

West.

No. 9

1/2 by 5

No. 8

1/2 by 5

No. 7

1/2 by 5

No. 6

1/2 by 5

No. 5

1/2 by 4

No. 4

1/2 by 4

No. 3

1/2 by 4

No. 2

1/2 by 4

No. 1

1/2 by 4

June 1561  
Chanceliers, Capt Rogers  
2 by 40 arp.  
-

East.

June 1583-

South -  
Septin Calce,  
2 by 40 arp.

Consol

Note.

Lots, Nos. 1, 2, 3, 4, & 5, are each,  
One half of an arpen broad,  
and four arpens long.  
Lots, Nos. 6, 7, 8 & 9, are  
each one half by five arpens  
long.

Sum: 3304. Rene Biornemann,  
North,  
1 1/2 by 40 arp.