Chouquette, Julien et al v. Barada, Antoine 1 of 2 33 mo. 249 486/4

62218

Judgment 5336 plaintiff

-ejectment

Carondelet, City of

March, 1860

October, 1862

Resp

Chouquette

T. T. Gantt

acquired deed from city

common land, 1852

App

Barada

A. Todd

tenant of Cornelius Sullivan

land owner

Bates, Affirmed

Page 1 State of Missouri }
County of St Louis } S.S.

Be it Remembered That on the Twenty eighth day of January in the year of our Lord One Thousand eight hundred and fifty four there was filed in the office of the Clerk of the St Louis Land Court a petition

Which Petition is in the words and figures following
to wit:

Petition State of Missouri } In the St Louis Land Court
County of St Louis } March term 1854

Julien Chouquette and Victoire his wife, Charles Motier and Moritz & William Taussig, plaintiffs
against
Antoine Barada and Marcellite Barada his wife, defendants

The plaintiffs state that they are tenants in common of the following described lot of ground a parcel of land lying in the City of Carondalet containing One hundred and Seventy feet front on Fourth Street by two hundred & Seventy feet in depth more or less. bounded north by lots claimed by Michael. S. Cerre & Jno B. Sarpy. East by Fourth Street, South by a county road, which seperates it from land now or formerly of Bartholemew Guion and west by Fifth Street. That said plaintiffs are entitled to immediate possession of said land as tenants thereof in fee simple absolute, having

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acquired the same by deed from the City of Carondalet dated August 14th 1852 therewith and the said Moritz Tausig & William Tausig have acquired by deed & herewith filed the interest conveyed by said deed of the town of Carondalet to Antoine Motier and Ophelia, wife of Joseph N Vien, So that the said Julien Chouquette is entitled to one half of said land in his own right, the said Julien Chouquette & Victoire his wife, in right of the said Victoire are entitled to one eighth of said land, the said Charles Motier to one eighth and the said Moritz & William Tausig to one fourth. That the said land was formerly part of the Commons of Carondalet and was conveyed as aforesaid to the said parties, who are legally entitled to the possession thereof in the proportions above named and mentioned. That the said defendant Marcellite wife of Antoine Barada is in possession of said land claiming the same as the tenant of Corneliu D. Sullivan & Joseph L. Papin (who have no right or interest in said land) and that said defendant has been in possession thereof since the first day of January 1854. claiming the same adversely to the plaintiffs and withholding the same from them. That the yearly value of said land is five dollars; and plaintiffs ask for judgment for the possession of said land and damages for the withholding thereof & costs against the said defendants

Thos. T. Gantt p.q.

Julien Chouquette being duly sworn says

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on his oath that the aforegoing petition and the facts therein stated are true, as he verily believes

Sworn to and subscribed before me this 28th day of January 1854

Chas. A. Mantz Clerk

his Julien X Chouquette mark

Upon the filing of the above petition the Clerk then issued to the Sheriff of St Louis County a summons in the words and figures following, to wit;

Summons

The State of Missouri

To the Sheriff of St Louis County — Greeting

We command you to summon Antoine Barada and Marcellite Barada (his wife) 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 Monday of March next then and there to answer the complaint of Julien Chouquette and Victoire his wife, Charles Motier and William Taussig and Moritz Taussig as set forth in the annexed petition and have you then and there this writ

Witness Charles A Mantz clerk of our said Court, with the seal thereof hereto affixed at Office, in the City of St Louis this Twenty Eighth day of January in the year of our Lord One thousand Eight hundred and fifty four

Seal

Charles A. Mantz clerk

Upon which summons the Sheriff made his

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Return in the words and figures following, to wit;

Shffs Return

Executed this writ in St Louis County on the 1st day of February 1854 by delivering a Copy of the Writ and petition to Marellite Barada as furnished by Clerk also by leaving a Copy of the Writ at Antoine Barada usual place of abode with a White person of the family over the age of fifteen years in St Louis County

John M Wimer Sheriff

By J N Douglass Deputy

And afterwards the following proceedings were had in this cause, to wit;

March Term 1854

Wednesday May 17th 1854

C D Sullivan and J. L. Papin made co dfts.

Julien Chouquette and Victoire his wife Charles Mortie, Moritz Taussig and William Taussig

vs

Antoine Barada and Marellite Barada

Now at this day come Cornelius D. Sullivan and Joseph L. Papin, and file their motion and affidavit to set aside the Judgement heretofore rendered in this cause, and to recall the writ of possession issued thereon, and to allow said Cornelius D. Sullivan and Joseph. L. Papin to be made codefendants in this cause as landlords of said defendants, which motion being seen and heard and by the Court fully understood, it is considered and adjudged by the Court that the same be granted and that said defendants pay the costs of this term; and it is further ordered that said defendants file answer herein at the present term of this Court.

5 And afterwards the following further proceedings were had in this cause to Wit;

Am.d Petition filed

March Term 1857 Monday March 9th 1857

Julien Chouquette and Victoire his wife Charles Motier and Moritz Tausig vs. Antoine Barada & Marcellite Barada his wife & Sullivan Papin } Amended petition filed by leave of Court

Which Amended Petition is in the words and figures following to Wit;

State of Missouri }
County of St Louis } In the St Louis Land Court.

Am.d petition

Julien Chouquette and others, plaintiffs against Sullivan & Papin & Barada defendants } Amended petition filed by leave of Court

The plaintiffs say that on the first day of January in the year Eighteen hundred and fifty three they were and still are legally entitled to the possession of the following described real estate situated in the City of Carondelet in the County of St Louis and State of Missouri. that is to say; a lot of ground in the City of Carondelet containing One hundred and Seventy feet front on Fourth Street, by two hundred and Seventy feet in depth more or less. Bounded on the North by lots claimed by Michael. S. Cerre and Dr. B. Papy East by Fourth street. South by a county road or street which seperates it from land now or lately of Bartholemew Guion, and West by Fifth street and the said plaintiffs being so entitled to the

possession of said premises, the said defendants afterwards to wit; on the day and year aforesaid, at the County aforesaid, unlawfully entered into and upon the possession of said premises and therefrom ejected the said plaintiffs and unlawfully withhold from the said plaintiffs the possession thereof, to the damage of the plaintiffs in the sum of One Thousand dollars and therefore they sue.

Thos. T. Gantt pq

Morris Taussig one of the plaintiffs being duly sworn says on his oath that the aforegoing petition and the matters & things therein stated are true as he verily believes

Morris Taussig

Subscribed and sworn to before me this Sixth day of March AD 1857. Witness my hand and Notarial Seal the day and year last above written

I K Knight Notary Public

And afterwards the following further proceedings were had in this cause to wit;

October Term 1857 Monday October 12" 1857

Ans to Amend petn filed

Julien Chouquette and Victoire his wife Charles Motier and Moritz & William Taussig

vs.

Antoine Barada and Mercellite Barada his and Sullivan & Papin

Answer to Amended petition filed in this cause

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Which Answer is in the words and figures following to Wit;

Answer

In the St Louis Land Court
Julien Chouquette et al pltffs
vs
Sullivan Papin & Barada Defdts.

Defendants come & to the amended petition of plaintiffs filed in this case, deny that plaintiffs were & are legally entitled to the possession of the real estate in said petition described, as there in alleged & deny that defendants unlawfully entered into & upon the possession of said real estate & therefrom ejected plaintiffs & unlawfully with hold from the plaintiffs the possession thereof & to their damage, all as alleged in said petition & therefore defendants pray judgement &c

A Todd atty for Defts.

County of St Louis S.S.

Cornelius D. Sullivan makes oath & says, that he believes the foregoing answer & the matter therein stated are true

C. D. Sullivan

Sworn & subscribed to before me this 12th day of October 1857

C. A. Mantz clk

And afterwards the following further proceedings were had in this cause to Wit;

October Term 1859. Monday October 31st 1859

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Jury sworn
Trial Comd
& Cont

Julien Chouquette and Victoire his Wife Charles Motier & Moritz & William Faussig

vs

Antoine Barada and Marcellite Barada his wife and Cornelius D Sullivan and Joseph L. Papin

Trial Begun Now at this day come said parties by their respective Attorneys, and thereupon come also a Jury to wit. Herman N Meher, Jno B Pierce, James Mason Frederick Shultz, F W. Gehner, Jacob Seifner Albert Tennent, Francis Meyer, Wm G. Bachman John D Stone, G R Robinson and Geo C Allen, twelve good and lawful men, who being duly elected tried and sworn, well and truly to try the issues joined between the parties herein, and a true verdict render according to the evidence, therefore the trial progressed, and not being fully terminated is Continued until to Morrow morning

And afterwards the following further proceedings were had in this cause to Wit;

Tuesday November 1st 1859

Trial Continue

Julien Chouquette and Victoire his wife, Charles Motier and Moritz and William Faussig

vs

Antoine Barada and Marcellite Barada his wife and Cornelius D. Sullivan and Joseph L Papin

Trial progressed And now again at this come said parties by their respective attorneys, and thereupon come also the Jury heretofore sworn in this cause, therefore the trial progressed

9 and the cause is submitted to the Jury and continued until to morrow morning

And afterwards the following further proceedings were had in this cause; to Wit;

Thursday November 3d 1859.

Trial ends

Verdict

Judgement

Julien Chauquette and Victoire his wife Charles Motier and Moritz and William Faussig
vs
Antoine Barada and Marcellite Barada his wife, Cornelius D. Sullivan and Joseph L. Papin

Trial Ended. Judgement And now again at this day come said parties by their respective attorneys, and thereupon come also the Jury heretofore sworn in this cause, therefore the trial progressed, and being fully terminated, the Jury as aforesaid, on their oaths aforesaid, say, We the Jury find for the plaintiffs and that the defendants are guilty of the trespass & ejectment as to the premises in the declaration described to Wit, a lot of ground in the City of Carondalet having a front of One hundred and Seventy feet on Fourth Street, by a depth of two hundred and Seventy feet more or less. Bounded on the north by land of Michael. S. Cerre & Jno. B. Sarpy on the east by Fourth street, On the south by a county road and on the West by Fifth Street - and We assess the damages by the plaintiffs sustained by reason of the premises at the sum of Three hundred & thirty six dollars, and that the monthly value of the premises is four dollars. It is therefore upon the finding of the Jury as aforesaid, Ordered and adjudged by the Court that the Plaintiffs recover of said

defendants, the possession of the said premises as in said verdict described, and herein before mentioned and described, and also that said Plaintiffs recover of said Defendants, their damages, and the monthly value aforesaid in form aforesaid as assessed together with their costs and charges herein expended, and have a Writ of possession therefor, Verdict filed in this cause

Verdct filed

And afterwards on the same day to Wit. the following further proceedings were had in this cause to Wit;

Mo for New T filed

Julien Chouquette et als
vs
Antoine Barada et als
} Motion for a new trial filed in this cause.

(For which Motion for New Trial See Bill of exception" Clerk)

And afterwards the following further proceedings were had in this cause to Wit;

Saturday November 5th 1859

Fur reason for New T with affdt filed

Julien Chouquette et als
vs
Antoine Barada et als
} Further reason for a new Trial with affidavits filed in this cause

And afterwards on the same day to Wit the following further proceedings were had in this cause to Wit

Affdt J Mason filed

Julien Chouquette et als
vs
Antoine Barada et als
} Affidavit of James Mason filed in this cause

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And afterwards the following further proceedings were had in this cause to Wit

Monday November 14th 1859

Affdt filed

Julien Chouquette et als
vs
Antoine Barada et als

Affidavit filed in this Cause

And afterwards the following further proceedings were had in this cause to Wit

Monday December 19th 1859

Mo submitd & overruld.

Julien Chouquette et als
vs
Antoine Barada et als

Now at this day the motion heretofore filed in this cause for a new trial, is submitted to the Court, and the Court having heard and being fully advised of and concerning the premises, doth Order and adjudge that the said motion be Overruled

And afterwards the following further proceedings were had in this Cause to Wit

Saturday January 21st 1860

Bill of Excepts filed

Julien Chouquette et als
vs
Antoine Barada et als

Bill of Exceptions filed in this Cause

Which Bill of Exception is in the words and figures following to Wit;

Bill of Exception

Julien Chouquette & al
vs
Sullivan & Papin & al

In the St Louis Land Court 1859.

At the trial of this cause the plaintiffs read in evidence the following agreement

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Chouquette & al
vs
Sullivan & Papin } In the St Louis Land Court.

Agreement. In this cause it is agreed and admitted that the land in controversy is within the Common of Carondelet.

It is also admitted that the pamphlet purporting to contain the "Ordinances of the City of Carondelet" from one (1) to Sixty (60) inclusive, may be read, as to Ordinance No 57 in the same manner and with like effect as a certified Copy of said Ordinance No 57 - Also that upon the offer of any Sheriffs deed by the defendants no objection to its admission shall be made for the absence of the record of the suits out of which it purports to arise, but the same may be admitted, if in due form

A Todd atty for dfts
Thos T Gantt p.q.

They then read in evidence Ordinance No 57 of the City of Carondelet approved March 18/52 (Which Ordinance is in the words and figures following.)

Ordinance No 57

An Ordinance in relation to certain streets and Lots in Carondelet. Be it ordained by the City Council of the City of Carondelet, as follows;

Sec 1. The Mayor is directed to cause Fifth Street to be surveyed to connect surveys Nos 1 and 2 of the Common, and to cause all lots lying between said surveys, and between Fourth Street and the eastern line of the Common Field to be surveyed

Sec 2. The surveyor so employed, shall be further

instructed to survey and lay off all those streets within the new limits of the City of Carondelet, which are at present open and declared as public highways, and to designate the corners of all blocks surrounded by such streets within said limits; also, to run a line of levels along the centre thereof, and to establish a grade for the same

Sec 3. The width of all streets so laid off or surveyed, and running North and South, shall be Eighty feet; and those running east and west shall be fifty feet.

Sec 4. All persons owning lots within the boundaries aforesaid, shall be entitled to a deed in fee simple for the same, by proving possession and cultivation prior to, and during the year 1832; provided, that where there is no conflict of claims, proof of possession and cultivation before said year, shall be deemed sufficient

Sec 5. All deeds made under this or any ordinance of the City, shall be quit claim deed, and shall be signed and acknowledged by the Mayor, and attested by the Register under the corporate seal of the City

This Ordinance shall take effect and be in force from and after its passage

Approved March 18th 1852.

They then gave in evidence the following resolution (Which Resolution is in the words and figures following to Wit;)

Resolution

Resolved, that under the provisions of Ordinance No 57 approved March 18th 1852, the Mayor is hereby authorized to execute a deed to Antoine

Motier and others, petitioners, for a lot of ground described in their petition, and situated West of Fourth street, containing 170 feet front by 270 feet in depth, more or less, bounded North by lots claimed by W. S. Cerre and J. B. Sarpy, East by Fourth street, South by a County road, and West by Fifth Street; provided that it shall not interfere with the width of the Streets as now established by Ordinance

State of Missouri)
County of St Louis } S.S.

I Bernard Poepping Register of the City of Carondelet, do certify, that the fore going is a true and correct copy of a resolution adopted by the City Council of said City on the fifth day of August 1852, as fully as the same appears of record among the proceedings of said Council now remaining in my office

Seal

In Witness whereof I have hereto set my hand and affixed the seal of said City at office, this twenty sixth day of October A.D. 1854

Bernard Poepping Register

To the reading of this resolution Defendants, objected that it did not appear from the Certificate that it was approved & signed by the Mayor, which objection the Court overruled and defended excepted at the time. Plaintiffs then gave in evidence the deed of the City of Carondelet to Julien Chouquette & al, in the words and figures following

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Deed

Know all men by these presents that the City of Carondelet pursuant to a resolution of the City Council of said City, passed on the fifth day of August in the year Eighteen hundred and fifty two, and in consideration of the sum of Five Dollars, to them in hand paid by Antoine Motier Julien Chouquette and Victoire Motier his wife Charles Motier and Ophelia Motier wife of Joseph N. Vien, have granted, remised, released and forever quit-claimed, and do by these presents, grant remise, release and forever quit claim to the said Antoine Motier. Julien Chouquette and Victoire Motier his wife, Charles Motier and Ophelia Motier wife of Joseph. N. Vien, in the proportions herein-after mentioned, a lot of ground in the City of Carondelet, Containing, One hundred and Seventy feet front on Fourth Street by Two hundred and Seventy feet in depth, more or less, bounded North by lots claimed by Michael. S. Cerre, and John. B. Sarpy East by Fourth Street. South by a county road, which seperates it from property now or formerly of Bartholomew Guion and west by Fifth Street To Have and to hold the same to them the said Antoine Motier. Julien Chouquette and Victoire Motier his wife, Charles Motier and Ophelia Motier wife of Joseph, N, Vien, and to their heirs and assigns forever, in the following proportions, to Wit; Antoine Motier one eighth, Julien Chouquette one half, and his said wife Victoire Motier one eighth Charles Motier one eighth and Ophelia Motier wife of said Joseph N Vien, one eighth
This deed is intended to be, and is a pure unqualified and unequivocal quit-claim

deed, and, it is clearly and distinctly understood by said Antoine Motier, Julien Chouquette and Victoine Motier his wife, Charles Motier and Ophelia Motier wife of said Joseph. N. Vien, as is evidenced by their acceptance of this deed, that nothing herein contained shall invalidate or in any wise effect the width of Streets as established by Ordinances of the City of Carondelet at present in force

In Testimony whereof, in obedience to the resolution aforesaid, the Mayor of said City has hereto signed his name, and the Register of said City has attested the same under the corporate seal of said City this Fourteenth day of August A.D 1852

Seal

James. B. Walsh Mayor

Attest

Bernard Poepping Register

State of Missouri }
County of St Louis } S.S

Be it remembered that on this fourteenth day of August Eighteen hundred and fifty two, appeared James. B. Walsh who is personally known to me to be the same person whose name is subscribed to the within and foregoing instrument of writing as party thereto and acknowledged the same to be his act and deed, as Mayor of the City of Carondelet, for the purposes therein mentioned. Taken and certified the day and year

17 last aforesaid

Auguste Gamache Justice of the Peace

State of Missouri }
County of St Louis } ss.

I the undersigned Recorder for said County, certify that the foregoing instrument of writing was filed for Record in my office Aug 16, 1852 & is truly recorded in book L. No 6 page 16.

Witness my hand & official seal the date aforesaid

Seal

S. D Barlow Recorder

The defendants objected to the reading of this deed because (as they contended) no evidence of authority for making it was shown, The genuineness of the signatures of the Officers and of the seal of the corporation affixed thereto were admitted, The Court overruled the objection of defendants, whereto they duly excepted. It was admitted that Antoine Motier senior died in the early part of March 1834 — and that his widow Felicite Motier was buried 11 September 1852.

The plaintiffs then gave evidence showing at his death Antoine Motier left the following children of himself and Felicite Motier, viz. Antoine (1) Charles (2) John Baptiste (3) Andrew (4) Victoire married to Julien Chouquette (5) Isabella Elizabeth since married to Michael Garei (6) Ophelia since married to Joseph. N. Vien (7) and Louis (8)
Of these Antoine the eldest was married & was living at Stringtown, Charles was in the Rocky

Mountain an Employee of Pierre Chouteau & Co Victoire was married and was living with her husband in Carondelet, All the rest of the Children lived with their mother on the premises in Controversy for a time, as they got married they moved away Louis the youngest lived with her there up to her death in 1852.

Plaintiffs offered & gave in evidence deeds the substance of which is as follows - 1st Deed from Jas W. Vien Ophelia his wife to Moritz Tausig conveying their estate in the premises in Controversy by quit claim for $100 dated August 30/52 -

2d deed from Antoine Motier to Wm Tausig dated 28 Sept 1852 conveying by quit claim his estate in the premises for $ -

3d Deeds from Louis, Andrew & Jno Baptiste Motier dated 29th February 1848, and Michael Garci & Isabelle his wife dated 8th April 1851 conveying by quit claim all their estate in the premises to Julien Chouquette

To each of these deeds (the genuineness of which was admitted & also the validity of the certificates of the acknowledgment thereof by the married women to pass their real estate if any.) the defendants objected on the ground that they & each of them were incompetent & irrelevant testimony in the cause which objection the Court overruled & defendants duly excepted. The deeds are not set out at length but the substance of them is as stated above

Plaintiffs then gave evidence tending to show that the premises in Controversy since 1854 were worth five dollars per month or there

abouts – that they were worth four dollars per month in 1852 – This was all the evidence given by the plaintiffs in opening their case

The defendants read in evidence the Will of A. Motie in the words & figures following

Will of Antoine Motie

In the name of God Amen – Be it remembered that I Antoine Motie Sr of the village of Carondelet & St Louis County being weak in body but of sound mind and memory (blessed be the Almighty for the same) and not knowing how soon it shall please the Lord to call me out of this world; therefore I do publish and declare this to be my last will and testament in manner and form following, to wit; first I ask and order for all my just and lawful debts to be paid and Secondly & lastly for and in consideration of the love and affection which I have and bear unto my beloved wife Felice, and moreover for all her tender cares, I do give and bequeath unto her my said beloved wife Felice (after my just and lawful debts paid) all the remaining or remainings part or parts of my property or properties both real and personal of what kind and nature soever; for her own behoof and benefit; and lastly I do appoint my said beloved wife Felice, Sole Executrix & Administratrix of this my last will, hereby revoking all former wills by me made Signed and Sealed this twenty sixth day of January in the year of our Lord Eighteen hundred & thirty four Antoine his x mark Motie Sr

Signed & declared before us the undersigners

whom at his request have signed our names as Witnesses Joseph LeBlond Peter D. Barada

State of Missouri County of St Louis } ss Be it remem-
-bered, that on this Eighth day of March in the year of our Lord Eighteen hundred and thirty four before me the Clerk of the County Court, within and for the County aforesaid, personally appeared Peter D. Barada, Subscribing witness to the foregoing and annexed instrument of writing, who, being duly sworn upon his oath, according to law; deposed and said that he was present and did see Antoine Motie make his mark to the annexed instrument of writing by way of signing the same and heard him publish, pronounce and declare the same to be his last Will and testament, and that at the time of so doing, he the said testator was of sound and disposing mind to the best of his knowledge, observation, and belief; and that he the said deponent and Joseph Leblond the other Subscribing witness to the same, subscribed their names thereto, in the presence and at the request of the testator, and in the presence of each other as witnesses to the same

(Seal) In Testimony whereof, I have hereunto set my hand and the seal of said Court, at the City of St Louis, this eighth day of March in the year of our Lord Eighteen hundred and thirty four

Henry Chouteau Clerk

State of Missouri }
County of St Louis } ss

I William F. Ferguson Clerk of the Probate Court of the County of St Louis in the State of Missouri, Certify that the foregoing

is a true Copy of the last will and testament of Antoine Motie deceased and the Probate thereof as the same now remains of Record in the office of the Judge of Probate of the County of St Louis, in the Record of Letters and Wills. Book B page 184 and following

In Testimony whereof I hereto set my hand and affix the Seal of the Probate Court of the County of Saint Louis at office in said County this twenty seventh day of November in the year of our Lord, One thousand Eight hundred and fifty four

Seal

William F Ferguson Clerk

And the deed made by the Sheriff of St Louis County to Sullivan & Papin in the words & figures following

Deed of Shff to Sullivan & Papin

To all to whom these presents, shall come I William Milburn Sheriff of the County of Saint Louis State of Missouri Send Greeting; Whereas on the ninth day of January in the year of our Lord One thousand eight Hundred and forty a judgement was rendered in the St Louis Circuit Court in favor of John Cromwell against Felicite Motie, for his costs and charges, by him about his defence at the suit of the said Felicite Motie in that behalf expended. amounting to the sum of Seventy six dollars and thirteen cents as taxed by the Clerk upon which said judgement an alias Execution issued from the Clerks office of said Court in favor of the said John Cromwell against

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the said Felicite Motier dated the eleventh day of April eighteen Hundred and forty five And whereas also on the said ninth day of January A.D. 1840 another judgement was rendered in the said St Louis circuit Court, against the said Felicite Motier, in favor of Benito Vasquez for his costs and charges by him about his defence in that behalf expended amounting to the sum of fifty six dollars and fifty eight cents as taxed upon the Books of the Clerk of said Court in said cause upon which said judgement an alias Execution issued from the Clerks office of said St Louis Circuit Court in favor of the said Benito Vasquez against the said Felicite Motier dated the eleventh day of April Eighteen Hun-dred and forty five.- both of which said Executions were directed to the Sheriff of the County of St Louis and were to me the said Sheriff delivered, copies whereof are hereto annexed and make part of this deed. By virtue of which said Executions I the said Sheriff did on the nineteenth day of April, in the year of our Lord One Thousand eight hundred and forty five, levy upon and seize all the right title interest, claim, estate and property of the said Felicite Motier of in and to the following desc-ribed real estate to wit: A lot of ground in the Town of Carondelet, One Hundred and fifty feet front on Fourth street by One Hundred and fifty feet deep more or less. bounded north by lot of W. E. Cerre and west by common Fields of the town of Carondelet, South by a

street or alley and east by Fourth Street
And having previously to day of Sale hereinafter
mentioned given at least twenty days notice
of the time and place of sale and of the real
estate to be sold and where situated as the law
directs by advertisements in the Missouri
Reporter, a newspaper printed in said County
of St Louis, a copy of which said advertisement
is hereto annexed and makes part of this
deed, By virtue of which said execution in favor
of John Cromwell and of said advertisement
(The receipt of Marshall Brotherton late
Sheriff for the amount of the other of said Executions
in favor of Benito Vasquez, having been produced
previous to the day of sale, showing that said
Execution was satisfied) I the said Sheriff
did on the tenth day day of May in the year
of our Lord Eighteen Hundred and forty five
between the hours of Nine in the forenoon and
five in the afternoon of that day agreeably
to said advertisement at the Court House door
in the City of St Louis during the April Term
of the Circuit Court of St Louis County, for the
year Eighteen hundred and forty five, expose
to sale at public auction for ready money
all the right title, interest, claim estate and
property of the said Felicite Motier of in and
to the above described real estate together with
all rights privileges and appurtenances thereunto
belonging and Cornelius D. Sullivan and Joseph
L Papin being the highest and last bidders for
said real estate at the price and sum of

Ninety one dollars the same was stricken off and sold to the said Cornelius. D. Sullivan and Joseph. L. Papin for that sum:
Now Therefore Know ye, that in consideration of the premises and of the said sum of Ninety one dollars to me in hand paid by the said Cornlius. D. Sullivan and Joseph. L. Papin the receipt whereof I do hereby acknowledge and by virtue of the authority in me vested by law I William Milburn Sheriff as aforesaid do hereby assign, transfer and convey to them the said Cornelius. D. Sullivan and Joseph. L. Papin all the right title interest, claim, estate and property of her the said Felicite Motier of in and to the above mentioned and described property that I might sell as Sheriff as afore-said by virtue of the aforesaid Execution in favor of John Cromwell and of said adver-tisement. To Have and To Hold the same to them the said Cornelius. D. Sullivan and Joseph. L. Papin and to their heirs and assigns forever, with all rights privileges and appurtenances thereto belonging
In Witness whereof I William Milburn Sheriff of the County of St Louis have hereunto set my hand and seal this twenty sixth day of June in the year of our Lord one Thousand eight hundred and forty five

William Milburn (Seal)
Sheriff of St Louis County
in the State of Missouri

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County of St Louis Set

The State of Missouri

To the Sheriff of the County of St Louis Greeting

Whereas John Cromwell on the ninth day of January eighteen hundred and forty at our Circuit Court before our Judge thereof recovered against Felicite Motier his costs and charges by him about his defence at the suit of the said Felicite Motier in that behalf expended, which to the said John Cromwell were adjudged, as appears to us of record; These are therefore to command you as you have been before commanded that of the goods and chattels, lands and tenements of the said Felicite Motier, in your bailiwick, you cause to be made the aforesaid costs; that you have the same before the Judge of our said Court, on the third Monday of April instant, to render to the said Cromwell the costs aforesaid, And that you certify to our said Judge how you execute this Writ; and have you then there this writ

Witness John Ruland Clerk of our said Court at St Louis the eleventh day of April in the year of our Lord One Thousand eight hundred and forty five

Seal

John Ruland Clerk C. C.

A true Copy of the execution
William Milburn Sheriff

County of St Louis Set

The State of Missouri

To the Sheriff of the County of St Louis - Greeting

Whereas Benito Vasquez on the ninth day of

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January Eighteen hundred and forty at our Circuit Court, before our Judge thereof recovered against Felicite Motier his costs and charges by him about his defence at the suit of the said Felicite Motier in that behalf expended, which to the said Benito Vasques were adjudged as appears to us of record; These are therefore to command you, that of the goods and chattels, lands and tenements of the said Felicite Motier in your bailiwick, you cause to be made the aforesaid costs; that you have the same before the Judge of our said Court on the third Monday of April instant to render to the said Benito Vasques the costs aforesaid. And that you certify to our said Judge how you execute this writ; and have you then there this writ

Witness John Ruland Clerk of our said Court at St Louis the eleventh day of April in the year of our Lord One Thousand eight hundred and forty five

John Ruland Clerk C.C.

A true Copy of the Execution
William Milburn Sheriff

In virtue and by authority of two executions issued from the office of the clerk of St Louis Circuit Court, returnable to the April Term 1845 of said Court and to me directed one in favor of Benito Vasques the other in favor of John Cromwell, and both against Felicite Motier. I have levied upon, and seized as the property of the said Felicite Motier the following described real estate to Wit;

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A lot of ground in the town of Carondelet one hundred and fifty feet front on Fourth street by one hundred and fifty feet deep more or less, bounded North by lot of M. S. Cerre and West by Common fields of the town of Carondelet, South by a street or alley, and East by Fourth street. And I will on Saturday, the 10th day of May next, between the hours of Nine and five O'clock of that day, at the west front door of the Court House in the City of St Louis, sell all the right, title interest, claim, estate and property of the said Felicite Motier of, in, and to the above describ=ed real estate to the highest bidder, for cash, to satisfy said executions and costs

William Milburn Sheriff

St Louis April 19th 1845

In the St Louis Circuit Court April Term 1845

Tuesday July 1st 1845.

Be it remembered that on this first day of July Eighteen hundred and forty five, comes into Court here William Milburn Esquire, Sheriff of the County of St Louis, and acknowledges the Execution of the within deed by him as Sheriff as aforesaid to Cornelius. D. Sullivan and Joseph. L. Papin — Which said acknowledgment is entered on the records of the Court of that day.

In testimony whereof. I John Ruland Clerk of said Court hereto set my hand and affix the seal of said Court at Office

Seal

in the City of St Louis the day & year last afore-said

I W Ruland Clerk

State of Missouri }
County of St Louis } ss.

I hereby certify that on the twenty sixth day of November 1845 the foregoing deed was filed for record in my office and is truly recorded in Book X No 3 page 78 & following

Given under my hand and official seal the date above written

Seal

E. D Barlow Recorder

Bill Exp.

It was admitted that upon this deed Sullivan & Papin sued Madam Motier in ejectment & recovered judgement against on which a suit of possession was executed in their favor in October 1846, And since then they have had possession

Peter D. Barada Test;

Peter D. Barada sworn testified that he was born near Bridgeton in the County of St Louis but had lived in Carondelet since 1803 & was now 60 years of age. Knew Motier Senior since his first recollections in Carondelet, knew the land sued for, when it was in woods & bushes & when said Motier went on to it, he went on to it in 1818, or 1819- he was then married to Felicite Motier, who was born & raised in Carondelet. In 1818 or 1819 Motier built a small Cabin on this land, made of posts on end. It was small

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after this & thinks in 1820 he built the log house now upon it. It was about 17 by 15 feet & all in one room in the inside - It remained so until his death - thinks it had no cellar - It now dilapidated - Motier planted some few trees upon it - gardened it - His first enclosure was about 100 feet square - Along the South side of it was a lane & a vacant space of ground enclosed since Motier's death - probaly 30 feet wide - The inclosure of Motier was made about 150 feet square - he could not say, if he enlarged this inclosure before his death - Fourth Street run along the East front, a vacant piece of ground between it & the Stringtown road on the West, at the time Motier lived & died, of about 6 or 8 feet wide at one end & 10 or 12 feet at the other end - after Motier's death Julien Chouquette inclosed it. He did it after he had purchased from some of the heirs - Until then the inclosure remained as Motier left it - He drew Motier's will - He drew it at his house, as Motier requested & then brought it to be signed at Motier's house - after his death he & Mr Leblond were asked by the widow Motier to go before the Court, as witnesses, to prove it - He left no other property but this land & his furniture - He left a very little furniture in the house - He recollects nothing else - Motier was a laboner sometimes did rough carpentry - He was a Creole French & so was his wife - He was born in this Country Motier claimed this property, as his, until

his death - His wife, after his death, kept the possession of it - She claimed this land both under her husband & under her father & down to the Mississippi River & hence her suit against Vasques - Her father was Clermont Delor - Never knew him - He died before his recollection - After her husband's death she lived upon this land & gardened it He was intimately acquainted with her After husbands death he did not visit her often, but she did him at his store He did not visit her at her house after Motier's death until shortly before her death At the time of her law suits she visited him & he told her that he thought she did wrong & would be thrown into costs - She said she claimed the property as hers - that it belonged to her father & that she would fight it out - This suit was against Vasques. This land was a part of the tract of land she was suing Vasques for, as she claimed it - She claimed clear down to the River Mississippi - He knew John Cromwell He was living on one end of the Common field land where she claimed - This land sued for is outside of the Common fields as surveyed - She said her father's concession of a field run from the River back 40 arpens - If her claim was correct, then this land would lie in it, At the time of the Sheriffs sale to Sullivan & Papin she claimed this property as hers - The land she

sued for is the land Mr Berthold has but she claimed it clear to the River - On cross examination he testified, that he thought he had stated all he knew about this property - After she failed in her suit she claimed it & Sarpy desired him to try to make a compromise with her, for the field lot West of Stringtown Road, but she refused & there was a suit & it went against her

Hyacinthe Pigeon Testi:

Hyacinthe Pigeon sworn testified that he lived in Carondelet & was born there & was 42 years old - Knew Mottier Senior & where he lived & died - was raised with the family almost - His wife claimed the property after his death - did not hear her say how she claimed it - After her husbands death heard her talk about the property she claimed it as hers - she thought it was hers & claimed it as hers - She told him it was hers - he knew of persons offering to buy it of her - the last time he heard her talk of it she wanted to sell 50 feet of it to Julien Chouquette - this a good while ago - cant tell what time - she was to sell him 50 feet for 50 dollars - did not know if she sold, or, not He often visitied her house after her husband's death

On Cross examination stated, that he came to have this conversation with her because she told him she wanted to sell 50 feet for fifty dollars to Julien Chouquette, but did not -

She was almost always at my mothers house she slept there - It was when he went to visit her, that she told him she had sold 50 feet to Chouquette - She claimed this property at my house - None of her children then lived with her - Their conversations were within the last year of her life, she frequently visited & slept at his house - She always claimed this property - She stated she would never relin-=quish her claims there until her death - About 3 or 4 months before she died, he had these conversations with her - Since my first recollections she always claimed this land She was my aunt, He was born & raised next house to hers - The children left her as fast as they got married, She lived alone 3 or 4 years before her death - While alone & before alone she claimed this this land - She said she claimed the property for her life & it was to belong to her children after her death Examined & stated that he did not recollect how long after the death of her husband he heard her talk of this property

On recross examination stated it was 7 or 8 years after her husband's death, that she claimed this property for her life & that it was to belong to her children afterwards

Aug. Gamache Sr. Testi;

Auguste Gamache Junior sworn testified, that he was born in Carondelet & 38 years old - Had slight recollection of Moties Senior - Knew the property he lived upon

Knew his widow since he could recollect - intimately - visited at her house frequently, she had boys of my age - he lived 3 blocks from her - after her husband's death never heard her speak of this property - always understood she claimed it - On Cross examination he stated that he never heard that her children claimed it

M Chartrand testi

Michael Chartrand sworn testified that he had lived in Carondelet 33 years, was born, & raised there - had slight recollection of Mother Senior - Knew his widow for last 24 or 25 years - Had been at her house Heard her speak of this property after 1845 - not before

On Cross examination stated the property now worth $40 per foot on 4th Street - its value, reasonably used by an owner worth $4 to $5 a month in 1852 $3 to $4 a month.

Geo Manell testi

George Wanell sworn testified that he had lived on this land, under Sullivan & Papin, last March 4 years. To the question, "what rent did you pay them for it?" the plaintiffs objected - the Court sustained the objection, to which decision of the Court defendants then & there excepted The Court on ruling out this question, said - the proper inquiry was, what would be a fair rent for the land during that time,

which question being put (to) the witness. said he did not know.

B Marechal tells

Benoist Marechal sworn - testified that he was born in Florissant, but had lived in Carondelet since 1814, Knew Motier Senior & his widow - Not long after his death she told him the property was hers, this was 4 - 5 or 6 years after his death

On cross examination stated that she spoke to me of it, because her fence was undone, she told him the cattle got into her garden & hurt the trees & she said they were hers

Ant. Motier. Test.

Antoine Motier a witness called by plaintiff in Rebuttal said

My mother said the property was hers for life time & then went to her Children - (Mr Todd here objected to statements made by Madam Motier to her son, his objection was overruled & he then & there excepted to the decision of the Court overruling such objection) Once my mother had an opportunity to sell the land, and the person who wanted to buy it come to me and asked me to go and see my mother." Mr Couly wants to buy your place" I said to her "he will give you $900. for it" I want you to sell and to buy a smaller piece of property and on the rest of the money support yourself" She said " no I cant give no good deed, it is only mine for life time that is all I can sell". There was an understanding

between Mother & the Children that she should have the property on her life & her children should take it when she died - "I sold my share during the life time of my Mother"

On Cross examination he said" I left home home 7 years before my father died I staid after that pretty much in Carondelet My next brother Charley went to the Rocky Mountains before father died, he came back in 47 Victorine left home & got married before my fathers death. - Isabella married next, as the children got married they went away except John Baptiste he staid at home with mother - I do not recollect any chance she had to sell the property

He was not a witness on the former trial of this case, that he recollects - He knows of no other Antoine Motier - He made to Faussig a deed in 1852 of his right in this land - The deed from ~~from~~ Carondelet was got before he made his deed to Faussig - His mother died in 1852 about 2 years ago he stated on the trial of this case, that she died in 1854 or 1855, - He now recollects, that he did testify in this case before

To the question, whether on the former trial, he did not state that his mother had several opportunities for selling? He replied that he did not recollect

To the question whether, on the former trial, he did not state, that on an offer to buy of his Mother, he tried to persuade her to sell, but she said no, - that she meant to save the property for her Children, - that he

replied that her children had enough, that she still refused to sell, saying, that she meant to save it for her children." He answered that he did & thinks it was so - He thinks it was in 1838 or 1839 - After his father's death she had no other property but this - Some furniture, he believe 2 horses - one sure - left by his father she sold it immediately after his death

P Garnache tests

Peter Garnache for plaintiffs testified that he is 34 years old - has lived in Carondelet since 1844. Had been in Carondelet often before Born in Stringtown close by - Knew Widow Motier was a connection by marriage. Often visited at her house - Heard her say, how she claimed this property - She claimed it as her own for her life time & after that her children might do what they pleased with it - She said this before 1843 or 1844 & afterwards she often told me so -

On cross examination said he had testified before in this case - No one, that he knew of, had talked with him, since about this case - Since then his mind had not been given to the case at all - He believes he testified the same matter in the same way on the former trial - Widow Motier died in 1852 Defendants then read from his testimony on the former trial as set forth in the bill of exception as follows, to show how differently he then stated the time of the Widow Motier's stating how she claimed this property; to Wit:

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"he heard her say this as long as he thinks, as
"five years before her death, but he would not
"say as long Six years before her death, he heard
"her say this two or three years before her death
"that he could not say whether he heard her
"say this before, or, after the late Mexican War
"with the United States - he may have heard
"her say it, as early as 1842 or 1843
The plaintiffs then offer to read the rest of
his testimony, as preserved in said bill of
exceptions, to which defendants objected, but
the Court overruled the objection, to which decision
of the Court, the defendants, then & there duly
excepted - Plaintiffs then read the rest of
said testimony as follows; to wit;
"he was born in Stringtown near Carondelet
"and had lived in Carondelet since 1825; he had
"heard Widow Motier say that she was occupying
"this land for herself for her life & for her
"children after her death - he used to visit her
"on this land & at these visits she said this in
"conversations there - she died in the house on
"this land in 1852 - he heard her say, that she
"claimed a life estate & then it was her Childrens"

L Motier tes

Louis Motier on behalf of the
plaintiffs, testified, that he was the youngest
child of Motier Senior - lived with his mother
until her death - cant tell how old he was at his
fathers death - Had heard her say how she claimed
this property - She told him, that she staid upon
it for her life-time & then it would belong to her

children - This was as far back as he could recollect - He did not know - if it was before 1845, - she said this - He is asked if it was before the high water? and thereupon the Court tells him, that the high water of 1844 is meant & then he said, it was before & after the high - water of 1844

On cross examination he testified, that he was 31 years old - his mother died in 1852 - that he lived on this property all the time, until she died - thinks he heard her say how she claimed it, before 1844 - she said she staid on the property until she died & then, after that, the children might do what they pleased with it

The defendants duly objected to the evidence of the plaintiffs relative to any arrangement, or agreement between Widow Motier & her children, that she should hold the land for life & after her death her children should have it, for incompetency which objection the Court overruled, to which decision defendants duly excepted ——

At the request of the plaintiffs the Court gave the following instructions to wit;

Pltffs instructions

1 The plaintiffs have shown themselves to be clothed with the documentary title to the land in controversy, if the deeds read by them in evidence are genuine and they are entitled to a verdict unless the defend - and those under

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whom they claim, have had possession of the premises claiming the said adversely to the plaintiffs, for twenty years before the commencement of this suit

Given Nov 1 1869
C B Lord

2 If the jury believe from the evidence that Antoine Motier settled upon and improved the premises in the year 1820 or thereabouts living thereon with his family – that he died in March 1834 – that after his death his widow together with her minor children continued to occupy the same premises up to the year 1845 – and that the widow only claimed an Estate for life in the premises during all this time recognising the title of the heirs of Motier to the fee, after her death – then such occupation was not during said time adverse to the heirs of Antoine Motier or those claiming under them.

Bill of Exc'ns

To each & every of which the defendants duly objected, which objections the Court overruled, to which decision of the Court the defendants duly excepted – at the request of the defendants the Court gave the following instructions to wit;

Dfts Instn

3 If the Jury believe from the evidence that more than 20 years next before this suit was begun, Antoine Motier Senior had possession of the land in suit, or any part thereof claiming it as his own

that he continued such possession & claim until his death - that he died & left as his widow Felicite Motier & that she, upon his death succeeded to his possession of said land, claiming it as her own, under him & continued such possession & claim until April 19th, 1845 & that the Sheriff of the County of St Louis under executions issued against her, from the St Louis Circuit Court, on April 19th 1845 levied & seized upon all her right, claim & estate in said land & under said execu-tions & levy, sold the same to Sullivan & Papin, the defendants & that afterwards said Sullivan & Papin obtained possession of said land from said Felicite by virtue of their claim, thereto under said sale to them & ever since until this suit was begun; that said Sullivan & Papin by them-selves or their tenants, had possession of said land, claiming it as their own then their title thereto is better than that of the City of Carondelet. when she made to Julien Chouquette & others the deed given in evidence by the plaintiffs & they should find for the defendants for so much of said land, as they find from the evidence to have been possessed & claimed, as afore-said by said Motier, his widow & Sullivan & Papin

4 If the jury believe from the evidence that the Sheriff's deed given in evidence

Given Mar 1 1869
C B Lord

41

Given Nov 1 1859
C B Lord

is genuine & that the land therein descr-
=ibed is the land sued for in this suit or
any part thereof & that the defendants,
Sullivan & Papin claim through said deed
wholly or in part, their right to said land
then they should reject, as evidence all
words & acts of Felicite Motier, said, or
done, by her, after April 19th 1845 concern-
=ing her interest in said land or after
said time concerning any alleged arrang-
=ement or agreement, between her & her
children, with reference to how she had
or, did hold the possession of said land

Bill of Exep^n

But the Court refused to give the following
instructions asked for by defendants, to which
decision of the Court defendants duly excepted
This instruction was as follows to Wit;
5 If the Jury believe from the evidence
that Antoine Motier Senior had possession
of the land or any part thereof sued for
at the time of his death, claiming the same
as his own, and that upon his death Felicite
Motier continued the possession thereof
claiming the same land as her own, under
her late husband, by virtue of a will made
by him, or otherwise, then no agreement
entered into between said Felicite & her chil-
=dren is proved, that can affect the claim
of the defendants to this land unless it
be shown, by the plaintiffs, to the satisfaction
of the jury, that her children claimed the

Refused Nov 1 1859
C B Lord

land, as against her, prior to April 19th 1845 as the heirs of Antoine Motier Senior thereto, & that by reason thereof she prior to said time abandoned her said claim thereto & agreed with her children to hold it under them thereafter

The verdict was for the plaintiffs & in due time the defendants filed their motion for a new trial. as follows to Wit

In the St Louis Land Court

Julien Chauquette & others
vs
Barada & others

No for new trial

The defendants come & move the Court to set aside the verdict in this case & grant the defendants a new trial for the following reasons, to Wit

1st Because the verdict is against the weight of evidence –

2d Because the verdict is against the instructions of the Court –

3d Because the Court erred in giving the instructions it did for plaintiffs –

4th Because the Court erred in refusing the instructions it did, asked for defendants

5th Because the Court admitted allegal incompetent & irrelevant testimony, objected to by defendants & refused competent evidence offered by defendants

6th Because the damages are excessive

7th Because the verdict is for too much ground

A Todd atty for defts

By permission of Court further reasons added November 4th 1859

8th Because the instructions given for plaintiffs were misleading & together with those given for defendants, all instructions taken together are conflicting & misleading

A Todd atty for defts.

In the St Louis Land Court

Affdvt of C. D. Sullivan

Julien Chouquette & others
vs
Barada Sullivan, & Papin

Defendants

Come & for a further reason in support of their motion for a new trial in this case, state the following to Wit;

That while the case was being argued to the jury by Albert Todd attorney for the defendants, a person unknown to the defendants & to said Todd by name, talked to one of the jurors, named, as believed, Albert Tenant, a paper - that said Todd at the time noticed it & the Court's attention was called thereto, whereupon the Court reprimanded said person for said act - that, by reason thereof, said Tenant was angered against said Todd & allowed his angered feelings to operate against the cause of the defendants, while the jury were in deliberation of the verdict they should render in the case, in evidence whereof the affidavit of one of said jurors

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James Wasson, is herewith filed & referred to & said Sullivan, one of the defendants has read said affidavit, & believes it true & that the facts therein stated did operate to make said jury agree in a verdict for the plaintiffs

C. D. Sullivan

Signed & Sworn to this 5th day of November 1859 before me

Chas. A. Mantz Clk

County of St Louis S.S

Aff of A. Todd

Albert Todd, being duly sworn, says, that the statements set forth in the affidavit of James Wasson, filed with this paper, as to the throwing of a paper to one of the jurors on the trial of the above entitled cause, while he was addressing the jury therein in behalf of the defendants & as to his noticing the same as therein stated & as to the reprimand of the Court therefor, are true, And he further states, that thereafter, while he was addressing the jury, as aforesaid, he noticed that said juror seemed disagreeably affected from what had occurred -

Albert Todd

Signed & Sworn to this 5th day of November 1859 before me

Chas A Mantz Clk

In the St Louis Land Court

Aff of J Wasson

Julius Chouquette et al
vs

45 Nevada, Sullivan & Papin. } County of St. Louis. SS

James Wasson makes oath & says that he was one of the jury on the trial of this case this month - that during the argument of the case to the jury a person coming into Court, threw a paper to one of the jurors by the name of Albert Tenant that the counsel for the defendants, Albert Todd, noticed the same & called the attention of the Court thereto, whereupon the Court reprimanded the person thus throwing the paper - that this made said Tenant angry towards said Todd & seemed to influence his feelings greatly when the jury came to consider of the verdict they should render - that this affiant was one of the jurors, who, from the first, dissented from a verdict for the plaintiffs & would as he believes have continued to dissent therefrom, but for the remarks of the Judge of the Court to the jury on the second day of their deliberations about the importance of the jury's agreeing to a verdict in the case, whereas a large majority of the jurors agreed for a verdict for the plaintiffs this affiant finally concurred therein

James Wasson

Signed & Sworn to this 5th day of November 1859 before me

Charles A. Mantz Clk

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The plaintiffs objected to the reading in evidence of the affidavit of James Wasson & read on their behalf the affidavit of Mr Tenant. as follows to wit

Julien Chouquette & others plaintiffs
against
Barada Sullivan & Papin defendants
} In the St Louis Land Court

Affdt of Tenant

Albert Tenant being duly sworn says on his oath that he has read the affidavit of James Wasson, filed in this cause, a copy of which is annexed to this paper, That this affiant is the same Albert Tenant who was one of the jurors in the trial of said cause and who is referred to in the said affidavit of James Wasson. And affiant says that the said James Wasson is entirely mistaken in supposing that the verdict of this affiant was in any degree influenced or brought about by reason of any feeling of irritation towards the said Todd, and that his verdict was given fairly and honestly upon the merits of the cause according to the evidence & instructions of the Court. affiant says that the circumstance of the throwing of the paper to him which is mentioned in the affidavit of said Wasson occurred during the second day of the trial, and that said paper was thrown to him by his book keeper. And that said paper referred wholly and exclusively to the private business

of said affiant, and was wholly disconnected from the above entitled cause and from every matter connected therewith, as was fully explained and shown to the Court when the person giving the same to affiant was called up for reprimand by the Court And while affiant feels that this is not a proper occasion for characterising as he thinks it deserves the attempt to impute to him improper motives in arriving at the verdict in this cause, he feels it to be his duty to repel (and he cannot avoid doing so with some indignation) all such suggestions and to claim for himself together with the remainder of the jury the fair honest and faithful discharge, without partiality of a tedious and laborious duty, as jurors in the above entitled cause

Albert Tenant

Sworn to and Subscribed
before me this 14th day of
November 1859

O A Mantz Clk

Bill of Exp.n

Said motion the Court overruled to which decision of the Court the defendants duly excepted & asked, that this their bill of exceptions in this behalf be signed, which is here accordingly done

C B Lord

And afterwards the following further

proceedings were had in this cause to Wit

Wednesday January 25th 1860

Julien Chouquette et als
vs
Antoine Barada et als

Appeal to Supreme Court

Aff't for appeal filed

Now at this day comes said defendants by attorney and filed herein an affidavit for an appeal and on their Motion an appeal to the Supreme Court is granted them from the decision herein rendered; and thereupon they file herein a bond as required by the Court, in the sum of One thousand Dollars, with Cornelius D Sullivan as principal and James M. Hughes and Thomas Marshall, as sureties, which is duly acknowledged by said parties, and approved by the Court.

Appeal granted

&

bond filed

Which Affidavit for appeal and bond is in the words and figures following; to Wit;

In the St Louis Land Court.

Julien Chouquette & others
vs
Antoine Barada & others

County of St Louis ss.

Aff't for appeal

Cornelius D. Sullivan one of the defendants in the above entitled case being duly sworn says, that the appeal taken in this case is not made for vexation or delay but because he believes that the appellants are aggrieved by the decision & judgement of the Court therein & prays that an appeal may

49 be granted them therefrom to the Supreme Court.

C. D. Sullivan

Signed & Sworn to this
25th day of January A.D. 1860
before me

E. N Tracy Clerk

Bond

Know all men by these presents, That we Cornelius, D. Sullivan as principal and James, M. Hughes & Thomas Marshall as sureties are held and firmly bound unto Julien Chouquette & wife Charles Motier & Moritz & William Faussig in the sum of One thousand dollars for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and administrators jointly and severally, firmly, by these presents Sealed with our seals, and dated at St Louis this 25th day of January A.D. 1860

The Condition of the above Obligation is such, that whereas Antoine Barada & others have appealed from the judgement rendered against them and in favor of said Chouquette & others above named in the St Louis Land Court for the sum of Three Hundred & Thirty six dollars and four dollars a month together with costs Now if the said appellants will pay all costs and damages that may be awarded against them occasioned by such appeal; and shall prosecute their appeal; and shall perform such judgement 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 judgement 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 them by the Supreme Court, then this obligation shall be void, otherwise it shall remain in full force and effect

C. D. Sullivan (Seal)
Jas. M Hughes (Seal)
Thomas Marshall (Seal)

St Louis Land Court, October Term 1859
Be it remembered, that on this 25th day of January 1860 appeared Cornelius. D. Sullivan the principal, and James. M. Hughes & Thomas Marshall the securities 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

(Seal)

E. N. Tracy clerk

State of Missouri }
County of St. Louis } S.S.

I, Edward N. Tracy, Clerk of the St. Louis Land Court, within and for said County, certify the foregoing Transcript to be a true and correct copy of the Record and proceedings had (as required) in the case of Julien Chouquette and others plaintiffs and Antoine Parada and others defendants as fully as the same remains of Record in my Office.

In Testimony, Whereof, I hereto set my hand and affix the seal of our said Court, at Office, in the City of St. Louis, this Eighth day of February, A. D. 1860

Edward N. Tracy, Clerk

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4,000 words $21.00
Certificate .50
$21.50

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October Term 1862

Julien Chouquette et al.
respondents.

vs.

Antoine Barada et al.
title p 9 appellants.

appeal from Land Court.

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