

Jefferson County Circuit Court
Case Files - Civil

October 1835

Box 2 Folder 33

Marguerite, free woman of color

vs.

Chouteau, Pierre, Sr.

Trespass, assault and battery, false imprisonment

Freedom suit; change of venue from St. Charles,
from St. Louis; began 1825; Supreme Court for
Marguerite 1837; daughter of Marie Scipion;
free Indian woman; includes documents captioned
for Mary, Michael, Marguerite, Carmelite, Baptiste,
Antoine, Francois, Joseph, Julie, and Catliche together
vs. Pierre Chouteau, Sr.

Marguerite, a free woman of colour, do. In the St Louis Circuit Court
November Term 1825 - Action
vs
Pierre Lechanteau, debtor
of insolvent, against & Bailing vs

To Operates against Esqr. Attorney for the defendant in the
above named cause.
div. take notice, that Marguerite the above named plaintiff
by her Attorney or agent, will attend at the dwelling house of
Delmonie Lehouvier in the County of St Louis, opposite to the
dworn of St Charles, on Friday and Saturday the 25th and 26th
days of November, instant, between the hours of eight o'clock
A.M. and six o'clock P.M. of each of said days, and take
the depositions of witnesses, to be read in evidence on the
trial of the above named cause, on the part of ~~the~~ and
plaintiff, and if all of said depositions, intended to be taken
and certified on the said first day above mentioned, or if
more shall be taken on that day, then the said depo-
sitions will be taken and certified on the said last day,
above mentioned, when and where you and the said
defendant may attend and cross examine the witnesses
upon depositions shall be taken as aforesaid, if you
think proper.

St Louis, Novr. 19th 1825

Wm
J. P. Gamble
P. D. Harris
A. L. McGivick
Attorney for plaintiff

St
Marguerite
m
Chautau

Copy of Notice
to be kept by diff

Given this notice
in St. Marguerite
for defendant
on the 19th. Nov
1825 in this city
of Orleans
Jno. B. B. B.
J. B. B.
J. B. B.

Be it remembered that on this twenty sixth day
of November 1825 between the hours of eight
O'clock A.M. and six O'clock P.M.
at the house of Lefrenier Chouvin in
the County of St Louis in pursuance
of the annexed notice came Madame
Marie Louise Chouvin of lawful age who
being duly sworn to testify the whole
truth in a certain action now pen-
ding in the Circuit Court of the County
St Louis between Marguerite a free
woman of colour, ^{plaintiff} and Pierre Chou-
veau Senior Defendant upon her oath
saith

She is acquainted with Marguerite
the plaintiff in the present action who
lives with Pierre Chouveau who she be-
lieves was born in the year 1778 she saith
she was acquainted with the mother of
the said Marguerite whose name was
Marie Jean and was some times called
Marie Scipion who belonged and lived
with the father of the Deponent Joseph Day-
on. ^{after the death of Joseph Dayon} The said Marie ~~was in her last illness~~ ^{lived until her death}
^{Lived at Mr Chouveau's where Joseph Dayon lived until his death} ~~lived with the mother of this deponent~~
~~after the death of Madame Dayon Marie Scipion~~ ^{after the death of Madame Dayon Marie Scipion}
~~lived with Mr Chouveau several years until she was taken sick when~~ ^{lived with Mr Chouveau several years until she was taken sick when}
~~she came to the~~ ^{she came to the}
house of this deponent where she died, she
was at the time of her death about sixty
years of age as well as this deponent recol-
lects. This deponent saith that Joseph Dayon
after the death of his wife lived with Mr
Pierre Chouveau where he died. Marie Scipion
died in June 1802. ^{January} In 1801 this deponent
sent for the said Marie Scipion to Mr
Pierre Chouveau where she was sick &
in June in the year following she died
remaining with this deponent more
than a year. The said Marie Scipion was
in the possession of this deponent's father from

the time of his marriage until she was removed from Mr Chouteau to the house of this deponent and this deponent has always understood she came to her father by his marriage. This deponent knows Catiche and Celeste the children of the said Marie Scipion the said Catiche is now in the possession of Mr Pierre Chouteau and Celeste is a part of the estate of Madame Helen Chevalier. Mr Chouteau claims the said Catiche by virtue of a sale from this deponent but when this deponent sold her pretensions to the said Chouteau she knows not whether her husband ^{signed the article of} ~~present~~ in the sale; This deponent raised the said Catiche from a year old and she was about forty years old when this deponent sold her to Mr Chouteau during this time Mr Chouteau obtained possession of the said Catiche and kept possession about ten years and this deponent regained possession about a year before she sold her pretensions. This sale was somewhere about eight or ten years since. The said Catiche was a gift from this deponent's parents to this deponent. Madame Chevalier raised Celeste from her birth at which time she was given to her by Joseph Dayon & wife who were the father & mother of the said Madame Chevalier. The said Celeste was in the continued possession of the ^{said} Madame Chevalier until she was taken therefrom by Mr Chouteau about the same time he took Catiche from the possession of this deponent. This deponent knows not under what

title the said Chouteau claimed the
said Catiche & Celeste unless it was as
the Administrator or one of the heirs
of the said Joseph Teyon.

This Deponent has ~~understood~~ ^{heard} from
her father & mother that the said Marie
Scipion was bought by this deponent's
grand mother from ^{Master} Erve' and ^{given by} ~~gave her~~
to the mother of this deponent. This Depo-
nent has heard from her mother & father
that the said Marie Scipion was on
the mother's side an indian and this de-
ponent knew a negro man who was
generally said and believed to be the
father of the said Marie Scipion his
name was Scipion. The last this depo-
nent knew of this negro man his master
took him to New Orleans. This Deponent
has generally understood that the mother
of the said Marie Scipion was an Indian
captured by the french near Statches
and brought to Fort Chartres where she
was sold as a slave and this she has
heard as well from her father & mother
as others. This Deponent knew Marie's
the sister of Marie Scipion who had every
appearance of being a full blooded In-
dian who was a slave when this depo-
nent first knew ^{her} but was afterwards
~~owned~~ ^{owned} by a frenchman & set at liberty
he having lived with her as a wife and
had children. The father of this deponent
had an Indian woman named Marie Louise
who had two male children Aiken & Julien
who ran away & passed for free men at the
commencement of the Spanish government
and went to Orleans where one of them married
a white woman ~~and~~ They went away after the
publication of an ordinance by O'Reilly the
Spanish Governor of Louisiana declaring

all the indian slaves then in the province
of Louisiana free on the death of their mas-
ters, and those born after the publication
free at their birth prohibiting any sales
by the persons then in possession of any
such slaves. This deponent read the ordi-
-nance to her father and conversed with
him on the risk he ran of losing his in-
-dian slaves and remembers that he sold
one of these slaves and was compelled
to take it back and ^{hush it up} lest
he should be fined under the ordinance.
This ordinance was posted up at the Church
door and in hand bills in St Louis
where this deponent then ^{lived} which was be-
-fore her marriage but the exact time
she does now recollect. This Deponent re-
-members that her father has often said after
the publication of this ordinance that Marie
Scipion and her children would be free at
his death in consequence of that ordinance.

Taken sworn to and sub. Marie Louise Chau-
scribed before the undersigned
one of the justices of the peace
of the County of St Louis at
the House of Le Renier Chauvin
in the County of St Louis oppo-
site the Town of St Charles
on this 26. day of November,
1825 between the hours of 8
O'clock in Morning & 6 in the
evening

A. J. Harris J. P.
3

\$1.3-

Lehman &

Walt

Use of the press for the press and
apud his damage to one cent
Lawson Cooley

Marguerite a woman of colour } In the Circuit Court of
45 } St. Lewis County —
Pierre Chouteau Senior } Action of Trespass and
and Battery &c —

State of Missouri
County of St. Lewis

Personally came before me the
Undersigned a Justice of the Peace
within and for the County and
State aforesaid at my Office in the Village of Florissant
alias St. Ferdinand in the County aforesaid John B.
Riviere alias Baccarnie a free white person of
lawful age who being by me first sworn upon his
Corporal Oath to testify the whole truth touching
his knowledge concerning the matters in contro-
versy in the above mentioned suit, wherein
Marguerite a woman of colour is Plaintiff and
Pierre Chouteau Senior is Defendant, Deposeth
and saith that he knew Joseph Fayon Senior for-
merly a resident of the Town of St. Lewis and Louis
Fayon his wife in their lifetime, that they have both
been dead for many years, and that the said Fayon
and wife were the Father and mother of Madam
Chauvin, Madam Allen Chevallier, and John
and Francis Fayon and Charles Fayon, that he
first became acquainted with the said Fayon and
wife at Fort du Chertres in Illinois from his
earliest recollection and that he was acquainted
with them afterwards and untill their deaths that
this defendant was intimate in the family of said
Joseph Fayon and was very often at the house
and in the family of said Fayon as well at Fort
Chertres as at St. Lewis and that his intimacy and
intercourse with said Fayon and family rendered
the house of said Fayon almost as familiar to

This deponent as his own House. That this deponent was perfectly well acquainted with all the members of said Fayon's family his domestic servants, slaves and dependants, as well as the other members of the family, that this deponent knew a Mulatto woman who lived in the family of said Fayon whose name was Marie Saypion that her complexion was that of a dark red Indian cast partaking of the complexion of negro and Indian that he thinks the said Marie Saypion was about eighteen or twenty years of age when he first saw her at Fort Chartres and that this deponent knew Marie Saypion ever after till the time of her death that the hair of the head of said Marie Saypion was about one foot in length and curled ~~and~~ a good deal but was not so much curled as the hair of an African negro and that he has seen the hair of Mulattoes more curled than the hair of said Marie Saypion, that said Marie Saypion generally wore a handkerchief on her head after the fashion of the french but that he has also seen her without any covering on her head except her hair that Marie Saypion had several children one named Louie which he believes was a nickname who was a girl and now lives with Pierre Chouteau senior in the Town of St. Lewis. and that Marie Saypion had several other children whose names he does not now know - And this deponent further saith that he was well acquainted with an Indian woman who always exercised her personal freedom without the restraint of any person as far as this deponent knows and believes who was a perfect Indian in appearance, and was universally allowed to be of the Natchez tribe who had adopted the french mode of life and their manners and habits and lived at Riviere du Rocher with a half breed man called Barques, and that ~~and~~ that her name was generally called Marie Fata -

And this deponent further saith that he has often heard his deceased Father Antoine Riviere, say that the said Marie Fata, was the sister of the Mother of Marie Saypion, whose name he does not recollect to have heard, and that what his Father said was confirmed by common opinion and report of other people generally who knew the said Marie Fata and the said Saypion, And further this deponent saith that he has often heard his ~~father~~ said deceased Father often say that he was well acquainted with the Mother of the said Marie Saypion, who was an Indian Woman of the Katchez tribe of Indians, and that the Mother of Marie Saypion was the sister of Marie Fata, that this deponent recollects of having heard it said when this deponent was a boy by other people in their jokes, that this deponent's Father was very intimate with ~~the Mother of Saypion~~ ^{Marie Fata} and had sometimes played the part of her Beau, And this deponent further saith that he has often heard his deceased Father say and other persons in general as well as Joseph Fayon senior and his Family say, that the Father of Marie Saypion was a Negro man, and that his name was Saypion also and that the said Saypion was drowned or smothered in the bottom of a well at Prairie la Roche which caved in upon him whilst he was cleaning it out where his Body remained and that this deponent has often heard Joseph Fayon senior say the same thing as well as many other persons And this deponent further saith that he recollects to have formerly seen a half Indian woman at the House and in the Family of the said Joseph Fayon senior whose name was called Marie Louise and this deponent recollects to have heard the said Fayon say that the said Marie Louise was a half Indian woman that the said Fayon gave this

Deponent to understand that the said Marie Saypion
and Marie Louin were given to the wife of said Fayon
by a cousin to his wife whose name was Gargnion
or Guyon, who was a Priest at fort du Chartres
and Prairie du Rocher and that this deponent
understood the said Fayon and his wife both
to say that said Marie Saypion and Marie Louin
were given to the said Fayons wife by the said
Gargnion or Guyon upon the condition that the
said Marie Saypion and Marie Louin and all
their children should be set at liberty from
servitude whenever the said Fayon and wife
should both be dead, And further ^{that} this deponent
has heard the said Fayon and wife both say
several times that the said Marie Saypion
and Marie Louise and their children were all
to be free at their death and should serve
no body afterwards, because such was the cond
ition, which they were given to them by the said
Gargnion or Guyon, And this deponent further
saith that many years ago, fifty years or more
that a Proclamation was promulgated and published
in St Lewis by authority of the Spanish Govern^{or}~~ment~~
then in office at Orleans and during the time that
Pierre Lynate was Lieutenant governor or comman
dant at the Port of St Lewis, by hand bills at the
Church Door in St Lewis which this deponent
heard read being unable to read it himself
whereby it was declared that all the Indians and
the descendants of Indians who were or had been
held in Slavery by the French and Spaniards
whether taken in war or purchased from

The Indians and all those who should thereafter
be taken by the Inhabitants of Louisiana in
War or ^{in any way} should be purchased by the Inhabitants
from the Indians were and should be free and
be discharged from servitude as slaves and be
allowed to remain in the Settlements if they chose
or to depart to their own country, At what precise
time this Proclamation was made this deponent
cannot now remember but this deponent is pos-
itively certain that such Proclamation was made
and also that he then heard the Lieutenant
Governor say the same things which he has above
stated concerning the contents of said Proclamation
and also this deponent well remembers that imme-
diately after the said Proclamation was published
that many Indian Slaves were set at liberty in
pursuance thereof and went to other places where-
soever they pleased, And this deponent further
saith, that after the said Proclamation was made as
aforesaid that two Men the descendants of Indians
who was as this deponent believes the sons of the
said Marie Louise who had lived with the said
Jaxon went to the lower country in a Boat leav-
ing the service of the said Jaxon, and remained
in the lower country where one of them got married
and the other died some time afterwards as this
deponent was informed and believes, And this
deponent further saith that he understood that
said Joseph Jaxon to say soon after the publica-
tion of said Proclamation that the said Marie
Lyon and Marie Louise lived in his Family of
their own free consent because they were well

Treated and chose to remain with him but that he
the said Fayon had no right to restrain them of their
liberty and that they the said Marie Fayon and
Marie Louise and their children were at liberty to
leave him whenever they pleased but that if they
chose to remain with him till his death they
should never serve any any body — This Depo-
sant saith that he is seventy nine years old, that he
does not think that his recollection is in the least
impaired at least as far as regards occurrences which
took place in the early part and during the prime
and decline of his life, that his health is and has
always been very good and that he is yet stout for
his years but that he does not feel as though he
could safely attend a Court of Justice as a witness
on account of the tenderness of his old age, and
further this Depo-
sant saith not —

John B^{his} Rivierie
Mark

State of Missouri }
County of St. Lewis } I, Hugh C. Neil a Justice of
the peace within and for the
County of St. Lewis in the State
of Missouri do hereby certify that the
above deposition was sworn and subscribed
before me, by John B Rivierie alias Baamine the
deponent at my office in the village of Glouissant
in the County and State aforesaid on this twenty
first day of October in the year of our Lord Eighteen
hundred and twenty five between the hours of Eight
o'clock A.M. and nine o'clock P.M. of this day —
Given under my hand on the day above said
Hugh C. Neil J. C.

21.

Marquise a Woman
of Colour as

From Chautau

Testimony of John

As Witness also present

Marguerite a Woman of Colour } In the Circuit Court
vs } of St Louis County -
Pierre Chanton Senior } Action of Trespass
assault & Battery &c

State of Missouri } Personally came before me
County of St Louis } the undersigned a Justice of the
Peace within and for the County
and State aforesaid at my Office in the
village of Harrisant alias St Ferdinand in
the County aforesaid Marguerite Vael Riviere
alias Baccarrie a fair white person of Law
ful Age, who being by me first sworn upon
her corporal Oath to testify the whole
truth touching her Knowledge concerning
the matters in controversy in the above
mentioned Suit. Wherein Marguerite a
Woman of Colour is Plaintiff and Pierre
Chanton Senior is Defendant, deposeth
and saith that she knew Joseph Gayon
Senior before she was married which is about
thirty nine or forty years ago at St Louis and
also that she knew Madam Gayon the
Wife of the said Joseph and that she has
understood that both Gayon and his said
Wife have been dead for many years,
that she was frequently at the House of the
said Gayon in his lifetime and knew the
domestic servants of the said Gayon when
she saw them, and recollects to have seen
one frequently at the house of said Gayon
a Woman whose name was Saypion that
her Complexion was that of a dark red,
Mulattoe that she supposes that Saypion
was then about thirty or thirty five years

of age as she had several children the eldest of which was about seventeen or eighteen years of age as this Dependant supposes. That this Dependant does not know any thing concerning the description of the hair of said Sappion whether it was long or short straight or curly as she never saw the said Sappion bare headed that she recollects her head being always covered after the fashion of the French with a turban or handkerchief. That this Dependant has frequently heard her father in law Antonio Riviere who was a very aged man, who is now dead and has been dead about nine years say that the said Sappion was of Indian descent that the Father of the said Sappion was a Negro man whose name was Sappion and that the said woman called Sappion took her name after her Father Sappion and that the said woman ~~Sappion's~~ Mother was an Indian Woman of Matchig Tribe of Indians, and this Dependant saith she has frequently heard the said Antonio Riviere her father in law declare the same thing when speaking of the descent and blood of the said ^{Woman} Sappion. And this Dependant further saith that she knew an Indian woman whom she had sometimes seen at the House of Mr. Jacques Chauvin when he resided in St Louis whose name was Marie Tata as she was generally called and who was the sister of the said Sappion as this Dependant always understood from the said Antonio Riviere as well as from other persons in general and never heard otherwise from the Family of said Sapon or Sapon himself nor any other person. And this Dependant saith that the complexion of Marie Tata as she was called was brighter somewhat than the complexion of the woman Sappion and looked like a clear blooded Indian Woman and that the said Marie Tata was in the exercise of her freedom and was generally said to be a free woman that she does not know that she ever heard who was Marie Tatas Father.

but that she understood from the said Antonio
Riviere and other people that the said woman
Taypion and Marie Tata were sisters by their
mother's side, And this deponent further saith
that she has heard the said Antonio Riviere
say that he knew the said woman Taypion and
her sister Marie Tata at Port du Chartres
when quite young before Gayon brought or
had them in his possession at St Lewis, And this
deponent further saith that when she was
quite young and during the time that count
de Riley was commandant of Louisiana &c,
as this deponent believes that she heard
it generally said as a public matter of
notoriety that the then Governor or Govern-
ment had ordered by a proclamation that no
more Indians should be bought and sold
as slaves by the inhabitants of the Louisianas
whether prisoners of war or not and that
all Indian slaves and their descendants who
were then held in Louisiana should be set
at liberty, And this deponent saith that she
knew one instance of an Indian descendant
who was a woman claiming her freedom
under the said Proclamation as this deponent
believes and on proving the fact that she was
of Indian descent that she was liberated -
This deponent saith that she is fifty eight
years of age as she believes and that nothing
but her age would render her attendance
at Court inconvenient and further this deponent

Birth note

her

Margarete Vael & Kiviere

Mark

State of Missouri
County of St Louis

I Hugh O Neil a Justice of
the peace within and for the

County of St Louis in the State
of Missouri do hereby certify, that the above
Deposition was sworn to and subscribed before
me by Margarete Vael Kiviere the Dependant
at my Office in the village of Florissant in the
County and State aforesaid on this twenty first
day of October in the year of our Lord Eighteen
Hundred and twenty five between the hours of
Eight o'clock A M and Six o'clock P M of this day
Given under my hand on the day above said

Hugh O Neil Justice of the Peace

At
Testimony of Margarete
Vael Kiviere —

The Clerk of the Circuit Court
St Louis

Margaretta
413
Deposition
Room
Shawhouse

Open Office
Nov 28 14 82 5

A. G. M. M. M. M.

State of Missouri & St
County of St Louis

On this fourth day of August 1825 I
proceeded in person on of notation dated on
the 1st of August 1825 as follows Sir Please to
take notice that on Thursday next the 4th of August
instant at the house of Mr. Dan. Duval in
church street in the Town of St Louis between
the hours of Eight in the forenoon and six
in the afternoon the deposition of
witnesses will be taken to be read in
evidence on behalf of the defendant
in the case of the above named now
pending in the Court of the County of
Saint Louis in and where you may at
tend if you think proper

Signed Lawrence P. Atterbury for
Pierre Blountan

Do Isaac C. Girklett

Attorney for the abovesaid Plaintiff

I acknowledge the service of the writ
in notice on me as attorney of record
for the Plaintiff in the within named
case, and I hereby agree to admit any
deposition legally taken and in the
notice in any one of the above cases in
evidence on the trial of any other of
the within named cases.

August 1st 1825 signed J. C. Girklett
for Plaintiff

to take the deposition in the case
of Maryavette vs Pierre Blountan
which by consent is to be read in
all the cases.

August Blountan sworn

Maria Syphon was a negro slave
belonging to Mr Joseph Gay and formerly he
always understood that she was the daughter
of a negro woman and a white man to Mr Gannon
which Mr Gannon gave to Mr Joseph
Gay on his revocation. Maria Syphon was
a brown colored with very wavy hair
like that of a negro. Maria Syphon
a very long time, the first time in the year
1864 she lived her often, some times for 15 days

2 some time, more, he always knew her as
a slave belonging to Mr Gayon, of a house
he hired her and paid for her services. He
never knew the mother of Maria Syfion
does not know whether she died. Did he know
her father. She was universally known to
be of negro blood, on the mother side.
at the arrival of the Spanish Government
~~he~~ there were slaves of Indian blood
and after of the mother side

Question By Plaintiff Attorney
How he knew the fact that Mr Gayon gave
the mother of Maria Syfion to Mr Gayon.
He heard it publicly say'd that Mr

Gayon gave a negro woman and
man with other slaves and a plantation
to Mr Gayon his relation

Question

Did you know it any other way than
by public report.
Ans. No only by public report of Fort Charles

Question

Did you know the name of the mother
of Maria Syfion

Ans. No

Question Did you ever see her, the mother

Ans. No

Question How old was Maria Syfion when you
first saw her

Answer

She was a young girl does not know
her age but she was able to do the work
of the house

Question

Do you think she was as much as
fifteen years old

Ans. No

He does not know.
Question. was Maria Syfion a negro
woman

Answer Yes she was a negro. at least I considered
as such.

Question Had she not the complexion of a

Indian

Answer

No. She was a redish Black not the
beast of an Indian colour.

Question

Was Mr Tabor in possession of Marie
Syphon until her death

Answer

Does not know.

Question

How long is it since he saw Marie Syphon
last.

Answer

25 or 30 years ago

Question

Had Mr Tabor no other slave by
the name of Marie Syphon.

Answer

not that he knows of.

Question

Do you know how many slaves Mr Tabor
had

Answer

He had several, but does not know how many

Question

Did you know all the slaves of Mr
Tabor

Answer

No, he had many.

Question

Do you ^{know} whether Marie Syphon was the
mother of Margarette Plaintiff in the action

Answer

She had several children but does
not know if this was one, Celeste, Catherine,
and others.

I have subscribed and Aug. Chouteau
sworn to before me the
day and year above written

Current B. Purser
Justice of the Peace

Madam Venus Dubrisel sworn

I know Marie Syphon well.
She was often hired by me, of Mr Joseph
Tabor. She was always known as a white
slave. She was a dark mulatto. She knew
her for the first time about 50 years ago.
when she first came to this country. She
was well mixed to one of her children for

4 six months, at her mother's house Mr Joseph Tagon. she was generally considered as a Slave of Negroe Blood. she had several children - bathe; and one called Louisa which was a nick name, she does not know the real name. always knew her as the Slave of Mr Tagon or Marie Syphon. ~~is~~ certain she was of Negroe Blood. as certain as that she is one day to die.

Examination of Plaintiff et al

Question

of what age was Syphon when you first knew her.

Answer

more than 25 and had several children

Question

Did you know either the father or brother of Syphon

Answer

- Oh no.

Question

was she in Mr Tagon's possession when she was first first saw her Marie Syphon

Answer

yes.

How do you know that Syphon was of Negroe Blood

Answer

she was black and had wool upon her head. she did not want capillities to ~~curl~~ ^{curl} her hair

Question

was she a negro or mulatto woman

Answer

she was so dark a mulatto that she appeared more like a negro.

Question

are you certain her hair was curly

Answer

It was curled like a sheep.

Question

do you know if Syphon was a Slave or not

Answer.

always knew her as a Slave.

Question

have you never heard Joseph Tagon say Syphon was a free woman.

5
Answer
Oh no! she was always a slave she would
not have remained there if she had been
free

Question

Do you no she would not have remain-
ed.

Answer.

If I knew it? If my my mulatto woman
knew she was free would she remain?

Question

Did you know all the slaves of Mr. Jagon

Answer.

I paid no attention to how many, but
as this woman was frequently hired
by me I knew her well. Did not know how
many.

Question

Was you intimate with Mr. Jagon's family
and were you frequently at his house
during his lifetime

Answer

I was intimate and our most friend-
ly terms of course frequently there
every since she has been in the country
until their death.

Question

Do you recollect ever to have seen
in the possession of Mr. Jagon Indian or
half Indian Slaves.

Answer

Yes there was one. Who died lately.
she does not know how many he had.

Question

Had Mr. Jagon any female Indian
Slaves about his house when you knew
him.

Answer

There was one old woman who
died about 12 years ago.

Question

What was her name

Answer

Maria Louis

Question

was she not sometimes called Maria Jagon

6 answer

no certainly not. she is a slave with
the Spanish government declared her
free, many Indian Slaves remained
with their master after they were so decla
red

Question

Did Marie Louis remain with Mr
Tayou after she was declared free

answer

she does not know.

Question

When you in this country when the Spanish
government took possession.

Answer

not over at New Orleans

Question

Did you ever know any other Jose
Tayou in this country

Answer

no. except his son

Question

Was Marie Syfien the mother of
Margaretta the Plaintiff

Answer

Yes was.

Question

How do you know it

Answer

I heard it so I said. I

Question

Do you know Margaretta

Answer

no but I believe her to be the one with
named Laurie

Question

How old are you

Answer.

Twenty.

Sworn to and subscribed
before me the day and
year above written

depose Dubreuil

Plaintiff B Purrou

Justice of the Peace

Julie Marques. sworn

I knew Marie Syphon at Mr
Joseph Tayon about 40 or 45 years ago as a
Slave. she was nearer to a negro than
a mulatto in colour. Her hair was woolly
like that of a mulatto. I went often
to Madame Tayon and saw her there
as a servant. never knew any other Slave
beside her, belonging to Mr Tayon of the
same name. Marie Syphon had child-
ren, one named Baptiste Celeste and Louis.
she saw Marie Syphon frequently in
possession of Mr Tayon's child here, lent
to them by her father. she was generally
known here to be the Slave of Mr Tayon
and a mulatto. never knew her Mother.
Cross examination by Plaintiff Attorney.

Question
was not Marie Syphon some times
called Marie Tatin

Answer
She knows nothing about it. she always
knew her called Syphon.

Question
Did you know the father of Syphon

Answer

no.

Question

Did you know all Mr Tayon's Slaves
when you saw them

Answer

She knew them when she saw them
but does not know how many.

Question

Had Mr Tayon any Indian Slaves
or all and French

Answer

no. I do not know.

Question

were there any Indian People living
with Mr Tayon

Answer

Several one called Marie Louis
knew not the name of any other

Question

were these Indians living with Mr Tagon as slaves, or as free persons

Answer

at that time they lived as slaves.

Question

Did you know Maria Syphon until her death.

Answer.

no
Question

How long did you know Maria Syphon from first to last

Answer

about 10^{years} but is not certain.

Question

When did Mr Tagon die

Answer

He does not know but has not seen him for 20 years.

Question

Do you know what became of Syphon after Mr Tagon's death.

Answer

Does not remember, but knew her as the slave of Mr Tagon. Julie Papin Desquesne sworn to and subscribed before me the day and year above written
Clement B. Pennington
Elizabeth H. H. sworn

I knew Maria Syphon as a slave of Mr Joseph Tagon 30 or 34 years ago. a very dark mulatto. I saw her frequently as she was hired out by Mr Tagon as a slave. knew her until her death, about 20 years ago. always as the slave of Mr Tagon and had the hair of a mulatto. she had three children a girl, called Mary or with her name. Maria Syphon was always publicly known as the slave of Mr Tagon

Cross Examination by Plaintiff's Attorney. 9

Question
Which died first Mr Tagon or Sy Lion

Answer
Sy Lion

Question

How many years before Mr Tagon
Answer
one or two

Question
Did Sy Lion live with Mr Tagon
at the time of her death

Answer
She died with her master at Pierre Chouteau
Seniors.

Question

Did you know the father or Mother
of Sy Lion

Answer

no

Question

Did you know of your own know-
ledge that Sy Lion was the slave of Mr Tagon

Answer

Yes always saw her serve in his
house or lived out as his slave.

Question

Marie Sy Lion had she no nick
name.

Answer

no never heard any other than Marie
Sy Lion.

Question

Do you know that Marie Sy Lion
was mother of Celest. Catish & Lennie

Answer

yes they always called her mother

Question

How do you know that Lennie is Mar-
gerette

Answer

She has heard her called Margaret
and baptised as was said by that name

Question

Was Sy Lion not reserved at the
sale of Mr Tagon, and also her children

and I am

She knows nothing of it
sworn to and subscribed her
in front the day and Elizabeth + Horry
her above written mark

Curant B Purro
Justice of the Peace

I certify that the foregoing depositions
were taken in the presence of Luke Edwards
as attorney for the defendant and J B McGirk
as attorney for defendant

Curant B Purro
Justice of the Peace

Marguerite, a free woman of colour } In the circuit court
of St Louis County, March
Term 1826—
vs
Pierre Lechateau Senior }

To Pierre Lechateau Senior, or H. Gonzens or
L. E. Landels Esqrs, his Attornies.

Take notice, that Marguerite, the plaintiff
in the above named cause, will attend by her attorney
in the county, and Town of St Charles in the State of
Missouri, at the office of William L. Pittier Esq
Judge of the Court of Probate, within and for
said County, on Friday — the tenth day of Feb
ruary ^{Instant} ~~next~~, between the hours of eight o'clock A.
M. and six o'clock P.M. of said day, and take
the depositions of witnesses, to be read in evidence
on the trial of the above named cause, on the
part of the plaintiff, and also on the Eleventh —
day of February ^{Instant} ~~next~~, at the same place; and
between the hours, above mentioned, for the same
purpose above mentioned, when & where you
can attend and cross examine, if you choose.

St Louis, ^{February} ~~January~~ the 14th
— 1826—

H. R. Gamble
J. C. McGirk &
R. P. Harris, Attys
for plff

Marquette vs. Statue
Chauteau to
take depositions in
St. Charles.
Or Chauteau
Bogum, or Landis.

Served a copy of the within notice on Horatio Cozens Esq, February
4th 1826, in the City of St. Louis.

John H. Walker Sheriff
By L. Simonds Jr. Df. Sheriff

Service \$0.50

Report is taken by consent of parties and to be used in evidence
on the trial of a case now pending in the circuit court of the county of
Harris, between Marguerite a colored woman and Pierre Chouteau
and to be admitted on the trial of the other case of the same
class to wit against Chauvin &c

Pierre Doree being duly sworn on his oath saith, That he knows
Marie Sakia, that she lived with Mr Joseph Fayon - that her
complexion was of a brown color, or what is called a half breed of
negro and Negro without designating whether the mother or the
father were of Negro blood or Indian blood. That her hair were
about six inches long, more or less and undulating - That is fifty
nine years old and that he first saw her at Mr Fayon when he was
about nine or ten years of age. She was there in the capacity of
a servant. That she was then a grown person and behaving like
about thirty years of age. That he knew her children. That
at the place, to wit, Marguerite, she had also a son who
was called Savage (Indian) That Marguerite was now
at Pierre Chouteau, that he is hired out as also Celeste.
That the public opinion was that Sakia was a slave and sold
from a Negro father and an Indian woman - heard
it mentioned by Moe Chauvin as well as Moe Chevalier
(objected to by col Lawless) - That Moe Chauvin & Moe
Chevalier were daughters of Mr Joseph Fayon the father
questioned by Plaintiff's counsel. What have you ever heard of
the public report concerning her freedom or slavery? &
objected to by col Lawless.

Answer That the public opinion was, these persons
could not be slaves, being of Indian blood -
The deponent saith that he saw Marie Sakia for the
first time at Mr Fayon in a store house on the lot now
occupied by Mr Chevalier in Harris.

Question by Counsel for Plaintiff - Was it the universal custom among the French inhabitants of this country under the French Government, to make Slaves of every Indian?

Answer. he never heard of it, under the French government - meant it was not the case

Question by same - did Mr. (not under, said that must be) did by Proclamation prohibit the enslaving of Indians and holding them as Slaves?

Answer - Presley forbade the enslaving of Indians, the same was done by Proclamation made at the sound of the drum at the corners of the street both a New Orleans and in St Louis - (objected to by Al Lawless)

Question by same did not Presley, by Proclamation declare the Indians held as Slaves, to be free, and directed their being set free -

Answer. Yes - and it was further rec'd that those should thereafter be held as Slaves - That the same regulation applied to both Lower Louisiana and this country that all Indians held as Slaves were to be emancipated & set free -

Question by same. Did Mr. (Name of any Indian held as Slave previous to the Proclamation aforesaid, to have been set at liberty in consequence of the same?

Answer Yes -

by
Clement & Dodder
Messrs.

Subscribed
this 30 day of April 1807
Before me

J. B. Pomeroy

Francois Bonac being duly sworn on his oath further that
he is fifty five years of age was born in the Province -
he further testified that he knew Marie Salin for the first
time, about forty three years ago, she was then living at New
Orleans the father in the Town of St Louis on the bottom
owned by Mr Chemin. She was of a middle age, the color
at that time was the same the hair connected under a
handkerchief, but what was seen of her hair, appeared to
be only some what like a half breed - heard from Mr
Chavaler & Mrs Chavon that she was born of a Negro
father and an Indian Mother (objected to by Mr
Lawless) heard of it at St Charles - That he heard
it said that she was half Indian and half Negro
understood / by Proclamation from the government of that
the government did not sanction Indian Slavery,
that Indians held in Slavery or applicants to the
Governor or Governor at New Orleans, were set
at liberty - he knew of two of Mr Gaypus Indians
Slaves being set at liberty under that Proclamation
one of Mr Lonsani, immediately after the promulgation
- was of the same degree relating to Indian Slavery, all
the Indian Slaves were set at liberty Never heard the
Proclamation published, tho it might have been so
when he was absent - Never saw it that where anywhere
knew of its publication by public report and understood
at the same time that a provision of the said Proclamation
- was that no other Indians should be brought down
the Mississippi, to be enslaved - supposes that Marie
Salin might have been set free at New Orleans, when

affiliation, if he had had the means of going down
Chau Shan's Gate. He was the sister of Chau's father, he knew
her at the Residence forty nine years ago - He afterwards
lived at Chau's brother - He was a full blooded Indian
Never saw the father of Chau's father, understood that he
was a Negro -

Question by Mr. Peck. Was was the Practice of the French
with respect to enslaving slaves?

Answer I do not know

Question by same - Was it the custom of Indians who came
about the French villages to engage themselves to the French
as laborers and live with them as servants?

Answer - No -

Question by same did Mr. Peck know any Indians to go
among the white inhabitants and remain with them
as servants?

Answer No

Question by same - What became of the Indians held
in slavery under the French and Spanish governments?

Answer. The few that were here went down to New
Orleans, where upon application they were set free
(for they never would have been set free here), and after
- would be settled about

Question by same. do you know any others of the Indians
held by the French inhabitants of this country other
than the children of Chau's father, being held as slaves
at this time?

Answer No. I know of no others. I know that
were not liberated at New Orleans, went down there, and
never were attempted to be again sold

room to the city the 20 day of
of the 18th of the 20 day of

Chau's father
Mark

J. B. Garrison Dec 8, 1842

Merchants

from Charleston

The deposition taken in the above case
before Henry Rice upon the oath of the power for
the Court of Tennessee on behalf of and
standing of one Jeanette Carver widow
of Jean Baptiste Lawrence & Charles
is objected to by said def from Charleston
for want of due notice and all the above
said Jeanette Carver is of age and of legal
sound mind.

Attest
John W. Lee.

Objection to
admission

Filed April 16th 1896
H. G. Smith vs. C. H. G.

They were the same person
to
Alone chosen

} The description he has in his book
of the two persons is identical
Harris in the 18th page of
the 1st of 1801, Harris of one person
Louis Harris is reported by
said def. person chosen for want
of the notice

of
att. to def.

Deed of Gift to the
1826 of the

of the her estate
of the her estate
of the her estate
of the her estate

Objection to
depositions

Margaret a woman of letters
and
her character

The Exposition taken on behalf
of the said Margaret before the Court of
Justice of the Peace for the County of
Middlesex of the following witnesses to wit
John B. Davie and Margaret Davie
Persons are objected to by said defendant
their character for want of due notice
of the taking of same to said defendant

Attest
J. B. Davie

Filed April 14th 1896
J. J. Smith & Co.

May 17. Pierre Chantreau Jean.	du Havre	cinquante	3
Michele M. same			3
Mauger M. same			3
Lafructus M. same			3
Dapite M. same			3
	Antoine M. same		3
	Emmanuel M. same		3
	Joseph M. same		3
	Jules M. same		3
	Victor M. same		3
	Reine M. same		3

I take notice that on Friday the 28th instant between the
 hours of eight o'clock in the forenoon and six o'clock
 in the afternoon of that day at the house of Geo. Ber-
 nard Proctor in the City of St. Louis, I shall proceed
 to take the depositions of witnesses to be read on the
 trial of said causes on behalf of defendant July 25. 1826
 By above clerk
 John W. Robertson the

I agree to accept notice, as within ~~is~~ set out
in all the within named cases, for the plain-
tiffs, and agree that any deposition taken,
legally & regularly, in pursuance of the forms
of law, and which ^{are} competent to be read in
one of the within named cases, as testimony,
may be read in evidence in any other or all
of the said cases, on this express condition
that, no legal objection which I might otherwise
take to any deposition taken or to be taken under
this notice, is waived by accepting notice, and on
the further condition that the plaintiffs in all
of said cases, shall be permitted to read in
evidence in all or any of said ^{any deposition} cases, ^{taken}
heretofore, or to be taken under a notice or
notices, served or to be served on the Attor-
ney or Attorneys of the within named plain-
tiffs, which are admissible in point of com-
petency of matter, may be read in evidence
on the trial or trials of said cases, on
the part of the plaintiffs, particularly the
depositions heretofore ~~taken & filed~~, of
Madame Chauvin - John B. Rivere & Mor-
gante Rivere, and Madame Chatterton or
Chatterton of S'Guineville, heretofore taken &
filed in the clerk's office, on part of plffs
^{if the said witnesses cannot be produced to testify, from age, & sickness}
or distance. But on no other considerations or con-
dition whatever. S
July 25th 1826. S

J. C. McGirk, Atto
for plffs.

Mary vs Pierre Chouteau Senr & H Louis circuit court
Michel vs same } Antoine, vs same The latter vs same
Mary vs same } Francois vs same
Carmelite vs same } Joseph vs same
Baptiste vs same } Julia vs same
Catherine vs same

Deposition of witness produced and sworn and
examined on the 28th day of July in the year of our
Lord Eighteen hundred and twenty six between
the hours of eight o'clock in the forenoon and six
o'clock in the afternoon of that day at the house
of Barnard Pratt in the city of St Louis before
me C B Pearson a justice of the peace within and
for the county of St Louis in the above cases now
pending in the Circuit Court of St Louis

Sebastien Pratt of law full age being pro
duced sworn and examined on the part of the
defendant deposed and said that he arrived
in 1756 in the country and in 1757 went to Fort
Chouteau he lived with Mr Tison. Joseph
Tison the father in law of Mr Pierre Chouteau
while he lived with Mr Tison he observed
the slaves of Mr Tison in the first year of
his residence; he had a negro woman
call in gay, and Indian woman name Mary
Jouise; that Indian had two children, there was
one slave allso female called Syphon who appeared
to be about 10, or 11 years old, she was treated and
well known as a slave. He knew her in the
possession of Mr Tison after he removed to
St Louis and for several years after, and
he had no other slave by that name but
her. did not know the mother of Syphon. There
were at Fort Chouteau and elsewhere through
the country a great many Indian slaves, and

but few blacks. The Indians were universally
acknowledged as slavers, and frequently sold of
such before the Governor. He himself sold
several, and to the commandant, that he
brought from the Mississippi. Syfion was very
black, had hair like a negro, the commandant
he speaks of as the English commandant at Fort
-Kia. from his belief of the character of
Mr Tacon, he is certain he would not have
held a person as a slave, who was not so.
He was in the habit of frequenting Mr
Tacon's house in Fort Chartres, and a long
time after in St Louis, and never heard Mr
Tacon say Syfion was free but on the con-
trary she was always treated as a slave.
a property of the Indians, held there as slave,
came down the Mississippi, brought by
the traders, and were of different nations.
There were many Indian slaves after the first
establishment of St Louis and few blacks in
it. Mr Tacon remained at St Louis soon after
its establishment.

Sworn and subscribed to before
me on the day at the place
and within the hours first
aforesaid

Benjamin B. Penrose
(justice of the peace)

no other witness
was produced

I B. B. Penrose a justice of the peace within and
for the County of St Louis in the State of Illinois do
hereby certify that Sebastian Bratto the deponent
was by me sworn to testify the truth the whole
truth and nothing but the truth of his know-
ledge, touching the matters in controversy aforesaid.

That he was examined, and his examination reduced to writing, and by him subscribed in my presence on the day he has seen the house and at the place in the at which first a person said

James B. Purson
Justice of the Peace

in Great Court
for the benefit of the
Ladies A. 3.

Mary -

is Johnathan
and 10 other under
best
Diphtheria

Dear 2 Court pickers 50
100th

792 and 79 79 1/2

Waterhouse
100th 50

\$11.05 1/2

Wick Aug 1885

1836 of 1885
all

Deponent, Pierre Chouteau
before Julia Stanton people
of color
Pierre Chouteau deponent

Pierre Chouteau being sworn on his oath saith that in all the suits removed to St. Charles from St. Louis Circuit Court, & now pending in the St. Charles Circuit Court, wherein this deponent is defendant, Luke E. Lawless, Henry S. Geyer & Josiah Spalding have been and are his counsel, that the cases are of great importance to this deponent, & that they will probably depend entirely upon the decision of the St. Charles Circuit Court inasmuch as, in the Supreme Court, one of the judges has declined to sit in the case of one of the slaves suing for freedom on the same title, on the ground of being interested in the general question & the two other judges of said Court were in that Court divided in opinion upon the questions of law arising in that as well as in the cases aforesaid now pending in the St. Charles Circuit Court. This deponent further saith that on the third instant ^{he was informed &} ~~he~~ learned for the first time, that two of his said counsel to wit said Geyer & said Spalding cannot & will not attend the ensuing term of said St. Charles Circuit Court on account of the situation of their respective families; that this deponent soon after learning this, called on each of said counsel & that they informed him that they could not attend said Court at the present October Term for the reason aforesaid, to wit that said Geyer's wife is in the last stage of consumption, & the said Spalding's wife in a situation that ~~forwards~~ prohibits him from leaving her for any length of time. Deponent further says, that said Geyer & Spalding have been each his counsel in said cases for several years & have argued some of them in the Circuit & Supreme Courts & have therefore an acquaintance with the cases & their principles, which would enable them to do this deponent better justice than

any counsel he might employ at so short a period before the trial as at the time when he first learned the inability of ~~this~~ ^{said} ~~learned~~ to attend: & that he relies on the said Geyer & on the said Spalding as well as on said Lawless in those cases: & feels unwilling to go to trial therein without their attendance which he has no doubt they will give at the next Term of said St. Charles Circuit Court.

Swoon to and Subscribed before me
this 4th day of October 1829 —

M. S. Flemer Justice County
west St Louis
County

B. Koutoullis

Pierre Chouteau

22

W. C. Crosby Jr. 1866

State of Missouri
County of St. Louis. ss. Be it remembered that heretofore to wit on the second
day of June in the year of our Lord one thousand eight hundred and Twenty
five Margueritte a free woman of Color by her Attorney filed in the office of
the Clerk of the Circuit Court for the County of St. Louis and State of Missouri
her declaration against Pierre Chouteau Senior in the words and figures fol-
lowing to wit-

Declaration

Margueritte a free woman of Color who is permitted by the Court
to sue by her next friend Pierre Baribeau as a poor person for her freedom
by her attorneys James Gamble & M. Luke assigned as Counsel by the Court
complains of Pierre Chouteau Senior of a plea of trespass. For that the said
Pierre heretofore to wit on the first day of January, in the year of our Lord
eighteen hundred and twenty five, with force and arms at the County of
St. Louis, unlawfully an assault did make in and upon the body of the
said Margueritte and then and there beat bruised and ill treated her the
said Margueritte; and then and there imprisoned her the said Margueritte
and kept and detained her in prison without any reasonable or prob-
able cause whatsoever, against her will, and has ever since kept and
detained her in prison, and still keeps and detains her in prison against
the will of her the said Margueritte and contrary to the laws of this State
and other wrongs to the said Margueritte then and there did against
the peace of the State. Wherefore the said Margueritte says that she is
greatly injured, and hath sustained damage to the amount of five hundred
dollars, and therefore she brings her suit &c. James Gamble M. Luke Attys for plff

Whereupon the clerk of said Circuit Court ^{signed} the following writ to wit-

County of St. Louis ss.

Shew of Missouri to the Sheriff of said County - Greeting -
We Command you to summon Pierre Chouteau Senior that he be and
appear before the Judge of our Circuit Court at the next term thereof to be
held at the City of St. Louis within and for the County of St. Louis on the
fourth Monday in July next then and there to answer unto Margue-
ritte a free woman of Color who is permitted by the Court to sue by Pierre
Baribeau her next friend as a poor person of a plea of trespass to the
damages of said plaintiff of five hundred dollars and have you then there
this writ -  Witness Archibald Gamble Clerk of our said Court at Office

Writ

this second day of June 1825.

Archibald Gamble Clerk.

Which said writ was duly returned by the Sheriff aforesaid. Indorsed in the words and figures following to wit-

Sheriff's
Return

Executed this writ on Pierre Chouteau Senior June 14th 1825 in the City of St Louis by giving the writ & declaration to him to read and his acknowledging the same thereof

John B Walker Sheriff by Edmunds Jr. Deft

And afterwards to wit at the July term of said Circuit Court in the year aforesaid Comes the said Pierre Chouteau Senior by his Attorney and files his plea in the words and figures following to wit-

Plea

And the said Pierre Chouteau by his attorney Comes and defends the force and injury when &c. And says as to the assaulting, beating, bruising, ill treating and imprisoning the said Marguerite as in said declaration mentioned, that ~~she~~ the said Marguerite ought not to have or maintain her aforesaid action thereof against him because he says that before and at the time when &c. in said declaration mentioned to wit at St Louis aforesaid the said Marguerite was a slave in the lawful possession and service of said Pierre Chouteau wherefore the said Pierre Chouteau then and there detained and still doth detain said Marguerite in his service and possession, which detention and possession in the assaulting, beating, ill treating, bruising & imprisoning the said Marguerite in said declaration mentioned, and this the said Pierre Chouteau is ready to verify. Wherefore he prays Judgment if the said Marguerite ought to have or maintain her aforesaid action against him *Wiley & Cozens Att^s for Dft* And thereupon at the same term of the said Circuit Court the plaintiff by her attorneys files her demurrer to said plea in the words following to wit-

Demurrer to plea

And the said plaintiff says that the plea of the said defendant and the matters and things therein contained in manner and form as the same are therein stated and set forth, are not good and sufficient in law to bar or preclude the said plaintiff from having and maintaining her aforesaid action thereof against the said defendant, and that the said plaintiff is not bound by the laws of the land to answer the same, and this the said plaintiff is ready to verify; Wherefore for the want of a sufficient plea in this behalf the said plaintiff prays Judgment &c. *McSike & Harris for Pltff.*

Whereupon on motion of the attorney for the defendant, leave is given by the Court to plead the general issue. Thereupon to wit at the same term of the said Circuit Court the said Pierre Chouteau by his attorney

Plea not guilty -

filed the following plea - And the said defendants come and defend the force & injury when &c. and say that they are not guilty of the said several supposed trespasses or any of them in manner and form as the said Marguerite hath above thereof complained against them &c. Cogens for Dft.

Done

And the said Marguerite doth this like &c. James McLinty & James M^r for pl^t And afterwards to wit in Vacation before the November Term of said Court in the year aforesaid the said Marguerite by her attorneys files her replication in the words and figures following to wit -

Replication -

And the said Marguerite by her attorneys, as to the said plea of the said Pierre Chouteau or by him first above pleaded as to the said several trespasses in the introductory part of that plea mentioned, and therein attempted to be justified, saith, that she the said Marguerite, by reason of any thing by the said Pierre in that plea alleged, ought not to be barred from having and maintaining her aforesaid action thereof against him the said Pierre because she saith, that she the said Marguerite was not at the time of the committing of the said several trespasses by him the said Pierre, in her said declaration set forth, nor is she now a slave, as the said Pierre in his said plea hath above alleged, but that she the said Marguerite, was at the time of the committing of the said several trespasses by the said Pierre, in her said declaration above set forth, and is now a free person by and according to the usages, customs and laws of the land and ought not to be held and detained as a slave in the possession and service of the said Pierre, nor of any other person by or under whom the said Pierre may claim and thus she the said Marguerite prays may be inquired of by the Country &c. James McLinty & James M^r for pl^t

This Cause was continued from term to term until the November Term of said Circuit Court in the year one thousand eight hundred and twenty six, at which said term is the following entry to wit -

Done

Now at this day come the parties aforesaid by their respective attorneys aforesaid, And thereupon also come a Jury to wit, Thomas Estes Jacob Hawkins, Hezekiah C. Simmons, William Higgins, James C. Sutton Michael Reely, Thomas B. Stephens, Wilson A. Cole, William G. M. Cullough Caleb Jones, John S. Doubertman and Phineas Bartlett twelve good and lawful men who being duly elected tried and sworn well and truly to try the issues within joined ^{between the parties aforesaid} upon their oath aforesaid do say, as

Verdict -

to the first issue within joined between the parties aforesaid that the said defendant is guilty of the said several trespasses in manner and form as the said Marguerite hath above thereof complained against him, and as to the second issue within joined between the parties aforesaid the jury aforesaid upon their oaths aforesaid do say that she the said Marguerite was not at the time of the committing the said several trespasses by him the said Pierre in her said declaration set forth, nor is she now a slave as said Pierre in his said plea hath above alleged, but that she the said Marguerite was at the time of the committing of the said several trespasses by the said Pierre in her said declaration set forth and is now a free person by and according to the usages and customs and laws of the land and ought not to be held and detained as a slave in the possession and service of the said Pierre nor any other person by ~~through~~ or under whom the said Pierre may claim, and they assess the damages of the said plaintiff by her sustained by reason of the trespass in the declaration mentioned to the sum of Six and one fourth Cents -

Motion for new trial

New trial granted

And afterwards to wit at the same term of said Circuit Court, On Motion of the attorney for the defendant it is ordered by the Court that the verdict in this case be set aside and a new trial granted, On Condition of the payment of the Costs of this term -

And afterwards to wit at the March Term of said Circuit Court in the year of our Lord One thousand eight hundred and twenty Seven -

Issue

Jury

Come the parties aforesaid by their respective attorneys aforesaid, And thereupon also Come a Jury to wit John Lay, James Walton, Absalom Link, Thomas M. Clark, George Little, Robert Charles Junior, James S. Douglass, Joseph Walton, Benjamin Perry, Mark Vappington, Syre Wells and James Keepers twelve good and lawful men who being duly elected tried and sworn well and truly to try the issue within joined between the parties aforesaid upon their oaths aforesaid do say that the said Pierre Chouteau Sr. is not guilty of the said several trespasses or any of them in manner and form as the said Marguerite hath above thereof complained against him, therefore it is considered that the said Marguerite takes nothing by her said writ and that the said Pierre Chouteau Senior go thereof without day -

Verdict

Judgment -

And thereupon the said plaintiff by her attorneys files her Bill of Exceptions in the words and figures following to wit -

Be it remembered that on the trial of this Cause, the plaintiff produced

Bill of Exceptions and offered to read in evidence to the Jury sitting on the trial of said Cause the following deposition of Marie Louise Chauvin, to wit—

Deposition
of
Madame Chauvin
v
Do it remembered that on this twenty sixth day of November 1825. between the hours of eight O'clock A.M. and six O'clock P.M. at the house of Vefrenier Chauvin in the County of St Louis in pursuance of the annexed notice came Madame Marie Louise Chauvin of lawful age who being duly sworn to testify the whole truth in a certain action now pending in the Circuit Court of the County of St Louis between Marguerite a free woman of Colour plaintiff and Pierre Chouteau Senior defendant, upon her oath saith, She is acquainted with Marguerite the plaintiff in the present action who lives with Pierre Chouteau, who she believes was born in the year 1778— She saith she was acquainted with the mother of the said Marguerite who name was Marie Jean and was sometimes called Marie Scipion who belonged to and lived with the father of the deponent Joseph Gayan. The said Marie after the death of Madam Gayan lived at M. Chouteau's where Joseph Gayan lived until his death. After the death of Madam Gayan, Marie Scipion lived with M. Chouteau several years, until she was taken sick, when she came to the house of this deponent where she died. She was at the time of her death about sixty years of age as well as this deponent recollects. This deponent saith that Joseph Gayan after the death of his wife lived with M. Pierre Chouteau where he died. Marie Scipion died in June 1802, In January 1801 this deponent sent for the said Marie Scipion to M. Pierre Chouteau's where she was sick & in June in the year following she died, remaining with this deponent more than a year— The said Marie Scipion was in the possession of this deponent's father from the time of his marriage until she was removed from M. Chouteau's to the house of this deponent and this deponent has always understood she came to her father by his marriage— This deponent knows Catiche and Celeste Children of the said Marie Scipion the said Catiche is now in the possession of M. Pierre Chouteau, and Celeste is a part of the estate of Madame Helen Chevalier. M. Chouteau claims the said Catiche by virtue of a Sale from this deponent, but when this deponent sold her pretensions to the said Chouteau she knows not whether her husband signed the article of sale— This deponent raised the said Catiche from a year old, and she was about forty years old when

this deponent sold her to M^r. Chouteau during this time M^r. Chouteau obtained possession of the said Catieche and kept possession about ten years and this deponent regained possession about a year before she sold her pretensions. This sale was somewhere about eight or ten years since the said Catieche was a gift from ~~said~~ ^{this} deponent's parents to this deponent Madame Chevalier raised Celeste from her birth at which time she was given to her by Joseph Layan Wife who were the father and mother of the said Madame Chevalier. The said Celeste was in the continued possession of the said Madame Chevalier until she was taken therefrom by M^r. Chouteau about the same time he took Catieche from the possession of this deponent. This deponent knows not under what title the said Chouteau claimed the said Catieche & Celeste unless it was as the administrator or one of the heirs of the said Joseph Layan. This deponent has heard from her father & mother that the said Marie Scipion was bought by this deponent's grand mother of Madame Cr   and given by her to the mother of this deponent. This deponent has heard from her mother & father that the said Marie Scipion was on the mother's side an Indian and this deponent knew a negro man who was generally said and believed to be the father of the said Marie Scipion his name was Scipion. She lost this deponent knew of this negro man his master took him to New Orleans. This deponent has generally understood that the mother of the said Marie Scipion was an Indian captured by the French near Natchez and brought to fort Chartres where she was sold as a slave and this she has heard as well from her father & mother as others. This deponent knew Marie Lata the sister of Marie Scipion who had every appearance of being a full blooded Indian, who was a slave when this deponent first knew her, but was afterwards owned by a Frenchman and set at liberty he having lived with her as a wife and had children. The father of this deponent had an Indian woman named Marie Louise who had two male children Siken & Julien who ran away and passed for free men at the commencement of the Spanish government and went to Orleans where one of them married a white woman. They went away after the publication of an Ordinance by O'Reilly the Spanish Governor of Louisiana declaring all the Indian Slaves then in the province of Louisiana free on the death of their

Masters and those born after the publication free at their birth, prohibiting any sales by the persons then in possession of any such Slaves. This deponent read the ordinance to her father and conversed with him on the risk he ran of losing his Indian Slaves, and remembers that he sold one of these Slaves and was compelled to take it back and hush it up lest he should be fined under the ordinance. This ordinance was posted up at the Church door and in hand bills in St. Louis where this deponent then lived which was before her marriage, but the exact time she does not now recollect. This deponent remembers that her father has often since after the publication of this ordinance that Marie Sepion and her Children would be free at his death in consequence of that Ordinance.

Marie Louise Chauvin

Objection to part And the Counsel on the part of the defendant objected to the reading of that part of said deposition which relates to the publication and contents of the proclamation of O'Reilly the Spanish governor of Louisiana and on the ground of the incompetency thereof and the Court sustained said objection and prohibited said plaintiff from reading that part of said deposition in evidence to the Jury, but permitted the balance or remaining part of said deposition to be read which was accordingly done. The plaintiff then produced and offered to read in evidence to the Jury the following deposition of John B. Rivierre alias Baccanne to wit: Personally came before me the undersigned a Justice of the peace within and for the County and State aforesaid at my office in the Village of Florissant alias Ferdinand in the County aforesaid John B. Rivierre alias Baccanne a free white person of lawful age who being by me first sworn upon his Corporal oath, to testify the whole truth touching his knowledge concerning the matters in controversy in the above mentioned suit wherein Marguerite a woman of color is plaintiff and Pierre Chouteau is defendant deposes and saith, That he knew Joseph Gayan senior formerly a resident of the town of Harris and Louise Gayan his wife in their life time, that they ^{have} both ~~have~~ been dead for many years, and that the said Gayan and wife were the father and mother of Madame Chauvin, Madame Helen Chevalier and John & Francis Gayan and Charles Gayan that he first became acquainted with said Gayan and wife at Fort du Chartres in Illinois from his earliest recollection

John B. Rivierre
dit
Baccanne.
Deposition

and that he was acquainted with them afterwards and until their deaths, and that this deponent was intimate in the family of said Joseph Gayan and was very often at the house and in the family of said Gayan as well at Port Chartres as at St Louis and that his intimacy and intercourse with said Gayan and family rendered the house of said Gayan almost as familiar to this deponent as his own house - That this deponent was perfectly well acquainted with all the members of said Gayans family, his domestic servants slaves and dependants, as well as the other members of the family, that this deponent knew a mulatto woman who lived in the family of said Gayan whose name was Marie Saypion, that her complexion was that of a dark red Indian Cast. partaking of the complexion of negroes and Indian, that he thinks the said Marie Saypion was about eighteen or twenty years of age when he first saw her at Port Chartres and that this deponent knew Marie Saypion ever after till the time of her death, that the hair of the head of said Marie Saypion was about one foot in length and curled a good deal, but not so much curled as the hair of an African negroes and that he has ~~seen~~ seen the hair of mulattoes more curled than the hair of said Marie Saypion - that said Marie Saypion generally wore a handkerchief on her head after the fashion of the french but that he has also seen her without any covering on her head except her hair - that Marie Saypion had several children one named Lauree which he believes was a nick name who was a girl and now lives with Pierre Chantreau Senior in the town of St Louis and that Marie Saypion had several other children whose names he does not know - And this deponent further saith, that he was well acquainted with an Indian woman who always exercised her personal freedom without the restraint of of any person as far as this deponent knows and believes who who was a perfect Indian in appearance and was universally allowed to be of the Metches tribe who had adopted the french mode of life and their manners and habits and lived at Prairie du Rocher with a half breed man called Pasquez, and that her name was generally called Marie Tata - And this deponent, further saith, that he has often heard his deceased father Antoine Riviere, say

that the said Marie Lata was the sister of the mother of Marie Saypion, whose name he does not recollect to have heard, and that what his father said was confirmed by common opinion and report of other people generally who knew the said Marie Lata and the said Saypion, and further this deponent saith that he has often heard his deceased father say that he was well acquainted with the mother of the said Marie Saypion who was an Indian woman of the Natchez tribe of Indians, and that the mother of the said Marie Saypion was the sister of Marie Lata, that this deponent recollects of having heard it said when this deponent was a boy by other people in their jokes that this deponent's father was very intimate with Marie Lata and had sometimes played the part of her Beau - And this deponent further saith that he has often heard his deceased father say and other persons in general as well as Joseph Sayon Senior and his family say that the father of said Marie Saypion was a negro man, and that his name was Saypion also and that the said Saypion was drowned or smothered in the bottom of a hole at Prairie du Rocher, which caved in upon him whilst he was cleaning it out, where his body remained, and that this deponent has often heard Joseph Sayon Senior say the same thing as well as many other persons, and this deponent further saith that he recollects to have formerly seen a half Indian woman at the house and in the family of the said Joseph Sayon Senior whose name was called Marie Louise, and this deponent recollects to have heard the said Sayon say that the said Marie Louise was a half Indian woman, that the said Sayon gave this deponent to understand that the said Marie Saypion and Marie Louise were given to the wife of said Sayon by a Confessor to his wife whose name was Gargnon or Guyon, who was a priest at Fort du Chentres and Prairie du Rocher and that this deponent understood the said Sayon and his wife both to say that the said Marie Saypion and Marie Louise were given to the said Sayon's wife by the said Gargnon or Guyon upon the condition that the said Marie Saypion and Marie Louise and all their children should be set at liberty from servitude whenever the said Sayon and wife should both be dead, and further that this deponent has heard the said Sayon and wife both say several times that the said Marie Saypion and Marie Louise and their children were all to be free at their

death and should serve nobody afterwards, because such was the condition on which they were given to them by the said Sargnion or Gayon, And this deponent further saith that many years ago, fifty or more, that a proclamation was promulgated and published in St. Louis by authority of the Spanish governor then in office at Orleans and during the time that Pierre L'equete was Lieutenant Governor or Commandant at the post of St. Louis by hand bills at the Church door which this deponent heard read being unable to read it himself whereby it was declared that all the Indians and the descendants of Indians who were or have been held in slavery by the French and Spaniards, whether taken in war, purchased of the Indians and all those who should thereafter be taken by the inhabitants of Louisiana in war or in any way should be purchased by the inhabitants from the Indians were and should be free and be discharged from servitude as slaves and be allowed to remain in the settlements if they chose or to depart to their own Country - at what precise time this proclamation was made this deponent cannot now remember but this deponent is positively certain that such proclamation was made, and also that he then heard the Lieutenant Governor say the same things which he has above stated concerning the contents of said proclamation and also this deponent + well remembers that immediately after the said proclamation was published that many Indian slaves were set at liberty in pursuance thereof and went to other places wheresoever they pleased - And this deponent further saith that after the said proclamation was made as aforesaid, that two men the descendants of Indians who was as this deponent believes the sons of the said Marie Louise who had lived with the said Gayon went to the lower Country in about leaving the service of the said Gayon and remained in the lower Country, where one of them got married and the other died sometime afterwards as this deponent was informed and believes And this deponent further saith that he understood the said Joseph Gayon to say soon after the publication of said proclamation that the said Marie Lappion and Marie Louise lived in his family of their own free consent because they were well treated and chose to remain with him but that he said Gayon had no right to restrain them of their liberty and that they the said Marie Lappion and Marie Louise and their children were at liberty to leave him whenever they pleased but if

they chose to remain with him till his death they shant never serve any any body. The deparant saith he is seventy nine years old, that he does not think that his recollection is in the least impaired at least as regards occurrences which took place in the early part and during the prime and decline of his life, that his health is and has always been very good, and that he is yet stout for his years, but that he does not feel as though he could safely attend a Court of Justice as a Witness on account of the tenderness of his old age. And further this deparant saith not.

John B. ^{his} Rivierre

Objection

And the Counsel for the defendant objected to the reading of all those parts of said deposition, which relate to or speak of & concerning the publication contents and effects of a proclamation (in said deposition mentioned) promulgated and published in St Louis by the authority of the Spanish governor then in office at Orleans, which objection was made on the ground that such evidence was incompetent, which said objection was sustained by the Court, and the said Court decreed that those parts of said deposition should not be read in evidence to the jury, but permitted the

Sustained

Remainder read

remainder of said deposition to be read in evidence to the jury which was accordingly read. The plaintiff then produced and offered to read in evidence to the jury the following deposition of Marguerite Beal Rivierre to wit: Marguerite Beal Rivierre alias Baecannie deposes and saith that she knew Joseph Gayon Senior before she was married, which is about thirty nine or forty years ago at St Louis and also that she knew Madame Gayon the wife of the said Joseph and that she has understood that both Gayon and his said wife have been dead for many years, that she was frequently at the house of the said Gayon in his life time and knew the domestic servants of said Gayon when she saw them and recollects to have seen one frequently at the house of said Gayon, a woman whose name was Gaypion that her complexion was that of a dark red mulattoe, that that she supposes that Gaypion was then about thirty or thirty five years of age as she has several children the eldest of which was about seventeen or eighteen years of age as this deparant supposes. That this deparant does not know any thing concerning the description of the hair of said Gaypion whether it was long or short, straight or curly as she never saw the said Gaypion bare headed. That she recollects her head being

Deposition of
M. B. Rivierre

always covered after the fashion of the french with a turban or handkerchief. That this deponent has ^{frequently} ~~often~~ heard her father in law Antoine Riviere, who was a very aged man who is now dead and has been dead about nine years, say that the said Say pion was of Indian descent, that the father of the said Say pion was a negro man whose name was Say pion and that the said woman called ~~Say pion~~ Say pion took her name after her father Say pion, and that the said woman Say pion's mother was an Indian woman of the Metches tribe of Indians and this deponent saith she has frequently heard Antoine Riviere her father in law declare the same thing when speaking of the descent and blood of the said woman Say pion. And this deponent further saith that she knew an Indian woman whom she ^{had} sometimes seen at the house of M. Jacques Chauvin when he resided in St. Louis whose name was Marie Yata as she was generally called and who was the sister of the said Say pion as this deponent always understood from the said Antoine Riviere as well as from other persons in general, and never heard otherwise from the family of said Sayon or Sayon himself nor any other person. And this deponent saith that the complexion of Marie Yata as she was called was brighter somewhat than the complexion of the woman Say pion and looked like a clear blooded Indian woman, and that the said Marie Yata was in the exercise of her freedom and was generally said to be a free woman, that she don't know that she ever heard who was Marie Yata's father but that she understood from the said Antoine Riviere and other people that the said woman Say pion and Marie Yata were sisters by the mother's side. And this deponent further saith that she has heard the said Antoine Riviere say that he knew the said woman Say pion and her sister Marie Yata at Fort du Chartres when quite young before Sayon brought or had them in his possession at St. Louis. And this deponent further saith, that when she was quite young and during the time that Count O'Reilly was Commandant of Louisiana &c. as this deponent believes that she heard it generally said as a public matter of notoriety that the then Governor or government had ordered by a proclamation that no more Indians should be bought or sold as slaves by the inhabitants of the Louisianas whether prisoners of war or not, and that all Indian

slaves and their descendants who were then held in Louisiana should be set at liberty, And this deponent saith that she knew one instance of an Indian descendant who was a woman claiming her freedom under the said proclamation as this deponent believes and on proving the fact that she was of Indian descent that she was liberated. This deponent saith that she is fifty eight years of age as she believes and that nothing but her age would render her attendance at Court inconvenient further this deponent saith not Marguerite Vael ^{by Pierre Marto} And the Counsel for the defendant objected to the reading of all those parts of said deposition which relate to or speak of or concerning the publication, contents and effects of a proclamation of Count O'Reilly the Commandant or Governor general of Louisiana, in said deposition mentioned which objection was made on the grounds that such parts of said deposition were incompetent evidence, which said objection was sustained by the Court. And the said Court decreed that those parts of said deposition objected to were incompetent testimony and prohibited the plaintiff from reading from reading the same in evidence, but said Court permitted the remainder of said deposition, not objected to, to be read in evidence to the Jury, which was done accordingly.

The plaintiff then produced and offered to read in evidence to the Jury the following depositions of Rene' Dodier, and Francois Dorlae that Rene' Dodier being duly sworn on his oath saith - That he knew Marie Seipion that she lived with M. Joseph Yagou that her complexion was of a brown colour or what is called a half breed of Indian and negro without designating whether the mother or the father were of negro blood or Indian blood that her hairs were about six inches long more or less and undulating. That he is fifty nine years old, and knew her first at M. Yagou, when she was about nine or ten years of age. She was then in the capacity of a servant. That she was then a grown person and believes about thirty years of age, that he knew her children totot, Catiehe, Celeste & Marguerite, that she has also a son who was called Sauvage (Indian) that Marguerite lives now at Pierre Chanteau's, Catiehe is hired out as also Celeste. That the public opinion was that Seipion was descendant from a negro father and an Indian woman - heard it mentioned by Mde Channin as well as Mde. Chevalier (spoken to by Col. Lawless) That Mde Channin & Mde Chevalier

Objection to part

Objection sustained

Remainder read

Deposition of
Rene' Dodier

mere daughters of Mr. Joseph Layan the father — Question by plaintiff's Counsel
What was the public opinion concerning her freedom or slavery? Objected to
by Col. Lawless — Answer. That the public opinion was — these persons counts
not be slaves being of Indian blood — The deponent saith that he saw
Marie Scipion for the first time at Mr. Layan's in a stone house on the lot
now occupied by M. Chenier in St. Louis — Question by Counsel for plaintiff
Was it among the universal custom among the french inhabitants
of this Country under the french government to make slaves of every
Indian? Answer. He never heard of it, under the french government it
was not the case — Question by same — Did you not understand that
Count O'Reilly did by proclamation prohibit the enslaving of Indians
and holding them as slaves? Answer O'Reilly forbade the enslaving
of Indians — the same was done by proclamation made at the corner
of the drum at the corners of the streets both at New Orleans and in St.
Louis (Objected to by Col. Lawless) Question by same — Did not O'Reilly by
proclamation declare, the Indians held as slaves to be free and direct their
being set free? Objected to as aforesaid — Answer. Yes, and it was further
ordered that none should thereafter be held as slaves — That the same
regulations applied to both Lower Louisiana and this Country — that
all Indians held as slaves were to be emancipated and set free —
Question by the same — Did you know of any Indian held as slave
previous to the proclamation aforesaid, to have been set at liberty in
consequence of the same? Answer. Yes.

Francois Dorlac
deposition

Francois Dorlac being duly sworn on his oath saith — That he is ^{fully} forty five years
of age, was born in St. Genevieve, he further saith that he knew Marie Scipion for
the first time for the first time about forty three years ago, she was living
at Mr. Layan the father in the town of St. Louis on the lot now owned by M.
Chenier — she was of a redish cast, — The custom at that time was to wear the
hair concealed under a handkerchief, but what was seen of her hair
appeared to be curly somewhat like a half breed — heard from Mds Chevalier
and Mde Chauvin that she was born of a negro father and an Indian
mother (Objected to by M. Lawless) heard of it at St. Charles — That he heard it said
that she was half Indian and half negro, understood (by proclamation
from the Government) that the government did not sanction Indian
slavery, that Indians held in slavery, on application to the Commandant
or Governor at New Orleans, were set at liberty — he knew of two of

Mr. Vayon's Indian Slaves being set at liberty under that proclamation. One of us Mr. Corrain immediately after the promulgation of the Spanish decree relating to ~~Spanish~~ Indian Slavery, all the Indian Slaves were set at liberty, never heard the proclamation published, tho' it might have been so when he was absent. Never saw it stuck up any where. Knew of its publication by public report, and understood at the same time that a provision of the said proclamation, that no other Indians should be brought down the Mississippi to be enslaved. Supposed that Marie Seipio might have been set free at New Orleans as others were upon application if she had had the means of going down. Knew Marie Lata, she was the sister of Marie Seipio - he knew her at St. Genevieve forty nine years ago. She afterwards lived at Prairie du Rocher. She was a full blooded Indian. Never saw the father of Marie Seipio, understood that he was a negro. Question by Mr. McKim. What was the practice of the French with respect to enslaving slaves? Answer I do not know. Question by same Was it the custom of Indians who came about the French villages to engage themselves to the inhabitants as labourers and live with them as servants? Answer No. Question by the same. Did you ever know any Indians to go among the white inhabitants and remain with them as servants? Answer No. Questions by the same. What became of the Indians held in slavery under the French and Spanish governments? Answer the few that were here went down to New Orleans, where upon application they were set free (for they never would have been set free here) and afterwards scattered about. Question. Do you know any others of the Indian Slaves held by the French Inhabitants of this Country other than the children of Marie Seipio being held in slavery at this time? Answer No, I know of no others, those that were not liberated at New Orleans went about here, and never were again attempted to be enslaved.

Objection to part

And the Counsel for the defendant objected to the reading of those parts of said depositions which relate to or speak of a proclamation of the governor or government of Louisiana and the publication, contents and effects thereof, which objection was made on the ground that such parts of said depositions as relate to or speak of & concerning said proclamation & its publication and contents were incompetent testimony to go to the jury, which said objection was sustained by the Court, and

Objection Sustained

remainder read

Testimony of
Josette Bergier

the said Court decided, that those parts of said depositions objected to as aforesaid were incompetent evidence to go to the Jury and prohibited the plaintiff from reading the same in evidence, but said Court permitted the remainder of the said depositions to be read in evidence to the Jury, no other objections having been made, which were read accordingly — The plaintiff then called and examined Josette Bergier who being sworn in the Cause to testify upon her oath deposed and said that she was raised from a child by Madam Helen Chevalier and continued in the family of said Helen about sixteen years (that she (the witness) was intimate in the family of Joseph Gayon the father of said Helen, and knew the members and slaves in said Gayon's family — that there were in said Gayon's family some colored people who were not slaves, particularly an Indian woman named Marie Louise and her family children — witness also knew another colored woman in said Gayon's family called Marie Scypion in the quality of a servant in the family who was in said Gayon's kitchen, said Marie Scypion was a mulattress and appeared to be half Indian and half negro — that witness did not know of her own knowledge but always heard and understood in said Gayon's family that the mother of said Marie Scypion was an Indian woman, and her father a negro man named Scypion — that Madam Chevalier has been dead for some years — witness further stated that she had heard (without stating from whom) that Madame Gayon had got Marie Scypion the mother of the plaintiff as a gift or as an heir — The Plaintiff then called and examined Francis Mareschal a very old man who being sworn in the Cause to testify upon his oath deposed and said, that he knew Joseph Gayon and his family well whilst said Gayon lived at Port Chartres in the State of Illinois; that he first knew said Gayon at Port Chartres upwards of sixty years ago, in 1759 and about fifty years ago said Gayon removed with his family from Port Chartres to St Louis in this state — that witness knew Gayon till his death, and that Gayon remained in St Louis from the time of his removal till his death — witness further stated that he knew Marie Scypion the mother of the plaintiff, that she lived in the family of Gayon and appeared for a gouffe or half Indian and half negro; that her father was said by every body, and particularly by Antoine Riviere the father in law of the witness, who was a very

Testimony of
Fr^s Mareschal

old man and is now dead, to be a negro man, and that her mother was Indian of the Katchez Tribe of Indians. Witness also knew the sister of Marie Scypion, who was by appearance a full blooded Indian, whose name was Marie Gata - Witness further stated that he always understood by general report and public opinion, that the mother of Marie Scypion was a full blooded Indian - That he first heard it upwards of fifty years ago, and that he often heard it from Antoine Rivierre his father in law who was about 112. or 114 years of age when he died, and that said Rivierre has ~~been~~ now been dead nine or ten years - That Antoine Rivierre stated that he was well acquainted with the mother of Marie Scypion when she first came to Fort Chartres from the Katchez Country - The plaintiff then called Madame - Mareschal who being sworn to testify in the cause upon her oath deposed and said that she knew Joseph Sayon Sen. first when he lived at Fort Chartres in the Illinois, nearly opposite to the town of Ste Genevieve in this State in which latter place Witness then lived, she first knew said Sayon at Fort Chartres, more than sixty years ago - That Sayon then had a family. She also knew Sayon in St Louis after his removal from Fort Chartres which happened more than fifty years ago - That Sayon died nearly 20 years ago in St Louis at the house of Pierre Chouteau Sr. That Sayon had several children, amongst whom were Madame Helen Chevalier and Madame Chauvin, who are now both dead. Sayon has another daughter called Jeannette. Witness also knew a colored woman in Sayon's family called Marie Scypion who passed for half Indian and half negro amongst every body who knew her - Witness first remembers to have seen Marie Scypion in St Louis at the house of Sayon about the time St Louis was first settled, and thinks she was then about 20 years of age. Witness always understood by general reputation that the mother of Marie Scypion was an Indian squaw and that her father was a negro man - Witness also heard it from one Pierre O Becket and Antoine Rivierre who were very old men and are now both dead - Witness knew the sister of Marie Scypion, whose name was Marie Gata and was a full blooded Indian woman, Witness recollects to have heard Antoine Rivierre say about 40 years since, that he knew the mother of Marie Scypion well, and that the mother was an Indian squaw and the father a negro man - That the hair of Marie Scypion was

Testimony of
Mds Mareschal

black and several inches in length and somewhat curled, but not like the hair of a negro - her complexion was reddish but darker than that of a common mulatto - The plaintiff then called Madame Alexis LaFrande, who being sworn to testify in the cause upon her oath deposed and said -

Testimony of
Madame Alexis LaFrande

That she first knew Marie Seypion in the family of Joseph Vayan, thirty five or six years ago, and frequently saw her passing about the town. She was a ^{griette} Indian or half Indian and half negro - that some people said she was a ~~negro~~ and some that she was a griette - her hair was several inches long and inclined to curl. Witness always heard and understood that Marie Seypion was the daughter of an Indian woman and a negro man - Witness heard Pierre O'Becket and Antoine Riviere say so more than twenty years ago, and from many others - The plaintiff then called and examined John B. Lucas who being sworn in the cause, upon his oath deposed and said -

Testimony of
John B. Lucas

That about 20 years ago this deponent was one of the Judges of the General Superior Court in the then Territory of Missouri - That some time in the year 1805 or 1806 there was a suit in said Court, between Joseph Vayan Senior and one or more of the Children of Marie Seypion, probably the present plaintiff & others which involved a Contest for the freedom of the plaintiff here who was then one of the defendants, that the pedigree and descent of the defendant in the suit then before the Court came directly in question - The question was whether the then defendant and others were descended in the maternal line from an Indian woman - Witness was sitting on the bench as a member of the Court during the trial and devoted much attention to the testimony given on both sides: Amongst other witnesses on the part of the then defendant Antoine Riviere, Pierre O'Becket, Louis Pabeanne, Madame Chevallier, & Madame Chauvin the daughters of Joseph Vayan Senr. were sworn in Court to testify in the cause then on trial. - Also on the part of Vayan the plaintiff a certain Madame Cochen of Prairie du Rocher was sworn to testify in the cause - Antoine Riviere sometimes called Paccanier who was then a very aged man, who stated that he was then upwards of ninety years old, and seemed to boast a little of his great age and seemed to be proud of his knowledge of events long passed by, was a stout healthy man for his years, and seemed to have the perfect use of all his senses and understanding - Riviere stated on oath on the trial of said cause, that the mother of Marie Seypion was an Indian woman of the Metchy tribe of Indians - That the mother of Marie Seypion was brought to Fort Chartres after the defeat of the Metchy Indians

Testimony of
Antoine Riviere
20 years ago -

by the french or about the time of the Mapasere as it was called. Riviere
 further stated that the father of Marie Seypion was a negro man, and that
 he was well acquainted with both the father & mother of Marie Seypion;
 also that the name "Marie Seypion" was a combination of the names of
 father & mother as he understood it. Riviere further states an oath, that
 when the mother of Marie Seypion was brought to Fort Chartres, that he
 the witness was a young man, not old enough to go to hunt or to fight.
 Pierre O'Becket another witness who testified in the same cause, states
 as well as the witness remembers, that he was then about 80 or 82 years
 old. That he knew the mother of Marie Seypion at Fort Chartres in the Illinois
 and that she was Indian Squaw; That he understood from general report
 that she was of the Metcheg tribe, and was brought to Fort Chartres about
 the time of the defeat of the Metcheg Indians, and that he saw her in the
 station of a servant in the kitchen, but knew nothing of her slavery or
 freedom. Mr. Lucas further stated that both Baccanne or Riviere and O'Becket
 spoke in the most positive terms concerning their knowledge of the mother
 of Marie Seypion. Mr. Lucas further testified that Louis Labranche, Helen
 Chevalier, and Madame Chauvin, who also testified on the part of the descen-
 dants of Marie Seypion in said suit and who all agreed in their testi-
 mony, that some time about the change of government in this Country
 and just before or about the time that the United States took possession
 of this Country. Joseph Gayan Senior, in conversation with the witness
 in St. Louis at the house of Madame Laiselle stated that if Indians of their
 descendants were free, that Marie Seypion and her descendants were also
 free because the mother of Marie Seypion was an Indian woman.
 Mr. Lucas further testified, that Madame Cochon who testified on the part
 of ~~the~~ Gayan in said suit swore, that when she was a girl of some
 9 or 10 years old, she lived at Prairie du Rocher in Illinois, not far from
 Fort Chartres, that she lived either with her mother or aunt in that village
 who was by profession a midwife; That Joseph Gayan sent a negro woman
 there, who was pregnant, to be delivered and nursed by her mother or aunt,
 and that Marie Seypion was the name of that negro woman, born at
 that birth. That when Madame Cochon testified she was then about 65 or
 66 years old. That Madame Cochon was the only witness who testified that
 the mother of Marie Seypion was a negro and stated no other means of

Testimony of
 Pierre O'Becket
 80 years ago

Testimony of
 St. Labranche
 Mde Chauvin &
 Mde Chevalier
 20 years ago

Testimony of
 Mde Cochon
 20 years ago

Knowledge of that fact, than that circumstance before mentioned. Mr. Lucas further stated that he nothing of these facts of his own knowledge, nor indeed any thing touching the pedigree & descent of Marie Deypion till they were detailed in evidence by said witnesses on the trial of said Cause. Mr. Lucas further stated that Mr. Becket testified the name Marie Deypion was given to the said Marie Deypion because it was the names of her father & mother combined, she was therefore called by both names.

The defendant then produced and offered to read in evidence the following deposition of Sebastian Pratte - to wit -

S. Pratte's deposition

Sebastian Pratte of lawful age being produced in court and examined on the part of the defendant deposes and saith, he arrived in 1756 in the Country, and in 1757. went to Fort Chartres, he lived with Mr. Gayon Joseph Gayon the father in law of Mr. Pierre Chouteau &c. While he lived with Mr. Gayon, he observed the Slaves of Mr. Gayon in the first year of his residence, he had a negroe woman called Marie, and Indian woman ^{named} called Marie Louise, the Indian had two Children, there was one Slave also female called Dypion who appeared to be about 10 or 11 years old, she was treated and well known as a Slave, he knew her in the possession of Mr. Gayon after he removed to St. Louis and for several years after, and he has no other Slave by that name but her, did not know the mother of Dypion, there were at Fort Chartres and elsewhere, through the Country a great many Indian Slaves and but few blacks, the Indians were universally acknowledged as Slaves and frequently sold as such before the governor, he himself sold several, one to the Commandant that he brought from the Mississippi - Dypion was very black, had hair like a negroe, the Commandant he speaks of was the English Commandant at Kaskaskia from his belief of the Character of Mr. Gayon he is certain he would not have sold a person as a Slave who was not so. he was in the habit of frequenting the house of Mr. Gayon house in Fort Chartres and a long time after in St. Louis and never heard Mr. Gayon say Dypion was free, but on the contrary she was always treated as a Slave. A majority of the Indians held ^{then} as Slaves, came down the Mississippi brought by the traders and men of different nations, there were many Indian Slaves after the first establishment of St. Louis and few blacks with Mr. Gayon removed to St. Louis soon after its establishment.

The plaintiffs counsel objected to the reading of those parts of said

Objection to part

deposition which speaks of & concerning the number of Indian Slaves and the existence of Indian Slavery in Illinois and Louisianas, and also objected to those parts of said deposition which speak of and concerning the number of negro Slaves in the Country and the Sale of Indian Slaves, which objection was by the Court overruled, and those parts of said deposition objected to as aforesaid were permitted by the Court to be read in evidence to the jury - The plaintiffs Counsel also objected to so much of said said deposition being read in

Overruled

another objection

Sustained

Remainder read

Auguste Chautau's Deposition

+

evidence as relates to or speaks of the Knowledge of deponent concerning the Character of Joseph Gayan: and to the conclusion drawn by the deponent from his Knowledge of Gayan's Character, which said objection was by the Court sustained and those parts of said deposition were not read. The defendants Counsel read the remaining parts of said deposition not excluded as aforesaid to the jury - The defendants Counsel then produced and offered to read in evidence to the jury, the following deposition of Auguste Chautau to wit: Auguste Chautau Sworn - Marie Sy pion was a negro Slave belonging to Mr. Joseph Gayan (a female) he always understood ^{that} she was the daughter of a negro woman Slave to Mr. Gouion which Mr. Gouion gave to Mr. Joseph Gayan his relation - Marie Sy pion was of a brown Colour with very woolly hair like that of a negroe Knew Marie Sy pion a very long time the first time in the year 1764 he hired her often sometimes for 15 days sometimes more, he ^{always} knew her as a Slave belonging to Mr. Gayan of whom he hired her and paid for her services, he never knew the mother of Marie Sy pion does not know when she died, did not know her father. She was universally known to be of ~~negroe~~ ^{negroe} blood on the mothers side - At the arrival of the Spanish government heard there were Slaves of Indian blood and after of the mothers side Question by plaintiffs attorney - How he knew the fact that Mr. Gayan gave the mother of Marie Sy pion to Mr. Gayan? He heard it publicly say'd that Mr. Gayan gave a negroe woman and man with other Slaves and a plantation to Mr. Gayan his relation - Question - How you knew it any other way than by public report? Answer - No - only by public report at Fort Chartres - Question - Did you know the name of the mother of Marie Sy pion? Ans. No - Question - Did you ever see her the mother? Ans. No - Question - How old was Marie Sy pion when you first saw her? Answer - She was a young girl - does not know her

age but she was able to do the work of the house - Question - Do you think she was as much as fifteen years of age? Ans - He does not know - Question - Was Marie Syphon a Negro Woman? Answer - Yes she was, ^{a negroe} at least I considered her as such - Question - Was she not the complexion of an Indian? Answer - No she was a reddish black, not the least of the Indian colour - Question - Was Mr. Yayan in possession of Marie Syphon until her death? Answer - Does not know - Question - How long is it since he saw Marie Syphon last? Answer - 25 or 30 years ago - Question - Had Mr. Yayan no other slave by the name of Marie Syphon? Answer - Not that he knows of - Question - Do you know how many slaves Mr. Yayan has? Answer - He has several but does not know how many - Question - Did you know all the slaves of Mr. Yayan? Answer - No - he had many - Question - Do you know whether Marie Syphon was the mother of Margaret, plaintiff in this action? Answer - She had several children but does not know if this was one, Celeste Catiehe and others -

objection to part

overruled

The plaintiffs Counsel objected to reading such parts of said deposition as speaks of or concerning the existence or number of Indian slaves in the Country; And also to such parts of said deposition as speak of or concerning the gift of Marie Syphon and other things by Gagnon or Guion to Yayan - but the Court overruled the objection and allowed the whole of said deposition to be read in evidence to the jury which was read accordingly - The defendants Counsel then produced and offered to read in evidence, the following deposition of Madame Renee Dubreuil - to wit

Madame Renee Dubreuil's deposition

Madame Renee Dubreuil Sworn - I knew Marie Syphon well - She was often hired by me, of Mr. Joseph Yayan, she was always known as a Mulatto slave - She was a dark mulatto - She knew her for the first time about 20 years ago when she first came to this Country - She was mett nurse to one of her children for six months at her masters house Mr. Joseph Yayan - She was generally considered as a slave of negro blood - She had several children, Catiehe and one called Louvier, which was a nickname - She does not know the real names - always knew her as the slave of Mr. Yayan by Marie Syphon, is certain she was of negro blood, as certain as that she is one day to die - Examination of plaintiffs Attorney -

Question - Of what age was Sybil when you first knew her? Answer - More than 25 and had several children - Question - Did you know either the father or mother of Sybil? Answer - Oh, no - Question - Was she with Mr. Gayens [?] when she [?] first saw her Maria Sybil? Answer - Yes - How do you know that Maria Sybil was of negro blood? Answer - She was black and had wool upon her head she did not want papulots to curl her hair -

Question - Was she a negro or mulatto woman? Answer - She was so dark a mulatto that she appeared more like a negro - Question - Are you certain her hair was curly? Answer - It was curly like a sheep - Question - Do you

know if Sybil was a slave or not? Answer - Always knew her as a slave

Question - Have you never heard Joseph Gayen say Sybil was a free woman?

Answer - Oh, no she was always a slave, she wants not have remained there if she had been free - Question - How do you know she wants not have remained?

Answer - If I knew it? If my my mulatto woman knew she was free, would she

remain? Question - Did you know all the slaves of Mr. Gayen? Answer - I paid no attention to how many - but this woman was frequently hired by me. I knew her

well - did not know how many - Question - Was your intimate with Mr. Gayens family and were you frequently at his house during his life time? Answer -

she was intimate and on most friendly terms of course, frequently there ever since she has been in the country until their death - Question - Do

you recollect ever to have seen in the possession of Mr. Gayen Indian or half Indian slaves? Answer - Yes there was one who died lately, she does not

know how many he had - Question - Had Mr. Gayen any female Indian slaves about his house when you knew him? Answer - There was an old woman

who died about 12 years ago - Question - What was her name? Answer - Maria

Conise - Question - Was she not sometimes called Maria Sybil? Answer - No

certainly not, she was a slave until the Spanish government declared her free, many Indian slaves remained with their masters after they were so

declared - Question - Did Maria Conise remain with Mr. Gayen after she was declared free? Answer - She does not know - Question - Were you in this country

when the Spanish government took possession? Answer - No I was at New

Orleans - Question - Did you ever know any other Joseph Gayen in this country?

Answer - No except his son - Question - Was Maria Sybil the mother of Mar-

garet the plaintiff? Answer - She was - Question - How do you know it?

Answer - I have heard it so said - Question - Do you know Marguerite

Answer - No, but I believe her to be the one named Saurie - Question - How old are you - Answer - Seventy - Which said deposition was read to the Jury - The following deposition of Julie Papin Vasquez was then produced and read to the Jury by the defendants Attorneys to wit -

Julie Vasquez
Deposition

Julie Vasquez Swore - I knew Marie Syphon at Mr. Joseph Gayons about 30 or 45 years ago as a slave, she was nearer to a negro than mulatto in color her hair was woolly like that of a mulattress - I went often to Madame Gayon's and saw her there as a servant - Never knew any other slave but her belonging to Mr. Gayon of the same name Marie Syphon has children one named Catie and Celeste and Louis - She saw Marie Syphon frequently in possession of Mr. Gayons children lent to them by their father - She was generally known here to be the slave of Mr. Gayon and a mulattress - Never knew her mother Cross Examined by Plaintiffs Attorney -

Question Was not Marie Syphon some time called Marie Vatin -

Answer She knows nothing about it, she always heard her called Marie Syphon - Question Do you know the father of Syphon

Answer - No - Question Do you know all of Mr. Gayons slaves when you saw them - Answer - She knew them when she saw them but does not know how many - Question - Had Mr. Gayon any Indian slaves

male and female - Answer - No - I do not know - Question - Were there any Indian people living with Mr. Gayon - Answer - Several one called Marie Louis - Know not the name of any other - Question, Were those Indians living with Mr. Gayon as slaves or as free persons

Answer - At that time they passed as slaves - Question - Did you know Marie Syphon until her death - Answer - No - Question how long did you know Marie Syphon from first to last - Answer - about 10 years but is not certain - Question - When did Mr. Gayon die -

Answer - She does not know, but has not seen him for 20 years - Question Do you know what became of Syphon after Mr. Gayons death

Answer - Does not know, but knew her as the slave of Mr. Gayon - The defendant then produced and read in evidence to the Jury the following deposition of Elizabeth Hottig to wit -

Elizabeth Hottig
Deposition

Elizabeth Hottig Swore - I knew Marie Syphon as a slave of Mr. Joseph Gayon 38 or 39 years ago - a very dark mulattress - Saw her

frequently as she was hired out by Mr. Gayon as a slave - Knew her until her death about 20 years ago, always as the slave of Mr. Gayon has the hair of a mulattoes - She had three children, Catiche, Celeste Junie as she was called - Margarete her real name - Marie Syphon was always publicly known as the slave of Mr. Gayon - Cross examined by plaintiffs attorney - Question - Which died first Mr. Gayon or Syphon - Answer - Syphon - Question - How many years before Mr. Gayon Answer - One or two - Question - Did Syphon live with Mr. Gayon at the time of his death - Answer - She died with her Master at Mr. Pierre Chouteau Seniors - Question - Did you know the father or mother of Syphon - Answer - No - Question - Did you know of your own knowledge that Syphon was the slave of Mr. Gayon - Answer - Yes, always saw her serve in his house or hired out as his slave - Question - Name Syphon had she no nickname - Answer - No never heard any other than Marie Syphon - Question - Do you know that Marie Syphon was mother of Celeste Catiche and Junie - Answer - Yes they always called her mother - Question - How do you know that Junie is Margarete - Answer - She has heard her called Margarete and baptized as was said by that name - Question - Was Syphon not reserved at the sale of Mr. Gayon and also her children - Answer - She knows nothing of it -

The defendant gave no other evidence to the jury, nor was any other given by the plaintiff but as above set forth - The plaintiffs Counsel then prayed the Court to instruct the jury as follows to wit -

Instructions prayed
for by plaintiff

1st - That if the jury find from the evidence that the ancestor of the plaintiff in the maternal line was an Indian woman they must find for the plaintiff -

2^d - That if the maternal ancestor of the plaintiff was taken a prisoner in war she did not thereby become a slave -

3^d - That hearsay evidence is not competent to prove the fact that the maternal ancestor of the plaintiff was taken a prisoner of war -

4th - That evidence of the maternal ancestor of the plaintiff being held as a slave during the French Government of Louisiana does not establish the legality of the slavery in which the plaintiff may be held -

5th - That no practice of enslaving Indians during the time Louisiana belonged to the French is evidence that such practice was sanctioned by law

6th That a prisoner of war cannot be reduced to slavery unless under such circumstances as would authorize putting him to death, and that unless evidence of such circumstances is given to the jury they must consider such slavery under the pretence of the ancestor of the plaintiff being taken a prisoner in war as illegal

7th That the right to hold a prisoner of a war in slavery, continues no longer than the political necessity exists for such enslaving, and that when such necessity ceases the prisoner can no longer be held in slavery.

Instructions refused

All of which said several instructions were by the Court refused - The said defendant by his counsel then moved the Court to instruct the jury as follows - to wit -

Instructions prayed for by Defendant

1st If the jury find from the evidence that the maternal grand mother of the plaintiff was an Indian woman of the Metchez nation taken captive in war by the French, and that she was held and sold as a slave in the province of Louisiana while the same was held by the French and prior to the year 1769 she and her descendants ought to be considered as being lawfully slaves -

2nd If the jury find from the evidence that the maternal grand mother of the plaintiff was an Indian woman taken captive in war by the French and was held or sold as a slave in the province of Louisiana while the same was held by the French and prior to the year 1769, she and her descendants ought to be considered by the jury as being lawfully slaves -

3rd If the jury find from the evidence that the maternal grand mother of the plaintiff was an Indian woman taken captive in war by the French and was held and sold as a slave in the province of Louisiana while the same was held by the French and prior to the year 1769 she and her descendants ought to be deemed by the jury as being lawfully slaves -

4th If the jury find from the evidence that the maternal grand mother of the plaintiff was an Indian woman taken captive in war and held as a slave in the province of Louisiana while the same was held by the French and prior to the year 1769, she and her descendants ought to be taken by the jury to have been lawfully slaves -

5th If the jury find from the evidence that the maternal grand mother of the plaintiff was a negro or Indian woman, and that she was held as a slave in the province of Louisiana while the same was held by the

French and prior to the year 1769 she and her descendants ought to be taken by the Jury to have been lawfully Slaves ~~Slaves~~ -

6th That the declarations of Joseph Mayow as testified to by John B. Rives in his deposition, do not in law operate to emancipate said Manie Lypron or any of her children, nor is the plaintiff entitled to her freedom in consequence of said declaration -

7th That Indians taken in war might lawfully be taken held as slaves in the province of Louisiana while the same was held by the French and prior to the year 1769 -

8th That Indians might lawfully be reduced to and held in Slavery in the province of Louisiana while the same was held by the French and prior to the year 1769 -

All of which said instructions were by the Court given to the Jury. So all of which said opinions and decisions of said Court in respecting ~~in~~ the said evidence offered by said plaintiff; in admitting said evidence offered by said defendant and objected to by said plaintiff by her Counsel; in giving the said instructions to the Jury as prayed for by said ~~said~~ defendant by his Counsel and in refusing to give the said instructions to the Jury prayed for by plaintiff by her Counsel; the said plaintiff by her Counsel excepts. And prays the Court to sign and seal this her bill of exceptions, and prays that this her said bill may be made a part of the record of the Court in this cause, which is done accordingly.

It was in proof that the mother of Marie Lypron before the birth of said Marie Lypron was held and claimed as a Slave & continued so to be until her death, & that Marie Lypron and her issue have been so held & claimed ever since - Mr. Lucas also stated that it seemed to be given up on all hands by the old witnesses he mentioned at the time of the trial spoken of by him, that the mother of Marie Scipion was de facto a slave and held and treated as such -

And thereupon at the said March Term of the said Circuit Court in the year one thousand eight hundred and twenty seven -

Marguerite by Isaac C. McKim her attorney and agent and attorney files her affidavit in this case and prays an appeal to the Supreme Court which is granted and the record and proceedings ordered to be certified up accordingly -

Whereupon the Clerk of said Circuit Court under the Seal thereof duly Certified up to said Supreme Court, on the twenty third day of April in the year of our Lord one thousand eight-hundred and twenty seven a transcript of the Record of the proceedings of said Circuit Court in the aforesaid Cause.

And afterwards to wit on the fourteenth day of November in the year one thousand eight-hundred and thirty four the Judgment and opinion of said Supreme Court in said Cause was filed in the Office of the Clerk of said Circuit Court, reversing the Judgment aforesaid and remanding the same Cause for further proceedings therein in conformity with ~~the~~ the opinion of said Supreme Court.

And thereupon afterwards to wit at the November Term of said Circuit Court in the year one thousand eight-hundred and thirty four In the record of proceedings of said Court is entered the following Order.

Wednesday 30th December 1834 -

^{as} ~~Marguerite~~ ~~Pierre Chouteau~~ The Judge of this Court having been of Counsel in this Case. it is ordered by the Court that the venue be changed to the County of Saint Charles in the Second Judicial Circuit of this State and that the Clerk of this Court do certify and transmit a full transcript of the Record and proceedings in this Case together with all papers appertaining to and filed in the Cause to the Clerk of the said Circuit Court for the County of St. Charles at the next thereof.

Change of Venue
to
Saint Charles

State of Missouri 3 ss
County of St. Louis 3 I Archibald Gamble Clerk of the Circuit Court for the County of Saint Louis Certify that the foregoing is a full transcript of the Record & Proceedings of said Circuit Court in a certain matter therein depending between Marguerite plaintiff and Pierre Chouteau defendant, as the same now remains of Record and as file in my office.

In testimony whereof I herunto subscribed my name and affix the Seal of said Court at Office in the City of St. Louis the eighth day of January Eighteen hundred & thirty five -

Archibald Gamble Clerk

Marguerite
Bill - Manuscript of Record
Pierre Chouteau

Manuscript - \$13.00
Dues 62 1/2 - Certificate of Dues 50 - 1.62 1/2
\$14.62 1/2

Stanzas of Fica 21st October 1835
L. Johnston etc.

Supreme Court, Third Judicial District of the State of Missouri, October Term 1834.

Friday 10th October 1834

Court met pursuant to Adjournment - present all the Judges.

Margueritte

vs

Pierre Chouteau

Appeal from St. Louis Circuit Court - on Re hearing.

Now at this day come again the parties aforesaid by their respective attorneys aforesaid and the court now here being sufficiently advised of and concerning the premises consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and it is ordered by the Court that this cause be remanded to the said Circuit Court for further proceedings therein in conformity with the opinion of this Court delivered in this case and it is further considered that the said Margueritte the appellant recover against the said Pierre Chouteau senior her costs and charges by her about her appeal in this behalf expended and that she have thereof Execution. -

Marguerite

vs

Chouteau

Appeal from the Circuit Court of St. Louis County

Marguerite brought her action against Chouteau in the Circuit Court of St. Louis county to recover her freedom. - In that Court Judgment being given against her she appealed to this court. - On the trial of the cause she gave in evidence that her maternal grandmother was an Indian woman: and some of the witnesses stated, that they had heard aged persons say, that she was of the Natchez nation, and made a prisoner by the French in the war which terminated in the extinction of that nation. -

On the part of the defendant, evidence was given that the appellant was descended from a negro woman in the maternal line. evidence was also given by the defendant that many Indians were sold as slaves in the province of Louisiana while it was under the dominion of France; and also that the maternal ancestors of the plaintiff, appellant here, had been alienated as slaves. - The counsel for the defendant prayed the Circuit Court to instruct the Jury 1st that if they found from the evidence, that the maternal grandmother of the plaintiff was an Indian woman of the Natchez nation taken captive in war by the French, and that she was held and sold as a slave in the province of Louisiana, while the same was held by the French, and prior to the year 1769, or if they found that her maternal grandmother was an Indian woman taken captive in war, and was held and sold as a slave as above mentioned, then she and her descendants ought to be considered by the Jury as being lawfully slaves. - 2nd If the Jury find that the maternal ancestor of the plaintiff was an Indian or negro woman and that she was held as a slave in the province of Louisiana while it was held by the French she and her descendants ought to be taken by the Jury to have been lawfully slaves. - 3rd that Indians might lawfully be reduced to and held in slavery in the province of Louisiana while it was

subject to the crown of France. — These instructions were given by the court and resisted by the plaintiff. other instructions prayed by the defendant and resisted by the plaintiff were given, but each side being anxious for a decision on the merits of the case, no notice need be taken of minor objections. — On the part of the appellant it is insisted that all Indians in the late province of Louisiana, were while it was held by France and Spain absolutely free and that their descendants are so now. — Negroes it is admitted are to be presumed slaves, their ancestors being imported to the continent as slaves. but Indians were around and among the settlements of the white men in the full enjoyment of their personal liberty, acknowledging no inferiority to white men, and treating them either as national friends or national enemies. To show a descent from this race it is contended is to show a right to freedom, and if in the history of the country there were a time when Indians might under the sanction of law be reduced to slavery then the proof of a right to freedom by virtue of a descent from an Indian becomes liable to be rebutted by evidence bringing the case of the claimant under the operation of such law. 1st Washington. 123 & 233. Jenkins vs Tom and Coleman vs Dick and Pat and 2 Hen & Mun. 160. — On the part of the appellee it is contended that his right to hold the appellant in slavery is established by the practice of the country at the time her supposed maternal ancestor was made a prisoner of war; and he gave evidence that while Louisiana belonged to the crown of France there were many Indian slaves at Fort Chartres and other villages in that province. One of the witnesses most relied on says that he arrived in the country in 1756 and in 1757 went to Fort Chartres; and that there were then at that place and elsewhere through the country a great many Indian slaves, and but few blacks; the Indians were universally acknowledged as slaves, and frequently sold as such before the governor; he himself sold several, one to the Commandant, and afterwards added that the commandant he spoke of was the English commandant at Kaskaskias. —

The appellee puts his right to hold the appellant in slavery on the same ground whether she be descended in the maternal line from an Indian or a negro woman. It was further contended for the appellee as evidence of the law of the land that the French Commandant Bourgmont bought Indians for slaves on the Missouri and sent them down to New Orleans to work on his plantation and urges that this act demonstrates more clearly what was the law of the land than a speech of the same person in which white men were censured for trading with Indians for slaves. Reference is made to 3 Martin Rep 285 Serrille vs Chretien and 3 vol. Du Pratz history of Louisiana where the author gives an account of Bourgmont's voyage from Fort Orleans on the Missouri to the Padoucas a tribe living west of the Kansas River, and of the object of that voyage. — It appears from the evidence that nearly one hundred years before the commencement of this suit the supposed maternal grandmother of the appellant was brought to Fort Chartres in Louisiana and was there held as a slave till her death. If then under the laws of France she was justly held as a slave, the appellant is at this time in the same condition, the

law of Nations securing to the claimant his property when the province was transferred by France to Spain by the secret treaty of 1763, and the several Treaties when the same was transferred by Spain to France and by France to the United States. - The only case in point decided by any court in the United States since the transfer of Louisiana, of which this court is informed is that of *Seville vs Chretien* referred to by the appellee. - *Seville* the plaintiff in that case was the grandchild in the maternal line of an Indian woman brought into the province by an Indian trader in the year 1765. and by him sold to the Father of the appellee. - Her introduction into the province and the sale to the ancestor of the appellee both took place after the cession of France to Spain and before Spain had taken possession. She like the ancestor of the appellant in the case before this court was held as a slave till her death, and as she was reduced to slavery before Spain had introduced her laws into the province the question of freedom or slavery was decided under the laws of France. - that court decided that during the time Louisiana was held by the French government, Indians might lawfully be held in slavery.

A manuscript copy of the report of that case has been submitted to this court. - According to it "a number of depositions (admitted by the parties to have ^{been} correctly taken and to be proper evidence in the cause) were read to prove that at the time "the Spanish government took possession of the country viz in the year 1769, under the "Secret treaty of cession made between France and Spain in 1763 many of the inhabitants of the colony which had been established and settled "under the authority of the French "government held and possessed Indians as Slaves; and it seems adds that Court to "have been a belief pretty general among them that the practice of holding Indians in "Slavery was tolerated and authorised by the Government. - The fact that a considerable "number of Indians and their descendants were held in Slavery at the period alluded "to is clearly proven" - The case of *Seville vs Chretien* being mostly relied on by the counsel in the cause before this court and in fact the arguments in each case being nearly the same, that case will be particularly examined. In that case the Court are made to say, according to the manuscript report furnished us "Slavery notwithstanding all that may have been said and written against it as being unjust, arbitrary and contrary to the laws of human nature, we find in history, to have existed "from the earliest ages of the World down to the present day. - In investigating ~~the~~ "the rights of the parties now before the court, it is deemed unnecessary to inquire into "the different means, by which one part of the human race have, in all ages, become "the bondsmen of the other, such as captivity, being the offspring of those already enslaved " &c. - However we are of opinion that it may be laid down as a legal axiom that in all "Governments in which the municipal regulations are not absolutely opposed to Slavery, "persons already reduced to that state may be held in it, and we assume it as a first "principle that Slavery has been permitted and tolerated in all the colonies established "in America by European powers, - most clearly as relates to the blacks, or Africans

and also in relation to the Indians in the first periods of conquest and colonization. — Taking this principle for granted it accounts in some measure for the absence of any legislative act of the European powers for the introduction of Slavery into their American dominions. — If the Record of any such act exist, we have not been able to find any trace of it. — It is true that Charles the fifth, in the first part of the Sixteenth century, granted a patent to one of his Flemish favorites, for the exclusive right of importing Four thousand negroes into America, which were purchased by some Genoese merchants, who were the first who brought into a regular form the commerce for slaves between Africa and America. — A few years before a small number of negroes had been introduced by the permission of Ferdinand. but the privilege granted by the Emperor so far from being the first introduction of Slavery into the new World, was intended as a means of enabling the planters to dispense with the Slavery of the Indians who had been reduced to a state of bondage by their European conquerors. A full account of these transactions may be seen in Robertson's History of America. On turning our attention to the first settlement of the British colonies in America we find that the introduction of negroe slaves into one of the most important was accidental. In the year 1616 as stated by Robertson, and 1620 by Judge Marshall in his Life of Washington, a Dutch Ship, from the coast of Guinea sold a part of her cargo of negroes to the planters on James river; this is the first origin of the slavery of the blacks in ^{the} British American provinces. — About twenty years after Slaves were introduced into New England. All this took place without any previous legislative act on the subject. And it is believed, that Indians were, at the same time, and before, held in bondage. — The absence of any act or instrument of government under which their slavery originated is not a matter of greater surprize than that there should be none found authorizing the slavery of the blacks. — The first act of the legislature of the province of Virginia on the subject of the Slavery of the Indians was passed in 1670 and one of its provisions, as we are informed by Judge Tucker, prohibits free or manumitted Indians from purchasing Christian servants. — The words "free or manumitted" are useless and absurd, if there did not exist Indians in Slavery, and Indians who had been slaves and had been manumitted before and at the time this act was passed. — Indeed from the history and legislative proceedings of the British colonies, both in the West India Islands and in North America it clearly appears that in most if not in all of them, the Slavery of the Indians was tolerated by government in the early periods of the settlement without any specific legislation on that subject. — The French government was later in establishing colonies in America than the British and Spanish. — In our researches on the subject under consideration we have not been able to discover any legislative act of it, by which the colonies were authorised to hold Indians in bondage, but that it was customary to purchase and hold some classes of them in slavery cannot be doubted. this cannot have been without the permission, or at least the toleration of government, Moreau de

"St. Mary speaking of the black population of St. Domingo observes, that among it are
"the descendants of some Indians from Guiana, Louisiana &c. whom government
"and individuals in violation of the law of nature, deemed it profitable to reduce to
"Slavery - 1 hist. St. Dom 67- In the beginning of the eighteenth century he adds, there
"were upwards of three hundred Indian slaves in the French part of St. Domingo. In
"1730 the Governor of Louisiana sent three hundred of the Natchez tribe to be sold. Several
"arrived after that period from Canada and Louisiana. Here we have historical facts,
"establishing beyond contradiction the holding of Indians as slaves in one of the French
"Colonies, many of whom were transported from the very colony in which the ancestors
"of the plaintiff and appellant were held in bondage. Were it necessary to prove that
"they were legally held so the evidence of it would be found in their being taxed as
"slaves. 2 St. Dom. Laws 541: a circumstance which creates at least a very violent
"presumption that the municipal Regulations of the French colonies did not prohibit
"the slavery of the Indians. This appears to have been the opinion of the Spanish govern-
"ment which we have seen succeeded to the French in Louisiana. - Governor O'Reilly in 1769
"on taking possession of the colony discovered that a considerable number of Indians
"were held in slavery by the French colonists. - This he declared by a proclamation
"to be contrary to the wise and pious laws of Spain. but by the same instrument he
"confirmed the inhabitants in possession of such Indian slaves until the pleasure of
"the King in this respect could be known. Here is then a recognition of the right of
"the possessors to hold their Indian slaves, until the legislative will of the monarch
"should deprive them of it, this never did happen. In conformity with this opinion
"is a decree of the Maron de Carondelet, twenty five years after, in 1794 by which
"he orders two Indians, Alexis and David to return to and abide with their owners
"until the Royal will was expressed to the contrary. - The Inhabitants of the Colony
"of Louisiana while under the government and dominion of France, held Indians
"in slavery. The Spanish Government under which they passed, recognized their
"right to hold them until it should be altered by a declaration of the King's will. -
"It never was declared. The colony without any change in the condition of the
"original population is ceded to the French nation and by it transferred to the United
"States under a treaty securing to its inhabitants their rights to property as they stood
"under the former government." - The Rule of Law first settled by that Court
"and which is called a legal axiom viz. "that in all governments in which the
"municipal regulations were not absolutely opposed to slavery persons already reduced
"to that state may be held in it" might perhaps be more accurately expressed in
"these terms "That in all governments where there is no positive law against slavery,
"those persons already reduced to that state may be held in it" - As all the reasoning
"both in the case of Seville & Chretien and in that before this court seems to be founded
"on this legal axiom here assumed, it becomes necessary to examine whether it be

true in fact. Under the dominion of the Roman emperors, it is well known to all persons conversant with history that there were great numbers of slaves in Europe. on the decline of that empire when it was overrun by the northern barbarians, the number of slaves was not lessened. At this period slavery no longer exists there. — Those who recollect the difficulties encountered by Peter the first of Russia, an arbitrary and most politic prince, when he attempted to change the uniform of his life guards will scarcely contend that the kings of Europe, never arbitrary, were able by written laws alone to abolish slavery. By the force of public opinion alone it has been abolished in Europe. — Montesquieu in Chap 8th B. 15, 15th of the spirit of laws says "Plutarch tells us, in the life of Numa, that in the age of Saturn there was neither master nor slave. In our climates Christianity has restored that age," Dans nos climats le Christianisme a ramené cet âge. In the succeeding chapter of the same book entitled "inutility of slavery among us" he says "what makes me think so is, that before Christianity had abolished civil slavery in Europe &c." Ce qui me fait penser ainsi c'est qu'avant que le "christianisme eut aboli en Europe la servitude civile &c". Doctor Robertson the historian above referred to, in a sermon preached in Edinburgh on 6th Jan^y 1775 before the society for the propagation of Christian knowledge, ascribes the abolition of domestic slavery in Europe to the influence of Christianity. This sermon is prefixed to some of the later editions of the works of the historian. — Vattel speaking of the right to make slaves of prisoners of war concludes the article in these words - "I shall dwell no longer on this subject and indeed this disgrace is now happily extinct in Europe" see Law of Nations B. 3. Ch. 8. Sec. 152. — Sir William Blackstone tells us that when "tenure in villenage was virtually abolished by the statute of Charles the 2^d there was hardly a pure villein left in the nation" and then he adds "Sir Thomas Smith testified that in all his time (and he was secretary to Edward the 6th) he never knew a villein in gross throughout the realm. see 1st Vol. Com. p. 96. — The abolition of slavery in England too is by that author ascribed to the influence of Christianity. —

The same author informs us also that when an attempt was made to introduce slavery into England by Stat. 1st Edward 6th Chap. 3 which ordained that all idle vagabonds should be made slaves &c. the spirit of the nation could not brook this condition even in the most abandoned rogues, and therefore this statute was repealed in two years afterwards — Thus we see that, in England so far were the people from being disposed to suffer one man by force to enslave another, even the boasted omnipotence of parliament was unable to introduce slavery in the reign of Edward the 6th. —

If the Parliament of England dare not attempt to enforce slavery by law, it will scarcely be contended that any other government in Europe, would be strong enough to succeed in the attempt. None of them at least have been rash enough to make the experiment. — We will pass over the writ granted by Lord Mansfield to bring before him the body of James Som-

-merset and the unanimous decision of the Court of Kings Bench in consequence of which Mr Christian declares that the air of England is too pure for a slave to breathe in. — Thus we see that in Europe where slavery once prevailed, it has by the silent influence of the Christian Religion alone been abolished, and so far is the spirit of the people from tolerating the practice, that the most energetic government on that continent has not been able to restore it. — The legal axiom then of the Supreme Court of Louisiana viz "that in all governments in which the municipal regulations are not absolutely opposed to slavery, persons already reduced to that state may be held in it" is no axiom. — The natives of Europe then migrating to America carried with them no unwritten law to authorise them to enslave an Indian. — "But that Court assumes the ground" that "Slavery has been permitted and tolerated in all the colonies established in America" by European powers most clearly as relates to blacks, or Africans, in the first periods of "conquest and Colonization", and refers to Robertson's history of America as authority to sustain the assumption. — but it is also contended, that this toleration and permission of Slavery was not by means of any legislative act for such purpose made.

Admitting that the European powers silently permitted their subjects to enslave the Africans, this would be no evidence in a court of law against an Indian contending for freedom. — It would be a violation of the plainest rules of evidence. — It is not therefore conceived necessary to embarrass this question with an enquiry whether the several powers of Europe tacitly or expressly by legislative act permitted their subjects to capture Africans and sell them as slaves in America. — As however the counsel for the appellant has furnished an authority to show that it was by an express law of France that her subjects traded in African Slaves; that authority will be given to satisfy those who ^{may} think there is need of it. — It is found in the 4th Chapter of 1st Vol of Spirit of Laws entitled "another Origin of the right of Slavery" — The author concludes his chapter in these words "Louis 13th was extremely uneasy at a law by which all the negroes of his Colonies were made slaves; but it being strongly urged to him, as the readiest means for their conversion he acquiesced without further scruple"

But although Spain might either by an express legislative declaration or by her silence and forbearance permit the Indians within the limits of her colonies to be enslaved, yet still this is no evidence that France extended the same privilege to her colonists. — It does not however appear that Spain ever granted her assent to this practice either expressly or impliedly. — She acquiesced in it and assented to it, as England acquiesced in and assented to the Norman conquest, because she could not prevent it; and to prove this we need resort to no other authority than that of the great and accurate historian by whom, according to the report of the case of *Serville vs Chretien*, submitted to us, the Supreme court of Louisiana undertakes to prove the contrary. — In the 8th book of the History of America Robertson takes a view of the interior government, Commerce &c. of the Spanish Colonies; after vindicating the Spanish Monarchs from the charge of forming a plan to exterminate the natives he says "The Spanish Monarchs, far from acting upon any such system of destruction, were uniformly

"Solicitous for the preservation of their new subjects. with Isabella, zeal for propagating the
"Christian faith, together with the desire of communicating the knowledge of truth, and the
"consolations of Religion, to a people destitute of Spiritual light, were more than ostensible
"motives for encouraging Columbus to attempt his discoveries. Upon his success she endeavored
"to fulfil her pious purpose, and manifested the most tender concern to secure not only reli-
"gious instruction, but mild treatment, to that inoffensive race of men subjected to her crown,
"Her successors adopted the same ideas; and on many occasions which I have mentioned,
"their authority was interposed in the most vigorous exertions, to protect the people of
"America from the oppression of their Spanish subjects. - Their regulations for this purpose
"were numerous & often repeated. They were framed with wisdom and dictated by humanity,
"After their possessions in the New World became so extensive, as might have excited some
"apprehension of difficulty in retaining their dominion over them, the spirit of their
"regulations was as mild as when their settlements were confined to the Islands alone,
"their solicitude to protect the Indians seems rather to have augmented as their
"acquisitions increased; and from ardor to accomplish this, they enacted and endea-
"vored to enforce the execution of Laws, which excited a formidable rebellion in one
"of their colonies and spread alarm and disaffection through all the rest. but the
"avarice of individuals was too violent to be controlled by the authority of laws. -
"Rapacious and daring adventurers, far removed from the seat of government, little
"accustomed to the restraints of military discipline while in service, and still less
"disposed to respect the feeble jurisdiction of civil power in an infant colony, despised
"or eluded every regulation that set bounds to their exactions and tyranny. The
"parent state, with persevering attention, issued edicts to prevent the oppression of
"the Indians, the colonists regardless of these, or trusting to their distance for impunity,
"considered and treated them as Slaves. The governors themselves, and other officers
"employed in the colonies, several of whom were as indigent and rapacious as the adven-
"turers over whom they presided, were too apt to adopt their contemptuous ideas of the
"conquered people; and instead of checking, encouraged or connived at their excesses. &
"The desolation of the New World should not then be charged on the Court of Spain, or
"be considered as the effect of any system of policy adopted there. It ought to be im-
"puted wholly to the indigent and often unprincipled adventurers, whose fortune
"it was to be the conquerors and first planters of America, who, by measures no
"less inconsiderate than unjust, counteracted the edicts of their sovereign, and have
"brought disgrace upon their country." - We have still higher authority that
"in the State of Virginia Indians never were enslaved but by express law viz. the acts of
"the provincial assemblies. it will not here be enquired whether Judge Tucker in his
"notes on Blackstone is at variance with himself sitting as a Judge of the Court of
"appeals in his own state. - Suffice it to say that he does not intimate any change

of opinion. — In 1679 the legislature of Virginia by a legislative act permitted Indians taken prisoners in war to be enslaved, and this act was repealed in 1691. The Courts of that State have uniformly decided that any person claiming an Indian as a slave must show property acquired within the twelve years during which the law remained in force, and Indians have sued for and obtained their freedom in the Courts of that State after being held in bondage nearly one hundred years. See 1 Washington's Rep. 123. — *Jenkins vs Tom* and page 233 *Coleman vs Dick*. 1 Hen & Mun. 134 *Hudgins vs Wrights* & 2 Hen & Mun 149 *Pallas and others vs Hill & others*. — In the last cited case viz; *Pallas & others vs Hill & others*, the subject is most fully investigated. before that time some doubt had existed, not as to the time when the Statute had first authorised the enslaving of Indians, but as to the time when that right was taken away. The court it appears had taken time to search for the original acts and ^{had} found them & the decision was, "that the act of 1691 and not the printed revisal of 1705 fixes the period at which the right of making slaves of Indians was restricted." — In such a cause as this it might not be improper to attend to the argument of the counsel employed in the cases cited as authority. — In the cases cited from the Virginia books they were men not unknown to fame. — In the case of *Coleman vs Dick* and *Pat. Wickham* was for Coleman who claimed a right of property in the Indians & Marshall was for them; and in the case of *Hudgins vs Wrights*, Randolph (Edmund) was for the persons claiming the right of property in the Indians. — In neither of the cases cited did the counsel pretend to claim for their clients a right of property in Indians, except by the Statute of the province. — In the case of *Hudgins vs Wrights* the persons suing for freedom had been brought before the high Court of Chancery. — The defendant in that court being about to send them out of the state, a writ of *habeas corpus* was obtained from the Chancellor, on the ground that they were entitled to freedom. — On the hearing the Chancellor perceiving from his own view, that the youngest of the appellees was perfectly white, and that there were gradual shades of color between the grandmother, mother and grand-daughter (all of whom were before the court) and considering the evidence in the cause determined that the appellees were entitled to their freedom; and moreover on the ground that freedom is the birthright of every human being which sentiment is (he says) strongly inculcated by the first article of our political Catechism the bill of rights — he laid it down as a general position that whenever one person claimed to hold another in slavery the *Onus Probandi* lies on the claimant. — The case was elaborately argued by Randolph for the appellants and George K. Taylor for the appellees. — Judges Tucker and Roane delivered long opinions, reviewing the opinions in the cases of *Jenkins vs Tom* and *Coleman vs Dick* and *Pat.* in 1st Washington; Judges Fleming, Carrington & Lyons president concurred and the latter pronounced the decree of the court as follows, "This Court not approving of the Chancellors principles and reasoning on his decree made in this cause, except so far as the same relates to white persons and Native American Indians, but entirely

disapproving thereof so far as relates to native Africans, and their descendants who have been and are now held as slaves by the citizens of this State, and discovering no other error in the said decree affirms the same." - This case it may be observed, afforded counsel, always prolific in expedients, a fair opportunity to excite apprehensions for the security of the slave property in that State; so much of the Chancellors reasoning, as relates to the bill of rights, might in ordinary cases have been passed over as extrajudicial; for the Complainants had made out their case by proof. - But the cause was taken up; and the Chancellors judicial decision affirmed, but his extrajudicial decision was in part reversed, in order, it is reasonable to suppose, to quiet the apprehensions of the slave holder. - So far then as the conduct of Spain & Virginia towards the native Americans may be regarded as a precedent we are yet left to Judge of the right of the French colonists to enslave Indians by the conduct of their own government. It is not pretended that there is any written law authorising the act, and it has been shown by a quotation from Montesquieu that negro slavery was authorised in the French colonies by express law. - So that we are not left at liberty to conclude that because without any written law to that effect the crown of France permitted Negroes to be reduced to a state of slavery, therefore it permitted the natives to be so. - The next inquiry will be whether the assent of the Crown of France to Indian Slavery can be inferred from the acts of its officers, and from the acts & practice of the colonists within the limits of the colony. - It will be recollected that it has been stated in the case of *Seville vs Christian* that in 1730 the Governor of Louisiana sent three hundred of the Natchez tribe to be sold in St Domingo, and "that several after that period arrived from Canada and Louisiana, and that it appeared from the depositions of a number of witnesses (admitted by the parties to have been correctly taken and to be proper evidence in the cause) that at the time the Spanish government took possession of the country viz in 1769 many of the inhabitants of the colony held and possessed Indians as slaves, and that it seemed to have been a pretty general belief among them that the practice of holding Indians in slavery was tolerated & authorised by the Crown of France; and by testimony taken in this case it appears that at Fort Chartres and elsewhere in the colony while it was subject to France there were many Indian slaves and but few blacks; and that the Indians were universally acknowledged as slaves and frequently sold as such before the governor, that one of the witnesses had himself sold several one to the commandant; and that afterwards he added that the commandant he spoke of was the English commandant" - We are indebted to the case of *Seville vs Christian* for the knowledge of the fact that in 1730 the governor of Louisiana sent three hundred of the Natchez tribe to be sold as slaves in St Domingo. - Du Pratz a historian of considerable merit and an eye witness of the embarkation of the Natchez sent to be sold in St Domingo observes a cautious silence on the subject of the number sent out. - From *Barbé-Marbois* we learn all perhaps, that M. Perier governor general of Louisiana ever wished to be

known of the number sent. - of Marbois it is sufficient to say that he was the minister of Napoleon who negotiated the treaty by which Louisiana was ceded to the United States and that he has lately written a history of Louisiana. - He had access to the Registers of the company and there found an account of the facts he states viz; that the tribe of the Natchez was exterminated with the exception of a few families who escaped the general massacre and were received and protected by the neighbouring tribes. - Their chiefs believed to be of the Family of the Sun were conveyed by General Perier's order to Cape Francois. - The most important member of the dynasty died there a few months after his arrival. - the other suns were maintained by the company for the moderate sum of 1.888 livres 7 sous. The company applied to M. Maurepas to defray the expense. - on the 22^d of April 1731 the minister wrote the directors as follows: "I am not aware that there is any other course to adopt in this matter than to order the survivors of those two Indian families to be sold or sent back to Louisiana". The Registers of the company contain the following resolution - It was resolved to order the sale of the survivors of said families of Natchez Indians" upon this the author remarks that at the very time this order was given, the company was pretending to the glory of civilizing a people whose chiefs were sold as slaves. Here we may pause to ask, if the company dare not sell a few prisoners of war without permission from the Crown (for Maurepas was prime minister) whence did M. Perier their agent derive the authority to enslave three hundred of the same tribe. - Of the number sent to be sold as slaves in St. Domingo by order of Perier as was before observed DuPratz is silent. He only says that some escaped from the Fort who retired to the Chickasaws. the rest surrendered at discretion: of the number was the great sun, and the female suns his wives, several warriors, many women, young people and children. - The reason of this reserve we learn from Marbois for but one volume of DuPratz is accessible to us. - Marbois tells us that DuPratz ingeniously states, in the 1st Volume of his History printed in 1758. twenty eight years after the capture and sale of the Natchez chiefs that all the letters which were sent to France were intercepted. We consulted together continues DuPratz on the means of forwarding them to their destination, we discovered it and availed ourselves of it. - The writers of ~~his~~ history are obliged DuPratz farther observes to treat with equal caution the dead & the living; and so delicate a matter is it to give utterance to the truth that the pen often falls from the hands of those who are most disposed to be accurate. - The colonies of Spain were planted by adventurers who fitted out expeditions and conquered at their own expense. The crown of Spain the historian tells us made great exertions to curb their tyranny but was unable. The colonies of France on the continent were planted at an enormous expense by the crown and were always weak and under her control. - Public utility says Marbois, as well as the greatness and glory of the monarch had, under Louis 14th led to the favorable reception of the first proposals for the foundation of a powerful colony. -

With the example of Spain before their eyes impotently struggling to restrain the insolent rapacity of her conquering soldiery in America, and stung by the reproaches of the world for her supposed barbarous and ruinous policy, what utility to the State, or glory to themselves, could the powerful and enlightened monarchs of France hope for, by suffering the colonists of the weak province of Louisiana to reduce the natives to Slavery?

But the counsel for the appellee, as before observed contended as evidence of the Law of France that M. Bourgmont the French commandant had purchased Indian slaves and sent them to Orleans and that this act of a confidential officer was stronger evidence of the law than the speech of the same commander in which he severely reprehended the practices of the white men who traded for Indian slaves. - M. Bourgmont (according to DuRoi see chap 9. Vol 3) commandant of Fort Orleans situated on the Missouri river (on an island a little above the mouth of the river Osage according to Stoddard) departed from that fort on 3^d July 1724 at the head of a small force to make a peace with the Padoucas (Pawnees) who were at war with the missouris, Kansas and other tribes in alliance with the French. The warriors of the friendly tribes were to accompany him. the expedition the author says was undertaken by the order of the King of France and the object was to facilitate the commercial intercourse of the French traders with the several tribes. - On the arrival of the French commandant among the Kansas he made the speech alluded to and purchased from them several Indian Slaves (so called because the Indians made slaves of their prisoners). Those prisoners had been taken from the Padoucas. but M. Bourgmont & several of the persons accompanying him falling sick of the fever peculiar to the season he sent some of the slaves down the River to the said Fort of Orleans and in a few days after followed himself having previously dispatched a messenger to the Padoucas to inform them of his inability to proceed. - This messenger conducted two of the Padouca Slaves (esclaves Padoucas) to their tribe in order to conciliate their favor. see same vol. p. 165. - the slaves says the author at p. 169 having arrived at the village spoke much of the generosity of M. Bourgmont, who had redeemed them; they told all that he had done to make peace; in fine they extolled the goodness, the merit and the valor of the French so much that their discourse, made in the presence of the Grand Chief, spread Joy over the village and a messenger was sent to announce the news to the whole nation. - Bourgmont being restored to health resumed the expedition & on the 18th October arrived among the Pawnees (Padoucas) where he was received in the most flattering manner. -

The great chief in a harangue to his countrymen tells them that the Kansas would surrender all their women and children taken prisoners in war in exchange for horses; "that the French chief had promised it" and he continued "You have already seen him send back two of them loaded with merchandize, without demanding pay, and he was bringing along with him two others who died on the road." Thus it appears that the prisoners purchased by the French

commandant were bought or rather redeemed for that is the language used by the author with an intent to present them to their own tribe. - The author says that his account of this expedition was copied and greatly abridged from the Journal of Bourgmont signed by all the officers and persons attached to the expedition and which no doubt was designed for the use of the Government. In reading it, he remarks one cannot but observe how much delicate management is necessary in such expeditions in order to gain their good will. - In the conduct of the high officers there is nothing to be perceived which would justify the belief that the French government authorised them to reduce the Indians to slavery. Even should we admit that the sale of the three hundred of the Natchez by order of Perier was known to and approved by the government, still there is no proof that the appellant's ancestor was one of them; and if there had been any such proof, still it might be doubted whether her purchaser would have the right to bring her back from St. Domingo to Louisiana. - But the conduct of the directors of the company of the Indies affords the strongest presumptive evidence that the act of Perier was unauthorized and even unknown to them. For if he could of his own authority lawfully sell 300 Indians why should they apply to the minister for permission to sell perhaps half a dozen. - It is also said in the case of Seville vs Chretien other Indian slaves were sent over from Louisiana & Canada. - This perhaps may be the case. But it does not sufficiently appear, under what circumstances they were sent, to enable us to decide whether the act were lawful or unlawful. Between foreign nations the acts of the public officers of each are always regarded by the other as lawful until they are disavowed. - But in regard to the cause before this court we are not foreigners. In consequence of the several transfers of territory which have taken place since the year 1763, this Court has succeeded to all the Jurisdiction which a French court of law would have had at that day and in deciding the rights of individuals it becomes a duty to scrutinize the acts of the public officers of France as minutely as we would those of our own government. To say then that other Indians from Canada and Louisiana were sent to be sold as slaves in St. Domingo is not sufficient. As much might have been said of the transportation & sale of the Natchez, but the act was notorious; the circumstances were generally known and by reason of the notoriety we are enabled to form an opinion of its legality or illegality; of the others it is not even said by what authority they were sent. - It remains to inquire on this branch of the subject whether the practice of the French Colonists is evidence of an implied assent of the government to permit them to hold Indians as slaves. -

We have turned to Europe and found Slavery disappearing from that Continent since the middle ages by the mere force and effect of public opinion, and that the most powerful & energetic government in that quarter of the World was unable by a Statutory provision so far to overcome public opinion as to restore slavery even in the persons of the most abandoned and profligate convicts. -

We have seen Spain making the most vigorous exertions to protect the native Americans from the violence of her lawless adventurers who conquered the new world for her, and only desisting when her efforts became useless, thereby protesting against the practice. We have seen the highest court of Virginia, where it was contended that the aborigines were allowed to be reduced to slavery without any express warrant of law, discharging from the bonds of slavery those whose ancestors had been for nearly one hundred years, held in slavery, merely because they had proved a descent in the maternal line from an Indian woman and even the advocates of the parties claiming to hold them as slaves not presuming to base the clients claim on anything but the statutory law, Counsel too whose reputation forbids one to entertain the idea that they were not profoundly versed in the history and laws of their country. — We have the authority of Montesquieu for saying that Louis 13th was with difficulty prevailed on to pass a law to authorise his colonies to enslave the Africans. — Consequently as before observed the Frenchman migrating to Louisiana carried with him no unwritten law to authorise enslaving the native Americans. — Did then the crown of France by a silent acquiescence assent to the slavery of these persons? — Mr Justice Blackstone (63 page of the first vol. of his commentaries) tells us that the monuments & evidences of the legal customs of England are contained in the records of the several courts of Justice, in books of reports and Judicial decisions, and in the treatises of the learned sages of the profession preserved and handed down to us from the highest antiquity. — The monuments and evidences of the Roman unwritten law according to Mr Butler (see *Horae Juridicae subseivae* p 43) are the *Edictum Praetoris* and the *Responsa Prudentum*, which words liberally translated mean the decisions of the Praetors Court and the opinions of the learned sages of the profession and it is fair to presume that in all enlightened countries similar rules prevail. —

The opinions and legal doctrines of the civilians as well as those of the learned sages of the Common Law were very highly respected but till they were ratified by a Judicial decision they had no other weight than what they derived (says Butler) from the degree of public estimation in which the persons who delivered them were held. —

The evidence taken in this cause and offered to prove the French law is that during the time the province was subject to France there were at Fort Chartres and elsewhere through the country a great many Indian slaves & but few blacks, the Indians were universally acknowledged as slaves and frequently sold as such before the governor, the witness himself had sold several, one to the commandant that he brought from the Mississippi, and afterwards adds that the commandant he speaks of, was the English commandant at Kaskaskias, & from the case of Serille and Chretien further evidence of the French law is offered. it is in the following words "It appears from the depositions of a number of witnesses (admitted by the parties to have been correctly taken and to be proper evidence in the cause) that at the time the Spanish government took possession of the country viz; in 1769 many inhabitants of the Colony held and possessed Indians as slaves, and it seems to have been a belief

"very general among them that the practice of holding Indians in Slavery was
'tolerated & authorized by that government.'" It is here endeavored by the counsel
for the appellee to assimilate the sale before the commandant to a Judicial decision.

We know as a matter of history that under the Spanish rule in Louisiana a com-
mandant was a military officer commanding at a post such as Kaskaskias then
was. - To this military officer, for want of a more intelligent person a civil juris-
diction about equal to that of a Justice of the peace in our own state was commonly
entrusted. - Even a Judicial decision by such a person after argument by able
counsel would be esteemed of very little weight. But the witness says he had seen
sales of Indians made before the governor, he himself had sold several, one to the
commandant. - This governor & commandant are probably one & the same person. -
but that is immaterial. - In what part of this world is a Judicial officer, immaterial
what may be his grade or intelligence, bound to pry into the contracts of persons
who buy and sell in his presence? - or rather in what civilized country is he
not bound by the rules of common sense to refrain from giving any opinion
on the legality or illegality of such contracts? - But this commandant or
Governor was a British Officer, and if we may Judge of his Rank by the import-
ance of the post as probably a non commissioned officer, as a commissioned
officer. - that however is immaterial, for no one conversant with Judicial
proceedings would suppose that either the one or the other was versed in the laws
prevailing in Louisiana while it belonged to France. - If the acts of ownership
done by the colonist in the presence of the Governor were no evidence of a law authorizing
such acts there can surely be no reason why such acts done out of his presence should
be evidence of such a law. The able counsel who argued the cases cited from the
Virginia reports, if such arguments as these be worth anything must have been
very inattentive to their clients interest not to have urged them. - But there
remains the testimony of the witnesses who testified that it was generally believed that
the slavery of Indians was tolerated and authorised by the French government. - We
have seen that the evidences of the unwritten laws of England and Rome were the
decisions of their courts and the opinions of men learned in the laws, in the language
of the civil lawyers *Responsa Prudentum*. - the opinions of such men, says Mr Butler,
were highly respected, but till they were ratified by a Judicial decision, they had no
other weight than what they derived from the degree of public estimation, in which
the persons who delivered them were held - the weakest evidence of the law hitherto
recognized by law writers. - But here we have the evidence of nameless witnesses
mostly; and it is not even pretended that those who are named have any claims to
law knowledge. - As a blind man would not be received to testify concerning colors
to a jury, or a deaf man concerning sounds; so it seems reasonable that those who
manifest by their discourse an utter ignorance of law, should not be received to

prove it before a court of law. — It seems to be a wise rule to receive no lower evidence of the law than the treatises of the learned sages of the profession, or in the language of the civilians, the "Responsa Prudentum". — Such evidence of the general law of the land was, probably never before the case of Seville & Chretien, offered in a court of law, and had not the consequences of the decision in this cause been very important it would not have been deemed material to bestow so much attention on this matter. —

In the case of Seville & Chretien we are also told that Governor O'Reilly on taking possession of the Colony in 1769, discovered that a considerable number of Indians were held in Slavery by the French Colonists. This he declared by a proclamation to be contrary to the wise & pious laws of Spain; but by the same instrument he confirmed the inhabitants in the possession of such Indian slaves until the pleasure of the King in this respect could be known. Here then, it is said, is an express recognition of the right of the possessors to hold their Indian slaves until the legislative will of the monarch should deprive them of it. — In conformity with this opinion of Governor O'Reilly, it is said is a decree of the Baron de Carondelet twenty five years after in 1794 by which he orders Alexis and David to return to and abide with their owners until the royal will was expressed to the contrary. —

By the law of nations the inhabitants of a ceded, and even of a conquered province retain their ancient municipal regulations, until they are abrogated by some act of the new sovereign and their property too until they forfeit it by some criminal act. — If then the French Colonists had under the French rule a right to hold the Indians in slavery they could not by the subsequent introduction of the laws of Spain be deprived of that right and it would be unreasonable to suppose that any king of Spain who has sat on the Throne for the last 300 years would so far disregard public opinion as to attempt to give his laws a retrospective effect. — If the governor intended by his proclamation to quiet them in their claims he did a very weak act in telling them that they held their Indian slaves in violation of the laws of Spain. — For most certainly if they derived from the government of France no right to hold the Indians in slavery he had no power to dispense with the laws of Spain which prohibited Indian slavery. — For more than two hundred years previous to that time by the famous regulations of Charles 5th of which mention is made in the case of Seville & Chretien, Dr Robertson says the high pretensions of the conquerors of the new world, who considered its inhabitants as slaves, to whose service they had acquired a full right of property were finally abrogated. From that period to the present time Indians have been respected as free men & entitled to the privilege of subjects. The historian tells us also that "all laws and ordinances relative to the police and government of the colonies originated in the royal council of the Indies, & must be approved of by two thirds of the members before they are issued in the name of the king. — So that council each person employed in America, from the Viceroy downward is accountable. It reviews their conduct

rewards their services and inflicts the punishment due to their malversations." See Rob. Hist. America B. 8. - From the copy of this proclamation furnished by the counsel of the appellee dated 7th December 1769 it appears that the governor forbade any person whatever to acquire any property in any Indian whatever. We find in it these remarkable words "It is also ordained that the actual proprietors of said Indian Slaves shall not dispose of those whom they hold in any manner whatsoever unless it be to give them their freedom. - awaiting the orders of his majesty on this subject we enjoin upon the said proprietors to go and make their declaration at the office of the recorder by giving the name & the nation of the said Indians, and the price at which the proprietors shall value them" and the commandants of the several districts are commanded to make returns to the clerk of the Cabildo at New Orleans of all the Indians whose names shall be entered with the recorders. - O'Reilly probably intended to liberate them, He well knew that he had no authority to restrain the colonists from alienating property which they lawfully held when they came under the dominion of Spain. - But O'Reilly was removed, the court of Madrid we are told, secretly disapproved the acts of outrage which he committed on taking possession of the colony. Six of the principal colonists had by his order been executed for their opposition to his landing. Marbois hist. 138. - Had not O'Reilly been removed from office it is probable the will of the monarch would have been made known to them in such manner as it is usually made known in civilized countries, not by a new law to make that unlawful which was before lawful, but through a ministerial officer to summon the holders of those Indian Slaves to appear before some judicial tribunal to show by what authority they were held in bondage. - It is in no part of the proclamation intimated that the colonists should be confirmed in the possession of such Indian slaves until the pleasure of the king in this respect could be known. - But they were commanded in the most positive manner not to dispose of those whom they held in any manner whatsoever unless it be to give them their freedom. -

How this command not to dispose of their slaves in any manner whatsoever unless it be to give them their freedom could be construed into an express recognition by the Governor of their right to hold their Indian slaves until the legislative will of the monarch should deprive them of it, it is not easy to perceive. Again who in modern days makes laws to deprive subjects of their property? - To make this construction plausible we were told in the argument of this cause, that although by the law of nations, the laws of a ceded province remained in force under the new rulers yet the laws by which the province was governed might afterwards be changed and their rights taken away, that the Spanish government was a despotism and not bound to respect the rights of property in the subject. That the government of Spain is despotic is perhaps what no writer of the laws of Nations, or even historian has ever yet ventured to assert. We have seen on the authority of Dr Robertson that all laws, and ordinances relative to the government and police of the colonies

originated in the Royal Council of the Indies and must be approved of by two thirds of the members before they are issued in the name of the King. - To deprive a man of his property is the act either of a court of law acting in obedience to the law, the act of a trespasser or the act of a Robber, and not a legislative act. - In the commencement of the 16th century the son of Columbus sued Ferdinand the most powerful and unprincipled king who has sat on the throne of Spain for the last three Centuries in his own court, and obtained a Judgment against him on a contract between the king & his father, and also obtained what was due him. It cannot be then that two hundred & sixty years after when Europe is so much more enlightened two thirds of the Royal Council of the Indies would be so regardless of the rights of private persons & of the law of Nations as to approve of a law, the effect of which would be to deprive their fellow subjects by its retrospective action, of property which they held under their ancient laws. - Relieving then that O'Reilly as Spanish governor of Louisiana had no legislative power and that the Crown of Spain would neither on the one hand so far change the regulations of Charles the 5th as to give the inhabitants a right of property in the Indians which they had not derived from the laws of France, nor on the other so far violate its faith as to deprive its new subjects of property which was lawfully acquired under their former government, it appears to us to be a forced construction of O'Reilly's proclamation to suppose that when he commanded the actual proprietors of Indian slaves not to dispose of them in any manner whatsoever unless it be to give them their freedom; that he thereby designed to recognise the right of the possessors, to hold their Indian Slaves until the legislative will of the monarch should deprive them of it. The most probable construction of that proclamation seems to be that O'Reilly well knowing the Colonists derived no right from the laws of France to hold the Indians in bondage, intended by a strict Judicial investigation to ascertain those persons who were so held; & therefore his orders were given that no proprietor should dispose of them except to give them their freedom, and that an exact account of each should be taken and reported to the clerk of the Cabildo in order that he might have the means of making the proprietors liable for the safe deliverance of the Indians. - The decree of the Baron de Carondelet remains to be considered. By this decree we are told that he, twenty five years after (the proclamation of O'Reilly) in 1794 "ordered two Indians Alexis and David to return to and abide with their owners until the Royal will was expressed to the contrary." - Nothing of the character of a Judicial decision is seen here. It is well known that legal proceedings in those countries in which the civil law prevails, are more formal than among us where the mode of proceeding is conformable to the principles of the common law. Had these persons sued for their freedom it became the duty of the court to decide whether they were free or not, & not by its decree to order ^{them} to return to and abide with their owners until the Royal will was expressed to the contrary. ^{How was the Royal will to be expressed?} The will of the kings of Europe is expressed in Judicial matters through their courts of law. - The Kings of Europe, legislators & not Executive officers, (executeurs de la loi) Princes and not Judges, have discharged themselves of that part of their authority which might be odious, and bestowing favors in their own persons have committed to particular magistrates the distribution of punishments. - See

Montesquieu *Grandeur et decadence des Romains* chap. 16. - The only way to know the King's will judicially was by an appeal to a higher court, and unless an appeal had been taken it was useless to tell them to wait till the king's will were known. - For any thing appearing by this statement there might have been no suit instituted. - It might have been a mere tradition believed and current in New Orleans, and entitled to no more credit than the legal opinions of the number of nameless witnesses whose depositions (admitted by the parties to have been correctly taken and proper evidence in the cause) were read in the case cited. - The history of Louisiana affords abundant evidence that the Crown of France did not feel less solicitude nor exert less industry to ameliorate the condition of the Indians of that province than the crown of Spain did to ameliorate that of the Indians of South America. Dupratz and Marbois after him attribute the blame of the Natchez war to the ill conduct of the French officers, and not to any plan or contrivance of the French Government. - Dupratz devotes many pages of the third volume of his history to demonstrate what interest the Crown of France felt in maintaining a good understanding with the various tribes, and indeed what history of the French settlements in America can we read without learning the same thing? ^{as in Spain there was a Royal Council of the Indies} so in France there was a company of the Indies formed in 1723. The Duke of Orleans was declared its governor. its privileges embraced Asia, Africa and America. In the deliberations of this association composed of great noblemen and merchants, India, China, the the factories of Senegal and Barbary, the West Indies and Canada were, in turn brought into view. Louisiana holds a principal place in these discussions. - see Marbois pages 115 & 116. - The French government did not then enter on the business of founding a great and powerful colony in Louisiana without a plan. A part of that plan, as has been before said on the authority of the same author, was to civilize the Indians. In a subsequent page (122) he tells us that in 1748 the Indians were beginning to recover from the hatred with which the French government had momentarily inspired them. The missionaries exerted themselves to make them Christians, and labored with an admirable zeal to make them more humane. - The governors distributed to them cattle and instruments of tillage. It is true that those benevolent cares did not produce the desired effect, but the natives were grateful for them, and the French were then able to scatter themselves among them without apprehension. They sometimes married Indian women and were then incorporated into their tribes. The same author says in another part of his work (p. 136) the Louisinians rendered an honorable homage to the memory of the governor D'Abadie whose death was occasioned by the grief he felt when he was instructed to make known the cession of the colony to Spain. The eulogy states that the governor severely repressed the excesses of masters towards their slaves; that the Indians were also protected against every kind of oppression. - Speaking of the provision made for them in the treaty of Cession to the United States the author says (p. 293) The Character of the Indians was well known to the negotia-

tors. The efforts that had been made and the expences that have been incurred for three centuries have not effected any change in the habits of these tribes; but they obstinately avoid civilization - These tribes always children, require to be paternally governed. They preferred the French to other nations, and willingly adopted them into their tribes. Though they were ready to use freely whatever in our huts and houses suited their convenience, or to appropriate it to themselves, they were submissive to our orders, they were well inclined to render us services, and, even as warriors to unite their arms with ours." The case of Seville and Chretien was relied on not only because the decision was made by the highest court of Judicature in the State, and because the Judges were persons of great legal acquirements; but because of the peculiar advantages they enjoyed in the place where their sessions were held to acquire an accurate knowledge of the laws of France and of the decisions of the Courts of Spain, whence comes it, then, that we have not a more accurate account of this decree (so called) of the Governor Carondelet concerning David & Alexis? or if there were any attempt made to ascertain the will of the King on that subject, (as the governor is made to intimate there would be) how does it happen that we hear nothing of a decision in the Royal Council of the Indies in which court alone the King is supposed to be present? and that presence too is as much a fiction of law as the presence of a King of England in his court of Kings Bench. If it be said that it was the business of the party against whom the decision was made to take, and prosecute the appeal, then it may be answered that it was no judicial decision for the governor to order them to return to, and abide with their former owners until the Royal will was expressed to the contrary. For if the order or decree (as it is called) be any thing else than an indirect denial of Justice, it means that he intended to relieve them of the trouble of prosecuting their appeal. It has been sufficiently demonstrated to be inconsistent with the general practice of the European powers to suffer their subjects to enslave the Natives of America; and it has also been shown that the policy of the Crown of France repels the idea that such a practice ever was contemplated by it. A French subject then never could have enslaved an Indian but by the express permission of his Sovereign. We have seen that the register of the colonial regulations is now in existence in France, and if any such permission ever were granted, it is the duty of the person claiming the right to establish it by producing some better evidence than the conjectures of unknown persons who seem never to have entertained an idea of any other law than the arbitrary and capricious will of the petty magistrate of the little village where chance had located him. - Tayon the person, who held the appellants maternal ancestor in slavery at the time of the publication of the proclamation, according to the testimony of his daughter, having seen the proclamation, said that she would be free at his death. another witness stated that he heard Tayon declare that she was free and that she staid with him of her own accord. And the appellees counsel took the trouble to bring in the Register of Indian Slaves made at Fort Chartres in obedience

to an order made in the proclamation, by which it appeared that Tayon, then residing at that place had not registered this woman, whence it must necessarily be concluded that he did not regard her as his Indian slave, and that he declined registering her name &c as required by the proclamation under the pretence that she never had been held in slavery. Were one disposed to multiply words it might be easy to cite evidence from the depositions in this cause that Indians never were considered slaves under the French government, and those witnesses too perhaps not more unlearned in the law than those who deposed otherwise. Indeed one of the appellees own witnesses, one too whose respectability and intelligence was well known in St Louis, and who would not lose by a comparison with any of the ancient inhabitants found here by the American government in March 1804 (for the Court may travel out of a Record to enquire after the value and credit of a legal authority), this witness testified that the Spanish Government declared Marie Louise an Indian woman residing in the family of the said Tayon free, and that many Indians remained with their masters after they were so declared. This witness believed that the maternal ancestor of the appellant was a negro woman, and therefore remained a slave, but we know that the Spanish government declared none free. The Governor O'Reilly's proclamation was the only judicial act, those who knew they had no right to hold Indians in slavery might well dismiss them as by the proclamation they were allowed to do, and thus avoid a judicial investigation in which they had nothing to gain and by which they might lose. so that if we resort to such loose evidence of the law as the testimony of witnesses, who know nothing but by common rumor, the appellee gains nothing. - But perhaps too much has already been said on this subject, the decision however of this cause is important in its consequences, and in deciding contrary to the opinion of the highest court of Judicature of a Sister State we have the misfortune not to be able to concur all in the same opinion. - It is the opinion of a majority of this court that the Circuit Court erred in giving to the Jury the first and third instructions above mentioned. The majority of the court is further of opinion that the Circuit Court erred in so much of the second instruction as related to the descendants of an Indian woman in the maternal line; that is to say the Circuit Court erred in instructing the Jury that if they found the maternal ancestor of the plaintiff was an Indian woman and that she was held as a slave in the province of Louisiana while it was held by the French, she and her descendants ought to be taken by the Jury to have been lawfully slaves, in the second instruction there is no other error committed, For the reasons aforesaid the Judgment of the Circuit Court is reversed. this cause was first argued before this court at the May term of the year 1828.

This Court being then composed of two Judges only, the decision of the Circuit Court was affirmed by a division in opinion of the two Judges then sitting, at the October term of the year 1833. the parties by their counsel appeared in this court, and mutually agreed that the Judgment in this cause before rendered in this court should be set aside, and

that it should be again argued before the court consisting of all the Judges. The Judgment of the Circuit Court being now reversed two of the Judges concurring in opinion, the cause is remanded to that Court, and it is required to proceed therein in conformity with this opinion

M. McGork

George Tompkins. —

State of Missouri: I, Joseph C Brown Clerk of the Supreme Court for the third Judicial District of the State of Missouri do certify that the above and foregoing is a true Copy of the Judgment rendered and of the opinion delivered by the Said Court at the October Term thereof in the year Eighteen Hundred and thirty four in the case of Marguerite appellant against Pierre Chouteau appellee on an appeal from the Circuit Court for the County of Saint Louis as the same now remains of Record in my office.

In Testimony whereof I have hereunto set my Hand and affixed the seal of the said Court at Office in the City of St. Louis in the County of Saint Louis in the District and State aforesaid this Fourteenth day of November in the Year of Our Lord One thousand Eight Hundred and thirty four

Joseph C Brown Clerk

No 26

Saint Louis Circuit Court

July Term 1825

Marguerite

vs
Jens Chouteau

Judgment Opinion of the
Supreme Court

Filed 14th November 1834
Archibald Gamble Clerk

Charles J. Filer 21st October 1835

Prothonotary for clerk

Jefferson vs Filer 2 Nov. 1835.
Sam. H. Johnson Clerk

State of Missouri
 County of St Charles } ss: Be it remembered that heretofore, to wit, on the
 twenty first day of October, in the year of our Lord eighteen hundred
 and thirty five, was filed in the office of the clerk of the circuit court
 for the said county of St Charles, the accompanying transcript of
 the record and proceedings in the case of "Marguerite against Pierre
 Chouteau", commenced in the circuit court of the county of St Louis,
 and thence taken up, by appeal, to the Supreme Court of the State
 of Missouri, where judgement was given, and the case remanded
 to the circuit court of the said county of St Louis, and ^{thence} removed on
 an order of change of venue to the said county of St Charles; in which
 said cause, at the October Term of our said Court, on the ninth day
 day thereof, it being the twenty first day of said month in the year
 aforesaid, the following order was made = to wit:

change of venue

"Marguerite
 "Pierre Chouteau } The Judge of this court having been of counsel in
 "this case, it is ordered by the court that the venue be changed to the
 "county of Jefferson in the seventh judicial circuit of this State;
 "and that the clerk of this court do certify and transmit a full
 "transcript of the record & proceedings in the cause — together with
 "all papers appertaining to, & filed in the same — to the clerk of the
 "circuit court for the said county of Jefferson, at the next Term thereof."

State of Missouri
 County of St Charles } ss: I, William Christy Jr, clerk of the circuit court
 within and for the county aforesaid, certify the above to be a full & correct trans-
 -cript of the record and proceedings in the case of "Marguerite vs Pierre Chouteau"
 as the same now remain of record in my office — and the accompanying pa-
 -pers are all that pertain to the said cause.



Given under my hand and the seal of said
 Court at office in St Charles this 27th day of
 October - A.D. 1835.

William Christy Jr
 By Deputy J. D. Johnston

Marguerite
to
Pierre & Chouteau
Exchange of
service

John's fees & charges \$16.35

Marguerite

Pierre Chouteau

In the Jefferson Circuit Court

Pierre Chouteau the above named
defendant makes oath, that ^{Mrs. Anna} ~~Levanette~~ D'Aigle is
a material witness for him in the above cause
that she resides in the State of Louisiana on Red
River, that she is ancient, and will be able to
prove the descent of the plaintiff to have been
from a negro slave on the maternal side.

That the deposition of said Madame D'Aigle was
taken ~~on~~ this case some years ago, but in conse-
quence of the decision of the Supreme Court the
affiant believes it necessary that he should
prove more directly that the plaintiff's maternal
ancestor was a negro slave, than is stated
in the deposition and he believes that on a
re-examination of said Madame D'Aigle he
can prove facts and circumstances which
will establish his right to hold the plaintiff
and her descendants in slavery. That for the
purpose of obtaining the presence of said Madame
D'Aigle he wrote to ~~said Madame~~ her
requesting her to attend and she promised to
do so, but has recently informed the affiant
that she could not come before the month
of April she fearing the effect of the climate
of Missouri on the earlier part of the Spring, and
the affiant verily believes that she will be
present to attend the trial of this cause at
the next term of the court, or that at all events
her deposition can be taken in Missouri so
as to be used at that term. This affiant further
says that he has not proceeded to take the
deposition of said witness in Louisiana because
he had the assurance that she would come
to Missouri, and because he could not rely
on a full development of all necessary facts
on a deposition taken in Louisiana where the
nature of the controversy could not be so well under-
stood, nor the witness fully examined with reference
to other facts in the cause. This affiant further
says that the testimony of said witness is equally
material in each of the other cases of suits ^{against her} ~~for~~
freedom now pending in the Jefferson Circuit Court
the plaintiff in all of them claiming descent from the
same maternal ancestor & this affiant cannot
safely go to trial in any of the cases without the testimony
of said witness.

Sworn to and subscribed before me
this 4th day of March A.D. 1836.
Justice county court
St. Louis county -

P. Chouteau

Jeune fille
act. { Affaire
Marguerite

1^{re} édition, 17^{te} - 1836
M. D. D. D.

THE STATE OF MISSOURI,

To the Constable of *St Louis* Township, in the County of *St Louis* Greeting;

We command you to summon *John P. Levee and Joseph*

Morris

that all excuses and delays being set aside *they* personally be and appear before the ~~the~~
~~circuits court~~ ^{of Jefferson} ~~designed, a Justice of the Peace~~ within and for the County ~~and~~ on the

event _____ day of *July* at ~~this office in the~~

township of *Mercedman* to testify on the trial of a case wherein *Margaret*
a woman of color's _____ plaintiff and

Pierre Chouteau is _____ defendant, on the part of the
plaintiff and of this *they* ^{are} not to fail at *their* peril; and have you

then there this writ.

Given under my hand, this

4th day of *July* A. D. 1836

John P. Levee JUSTICE OF THE PEACE.

State of Mississippi
County of Leflore David Dabney made oath
that he served the within named person by reading
the same to Baptist Previer in the County of
Leflore & Leflore on the 5th day 1858
before me this 5th day
1858 - At Houghs L.S.
David Dabney

Marguerite -

Pierre Chouteau 14

} Sent for Frederic -

Be it remembered that at the trial of this case it was admitted that the plaintiff is the daughter of a woman named Marie Scipin, mentioned in the depositions herein after set forth.

The following depositions were then read in evidence ^{by plaintiff} - (here insert the depositions marked A 1)

The plaintiff also read to the jury a statement of John B Lucas as follows (here insert the statement marked A 2.)

The defendant then read to the jury the following depositions (here insert the depositions marked A 3)

John Taya - a witness on the part of the defendant, testified that he is the son of Joseph Taya deceased, is now seven years of age, that he knew a Marie Scipin the slave of his father from his earliest recollection to the time of her death she was a ^{black} ~~negro~~, her hair like that of other negroes, did not know nor does he remember to have heard who were the parents of said Marie Scipin -

No other evidence being given the defendant by his counsel moved the court to instruct the jury as follows -

(here insert the instructions marked A and) which instructions the court refused to give, and to the opinion of the court in refusing said instructions the defendant excepts. And prays the court to sign & read this bill of exceptions which is done according to the 10th ^{page} ~~page~~ 1838

William Scott Esq

Marguerite Bellin

4

Deane Chautau

Bill of exceptions

filed

Marguerite
 v
 Pierre Chouteau } Sent for Freedom
 In Effron Circuit Court

Catherine Alias Catherine
 v
 Same } Same

Stiles
 v
 Same } Same

Baptiste
 v
 Same } Same

Julie
 v
 Same } Same

~~Antoine~~
~~v~~
~~Same~~ } ~~Same~~

Pierre Chouteau the defendant in
 the above entitled causes, prays an appeal
 in each of the said causes, and makes
 oath that his said appeal is not made
 of mere vexation or delay, but because
 he the said appellant believes that he
 is aggrieved by the judgment and decision
 of the court in the said causes & each of
 them

P. Chouteau

Allegiance
to others

Deem themselves

Officers

Sworn to and sworn

In the Supreme Court 3^d Judicial District June Term 1837
Monday June 26th 1837

Pierre Chouteau Appellant

vs

Margaret Appellee

Appeal from Jefferson Circuit Court

Now at this day come again the parties aforesaid by their respective attorneys and the court here being now sufficiently advised of and concerning the premises, do consider & adjudge that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed, and stand in full force and it is further considered that the said appellee recover of the said appellant & of Julius De Mun & Henry G. Boulard, his securities in the appeal bond, her costs and charges by her about her defence in this behalf expended and have thereof execution

State of Missouri

3^d Judicial Dist 3^{ss} I John Ruland Clerk of the Supreme Court in & for said District certify the foregoing to be a true and complete transcript of the judgment of said court in the case of Pierre Chouteau vs Margaret, as the same now remains of Record in my office

In testimony whereof I have hereunto set my hand and affixed the seal of said Court at office in the City of St Louis this 20th day of July 1837

J. W. Ruland Clerk

On the duplicate bond July 20th 1857

Deere Chouteau

to

Margaret J. Chouteau

Filed Oct. 19th 1857

At 10/30/57

Wm. H.

1 If the Jury find from the evidence that the Mother of Marie Sicipia ~~was~~ ^{of the 'Natchez Nation} an Indian woman, taken captive in war, by the French, and that she and her descendants, were publicly and notoriously held as slaves in the province of Louisiana, while the same was held by the French prior to the year 1769, and that she and her descendants were so publicly and notoriously held as slaves without interruption in the said province until the 30th of April 1803 ^{to the time of the commencement of this suit} and thence ~~until~~ the jury ought to find for the defendant

2 If the Jury find from the evidence that the Mother of Marie Sicipia was an Indian woman, taken captive in war and reduced to slavery, by the French, and that from the time of her capture ~~to the commencement of this suit~~ ^{were} she and her descendants ~~were held as~~ publicly and notoriously held as slaves in the province of Louisiana while the same was held by the French before the year 1769, and afterwards, while the same province was in possession of and held by Spain, and France until ~~on and after~~ ^{after} the 30th day of April 1803 and thence until the commencement of this suit they ought to find for the defendant

3 That Indians taken captive in war by the French, might lawfully be reduced to and held in slavery in the province of Louisiana while it was held by the crown of France

Da
Probulens

In case - Marguerite
v Choleau - Salica
v same - Idem v
same - Baptiste v
same - Leite v same
Antoine v same
Joseph v same
Mary v same
Michael v same

4 If the Jury find from the evidence that the mother of Marie Scipion ^{was an Indian by name taking captives in war & reduced to slavery} that the said Marie Scipion was born while her mother was so held in slavery within the province of Louisiana ~~where~~ the same was held by the French, prior to the year 1769 - That the said Marie Scipion was held in slavery in the province of Louisiana from the time of her birth until the 30th April 1803 and thence until the time of her death, then the jury ought to find ~~for~~ the defendant.

5 If the Jury find from the evidence that Marie Scipion, was born while her mother was held in slavery, and that she the said Marie Scipion was publicly and notoriously held as a slave from the time of her birth until her death, within the territory ceded to the United States by the treaty between the United States of America and the French Republic bearing date, the 30th April 1803, and that at the date of the said treaty the said Marie Scipion was ^{so} held ^{as a slave} within said ^{ceded} territory, by an inhabitant of ~~said~~ ^{the} territory, then the jury ought to find for the defendant.

Directions for the Clerk, in making out the
bills of exceptions in the following cases -
Marguerite v Chouteau - Coteau v Same
Helen v Same, Baptiste v Same, Luke v
Same & Antoine v Same -

The evidence to be set out will be
the same in all the cases -

So of the instructions.

In setting out the depositions & statements
given in evidence, the Clerk will in-
sert only the statement of the witnesses -
omitting the caption notices and certifi-
cates -

J. H. R. M. for depts
H. R. Gamble for depts

Directions for the
Clerk in making
a bill of exceptions