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Virginia L. Minor and Frances Minor her husband PE

vs.

Reese Happersett DE

March term 1873

No 122

Box 727 # 15

In the supreme court March Term 1875

Virginia L. Minor et al
Appellant

vs

Reese Happersett
Respondent

Appeal from the St Louis circuit court.

This was an action brought in the St Louis circuit court by Husband and wife, against the defendant who was a registering officer for refusing to register Virginia L. Minor the wife, as a lawful voter.

The defendant demurred to the petition on the ground that the said Virginia had no right to vote at the general election held in November 1872, referred to in said petition, and on other grounds not necessary to mention. The defence being based upon the constitution of the State of Missouri which provides that "Every male citizen of the United States &c **** shall be entitled to vote at such election for all officers, state county and municipal, made elective by the people, or any other election held in pursuance of the laws of this state;" and upon the registration law of said state, approved March 10th 1871, to the same effect, and requiring the registration officers to register such voters &c; and it is claimed, therefore that defendant was justified in refusing to register the plaintiff (Virginia L Minor) on account of her sex.

The validity of this clause of the State Constetution and the registration act based thereon is denied by the plaintiffs. They contending that said constitutional provision and the act of the legislature in pursuance thereof are in violation of the Constitution of the United States, and particularly to the clauses thereof specified in the petition.

There is no question made in reference to the sufficiency of the petition in other respects, provided that females have a right to be registered as voters and vote at elections held under the constitution and laws of this State; notwithstanding the provisions of the Constitution and laws of the State to the contrary thereof.

The question presented then is, whether there is a conflict between the Constitution of the United States, and the Constitution and laws of the State of Missouri on this subject.

That the different States of the Union had a right previous to the adaption of what is known as the 14th Amendment to the Constitution of the United States, to limit the right to vote at elections by their Constitutions and laws to the male sex, I think cannot at this day be questioned. The, I may say, universal construction of the ~~Constitution of the~~ Constitution of the United States on this subject, and the almost universal practice of all of the States, in reference to this subject, from the adoption of the constitution to the present time, ought to be sufficient to prevent the necessity of an investigation of this subject now. There are certainly some questions that the courts of the country have a right to considder as settled, and that question I think is one of them.

By the 14th Amendment to the Constitution it is provided as follows:

Sec. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State where in they reseide.

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Sec. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

When we take into consideration the history of the times in which this amendment was originated, and the circumstances which in the view of its originators preceded its necessity, we will have but little trouble it seems to me to give it its proper interpretation. The whole slave population of the south had just been freed, and were about to enter into an entirely new relation with the balance of society, and were to assume new obligations and responsibilities. In this

changed state of affairs it was thought by those who originated and adopted this amendment that it was absolutely necessary, that these ~~freed~~ emancipated people should have the elective franchise in order to enable them to protect themselves against unfriendly legislation in which they ~~would~~ could take no part. That unless these people had the right to vote and thus protect ~~their own~~ themselves ~~rights~~, against oppression, their freedom from slavery would be a mere mockery and their condition but little improved. It was to remedy this that the 14th amendment to the Constitution was adopted. It was to compell the former slave states to give these freedmen the right of suffrage, and to give them all of the rights of other citizens of the respective states and thus make them "equal with other citizens before the law." There could have been no intention to ~~have~~ abridge the ~~right~~ power of the states to limit the right ~~to vote~~ of suffrage, to the male inhabitants. It was only intended to give the freedmen the same rights that were secured to all other classes of citizens in the state, and that if the other male inhabitants of the State over the age of twenty one years, ~~had~~ enjoyed the right of suffrage, so should the males amongst the freedmen over the age of twenty one years enjoy the same right. It was not intended that females or persons under the age of twenty one years should have the right of suffrage conferred on them. ~~whether~~ This is not only shown by the history of the times when the amendment

was adopted
and the circumstances which produced it, but
by reference to the 2d Section of said Amendment
it will be seen that the right to restrict the right of
suffrage to the male inhabitants by a State
is clearly recognized. If "the right to vote &c, is
denied to any of the male inhabitants of such
State being twenty-one years of age &c", is the
language used this clearly recognizes the right
and seems to anticipate the exercise of the right
on the part of the States to restrict the right of
suffrage to the male inhabitants.

I think the circuit court committed no
error in sustaining the demurrer to the
petition.

Judge Magruder being absent.

The other judges concurring the judgment
of the circuit court is affirmed.

Wm. M. Davies

Virginia L. Miner et al
Appellants
vs
Reese Happersett
Respondent

Opinion per
Curiam

Judgment affirmed

Filed May 7, 1873

J. Woodbury
Clk

The State of Missouri, ss.

The State of Missouri, to the Honorable the Judges of the Eighth Judicial Circuit in said State—Greeting:

WHEREAS, In the record and proceedings in a certain cause lately pending in the St. Louis Circuit Court, wherein Virginia L. Minor and Francis Minor her husband were plaintiffs, and Reese Happersett was defendant, in a civil action, manifest error hath intervened, to the great damage of said Plaintiffs as by their complaint we are informed.

NOW, being willing that the error, if any there be, should be corrected, and full and speedy justice done to the parties aforesaid, in that behalf, COMMAND YOU, that you send to us, certified under your seal, the record and proceedings in the cause aforesaid, as fully as the same remain of record before you in said Court, so that we may have them before us at our Supreme Court, to be begun and held in the city of St. Louis, in the County of St. Louis, in said State, on the third Monday in March next, so that the Judges of our Supreme Court, on inspecting the record and proceedings aforesaid, may cause to be further done therein, for correcting the error, what of right, and according to law, ought to be done.

Francis Minor

Witness, ANDREW W. MEAD, Clerk of our said Supreme Court, with the Seal thereof hereunto affixed, at office in the city of St. Louis, the Fourth day of Febuary, in the year of our Lord one thousand eight hundred and ~~sixty~~ seventy three

Francis Minor, Clerk.

per A. F. Baier Dep.

STATE OF MISSOURI, } ss.
County of St. Louis }

I, John Lewis

Clerk of the Circuit Court within and for the County aforesaid, in obedience to the mandate of the within writ, herewith transmit to the Honorable Supreme Court of the State of Missouri, held at St. Louis, a full, true and complete transcript of the record and proceedings in the within entitled cause, as fully as the same remain of record in my office.

In Testimony Whereof, I hereto set my hand and affix the Seal of said Court, at office in the City of St Louis this 7th day of February 1865.

John Lewis, *Clerk.*

Ct. No. 193

In Supreme Court of Missouri

STATEMENT,

Mar. Term 1873

Judge Ewing

BRIEF AND PETITION,

IN THE CASE OF

Submitted under Rule XVII

VIRGINIA L. MINOR,
et. al.,
vs.
REESE HAPPERSETT.

Thos. M. Hodgen
Atty for Pltff in Error

Smith P. Gault,
Atty. for Dft. in Error

JOHN M. KRUM,
JOHN B. HENDERSON,
FRANCIS MINOR,
Attorneys for Plaintiff.

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This is an action, brought by the plaintiff, against the defendant, a registering officer, for refusing to register her as a lawful voter.

The defendant demurred to the petition, (a copy of which is appended hereto, for greater convenience,) the defense, in substance, being based upon the Constitution of Missouri, which provides, (Art.2, Sec. 18,) that "every *male* citizen of the United States, &c., * * * * shall be entitled to vote;"—and also upon the registration law of said State, approved March 10th, 1871, to the same effect; and it is claimed, therefore, that the defendant was justified in refusing to register the plaintiff, on account of her sex.

The plaintiff, however, denies the validity of this clause of the Missouri Constitution, and the registration act based thereon, and contends that they are in violation of, and repugnant to, the Constitution of the United States, and particularly to those articles and clauses thereof, which she has specified in her petition.

It is admitted, by the pleadings, that the plaintiff is a native-born, free, white citizen of the United States, and of the State of Missouri, that the defendant is a Registrar, qualified and act-

PAGE

MISSING

ARGUMENT AND BRIEF.

We think the chief difficulty in this case, is one of fact, rather than of law. The practice is against the plaintiff. The States, with one exception, that we shall notice, hereafter, more in detail, have uniformly claimed and exercised the right to act, as to the matter of suffrage, just as they pleased—to limit or extend it, as they saw proper:—And this is the popular idea on the subject. Men accept it as a matter of fact, and take for granted it must be right. So in the days of African slavery, thousands believed it to be right—even a Divine institution. But this belief has passed away; and, in like manner, this doctrine of the right of the States to exercise unlimited and absolute control over the elective franchise of citizens of the United States, must and will give way, to a truer and better understanding of the subject.

The plaintiff's case, is simply one of the means by which this end will ultimately be reached.

We claim, and presume it will not be disputed, that the elective franchise is a privilege of citizenship, within the meaning of the Constitution of the United States. In order to get a clearer idea of the true meaning of this term citizenship, it

may be well to recur, for a moment, to its first introduction and use in American law.

Before the colonists asserted their independence, they were politically bound to the sovereign of Great Britain, by what is termed, in English law, "allegiance;" and those from whom this allegiance was due, were termed "subjects." But when these "bands," as they are termed in the Declaration of Independence, were dissolved, the political relation became changed, and we no longer hear in the United States, the terms "subject" and "allegiance," except the latter, which is used to express the paramount duty of our citizens to our own Government. The term citizen was substituted for that of "subject."

But this was not a mere change of name: the men who framed the Constitution of the United States, had all been "subjects" of the English king, and they well knew the radical change wrought by the Revolution.

In the new political sovereignty thus created, the feudal idea of dependence, gave way to that of *independence*, and the people became their own sovereigns or rulers, in the government of their own creation. Of this Body Politic, represented by the Constitution of the United States, all persons born, or naturalized therein, and subject to the jurisdiction thereof, are members; without distinction as to political rights or privileges, except that the head or chief of the new government must be native-born—and this exception the more strongly proves the rule. *It is to this Constitution*, therefore, we must look, for the limitations, if any, that may be placed upon the political rights of the people or citizens of the United States.

A limitation not found there; or authorized by that instrument, cannot be legally exercised by any lesser or inferior jurisdiction.

But the subject of suffrage, (or the qualifications of electors, as the Constitution terms it,) is simply remitted to the States by the Constitution, to be regulated by them; not to limit or restrict the right of suffrage, but to carry the same fully into effect. It is impossible to believe that anything more than this was intended. In the first place, it would be inconsistent and at variance with the idea of the supremacy of the Federal Government; and, next, if the absolute, ultimate and unconditional control of the matter had been intended to be given to the States, *it would have been so expressed*. It would not have been left to doubt or implication. In so important a matter as suffrage, the chief of all political rights or privileges, by which, indeed, life, liberty and all others are guarded and maintained, and without which they would be held completely at the mercy of others, we repeat, it is impossible to conceive that this was intended to be left wholly and entirely at the discretion of the States.

A right so important must not be the subject of implication. Some positive warrant or authority must be shown for it, and, in the case at bar, we challenge its production. There is another view of the subject that is important to be considered There can be no division of citizenship, either of its rights or its duties. There can be no *half way* citizenship. Woman, as as a citizen of the United States, is entitled to *all* the benefits of that position, and liable to all its obligations, *or to none*. Only citizens, are permitted to pre-empt land, obtain passports, &c., all of which woman can do; and,on the other hand, she is taxed, (without her "consent,") in further recognition of her citizenship;—and yet, as to this chief privilege of all, she is forbidden to exercise it. We call upon the State to show its warrant for so doing—for inflicting upon the plaintiff and the class to which she belongs, the bar of *Perpetual Disfranchisement*, where no crime or offence is alleged or pretended, and without "due process of law."

We charge it as a "bill of attainder," of the most odious and oppressive character. The State can no more deprive a citizen of the United States of one privilege, than of another, except by the "law of the land." There is no security for freedom, if this be denied. To use the language of Mr.

Madison, such a course "violates the vital principle of free government, that those who are to be bound by laws, ought to have a voice in making them."—Madison Papers, vol. 3—Appendix, p. 12.

It is some times said, this is one of the "*reserved* rights" of the States. But this cannot be, for the simple reason, that, as to the "privileges and immunities" of Federal citizenship, they had no existence prior to the adoption of the federal Constitution; how, then, could they be reserved.

As Mr. Justice Story says:—"The States can exercise no powers whatsoever, which exclusively spring out of the existence of the National Government, which the Constitution does not delegate to them. * * * No State can say that it has reserved what it never possessed."—Commentaries § § 624–627.

We say, then, that the States may regulate, but they have no right to prohibit the franchise to citizens of the United Sates. They may prescribe the qualifications of the electors. They may require that they shall be of a certain age, be of sane mind, be free from crime, &c., because these are conditions for the good of the whole, and to which all citizens, sooner or later, may attain. But to single out a class of citizens, and say to them, "Notwithstanding you possess all these qualifications, you shall never vote, or take part in your Government," what is it but a bill of attainder?

To show that the mere regulation of this matter of suffrage, was left to the States, for the purpose we have indicated, and not to their absolute and ultimate control, we will now quote the language of one of the framers of the Constitution, to whom, indeed, has been applied the epithet of "Father of the Constitution"—James Madison; and this, too, in reply to questions by Mr. Monroe, who sought an explanation on these very points. We quote from the Debates in the Virginia Convention, upon the adoption of the Federal Constitution:

"Mr. Monroe wished that the honorable gentleman who had been in the Federal Convention, would give information respecting the clause concerning elections. He wished to know why Congress had an ultimate control over the time, place and manner of elections of representatives, and the time and manner of that of Senators, and also why there was an exception as to the *place* of electing Senators.

"Mr. Madison.—Mr. Chairman, the reason of the exception was, that if Congress could fix the *place* of choosing the Senators, it might compel the State legislatures to elect them in a different place from that of their usual sessions, which would produce some inconvenience, and was not necessary for the object of regulating the elections. But it was necessary to give the General Government a control over the time and manner of choosing the Senators, to prevent its own dissolution.

"With respect to the other point, it was thought that the regulation of time, place and manner of electing the representatives, should be uniform throughout the continent. Some States might regulate the elections on the principles of equality, and others might regulate them otherwise. This diversity would be obviously unjust. Elections are regulated now unequally in some States, particularly South Carolina, with respect to *Charleston*, which is represented by thirty members.

"Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government.

"It was found impossible to fix the time, place and manner of the election of representatives, in the Constitution. It was found necessary to leave the regulation of these, in the first place, to the State Government, as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity, and prevent its own dissolution. And, considering the State Governments and General Government as distinct bodies, acting in different and independent capacities for the people, it

was thought the particular regulations should be submitted to the former, and the general regulations to the latter. *Were they exclusively under the control of the State Governments, the General Government might easily be dissolved.*

"But, if they be regulated properly by the State legislature, the Congressional control will very properly never be exercised. The power appears to me satisfactory, and as unlikely to be abused as any part of the Constitution."—*Elliot's Debates*, Vol. 2, pages 276–7.

It seems to us, that nothing can be clearer or plainer than this, coming to us, as it does, with all the weight and authority of Mr. Madison himself. But, it may be asked, if this be so, why was not the question sooner raised? We answer, *At that very time*, and for nearly twenty years afterwards, *women did vote*, unquestioned and undisputed, in one of the States (New Jersey). The men who framed the Constitution were then living—some of them in this very State—yet we hear no mention of its being unconstitutional; no objection made to it whatever.

It is true that subsequently this provision was omitted, (about 1807) in the revisal of the State Constitution, (as we think, very unjustly,) but the fact remains, of the unquestioned exercise of this privilege, by women, at the very time the Federal Constitution was adopted, and for years afterwards. This fact is worth a thousand theories.

Again: we think that one of the causes of the popular error, on this subject, arises from forgetting or overlooking the *dual* nature of our citizenship.

We are citizens of a State, as well as of the United States. This is alluded to in several of the early cases, and its importance is clearly pointed out. We quote first from Talbot *vs.* Jansen, 3 Dallas Sup. Ct. Rep., 153—(1795)—in which Mr. Justice Patterson says:—The act of the legislature of Virginia does not apply. Ballard was a citizen of Virginia, and also of the United States. If the legislature of Virginia pass an act specifying the causes of expatriation, and prescribing the manner in which it is to be effected, by the citizens of that State, what can be its operation on the citizens of the United States?

If the act of Virginia affects Ballard's citizenship, so far as respects that State, can it touch his citizenship, so far as regards the United States? Allegiance to a particular State is one thing; allegiance to the United States is another. Will it be said, that the renunciation of allegiance to the former, implies or draws after it a renunciation of allegiance to the latter? The sovereignties are different; the allegiance is different; the right, too, may be different. Our situation being new, unavoidably creates new and intricate questions. We have sovereignties moving within a sovereignty.

Judge Cabell, also, of the Supreme Court of Appeals of Virginia, alludes to it briefly, in the case of Murray *vs.* McCarty, 2 Munford, 398. He says:—But although the Constitution of the *United States* has wisely given to the citizen of each State the privileges of a citizen of any other State, yet it clearly recognizes the distinction between the character of a citizen of the *United States*, and a citizen of any *individual State*; and also of citizens of *different States*, &c.

Or, if a still further and later authority be desired, we have it in the language of Chief Justice Taney, who says, in the Dred Scott case:—"In discussing this question, we must not confound the rights of citizenship, which a State may confer within its own limits, and the rights of citizenship as a member of the Union. It does not, by any means follow, because he has all the rights and privileges of a citizen of a State, that he must be a citizen of the United States.———But, if he rank as a citizen of the State to which he belongs, within the meaning of the Constitution of the United States, then, whenever he goes into another State, the Constitution clothes him, as to the rights of person, with all the privileges and immunities which belong to citizens of the State. And if persons of the African race are citizens of a State, and of the United States, they would be

entitled to all of these privileges and immunities, in every State, and the State could not restrict them; *for they would hold these privileges and immunities under the paramount authority of the Federal Government, and its courts would be bound to maintain and enforce them,* THE CONSTITUTION AND LAWS OF THE STATE TO THE CONTRARY NOTWITHSTANDING.

And, if the States could limit or restrict them, or place the party in an inferior grade, this clause of the Constitution would be unmeaning, and could have no operation; and would give no rights to the citizen when in another State. He would have none but what the State itself chose to allow him. This is evidently not the construction or meaning of the clause in question. It guaranties rights to the citizen, and the State cannot withhold them."—Dred Scott *vs.* Sandford, 19 Howard's Rep., p. 405 and 422.

Now, substitute in the above, for "persons of the African race," *Women*, who are "citizens of the State and of the United States," and you have the key to the whole position.

We will now consider the clauses of the Constitution before recited, somewhat in detail:—

AS TO "BILLS OF ATTAINDER—"DUE PROCESS OF LAW," &c

"No State shall pass any bill of attainder," &c. "A bill of attainder is a legislative act which inflicts punishment without a judicial trial. If the punishment be less than death, the act is termed a bill of pains and penalties. Within the meaning of the Constitution, bills of attainder include bills of pains and penalties. In these cases the legislative body, in addition to its legitimate functions, exercises the powers and office of judge; it assumes, in the language of the text books, judicial magistracy, it pronounces upon the guilt of the party, without any of the forms or safeguards of trial; it determines the sufficiency of the proofs produced, whether conformable to the rules of evidence or otherwise, and it fixes the degree of punishment in accordance with its own notions of the enormity of the offense. These

bills are generally directed against individuals by name, but they may be directed against a whole class.

The theory upon which our political institutions rest is, that all men have certain inalienable rights—that among these are life, liberty and the pursuit of happiness; and that, in the pursuit of happiness, all avocations, all honors, all positions are alike open to every one, and that, in the protection of these rights, all are equal before the law. Any deprivation or suspension of any of these rights for past conduct is punishment, and can be in no otherwise defined.

Punishment not being, therefore, restricted, as contended by counsel, to the deprivation of life, liberty, or property, but also embracing deprivation or suspension of political or civil rights, and the disabilities prescribed by the provisions of the Missouri Constitution being in effect punishment, we proceed to consider whether there is any inhibition in the Constitution of the United States against their enforcement."—Cummings *vs.* The State of Missouri, 4 Wallace, 321–323, and, *ex parte* Garland.—Same Volume.

We are aware that the Supreme Court of Missouri, in the case of Blair *vs.* Ridgley, hold a different view, but we submit that the cases differ in a most material point, to wit:—In the Blair case, he was merely required to take the oath taken by all voters; and, by refusing to do so, *he virtually disfranchised himself.* In this case, however, the disfranchisment of the plaintiff is arbitrary and insurmountable;—and we further submit, that the arguments in this case present it in a different, and, we think, a broader view, than was taken in the Blair case. But to show that we are not unsupported by authority in this matter, we will now quote from a New York case, very similar to the Blair case, where the elector was required, but refused to take the oath, &c.

MILLER, J. This case involves the constitutional validity of that portion of the act to provide for a convention to revise and amend the Constitution of this State, which excludes from the

privilege of voting all who refuse to take the test oath prescribed by the act in question.

I think that the oath in question was unconstitutional and invalid, for the reasons which I will proceed to state. The first subdivision of the tenth section of the first article of the Constitution of the United States provides, that "no State shall pass any bill of attainder, *ex post facto* law, or laws impairing the obligations of contracts, or grant any title of nobility." The provision of the act which is to be considered declares, that no person shall vote at the election for delegates to said convention, who will not, if duly challenged, take and subscribe an oath that he has not done certain acts mentioned therein, and inflicts the penalty of political disfranchisement, without any preliminary examination or trial, for a refusal to take said oath.

By this enactment, the citizen is deprived, upon declining to conform to its mandate, of a right guaranteed to him by the Constitution and laws of the land, and of one of the most inestimable and invaluable privileges of a free government. There can be no doubt, I think, that to deprive a citizen of the privileges of exercising the elective franchise, for any conduct of which he has previously been guilty, is to inflict a punishment for the act done.

It imposes upon him a severe penalty, which interferes with his privileges as a citizen, effects his respectability and standing in the community, degrades him in the estimation of his fellow men, and reduces him below the level of those who constitute the great body of the people of which the government is composed. It moreover inflicts a penalty which, by the laws of this State, is a part of the punishment inflicted for a felony, and which follows conviction for such a crime. It is one of the peculiar characteristics of our free institutions, that every citizen is permitted to enjoy certain rights and prvileges, which place him upon an equality with his neighbors. Any law which takes away or abridges these rights, or suspends their exercise, is not only an infringement upon their enjoyment, but an actual pun-

ishment. That such is the practical effect of the test oath required by the act in question, can admit of no doubt, in my judgment. It arbitrarily and summarily, and without any of the forms of law, punishes for an offence created by the law itself. In the formation of our National Constitution, its framers designed to prevent and guard against the exercise of the power of the legislature, by usurping judicial functions, and for the punishment of alleged offenses in advance of trial, for offences unknown to the law, and by bill of attainder and *ex post facto enactments*, &c. Green *vs.* Shumway, 36 Howard's Practice Rep: p. 7, 8.

On the same subject we will next quote from a decision by the Supreme Court of Nevada.

LEWIS, C. J.—The *form* of the law, by which an individual is deprived of a constitutional right, is immaterial. The test of its constitutionality is, whether it operates to deprive any person of a right guaranteed or given to him by the constitution. If it does, it is a nullity whatever may be its form. Surely, a law which deprives a person of a right, by requiring him to take an oath which he cannot take, is no less objectionable, than one depriving him of such right in direct terms.

To make the enjoyment of a right depend upon an impossible condition, or upon the doing of that which cannot legallg be done, is equivalent to an absolute denial of the right under any condition. The effect, and not the language of the law in such case, must determine its constitutionality. It would not be doubted for a moment that a law expressly denying the elective franchise, to any person upon whom the Constitution confers it, would be unconstitutional. Why, then, is a law less objectionable, which, altho' not expressly and directly, yet no less certainly, denies the right," &c.—Davies *vs.* McKeeby, 5 Nevada Rep. 7, 371.

We quote, next, from a Tennessee case:

The elective franchise is a right which the law protects and enforces as jealously as it does property in chattels or lands. It matters not by what name it is designated—the right to vote;

the elective franchise; or the privilege of the elective franchise —the person who, under the Constitution and laws of the State, is entitled to it, has a property in it, which the law maintains and vindicates as vigorously as it does any right of any kind which men may have and enjoy.

The rules of law which guard against deprivation or injury, the rights of persons in corporeal properties, are alike and equally applicable to the elective franchise, and alike and equally guard persons invested with it, against deprivation of, or injury to it. Persons invested with it, cannot be deprived of it, otherwise than by "due process of law."—The State *vs.* Staten, 6 Caldwell's Rep., p. 243. See also, Rison *vs.* Farr, 25 Ark. Rep., p. 175; Winehamer *vs.* People, 13 N. Y. 378; State *vs.* Symonds 57 Maine, 150; Green *vs.* Briggs, 1 Curtis, 311; Embury *vs.* Connor, 3 Coms, 511 Huber *vs.* Riley, 53 Penn., 112; Cooley's Constitutional Limitations.

We conclude this list of references, with Mr. Webster's celebrated definition in the Dartmouth College case, 4 Wheaton, 581.

"By the law of the land is most clearly intended the general law; a law which hears before it condemns; which proceeds upon inquiry, and renders judgment only after trial. The meaning is, that every citizen shall hold his life, liberty, property and immunities under the protection of the general rules which govern society. Everything which may pass under the form of an enactment, is not therefore to be considered the law of the land. If this were so acts of attainder, bills of pains and penalties, acts of confiscation, acts reversing judgments, and acts directly transferring one man's estate to another, legislative judgments, decrees and forfeiture, in all possible forms would be the law of the land.

Such a strange construction would render constitutional provisions of the highest importance completely inoperative and void. It would tend directly to establish the union of all powers

in the legislature. There would be no general permanent law for courts to administer, or for men to live under.

"The administration of justice would be an empty form—an idle ceremony. Judges would sit to execute legislative judgments and decrees; not to declare the law, or to administer the justice of the country."

That the elective franchise is a privilege of citizenship, we have the authority of Judge Washington, for he says: "What are the privileges and immunities of citizens in the several States? We feel no hesitation in confining these expressions to those privileges and immunities which are in their nature *fundamental;* which belong of right to the citizens of all free governments; and which have, at all times, been enjoyed by the citizens of the several States which compose this Union, from the time of their becoming free, independent and sovereign. What those fundamental principles are, it would perhaps be more tedious than difficult to enumerate.

"They may, however, be all comprehended under the following general heads: protection by the government, the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety, subject, nevertheless, to such restraints as the government may justly prescribe for the general good of the whole. The right of a citizen of one State to pass through, or to reside in any other State, for purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefit of the writ of *habeas corpus;* to institute and maintain actions of every kind in the courts of the State; to take, hold, and dispose of property, either real or personal; and an exemption from higher taxes or impositions than are paid by the citizens of the other State, may be mentioned as some of the particular privileges and immunities of citizens, which are clearly embraced by the general description of privileges deemed to be fundamental; to which may be added, THE ELECTIVE FRANCHISE, as regulated and established by the laws

C 7950 SETTLEMENTS

or Constitution of the State in which it is to be exercised."—Corfield *vs.* Corryell, 4 Wash. C. C., 380.—Cited and approved in Dunham *vs.* Lamphere, 3 Gray, 276, (Mass.); Bennett *vs.* Boggs, Baldwin Rep., 72.

RÉSUMÉ.

1. As a *citizen* of the United States, the Plaintiff is entitled to any and all the "privileges and immunities" that belong to such position however defined; and as are held, exercised and enjoyed by other citizens of the United States.

2. The elective franchise is a "privilege" of citizenship, in the highest sense of the word. It is the privilege preservative of all rights and privileges; and especially of the right of the citizen to participate in his or her government.

3. The denial or abridgment of this privilege, if it exist at all, must be sought only in the Fundamental Charter of government—the Constitution of the United States. If not found there, no inferior power or jurisdiction can legally claim the right to exercise it.

4. But the Constitution of the United States, so far from recognizing or permitting any denial or abridgment of the privileges of its citizens, expressly declares that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

5. It follows that the provisions of the Missouri Constitution and Registry law before recited, are in conflict with, and must yield to the paramount authority of the Constitution of the United States.

A few words more, and we have done. The plaintiff has sought, by this action, for the establishment of a great principle of fundamental right, applicable not only to herself but to the class to which she belongs: for the principles here laid down, (as in the Dred Scott case,) extend far beyond the limits of the particular suit, and embrace the rights of millions of others, who are thus represented through her.

She has a right, therefore, to be heard for her cause; and in making this plea, she seeks only to give expression to those principles upon which, as upon a rock, our government is founded.

It is impossible that that can be a republican government, in which one half the citizens thereof are forever disfranchised.

A citizen disfranchised, is a citizen attainted; and this, too, in face of the fact, that you look in vain in the great charter of government, the Constitution of the United States, for any warrant or authority for such discrimination.

To that Instrument she appeals for protection.

A PETITION,

IN THE CIRCUIT COURT OF SAINT LOUIS COUNTY,

DECEMBER TERM, 1872.

ST. LOUIS COUNTY. } SS.

VIRGINIA L. MINOR AND FRANCIS MINOR, HER HUSBAND, PLAINTIFFS *v.* REESE HAPPERSETT, DEFENDANT.

The plaintiff, Virginia L. Minor, (with whom is joined her husband, Francis Minor, as required by the law of Missouri,) states, that under the Constitution and law of Missouri, all persons wishing to vote at any election, must previously have been registered in the manner pointed out by law, this being a condition precedent to the exercise of the elective franchise.

That on the fifteenth day of October, 1872, (one of the days fixed by law for the registration of voters) and long prior thereto, she was a native born free, white citizen of the United States, and of the State of Missouri, and on the day last mentioned, she was over the age of twenty-one years.

That on said day, the plaintiff was a resident of the thirteenth election district of the city and county of St. Louis, in the State of Missouri, and had been so residing in said county and election district, for the entire period of twelve months and more,

immediately preceding said fifteenth day of October, 1872, and for more than twenty years had been and is, a tax-paying, law-abiding citizen of the county and State aforesaid.

That on said last mentioned day, the defendant, having been duly and legally appointed Registrar for said election district, and having accepted the said office of Registrar and entered upon the discharge of the duties thereof at the office of registration, to wit: No 2004 Market street, in said city and county of St. Louis, it became and was, then and there his duty to register all citizens, resident in said district as aforesaid, entitled to the elective franchise, who might apply to him for that purpose.

The plaintiff further states, that wishing to exercise her privilege as a citizen of the United States, and vote for Electors for President and Vice President of the United States, and for a Representative in Congress, and for other officers, at the General Election held in November, 1872:—While said defendant was so acting as Registrar, on said 15th day of October, 1872, she appeared before him, at his office aforesaid, and then and there offered to take and subscribe the oath to support the Constitution of the United States and of the State of Missouri, as required by the registration law of said State, approved March 10th, 1871, and respectfully applied to him to be registered as a lawful voter, which said defendant then and there refused to do.

The plaintiff further states, that the defendant, well knowing that she, as a citizen of the United States and of the State of Missouri, resident as aforesaid, was then and there entitled to all the privileges and immunities of citizenship, chief among which is the elective franchise, and as such, was entitled to be registered, in order to exercise said privilege:—yet, unlawfully intending, contriving and designing to deprive the plaintiff of said franchise or privilege, then and there knowingly, wilfully maliciously and corruptly refused to place her name upon the list of registered voters, whereby she was deprived of her right to vote.

Defendant stated to plaintiff, that she was not entitled to be

registered, or to vote, because she was not a "male" citizen, but a woman!

That by the constitution of Missouri, article 2, sec. 18, and by the aforesaid registration law of said State, approved March 10, 1871, it is provided and declared, that only "male citizens" of the United States, &c., are entitled or permitted to vote.

But the plaintiff protests against such decision, and she declares and maintains that said provisions of the Constitution and registration law of Missouri aforesaid, are in conflict with, and repugnant to the Constitution of the United States, which is paramount to State authority; and that they are especially in conflict with the following articles and clauses of said Constitution of the United States, to wit:

Art. 1. Sec. 9.	Which declares that no Bill of Attainder shall be passed.
" 1. " 10.	No State shall pass any Bill of Attainder, or grant any title of nobility.
" 4. " 2.	The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.
" 4. " 4.	The United States shall guarantee to every State a Republican form of government.
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Art. 5.	de- perty,
" 9.	ion of strued

to deny or disparage others retained by the people.

" 14. Sec. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law, which shall abridge the privileges or immunities of citizens of the United States. Nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction, the equal protection of the laws.

The plaintiff states, that by reason of the wrongful act of the defendant as aforesaid, she has been damaged in the sum of ten thousand dollars, for which she prays judgment.

JOHN M. KRUM,
FRANCIS MINOR,
JOHN B. HENDERSON,
} *Attorneys for Plaintiffs.*

IN THE SUPREME COURT,

OF THE

STATE OF MISSOURI.

VIRGINIA L. MINOR, *et al.* P. E.
vs.
REESE HAPPERSETT, D. E.

BRIEF OF DEFENDANT IN ERROR.

As the plaintiff anticipating the judgment of this Court, is very desirous of getting an Appeal to The United States Supreme Court so soon as possible, and is fearful this case may not be reached on the Docket at this Term, I have consented to submit it under Rule 17, and have therefore no time to furnish an argument *in extenso*, and which the serious import of the question involved in this cause might seem to demand.

But I do it the more readily as I take it, the law is so clearly settled that females cannot vote in The State of Missouri, or in any other State whose Constitution limits Elective Franchise to males, that this Court does not need the aid of an attorney's research of authorities or argument upon the question.

The plaintiff admits that by the Constitution of this State, the right to vote is limited to "males," and That by Section 2d of Article 1st of the Constitution of the United States the qualifications requisite for electors is left to the States; but claims the right under the sweeping terms of Section 1st of the 14th Amendment to the Constitution of the United States which is in the following words:—

"Art. XIV. Sec. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws;"

arguing that the right to vote is one of the "privileges of a citizen;" that the plaintiff is a person born in the United States and subject to the jurisdiction thereof; that "*all persons* born in the United States and subject to the jurisdiction thereof are citizens of the United States and of the States wherein they reside," and therefore the right to vote belongs to her.

But the history of this XIV Amendment, and the invidious distinctions of State Legislation which it was intended to destroy, are too fresh in the minds of every one, to suppose for a moment that it was intended to embrace anything more than a Declaration of the Rights of those, which on account of color or

race were in jeopardy through the passion and prejudice of State Legislatures; or that it was intended to break up the old foundations of Government, by admiting into its participation, all humanity that breathes the breath of life; for if all "persons" means all human creatures as plaintiff's argument would claim, for they will not limit its wide embrace, then neither age nor sex is any barrier, and children and puling infants in their nurses arms can vote. The mere statement of the proposition is its own *argumentum ad absurdum*.

But were this not so, Section 2d of this XIV Amendment, which is in the following words:

Sec. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the *male* inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such *male* citizens shall bear to the whole number of *male* citizens twenty-one years of age in such State,"

shows so cearly, that he who reads can run, and he who runs can read, and understand that the 1st Section did not by its terms, "the privileges or immunities of citizens "intend to create any *new* privileges, or immunities or extend one of the old established privileges,—the right to vote—to any other persons than "male citizens twenty-one years of age."

The Supreme Court of our Sister State of Illinois may take up their lamentation that, as to married persons' rights in that State, the old foundations and superstructure of the law, established in the light and learning of the centuries, have been swept away by the innovations of the Latter Day Saints of the Legislature (vide Martin v. Robson not yet reported); but nevertheless we are not yet ready to admit that "all things have become new" in Law, that all the fundamental principles of our Economy are broken up, and Government rests on Chaos.

SMITH P. GALT,
Att'y for Deft. in Error.

State of Missouri
County of Saint Louis } ss

Be it remembered that heretofore to wit: On the ninth Day of November in the year of our Lord Eighteen hundred and seventy two there was filed in the Office of the Clerk of the Circuit Court of St Louis County a petition which is in words and figures following to wit

Petition

A PETITION,

IN THE CIRCUIT COURT OF SAINT LOUIS COUNTY,

DECEMBER TERM, 1872.

ST. LOUIS COUNTY. } ss.

VIRGINIA L. MINOR AND FRANCIS MINOR, HER HUSBAND, PLAINTIFFS *v.* REESE HAPPERSETT, DEFENDANT.

The plaintiff, Virginia L. Minor, (with whom is joined her husband, Francis Minor, as required by the law of Missouri,) states, that under the Constitution and law of Missouri, all persons wishing to vote at any election, must previously have been registered in the manner pointed out by law, this being a condition precedent to the exercise of the elective franchise.

That on the fifteenth day of October, 1872, (one of the days fixed by law for the registration of voters) and long prior thereto, she was a native born free, white citizen of the United States, and of the State of Missouri, and on the day last mentioned, she was over the age of twenty-one years.

That on said day, the plaintiff was a resident of the thirteenth election district of the city and county of St. Louis, in the State of Missouri, and had been so residing in said county and election district, for the entire period of twelve months and more, immediately preceding said fifteenth day of October, 1872, and for more than twenty years had been and is, a tax-paying, law-abiding citizen of the county and State aforesaid.

That on said last mentioned day, the defendant, having been duly and legally appointed Registrar for said election district, and having accepted the said office of Registrar and entered upon the discharge of the duties thereof at the office of registration, to wit: No 2004 Market street, in said city and county of St. Louis, it became and was, then and there his duty to register all citizens, resident in said district as aforesaid, entitled to the elective franchise, who might apply to him for that purpose.

The plaintiff further states, that wishing to exercise her privilege as a citizen of the United States, and vote for Electors for President and Vice President of the United States, and for a Representative in Congress, and for other officers, at the General Election held in November, 1872:—While said defendant was so acting as Registrar, on said 15th day of October, 1872, she appeared before him, at his office aforesaid, and then and

there offered to take and subscribe the oath to support the Constitution of the United States and of the State of Missouri, as required by the registration law of said State, approved March 10th, 1871, and respectfully applied to him to be registered as a lawful voter, which said defendant then and there refused to do.

The plaintiff further states, that the defendant, well knowing that she, as a citizen of the United States and of the State of Missouri, resident as aforesaid, was then and there entitled to all the privileges and immunities of citizenship, chief among which is the elective franchise, and as such, was entitled to be registered, in order to exercise said privilege:—yet, unlawfully intending, contriving and designing to deprive the plaintiff of said franchise or privilege, then and there knowingly, wilfully maliciously and corruptly refused to place her name upon the list of registered voters, whereby she was deprived of her right to vote.

Defendant stated to plaintiff, that she was not entitled to be registered, or to vote, because she was not a "male" citizen, but a woman!

That by the constitution of Missouri, article 2, sec. 18, and by the aforesaid registration law of said State, approved March 10, 1871, it is provided and declared, that only "male citizens" of the United States, &c., are entitled or permitted to vote.

But the plaintiff protests against such decision, and she declares and maintains that said provisions of the Constitution and registration law of Missouri aforesaid, are in conflict with, and repugnant to the Constitution of the United States, which is paramount to State authority; and that they are especially in conflict with the following articles and clauses of said Constitution of the United States, to wit:

Art. 1. Sec. 9.	Which declares that no Bill of Attainder shall be passed.
" 1. " 10.	No State shall pass any Bill of Attainder, or grant any title of nobility.
" 4. " 2.	The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.
" 4. " 4.	The United States shall guarantee to every State a Republican form of government.
" 6.	This Constitution and the laws of the United States which shall be made in pursuance thereof, shall be the Supreme law of the land, anything in the Constitutions or laws of any State to the contrary notwithstanding.

AMENDMENTS.

Art. 5.	No person shall be * * * * deprived of life, liberty or property, without due process of law.
" 9.	The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

3

> " 14. Sec. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law, which shall abridge the privileges or immunities of citizens of the United States. Nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction, the equal protection of the laws.
>
> The plaintiff states, that by reason of the wrongful act of the defendant as aforesaid, she has been damaged in the sum of ten thousand dollars, for which she prays judgment.
>
> JOHN M. KRUM,
> FRANCIS MINOR,
> JOHN B. HENDERSON, } *Attorneys for Plaintiffs.*

To which petition on the 2nd day of January A.D. 1873 a demurrer was filed which is in words and figures following to wit:

Demurrer

Virginia L. Minor and Francis Minor her husband plaintiffs } In the Circuit Court of St. Louis County
vs
Reese Happersett Defendant

The Defendant Reese Happersett demurs to the petition of plaintiff and for cause of Demurrer Defendant says
That said petition does not state facts sufficient to constitute a cause of action for the following reasons;
1st. Because said Virginia L. Minor plaintiff had no right to vote at the General Election held in November 1872 in said petition referred to.
2nd. Because said Virginia L. Minor had no right to be registered for voting by said Defendant at the time and in the manner in said petition alleged
3d. Because it was the duty of the Defendant to refuse to place said Virginia L. Minor's name upon the list of registered voters in said petition referred to, all of which appears by said petition

Smith P. Galt
Atty for Deft.

And at a Special Term of said Circuit Court being at the December Term A.D 1872 the following proceedings were had in said cause to wit

Thursday January 2nd 1873.

Demurrer sustained Final Judgment and appeal allowed to General Term

Virginia L Minor and Francis Minor her husband vs Reese Happersett

Now at this Day there is filed a Demurrer to the plaintiffs petition, and the same being submitted to the Court and the Court being fully advised thereof, doth order that said Demurrer be sustained. The plaintiffs declining to plead further, it is on motion of said Defendant by his attorney ordered that final Judgment be rendered herein. It is therefore considered by the Court that the plaintiffs take nothing by their suit in this behalf, and that said Defendant go hereof without Day and recover of the plaintiffs his costs and charges herein expended and that Execution issue therefor. On motion of the plaintiffs by their attorneys, an appeal is allowed them to the General Term of this Court from the Judgment rendered herein

And at a General Term of said Court being at the February Term A.D 1873. the following further proceedings were had in said cause to wit

Monday February 3rd 1873

Judgment affirmed

Virginia L Minor and Francis Minor her husband vs Reese Happersett

Now come the parties by their respective attorneys, and the Court being now sufficiently advised of and concerning the premises doth consider and adjudge, that the Judgment rendered by the Court at Special Term be and the same is in all things hereby affirmed at plaintiffs costs and that execution issue therefor.

Certificate

State of Missouri }
County of St Louis } ss

I, John Lewis Clerk of the Circuit Court within and for the County of St Louis certify the foregoing to be a true full and complete transcript of all the proceedings had in the above entitled cause as fully as the same remain of record and on file in my Office

In Testimony Whereof I hereto set my hand and affix the seal of said Court at Office in the City of St Louis this seventh Day of February A D 1873

John Lewis Clerk

Index

	Page
Petition	1
Demurrer	3
Demurrer sustained final Judgment and appeal allowed to General Term	4
Judgment affirmed	
Certificate and Index	5

Please put Eyelets or Tape at marks above.

OFFICE OF

Clerk of the Supreme Court

OF MISSOURI.

St. Louis, ... *187*

INSTRUCTIONS.

It is made the duty of the Circuit Clerk to append to the Transcript of the Record for the Supreme Court, on Appeals and Writs of Error, **A CONCISE INDEX,** referring by numbers to the pages containing the proceedings, and giving in detail each step, from the beginning to the close. See section 30, chap. 38, p. 346 Wag. Statutes.

The following is given as a specimen of the proper mode for the commencement of the Index referred to.

INDEX.	PAGE.
Summons	1
Sheriff's Return	
Answer	
Reply	

&c., &c., &c.

The Docket Fee of $10 must accompany the Transcript in all cases to insure its being docketed, and the papers must reach this office at least 15 days before the Term to which they are returnable. A good and sufficient appeal bond should be taken.

This sheet is intended for the outside cover of the Transcript, and must be correctly endorsed by the Circuit Clerk, with the style of the case, giving full names of parties, attorneys, &c., in the blank spaces left for that purpose.

Leave the blanks for the Number, Term and Docket Fee unfilled.

The whole must be securely put together and fastened with tape or eyelets, or both, and folded to suit the endorsement.

Copies of Covers like this may be had upon application at this office, free of charge, except the postage, which must accompany the application.

FRANCIS MINOR, Clerk.

122 (15)

No. 122, March Term, 1873

№ 23934

Virginia L. Minor and
Francis Minor her husband
Pl'ffs

vs. } Transcript

Reese Happersett
Deft

Error to St. Louis Circuit Court.

8th Judicial Circuit.

John M. Krum, Francis Minor & John B. Henderson Att'ys for pl'ffs

Emil Pfaff Att'y for def't

Filed February 13th 1873

Francis Minor Clerk.

By D. H. Bacon D.C.

$ 3.50 Transcript Fee, paid by

$10.00 Docket Fee, paid by

Plaintiffs Exhibit Certificate XVIII Filed
Ex. relating to Naturalization
Exhibited Feb 13 1873
May 7 1873 Adjourned Opinion filed

Virginia L. Minor, etal
vs
Reese Happersett

P. E.-
D. E.-

IN SUPREME COURT
OF THE STATE OF MISSOURI,
March TERM, 1875

And now come the said Plaintiffs in Error and say, that in the record and proceedings of the court below, in the above entitled cause, there is manifest error, and for error said Plaintiffs in Error assign the following, to-wit:

1. That said Court admitted improper and illegal testimony offered by .....
2. That said Court rejected proper and legal testimony offered by .....
3. That the Court gave to the Jury improper and illegal instructions.
4. That the Court refused to give to the Jury proper and legal instructions offered by .....
5. That the verdict was against the evidence.
6. That the verdict was against law.
7. That the verdict was against both law and evidence, and against the law under the evidence.
8. That the verdict was against the weight of evidence.
9. That the judgment was rendered in favor of the ..... when it should have been rendered for the .....

That said Court overruled the motion for a new trial, made by .....

The Court erred in Sustaining the Demurrer of Defendant - The Petition stated a good Cause of action -

John M. Krum
J. B. Henderson
Attys for Plff

And now come the Defendant in Error and, for joinder in error, say there is no error in the record and proceedings of said Court in said cause as assigned by said Plaintiff in Error

Smith B Gach
Atty for Dft.

No. 193

Virginia L. Minor et al
P. E.

vs

Reese Happersett
D. E.

ASSIGNMENT OF ERROR.

Filed April 3. 1875

David Wilson Clk.
by Jos. P. Bacon Dy

United States of America, ss:

The President of the United States,

L S

To the Honorable the Judges of the ~~District~~ Supreme Court of the ~~United~~ States, ~~for the Eastern District~~ of Missouri—GREETING:

BECAUSE, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said ~~District~~ Supreme Court, before you, at the March Term, 1873, thereof, between Virginia L. Minor and Francis Minor, her husband, plaintiffs, and Reese Happersett, defendant,

a manifest error hath happened, to the great damage of the said Virginia L. Minor and Francis Minor,

as by their complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the ~~Circuit~~ Supreme Court of the United States ~~for the Districts of Missouri,~~ together with this writ, so that you have the same at Washington, D. C., ~~St. Louis, Missouri,~~ on the second Monday of October next, in the said last mentioned ~~Circuit~~ Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said ~~Circuit~~ Supreme Court of the United States may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

WITNESS, the Honorable Salmon P. Chase Chief Justice of the said Supreme Court of the United States, this seventh day of May in the year of our Lord one thousand eight hundred and seventy-three.

Issued at office in the City of St. Louis, with the seal of the Circuit Court of the United States for the Eastern Districts of Missouri, dated as aforesaid.

Austin Drake
CLERK C. C. U. S. ~~MISSOURI~~ EASTERN DISTRICTS of MO.
by H. C. Geisberg, Deputy

ALLOWED BY

JUDGE.

United States Circuit Court,

Eastern
DISTRICTS OF MISSOURI.

Virginia L. Minor et al

Francis Minor, P. E.

vs.

Reese Happersett

D. E.

WRIT OF ERROR

To the ~~District~~ Supreme Court of the ~~United~~ States ~~for the Eastern District~~ of Missouri.

(Copy)

May 7. 73

RETURNED AND FILED,

....., 187

.....

CLERK.

KNOW ALL MEN BY THESE PRESENTS,

That we, Francis Miner, of the City and County of St. Louis and State of Missouri, as principal, and Henry Stagg, of the same City, County and State, as surety, are held and firmly bound unto Reese Kaspersett,

in the full and just sum of Five Hundred ——— Dollars, to be paid to the said Reese Kaspersett, his's

heirs, executors, administrators, or assigns: to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this Seventh day of May, in the year of our Lord one thousand eight hundred and seventy three.

WHEREAS lately at the March ——— term, A. D. 1873, of the ~~Circuit~~ Supreme Court of the ~~United~~ State~~s for the Eastern District~~ of Missouri in a suit depending in said Court, between Virginia L. Miner, and Francis Miner, her husband, plaintiffs, and Reese Kaspersett, ———— defendant, judgment was rendered against the said Virginia L. Miner and Francis Miner,

and the said Virginia L. Miner and Francis Miner ——— having obtained a writ of error of the said Supreme Court to reverse the judgment in the aforesaid suit, and a citation directed to the said Reese Kaspersett,

citing and admonishing him ——— to be and appear at a Supreme Court of the United States, to be holden at Washington the second Monday of October, ——— next.

Now the Condition of the above Obligation is such, That if the said Virginia L. Miner and Francis Miner ———

shall prosecute said writ to effect, and answer all damages and costs if they ——— fail to make good their ——— plea, then the above obligation to be void, else to remain in full force and virtue.

SEALED AND DELIVERED IN PRESENCE OF

Francis Miner ——— SEAL

H. Stagg ——— SEAL

——— SEAL

APPROVED BY Supreme court

Wm. Davis

S. J.

Supreme

~~UNITED STATES CIRCUIT~~ COURT,

~~EASTERN DISTRICT~~ OF MISSOURI.

Virginia L. Minor and
Francis Minor, P. E.

v.

Reese Happersett
D. E.

BOND.

$ .....

..... Principal.

.....

.....

Sureties.

Filed 7th day of May 1873

J. Stromberg Clerk.