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Fifth. A bridge or core-holder, which is a plate of metal with apertures, having four or more arms radiating from the central part, which has a central hole of the size of the core.

Sixth. A chamber of construction, located between the bridge and the die, and extending from the one to the other, and either conical or cylindrical, provided the end next the bridge be made of greater diameter than the die.

It is rare that so clear and satisfactory an explanation is given to the machinery which performs the important functions above specified. We are satisfied that the patent is sustainable, and that the complainants are entitled to the relief claimed by them.

ORDER.

The cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the southern district of New York, and was argued by counsel; on consideration whereof, it is the opinion of this court that the complainants in the court below are entitled to recover from the defendants the sum of \$16,815.57. Whereupon, it is now here ordered, adjudged, and decreed, by this court, that the same is hereby affirmed to the extent of the aforesaid sum of \$16,815.57, and that it be reversed as to the residue; and that this cause be, and the same is hereby, remanded to the said Circuit Court, with directions to enter a decree for that amount in favor of the complainants. And it is further ordered and decreed by this court, that the costs in the court below be paid by respondents in that court, the appellants here, and that each party pay his own costs in this court.

THE CITY OF NEW ORLEANS, PLAINTIFF IN ERROR, *v.* MYRA CLARK GAINES.

Where streets were opened in New Orleans, a sum of money, as indemnity, was allowed to G, as being the supposed owner of the property condemned. D claimed to be the owner of the property, and brought a suit against the city for the money, in which suit G was cited for the purpose of having the question decided, to whom the property belonged, and judgment was rendered against the city in favor of D.

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Afterwards, G brought a suit in the Circuit Court of the United States, and the city pleaded the former judgment in bar.

But, as these facts were not given in evidence upon the trial, nor did the judge make any statement of facts found by him, the record presents only the judgment against the city in favor of G, and there is no ground of error upon which this court can reverse the judgment.

THIS case was brought up by writ of error from the Circuit Court of the United States for the eastern district of Louisiana.

The facts of the case are stated in the opinion of the court.

It was argued by *Mr. Benjamin* for the plaintiff in error, and by *Mr. Phillips* for the defendant, upon which side there was also a brief filed by *Mr. Perin*.

Mr. Benjamin, before proceeding to the argument, referred to an agreement of counsel, which had been filed, to make a part of the case.

The record in this case shows that the cause was tried before the judge, under the Louisiana practice, without the intervention of a jury, and, as originally printed, contained no statement of facts which could form a substitute for a verdict, so as to enable this court to correct any error of law that might be apparent in the decision of the lower court. This defect has been supplied by the consent of counsel, since filed, which shows that the case was decided below exclusively on the written deeds and record evidence, copied at length into the transcript filed in this court, and the proper construction of these deeds and records and their legal effect being matters of law, afford the court the necessary basis for the exercise of its revisory powers.

Mr. Phillips said that all he knew about the agreement was, that *Perin* signed it, understanding the court would grant a *certiorari*. *Mr. Perin* says that the agreement was solicited and obtained from him long after the transcript had been filed in this court. But he could not imagine that that paper would be offered as a substitute for bills of exceptions to the reception or rejection of evidence, or to an agreed statement of

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facts, which should have been reserved or made on the trial of the cause.

Mr. Phillips then proceeded, as *Mr. Benjamin* had done before, to discuss the merits of the cause; but, as the admission of this agreement was a necessary preliminary to the discussion of the merits, and as this agreement was entirely passed over in the opinion of the court, the reporter refrains from admitting the argument of the merits upon either side.

Mr. Justice CATRON delivered the opinion of the court.

The city of New Orleans instituted proceedings by suit in a city court, pursuant to a statute of Louisiana, for opening two streets in the city, and appropriating the private property requisite for that purpose; and on the tableau of assessment, certain squares of ground were put down as belonging to Mrs. Gaines, and the damages done to owner fixed at \$2,363.

The assessment was decreed to Mrs. Gaines by the court where the proceeding was had; and she brought suit on this judgment against the city, in the United States Circuit Court.

The defendant, (the city,) by its answer, admitted the proceeding, and the damages assessed on the property described in the petition; but, in avoidance of the demand, averred that a suit had been brought by one Durell against the city, claiming that he was the true owner of the property through which the streets run, and which the commissioners of assessment had supposed to be owned by Mrs. Gaines, and demanding payment to him of the damages claimed by her; that in the suit so brought by Durell, Mrs. Gaines had been personally cited as a party, at the instance of the city, for the purpose of having the question decided between her and Durell, as to the ownership of the property, and as to their respective claims on the city for the sum awarded; and that in said suit judgment was rendered, determining the question in favor of Durell; and this judgment is pleaded in bar of the present suit.

Various documents were exhibited with the answer, and filed in the Circuit Court, on behalf of the city, including a record of the suit by Durell against the city, and the recovery

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of the damages for extending the streets; but nothing appears in the record showing that these documents were given in evidence on the trial; nor did the judge before whom the cause was heard make any statement of the facts found by him, as the usual practice is, where the Circuit Court in Louisiana tries issues of fact without the intervention of a jury.

The cause as presented to us simply shows a judgment in Mrs. Gaines's favor, with regular pleadings to warrant it; and beyond this, contains nothing that this court can notice, as a court of error.

It is ordered that the judgment below be affirmed.

JOHN C. HALE, PLAINTIFF IN ERROR, *v.* WILLIAM H. GAINES AND MARIA GAINES HIS WIFE, ALBERT BELDING, HENRY BELDING, AND GEORGE BELDING, HEIRS AND LEGAL REPRESENTATIVES OF LUDOVICUS BELDING, DECEASED, DEFENDANTS.

In an action of ejectment for the Hot Springs in Arkansas, wherein one party claimed title through a pre-emption claim which they were allowed to enter by the register and receiver, and the other party through a New Madrid certificate, (the title of the United States not being drawn into question,) the former party had the better title.

There was no regular survey and location of the New Madrid certificate until 1838, a prior application for a public survey in 1818, and certificate of a private survey in 1820, being irregular.

The act of Congress of April, 1822, required these locations to be made within one year from the date of its passage. Consequently, the right to locate the New Madrid certificate expired in April, 1823.

Nor does the act of 1843 support the survey of 1838, because it is not included within the provisions of the act.

Whether or not the title acquired under the pre-emption is valid, is a question not now before this court; because the case is brought up from the Supreme Court of Arkansas under the twenty-fifth section of the judiciary act, and the decision of that court was in favor of the validity of the action of the register and receiver; and, moreover, the opposing party cannot set up an outstanding title in the United States. In order to bring himself within the rule of that section, he must have a personal interest in the subject in litigation.

The claim set up under a prior pre-emption was of no value, the land having been reserved from sale when an offer to locate the pre-emption right was made.