

## Statement of the case.

later adjudications referred to, he was entitled to recover, and to an action upon which the prior judgment in *Woodworth v. Fulton* was not and could not be a bar. The act of Congress of July 1st, 1864, was a further confirmation of the Woodworth title, and operated in the same manner as the ordinance of the city council and the act of the legislature before mentioned.

It is said that the act of Congress was passed after the institution of this suit, and cannot, therefore, be considered. To this there are two answers. It is by no means clear that the act was necessary to the completeness and validity of the title in question. The later adjudications referred to, made before the passage of the act, held by necessary implication that it was not. But if it were necessary, we have no difficulty in holding that it took effect by relation, as of the time when the act of the legislature confirming the ordinance of the council was passed.\*

We think the facts found by the court below fully sustain the judgment given, and it is

AFFIRMED.

## PUBLIC SCHOOLS v. WALKER.

Where counsel desire to have a case reheard, they may—if the court does not, on its own motion, order a rehearing—submit without argument, a brief written or printed petition or suggestion of the point or points which they think important. If upon such petition or suggestion any judge who concurred in the decision thinks proper to move for a rehearing the motion will be considered. If not so moved, the rehearing is denied as of course.

THIS case was argued at an earlier part of the term; and the court, after advisement, having announced its judgment of affirmance,† *Messrs. Blair and Dick, for the plaintiffs in error,*

\* *Poole et al. v. Fleege et al.*, 11 Peters, 185; *Jackson v. Dickenson et al.*, 15 Johnson, 309; *Hammond v. Warfield et al.*, 2 Harris & Johnson, 155; *McConnell v. Brown*, *Littell's Select Cases*, 460; *Pearson v. Darrington*, 21 Alabama, 175.

† *Supra*, 290.

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Opinion of the court.

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now submitted, without oral argument, a printed brief, asking for rehearing and setting forth certain points of the case, including a fundamental fact, on which as they conceived, the court had fallen into misapprehension.

Having taken time to examine the brief,

The CHIEF JUSTICE now delivered the opinion of the court.

No member of the court who concurred in the judgment desires a reargument, and the petition must, therefore, be denied.

The rule on this subject, long since established, was stated by Chief Justice Taney at the December Term, 1852, in these words :

“ No reargument will be granted in any case unless a member of the court who concurred in the judgment desires it, and when that is the case it will be ordered without waiting for the application of counsel.”

The grounds of this rule were fully explained in that case, and need not be restated.\*

Where the court does not on its own motion order a rehearing, it will be proper for counsel to submit without argument, as has been done in the present instance, a brief written or printed petition or suggestion of the point or points thought important. If upon such petition or suggestion any judge who concurred in the decision thinks proper to move for a rehearing the motion will be considered. If not so moved the rehearing will be denied as of course.

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\* *Brown v. Aspden*, 14 Howard, 25; *United States v. Knight's Adm.*, 1 Black, 489.