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Eulalie de Mandeville:  
An Ethnohistorical Investigation Challenging Notions of Plaçage in New Orleans  
as revealed through  
The Lived Experiences of a Free Woman of Color

A Thesis

Submitted to the Graduate Faculty of the  
University of New Orleans  
in partial fulfillment of the  
requirements for the degree of

Master of Science  
in  
Urban Studies  
Historical and Cultural Preservation

by

Penny Johnson-Ward  
B.A. Southern University of New Orleans, 2003  
December, 2010

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## **Abstract**

This ethnohistorical work investigates *plaçage* through the case of Eulalie de Mandeville, a free woman of color and both the daughter of Pierre de Marigny de Mandeville, one of the largest land owners in New Orleans, and the sister of Bernard Marigny, land owner and founder of the Faubourg Marigny, a historic neighborhood in New Orleans. Eulalie's connection to the de Marigny de Mandeville family led to gifts of money and real estate from Pierre, Bernard, and her grandmother, Madame de Mandeville. She used these gifts to not only secure financing for a successful retail business, but also to finance her *plaçage* partner's loan brokerage business and to become one of the wealthiest women in New Orleans. Eulalie's case helps create a context for the free woman of color that challenges the images presented in much of the literature to date, bringing her down from the heights of romanticism into the realm of reality. This is her story.

Keywords: Southeastern United States, Entrepreneur, Louisiana

## INTRODUCTION

This ethnohistorical work is formulated around the 1846 court case, *Nicolas Theodore Macarty v. Eulalie de Mandeville*. The defendant in the case, Eulalie de Mandeville, was a free woman of color and a member of the de Marigny de Mandeville family, one of the wealthiest families in New Orleans. According to the case summary found in the Brief for Defendant (see Appendix F, 1848:87–100), Eulalie was a mother, successful merchant, respected member of the Creole of color community, and the *plaçage* partner of Eugene Macarty, the brother of the plaintiff Nicolas Macarty. In early Louisiana history, *plaçage* “meaning to place”, was a domestic relationship between white male and a woman of color.

Although historian Caryn Cossé Bell describes the practice of *Plaçage* as “institutionalized concubinage” (1997:112), I argue that in Eulalie’s case, *plaçage* refers to her marriage to Eugene and the life they shared together. This contradicts Bell’s description of an institution that victimized the woman of color and left her financial security at the mercy of her white lover. In Eulalie’s case, her romantic partnership with Eugene included a business relationship in which they both benefited financially. Eulalie and Eugene’s *plaçage* partnership lasted for fifty years (see Brief for Defendant, 1848:87; Appendix F). By the time it was over, due to Eulalie’s financial savvy and her connection to the de Marigny de Mandeville family, she had become one of the wealthiest women of color in New Orleans.

This thesis examines the *plaçage* partnership through the lived experiences of Eulalie de Mandeville. This work investigates the *plaçage* relationship as a partnership and emphasizes the mutual benefits and reciprocities enjoyed by Eulalie and her *plaçage* partner Eugene Macarty. It focuses on two fundamental components of the partnership: financial support, including property ownership; and community and kinship involvement, particularly, the relationship between

Eulalie and her white relatives. Eulalie’s story exposes another layer in the complex history of New Orleans by offering insight into the character and lived experiences of a free Creole woman of color whose life both confirms and contradicts much of what is written about free women of color today.

## RESEARCH METHODS

In this ethnohistorical investigation, I have analyzed documents from the 1846 court case, *Nicolas Theodore Macarty v. Eulalie de Mandeville* (see appendices A through F), Eulalie de Mandeville’s death records and the sacramental records of her children. I also analyzed notarized acts of sale by Eulalie de Mandeville and Eugene Macarty and the succession records of Eugene Macarty.

The case of *Nicolas Theodore Macarty v Eulalie de Mandeville* provides the foundational source for my research. I received a copy of the case from the University of New Orleans Earl K. Long Library Special Collections.<sup>1</sup> The case involves the defendant, Eulalie de Mandeville, a free woman of color, and the plaintiff, Nicolas Macarty, the brother of Eulalie’s *plaçage* partner Eugene Macarty. On September 19, 1846, eleven months after the death of Eugene Macarty, Nicolas filed suit against Eulalie de Mandeville for the assets she and Eugene had accumulated over their fifty-year relationship. He argued that Eulalie “was entirely destitute of any means” (Petition of Plaintiffs, 1846:50–59; Appendix A) before she became the *plaçage* partner of Eugene Macarty and that the large fortune in Eulalie’s possession really belonged to the deceased Eugene Macarty and, therefore, to the Macarty family (Brief of the Defendant, Eulalie de Mandeville, 1848:87; Appendix F). This court document offers support for my investigation. The character witness testimony for the defendant, Eulalie de Mandeville, are



particularly, useful for supporting my argument that Eulalie's lived experiences broaden the dominant discussion of the Creole community in New Orleans and the institution of *plaçage* that appear in the literature. I focused on testimony from Eulalie de Mandeville's brother Bernard Marigny (Appendix B), family friend L. Sejour and Joseph Black (Appendix C) and Eulalie's uncle, by marriage, Enoul Livaudais (Appendix D). The document also included the "Plaintiff Petition" and the "Supreme Court Brief for the Defendant" (Appendices A and F). I used the brief as a summary of the court case and as a reference for witness testimony. The Plaintiff Petition, filed by Nicolas Macarty and over ten family members, provided a detailed record of Eulalie's estate and its value at the time of Eugene Macarty's death on October 27, 1845.

I found sacramental records for Eulalie and Eugene's five children in the Archdiocese of New Orleans Original Sacramental Records held at the New Orleans Main Public Library's Louisiana Division and City Archive. I used these records to document the births of Eulalie and Eugene's children, to determine the religious rights performed for their children, and to determine the year of Eugene's birth. Eulalie's death records are in the Louisiana Division City Archives, as were the succession records of Eugene Macarty. There are no birth records for Eulalie among the sacramental records.

Notary records for Eulalie de Mandeville are located at the State of Louisiana Notarial Archives Research Center in downtown New Orleans. The notary records provide a detailed account of properties owned by Eulalie, including slave property. These documents record whether or not a piece of property was a gift and who originally owned of the property along with the name of the notary. The name of the notary is very important because each notarized act is filed under the name of the notary who performed it. Because most of the acts are in French, a

language I do not read, I relied on the staff at the archives to be translators and research assistants (see Acknowledgments).

## LITERATURE REVIEW

Laura Foner (1970) offers one of the first comprehensive investigations into *plaçage* partnerships in New Orleans. She gives a detailed account of the conditions that created *plaçage* partnerships by comparing colonial Louisiana with St. Dominigue. Foner argues that “In [Louisiana’s] society, illicit relationships between the races were no disgrace; in fact, they became an accepted social practice” (1970:40). The work of historians John Blassingame (1973) and Mary Gehman (1994) offer a cursory introduction to the nature of the *plaçage* partnership. Their introductions include a brief summary of how and why *plaçage* partnerships developed in New Orleans, a description of the people who participated in such partnerships, and the expectations associated with this cultural practice. Blassingame and Gehman also provide extensive bibliographies, endnotes, and appendices, on which I relied heavily.

Anthropologist Virginia Domínguez (1986) explores the dynamics of race relations in Louisiana. Domínguez discusses the development of racial classifications among Louisiana’s Creoles and then explores how the population functioned within their assigned class. Foner (1970), Domínguez (1986) along with historians Gwendolyn Midlo Hall (1992) and Kimberly S. Hanger (1997) claim that Louisiana’s frontier territory and the cultural norms and practices that developed within contributed to the creation of the free Creole of color population in New Orleans. Hanger argues that “where white females were scarce and women of indigenous or African descent were plentiful, white conquerors, no matter what their nationality, believed that one of the rewards of conquest consisted of sexual favors from subordinated peoples” (1997:23). This behavior produced perfect conditions for a large multiracial population (Hanger 1997:23).

While Foner, Hall and Hanger, describe the conditions that created the Creole of color population and the *plaçage* partnership, historian Joan Martin (2000:57–70) describes the lived experiences and the community created by this population. In her article, “*Plaçage and the Louisiana Gens de Couleur Libre: How Race and Sex Defined the Lifestyles of Free Women of Color*” (2000:57–70), Martin contends that, *plaçage* partnerships were established to provide a life partner and an avenue of economic mobility for some free Creole women of color (2000:65, 69). She also argues that some free women of color had agency in their choice to partner with white men (200:64). Thus, according to Martin, the *plaçage* partnership was not an exploitative relationship, but a means of “survival for New Orleans women of color” (2000:64–65).

In contrast, a recent historical article by Emily Clark (2007) “explores another pattern of sexual association that chips away at the *plaçage* paradigm [by focusing on] sacramental marriages between free women and men of African ancestry” (2007:2). Clark’s essay challenges a number of key assertions made by the major historians in the field, including the existence of an elite class of Creole women of color (Martin, 2000:66) and the idea that only wealthy white men participated in *plaçage* (Blassingame, 1973:18; Gehman, 1994:37; Martin 2000:65).

Anthony G. Barthelemy (2000:252–275), Arnold R. Hirsch and Joseph Logsdon (1992), Caryn Cossè Bell (1997), Joseph Logsdon and Caryn Cossè Bell (1992:201–261) and Joseph G. Tregle, Jr. (1992:131–85) discuss the Americanization of New Orleans. The Americanization refers to the process through which the Creoles assimilated and asserted continued difference from their new countrymen beginning with the Louisiana Purchase in 1803. According to Tregle, “the fierce determination by white creoles to link their identity to a biological rather than the cultural heritage they shared” with the Creoles of color (1992:190). In addition, American Civil codes severely restricted race mixing in New Orleans and prohibited the legitimization of

mixed-blood children (Bell 1997:77). This combination eventually succeeds in ending the practice of *plaçage* in New Orleans (Barthelemy 2000:261). This thesis builds on the current concept of *plaçage* in the changing cultural context of post-Purchase Louisiana and attempts to expand the meaning of the practice as it now appears literature.

### **CREATING THE PLAÇAGE PARTNERSHIP**

Like other women of history whose race was held in bondage, the Negro mother through miscegenation was able to obtain educational advantages and economic security for her colored sons and daughters in an oppressed, hostile environment where most of the members of her race were held in bondage. That she survived is remarkable; that she prevailed is legendary.

—Joan Martin 2000:70

Eulalie de Mandeville belonged to the Creole of color community in New Orleans. Within this community, according to Blassingame (1973), Gehman (1994) and Martin (2000), some free women of color were partnered with white males for the purpose of protection (1994:37; 2000:66 ; ) and financial security (1973:18; 1994:37; 2000:67). According to Martin, an elite class of free women of color was prepared from childhood for this partnership by female members of their community (2000:66). Although historians have not found evidence of a written contract between a white man and a woman of color during this time, both parties entered the partnership with clearly defined cultural expectations (Blassingame1973:19; Gehman1994:37–38; Martin 2000:68).

According to Martin, once the partnership arrangement was made, the woman became known as a *plaçee* (2000:68). It was understood that her white partner or protector would care for her and for any children they might have (Gehman1994:38; Martin2000:68). Some *plaçage* partnerships lasted for life, while others were terminated upon the man's marriage or for any

other reason the man deemed appropriate (Blassingame 1973:28; Gehman1994:37). However, in the event of termination, it was understood that the male would still be responsible for providing financial support for his *plaçage* partner and their children (Blassingame 1973:18–19; Gehman 1994:37; Martin 2000:68 ;).



Figure 1

Marquis Antoine Xavier Bernard Phillippe de Marigny de Mandeville (1785-1868). Courtesy of New Orleans Public Library: Louisiana Division and City Archives: Orleans Parish, Louisiana.

According to Bernard Marigny,<sup>2</sup> Eulalie de Mandeville began her relationship with Eugene Macarty in 1796 when she was around nineteen years old (Bernard Marigny1846:71, Appendix B). Macarty was born in New Orleans in 1765 and was apparently introduced to Eulalie by her father, Pierre de Marigny de Mandeville<sup>3</sup> in 1790 (1846:71). Eugene Macarty was the third child of Barthelmy Daniel Macarty and Fançoise Héléne Pellerin.<sup>4</sup> Eugene’s father, Barthelemy Daniel, was a decorated French officer and aristocrat. The Macarty family was a prominent French-Irish family linked by marriage to powerful members of French and Spanish nobility (Arthur 1998:330–333). Eugene and Eulalie’s *plaçage* partnership was chaperoned by

Eulalie's paternal grandmother, Madame de Mandeville, and her father. (1846: 72). Foner (1970) and Hanger (1997) demonstrate, early *plaçage* partnerships resulted from three main components: uneven gender ratios in colonial Louisiana, the colony's frontier culture, and the lack of desirable white women sent to Louisiana.

In colonial Louisiana, "sleeping with a negress" became not only an accepted practice, but also an expected one for all levels of society (Foner 1970:410). From the founding of New Orleans in 1718, white men significantly outnumbered white women. According to Hall, in 1719, there were 416 men to only 30 white women and children (1992:6). In that same year, 450 enslaved Africans arrived in French colonial Louisiana (Hall 1992:35). Hall argues that enslaved Africans "arrived in an extremely fluid society where a socioracial hierarchy was ill defined and hard to enforce" (1992:128). It was in this society that early *plaçage* partnerships were formed. Foner demonstrates how the French colonial government attempted to regulate early *plaçage* partnerships by prohibiting enslaved or free Africans, from entering into a marriage contract or sexual relationship with white colonists (1970:410). Despite such laws, the partnerships continued, evolved, and adapted within the frontier culture that helped to create them.

Louisiana's frontier culture evolved from many influences, including "corruption, exploitation, brutality" (Hall 1992:128), and sexual cohabitation between European men and African women (Hall 1992:40; Foner 1970:410). Foner cites a letter dated September 6, 1723 that states, "Louisiana was a country of robbers, forgers, murderers, and prisoners, a [region] without justice, without discipline, without order, and without police (1970:10). When these socio-political conditions are considered in the context of a long history of French men indulging in sexual liaisons with enslaved African women what emerges is a place and time ripe for a

practice such as *plaçage*. The lack of white women in the French territories makes the development of *plaçage* even more inevitable.

According to an early Louisiana census, 1,215 white women arrived in Louisiana between 1717 and 1721 (Hall 1992:7). However, by 1726, more than half of these women were dead from disease, mistreatment, or other difficulties of frontier life. In addition, some were deported to France because of their undesirable behavior or physical condition. In 1719, 164 white women were sent from France to Louisiana. However, the men of the colony found the newly arrived women undesirable. One male colonist described the women as having “bodies as corrupt as their manners” (Foner 1970:412). Consequently, by July 1719, 220 women were placed on the deportation list and returned to France. Foner argues that, as the scarcity of white women persisted, “the complexion of colonial Louisiana changed” (1970:408). According to anthropologist Marvin Harris, as quoted by Hanger, in some cases “where white males heavily outnumbered white females, racial intermixture prevailed and white fathers tended to manumit their light-skinned offspring, and occasionally consorts, over other slaves” (1997:119). This intermixture produced a unique population in Louisiana, one that was not easily categorized and is still difficult to define. By 1788, there were over 3,000 free Creoles of color in Louisiana, over 800 of whom lived in New Orleans (Hanger 1997:23).

## **THE CREOLE OF COLOR COMMUNITY IN NEW ORLEANS**

In a larger view, [*plaçage*] created a third race of people in Louisiana. Their unique position between master and slave, together with the fact that they could find a home with neither, caused them to become a separatist, self-focusing community. The group was bound by ties of language, birth, culture, religion, and wealth.

—Joan Martin 2000:69

One cannot discuss the practice of *plaçage* in New Orleans without including a discussion of the term “Creole,”<sup>5</sup> which is defined by several sources cited in this work. Gwendolyn Midlo Hall, argues that “the word *Creole* ... derives from the Portuguese word *crioulo*, meaning a slave of African descent born in the New World” (1992:60). Hall further explains, “In Spanish and French colonies, including eighteenth-century Louisiana, the term *Creole* was used to distinguish American-born from African-born slaves. According to Hall, “all first-born slaves and their descendants were designated Creoles” (1992:60). One the best explanations of the term “Creole” is Richard Campanella’s (2002). Campanella argues that:

The meaning of *Creole*, implied or stated, varies on the axes of time and place, ethnicity, race, class and politics of the speaker, and in the context in which the work is spoken ... A Creole, in the usage of the eighteenth and nineteenth centuries, may be white, black, or mixed, he was usually of French or Spanish ancestry, culturally Latin and Catholic, ... and likely descending from stock residing in the region for a generation or more prior to the era of American domination.

Some contemporary accounts restrict the term to native white of French or Spanish ancestry, but many more emphasize that the distinguishing elements was nativity, not race ... Further clarification may be gained by indentifying who would not have been Creole in the period under discussion [1777–1848, the years of Eulalie’s birth to her death in 1848]. A recent immigrant from Ireland or Germany would not be a Creole (he would be a “foreigner”), although a descendent of the 1720s–era German settlers to La Côte des Allemandes<sup>6</sup> would be Creole. A French–blooded Saint-Dominique refugee who escaped to New Orleans in the early 1800s would not be Creole, nor would a Paris-born Frenchman residing in the city (both would be considered “foreign French”) ... A bonds man of pure African descent [born into] enslavement in Louisiana ... would be a Creole, but a mixed-race French speaking slave from a Caribbean island (living in Louisiana) would not be ... In Louisiana, every native, be his parentage what it may, is a Creole (2002:115) .

According to Bell, “the free black community had emerged from a frontier society characterized by a high degree of social and economic fluidity” (1997:11). Hirsch and Logsdon notes that New Orleans had more black entrepreneurs than did any other American city during the 1800s (Hirsch and Logsdon 1992:100). The nearly \$2.5 million in real estate held by the free black community in 1850 represented nearly 60% of the total property held by the entire free



black population of the time in the [United States] (1992:100). Overall, some 650 free people of color owned land in New Orleans during the 1800s (1992:100). In addition, the community shared a devotion to Catholicism, pride in their culture (Martin 2000:69), and zeal for freedom inspired by French revolutionary thought (Logsdon and Bell: 1992: 203–204).

When Eulalie was born in 1774, the racial order of the Creole of color community was well defined as a three-tier caste system. White Creoles were on top, Creoles of color were in the middle, and enslaved people of color made up the bottom tier (Hirsch and Logsdon 1992:102). Free men of color within the community provided for their families (Gehman 1994:55), educated their children (1992:226), and were quite politically active (1994:52–56). According to Blassingame, Gehman, and Martin, free women of color were expected to find life partners for their daughters (Martin 2000:65), and their daughters were expected to keep house ( Blassingame 1973:18), have children of their own (Gehman 1994:37), and secure their children’s financial well-being (Gehman 1994:38; Martin 2000:69;).

The introduction of Eulalie to Eugene Macarty by her father, Pierre de Marigny de Mandeville (see figure 2), and the supervision of their courtship by her paternal grandmother, Madame de Mandeville are examples of kinship expectation. Eulalie’s partnership with Macarty is exceptional in having been chaperoned by her paternal grandmother and white father (Bernard Marigny Witness for the defense: 1846:72, Appendix B), not by “proud quadroon women and other Creoles of color” as Martin suggests (2000:65).



Figure 2

Portrait of Pierre Enguerrand Phillippe de Marginy de Mandeville, father of Eulalie de Marginy de Mandeville. Paintings from Louisiana State Museum. New Orleans, Louisiana.

Eulalie's father and grandmother roles as chaperones also suggest an acceptance of the *plaçage* partnership within some white Creole families. According to the Brief for the Defendant, Eulalie's partnership with Eugene was "a serious [connection], entered into with the consent of her family, [and was] the nearest approach to marriage, the law would permit, and looked upon as morally binding" (1848:92, Appendix F).

Bernard Marigny's testimony contends that Eulalie was accepted as a member of the Mandeville family as a beloved daughter, sister, and granddaughter (1846:68, Appendix B). There is no mention of Eulalie's mother in the extant historical documents, but the court documents show that her paternal grandmother treated Eulalie as her own daughter, (Livaudais Witness for the Defendant 1846:81, Appendix D), and left her granddaughter a large section of land before her death in 1799 (Brief for Defendant 1848: 96, Appendix F). On "July 30, 1799, Leveau Trudeau measured for [Eulalie] a tract of land of 3 arpents<sup>7</sup> front by 40 arpents in depth on each side of the Bayou of the Terre aux boeuf" (Brief for the Defendant 1848:96,<sup>8</sup> Appendix F). Her grandmother, Madam de Mandeville, gave her this land. In addition, Eulalie was given property in the Faubourg Marigny<sup>9</sup> (see figure 3), and slaves by her brothers, Jean and Bernard Marigny (1848:96–97). She was also given gifts by her father, including financial support and over seventy head of cattle (1848:96–98).

Eulalie continued her previous business ventures throughout her partnership with Eugene Macarty and joined with him in a number of business ventures. Their first business partnership was a dairy farm that Eulalie helped Eugene start (Bernard Marigny Witness for the defendant: 1846:70, Appendix B). In 1796, Eugene leased a section of land on Eulalie's father's plantation to start a produce farm. Eulalie added her cows to his farming venture, establishing a successful

dairy (Livaudais Witness for the defendant, 1846:81, Appendix D). Eugene acted as Eulalie's business agent for the duration of their relationship.

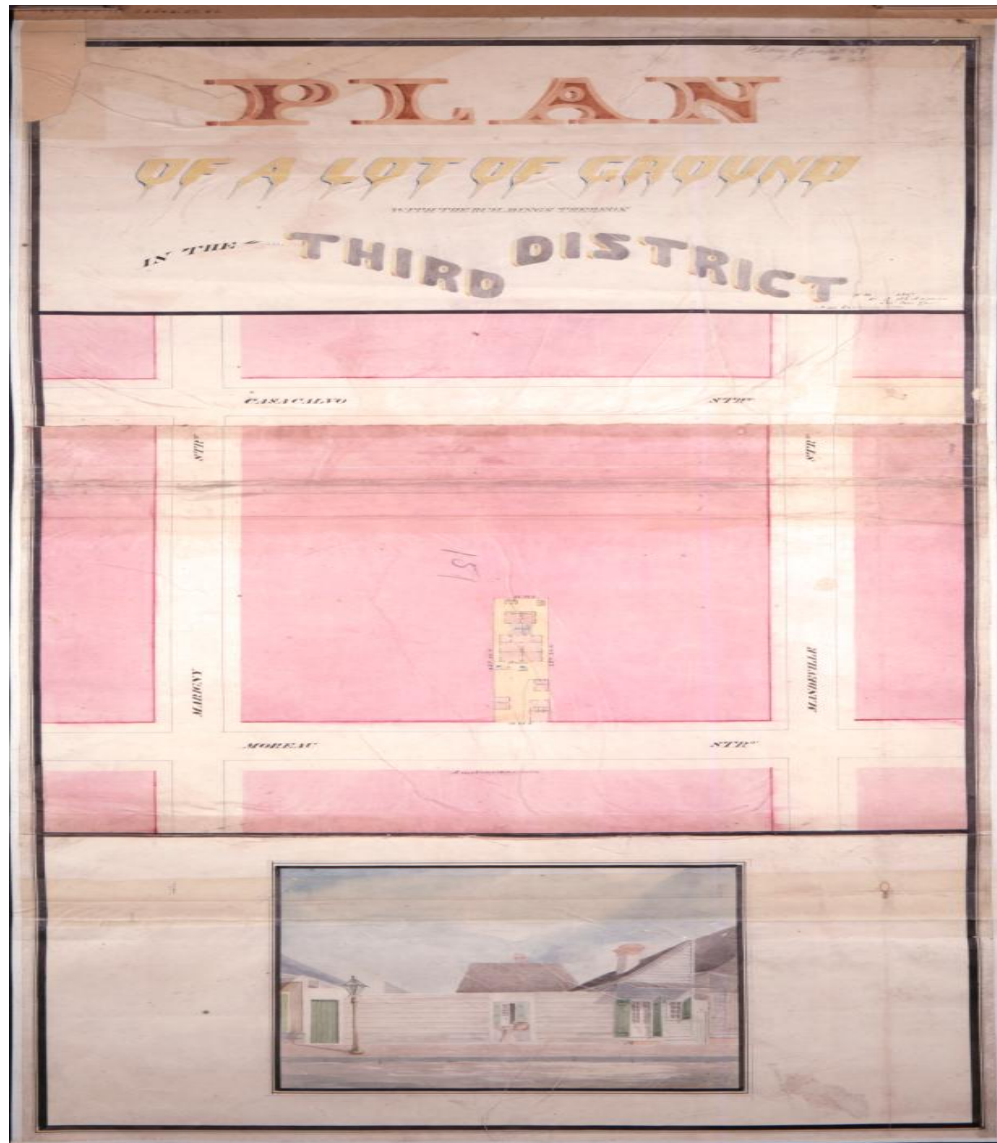


Figure 3

Plans for one of the Marginy properties given to Eulalie by her brother Bernard Marginy. The property faces Moreau Street and is between Marigny and Mandeville Streets, and backed by Casa Calvo Street. Charles Arthur Plan Book 48, folio 62 (048.062), January 1, 1857. Notarial Archives, Research Division, New Orleans, Louisiana.

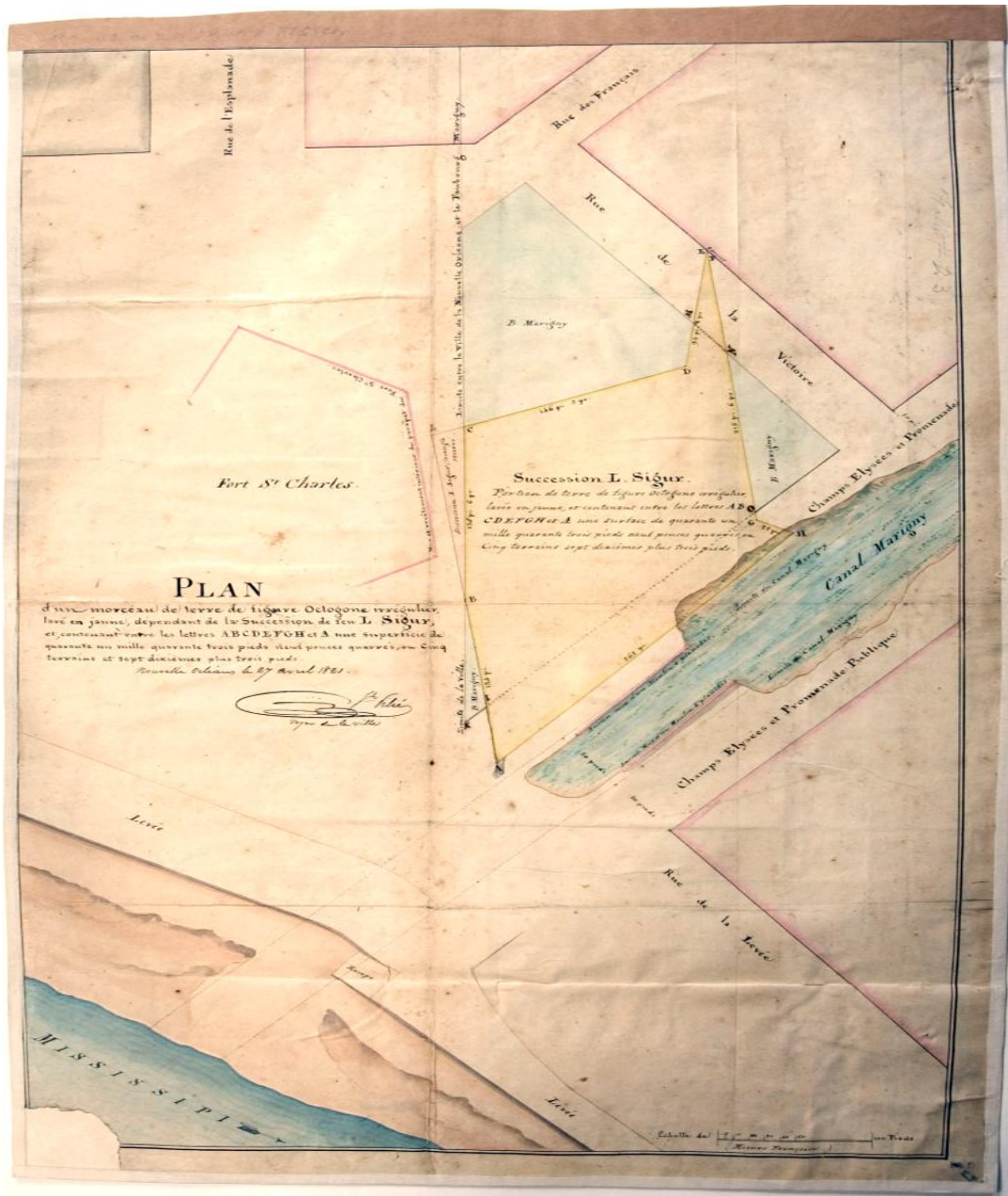


Figure 4

Plans for a levee, canal, and mill wall on the Marigny Plantation. Joseph Pilié, Plan Book 100, folio (100.023) April 27, 1821. Notarial Archives, Research Division. New Orleans, Louisiana.



Figure 5

New Orleans port scene looking up the Mississippi River across Marigny Plantation and the Vieux Carre; Marigny plantation garden and sawmill with stacked lumber in the foreground. New Orleans Public Library, Louisiana Division and City Archives: Orleans Parish, Louisiana.

The Brief for the Defendant summarizes how Eugene purchased property and slaves in her name (1848: 98, Appendix F). Eugene also managed Eulalie’s bank account, which he kept separate from his own (Brief for the Defendant, 1848:99, Appendix D). He also used her money as investment capital in his loan brokerage business (Brief for the Defendant 1848:98, Appendix F ; Livaudais witness for the defendant 1846:83), proving from “this early period a communion of interest existed between [Eulalie and Eugene]; he treated her fortune as his own” (Brief for the Defendant 1848:98). By 1845, Eulalie owned close to \$250,000 in assets, including eight properties within the New Orleans Marigny and Tremé neighborhoods, six slaves, an unlimited line of credit, and over \$150,000 in disposable cash (Court Petition filed by the plaintiff Nicolas Macarty 1846:57–65, Appendix A).

Eulalie was respected within the Creole community and described as intelligent, well educated, and wealthy. She was a shrewd business woman who not only knew what she wanted, but also possessed the ingenuity and resources to get what she wanted (Livaudais 1846:82,

Appendix C). As Livaudais, witness for the defendant put it, Eulalie de Mandeville “was no fool” (1846:82).

Eulalie and Eugene had five children together, one daughter and four sons (Brief for the Defendant 1848:103, Appendix F). According to sacramental records, they were all baptized at Saint Louis Cathedral in New Orleans and given the Macarty name (Volumes 5, 6, 8, 9, and 11). Eugene also played an active role in his children’s lives. For example, Teophilo and Ysidro sold lumber in Macarty’s lumber business (Joseph Black witness for the defendant 1846:81). His sons with Eulalie were known as his “Mulatto sons,” and these sons were well known within the Creole of color community in New Orleans (Black, witness for the defendant 1846:81).

In 1830, Bernardo and Emerite, two of Eugene and Eulalie’s other children went to Cuba to start a coffee plantation. In the late 1700s, Eugene had owned a coffee plantation in Cuba (Brief for the Defendant 1848:103, Appendix F). Apparently, the plantation left him so broke that he had to borrow money from friends in Cuba for his passage back to New Orleans (1848:103). Because of this history Eugene met his son and daughter's move to Cuba with trepidation. However, letters written to Eugene from his children show that he supported them while they struggled to make their coffee plantation a success (1848:103). Eugene’s children might have seen the move to Cuba as an opportunity, or they might have been motivated to leave by the way the city of New Orleans was transforming.

The Louisiana Purchase in 1803 not only doubled the size of the United States, it also increased the restrictions placed on people of color, enslaved and free, living within Louisiana (Hall 1992:208). The Creole of color population of New Orleans saw Americanization as a direct threat to their culture, not to mention their freedom (Hall 1992:161–162). By 1830, many Creole of color families had fled New Orleans for France, Haiti, Mexico, and Cuba (Bell 1997:54),

<sup>10</sup>leaving behind their community and their city in the wake of what is now known as the Americanization of New Orleans.

## **AMERICANIZATION AND THE PLAÇAGE PARTNERSHIP**

The Americanization of New Orleans was more than just a struggle between Americans and Creoles; it also involved the curious coexistence of a three-tiered Caribbean racial structure alongside its two-tiered American counterpart in an ethnically divided city.

—Hirsch and Logsdon 1992: 189

The assimilation of the Creole population in New Orleans also known as the Americanization of the city,<sup>11</sup> began slowly for the free black community. According to Logsdon and Bell, “A slave revolt in 1811 and a British invasion in 1814 persuaded the American authorities to relent in their repressive policies toward the state’s free black inhabitants” (1992:207). In addition, Logsdon and Bell contend that, “both free and slave escaped much of the renewed severity [of America’s repressive race laws] by living within the virtually autonomous Creole municipal districts of New Orleans created in 1836” (1992:207).<sup>12</sup> However, by the 1850s, the city’s three municipalities were united under one city government, making American racial oppression more effective in New Orleans (Logsdon and Bell 1992: 208). Logsdon and Bell explain, “For many years after the Civil War, Creole black leaders recall 1852 as the year of the breakdown of their sheltered and privileged order in New Orleans” (1992: 208).



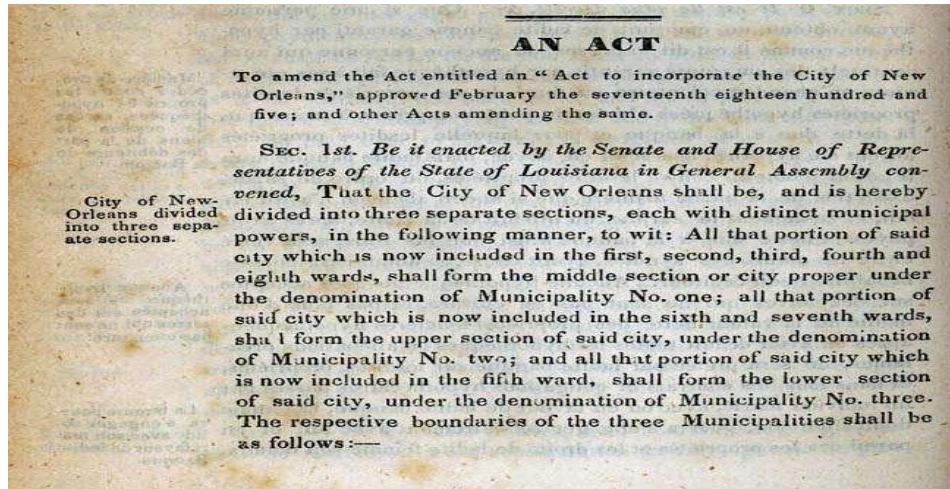


Figure 6

Although it was styled as an amendment to the 1805 Charter the law that took effect in 1836 deserves recognition as a new charter if only because of the undeniably dramatic effect that it had on the city's geography if not on the course of its history. The essential geographic change wrought by the 1836 Charter is presented in its very first section. [*Acts of Louisiana*, 1836]. New Orleans Public Library, Louisiana Division and City Archives: Orleans Parish, Louisiana.

A number of elements of the Americanization of New Orleans hastened the end of the *plaçage* partnership including: the Louisiana Civil Codes of 1812 that severely restricted race mixing in New Orleans, the Louisiana Civil Code of 1831 that prohibited the legitimation of mixed-blood children, and the efforts by white Creoles to distance themselves from their Creole “of color” counterparts and the practice of *plaçage* altogether (Bell 1997:77; Barthelemy 2000:261).<sup>13</sup>

State and local regulations restricted interracial contact and free black access to public accommodations such as theaters and public exhibitions after 1812 (Bell 1997:77). Bell contends that “during the antebellum period [1803-1861], free blacks and slaves were either completely excluded or assigned to separate and usually inferior facilities in places of public accommodation” (1997:77). Bell explains further that, “during the 1820s, mounting resentment

over any intimate form of race mixing led to an attempt to halt the infamous quadroon balls” (1997:77).

According to Martin, quadroon balls were organized by wealthy quadroon matrons as a mechanism for “securing for their daughter’s *plaçage* arrangements with well-born white Creole men” (2000:66). Bell points out that, white American mothers “complained in the *Louisiana Gazette* that the insolence of free women of color drove them from the sidewalk and their sexual liaisons with white men threatened the racial purity of Louisiana’s best families” (1997:77). Consequently, “in June, 1828, city officials bowed to public pressure with an ordinance that prohibited white men from attending dressed or masked balls composed of men and women of color” (1997:78).

The American Civil Code of 1831 “prohibited the legitimation, under any circumstances, of a mixed-blood child” (Bell 1997:77). This code nullified previous Spanish law “that provided for the legitimation of mixed-blood children born in concubinage” (Bell 1997:76). In fact, according to Bell, “under the Spanish Law and subsequent Louisiana statutes, an illegitimate child could acquire legal status when a parent acknowledged paternity before a notary in the presence of witnesses” (1997:77). However, under the American Civil Code of 1831, mixed-raced children were considered bastards, and such children could not inherit from either parent (Bell 1997:77).

According to Bell, “after 1812 an array of state and local regulations restricted interracial contact (1997:77). “White Creoles who participated in *plaçage* or otherwise condoned miscegenation found themselves being accused of being less white” by Anglo-Americans (Barthelemy 2000:262). These Americans were convinced that Creoles and their custom of *plaçage* represented “the blackest rage of human passion and all the dark and damning deeds that

the fiends of the infernal regions could perpetrate” (Tregle1992:150). According to Barthelemy, it was the Anglo-American idea of white purity that finally forced white Creoles to choose sides “and deny their consanguinity with their Creole brethren on the other side of the color line” (2000:262).

The assault on *plaçage* and the rights of Creoles of color are brought into focus by what happened to Eulalie de Mandeville in 1845. On October 25, Eugene Macarty died. Less than one year later, his white family sued Eulalie for everything she had accrued throughout their fifty-year relationship (Petition of Plaintiffs 1846:57–66, Appendix A). Eugene’s family claimed that she “was entirely destitute of any means” (1846:63) when she met Eugene and that Eulalie’s “large fortune actually belonged to Eugene” (1846: 59; Brief for the Defendant 1848:94). They also accused Eulalie of stealing \$111,208 from Eugene by withdrawing the funds from a bank three days before his death (1846:63). Eugene’s brother, Nicolas Theodore Macarty organized the suit. He was the same man who had received financial support and social favors from Eulalie throughout his brother’s relationship with her and who vowed “eternal gratitude to her forever” (Brief for the Defendant 1848:106, Appendix F).

The trial lasted ten months and hosted a number of Creoles as character witnesses for the defendant, including New Orleans real estate mogul Bernard Marginy, Eulalie’s half-brother (Bernard Marginy1846:67–76). Nicolas Macarty’s main argument was that Eulalie did not possess the financial savvy or capital to develop the wealth she now claimed as her own (Petition of Plaintiffs 1846:60, Appendix A; Brief for the Defendant 1848: 98,106). Nicolas also argued that his brother had no intention of leaving Eulalie and her children a financial inheritance, and, even if he did, Nicolas pointed out, such inheritances were now illegal according to the American Civil Code of 1825 (Brief for Defendant 1848:94 ,106; Appendix F).

Although Eugene’s family accused Eulalie of being “greedy” and “fraudulent” (Petition of Plaintiffs 1846:59, 63) and “depriving his legitimate heirs” of their inheritance (Brief for Defendant 1848:94), witnesses for the defendant, and even for the plaintiff, described Eulalie as a woman respected for her integrity and ingenuity (Brief for the Defendant 1848:99,101). Also, witnesses for the defendant told the story of a woman who started her own business selling supplies to the Spanish women living near her father's plantation before she met Eugene (Bernard Marginy witness for the Defendant 1846:70; Brief for the Defendant 1848:98). They recalled how she was loved and financially supported by her family (1848: 98). They mentioned how Eugene used wood from Eulalie’s plantation to start his lumber business (1848: 98), her cows to start his dairy farm, her land to start his produce farm (1848:98), and her inheritance to invest in his loan brokerage business (1848:98). It was obvious through the testimony of witnesses and documents entered as evidence by the defense that Eugene’s attitude towards his *plaçage* partner was not selfish, but one of genuine devotion and gratitude (1848:102).

According to the Brief for the Defendant, a common interest existed between Eugene Macarty and Eulalie from the beginning of their *plaçage* partnership (1848:98). Eulalie’s defense attorney asserted that, Eugene treated Eulalie as his wife and treated her fortune as his own (Brief for the Defendant 1848:98). The defense attorney stated that Eulalie certainly had a trade and business of her own and that she had begun to build her own fortune with the assistance of her family before she partnered with Eugene (Brief for the Defendant 1848:98). As for the American Civil Codes, Eulalie’s defense attorney argued that they were not relevant because Eugene and Eulalie’s partnership began before “the adoption of the new codes” beginning in 1812 (Brief for the Defendant 1848:99). In the end, the defense concluded:

The court now knows the case, and we may therefore be permitted to say, that with such qualities of the head and character, as the defendant has been shown to possess, she would have been able to rise in her worldly affairs, and in the esteem of all who know her even without Macarty's patronage and that the best explanation of her fortune is to be found in her conduct. It is therefore ordered a judgment be given against the plaintiff and that their petition be dismissed with cost (Brief for Defendant 1848:106, Appendix F).

The court judgment validated not only Eulalie de Mandeville's ability to develop wealth, but also the legitimacy of her *plaçage* partnership with Eugene Macarty by decreeing a judgment against the plaintiffs Nicholas Theodore Macarty and the Macarty family on June 26, 1847 (Court Judgment 1847:93).

## **A DEEPER LOOK AT THE LIVED EXPERIENCES OF EULAIE DE MANDEVILLE**

Eulalie de Mandeville's *plaçage* partnership was not a textbook case. She was not raised by a wealthy quadroon matron, but by her father and paternal grandmother. Moreover, she owned a successful business and was financially secure before she partnered with Eugene Macarty. Her partnership with Eugene did not begin at a quadroon ball, but as a friendship between a daughter and a family friend. Eulalie's case helps create a context for the free woman of color that challenges the images presented in much of the literature to date, bringing her down from the heights of romanticism into the realm of reality.

### ***Relatives and Race***

Conditions prevailing in French Louisiana produced one of the most racially flexible societies in the Americas, regardless of the colonizing power. Racial attitudes among all social groups were quite open, compared not only with attitudes in Anglo North America but also with attitudes in the French Caribbean.

— Kimberly Hanger 1992:241

The relationship between Eulalie de Mandeville and her father Pierre de Marigny de Mandeville introduces a topic virtually untouched by today's scholars: the interplay between a white father and his black children in eighteenth century New Orleans. Although Blassingame (1973), Gehman (1994), and Martin (2000) agree that white males who participated in *plaçage* were usually expected to support their children financially and give them their last name, they do not touch upon personal expectations between father and child. According to Eulalie's brother Bernard Marigny, Pierre's relationship with Eulalie was based on mutual trust and love (Bernard Marigny Witness for the Defendant 1846:68, Appendix B). Bernard states that Pierre had "great confidence" in Eulalie (1846:68). For example, he left the care of his plantation to her (Brief for the Defendant 1848:96, Appendix F), financed her business ventures (1848:97), and provided a home for her under the watchful eye of his mother, Madame de Mandeville (1848:97–101; Bernard Marginy Witness for the defendant 1846:72).

According to Bernard Marigny's testimony, Eulalie lived with her paternal grandmother, Madame de Mandeville, until her death in 1799 (1846:71, Appendix B). Livaudais, witness for the defense, noted that, Madame de Mandeville treated Eulalie as if she were her own child (1846:82). Hall (1992) and Martin (2000) explore the attitudes of white families towards their biracial relatives. According to Martin, one of the drawbacks for a woman of color involved in *plaçage* was that she was "cut off by law and social practice from the man's family, [which denied] the young woman and her children the familial closeness of the paternal relations" (2000:69). In contrast, Hall's argument best describes Eulalie's relationship with Madam de Mandeville.

According to Hall, "there was a strong social consensus shared by white women that the ... children of white men should be free" and cared for accordingly (1992:240). These children,

Hall argues, tended to be absorbed into the white population (1992:240). In Eulalie's case, Bernard Marigny testified that "she passed in the family as his natural sister" (1846:68). Since such a natural relationship existed between Eulalie and her father's family, it would seem some *plaçage* relationships drew acceptance from some white families as well as from families of color. In fact, some white families were not at all distant from their relatives of color, but lived in close contact through business (Gehman 2000:216), culture (Hirsch 1992:Preface: xi), the city's physical development (Hirsch 1992:197), and family connections, as Eulalie's story proves.

In understanding the role of Eulalie's race in the de Marigny de Mandeville family, factors such as an "extremely fluid society and racial openness" (Hanger 1992: 240), would explain Eulalie's acceptance into the family. Hanger notes that pre-Americanization (1718-1803), "cannot be understood by projecting contemporary attitudes toward race backward in time" (1992:155). Hanger is referring to the attitude towards race during French control in New Orleans (1718-1768), but her argument demonstrates understanding of race relations between Eulalie and her father's family, in that her race did not negate their care for Eulalie or Eulalie's acceptance into their family. In addition to Hanger's racial openness argument, Foner (1970), Hirsch and Logsdon (1992), Gehman (1994), Bell (1997), Martin (2000), and offer their contribution in understanding the dynamics of race in Louisiana through the notion of a "three-caste society."

### ***Plaçage and the Three-Caste Society***

According to Lara Foner (1970), John Blassingame (1973), Virginia Domìnguez (1986), Arnold Hirsch and Joseph Logsdon (1992), Mary Gehman (1994), Caryn Cossè Bell (1997), and Joan Martin (2000), the free Creoles of color in New Orleans made up the middle caste within

the city's three-caste racial order. According to Bell, "The free black community had emerged from a frontier society characterized by a high degree of social and economic mobility" (1997:11). According to Martin, this "unique position between master and slave, together with the fact that they could not find a home with either, caused them to become a [separate], self-focusing community ... bound by ties of language, birth, culture, religion, and wealth" (2000:69), thus establishing their position as the middle caste in the city's three-tier racial order. The notion of a three-caste racial order is not unique to New Orleans. According to Foner, "in St. Dominique (now Haiti) the free people of color developed a similar position" (1970:417).

Challenging the dominant ideas about free people of color, Emily Clark argues, "the conception of the New Orleans free black community as a self-conscious monolithic [class] with a specific social and racial function in the city is shattered by the variety of the [marriages] made by hundreds of men and women who ignored the markers of rank and race" (2007: 3). In fact, she states, "there was no free black community that recognized itself as unified by race and status" (Clark 2007:17). Clark's argument is supported by Hanger, who explains that, "At no time in their history did all free blacks have identical goals and concerns. However, Hanger also argues that over time "members of the emerging elite class began to assume control and ... became the 'voice' of the libre community" (1997:87). Hanger's point supports my position that over time Creoles of color began to think of themselves a monolithic class.

According to Caryn Cossé Bell (1997), an elite group of free Creoles of color was "the driving force behind ... Louisiana's ... democratic revolution" (1997:2-3). Logsdon and Bell argues that, Afro-Creole leaders, such as Dr. Louis Charles Roudanez and Paul Trévigne, founders of the French-language newspaper, *L'Union* became leaders in political protest against the racial oppression that followed the American occupation of Louisiana in 1803. These men



along with wealthy Afro-Creole business owners, educators, and other community leaders, became the voice of the New Orleans free Creole of color population (Logsdon and Bell 1992:221–228).

Eulalie’s case offers a means of interpreting the New Orleans caste system in a legal and social sense. For example, following Eulalie’s name on court documentation are the letters F.W.C that stands for “free woman of color” (Petition of the Plaintiff: 1846, Appendix A). The acronym F.W.C follows her name throughout court records as well as on notarized acts of sale. The acronym can also be found on her death records. These documents prove that there existed a legal distinction between Eulalie and other women within New Orleans. As Virginia Domínguez argues, “Legally [Louisiana’s] population was divided into whites, free people of color, and slaves. From a strictly legal standpoint, the tripartite classification rested on the application of two different criteria of differentiation: possession or lack of possession of legal freedom and descent or lack of descent from Africans” (1986:24). Eulalie owned at least six slaves (Petition of Plaintiffs 1846:57–66, Appendix A), she ran a successful business (Brief for Defendant 1848:91, Appendix F), owned property (Plaintiff Petition 1846: 57–66 ), and was the primary financial investor in her partner’s mortgage brokerage business (Brief for the Defendant 1848:98; Livaudais Witness for the Defendant 1846:83). None of this would have been possible had she not been a free woman of color. Eulalie took full advantage of the rights and status that came with being a free woman of color.

Domínguez argues that, “the social process that led to the emergence of free people of color—sexual unions between European settlers and Africans slaves and the manumission of their offspring—made it *de facto* a classification by ancestry. [As a result], *Gens de couleur libre* [Free people of color], became a near-synonym for offspring of mixed Europeans and African

unions” (1986:24). Bernard Marigny considered Eulalie as his natural sister (1846:68, Appendix B). Madame de Mandeville considered Eulalie as her own daughter (Livaudais 1846:83, Appendix D). Pierre de Marigny de Mandeville loved, encouraged, and supported Eulalie (Brief for Defendant 1848:96, 98, Appendix F). Eulalie’s upbringing as a member of the de Marigny de Mandeville family gave her a social advantage. In addition, the Mandeville name paved the way for her to receive unlimited credit for her dry goods business. According to William Marigny Hyland, “in the early nineteenth century, persons belonging to the elite of French and Spanish Colonial Louisiana were almost certainly assured of a place of social and political prestige, if not one of wealth” (1984:9). Eulalie was the daughter of a man from one of the oldest French families in New Orleans. The first de Marigny de Mandeville arrived in New Orleans in 1700s (1984:2), and Eulalie’s father Pierre de Marigny de Mandeville was regarded as one of the “richest, most prominent” men of his day (1984:6). According to Hanger, “status [for the free person of color] was defined not only by wealth but also by family connections” (1997:55), and Eulalie’s case demonstrates this.

Eulalie’s upbringing and name became her legal and social identification. The fact that she owned slaves proves that she acknowledged and benefitted from a different social class from that of enslaved non-whites. Moreover, the fact that she inherited a slave from her half-brother Jean Marigny further asserts her membership in elite, somewhat luminal group (Bernard Marigny Testimony: 1846:69, Appendix B; Brief for the Defendant 1848:97, Appendix F). For further proof of whether Eulalie considered herself a member of a different caste than that of her enslaved counterparts through descent and possession of legal freedom, one need only look to her life experiences and her social connections.

## **PLAÇAGE VS TRADITIONAL MARRIAGE**

The tension between individual choice and social norm emerges as something of a false dichotomy, and might better be represented as a continued negotiation by actors of how to interpret the norms ... It allows us to see rules not merely as a set of constraints upon people, but as something that people actively manipulate to express a sense of their own position in the social world.

— Virginia Domínguez, 1986:1

Emily Clark argues that her research uncovered “life partnerships between free women of color and men of European descent of modest means” (2007:2). Eulalie and Eugene’s partnership fits this model. According to the Brief for the Defendant, when Eulalie and Eugene began their partnership in 1796, Eugene “had nothing, having spent his little patrimony on a trip to France” (1848:95, Appendix F). When Eulalie decided to partner with Eugene, Pierre de Marigny de Mandeville provided his daughter with a dowry of \$3,000 (1848:97, Appendix F). Eugene lived with Eulalie on her father’s plantation until the death of Madame de Mandeville in 1799. The couple and their first child, Emerite Macarty (1848:91), then moved into Eulalie’s property on the corner of Barrack and Dauphine Street in the French Quarter (Brief for the Defendant 1848:97–98).

By searching the sacramental registers of New Orleans between 1759 and 1830, Clark was able to uncover that traditional marriage was a “common practice among people of African descent” (2007:2). In fact, according to Clark, these “marriages joined the free to the enslaved, Louisiana-born to African-born, the skilled and the propertied to the newly freed, [and] those labeled dark to those labeled light” (2007:2–3). Clark’s argument challenges the wealthy white male protector ideal in recent *plaçage* literature and introduces the fact of the black male into the realm of *plaçage*.

To begin to understand why Eulalie chose *plaçage* and not a traditional marriage<sup>1</sup> one must consider the civil laws of Spanish New Orleans: kinship expectations, social connections, and gender ratios within the Creole of color population. According to Louisiana's death records, Eulalie died in 1848 at the age of seventy-four. This puts her birth date some time in 1774 which falls during Spanish control of New Orleans. According to Domìnguez, the Spanish administration in New Orleans was unclear on how to handle Louisiana's ill-defined racial order. Domìnguez contends that the Spanish administration espoused ideas of "racial purity and condemned the "mixture of races", though they failed to issue official regulations against concubinage between whites and people of color" (1986:24–25). This double standard continued with matrimonial laws as well. According to Domìnguez, the Spanish administration "prohibit[ed] [traditional] marriage[s] between whites and all people of color", however, "one of Antonio de Ulloa's acts in his first year in office as Spanish governor of Louisiana was to grant permission to a Frenchman to marry" a woman of color (1986:25).

Unstable Spanish laws might have influenced Eulalie's decision to partner with Eugene. By 1796, women of color in New Orleans had been participating in *plaçage* for over sixty years. Due to a lack of enforcement of laws against the practice of *plaçage*, such as the American Civil Codes that would emerge in 1812 and 1831, women of color who chose *plaçage* could do so without fear of legal sanction.

Although court documents reveal nothing about Eulalie's mother, it is likely that since she was a woman of color, Eulalie was a product of *plaçage* herself. As Eulalie grew into womanhood, the particulars surrounding her birth must have become clear to her. She would

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<sup>1</sup> In this thesis a "traditional marriage" refers to the religious or legal ceremony formalizing a union between a man and woman.

have learned that she was a woman of color and the daughter of a white man. This realization could have very well influenced her choice to participate in *plaçage* rather than a traditional marriage. She was even more likely to have been motivated by a father's influence and expectations. Court documents prove that Eulalie and her father shared a special bond (Brief for the Defendant 1848:96, Appendix F). The \$3,000 Pierre gave to Eulalie as her dowry after she committed herself to Eugene Macarty raises the question: did Eulalie's father arrange her *plaçage* partnership with Eugene? According to the Brief for Defendant, "it was customary for fathers to give money to their natural children when they contracted such *pseudo*-marriages" (1848:97). As much as one might like to think that Eulalie's choice to partner with Eugene was hers alone, this evidence supports the view that Eulalie might have chosen to partnered with Eugene rather than enter a traditional marriage only after her father arranged the match. Hanger notes that "status [for the free person of color] was defined not only by wealth but also by family connections" (1997:55). Perhaps, Eulalie's father wanted her to be connected to one of the most successful French-Irish families in Louisiana.

According to Stanley Arthur, Barthelmy Daniel de Macarty, Eugene's father, arrived in Louisiana in 1732 (1998:330). He was a decorated French Colonial Officer and the son of a knight of the order of Saint Louis, a distinguished rank also earned by Pierre, Eulalie's father (Arthur 1998). The Macarty family was well established in Louisiana politics and real estate. For example, Eugene Macarty's first cousin Augustine François de Macarty was mayor of New Orleans, his son Barthelmy Macarty was Governor Claiborne's Secretary of State .In addition, Barthelmy inherited a large fortune from his Aunt Jeanne de Macarty including the Carrollton plantation (Arthur 1998:332-333), which later became the Town of Carrollton. The Town of Carrollton was annex into New Orleans in 1875. Eugene's sister Marie Céleste Elénore de

Macarty, married the Spanish Governor of Louisiana Estevan Miro (1998:333, see figure7) and the Macarty Plantation in Chalmette,<sup>14</sup> among other things, became the headquarters of General Jackson during the Battle of New Orleans in 1815 (1998:332).

The joining together of two of the most prominent and wealthy families in Louisiana made sense and to seal the arrangement, and to show family support Eulalie's father provided a \$3,000 dowry for her.



Figure 7

#### Esteban Rodriguez Miro

Miro served under Charles III and Charles IV. He was an interim governor while Galvez was in Cuba from 1782 to 1785 and was appointed governor in 1785. During his term, Spain allowed trade with France and the French West Indies and removed the duty on ships for two years which contributed to the development of New Orleans as an international port. New Orleans Public Library, Louisiana Division and City Archives: Orleans Parish, Louisiana.

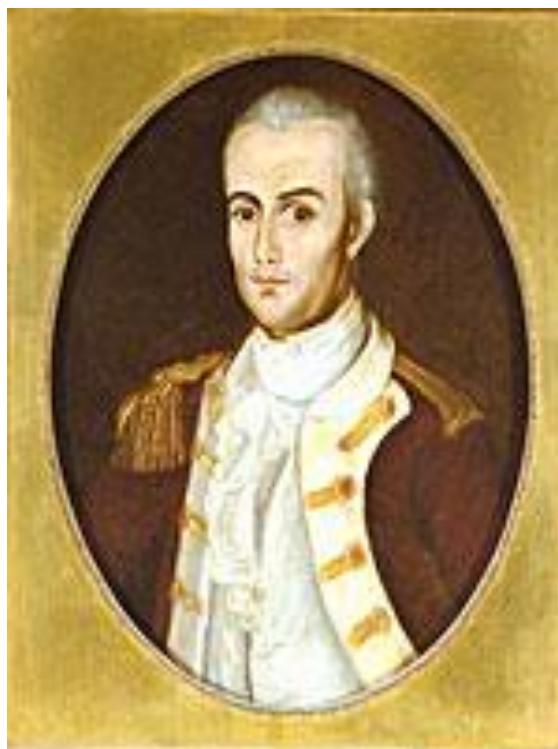


Figure 8

Augustin Macarty, Mayor of New Orleans: New Orleans Public Library, Louisiana Division and City Archives: Orleans Parish, Louisiana.

While the dowry is significant to an interpretation of Pierre’s role in Eulalie’s *plaçage*, the court could not prove that Eulalie’s father did indeed give her a \$3,000. When Bernard Marigny was questioned about the \$3,000 in 1846, he said, “That he [did] not recollect having heard it spoken of, but he was only 11 years of age” (1848:97, Appendix F). However, Marigny adds that such “events [were] very probable, when she formed the connection with Macarty” (1848:97). This testimony not only leaves the \$3,000 in question, but challenges the idea of his father’s arranging Eulalie’s *plaçage* partnership as well.

Regardless of whether Pierre arranged Eulalie’s *plaçage* or Eulalie arranged it herself, the Marigny de Mandeville family created an environment of acceptance for Eulalie. She was

openly acknowledged by her father, grandmother, half-brothers, and extended family. These factors may have made *plaçage* not only an acceptable option to a traditional marriage, but also a positive and beneficial one. If Eulalie's father denied his paternity and his family withheld acceptance, then *plaçage* might have been less attractive to her and she may have married a man within her own ethnic group. However, according to Kimberly Hanger, such a marriage might not have been so easy.

Hanger argues, “for [free people of color] of childbearing age, sex ratios ... reveal[ed] a very disproportionate number of adult [free] females, who even if they wanted to would have had difficulties finding a free black mate” (1997:23). According to Foner (1970), Hall (1992), Hanger (1997), and Domínguez (1986), unbalanced sex ratios between free women and free men of color is arguably one of the principle reasons for the practice of *plaçage* in Louisiana. Given these circumstances Eulalie may have chosen *plaçage* because she could not find a mate within her own ethnic group. Another possible reason for her choice of *plaçage* may have been that she was not born to married parents. According to Clark (2007), “brides born in New Orleans who claimed legitimate birth status were increasingly represented among all brides” in Louisiana (2007:7). More important than the arguments made by Fonder, Domínguez, and Clark, and whatever the legal conditions that influenced Eulalie's choice to forgo a traditional marriage, none are as poignant in this case as Eulalie's right to choose and the fact that she considered her relationship with Eugene, a marriage.

According to the Brief of the Defendant, Eulalie chose to partner with Eugene (1848:97, Appendix F). Eulalie's was a well-educated woman who had the support of her family and financial knowhow to live independently and yet she chose to partner with Eugene. Eulalie did not have to marry, and she certainly did not have to become Eugene's *plaçage* partner, as Louis



Sejour's testimony reveals. Many single women "made their fortunes" (1846: 78, Appendix C) selling dry goods as Eulalie did, "and they did not live with a white man" (1846:78). Moreover, according to the Brief for Defendant, Eulalie and Eugene's partnership was "the nearest approach to marriage, the law would permit, and was looked upon as morally binding (1848:97, Appendix F). The brief goes on to state that, "Macarty treated and considered [Eulalie] as his wife, and his destiny as linked to hers for life" (1848:98). It can be argued then, that in Eulalie's case, her partnership with Eugene was in fact considered a socially legitimate monogamous union between a man and woman who chose to share resources, develop kinship ties, procreate, and remain together for life. It was, in other words, a marriage.

### ***Financial Expectations in Plaçage***

According to Bernard Marigny, Pierre de Marigny de Mandeville returned to New Orleans from France in 1790 with his nephew Charles Olivier and his neighbor Eugene Macarty (1846:70, Appendix A). Although Eulalie's father introduced her to Eugene when he returned from France, Eulalie and Eugene did not begin their relationship until six years later (1846:70). Two reasons possibly delayed Eulalie and Eugene's partnership: her age and his finances. When Eulalie was introduced to Eugene, she was thirteen years old, and Macarty was twenty-five. However, according to Mary Gehman, "it was accepted that white men in Louisiana would spend their youthful years in the company of a young black girl, ages 12 to 15 years were optimal" (1994:36). Since Eulalie was within that optimal age to begin a *plaçage* partnership, perhaps it was Eugene's financial situation that postponed their commitment.

According to the Brief for Defendant, Eugene was destitute when he returned to New Orleans. In fact, he was forced to borrow \$2,000 from his sister Madame Miro, with which he leased a section of land from Eulalie's father, purchased two slaves, and started a produce farm

(1848: 95, Appendix F). Later, he would start a lumber business with trees on de Marigny de Mandeville's plantation and use Eulalie's cows to start a dairy (1848:95). Eugene's lack of wealth challenges the description of the male role in *plaçage* Blassingame (1973:18), Gehman (1994:37), and Martin (2000:66). Eugene was a white male who relied on the woman of color for financial support. The Brief for Defendant states that, Eugene treated Eulalie's wealth as his own and used it to build several successful businesses and accumulate a considerable amount of wealth (1848:102–103).

Eulalie's case presents yet another side of financial expectation in *plaçage*: namely, the role of white siblings in securing the financial future of black relatives. According to Hanger, "Unlike the French Code Noir, Spanish law permitted Louisiana's libres (free Creoles of color) ... to accept donations of realty ... including slave property, from whites and other free blacks" (1997:56). According to Bernard Marigny's testimony, "in 1803, Jean Marigny gave [Eulalie, his sister] \$350, with which she brought a lot of ground [on] Hospital Street" (1846:69, Appendix B). In 1806, Bernard sold her one plot of land in his suburb of Faubourg Marigny and gave her another plot of land that same year (1846:69). Bernard also gave Eulalie the lumber to build on the lots (1846:69), after which she leased the properties for a steady stream of rental income. Hanger situates Bernard's behavior: "Much of the wealth that free blacks in Spanish Louisiana possessed was passed on to them by whites and other free blacks through intricate kinship and friendship networks" (1997:79). In fact, according to Hanger, this happened through, "associations with whites—whether sexual, familial, friendship, or business-benefiting free blacks, women in particular" (1997:79). In Eulalie's case, since Jean and Bernard Marigny's generosity towards their sister began after their father's death in 1800 and since financial gifts

were expected between free blacks and whites, the responsibility of ensuring Eulalie's financial income was not solely Eugene's, but her brothers' as well.

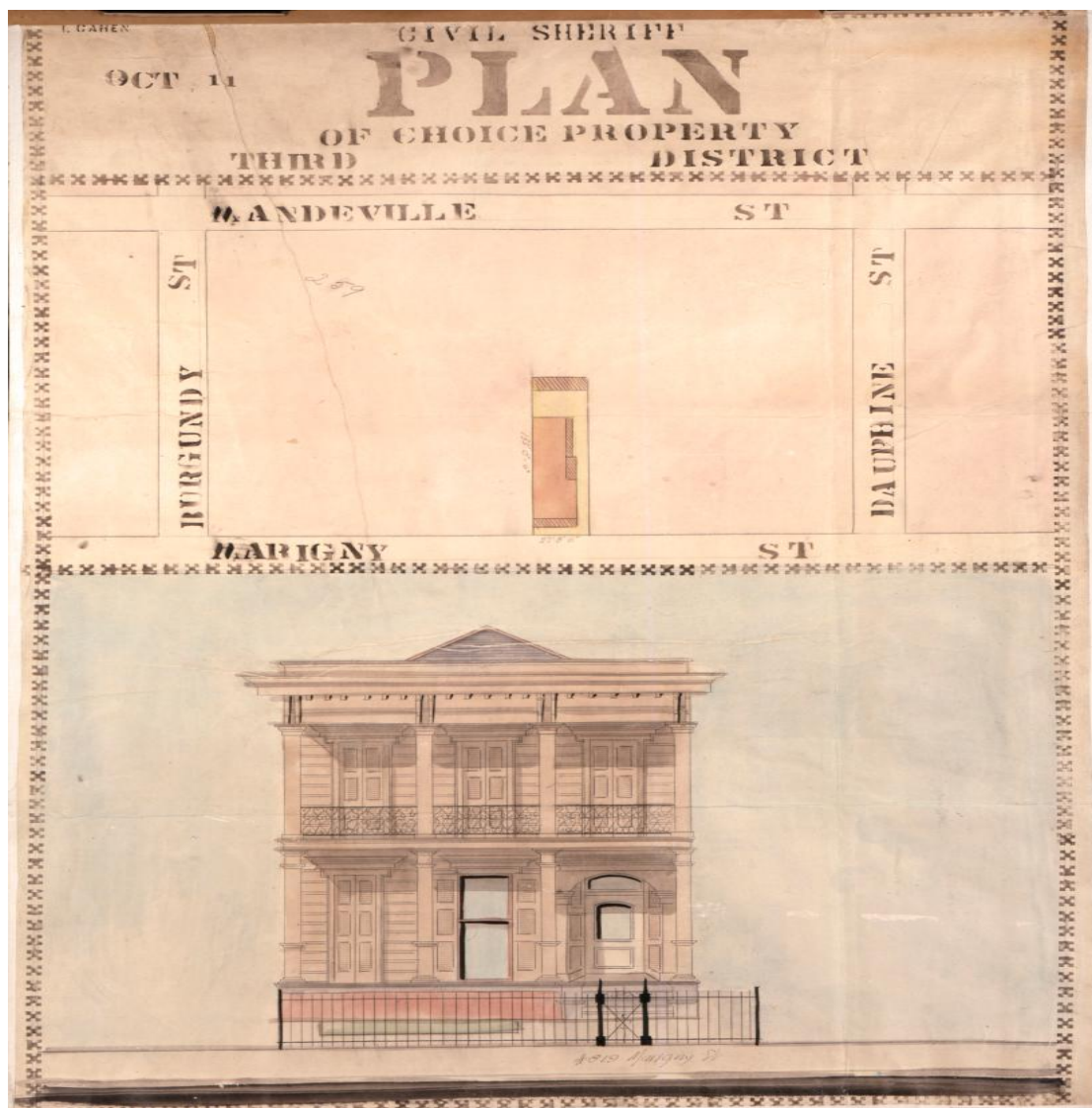


Figure 9

Plans for one of Eulalie's properties located in the Faubourg Marigny. The property faces Marigny Street and is between Burgundy and Dauphine Streets, and is backed by Mandeville Street. Cahen, I. Plan Book 110, folio 2 (110.002) October 11, Year Unknown. Notarial Archives, Research Division.

## PLAÇAGE AND BUSINESS

The 1850 New Orleans census lists 1,792 free people of color in fifty-four different occupations... [Theses] trades, skills, and businesses were often handed down from parent to child going back generations into slavery.

—*Mary Gehman 2000:209*

### *Dabbling in the Market*

The Brief for the Defendant states that, Eulalie's financial success began before her partnership with Eugene. The experience she earned managing her father's plantation, including coordinating building projects, overseeing the care of her father's slaves, and operating a successful dry goods business, prepared her for the financial success that characterized her life (1848:96–97, Appendix F). Although recent histories by Gehman (1994), Bell (1997), and Hirsch and Logsdon (1992) discuss economic mobility among New Orleans Creoles of color, Eulalie's case presents in detail the ingenuity and resourcefulness she and other free women of color employed.

According to Sejour's testimony, many women of color experienced success "selling retail" (1846:78, Appendix C). These women apparently sold their goods on the streets of New Orleans or set up a shop in their homes. For example, Madame Durel employed street vendors, usually her slaves, to sell her goods around New Orleans (Sejour 1846:78). According to Hanger, free "blacks owned slaves primarily to help them in their trades in both cities and fields" (1997:71). In addition to selling goods in New Orleans, Madame Durel traveled to France to purchase merchandise to sell in New Orleans as well (Sejour 1846:79–80). Madame Durel later converted a room in her New Orleans home into a small shop (1846:80). Gehman describes the

occupation of street vendor as a “humble occupation” (2000:209), however, Sejour’s testimony reveals a more intricate business network where “women in general played a prominent role in town markets” (1997:63), especially “African-American women [who] became perhaps the most influential buyers and sellers of food in New Orleans” (1997:63).

Female street vendors became so successful and plentiful that “the Cabildo members in 1784, resolved to construct a central permanent market near the levee” (Hanger 1997:64).<sup>15</sup> The central markets, were “in part created in order to tax and regulate New Orleans’ thriving [street]commerce” (Hanger 1997:64). Apparently, “few [free] women chose to or were allowed to rent stalls [in the market] directly from the city council” (1997:64). Soon, however, free women of color found their way into the Central Market by renting stalls from licensed stall holders (1997:64).

The establishment of the market did not stop women from selling goods on the streets of New Orleans, as Eulalie’s case shows. According to Bernard Marigny, in 1799, fifteen years after the establishment of the central market, Eulalie “had in her house on the corner of Barrack and Dauphine Street a room filled with goods where she sold them, and she used to sell goods also in the streets by her merchandisers” as well ( 1846:70, Appendix B) .

The economic success of black female merchants improved the quality of life for them and their offspring. According Sejour’s testimony, after making their fortunes in retail, some women of color chose to leave the New Orleans. For example, Lise Perrault closed up shop after her partner’s death and left New Orleans for France (1846:79, Appendix C). Aurora Matou left New Orleans for France as well, but only after she left part of the \$30,000 she made from her retail business to her son, who stayed in New Orleans (1846:79–80).

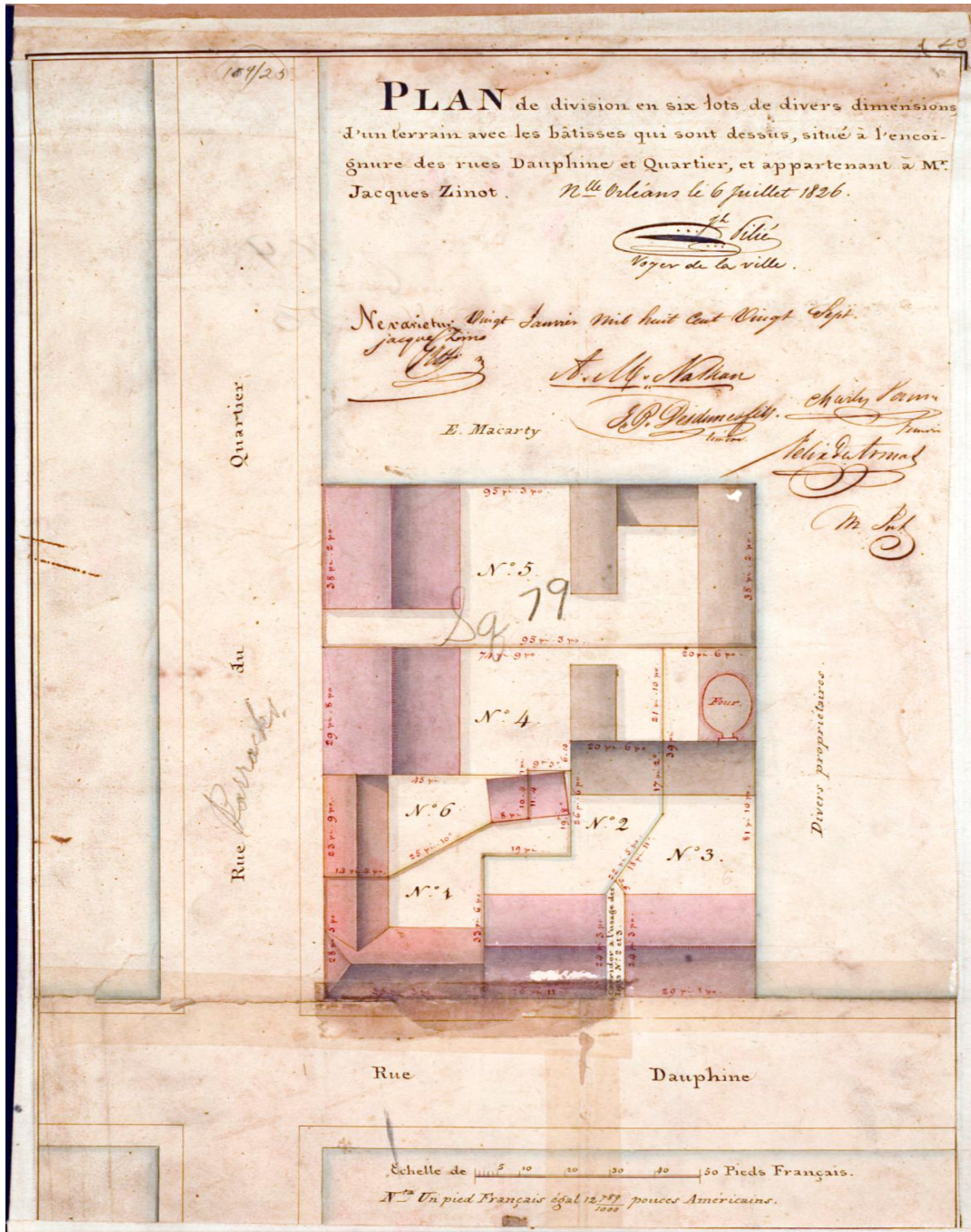


Figure 10

The six lots above were purchased by Eulalie and Eugene (see Eugene Macarty's name on planes, E. Macarty). One of the lots facing Barracks Street could have possibly been where Eulalie sold her goods and merchandise. Joseph Pilié, Plan Book 104, folio 23 (104.023) July 6, 1826. Notarial Archives, Research Division. New Orleans, Louisiana.

## ***Business Savvy***

According to Gehman, women of color who participated in *plaçage* partnerships “had to be savvy in the ways of business and law in order to hold on to what they had been given, improve it, and pass it on to their children” (2000:213). According to the Brief for Defendant, Eulalie owned a large retail operation (1848: 98, Appendix F), a dairy (1848:98), and a number of real estate properties (Court Petition of Plaintiffs 1846:98–100, Appendix A). She also financed and shared equally in the profits of Eugene’s loan brokerage business (Brief for the Defendant 1848:98). However, in 1807, Eugene became ill. Fearing he would die, he drew up a will in which he left, \$2,500 to his brother, Nicholas Macarty, \$1,000 to his niece, and his remaining estate to Eulalie and their children (1848:99). When Nicolas learned that Eulalie stood to inherit the majority of his brother’s estate, Macarty challenged her rights as inheritor. Since Eugene never married, as happened in a surprisingly large number of cases, the children of color were the only immediate blood relatives recognized in their father’s wills. “[However], the law stated that such families, because of their illegitimacy, could inherit no more than one-tenth of the father’s estate, and that even that tenth was subject to loss if legitimate heirs sued to acquire it” (Gehman 2000: 211).

When Eugene recovered, Eulalie insisted that her investments and their children’s inheritance be protected “by using her own name in the transactions in which she was alone interested” (Brief for Defendant 1848:99, Appendix F). Eugene agreed, created a bank account in her name, and removed his name from the properties she inherited from her family (1848:95). When Eugene died thirty-eight years later, his family not only challenged Eulalie’s right to the estate once again, they also sued her to acquire it (Petition of Plaintiffs, 1846, Appendix A). Because of the protection Eulalie insisted upon from Eugene, she was able to successfully

challenge Eugene's family's claim on her wealth and keep it and her children's inheritance (Brief for Defendant 1848:105–107, Appendix F).

## CONCLUSION

My research adds to our understanding of free women of color through an examination of the lived experiences of Eulalie de Mandeville. It also attempts to expand the meaning of the concept of *plaçage* as it now appears in literature: by the examining kinship expectations and the financial benefits experienced by Eulalie and her *plaçage* partner Eugene Macarty. Eulalie de Mandeville was a free Creole woman of color born in 1777 who was loved by her white father and treated as the natural daughter of her white grandmother. She entered a *plaçage* partnership with Eugene Macarty in 1795. Eugene was a white Creole man who returned to his home in New Orleans from France with Eulalie's father Pierre de Marigny de Mandeville and her first cousin Charles Oliver. Eulalie and Eugene had five children together and amassed a large fortune during their fifty-year partnership. When Eugene died in 1845, his white family sued Eulalie for her estate, claiming that she had no legal or moral right to the estate. Eugene's family lost the case because it was proven through a nine-month trial that not only did Eulalie possess the skills to acquire wealth, but also that the new American laws against *plaçage* had no relevance in her case (see Court Judgment, Appendix E).

After a careful examination of Eulalie's lived experiences, my thesis shows that the *plaçage* partnership shared by Eulalie and Eugene was more than an illicit sexual relationship between a white man and a woman of color. Rather, in this case, it was a socially accepted marriage between a man and woman wherein the individuals lived together in a monogamous relationship, procreated, established kinship ties and norms, and manipulated their resources to



benefit their family unit. Eulalie's case challenges dominant images of free women of color that appear in the recent literature. Blassingame (1973), Gehman (1994), Martin (2000) and all present the notion of a remarkably beautiful free woman of color whose only skill and ambition in life was to use her sexuality to secure a wealthy white male partner. Eulalie's story contradicts this notion by presenting a confident, resourceful woman who was loved and respected by her family and community.

Eulalie's experiences further challenges recent interpretations of *plaçage* as an institution. For example, Eulalie was raised by her white father and paternal grandmother. According to recent scholarship, children resulting from *plaçage* relationships were "denied the familial closeness of the paternal relationship" (Martin 2000:69). But, Eulalie's relationship with her father's family provides insight into the emotional connection shared between a white family and a relative of color in eighteenth century New Orleans.

A closer look at the relationship between Eulalie and her father's family supports the argument that "race relations in the American Old South never fully emerged" in New Orleans (Logsdon and Bell 1992:204). This phenomenon is expressed by two factors: 1) "an extremely fluid society where a socioracial hierarchy was ill defined and hard to enforce" (Hall 1992:128), 2) racial openness established early in New Orleans (1992:240). This racial openness caused Eulalie to be considered "a friend of light" (Bernard Marigny Testimony 1846: 68, Appendix B) within the de Marigny de Mandeville family and a "natural sister" (1846: 68) by her brothers.

Eulalie's relationship with her father's family also brings to light the interplay between a white man and his children of color in eighteenth century New Orleans. Eulalie's story demonstrates that, in some cases, children of color played a significant role in the lives of their white fathers. Eyewitness testimony documented in the 1846 court case *Eulalie de Mandeville v.*

*Nicholas Macarty* (See Appendices A through F) attests to the fact that Eulalie and Pierre de Marginy de Mandeville her father, shared a special bond. He trusted the care of his plantation to her, wrote of her fondly in letters presented as evidence during her court case, and entrusted her care to his mother, who treated Eulalie as her own child. Eulalie's story does not reflect all cases of women of color in eighteenth century New Orleans. However, her story does offer eyewitness documentation that broadens our understanding of race relations in early New Orleans.

Eulalie is referred to in legal documentation as a "Free Woman of Color" (F.W.C.). According to Foner (1970), Blassingame (1973), Domínguez (1986), Hirsch and Logsdon (1992), Gehman (1994), Bell (1997), and Martin (2000), the free Creoles of color in New Orleans made up the middle caste within New Orleans' three-caste racial order. While Clark (2007) contends that no such class distinction existed within the Creole of color community, my research shows that in Eulalie's case, a tripartite racial order did exist in eighteenth century New Orleans. Eulalie's racial descent, along with kinship influences, personal freedom, and upbringing affirmed her privileged position within New Orleans society—a position, that she utilized to its fullest potential.

Eulalie's life experiences, in addition to Spanish laws and uneven sex ratios, may have also affected her choice to forgo a traditional marriage. By "traditional marriage" I mean a union between a man and a woman that is formalized by a religious or legal ceremony. According to court records, Eulalie's father Pierre de Marigny de Mandeville may have arranged her *plaçage* partnership with Eugene. Spanish laws for the most part did not hinder *plaçage* partnerships in New Orleans. Uneven gender ratios, where free women of color outnumbered their free male counterparts, coupled with the fact that Eulalie may have also been the product of *plaçage* herself, may have influenced her choice for a non-traditional marriage. Whatever the

circumstances and factors, it was Eulalie's choice in the end that determined her decision to engage in *plaçage*.

According to and Blassingame (1973) and Martin (2000) all white men involved in *plaçage* were wealthy and provided financial support and property for the women of color with whom they partnered. However, my research shows that this was not always the case. Court records show that Eugene Macarty depended on Eulalie's inheritance for his livelihood and loan brokerage business (Brief for Defendant 1848:94–102, Appendix F). Moreover, Eugene was not allowed to partner with Eulalie until he proved that he was able to support her and any children they might have. Eulalie's case proves that Eugene Macarty was not a wealthy white Creole man, but a hard worker who used Eulalie's financial resources as well as her family name and influence to make a financially secure life for himself and the woman of color with whom he shared his life (1848:94–102).

Eulalie's case exposes the nature of financial expectations between siblings, something that is not discussed in the current literature. According to court documents, Eulalie's brothers Jean and Bernard Marigny contributed three plots of land between them to their sister's real estate holdings. In addition, Jean Marigny left Eulalie his slave property upon his death and Bernard Marigny financed property for Eulalie in New Orleans and donated the lumber to build homes on the land she owned (Brief for Defendant 1848:90, Appendix F). Hanger argues that "much of the wealth that a free black in Spanish Louisiana possessed was passed on to them by whites and other free blacks through intricate kinship and friendship networks" (1997: 79). Eulalie's case shows how the process Hanger defines operated in a single lifetime. Moreover, since the financial gifts made to Eulalie by her brothers began after her father's death in 1800, it

can be assumed that Eulalie's financial well-being did not rest upon Eugene alone, but also on her brothers, Jean and Bernard Marigny.

During their fifty years together, Eulalie and Eugene's partnership made each of them wealthy. Eulalie showed knowledge of the law and an ability to protect her wealth and her children's inheritance by insisting that "her own name be used in transactions in which she was alone interested" (Brief for Defendant 1848:99, Appendix F). Eulalie's insightfulness eventually saved her estate from Macarty's family when they sued her after Eugene's death in 1845.

Eulalie de Mandeville's *plaçage* partnership was not a textbook case. She was not raised by a wealthy quadroon matron, but by her father and paternal grandmother. Her partnership with Eugene did not begin at a quadroon ball, but as a friendship between a daughter and a family friend. Eulalie's case helps create a context for the free woman of color that challenges the images presented in much of the literature to date, bringing her down from the heights of romanticism into the realm of reality.

## NOTES

*Acknowledgments:* I would like to thank the Archivist at the New Orleans Notarial Archives, Research Division who provided the translation of documents written in French. Also, a very big thank you to my thesis committee: thesis chair, Jeffrey David Ehrenreich, PhD, (Professor, New School for Social Research, 1985), thesis committee members, Jane S. Brooks, FAICP (Professor, Department Chair and Jean Brainerd Boebel Chair in Historic Preservation) and Connie Zeanah Atkinson, Ph. D (Associate Professor and Associate Director of the Ethel and Herman Midlo International Center for New Orleans Studies). My family: my mother Geraldine Johnson, who instilled within me the love I have for my Creole culture, my father, Arthur Johnson, who loves New Orleans even more than I do, my husband, Thomas Ward, for his support throughout the thesis writing process and my three children; Andrew, Sara, and Matthew, you are my inspiration. Lastly, I would like to thank Pastors David and Jeannot Plessey (Crossover Christian Fellowship) and Reverend Shelia Roschen, for their prayers, friendship, support, and advice.

1. The Supreme Court of Louisiana Historical Archives at the Earl K. Long Library University of New Orleans is the only archive on a university campus to house the Supreme Court records of a state.

2. According to William de Marigny Hyland: Bernard Marigny not only founded the Faubourg Marigny, one of the oldest neighborhoods in New Orleans (1984:12), he also founded Mandeville, a subdivision located outside of New Orleans in Saint Tammany Parish (1984:12). In addition, William contends that Bernard and the de Marigny de Mandeville family was one of the wealthiest men in Louisiana (1984:14–15).

3. According to William de Marigny Hyland:

Pierre de Marigny de Mandeville was born in 1751. He was educated in France and served in the French military in Guyana and as a royal musketeer in France. He returned to New Orleans and married Jeanne Marie Destrèhan in 1772. [In] 1798 Pierre Marigny was promoted to the command of the Battalion of New Orleans with the rank of colonel. It was also during this year that he acquired in a property exchange with Laurent Sigur, [a] plantation adjacent to the lower ramparts of New Orleans, known today as the Faubourg Marigny (*A Reminiscence of Bernard de Marigny, Founder of Mandeville*, 1984).

4. The granddaughter of Barthelmy Daniel Macarty and Françoise Héléne Pellerin was none other than Marie Delphine de Macarty Lalaurie. Lalaurie is known in New Orleans folk lore as being one of the city's cruelest slave owners.

5. Anthony G. Barthelemy defines "*Creole*" as "people of French and/or Spanish and/or African ancestry in Louisiana, especially in and around New Orleans" (2000:256).

6. La Côte des Allemandes (The German Coast) is located in Saint Charles Parish about 27 miles from New Orleans

7. An *arpent* is a French unit of measurement used especially in Canada and the southeastern United States. One *arpent* is equal to about 0.85 acres.

8. The *Bayou Terre aux Boeufs* ("Land of Oxen" or "Cattle Land") is a long tributary of the Mississippi River that ran through two Louisiana parishes. The vast majority of this land was settled during the French and Spanish colonial period. Canary Islanders (Islenos) settled Terre-aux-Beoufs after Pierre Philippe Marigny parceled off sections in the late 1700s.

9. Faubourg Marigny is name for the plantation's last owner, Philippe de Marigny de Mandeville (1785-1868). The Marigny plantation house stood near the foot of Elysian Fields, an Avenue in New Orleans.

10. According to Caryn Cossé Bell, “The climate of race relations in the city and the threat of an imminent British invasion prompted some free blacks to leave the country. On October 28, Claiborne noted the departure of large numbers of free persons of color for Cuba” (1997:54).

11. According to Caryn Cosse` Bell, “as the pattern of a dual racial order spread through the South during the opening of the nineteenth century, a three-tiered caste system set New Orleans apart. The city’s unusual racial pattern contrasted sharply with the Anglo-American [dual racial] order However, a series of repressive race laws and anti-black sentiment eventually succeed in confining all persons of color into a separate and inferior caste (1997:65).

12. According to Tregle, by the 1820s:

So controlling had [the American] presence become ... that newspapers regularly began to use the term commercial quarter and American section almost interchangeably, generally embracing in these designations the area comprising the First, Sixth, and Seventh wards of the city, extending from Conti to the upper limits of St. Mary. It was at St. Louis Street that Bernard Marigny drew the line between the “upper” and “lower” parts of New Orleans in 1822, proclaiming that the insufferable Americans had become so entrenched in the former and had so iniquitously enriched themselves therein at the expense of the latter that justice cried out for a new direction of municipal policy.

As the accelerating prosperity of their rivals increasingly distressed French champions of the lower precincts, the Gallic majority in the city council responded with deliberate sabotage of the wharf system without which St. Mary could not service the steamboat traffic upon which its prosperity depended. It soon became clear as well that what some called the “bosom of the city” meant vindictively to keep from the American quarter an equitable share of street paving, gas, lighting, and other major improvements, no matter how substantial its contribution to city tax revenues.

Gross ineptitude and flagrant dereliction on the part of the council only intensified the outrage of the American section’s commercial leadership at the discrimination visited upon them. Exploiting the considerable anti-French sentiment in other parts of the state, they finally, after many years’ effort, managed to win legislative approval for division of the city into three municipalities in 1836, guaranteeing each of them control over its own internal financial and economic affairs but retaining a single mayor, police force, and citywide authority in such matters as regulations of drays (carts used for haulage) and

hacks (a coach or carriage). Thus the compromise dividing line between the First Municipality (the city) and the Second (St. Mary) was fixed at Canal Street, with Esplanade Avenue serving as the upper boundary of the Third, roughly Faubourg Marigny.

This continued attachment of the Vieux Carrè, together with the maintenance within it of that architectural style which set the old city apart from the new, primarily accounts for the later commonplace contention that Canal became a kind of Rubicon dividing American and Creole population (1992:155).

13. Anti-black sentiment during the Americanization of New Orleans and surrounding parishes also aided in the destruction of the three-tiered racial order. According to Bell, areas outside of the city, particularly Attakapas, home to the largest concentrations of blacks outside of New Orleans (Bell 1997:85) “became the scene of a virtual reign of terror” (1997:85) for people of color. As evident by newspapers in Attakapas that referred to blacks as a “cancer upon society” (1997:85). In fact, *The Patriot* Newspaper “warned all free black residents of the region to flee the society of the white man voluntarily before [they were] compelled to do so by irrevocable decrees” (1997:85).





Figure 11

Map of Louisiana showing the Attakapas region. According to Bernard Marigny testimony, his first cousin Charles Olivier was resided in the Attakapas with his father (1846:64). Louisiana, parishes; Attakapas ; Cote Allemande, German Coast, Indian tribes, the Opelousa (Oppaloussas) --- From Mathew Carey's "General Atlas." New Orleans Public Library, Louisiana Division and City Archives: Orleans Parish, Louisiana.

14. William Carroll and 2500 troops camped at the Macarty Plantation in Carrollton before joining the Battle of New Orleans.



Figure 12

Macarty Plantation located in Chalmette, Louisiana. New Orleans Public Library, Louisiana Division and City Archives: Orleans Parish, Louisiana.

15. Outdoor markets located in New Orleans.

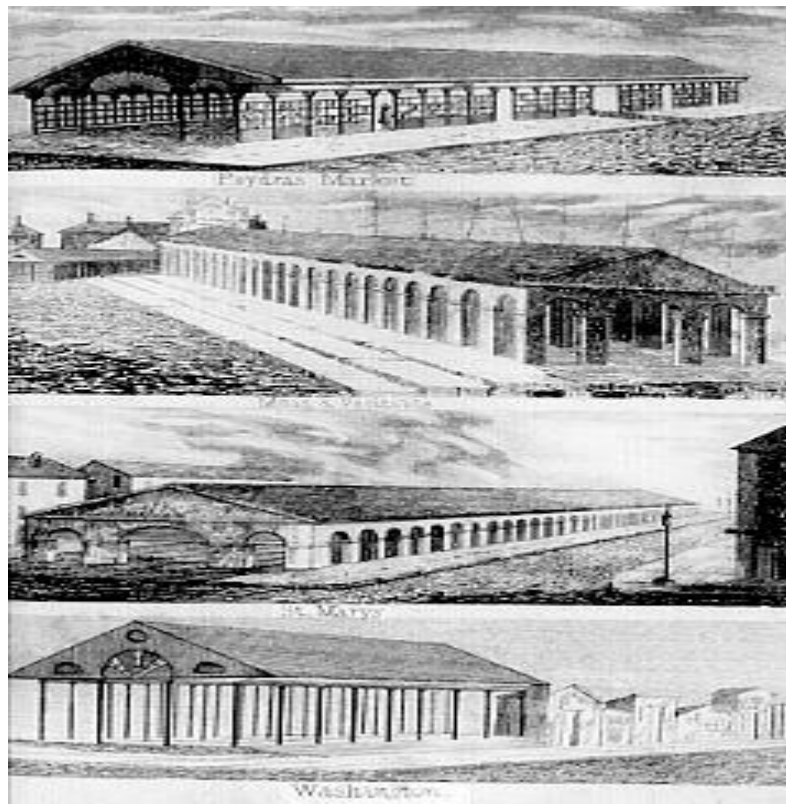


Figure 13

Poydras Market, Meat and Vegetable Market, St. Mary's Market, and Washington Market 1838, Reproduced from *Gibson's Guide and Directory of the State of Louisiana*.

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APPENDIX A

State  
of  
Louisiana  
Second District Court  
of  
New Orleans.

Nicolas Theodore Macarty et al.  
vs. n<sup>o</sup> 195.  
Eulalie Mandeville f.w.c.

Petition  
filed 19 Sept. 1846.

To the Honorable E. A. Canon,  
Judge of the Second District Court  
of New Orleans.

The petition of Nico-  
las Theodore Macarty, Charles Edou-  
ard Forstall, William Amory nott,  
Catherine Estelle Forstall, wife of  
Pierre Edouard Nicow, and by him  
duly authorised, Adelaide Adèle  
Montraut, wife of P. Evariste Miltz,  
and by him duly authorised, Louis  
LeBlau, tutor of his minor children  
Edgar, Estelle and Elizabeth LeBlau

00061

the legitimate issue of his marriage  
with Rosa Forrestall, Leda Montheuil  
wife of Henry Snyol, by him duly  
authorized, Jean Baptiste Francois  
LeBreton, et Noel Barthelémy Le-  
Breton, all residing in this City

Respectfully represent  
That they are  
with the under named persons, and  
in the following proportion, the sole  
legitimate heirs, left by the late  
Eugene Macarty, deceased in this City  
on the 25<sup>th</sup> of October 1845. and  
whose succession has been opened,  
before this Honorable Court on the  
27 October 1845. 1845.

Nicolas Theodore Macarty  $\frac{1}{4}$  -  
Charles Eduard Forrestall  $\frac{1}{2}$  - Willi-  
am Amory Holt  $\frac{1}{350}$  - Catherine  
Estelle Forrestall, wife of P. C. Favier  
 $\frac{1}{2}$  - Adelaide Adèle Montheuil, wife  
of P. Evariste Wilks  $\frac{1}{2}$  - Edgar,  
Estelle, and Elizabeth LeBeau,  
Minors  $\frac{1}{84}$  each. - Leda Montheuil, wife  
of H. Snyol  $\frac{1}{12}$  - Jean Baptiste Francois  
LeBreton  $\frac{1}{2}$  - Noel Barthelémy  
LeBreton  $\frac{1}{2}$  - Celeste Marie Ma-  
Carty, widow Paul Lanusse  $\frac{1}{4}$  -  
Delphine Macarty, wife of Louis Laburie  
 $\frac{1}{4}$  - Francis Montheuil, wife of Paul  
Delery  $\frac{1}{224}$  - Eugene Montheuil  $\frac{1}{224}$  -  
Auguste Montheuil  $\frac{1}{224}$  - Estelle  
Montheuil  $\frac{1}{224}$  - Modeste Montheuil  
wife of Henry Boulet  $\frac{1}{224}$  - Bar-  
thelémy & Delphine Montheuil mi-  
nors  $\frac{1}{224}$  each; Désiré Montheuil  
wife of Pascal Labarre  $\frac{1}{28}$  - Elmire  
Montheuil, wife of Laurent Millau

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don 128 - Josephine Monbault, wife  
 Charles Lafon Ladibat 112. Theodule  
 Monbault 112. Celestine Forstall, wife  
 of Adolphe Duré 115. Josephine Eu-  
 lalie Le Breton, wife of Charles Der-  
 bigny 142. Celestin Pontalba 114. Marie  
 Favre Daunoy, wife of Octave Leblanc  
 135. Manette Daunoy 135. Jean  
 Paul Blancq 150. Clement Blancq  
 150. Marie Blancq 150. Aimée  
 Blancq 150. Candide Daunoy 120.  
 Julienne Daunoy, wife of Theophile  
 Potier 120. Louis Daunoy 120. Felix  
 Daunoy 120. Loé Daunoy 120. Charles  
 Favre Daunoy 170. Cornélie Nott, wife  
 of Gustave Millenberger 130. George  
 Nott 130. Charles Nott and Anais  
 Nott Minors 130 each, Julianne  
 Arnault 120. Amalie Arnault  
 1420.

That among the property  
 left by the deceased Eugene Macarty  
 and which have not been inventoried  
 are the following, which are illegally  
 in the possession of Eulalie Mandeville  
 free woman of Color, his concubine  
 to wit

1st. A sum of One hundred and  
 Eleven thousand two hundred and  
 eighty dollars and 27. which was  
 deposited in the Louisiana Bank  
 in this City, some days previous  
 to the death of Eugene Macarty,  
 to the credit of Eulalie Mandeville  
 free woman of Color, and the Con-  
 cubine of said Eugene Macarty, which  
 sum had been withdrawn by her  
 on the 2nd of October 1845, and was

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the lawful property of the said Eugene Macarty, being the proceeds of promissory notes discounted by him, and deposited by him or his agent in said bank for collection.

2<sup>d</sup>. A sum of Eleven thousand Dollars, being the price value, paid by Eugene Macarty, to Samothe, builder, in this City, for the erection of a three story brick building, on a lot of ground, belonging to Eulalie Mandeville, situated Hospital Street, between Dauphine & Burgundy Streets in this City.

3<sup>d</sup>. One slave named Celis alias Lily, purchased of John Hull on the 6<sup>th</sup> June 1827 by E. Macarty under the name of Eulalie Mandeville for the sum of four hundred and seventy five dollars, and paid by Eugene Macarty.

4. One slave named Jerry, purchased of S. Rodolph Colston on the 3<sup>d</sup> day of November 1834, by E. Macarty under the name of Eulalie Mandeville for the sum of Eight hundred and twenty five dollars, and paid by Eugene Macarty, in his two promissory notes, endorsed by A. Abat.

5<sup>th</sup> One slave named Grand Charles purchased from the Estate of Mianee by Eulalie Mandeville for the sum of Eight hundred and fifty five Dollars and paid by Eugene Macarty.

6<sup>th</sup> One slave named Henry purchased of No<sup>r</sup>. Meadow Court, by E. Macarty under the name of Eulalie Mandeville, for the sum of Eight

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hundred and thirty seven dollars  
and paid by Eugene Macarty.

7. One slave named Petit Pompée  
purchased on the 23<sup>d</sup> April 1836  
by E. Macarty under the name of  
Eulalie Mandeville, of Baptiste,  
St. Amand and others for five hun-  
dred and seventy dollars, and paid  
by E. Macarty.

8. One lot of ground purchased un-  
der the name of Eulalie Mandeville  
at the Sheriff's Sale, on the 13 Oct.,  
1840, and situated in Suburb Ma-  
rigny, in this City, Moreau Street  
between Mandeville and Maigny  
measuring 30 feet front on Moreau  
Street on 120 feet depth, for seven  
hundred and fifty dollars, each  
paid by Eugene Macarty.

9. One lot of ground purchased under  
the name of Eulalie Mandeville  
by E. Macarty of Henry Leumont  
Syndic of the Creditors of Bartholomé  
Héa, situated Suburb Niémis in  
this City, on Villers Street having  
40 feet front on Villers Street, by  
60 feet in depth for the sum of seven  
hundred dollars, paid by E.  
Macarty.

10. One slave named Suzanne, pur-  
chased under the name of Eulalie  
Mandeville on the 16 December,  
1842, of Eugene Macarty at Syndic  
of the Creditors of M<sup>r</sup> Daniel Gonza-  
les, for the sum of seven hundred  
dollars, paid by E. Macarty.

11. One lot of ground situated near  
Suburb Marigny, designated by M<sup>r</sup>

247. measuring 35 feet front on  
 Wighuat Street by 130 feet in depth,  
 purchased by Eugene Macarty under  
 the name of Eulalie Mandeville  
 of St. Louis for the sum of four  
 hundred dollars and paid by him.

12. One lot of ground situated Suburb  
 Franklin in this City, in the Square  
 No. 105. bounded by Good Children  
 Avenue, Washington, Morales, and  
 Music Street, and designated by  
 No. 17, measuring 30 feet front on  
 Music Street by 117 feet in depth  
 purchased by Eugene Macarty under  
 the name of Eulalie Mandeville  
 from the Sheriff of the Parish of  
 Orleans, and paid by E. Macarty.

13. Two lots of ground situated Suburb  
 Marigny, Bagatelle Street, between  
 Leraps and Great mens streets, desig-  
 nated by the number 142, measuring  
 lot No. 1. 35 feet 3 inches and 4 lines  
 front on Bagatelle Street by 154 feet  
 6 inches and three lines in depth;  
 lot No. 2. adjoining lot No. 1. and  
 measuring 18 feet front on same St.  
 by 154 feet 6 inches and 3 lines in  
 depth; said lots were purchased by  
 Eugene Macarty under the name  
 of Eulalie Mandeville, from the Sher-  
 iff of the parish of Orleans, on the  
 18th of August 1844. for the sum of  
 Two thousand and twenty dollars,  
 payable 12 months after date in a  
 bond, which at maturity was paid  
 by E. Macarty.

Petitioners further  
 represent that all the property above

deceased, and the sum of One hundred and Eleven thousand two hundred and eighty dollars and 37¢ deposited in the Louisiana Bank by Eugene Macarty, to the Credit of Eulalie Mandeville, and withdrawn by her few time before the death of Eugene Macarty, and the sum of Eleven thousand dollars, paid by E. Macarty to Lamothe, for the erection of the building on Eulalie Mandeville's lot, were the lawful property of the decedent; that the same was earned by him, and has always been under his control during his life time, and was placed under the name of Eulalie Mandeville, in the form of a donation inter vivos, with the fraudulent purpose of violating the law, and depriving his legitimate heirs of his Estate.

Petitioners further represent, that when the said Eugene Macarty, some fifty years ago, took Eulalie Mandeville, as his concubine, she was entirely destitute of any means, except of a tract of land situated in the Parish of St. Bernard in this State, bequeathed to her by her father Mr. Mandeville de Marigny, which tract of land has always been and is still now unproductive; that from that period the late Eugene Macarty has received from his sister Mrs. Miro, then the wife of Mr. Miro, the Governor of the Province of Louisiana, under the Spanish government, a loan of two thousand dollars, with which sum he has transacted

business, and has earned the immense fortune given by him to Eulalie Mandeville his Concubine, from time to time in the disguised form of donation inter vivos, in purchasing property and depositing large sums of Money in bank, under the name of said Eulalie Mandeville, with the fraudulent purpose as aforesaid of depriving his legitimate heirs of his Estate.

Petitioners further represent that on the 2<sup>d</sup> Day of October 1845 the said Eulalie Mandeville, has withdrawn the sum of One hundred and eleven thousand, two hundred and eighty dollars and 37<sup>c</sup> which was deposited by Eugene Macarty in the Louisiana Bank, under her name, fearing an action from the heirs to recover said sum after the death of Eugene Macarty, who was then in bed very sick, and who actually died on the 25<sup>th</sup> of October 1845, twenty three days after the withdrawal of the sum above specified.

Wherefore the petitioners being considered, the petitioners pray that the said Eulalie Mandeville free woman of Color, be cited to answer this petition, and that after due proceedings had, she be condemned to pay to the Succession of the late Eugene Macarty, 1<sup>st</sup>. the sum of One hundred and Eleven thousand, two hundred and eighty dollars and 37<sup>c</sup>. which was deposi

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let in the Louisiana Bank by  
 Eugene Macarty under her name, &  
 withdrawn by her illegally on the  
 2<sup>nd</sup> of October 1845, the same being  
 the property of the late Eugene Mac  
 arty, with legal interest, from the  
 date of the withdrawal of said sum,  
 till paid - 2<sup>nd</sup> The sum of eleven  
 thousand Dollars, being the price  
 paid by Eugene Macarty to G.  
 Lamotte, for the erection of a building  
 as above specified on a lot of ground  
 belonging to Eulalie Mandeville  
 with legal interest, and privilege on  
 said building. - 3<sup>d</sup> That the sale  
 of all the slaves and landed property  
 above described be declared null &  
 void, and the same restored to the  
 succession of the late Eugene Macarty  
 as being purchased and paid by him,  
 and placed under the name of Eu  
 lalie Mandeville, as a donation inter  
 vivos contrary to law, and in the  
 fraudulent purpose of depriving his  
 legitimate heirs of the said property  
 after his death, in order that the  
 said above described property, lots  
 of ground, slaves and sums of  
 money, be brought back in the estate  
 of the deceased Eugene Macarty, &  
 be divided among your petitioners  
 and his other aforementioned heirs, ac  
 cording to law, and that the said  
 Eulalie Mandeville be condemned  
 to pay the costs of this suit, and  
 they further pray for all such fur  
 ther relief as the nature of the case  
 and equity may require, And

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as in duty bound  
Signed *L. Duvernois*  
of Counsel.

Pétition

A l'Honorable E. A. Leaven, Juge  
de la Deuxième Cour de District de  
la Nouvelle Orléans

La pétition de Nic-  
las Théodore Macarty, Charles Edou-  
ard Install, William Amory Holt,  
Catherine Estelle Install, épouse de  
Pierre Edouard Tricard, et de lui  
dument autorisé à ces présentes,  
Adelaide Adèle Montheuil, épouse  
P. Evariste Wilkes et de lui dument  
autorisé à ces présentes, Louis Le  
Beau, agissant au nom de ses en-  
fants mineurs, Edgar, Estelle, et  
Elizabeth Le Beau, issus de son  
mariage avec Rosa Forstall; Léon  
Montheuil, épouse de Henry Juyel  
et de lui dument autorisé à ces  
présentes; Jean Baptiste François  
Le Breton, et Noël Barthélemy  
Le Breton, tous demeurant en cette  
ville

Expose respectivement;

Qu'ils sont avec les  
personnes ci-dessus nommées et  
dans la proportion suivante, les  
seuls et uniques héritiers légitimes  
laissés par feu Eugène Macarty  
décédé en cette ville le 25 octobre  
1845, et dont la succession a été  
ouverte par devant cette Cour,  
Savoir;



APPENDIX B

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that Eugene Macarty was the real person interested and that the name of Eulalie Mandeville was only used to serve certain purposes which said Macarty had in view.

Answer

The only answer which witness can make to this question is that he considered Macarty as his client, and consequently considered him as interested in the suit.

Defendant by the attorney J. Soule Esq. when the above questions were proposed to Mr. Smith declared in open court that she had no objection to the witness answering them as he thought proper.

Plaintiffs here offer in Evidence the books of the 1<sup>st</sup> Bank of Orleans where Eugene Macarty's account was kept, copy of which, duly certified by C. Morin, Commissioner of said bank, will be furnished and filed with the Consent of both Parties.

Plaintiffs here also introduce certificate of Register of Conveyances now filed and marked No 5.

Plaintiffs here close their evidence reserving only the introductions here after of Notarial acts or extracts of them.

J. B. Marigny witness for defendant

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Sworn says he knows the defendant Eulalie Mandeville. She passes in the family of Witness as being his natural Sister. Witness has been known her since he can recollect. The father of witness liked her and had great Confidence in her. Witness being shown documents to be filed all in the proper hand writing of his father who died on the 14 May 1800.

Defendant here introduces said documents in evidence marked A. B. C. D. and E and filed.

Witness says the above documents are without date but must have been written previous to 1800 as his father died on the 14 May of said year. Defendant was looked upon in a friendly light by all his family.

Witness says that his father gave defendant a piece of ground having Carports on each side of Poydras Street about the year 1800; that when his father sold the Poydras plantation to Mr B. de Clovis at the entrance of Terre aux Boeufs he gave her, the defendant, between 60 and 80 head of Cattle which he had taken from said plantation. That when witness had Suburb Marigny laid out, he passed to defendant the Sale of two lots, in Moreau Street; the lots were about 60 feet by 120, but that although by the act, the two lots appear to

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have been sold, one of said lots was a donation from witness; those two lots of ground are the same designated in the act now introduced and filed and marked F.

As at that time, witness owned a saw-mill, he gave defendant the lumber with which she built on said lots. In the year 1803 or 4. the brother of witness Jean. B<sup>te</sup> Maigny gave defendant \$350 with which she bought a lot of ground in Hospital Street from Pierre Lacoste and which she has since built upon. That the brother of witness died in 1806. and left the defendant as a legacy a slave named Martin, who died about 20 years after.

The cattle which the witness father had given defendant the defendant sold a portion of them, and the remnant which were milk cows, she had a part upon the plantation of witness father, which is now Suburb Maigny. This is all that witness knows of the defendant's affairs which are positive and personal to him.

Witness being shown document now filed and marked F. says that it is in the proper hand writing of J. B. Maigny his brother, and that from the character of his brother and the

form of the document he verily  
believed it was a donation.

Witness says that  
after his father had sold the plan-  
tation at terre aux bouffes Eugene  
Macarty and Misoture leded  
that part of the plantation which  
afterwards became faubourg  
Marigny and between the canal  
and the city: they paid from 1860  
to 1870 dollars per month for it,  
and cultivated it as a vegetable  
garden. It was on that occasion  
that the portion of the cattle, which  
witness father had given to de-  
fendant, was brought there and  
applied to the establishment of a  
dairy and he sold milk. Wit-  
ness as far as he can recollect  
he has always known defendant  
retailing dry goods. She was en-  
gaged in that trade as early as  
the time when she was on the  
plantation of witness father at  
terre aux bouffes, and used to sell  
goods to the Spanish girls of the  
settlement there. Witness  
can recollect the defendant has  
always been a very steady enter-  
prising, industrious and economi-  
cal, and is a very intelligent  
woman. Witness says that the  
property purchased by defendant  
from Pier Lacoste in Mospitat  
street is situated between Dauphine  
and Burgundy streets nearly op-  
posite to Mrs Gilbert Leonard

thinks it is the same which she  
built upon in 1839, as he knows  
of no other property of hers there.  
Defendant left terre aux boufs  
after the death of witness grand  
Mother, Madame de Landry,  
Sometime in 1799.

Witness knows Charles  
Olivier, he is his first Cousin. he  
is about 68 years of age, about  
7 or 8 years older than witness.  
Charles Olivier returned from  
France with the father of witness  
in 1790. and towards the year  
1795. he went to reside in Atta-  
Kapaa with his father, but as  
Olivier was a young man, he was  
very often in town and lived in  
the witness family. Witness knew  
Eugene Macarty; he took up with  
the defendant about the year 1796.  
Macarty returned from France  
in company with the father of wit-  
ness in 1790. His brother Mr. De  
Macarty placed Eugene on a  
plantation in 1792, now belonging  
to Mr. Lepretre, and in 98.  
Eugene Macarty's sister advanced  
him \$2000. Macarty bought with  
this one or two slaves and in 1800  
he leased the vegetable Garden.  
The sum of \$2000 above alluded  
to was returned to Mr. Charpin  
the agent of M. de Miro sometime  
in the year 1800 or afterwards  
Cross examined.  
Witness says that when C. M. A

Carty returned from France he was about 20 years of age; that with the \$2000 loaned him by his sister he purchased one or two negroes, and worked upon the money; he leased the Savane & vegetable garden as above said.

Witness believes that when Macarty was on the plantation where his brother had placed him, he sold wood, milk tea and worked his money. Defendant was 19 years old when Macarty took up with her. That it is probable the father of witness gave defendant money when she connected herself with Macarty, but that he was only 11 years old at the time, and too young to know anything about it. When Macarty took up with the defendant, he lived on the plantation of his brother J<sup>r</sup> B<sup>r</sup> Macarty, and used to cross the river and come and see the defendant who lived with Madame de Mandeville the grand mother of witness. Macarty was a very active, industrious and economical young man at that time, and witness has always known him as such.

Witness has seen Macarty when he lived on his brother's plantation, driving a cart loaded with wood, but whether he dumped it at the edge of the town or came into the city and sold

it he does not know. Witness has always known Macarty but not intimately; that he never had but few transactions with him and no money transactions as witness always had credit in bank and could obtain money without being shamed. Macarty was industrious & and put out his money at interest. Witness says that it is not to his positive knowledge that when Macarty's sister lent him \$2000 it was conditioned that he should not return them till he had acquired something, and should be in easy circumstances but that from his sister being a rich woman and without children, he should procure so

That at the time that Macarty went into partnership with Mizotier, he sold milk, grew oats, fire wood and had a wood yard and had pretty extensive business. at that time that line of business was lucrative, that besides the Cattle of defendant at the place of Macarty and Mizotier, there were cattle besides which belonged to Macarty & Mizotier; they had carts, with which they sold their wood &c. It was said at the time that Macarty lent money on interest. Witness says that the Cows owned

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by defendant ever sold to Mac  
 Party and Misolier. Defendant  
 had about 12 Cows at that time  
 Milch Cows were then worth from  
 \$15 to \$20. Defendant had three or  
 three negro women who sold dry  
 goods in the streets, and she sold  
 goods in this way for 40 years  
 she never had a store. that she  
 had a son who had gone to Europe  
 on his return he brought out  
 an assortment of goods, and a  
 small store was opened in her  
 house; this was some 10 or 12 years  
 ago, and was not continued regu-  
 larly, but at two or three different  
 times. Macarty passed for having  
 considerable sums of money in his  
 hands, which he placed at interest.

Witness says that Mac  
 Party had the reputation of having a  
 great deal of money in his hands  
 in 1820. at that time he does not  
 think that Macarty loaned much  
 on mortgage, but discounted many  
 notes. Macarty continued in the  
 line of a money lender till within  
 a year of his death, and witness  
 supposed that the amount he had  
 in hand must have increased every  
 year. The kind of business followed  
 by Macarty, must have brought him  
 in much money, and it must have  
 been a very lucrative one; his business  
 was very extensive.

Question by Plaintiff  
 whether the Commerce followed

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by Eugene Macarty was not more  
extensive and more lucrative, than  
that followed by Eulalie Maudeville.

Answer

That both were very lucrative  
Witness says that defendant has  
five children by Macarty; she never  
had any by any other person; one  
daughter and four Sons; they received  
a very good education. Eugene one  
of her Sons was brought up at the  
north; he does not remember if her  
other Sons were educated here or at  
the north; her daughter was edu-  
cated here.

Witness being asked whether  
he knows either personally or for  
having heard of in his family that  
his father gave at one time to defen-  
dant the Sum of \$3,000

Witness answers, that it is probable  
that his father may have given her  
money, as it was generally done by  
fathers who had natural children  
to give money in hand, "de main en  
Main Comme cela se pratiquait,  
alors." but he has no personal  
knowledge of the fact, and has  
never heard of it in the family.

Witness says that Macarty had  
the reputation of having a good  
deal of money previous to 1820.

Examination in chief resumed

Witness says that when Mischler  
and Macarty dealt in firewood  
they had barges fulling wood from  
the lower Parishes; they took a

portion of that wood from the plantation given to the defendant by, the father of witness, Macarty loaned money sometimes in his own name, and sometimes under the name of the defendant, and latter under that of the defendant altogether. Witness says that he has heard from Macarty that he has sent money to St. Sage de Cuba.  
Cross examined.

Witness says that when Mirolier and Macarty took wood off of the plantation given to defendant by his father, whether they paid for it or not, but supposes that it was paid for, as things are not generally given for nothing.

J. B. Blanchard witness for defendant sworn says he knew Macarty and the defendant, he knew them from the year 1816; at that time defendant had negro women who resorted to goods in the streets; that line of business was then considered very lucrative as there were few competitors. Witness says many have succeeded who begun in that way in making fortunes; he never knew that defendant had left off the business.

Witness was a clerk with Mr. Lanus, and it was there he saw her and sold her goods. She enjoyed good credit. Witness says that the house of Lanus at

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APPENDIX C

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defendant enjoyed the reputation of being steady, active, industrious & economical.

Cross examined.

Witness knew Eugene Macarty, he had the reputation of lending money and for being economical, but witness knows nothing of this or what he did personally - he has known Macarty since 1815, has heard that Macarty shaver very high, but has no personal knowledge of it. Witness sold goods to defendant he purchased here and imported goods. Defendant sold goods by retail; he does not know if she ever had a store, but when he went to her house he saw goods packed on chairs and in barrels, which in the morning she distributed to her marchantes to be sold.

L. Sejour witness for defendant. Witness says he has known defendant since 1811. when he first knew defendant she was a freeholder and did Commercial business. She did a dry good business. The line of business followed by the defendant was very profitable and all those who followed it at that time made fortunes. Defendant had several slaves marchantes who retailed in the streets. He does not recollect the number of her marchantes, but he recollects two or three named persons who have since for-

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times at this business. Witness says that Miss Lize Perrault, Anne Maton, Agate Touchon, Marie Louise Picot have made fortunes at it. Poupon Cournaud is well off by it, though not so rich as the others, and Mrs. Dwell also made fortunes at this kind of business. Witness did business with defendant from 1826 to 1841. Defendant did tolerably extensive business "à la mal". Witness does not know how defendant invested her profits. Witness saw defendant very often but only on business.

Cross examined

Witness says he has been in business since 1826 up to 1841. When he left off, witness knows persons who merely make a living by selling at retail, but they are not, or so large a scale as defendant was. Witness says that he cannot say what defendant may have realized by way of profits. He says it was at that time persons could scarcely lose money as a person who knew how to purchase was bound to make profits because every body was good and paid well. Witness does not know if defendant followed any other business besides the retailing. Witness says that Marie Louise Paris or Picot took this name from the person with whom she lived, witness knows only by sight and

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turns at this business. Witness says that Miss Lise Perrault, Anne Maton, Agate Fauchon, Marie Louise Picou have made fortunes at it. Poupon Courant is well off by it, though not so rich as the others, and Mrs. Dwell also made fortunes at this kind of business. Witness did business with defendant from 1826 to 1841. defendant did tolerably extensive business, "has mal". Witness does not know how defendant invested her profits. Witness saw defendant very often but only on business.

Cross examined

Witness says he has been in business since 1826 up to 1841. when he left off. witness knows persons who merely make a living by selling at retail, but they are not on so large a scale as defendant was. Witness says that he cannot say what defendant may have realized by way of profits. he says it was at that time persons could scarcely lose money as a person who knew how to purchase was bound to make profits because every body was good and paid well. Witness does not know if defendant followed any other business besides the retailing. Witness says that Marie Louise Paris or Picou took this name from the person with whom she lived. witness knows only by sight and

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Cannot tell if he was well off  
 or not. Witness says that Sie  
 Perrault did not live with a  
 white man. Aurora Matos lived  
 with a white man named Biere  
 since dead. Agate Fauchon  
 lived with Mr. Steno. Witness  
 says that when Sie Perrault left  
 off business and left the country  
 she was worth from 20, 25 or  
 30,000 dollars, which at that  
 time was considered a fortune.  
 She left off in 1817 or 18. She and  
 defendant did pretty much about  
 the same amount of business.  
 Witness says that the reason why  
 he said that Sie Perrault had  
 withdrawn with the above fortune  
 is because she told him so. Au-  
 rore left Louisiana in 1826 or 8.  
 to go and live in France where  
 she since died. She had realized  
 when she left her about \$30,000.  
 She took away part of her fortune  
 with her and left the balance in  
 this place - she only had one  
 child. Witness says that at the  
 time he speaks of Mr. Deard  
 had no store, but that afterwards  
 when she began to make trips  
 to France, she opened a store  
 examination in chief resumed.  
 Witness says he does not know  
 how many Marchandises defendant  
 had, but he recollects two, as he  
 used to see those two frequently  
 B.

Joseph Blache witness for defendant sworn says that he knows defendant, has known her for 50 years. He has always known defendant retailing goods since 1799. Witness purchased goods from defendant a few years since, when her son Villars returned from France. Witness says that defendant sold milk and kept a dairy. Witness says that Macarty cut wood from the plantation of defendant at terre and bought for several years, which he sold. Witness knows that the property on which a brick house has been built, as having belonged to defendant many years back.

Cross examined.

Witness says that he knows that Macarty cut wood off of defendant's plantation and sold it, because witness purchased wood from Macarty's mulatto boy who told him that it was cut there.

A. F. Enoul Livaudais witness for defendant sworn says he will be 76 years old on the 20<sup>th</sup> Sept. 1847. He knew Eugene Macarty very well; he knew him from the year 1791. when he first came here, and became better acquainted with him afterwards. Witness cannot precise the time when Macarty conversed himself with

APPENDIX D

163.

Joseph Blache, witness for defendant sworn says that he knows defendant, has known her for 50 years. He has always known defendant retailing goods since 1799. Witness purchased goods from defendant a few years since, when her son Villars returned from France. Witness says that defendant sold milk and kept a dairy. Witness says that Macarty cut wood from the plantation of defendant at here and back for several years, which he sold. Witness knows that the property on which a brick house has been built, as having belonged to defendant many years back.

Cross examined.

Witness says that he knows that Macarty cut wood off of defendant's plantation and sold it, because witness purchased wood from Macarty's mulatto boy who told him that it was cut there.

A. F. Enoul Livaudais, witness for defendant sworn says he will be 76 years old on the 20th Sept. 1847. He knew Eugene Macarty very well; he worked him from the year 1791, when he first came here, and became better acquainted with him afterwards. Witness cannot precise the time when Macarty connected himself with

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114.

defendant; it is so long since,  
that when he knew exactly some  
time after the year 1790. Masarty  
had no means. Witness became  
acquainted with E. (Masarty) Mandeville  
some time before 1797. Wit-  
ness married about that time with  
Miss Mary, Mrs. Mandeville  
brought up defendant as her own  
daughter and witness used to see  
her in the house. Witness cannot  
recollect at what time defendant be-  
gan to trade, but knows that after-  
wards engaged extensively in dry  
goods. Defendant had the reputa-  
tion of being possessed of means.  
Witness recollects that after his  
marriage his wife purchased from  
defendant several goods; that defen-  
dant had in her house corner of  
Dauphine and Barracks streets  
a room filled with goods and there  
sold them, and she used to sell  
goods also in the streets by her  
Marchandes. Witness himself  
recollects having purchased goods,  
and paid for them at the room  
or store above alluded to. Witness  
was a remarkably industrious, econ-  
omical and well brought up per-  
son. She is no fool, well educated  
and well looked upon by many  
ladies. The business followed by  
defendant must have been very  
profitable, for goods sold very high.  
Witness says that Eugene Masarty  
had the reputation of being a shaver

00224

and that he showed at a high rate.

Question by defendant  
Did not Macarty put out money  
belonging to Eulalie Mandeville  
at interest?

Answer

Macarty told him so himself  
This answer is subject to all  
legal objections.

Cross examined.

Witness says that he cannot precise  
the date when his wife first bought  
goods from defendant. that if his  
memory was as good as it was  
previously to 1814. at which time it was  
impaired by sickness, he could tell  
the day and the month. Witness  
cannot say when defendant first  
began trading in dry goods.

Defendant here offers in Evidence  
twelve documents now filed and  
marked C no 1 to C no 12.

Defendant also introduces in Evidence  
subject to all legal objections 12 docu-  
ments now filed and marked from  
D no 1 to D no 12.

Document H.

filed May 6 1847.

1841.  
December 24th Collected of Eugenio  
Macarty for draft of P. Macarty favor  
of Rafael Maso y Cia of Santiago de  
Cuba. 12000

1843.  
October 12. my draft at 3 days sight

00225

176.

en allarsusa Hermanos favor of  
Eugene Macarty p<sup>o</sup> \$4000 a 2 1/2 %  
discount. \$3820.  
1843.

August 17<sup>th</sup> my draft at 3 days on  
Draht Brothers & Co. order of J. P.  
Macarty for \$4000 @ 1 1/2 % dis-  
count. \$3960  
New Orleans 6<sup>th</sup> May 1847  
Signed Antonio Castillo.

Document J.

filed 6 May 1847.

Santiago de Cuba.

10 de Diciembre de 1844.

Por \$2000

A quince dias vista, se servirá  
v. mandar pagar por esta primera  
de Cambio (de habiendolo hecho  
por la segunda o tercera) a la  
orden de D<sup>no</sup> Rafael Maso y Cia  
la cantidad de dos mil pesos.  
valor recibido de los mismos, que  
anotará vml en cuenta segun  
aviso de S. J. S.

Digo dos mil pesos.

J. P. Macarty.

A D<sup>no</sup> Eugenio Macarty  
New Orleans.

enclosed.

Paguese a la orden de Antonio  
del Castillo, valor en cuenta con  
el mismo.

Cuba fha al retro  
R. Maso y Cia.

Received Payment  
Antonio del Castillo.

00226

APPENDIX E

268.

Judgment.

State of Louisiana  
Second District Court of New  
Orleans

Nicolas Nicolas Macarty et al  
vs. No 195.

Eulalie Mandeville

Judgment, rendered 12 June 1847.

The Court having taken  
this case under consideration this day,  
delivered the following opinion in writ-  
ing, and ordered the same to be recorded  
which is as follows, to wit:

This case  
offers to the moralist a sad instance  
of the grossest violation of every social  
law, of every lawful tie.

Eugene Macarty, a  
man whom all the evidence concurs  
in representing under a very unamiable  
light, formed, sometime in 1792 or  
1793, an illicit connection with a  
Colored woman named Eulalie Man-  
deville

Though they first set out with  
very limited means, yet in a short  
time, each of the associated straining  
every nerve and using all and every  
resource which the times and circum-  
stances could afford, they and  
each of them made some money  
which in the course of years in-  
creased and was swelled into a  
very large fortune

Then, they had  
friends, and even one of the plaintiffs

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did not disdain to solicit money from the defendant, his brother's concubine and to write to her by the all sacred and endearing name of "Sister", thus wantonly leading on the prejudices of the Country so strong at that period.

The deceased and defendant had numerous children, which according to the testimony, appear to have been brought up with some care.

Time went on, and on the 25th day of October 1845, Eugene Macarty, the aforesaid associate of the said Eulalie Mandeville, died, leaving a large number of legitimate heirs, who now sue the present defendant for the recovery of all the assets mentioned in their petition, and of some other property described in the answer made by said defendant, in open Court, to interrogatories taken propounded by plaintiffs, alleging that they are a part and portion of Eugene Macarty's Estate.

It appears that all the said assets, to wit; the money, the slaves and the lots and buildings were at the time of said Eugene Macarty's death, under the name and in the possession of Eulalie Mandeville, the defendant, and that they had been so, for a long time previous to that event.

But the heirs contend that the whole was the property of Eugene Macarty and that the sum of One hundred and

270.

eleven thousand two hundred and eighty dollars and thirty seven cents, deposited in the Louisiana Bank by Eugene Macarty to the credit of Eulalie Mandeville, and withdrawn by her some time before the death of Eugene Macarty, and the sum of eleven thousand dollars paid by E. Macarty to Lamothe for the erection of the buildings on Eulalie Mandeville's lot, were the lawful property of the deceased; that the same was earned by him, and has always been under his control during his life time, and was placed under the name of Eulalie Mandeville in the form of a donation in view with the fraudulent purpose of violating the law, and depriving his legitimate heirs of his Estate.

The testimony show as afore stated, that when the deceased and the defendant began to live together, they had very limited means

Deceased received a small loan of money from one of his sisters, which he returned in due time and the defendant had a small tract of land, on which wood was cut down and sold, some money and some cows.

The deceased went on selling milk & wood and lending money at excessive rates; whether he began his business with his cash only, or also with defendant's money is not fully ascertained; however, one

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of the witness says, that the ruling passion was so strong in deceased's mind, that he would suffer no one under his control to keep money uninvested.

Defendant is shown to have been, in her line, a very intelligent, laborious, thrifty and saving woman; she sold dry goods and for that purpose she had hawkers, by her employed to retail in town and in the country, near the City, for her account and in her name.

Deceased and Estelle had children as aforesaid, and no doubt parental love, the strongest tie on earth suggested to both of them that their own children would, perhaps, better entitled to inherit the proceeds of their labor, than collateral heirs for whom they felt little or no regard.

In the meantime, it is shown that deceased purchased a plantation in the Island of Cuba on which he spent large sums of money, and he also advanced considerable amounts to children of his settled in the same Island, the whole absorbing a large part of his earnings.

Previous to the year eighteen hundred and twenty five, the law, as to dispositions and gifts between persons living in Spain or Cuba, was not as stringent as it is now. Art. 1468 of the Civil Code had not been promulgated, and what is now prohibited was

00331

then heit

It is since 1824 and 1825 that the fortune of Cecile Mauveville has taken a wider range; whatever may have been given to her before or at that period and previous to the promulgation of the new Code, she had lawfully the right to receive, and no donation inter vivos made at that time & before the promulgation of the present legislation as stated, could be declared null. Macarty may have earned money for her, and when so earned it is his, as the laborer and slaves earn money for their employers and for their masters. Sic vos non docet is of all times and places.

However plaintiffs plead fraud and simulation.

Fraud cannot be presumed, which means that it must be established by legal proofs and presumptions, & that such proofs and presumptions must be satisfactory. C. C. art 1342.

Fraud in our jurisprudence, requires the strictest proof. Fort & wife vs McDyer. 10. M. R. 434.

Simulation, says Corbin, one of the best and closest dialecticians and reasoners amongst juriconsults is derived from the Latin word simul.

"N'indique suivant cette étymologie le concert ou l'intelligence de deux ou plusieurs personnes, pour donner à une chose l'apparence



"d'une autre"

"En droit en somme simulé sur acte ou la clause d'un acte qui n'est pas sincère". • Merlin. Répertoire de Jurisprudence verbo. Simulation.

It has not been shown that the acts introduced in evidence as sales made to Eulalie Mandeville were anything else but sales, or that she was not the purchaser.

True, she may have paid the price with monies to her previously lent, advanced or given by Eugene Macarty, but that does not change the assumed, nature or form of the deed which remains what it is, to wit; An act of Sale of Certain property or slaves to Eulalie Mandeville, in which there is no simulation at least no simulation proven.

As to the sums of money, deposited in the Bank of Louisiana, the testimony given by Vidouier, a witness offered by plaintiffs, leaves no doubt that the deposits made by Eulalie Mandeville, are truly what they purport to be, testimony A. Page 1 and B. Page 2.

The witness in his cross examination says "Eulalie Mandeville signed the checks her self. Macarty had no transactions with the Bank for himself, they were for Eulalie Mandeville; Eugene Macarty Jr. deposited for Eulalie Mandeville; does not think

he ever saw Eugene Macarty Sr., more than once or twice at the Bank." that testimony does not state what was the amount of the account when first opened; and it is shown that before opening her account in the bank of Louisiana defendant had a large balance in her name in the Consolidated and Colonial Bank.

This evidence taken together with the account always kept in the name of Catalie Mandeville is very strong, and leaves hardly room to doubt. The Court must take it as it is, and as the parties have made it out.

This Court cannot treat as nullities the numerous & respectable testimony introduced by defendant; it is copious and Concordant.

It may be said that testimony equally abundant and equally deserving the confidence of the tribunal, has been offered by plaintiffs, and that it fully establishes that the deceased was a close fitted and most hard headed usurer, without feelings or bowels in his line of business, what ever he may have been otherwise; that he must have made a large fortune; all this is very true, but it has not been shown, that the assets described in the petition, and which have been paid and public

276.

him, as the agent of Eulalie Man  
deville; he suborned to take great inter-  
est in the transactions and get  
told him "maintenant bones chez  
moi, et vous verrez M<sup>lle</sup> Eulalie".

No doubt deceased  
must have been very anxious to in-  
crease defendant's (position) fortune  
he may have been elated when she  
made profits, and vexed when she  
lost or ran a risk to lose (Cesaire  
Olivier's testimony), because he knew,  
that said fortune was to revert to  
his children.

Whatever may be  
our conjectures, the testimony has  
not that force, which can authorize  
the Court to determine and decide  
that plaintiffs have satisfactorily  
made out their case C.P. art 174.

This view of the subject  
dispenses us from examining a  
Receivory Exception and a plea  
of Prescription filed in the Procès  
Verbal.

It is therefore Ordered  
adjudged and decreed that judg-  
ment be given against plaintiffs  
in the form of a non suit  
and that their petition be dis-  
missed with costs. Third new  
Series 59. Third new Series 122.

Signed. June 26. 1847.

Signed  
E. A. Canon  
Judge.

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## APPENDIX F

### IN THE SUPREME COURT.

N. T. MACARTY AND AL., vs. EULALIE MANDEVILLE.

#### BRIEF FOR DEFENDANT.

The plaintiffs are some of the collateral heirs at law of the late Eugène Macarty, who died on the 5th of October, 1846. Their petition alleges, that from 1796 until his death, Eugène Macarty lived in concubinage with the defendant, who is a colored woman, and had a number of children with her; that he amassed a large fortune, which, at the time of his death, was in the name and in the possession of the defendant; and that in reality it belonged to the deceased, who had made use of the defendant's name for the purpose of transmitting his estate to his colored family, to the prejudice of his legitimate relatives. They pray that the property which they specify, be declared to belong to the estate of Eugène Macarty, and that it may be recovered, and disposed of as part of that estate, and distributed among the plaintiffs and their co-heirs, according to their hereditary portions.

The defendant filed exceptions (page 21) which will be noticed hereafter, and an answer containing a general denial (p. 23.)

The defence is, that all the property claimed is truly, honestly, and legally the property of the defendant. The

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voluminous evidence in the Record all bears upon this point. The case presents purely questions of fact, except the plea contained in the exceptions of the defendant (p. 23), her plea of prescription, (p. 265,) and her bills of exceptions, (p. 254-6,) to the exclusion of part of her testimony, believed to be as legal as it is material. Although thus restricted in her defence, yet so conclusive was the rest of the testimony, that the 2d District Court decided in her favor on her main defence, to wit: that the property was hers. And, believing that the same testimony will produce the same result in this Court, we shall principally endeavor in this brief to aid the Court in the examination of the testimony by classing it under appropriate heads, and by reference to the parts of the Record proving the statements we have to make.

The petition states (p. 7.) and it is nearly correct in this particular, that the co-habitation of Eugène Macarty and the defendant, commenced about 1796. It was somewhat earlier, but this matters not. The petition admits (p. 8), and many of the old witnesses declare, that Macarty had then nothing, having spent his little patrimony in a trip to France. The petition also states, and it is besides proved, that Mme. Miro, his sister, lent him \$2000 to be returned when he should be able to do so. With this sum he commenced business, bought one or two slaves, leased, in 1800, a garden, where suburb Marigny now is, raised vegetables for the market, and was sufficiently prosperous in his affairs to return the loan of \$2000 in 1800, or soon afterwards (B. Marigny, 139.) Previous to his removal to the city, he lived on a plantation about twelve miles below the city, then belonging to his brother, J. B. Macarty, and now to Leprêtre (B. Marigny, 129.) There he sold butter and milk and made wood,—and he was certainly very industrious, for Bernard Marigny recollects having seen him driving a cart loaded with wood to the city (p. 140.) He also hired a negro

from Mdme. Amelot, who sold wood for him (Térence Le-Blanc, 132). There he became acquainted with the defendant. She is the daughter of Pierre Marigny, the father of the witness, Bernard Marigny, and lived on the plantation of Mdme. Mandeville Marigny, her father's mother. This plantation is situated on the river, at the commencement of the Terre aux boeufs, nearly opposite the plantation on which Eugène Macarty resided. She was treated with regard, confidence and affection, by all the members of the family; indeed, as one of the family. We have, on this point, not only the testimony of two gentlemen—both grand-children of her grand-mother, who grew up with her under the same roof, Charles Olivier, of Attacapas, (p. 86,) and Bernard Marigny, (p. 135)—but even written evidence. On the 30th of July, 1799, Leveau Trudeau measured for her a tract of land of 3 arpents front by 40 arpents in depth on each side of the Bayou of the Terre aux boeufs, and Pierre Marigny, who was present and assisted at the survey, declared that this land had been given to Eulalie Mandeville by his mother (218). On the 26th November, 1807, Bernard Marigny and J. F. E. Livaudais, the latter acting for his wife, then the only surviving heirs of Mme Mandeville Marigny confirmed this donation by a notarial act, (p. 220). On page 145, ss., will be found five short letters or notes written by Pierre Marigny to the defendant. They bear no date but they must have been written before the 14th of May, 1800, when Pre. Marigny died, (Bd. Marigny, 135). They breathe the most affectionate feelings and show considerable confidence in her judgment. Her father gives her directions concerning work to be done on the plantation, consults her about buildings to be put up, &c. When her father sold the plantation, he gave her from sixty to eighty head of cattle, she sold some of them, and kept twelve milch cows, with which she kept a dairy in the city, (136, 137.)

In 1803, Jean Marigny, Bernard Marigny's brother gave her \$350, with which she bought a lot of ground in Hospital street, from Pierre Lacoste, (Bd. Marigny p. 137.) The act of sale is of the 22d of March, 1805, (p. 222) the price was \$250; she still owns the lot, which is the same on which she had a house built in 1839, by Lamothe, for \$11,700, (p. 53.) On page 150, is a receipt by Jean Bt. Marigny to Eulalie Mandeville, for \$550, for the price of the negro woman Victoire, and a request to the signer's tutor, to give her a good title by a notarial act. Bernard Marigny says that he has no doubt, that this was a donation (p. 137.) In 1807, Jean Marigny died, and left to the defendant a legacy of the slave Maturin, who died 20 years afterwards (p. 137.) When Bernard Marigny laid out foubourg Marigny, he sold to her two lots, by an act of Sept. 12, 1806, (p. 147) for \$1000. The sale of one of these lots was real, the other was a donation, (136.) Bernard Marigny having at that time a saw mill, he gave her the lumber to build on the lots in Moreau street, (137.) Charles Oliver has heard it said in the family, that her father had given her \$3000. Bernard Marigny ween interrogated on this circumstance, (p. 140) says that he does not recollect having heard it spoken of, but he was only 11 years of age, when his father died, and he thinks it at all events very probable, that her father gave her money, when she formed the connexion with Maccarty. This was a serious connexion, entered into with the consent of her family, the nearest approach to marriage, the law would permit, and looked upon as morally binding, much more so, than in these days. It was then cnsomary for fathers to give money to their natural children, when they contracted such pseudo-marriages, (p. 140.) For three years afterwards—until 1799, when her grandmother died, she remained at the plantation, (139.) Her eldest child, Emerite, afterwards Mme. Chéri Rigaud was born there, for

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Pierre Marigny mentions her, in one of the letters he wrote her from the city, (145, ss.) Then, already she was carrying on a trade in dry goods, with the women of the Spanish settlements, at the Terre aux Bœufs, (138, 127.) This trade she continued after she removed to New Orleans—and it will be seen, that it soon became very extensive and profitable, and that she continued it, until within a few years past.

It is thus made quite certain that the defendant had a trade and business of her own, and that she commenced the building up of her fortune with greater assistance from her family, and with better pecuniary advantages than Macarty. Macarty in the meantime was not idle. He formed a partnership with Misoffère, raised vegetables for the market, had a dairy which was composed, at least in part of the defendant's cows, (137, 138, 142, 126.) cut and sold firewood, which was also made, at least in part, on the defendant's land at the Terre aux bœufs, (143). Thus from this early period a communion of interests existed between them, he treated her fortune as his own, we cannot doubt that she confided to him her earnings for investment, and that the small loans Macarty made in early times, were made in part at least with her money, and we may well believe Martin Duralde, (78), and other witnesses, who say that Macarty told them at all times that he was doing business with the defendant's money. In no other way can we account for the use that was made of the defendant's means, for a great number of years, for with the exception of a sale made to her in 1810, by Eugene Macarty, himself, of a lot of ground for \$3,000, [E.] we find, until 1821, no acts in her name, but a few purchases and sales of slaves, representing together but a very small sum. It is more than probable, that Macarty treated and considered the defendant as his wife, and his destiny as linked to hers for life; that she having entire confidence in

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him, never called him to account, and, that as the law then in force, did not contain the prohibitions of the code of 1825, of which the plaintiffs now endeavor to avail themselves, the defendant was not solicitous to have her property separated from Macarty's. In 1807, Macarty being sick, and believing that his end was approaching, made a will, by which he bequeathed \$2,500 to his brother Theodore, one of the plaintiffs, and \$1,000 to a niece; \$4,000 and some slaves to the defendant, and all his remaining property, the extent of which we do not know, to the natural children he had with the defendant. Such a will was then perfectly legal; Macarty's intentions thus solemnly manifested, did not belie the defendant's reliance on him, and it may be presumed, that the defendant's apprehensions, not of Macarty, but of his collateral relatives, were excited only as her fortune increased. Then, only, she insisted, or Macarty determined, that she should be protected, by using her own name in the transactions in which she was alone interested, and for many years past, certainly since 1824, this plan was almost uniformly adhered to. Among the numerous acts which the industry of the counsel for plaintiffs has collected, we find but two purchases made by Macarty, subsequently to 1824, to wit, one of some slaves from Destrée, of June 11, 1825, for \$2,770, and one of a tract of land, from Méauce, for \$800, on 20th March, 1826. There are no mortgages extant posterior to 1824, in Macarty's name, and only a few inconsiderable sales.

All the witnesses for the defendants, nay, all the witnesses for the plaintiffs, without a single exception, that were interrogated concerning the business habits and capacities of the defendant agree, that she is an active, economical and intelligent woman, and that her business was very lucrative. Not one of the witnesses for the plaintiffs, contradicts or even questions this. But they deny that the description of

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business she did, could explain the large fortune she is now possessed of. It will therefore, be our business to give a summary of the declarations of the witnesses on this head.—As already stated, it is on this subject that most of the testimony was taken, and it contains, therefore, unavoidably repetitions. The defendant's business was to purchase dry goods from the importers, and to retail it by her slaves, or by persons who sold for her on commission. She had, at least, three regular marchandes, some of her other slaves were also sent out to sell goods, at times, many persons sold for her on commission, (ps. 223, 234, 236, 238, 240, 243, 126, 150, 49, 52, 56, 88, 96, 104, 107, 111, 112, 123.) Her operations extended into the country, (Charles Oliver, p. 89) as far as Donaldsonville and even Atakapas, (Marie Louis Panis, p. 126.) She had a large depot in the Parish of Plaquemins, (Seixnyder 49) some of her marchandes visited St. John the Baptist, (Térence Le Blanc 123.) This was the usual way of retailing dry goods at the time. The profits were very large, 60, 70, and even 100 per cent, (p. 126.) No losses were then sustained, every body was good, and paid well, (p. 123, 126, and others.) Many fortunes were realized by this kind of business, (Martial Dupart, p. 58, Duraide, p. 78, Duncan Kennedy, p. 104, Marie Louise Panis, p. 126, Louis Sejour, p. 160, M. Valeur Durel, p. 240, &c. &c.) The defendant bought on a large scale,—her credit was unlimited, say some of our oldest and most respectable merchants, (E. J. Fontall, p. 82, William Debuys p. 111, M. V. Durel, p. 240, and others.) Duncan Kennedy sold her a great many goods as early as 1806, (p. 104.) and says that he would willingly have sold her goods for 15 or \$20,000, on a credit. This was not a small, though a retail business, and the defendant followed it up with remarkable industry and sagacity. Merchants would send her their invoices, (111) on receiving fresh goods, and

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she would, on the other hand, call on the ladies of the city, and show them her wares, being in high favor with them, (151, 164.) We should fill many pages, if we were to enter into the particulars which the witnesses give—they are all unanimous on the subject of her superior business qualifications, and indeed of her character. The Record does not contain a syllable to her prejudice, and few persons have probably passed through so long a life with such general approbation. And not a few of the plaintiff's witnesses are as decided in their praises of the defendant, as the defendant's own witnesses. (Fs. Lafargue, 109; Seixsnayder, 49; Martial Dupart, 58; Bermudez, 96; Faures, 112.) And what became of the rich earnings of so many years of industry, perseverance and economy! According to the plaintiffs, it would have vanished without leaving a trace; according to the witnesses, it was employed by Macarty in discounting notes at a high rate of interest. Macarty told them so himself, and it would be believed if Macarty had not confessed it. (Casimir Lacoste, 151—Marie Louise Parris, 126—Livandais, 164—Mme. Chabenet, 243.) The defendant desired to prove the same fact by other witnesses, but the Court would not permit the question to be put, on the ground that this was hearsay testimony, and that Macarty being dead, could not be cross-examined. (See bills of exceptions, 249, 254-5 and 6.) We leave it to the Court to appreciate this decision, the more readily, as the fact has nevertheless come out quite clearly, without the aid of the rejected testimony. Mme. Chabenet, the defendant's neighbor and intimate associate for a number of years, saw her frequently give sums of money to Macarty, to be invested, (243.) This was generally believed to be the fact, says Bermudez, a witness for the plaintiffs, (100.) and indeed, adds the same witness, Macarty would not have permitted any body in his house to have money lying idle. Many other witnesses make

similar declarations, but it is surely unnecessary to notice them. When persons of the defendant's particular acquaintance applied to her for loans of money, she sent them to Macarty, saying, that he attended to these matters, (151-58.) For many years past, all the checks that were given for notes discounted by Macarty, were signed by herself, and the notes when put in bank for collection, uniformly bore her endorsement. Macarty always said, that the money he lent, was the defendant's, (Many witnesses) What wonder, that while she had her interests in the hands of the father of her children—of her companion through a long life—of the man to whom she was bound by every tie the law permitted her to form—of an excellent manager, she should never have interfered, and never contradicted him? (243.) What wonder, again, that under these circumstances, Macarty himself, should have willinly bestowed his time and his labor upon the increase of the defendant's fortune? Did he not labor for those persons to whom, of all others, he was attached? Was not the fortune of the defendant, and of her children, for all those purposes for which a man of his tastes and habits values a fortune, his own, however differently the law might view it? There was certainly never a settlement of accounts between these parties, though it may be imagined, that some time at an early period, it might have been practicable to make one, and to discriminate, with some approach to justice, what portion of their joint fortune was more immediately the result of the capital, the savings, and the exertions of each of them. Suppose then, that such a settlement had been made, what provision of the law would have prevented Macarty from openly devoting his own fortune to the maintenance of his family, and to the education and establishment of his children, thus consuming it, and leaving the defendant's separate fortune for investment and accumulation? And this, whether he intended it

or not, is what Macarty actually did. He kept a good table and always had some friends to dine with him, say the witnesses, his five children were well educated, one of them at the north, [p. 143], three sons are in New Orleans, two in business and one living on his income, [p. 245], and two of his children, Mme Chéry and Barthélemy Macarty have been for many years established in Cuba, where they have three plantations, [p. 248]. We have a right to presume that all the expenses occasioned by the support and establishment of his children were defrayed by Macarty, and if he or his heirs were now to call upon the defendant for a contribution or reimbursement, they could certainly not substantiate their claim in law. Macarty himself at first owned one of the plantations in Cuba. It proved a losing business, and cost him a great deal of money. Before 1828, says the witness, Maurian [p. 155] Macarty went to Cuba himself—the witness had a similar interest at that time in Cuba, and it formed a subject of frequent conversation between them. All the plantations in that neighborhood, the "Quartier du Limon" were ruined, the climate becoming too warm for coffee, as the clearings were extended, and coffee having greatly fallen in price. Chéry, Macarty's son-in-law, who managed the plantation, left it to keep the school in town. Some 6 years ago, his children in Cuba, wrote to Macarty to come there, and he observed that he would do no such thing, having lost 40 to 45,000, by his previous trip, [245.] The Record, [169 to 188] contains a number of letters written by Méance, by Macarty himself, by his son Barthélemy and by his daughter, Mme Chéry Rigaud, which throw light upon the business he and his family had then, and show it to have been most disastrous. Seizures, executions, complaints of bad crops, cries of misery, and calls for money are their substance. In the wreck of time a number of drafts have yet been preserved, which show a part.

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and certainly a part only, of the remittances made by Macarty to his children. The following is a list of these drafts:

1822. .... 5 drafts together, ..	\$3000	(169.)
1822. Aug. 23, .....	1200	(156, 167.)
1828. April 11, .....	406	(167.)
1838. May, .....	3000	(111.)
1841. Oct. 7, .....	300	} (110.)
1841. ....	1000	
1841. Dec. 24, .....	2000	} (159, 166.)
1843. Oct. 12, .....	3820	
1843. Aug. 17, .....	2960	
1841. Aug. 16, .....	300	} (155, 188.)
1841. July 22, .....	2000	
1841. July 22, .....	4000	} (155, 188.)
1841. April 12, .....	950	
1841. April 12, .....	1050	} (155, 193.)
1841. Aug. 11, .....	2500	
1841. Aug. 11, .....	1500	
	\$30,986	

The drafts were nearly sold or collected by the commercial houses of Vincent Nolte & Co., Dennistoun, Hill & Co., Hodge & Oxnard, Cucullu, Lapeyre & Co., and the Commercial Bank. They were sent for the relief of the plantations in Cuba, and to disencumber them of debts, not for their purchase as the correspondence shows. Only \$4,606 of them are anterior to 1841, and this evidence when coupled with Macarty's declarations to the witnesses Maurian and Mme. Chabenet, authorize the belief, that Macarty sent to Cuba what amounted to a large fortune in itself.

The extent of the defendant's fortune is very fully shown by the record. The petition states the cash withdrawn from the Bank of Louisiana, and the purchase money of the real estate described in it, the defendant was called upon to declare in open Court what other property she owned.

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and its value, [p. 70] and the whole amounts to \$155,425 87, including some doubtful notes. This is certainly far from being beyond the explanations offered by the testimony. It is the result of fifty years of unremitting labor and exertion, and is due no doubt to a great extent to the skilful management of Macarty. What the defendant would have made of it, if she had managed it without Macarty's aid, it is useless to conjecture. Macarty certainly never expected a commission for his agency, and his heirs can require it still less.

It should not be forgotten that Macarty made a will eighteen days before his death, [p. 282.] by which he declared that his only property were three lots and ten slaves—the whole of which he left to his legitimate relatives, with the exception of \$300,—making a legacy of \$2000 to the nominal plaintiff, Theodore Macarty. This yielded to them about \$12,000, an amount to be taken into consideration when we account for Macarty's formal fortune.

This, then, is the case, and the whole case, before the Court. It matters not that many years back he had large accounts in various banks. They explain nothing. One of them is evidently made up of discounts of notes endorsed by him for his own or for other people's account, we know not which. We recognize in it, at all events, clearly, the two notes of \$20,000 each which he had endorsed for L. B. Macarty's accommodation, when the latter had a large amount to pay as Lanusse's endorser, after the latter's failure [96]. He may, for a while, have put the defendant's notes in bank, as last endorser. He may have had them discounted, in order to discount with the proceeds at a higher rate. We know that he had agencies: thus, for instance, he paid Mdme. Lanusse's rents from 1824 to 1827, [266.] and on the 28th of December, 1827, when he made over this agency to Moussier, he had \$6000 of her money in his

hands [264]. He was, from 1834 to 1838, the agent of Charles B. Lanusse [204, 208]; this gave him the management of upwards of \$100,000,—he kept the account of Lanusse's funds, as they were coming in and going out in his own name in the Louisiana State Bank [241]; and precisely during this period his account was large in that bank, [241].

With such a case on the merits it is hardly necessary to dwell at length upon defendant's plea of prescriptions, [p. ] or upon her exceptions, [p. 20] which are therefore submitted to the Court, without argument.

Yet, it is perfectly apparent, that if Macarty indeed, intended to give to the defendant a part of his fortune, he did so before the adoption of the new code, which for the first time introduced into our law, the prohibition of such donations.

The Court now knows the case, and we may therefore be permitted to say, that with such qualities of the head and character, as the defendant has been shown to possess, she would have been able to rise in her worldly affairs, and in the esteem of all who know her, even without Macarty's patronage, and that the best explanation of her fortune is to be found in her conduct. What we are to think of her heart, is best shown to us by Nicolas Theodore Macarty, whose name figures at the head of the petition. The record contains numerous letters addressed by him to the defendant, [226, 231, 250,] in which he asks small sums of money, and other favors of her, on the ground that she had so often assisted him; vows eternal gratitude to her, and subscribes himself her "très dévoué et reconnaissant beau-frère," [226.] We need, therefore, not wonder, that not much more than one-third of Macarty's legal heirs consented to join in this suit, or that Theodore Macarty obtained for the transfer of, not only his legacy of



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\$2,000, but of all his hereditary rights to Charles E. Forstall, but \$1,800, [BBB.] Under this transfer, Forstall now claims one-seventh of the estate, or nearly one-half of the interest represented by all the plaintiffs.

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## VITA

The author was born in New Orleans, Louisiana. She obtained her Bachelor's degree in History from Southern University at New Orleans in 2004. She joined the University of New Orleans Urban Studies program in 2004 to pursue a Masters in Urban Studies with a concentration in Cultural and Historical Preservation. Her thesis research on the Creoles of Color in New Orleans began with her family history and a mission to understand the role of women within this population.

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