

Jefferson County Circuit Court  
Case Files - Civil  
April 1870

Box 26 Folder 26

Lyons, Patrick  
Lyons, Mary

vs.

McBreasty, James, adm  
Doherty, John

Appeal

Defendant appealed from County  
Court on \$75 note; Supreme Court

\$750 Jefferson County July 18<sup>th</sup> 1859

Twelve months after date we or either of us promise  
to pay Hugh Hamilton or order the sum of seventy  
five dollars for value received without  
discount or abatement negotiable  
and payable on demand and if not paid  
when due ten per cent to be paid from  
due until paid witness our hands this  
eighteenth day of July A. D. one thousand  
eight hundred and fifty nine

Witness Barney McShakwin

H. H. H. H.

1129 622

1859 July 18

John T. Doherty  
Henry Doherty

paid Oct 26<sup>th</sup> 1869  
J. C. Paine Jr

Attempt on Arthur's demand by J. C. Paine  
on Court Court Jan 18<sup>th</sup> 1870 the sum  
of one hundred twenty nine <sup>00</sup>/<sub>100</sub>  
dollars and pence in the 8 cents

J. C. Paine Jr

James McBrearty Administrator of the Estate of  
John Dorherly Deceased, will take notice that  
I shall present for allowance to the County  
Court of Jefferson County at its next Term  
to be held at Hillsboro in said County on  
the 3<sup>rd</sup> Monday of January 1860, and on the  
first day of the Term thereof or as soon  
thereafter as a hearing can be had, a  
demand against said Estate founded  
on a note of which the following is a  
copy

75. Jefferson County July 18<sup>th</sup> - 1859  
Twelve months after date, we or either of  
us promise to pay Hugh Hammet or order  
the sum of seventy five dollars for value  
received, without discount or deduction  
negotiable and payable on demand and  
if not paid when due ten per cent interest  
to be paid from due until paid.

Witness our hands this eighteenth day of  
July A. D. one thousand eight hundred  
and fifty nine

Witness

Barnes McMahon

John Dorherly  
mark  
John Dorherly  
mark

Patrick & Mary Lyons.

I do solemnly swear that I delivered to James  
McBrearty admiral's hat of the USS Stary John Douglas  
Decreed on the 25<sup>th</sup> day of December 1879, a  
true copy of the within article,  
and retained and true to  
the same from 18<sup>th</sup> 1876 } Patrick Sweeney

Wm. M. M. M. M. M.

Esq. Jno. Roberts  
Notice to Assign

Filed June 18<sup>th</sup> 1870  
Wm. Marshall Esq.



State of Missouri } In the County Court  
County of Jefferson } January 18<sup>th</sup> 1870  
The following proceeding was had to wit

Mary Lynes & Patrick Lynes } On Note  
Estate of John Doherty } The demand of Plaintiffs  
is allowed by the Court for the sum of one hundred  
and twenty nine dollars & 62 cents and placed in the 5<sup>th</sup>  
Class,

Also, March 21<sup>st</sup> 1870 the following, to wit,  
Mary & Patrick Lynes } On Note,  
Estate of John Doherty } The affidavit of N. W. Bennett  
Admin of said Est for an appeal from the judgment  
of this Court made in said cause at the January Term  
1870 is approved by the Court, and an appeal granted  
to the Circuit Court of Jefferson County Mo,

I, W. W. Mullin, Clerk of the County  
Court aforesaid, hereby certify the above to a full true  
and correct copy of the proceedings had in said cause  
as fully as the same remains of record in my office,  
Witness my hand and the seal of said  
Court here to affixed this 1<sup>st</sup> day of  
April A. D. 1870

W. W. Mullin Clerk

Mary Anne & Children  
John & John D. & Mary Ann

2993

Feb. 21<sup>st</sup> 1870  
D. of Norway Oct  
1870

cash

11.90



The State of Missouri,

COUNTY OF JEFFERSON.

To B. M. Mahon Mary Lyons

You are Herby Comanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the 6<sup>th</sup> day of Sept, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy, now pending in our said Court, wherein Mary Lyons v Pat Lyons Plaintiff, and Elisha John Short Defendant, on the part of ; and herein you are in no wise to fail.

Witness, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof

hereto affixed, at office, this 6<sup>th</sup> day of Sept A. D. 1870

Elias F. Honey Clerk.

**SUBPOENA**

RETURNABLE TO  
**JEFFERSON CIRCUIT COURT.**

*Sept* Term, 18*70*

*Lynn*  
*vs*  
*Doherty*

*B. McMahon* X  
*May Lynn* X

*for Plaintiff*

I cross the within on the 6<sup>th</sup> day of September to Mr. by  
providing the same to the within named J.B. McMillan and Mary  
Hycro  
June 10<sup>r</sup>

For Public use

J. D. McMillan

 J. D. McMillan

Mary Lyons and Patrick  
Lyons, plaintiffs,  
vs.  
Estate of John Doherty,  
defd.

In the Circuit  
Court of Jefferson  
County, Missouri,  
An appeal from  
County Court,

Now on this day comes the Admini-  
strator of defendant by his Attorneys,  
and moves the Court to dismiss the  
above entitled suit for the following  
reasons, to wit:

1<sup>st</sup> It does not appear from the papers  
in the case, that the County Court, from  
which said case has come by appeal  
had any jurisdiction of the person  
of defendant, as no notice whatever  
of the institution of said suit was  
given defendant.

2<sup>nd</sup> It does not appear from the papers  
in the case, that a copy of the claim  
was served on defendant.

3<sup>rd</sup> It does not appear from the papers  
in the case, what the cause of  
action is.

Green & Ahlers  
Attys for defd.

Patrick & Gray  
Syracuse

or,  
Estate of John  
Sherry,

—  
Mortimer  
of Syracuse,

—  
Dec 24th 1870  
of Syracuse



Syon and Syon,

2  
Estate of John Donherst Decd

the Court before the  
Law to the effect if Mrs. Stummell, now  
Mrs. Syon, as administratrix of the Estate  
of Hugh Stummell Deced charges  
herself with the amount of the note  
made on and in her final settlement  
of said Stummell's Estate a credit  
for the same in the distribution  
thereof then she claims the legal  
owner of said note and the said  
Epts are entitled to recover.

Referred

The court further declares the law to  
be, that the notice, given by plaintiffs  
to defendant of the presentation of the  
claim in question is insufficient, in  
this, that it does not show, how plain-  
tiffs ~~acquired~~ obtained title to the  
state copied therein, and that it does  
not show, that plaintiffs had obtained  
any title or interest therein,

The court declares the law to be further,  
that, if there is no testimony in the case,

given

The court declares the law to be further,  
that, if no affidavit has been filed  
or oath in open court made by a prop-  
er person, as the law requires, that to  
the best of the knowledge and belief  
of such person Patrick Lyons, one  
of plaintiffs, had given credit to  
the Estate of John Doherty for all  
payments and off-sets to which  
it is entitled, <sup>and that the balance claimed is justly due,</sup> then in such case,  
Judgment should be for Defendant

Antonie van Leeuwenhoek

Patrick & Mary Lyons,  
plaintiffs,

vs,

Estate of John Doherty,  
defendant

In the Circuit Court  
of Jefferson Co., Mo.

October Term 1870.

Defendant asks the following declarations of law, to wit:

*Lyons* The Court, declares the law to be, that, if the Court sitting as a Jury find from the evidence, that Mary Lyons, one of plaintiffs is the wife of Patrick Lyons, the other plaintiff, then said Mary Lyons could ~~not be a witness in the case, to prove by her, that not make oath in open Court,~~ that to the best of her knowledge and belief plaintiffs had given credit to the Estate of John Doherty for all payments and assets to which it is entitled, <sup>and that the balance claimed is justly due,</sup> and therefore her testimony on that point should be excluded from the consideration of the Court as a Jury.



Mary & Patrick Lyons, - Plff }  
vs, }  
The Estate of John Dougherty - Deft, }

The Defendant asks the Court to declare the law of the cause, as follows;

1- If the Court believes from the evidence that, upon the final settlement of Mary Hamel of the Estate of Hugh Hamel, deceased the Note in question remained in her hands as the Administratrix of said Estate, and that the Heirs of said Estate never relinquished or assigned to her their interest in said Note, as heirs and distributees of said Estate, - then the Plaintiffs have not shown such separate and exclusive right or interest in said Note as to entitle them to recover,

2- Even, if the Court should believe that the Plaintiffs have shown such interest in said Note as to entitle them to recover, then they can only recover such sum, to wit, Eighty dollars and forty cents, - as the said Administratrix charged herself with in her Inventory of said Hugh Hamel's Estate, - and accounted for in her settlements, - and after deducting all payments endorsed on said Note, and without interest except such as has accrued on the Note since her final settlement,

May and Patrick Lyons,  
Plaintiffs  
2  
James McMearty, Adm'r  
of the Estate of John  
Langherg, Deceased,  
Defendant

Now at this day come said  
Plaintiffs and move the Court to  
~~dismiss~~ set aside the judgment herein  
and grant them a new trial for the  
following reasons.

1. Because the finding of the Court  
should have been for Plaintiffs instead  
of Defendant.
2. Because the Court refused proper  
instructions.
3. Because the Court gave improper  
instructions.
4. Because the <sup>findings &</sup> judgment of the  
are against the evidence.
5. Because the finding of the Court  
is against the law.

John H. Thomas  
Atty for Plaintiffs

Mary & Albert Jones

3

Carl John Douglas

Motion picture  
Lial.

Filed Sept 19" 1920

E. J. Henry etc



Mary and Patrick Lyons Plffs.

James W. Beatty Adm<sup>r</sup>  
of the Estate of John Douglas  
Deceased Defendant

This affiant makes  
oath and says that he believes the  
Plaintiffs do not take an appeal  
in the above cause for vexation  
or delay but because they feel  
aggrieved by the judgment of the  
Circuit Court.

Sworn to & subscribed } John L. Thomas.  
before me Oct 22 1870 } Atty for Plaintiffs.  
*(Signature)*

We John L. Thomas as principal  
J. Ed. Walker  
and as security acknowledge ourselves  
indebted to the above named Dept  
in the sum of one hundred dollars  
upon condition that Plaintiffs prosecute  
their appeal with effect and without  
delay and shall pay all costs which  
have accrued or may ~~in the~~ accrue  
in this cause.

John L. Thomas.  
J. Ed. Walker,

Approved Dec. 22<sup>nd</sup> 1872

E. P. Harvey Clerk

W. J. Announcements Editor



Mary & Pat Lyons

3

Est John Daugherty

Appedavit &  
Bond for appeal

Filed Aug 22 1870

E J Hong Clerk

Mary and Patrick Lyons, Appellants  
vs  
James McMeaty, Administrator  
of the Estate of John Dougherty  
deceased. Respondents

Be it remembered  
that on the day of September 1870  
the above entitled cause came  
on for hearing and neither party  
requiring a jury all and singular  
the matters in controversy were  
submitted to the Court and the appel-  
lants, Mary and Patrick Lyons,  
to sustain the issues on their part  
introduced the following testimony,

Borney McMoran stated that he knew  
John Dougherty in his lifetime <sup>that he died about 1865</sup> - He saw  
a note for \$75, dated the 18 day of  
July 1859 payable to Hugh Donnell  
payable twelve months after date  
and signed by John Dougherty and  
Henry Dougherty and witnessed  
by Borney McMoran - He showed  
to witness the stated that John and  
Henry Dougherty signed said note  
in his presence & mark & that he  
(the witness) witnessed the same &  
that the signature of John Dougherty

said note is genuine.

Appellants then read said note in evidence as follows (here copy same)  
Appellants then introduced in evidence the records and papers in case of the administration of Hugh Hamill's Estate in the Jefferson County Court showing that said Hamill was dead, that Mary Hamill his widow became his administrator on the day of

186 : that as such administrator she inventoried the note, <sup>\$5 interest</sup> above referred to as assets of said Estate:

That on the day of 1867 she made final settlement of said Hamill's Estate she accounted for said note and \$5 interest thereon as cash and distribution of the same was made among the heirs of said Hamill, of whom there were four.

Plaintiffs then offered Mary Lyon as a witness, - to which Defendant objected, on the ground that John Dougherty being dead she as a party to the suit was incompetent, but the Court overruled the objection and permitted her to testify, to which Defendant at the time excepted.

~~Mary Lyon is the same person as~~

she stated that she is the same person as the Mary Hamill who was administrator of Hamill's Estate: that she has since making her final settlement



said Samuel's Estate intermarried with Patrick Lyon the Co. Plaintiff in this Cause. She stated that she had given all just credits and offsets to which the Estate of John Douglas was entitled and that the balance claimed by her is justly due.

And this was all the evidence offered by either party in the case.

The Appellants then asked the Court to declare the law as follows (here copy) which the Court refused and to the refusing of the Court to declare the law as prayed for by appellants they at the time accepted.

The Respondents then asked the Court to declare the law as follows (here copy) which the Court gave and to the giving the declaration of law as prayed for by Respondents the appellants at the time accepted. The Court then gave judgment for Respondent.

And on the day of September 1870 ~~Respondents~~ appellants filed a motion for a new trial as follows (here copy) which motion the Court overruled and to the decision of the Court in over-

making this motion for a new trial  
I will wait at the time specified and  
have it in motion by leave of both  
parties entered of record they send  
this their bill of exceptions and  
may that the same may be signed  
sealed and entered a part of the  
record in this cause which is accom-  
plish done.

J. H. White, Judge. *Recd*



Mary Patrick Lyons

vs,

Est. of John Dougherty

Bill Exceptions

Filed Oct. 24<sup>th</sup> 1870  
Clerk E. J. Koney clk.

In the Supreme Court of Mo.  
March Term 1872

Mary & Patrick Lyons' }  
vs }  
John Doherty's Admr Resp. } Appeal from  
Jefferson  
Circuit Court

Opinion of the Court.

The plaintiff, Mrs. Lyons was the ad-  
-ministratrix of the estate of her former husband  
Hugh Kammer who held a promissory  
note given him by defendant. In making her  
settlement she charged the note and interest  
as ~~incorporated~~ <sup>as</sup> inventoried to herself, now claims it her  
property, and with her present husband  
has brought this suit upon it. Defendant  
denies her title and the Circuit Court  
refused to give judgment upon it upon the  
grounds merely that it still belongs to the  
Kammer estate. This view was erroneous.

No representative of the estate makes any  
complaint or seeks to charge an improper  
appropriation of the instrument. Mrs. Lyons  
shows that she has accounted for it in full  
and it becomes her property at least as  
against the maker. The defense has  
no merit, and judgment will be

rendered in this Court for the amount of  
the note and interest.

The other judges concur.

J. P. Bliss

# State of Missouri, ss.

I, FRANCIS MINOR, Clerk of the Supreme Court, held at St. Louis, of the State of Missouri, certify that the above and foregoing is a full, true and complete copy of the opinion delivered in the above entitled cause, as fully as the same remains on file in my office.

Witness my hand, with the seal of said Court, *habeo affixum*  
at office in the City of St. Louis, this *fourth*  
day of *June* *1860* one thousand eight  
~~hundred and~~ *sixty* *two*

*Francis Minor*  
Clerk.  
*Per S. A. Lewis*  
Atty



March Term 1872

Monday, April 1<sup>st</sup> 1872

Mary Lyons  
Appellant  
vs  
John Doherty, Administrator  
Respondent

Appeal from Jefferson  
Circuit Court.

Now again come the parties aforesaid by their respective Attorneys and the Court being now sufficiently advised of facts concerning the premises doth consider and adjudge that the judgment rendered herein by the said Jefferson Circuit Court be reversed annulled and for naught held and esteemed: That the said appellant be restored to all things which she has lost by reason of the said judgment: And this Court proceeding to said judgment in this cause doth order and adjudge that the appellant herein recover of the said Respondent the sum of Seventy-five Dollars (\$75<sup>00/100</sup>) with interest at the rate of ten per cent per annum from the 18 day of July 1860 until paid, together with her

and that the said recover of the aforesaid  
costs and charges herein expended and have execution

therefor Opinion filed

STATE OF MISSOURI, SS.

~~Andrew W. Mead~~  
Francis Muir  
I, ~~ANDREW W. MEAD~~ Clerk of the Supreme Court, held at St. Louis, of the State of Missouri, certify that the above and foregoing is a full, true and complete copy of the judgment rendered in the above entitled cause, as fully as the same remains of record in my office,

In Testimony Whereof, I have herunto set my hand and affixed the seal of said Court, at office in the City of St. Louis, this Fourth day of June A. D. eighteen hundred and ~~and~~ seventy-two.

Francis Muir Clerk.  
per Francis Muir



200 2993

Supreme Court of Missouri.

Mary Stewart  
vs  
John Stewart's Adm<sup>r</sup>

MANDATE.

Judgment of *John Stewart*  
vs *John Stewart's Adm<sup>r</sup>*  
& Judgment for notes  
of *John Stewart*  
*John Stewart*

Orville Jones 6 28 52  
1001 Range rd  
By C. H. Thomas att<sup>r</sup>

5.20



Mary + Patrick Lyons }  
 vs }  
 Est. Jno Doherty. } Fee Bill.

R W Mullin CLK Co Ct. \$ 2.25

E F Honey CLK Co Ct.

Motion 20 Judgt 50 sub 30 Docket 15 sps 20 affd. 20 1.15  
 Rules 20 20 1.85

W S Boyce CLK.

Motions 20 rules 40 order 20 (not docket) 35 \$ 1.15

Bill Ex 35 dockets 30 65

Transcript to Sup Ct. 5.30

A B & marriage costs 25 35-

Sis.

35 7.80  
 \$ 11.90

Barney McMahon 3-37 \$ 5.56

Mary Lyons 3 37 5.56

11.12