

Jefferson County Circuit Court
Administrative Records
January 1879

Byrne, Michael F.

Writ of ad quod damnum

Grist mill dam on Big River

Box 38 Folder 13

In the matter of a Petition of M. F. Byrne for a writ of Ad quod dampnum.

Now ^{at} ~~on~~ this day comes said petitioner Michael F. Byrne and presents to the Court his petition, setting forth that he is the owner of the following described Real Estate situate in ^{and on the north side of the stream of Big River} Jefferson County ^{Missouri} ~~Missouri~~ which land he proposes to erect a Grist Mill and a mill dam, relating to wit The south West fractional quarter of Section twenty five in Township No. forty two of range No. three East of the 5th Principal Meridian containing four and $\frac{52}{100}$ acres; Also a tract of land in United States survey No. 359 in Township 4th North of range three East described as follows to wit: Beginning at the south east corner of said survey thence North with the East line of survey to the south East corner of land of Louis Koch in section twenty four thence running south bearing West through said survey to the south ~~and~~ West corner of section twenty five in ^{said} Township and range containing about twenty two acres, both of said tracts containing in the aggregate about $26\frac{52}{100}$ acres, and ^{on} which lands petitioner proposes to erect a Grist Mill and Mill ^{dam}, the said Mill dam to abut on his lands aforesaid and to extend to the height of Eight feet diagonally across said stream of Big River, the same to be erected on the site of a former

Mill dam maintained across said stream of
Big River at the site of the old mill known as Mad
and to abut his said dam on the south side of said river at the western or lower abutment
of the Maddox Mill ^{bridge} in the County of Jefferson and State
of Illinois ^{of Illinois} - and further setting forth that William
Flanagan and Michael Golden are the owners of the
lands on the opposite side of the river from the
place where he proposes to abut his said dam,
and praying That the Court will grant him a
writ of Ad quod damnum directed to the Sheriff
of the County of Jefferson directing him to sum=
mon a jury to inquire touching the matters con=
tained in his petition; whereupon the Court
having fully seen heard, and being fully advised
of and concerning the premises, it is ordered
by the Court that a writ of Ad quod damnum
issue directed to the Sheriff of Jefferson County
Mo. requiring him to summon a jury ^{of proper fit persons} of the County
aforesaid to meet at the site of the old Mill ~~dam~~
in said County known as Maddox Mill, on
the 20th day of January 1879 then and there
to require the said jury to set off and de=
scribe by metes and bounds an acre of ground
on the ~~of~~ south side of said stream of Big Riv=
er as prayed to be condemned by said petition=
er and further that he ~~is~~ require said jury ^{to}
That give the said William Flanagan and Michael
Golden the owners of ~~several~~ ^{an} acre of land the land
sought to be condemned reasonable notice of

the time and ~~place~~ when and where he will take
the request of said Jury, and that said Sheriff
further inquire of said Jury: 1st What damage
if any each proprietor of land will sustain by rea-
son of inundation consequent upon the erection
of ~~the~~ the dam as proposed. 2nd Whether the mansion
house of any such proprietor or the outhouses cur-
tilages or gardens thereto immediately belonging
or orchard will be overflowed thereby. 3rd Whether
and to what extent ordinary navigation and fish
of passage will be obstructed by such erection
and whether and by what means the same may
be prevented or diminished. 4th Whether the
health of the neighborhood will be materially
affected in consequence of such ~~of~~ erection,
and generally to inquire touching the matters
contained in said petition a copy of which shall
accompany the said writ, and that said Sheriff
make return of his proceedings under such
writ ^{to the Court} on the 20th day of January 1879.

Page 1634

~~Page~~ 13 north

Page 21st

To The Honorable Circuit Court of Jefferson
County Missouri,

The undersigned your petitioner, respectfully states that he is the owner in fee simple of the following described Real Estate situated in Jefferson County in the State of Missouri to wit: The South West fractional quarter of section No Twenty five (25) in Township No Forty two (42) of range No Three (3) East of the 5th Principal Meridian containing Four and $\frac{52}{100}$ acres. Also a tract of land in United States survey No 359 in Township 42 North of range No (3) east of the 5th Principal Meridian, described as follows to wit: Beginning at South East corner of said survey thence North with the East line of survey to the south east corner of land of Louis Koch in section No 24 - thence running South bearing West through said survey to the south west corner of section No 25 in the township and range aforesaid containing about twenty two acres, both of said tracts of land containing in the aggregate about $26\frac{52}{100}$ acres more or less.

Your petitioner further states that his said lands are situated on the northern side of Big River, including a portion of the bed of

of said stream, and that said stream of water is not a navigable stream, and that it flows through his said lands above described, Your petitioner further states that he is desirous of erecting on his land aforesaid, and on said water course, a mill of the kind known and designated as a Grist Mill, and for the purpose aforesaid he proposes to erect a mill dam across the stream of water aforesaid, that the point at which said dam will be erected across said stream is a short distance on said river below when ~~stream~~ ^{the same} is crossed by the bridge known as Maddox Mill bridge, that the point at which he proposes to erect said Mill is below the said bridge on a short distance, ~~below the said bridge~~ and upon the site of the an old Mill which formerly for many years was there situated, known as Maddox Mill.

Your petitioner states that he proposes to abut his ~~proposed~~ mill dam which he proposes to erect across ~~at~~ said stream as aforesaid on the Northern side of said stream at and against the foundation and structure of the new Mill building which he proposes to erect on his land as aforesaid, and from thence to extend, build and erect ~~across~~ said mill dam diagonally across said stream to the altitude of Eight feet, and to abut the same on the

2
southern side of said stream at a point at the western or lower end of the present abutment of the structure of said Maddox Mill bridge, joining said dam to the bank of said stream at that point.

Your petitioner further states that Michael Golden and William Flanagan each own land on the side of said river opposite to the point at which he proposes to erect said Mill and at the point at which he proposes to abut his said Mill dam on the southern side of said stream; that their said lands ^{is} are situated in United States Survey No 897 in Jefferson County Mo and that they each reside thereon.

Petitioner therefore prays the Court for an order decreeing that the title to one acre of land on the southern side of said stream, the same to include the point where he proposes to abut said Mill dam be decreed to him to be set apart by metes and bounds and to run as follows, to wit: Beginning at the point where said proposed dam will abut the bank on the south side of ^{said} stream as above set forth, and to run thence from said point Eastwardly and Westwardly with the meanderings of said stream an equal distance, Thence at right angles a sufficient distance that a line ~~drawn~~ run from the ends of said right an-

gle lines and joining the same will include with
in these lines one acre of ground, the same to in-
clude the place where the proposed mill dam
will be abutted, and that the Court will make
such further order concerning the premises as
may be proper,

Michael F. Byrne Petitioner
By Williams & Green
Attorneys,

Petition of M. F. Byrne

For writ of Ad. Quod Damnum

FILED

JAN
13
1879

L. H. H. H. H.
CLERK.

State of Missouri } p.
County of Jefferson }

The State of Missouri To the Sheriff of
the County of Jefferson - Greeting,

You are hereby commanded to summon
from the body of the County of Jefferson and
State of Missouri, twelve fit persons, and to
require them as a Jury to meet at the site
of the Old Mill known formerly as Maddox Mill
in the County and State aforesaid, on Monday
the 20th day of January A.D. 1879 ^{between the} ~~from~~ ~~and~~
^{hours of} ~~at~~ Eight o'clock in the forenoon and
four o'clock in the afternoon of that day, then
and there to inquire of said Jury, and to require
them to assess such damages ^{if any} as may be
sustained, by Michael Golden and William
Flanagan and others by the erection of a mill
dam across Big River at the point where a
a mill dam ~~is~~ was formerly erected and
maintained across said river ~~at~~ at the site
of said old mill known as Maddox Mill; that
you require said Jury further to set off by metes
and bounds one acre of ground on the side of
said river where the proposed mill dam will
abut on the lands of Michael Golden and
William Flanagan, to be set off and describ-
ed as follows: Beginning at the point where
said proposed dam will abut the bank on

the south side of said river known as Big River
and to run Thence Eastwardly and Westwardly
with the meanderings of said stream an equal
distance, thence at right angle a sufficient dis-
~~tance~~ distance that a line run from the ends of said right
angle lines and joining the same will include
within these lines one acre of ground, to include
the place where said dam will shut; and further
that you inquire by such jury: 1st what damage
if any each proprietor of land will sustain by
reason of inundation consequent by upon the erect-
ion of the dam as proposed; 2^d Whether the man-
sion house of any such proprietor or the outhouses,
cuthilages or gardens, thereto immediately belong-
ing, or orchard, will be overflowed thereby; third
Whether and to what extent ordinary navigation
and fish of passage will be obstructed by such
erection, and whether, and by what means the
same may be prevented or diminished; 4th
Whether the health of the neighborhood will be ma-
terially annoyed, in consequence of such erection,
and generally to inquire touching the premises
as prayed for in the petition for said mill dam
presented by Michael F. Byrne to the Circuit
Court of Jefferson County Mo on the 13th day
of January 1879, ^{a copy of which petition is hereto attached,} and that you make return
of your proceedings hereunder to said Circuit
Court on Tuesday January 21st 1879, and have

you then and there this unit.

Witness L. Tho. Horine
Clerk of our said Circuit
Court with the seal thereof
hereunto affixed, done at
office in Hillsboro this
14th day of January 1879.
L. Tho. Horine
Clerk.

I executed this unit at Jefferson County Mo
on the 20th day of January 1879 by selecting and
summoning Eliaz Burgess, G. W. Elden, Henry
Brewster, Isaac Wilson, John R. Reece, Christian
Hesse, Charles K. Miller, William E. Davis, John
Galvin, John Ogle, Silas Davis, and H. K. Samer-
torlor fit persons of the County and State aforesaid
as a jury and requiring the said jury to meet
at the place designated in this unit on the 20th
day of January 1879, and causing said jury
to be sworn to discharge the duty required of them
by this unit; after which the said jury entered
upon the discharge of their duties as aforesaid
and returned their report and verdict
which is herewith attached and returned
together with the oath of said jury, and
a copy of the notice served on Michael Gold-
en and Wm Flanagan the owners of the land

Ad quod damnum
M J Byrne

In the matter of a
Petition for a
writ of ad-quod-
damnum - filed
by M J Byrne

original writ.
Returnable Jan'y 21st 1879

set off and condemned as required by this writ
with the manner of service of said notice en-
dorsed thereon, all of which is herewith returned.
Thos J Jones Sheriff
By John R Cook Deputy

To William Flanagan

I the undersigned Sheriff of Jefferson County Mo hereby notify you that on Monday the 20th day of January 1879 between the hours of Eight o'clock in the forenoon and four o'clock in the afternoon of that day at the site of the old mill known as Maddox Mills in Jefferson County Mo I will take the inquest of the jury selected by me to inquire and assess such damages as may be sustained by you and others by the erection of a mill dam across Big River at the place of the former mill dam belonging to the old mill known as Maddox Mill as petitioned for by Michael T. Byrnes to the Circuit Court of Jefferson County Mo on the 13th day of January 1879, and in which proceeding you are interested as one of the land owners on the opposite side of the stream of Big River, to the place where the proposed mill dam will abut, at which time and place as above set forth you may be present if you see proper.

Thos. J. Jones Sheriff Jeff. Co. Mo.

I hereby acknowledge service of the above notice and waive the necessity of service of same on me by an officer. Dated January 20th 1879.
William Flanagan

To Michael Golden & William Flanagan

I the undersigned Sheriff of Jefferson County Mo. hereby notify you that on Monday the 20th day of January 1879, between the hours of Eight o'clock in the forenoon and four (4) o'clock in the afternoon of that day at the site of the old Mill known as Maddox Mill in Jefferson County Mo. I will take the request of the Jury selected by me to inquire and assess such damages as may be sustained by you and other by the erection of a mill dam across Big River at the place of the former mill dam belonging to the old mill known as Maddox Mill as petitioned for by Michael F. Byrnes to the Circuit Court of Jefferson County Mo. on the 13th day of January 1879 and in which proceeding you are interested as one of the land owners on the opposite side of the stream of Big River, to the place where the proposed mill dam will abut, at which time and place as above set forth you may be present if you see proper

Wm. J. Jones
Sheriff Jeff. Co. Mo.

I served this notice in Jefferson County Mo on
the 14th day of January 1879 by delivering to the
within named Michael Golden a true copy of said
notice, and I further served the same in the
County and State aforesaid on the 14th day of
January 1879 by posting up in a conspic-
uous place on the land of the within named
William Flanagan near the house of said Flana-
gan he being absent from home at the time,
a true copy of this notice.

Thus I Jones Sheriff
By John R Cook Deputy

We the undersigned members of the Jury selected by Thos J. Jones Sheriff of Jefferson County Mo to assess damages consequent upon the erection of a mill dam across Big River at the site of the old Mill known as Maddox Mill, solemnly swear that we will faithfully discharge the duty imposed upon us as such jury to the best of our knowledge according to law.

Witness as to marks made
J. J. Green

Elijah Burgess former
Geo W. N. Elders MD
Charles H. Winer
Isaac Wilson his
+ mark
John Ogile his
+ mark
Christion Keese his
+ mark
Henry Parryester his
+ mark
William C. Davis
John Galvin his
+ mark
Elias Davis his
+ mark
John R. Reece,
W. H. Deane

Subscribed and sworn to
before me this 20th day of January 1879

James A. Green Notary Public
Jefferson County Mo
I was qualified January 16th 1879 and my
Term expires January 15th 1883.

We the undersigned ~~undersigned~~ jury select-
ed by Thomas J. Jones Sheriff of Jefferson
County Mo, to ~~see~~ inquire into and assess
such damages as may be caused by the
erection of a mill dam across Big River
at the site of the old Mill known as Maddox
Mill make the following report, - That we
met as required by said sheriff at the place
designated to wit the site of said old mill
in Jefferson County Mo on the 20th day of
January 1879, and after examining
the location of said proposed Mill dam
set off and condemned an acre of land
on the south side of the stream of Big River
on the lands of William Flanagan and Michael
Golden where the proposed dam will abut
the bank on the south side of said River
to run as follows: Beginning at the point
on the south side of said river where the
present dam belonging to the old mill known
as Maddox Mill is located and running
thence with the meanderings of said
river Eastwardly and Westwardly ad-
vance of One hundred and four feet and
Six inches, Thence at right angles from
said line South Two hundred and nine feet
Thence by a line joining said right angle
line Two hundred and nine feet contain-

ing within said space one acre, - and we further report that we assess damages to the owners of the land thus condemned as follows To William Hanagan \$10⁰⁰ To Michael Golden \$10⁰⁰ - We further report that we assessed to Louis Rogge whose land will be overflowed by inundation consequent upon the erection of said Mill Dam the sum of Twenty five dollars, - We further report that fish of passage will be somewhat obstructed by such erection which can be remedied by a 6 feet flood gate in the ^{some} ~~most~~ convenient place on said dam. That ordinary navigation will not be materially interfered by such erection and that in our opinion the health of the neighborhood will not be affected by such erection. That we further report that no mansion house gardens out house or cartilages of any such proprietor of land will be overflowed by the erection of such dam.

Given under hands this 20th day of January 1879,

Witness J. H. Allen, Christ H. ^{his} ~~Allen~~

Charles H. Miner

William E. Davis

John Galvin

John ^{his} ~~Ogle~~

Silas ^{his} ~~Davis~~

W. H. Danner

Elijah Burgess ^{his} ~~Burgess~~

G. W. H. Edwards MD

Henry ^{his} ~~Brewster~~

Isaac ^{his} ~~Willson~~

John R. ^{his} ~~Rice~~

Witness J. H. Allen

Witness J. H. Allen

4507

In the matter of a petition
by M. J. Byrne
for writ of ad quod damnum
" "

Return of Inquest

Filed Jan'y 21st 1879
L. D. H. H. H.
Clerk

In the matter of the Petition
of Michael F. Byrne for a
writ of ad quod damnum.

Now at this day comes
Thomas J. Jones Sheriff of
Jefferson County Missouri and
and files his returns the
writ of ad quod damnum heretofore
issued upon his petition and the
order of the court herein together
with the request of the jury
by him summoned to
inquire touching the matters
contained in said petition from
which the court doth find
that said sheriff in obedience to
said writ of ad quod damnum
executed the same on the 20th
of January 1879 in Jefferson
County Missouri by summoning
twelve fit persons of said county
and State as a jury To wit
(naming them from return) as
a jury and requiring them to
meet at the place designated in
said writ To wit (describing
the premises of petitioner briefly &
of Golden & Haganagan) on the

said 20th January 1879 and from which
it also appears that said jury
after having been duly sworn
and subscribed an affidavit to
faithfully discharge the duties
imposed upon them as such jury
according to law made ~~and~~
~~subscribed~~ reduced to writing
and signed and delivered to
said sheriff and an inquest
of their proceedings which is
by him returned together with
the said writ and a statement
of the manner in which he
executed said writ and by
~~which said inquisition~~ it
appearing to the court here
from said inquisition of said
jury that (Here set out the
finding and doings of the jury)
and it further appearing to
the court here that ^{as reasonable} due notice
of said proceedings and of ~~when~~
the time and place when and where
he would take such inquest of such
jury was given Michael Golden
by said sheriff ~~and that~~ and
no objections being made or filed
to the proceedings under the

said with or to the verdict of the
 Jury aforesaid and it appearing
 now to the court here that upon
 a view of said inquest (Here
 insert matters in sec. 16 p. 950
 vol. 2 Wash. Stat.) the court
 doth ^{the petitioner} grant ~~the~~ permission to
 erect a ^{weir} ~~mill~~ dam across the stream of
 Big River as prayed for in the petition of
 the petitioner ~~as~~ filed herein that
 is to say ^{shall be as} (as specified in petition)
 also then condemn Land
 of G & H, see sec 17 ⁴¹⁸ p. 950

In the matter of
M. F. Byrne
For child care

orders to be entered
of record.