

No. 11937

Supreme Court of Illinois

Eyster

vs.

Eyster

71641 7

Ogle County -
Lucinda Eyster
vs.
John Eyster.
29

11937

1852

Prepared

State of Illinois }
Cgl. County }

Pleas in the Honorable the Circuit Court
of Cgl. County in the State of Illinois.

Whereas a writ of
Excoed has been issued from the Honorable the Supreme Court,
of the State of Illinois, commanding the Clerk of the Circuit
Court of said Cgl. County, to transmit a copy of the return
of the Sheriff on the Summons issued in a cause lately pending
on the Chancery side of the said Circuit Court of Cgl. County,
wherein John Eyster is Complainant, and Lucinda Eyster
is defendant.

John Eyster } In the Circuit Court of Cgl. County
 " " } In Chancery
Lucinda Eyster } Petition for divorce

The return of the Sheriff on the Summons issued in the above
entitled cause, is in the words and figures following to wit -

"Served the within named 'Subpoena' on Lucinda Eyster
"on the 25th day of April A.D. 1852, by reading the same
"in her presence and hearing - E. H. Detchen Sheriff
"by A. Hoffman & cly."

And afterwards to wit at the March Term A.D. 1853. of the said Circuit
Court, in and for said County of Cgl. on the twenty third day of March
A.D. 1853 - in the record of the proceedings of the said Court is the following
entry to wit -

"John Eyster }
 " " } Petition for divorce
"Lucinda Eyster }

"Now on this day comes the Complainant by

"Dutcher his Solicitor, and enter his motion for leave to
"Shewiff to answer his ~~motion~~ return on the writ ~~granted~~ here"

And afterwards to wit at the said term of said Court, on the 29th
day of March AD. 1853 came again the Complainant by Dutcher
his Solicitor, and the defendant by Mixer Solicitor, and by
agreement filed the following Stipulation

Severin Eyster, Complainant in Error
Against

John Eyster, Defendant in Error
In the Supreme Court of the State of Illinois, an
Error to Peyle County

It is hereby stipulated & agreed
by & between the parties in this Cause, that in the
above entitled Cause now pending in the Supreme Court,
the defendant in Error may enter his motion before
said Court for leave to amend the Sheriff's return
indorsed on the original writ of summons issued
from the Circuit Court in 3^d Case and that the
defendant in error shall have leave to present
affidavits in support of his 3^d motion, and the
Complainant in error to present affidavits against
the said motion, if in the opinion of 3^d Court, counter
affidavits are properly receivable therein and that
the said Supreme Court shall order the said Sheriff's
return to be amended as requested by defendant in
error if in their opinion upon an inspection of the said
affidavits produced the facts in relation to the service
of the writ shall entitle the said return to be
amended. And that the 3^d return be by the 3^d Court
taken and considered by the Court as returned
according to the facts of the case - The affidavits to
be used in the case on the 3^d motion in the Supreme
Court shall be taken by each of the parties on or
before the 16th day of May next & submitted to the
opposite Counsel. & all Counter & additional affidavits
to be taken by the 2^d of May next and this agreement & the
3^d affidavits shall be filed in the 3^d Court & used by the parties
in 3^d Case & each party hereby reserving the right to
except to the affidavits produced by the opposite party for
impeachment or other cause appearing upon the 3^d affidavits
whenever & produced

John Cyster

By E. F. Dulek

his attorney

Sacred Cyster

By H. A. Birkin Sol,

And thereupon the said Complainant files the following affidavits to
~~set~~ in support of his motion, and his notice

State of Illinois
Ogle County } Petition for Divorce

John Cyster }
 } No Ogle Circuit Court
 } of September Term
Lucinda Cyster } A.D. 1853

To Mrs Lucinda Cyster Defendant

Take notice that a motion will be made
on the first day of the next term of the Ogle
Circuit Court or as soon thereafter as Court
can be heard which said Court will commence on
the first Monday in September A.D., 1853 that the
Sheriff has been to amend his return made on the
Subpoena & Summons served on you in the above
entitled Cause, and that said Sheriff so amend
the same that said return so made by said Sheriff
may show the facts in regard to the service of said
Summons & Subpoena by said Sheriff on you,
said Defendant on an affidavit of which the
following is a copy & the records in said Cause

August 1852

Yours
John Cyster,
Complainant
E. W. Dutcher
Late Sheriff of Ogle Co Ill
By E. F. Dutcher
Subscribes

State of Illinois
Cyle County of Aaron Hoffman of
said County of Cyle & Subscribed
first being duly sworn doth depose and say
that on the 2^d day of April A. D. 1849. he
as Deputy Sheriff of the County of Cyle State of
Illinois served upon Luemela Cyster, Defendant
in an action then pending in Cyle Circuit
Court at the suit of John Cyster the Complainant
 therein a summons or subpoena in Chancery
 which said paper is now on file in the Cyle
 Circuit Court, that said paper was served upon
 said Luemela Cyster, Defendant by reading the
 same to her and in her presence & hearing said
 at the same time delivering ~~and~~ at the same time
 to her a true and correct copy thereof. That on
 Deponents making return of said paper deponent
 omitted to state in such return the leaving a
 copy of ^{such} paper with said Defendant and says he
 to furnish said return in accordance with the
 facts in the case

Subscribed & sworn before
me this 18th day of August A. Hoffman
A. D. 1852

E. F. Dutcher J. P.

State of Illinois
Cyle County of Solomon Eschbach being
duly sworn doth depose and say that he did
on the nineteenth day of August A. D. 1852
serve upon Luemela Cyster a true copy of the
above notice & annexed affidavit by delivering
the same to her personally at and within the County
of Cyle aforesaid S. Eschbach
I am before me this 27th day of August A. D. 1852
E. F. Dutcher J. P.

And whereas the Defendant by his Law Solicitor
files the following affidavits to wit

State of Ohio } Circuit Court of said County
Ogle County } Sept Term A D 1852

John Eyster

vs
Lucinda S Eyster

Lucinda S Eyster first being duly sworn on her Oath states, that she was united in marriage with John Eyster the Complainant on or about the 17th day of February A D 1845 That said Eyster was a widower with six minor children all living at home, and this affiant was a widow with four minor children. That our domestic matters passed off peaceably until the ensuing summer, when the said John Eyster directed that all my children should leave the house except my son James, a lad some twelve years of age whose services were profitable, the remaining children this affiant soon after found places for, and they left our residence. This affiant further states that she was a poor widow, but that ^{she} had always managed to maintain herself and family during her widowhood—

Things passed along passably well until in the winter of 1848, when the said Eyster's children having grown up, and his treatment of this affiant having become any thing but tolerable. the said Eyster proposed to this affiant that we should effect a temporary separation, but would again probably live together in the course of a year or two, And he we he then proposed that the late John B Cheney Esq^r should be called in as our adviser in the matter, who a few days afterwards came to our residence and advised me by all means to separate and not live any longer with said Eyster, to which this affiant responded, that she knew of no reason why they should part. That certainly Mr Eyster could not complain of this affiant neglecting her domestic duties; and if Mr Eyster would only govern his children as verry little all would go on well. To this, said Cheney replied that Mr Eyster had a good cause for getting a divorce and if she did

not wish to make an amicable arrangement to effect the matter
That the fact of this affair having been delivered of as a child
subsequent to her marriage with Eyster would be published to the
world. To this this affair responded, that she had since that
occasion given birth to three children by said Eyster, two of which
were then and are still living. That she had been deceived
by a base man, and that she thought this unhappy circumstance
had been attended for in the sufferings she had endured in consequence
of it. She said Cheney then stated that no conduct or treatment
on the part of Mr Eyster could ever operate as a waiver of his
right to a divorce. And that if I was not willing to make some
amicable arrangement in the matter Mr Eyster would immedi-
ately proceed to file a Bill. if this affair was willing to make
any amicable arrangement, that no proceedings should be had
in Court, and all things should pass off quietly, and that no
farther disgrace or reproach should be brought upon this
affair by reason of a legal prosecution, that if an amicable arrangement
was made nothing should be done in Court, but that he would
then draw up a paper that would settle the matter at once, and
that this affair could go East and make a visit among her
friends and return when she pleased at the expenses of said Eyster
and that in addition thereof he would give her five hundred dollars
for the ^{her} support and maintenance during their temporary separation
and that as soon as his family become settled or in a condition
that they could live together, that they would again become a family
as they had been, this was said in the presence and hearing of said
Eyster by said Cheney, these overtures and propositions were
repeatedly made by said Eyster himself before and after the above
conversation, during the same conversation said Cheney told this
affair that it would be necessary for Mr Eyster to have some
legal proceedings to which this affair would have to be made a

Party in order to cancel a deed held by Charles Slagle of said Eyster's Real Estate. That the two children said Eyster had by this affair might have an equal share of said Real Estate with the children had by his former wife - said deed having been made to said Slagle to cut off the first child by this affair had shortly after our marriage & by said Eyster considered illegitimate. And said Cheney further told this affair it would be utterly unnecessary for her to attend Court or pay any ~~attentions~~ ^{attentions} to the said proceeding inasmuch as it was nothing that would effect this affair in any way. And that said Cheney said to her that a summons would be served upon her in a few days and that it would be utterly unnecessary for her to pay any attention to it. That the Sheriff would serve it in a few days and she must not be alarmed. That this conversation was had with said Cheney and Eyster on or about the middle of April A.D. 1841. And that some week or more after a summons or subpoena was served on this affair by one Aaron Hoffman who was deputy of E. W. Dutcher then Sheriff of said County as this affair has been informed. That this affair was advised by said Cheney to leave the residence of her husband and be absent some few weeks. That they could effect their purposes much better in the absence. And the said Eyster a short time afterwards caused this affair to be removed to the residence of her brother in law, Augustus Boler, in the North Part of this County, where she remained upwards of two weeks. And while there the said Aaron Hoffman came to the residence of said Boler, and enquired of Mrs Boler if Mrs Eyster was here, to which she replied in the affirmative, and accompanied the said Hoffman to the apartment where this affair was, and then drew from his wallet or Pocket Book a summons or Process in which John Eyster was a party and this affair was a party and read the same to this affair in the presence of this affair and Mrs Boler and explained

It was left but left no copy thereof with this affiant nor at the residence of the said Coules, nor with any member of the said Coules family that ever came to the knowledge or sight of this affiant. And that this or the above was the only legal Process ever served on this affiant by the said Hoffman or any other officer to her knowledge. No person were present at said service except said Hoffman. Mrs Coules and this affiant

And this affiant confiding in the Character of John B Cheney who was represented to be an honorable and upright man, and Probate Justice of said County & representing himself as being the legal adviser of the widow and orphan and confiding in his knowledge, truth and veracity she paid no attention to the said Process, supposing that its object was to bar the Rights of the Child aforementioned, as represented by said Cheney, and therefore paid no attention whatever to it. Neither had this affiant any knowledge of a decree of divorce having been obtained against her till some time in the month of March last, but supposed until that time that they were living apart by mutual agreement according to the arrangements before made, in pursuance of which the said John Egster did furnish this affiant with the means to go East to visit her friends, and also furnished her means to return from the East. But the five hundred dollars he has entirely neglected to pay this affiant, with the exception of twenty five or thirty dollars furnished in Produce & Provisions sworn & subscribed before me

this 21st day of August - A.D. 1852 }
S. Addison Brown J.P. }

Lucinda S Egster

State of Illinois } Circuit Court of said County
Ogle County } 3^d Sept Term 1853 6

John Cyster }
vs } An motion to amend
Lucinda S Cyster } return on the Chancery
side of said Court

Matilda B Bolls just being
duly sworn upon her oath says - that she was present
at the time service was made on the Defendant
in the above entitled suit which was in the latter
part of April or fore part of May A.D, 1849 - that
one Aaron Hoffman third Deputy Sheriff of
O'W Dutchu, late Sheriff of said County, came
to the residence of this affiant and enquired if
Mrs Cyster was there, whereupon this affiant respon-
ded in the affirmative, and conducted said
Hoffman to the apartment where Mrs Cyster was
then said Hoffman took from his wallet or
Pocket Book a Subpoena in Chancery in the
above entitled suits and read the same to Mrs
Cyster in my presence and hearing - but left no
Copy thereof with Mrs Cyster or any where about
our residence, according to the best of my knowledge
and belief

Subscribed & sworn to
before me this 9th day
of August A.D, 1853
Henry Wheelock J.P

Matilda B Bolls

State of Illinois } Circuit Court of said County
Ogle County } March Term A.D. 1853

John Cyster
vs
Lucinda Cyster

Augustus Bowles first being
duly sworn, deposes and says that the Defendant
Lucinda Cyster was at the residence of this affiant
during the month of April, A.D. 1849 and at that
time he saw a person come to the residence of this
affiant while said Lucinda was there, which person
this affiant subsequently learned was a Deputy
Sheriff of said County - that on his going to his res-
idence on the evening of the same day that said
Officer was there - the business that brought said
Officer there was enquired into - and this affiant was
informed that said Deputy had been there to serve a
process on said Lucinda Cyster - that the object
of said service & said was particularly enquired
of and the said Lucinda confessed freely upon it -

And this affiant heard nothing said about a
copy of the Process being left with the said Lucinda
or at his residence - and from his knowledge of
the transaction does not believe that any copy
of the said Process so served was left with the said
Lucinda or at his residence

Subscribed and sworn to Augustus Bowles
this 28th day of March A.D. 1853
J. Addison Crovin, C.P.

State of Illinois
Cgls County

J. R. B. Light, Clerk of the Circuit Court
in and for said County, do hereby certify that the foregoing
is a true and correct copy of the Officers return endorsed upon
Subpoena in Chancery issued in the within entitled Cause, and
that the foregoing orders, notices and affidavits are truly copied
from the records and files of my Office

In testimony whereof I have hereunto set my hand
and affixed the seal of said Court this 27th day
of June A.D. 1853. P. B. Light Clerk

10.
Eyster vs Eyster
Record in Courtain

Filed July 1. 1853.
J. H. Leland Clk.

State of Illinois, ss.

Supreme Court, Third Grand Division, at Ottawa :

The People of the State of Illinois,

To the Clerk of the Circuit Court of *Ogle* County, GREETING :

WHEREAS, in a certain plea between *John Eyster* —
Complainant — ~~plaintiff~~ and *Lucinda Eyster* —
~~a. Decree for divorce.~~ defendant, lately depending in the Circuit Court
of said county, wherein ~~judgment~~ was rendered for the said *John Eyster* —
— and against the said *Lucinda Eyster* —
and the said *Lucinda*, by ~~writ of error~~ having taken the ~~judgment~~ *Decree*
of said Court, rendered against *her* — as aforesaid, to the Supreme Court, held at
Ottawa, on the *2nd Monday in June 1852* and in pursuance of the said
writ of error a transcript of the record and the proceedings in the plea aforesaid
was transmitted. And, also, whereas it hath been suggested, on the part of said
John Eyster — that the said record has been diminished, inasmuch as
a copy of the return of the Sheriff on the summons
issued in the Court below —
hath not been sent up; and forasmuch as the said Supreme Court are not satisfied that
there is a sufficient record sent in the plea aforesaid, but in the record there is a diminution:
YOU ARE, THEREFORE, HEREBY COMMANDED, that, without delay,
the said *Transcript* therein you cause to be transmitted to the Supreme Court, to be
held at Ottawa, on the *2nd Monday in June next* —
next, without any diminution or addition whatsoever, to the end that speedy justice may
be done in the premises, according to law; whereof you are in no wise to fail; and send
you then there this writ.

WITNESS, the Hon. SAMUEL H. TREAT, Chief Justice of
said Court, and the seal thereof, at Ottawa, this *17th*
day of *November* in the year of our Lord one thou-
sand eight hundred and fifty-*two*.

L. Deland Clerk of the Supreme Court.

No. 10.

Sucinda Eyster

John Eyster

Certiorari to Circuit
Clerk of Ogle Co. —

In the Clerk of the Circuit Court of
the County of Ogle
State of Illinois
vs
John Eyster
Plaintiff
vs
Sucinda Eyster
Defendant

Court's Certificate:

ALL THIS IS TO CERTIFY THAT THE
COURT HAS CONSIDERED THE
MATTER AND IS OF THE OPINION
THAT THE DECISION OF THE
COURT IS CORRECT AND
THE DECISION OF THE
COURT IS AFFIRMED.

State of Illinois, sct.

WRIT OF ERROR—FREE TRADER PRINT.

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of *Ogle*

GREETING :

BECAUSE in the record and proceedings, as also in the rendition of the ^{decree} judgment of a ^{petition for divorce} plea which was in the Circuit Court of *Ogle* county, before the Judge thereof, between

John Eyster complainant

~~plaintiff~~ and

and Lucinda Eyster defendant

defendant it is said manifest error hath intervened, to the injury of the aforesaid

Lucinda Eyster

as we are informed by *her* complaint, and we being willing that error, if any there be, should be corrected in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our justices aforesaid at Ottawa, in the county of La Salle, on the *second Monday in June* next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

WITNESS, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Ottawa, this *twenty fourth* day of *May* in the year of our Lord one thousand eight hundred and fifty *two*.

S. Leland Clerk of the Supreme Court.
By *P. H. Leland* Copy Clerk.

Ogle County.
Lucinda Eyster
vs.
John Eyster
Writ of Error.

Filed May 24th 1852.
L. Deland Clerk.
By P. W. Deland Deputy.

STATE OF ILLINOIS, }
Supreme Court.

The People of the State of Illinois,

To the Sheriff of the County of Ogle Greeting:

petition for divorce
BECAUSE in the record and proceedings, and also in the rendition of the ^{same} judgment of a plea which was in the circuit court of Ogle county, before the Judge thereof, between John Eyster Complainant and Lucinda Eyster

Defendant, it is said that manifest error hath intervened, to the injury of the said

Lucinda Eyster
as we are informed by her complaint, the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the state of Illinois, at Ottawa, before the justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said John Eyster

that he be and appear before the justices of our said supreme court, at the next term of said court, to be holden at Ottawa, in said state, on the second Monday in June next, to hear the records and proceedings aforesaid, and the errors assigned, if he shall see fit; and further to do and receive what said court shall order in this behalf; and have you then there the names of those by whom you shall give the said John Eyster notice, together with this writ.

Witness, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Ottawa, this 24th day of May in the year of our Lord one thousand eight hundred and fifty two.

L. Leland Clerk of the Supreme Court.
By P. R. Leland Depy. Clk.

Lucinda Eyster }
 as } Supreme Court
John Eyster } Error to Ogle

E. F. Dutcher being duly sworn saith that he is of counsel for the defendant in error in this cause. That the writ of error is prosecuted to reverse a decree of the Ogle County Circuit Court decreeing a divorce of the defendant error from the plaintiff in error upon account of the adultery of the plaintiff in error. That the record ~~in this cause~~ shows filed in this court shows that the summons in the court below in this cause was served by reading the same to the said defendant in the court below, and by the transcript of the record on file in this court it does not appear that the service of the summons upon the said Lucinda was by ^{giving} her a copy of the same that he is advised by the officer who served said process and believes it to be true that the service of said process was made by reading the same to her and by giving her a copy. That the only error assigned upon the record is that the court ^{below} erred in rendering the decree without a proper service of the summons and he prays that said cause may be continued to the next term of this court to enable the defendant to have the officer execute his return upon said summons upon her first haul from said Ogle County Circuit Court and that a record be filed in this cause. That John B. Cherry was the counsel for the defendant in error in the original suit in said Ogle

Circuit Court and obtained said decree
That said Chewy is Dead, and that
this deponent never had any knowledge
of any error in the return of said
Sheriff until a short time since
long since the last term of Ohio
Circuit Court. That as appears by the
Records of this Court said writ of error
was issued on the twenty fourth day of
May AD 1852 and that the said Writ
to said Defendant in error issued on
the said 24th day of May 1852. That
this deponent was informed by said
Defendant in error that he had no
knowledge that there was any error
in said proceedings or in the return
of said Sheriff or that said Secrist
claimed there was any such error
until the service of said Writ of Error
from this Court to wit on the third
day of June AD 1852 which information
this deponent only believes true that
since said writ of error was allowed and
summons served upon said Defendant
in Error. said Defendant in Error has
not had any opportunity to hear said
Sheriff answer his said return all which
is true as deponent only believes -

Done & subscribed this 15th day of
July AD 1852

J. Seland Clerk Sup. Court
By P. K. Seland. Sry.

C. J. Dutcher

John Croston
Defendant in error
vs

Suciuda Ogden
Plff in Error

Affidavit of
E. J. Tucker

Filed July 15th 1852.
S. Selana Clk.
By P. H. Selana Depy.

State of Illinois } Pleas in the Hon the Circuit Court in and
Ogle County } for the County and State aforesaid

Among the files and the Records of said Court
a certain cause wherein John Eyster is Complainant and Lucinda
S. Eyster is Defendant are the following files and entries in said Cause

April 25th A.D. 1849. On this day came the said John Eyster by
J. B. Cheney his solicitor and files in said
Court a Bill of Complaint against the said Lucinda S. Eyster on
which said Bill is the following endorsement

Filed April 25th A.D. 1849

R. B. Light Clerk

by M. B. Light Deputy

which said Bill of Complaint is in the words and figures following

To wit =

State of Illinois } Circuit Court of said County
Ogle County } of the May Term A.D. 1849

John Eyster } In Chancery

Petition for Divorce

Lucinda Eyster }

The Petition of your orator respectfully shews
to your Honor that on or about the Eleventh day of February A.D.
1845, he was joined in marriage according to Law with the Defendant
Lucinda S. Eyster & subsequently lived with her in the relation of
husband & wife & that both your orator & said Defendant have been
from that time residents of the said County of Ogle & State of Illinois
where they now reside. And your orator further shews unto you
Honor that said Lucinda previous to her marriage with your orator
& without his knowledge had been wantonly guilty of fornication
with one Weller & others unknown & that your orator married
her without having any knowledge of this fact supposing her to
be a virtuous woman & that about four months & nineteen days

after the marriage of your orator with said Lucinda she the said Lucinda was delivered of a child of which your orator was not the father, said child being the result of unlawful intercourse with other men previous to the marriage of your orator with her, of which your orator was entirely ignorant, he having never held intercourse with her until subsequent to his marriage with her—

And your orator further shews to your Honor, that on or about the 25th day of October A D 1845 & from that on, some length of time, she the said Charlotte wickedly disregarding the solemnity of her marriage vows & the solemnity of the marriage state at the said County of Ogle was in the habit of admitting one Henry Oaker to her bed chamber & that she the said Lucinda, then and there had carnal intercourse with the said Oaker frequently & at divers times, thereby committing the act of adultery, & that afterwards to wit during the same year she the said Lucinda committed adultery with divers persons to your orator unknown & whose names your orator has been unable to discover—

In tender consideration whereof your orator prays that a writ of subpoena may issue commanding said Lucinda to appear before you at the next Term of the Circuit Court to be holden in & for said County on the first Monday of May A D 1849 then & there to answer the charges contained in this your orator's bill of Complaint, And that she may be required to make true, full & perfect answer to all and every thing therein contained in as full, perfect & complete a manner as if she were especially interrogated thereupon.

And that the marriage between your orator & said Lucinda may be dissolved & your

Which said summons, was deliv'd to the Sheriff of said County, and was returned by him with the following endorsement of service thereon.

Served the within summons named selfp'd
"on Lucinda Egyster on the 25th day of April
"1849 by reading the same in her presence and
"hearing

E. W. Duescher shff
by A Hoffman Deputy shff

The same was returned into Court and endorsed as follows
"Filed April 27th 1849."

"R. B. Light Clerk

"by M. B. Light. Deputy

And afterwards Term at the May Term of the Circuit Court of said County began and holden at Oregon in said County, on the 7th day of May A.D. 1849. The Hon. Hugh Henderson presiding. On the 12th day of said Month, the following Order was entered in said Cause —

John Egyster }
vs } In Chancery.
Lucinda Egyster } Bill and Petition for Divorce

And now at this day came the Complainant by his Solicitor J. B. Cheney and the Defendant being three times solemnly called came not, nor any one for her but makes default herein. It is therefore ordered by the Court the matter and things therein contained in said Complainant's bill ^{contains} ~~contained~~ and set forth, be taken as confessed by the said Defendant

And afterwards to wit. On the 12th day of May A D
1849 Came the said John Eyster, and filed the following
Depositions in said Cause. which are in the words and
figures following To wit =

John Eyster }
 17 }
Lucinda S. Eyster } The Deposition of Jacob J. Lilly, who
 } being duly sworn, deposes & says that about
 } the month of January A D 1847, he was
 } at the house of John Eyster the Complainant in the above suit
 } & took supper there, that he verily believes that said Lucinda
 } there & there attempted to poison said Eyster & this deponent, by
 } putting corrosive sublimate or some other poisonous drug in their
 } coffee, that this opinion is founded upon the conduct of said Lucinda
 } at the time & from the effect that he experienced, after drinking the
 } coffee, that this deponent is a Physician & acquainted with drugs
 } sworn & subscribed before
 } one this 7th day of May 1849
 } J. B. Cheney
 } J. P.

J. J. Lilly

State of Illinois } Circuit Court May Term A D 1849
Ogle County }

John Eyster }
 9 }
Lucinda Eyster } In Chancery
 } The Deposition of Eleazer Carr
 } who being duly sworn deposes & says, that on
 } or about the 30th day of June A D 1840 he was at the house
 } of the said Complainant in Ogle County Illinois and that while
 } there he was suddenly called upon to deliver the wife of the
 } said Eyster of a child of which she was then pregnant, and that
 } the deponent did accordingly deliver the said Lucinda of a child
 } which child was perfect in every respect & was evidently what is

11937-12

Commonly called a Nine Months child. That said Complainant was there at the time & reproached the said Lucinda with having deceived him & insisted upon knowing who the father of the child was. As they had not then been married but a few months. That said Lucinda manifested great reluctance in disclosing the name of the father of the child but finally disclosed one Mr. Weller of said County to be the father of the child. That said Complainant manifested all the feeling of misery that would naturally be expected from him upon making such a discovery of the unworthiness of his wife & solicited her to tell who the father of the child was. That said Lucinda did not pretend that said Complainant was the father of it & declared it to be the child of said Weller. And from what this deponent then witnessed he is well assured that said Complainant is not the father of said child, but that either said Weller or some other person is the father of it =

Sworn to & subscribed before

me this day of April 1815

John C. Kinney

J. J. Jones

Eliager Carr

John Eyster

Lucinda Eyster

of the County of Hancock

The Deposition of Lucinda Eycaner, who being duly sworn deposes & says that on or about the 11th day of February A.D. 1815 John Eyster the said Complainant was married to the said Defendant Lucinda J. Eyster & that on or about the 30th day of June 1815 said Lucinda was delivered of a child. This deponent then resided in the family of said Complainant & that it never was pretended by said Lucinda that said child was the child of said Complainant & that subsequently some time in the fall of the same year the said Lucinda admitted a stranger named Oaker to sleep in the same room with her & remain in said room all night. The room being her bed chamber & occupied by

her, her husband having being absent from home at Chicago
& that from the fact of her permitting said Oates to sleep in the same room
with her & from other circumstances which occurred between them this deponent
has no doubt but that said Lucinda committed adultery with said Oates
that at said time there were other beds that said Oates might have slept
in, in other rooms - that said Lucinda has at different times taken men
other than her husband into her bed chamber & locked the door to prevent
intrusion or fastened it in some way, since the marriage of said Complainant
with her & since the birth of said child. And this deponent further says
that said Lucinda in her conduct towards said Complainant & his children
has been always cruel, harsh & unrelenting that Egerton when he
married her had six children residing with him & that on account
of said Lucinda's harsh & unfeeling treatment towards them, three
of the number were constrained to leave his roof - & that this deponent
who is a sister to them does not now know with any certainty
where two of them are. that said Complainant yet has three children
living with two girls & a Boy. That said Lucinda is entirely
unfit, ^{unfit} from her depravity & her malignant disposition to
raise a family & bring up children in the paths of virtue &
the fear of God. that this deponent is a daughter of said Com-
plainant & was constrained to leave her father's ~~home~~ roof from
the unhapp condition that her father & his family were in on
account of the behaviour of said Lucinda. That said Lucinda
is in her disposition violent, contentious & harsh & that while
they resided together & this deponent was an inmate of the house
no such thing as peace & tranquility were enjoyed

Sworn to & subscribed before
me this 11th day of May
A.D. 1849. P. B. Light-clere

Lucianna Egerton

John Eyster }
" }
Lucinda S. Eyster } The deposition of Esther Eyster who
being duly sworn deposes & says that she is
a daughter of the said John Eyster & has
resided with him from the time of her birth
that she is now within a few days of fourteen years of age. That
she was at the house of said Eyster at the time of his marriage
and subsequently at the birth of a child within a short time
after his marriage with the defendant. that subsequent to the
birth of said child during the fall after a man named Henry
Oaker was at the house of said Eyster during said Eyster's absence
at Chicago, and that during the whole time of said Eyster's absence
the said Lucinda permitted said Oaker to sleep in the same room with
her, which was her bed chamber. And that since said time of the
birth of said child the said Lucinda has frequently in the absence of
said Eyster taken different men not her husband into her bed
room & fastened the door so as to be secure from intrusion
or observation. That in her conduct towards said Eyster & his children
she has been cruel in the extreme, beating the children in an
unmerciful manner, for slight provocation or none at all. And
that this deponent has been sometimes in the absence of said
Eyster constrained to leave the house & go to some of the neighbors
until said Eyster should return. That said Lucinda on one
occasion for a slight provocation or indeed without any, struck
a younger sister of this deponent knocked her down & upon her
attempting to rise repeated it several times, that the deponent has
herself suffered from the cruelty of said Lucinda in common with
the rest of the children of said Eyster who had resided with him
that in her intercourse with said Eyster and his children the said
Lucinda has always used the most harsh, insulting & abusive
language, making violent threats of stabbing some of the children
& doing other injuries and rarely if ever addressing the said
Eyster in any other manner than in a rude & abusive way
that this deponent has heard said Lucinda tell said Eyster

that he had no business with the child that it was not his & that
with a view to insult & hurt his feeling. And this deponent further
says that said Lucinda's conduct towards said Eyster & his family
has been such as to embetter his existence & utterly destroy his domestic
peace & happiness. And that his language has been of such a nature
as to offend modesty & decency. being of the most-profane character
Subscribed & sworn to before me

this 10 day of May A.D. 1829

E. B. Cheney, Private Justice
of the Peace

E. Eyster

John Eyster }
" }
Lucinda S. Eyster } The deposition of Malinda Stagle who being
duly sworn deposes & says that she is
acquainted with the parties to the above suit
that some time on or about the 11th day of
February 1825 they were joined in marriage together & that in the
space of about four or five months there after the said Lucinda
became the mother of a child which child is yet living. that said
Lucinda did not then nor does she now profess that said child was
the child of said Complainant. that this deponent was at the house
of said Eyster on the day subsequent to the birth of said child and
in conversation with said Lucinda. she the said Lucinda remarked
that if said Eyster would only own the child that it would be all
right & his children be none the wiser of it - that this remark was
made by her on witnessing the unhappiness of said Eyster's children
when they found out the said Lucinda's unworthiness that since
said time the said Eyster's children have frequently come to the house
of this deponent & refused to leave until said Eyster should return
to his home after a temporary absence alleging as a reason for so
doing that they feared said Lucinda. And further that this
deponent is well convinced that the domestic peace & quiet &
comfort of said Eyster has been entirely destroyed by the said
Lucinda's base & unworthy conduct.

That this deponent has seen the said Lucinda when she appeared to be intoxicated & the deponent has reason to think she was in that situation.

Subscribed & sworn to before

this 5th day of May A.D. 1849

J. B. Kehney, Probate Justice
of the Peace

Lucinda Hays

John Eyster

Lucinda Eyster

The Deposition of Asa G. Spalding who being duly sworn deposes and says that about first day of July A.D. 1848 he was by Plaintiff requested to go with him to his house as he had an unwelcome visitor at his house and that he wanted to know who the father of the child was of which the defendant had been delivered a few days before. for says Plaintiff it is none of mine. deponent accordingly went with Plaintiff who was accompanied by Nathaniel Bothren to Plaintiff's house and Mr Bothren & Plaintiff went into the room where defendant was in bed and after a short consultation with her Mr Bothren came out into the room where deponent was and requested deponent to walk into the room where Deft was and at the same time said that the child belongs to a man by the name of James Weller defendant accordingly made out an affidavit to the effect that James Weller was the father of the child of which the deft had been delivered a few days before to which the deft. subscribed her name & made solemn oath. before your deponent who was at that time an acting Justice of the Peace at the time and before deponent left Plff called deponent to the bed and said I must show you the child and at the same time remarked that that it was a good looking child if it was a Bastard. and further your deponent said not sworn & subscribed before

Asa G. Spalding

me this 7th day of May A.D. 1849

And afterwards to wit at the May Term AD 1849
of said Court, the Hon. Hugh Anderson Presiding, the following
the following Order and decree was entered in said Cause.

May 12th 1849 -

John Eyster }
vs }
Lucinda Eyster }
Chancery - Bill & Petition for Divorce

And afterwards on this day came the said
Complainant, by Cherry his solicitor and the Cause coming on
for final hearing, upon Bill, Master's Report, Deposition of
Witnesses and other final exhibits, and it appearing to the Court,
process of Subpoena, had been duly served on the said Defendant,
more than ten days previous to the first day of this term, and
it further appearing by proof made in said Court, that the
said parties had been legally married to each other, and that since
their said marriage with each other, the said Lucinda Eyster
Defendant, had been guilty of Adultery, as is charged in
said bill of Complaint. - It is therefore Ordered adjudged and
decree that the bonds of Matrimony heretofore existing
between the said John Eyster and Lucinda Eyster, be dissolved,
and that the Complainant John Eyster, be forever divorced from
the Defendant Lucinda Eyster. - And it is further Ordered by
the Court, that the Costs herein, be paid by the Complainant
John Eyster -

State of Illinois }
Ogle County }
J. R. B. Light, Clerk of the Circuit Court, in
and for said County and State, do hereby certify that the foregoing is a full, true,
perfect and complete record, of all the papers and proceedings in the above
entitled Cause.

In testimony whereof I have hereunto set my
hand and affixed the seal of said Court, the
29th day of April AD, 1852
R. B. Light - Clerk

State of Missouri }
Supreme Court }

June Term 1852

Lucinda Eyster }
vs }
John Eyster }

And now comes the said Lucinda. The plea in error by Estel and her solicitor & says that in the record & proceedings in this cause there is manifest error in this to wit.

The Court erred in rendering a decree without there having been the service of process upon the defendant below which the law required.

For this & other errors apparent upon said record the said plea in error prays that said decree may be reversed vacated & for naught estemed.

And now comes said John Eyster & says that there is no error in this record
C. S. Deland
Coun. atty for John Eyster
for plea in error

Filed May 24th 1852.
W. H. Lane Clerk.
By J. W. Lane Deputy.

101-
Cable County.
John Eyster -
vs
Lucinda Eyster
Record

W. H. Lane Clerk
\$3.35
35
Making amount due

J. W. Lane Clerk