

of said probate court, renouncing her right to administer, and without any renunciation or consent on her part for other person than herself to administer. And complainant asks the court to revoke the letters of administration heretofore issued to Edgar Veerkamp, and that letters of administration alone be issued to complainant, as the sole administrator of said estate, as the law provides."

The cause was appealed to the circuit court, where judgment was rendered removing defendant and cancelling his appointment. It appears from the evidence that plaintiff, who is the widow, and defendant, her son-in-law, went before the probate court within thirty days of the death of the deceased and were appointed co-administrators of the estate. The testimony was conflicting as to whether plaintiff knew that defendant was being appointed with her. She testified she did not; that she signed papers which she was requested to sign, and for the reason she supposed it was necessary for her to do so; that she intended to administer alone and only supposed defendant would assist her, as a friend and kinsman, in the management of the affairs of the estate. The court found that the letters were granted to defendant by mistake. The case concedes that she never filed her renunciation of her right to administer.

It is provided by statute (Rev. Stat., 1879, secs. 7, 8, and 9) that letters of administration shall be granted first to the husband or wife; that in case they do not apply within thirty days, the court, judge, or clerk may, on motion, issue a citation to appear and qualify for administration, and if they fail to appear within five days, letters may be granted to some other person; that letters may be granted to some other person at any time if the person entitled to preference file with the clerk a renunciation thereof in writing.

The probate court had no authority to issue letters of administration to defendant within thirty days after the death of the deceased without first having received

plaintiff's written renunciation of her right. The right of the husband or wife to administer is their sole right, and without their renunciation cannot be divided with others.

In 1839 and '40, the provisions of the statute were substantially the same as at present, and it was held in *Mullanphy v. St. Louis County Court*, 6 Mo. 291, to be "a most unwarrantable act in the county court to grant letters of administration to a stranger * * * before the lapse of sixty days from the death of the intestate, or before the other requisites of the statute had been complied with." See, also, Schouler's Ex'rs and Adm'rs, sec. 113. This author says the renunciation should be made a matter of record, and our statute *supra*, in order to avoid all question or dispute as to whether the preferred parties had waived their rights, requires the renunciation to be in writing and filed with the court.

I have no doubt of the power and authority of the probate court to revoke or cancel the letters issued to defendant. Among the grounds of revocation, as stated by Schouler (sec. 153), are, "that administration was granted earlier than the statute permits to one of a class not preferred therein; or that it was granted to another person than the widow or next of kin, regardless of the legal priorities."

Nor can there be any question of the authority of the court to do this at a subsequent term. It is not necessary, in this case, to say the appointment was void, but that it was an irregularity patent of record there can be no doubt, and in such cases courts may set aside judgment or other proceedings at any time within three years. *Downing v. Still*, 43 Mo. 309; *Smith v. Best*, 42 Mo. 185; *Harbor v. Railroad*, 32 Mo. 423; *Rankin v. Lawton*, 17 Mo. App. 574.

The judgment, with the concurrence of the other judges, is affirmed.

Declaration for Original Pension of a Widow--Child or Children under Sixteen Years of Age

UNDER AN ACT GRANTING PENSIONS TO SOLDIERS AND SAILORS WHO ARE INCAPACITATED FOR THE PERFORMANCE OF MANUAL LABOR AND PROVIDING FOR PENSIONS TO WIDOWS, MINOR CHILDREN, AND DEPENDENT PARENTS.

State of Missouri }
County of Jackson } SS.

On this 24th day of January, A. D. one thousand eight hundred and ninety one personally appeared before me, a William C. Cook within and for the County and State aforesaid Elizabeth K. Kelly (Name of Claimant) aged 58 1/2 years, a resident of St. Louis, Missouri (Give City, Village or Town, County and State; and if you reside in a City where streets are named and houses are numbered, give name of street and number of house. If you reside in the country, state about how

many miles from nearest Post-office.) who, being duly sworn according to law, makes the following declaration in order to obtain the pension provided by act of Congress granting pensions to widows, approved June 27, 1890, to wit:

That she is the widow of Peter C. Kelly (Name of soldier) who served during the late War of the Rebellion under the name of Peter C. Kelly (Name under which he enlisted) from the 4th day of October A. D. 1862 to the last day of June A. D. 1865, as a Sergeant in Company G 53rd Ill (Give rank.) (State company and regiment or other organization, if in the army, or name of vessel and his rank, if in the navy.) and who was HONORABLY DISCHARGED from the service at St. Louis (Give date and place of discharge.) and who died of Small Pox (Give cause of death.)

on the 24th day of Jan A. D. 1896, at St. Louis, Mo (State place of death, if known.) that she is without other means of support than her daily labor; that she was married under the name of Elizabeth K. Meider (Name before marriage to said soldier.) to said Peter C. Kelly (Name of soldier.) on the 16th day of August A. D. 1847, by Thos. K. ... (Name of clergyman or other person officiating.)

at Lebanon, Mo (Place of marriage), there being no legal barrier to such marriage; that neither she nor her husband had been previously married, his husband had been (If either have been previously married, so state, and give date of death of her former husband and father and by an illegal marriage; divorce of former spouse.)

that she has to the present date remained his widow; that the following are the names and dates of birth of all his legitimate children WHO ARE UNDER SIXTEEN YEARS OF AGE at the present time:

HIS BY YOURSELF.		HIS BY A FORMER MARRIAGE.	
<u>Thomas Meider</u>	born 18 <u>48</u>		
	born 18 <u>50</u>		
	born 18 <u>52</u>		
	born 18 <u>54</u>		
	born 18 <u>56</u>		
	born 18 <u>58</u>		
	born 18 <u>60</u>		

(If the husband left no children by the applicant, or by a former wife, the fact should be stated.)

That she has not in any manner been engaged in, aided or abetted the rebellion in the United States; that she has not made any application for pension (If prior application has been made or filed either by soldier or widow, so state, giving if possible the number assigned to it; if no application has been made, so state.)

She hereby appoints, with full power of substitution and revocation,

GEORGE E. LEMON,

of Washington, D. C., her true and lawful Attorney, to prosecute this claim. That her Post-office address is St. Louis, Missouri (Give City or Village, County and State; if you reside in a city where streets are named and houses numbered, give name of street and number of house.)

Elizabeth K. Kelly (Signature of claimant.)

- If claimant sign by X mark two persons who write their names MUST sign as witnesses thereto.
- (1) Pat Reden Jr (Name of one witness to X mark.)
 - (2) Jerry Kennedy (Name of other witness to X mark.)

This Blank is prepared by GEORGE E. LEMON, of Washington, D. C., and is Exclusively for his use.

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WIDOW'S PENSION.

Claimant Elizabeth M. Kelly Soldier Peter C. Kelly
 P. O. Mexico Rank private, Co. A
 County Andra, State Mo Regiment 53rd En. Mo. V. S. Mil.
 Rate, \$8 per month, commencing Feb 18, 1891, and \$2 per month additional for each child, as follows:

.....	{ Born,....., 18 .. }
.....	{ Sixteen,....., 18 .. }	} Commencing....., 18 ..
.....	{ Born,....., 18 .. }
.....	{ Sixteen,....., 18 .. }	} Commencing....., 18 ..
.....	{ Born,....., 18 .. }
.....	{ Sixteen,....., 18 .. }	} Commencing....., 18 ..
.....	{ Born,....., 18 .. }
.....	{ Sixteen,....., 18 .. }	} Commencing....., 18 ..
.....	{ Born,....., 18 .. }
.....	{ Sixteen,....., 18 .. }	} Commencing....., 18 ..
.....	{ Born,....., 18 .. }
.....	{ Sixteen,....., 18 .. }	} Commencing....., 18 ..
.....	{ Born,....., 18 .. }
.....	{ Sixteen,....., 18 .. }	} Commencing....., 18 ..

REJECTED.

Payments on all former certificates covering any portion of same time to be deducted.

All pension to terminate, 189..., date of

RECOGNIZED ATTORNEY.

Name Geo. Simon Fee \$ 10 Agent to pay.
 P. O. City Articles Filed, 189...

APPROVALS

Submitted for rejection July 21, 1891, J. P. Fritzsche, Examiner.

Approved for rejection on the ground that soldier was not in the U.S. Service therefore not entitled.

Aug 6, 1891, C. J. Williams, Legal Reviewer.

The soldier was not pensioned at \$..... per month for

Enlisted Oct 4, 1862 Soldier's app'n filed, 18 ..
 honorably disch'd not given, 18 .. Clt's app'n under other laws, 18 ..
 Re-enlisted, 18 .. Former marriage of, 18 ..
 honorably disch'd, 18 .. Death of former, 18 ..
 Died June 24, 1886 Clt's marriage to soldier Aug 16, 1869
 Declaration filed Feb 18, 1891 Clt not remarried, 18 ..

Claimant is without other means of support than her daily labor.

PETER CRAMER SKELLY and ELIZABETH (WEIDLER) SKELLY

Mexico (MO) Weekly Ledger 1 July 1886

P. C. SKELLY DEAD Only a few months since John Skelly, 1 [one] of the best citizens of Audrain County died, it is now our painful duty to chronicle the death of his brother, Peter C. Skelly, who was equally loved and respected by those who knew him. He leaves a wife and 4 children on his farm near Rush Hill. He was a member of the church and a leading Odd Fellow. Several members of the Lodge from Mexico attended his funeral. Mr. Skelly was a substantial farmer in fine circumstances, a good neighbor and a devoted father. He will be greatly missed by all who knew him..

Rush Hill Racket Date?

Mr. P. C. Skelly's death, which occurred at this home 1 mile West of town, last Thurs., the 24th, has thrown a gloom over our community. Mr. Skelly was one of our most substantial citizens and will be greatly missed in the neighborhood. He leaves a wife and 4 grown children to mourn his death.

Mexico (MO) Weekly Ledger 23 September 1886

At a meeting of the Littleby Anti-Horse Thief Assn., Sept. 18 the following officers were elected.... The following resolution of respect was adopted by the Association.

WHEREAS, an Allwise Providence has seen fit to remove from our midst our brother Peter Skelly, in whom our order has lost a valuable member, the community an honorable citizen, and his family a kind protector.

Mexico (MO) Ledger 3 December 1912

Mrs. Elizabeth Skelly, aged 80 years, died at the home of her daughter, Mrs. L. W. Roberts on E. Monroe St., suffering with a complication of diseases. No funeral arrangements have been made. The Ledger joins many friends in extending sympathy to the bereaved ones.

Mexico (MO) Evening Ledger 4 December 1912

The funeral services of Mrs. Elizabeth Skelly, who died Tuesday afternoon will be held at Littleby Methodist Church Thursday morning at 11:00 o'clock. Her body will be taken from here at 9 o'clock. The pall bearers will be Frank Shoup, Henry Smith, Ben Canterbury, William Doolin, John Maxwell and William Frazier.

Mrs. Skelly, who has lived here only a short time, was a dear Christian character, a member of the Methodist Church and will be missed by all who knew her. She is survived by the following children. U. G. Skelly, Los Angeles, Cal.; Mrs. Ida Elder, Pilot Point, Texas; Mrs. Kate Veerkamp, Neosho, Mo. and Mrs. Mattie Roberts of this city.



This replica of Badge No. 362 shows the official seal of the Red Oak, Missouri, Anti-Horse Thief Association, among the nation's earliest vigilante organizations. The Anti-Horse Thief Association originated in Missouri and spread across the southwest plains of the United States. (Courtesy Major Darrell L. Combs, U.S.M.C.)

[The above A. H. T. A. badge is similar to that of Mexico, MO.]