


No. 13927

Supreme Court of Illinois

Mahar

vs.

O'Hara.

71641  7

Supreme Court

Helew Mahan
vs

James O. Hara

13927

Record

139

Reversed.

vs
Hara vs

State of Illinois, sct.

THE PEOPLE OF THE STATE OF ILLINOIS,

To the Clerk of the Circuit Court for the County of *Randolph* Greeting;

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of *Randolph* county, before the Judge thereof, between *Heleen Mahor* _____

_____ plaintiff and *James O'Hara*

defendant it is said manifest error hath intervened to the injury of the aforesaid *plaintiff* 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 our 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 Springfield in the county of Sangamon, on the *fourth Monday in December inst* ~~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. William Wilson, Chief Justice of our said Court, and the seal thereof at Springfield, this *sixth* day of *December* in the year of our Lord one thousand eight hundred and forty-*seven*.

R.B. Stocumb

Clerk of the Supreme Court.

By Noah Divellis
Dep. Clerk

SUPREME COURT.

Helen Mahan

Plaintiff in error,

vs.

James O'Hara

Defendant in error,

Writ of error,

Filed. Dec 6th 1847

R.B. Hoiumb. C. J.

By Noah Divelbiss
D. C.

In the name of God Amen I Henry Ohara a resident citizen of Randolph County in the State of Illinois, being sick in body but of sound mind and disposing memory and knowing that I must soon or later die, do make, and publish & declare this to be my last Will & Testament, that is to say -

First. I give and bequeath unto my son James Ohara all that half of land on which I now reside & the adjoining tracts, except two hundred acres, which I have hereinafter given to my son Charles, ~~Ohara~~ and two hundred to my son John, & hereinafter mentioned also all my personal property of every description and outstanding claims for money or property, reserving however one hundred acres of land out of the lands hereby given to him for the use of a Roman Catholic Church to be laid off and conveyed by him for that purpose whenever a suitable building for a church shall be erected thereon. The said James is bound to make the following payments of money and delivery of property and in the manner hereinafter stated and allowed and I do hereby request him to do as herein after stated

Secondly - I give unto my daughter Polly one hundred fifty dollars to be paid to her by my son James in such payments as he shall deem necessary to her wants from time to time

Thirdly - I give unto my daughter Milly the wife of James Mead one hundred and fifty dollars to be paid by my son James one half to be in property at valuation, the other half in money, the one half to be paid by the end of the first year & the other by the end of the second year after my death

Fourthly - I give to my daughter Catharine the wife of John Winstantly one hundred and fifty dollars to be paid by my son James in the same manner as above provided for my daughter Milly

Fifthly - I give to my son Henry Ohara one hundred and fifty dollars to be paid by my son James in the same manner as above provided for my daughter Milly, and also the horse now running on my plantation commonly called Henry Horse

Sixthly - I give and bequeath unto my son Charles Ohara two hundred acres of land, part of the lands on which I now reside, to be laid off on the most westerly side of my lands and including what is called the Big Spring and to be so run as to take a part of the thin soil as well as the rich land running nearly a north & south course

Seventhly - I give and bequeath unto my son John Ohara two hundred acres of land, part of the lands on which I now reside to be laid off adjoining to the two hundred acres above given to Charles and to run in a similar manner, provided however that where my mill is erected shall not be included in John's tract but shall be left out and be included in the residue of the lands I have given to my son James

Eighthly I give to my daughter Sarah Ohara two hundred dollars to be paid to her

by my son James in the same manner as above directed to be paid to my daughter
Milly - also three silver table spoons

Ninthly - It is my earnest wish and desire that those of my children who now reside with
me should continue to reside on the plantation where I now reside with my son James after my
death and that my beloved wife Helen should continue to reside there and act as a mother to-
wards my children and to her own and that my son James should there reside so long as they can a-
gree But in case my wife shall choose to separate from them and desire a residence
to herself, I direct that my son James shall build her a comfortable dwelling house in his part
of the land above given him convenient to a good spring of water and to deliver to her one hun-
dred bushels of corn and twenty bushels of wheat and five hundred pounds weight of good
pork annually. - In addition to which I give my beloved wife one bed and bedding, three
milk cows the choice of my stock, my Dearborn Waggon, a mare commonly called the Fan mare, a
Bureau which is in the large room of my house three silver table spoons and the keyboard in my
house And in case my wife be now pregnant and the issue shall survive I direct that my
son James shall give to it two hundred dollars

Tenthly - As I have given to my son James the principal part of my estate as above expressed &
required of him to make the several payments above stated to his brother and sister and to my
wife it will be more convenient for him to be my executor and I do hereby nominate and
appoint and adjudge him Executor of this my last Will and Testament and I hope he will
find it convenient for him to do so I do hereby revoke and annul all other Wills and
Testaments by me made heretofore

In Testimony whereof I have hereunto set my hand and affixed my seal and published and
pronounced this to be my last Will and Testament in presence of the undersigned witnesses
this twentieth day of June in the year of our Lord one thousand eight hundred and
twenty six

Henry Ohara

(Seal)

Signed sealed & published & pronounced
in the presence of us on the day & year
above written. Wm. Greenup
Henry Levens
James M. Hendry

Proved in Probate Court for Pendleton County July 30th 1826 & probate enclosed on
the original - and on the same day letters testamentary were duly issued by said court
to James Ohara the executor named in the will -

We Lyman Trumbull attorney for James Ohara, ^{defendant} and David J. Baker attorney for Helen
Makar plaintiff in the case now pending on a writ of error in the Supreme Court
of this State do hereby agree that the foregoing is a true copy of the original will
of Henry Ohara & that the same was proved & attested as above stated but the time stated - I do further agree that the above foregoing shall &
may be taken as evidence by the court or part of the record in said case.

Done on 23rd 1817

Lyman Trumbull
for defendant in error
David J. Baker atty
for plaintiff in error

Supreme Court
Helen Mahan }
" }
James O'Hara }

Copy of will to be taken
as part of the record in this
case - by agreement of parties.

Filed Dec 30th 1847
N.B. Stoddard C.S.C.
By A. Doolittle J.C.

State of Illinois,)
Supreme Court.) ss.

The People of the State of Illinois,

To the Sheriff of *Randolph* County.

BECAUSE in the record and proceedings, and also in the rendition of the judgment, of a plea which was in the Circuit Court of *Randolph* County, before the Judge thereof, between *Helen Meaker* plaintiff and *James O'Hara*

defendant it is said that manifest error hath intervened to the injury of the said plaintiff 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 Springfield, 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 *James O'Hara*

that *he* be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Springfield, in said State, on the *fourth* Monday in *December* *inst*, next, to hear the records and proceedings aforesaid, and the errors assigned, if *he* shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said *James O'Hara* notice, together with this writ.

WITNESS, the Hon. William Wilson, Chief Justice of our said Court, and the seal thereof, at Springfield, this *sixth* day of *December* in the year of our Lord, one thousand eight hundred and forty-*seven*

R. B. McCarroll
Clerk of the Supreme Court.

By Arab Divillos
Dep. CLK

By virtue of this writ to me directed by John Doe and
Richard Roe, good and lawful men of my bailiwick, I have
given notice to the within named James O'Hara to be and appear
before the justice of the Supreme Court of the State of Missouri
at the place and day within contained; to hear as he is by
the said writ required, as I am within commanded
this 20th day of December 1847

J.A. Wilson

Sheriff of Randolph County
Missouri

Supreme Court.

W.C. Barker

Plaintiff in error;

vs.

James O'Hara
Defendant in error;

Scire Facias

Daniel Barker Atty
for self in error

Shall fee mileage \$ 9.00
returning return 62
Filed \$ 9.62

Filed Dec 27 1847

R.B. Howard L.S.C.
By A. Williams L.C.

Helen Maupher)
vs) Error to Randolph County
James O'Hara)

Abstract -

Henry O'Hara a resident of Randolph County being the owner of a considerable real & personal estate died in the month of June or July 1826 and prior to his death made and published his last Will & Testament whereby he disposed of all his property to his wife & children. To his Son James O'Hara he gave the greatest part of his property being all that tract of land on which the testator resided at the time of his death and the adjoining tract (except 200 acres which he gave to his Son Charles & 200 acres to his Son John) also all of his personal property of every description & outstanding claims for money & personal property reserving however 100 acres out of all the lands given to the said James for the use of a Roman Catholic's Church to be laid off and conveyed by him for that purpose whenever a suitable building should be erected thereon and after enumerating various devises and bequests to several of his children, the testator declared it to be his ^{earnest} wish ~~that~~ and desire that those of his children who then resided on the plantation whereon he then resided, should continue to reside with his Son James after the testator's death and that his beloved wife Helen the complainant in this case, should continue to reside there and act as a mother towards his children & her own and that his son James should thus reside so long as they could agree, but in case his wife, being the present complainant should choose to separate from them and desire a residence to herself - the said testator directed that his son James should build her a comfortable dwelling

house on his said James part of the land given to him convenient to a good spring of water and should deliver to her 100 bushels of Corn, 20 bushels of wheat & 300 pounds of pork annually; in addition to which the testator gave to her one bed & bedding, 3 milk cows, his dearborn wagon 1 mare, one beauran 3 Table Spoons & the cupboard in his house; and further in & by his said Will the testator declared in the following words, to wit: "As I have given to my son James the principal part of my property estate as above expressed and required him to make the several payments as above stated to his brothers & sisters and to my wife it will be more convenient for him to be my executor & I do hereby nominate & appoint him executor of this my last Will & testament." These are all the provisions in the Will bearing in any wise upon the rights of the present complainant. The complainant at the time of the death of the said Henry O'Hara was his lawful wife. After his death she resided a-while with James O'Hara, the defendant on the place where her husband died & then left & lived by her self in a house erected for her by James O'Hara. James O'Hara on the 3rd of July & after the death of his father Henry, proved his Will & qualified & acted as, ^{the} executor & received & enjoyed the real & personal estate given to him by the testator & delivered to complainant the bed & bedding, 3 cows, the dearborn wagon, ^{mare} beauran, spoons & cupboard bequeathed to her & builded her a ^{dwellling} house and, after she separated in her residence from the family of James O'Hara, he paid to her the 100 bushels of Corn, 20 bushels of wheat & 300 pounds of pork for several years but for the years 1831 to 1839 inclusive, ^{& ever, afterwards} he refused to pay & this suit is brought to recover the annuity in arrear for those years, during all all which time & ever since the complainant has lived apart from the defendant & without charge to him, his bill was filed July 31st 1840.

the defendant - in his answer admits the truth of all the Substantial statements in the complainant's bill and that he paid to her the annuity and every thing bequeathed to her in the Will of her husband the testator, till in May 1831 & says that in that year she married one Mayer & then ceased to live in the house on his premises built for her and that she has ever since continued absent from the house, he also admits that he has ever since her removal from the house built for her refused to deliver her the annuity mentioned in the Will & sets up as an excuse for his refusal, her not living in the house. He admits his not having delivered the corn, wheat & pork to her for the years mentioned in the bill nor any equivalent for them; defendant also admits that Edward Newsham in behalf of complainant several times asked him def^t if he would pay her the annuity, tho' he denies that a formal demand had ever been made on him for it; but he expressly admits that "ever since her removal & since the time charged in the bill, he has refused to deliver the said provisions and annuities to the complainant"

to the answer of the defendant a replication was filed. The deposition of Edward Newsham taken in the case on the behalf of complainant proves that the complainant is the widow of Henry O'Hara, deceased; that the defendant had acted as the executor of the Will of the deceased & had ever since the death of his father, lived upon the same place or farm whereon the said Henry lived at the time of his death & has all that time received the rents & profits of the farm & place. He says, "in the month of February 1832 he as the agent of the complainant called upon James O'Hara to pay to her her annuity provided for her in the Will of the said Henry consisting of 100 bushels of Corn 20 bushels of Wheat & 500 pounds weight of pork" and the defendant said he would not pay it unless compelled

by law to pay it" or words to that effect and afterwards on another occasion he spoke to the defendant of the payment of the annuity when he said he would not pay anything unless compelled by law to ~~pay~~ it but to avoid a lawsuit he would give her \$50 not that he considered he owed her anything. This witness proves moreover that the defendant received the bequests & legacies made to him in the will of his father & that the farm devised to him is worth \$3000; that in 1831 & 1832 the complainant resided at witness's house in Illinois about 12 or 13 miles distant from the residence of the defendant; she afterwards resided in Kaskaskia in Illinois a year & a half more or less, at other times occasionally between the years 1831 & 1840 she was at ~~defendant's~~ ^{witness's} house a week or two at a time, the ballance of the time ~~she was~~ in Missouri partly at Perryville & partly at St Louis. He proves the price of corn on an average of the years sued for to be 20 cents per bushel wheat 50 cents and pork 3¢ per 100^{lbs}. He says complainant was married in the Spring of the year 1831 to Sombrooc Mayher & moved to Kaskaskia. He states when & where he, as the agent of complt. made the demand on the defendant of the corn wheat & pork coming to her & says that Henry O'Hara had property to a considerable amount besides the farm & property devised to defendant. At the August term 1842 the case was heard & a decision ~~given~~ made & entered at the April term following - that is in 1843 and the court decreed a dismissal of complainant's bill & that she should pay the costs. To reverse this decree a writ of Error has been sued out to this court wherein the complainant makes the following points & prays a reversal of the judgment below thereon.

1st A court of Chancery has jurisdiction of this case & can afford to the complainant the relief sought. 1 Story's Comm on Eq. 553

§ 89 § 91 § 93 § 95 et seq. 1 Gorman on Wills 758

2nd By the terms of the devises and bequests made to the defendant he was bound, upon acceptance of the same, to pay the annuity of corn, wheat & pork specified to the complainant when she ceased to live with him. It is part of the grant under which he claims that he shall make yearly payment to her upon the happening of the contingency provided for. It is clearly the intention of the testator to secure a support of the complainant during her life out of the property granted by ^{him to} the defendant —

2 Jarman on Wills p 525, 657 & 534. 2 U.S. Dig p 91 § 372. 2 Barb. & Harv. Dig p 151 § 13. Hammaes Dig p 693 X.IV § 1. do 644 XIV § 19 § 20 § 24
3 Nipha & Kern R. 282 in q Eng. Ch. R. 22. also 6 Pleas Ch R. 33 37 Glen devise in Fisher - also same to same edict. of Harma Fisher - do 36. 1 Paige 32

3rd The defendant's acceptance of the benefits secured to him in the Will of Henry O'Hara dec'd made him a trustee to the complainant and bound him to pay to her the annuity based on & growing out of the grants to him, see cases referred to above. point 2.

4th No condition was attached to the right of the complainant to have the annuity provided for her except that only of living separate from the defendant. The intention of the testator would be defeated by a construction which shall attach to this right any other contingency or construction.

5th A demand by the complainant of this annuity is perhaps not necessary in this case, The defendant repeatedly declared he would not pay; but a demand is proved by testimony, & in fact admitted by the defendant in his answer. 2 Barb. & Law. Dig. p. 175 § 8
Glen vs Fisher & John. Ch. Rep. 33 37

Dana & Baker att for def

Wolow May her }
vs }
James O'Hara }

Abstract.

and the official seal ~~Accounts~~
of said Court hereunto affixed

Charles J. Kane
Clerk of the Circuit Court
of Randolph County, Ill.

Supreme Court
Helen Mayhew (Plff) } In Error
vs
James O. Hara (Defr)

and the complainant in this case, the plff
in error by David J. Baker her attorney comes and assigns the
following errors in the record & proceedings aforesaid and makes the
following points for which relief which is then error in the said record
& proceedings aforesaid, she prays that the said judgment of the said Cir-
cuit Court may be reversed & held for nothing, to wit:

- 1 The Court erred in dismissing the said complainant's bill of com-
plaint and in entering a decree against her for costs
- 2 The Court of Probate has not the exclusive jurisdiction in this case
but it is competent for the complainant to maintain her bill in
the Circuit Court which Court has full power to afford to the complainant
the relief by her sought
- 3 The complainant's right to the annuity provided for in the Will of her
deceased husband depended on no condition or contingency, except that
of her living separate from the defendant and the children of the tes-
tator, and upon her separation and residing apart to herself, her
right to the annuity became complete and absolute
- 4 The quantities of corn, wheat and beef to be paid to the complainant
by the terms of the will of Henry O. Hara her deceased husband,
upon her living separate from the defendant & the family, are an annuity
issuing out of the property devised & bequeathed to the defendant, &
if he accepted of it, subject to this charge, or burden, ^{he} became liable
to pay the same, so soon as she left him this family & lived to her-
self, and her right to it did not depend upon her continuing sole
and unmarried or ^{upon} the fact of her living upon the farm whereas the
defendant resided.
- 5 The complainant's remedy, if any she has, is in Chancery, and in a
Court of law.

Found in error

Memorandum
for Court.

David J. Baker Atty for
said Plaintiff in error

Helen Mahan COST-BILL. *James O'Hara*

David J. Butler
Security

PLAINTIFF'S COSTS.

DEFENDANT'S COSTS.

Filing papers on appeal, taking bond, &c
 Issuing *one* summons, _____
 do _____ subpoena, _____
 Filing *seven* papers, _____
 Taking bond for cost, _____
 Issuing dedimus potestatem _____
 Filing and opening depositions _____
 Entering suit on docket *4 times* _____
 Do defendants default, _____
 Do continuance *3 times* _____
 Do nonsuit _____
 Do plaintiff's appearance _____
 Do do attorney do _____
 Taking bond, _____
 Assessing and reporting damages on note _____
 calling and swearing jury _____
 Swearing witnesses on trial _____
 Do person to affidavit _____
 Receiving and entering verdict of jury _____
 Entering final judgment _____
 Do judgment on judgment docket _____
 Making and recording cost bill _____
 copying do _____
 Issuing execution _____
 Docketing do and filing _____
 Entering Sheriff's return on execution _____
 do satisfaction of judgement _____
 Issuing procedendo _____

50 Filing paper on appeal, taking bond, &c.
 Issuing _____ summons, _____
 do _____ subpoena _____
 43 3/4 Filing *four* paper _____
 25 Issuing dedimus potestatem _____
 12 1/2 Filing and opening depositions _____
 50 Taking bond _____
 35 Entering suit on docket _____
 12 1/2 Do defendants appearance _____
 12 1/2 Do do attorneys do _____
 25 Do *ommission* judgment _____
 12 1/2 Do nonsuit _____
 Swearing *two* witness on trial _____
 Do *two* person to affidavit _____
 Enter judgment on judgment docket _____
 Making and recording cost bill _____
 copying Do, _____
 Issuing *one* execution _____
 Docketing *one* do & filing on _____
 Entering Sheriff's return on *one* execution _____
 37 1/2 Entering satisfaction of judgment _____
 Issuing procedendo _____

25
 12 1/2
 25
 12 1/2
 25
 25
 25
 37 1/2
 50
 18 3/4
 22 3/4
 25

Deft cost

268 3/4
 718 3/4

Fees before the Justice *Partial Costs*
 Docket fee _____
 Sheriff's fees _____

987 1/2

Fees Before Justice 250
 Docket fee _____
 Jury fee _____
 Printer's _____
 Sheriff's fees *on summons* _____
Plaintiffs costs

250
 150
 7.18 3/4
 Witness fees

Witness fees

State of Missouri
 Randolph County, I Charles D. Kane clerk
 of the circuit court in and for said county and
 and State do hereby certify that the foregoing
 is a true Transcript of all the orders and papers
 filed in my office in the cause of *Helen*
Mahan complainant against *James O'Hara*
 Defendant in a certain case in Chancery all
 of which appear of record in my office
 Witness Charles D. Kane Clerk of
 the said court at office this 30th day
 of November in the year of our Lord 1846

Randolph Circuit Court
Helen Mahan Complainant
against
James O'Hara defendant
In Chancery

Sir take notice that on the twenty second day
of January next between the hours of nine o'clock in
the forenoon and eight o'clock in the evening of the
same day I shall attend before Andrew J. DeKinson
Esq. Clerk of the County Commissioners Court in & for the
County of Randolph at his office in the Town of Nashua
Kia in the said County to take the depositions of Edward
Newsham Esq & of such other witnesses as may be there
and those produced to be read in evidence on behalf
of the complainant on the final hearing of the
cause ~~of James O'Hara~~ Decr 15 1841

the defendant above
named

David J. Baker
Solicitor for the
Complainant above
named

On the foregoing notice the
following return was made to wit

I served the within notice on James O'Hara within
named on the fourth day of January instant together
delivery to him of a true copy thereof at his dwelling
house in the County of Randolph Illinois dated
this 22nd day of January 1842 Thomas O'Hara

I admit service of the within as above stated by
Thomas O'Hara Jan. 22 1842 James O'Hara

Randolph County SS afterwards to wit on the twenty
second of January AD 1842 the depositions of Edward
Newsham & Thomas O'Hara were taken as follows to wit
State of Illinois

Randolph County } The Deposition of Edward
Newsham & of Thomas O'Hara of the State

of Illinois taken before Andrew J. Dickinson Clerk
of the County Commissioners Court in and for the County
of Randolph in said State at his office
in the Town of Kaskaskia in said County
on the twenty second day of January in the
year of our Lord one thousand Eight hundred
& forty two between the hours of nine o'clock
in the forenoon & eight o'clock in the evening
of the same day in pursuance of a notice a copy
of which is herewith attached & marked A to
be read in evidence on the final hearing of the
suit in Chancery now pending in the circuit
court in & for said County Whereas Helen Mahan
is Complainant and James O'Hara is defendant on
behalf of the Complainant & in answer to the following
Interrogatives the said Edward Newsham being first
duly sworn on his corporal oath deposes & saith
as follows (to the 1st Interrogatory to said Edward
Newsham. Do you know Helen Mahan the complainant
and James O'Hara the defendant in this suit and
did you know Henry O'Hara the Father of the defendant
in his life time and is the said Complainant the
widow of the said Henry O'Hara Deceased? The answers
and says he knows the said complainant and defendant
and that he knew the said Henry O'Hara in his life
time and that the said Helen Mahan is the widow
of the said Henry O'Hara Deceased

2nd Interrogatory to same Is the defendant the Executor
of the last will and Testament of the said
Henry O'Hara Deceased late of Randolph County
Illinois and has defendant lived ever since the
death of the said Henry O'Hara upon and at the
same place or farm where on the said Henry
resided at the time of his death and does he now

reside thereon and has he all the time since his Father's death received the rents and profits of the same farms? He answers and says he has acted as such executor and has resided on said farm ever since the death of said Henry O'Hara and still resides thereon and has received the rents and profits of the same

3rd Interrogatory to same did you by the request of the said Complainant in this suit Helen Mahan and acting as her agent ever call upon the said James O'Hara to pay to her the hundred bushels of Corn twenty bushels of wheat and five hundred pounds weight of Pork provided for her yearly in the will of the said Henry O'Hara Deceased? If yea when and what message or request of the said Helen Mahan did you ever deliver to him in relation thereto if any? State when? & what answer said defendant made and all you know in regard to any demand of payment by her of said Corn wheat and Pork or annuity if any thing you know in relation thereto He answers ~~and~~ In the month of February 1832 he as the agent of Helen Mahan called upon said James O'Hara to pay to her her annuity provided for her in the will of the said Henry O'Hara consisting of one hundred bushels of Corn twenty bushels of wheat and five hundred ^{Rounds} weight of Pork Mr. O'Hara in this way and said he would not pay it unless he was compelled by Law to pay it or words to that effect and some time after he saw Mr. O'Hara again and spoke to him again on the subject of said annuity on which occasion he said ^{that} he

would not pay any thing unless compelled by Law but to avoid a Law suit he would give her fifty dollars not that he considered he owed her any thing or words to that effect

4th Interrogatory to same Did said Defendant receive the legacies and bequest made to him in the will of his father the said Henry O'Hara Decedent State to the best of your Knowledge and belief He answers & says he believes he did

5th Interrogatory to same Was the part of the estate of the said Henry O'Hara Decedent bequeathed to said Defendant of considerable amount & value he answers & says He cannot answer this question

6th Interrogatory to same Is the place or Farm of which the said Henry O'Hara Deced possessed and of which the said Defendant is in possession, of considerable value and what is the value thereof to the best of your Knowledge and belief? He answers and says It was & is of considerable value and is worth three thousand dollars

7th Interrogatory to same Where has said complainant resided since the year 1830? He answers & says part of the years 1831 & 1832 the said complainant resided at my house in this state twelve or thirteen miles from James O'Hara's she afterwards resided in Kaskaskia about a year & half more or less at other times occasionally between the years 1830 & 1840 she was at deponents house a week or two at a time the balance of the time in the state of Missouri partly at Perryville and partly above St Louis

8th Interrogatory to same What was the value of one hundred bushels of corn twenty bushels

of Wheat & five hundred pounds weight of
 Pork in the neighbourhood of said defendant in
 each and every year since the year 1830 and
 up to the year 1840 state to the best of your
 recollection and belief He answers & says that the
 price of Corn was on an average Twenty cents
 per bushel wheat was worth on an average
 fifty cents per bushel and pork was worth three
 dollars on an ^{average per} hundred pounds weight during
 the years 1830 & 1840

1st Interrogatory To James O'Hara Defendant to
 same Do you know whether the widow of
 Henry O'Hara Deceased was ever married after
 the death of said Deceased If yes to whom
 was she was married and at what period or
 in what year was she married and where
 did she remove to after her marriage? He
 answers & says I know she was married since
 the death of said Henry O'Hara to one
 Ambrose Mahan in the Spring of the year
 1831 and she removed to Kasrus Kew

2^d Interrogatory to same Do you know of any debts
 and legacies which the said James O'Hara as
 executor of of the last will and Testament
 of the said Henry O'Hara Deceased had to
 pay out of the property which ^{the} said Dece
 ased at his death if you know of any
 state and what amount to the best of
 your knowledge and belief He answers &
 says James O'Hara had a considerable amou
 nt of Legacies to pay after the death of said Henry
 O'Hara to his Brothers & sisters and that he did
 pay unto Helen Mahan her annuity upto the

close or end of this year 1830 but whether he did pay to his Brothers & sisters their Legacies he does not know

3rd Interrogatory to same when did you as agent for Helen Maher call upon James O'Hara Defendant to demand the annuity of the said Helen Maher the Complainant. at what place was there any person present, state whom was present Did you come for that purpose only? Did you have any carriage or waggon to take away the Corn, wheat & Pork. He answers & says in the month of February 1832 he called upon Defendant at his mill no person being present to the best of his recollection he went to defendant's mill with a waggon but not with the intention to take away the Corn Pork & wheat. at that time - He went as her agent to make the demand.

9th Interrogatory by Complainant to same. Did said Henry O'Hara at the time of his death leave property to a considerable amount besides the farm & property divided as before stated to said James O'Hara's - He answers and says he certainly did. Edward Newsham

State of Illinois
Randolph County } It is hereby certified that the foregoing deposition of Edward Newsham was taken on the day and at the place in the Caption mentioned that the said Edward Newsham was by me first duly

sworn to testify the truth upon all such Interrogatories as might be directed to be put by either party litigant in the suit above mentioned, and that the said Interrogatories were reduced to writing by me the undersigned in the order in which they were proposed and in which they are above stated and answered - sworn to and subscribed in my presence

GIVEN under my hand and the seal of the County Commissioners Court Randolph County, Illinois affixed this the 22nd day of January Eighteen Hundred and forty two

A. J. Dickinson Clerk
of the County Commissioners
in & for the County of Randolph Illinois

Saturday April 2^d 1842.

Heben Mahor Compt- } in Chancery -

v.

James O. Hara deft- }

The above cause is contin-

ued until the next term of this Court -

Saturday Augt 25th 1842 -

Heben Mahor Compt- }

v.

James O. Hara deft- }

in Chancery -

Now on this day came

the parties & their attorneys and argued the issue joined on the bill, answer, replication and depositions, but then

Court not being sufficiently advised of and concerning
the premises contained in this cause under advisement
with the agreement that and appeal can be
taken by either party on giving bond and security
to be approved by the clerk, by consent of
parties within twenty days after filing the
decrees of this court —

Saturday April 29 - A.D. 1843

Helen Mahar Compt^s

vs.
Henry O. Hara def^t

} Bile in Chancery

This cause having
been submitted for the consideration of the Court
on bill answer replication, & depositions and
the Court having sufficiently considered, &
order, adjudge and decree, that the complain-
-ant take nothing by her bill, but that the
same be dismissed and that the defendants
go hence without day and recover his costs
by him in this behalf expended, this decree
to be without prejudice to any action at law
for the recovery of any annuity to which the
complainant may be entitled by the will
of Henry O. Hara —

Pleas held at the court House in
the Town of Kaskaskia in the county
of Randolph and State of Illinois
before the Honorable Sidney Brass
presiding Judge of the circuit court
within and for said county at a
circuit Court being and holden on
Monday the seventh day of September
in the year of Our Lord one thousand
eight and forty

Randolph County SS Helen Mahan put in her
place David J Baker in a certain Bill in Chancery
against James O'Hara

Randolph County SS James O'Hara puts in his place
Roemer at the suit of Helen Mahan in the place
aforesaid

Randolph County SS Be it remembered that here
before to wit on the twentieth day of July in the
year of Our Lord one thousand eight hundred and
forty the said complainant filed in the clerks office of
the circuit court within and for said county her bill in
Chancery which is in these words and figures as follows
to wit To the Honorable Sidney Brass Judge of
the circuit court in and for the county of Randolph and
State of Illinois in Chancery sitting
Humbly complaining sheweth unto your Honor your oratrix
Helen Mahan widow & relict of Henry O'Hara late of
Randolph County in the State of Illinois deceased that
long prior to the death of the said Henry O'Hara your
Oratrix was joined to him the said Henry O'Hara in
the bands of matrimony and thence forward to the time
of his death lived with him the said Henry as his
wife and was at the time of his death the lawful wife of

him the said Henry and that the said Henry O'Hara of the
said County of Randolph in his lifetime being seized
and possessed of a very considerable real & personal estate
did on or about the twentieth day of June in the year
of our Lord one thousand eight hundred and twenty six
duly execute & publish his last Will and Testament in
writing & thereby amongst other things devised & bequeathed
as follows. "I give and bequeath to my son James O'Hara
all that tract of land on which I now reside and the
^{which I hereafter give to my son Charles and to my son John}
adjoining tract except two hundred acres to my son
John as hereinafter mentioned also all my personal
property of every description & outstanding Claims for
money or personal property reserving however one hundred
acres of land out of the lands hereby given to him for
the use of a Roman Catholic Church to be laid off
and conveyed by him for that purpose whenever a suitable
building for a church shall be erected thereon; and after
enumerating & specifying several & various devises and
bequeaths to several of his children the said Henry O'Hara
by his said Will declared it to be his earnest wish &
desire that those of his children who then resided on the
plantation whereon he then resided should continue to
reside with his son James after the death of him the said
Henry and that his beloved wife Helen (being your Prating)
should continue to reside there and act as a mother towards
his children & to her own & that his son James

should there reside so long as they (meaning the
 said James Your Oratrix & the said Children
 other than the said James) could agree but in
 case Your Oratrix should chuse to separate from
 them & desire a residence to herself the said Henry
 O'Hara thereby desired that his said son James
 should build her a comfortable dwelling house
 on his the said James part of the land in & by the said
 will and testament given to him the said James convenient
 to a good springwater & should ^{deliver} to her your Oratrix one
 hundred bushels of corn and twenty bushels of wheat &
 five hundred pounds weight of pork annually in
 addition to which the said Henry O'Hara in and by his
 said will & testament gave and bequeathed to your
 Oratrix one bed and bedding three milch cows the choice
 of his stock his beaubeauan waggon and are commonly call
 a the Fan more a beaureau then in the large room
 of his the said Henrys house three silver spoons & the
 cupboard in his house & further in & by his said will
 & Testament the said Henry O'Hara declared as follows
 to wit As I have given to my son James the
 principle part of my estate as above expressed & requ
 ired him to make the several payments as above stat
 ed to his brothers & sisters & to my wife it ~~it~~ will be
 more convenient for him to be my executor & I do
 hereby nominate & appoint him executor of this my
 last will and Testament and hope he will find
 it convenient for him to do so

And that upon or soon after the death of the said
 Testator to wit on or about the third day of July in
 the Year of our Lord one thousand eight hundred
 & twenty six the said James O'Hara who your
 Oratrix prays may be made defendaut to this her

4
bill of complaint duly proved the said will before
Curtis's Court Esquire then Judge of Probate in & for said
County and took upon himself the burthen of the execution
thereof and by virtue thereof possessed himself of all the
said testator's real & personal estate & goods chattles &
effects or the ~~greater~~ part thereof to the amount of
five thousand dollars & upwards & took and accepted
the real & personal estate in & by said will devised
& bequeathed to ^{him} And your Oratrix further sheweth
unto your honor that after the death of the said Henry
O'Hara the said James O'Hara the executor of his the said
Henry's last will & testament delivered to your Oratrix
one bed & bedding three milch cows a dearbon waggon
one mare one beauron three silver spoons & the
cupboard bequeathed to her in & by the Will of the said
Henry O'Hara as above hereof set forth and the said defen-
dant builded for her a dwelling house on his part of
the lands of the said testator so devised to him the said
defendant as aforesaid & did in pursuance of the provisions
& directions in the said Will contained, after the death
of the said Henry O'Hara and after she your Oratrix
separated from the said defendant & lived by her
self deliver to her your Oratrix the said one hundred
bushels of com twenty bushels of wheat & five
hundred pounds weight of pork annually until
the year of our Lord one thousand eight hundred
& thirty one since which time the said James
O'Hara the said defendant has not delivered to your
Oratrix the said one hundred bushels of com twenty
bushels of wheat & five hundred pounds weight
of pork annually or at any other time or in any
other manner howsoever or either of them or any
part thereof nor has ~~she~~ the said defendant
in any wise or at any time paid to your

oratrix the said articles of property or for the said
 articles of property or any part thereof at any time
 or for any year since the Year of our Lord one
 thousand eight hundred & thirty or any thing or
 equivalent for or an account of the same or any part
 thereof or for any year since the year last aforesaid
 although your Oratrix hath ever since the year last
 aforesaid lived and now doth live separate and apart
 from the said defendaunt but to the contrary thereof
 he the said defendaunt hath since the year last aforesaid
 wholly neglected & refused although often requested
 so to do to deliver to your Oratrix the said one hundred
 bushels of corn twenty bushels of wheat & five hundred
 pounds weight of pork annually or for or in any or either
 year since the year last aforesaid during all which time
 & ever since the death of the said Henry O'Hara he the
 said James O'Hara hath been in the possession of &
 hath enjoyed and still is in possession of and doth now
 enjoy & have the use & benefit of the lands & property
 devised & bequeathed to him in & by the will of the said
 testator and there is now due & of right payable to
 your Oratrix of and from the said defendaunt under & by
 virtue of the said Will of the said Henry O'Hara and of
 right belonging to her and demandable by your Oratrix
 from the said defendaunt the said one hundred bushels
 of corn twenty bushels of wheat & five hundred pounds
 weight of pork for the years 1831, 1832, 1833,
 1834, 1835, 1836, 1837, 1838, & 1839 or the value there
 of in each & every of those years during all which
 years your Oratrix hath lived apart from the said
 defendaunt & free of all charge & expense to or upon him
 the said defendaunt when & for which the same articles of prop
 erty and annuity ought to be paid according to the provisions

true intent & meaning of the said Will, have been annually
 delivered to your Oratrix and your Oratrix further sheweth
 unto your Honor that she hath several times since the said
 annuity or yearly allowance out of the property of which the
 said testator died possessed & by him in his said Will
 devised & bequeathed to the said defendant & accepted by
 said defendant & to him so granted & provided for as upon
 said became due & payable & deliverable to her and since
 the same should have been delivered & paid to her applied
 to the said defendant to pay & deliver the same unto her
 and your Oratrix well hoped that the said defendant would
 have complied therewith without suit as in conscience
 & equity he ought to have done. But now so it is
 may it please your Honor the said defendant exec-
 tor of the said last Will & Testament of the said Henry
 O'Hara and devise & legatee of a large portion of the
 Lands & other property of the said testator as appears
 with the view to oppress & injure your Oratrix and
 deprive her of the support & livelihood by the said
 testator in & by his said Will provided for & secured to
 her death now refuse and hath for & during the years
 above particularly specified absolutely refused to
 deliver or pay unto your Oratrix the said one hundred
 bushels of Corn twenty bushels of Wheat & five hundred
 pounds weight of Pork annually or any otherwise however
 or to pay to her the value of the same or any part thereof or
 for any or either of the said years above heretofore enumer-
 ated some times pretending the said Henry O'Hara did
 not make any such Will; and at other times admits
 that the said testator made such Will & that he has
 preserved the same and possessed himself of all his real
 & personal estate but then he pretends that the same
 was very small & inconsiderable & not now
 sufficient to pay his the said testator's just

debts legacies & funeral expenses and that he has applied & disposed of the same towards satisfaction thereof whereas your Oratrix doth charge the trust to be that the said testator did possessed of one real & personal estate to the full value of one and which was much more than would pay all his the said testators just debts legacies & expenses & the annuity to your Oratrix as aforesaid. And the said defendant hath possessed & converted the same real & personal estate of the said testator to his own use and has received the devises & bequeaths in said will made to him without delivering to your Oratrix annually the said one hundred bushels of com twenty bushels of wheat and five hundred pounds weight of pork the annuity aforesaid or paying any equivalent for the same or making any satisfaction thereof to her during all which years your Oratrix hath lived apart from him the said defendant & by herself and free of all charge to or upon the said defendant all which actions pretences & doings of the said defendant are contrary to equity & good conscience & tend to the manifest injury & oppression of your Oratrix In this consideration whereof & for that your Oratrix is rendered in the premises at & by strict rules of the Common Law and is only redressable in a court of ~~Equity~~ equity where matters of this nature are properly cognizable To the end therefore that the said defendant may be compelled by a decree of this honorable court to deliver to your Oratrix the said one hundred bushels of com twenty bushels of wheat & five hundred pounds weight of pork annually according to the provisions of the said will of the said testator and to deliver to your Oratrix the said com wheat & pork

for the said years of our Lord 1831, 1832, 1833, 1834, 1835-
 1836, 1837, 1838, & 1839 & all whatsoever your oratrix
 hath lost by the refusal & neglect of the said defendant
 to deliver & pay the same to her in cash & for each &
 every of those years respectively or to pay to your oratrix
 the fair & just value of the said one hundred bushels
 of corn twenty bushels wheat & five hundred pounds
 weight of pork for each & every & all of the said above
 mentioned years when the same annually became due
 & payable to your oratrix and all interest entirely &
 justly due to her in consequence of the refusal & neglect
 of the said defendant to deliver to your oratrix the said
 corn wheat & pork annually as he the said defendant
 should have done and at the time he should have
 done & when and so often as the same became
 due & deliverable to her and that your oratrix may
 have such further and other relief in the premises as
 the nature of this case shall require and as to your
 honor shall seem meet May it please your honor & c

endorsement on the foregoing } David J. Baker Solicitor
 bill is as follows to wit } & of Counsel with
 H. Lee 20 July 1840 } said Complainant
 Wm. M. Guthrie Clerk

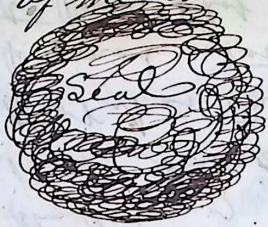
State of Illinois }
 Randolph County } set The people of the State
 of Illinois to the Sheriff of Randolph County
 Greeting

We command you that you summon James O'Hara
 to appear before the Judge of our circuit Court in and for
 the County of Randolph in Chancery sitting on the first
 Monday of September next at the Court House in the Town
 of Nashville in said County to answer to a bill of
 complaint exhibited against him the said James
 O'Hara

in our said Court by Helen Mahan and to do further
and receive what our said Court shall have considered
in that behalf; and this he is not to omit under the penalty
of the law

Witness William Mc Gutherie
Clerk of said Court at Kaskaskia
July 21st 1840

W. M. Gutherie Clerk REC



Afterwards to wit August 18th 1840 came the Sheriff and
made the following return the within Executed by reading to
defendant & delivering a copy to said defendant of the same
August 18th 1840 John Campbell Shff R. C. Louis Deroupe
Deft

Randolph County SS Be it remembered that heretofore
to wit September 12th 1840

11120

Helen Mahan

vs

Bill in Chancery

James O'Hara } Now on this day comes the said
Complainant by D. S. Baker his attorney and moves
the court to grant leave to the Sheriff to amend his return
in this case which motion is allowed and this cause
stands continued until the next term of this Court

Randolph County SS afterwards to wit Thursday March 25th 1841

Helen Mahan pty

vs

In Chancery

James O'Hara deft } Now at this day comes the
complainant by D. S. Baker his attorney and moves
the court to rule the defendant to file his answer to
said bill the defendant is therefore ruled to file his
answer by 9 o'clock Saturday morning

Randolph County afterwards to wit Thursday March 26th 1841

Helen Mahan Compt

vs

In Chancery

James O'Hara deft

Due to answer

Now comes the defendant viz, Shields his attorney and files his answer to Complainant's bill, whereupon the plaintiff asks him to ~~affirm~~ reply.

Which he does as follows:

The answer of James O'Hara, to the bill of complaint of Helen Ataker. The said defendant now and at all times hereafter, saying &c for answer to the complainant's bill or unto so much thereof as materially concerns this defendant and he is advised to answer unto, answers and says, that he believes it to be true that the said complainant before the death of Henry O'Hara mentioned in the bill was joined to him the said Henry in lawful marriage - and was his lawful wife at the time of his death, that it is true that the said Henry departed this life at the time in said bill alleged that he did make and publish his last will in writing as alleged, and that he did make amongst others the various devises and bequests in said complainant's bill set forth. That the said will was proved by this defendant as stated in the bill and that this defendant took upon himself the burden of the execution of said will. That he possessed himself as such executor of said testator's real and personal estate or the greater part thereof. But this defendant denies that the said estate amounted to the sum of five thousand dollars or charged in said bill. And this defendant answers and says further that it is true, that he took and accepted the real and personal estate in and by said will devised and bequeathed to him. That this defendant did ~~not~~ deliver, to the complainant, as admitted in the complainant's bill, and that he did build a house for the said complainant on his part of the premises, after the complainant had separated from said defendant, according to the directions of said will, a copy of which said will is filed herewith and which this defendant prays may be made part

of this answer and has paid and delivered ever since the death of the said Henry up to the year 1831 the various provisions and annuities, which he was annually to pay and deliver to said defendant as admitted by said bill & according to the directions of said Will, and while the said complainant had resided in the house build by this defendant upon his part of the land devised to this defendant by the said Henry. And this defendant for further answer unto said bill saith. That on or about the

day of May 1831 or 1832 the said complainant entered into matrimony with one Maker, to wit in the year one thousand eight hundred and thirty-one and that from that time she used to reside in the dwelling house built by this deft. on his part of the land, as she ought to have done, agreeably to the directions and provisions of the said ^{last} will, and that she then abandoned the house built for her by this defendant and removed from there to a great distance, and soon after moved into the State of Missouri, and has never since resided in said house and still continues absent from the said house and this State. And this defendant admits, that ever since her removal and since she then changed he has refused to deliver the said provisions and annuities to the said complainant as well he might, the said complainant not having conformed to the directions in said last will and having by her own acts, disabled herself from receiving the benefits of the said will intended for her, and having not performed the conditions and terms under which she was to have enjoyed them. And that the said defendant has not paid them for the several years in the bill mentioned any expences for the said provisions which he was to deliver in kind and which delivery became impossible by the complainant's

own conduct. And this defendant denies that he has
made any of the fortunes charged to have been made
by him in said defendants, will and says that they are
gratuitous and without the slightest foundation.
~~And further~~ And further this defendant denying
all unlawful and unjust and eat says not.
James O'Hara.

State of Illinois }
Randolph County. } ss. Personally appeared before me
James O'Hara, who signed the above answer in
Chancery and being by me duly sworn, deposed and said
that the facts and allegations in the above answer are
for as they are within his own knowledge or true
and that as far as they rest on the information
from others he believes ^{them} to be true.
W. M. Guthrie CLK

In Chancery

Between

William Mahan
Complainant
and
James O'Hara
Defendant

Exceptions taken to the answer of James O'Hara the defendant to the bill of Complaint of William Mahan against the said James O'Hara

1st Exception - For that the said James O'Hara hath not answered to the best of his knowledge, information & belief, whether or not the said William Mahan hath not demanded of him the said annuity or yearly payment of property, or applied to him for the payment to her of the same since the last payment by him made to her of said annuity.

2^d Exception - For that the said James O'Hara hath not as he professes to in his answer and as part thereof filed together with his answer a copy of the last will & testament of the said Henry O'Hara deceased - In all which particulars the said Complainant excepts against the said defendant answer as imperfect evasive imbecil and insufficient and therefore prays that the said defendant may put in a better and further answer thereto

David D Baker Esq

& of counsel & c

Friday August 20th 1841.

Helen Maher Compt

vs.

James O. Harris def

Bill in Chancery

Now on this day come
the Complainant by David J. Baker her counsel
and the defendant by Kaerner his attorney and
argues the exception to the answer in this case
filed and the defendant asks leave to file
his amended answer and move the court
to Rule the complainant to except or reply
to said amended answer by the first day
of January next which motion is allowed.

The Amended Answer of James O. Harris
in the following word & figure to wit—

The amended answer of James O'Hara to the bill
of complaint of Helen Mahan

The said defendant now and at all times here
after saving & for answer to the complainant's bill
or writs so much thereof as materially concerns
this defendant and he is advised to answer unto
answers and says that he believes it to be true
that the said complainant before the death of
Henry O'Hara mentioned in her bill was joined
to him the said Henry in lawful marriage &
was his lawful wife at the time of his death
that it is true that the said defendant this day
at the time in said bill alleged that he did
make amongst others the various devises and
bequests in said complainant's bill set forth
That the said will was proven by this defendant
as stated in the bill and that this defendant
took upon himself the burthen of the execu-
tion of said will That he possessed himself as
such executor of the said Testator's real & pers-
-sonal estate of the greater part thereof But
this defendant denies that the said estate amount-
-ed to the sum of five thousand dollars as
charged in said bill And this defendant answers
& says further that it is true that he took and
excepted the real and personal estate in and
by said will devised and bequeathed to
him That this defendant did deliver after the
death of said Henry all the property he
was directed by said will to deliver to
said complainant as admitted in the
complainant's bill and that he did build a house
for the said complainant on his the defen-
-dant's premises

after the complainant had separated from said
defendant according to the directions of said
will a copy of which said will is filed here
with (Marked A) and which this defendant
prays may be made part of this answer and
has paid and delivered ever since the time
of the death of the said Henry up to the year
1891, the various provisions and annuities which
he was annually to pay and deliver to said
defendant as admitted by said bill & according
to the directions of said will and while the
said complainant resided in the house built
by this defendant upon his part of the land, ~~divided~~
= a to this defendant by said Henry,

And this defendant for further answering unto
said bill saith that on or about the day
of May 1891 or 1892 the said complainant
entered into matrimony with one Mahan
and that from that time, to wit from the
year 1893 she ceased to reside in the dwelling
house built by this defendant on his part of
the land as she ought to have done agreeably
to the directions and provisions of the said last
will and that she ^{then} abandoned the house built
for her by this defendant and moved from
there a great distance and soon after left
the state and went to the State of Missouri
and has ~~never~~ since resided in said house and
still continues absent from the said house
and this State And this defendant further
~~saith~~ answering saith that one Edward
Newsham to the best of his recollection

the first time in the year 1832 or 1833 and
several times since when he had come to defendant's
mill or at other place where he met him
told him that he had a message from said
complainant to this defendant namely to ask
him whether he would pay to her the said
annuity That no body ever directly demand
ed or applied to receive said property for said
Helen Meahar

And this defendant admits that ever since her
removal and since the time charged in the
said bill has refused to deliver the said pro
visions and annuities to the said complainants, as
well he might the said complainant not having
conformed to the directions in said last will, and
having by her own acts disabled herself from
receiving the benefits of the said will, in looked
for her and having not performed the conditions
and terms and or when she was to have enjoyed
them And that the said defendant has not paid for
the several years in the said bill mentioned,
any equivalent for said provisions which he was
to deliver in kind and which delivery became
impossible by the complainants own conduct.
And this defendant denies that he ever made
any of the pretences charged to have been
made by him in said deports bill and says
that the said charges are groundless and without
the slightest foundation And further this
denying all unlawful and unjust in law, says
not

James O'Hara

State of Illinois

Randolph County Personally appeared

before me James O'Hara who signed the
above answer in Chancery and being by
me duly sworn deponent & sworn
that the facts and allegations in the above
answer as far as they are within his ^{own} knowledge
are true and that as far as they rest on the
information from others he believes them
to be true

W M Guthrie

Between

Helin Mahar plaintiff

James O'Hara defendant

the replication of Helin Mahar complainant
to the answer of James O'Hara defendant
This replication saving & reserving to herself all
& all manner of advantage of exception to the manifest
insufficiencies of the said answer for replication
therein with that she will ever prove her said
bill to be true certain & sufficient in the Law
to be answered unto and that the said answer of
the defendant uncertain untrue and insufficient
to be replied unto by this replicant without that
that any other matter or thing whatsoever in the
said answer contained material or effectual in the
Law to be replied unto Confessed and avoided or
veried or denied is true; all which matters and
things this replicant is and will be ready to aver
and prove as this honorable court shall direct,
and humbly prays as in and by her said
bill she hath already prayed

David J Baker
Attorney for said
complainant

Helen Mahan } circuit court in & for the county
of Randolph W. Va.
James O. Harra } In Chancery

I do hereby enter my self security for
costs in the cause & acknowledge myself bound to pay
or cause to be paid all costs which may accrue in
this action either to the opposite party or to any of the
officers of this court, in pursuance of laws of this State

Dated this 17th day July 1840.

David J. Baker

In Chancery,

Between

Helen Mahan plaintiff

vs.

James O. Harra defendant

Summons returnable 1st Monday in

September next issue, to Sheriff of Randolph county

July 18th 1840.

D. J. Baker

Sol.

Helen Mahor plaintiff

vs
James O. Hara defendant

In the Supreme Court of Illinois

I do hereby enter myself security for costs in this cause and acknowledge myself bound to pay or cause to be paid all costs which may accrue in this action either to the opposite party, or to any of the officers of this Court in pursuance of the laws of this State of Illinois

Dated this 8th day of December 1847

David J. Baker

Helen Mahor

vs
James O. Hara

Transcript from Remond's

Charges for on Transc
report \$ 14.50

Filed Dec 6th 1847

R.B. Stoenub. b. d. b.

By Atorab Swellias
D.C.

