

O'Hara Case Answers Filed

Attorney General's Office Submits Petition

The state attorney general's office Wednesday filed answers with the Louisiana Supreme Court to Judge Malcolm V. O'Hara's motions for sealing deposition and discovery pleadings and to strike interrogatories and-or limit discovery.

The pleadings pertain to the state's suit to remove the Criminal District Court judge from office.

The state petition said the attorney general has been unable to find any Louisiana jurisprudence interpreting the pertinent provision of the law under which the interrogatories were propounded.

So, it said, the petition would direct the court's attention to federal decisions.

"At the outset respondent can find no federal case which has put under seal the questions propounded or the objections thereto. In this case, it would be somewhat futile since the questions have been public since the institution of the removal proceedings," said the attorney general.

PROCEDURE 'UNUSUAL'

"As to the answers the state feels that such a procedure is an unusual one and should only be applied in an unusual situation with good cause shown. Marshwood Co. vs Jamie Mills Inc., 10 F.R.D. 386"

The petition said the state contends all questions and answers are relevant to the removal petition and particularly Articles VIII through XXVI alleging actions of Judge O'Hara inconsistent with his duties as judge.

"Most of the federal decisions deal with patents, recipes or contracts which would give one business an advantage over the other or reveal a trade secret," it said.

The petition said only where

the answer would be "extremely personal and embarrassing and where there was obvious doubt as to its relevancy" has the court permitted the answer to be given under seal.

"A removal proceeding, by its very nature is embarrassing, but not of the nature that requires the relief requested by mover. If the relief is granted, every proceeding of this type would require the same action and if the legislature or the people had desired this, they would have made provisions for such relief in the appropriate constitutional and statutory provisions. If applied here, no such denial could be made in any proceeding of this nature."

FINANCIAL AFFAIRS

In answer to the judge's plea to strike eight interrogatories referring to his financial affairs, the state said it seeks evidence showing remuneration, monetary payments, reward, gratuity, contribution or financial favor to Judge O'Hara in connection with the duties and obligations it is alleged he has accepted.

"All of the information called for is peculiarly within his (O'Hara's) knowledge of his financial affairs," the state said. "The bare assertion that there is undue cost and inconvenience is not a sufficient objection to answering."

It also said the questions presented to the judge are not too broad, vague or indefinite for they specify and are definite as to the answer required.

In reply to other requests by the defendant to strike interrogatories, the state said the fact that information sought is already known to the state is not a valid ground for objection to the interrogatories.

OFFICE OF TRUST

The state further stated that no witness after having appeared before a federal grand jury may claim privilege and the giving of information by a

witness of what took place before a federal grand jury while he was present is not in violation of federal law.

This was in regard to Judge O'Hara's objection to answering it, since taking office, he refused to answer any questions by invoking the Fifth Amendment; if he had ever waived immunity before a federal or state grand jury, and if he ever declined an appearance before a grand jury or refused to answer any questions from the grand jury.

"The defendant holds a public office of great trust and respect," the state said. "In view of the state's petition and suit which was instituted at the instance of taxpayers and the professional bar of New Orleans, the public as well as this court is entitled to a full disclosure of the matters pertinent to this case and defendant should answer."

The briefs were submitted to the court under signatures of Attorney General Jack P. F. Gremillion, Second Assistant Attorney General William P. Schuler of the New Orleans office, and assistants John E. Jackson Jr., Thomas W. McFerrin and Henry J. Roberts Jr.