

Her case is very simple. She says she bred this horse from a mare on the premises belonging to William and had brought it up and claimed it as her own ever since. As a matter of fact I am not able to see very clearly the distinction between her use of this horse and all the other horses and cattle on the place. She has really managed everything, and I do not think it can be fairly said she had "bred" this horse, any more than she has bred everything in the form of cattle on the place.

On cross-examination the plaintiff was confronted with her sworn statement before a stipendiary magistrate on a hearing under the Collection Act upon a judgment and execution against her by R. F. Phelan. The hearing was in April, 1908. In this she says: "I have no property, nothing I can call my own. I have no land. I have no money." Her explanation is that, some time before, she had sold this horse to a nephew for \$130, of which he had paid her \$100, but the horse remained in her stable and no attempt at delivery was made. But when it is necessary to get title to this horse for the purpose of this action, she says she told her nephew that she had changed her mind, and would not give up the horse just then, but if he would return \$90 she would allow the \$10 to remain as an earnest that she would give him the first right in case she should afterwards want to sell. Although the nephew confirms this story, I look upon it with the gravest suspicion, since the horse stood at all times in William's barn, and no outward indication of a sale has ever been furnished. William Hagarty on the stand simply said, "I never claimed this horse." Nor does he say that he claims any of the property.

The conclusion I have reached from the whole case is that this horse had just the same status as all the other property on William's farm. She had never been assessed upon it, and yet it was assessable property, and I think liable to be taken for William's taxes as any other property on the place.

I think the warrant was regularly issued, and properly executed and that the defendants are entitled to judgment for a return of the horse, or the payment of the taxes due by William Hagarty together with the legal and proper charges and expenses in connection with the warrant of distress. The defendants will have costs of the suit.