

Miscellaneous Record, No. 22, Madison County, Iowa

Phil R. Wilkinson

#2826

Filed for record the 12 day of
June A.D. 1937 at 11:55 o'clock
A.M.
Valde C. Bishop, Recorder
Pearl E. Shetterly, Deputy

To

Fee \$.90 ✓

The Public

A F F I D A V I T

STATE OF IOWA :

: SS

MADISON COUNTY :

I, Phil R. Wilkinson, of said County and State, being sworn on oath depose and say that I am one of the attorneys for Plaintiffs in the case of "John I. Crossley and Evelyn C. Smith, Plaintiffs, vs: James J. Crossley, et al, Defendants," being Equity #16388 pending in the District Court of Madison County, Iowa.

That said action was brought for the partition of the following described real estate to-wit:-

Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section Thirty-four (34) Township Seventy-six (76) North, Range Twenty-six (26) West of the 5th P.M., And the Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) (except the right of way of the C.R.I. & P.Ry.Co., and also except that part thereof heretofore conveyed to the State of Iowa for highway purposes and more particularly described as follows:- A strip of land 105 feet wide lying northerly of and adjacent to the North right of way line of said C.R.I. & P.Ry.Co., and extending from the West line of said Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) to the East line thereof, and described as commencing at a point 234 feet South of the North Quarter corner of Section 35, being a point on the North right of way line of said C.R.I. & P.Ry.Co., thence Westerly 1320 feet along said railroad right of way line, thence North 105 feet, thence Easterly 1320 feet parallel to said railroad right of way line, thence South 105 feet to the point of beginning, and containing 3.2 acres more or less); and the South Half (S $\frac{1}{2}$) of the Northwest Quarter (NW $\frac{1}{4}$) and Northwest Quarter (NW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) and West Half (W $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) and Southwest Quarter (SW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) and Northwest Quarter (NW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) and East Half (E $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section Thirty-five (35) (excepting from said last described 80 acre tract all that part thereof included within the following described tracts, to-wit:- Commencing at the Northwest corner of the Southeast Quarter (SE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 35, and running thence North 83 $\frac{1}{2}$ ° East, 14 rods to the center of Middle River, thence North 40° East, 14 rods, thence North 69° East, 11 $\frac{1}{2}$ rods, thence South 15 $\frac{1}{2}$ ° East, 53 rods, thence South 85° West, 18 rods and 3 links, thence North 24 $\frac{1}{2}$ ° West, 18 $\frac{1}{2}$ rods, thence North 83° West, 11 rods to the East line of the Mill lot, thence to the place of beginning; and also a 4 acre lot having for its center the center of the Mill, said 4 acre lot including a 3 acre lot in the Northeast Corner of the Southwest Quarter (SW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section Thirty-five (35) described as the North 21 rods of the East 20 rods of said Southwest Quarter (SW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section Thirty-five (35), the East line of the Mill lot referred to being the West side of the Southeast Quarter (SE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section Thirty-five (35); all in Township Seventy-six (76) North, Range Twenty-six (26) West of the 5th P.M., Madison County, Iowa;

ALSO, Lot Four (4) in Block Twenty-two (22) of the Original Town of Winterset, Madison County, Iowa.

That on the 30th day of June 1936 said real estate was duly appraised by the appraisers appointed by this Court under a commission directed to said appraisers by the Clerk of the District Court of Madison County, Iowa.

That said real estate in said appraisalment was appraised too high and the Referee was unable to obtain an offer for the appraised value of said real estate.

That on the 30th day of December 1936, the Honorable E.W. Dingwell, one of the Judges of the Fifth Judicial District, made an order for the re-appraisal of said real estate. That the said appraisers heretofore appointed were unable to act as such appraisers, and on the 9th day of February 1937, the Court revoked the commission to appraise said real estate heretofore made in said action, and entered an order that said real estate be re-appraised, and that H.H. Finney, Charles Beeler and Ralph Mills be appointed as appraisers to re-appraise the same.

That when the commission was issued to said appraisers, by error and mistake the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 35, Township 76 North, Range 26 West of the 5th P.M., Iowa, was included in said commission to appraise the real estate.

That shortly after the appraisalment thereof this error was discovered, and a new commission was issued to said appraisers omitting the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 35, Township 76 North, Range 26 West of the 5th P.M., Iowa, and only the real estate involved in this action was included in said commission.

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That the said Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 35, Township 76 North, Range 26 West of the 5th P.M., Iowa, did not belong to the estate of John W. Crossley, Deceased, but was real estate belonging to the estate of Cynthia J. Crossley, Deceased. The same was simply included in the commission to appraise said real estate through error and mistake, and the land affected by the appraisement under which the real estate involved in this action was sold did not include the said 40 acre tract.

All of which is true as I verily believe.

Phil R. Wilkinson

Subscribed and sworn to before me and in my presence by the said Phil R. Wilkinson this 11th day of June A.D. 1937.

NOTARIAL
SEAL

Dorothy D. Longenecker
Notary Public in and for Madison County, Iowa.