

A F F I D A V I T

STATE OF ALABAMA I
 I
 SHELBY COUNTY I(I)

Before me, the undersigned authority, personally appeared Thomas C. McKibbon, who being duly sworn deposes and says that he resides at Calera, Shelby County, Alabama, and that for a period of more than 55 years he has resided in said town and has been acquainted with the following described lot situated in the town of Calera, Alabama, to-wit:

Lot 390 according to Dare's plan and map of Calera, Alabama, and fronting 75 feet on Gardner Street and 50 feet on Court Street, and being the northeast corner lot at the intersection of said Court Street and Gardner Street where the said Court Street crosses the E. T. V. & G. Railroad, and now known as the Southern Railroad, and being the lot described in the deed from James D. Hardy and wife, Louisa, A. Hardy, to Julia A. McKibbon, and which deed is recorded in Deed Book 6, on page 422, in the office of the Judge of Probate of Shelby County, Alabama, and being the lot upon which the storage tanks of the Standard Oil Company of Kentucky is now situated. And also being the same lot excepted in the deed from James D. Hardy to N. B. Holt dated August, 3, 1885, and recorded in Deed Book 7 on page 262, and designated in the exception and Exhibit A of said deed as "R. McKibbon Lot, No. 391, 100 feet by 50 feet", and designated as bordering on the Railroad.

Affiant further says that the Julia A. McKibbon mentioned in the above described deed was his mother, and that she is now deceased; that his mother name in reality was Julia J. McKibbon; and that the affiant has the original deed from James D. Hardy to Julia J. McKibbon, and which is recorded in Deed Book 6 on page 442, as aforesaid; and that the original deed shows that the grantee in said deed was Julia J. McKibbon instead of Julia A. McKibbon; and that the record is in error insofar as the initial "A" appears thereon; affiant further says that his father's name was Robert McKibbon and that he is the same party as designated in the exception, and the lot above described is the same lot so excepted in the deed from James D. Hardy to N. B. Holt, and recorded in Deed Book 7, on page 462, in the office of the Judge of Probate of Shelby County, Alabama; affiant further says that he understands that in some of the records affecting this property that the lot is described as fronting 75 feet on Gardner Street, and in others is described as fronting 75 feet on Gardner Street, and in others is described as fronting 100 feet on Gardner Street; affiant further says that it is his best recollection the lot was 100 feet in depth and parallel with the Southern Railroad and that it joined the lot known as Lot #392, or the Thomas W. Evans Lot. Affiant further says that this lot and other lots contiguous to it were, prior to that date, laid off and the boundaries were fixed and coveyances made according to Dare's survey, and the streets and avenues at the time that Julia J. McKibbon purchased this property were laid off according to Dare's survey, and that the lot of land, the possession of which was taken by Julia J. McKibbon, was according to the Dare's survey; and that no part of the land occupied by Julia J. McKibbon at that time, nor by her successors in title, infringed or was any part of any street or avenue in the town of Calera, Alabama. And that no part of the lot now occupied by the Standard Oil Company in the town of Calera, Alabama infringes or includes any part of any street or thoroughfare according

to Dare's map of said town.

Affiant further says that Dare's map antedates Dunstan's map and that Dunstan's survey and the adoption thereof carried a provision that no charges should be made in such portions of the streets, avenues and alleys as might be bounded by or pass through blocks in which one or more lots may have been previously sold, without the consent of the owner of such lots. Affiant further says that he knows that his mother never consented to any change, insofar as streets and avenues were concerned as designated by the Dare's survey of the town of Calera, Alabama.

Affiant being first duly sworn deposes and says further that for a period of more than 55 years last past he has been acquainted with the following described lands situated in the town of Calera, Alabama, to-wit:

That certain lot in the town of Calera, Alabama, designated as Lot #392 according to Dare's survey of said town, commencing at a point 175 feet westerly from Orchard Street and 100 feet south of the center of the main track of the E. T. V. & G. Railroad, now known as the Southern Railroad, run thence westerly and parallel with said railroad 100 feet to a point; thence northerly and perpendicular to said railroad right of way a distance of 50 feet; thence easterly along said railroad right of way and parallel thereto a distance of 100 feet to a point; thence southerly and perpendicular to said right of way a distance of 50 feet to the place of beginning, and being the same lot conveyed by James D. Hardy and wife, Louise A. Hardy, to Thomas W. Evans, by warranty deed and dated December 22, 1883, and recorded in the Probate Office of Shelby County, Alabama, in Deed Book 7 on page 118.

Affiant further says that he knew Thomas W. Evans in 1883 at the time that he purchased the above described lot and at that time the said Evans was an employee of the Louisville and Nashville Railroad Company there on the Birmingham Division; affiant further says that he was familiar at that time, and is now, with the boundary lines of said lot and knows of his own knowledge that the lot purchased by his mother and the lot described as the Evans Lot were contiguous; and that his mother took possession of the lands up to the west boundary line of the Evans Lot and that there has never been any intervening area between the two lots.

Affiant further says that of his own personal knowledge, he knows that since the date of purchase of this lot by Thomas W. Evans from James D. Hardy in the year 1883, that there has been no possession or occupancy of this lot and no use of the same, except occasionally logs have been loaded from this lot on to the railroad cars of the Southern Railway Company.

Affiant further says that he knows of his own personal knowledge that the streets bordering the Evans Lot and known as Lot #392, and the Julia J. McKibbin Lot, as herein described, are now located and used according to Dare's survey; and that the boundaries now are in accordance with the original boundaries and has been so recognized and used by the several owners since the date of said survey and conveyances; and that at no time have the occupants of said lot occupied any part of a thoroughfare or public property as defined by Dare's survey.

That the affiant of his own personal knowledge knows that for 35 years last past the Standard Oil Company, incorporated in Kentucky, and those through whom the said Standard Oil Company, a corporation, holds title to the above described lot, have been respectively, in the open, notorious, continuous, peaceful and adverse possession of said lands, claiming the same as its own, respectively, against all the world.

and exercising acts of ownership over said lot by using the same as a business site; that affiant has never heard the title of said Standard Oil Company, a corporation, or those through whom it holds title to said lands to be questioned in any way.

Thomas C. McKibbon

Sworn to and subscribed before me this the 6th day of July, 1939.

W. A. Crim, Justice of the Peace
Shelby County, Alabama

Filed in this office September 11, 1939 at 10 a.m. and recorded in Deed Record 106 on page 475 and examined.

L. C. Walker, Judge of Probate
