

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

EVELYN RUTH SPRAITZAR,

PLAINTIFF

CASE NO. CV 92-853

VS.

EDWIN C. MILES, JUDY MILES,
WALLACE BRASHER, GEORGIA BRASHER,
AUBREY COTNEY, MINNIE L. COTNEY,
ET AL,

DEFENDANTS

AMENDED ORDER

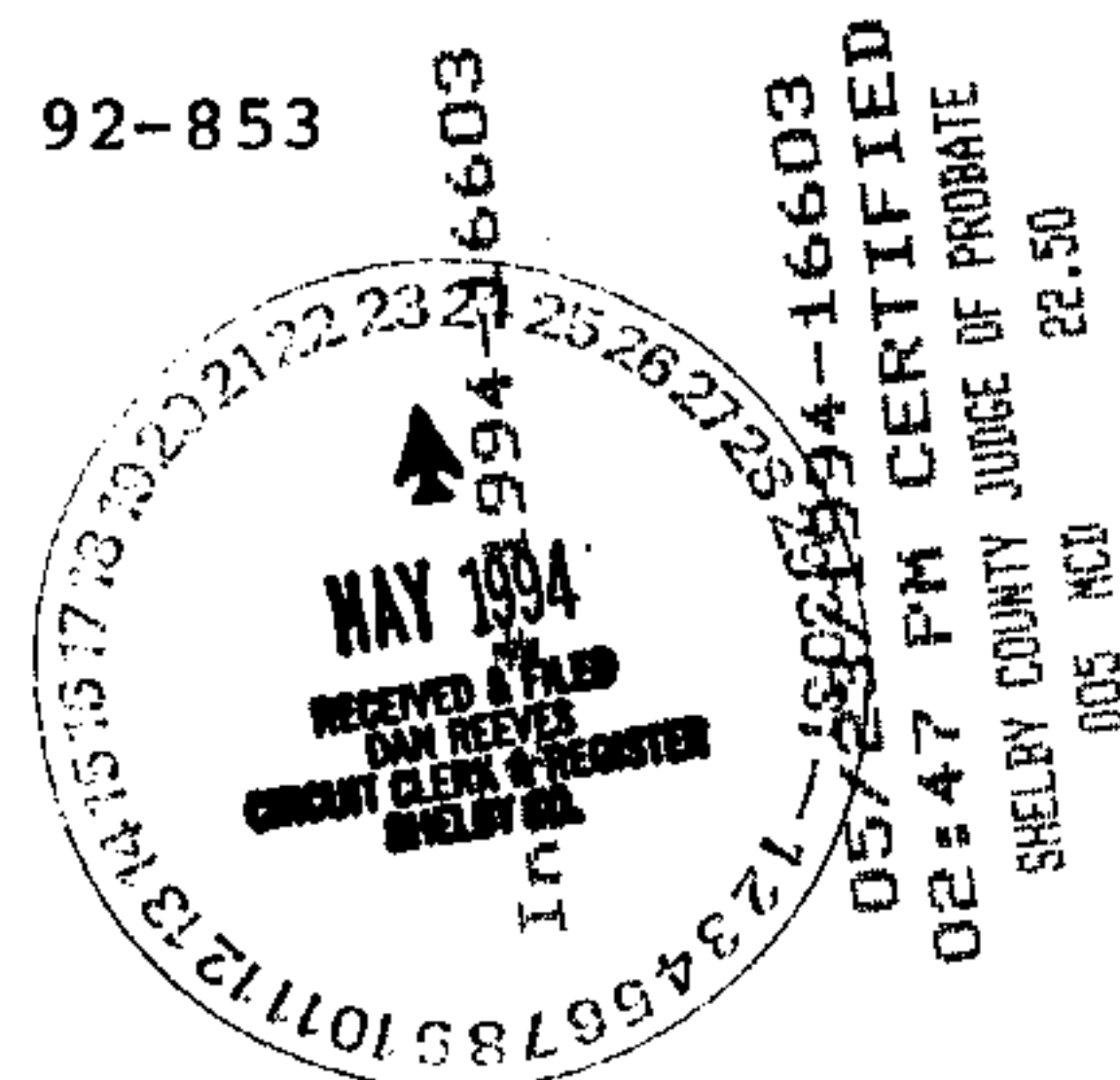
This cause coming on to be heard on the 4th day of May, 1994, upon the Motion to Alter or Amend Judgment, and Amendment to Motion to Alter or Amend Judgment, filed by the Plaintiff, and argument being presented to the Court, and upon consideration thereof, the prior Order in this cause dated February 23, 1994, is modified and amended as follows, and it is ORDERED, ADJUDGED and DECREED:

1. That the Defendants affected by the original Order of February 23, 1994, and this Amended Order, are Edwin C. Miles, Judy Miles, Wallace Brasher, Georgia Brasher, Aubrey Cotney, and Minnie L. Cotney. The Court notes that an adjudication concerning the remaining defendants in this cause was entered pursuant to the Order of Court dated February 4, 1994.

2. That attached hereto and made a part and parcel hereof are reduced copies of Plaintiff's Exhibit No. 45 and Plaintiff's Exhibit No. 47, to which reference was made in the previous Order of February 23, 1994. Both Exhibits are surveys of John S. Parks, P.E. & L.S. Ala. Reg. No. 12579, and dated December 31, 1991, with survey Exhibit No. 47 later amended on June 20, 1993. The Court notes that the prior Order of February 23, 1994 indicated that Plaintiff's Exhibit No. 45 was dated December 20, 1991, which is in fact shown in the lower right-hand corner of said survey Exhibit, and Plaintiff's Exhibit No. 47 indicated a date of December 27, 1991, which is shown in the lower right-hand corner of said survey Exhibit. The Court is attaching copies of the said survey Exhibits hereto in order to clear up any confusion, and make review of them more accessible to the parties and other persons who may have some interest.

3. That the Court determines the true boundary line separating plaintiff's property from the properties of the defendants is the West line established by the survey of John S. Parks dated December 31, 1991, as shown on Plaintiff's Exhibit No. 45, attached hereto and made a part and parcel hereof.

W. & H. F.



4. That the easement of Plaintiff over and across Defendants' properties is that shown by survey of John S. Parks dated December 31, 1991, as amended June 20, 1993, on Plaintiff's Exhibit No. 47, attached hereto and made a part and parcel hereof, except that the easement extends seven and one-half (7-1/2) feet on each side of the centerline, for a total width of fifteen (15) feet. The said right-of-way and utility easement recognized by the Court over and across these Defendants' properties, is more particularly described as follows:

A 15-foot-wide right-of-way situated in the NE 1/4 of the NE 1/4 of Section 34, Township 19 South, Range 1 West. Commence at the NE corner of Section 34, Township 19 South, Range 1 West and run South along the East line of said Section for a distance of 140 feet to the point of beginning of centerline of a 15-foot-wide right of way for a roadway; thence from said point turn 119 deg. 45 min. to the right and run for a distance of 50 feet to a point; thence turn an angle of 14 deg. 48 min. to the right and run for a distance of 70 feet to a point; thence turn an angle of 1 deg. 00 min. to the right and run for a distance of 37 feet to a point; thence turn an angle of 6 deg. 06 min. to the right and run for a distance of 48.83 feet, more or less, to the North line of Section 34 and the point of ending of this part of said right-of-way; said point of ending lying 149.5 feet West of the point of commencement.

The Court notes that the Order of Court dated February 4, 1994, provides an extension of said easement to Shelby County Highway No. 39, and crosses the properties of the other Defendants to this cause.

5. That the Defendants are enjoined from obstructing, interfering with or otherwise preventing the Plaintiff or any of her guests and invitees from use of the easement, which is necessary for access to the Northern tract of plaintiff's property. The Court further finds that defendant Wallace Brasher has placed various objects and debris on the property and easement of the plaintiff, and has wrongly harassed and intimidated the plaintiff. As a result, Defendant Wallace Brasher is ordered to remove the propane tank and all associated connections, attachments, and foundations upon which it may be resting, as well as all of his remaining belongings from the property of the Plaintiff. The said Wallace Brasher is also ordered to remove all trash, garbage, refuse, and debris placed on the Plaintiff's property and right-of-way. The said Wallace Brasher is additionally ordered to remove the archway, gate, and associated posts and foundations erected in the easement. These items should be removed within thirty (30) days. The said Wallace Brasher is further ordered to cease and desist from making threats and harassing the Plaintiff, and her guests or invitees, and especially while said person(s) are on either the easement or her property.

6. That the Plaintiff shall have the right to correct the lateral support problem for the concrete Section corner in the NW corner of her property, as may be necessary and appropriate, in order to prevent deterioration of the monument and erosion of the surrounding land, and thereby perpetuate the monument.

7. That all remaining requests for relief in the Plaintiff's Motion and Amendment thereto are denied, and the Court's Order of February 23, 1994 is herewith re-affirmed except as modified herein.

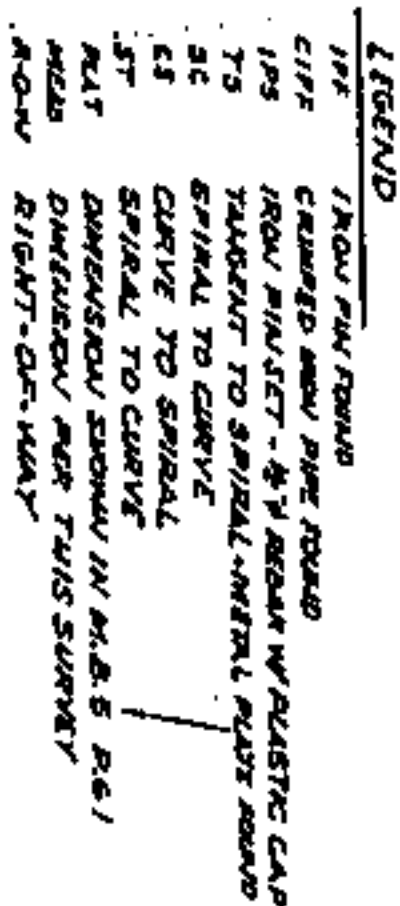
8. That this Order shall serve as the Final Judgment between the parties, except that the Court retains jurisdiction over Plaintiff and Defendant, Wallace Brasher, for compliance with this Order by said Defendant.

This the 23d day of May, 1994.

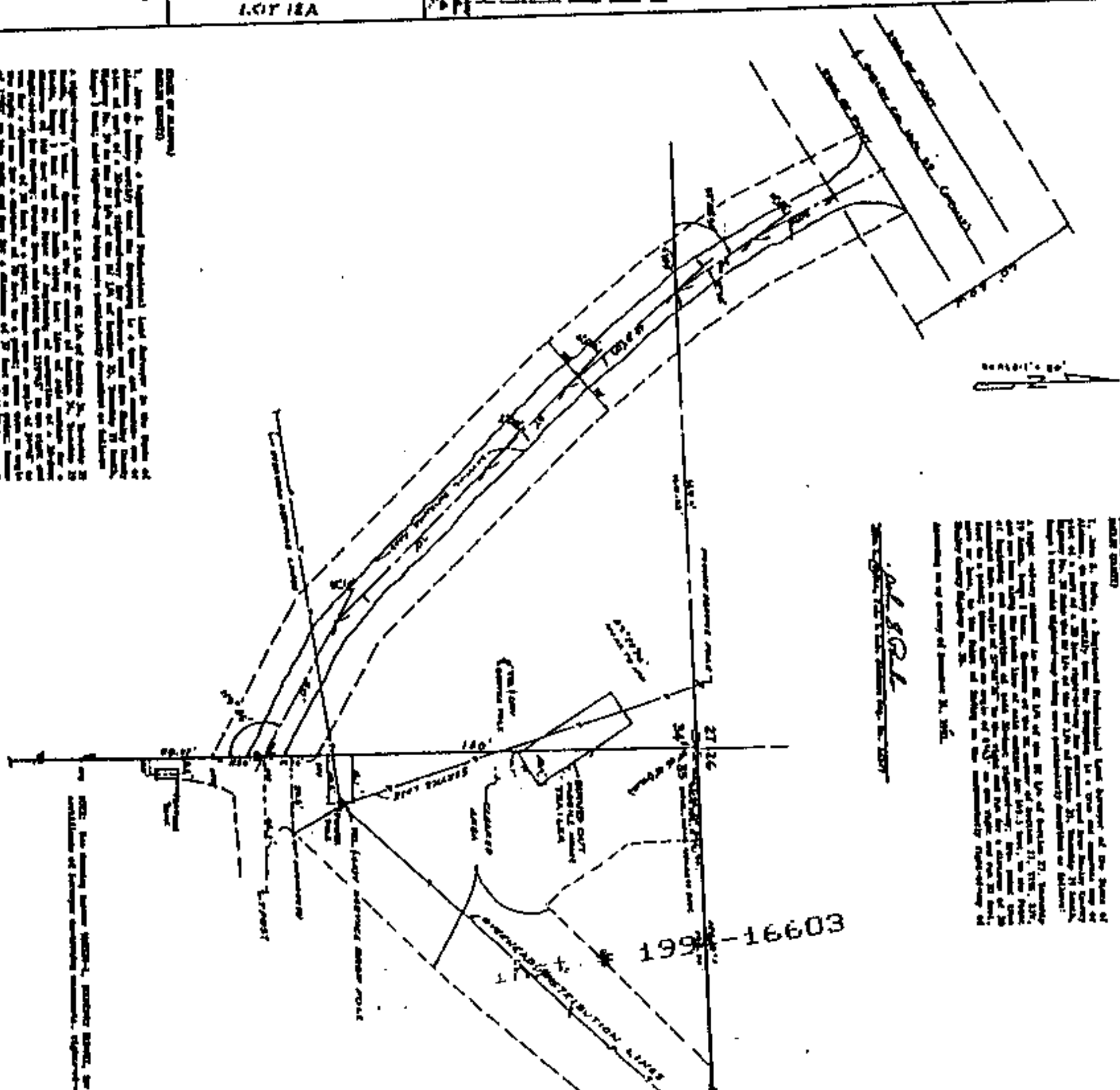
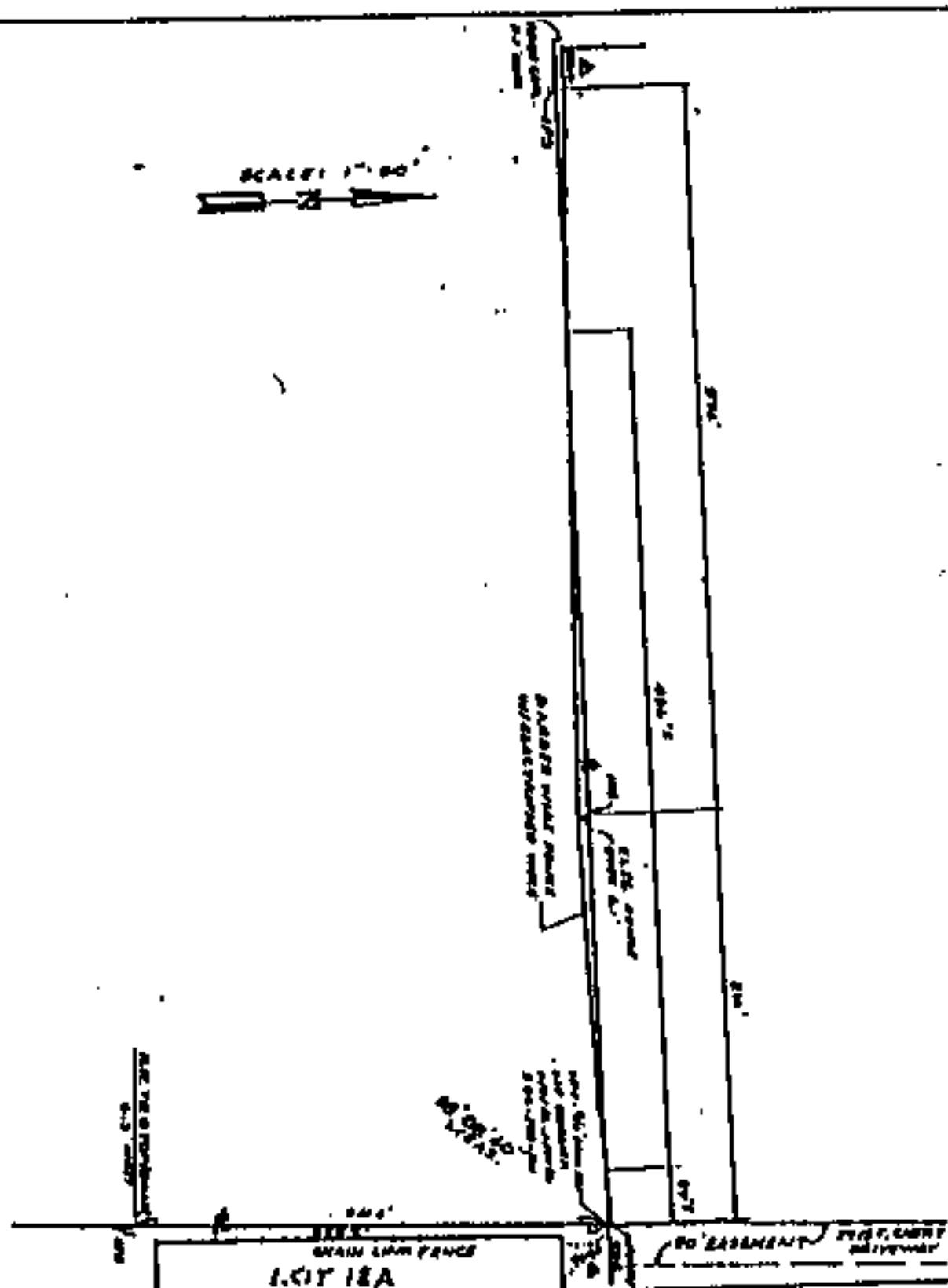
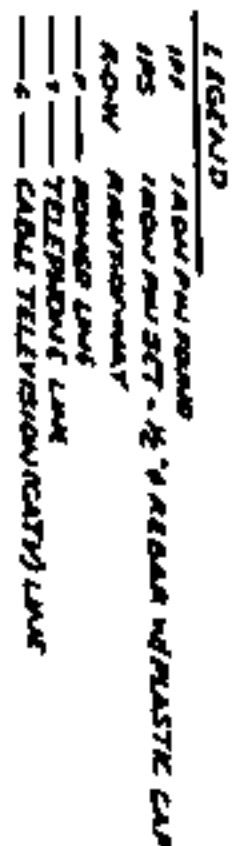
D. Al Crowson
D. Al Crowson, Circuit Judge

Certified a true and complete copy

Don R. Rives
Clerk of Circuit Court

[illegible][illegible]

47

[illegible]

Prof. G. L.

05/23/1994-16603
02:47 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
005 MCD 22.50

[illegible]