James Tiernan
to
The Public

#68
Fee $1.00 ✓

Filed for record the 16 day of January A. D. 1929 at 11:55 o'clock A. M.

Mildred E. Knott, Recorder
Zelda Wildin, Deputy.

AFFIDAVIT

State of Iowa
Madison County SS:

I, James Tiernan, being duly sworn, depose and say: that I am a resident of Madison County, Iowa, and have been a resident of said county for fifty years; that I was well and personally acquainted with one Thomas McDonnell in his lifetime, and I know that said Thomas McDonnell was the owner of the Northeast Quarter of the Southeast Quarter of Section 17, Township 76 North, Range 26 West of the 5th P. M., being in Madison County, Iowa; that he owned said land at least thirty-five years ago and continued to be the owner of said

land up until the time of his death, which occurred at Des Moines, Iowa, in the year 1921. And I further state that said Thomas McDonnell was was sometimes referred to as "Thomas McDonald," and that the name of said Thomas McDonnell was sometimes written as "Thomas McDonald," but that the correct spelling of the name was "Thomas McDonnell;" and that the Thomas McDonnell who died in Des Moines, Iowa, on December 8, 1921, and whose will was admitted to probate in the District Court of Polk County, Iowa, on January 14, 1922, as the will of Thomas McDonnell, and whose estate was administered upon as Probate No. 12843 in the District Court of Polk County, Iowa, was the same and identical person as the Thomas McDonnell hereinbefore mentioned who owned the Northeast Quarter of the Southeast Quarter of Section 17, Township 76 North, Range 26 West of the 5th P. M., being in Madison County, Iowa.

And I further state that I am a brother of Miss Anna Tiernan, who was also known as "Annie Tiernan," and who signed her name both as "Anna Tiernan" and "Annie Tiernan, and who was named as mortgagee in a mortgage dated July 17, 1907, executed by Mary J. Garvin and Michael Garvin, as said names appear in the record of said mortgage at page 100 of Mortgage Record 52 of the records of Madison County, Iowa, which mortgage purports to give a mortgage lien upon the West 15 acres of the East 40 acres of the North Half of the South Half of Section 17, Township 76, Range 26; and I am a son of Mrs. Ellen Tiernan, who was named as assignee of the mortgage last above mentioned in an assignment made by the aforesaid Annie Tiernan, which is recorded at page 181 of Mortgage Record 53, of the records of Madison County, Iowa; and I know that no persons by the name of Mary J. Garvin or Michael Garvin had any interest in the West 15 acres of the East 40 acres of the North Half of the South Half of Section 17, Township 76, Range 26, at the time said mortgage was given, nor at any other time; and I also state that said Mrs. Ellen Tiernan is now dead, and her estate is settled, and that neither I nor any of the other heirs of said Mrs. Ellen Tiernan claim any interest in the West 15 acres of the East 40 acres of the North Half of the South Half of Section 17, Township 76, Range 26, nor in any part of the Northeast Quarter of the Southeast Quarter of Section 17, Township 76, Range 26, by virtue of said mortgage, nor for any other reason. And I further state that I know of my own personal knowledge that one Mary Jane Gavin, whose husband was named Michael Gavin, was the owner of the West 15 acres of the North Half of the South Half of Section 18, Township 76, Range 26 West, at the time of the execution of the said mortgage recorded at page 100 of Mortgage Record 52 of the records of Madison County, Iowa, said Mary Jane Gavin having received said tract by deed from Thomas C. Killduff of date of July 14, 1903, being described therein as the "West 15 acres of the Northeast Quarter of the Southeast fractional Quarter of Section 18, Twp. 76, 26 W., being the same 15 acres of land devised to me by my father Patrick Killduff, deceased"; and I further state that I know of no persons of the name of Mary J. Garvin or Michael Garvin who owned any of the lands herein mentioned at any time during the past 35 years, and it is my belief that the name "Gavin" was erroneously recorded as "Garvin" at page 100 of Mortgage Record 52 of the Records of Madison County, Iowa, and that the number of the section was erroneously inserted in said mortgage as "17" instead of "18."

And I further state that the Thomas McDonnell hereinbefore mentioned, for at least 35 years before his death, exercised complete, exclusive, open and notorious control over and possession of the whole Northeast Quarter of the Southeast Quarter of Section 17, Township 76 North, Range 26 West of the 5th P. M., being in Madison County, Iowa, by himself, agents, servants and lessees.

And I further state that I have no interest in making this affidavit except to help establish the facts.

James Tiernan,

ACME-BLACKMAN CO. BURLINGTON 10-26

Subscribed in my presence and sworn to before me by said James Tiernan this 24th day of December, 1928.

NOTARIAL SEAL

J. P. Steele
Notary Public in and for Madison County, Iowa.