



[Stearns County \(Minn.\)](#)
[Probate Court: Probate case](#)
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State of Minnesota,County of Stearns**PROBATE COURT**

In the Matter of the Estate of

William S. Johnson, etc.,Decedent.**Order Limiting Time to
Settle Estate**Filed this 25th day ofJune, 1963, and

recorded in book

of Orders at Page

Roselyn G. Lush
Clerk—Judge of Probate

State of Minnesota,

County of Stearns

ss.

IN PROBATE COURT

In the Matter of the Estate of

W.S. Johnson,

Decedent.

Order Continuing Hearing

ON CLAIM OF LEONE HOISETH.

~~/s/ John D. Long~~ Objections having been filed to the claim of Leone Hoiseth
filed against said estate,

IT IS ORDERED, That the hearing on said claim and objections

be heard on the

~~Subscribed to file~~

24th day of

July

, 19. 63, at 10

o'clock A. M., at the

Office of the Probate Court, in the Court House, in the City of St. Cloud, Minnesota, and that ~~myself~~ notice hereof be given by
the Clerk of this Court to the representative and to the claimant & her
Attorney, by mailing to each of them, a copy of this order, and to the
claimant's Attorney, a copy of the objections filed.

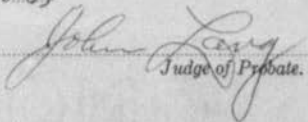
Dated this

28th

day of

June

, 19. 63


Judge of Probate.

0041 2369

19,565

State of Minnesota,

County of Stearns

PROBATE COURT

In the Matter of the Estate of

W.S. Johnson,

Decedent.

Order Continuing Hearing

On Claim of Leone Hoiseth

Filed this 28th day of

June

19 63

Robert K. Kishner
Clerk of Probate.

0041 2370

AFFIDAVIT OF MAILING

ALLOWANCES TO SPOUSE OR MINOR CHILDREN

When a decedent dies with or without a will the allowances to the spouse or minor children are as follows:

525.15 ALLOWANCES TO SPOUSE. When any person dies testate, or intestate,

- (1) The surviving spouse shall be allowed from the personal property of which the decedent was possessed or to which he was entitled at the time of his death, the wearing apparel, and, as selected by him, furniture and household goods not exceeding \$2,000 in value, and other personal property not exceeding \$1,000 in value;
- (2) When, except for one automobile, all of the personal estate of the decedent is allowed to the surviving spouse by clause (1), the surviving spouse shall also be allowed such automobile.
- (3) If there be no surviving spouse, the minor children shall receive the property specified in clause (1) as selected in their behalf;
- (4) During administration, but not exceeding 18 months, unless an extension shall have been granted by the court, or, if the estate be insolvent, not exceeding 12 months, the spouse or children, or both, constituting the family of the decedent shall be allowed such reasonable maintenance as the court may determine;
- (5) In the administration of an estate of a non-resident decedent, the allowances received in the domiciliary administration shall be deducted from the allowances under this section.

In all estates where there is a will the following rule applies to the spouse who has not consented to the will:

525.212 RENUNCIATION AND ELECTION. If a will make provision for a surviving spouse in lieu of the rights in the estate secured by statute, such spouse shall be deemed to have elected to take under the will, unless he shall have filed an instrument in writing renouncing and refusing to accept the provisions of such will within six months after the filing of the certificate of probate. For good cause shown, the court may permit an election within such further time as the court may determine. No devise or bequest to a surviving spouse shall be considered as adding to the rights in the estate secured by sections 525.145 and 525.16 to such spouse, unless it clearly appears from the contents of the will that such was the testator's intent.

State of Minnesota,

County of _____

being first duly sworn on oath deposes and says that on the _____ day of _____, 19____, at _____ in said County and State, he mailed a copy of Sections 525.15 and 525.212 of Minnesota Statutes as hereinbefore set out to the spouse and minor children of said decedent at their last known address after exercising due diligence and ascertaining the correctness of said addresses by placing a true and correct copy thereof in a sealed envelope, postage pre-paid and depositing the same in the U. S. mails at _____ Minnesota, and addressed to the following:

NAME	STREET OR POST OFFICE	CITY	STATE
------	-----------------------	------	-------

Subscribed and sworn to before me this _____

day of _____, 19____.

Notary Public

County, Minn.

My commission expires _____, 19____.

File No. 19, 565.

State of Minnesota,

County of Stearns.

IN PROBATE COURT

In the Matter of the Estate of

William S. Johnson, et al.,

Decedent.

AFFIDAVIT OF MAILING

Order for Hearing Petition
to Admit Will to Probate
and Notice to Creditors.

Filed March 2nd, 1963

Edward P. Flynn
Probate Judge - Clerk

No. 3654

EDWARD P. FLYNN
ATTORNEY-AT-LAW
PAYNESVILLE, MINNESOTA

STATE OF MINNESOTA

COUNTY OF STEARNS

IN PROBATE COURT

In the Matter of the Estate of
W. S. Johnson, decedent.

OBJECTIONS TO CLAIM OF LEONE HOISETH

The undersigned, Robert P. Johnson, as executor of the last will and testament of the above named W. S. Johnson, deceased, for this his objections ^{to} the claim of Leone Hoiseth filed herein, respectfully shows to the Court and alleges:

1. That the undersigned is the duly appointed, qualified and acting representative of the estate of the above named decedent.
2. That at the time of his death said decedent was not indebted to the claimant, Leone Hoiseth, in any sum whatsoever.
3. That at the time of his death there was not any personal obligation upon the above named decedent to pay the taxes referred to in the claim of the claimant herein.
4. That the real estate referred to in said claim is not a part of the assets subject to probate in the estate of the above named decedent.
5. That the undersigned, as representative of the estate of the above named decedent, has not taken possession of the real estate referred to in said claim for the purposes of the administration of said estate, nor is it necessary that the undersigned, as such representative, take possession thereof or operate it for the purpose of acquiring funds with which to pay the expenses of the last illness and funeral of the decedent, the expenses of administration, or any other expenses necessarily incident to the probating of the estate of the above named decedent.

WHEREFORE, the undersigned prays the Court for its order
disallowing said claim as filed in toto.

Robert P. Johnson

STATE OF MINNESOTA)
) SS
COUNTY OF STEARNS)

Robert P. Johnson, being first duly sworn on his oath, says
that he is the person who signed the foregoing Objections to Claim of
Leone Holseth; that he has read said objections and knows the contents
thereof, and that the same is true to the best of his knowledge,
information and belief.

Robert P. Johnson

Subscribed and sworn to before me
this 28th day of June, 1963.

Edward J. Donohue

EDWARD J. DONOHUE
Notary Public, Stearns County, Minn.
My Commission Expires Oct. 22, 1967

19565
STATE OF MINNESOTA

COUNTY OF STEARNS

PROBATE COURT

In the Matter of the Estate of

W. S. Johnson, Decedent

OBJECTIONS TO CLAIM OF
LEONE HOISETH

FILED THIS 28 DAY
OF June A.D. 1963
Atorney
CLERK OF PROBATE

EDWARD P. FLYNN
Paynesville, Minnesota

and

HOWARD I. DONOHUE
601 St. Germain Street
ST. CLOUD, MINNESOTA

Attorney for Representative

004422375

STATE OF MINNESOTA
COUNTY OF STEARNS

IN PROBATE COURT

In the Matter of the Estate of
W. S. Johnson, decedent.

MEMORANDUM OF REPRESENTATIVE

The claim filed by Mrs. Holseth is one wherein she seeks to recover reimbursement for real estate taxes paid by her.

The title to the real estate upon which the taxes were paid is not in the name of the decedent, nor does the real estate form a part of the assets of the decedent's estate subject to probate.

It is the position of the representative, therefore, that the claim is one which cannot be allowed.

We submit that it is the general rule that claims which may be allowed and paid in probate proceedings are limited to claims upon which a recovery could be made by the claimant from the decedent if he were living.

Thus, in the case of Knutson vs. Krook, 111 Minn. 352, 127 N.W. 11, 13, the Court said:

"The word 'claim' as generally employed, has a broad and comprehensive meaning, embracing every species of legal demand. *** But, as employed in the particular statute, its meaning is often restricted and limited, and in statutes providing for the administration of the estates of deceased persons, requiring a presentation of claims against the estate, are by the authorities generally construed as referring to demands of a pecuniary nature, and which could have been enforced against the deceased in his lifetime. *** The statutes of this state have been so construed. In Winston v. Young, 52 Minn. 1, 53 N.W. 1015, Chief Justice Gilfillan said: 'Debts to be allowed and paid out of the estate of a deceased person must be such as were incurred or such as arise on obligations entered into by him.'"

In the case of In Re: Iverson's Appeal, 219 Minn. 156, 81 N.W. (2nd), 701, 704, the Court said:

"In the Knutson case (the case above referred to) our court held that the word 'claim' as used in our statutes

providing for the administration of estate of deceased persons, is generally construed as referring to a demand of a pecuniary nature which could have been enforced against the deceased in her lifetime. ***"

Real estate taxes are not a personal obligation imposed upon the owner of the realty.

Section 272.31, M.S.A., provides that taxes assessed upon real estate shall become a perpetual lien thereon, and does not make any provision creating any personal obligation on the part of the landowner.

Under this section of the statute, it has frequently been held that real estate taxes are not a personal obligation. Thus, in the case of Weberling vs. Bursell, et al., 180 Minn. 283, 230 N.W. 645, the Court said:

"Taxes upon real estate are a charge and lien upon the land in favor of the state, but are not a personal obligation of the landowner under our laws. If the taxes are not paid, the state may enforce collection by sale of the land, but cannot recover any personal money judgment against the landowner. *** It follows that one who voluntarily pays the taxes upon the real property of another cannot recover of the owner the amount so paid, unless by some valid contract or agreement, to which the person making the payment is a party or which he has a right to enforce, the landowner has obligated himself to repay."

In the case of State vs. Barrett & Zimmerman, 225 Minn. 96, 36 N.W. (2nd) 590, 593, the Court said:

"It is well settled that taxes on real estate do not constitute a personal obligation of the landowner, and that one voluntarily paying taxes on land owned by another cannot recover from the owner the amount thus paid."

In the case of Independent Consolidated School District vs. Waldron, et al., 241 Minn. 326, 63 N.W. (2nd) 55, 558, the Court said:

In Minnesota, real estate taxes do not constitute a personal obligation on the land owner, but are a lien in favor of the state on the land owned."

In might be claimed that taxes are recoverable by virtue of M.S.A., section 272.45. However, even under that statute, there must be, we submit, a contract or other obligation imposing the duty upon the

person from whom it is sought to collect taxes voluntarily paid. Thus, in Weberling vs. Pursell, 150 Minn. 283, 230 N.W. 654, the Court said:

"This statute, in practically the same form, has been in force in this state since prior to 1862. An error in the wording has since been corrected, but the meaning of the section remains the same. The case of Martin v. Lennon, 19 Minn. 67 (Gil. 45), we think, does construe this statute. It is there said: 'Yet, in one sense, it may be said that this was a tax which the owner sought to have paid, for, as a good citizen, he ought to pay his taxes at the day appointed. He incurs no personal liability to the state, however, by letting his land go to sale. The taxes are a charge on the land merely, which land he may lose by persistent delinquency; but that is a matter between himself and his own pocket. It is not in the sense of any such moral obligation as that of the citizen above mentioned that the statute uses the expression 'ought to pay.' The relation between the occupant and the owner must be such as to raise an obligation as between them, on such owner's part, to pay such tax."

If the real estate upon which the taxes are paid is property subject to probate and the representative took possession of the property, collected the rentals and income therefrom, there probably would be an obligation upon the representative to pay such taxes, but that is not the case here. In such cases where the representative pays real estate taxes and is allowed a credit upon his final account for the amount so paid, it is on the basis that it was necessary to do so in order to preserve the estate.

In 21 American Jurisprudence, page 547, section 295, it is said:

"Under the principle that an executor or administrator may do whatever is necessary for the preservation of the property of the estate, subject to the contingency of the expense being allowed by the court, he as a general rule is authorized to pay off liens existing on it, when necessary for that purpose. *** But the power of the personal representative to pay off encumbrances in any case results solely from the necessity of preserving the property, and can be justified only on the ground that the lien is a charge on the estate and, therefore, a peril to it; and this is equally true whether the lien was created by the intestate, or, as in the cases of taxes, in some other way. Hence, he cannot do so after the encumbered property has been sold, when there is no liability upon him on account of the defective title. ***

"Since an executor or administrator has no right to the possession of lands in another state and under another jurisdiction, and since such lands do not become assets in his hands for the purpose of administration, it has been held that as to such lands the personal representative has no right of redemption, for it is said that the administrator can maintain an action to redeem only as to such lands as are assets in his hands for the purpose of administration, or of which he is entitled to the possession."

And in 21 American Jurisprudence, page 550, section 298, it is said:

"The general rule that the heir to whom real estate descends or the devisee to whom it is devised, as the case may be, is entitled to have a lien upon the land discharged from the personalty is ordinarily limited to cases in which the lien was created by the decedent himself."

In the case of In Re Wisniewski's Estate, 199 Minn. 153, 271 Minn. 244, it appears that the decedent had entered into a lease of certain real estate, under the terms of which he had undertaken to pay a certain rent and taxes. The lessor undertook to file a claim for rent and taxes to become due in the future. The court, in affirming the action of the trial court denying the petition on the ground that the claim was not an allowable claim in the probate court, said:

"A lessee's leasehold for a term of years descends to his heirs or devisees subject to the administration of the estate. The covenants in a lease for a term of years are mutual. On the part of the lessor he covenants that the lessee shall have peaceable possession and use of the premises for the term, and, in consideration thereof, the lessee covenants to pay rent at stated times. If the right to use and possession terminates, so does the right to the rent."

See also McAlpine vs. Kartka, 92 Minn. 411, 100 N.W. 233.

We respectfully submit that, since there was not a personal obligation on the part of the decedent to pay the taxes which the claimant paid, since there is not any agreement or contract under which the decedent bound himself to pay these taxes, and since the real estate upon which the taxes were paid does not form a part of the assets of the estate of the decedent, there is not only no obligation on the part of the

representative to pay the same, but there is not any provision under the law authorizing him to pay the same, and that, if he was to pay the same and ask to be allowed a credit therefor on his final account, it is a credit which the court could not allow.

We respectfully submit, therefore, that the claim should be in all things disallowed.

Dated this 23rd day of July, 1963.

Edmund P. Flynn
EDMUND P. FLYNN
Paynesville, Minnesota

Robert J. Doherty
ROBERT J. DOHERTY
601 St. Germain Street
St. Cloud, Minnesota

Attorneys for Representative -

STATE OF MINNESOTA

COUNTY OF STEARNS

PROBATE COURT

In the Matter of the Estate of
W. S. Johnson, Decedent

MEMORANDUM OF REPRESENTATIVE

FILED THIS 24th DAY

OF July A.D. 1963

Charles M. Bushness
CLERK OF PROBATE

EDWARD F. FLYNN
Paynesville, Minnesota

and

HOWARD I. DONOHUE
601 St. Germain Street
ST. CLOUD, MINNESOTA

Attorney for Representative

00412381

STATE OF MINNESOTA

IN PROBATE COURT

COUNTY OF STEARNS

In the Matter of the Estate of

MEMORANDUM OF CLAIMANT

W. S. Johnson, Decedent.

This is a claim filed by Mrs. Holseth wherein she seeks to recover reimbursement for real estate taxes which by contract were the obligation of W.S. Johnson.

Counsel for the representative correctly states the law when he sets forth the following: "Claims which may be allowed and paid in probate proceedings are limited to claims upon which a recovery could be made by the claimant from the decedent, if he were living".

Under the fact situation of this case, the evidence as adduced makes the fact situation of this contract absolutely clear and uncontested. The two children of W. S. Johnson, namely, Robert Johnson and Mrs. Leona Holseth were given a substantial amount of farm land by their mother, the land having approximately eleven hundred (1100) acres total. This arrangement was made some years ago, being approximately the year 1954. From that day forward as shown by the evidence, "the arrangement" existed with the father, W.S. Johnson whereby W. S. Johnson operated the farms as he wished, and took all profits or losses that might accrue. In return for this, he was to pay the real estate taxes each year, and did in fact pay all real estate taxes year after year under this "arrangement" with Robert Johnson and Mrs. Leona Holseth getting nothing whatsoever from the farms.

As shown further by the evidence the profit for the year 1962 went into the Estate of W. S. Johnson. The amount of profit was not shown, and is in fact immaterial. It would not have mattered if it was a loss as the point was established that the same arrangement continued in 1962 that had continued throughout the previous years with all profits under the contract, going to the father W. S. Johnson who in turn was to pay the real estate taxes.

W. S. Johnson died on January 4, 1963, and due to his untimely death, he was not able to pay the taxes for the year 1962 as he had contracted for.

There is absolutely no doubt that a claim against W. S. Johnson could be maintained for the taxes had he lived or were he living, based on the contract that existed between the parties. In the event that the representative claims that such a claim would be barred by the statute of frauds, we point out at this time that this action would be outside of the contract of frauds by virtue of the fact of partial performance. In other words W. S. Johnson has already collected all profits from the farms for the year 1962. The contract having been performed fully by Robert Johnson and Mrs. Leona Holseth cannot now be barred so as to protect the estate of W. S. Johnson from paying a lawfully constituted obligation under a contract with his children.

Claimant asks the court to take judicial notice of the Will in the files of the Probate Court. The reason for this is of course, that if Mrs. Holseth is not able to collect her one-half of the real estate tax to which she is entitled, then by Will, Robert Johnson will be the beneficiary, and get the one-half of the taxes which would otherwise go to Mrs. Holseth.

Counsel argues at length the fact that taxes become a lien upon real estate.

There seems no reason to belabor this point, as this is not a question involving a lien upon real estate for if the taxes had not been paid, there is no question that the state could have imposed a lien upon the land. The land however did not belong to W. S. Johnson, and such lien would not be on the Estate of W. S. Johnson, but upon the property owned by Robert Johnson, and Mrs. Leona Holseth. This argument completely begs the point and is completely immaterial to the discussion on hand. The fact is that a contract existed between Robert Johnson, and Mrs. Leona Holseth, and their father W. S. Johnson. The claim of claimant herein is based strictly upon her rights under this contract whereby, the father took the profits for 1962, and incurred the obligation to pay the taxes that were incurred during the year 1962. It is completely untenable to claim that the father could take the profits for 1962, and then by virtue of his death, be absolved of his liabilities arising under the same contract, and this is not the law.

As shown in Skarps Estate, 230 Northwestern, 273, there is nothing unusually or improper for a daughter to make a claim of this nature against the estate of her father. For in that case a claim by the daughter under similar law was allowed, based on the fact that she had contracted for the

sale of a store, and the sale was enforced.

Other law that helps direct the way, although it is not precisely a point, it is the matter involving a claim on a liability to reimburse others in connection with a land contract contingent on the performance by the obligor of his agreement to sell within a reasonable time certain reserved property for the amount insufficient to reimburse them. The liability becoming absolute at or before his death by his failing to perform his agreement, and the above claim held provable in Probate Court. Pittsburgh -vs- Harrison, 1899 75 Minnesota 481 78 Northwestern 95.

In the estate of Welch -vs- Welch, 181 Northwestern 356, the son was allowed to recover from the Estate of his mother whereby he had furnished goods and services to his mother under an oral contract, that she would convey to him a farm for a certain price, and if she failed to do so, to pay cash for what she had received from him. She died without having tendered a deed. In that case it was held that the son could recover on the oral contract for the services and goods.

This case is precisely in point in so far that it is based on an oral contract, wherein the son had performed as promised, and the mother had not performed. In the present situation we have precisely the same arrangement. Robert Johnson and Leona Haiseth entered into an oral contract with their father, and they fully performed allowing the father to take entire profits for the year 1962. The father by the terms of the arrangement as was uncontested in court agreed to pay the real estate taxes for each year, but due to his untimely death, was unable to pay them for the year 1962. The claim therefore is clearly an item that should be allowed against his estate.

Another way to state the matter of claim is set forth in Dunnell Section 3592. A "claim" within meaning of statute is a demand of the pecuniary nature arising out of contract which could have been enforced against decedent in his lifetime, or had he lived to the time of presentation in a personal action for recovery of money only. Or a pecuniary obligation imposed on his estate by a contract made by him for not enforceable against him in his lifetime.

Within the definitions as set forth by the law, the present claim is clearly a proper claim against the Estate of W. S. Johnson.

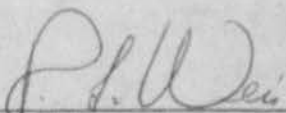
Claimant once more points out the fallacy of the Brief of the representative in this matter. The first page of the brief correctly sets forth the law. On the second page the brief goes off on a tangent whereby he says real estate taxes are not a personal obligation imposed upon the real owner of the reality, and builds the entire following section on this thesis. While this statement is correct as stated, it is not correct as applied. Real estate taxes are not a personal obligation, and they are imposed upon, and they do create a lien upon the reality. This is not the point of issue however, as we have an arrangement here where W. S. Johnson did not own the land. But he had entered into a contract which was personal, and he incurred a personal obligation to pay the taxes, and they cannot be avoided simply by virtue of the fact that he died before he made the required payment. Additional law is set forth which also is not pertinent to the question on hand. The position of the representative is summed up in his final paragraph when he submits that there was not a personal obligation on the part of the decedent to pay the taxes which the claimant paid "since there is not any agreement or a contract under which the decedent bound himself to pay these taxes" As shown by the evidence of Mrs. Hoiseth and particularly that of Robert Johnson on the "arrangement" ^a contract, clearly existed between the children and the father, whereby the father contracted to take the profits and losses, and operate the farms, and in turn would pay the real estate taxes, and the children would take no profits whatsoever. That this arrangement was abided by for many years, and that it was only due to the untimely death of the father that he did not pay the taxes as contracted for with the children for the year 1962. We respectively submit therefore that it was a personal obligation on the part of the defendant to pay the taxes, and that an obligation existed for W.S. Johnson which was clearly enforceable against him had he lived. Any claim that this would be barred by the statute of fraud would be nonavailing in so far as the contract was fully performed by the children, and would therefore be outside of the statute of frauds because of partial performance. To hold otherwise would constitute a fraud upon Mrs. Leona Hoiseth. If it were not for the fact that under the Will, Robert Johnson would be the beneficiary of a ruling adverse to Mrs. Leona Hoiseth, he would be in exactly the same position on his tax situation as Mrs. Leona Hoiseth would be. His position is not the same in so

far that he will get whatever Mrs. Leona Weiseth is not reimbursed for.

In addition we feel the testimony of Robert Johnson in particular whereby he very freely acknowledged that this agreement existed until the time of the death of W. S. Johnson leaves no doubt as to the evidence required to establish the personal obligation since the testimony he gave is adverse to his own interests in this matter.

We respectfully submit therefor that the claim should be in all things allowed.

Dated August 2, 1963


R. L. Weis
Attorney for Claimant
Paynesville, Minnesota

19,565

STATE OF MINNESOTA
County of Stearns }

PROBATE COURT
in the Matter of the Estate of
W. S. Johnson
Decedent - Ward

Brief

FILED THIS 8th DAY

OF August A.D. 1963

Becky Peterson
CLERK OF PROBATE

00412387

STATE OF MINNESOTA
COUNTY OF STEARNS

IN PROBATE COURT

In the Matter of the Estate of
W. S. Johnson, Decedent.

REPLY MEMORANDUM OF RESPONDENT

In the memorandum submitted in behalf of the claimant, Mrs. Holseth, counsel acknowledges that the rules set forth on page 2 of the earlier memorandum submitted in behalf of the representative are correct, and on page 4 of his memorandum counsel concedes that the assessment of real estate taxes does not create a personal obligation, but only imposes a lien upon the realty itself.

Counsel for the claimant also concedes the position taken by the representative that claims which may be allowed in probate proceedings are only such claims upon which the claimant might have proceeded against the decedent were he alive. On page 3 of the memorandum submitted in behalf of the claimant, counsel refers and, in fact, quotes in substance from Section 3592 of Dunnell's Minnesota Digest. The statement quoted from Dunnell is one immediately preceding footnote 29. An examination of the footnote, including the 1962 supplement for that section, discloses that among the cases cited in support of the statement in Dunnell are the cases of

Knutson vs. Krock,
111 Minn. 352, 127 N.W. 11,

In re Iverson's Appeal
249 Minn. 151, 81 N.W. (2nd) 701, 704,

to which reference was made in our earlier memorandum.

As shown in the earlier memorandum, our Court, in the case of Knutson vs. Krock, held:

"But, as employed in the particular statute, its meaning (that is, the meaning of the word 'claim') is often restricted and limited, and in statutes providing for the administration of the estates of deceased persons, requiring a presentation of claims against the estate, are by the authorities generally construed as referring to demands of a pecuniary nature, and which could have been enforced against the deceased in his lifetime."

The decision of our supreme court in the case of In re Inver-
son's Appeal is to the same effect. Conceding, as the claimant does,
that the assessment of taxes upon real estate does not create a personal
obligation, and conceding, as claimant virtually does, that ordinarily a
claim to be allowed in the probate court must be one upon which a recovery
could be made against the decedent during his lifetime, claimant has
virtually conceded that showing only the payment of the taxes is not enough
to permit the claimant to recover.

Yet, that is all that claimant originally predicated her claim
upon. An examination of the claim will disclosed that it merely sets out
the sum of \$877.53, "representing one-half of the amount of taxes shown
on the itemized statement attached ***."

If one is to be governed by the statement of claim presented for
allowance, then, in view of the concessions now made, the only reasonable
conclusion to draw is that the claim should be disallowed.

The claimant, however, having abandoned the proposition that the
payment of the taxes alone is sufficient to establish her claim, now
asserts the proposition that the decedent had by contract obligated him-
self and his estate to pay the taxes. The claimant does this in spite of
the fact that in the claim as filed there isn't any allegation whatever
with respect to any contract.

Be that as it may, we submit that, even on that theory, the claim-
ant has not established her claim.

Claimant asserts that the decedent had promised to pay these

taxes. We ask, to whom did he make such promise?

The claimant, in her memorandum, states:

"The two children of W. S. Johnson, namely, Robert Johnson and Mrs. Leona Heiseth were given a substantial amount of farm land by their mother, the land having approximately eleven hundred (1100) acres total. This arrangement was made some years ago, being approximately the year 1954. ***"

What is there in those facts to permit anyone to say to whom the asserted promise was made? We say, absolutely nothing. For the Court to find that the asserted contract or "arrangement" was made with the two children, or to find that it was made with the mother, the Court would have to base its finding upon conjecture or speculation, and not upon any testimony offered in proof of the claim, for there isn't one word of testimony that the asserted contract or "arrangement" was made with either the children or the mother.

At best, the testimony offered establishes what occurred after the transfer was made. It does not establish to whom the decedent's asserted promise was made. We believe it to be so fundamental as not to require the citation of any authority that in order to establish a contract such as is here asserted it is necessary to establish the identity of the person to whom the promise was made. If the person having the burden fails to establish the identity of such person, then he has failed to establish the asserted contract.

Another respect in which the claimant has failed to establish an enforceable contract or "arrangement" is her failure to show any consideration passing from the children to the decedent for his asserted promise to pay the taxes.

In Baehr, et al. vs. Penn-O-Tex Oil Corporation, 258 Minn. 533, 104 N.W. (2nd) 661, 665, the Court, in considering the question of consideration and the necessity of it to make an enforceable contract, said:

"The test that has been developed by the common law for determining the enforceability of promises is the doctrine of consideration. *** Consideration requires that a contractual promise be the product of a bargain. However, in this usage, 'bargain' does not mean an exchange of things of equivalent, or any, value. It means a negotiation resulting in the voluntary assumption of an obligation by one party upon condition of an act or forbearance by the other. Consideration thus insures that the promise enforced as a contract is not accidental, casual, or gratuitous, but has been uttered intentionally as the result of some deliberation, manifested by reciprocal bargaining or negotiation."

The claimant asserts that under the asserted contract or "arrangement" the decedent took all the profits or income from the farm lands and that that furnished the consideration for his promise to pay the taxes.

At first blush, it might seem that such position is sound, but it is not. As the Court said in Baehr, et al., vs. Penna-O-Tex Oil Corporation, referred to above:

"Consideration requires that a contractual promise be the product of a bargain ***."

and a bargain means:

"*** a negotiation resulting in the voluntary assumption of an obligation by one party upon condition of an act or forbearance by the other ***."

In this case there isn't any evidence of decedent's asserted promise to pay the taxes as the product of a bargain, nor is there any evidence of negotiations between the decedent and his children, nor is there any evidence of decedent's asserted promise being made as the result of the children's agreement to perform or forbear from the performance of any act.

In considering this question, it must be kept in mind that the farm was not that of the children. They had nothing to give. They did not give the decedent the right to the profits of the farm during his lifetime; they didn't have it to give. As claimant in her memorandum

stated, the children "were given a substantial amount of farm land." A fair and reasonable consideration of the evidence leads to only one conclusion, and that is that the parents made a gift of the land to the children, to be enjoyed after the death of the parents. Accepting the gift is not consideration for the asserted promise of decedent to pay the taxes. Nor does the making and acceptance of a gift impose any obligation on the donor. If "A" gives his coat to "B", he is not thereby obligated to give his hat, too. So, too, if "A" gives his farm, which is subject to a mechanic's lien, to "B", that does not obligate "A" to pay the mechanic's lien. If "B" takes the farm, he takes it subject to the lien.

Here, the acceptance of the gift of the farm lands by the children did not impose any obligation upon the father or the mother to pay the taxes, whether they or either of them made a promise to pay them or not.

The only other possible assertion that might be made by the claimant is that the asserted contract or "arrangement" was made between the decedent and his wife. Of course, as the Court will recall, there isn't anything in the testimony whatever as to what transpired between the decedent and his wife at the time the conveyance was made. If a finding was made that at that time a contract was made between the husband and the wife, it would be one based on speculation and conjecture only.

But, aside from the fact that there isn't any evidence to support an assertion that a contract was then made between the husband and the wife, such a contract would be void.

It would appear that claimant takes the position that the father had the use and income from the lands for and during his lifetime, and that during that time he was charged with maintaining the lands and paying the taxes thereon. Virtually, the claimant says that the father

had a life estate therein. A life estate is an interest in land. If the claimant contends that it came from the mother as the result of some promise of the father, then the contract is void. It must be remembered that it has not been contended, nor is there any evidence to show, that there was any reservation of a life estate in the conveyance made to the children. If it was created by contract between the parents, and there isn't any evidence to support such a claim, it was created by a direct oral contract between the parents. Such a contract is void under Section 519.06 of M.S.A., which in part provides:

"No contract between husband and wife relative to real estate of either, or any interest therein, nor any power of attorney or other authority from one to the other to convey real estate or any interest therein shall be valid
***"

We have read the cases cited by claimant in her memorandum, and we fail to see that they have any application to the matter now pending in this court.

In the case of Sharp's Estate, there were written exhibits in evidence upon which the Court based its decision.

Fit-hugh vs. Harrison involved the construction of two written contracts

In the case of Welch vs. Welch, there appears to have been no question but that there was competent evidence to prove the contract in all of its phases.

We respectfully submit that, the claimant, having conceded that assessment of real estate ^{tax} does not create a personal obligation, that it appearing to the point of demonstration that the transfer of the lands by W. S. Johnson and his wife to their children was a gift and nothing more, and there being no evidence of decedent having made a valid, binding, enforceable promise to pay the taxes paid by the claimant, the claimant has not established her claim, and the claim should be forthwith wholly disallowed.

Respectfully submitted,

EDWARD P. FLYNN, Paynesville, Minnesota

Edward P. Flynn St. Cloud, Minnesota

Attorneys for Representative

STATE OF MINNESOTA
COUNTY OF STEARNS
IN PROBATE COURT

In the Matter of the Estate of
" S. Johnson, Decedent.

REPLY MEMORANDUM OF REPRESENTATIVE

FILED THIS 30th DAY
OF August A.D. 1963
Robert R. Kunkhouse
CLERK OF PROBATE

EDWARD P. FLYNN,
Paynesville, Minnesota
and

HOWARD I. DONOHUE
601 St. Germain Street
ST. CLOUD, MINNESOTA

Attorney for Representative

Filed 8/30/63

004182394

STATE OF MINNESOTA
COUNTY OF STEARNS

IN PROBATE COURT

In the Matter of the Estate of
W. S. Johnson, Decedent.

ANSWERING MEMORANDUM OF PETITIONER

Counsel, in his Reply Memorandum, states that counsel concedes that the assessment of real estate taxes does not create a personal obligation but only imposes a lien upon the realty itself; and that he further concedes, etc., Paragraph 2. The word "concedes" suggests that I have at some time or other argued about this point of law, and I wish to make it clear that this is not a concession, but that this has always been the law; that this argument is absolutely immaterial to the case on hand as we are talking solely about a personal obligation of the decedent which he voluntarily took on by virtue of his agreeing to run the farms, take all the profits, and pay the real estate taxes; and that the lien on real estate has absolutely nothing whatever to do with this case.

Counsel in his Brief continues with his line of approach whereby he has me saying "yes" to things that were never in argument, and states further that ordinarily a claim to be allowed in the Probate Court must be one upon which a recovery could be made against the Decedent during his lifetime, and then states that Claimant has virtually conceded that showing only the payment of the taxes is not enough to permit the Claimant to recover.

This statement completely begs the argument which is that W. S. Johnson, the father, entered into a definite contract agreement or arrangement, whichever you wish to call it, whereby he agreed to run the farms and take all the profits and in turn would pay the real estate taxes. Having taken all the profits for 1962 whereby the claimant has fully performed all of her part of the contract, it is absolutely inescapable that the W. S. Johnson Estate must pay his personal obliga-

tion consisting of the taxes for 1962.

It is not my claim and never has been my claim that the payment of taxes alone is sufficient to establish her claim in spite of the fact that counsel makes this statement for me in his brief. I vehemently deny that I have ever had this position, and I do not appreciate having words put into my mouth for purposes of argument of counsel.

As set forth in the Probate Law, it is not necessary that the details of a claim be set forth in the Claim Petition, for these things can be heard upon objection; and I believe the position of counsel in this regard is completely beside the point as to the handling of claim petitions.

Counsel continues discussing the arrangement with the mother. This is completely beside the point as the land is recorded in the name of Robert Johnson and Leona Holseth, and it does not matter if the land was given to them by their mother or whether they purchased it. The simple fact remains that it was their land entirely and completely in fee simple, and that neither the mother nor father had any claim on the land and could do nothing regarding this land other than by a contract arrangement with the children. The promise was obviously between the father and the two children, as Robert Johnson himself testified that this is the way the arrangement existed and this testimony he gave was against his own interest in this regard.

The counsel further states the claimant has failed to establish an enforceable contract in her failure to show any consideration passing from the children to the decedent for his asserted promise to pay the taxes. Consideration can be many things including giving up a right, but in this instance it went far beyond that. In addition to giving up their right to operating the land and taking the profits, they gave as consideration the right to the father to operate the land as he saw fit and he would take all the profits, and did in fact, as shown by the testimony, take the profits for 1962, so there is an abundance of con-

sideration, for which he was to pay a nominal return being namely the taxes for 1962. To argue that there is no showing that there was a bargain or that there were negotiations is to completely overlook the obvious fact that they operated under the same contract arrangements year after year whereby he took the profits and paid the taxes. Why the claimant considered this arrangement advantageous to her is completely immaterial. The simple fact is that this was the contract arrangement and that it obviously could only have been entered into after bargaining and negotiations within the meaning of the law.

Counsel goes on to say that the children had nothing to give -- that they did not own the land. This completely overlooks the fact, and we ask the court to take judicial notice of the fact that the land in fee simple was in the names of the children without any restraint or restriction on the part of the parents whatsoever. How the land came into the possession of the children is absolutely immaterial, for it was beyond the power of the parents to revoke or do anything about the land since it belonged in fee simple to the children. Counsel at some length discusses the meaning of a gift in this regard when all this does is clutter the subject when the element of gift has absolutely no relationship to the argument that the father had a personal obligation completely aside from gift, and that having accepted the benefits of the bargain he cannot avoid payment of his part of the contract by the simple expediency of having his money placed into his estate. We have never claimed that the father had a life estate in the land, and he obviously did not. He had nothing more than a contract to use the land, to take the profits, and in return to pay the taxes. The land clearly and unequivocally belonged to the children.

In summation counsel states that they respectfully submit that the claimant having conceded the assessment of real estate taxes does not create a personal obligation, etc. This is something that has never been conceded. Assessment of real estate taxes naturally creates a lien

on the land. We are in this instance talking about something totally different. We are talking about a contract the father entered into with the children creating a personal obligation, and we make no concession that it was not a personal obligation as this is the very heart of our argument. The element of gift is not involved in this issue, and as Robert Johnson himself testified, the arrangement (or as we would say, contract) was that the father would take the profits and would pay the taxes, and the legal conclusion is inescapable that his estate cannot escape payment of this obligation when he would have been obligated to pay the taxes had he lived because of a personal contract that he had with the children.

Respectfully submitted,


Rainer L. Weis, Paynesville, Minnesota
Attorney for Claimant

19,565

STATE OF MINNESOTA
County of Stearns

PROBATE COURT
In the Matter of the Estate of
William S. Johnson, etc.,
Decedent-Ward

ANSWERING MEMORANDUM

FILED THIS 3rd DAY
OF September A.D. 19 63

William S. Johnson
CLERK OF PROBATE

004182399

AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) SS
COUNTY OF STEARNS)

Leah C. Johnson, being first duly sworn, says that on the 12th day of September, 1963, at the direction of Howard I. Donohue, she served the attached Notice of Order upon Rainer L. Weis, attorney for Leone Moiseth, the claimant therein named, by enclosing a copy of said order in an envelope, properly sealed and with postage prepaid thereon, addressed to Mr. Rainer L. Weis, Attorney at Law, Paynesville, Minnesota, and depositing the same in the United States Mail at the City of St. Cloud, in Stearns County, Minnesota.

Subscribed and sworn to before me
this 13th day of September, 1963.

Howard I. Donohue

Leah C. Johnson

HOWARD I. DONOHUE
Notary Public, Stearns County, Minn.
My Commission Expires Oct. 23, 1967

0041 2400

STATE OF MINNESOTA
COUNTY OF STEARNS

IN PROBATE COURT

In the Matter of the Welfare
of William S. Johnson, also
known as W. S. Johnson, Decedent.

NOTICE OF ORDER

To: Leone Hoiseth, Claimant, and Rainer L. Weis, her attorney.

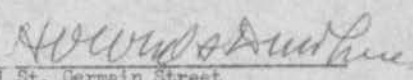
You, and each of you, will please take notice that the Court has made and filed its order herein disallowing entirely the claim of Leone Hoiseth in the amount of \$877.53.

That said order is dated the 9th day of September, 1963, and was filed with the clerk of the above named court on the 9th day of September, 1963.

That a true and correct copy of said order is hereto attached, marked "Exhibit "A", and hereby made a part hereof.

Dated this 11th day of September, 1963.

EDWARD P. FLYNN
Paynesville, Minnesota


601 St. Germain Street
St. Cloud, Minnesota

Attorneys for Robert P. Johnson,
as executor of the last will and
testament of W. S. Johnson,
deceased.

STATE OF MINNESOTA)
COUNTY OF STEARNS) SS

IN PROBATE COURT

In the Matter of the Welfare)
of William S. Johnson, also) ORDER DISALLOWING CLAIM
known as W. S. Johnson, Decedent.) OF LEONE HOISETH

The hearing on the claim of Leone Hoiseth in the amount of \$877.53 filed in the above named estate, and the objections filed thereto, came on to be heard on the 21th day of July, 1963, at 10:00 o'clock, A.M.

The Claimant appeared together with her Attorney, R. L. Weis and Robert P. Johnson, the Representative of the Estate appeared together with his Attorneys, Edward P. Flynn and Howard I. Donchue.

The Court, having heard all of the evidence and the objections filed thereto, and having examined the claim, finds that said claim should be disallowed entirely.

NOW, THEREFORE, IT IS HEREBY ORDERED, That the claim of Leone Hoiseth, be, and the same hereby is disallowed in the amount of \$877.53.

Dated at St. Cloud, Minnesota, this 9th day of September, 1963.

John Leng
Judge of Probate

(court seal)

No. 19,565

STATE OF MINNESOTA
COUNTY OF STEARNS
IN PROBATE COURT

In the Matter of the Welfare of
William S. Johnson, also known as
W. S. Johnson, Decedent

NOTICE OF ORDER

FILED THIS 10th DAY
OF October A.D. 1963
Edw. P. Flynn
CLERK OF PROBATE

EDWARD P. FLYNN
Paynesville, Minnesota
and

HOWARD I. DONOHUE
601 St. Germain Street
ST. CLOUD, MINNESOTA

Attorney for Executor of Last Will and
Testament of Decedent

00442403

STATE OF MINNESOTA }
COUNTY OF STEARNS } ss

IN PROBATE COURT

In the Matter of the Welfare } ORDER DISALLOWING CLAIM
of William S. Johnson, also } OF LEONE HOISETH
known as W.S. Johnson, Decedent. }

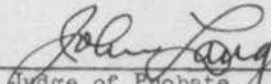
The hearing on the claim of Leone Hoiseth in the amount of \$877.53 filed in the above named estate, and the objections filed thereto, came on to be heard on the 24th day of July, 1963, at 10:00 o'clock, A.M..

The Claimant appeared together with her Attorney, R.L. Weis and Robert P. Johnson, the Representative of the Estate appeared together with his Attorneys, Edward P. Flynn and Howard I. Donohue.

The Court, having heard all of the evidence and the objections filed thereto, and having examined the claim, finds that said claim should be disallowed entirely.

NOW, THEREFORE, IT IS HEREBY ORDERED, That the claim of Leone Hoiseth, be, and the same hereby is disallowed in the amount of \$877.53.

Dated at St. Cloud, Minnesota, this 9th day of September, 1963.



Judge of Probate

19,565

STATE OF MINNESOTA

COUNTY OF STEARNS

IN PROBATE COURT

In the Matter of
the Estate of
William S. Johnson,
etc., Decedent.

ORDER DISALLOWING
CLAIM.

Filed this 9th day
of September, 1963.

Burdette Kayhorne
Clerk of Probate

50421400

STATE OF MINNESOTA

COUNTY OF STEARNS

IN PROBATE COURT

IN the Matter of the Welfare

of William S. Johnson, also

BOND ON APPEAL

known as W.S. Johnson, Decedent.

KNOW ALL MEN BY THESE PRESENTS, That I, Leona Hoiseth, as principal,
and Western Surety Company a corporation
organized under the laws of the State of Minnesota, and holding the
certificate of the Insurance Commissioner of the State of Minnesota showing
that it is authorized to contract as surety upon bonds in said State of
Minnesota, as surety, are held and firmly bound unto John Lang, as Judge
of Probate of the County of Stearns, Minnesota, in the sum of Three Hundred
and 00/100 (\$300.00) Dollars, lawful money of the United States, to be paid
to said Judge of Probate, or his successor in office; for which payment
well and truly to be made, we bind ourselves and each of our heirs,
executors, administrators, successors, and assigns, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, That whereas, the above
named principal appeal to the District Court in and for the County of
Stearns, State of Minnesota, from the Order of the Probate Court above
named, dated the 9th day of September 1963, in the above entitled matter,
denying the claim of claimant.

NOW THEREFORE, if the above named principals shall prosecute the
appeal with due diligence to a final determination and pay all costs and
disbursements and abide the order of the Court therein, this obligation
shall become void; otherwise it shall be and remain of full force and effect.

IN WITNESS WHEREOF, said principal has hereunto affixed her hand
and seal; and the said surety has caused these presents to be signed by
its Attorney-in-Fact and its corporate seal to be hereto
attached by authority of its Board of Directors, this 4th day of Oct., 1963.

Signed, Sealed and Delivered)
in the Presence of)
Rainer L. Weis)
Joan M. Magnuson)

/s/ Leona Hoiseth

Principal
WESTERN SURETY COMPANY

By George E. Hulstrand
Its Attorney-in-Fact and
Minnesota Resident Agent

ACKNOWLEDGMENT OF PRINCIPAL

STATE OF MINNESOTA

COUNTY OF STEARNS

On this 4th day of October, 1963, before me personally appeared Mrs. Leona Holseth, to me well known to be the person who executed the foregoing bond as principal, and acknowledged that she executed the same and purposes herein expressed as her free act and deed.

(seal)

R. L. Weis
R. L. Weis, Notary Public
Stearns County, Minnesota
My Commission expires January 20, 1967.

ACKNOWLEDGMENT OF SURETY

STATE OF MINNESOTA
COUNTY OF KANDIYOH

On this 4th day of October, 1963, before me appeared Leona Holseth, to me personally known, who being by me duly sworn, did say that Western Surety Company of South Dakota, a corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was executed in behalf of said corporation by George E. Hulstrand, by authority of its Board of Directors; and the said George E. Hulstrand acknowledged said instrument to be the free act and deed of said corporation. He is the Attorney-in-Fact of Western Surety Co.

Joan M. Magnuson
Joan M. Magnuson
Notary Public, Kandiyohi County, Minnesota
My commission expires May 2, 1970.

Approval

This bond and the sureties thereon are hereby approved this 7th day of October, 1963.
(court seal)

John Lang

Probate Judge

AFFIDAVIT OF PUBLICATION

State of Minnesota }
County of Stearns } SS.

R.E. LeMasurier

he

being duly sworn, on oath says; that... he, and during all the times herein stated has been the publisher or printer in charge of the newspaper known as The Paynesville Press, and has full knowledge of the facts hereinafter stated; that for more than one year prior to the publication therein of the Paynesville Press hereinafter described, said newspaper was printed and published in the village of Paynesville, in the County of Stearns, State of Minnesota, on Thursday of each week; that during all said time said newspaper has been printed in the English language from its known office of publication within the Village of Paynesville from which it purports to be issued as above stated and in the newspaper format and in column and sheet form equivalent in space to at least 450 running inches of single column, two inches wide; has been issued once each week from a known office established in said place of publication and employing skilled workmen and the necessary material for preparing and printing the same; that the press work on that part of the newspaper devoted to local news of interest to the community it purports to serve has been done in its known office of publication; that during all said time in its makeup not less than twenty-five per cent of its news columns have been devoted to local news of interest to the community it purports to serve; that during all said time it has not wholly duplicated any other publication, and has not been entirely made up of patents, plate matter and advertisements; has circulated in and near said place of publication to the extent of a least two hundred and forty (240) copies regularly delivered to paying subscribers and has entry as second class matter in its local post-office; and that there has been on file in the office of the County Auditor of Stearns County, Minnesota, the affidavit of a person having knowledge of the facts, showing the name and location of said newspaper and the existence of the conditions constituting its qualifications as a legal newspaper.

Legal Notice - Re Estate of William S. Johnson

That the hereto attached was cut from the columns of said newspaper, and was printed and published therein in the English language, once each week, for three successive weeks; that it was first so published on Thursday, the 26th day of November, 1964, and thereafter, on Thursday, the 10th day of December, 1964, of each week to and including the day of December, 1964.

and that the following is a printed copy of the lower case alphabet from A to Z, both inclusive, and is hereby acknowledged as being the size and kind of type used in the composition and publication of said notice, to-wit: abcd efghijklmnopqrstuvwxy z - 6 pt.

Subscribed and sworn to before me this 11th day of DECEMBER, 1964.

WILLARD E. SCHULTZ

Notary Public, Stearns County, Minn.
My Commission Expires Dec. 21, 1967.

Notary Public, Stearns County, Minnesota.

My Commission expires 19

LEGAL NOTICE

STATE OF MINNESOTA
COUNTY OF STEARNS

PROBATE COURT

File No. 19,565

Re Estate of William S. Johnson, also known as W. S. Johnson, Deceased.

IT IS ORDERED that the final account and petition for examination thereof and for distribution filed herein be heard on Friday, December 18, 1964, at 9 o'clock A.M. by this court in the Court House in St. Cloud, Minn.

(SEAL)
Dated, this 24th day of November, 1964.

John Lang,
Probate Judge

Edward P. Flynn,
Attorney

(N26D10)

0041 2408

File No. 19,565.

State of Minnesota,
County of Stearns.

IN PROBATE COURT.

In re Estate of
William S. Johnson,
etc.,

Decedent.

AFFIDAVIT OF PUBLICATION
of Order for Examina-
tion of Final Account.

FILED THIS 18th DAY
OF December AD, 19 64
Bradley R. Kuylenstierna
CLERK OF PROBATE

EDWARD P. FLYNN
ATTORNEY-AT-LAW
PAYNESVILLE, MINNESOTA

00412409

State of Minnesota,

County of Stearns.

} ss. IN PROBATE COURT

IN THE MATTER OF THE ESTATE OF

William S. Johnson, etc.,
Decedent.

State of Minnesota,

County of Stearns.

} ss.

Edward P. Flynn,

being duly sworn, on oath says; that he is the attorney for the petitioner
in the matter above entitled and has full knowledge of the facts herein set forth; that
on the 4th. day of December, 1964, he mailed a truecopy of the printed Order hereto attached and made a part hereof by enclosing it in a sealed envelope and
depositing the same in the Post Office at the Village of Paynesville
County and State aforesaid, postage prepaid, addressed to each of the following named persons at their respective addresses
stated below; and that they are all of the known heirs at law of the above named decedent, all of the legatees and devisees
named in the will of said decedent, whose names and addresses he has been able to ascertain after due diligence, to-wit:

Names

Addresses

~~Names~~

Addresses

Robert P. Johnson 582 River St., Paynesville, Minnesota.

Leone M. Hoiseth 572 River St., " "

Subscribed and sworn to before me this 4th.
day of December, 1964.W.H. Person.
Notary Public, Stearns County, Minn.

My commission expires Sept. 23rd., 1970.

Edward P. Flynn

0041 2410

File No. 19,565.

State of Minnesota.

County of Stearns.

PROBATE COURT

IN THE MATTER OF THE ESTATE OF

William S. Johnson, etc.,
Decedent.

**AFFIDAVIT OF SERVICE
BY MAIL**

of Order for Examination
of Final Account.

Filed this 18th day of
December, 19 64

Bradley Bushouse
Clerk—Judge of Probate.

STATE OF MINNESOTA
COUNTY OF STEARNS
PROBATE COURT

File No. 19,565
Re Estate of William S. Johnson,
also known as W. S. Johnson, De-
cedent.

IT IS ORDERED that the final ac-
count and petition for examination
thereof and for distribution filed here-
in be heard on Friday, December 18,
1964, at 9 o'clock A.M. by this court
in the Court House in St. Cloud,
Minn.

(SEAL)
Dated this 24th day of Novem-
ber, 1964.

Edward P. Flynn,
Attorney.

John Lang,
Probate Judge

EDWARD P. FLYNN
ATTORNEY-AT-LAW
PAYNESVILLE, MINNESOTA

00412411

STATE OF MINNESOTA }
COUNTY OF STEARNS } ss

IN PROBATE COURT

In the Matter of the Welfare
of William S. Johnson, also
known as W. S. Johnson, Decedent.

NOTICE OF APPEAL
TO DISTRICT COURT

To Robert Johnson, and Howard I. Donohue, and
Edward Flynn, his Attorneys, and to the Probate Court,
St. Cloud, Minnesota.

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that
Leone Hoiseth, the Petitioner herein appeals to the
District Court of the State of Minnesota from the
order of the probate court, dated the 9th day of
September, 1963 wherein said Court denied the Claim
of the petitioner, Leone Hoiseth in the amount of
\$877.53, which claim was filed in the above named
estate, and which matter was heard on the 24th day of
July, 1963 at 10 o'clock A.M., and that said appeal is
taken upon questions of law and fact.

Dated at Paynesville, Minnesota, this 12th day of 1963.

s/ Rainer L. Weis
Rainer L. Weis, Attorney at Law
Paynesville, Minnesota
Attorney for Petitioner

*Made Return to
District Court
10/7/63*

Due and personal service of
the notice of appeal is admitt-
ed this 13th day of September,
1963.

s/ Edward P. Flynn

Filed 9-13-1963

*Roselyn Kershner
Clerk of Probate*

004182413

STATE OF MINNESOTA

COUNTY OF STEARNS

IN DISTRICT COURT

SEVENTH JUDICIAL DISTRICT

In the Matter of the Estate of
William S. Johnson, also known
as W. S. Johnson, Decedent.

Leone Holseth,

Appellant,

vs.

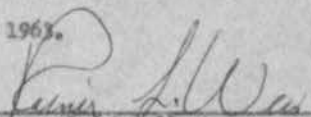
Robert P. Johnson, as Executor
of the Last Will and Testament
of W. S. Johnson, deceased,

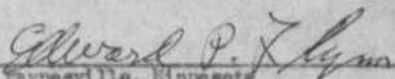
Respondent.

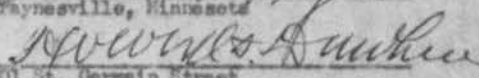
STIPULATION FOR DISMISSAL OF APPEAL

It is hereby stipulated and agreed by and between the above named parties, through their respective attorneys, that the above entitled appeal be, and the same hereby is, in all things dismissed with prejudice and on the merits, without costs or disbursements to either of the parties.

Dated this 27th day of November, 1963.


Attorney for Appellant
Paynesville, Minnesota


Edward P. Flynn
Paynesville, Minnesota


501 St. Germain Street
St. Cloud, Minnesota

Attorneys for Respondent

STATE OF MINNESOTA
County of Stearns

PROBATE COURT
in the Matter of the Estate of
William S. Johnson, et al.
Decedent/War //

STIPULATION - DISMISSAL OF
APPEAL

FILED THIS 24th DAY
OF November A.D. 19 64
Robert J. Peterson
CLERK OF PROBATE

FINAL ACCOUNT AND PETITION FOR SETTLEMENT

State of Minnesota, } ss.
County of Stearns.

IN PROBATE COURT

IN THE MATTER OF THE ESTATE OF
William S. Johnson, also known as }
W. S. Johnson, }
Decedent.

Final Account and Petition
for Settlement

Date of death: January 4, 1963

Your petitioner respectfully represents and shows to the court:

FIRST—That he is the representative of the estate of the above named decedent.

SECOND—That as such representative he has fully administered the said estate, has paid and satisfied all claims against said estate allowed by the court, and has in all things complied with the orders of this court in said matter and with the law relating thereto.

THIRD—That he herewith renders his final account of his said administration, which is as follows, to-wit:

RECEIPTS		To be Filled in by the Representative	Not to be Filled in by the Representative
Personal property described in the inventory	- - - - -	\$31,752.53	\$
Personal estate omitted from the inventory	- - - - -	\$	\$
Gain by sales above appraised value	- - - - -	\$	\$
Cash from sales of real estate	- - - - -	\$	\$
Cash from rent of real estate	- - - - -	\$	\$
Cash from interest and profits	- - - - -	\$	\$
Cash from other sources	- - - - -	\$	\$
	- - - - -	\$	\$
	- - - - -	\$	\$
	- - - - -	\$	\$
Total receipts from all sources	- - - - -	\$31,752.53.	\$

DISBURSEMENTS		Voucher Number
I. FAMILY		
Personal property selected by and turned over to surviving spouse	- - - - -	\$
Maintenance of family of decedent	- - - - -	\$
Total	- - - - -	\$ none.

II. EXPENSES OF ADMINISTRATION		
Loss from sales of personal property at less than appraised valuation	- - - - -	\$
Cash paid to appraisers for services	- - - - -	\$ 20.00 R
Cash paid for publication of orders	- - - - -	\$ 18.00 R
Repairs to real estate	- - - - -	\$
Cash paid for insurance	- - - - -	\$
Expenses of representative	- - - - -	\$
Compensation of representative	- - - - -	\$ none.
Fees of Attorney \$950 & misc. expense \$8.10.	- - - - -	\$ 958.10 R
Bond of Representative	- - - - -	\$ 20.00 R
Certified copies (Probate Court) \$5.00 & filing fee \$1.00.	- - - - -	\$ 6.00 R
Register of Deeds, recording	- - - - -	\$
Fees of attorneys resisting claim of Leone Hoiseth - briefs, memorandums, hearing on claim, etc.	- - - - -	\$ 253.13 R
	- - - - -	\$
	- - - - -	\$
	- - - - -	\$
Total expense of administration	- - - - -	\$ 1,275.23.

0041 2416

III. EXPENSES OF LAST SICKNESS

	VOUCHER NO.	AMOUNT
Cash paid for medical attendance - - - - -		\$ 33.00 R
Cash paid for medicines - - - - -		\$
Cash paid for xxxxx ambulance service - - - - -		\$ 12.00 R
Cash paid for hospital - - - - -		\$ 86.40 R
Total expenses of last sickness - - - - -		\$131.40

IV. FUNERAL EXPENSES

[illegible]

V. TAXES

[illegible]

VI. CLAIMS OF CREDITORS

CASH PAID IN SETTLEMENT OF CLAIMS OF CREDITORS AS ALLOWED BY THE COURT AS FOLLOWS:

CLAIM NO.	NAME OF CLAIMANT	VOUCHER NO.	AMOUNT
	None.....		\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$
Total amount of claims paid and settled	- - - - -	- - - - -	\$

VII. LEGACIES AND BEQUESTS

[illegible]

RECAPITULATION

Not to be filled
in by
Representative
RECEIPTS

	RECEIPTS	DISBURSEMENTS	
Total receipts from all sources - - - - -	\$31,752.53.		\$
Total disbursements and credits as follows:			Disbursements
1. Family - - - - -		\$	\$
2. Expenses of administration - - - - -		\$ 1,275.23	\$
3. Expenses of last sickness - - - - -		\$ 131.40	\$
4. Funeral Expenses - - - - -		\$ 795.00	\$
5. Taxes - - - - -		\$	\$
6. Claims of creditors - - - - -		\$	\$
7. Specific Legacies - - - - -		\$ 100.00	\$
8. Residue of personal prop. for distribution - - -		\$29,450.90	\$
9. - - - - -		\$	\$
10. - - - - -		\$	\$
11. - - - - -		\$	\$
12. - - - - -		\$	\$
13. - - - - -		\$	\$
Total - - - - -	\$31,752.53.	\$31,752.53.	\$

FOURTH—That there is also belonging to said estate for distribution certain real estate as follows:

The homestead of said decedent, in the County of _____, State of Minnesota,
described as follows: none.Also these other tracts and parcels of land in the County of _____,
State of Minnesota, described as follows: none.FOURTH (A)—Personal property for distribution consists of the following items: furniture and
household goods, same inventoried and appraised at \$1,043.50; decedent's
undivided one-half interest in Ever Ready Oil Company partnership assets,
same inventoried and appraised at \$26,471.75; and cash of \$1,935.65.

FIFTH—That said decedent died on the 4th day of January, 1963.

testate, and left him surviving two children, to-wit: a son, Robert P. Johnson, and Leone M. Hoiseth, a daughter,

who are the sole residuary legatees of said decedent, and the persons entitled to the residue of said estate.

WHEREFORE, your petitioner prays the order of this court fixing a time and place for the hearing of this petition and an examination of his final account, and the settlement and allowance of the same; and that upon said hearing the court issue its final decree assigning the residue of said estate to the persons thereunto entitled.

Dated November 24th, 1964.

Robert P. Johnson

Petitioner

State of Minnesota,

County of Stearns.

ss.

Robert P. Johnson,

being duly sworn on oath says that he is the person who made the foregoing petition; that he knows the contents thereof, and that the same is true of his own knowledge except as to those matters therein stated on his information and belief, and as to those matters he believes it to be true.

Subscribed and sworn to before me this

24th day of November, 1964.

Edward P. Flynn
Edward P. Flynn, Notary Public,
Stearns County, Minn.

Robert P. Johnson

Representative

My commission expires August 19, 1969.

NOTE (1) Insert "Sole devisees" or "All the heirs at law" as the case may be.
NOTE (2) Number your receipts and enter them in your (voucher No.) column.

File No. 19,565.

State of Minnesota,

County of Stearns.

PROBATE COURT

In the Matter of the Estate of
William S. Johnson, etc.,
Decedent.

Final Account and Petition for
Hearing and Allowance
Thereof

EDWARD P. FLYNN
ATTORNEY-AT-LAW
PAYNESVILLE, MINNESOTA
Attorney for Petitioner

Filed this 24th day of
November, 1964

Roselyn Redford
Clerk of Probate

No. 1049

0041 2419

State of Minnesota, }
County of STEARNS }

IN PROBATE COURT

IN THE MATTER OF THE ESTATE OF

Mary J. Hilary

Decedent.

19,566
PETITION FOR SUMMARY
ASSIGNMENT OR DISTRIBUTION

TO THE PROBATE COURT ABOVE NAMED:

Your petitioner Bernie J. Hilary

respectfully represents and states to the Court:

First—That your Petitioner is a resident of Kimball
in the County of Stearns State of Minnesota, and is an adult who has
an interest in whatever estate the decedent above named may have left at the time of her death, to-wit:
Surviving spouse

Second—That said decedent was born in the Country of United States of America
and died at Kimball, State of Minnesota on the
31st day of January, 1963, aged 77 years and was
at the time of her death a native of United States of America, and
a citizen of the Country of United States of America and a
resident of Kimball County of Stearns, State of
Minnesota, and was the owner of estate in the County of Stearns
State of Minnesota, at the time of her death.

Third—That said decedent died without leaving a last will and testament.

Fourth—That said estate of decedent, at the time of her death, included personal property of
the probable value of \$ ---, divided as follows:

1. Household Goods,	\$ <u>---</u>	2. Wearing Apparel,	\$ <u>---</u>
3. Stock,	\$ <u>---</u>	4. Notes, Bonds, etc.	\$ <u>---</u>
5. Miscellaneous,	\$ <u>---</u>	6.	\$ <u>---</u>

That said estate included real estate consisting only of the homestead of said decedent of the esti-
mated and probable value of \$ 6,000.00 situated in the County of Stearns
State of Minnesota, containing 13 acres and
described as follows, viz.:

(Give complete description of homestead, acreage must be given and sit of Lots)

Lots Thirteen and Fourteen in Block numbered Six, in the original
Townsite of Kimball, according to the plat and survey thereof on file
and of record in the office of the Register of Deeds, in and for said
County and State.

Fifth—That the probable amount of the debts of decedent is \$ None

00422420

[illegible]

Eighth—That all of the property in said estate is exempt from debts and charged in probate court, and that there is no need for the appointment of a representative.

State of Minnesota.

County of.....WRIGHT

Bernie J. Hilary

being duly sworn, on oath says that.....h^o is the person who makes the foregoing petition in the above entitled matter; that.....h^o has read said petition and knows the contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated on information and belief, and that as to those matters.....h^o believes it to be true.

Subscribed and sworn to before me, this

21st day of February 1963

Notary Public.

County, Minn.

My Commission expires..... 19.....

Wright County, Minn.
Commission Expires Feb. 2, 1964

No. 19, 566

State of Minnesota,

County of STEARNS

IN PROBATE COURT

IN THE MATTER OF THE ESTATE OF

Mary J. Hilary
Decedent.

Petition for Summary Assignment or Distribution

Selection of Newspaper

To the Judge of said Court:
Please cause the notices in said estate
to be published in the

Tri-County News
(Here insert name of newspaper)

Sign your name here)

Filed this 25th day of February, 1963

Probate Judge - Clark.

STATE OF MINNESOTA
COUNTY OF STEARNS

PROBATE COURT

File No. 19,566

Re Estate of
Mary J. Hilary,

Decedent.

IT IS ORDERED that the petition filed herein ~~to/assign to the said estate the right of summary assignment and~~
for summary assignment of said estate be heard on Friday March 22nd, 1963 /HSL/
at 9 o'clock A. M. by this court in the Court House in St. Cloud, Minn.

(Seal)

Dated this 25th day of February 1963

Nobel Shadduck,

Attorney.

John Long
Probate Judge.

NOTE: Make this order in duplicate

File No. 19,566

STATE OF MINNESOTA
COUNTY OF STEARNS
PROBATE COURT

Re Estate of

Mary J. Hilary,

Decedent.

Order for Hearing on
Summary Assignment

Publish in Tri-County-News

Hearing March 22, 1963 164/

FILED THIS 25th DAY

OF February A.D. 1963

Ernest J. Paulson
CLERK OF PROBATE

0042 2423

Printers Affidavit of Publication

(Chapter 134, Laws of 1955.)
STATE OF MINNESOTA,
County of Stearns, ss.

Legal Notice

ORDER FOR HEARING ON SUMMARY ASSIGNMENT

PROBATE COURT
File No. 19,566

STATE OF MINNESOTA
COUNTY OF STEARNS
Re Estate of

Mary J. Hilary, Decedent.
IT IS ORDERED that the petition
filed herein for summary assign-
ment of said estate be heard on
Friday, March 22nd, 1963 at 9
o'clock A. M. by this court in the
Court House in St. Cloud, Minn.
(Seal)

Dated this 25th day of Feb., 1963
Nobel Shadduck, Attorney
John Lang, Probate Judge
Publish Feb. 28, March 7, 14

Clayton B. Greeley, being duly sworn, on oath says; that he is, and during all the times herein stated has been the publisher, editor of the newspaper known as the Tri-County News, and has full knowledge of the facts hereinafter stated; that for more than one year prior to the publication therein of the

Order for
Hearing on Summary Assignment hereinafter described, said newspaper was printed and published in the Village of Kimball, in the County of Stearns, State of Minnesota, on Thursday of each week; that during all said time said newspaper has been printed in the English language from its known office of publication within the city from which it purports to be issued as above stated and in newspaper format and in column and sheet form equivalent in space to at least 450 running inches of single column, two inches wide; has been issued once each week from a known office established in said place of publication and employing skilled workmen and the necessary material for preparing and printing the same; that the press work on that part of the newspaper devoted to local news of interest to the community it purports to serve has been done in its known office of publication; that during all said time in its makeup not less than twenty-five percent of its news columns have been devoted to local news of interest to the community it purports to serve; that during all said time it has not wholly duplicated any other publication, and has not been entirely made of patents, plate matter and advertisements; has been circulated in and near its said place of publication to the extent of at least two hundred and forty (240) copies regularly delivered to paying subscribers and has entry as second class matter in its local post office; that a copy of each issue has been filed with the State Historical Society, St. Paul, Minnesota; that there has been on file in the office of the County Auditor of Stearns County, Minnesota, the affidavit of a person having knowledge of the facts, showing the name and location of said newspaper and the existence of the conditions constituting its qualifications as a legal newspaper.

That the Order for Hearing on Summary Assignment
hereto attached was cut from the columns of said newspaper and was printed and published in the English language, once each week for 3 successive weeks; that it was first so published on Thursday, the 28th day of

Feb. 1963; and thereafter on Thursday of each week to and including the 14 day of Mar. 1963; and that the following is a printed copy of the lower case alphabet from A to Z, both inclusive, and is hereby acknowledged as being the size and kind of type used in the composition and publication of said notice, to-wit:
abcdefghijklmnopqrstuvwxyz

Clayton B. Greeley
Publisher Tri-County News

Subscribed and sworn to before me this 18th day of Mar 1963

E. E. ERICKSON, Notary Public
Stearns County, Minn. My Commission Expires Sept 7, 1964
E. E. Erickson
Notary Public, Kimball, Minnesota

0042 2424

STATE OF MINNESOTA
County of Stearns

CHAS. A. HILARY
Notary Public
Mary J. Hilary
Resident ///

AFFIDAVIT OF PUBLICATION

FILED THIS 19th DAY
OF March A.D. 19.63.
Roselyn Kephauze
CLERK OF DISTRICT

0042 2425

State of Minnesota, } ss.
County of Stearns

File No. 19,566

IN PROBATE COURT

IN THE MATTER OF THE ESTATE OF

Mary J. Hilary

Decedent

Affidavit of Mailing of Order for Hearing

ON SUMMARY ASSIGNMENT

On Hearing for Administration or Probate of Will, if decedent was not born in the United States, mail one copy of order to Foreign Consul or Secretary of State.

ATTACH COPY OF ORDER HERE

Legal Notice

ORDER FOR HEARING ON
SUMMARY ASSIGNMENT

PROBATE COURT
File No. 19-566

STATE OF MINNESOTA
COUNTY OF STEARNS
Re Estate of

Mary J. Hilary, Decedent.
IT IS ORDERED that the petition filed herein for summary assignment of said estate be heard on Friday, March 22nd, 1963 at 9 o'clock A. M. by this court in the Court House in St. Cloud, Minn.

Dated this 25th day of Feb., 1963
Nobel Shadduck, Attorney
John Lang, Probate Judge
Publish Feb. 28, March 7, 14

State of Minnesota, }
County of Wright }

Roslyn Rosha

being first duly sworn on oath deposes and says that
on the 7th day of March, 1963,
at Annandale, in said County and
State she mailed one copy of the Order hereto
attached in the above entitled matter to

(Secretary of State or Foreign Consul)

known heirs-at-law of said decedent, at their last known address, after exercising due diligence in ascertaining the correctness of said addresses, by placing a true and correct copy thereof in a sealed envelope, postage prepaid and depositing the same in the U. S. mails at Annandale, Minnesota

_____ and addressed to the following named persons:

[illegible]

AFFIDAVIT OF MAILING

ALLOWANCES TO SPOUSE OR MINOR CHILDREN

When a decedent dies with or without a will the allowances to the spouse or minor children are as follows:

525.15 ALLOWANCES TO SPOUSE. When any person dies testate, or intestate,

- (1) The surviving spouse shall be allowed from the personal property of which the decedent was possessed or to which he was entitled at the time of his death, the wearing apparel, and, as selected by him, furniture and household goods not exceeding \$2,000 in value, and other personal property not exceeding \$1,000 in value;
- (2) When, except for one automobile, all of the personal estate of the decedent is allowed to the surviving spouse by clause (1), the surviving spouse shall also be allowed such automobile.
- (3) If there be no surviving spouse, the minor children shall receive the property specified in clause (1) as selected in their behalf;
- (4) During administration, but not exceeding 18 months, unless an extension shall have been granted by the court, or, if the estate be insolvent, not exceeding 12 months, the spouse or children, or both, constituting the family of the decedent shall be allowed such reasonable maintenance as the court may determine;
- (5) In the administration of an estate of a non-resident decedent, the allowances received in the domiciliary administration shall be deducted from the allowances under this section.

In all estates where there is a will the following rule applies to the spouse who has not consented to the will:

525.212 RENUNCIATION AND ELECTION. If a will make provision for a surviving spouse in lieu of the rights in the estate secured by statute, such spouse shall be deemed to have elected to take under the will, unless he shall have filed an instrument in writing renouncing and refusing to accept the provisions of such will within six months after the filing of the certificate of probate. For good cause shown, the court may permit an election within such further time as the court may determine. No devise or bequest to a surviving spouse shall be considered as adding to the rights in the estate secured by sections 525.145 and 525.16 to such spouse, unless it clearly appears from the contents of the will that such was the testator's intent.

State of Minnesota,

County of _____

ss.

being first duly sworn on oath deposes and says that on the _____ day of _____, 19____, at _____ in said County and State, he mailed a copy of Sections 525.15 and 525.212 of Minnesota Statutes as hereinbefore set out to the spouse and minor children of said decedent at their last known address after exercising due diligence and ascertaining the correctness of said addresses by placing a true and correct copy thereof in a sealed envelope, postage pre-paid and depositing the same in the U. S. mails at _____, Minnesota, and addressed to the following:

NAME	STREET OR POST OFFICE	CITY	STATE

Subscribed and sworn to before me this _____ day of _____, 19____.

Notary Public _____ County, Minn.

My commission expires _____, 19____.

File No. 19,566

State of Minnesota

County of Stearns

IN PROBATE COURT

In the Matter of the Estate of

Mary J. Hilary

Decedent

AFFIDAVIT OF MAILING

ORDER FOR HEARING

ON SUMMARY ASSIGNMENT

Filed March 11th, 1953

Rosemary Kuehnert
Probate Clerk

STATE OF MINNESOTA
DEPARTMENT OF TAXATION
INHERITANCE AND GIFT TAX DIVISION
St. Paul 1, Minnesota

State of Minnesota, }
County of STEARNS }

INHERITANCE TAX RETURN

Decedent Mary J. Hilary
Date of Death January 31, 1963

The undersigned hereby returns information concerning the decedent and concerning all transfers of property by the decedent or by reason of his death which may be subject to inheritance tax as defined by Minnesota Statutes Chapter 291.

GENERAL INFORMATION

- (1) Decedent's residence at date of death Kimball Minnesota
Street City State
- (2) Place of death Kimball Birthdate 1886 Place of birth Minnesota
- (3) Business or occupation Housewife
- (4) Married, single, separated, widowed or divorced at date of death Married
- (5) The name, relationship to decedent and birthdate of spouse, children, or issue of deceased children of decedent, is as follows: (Do not answer if information appears on petition for probate.)

NAME	RELATIONSHIP	DATE OF BIRTH
<u>Bernie J. Hilary</u>	<u>Husband</u>	<u>1886</u>
<u>Noris E. Hilary</u>	<u>Son</u>	<u>1908</u>
<u>Keith M. Hilary</u>	<u>Son</u>	<u>1910</u>

- (6) Did decedent have access to a safe deposit box or other place of safekeeping at the time of his death? No
A. Name and address of bank or other depository None
- (7) Did the undersigned person or persons filing return make diligent and careful search for property of every kind left by decedent and for information as to any transfer of a material portion of decedent's property during his lifetime without an adequate and full consideration in money or money's worth? Yes
- (8) Will there be Minnesota probate proceedings? No
- (9) Do any of the surviving joint tenants on Schedule I claim that they furnished adequate and full consideration or any portion thereof in money or money's worth toward purchase or acquisition of the joint property? - - -
Was any of the property held by decedent and others as joint tenants acquired by them by gift or inheritance from a third person? - - -
Give details of such claims on Schedule I or by separate affidavit.

INSTRUCTIONS

- STATUTES: The inheritance tax law appears in Minnesota Statutes, Chapter 291. Taxable transfers are defined in Minnesota Statutes 291.01. Filing an inheritance tax return is required by Minnesota Statutes 291.12.
- USE AND PROCEDURE: This return will be used in all estates to report all transfers from deceased persons to heirs or beneficiaries which are not included in the inventory in a Minnesota probate proceeding.
 - If there is a Minnesota probate proceeding (general administration, special administration, summary distribution, or petition for decree of descent), the return will be filed with probate court. If a tax may be due, or if a waiver of inheritance tax lien from the commissioner is needed, prepare the return in duplicate.
 - If there is no Minnesota probate proceeding, only an original return must be filed directly with the Department of Taxation, Inheritance and Gift Tax Division, St. Paul 1, Minn. DO NOT FILE IN DUPLICATE.
 - If it is claimed that decedent was not a resident of Minnesota, an Affidavit of Non-Residence (Form D of T. EG 1019), furnished by the Commissioner of Taxation, must be filed with this return. In such case, this return will disclose the details of transfers of property having situs in Minnesota, and the total value of transfers in each class of property having situs elsewhere.
- DETERMINATION OF TAX: The court will determine the tax upon property included in the probate proceeding. The department will determine the tax upon the transfers disclosed in the return.
- The representative of the estate or other person executing the return is obliged to report all transfers which may be subject to tax. Each schedule of the return is to be construed as a question which must be answered by describing the transfers or by stating that there were none of this class, if such is the case.
- Satisfaction or waiver of inheritance tax lien upon the transfer of joint tenancy property can be obtained from the Department of Taxation by use of the Affidavit of Survivorship, Joint Tenancy or Remainderman, D. of T. EG 1018, which may be purchased from a legal stationer. FILE IN DUPLICATE.
- If space in any schedule is insufficient, additional schedules in like form may be attached.
- The value of all properties transferred and reported herein is the full and fair market value on date of death.

COMMISSIONER OF TAXATION
Director, Inheritance and Gift Tax Division

004222428

SCHEDULE 1 — PROPERTY HELD IN JOINT TENANCY

All property of whatever kind, whether real estate, personal property, bank accounts, U. S. Savings Bonds, etc., in which the decedent held an interest at the time of his death as a joint tenant or as co-owner with right of survivorship, must be disclosed in this schedule.

Claims of consideration furnished by the survivor, or claims of creation of the joint tenancy by gift or inheritance must be stated in an affidavit giving verifiable details showing the source, nature, amount and

proportion of the survivor's contribution. Exhibits submitted to prove claim will be returned upon request. The homestead of decedent, if included in any of the schedules, must be identified before the exemption in favor of spouse or minor or dependent children can be allowed. Excess homestead area, if any, must be separately described and valued.

Please group all properties transferred to each surviving joint tenant.

Date of Transfer to Joint Tenancy	Description of Property (Legal description of Land; Street Address of City Realty; Acreage of Rural Land). Specify Liens, if any. Homestead must be designated.	Surviving Joint Tenant (Give Name and Relationship to Decedent)	Assessor's Full and True Value of Realty Or Unit Value of Personalities (On Date of Death)	Gross Market Value of Whole Property
SAMPLE: 6-21-50	Lot 1, blk. 1, Lief's Add. to St. Paul, Ramsey Co., Minn., 6000 Montclair Rd., St. Paul. Homestead. Mortgage, \$1,000.00	Mary Doe, wife	\$3,800.00	\$12,500.00
7-5-57	100 shares General Motors Co., common \$100 par Certificate No. 1292816	John Doe, son	N. Y. S. E. 751½	\$7,550.00
	None			

Total (Col. 5.)	-	-	-	-	-	-	-	-
Less liens (Col. 2.)	-	-	-	-	-	-	-	-
Net	-	-	-	-	-	-	-	-

Report all life and accident insurance proceeds payable on the death of the decedent to named beneficiaries. Do not include insurance payable to estate.

Report all life and accident insurance proceeds payable on the death of the decedent to named beneficiaries. Do not include insurance payable to estate.

SCHEDULE III — ANNUITIES, DEPOSITS, ETC.

Report all other types of contracts with insurance companies, or others, transferred or payable on decedent's death, including the following: annuities, pensions and retirement funds; supplemental contracts or deposits (which may be proceeds of insurance policies or annuities received from a prior decedent or matured endowment policies, etc.); and cash value of insurance policies on life of another

which may have been assigned to this decedent. Where pension plans meet Sec. 401 (a) IRC 1954 requirements, so state. Show employee and employer contributions, cost, amount and method of payments to be made. Submit copies of Plans which do not meet said requirements.

SCHEDULE IV — TRANSFERS BY THE DECEDENT

(If any transfer is considered not taxable, so designate. Otherwise designate whether transfer is taxable under A., B., or C.)

A. Transfers in contemplation of death:

Report transfers or gifts by decedent before his death, which are in the nature of a final disposition in anticipation of death. It is presumed that a transfer of a material portion of decedent's property within three years prior to death is made in contemplation of death.

Report gifts made by decedent during his lifetime which total more than \$3,000 to one donee in any calendar year.

B. Transfers intended to take effect in possession or enjoyment at or after death:

Report transfers of property by deed, trust or agreement in which the decedent had retained a life estate, or all or part of the income for life, or a power of revocation.

Report transfers in which the beneficiary's possession or enjoyment takes effect at or after decedent's death or in which the deed or instrument of title is delivered or recorded at or after decedent's death.

NOTE: Under both A. and B. copies of trust instruments must be attached to the return as exhibits. If it is claimed that any transfer is non-taxable, detailed verified statements of the claim must be submitted.

C. Powers of Appointment:

Report the property in respect to which the decedent held a power of appointment at any time. Attach a copy of the instrument granting the power of appointment to the decedent and a schedule of the assets subject to the power at date of death, together with the values of such assets.

Did the decedent exercise the power?

Attach a copy of the instrument exercising the power unless it is a will previously filed for probate. If the power had been relinquished by decedent, attach a copy of the instrument.

(LIST TRANSFERS ON NEXT PAGE)

SCHEDULE IV — TRANSFERS BY THE DECEDENT (Continued)

(If any transfer is considered not taxable, so designate. Otherwise designate whether transfer is taxable under A., B. or C.)

Date of Transfer	Description of Property Transferred (Legal Description of land; Street Address of City Realty; Acreage of Rural Land). Specify Liens, if any.	Transferor and Relationship to Decedent	Assessor's Full and True Value of Realty Or Unit Value of Personal Property on Date of Death	Gross Fair Market Value
	None			
Total (Col. 5) -				
Less Liens (Col. 2) -				
Net				

SCHEDULE V — MISCELLANEOUS

Report the transfer of any property belonging to the decedent which has not been included in a Minnesota probate proceeding and has not been otherwise reported in Schedules I to IV of this return. (In the

event of no probate, this schedule may include automobiles, household goods, personal effects, U. S. Postal Savings, U. S. Savings Bonds and other tangible or intangible personal property, if any.)

Description of Property (Specify Liens, if any)	Transferor, Heir or Beneficiary Relationship to Decedent	Full and Fair Market Value on Date of Death	Net Value After Liens
None			

I, Bernie J. Hilary,
the executor/administrator/transferee, custodian or trustee of the estate of the above named decedent do hereby swear that I have carefully examined the foregoing return, including the separate sheets attached, if any, and that, to the best of my knowledge,

information and belief, herein is listed all of the property required by law to be included in said return; that all questions have been truly answered; that I have no knowledge of any transfers required to be included in this return except as stated; and that to the best of my knowledge, information and belief the values shown on the foregoing schedules are full and fair market values as of the date of the decedent's death.

Subscribed and sworn to before me this 22nd
day of March, 19 63

(Signature) Bernie J. Hilary

James Shaddock
Notary Public, County of Stearns, State of Minnesota
My commission expires Feb. 12, 1968

(Address) Kimball
Minnesota

File No. 12,566

State of Minnesota,

County of STEARNS

Re: Estate of

Mary J. Hilary Decedent

**INHERITANCE TAX RETURN
DEPARTMENT OF TAXATION**

Filed March 22nd, 1963

Clara M. Hilary
Clerk of Probate Court

Attorney

Address

SECURITY PRINTING COMPANY, ST. CLOUD, MINN.
No. 2850A

0042 2431

State of Minnesota, }
County of Stearns } ss.

IN PROBATE COURT

File No. 19,566

IN THE MATTER OF THE ESTATE OF

Mary J. Hilary,

Decedent.

Final Decree

(SUMMARY PROCEEDINGS)

The above entitled matter came on to be heard on the 22nd day of

March, 1963, upon the petition of Bernie J. Hilary

praying for

Summary Distribution or assignment.

(Here insert summary assignment or distribution; special administration; general administration; or probate of will and summary assignment or distribution.)

Said petitioner appeared in person and by attorney Nobel Shadduck
and no one appeared in opposition.

And the Court having considered the evidence produced at said hearing, the arguments of counsel and the files and records
in said matter, finds the following facts:

FIRST—That notice of said hearing has been given and served as required by law and the order of this Court for said
hearing.

SECOND—That said decedent died in testate on the 31st day of

January, 1963, and at the time of her death was a resident of the said County of

Stearns and State of Minnesota.

THIRD—That the estate of said decedent consists of the following property, to-wit:

(A) Personal property of the value of \$ comprising the following items, viz:

None

(B) Real property described as follows: The homestead of decedent situate in the County of _____

Stearns

and State of Minnesota, described as follows, to-wit:

Lots Thirteen and Fourteen in Block numbered Six, in the Original Townsite of Kimball, according to the plat and survey thereof on file and of record in the office of the Register of Deeds, in and for said County and State.

FOURTH—That all of said property is exempt from all debts and charges in Probate Court.

~~/s/ THE HILARY HEIRS~~

~~surviving spouse of said decedent is entitled to all of said personal property, and that /s/ he has selected the same pursuant to Section 28 of the Minnesota Probate Code.~~

FIFTH

~~/s/ THE HILARY HEIRS~~—That the following named persons are the heirs at law

of said decedent, and are all of the persons entitled to the residue of said estate of said decedent, to-wit:

Bernie J. Hilary, surviving spouse of decedent, and Noris E. Hilary and Keith M. Hilary, children of decedent.

AS CONCLUSIONS OF LAW FROM THE FOREGOING FACTS, The Court finds and determines that there is no need for the appointment of a representative and that the administration should be closed summarily.

NOW THEREFORE, On motion of Nobel Shadduck

attorney for said petitioner, and by virtue of the power and authority vested in this Court by law, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, and the said Court does hereby ORDER, ADJUDGE AND DECREE, that all and singular the above described personal property be, and the same hereby is, assigned to and vested in the above named persons in the following proportions and estates, to-wit:

None for distribution.

and that the title to the above described real estate has passed to and is hereby assigned to and vested in the above named persons in the following proportions and estates, to-wit:

All thereof to the said Bernie J. Hilary, surviving spouse, for and during the term of his natural life and after his death an undivided one-half (1/2) thereof to each of the said Noris E. Hilary and Keith M. Hilary, in fee simple.

TO HAVE AND TO HOLD THE SAME, Together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said above named persons, their heirs and assigns; without prejudice, however, to any lawful conveyance of said property or any part thereof by said persons, or any of them, heretofore made.

Dated at St. Cloud, Minnesota, this 22nd day of March, 1963



John Lang
Probate Judge.

State of Minnesota,

County of _____

ss.

IN PROBATE COURT

I, _____

of the Probate Court

within and for said County, and Custodian of the Seal and Records of said Court, do hereby certify that I have compared the foregoing copy of Final Decree (Summary Proceedings) with the original record thereof preserved in this office and have found the same to be a correct transcript of the whole thereof.

COURT
SEAL

IN TESTIMONY WHEREOF, I have herunto subscribed my name and

affixed the Seal of said Court, at _____

in said County, the _____

day of _____

, 19____

_____ of the Probate Court.

File No. 19,566

State of Minnesota,

County of Stearns

IN PROBATE COURT

IN THE MATTER OF THE ESTATE OF
Mary J. Hilary,
Deceased.

Final Decree

(SUMMARY PROCEEDINGS)

OFFICE OF REGISTER OF DEEDS

State of Minnesota,

County of _____

I hereby certify that the within Instru-
ment was filed in this office for record on
the _____ day of _____,
19____, at _____ o'clock _____ M.
and was duly recorded in Book
of _____, page _____

Register of Deeds.

By _____, Deputy

Transfer entered this _____
day of _____, 19____

County Auditor.

By _____, Deputy

Filed the 22nd day of March
19____, and recorded in Book 96
of Decrees, page 606

Rose Lynn Thompson
Probate Judge-Clerk.

No. 2721*

State of Minnesota,

County of Stearns

IN PROBATE COURT

19,568

In the Matter of the

~~Mental Illness~~
~~Sanity~~
~~Inebriety~~
~~Mental Deficiency~~
~~Epilepsy~~

PETITION FOR COMMITMENT

of John Winskowski

Patient.

TO THE HONORABLE PROBATE JUDGE OF SAID COUNTY:

Your petitioner respectfully represents to the Court and alleges that John Winskowski

whose address is 319 24th Avenue North, St. Cloud, is an inebriant person.

That your petitioner is -- related to the said above named person as follows: spouse

That the indications of inebriety manifested by him are as follows:

(Here give fully the symptoms on which the charge of inebriety is based.)

Patient has been drinking approximately for the past twenty years and
 excessively for the past ten years, resulting in marital discord and
 individual ineffectiveness.

That the said alleged inebriant person will not appear in Court
 voluntarily, and that it will be necessary to issue a warrant to bring him before this Court.

That the names and addresses of the nearest relatives of the said patient are:

Name	Address	Relationship
Mrs. Ann Winskowski	319 24th Avenue No. St. Cloud	Spouse
Mrs. Blanche Winskowski	Seattle, Washington	Mother
Louis Winskowski	2205 Clearwater Road, St. Cloud	Brother

That said patient was born in Holdingford, Minnesota is about 50
 years of age, and the parent of no children.

That his residence and place of legal settlement is Stearns County, Minnesota.
 (If not a resident of Minnesota, set out as fully as possible where he came from, how long he has been in the County
 named.)

That said alleged patient is W.W. II a United States War Veteran.

That no restraint has been employed.

That the supposed cause of inebriety is unknown

0043 2436

That the said patient has been treated by Henry J. Reif, M.D., St. Cloud

That the said patient is the owner of the following described real and personal property, to wit:

House and lot in joint tenancy; 15 unimproved lots in Little Falls,
Harrison County.

WHEREFORE, your petitioner prays that this Court will make due inquiry into the matter, and to that end that said above named person be brought into said Court and examined as to said alleged inebriety and if found to be inebriant that he be committed in accordance with the statutes in such case made and provided.

x Mrs. Ann Winkowski

State of Minnesota,

County of Stearns

} ss.

Mrs. Ann Winkowski, being first duly sworn, deposes and says that he is the petitioner in the foregoing petition; that he knows the contents thereof, and that the averments of said petition are true of her own knowledge, save as to such as are stated on information and belief, and as to those he believes them to be true.

x Mrs. Ann Winkowski

Subscribed and sworn to before me this 20th day of February, 1963

R. D. Bringman

My commission expires Sept 16, 1969.

R. F. BRINGMAN, D. C. and Clerk,
Notary Public, Stearns County, Minn.
My Commission Expires Sept. 16, 1969

07-599
No. 19,568

State of Minnesota,

County of Stearns

IN PROBATE COURT

IN THE MATTER OF THE ALLEGED
inebriety

of John Winkowski
Patient.

PETITION FOR
COMMITMENT

Filed this 27th day of
February, 1963

Richard R. Butcher
Probate Judge-Clerk.

No. 384-P

STATE OF MINNESOTA,

County of Stearns }

IN PROBATE COURT

In the Matter of the

~~Mental Illness /~~
~~Sexuality /~~
~~Inebriety~~
~~Mental Deficiency /~~
~~Alcoholism /~~

ORDER FOR HEARING
AND
FOR EXAMINATION

of John Winskowski

Patient

Ann Winskowski, having filed in this court a petition alleging that the above named patient is a n inebriate person and praying for his commitment;

IT IS ORDERED, That such petition be heard and said patient be examined, in the Probate Court Room in the Court House in the City of St. Cloud Minnesota on the 28th day of February, 19 63, at 9:30 o'clock A.M., and that notice hereof be given to said patient ~~and~~

by the service of a copy of this order upon ~~each of them~~ patient, personally, prior to said examination. You may request counsel if you so desire.
 Dated February 27th, 19 63.

(Probate Court Seal)

John Long
 Probate Judge

0043 2438

AFFIDAVIT OF SERVICE

STATE OF MINNESOTA,

County of STEARNS }

Fredrick Pelzer, being duly sworn, on oath says: that on the 27th day of February, 19 63, he served the foregoing order upon the patient therein named at city of St. Cloud in said county and state by handing to and leaving with him personally a true copy thereof.

Subscribed and sworn to before me

this 27th day of February, 19 63

Audrey Hamilton
AUDREY HAMILTON Notary Public

NOTARY PUBLIC-STEARN'S COUNTY

MY COM. EXPIRES FEB. 6, 1970

State of Minnesota.

County of Stearns

IN PROBATE COURT

IN THE MATTER OF THE

inebriety

of John Winkowski

Patient

ORDER FOR HEARING
AND
FOR EXAMINATION

ADMISSION OF SERVICE

I hereby admit due and personal
service of the within order this
day of , 19 .

Attorney for Patient

County Attorney

Filed this 28th

day of February, 19 63

Audrey Hamilton
Probate Judge-Clerk

No. 9934-P

0043 2439

STATE OF MINNESOTA,

County of Stearns

} ss.

IN PROBATE COURT

In the Matter of the

~~John W. Winkowski~~
~~Schultz~~
~~Inebriety~~
~~Michael J. Winkowski~~
~~Winkowski~~

ORDER TO APPREHEND AND CONFINE

of John Winkowski

319-24th Avenue North-St. Cloud

Patient.

A petition for commitment of said patient having been filed herein,

IT IS ORDERED, That the Sheriff of Stearns County, Minnesota, forthwith

apprehend the above named patient and retain him in his custody until further order of this court.

Dated this 27th day of February, 19 63.

Hearing: Feb. 28th, 1963 at 9:30 A.M.

(Probate Court Seal)

John Lang
Probate Judge.

00432440

STATE OF MINNESOTA
COUNTY OF STEARNS

AFFIDAVIT OF SERVICE

I hereby certify and return that by virtue of the within Warrant I have arrested the within named Defendant, John Winskowski, and have his body now in Court.

Dated this 27th day of February, 1963.

Audrey Hamilton
AUDREY HAMILTON

NOTARY PUBLIC-STEARNs COUNTY
MY COM. EXPIRES FEB. 6, 1970

Mileage: .40

Darrel W. Hurd
DARREL W. HURD

SHERIFF OF STEARNs COUNTY

BY:

Frederick P. Peyer
Deputy

No.

STATE OF MINNESOTA,

County of Stearns

IN PROBATE COURT

IN THE MATTER OF THE ALLEGED

inebriety

of John Winskowski

Patient.

Order to Apprehend
and Confine

Filed this 27th day of

February 27, 1963

G. Evelyn Heston
Probate Judge - Clerk.

No. 3841*

0043 2441

State of Minnesota,

County of Stearns

} ss.

IN PROBATE COURT

In the Matter of the Inebriety

of John Winskowski

Patient

ORDER APPOINTING
GUARDIAN AD LITEM

A petition having been filed in this Court alleging that the above named patient is an inebriate

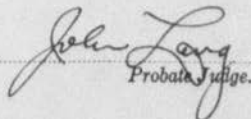
person and praying for commitment; and it appearing that a guardian ad litem should be appointed to protect the interests of said person in said matter,

IT IS ORDERED, That A. B. Hinnenkamp

of St. Cloud, Minnesota, be and he hereby is appointed guardian ad litem of said patient to act in all the proceedings herein.

Dated February 28th, 19 63

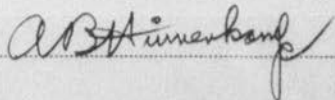
(PROBATE COURT SEAL)


Probate Judge.

CONSENT

I do hereby consent to act as guardian ad litem of the patient named in the foregoing order for the purposes stated therein.

Dated February 28th, 19 63



0043 2442

19,568

No. 19,568

State of Minnesota,

County of Stearns

IN PROBATE COURT

IN THE MATTER OF THE ALLEGED

Inebriety

of John Winskowski
Patient.

ORDER APPOINTING
GUARDIAN AD LITEM

Filed this 28th day of

February, 19 63

Roseline Kellhouse
Probate Judge—Clerk.

No. 3912*

0043 2443

State of Minnesota,

County of Stearns

} ss.

IN PROBATE COURT

In the Matter of the

~~Mental Illness~~
~~Senility~~
~~Inebriety~~
~~Mental Deficiency~~
~~Epilepsy~~

of John Winskowski

To the Hon. R. J. Nierengarten, County Attorney of said County:

SIR: Please take notice that a petition has been filed with the above court alleging the

Inebriety

of the above named patient.

Mental Illness—Senility—Inebriety—Mental Deficiency—Epilepsy

You are hereby notified and required to appear at the examination of said patient to be held at my office on

the 28th day of February, 1963 at 9:30 o'clock A.M., to represent

the petitioner in said matter and to take part in the said examination as provided by law.

Dated this 28th day of February, 1963.

(Court Seal)

John Lang
Judge of Probate.

00432444

No. 19,568

State of Minnesota.

County of Stearns

IN PROBATE COURT

Notice to County Attorney
Mental Illness, Senility, Inebriety,
Mental Deficiency, Epilepsy

In the Matter of { Mental Illness
Senility
Inebriety
Mental Deficiency/
Epilepsy
of

John Winskowski

Due service of the within notice is
hereby admitted at *H. Cloud*

Minn., this *28th* day of

February, 19*63*

[Signature]
County Attorney.

By

Filed in my office this *28th* day of

February *1963*.

Roschke R. Kellerman
Clerk—Judge of Probate.

State of Minnesota,

County of Stearns

} ss.

IN PROBATE COURT

In the Matter of the

~~Mental Illness~~
~~Sensility~~
~~Inebriety~~
~~Mental Deficiency~~
~~Epilepsy~~

APPOINTMENT OF EXAMINERS

of John Winskowski

Patient.

Upon all of the files, records and proceedings herein,

IT IS ORDERED, That Dr. P. E. Stangl and Dr. J. P. McDowell

are appointed to assist in the examination of said patient.

Dated this 28th day of February, 1963.

(Probate Court Seal)

John Long
Probate Judge.

0043 2446

No. 19,568

State of Minnesota.

County of Sydney

IN PROBATE COURT

IN THE MATTER OF THE ALLEGED

Inebriety

of John Winskowski

Patient.

Appointment of
Examiners

Filed in my office this 28th day of

February 19 63.

Raymond K. Hoffmann
Clerk—Judge of Probate.

No. 401-R-P

0043 2447

State of Minnesota.

County of Stearns

IN PROBATE COURT

In the Matter of the

~~Myself, Myself~~
~~Exhibit~~
 Inebriety
~~Myself, Myself~~
~~Exhibit~~

OATH OF EXAMINERS

of John Winskowski

Patient.

State of Minnesota.

County of Stearns

ss.

We Dr. P. E. Stangl

and

Dr. J. P. McDowell

do each swear that we will faithfully and justly perform all the duties of the office and trust which we now assume as members of the Board of Examiners to examine the above named patient, and determine as to his being inebriate to the best of our ability.

x

x

Subscribed and sworn to before me this

28th

day of

February

1963

(Probate Court Seal)

John Ling
 Probate Judge-Clerk.

0043 2448

No. 19,568

State of Minnesota, }
County of Stearns } ss.

IN PROBATE COURT

IN THE MATTER OF THE ALLEGED

Inebriety

of John Winskowski
Patient.

OATH OF EXAMINERS

Filed this 28th day of
February, 19 63

Rachel J. Kish...
Probate Judge-Clerk.

SOCIAL AND MEDICAL HISTORY REPORT
TO BE COMPLETED BY COURT

Patient's Name (Last, First, Middle)

Winskowski, John

Petitioner's Name

Winskowski, Ann

Address 319 24th Avenue North

St. Cloud, Minnesota

Relationship to Patient

Spouse

Original

TO BE COMPLETED BY COUNTY WELFARE DEPARTMENT

County of Legal Settlement

Stearns

Date of Birth

6-9-1912

Place of Birth

Holdingford, Minnesota

Social Security No.

Unknown

Length of Time in U.S.?

Life

Citizen of U.S.?

Yes

Marital Status

Married

Date and Place of Marriage

2-14-1942, Minneapolis, Minn.

Sex

Male

Race

Caucasian

Religion

Catholic

Color Eyes

blue

Color Hair

brown

Weight

185

Height

5'10"

Patient's behavior leading to petition for hearing: Describe factors which led to petition. Indicate source of information.

Patient has been drinking approximately for the past twenty years and excessively for the past ten years, resulting in marital discord and individual ineffectiveness.

MENTAL SIGNS AND SYMPTOMS: Indicate source of information

Appearance

Indifferent to personal appearance

Attitude of patient to others

suspicious, nervous, withdrawn, associates with very few people spontaneously.

Mood

Labile

Content of thought (fears, delusions, obsessions, etc.)

Patient suspects spouse of infidelity when drinking

Hallucinations: Indicate type (hearing, seeing, or feelings — things that actually do not exist)

None known

Intellect and Memory: Indicate psychological test data, if available.

Apparently within normal, except when intoxicated.

Orientation as to time, place, and person

Well oriented, except when intoxicated.

Describe patient's adjustment and personality prior to onset of illness. (Significant facts of early life. Include school adjustment and age at which highest grade was attained. Describe any anti-social behavior. Give source of information.)

Patient had approximately a seventh grade education. Patient's father was an alcoholic and two of patient's sisters and a brother present a history of alcoholism.

0043 2450

WORK RECORD: Give jobs in chronological order. Get verified information whenever possible.

Employer and Address	Kind of Work	Dates	Wage	Reason for Leaving
Franklin Mfg. Co. St. Cloud, Minn.	Millwright - Maintenance	past 16 years	\$109 per wk.	Still employed

MEDICAL HISTORY: Indicate only major events believed by patient or family to be significant in relation to present illness. Give dates and places of any previous hospitalization for mental illness, senility or alcoholism. Include any intemperate use of alcohol or drugs. Does patient have any acute or chronic illness or handicap? Give source of information.

Patient has a hemorrhoid condition. He smokes excessively.

Describe patient's home situation including family relationships and attitudes. (What does family think of patient? What does patient think of family?) Indicate briefly, living conditions (physical) in relation to care of patient.

Patient appears to have a hostile, dependent relationship with spouse. He suspects spouse of infidelity when drinking.

Resources available for care of patient if not hospitalized: Availability of suitable nursing, boarding, or relative home, etc.

PATIENT'S PROPERTY		Monthly Income from Property or Pensions	PATIENT'S DEBTS	
Type	Pres. Cash Val.		To Whom Owed? (Name and Address)	Amount
House and lot in joint tenancy 15 unimproved lots in Little Falls, Minn.			Citizens Loan & Investment Co. St. Cloud - approx. \$6,000 mtg. on house.	

Name of company and types of hospital insurance carried by patient

Blue Cross - Blue Shield

Name and address of responsible relative Mrs. Ann Winkowski, 319 24th Avenue North, St. Cloud.

INCOME OF RESPONSIBLE RELATIVE		DEBTS OF RESPONSIBLE RELATIVE		
Give employer's name	Monthly	Type of Debt or Expense	Amount	Monthly Payment
Pensions, OASD, etc.				
Dividends and Interest	NONE			
Rent				
Salary				
TOTAL INCOME				
PROPERTY OF RESPONSIBLE RELATIVE		DEPENDENTS OF RESPONSIBLE RELATIVE		
		Name	Relationship	Age

0043 2451

Discharge Planning: With whom should such plans be made when discharge becomes possible? Indicate relationship.

Planning should be completed with patient's spouse, with notification to this agency.

Worker's Impression: Evaluation of present situation.

FAMILY OF PATIENT: Father, Mother*, Brothers, Sisters, Spouse*, Children *Give maiden name

Name	Date & Place of Birth	Address	Occupation	S.S. No.	C #	Mental or Phys. Disab.
Father						
Stanley Winskowski Expired						
Mother*						
Blanche Kollodge		Seattle, Washington				
Brothers — Sisters						
Three Brothers						
Five Sisters						
Spouse*						
Ann Pec	6-16-1914	319 24th Ave. No.	Housewife			undergoing menopause
Children						
None by this marriage. Patient's spouse had one child (now 29 years old) from a previous marriage.						

County Welfare Department

Stearns

Date

2-20-63

Signature of Welfare Director

[Signature]

TO BE FILLED OUT BY THE PHYSICIAN: Additional or different information than already stated relative to the following:

Patient's behavior leading to petition for hearing:

Excessive drinking for past 10 years

Mental signs and symptoms:

Nothing abnormal

Attitude of patient

Cooperative

Mood and content of thought

Clear

Hallucinations

None

Intellect and memory orientation

Within normal

Medical history: including current medications

None of record

Has patient threatened or injured others? If so, how? *None*

Has patient threatened or attempted suicide? If so, how? *None*

Does patient have a propensity to suicide now? If so, how manifested? *No*

Is patient destructive? If so, how? *No*

Name of family physician

Signature of examining physician

[Signature]

M.D.

Signature of examining physician

[Signature]

M.D.

00432452

STATE OF MINNESOTA

County of Stearns

IN PROBATE COURT

Findings of the

BOARD OF EXAMINERS

In the Matter of the

~~Mental Illness~~
~~Substance Abuse~~
~~Inebriety~~
~~Psychopathic personality~~

Of John Winskowski

We, the Board of Examiners, in the above entitled proceedings, hereby certify and report that on Feb. 28th 19 63
 at 10 o'clock in the fore noon of said day we met at the Court House in the City of St. Cloud, Minnesota
 Name of City or Village

for the purpose of determining whether the above named is a n inebriate person, as alleged in the petition in the
 (Mentally Ill, Senile, Inebriate)
 above entitled proceeding.

R. J. Nierengarten

County Attorney appeared in behalf of petitioner, and A. B. Hinnenkamp

Gdn. ad Litem

~~Attorney at Law~~ appeared in behalf of said patient who was personally present and was examined and observed by us. All proper
 testimony offered by interested persons was received and considered.

From the examination so made by us and upon due consideration of all of the testimony received, we find and determine that
 the above named is not an inebriate person and the court finds that commitment to an institution for the care of
is not
~~psychopathic personality~~ inebriate ~~and psychopathic personality~~ necessary for the welfare and protection of the patient and society.

Dated at St. Cloud, MinnesotaThis 28th day of February 19 63

J. P. McDowell M.D.
J. P. Kottang M.D.
John Long
 Judge of Probate

19,568

STATE OF MINNESOTA

County of Stearns

PROBATE COURT

REPORT OF EXAMINATION

DPW - Med-1042 (Rev. 2-60)

In the Matter of

John Winskowski

~~personally all person~~
~~in inebriate person~~
~~psychopathic personality~~

Filed February 28th, 1963

Clerk of Probate

00432453

State of Minnesota,
County of Stearns

IN PROBATE COURT

In the Matter of the Alleged Inebriety
of John Winskowski

REPORT OF BOARD OF EXAMINERS

We, the Board of Examiners, in the above entitled proceeding hereby certify and report that on the 28th day of February, 1963, at 10 o'clock in the fore noon of said day, we met at the Court Room of the above named Probate Court in the City of St. Cloud in the County of Stearns State of Minnesota, for the purpose of determining whether John Winskowski is an inebriate person, as alleged in the petition in the above entitled proceeding, R.J. Nierengarten, Esquire, County Attorney of said County, appeared in behalf of said Petitioner

The said John Winskowski was present and was examined and observed by us. All proper testimony offered by any person interested was received and the following named persons were duly sworn and testified concerning the matters set forth in said petition:

The following proceedings were also had and taken:

We also elicited from said Petitioner and the several witnesses appearing before us in said proceedings information required to properly answer the questions set forth in Schedule A hereto attached and have set forth in said schedule the information so obtained and responsive to the said several questions respectively.

From the examination so made by us and upon due consideration of all the testimony received we find and determine that John Winskowski is not

1. A person incapable of managing his self and his affairs by reason of the habitual and excessive use by him of intoxicating liquor, drugs or other narcotics.

~~2. A person incapable of managing his self and his affairs by reason of the habitual and excessive use by him of intoxicating liquor, drugs or other narcotics.~~

Dated at St. Cloud, Minnesota, this 28th day of February, 1963.

J. P. [Signature]
R. J. Nierengarten
John [Signature]

NOTE: Strike out two of the paragraphs not appropriate to the case. In inebriate cases answers to Schedule A should be attached, In insanity cases answers to Schedule B should be attached.

State of Minnesota.

County of Stearns

IN PROBATE COURT

IN THE MATTER OF THE ALLEGED

inebriety of

John Winskowski

Report of the Board of Examiners

State of Minnesota. }

County of }

I do hereby certify that I have compared the within copy of the Report of the Board of Examiners with the original thereof on file in said Court, and have found the same to be a true and correct copy of such original and the whole thereof.

~~Witnessed before me at the County of Stearns, State of Minnesota, this~~

Filed ~~11 Feb~~ this 28th day of

February, 19 63

Boyd K. Kuylenstierna
Clerk of Probate.

State of Minnesota,

County of Stearns

} ss.

IN PROBATE COURT

CERTIFICATE

This is to certify that Dr. P. E. Stangl

of St. Cloud, Minnesota

is a reputable person, a graduate

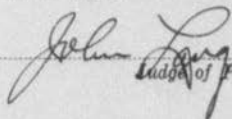
of Rush Medical College

which is an incorporated medical

college; that he is a permanent resident of this State, has been in the actual practice of the profession of medicine for at least one year next preceding to the date hereof, and is registered as licensed by the State Board of Medical Examiners; that he is neither superintendent, proprietor, an officer, or regular medical attendant of any institution for the care and treatment of

Inebriety

(SEAL)


Judge of Probate.

Dated February 28th, 19 63

(Note—A copy of this certificate is to be filed in the Court and original delivered to the doctor. Sec. 3857. R. L. 1905.)

0043 2456

State of Minnesota, }
County of Stearns

PROBATE COURT

IN THE MATTER OF

the Inebriety

of John Winskowski

CERTIFICATE

Filed February 28th,

, 19.63

Rebecca K. Kephau
Clerk of Probate Court

Form prescribed by State Board of
Control, pursuant to Sec. 3871, Revised
Laws of 1905.

State of Minnesota,

County of Stearns

} ss.

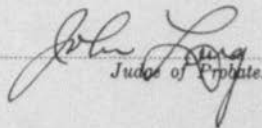
IN PROBATE COURT

CERTIFICATE

This is to certify that Dr. J. P. McDowell

of St. Cloud, Minnesota is a reputable person, a graduate
of Milwaukee University which is an incorporated medical
college; that he is a permanent resident of this State, has been in the actual practice of the profession of medicine for at least
one year next preceding to the date hereof, and is registered as licensed by the State Board of Medical Examiners; that he is
neither superintendent, proprietor, an officer, or regular medical attendant of any institution for the care and treatment of
Inebriety

(SEAL)


Judge of Probate.

Dated February 28th, 1963

(Note—A copy of this certificate is to be filed in the Court and original delivered to the doctor. Sec. 3857. R. L. 1905.)

0043 2458

State of Minnesota, }
County of Stearns

PROBATE COURT

IN THE MATTER OF

the Inebriety

of John Winskowski

CERTIFICATE

Filed February 28th,

, 1963

Rachel Kuehn
Clerk of Probate Court

Form prescribed by State Board of
Control, pursuant to Sec. 3871, Revised
Laws of 1905.

State of Minnesota.

PROBATE COURT

County of Stearns

STATEMENT OF PROPERTY

In the Matter of

John Winskowski

Inebriate Person - *Alcoholic / Drunk / Intoxicated*

On February 28th, 1963, this Court *doctored* heard Petition
on alleged inebriety *Alcoholic / Drunk / Intoxicated*

Under the provisions of the Minnesota Statutes, Chapter 524, Section 26, I hereby certify that said Petitioner is an inebriate person as defined in the Minnesota Statutes, Chapter 524, Section 26.

STATEMENT OF PROPERTY OF PATIENT, SPOUSE, CHILDREN OR PARENTS:

(State which)

1. REALTY:

A. Homestead

Description

*House & lot in Joint Tenancy all subject to
Mortgage in sum of \$6000.00*

2. Value

3. House

Value \$

4. Other buildings on Homestead

Kind

5. What used for

6. Value of such buildings

7. Annual income from Homestead

8. Are there any mortgages or liens against the above realty

Amount

When due

B. Other lands:

1. Description

15 unimproved lots in Little Falls Minn

2. Value

3. Buildings thereon

4. Rented or not

5. Annual income

6. Are there any mortgages or liens against the above lands

Amount

When due

C. Household goods

Value \$

D. Stock list

Value \$

E. Machinery list

Value \$

F. Notes, mortgages, corporate stocks, bonds, etc., list

G. Cash

H. Other property

Total, \$

0043 2460

File No. _____
State of Minnesota,

County of Stearns

PROBATE COURT

In the Matter of

John Winskowski
 Mch 11 1963 State of Minn.
 Inebriate Person - Ischigogogua Prison 1/11/63

Statement of Property

Filed this 28th day of
 February, 19 63

Barbara Kephner
 Clerk of Probate
 No. 1217-P

LIABILITIES:

List all debts and claims against patient:

Total \$

Net Value of Estate, \$

FAMILY:

Spouse	Ann Winskowski	Address	319-24th Ave. N., St. Cloud	Age
Children		Address		Age
		Address		Age
		Address		Age
		Address		Age
Parents		Address		Age
		Address		Age
Guardian		Address		
Dated	February 28th		19 63	

(PROBATE COURT SEAL)

John Long
 Probate Judge.

State of Minnesota, }
County of Stearns } ss.

IN PROBATE COURT,
EXAMINER'S FEE CLAIM.

In the Matter of the Inebriety }
of John Winskowski }

Dr. P. E. Stangl on being first duly sworn, says that he has a
just and true claim against said County for services in the above entitled matter as follows:

Services as examiner - - - - - \$10.00

2 mile of necessary travel at 15c per mile - - \$.30

TOTAL \$ 10.30

x P. E. Stangl

Subscribed and sworn to before me this 28th day of February, 1963

John Long
Clerk—Judge of Probate.

0043 2462

State of Minnesota,

County of Stearns

PROBATE COURT

IN THE MATTER OF THE

Inebriety

of John Winskowski

EXAMINER'S FEE CLAIM

Filed this 28th day of

February 1963


Clerk - Judge of Probate.

State of Minnesota, }
County of Stearns } ss.

IN PROBATE COURT,
EXAMINER'S FEE CLAIM.

In the Matter of the Inebriety }
of John Winskowski }

Dr. J. P. McDowell on being first duly sworn, says that he has a
just and true claim against said County for services in the above entitled matter as follows:

Services as examiner - - - - - \$10.00

2 mile of necessary travel at 15c per mile - - \$.30

TOTAL - - \$ 10.30

Subscribed and sworn to before me this 28th day of February 1903

J. P. McDowell

John Long
Clerk Judge of Probate.

19,568

State of Minnesota,

Stearns

County of

PROBATE COURT

IN THE MATTER OF THE

Inebriety

of John Winskowski

EXAMINER'S FEE CLAIM

Filed this 28th day of

February 1963

Roscoe Kephart
Clerk—Judge of Probate.

0043 2465

State of Minnesota,

County of Stearns

} ss.

IN PROBATE COURT
EXAMINER'S-FEE ORDER

IN THE MATTER OF THE Inebriety

of John Winskowski

Dr. J. P. McDowell

having been duly appointed an examiner in

Inebriety

in the above entitled matter by an order of this Court and

having filed his duly verified claim for fees allowed by law therefor.

Now, therefore, it is hereby ordered and adjudged that the said

Dr. J. P. McDowell

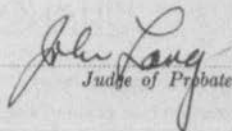
be and he hereby is allowed

Ten and 30/100 - - - - - Dollars (\$ 10.30)

for his services herein and that upon filing this order with the Auditor of said County an order for said amount shall be drawn by said Auditor upon the Treasurer of said County.

Dated February 28th, 1963.

By the Court,


Judge of Probate

0043 2466

19,568

State of Minnesota,

County of Stearns

PROBATE COURT

In the Matter of the Inebriety

of John Winskowski

Examiner's-Fee Order

Filed this 28th day of

February, 1963

Reilyn Kephau
Clerk-Judge of Probate

No. 5095*

County of }
State of Minnesota. } ss.

I, _____ of the Probate Court of said County, do hereby certify that I have compared the within order with the original thereof on file and of record in the Probate office of the County aforesaid, and that the same is a true copy thereof, and of the whole of said original order and record.

In testimony whereof, I have herewith affixed the seal of the Probate Court of said County, and signed my name this

day of _____, 19____

Clerk-Judge of Probate

0043 2467

State of Minnesota,

County of Stearns

} ss.

IN PROBATE COURT
EXAMINER'S-FEE ORDERIN THE MATTER OF THE Inebriety
of John Winskowski

}

Dr. P. E. Stangl having been duly appointed an examiner in
Inebriety in the above entitled matter by an order of this Court and
having filed his duly verified claim for fees allowed by law therefor.

Now, therefore, it is hereby ordered and adjudged that the said Dr. P. E. Stangl

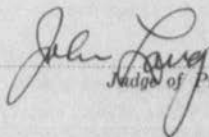
be and he hereby is allowed

Ten and 30/100 - - - - - Dollars (\$ 10.30)

for his services herein and that upon filing this order with the Auditor of said County an order for said amount shall be drawn
by said Auditor upon the Treasurer of said County.

Dated February 28th, 19 63

By the Court,


Judge of Probate

0043 2468

19,568

State of Minnesota,

County of Stearns

PROBATE COURT

In the Matter of the Inebriety

of John Winskowski

Examiner's-Fee Order

Filed this 28th day of

February, 1963

Rachel Kuffner
Clerk-Judge of Probate

No. 3693*

State of Minnesota.

County of

ss.

I, _____ of the Probate Court of said County, do hereby certify that I have compared the within order with the original thereof on file and of record in the Probate office of the County aforesaid, and that the same is a true copy thereof, and of the whole of said original order and record.

In testimony whereof, I have hereunto affixed the seal of the Probate Court of said County, and signed my name this

day of

19

Clerk-Judge of Probate

0043 2469

STATE OF MINNESOTA,

County of Stearns

IN PROBATE COURT

In the Matter of the
alleged
/ ~~Insane~~ /
Inebriety
/ ~~Feeble-minded~~ /
Epilepsy //

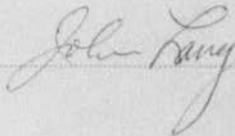
Of John WinskowskiThe above named patient having been found not to be an inebriate

(Insane-Inebriate-Feeble-minded-Epileptic)

IT IS ORDERED, That the above entitled proceedings are dismissed, and said patient is hereby discharged.

Dated this 28th day of February, 1963.

(Court Seal)



Probate Judge.

0043 2470

19,568

State of Minnesota, }

County of Stearns }

PROBATE COURT

Alleged
In the Matter of the } Insanity //
Inebriety
Feeble-mindedness //
Epilepsy //

Of John Winskowski

DISCHARGE

Filed February 28th, 1963

Paulyn Kuchouse
Clerk of Probate

Form prescribed by State Board of Control,
pursuant to Code 1935.