

Sept. 2, 1985.

32 H

This is the substance of a talk that I expect to give to the Rotary Club. In the past, I promised you that, at some time, I would explain why the road six miles west of Sibley was paved with concrete way back in the 1930's. To many uninformed people this would seem to be a misplaced and unwise expenditure of money during those hard times. I must confess that I started the action that brought this about without any <sup>direct</sup> cost to the taxpayers of Osceola County. I will start from the beginning.

The Sears Motor Buggy was my first motor vehicle. I became interested in motor mechanics and was fascinated by the airplane. To beat the draft, and be able to choose my branch of the service, I enlisted in the Army Air Force <sup>was</sup> and sent to Kelly Field, San Antonio, Texas. I passed the trade tests, took the course in motor mechanics, and finished my duty repairing airplane motors.

When I returned from the service, my father built a small shop for me at Cloverdale which I called The Cloverdale Garage. I sold gasoline, oil, tires, accessories, did repairing, trading and sold a few new cars. Auto travel was increasing and the American Automobile Association began to designate highways such as the Lincoln highway or the Atlantic-Yellowstone-Pacific known as the AYP. This AYP highway went through Sibley and was marked by red white and blue markings occasionally on posts, rocks, barns or anything available. This road was laid out through Spirit Lake, Montgomery, Lake Park, Harris, Ocheyedan, Ahlendorf and Sibley to the corner south of Little Rock. <sup>X</sup> This is the road that was later designated by the Highway Commission as Primary Road No. 9. Noting that the highway north from Sanborn, intersecting with the AYP, five miles east of Sibley was well travelled, <sup>in 1924</sup> I leased an acre which I later purchased as a site for a gasoline station. As the large corners were just becoming the vogue, I called it the Big Corner station. (1924) I was purchasing gasoline and oil from Standard Oil Company. The truck delivery man thought that I had a going business so he and his brother put up a similar station on the site of the now Generals Store. <sup>X</sup> They soon became unhappy with the business and sold it to me in 1927. I called it the AYP Service Station.

During this period, the State Highway Commission, now the DOT, was established which took over the designation, construction and maintenance of the main roads in Iowa which became known as the Iowa Primary Road System. Now comes the Iowa Good Roads Association, no doubt funded by contractors and suppliers, with a huge promotional campaign to hard top or pave the primary roads. Their slogan was "Get Iowa out of the mud".

The State had been collecting a nominal gas tax, I believe two cents, which together with the license fees constituted the Primary Road Fund. This fund would not generate enough cash to pave much road each year so the Commission encouraged the counties to hold elections authorizing the issuance and sale of bonds to hasten the project. The first principal payment was five years from date of issue. Although the assessment would be about \$2.00 per acre, it was expected that the principal and interest could be paid in full by the Road Fund. The vote was for \$800,000.00, payable in ten years at \$80,000 per year.

By this time, it became evident that the Highway Commission was going to bypass Sibley with No. 9 so I set about to protect myself by purchasing the lots east of the farmers' elevator in Sibley, now owned by the City, with the idea of building a trackage station on the site. I also purchased a gasoline station at Ashton and an abandoned creamery on the route of the new proposed highway #33, now #60. I later moved the station to this site, after wrecking the old creamery, and made major improvements. It is now owned by the Imhoff Brothers and is known as Imhoff Oil Company.

In the meantime, my relationship with the Standard Oil Company was rapidly deteriorating. It seems that whenever I got in a position to make a little money; they came out with a better deal, for them. I broke with them after the third such better proposition. We had a QDA, quantity discount agreement, the discount being determined by the amount purchased each month. I beat that by installing storage sufficient to carry me over the slow winter months, thus maintaining maximum discount. Gasoline shrinkage had forced me into purchasing electric meter pumps so I was almost independent of Standard Oil Company. I next leased a site on the CSPM&O railroad, installed pumping and bulk petroleum storage equipment and moved my shop from Cloverdale for lub oil and grease storage. In June 1930 I established the first independent oil jobber business in Osceola County, the Sharbondy Oil Company. I started with three carloads of refined petroleum and one carload of lub oil and grease. I trademarked SHARLENE for oil and grease and bought gasoline from Producers & Refiners Corporation; sold under the trade name PARCO. They soon sold out to Sinclair so I decided to go Sharlene exclusively and I bought on the open market for 30 years. Price wars eventually forced a change and I went with Champlin. Standard had been the price setter for many years. For a considerable time we had been undersold by Rock Rapids, Worthington, Sheldon and Spirit Lake but Standard would not cut the price in Sibley. The Standard tank truck man decided to go with me as I had three stations and Standard had one and there was the prospect of more business. This might seem like dirty pool but it was his decision. So, on the day that I was putting the faucets on my truck tank ready to deliver gasoline, the price of gasoline dropped five cents in Sibley. I actually could not blame Standard for this bit of reprisal.

#3

Now you have the picture. I had started a new business, was in debt, and struggling for survival. We were in a depression. Oil was selling at 20¢ and 25¢ per quart and gasoline 3 gallons for 50¢. <sup>at 10¢ per quart</sup> Now comes this punk from the country, I was still living in Cloverdale, who is trying to buck big business and doubting the veracity of the great Iowa Highway Commission. When big changes are made there is usually a fall guy. In Sibley, I was known as the fall guy. <sup>that</sup> The town gave me little or no support. After all, it had conceded the loss of highway #9 and were promised a much better road, #33, from Minneapolis to Omaha through Sibley. Why rock the boat. This road would be built eventually. ~~anytime~~

Law was far from my vocation but I could not understand how the money could be spent on other than the 1/2 mile which had been designated as primary road in Osceola County under Chapter 241. Code of 1924. This 1/2 mile was north of Ocheyedan. I met a lawyer, L. A. Dwinell, who, by the way had been the first president of this club in 1925. I asked him what he charged for his services and he said \$15 ~~per day~~ for research and briefing and \$25 in the court room. Believe it or not, this was per day not per hour. I told him that I would see him later as I might have work for him. Knowing that an insignificant fellow like me would have little weight in a court room, I went over to see my friend, E. L. Harding, who owned <sup>880 acres</sup> ~~a section or two~~ of Osceola County land which was bisected by Primary Road 21, now 59. Ed knew, as well as I, that if the Highway Commission could redesignate #9; they could do the same with #21. I soon had him enlisted as a partner. All subsequent <sup>litigation</sup> ~~court action~~ was in the name of E. L. Harding. It was agreed that we split the costs 50/50.

I had purchased a full page in the local paper, listing all correspondence, hoping to get public support. On August 7th, 1933, I also sent a letter to Rep. Gust Alesch, Chairman of the Highway Investigation Committee, for presentation of of my case to the legislature. All to no avail. Later, in an editorial in the Guthrie Center newspaper, Mr. Alesch and I were ridiculed and my letter was called a "tirade" <sup>or screed</sup>. In fact this case was simple. On Nov. 4th, 1930, a vote was taken 1400 to 905 to hard surface the primary roads of the county. The ballot read in brief "Shall the board of supervisors be authorized to issue bonds from year to year in the aggregate amount not exceeding \$800,000 for the purpose of providing funds for the hard surfacing the primary roads of the county". The Code of 1927, Section 4755-b32, further states "When any county has voted a bond issue for improving of primary roads, such improvement program shall be completed as authorized by the voters of said county". The law did not provide for any additions until improvement of the present primary road system was completed. How then could the Highway Commission spend the county bond money to pave approximately nineteen miles of road when only one-half mile of this improvement was in the primary road system.

#4

The hearing was held in the Osceola County court ~~house~~ before a judge from Rock Rapids and lasted about two days. My duty was to produce the witnesses for the appellant, E. L. Harding. I have spun, rolled, looped and flown airplanes up-side-down but never experienced dizziness such as I had following that hearing. It was <sup>my</sup> first introduction to stress. As this was an equity case, no jury, the judge took it under advisement. This clear law case should not have taken more than two hours to decide; yet the judge sat on it for two weeks, testing the political wind, and returned a judgement upholding the highway commission's action. In the meantime, the graders and pavers were going full speed ahead on the new road location. A day or two after this judgement was publically announced, W. L. Harding, an attorney from Des Moines called on me at Cloverdale. W. L. Harding, ~~was~~ born just three miles from Cloverdale, an ex-governor of Iowa, was, no doubt, alerted by his brother E. L. Harding, the appellant in this action. W. L. said to me; Sharbondy I hear that you and Ed have a problem. I said yes that we had a problem with the highway commissions' interpretation of the law. He asked for a copy of the ballot, read it, and said. "I think we have a case here, you will hear from me soon." That was the end of the conversation and he departed. Soon thereafter, the Supreme Court issued a "stay order" stopping the paving in Osceola County, also in several other locations in Iowa where improvements were being made on more phantom primary roads. The highway commission had to reorganize their finances before continuing on these projects. All subsequent balloting stated specific roads to be improved.

In view of this litigation, the board of supervisors resisted the request of the commission to sell the bonds as <sup>authorized</sup> approved by the Nov. 4, 1930 election. Finally, threatened by a mandamus action, the board did issue and sell \$600,000 worth which was to be used to improve highway #9. However, on Nov. 6, 1934, <sup>another</sup> an election was held rescinding the election of 1930 and the remaining \$200,000 was never issued. While our lawyers were preparing the case for presentation to the supreme court; a group of land owners along the new route of #9 entered the case as intervenors. Their argument was that #9 was <sup>only</sup> being "revised", therefore the change was legal. One snowy night I carried a portfolio of briefs from associate Ralph A. Oliver, Sioux City attorney, to W. L. Harding at Des Moines for presentation to the supreme court the next morning. The final result of this hard fought case was that little, if any, of the \$600,000 was ever spent on highway #9 in Osceola County.

With #9 completed from the east county line to Sibley and the \$600,000 mostly intact, there were only two places that it could be spent; on #20 <sup>and</sup> or the 5 1/2 miles west of Sibley. Improvement of #21 <sup>anticipated</sup> had not been included in the bond issue but it was no problem in getting this done as it was mandated by the voters and the money was available. Thus, E. L. Harding got a piece of the pie as it enhanced the value of his land and I got a bite or two as it improved the traffic at my Big Corner station.

No. 21, now #59, was relatively flat as compared to #9 and required less grading and bridgework resulting in less cost per mile. As a result, we still had money remaining from the \$600,000 bond issue. This money remained dormant for awhile.

During these proceedings, Lyon County held two or three unsuccessful elections to authorize bonds for the improvement of #9. <sup>X</sup> State Representative, O. J. Ditto of Sibley, had recently been appointed by Governor Clyde Herring, to the Iowa State highway commission. Mr. Ditto, myself and others, drove from Sibley west to #75 <sup>X</sup> and observed this as a feasible route for the continuing of #9 west of Sibley. Whether or not this was ever seriously considered; we did get the Commission <sup>in 1936</sup> to <sup>west</sup> pave the  $5\frac{1}{2}$  miles <sup>west</sup> of Sibley to the county line using money remaining from the \$600,000 bond issue. The remainder of the money was finally ~~absorbed into~~ <sup>transferred to</sup> the primary road fund by an "enabling act" passed by the Iowa legislature. Thus, by this interference with the smooth operation of the highway commission, we have highway #21, now #59, paved north to south across the county years ahead of it's planned improvement and the  $5\frac{1}{2}$  miles west of Sibley paved with portland cement that <sup>may</sup> never have occurred. All of <sup>fore</sup> the going remarks are substantially correct and can be verified by the public records. After the  $5\frac{1}{2}$  miles of improvement to the Lyon County line was authorized by the highway commission, Lyon County quickly passed a bond issue to hard surface #9. The gap from Little Rock to hamburger corner <sup>^</sup> was completed later. Incidentally, the paving in Osceola county in the early 30's cost approximately \$38,000 per mile. It was estimated, at that time, that we had a credit of about \$30,000 in the primary road fund.

Since this experience of 50 years ago, I have observed <sup>many</sup> similar attempts to circumvent the law, from the highest office on down, many times with success, for want of inter<sup>vention</sup> ~~ference~~. Many times, continuances and postponements are granted, for various or dubious reasons, until there is no case to decide. Then a moot, or practice, court is held for the satisfaction of the litigants. The dignity of the court proceedings is intended to make the public feel that something has been accomplished. In view of all this, I cannot help but feel that our judiciary system, as we know it today, may be slightly tainted.