

J. E. Hamilton
To
Elbe W. Berry et al

#2603
Fee \$1.50 ✓

Filed for record the 1 day of June
A. D. 1937 at 4:05 o'clock P. M.,

Valda C. Bishop, Recorder

REAL ESTATE CONTRACT

THIS AGREEMENT, Made this 28th day of May, 1937 between J. E. Hamilton, Sole Referee, party of the first part, and Elbe W. Berry-party of the second part.

WITNESSETH: The first party, in consideration of the agreements herein made by the second party, and to be performed by him, hereby agrees to sell and convey unto the second party the following described real estate, to-wit:

Lot Ten (10) in East Addition of Cut Lots on the
East side of the City of Winterset, Madison County,
Iowa.

for the sum of Six Hundred (\$600.00) DOLLARS to be paid in the times and manner following,
viz: One hundred (\$100.00) Dollars in cash at date hereof, receipt of which is hereby
acknowledged.

\$200.00 in cash on or before July 1, 1937, and the balance of
\$300.00 by note and mortgage for three years at 5% per annum,
\$50.00 per year to be paid on the principal of said note and mortgage.

Second party to pay to first party the pro rata amount of the premium
on the present insurance policy covering the buildings on said premises,
the said pro rata amount to be computed as of July 1, 1937.

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all of said deferred payments to bear interest from date at the rate of 5% per cent per annum, payable as set out above, and all payments of principal and interest shall be due and payable at Hamilton & Webster's Law Office.

The second party agrees that he will promptly and punctually pay each of said sums of money and the interest thereon, as each ^{of said} ^{the} sum or interest shall become due, and without any default whatsoever, and that he will pay before the same become delinquent all taxes, levies and assessments, which shall be imposed or levied upon said real estate after the date hereof, including the taxes levied or to be levied for the year 1937, except the second half of the 1936 taxes.

Possession of said premises to be given on July 1, 1937.

In the event that the said second party, his representatives or assigns, shall pay or cause to be paid the said several sums of money and the interest thereon, punctually and at the very times limited and shall pay and discharge all taxes and assessments against said premises as above provided, and shall strictly and literally keep and perform each and all agreements upon him imposed by the terms thereof, then the first party will make, execute and deliver unto the second party, his representatives or assigns, a good and sufficient warranty deed of said premises, conveying the title with the usual covenants of warranty except as to liens and incumbrances suffered, created or imposed thereon by the second party, his representatives or assigns, and will deliver to said second party a good and sufficient abstract of title showing the title to be good and marketable, except as to liens or incumbrances suffered, imposed or created against the same by second party or his assigns, and upon the delivery of such deed the contract hereby made is to be surrendered to the first party. It is further agreed that when the second party has paid to the first party the principal sum of Three Hundred (\$300.00) DOLLARS with all interest on the entire sum remaining due up to that time in accordance with the terms of this contract and at the times when such payments of principal and interest become due, then the first party will deliver to second party the said warranty deed and abstract as above provided upon receiving from second party note or notes and mortgage securing said note or notes upon said real estate for the full amount remaining unpaid upon this contract, bearing interest as above provided, which mortgage securing said note or notes shall be the first and only lien upon said real estate, said note and mortgage to be made out in the usual form of notes and mortgages in use in this county, providing for attorney's fees, and that any failure to pay any part of the principal, interest or taxes when due shall cause the whole debt secured by said mortgage to become due and payable at once upon such default.

It is agreed and provided hereby, that in the event that the second party or his assigns, shall fail to make the payments aforesaid, either of principal or interest, or any part of them, or shall fail to pay the taxes and assessments above provided, punctually and promptly and upon the strict terms and at the particular times above provided, or in case he shall fail to keep and perform any of his agreements under this contract strictly and literally without any default whatsoever, the times of said payments being particularly made of the essence of this contract, then the first party shall have the right to declare their intention to cause a forfeiture of this contract and render the same null and void in the manner provided by law therefor and upon such forfeiture then all rights and interests hereby created in favor of the second party or his assigns, shall utterly cease and determine, and the said premises shall revert to and revest in the first party in the manner provided by law, without further act of declaration of any kind on the part of the first party, and without any right or claim

of second party for moneys paid or improvements made, as absolutely and perfectly as though this contract had never been made, and delay in declaring intention to forfeit this contract shall not be held to be a waiver in any way of the first parties' right to forfeit the same.

First party reserves the right and option, in the event that second party shall fail to pay the said purchase money, or any part thereof, or the interest thereon, when the same becomes due, or shall fail to pay the taxes upon said premises as above provided, to, at his, the first party's election, declare the whole amount of the said purchase money due and collectible at once and proceed by way of foreclosure of this contract, or in any manner authorized by law to enforce the collection of the full balance thus declared due; and in case of such foreclosure it is stipulated that a receiver shall be appointed to take charge of said premises, to take possession of same, to rent the same, collect the rents, issues and profits therefrom, and after the expense of said receivership to apply the net balance to the payment of taxes, interest, and principal found to be due first party; and in the event that suit be instituted either for the collection of said money or any part thereof or for the recovery of possession of said premises, the second party agrees to pay a reasonable attorney's fee for first party's attorney, same to be taxed as part of the costs in the case, and first party may procure abstract of title preparatory to said foreclosure, the cost of which shall be taxed as costs in the case.

All improvements placed upon said real estate by second party shall remain thereon and shall not be removed therefrom without the consent of the first party and shall pass upon forfeiture of this contract to the first party.

It is also agreed that the party of the second part shall keep the buildings insured for at least \$1000.00 also that the said first party, his heirs, executors or assigns hereby reserve the right and privilege of renewing or extending the time of payment of mortgage now on the premises herein agreed to be conveyed, or obtain a new mortgage, in either case whether renewal or extension of mortgage or new mortgage, same shall be with interest not to exceed --per cent, payable annually, and the said second party agrees to execute any and all papers or conveyances that may be required to obtain a renewal, extension of mortgage or new mortgage on the premises above described, and any renewal, extension of mortgage or new mortgage executed as herein agreed shall be senior and superior to any and all interest in said real estate of the said party of the second part.

This contract is made subject to the approval of the District Court of the State of Iowa, in and for Madison County.

Walter A. Berry
Alice Berry

J. E. Hamilton
Elbe W. Berry

STATE OF IOWA, COUNTY OF MADISON SS.

On this 28th day of May A. D. 1937, before me, Shirley A. Webster a Notary Public in and for the County of Madison, State of Iowa, personally appeared J. E. Hamilton, Sole Referee, and Elbe W. Berry to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed my Notarial Seal the day and year last above written.

Shirley A. Webster
Notary Public in and for Madison County,
State of Iowa

