

Clerk of District Court of U.S.
Southern District of Iowa.

#4893

Fee \$3.30 ✓

Filed for record the 6 day of
November A.D. 1937 at 3:30 o'clock
P.M.
Valda O. Bishop, Recorder
Pearl E. Shetterly, Deputy

To
The Public

IN THE DISTRICT COURT OF THE UNITED STATES
SOUTHERN DISTRICT OF IOWA CENTRAL DIVISION
BOATTEN'S NATIONAL BANK OF ST. LOUIS, et al :
Complainants, : Equity No. 4425
vs. :
DES MOINES UNIVERSITY, and :
DES MOINES NATIONAL BANK, :
Defendants : CERTIFICATE

I, W.F. Reed, Clerk of the District Court of the United States, Southern District of Iowa, Central Division, at Des Moines, do hereby certify that pursuant to an order of said Court in the above entitled cause, made and entered on the 6th day of September, 1929, John A. Blanchard, Jr. was appointed temporary receiver of all and singular property, real and personal, of Des Moines University, described in the mortgage foreclosed in said action. That thereafter, said temporary receiver duly qualified by signing and filing with the Clerk of said Court the oath required by law, and by executing a bond to the Clerk of said Court in the sum of FIVE THOUSAND (\$5000.00) DOLLARS, with sureties thereon duly approved by said Clerk.

That the Decree entered in the above entitled cause of action on the 13th day of January, 1930, among other things, provided as follows.

"35. Des Moines University owns certain property which has not been taken over by the receiver herein. A list of such property so far as it is known to this court is set out in Exhibit "B" attached to, and forming a part of this Decree. Des Moines University has creditors in addition to those who are parties hereto and these creditors are not known to this court. Des Moines University has ceased to conduct a university and now has neither faculty nor students. It has ceased to care for its properties. None of its corporate officers or trustees are now residents of Des Moines or of Iowa, and none of them are now attending to its affairs. It is now paying no one to look after its affairs and has abandoned its properties.

"36. The Court finds that it is necessary for the protection of the property itself, for the protection of the interests of the parties hereto, the creditors who are not parties and the community, as a whole, that someone look after the abandoned properties.

"37. The Court orders John A. Blanchard, Jr., receiver herein, to receive, take over and administer the properties shown on Exhibit "B", and such other properties of Des Moines Uni-

Miscellaneous Record, No. 22, Madison County, Iowa

versity as he may find in the Southern Federal Judicial District of Iowa, and to do so as a general receiver for the benefit of creditors, keeping his transactions, expenses and receipts as such general receiver with respect to such property, separate and distinct from his transactions, expenses and receipts as receiver appointed under the foreclosure of a mortgage with respect to the properties he has heretofore received, taken over and administered," and that Exhibit "A" attached to said decree included the following:

Real Estate

A.B. Johnson farm, Madison County, Iowa.

That said John A. Blanchard, Jr., gave due and legal notice of his appointment as such general receiver by publishing such notice once a week for two weeks in the Des Moines Register, and by serving said notice on A.M. Piper and F.F. Fouck former members of the Board of Trustees of Des Moines University, and filed in said cause proof of such publication and return of service of such notice upon said trustees of Des Moines University.

That on the 21st day of August, 1931, a Supplemental Decree was entered in the above entitled cause which Supplemental Decree contained the following provisions:

"4. The Court, having inspected complainants' application for further hearing and the resistances filed thereto, and having inspected complainants' original bill of complaint, and all the pleadings and papers on file and the proceedings herein, and the evidence heretofore submitted, and having heard the evidence and the statements and arguments of the parties, intervenors and claimants, and their counsel, and being fully advised in the premises, FINDS, ORDERS, ADJUDGES and DECREES as follows:-

"5. The Court finds that this suit was started as a suit in equity to foreclose a mortgage, that thereafter its scope was broadened by an order of this court and it became a general receivership, that due and proper notice of such receivership was given to all persons; and, that this court has personal jurisdiction over the defendants and full jurisdiction over all assets of defendant, Des Moines University, which are within the territorial jurisdiction of this Court and over all rights, titles, liens and interests therein.

"6. Due and proper notice of these proceedings and of this hearing has been given to all interested parties and persons as ordered by this court and as required by law, and this court has full jurisdiction of the subject matter and of all necessary persons to proceed herein.

"7. The allegations of complainants' petition and application are true, and the relief therein sought should be, and hereby is, granted, and the resistances thereto should be, and hereby are, overruled and denied.

"8. The term "Endowment Fund", when hereinafter used, shall mean, describe and include a certain group of assets more particularly described in Schedule "A" attached hereto and made a part hereof.

"9. The mortgage foreclosed by the original decree entered herein on January 13, 1930, is a valid and subsisting mortgage and on April 1, 1926, and at all times since, has constituted a first lien upon all the said properties, securities, investments, contracts and other assets constituting the Endowment Fund.

"10. The lien of said mortgage on the foregoing property, real, personal or mixed, is prior and superior to any other lien or claim thereon in favor of any party, intervenor or claimant to this cause and is superior to the right, title or lien of any other person, or in favor of any person claiming by, through or under any of them, and is the first lien thereon.

"11. Said mortgage should be, and the same is hereby foreclosed as against the property above described as the Endowment Fund, and all said property shall be sold as hereinafter set forth, and all the right, title, interest and equity of redemption of the defendant, Des Moines University its creditors and stockholders, and of all parties, intervenors of claimants to this cause, and of all persons claiming under them, or any of them, and of all other

Miscellaneous Record, No. 22, Madison County, Iowa

persons of, in and to the above described mortgaged property, and every part and parcel thereof, mortgaged property, and every part and parcel thereof, shall be, and hereby is, forever barred and foreclosed..

"13. All the above described property comprising said Endowment Fund shall be sold the the proceeds used as hereinafter provided. Such sale shall be either by public auction or at private sale, may be held either before or after the sale of the mortgaged real estate fixtures and equipment ordered by the original decree herein. Such sale may be without valuation, appraisement, redemption or extension, and such sale shall be made by or under the direction of John A. Blanchard, Jr., Receiver, herein, who is hereby authorized and directed to make and conduct the sale and to execute deeds or other instruments of conveyance or assignment to the purchasers thereof, or their successors or assigns, upon an order of this court confirming such sale and upon payment or settlement of the purchase price or making provision therefor as provided herein, or as may be provided by the order of confirmation.

"18. Such assets as are not sold, as hereinbefore provided, shall be sold at public auction to be held at the east door of the Polk County Court House in Polk County, Iowa, save only that real property located in Madison County, Iowa, shall be sold at public auction at the door of the Court House in Madison County, Iowa.

"19. The sale at the Polk County Court House shall be held on the 29th day of September, 1931, beginning at nine o'clock A.M. The sale at the Madison County Court House shall be held on the 1st day of October, 1931, beginning at ten o'clock A.M.

"20. Notice of the time and place of said sales, describing briefly and generally the property to be sold, which description may be substantially in the form set out in paragraphs Eight (8) and Fourteen (14) and Schedules "A" and "B" of this Decree, and referring intending purchasers for a more particular description of the property and of the terms of sale to this Supplemental Decree and to the papers on file in this cause, shall be published at least once a week for four (4) successive weeks prior to such sale in a newspaper printed, regularly issued and having a general circulation in Polk County, Iowa,. Similar notice of the sale in Madison County, Iowa, describing only the real property in Madison County, shall be similarly published in a newspaper printed, regularly issued and having a general circulation in Madison County, Iowa. The particular newspaper shall be selected by the Receiver.

"21. In holding the sale, the Receiver shall first offer for sale each item of property not already disposed of at private sale. In the event no bids are received for any of the items of said property, the receiver shall offer for sale as a unit all items remaining unsold.

"22. The Receiver, either personally or by some person designated by him to act in his name and by his authority, may adjourn or postpone said public sale from time to time as he deems wise, or as this Court may order, and the Receiver without further notice or advertisement may proceed with the sale on any day to which the same may have been so adjourned or postponed.

"36. Upon confirmation of the sale and upon payment by the purchaser of the purchase price of the property purchased, or such portion of such purchase price as shall, pursuant to the provision of this Supplemental Decree or the order of confirmation, be required to be paid in advance of the delivery of the deed or other instrument of conveyance or assignment and transfer by the Receiver, or upon the making by such purchaser of such provision for the payment thereof as this Court shall approve, the Receiver shall execute a deed or other instrument conveying, assigning and transferring to such purchaser the property sold to such purchaser. Said deed or other instrument of conveyance or assignment and transfer shall convey absolute title to the property therein described, free and clear of all liens, save only taxes, and shall run and be delivered to such purchaser, and upon the production thereof, or of a certified copy or copies thereof, the grantee or grantees therein named shall be let into the pos-

Miscellaneous Record, No. 22, Madison County, Iowa

session of the property so conveyed or transferred and shall after such delivery of possession hold, possess and enjoy the property so conveyed, assigned and transferred and every part and parcel thereof free from the trust and lien of said Mortgage foreclosed in the original Decree and free from all claims rights, interests or equity of redemption of, on or to the same by, or of the defendant, Des Moines University, its successors and assigns; and by or of, the creditors and members of the Board of Trustees of said Des Moines University; and by, or of, all persons claiming by, under or through said Des Moines University, its creditors or the members of its Board of Trustees; and by, or of, the defendant, Des Moines National Bank, its successors and assigns; and by, or of, all persons claiming by, under or through it; and by, or of, all parties to this cause; and by, or of, all persons claiming by under or through them, or any of them; and by, or of, any and all other persons; but subject to the provisions of this Supplemental Decree and to compliance by the purchaser with all conditions upon such purchaser imposed by this Supplemental Decree.

"38. The Receiver shall make, as soon as may be, a report to this Court of any sale under this Decree, and shall also make, from time to time, such other reports as shall be necessary or desirable to show his action in the premises.

"44. Iowa Baptist Convention has, or claims to have, some right, title or interest in certain real estate in the Endowment Fund situated in Madison County, Iowa. It is hereby ordered to quit-claim or otherwise relinquish to the satisfaction of the receiver herein, any right, title or interest it may have in said real estate.

"49. The sale herein ordered is a receiver's sale and shall convey good title free and clear of all liens and encumbrances, save only taxes, tax sales and tax titles. All sales shall be absolute and free from any equity of redemption or other right of any person subject to the jurisdiction of this Court, and free from any condition save only the approval of this Court.

"50. The original Decree entered herein on January 13, 1930, is in all other respects affirmed."

That Schedule "A", attached to said Supplemental Decree, contained the following:

"SCHEDULE OF ASSETS OF DES MOINES UNIVERSITY COMMONLY KNOWN AS THE ENDOWMENT FUND.

The following described real estate situated in Madison County, Iowa, to-wit:

Southeast Quarter (SE $\frac{1}{4}$) of Section Thirteen (13), and the East One Half (E $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Thirteen (13), all in Township Seventy-four (74) North Range Twenty-six (26) West of the 5th P.M.

subject to life estate granted to Albert B. Johnson and Mary J. Johnson."

That notice of Receiver's sale, as follows, to wit:

"NOTICE IS HEREBY GIVEN, That by virtue of the Supplemental Decree entered in the above entitled cause on the 21st day of August, A.D.1931, by the District Court of the United States for the Southern District of Iowa, Central Division, and pursuant to the terms and provisions thereof, I will offer at Public Sale to the highest and best bidder, at the east front door of the Madison County Court House, in the City of Winterset, Madison County, Iowa, on the 1st day of October, 1931, beginning at the hour of ten (10) o'clock A.M. on said day, the following described real estate situated in Madison County, Iowa, to wit:-

Southeast Quarter (SE $\frac{1}{4}$) of Section Thirteen (13), and the East one-half (E $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Thirteen (13), all in Township Seventy-four (74) North, Range Twenty-six (26), West of the 5th P.M.

Subject to a life estate granted to Albert B. Johnson and Mary J. Johnson.

"For more particular description of the property and of the terms and conditions of the sale, see said Supplemental Decree, hereinbefore referred to, and the other pleadings and papers on file in said cause in the office of the Clerk of said Court, at Des Moines, Polk County, Iowa.

"Witness my hand, this 27th day of August, 1931.

John M. Blanchard, Jr.

John A. Blanchard, Jr.
Receiver for Des Moines University."

Miscellaneous Record, No. 22, Madison County, Iowa

was duly published by said receiver in accordance with said Supplemental Decree, by publication once a week for four consecutive weeks in the Winterset Madisonian, and proof of publication duly filed in said cause, said proof of publication being attached as Exhibit "B" to the Report on Receiver's Sales filed in said proceedings on October 23, 1931, Said Report on Receiver's Sales contained the following allegations of said Receiver:

"6. This receiver also gave notice of the sale of the assets located in Madison County as ordered by said Supplemental Decree. This receiver published a notice of such sale, a copy of which marked Exhibit "B", is attached hereto and made a part hereof, once a week for four consecutive weeks in the Winterset Madisonian, a newspaper regularly printed and issued and having a general circulation in Madison County, Iowa.

"7. On October 1, 1931, as ordered by said Supplemental Decree, and at the time and place specified in said published notice, the receiver offered the property described in said notice at public auction to the highest and best bidder.

"8. Sears Lehmann bid \$1,000.00 for said property, and this being the best bid received, this receiver sold said property, subject to the approval by this court, to Sears Lehmann for said sum.

"9. Prior to said sale, Sears Lehmann had deposited with this receiver \$3,000.00 in bearer bonds as provided by the Supplemental Decree.

"10. Said bonds should be accepted in part payment of the bids made and the amount for which each bond is accepted should be endorsed thereon..

"11. WHEREFORE, this receiver asks the court to approve this report, to approve and to confirm said sales and to fix the amount for which said bonds should be accepted and the amount that should be endorsed as a part payment on said bonds and directing the receiver to execute proper instruments of conveyance and assignment and to transfer the assets sold, as above, to Sears Lehmann on receipt of the balance of the price bid in cash."

That on October 23, 1931, the Court made and entered its Order Confirming Receiver's Sale, which approved the report of the receiver and confirmed the sales therein described, and directed said receiver to transfer, convey and deliver all said assets to Sears Lehmann, or his order, and to execute all such conveyances, assignments and other instruments necessary to evidence such transfer.

That on the 4th day of December, 1931, the deed of John A. Blanchard, Jr., Receiver, conveying the following described real estate situated in the County of Madison, State of Iowa, to-wit:

"The Southeast Quarter (SE $\frac{1}{4}$) of Section Thirteen (13), and the East Half (E $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Thirteen (13), all in Township Seventy-four (74) North of Range Twenty-six (26), West of the 5th P.M.

Subject to the lease to Albert B. Johnson of Madison County, Iowa, for his lifetime, said being recorded in Book, Page in the records of the County Recorder of Madison County, Iowa. "

was presented in open Court, and was approved and ordered of record by the Honorable Charles A. Dewey, Judge.

I do further certify that all of the foregoing matters are shown and contained in the records and files in the above entitled cause of action, in my office as Clerk of the District Court of the United States, Southern District of Iowa, Central Division.

Done at Des Moines, Iowa, this 5th day of November, A.D. 1937.

(District Court Seal)

N.F. Read
Clerk of The District Court of The United States,
Southern District of Iowa,