

Mortgage Record, No. 88, Madison County, Iowa

MAIT PARROTT & SONS CO., WATERLOO, IOWA C34774

Merle E. Nellis and wf. et al

#3670

Filed for Record the 1 day of
August A. D. 1938 at 8:03 o'clock
A. M.

to

Fee \$2.50

The Prudential Ins. Co of America

Valda C. Bishop Farver, Recorder

IOWA MORTGAGE

THIS MORTGAGE, made the 24th day of May, A. D. 1938 between MERLE E. NELLIS and MARTHA E. NELLIS, his wife; and W. V. Nellis (also known as Ward V. Nellis) and MYRTLE NELLIS, his wife, of Madison County, State of Iowa; C. L. Nellis (also known as Clinton L. Nellis) and LORA NELLIS, his wife, of Sumner County, State of Kansas; EARL E. NELLIS and LOUISE NELLIS, his wife, of Dallas County, State of Iowa; and ROY C. NELLIS and ALTA NELLIS, his wife, of the County of Polk, and State of Iowa, parties of the first part, and THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, OF NEWARK, NEW JERSEY party of the second part,

Witnesseth, That whereas the said parties of the first part are justly indebted to the said The Prudential Insurance Company of America, of Newark, New Jersey for money borrowed in the sum of THREE THOUSAND FIVE HUNDRED AND NO/100 (\$3,500.00) DOLLARS to secure the payment of which they have executed one (1) promissory note, of even date herewith, for said sum payable on the first day of June, A. D. 1948, which note bears interest at the rate therein set forth, from May 24th, 1938 payable semi-annually, on the first day of December and June in each year.

Said note is executed by the said parties of the first part and bears interest after maturity at the rate of seven (7) per cent. per annum, payable annually, until paid, together with attorney's fees, and is made payable to the order of said The Prudential Insurance Company of America at its office in Newark, New Jersey in lawful money of the United States of America.

Now, therefore, this Indenture Witnesseth: That the said parties of the first part, in consideration of the premises, and for the purpose of securing the payment of the money aforesaid and interest thereon, according to the tenor and effect of the said promissory note above mentioned, and also to secure the faithful performance of all the covenants, conditions, stipulations and agreements herein contained, do by these presents, grant, bargain, sell, convey and confirm unto the said party of the second part, its successors or assigns, forever, all the following described lands and premises, situated and being in the Township of Penn County of Madison, and State of Iowa, to wit:

The North Half of the Southeast Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) of Section (16), Township Seventy-seven (77) North, Range Twenty-nine (29), West of the Fifth (5th) Principal Meridian (except the following described tract used as a cemetery: Commencing at a point 17 rods West of the Southeast corner of the North Half of the Southeast Quarter, thence West 10 rods, thence North 10 rods, thence East 10 rods, thence South 10 rods to the place of beginning), containing 79.38 acres, more or less.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, and all the estate, right, title, interest, dower and right of dower, including all rights of Homestead, of the said parties of the first part, and also all the rents, issues, use and profit of said land and the crops raised thereon, if any, from the date of this instrument until the debt secured hereby shall be paid in full, to have and to hold forever, unto the party of the second part, its successors and assigns.

And the said parties of the first part for themselves and for their heirs, executors and administrators, do hereby covenant that they are legally seized of the premises above conveyed in fee simple, and that they have good right and lawful authority to sell and convey the same, and that the same are free and clear from all liens and incumbrances of whatsoever kind and nature, and that they will warrant and defend the same against the lawful claims of all persons whomsoever.

Provided always, and these presents are upon the following express conditions, to wit: That the said parties of the first part shall well and truly pay the said note and the interest promptly as they become due, and shall pay all taxes and assessments against said premises when they become due; and that when any taxes or assessments shall be made upon said loan, or upon said party of the second part or assigns, on account of said loan, either by the State of Iowa or by the county, city or town wherein said land is situated, the parties of the first part will pay such taxes or assessments when the same become due and payable; and that they will keep the buildings upon the above described real estate insured in such forms of insurance as may be required by the party of the second part, in some solvent incorporated insurance company or companies approved by the said party of the second part for a sum satisfactory to the said party of the second part, for the benefit of the party of the second part herein or assigns, so long as the debt above secured shall remain unpaid, and make the policy or policies of insurance payable to the party of the second part herein, or assigns, as collateral security for the debt hereby secured.

That said parties of the first part shall keep all buildings, fences and other improvements now or hereafter placed upon said premises in as good condition and repair as the same are at this date, or as the same may be during the existence of this mortgage, and that said parties of the first part shall not do, nor permit to be done to, in, upon or about said premises, anything that will in any wise tend to diminish the value thereof, or to impair, weaken or diminish the security intended to be effected under and by virtue of this instrument.

The said parties of the first part hereby expressly agree to comply with and perform the foregoing conditions, and upon compliance therewith and with each and all of them, then these presents shall be void; otherwise to be and remain in full force and effect.

And it is further provided and agreed by and between said parties hereto that if default shall be made in the payment of either the principal of said note or interest thereon, or any part thereof, when due; or if the taxes on said premises are not fully paid within the time allowed for payment by law; or upon failure on the part of the parties of the first part to pay the taxes or assessments upon the loan secured by this mortgage or the holder thereof, and insurance premiums as heretofore mentioned; or should therebe, from any cause whatsoever, any lien or incumbrance created or imposed upon said premises other than that secured by this mortgage, which lien or incumbrance is superior to this mortgage, then in such case, the whole of said principal and interest thereon shall, at the option of said second party or assigns, become due and payable and this mortgage may be foreclosed at any time after such default; but the omission of the party of the second part or assigns to exercise this option at any time or times shall not preclude said party of the second part from the exercise thereof at any subsequent default or defaults of said first parties in payments as aforesaid; and it shall not be necessary for said party of the second part or assigns to give written notice of its or their intention to exercise said option at any time or times, such notice being hereby expressly waived by said parties of the first part.

It is further provided that said party of the second part or assigns may at its or their option pay said taxes assessments and insurance premiums on the failure of the parties of the first part to pay the same as above mentioned, and the money so paid, with interest thereon at the rate of seven (7) per cent. per annum, payable annually from date of payment, shall be a part of the debt secured and collectible under this mortgage; and the said party of the second part or assigns shall, at its or their option, be entitled to

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subrogated to any lien, claim or demand paid or discharged with the money loaned and advanced by the party of the second part and secured by this mortgage. And the party of the second part, or assigns, may pay and discharge any liens and incumbrances that may exist against above described real estate that may be prior and senior to the lien of this mortgage and the money so paid shall become a part of the lien of this mortgage and bear interest at the rate of seven (7) per cent. per annum, payable annually, ~~(from date of payment, shall be a part of the debt secured and collectible under this mortgage; and the said party of the second part or assigns shall, at its or their option, be entitled to be subrogated to any lien, claim or demand paid or discharged with the money loaned and advanced by the party of the second part and secured by this mortgage. And the party of the second part, or assigns, may pay and discharge any liens and incumbrances that may exist against above described real estate that may be prior and senior to the lien of this mortgage and the money so paid shall become a part of the lien of this mortgage and bear interest at the rate of seven (7) per cent. per annum, payable annually.)~~

It is further expressly understood and agreed that a failure to comply with and perform each and all of the conditions and stipulations hereinbefore set out, strictly and literally, according to the true intent thereof, time being of the essence thereof, shall cause the full amount hereby secured to become due and collectible at once, if the holder of said note so elects, and this mortgage may thereupon be foreclosed immediately and without any notice of such election to be given, for the whole amount of said money, interest and costs, and for all sums paid out for taxes, assessments, liens, incumbrances and insurance, anything herein to the contrary notwithstanding, which election may be exercised immediately, or at any time thereafter, and nothing shall be construed to be a waiver of such right excepting an express agreement to that effect duly executed by the holder of these presents.

It is also expressly agreed that in the event this mortgage shall not be paid and fully discharged promptly at its maturity, whether the same matures by lapse of time alone, or upon the election of the holder hereof because of any breach or default in any of the conditions or stipulations herein contained, then the rents, profits, increase and right of possession of said premises and all crops of whatsoever nature or kind that may grow or be raised thereon from and after the date of such maturity or election, shall be and the same are hereby sold, conveyed and assigned to said second party, its successors or assigns, who upon application to any court of record may have a receiver appointed to take immediate possession of said premises, and to rent, cultivate or use the same as shall seem to him best for the interest of all parties concerned, and the net profits and avails thereof shall be applied toward the payment of accrued and accruing interest, taxes and assessments insurance, other liens and incumbrances paid and discharged under terms hereof, and the principal sum herein secured, and application thereof may be made before suit is instituted to foreclose this mortgage, or in such an action either before or after judgment, or even after the sale of the premises under such foreclosure proceedings; and in the event suit is brought to foreclose this mortgage, reasonable attorney's fees shall be allowed as by statute provided, together with all costs, including continuation of abstract, and judgment rendered therefor, and the same made on special or general execution as other amounts secured hereby.

Privilege is given to said party of the first part, their heirs or legal representatives to make additional payments on the principal sum of said note on any interest-payment date, in accordance however with the terms of such privilege as set forth in said note.

Upon payment and full satisfaction of these presents according to the terms hereof

In Witness Whereof, the said parties of the first part have hereunto set their hands and seals on the day and year first above written.

C. L. Nellis (SEAL)
Lora Nellis (SEAL)
Earl E. Nellis (SEAL)
Louise Nellis (SEAL)
Roy C. Nellis
Alta Nellis

On this 16th day of July, A. D. 1938, before me, the undersigned, a Notary Public in and for said County, personally appeared Roy C. Nellis and Alta Nellis, his wife, personally to me known to be the identical persons named in and who executed the foregoing instrument as grantors, and acknowledged the execution of the same to be their free and voluntary act and deed, for the uses and purposes therein expressed.

On this 2nd day of July, A. D. 1938, before me, the undersigned, a Notary Public in and for said County, personally appeared C. L. Nellis (also known as Clinton L. Nellis) and Lora Nellis, his wife, also known as R. Lora Nellis, personally to me known to be the identical persons named in and who executed the foregoing instrument as grantors, and acknowledged the execution of the same to be their free and voluntary act and deed, for the uses and purposes therein expressed.

STATE OF IOWA, MADISON COUNTY, SS.

On this 7th day of June, A. D. 1938, before the undersigned, a Notary Public in and for said County, personally appeared Merl E. Nellis and Martha E. Nellis, his wife, personally to me known to be the identical persons named in and who executed the foregoing instrument as grantors, and acknowledged the execution of the same to be their free and voluntary act and deed, for the uses and purposes therein expressed.

In testimony whereof, I have hereunto set my hand and affixed my official seal at Winterset, Iowa, on the day and date last above written.

(NOTARIAL SEAL) Harry F. Anderson
Notary Public within and for Madison County, Iowa.
My commission expires July 4, 1939.

STATE OF IOWA, COUNTY OF MADISON:SS.

On this 9 day of June, A. D. 1938, before me, the undersigned, a Justice of the Peace/ in and for said County personally appeared
W. V. Nellis (also known as Ward V. Nellis) and Myrtle Nellis, his wife; personally to
me known to be the identical persons named in and who executed the foregoing instrument
as grantors, and acknowledged the execution of the same to be their free and voluntary
act and deed, for the uses and purposes therein expressed.

In testimony whereof, I have hereunto set my hand and affixed my official seal at Earlham on the day and date last above written.

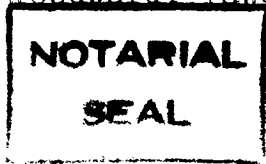
My Commission expires _____ . In and for Madison County

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STATE OF IOWA, COUNTY OF DALLAS.SS.

On this 9th day of June, A. D. 1938, before me, the undersigned, a Notary Public in and for said County, personally appeared Earl E. Nellis and Louise Nellis, his wife, personally to me known to be the identical persons named in and who executed the foregoing instrument as grantors, and acknowledged the execution of the same to be their free and voluntary act and deed, for the uses and purposes therein expressed.

In testimony whereof, I have hereunto set my hand and affixed my official seal at Woodward, Iowa on the day and date last above written.



V. A. Neal
Notary Public of Iowa,
In and for Dallas County.