

Real Estate Mortgage Record, No. 89, MADISON County, Iowa

Form No. 111—Equitable Life Insurance Co., of Iowa, containing 2,026 printed words. Form F-30-10-11-36 21H.

MATT PARROTT & SONS CO., WATERLOO, IOWA C92817

MORTGAGE

No. 3811

John E. Westphal and Mable Westphal

husband and wife

TO

EARLHAM SAVINGS BANK Earlham, Iowa

STATE OF IOWA, MADISON County, ss.

Filed for Record the 2 day of June

A. D. 1939, at 11:41 o'clock A. M.

Pearl W. Shetterly, Recorder

By, Deputy

Recording Fee, \$ 2.20

THIS INDENTURE, Made and entered into this 1st day of June A. D. 1939, by and between John E. Westphal and Mable Westphal, husband and wife.

of the County of Madison and State of Iowa, party of the first part, mortgagor, and the Earlham Savings Bank, Earlham, Iowa, an Iowa corporation, with its home office at Des Moines, Iowa, party of the second part, mortgagee.

WITNESSETH, That the said party of the first part for and in consideration of the sum of

Thirty Six Hundred DOLLARS,

paid by the said party of the second part, the receipt of which is hereby acknowledged, for which amount the party of first part is justly indebted to party of second part, does hereby sell, convey, grant, bargain, mortgage and warrant unto the said second party, its successors and assigns forever, the following described real estate, lands and premises, together with and including all improvements, appurtenances, rights, privileges, easements and royalties thereunto belonging or arising therefrom, situated and located in the County of

Madison and State of Iowa, to-wit:

All that part of the West Half of the Southwest Quarter of Section Five (5), Township Seventy-seven (77) North, Range Twenty-eight (28), West of the 5th P.M., lying North of the right-of-way of the Chicago, Rock Island and Pacific Railroad Company running east and west through said 80 acres, And the East 37 rods and 17 links of the Northeast Quarter of the Southeast Quarter of Lot Three (3) of the official plat of the South Half of the Southeast Quarter of Section Six (6), Township Seventy-seven (77) North, Range Twenty-eight (28), West of the 5th P.M., Madison County, Iowa, containing 108 acres, more or less.

Release
For Assignment of Annexed Mortgage Sag
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and also all the rents, issues, uses, profits and income therefrom and the crops raised thereon from the date of this instrument until the debt secured hereby shall be paid in full. And the party of the first part does hereby release and waive all right under and benefit of all exemption and homestead laws whatsoever, in and to the lands, property and premises aforesaid.

To have and to hold the premises, real estate, lands and property above described with all the appurtenances thereunto belonging, and all estate, title, dower, right of homestead and claims whatsoever of said first party unto the said second party, its successors and assigns forever, hereby releasing and relinquishing all rights of dower and homestead therein.

And the said first party does hereby covenant to and with the second party, its successors and assigns, that they are lawfully seized in fee of the premises aforesaid; that the said premises are free and clear of all encumbrances, liens, mortgages and taxes; and that they will forever warrant and defend the title hereto against the lawful claims of all persons whomsoever.

Provided, however, that if the first party shall pay, or cause to be paid to the second party, its successors or assigns, the full amount of the principal and interest at the time, place and in the manner as provided in the certain promissory note of even date herewith, executed by John E. Westphal and Mable Westphal, husband and wife

payable to the Earlham Savings Bank, Earlham, Iowa in the sum of \$ 3600.00 with interest at the rate of 4 1/2 per cent per annum, until maturity, payable semi-annually and with interest after maturity at seven per cent, payable semi-annually, and shall keep and perform, all and singular, the covenants and agreements herein contained for said first party to keep and perform, then, These Presents To Be Void, otherwise to remain in full force and effect.

First party for themselves and their heirs, executors, administrators and grantees hereby covenants and agrees with second party, its successors and assigns as follows:

First. To pay or cause to be paid the principal sum and interest above specified in the manner aforesaid, together with all costs and expenses of collection, if any there shall be, and any costs, charges, or attorney's fees incurred and paid by second party in maintaining the priority of this mortgage or in foreclosing the same or in defending any action affecting the title to said property.

Second. To pay all taxes, assessments and other charges which are now a lien or may hereafter become a lien or may hereafter be levied or assessed upon or against the said premises or any part thereof or on this mortgage or the debt secured hereby or on the lien hereby created, together with any other taxes or assessments which may be levied against the mortgagee or holder of said note on account of this indebtedness or any part thereof, before the same shall become delinquent.

Third. To keep the buildings now located, or at any time hereafter erected upon said property, insured against loss or damage by fire, lightning, and tornado in a sum not less than

Nineteen Hundred ----- DOLLARS, loss if any, payable to second party or its assigns, such insurance to be obtained in companies satisfactory to second party; to pay the premiums for such insurance when the policies are issued, and to deliver such policies and all renewals to second party; and the second party is hereby authorized, at its election, to collect, adjust, and compromise any and all losses under any and all insurance policies on said property and to apply the proceeds, first to the payment of collection costs, and the balance, at its election, to the payment of (1) the mortgage debt, interest or repayment of any amounts advanced by the mortgagee under any of the covenants herein, or (2) the restoring of improvements; and the insurance carriers are hereby fully authorized to pay the sums becoming due thereunder to the second party, same to be applied as aforesaid.

Fourth. To keep all improvements now upon or hereafter erected on the said premises in good condition and repair and will not commit or permit waste of the premises hereby mortgaged nor use or allow same to be used for any unlawful purpose; and to maintain the land in a good state of cultivation, and to eradicate noxious weeds.

Fifth. That should first party fail to pay said taxes, charges, or assessments, or to effect and maintain said fire and tornado insurance or suffer waste or permit said premises to be used for any unlawful purpose, then the second party may pay such taxes, charges and assessments, may purchase insurance, may redeem from tax sale, may enjoin any waste or removal of improvements or use of said property for any unlawful purposes and any moneys so expended shall be repaid to second party, its successors or assigns, with interest at seven per cent per annum, and all such expenditures shall be secured by this mortgage and shall be collectible as a part of and in the same manner as the principal sum hereby secured.

Sixth. That the second party may release from the lien of this mortgage any part or parcel of the mortgaged property or premises upon such terms as it may deem satisfactory without effecting the lien hereof on the remainder; and the taking of additional security for this indebtedness or the extension or renewal of said indebtedness or any part thereof shall at no time release or impair the security hereof.

Seventh. The bringing or maintenance of an action at law for the collection of the debt secured hereby, or the filing of a claim in probate proceedings for said debt, shall not release or impair the security of this mortgage.

Eighth. It is further agreed that the rents, issues, crops, profits and royalties of the real estate aforesaid are hereby pledged and conveyed as security for the payment of the mortgage debt; and that in the event of a default of any nature or of maturity of the mortgage debt, either by default or by lapse of time, the note owner may take possession of all crops and grain growing or stored on the mortgaged premises, and all rents accruing from said land, and may sell the same for such prices and in such manner as the note owner deems best, and shall apply the proceeds to the payment of the sale expenses and costs, payment of taxes and the mortgage debt secured hereby; and in the event an action is brought to foreclose this mortgage, or at any time thereafter and prior to the expiration of the period of redemption, any court of competent jurisdiction, upon the application of the note holder, may at once and without any notice whatsoever appoint a receiver to take possession of the mortgaged real estate and all crops located or growing thereon or accruing therefrom, and said receiver shall be authorized to collect and market all of the crops and rentals, and to rent the real estate during the litigation and until the period of redemption expires, and to use and apply the income therefrom to the payment of receivership expenses, necessary repairs, taxes against the real estate and necessary insurance premiums, and shall apply the balance to the payment of the debt aforesaid; and the said receivership shall apply to all of the mortgaged property including the homestead and all exempt property.

Ninth. That in the event the proceeds of this mortgage or any part thereof, or any other sums advanced by the note holder, are used for the purpose of paying off prior liens, taxes, claims or encumbrances, the note owner shall immediately be subrogated to all liens, estates and interest which the owner or owners of the said prior liens, taxes or encumbrances had against the mortgaged property or any part thereof, and against the debtors or any of them.

Tenth. That should there be any failure or default in the performance of any of the covenants, agreements or provisions herein contained, or if any part of the said note or notes or any part of the principal debt or interest is not paid when due, or should any proceedings be begun to enforce or collect any junior lien, or should said premises or property or any part thereof come into the possession or control of any court prior to the payment of the debt secured hereby, or should any suit be brought effecting in any manner the title to the real estate aforesaid, or any suit be brought wherein a lien is claimed as superior to this mortgage or in any manner effecting the validity of this mortgage or any part thereof, then upon the happening of any of said contingencies at the option of the second party, its successors or assigns, the whole indebtedness secured hereby shall immediately without notice become due and collectible, and the second party, its successors or assigns may proceed at once or at any later time to foreclose this mortgage or to collect its debt or to maintain any other action or remedy whatsoever which it may have or may elect to use; and in said action or actions the plaintiff may obtain judgment for all costs and expenses whatsoever, including a reasonable attorney fee and the cost of an abstract of title.

Eleventh. If any provision of this instrument is held to be void, it shall not effect the validity of any other provision herein.

Twelfth. It is further agreed that the provisions of this mortgage shall run with the land and be binding upon the heirs, executors, administrators and assigns of the first party and all of them, and shall inure to the benefit of the second party, its successors and assigns.

IN WITNESS WHEREOF, we have hereunto set our hands and seal the day and year first above written.

John E. Westphal L. S.

In Presence of

Mable Westphal L. S.

----- L. S.
----- L. S.

STATE OF IOWA, COUNTY OF Madison, ss.
I, Anna Corman, a Notary Public in and for Madison County, State of Iowa, do hereby certify that on the 1st day of June, 1939, before me personally appeared

John E. Westphal and Mable Westphal - husband and wife



personally known to me to be the same person whose names are subscribed to the foregoing instrument, and acknowledged that they signed, sealed and delivered the same as their free and voluntary act and deed for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal at Earlham, Iowa the day and year last above written.

Anna Corman
Notary Public in and for Madison County, State of Iowa

My commission expires on the 4th day of July, 1939.

STATE OF _____, COUNTY OF _____, ss.
I, _____, a Notary Public in and for _____ County, State of _____, do hereby certify that on the _____ day of _____, 19____, before me personally appeared



personally known to me to be the same person whose name _____ subscribed to the foregoing instrument, and acknowledged that _____ signed, sealed and delivered the same as _____ free and voluntary act and deed for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal at _____ the day and year last above written.

Notary Public in and for _____ County, State of _____

My commission expires on the _____ day of _____, 19____.