

No 2909. Mortgage

INDIAN TERRITORY

This Indenture, Made this 22nd day of February, Nineteen Hundred and seven, by and between Allen Phillips and Rutha Phillips, formerly Rutha Scott, his wife

northern District, Indian Territory, hereinafter called the party of the first part, and R. H. Holmes Trustee, of Muskogee, Indian Territory, hereinafter called the party of the second part, and Henry Hubbard hereinafter called the party of the third part, witnesseth:

THAT WHEREAS, The said party of the first part is justly indebted unto the said party of the third part in the sum of Twenty-five and 00/100 DOLLARS, as is evidenced by Two

principal notes of even date herewith, becoming due as follows, to-wit:

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| One note for <u>Twelve and 50/100</u> | Dollars, due <u>March</u> | First, <u>1908</u> |
| One note for <u>Thirteen and 00/100</u> | Dollars, due <u>March</u> | First, <u>1909</u> |
| One note for <u> </u> | Dollars, due <u> </u> | First, <u> </u> |
| One note for <u> </u> | Dollars, due <u> </u> | First, <u> </u> |

with interest at the rate of per cent per annum, payable semi-annually, on the first days of and in each year, as specified by interest coupons. Said notes draw interest at the rate of per cent per annum after maturity, and are payable to said third party or at the Office of Holmes & Hubbard

NOW, THEREFORE, The said first party, in consideration of the premises and for the purpose of securing the indebtedness aforesaid, and in the further consideration of One Dollar to said first party in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby Grant, Bargain, Sell and Convey unto the said second party and his successors in trust, forever, the following described lands and premises, situate in the Twenty-ninth Recording District, Cherokee Nation, Indian Territory, to-wit:

South east quarter of south west quarter and north half of south east quarter of south west quarter and south east quarter of south west quarter, Section Three (3), Township Twenty (20), Range Fourteen (14).

This deed of Trust is made subject to deed of Trust of even date herewith for \$500 given by said first party in favor of the Alliance Trust Company Limited of Kansas City, Mo.

TO HAVE AND TO HOLD the same, together with all the rights, privileges and appurtenances thereto belonging, unto the said second party and to his successors; and the said first party hereby COVENANTS that said first party is lawfully seized in fee of said real estate; that the same is free from all encumbrances, and that said first party will WARRANT and DEFEND the same unto the said second party or his successors in said trust, against the lawful claims of all persons, and the said first party hereby expressly releases, relinquishes, waives and conveys to said second party all rights of home-
stead, appraisement, redemption, or dower in said premises, IN TRUST, however, for the following purposes:

THE said first party hereby COVENANTS and AGREES with the said second and third parties as follows:
FIRST. To pay the principal of said loan, and the interest thereon, according to the conditions hereinbefore set forth.
SECOND. To keep all buildings, fences, and other improvements on said real estate in as good repair and condition as the same are in at this date, and permit no waste, especially no cutting of timber, except for the making and repairing of fences on the place and such as shall be necessary for fire-wood for use on the premises.

THIRD. To keep the buildings now or hereafter erected on said land constantly insured in some company satisfactory to said third party or assigns, the holder of said indebtedness, for the sum of \$, or the insurable value thereof, and the policies assigned and pledged and delivered to said third party and assigns as aforesaid, with full power to demand, receive and collect all moneys becoming payable thereupon, and apply the same towards the payment of said indebtedness, and this mortgage shall be a lien upon all insurance held by said first party or assigns upon said premises, whether the policies thereon are assigned or not, until said indebtedness is paid.

FOURTH. To pay all taxes which are due or which hereafter may become liens on said real estate, or which may be assessed in the Indian Territory against the said second or third parties or their assigns, on this deed of trust or the notes secured hereby.

FIFTH. In case said first party shall fail or neglect to provide such insurance or pay said taxes, the said third party and assigns as aforesaid may do so and this Deed of Trust shall stand security for any amounts so expended by said third party, with interest at the rate of eight per cent per annum.

NOW, if the covenants aforesaid shall be well and truly kept by the said first party, then the property hereinbefore conveyed shall be released at the cost of the said first party, but if said first party or assigns shall fail to pay either principal or interest, when the same becomes due; or any notes given as evidence of interest on any extension of the time of payment of the debt herein secured when the same shall be due; or shall permit or suffer waste to be done upon said premises; or fail to comply with any of the foregoing covenants or agreements, the whole sum of money herein secured, with accrued interest, shall become due and payable at the option of the said third party and assigns as aforesaid, without notice, and this Deed of Trust may be foreclosed at once for the whole of said money, accrued interest and costs, including an attorney's fee of \$25.00, and said third party or any legal holder of said indebtedness, shall at once be entitled to the immediate possession of the above described premises, and may at once take possession, and receive and collect the rents, issues and profits thereof, and the occupant or occupants of said mortgaged real estate shall pay rent to the third party and assigns as aforesaid only, and the said second party may proceed to sell the said property hereinbefore described, at public vendue, for cash, at any front door of any United States or State Court House, or building used as any such at time of such sale, in the 28th Recording District, Indian Territory, or within the county in which said land or any of it may then be situate, first giving three weeks' notice of the time, terms and place of sale, and the property to be sold, by advertisement in some newspaper published in said 28th Recording District, or in the County in which said land or any of it may then be situate, (at which sale either of said parties, or their assigns, may bid and purchase as if they were strangers to this Deed), and upon the said sale and payment of the purchase money shall execute and deliver a deed of the property sold to the purchaser; and any statement of facts or recitals by said Trustee, in relation to the non-payment of the money secured by this Deed of Trust, the advertisement, sale, receipt of the purchase money and the execution of the deed shall be received as prima facie evidence of such facts; and the said trustee shall, out of the proceeds of such sale, pay, first, the costs and expenses of this trust; second, whatever sum may be unpaid on the notes aforesaid and all sums which may have been laid out and expended by said third party and assigns for taxes and insurance, and the remainder, if any, shall be paid to said first party or legal representatives.

Or upon any such default the third party or assigns as aforesaid may proceed to foreclose this Deed of Trust as a mortgage in any court having jurisdiction. AND IT IS FURTHER STIPULATED AND AGREED by and between the parties hereto, that in case the said second party shall refuse to act, shall be absent from the Indian Territory, sick, dead, or from any cause incapable of acting in the execution of this Trust, a successor may be appointed by said third party, or assigns, who shall discharge this Trust, and exercise therein the same powers hereby conferred on the said second party and with like effect.

It is the intention of the parties to this contract to conform strictly to the laws of the Indian Territory relating to usury, and no greater amount shall be collected than is allowed thereby; and if for any reason any greater amount is received or collected at any time before the final payment and discharge of the debt, the same shall be credited thereon as of the date it was received or collected.

IN WITNESS WHEREOF, The said first party have hereunto set their hands and seals, the day and year herein first above written.

Witness: to mark

A. Little

Joe Daniels

Rutha Lee Phillips, formerly Scott [SEAL]

Allen P. Phillips [SEAL]

Allen P. Phillips [SEAL]

Allen P. Phillips [SEAL]

UNITED STATES OF AMERICA, } State of } ss.

INDIAN TERRITORY, } } ss.

northern DISTRICT } } ss.

 County of }

On this 25 day of Feb, nineteen hundred and seven before me, Alvance Daniels a Notary Public, duly commissioned and acting within and for the northern District and Territory aforesaid, appeared in person Allen P. Phillips and Rutha Phillips, formerly Rutha Scott, his wife to me personally known as the person whose name appear upon the within and foregoing Deed of conveyance, as the grantor and stated that he had executed the same for the consideration and purposes therein mentioned and set forth; and I do hereby so certify. And the said further declared self to be single and unmarried.

AND I FURTHER CERTIFY That on this day voluntarily appeared before me Rutha P. Phillips wife of the said Allen P. Phillips to me well known as the person whose name appears upon the within and foregoing Deed of Conveyance, and in the absence of her said husband, declared that she had of her own free will signed the relinquishment of dower and homestead herein expressed, and had executed said deed for the purposes and consideration therein contained and set forth, without compulsion or undue influence of her husband.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal as such Notary Public on the 25 day of February, 1907

[SEAL] Alvance Daniels My Commission Expires the 25th day of Feb, 1910

Alvance Daniels Notary Public, in and for the northern District, Indian Territory.

Filed for Record Feb. 26 1907 at 2 o'clock P. M. Deputy Clerk and Ex-Officio Recorder.