

## MORTGAGE RECORD 75

in any manner whatsoever for any loss, misapplication or non-application of any such purchase money paid by him, or any part thereof, or be bound to make any inquiry as to the authorization, necessity, expediency or regularity of any such sale or sales.

6. The Trustee, however instead of exercising the power of sale herein conferred upon it, and in any event without regard to the previous or contemporaneous exercise of any remedy hereunder or under the First and Refunding Mortgage, may, in its discretion, and, at the request of the holders of twenty five per cent, in amount of the bonds then outstanding, upon being indemnified as hereinafter provided, shall, proceed by a suit or suits at law or in equity or by any special or other statutory proceeding or proceedings, as the Trustee being advised by counsel may deem effectual for the protection of the interests of the bondholders hereunder, to enforce this Trust Indenture and to sell the pledged securities under the judgment or decree of a court or courts of competent jurisdiction or otherwise, as provided by law, and to enforce the covenants contained in Sections 5 and 6 of Article Three hereof in respect of the new mortgage therein referred to, whether by an action for the specific performance thereof or by an action to establish and enforce the same as an equitable mortgage or otherwise; and to enforce and collect the First and Refunding Mortgage Bonds and coupons or any of them or any other bonds pledged and assigned hereunder and the lien securing the same, or to exercise any one or more of said remedies.

Anything in this Trust Indenture contained to the contrary notwithstanding, the holders of a majority in amount of the bonds then outstanding, in case of any subsisting default or of any other event entitling the Trustee to proceed hereunder, shall have the right, from time to time, to direct and control the method and place of conducting any sale of the pledged securities or any part thereof, and any and all proceedings by the Trustee for the enforcement of any of the provisions of this Trust Indenture or for the appointment of a receiver, or for the collection of any of said securities or the enforcement or foreclosure of the First and Refunding Mortgage and any other proceedings taken by virtue of any provisions of this Trust Indenture, but they shall have no right or power to involve the Trustee in any personal liability of any kind to anybody without first and from time to time indemnifying it to its satisfaction.

7. In case of any sale of the pledged securities, whether under the power of sale hereby granted or by virtue of judicial or statutory proceedings, and in case of the collection of the pledged securities or the enforcement of the lien thereof, the resulting proceeds of the particular securities pledged hereunder as specific security for each of the several series of bonds then outstanding hereunder shall be set apart by the Trustee as a separate fund for each such series, and each such fund shall be applied as follows:

(a) to the payment of the costs, expenses, fees and other charges of such sale or sales and of such collection or enforcement, and reasonable compensation to the Trustee, its agents and attorneys and to the payment of all expenses and liabilities incurred and advances or disbursements made by the Trustee; the amount of such payments to be pro-rated among the several funds in proportion to the amounts due for principal and interest on the bonds of each of the series for which the respective funds have been set up;

(b) any amount then remaining of the fund for each series, to the payment of the principal amount owing and unpaid upon the bonds of that series outstanding and all accrued and unpaid interest thereon, with interest on all overdue principal and interest at the rate of four and one half per cent per annum; and, in case such proceeds shall be insufficient to pay in full the whole amount so due and unpaid upon the bonds and coupons or claims for interest of that series outstanding, then to the payment of such principal and interest, ratably, according to the aggregate of such due and unpaid principal and interest, without preference or priority of principal over interest, or of interest over principal, or of any instalment of interest over any other instalment of interest; subject, however, to the provisions of Section 1 of this Article;

(c) Any amount then remaining of the fund for each series shall be transferred to and divided among the respective funds for the other series pro rata in like manner as provided in clause (a) of this section 7;

(d) any surplus then remaining to the Railway Company, its successors or assigns, or whosoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

8. In case of a sale or sales of the pledged securities whether under the power of sale hereby granted or by virtue of judicial or statutory proceedings, the purchaser, for the purpose of making settlement or payment for the securities purchased, shall be entitled to turn in or apply towards the payment of the purchase price, and to be credited, with, any bonds and any due and unpaid coupons thereto belonging to the extent of the value of such bonds and coupons upon a distribution (subject to the provisions of Section 1 of this Article Five) among the holders thereof of the net proceeds of such sale, after making the deduction allowable under the terms hereof for the costs and expenses of the sale and otherwise; but such bonds and coupons so applied in payment by the purchaser shall be deemed to be paid only to the extent so applied. At any such public sale, the Trustee as trustee hereunder, or at any such sale, whether public or private, any holder or holders of bonds may bid for and purchase the securities so sold and may make payment therefor, as aforesaid, and upon compliance with the terms of sale may hold, retain and dispose of such securities without further accountability, and the receipt of the Trustee or of any officer duly appointed to make such sale shall be sufficient discharge for the purchase money to any purchaser of the securities or any part thereof sold under any of the provisions of this Trust Indenture.

9. In case of the happening of any of the events of default defined in Section 2 of this Article Five, the Railway Company upon the demand or successive demands of the Trustee, will pay to the Trustee for the benefit of the holders of the bonds and coupons then outstanding, the whole amount due and payable at the time of any such demand on all such bonds and coupons for principal or interest, or both, as the case may be with interest upon the overdue principal and interest coupons at the rate of four and one half per cent per annum; and in case the Railway Company shall fail to pay the same forthwith upon such demand, the Trustee in its name as trustee, and as trustee of an express trust for the benefit, ratably of the holders of said bonds and coupons, shall be entitled to recover judgment against the Railway Company for the whole amount so due and unpaid. The Trustee shall be entitled to recover judgment against the Railway Company, as aforesaid, before or after or during the pendency of any proceedings for the enforcement of the lien of this Trust Indenture upon the pledged securities or in such proceedings, and its right to recover such judgment shall not be affected by any sale hereunder or by the exercise of any other right, power or remedy for the enforcement of the provisions of this Trust Indenture, or by the foreclosure of the lien hereof, and in case of the sale of the pledged securities and of the application of the net proceeds of sale to the payment of the indebtedness represented by the bonds, the Trustee, in its name as such trustee and as trustee of an express trust for the benefit, ratably, of the holders of said bonds and coupons (subject to the provisions of Section 1 of this Article Five) shall be entitled to receive and enforce payment by the Railway Company of the amount of any deficiency, that is to say, any amount then remaining due and unpaid upon all or any of said bonds and coupons then outstanding, and shall be entitled in its name as such trustee to recover judgment for any portion of such indebtedness remaining unpaid, with interest. All rights of action