

## MORTGAGE RECORD 75

Every trustee hereunder (except as provided in the next succeeding paragraph) shall be a trust company or a national banking association having an office in the Borough of Manhattan in the City of New York and having a capital and surplus aggregating at least two million dollars, unless there be no such trust company or national banking association fully authorized and qualified and willing to discharge the duties of trustee hereunder.

If at any time or times, in order to conform to any legal requirements, the Railway Company shall so request, the Railway Company and the Trustee shall have power to appoint and shall unite in the execution and delivery of all instruments and the performance of all agreements necessary or proper to appoint, a trust company or national banking association, or one or more persons approved by the Trustee, as additional trustee or trustees either to act as co-trustees or co-trustees of all or any of the securities at the time subject to the lien hereof jointly with the Trustee originally named herein, or its successor or successors, or to act as a separate trustee or trustees of any of such securities, and in either case with all such of the rights, powers, duties and obligations hereby conferred or imposed upon the Trustee as shall be set forth in such instrument of appointment the same to be exercised either jointly with the Trustee or separately as such instrument may prescribe.

The Trustee shall not be in any way responsible for any loss incurred by reason of any misconduct or default on the part of the banking association, trust company or the person or persons so appointed.

Any new trustee appointed hereunder, shall execute, acknowledge and deliver to its or his co-trustee or co-trustees, if any, and also to the Railway Company, and to the retiring trustee, an instrument accepting such appointment hereunder and thereupon such new trustee, without any further act, deed or conveyance shall become fully vested with all of the securities, properties, interests, rights, powers, trusts, duties and obligations of his or its predecessor in the trust, or if a co-trustee hereunder with all such thereof as shall be described or set forth in the instrument of its appointment, with the like effect as if originally named as trustee herein and hereby vested with the same securities properties, interests, rights, powers, trusts, duties and obligations; but any trustee ceasing to act shall, nevertheless, on the written request of the Railway Company, or of the new trustee, execute and deliver an instrument transferring to such new trustee, or to such new trustee and its or his co-trustees, upon the trusts herein expressed, all of the securities, properties, interests, rights, powers, and trusts of the trustee so ceasing to act, and shall duly assign transfer and deliver all bonds, property and moneys held by or for the account of such trustee to the new trustee. Should any deed, conveyance or instrument in writing from the Railway Company be required by the new trustee for more fully and certainly vesting in and confirming to such new trustee such securities properties, interests, rights, powers and duties, or any thereof, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the Railway Company.

Except as herein expressly provided to the contrary, any notice, request or other writing by or on behalf of the bondholders delivered solely to The National City Bank of New York, or a trustee appointed as successor to it, shall be deemed, if at any time there shall be more than one trustee hereunder, to have been delivered to all of the trustees hereunder as effectually as if delivered to each of them.

Any trustee or trustees hereunder may, so far as may be lawful at any time, by an instrument in writing, constitute any other trustee hereunder its, his or their agent and attorney in fact, with power and authority, to the full extent which may be permitted by law, to do all acts and things and exercise all discretions hereunder in behalf of and in the name of the trustee or trustees executing such instrument.

5. Any company into which the trustee or any successor to it in the trusts created by this Trust Indenture may be merged or with which if or any successor to it may be consolidated or any company resulting from any merger or consolidation to which the Trustee or any such successor to it shall be a party, provided such company shall be a trust company organized under the laws of the State of New York or national banking association organized under the laws of the United States of America and shall do business in the Borough of Manhattan in the City of New York, shall be the successor trustee under this Trust Indenture without the execution or filing of any paper or further act on the part of either of the parties hereto, anything herein to the contrary notwithstanding. In case any of the bonds shall have been authenticated, but not delivered, any such successor trustee may adopt the certificate of authentication of the National City Bank of New York or of any successor to it, as Trustee hereunder, and may deliver such bonds so authenticated; and in case any of the bonds shall not have been authenticated, any successor trustee may authenticate such bonds either in the name of any predecessor trustee or in the name of such successor trustee, and in all such cases such certificate shall have the full force which it is anywhere in said bonds or in this Trust Indenture provided that the certificate of the Trustee shall have.

6. In all cases where this Trust Indenture does not make other express provision as to the evidence on which the Trustee may act or refrain from acting, the Trustee shall be protected in acting or refraining from acting under any provision of this Trust Indenture in reliance upon a certificate as to the existence or non-existence of any facts (a) signed by the president or a Vice-President of the Railway Company and (b) signed by its Treasurer or an Assistant Treasurer and (c) sealed with its corporate seal duly attested by its Secretary or an Assistant Secretary.

## ARTICLE TEN

## Sundry Provisions

1. All the conveyances, covenants, stipulations, promises, undertakings and agreements herein contained by or on behalf of the Railway Company shall bind its successors and assigns, whether so expressed or not.

2. The word "Trustee" or any word of reference to the Trustee, such as "it" or "its", includes the Trustee for the time being, whether original or successor. The words "Trustee", "bond", "bondholder", and "holder" include the plural as well as the singular number, unless otherwise expressly indicated. In the case of bonds pledged or otherwise hypothecated, the words "bondholder" and "holder" shall be deemed to have reference to the person at the given time actually in possession of such bonds. The words "bondholder" and "holder" include the registered owner of registered bonds without coupons and coupon bonds registered as to principal. The word "person" used with reference to a bondholder includes associations or corporations owning any of said bonds. The words "First and Refunding Mortgage Bonds" and "First and Refunding Mortgage Gold Bonds" mean bonds issued under and secured by the First and Refunding Gold Bond Mortgage of the Railway Company, dated April 1, 1904, to Central Trust Company of New York and David R. Francis as Trustees under which Central Union Trust Company of New York and George S. Hovey are present Trustees. The words "face amount" wherever used in this Trust Indenture with reference to bonds signify the principal amount stated on the face thereof, exclusive of all interest. The words "pledged securities" mean all the First and Refunding Mortgage Bonds and other securities at the time held by the Trustee in pledge hereunder.

All bonds which shall have been authenticated and delivered by the Trustee and shall not have been paid or redeemed or otherwise acquired by the Railway Company and surrendered to the Trustee, or the payment or redemption whereof as provided for by the deposit as herein provided of an amount in cash sufficient for such payment or redemption shall be deemed "outstanding" within the meaning hereof.