

## MORTGAGE RECORD 85

SECTION 10. In case the mortgaged premises shall be in the possession of a receiver or trustee in bankruptcy lawfully appointed, the powers in and by this Article Ten conferred upon the Railroad Company may be exercised by such receiver or trustee with the approval of the Trustee, and if the Trustee shall be in possession of the mortgaged property under any provision of this Indenture, then all the powers by this Article Ten conferred upon the Railroad Company may be exercised by the Trustee in its discretion. In case of the exercise of said powers by a receiver or a trustee in bankruptcy, such receiver or trustee shall deliver to the Trustee, in lieu of the resolutions, certificates and opinion by this Article Ten required to be delivered to the Trustee by the Railroad Company, appropriate orders of court, affidavit of such receiver or trustee and opinions of counsel to such receiver or trustee.

## ARTICLE ELEVEN.

## CONCERNING THE TRUSTEE.

SECTION 1. The Trustee accepts the trusts of this Indenture and agrees to execute them upon the following terms and conditions, to which the parties hereto and the holders of the Bonds agree:

(a) The Trustee shall be under no obligation to see to the recording, registry or filing of this Indenture or of any supplemental indenture; or to procure any supplemental indenture or any further, other or additional instrument of further assurance; or to give notice to anyone of the existence of the lien of this Indenture or of any such other indenture or instrument; or, while not in possession of the mortgaged property, to see to the payment of taxes, assessments and governmental charges on the trust estate.

(b) The Trustee shall be entitled to reasonable compensation for all services rendered by it in the execution of the trusts hereby created, which may be more or less than the compensation of fiduciaries or of a trustee of an express trust as provided by law, and such compensation and reasonable compensation of its counsel and such persons as it may employ in the administration or management of the trust and all other expenses necessarily incurred and actually disbursed hereunder and all advances made as herein authorized, the Railroad Company agrees to pay promptly from time to time as such services are rendered and as such expenses are incurred, or such advances made. Until so paid, the amount of such compensation, expenses and advances shall constitute a lien upon the trust estate prior to any claim of the holders of Bonds.

(c) The Trustee shall not be responsible in any manner whatsoever for the recitals herein or in the Bonds contained, except the authentication of the Trustee endorsed on the Bonds, all of which, except such authentication, are made by the Railroad Company.

(d) Unless and until the Trustee shall have received written notice to the contrary from the holders of not less than ten per cent. in principal amount of the Bonds at the time outstanding, the Trustee may, for all the purposes of this Indenture, assume that no default has been made in the payment of any of the Bonds or of the interest thereon, and that no default has been made in the observance or performance of any of the covenants contained in the Bonds or in this Indenture, that no receiver has been appointed of the Railroad Company or of its lines of railroad and property, that the Railroad Company is not in default under this Indenture and that none of the events hereinbefore denominated events of default has happened.

(e) The Trustee shall not be under any obligation to take any action toward the execution or enforcement of the trusts by this Indenture created which, in its opinion, will be likely to involve it in cost, expense or liability, unless one or more of the holders of the Bonds shall, as often as required by the Trustee, furnish it reasonably adequate security and indemnity against such costs, expenses or liabilities; nor shall the Trustee be deemed to have knowledge or be chargeable with notice of any default hereunder unless notified in writing of such default by the holders of not less than ten per cent. in principal amount of the Bonds then outstanding; or to take any action in respect of any such default involving cost, expense or liability unless (subject to Section 25 of Article Seven) requested by an instrument in writing signed by the holders of not less than twenty per cent. in principal amount of the Bonds then outstanding, and unless tendered reasonable security and indemnity as aforesaid, anything herein contained to the contrary notwithstanding; but neither any such notice or request, nor this provision therefor shall affect any discretion herein given to the Trustee to determine whether or not the Trustee shall take action in respect of such default, or to take action without such request.

(f) The Trustee may employ agents or attorneys in fact, and shall not be answerable for the default or misconduct of any agent or attorney appointed by the Trustee in pursuance hereof, if such agent or attorney shall have been selected with reasonable care.

(g) The Trustee shall be reimbursed and indemnified against any liability, loss, claim, demand or damage it may sustain or incur in the premises except by reason of its own wilful default or negligence, and shall have a lien upon the trust estate under this Indenture preferentially to the Bonds for any such liability, loss, claims, demands or damages, and the Trustee shall not be personally liable for any debt contracted or for any expenditure made by it in operating the business of the Railroad Company or for any damage to persons or property or for any salary or non-fulfillment of any contract during any period in which the Trustee shall manage the mortgaged property or any part thereof, upon entry as herein provided, and the trust estate is hereby charged with a paramount lien in favor of the Trustee as security and indemnification against any such liability.

(h) The Trustee may advise with counsel, who may be counsel regularly retained by the Railroad Company, and shall be fully protected in respect of any action under this Indenture, taken or suffered in good faith by the Trustee in accordance with the opinion of counsel.

(i) The Trustee shall not be liable for any error in judgment, nor for any act done or steps taken or omitted by it, nor for any mistake of fact or law, nor for anything which it may do or refrain from doing in connection herewith, except only for its wilful default or negligence.

(j) Except as provided in Article Five hereof the Trustee shall be under no duty to invest any moneys paid to or deposited with it or to its credit, pursuant to any of the provisions of this Indenture, and shall not be liable for interest on any such moneys during the period such moneys shall remain on deposit with it, except such interest as the Trustee may agree on with the Railroad Company, or, in the absence of agreement, such as it allows on other similar deposits.

(k) The Trustee need not see to the application of the Bonds or their proceeds or any moneys paid in accordance with the provisions of this Indenture.

(l) The Trustee shall be protected in acting upon any notice, request, receipt, consent, opinion, certificate, Bond, coupon, obligation, resolution, letter, telegram, or other paper or document believed by it to be genuine and to have been signed by the proper party or parties. The Trustee may rely upon a certificate signed by the Secretary of the Railroad Company, under the corporate seal, as conclusive evidence that any resolution has been duly adopted by the Board of Directors of the Railroad Company and that the same is still in full force and effect.

(m) As to any question of fact necessary to be determined by the Trustee under the provisions hereof, evidence or proof whereof is not herein specifically provided for, the Trustee may rely upon the written certificate of the President and the Controller of the Railroad Company, but the Trustee may make independent investigation should it so determine and in such case may rely thereon.

(n) The Trustee shall not be responsible for the execution or validity of this Indenture or of the Bonds or coupons issued and to be issued hereunder or intended to be secured hereby, nor for the sufficiency of the security provided herein, nor for the genuineness or validity of any instruments, conveyances or assignments of any property intended to be subjected to the lien of this Indenture at any time, nor for the genuineness or validity of any securities pledged or deposited with the Trustee or purchased by the Trustee pursuant to the terms of this Indenture.

(o) The Trustee or any company in or with which the Trustee may be interested or affiliated, or any officer or director or trustee or stockholder of the Trustee or of any such company, may acquire and hold Bonds issued hereunder, or may engage in or be interested in any financial or other transaction with the