

Inclusive and in Book A of Trust Deeds, etc., pages 119 to 117 inclusive; Sand County, November 11, 1881, Note Book D, page 22, Deed Book No. 84, pages 507 to 514 inclusive and in Book A of Trust Deeds, etc., pages 1 to 3 inclusive.
In Ohio, February 14, 1842, in Mortgage Book No. 488, pages 61 to 73 inclusive.

CONTRACT

Of Abandonment and Extension
Or Lease.

Period of exercise of original term of October 11, 1881.

WHEREAS, on the 11th day of October, A. D. 1861, under and in pursuance of an act of the General Assembly of the State of Ohio, passed on the 18th day of March, 1861, entitled "An Act supplementary to the Act relating to cities of the first class, having a population exceeding one hundred and fifty thousand inhabitants, passed May 4, 1860," with the approval of the Trustees of the Sinking Fund of the City of Cincinnati, and for and in consideration of the rents, covenants and agreements contained in an indenture made between the said Trustees of the Cincinnati Southern Railway and the Cincinnati, New Orleans and Texas Pacific Railway Company, did hereby grant, demise and lease unto said company for the term of twenty-five years, from the 12th day of October, A. D. 1861, the line of railway known as the Cincinnati Southern Railway, extending from its terminus in Chattanooga county, Ohio, to its terminus in Chattanooga, in the county of Hamilton, in the State of Tennessee, together with all the works, conveniences and appendages of said railway; and

Power of Attorney of State and County of Hamilton, under Great Seal of State, 1871.

WHEREAS, by an Act of the General Assembly of the State of Ohio, passed April 23, 1868, entitled "An Act supplementary to an Act relating to cities of the first class, having a population exceeding one hundred and fifty thousand inhabitants, passed May 4, 1860," the board of trustees of any railway appointed under the provisions of the Act of May 4, 1860, were authorized with the approval of the Trustees of the Sinking Fund of said city to agree with the lessees of any such railway to modify the terms

and extend the time of grant to any lease thereof, for such length of time and upon such terms and conditions as shall be fixed and provided by said Board of Trustees, and to borrow, as a fund for terminal facilities and permanent betterments for any such railway, a sum not exceeding two million five hundred thousand dollars (\$2,500,000), and to issue bonds herefor; provided, however, that no such modification or extension of such lease shall be made until the question of making such extension or modification shall be submitted to a vote of the qualified electors of said city at a general election held in said city in the manner provided in said act, after the making of the agreement aforesaid.

Now THIS INSTRUMENT, made between the said Board of Trustees of the Cincinnati Southern Railway, party of the first part, and the Cincinnati, New Orleans and Texas Pacific Railway Company, party of the second part, with the approval of the said Trustees of the Sinking Fund of said city, WITNESSETH, and it is mutually covenanted and agreed by said parties each for itself, his successors and assigns, as follows:

CONSTRUCTION GIVEN BY THE BOARD OF TRUSTEES OF THE SINKING FUND OF SAID CITY IN APRIL, 1885, AS TO THE EXTENSION OF THE LEASE, THROUGH THE CITY OF CINCINNATI, TO THE CITY OF NEW ORLEANS.

SECTION 1. That the construction given to the lease aforesaid by the United States Circuit Court of Appeals for the Sixth Circuit, in case No. 672 on the docket of said court, between Samuel M. Felton, receiver of The Cincinnati, New Orleans and Texas Pacific Railway Company, appellant, and the City of Cincinnati and the Trustees of the Cincinnati Southern Railway, appellees, be and the same be hereby adopted and made part of said lease and of this indenture extending the time of the grant in the aforesaid lease as if said construction and decision of said court were written in said lease and in this indenture of extension; and further, the party of the second part covenants, whenever needed, to reconstruct the structures, works and conveniences and other like structures, works and conveniences substituted therefor, upon the said line of railway, at its own proper cost

and without any deduction from the rent and other charges reserved and provided to be paid by the said party of the second part.

SECTION 2. It is mutually covenanted and agreed, that the residue of the sum of \$300,000 mentioned in clause eleven of the lease of said railway, now in the hands of the Trustees of the Cincinnati Southern Railway, amounts to nineteen hundred and eighty-four and 12-100 dollars (\$1,984.12), and that the same shall be expended for fitting and improving for the uses of said railway as provided in the act of April 22, 1885 (22 Ohio L. 1431), and in the agreement made in pursuance of said act between the parties hereto dated July 13, 1885.

And it is further agreed that all claims of said lessee against the said City of Cincinnati or said Board of Trustees in respect of alleged failure prior to the taking effect of this extension agreement to furnish terminals or other facilities are hereby waived.

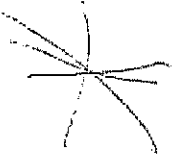
SECTION 3. That any additional track, whether additional main track or additional side track, which may be constructed by the said party of the second part, on or along the said line of railway, shall be constructed on the right of way now owned or to be hereafter acquired by the parties of the first part, and become a part of the line of railway; and whenever it shall be found necessary that additional lands or rights of way be acquired for the purpose of constructing additional main or side tracks, trestle, such additional lands or rights of way shall and may be acquired under the terms and conditions of Clause 10 of said original lease, and the provisions of Clause 10 of said lease are hereby made applicable to the acquisition of lands and rights of way for such purpose.

And said party of the second part shall keep the line of railway in such thorough repair and working order as shall be necessary for the rapid and smooth

notice of goods, terminals, freight, and other property to be expended for fitting and improving the same, and the amount of such expenditure shall be determined by the Board of Trustees of said city in 1885.

Whether of all claims of said city for interest on the investment herein.

All additional tracks to be constructed on the right of way of Trustees.



Railway to be kept in thorough repair and working order as shall be necessary for the rapid and smooth

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movement of passenger traffic and the regular trans-
action of freight business and at the end of the term
as hereby extended will relinquish and surrender said
railway in the condition, at the time of relinquish
and surrender, of a first class single or double track
railroad, for the whole line of railway or portions
thereof as may then be single or double tracked.

SECTION 4. The Lessee Company shall, before the
execution and delivery of the contract of renewal,
cause its capital stock to be increased in the sum of
\$2,000,000, making its total capital stock \$5,000,000,
the proceeds of said additional capital stock to be in-
vested in property to be used in the operation of the
road, and to be pledged under the mortgage to the
City to secure the rental.

SECTION 5. Rental, according to the terms of the
present lease, to be paid in cash up to and including
the payment of July 12, 1902. The rental subse-
quent to July 12, 1902, becoming due under the terms
of the present lease to be paid at the rate of one
million and fifty thousand dollars (\$1,550,000) per
annum in cash on the quarterly due dates, and the
remainder of \$50,000 per quarter to be deferred from
time to time as it accrues, and to be paid in quarter-
ly payments of \$10,000 per quarter, being at the rate
of \$40,000 per annum, with interest on all such de-
ferred payments at the rate of 3 per centum per an-
num, payable quarterly, until paid. Such quarterly
payments of \$10,000 to begin October 12, 1902.

SECTION 6. That the time of extension of said
lease shall be for and during the full term of sixty
(60) years from the date of the expiration of the
present lease, that is to say, until the 12th day of
October, A. D. 1960. Said party of the second part
to have and to hold the demised premises and all ad-
ditions and improvements thereon for the term above
stated upon the terms and conditions stipulated in
said lease and in this indenture extending the same.

Time of extension
of lease
from October 12,
1892.

Provision of
for the rental
of the road
from the date of
the expiration of
the lease.

The annual rent hereby reserved, which the party herein
of the second part covenants and agrees for itself,
its successors and assigns to pay to the party of the
first part its successors and assigns in lawful money
of the United States of America at the treasury of
the City of Cincinnati, Ohio, payable quarterly on
the 12th days of January, April, July and October in
each and every year of the extended term hereby
granted, shall be the sums following, to-wit: During
the first period of twenty years of the said extended
term hereby granted the annual rental of One Mil-
lion and Fifty Thousand dollars; during the second
period of twenty years of the said extended term
hereby granted the annual rental of One Million
One Hundred Thousand dollars; during the third
period of twenty years of the said extended term here-
by granted the annual rental of One Million Two Hun-
dred Thousand dollars.

SECTION 7. That the quarterly installments of rents
reserved in the lease and in this indenture, and the
amount payable quarterly under clause nine (9) of
the lease shall bear interest at the rate of five per
centum per annum for each day's delay by non-pay-
ment upon the days fixed therefor in said lease and
in this indenture. Provided, however, that this
stipulation as to interest on overdue installments of
rent and amounts payable under clause nine (9) of
the lease shall not be taken to be, and shall not be,
a waiver of the right of forfeiture as contained in
clause thirteen (13) of said lease.

SECTION 8. Within six months after the delivery
of this contract of renewal, the Lessee Company shall
file with the Trustees, in duplicate, a schedule of all
its motive power, rolling stock and other equipment
used on or in connection with the operation of the
railway, and thereafter similar schedules shall be so
filed not later than sixty days after the first days of
January and July of each year.

Five per cent, per
annum interest on
rental or amount
of clause 9 of the
lease.

Lease to the
benefit of said
ing stock, etc.

[Handwritten signature]

Public shall not be directed, and no other party or person shall be given power or authority over same.

SECTION 9. The party of the second part covenants and agrees with the party of the first part that it will not enter into any agreement, express or implied, or any writing or other arrangement whereby the freight or passenger traffic shall be diverted from said railway, or whereby the charges on the same going to or coming from points north or south of Cincinnati or Chattanooga, shall be in excess of the charges made for such traffic between same points of origin and destination by other roads.

Except in so far as its books for its own proper use.

SECTION 10. The Lessee Company agrees to submit at its own proper cost its books at least once a year for a full and complete examination to a public accountant or accountants or auditing company, duly licensed or incorporated under the laws of New York or of Ohio, and the certificate of said accountant or accountants or auditing company, as to the correctness and fullness of the company's report in respect to its earnings and expenses and its financial condition, shall be filed at the close of each fiscal year with the Trustees and be published in the Company's annual reports.

Clause 14 of original Indenture is amended.

SECTION 11. Clause 14 of the original lease, providing for arbitration, is hereby abrogated and annulled, and all rights of arbitration hereunder shall cease in respect to both past and future cases, and in lieu and in place of said clause 14 the following is substituted, which shall apply to the term yet to run of the present lease as well as the extension thereof hereby granted, viz:

It is further mutually covenanted and agreed by the parties hereto that all questions of difference arising between the parties hereto in relation to the construction of this agreement, or otherwise in reference to the rights of the parties thereunder, shall upon the written demand of either party, stating in such demand the question or questions claimed to be in dispute, be submitted upon an agreed statement of facts to the Superior Court of Cincinnati, or if

Questions of arbitrators to be submitted upon agreed statement of facts.

There be no such court then to the Court of Common Pleas of Hamilton County, Ohio, but if the parties hereto shall fail to make an agreed statement of facts within thirty days after a demand as aforesaid, then each of the parties hereto shall have the right to bring a civil action in either of said courts and the proceedings in said courts upon any agreed statement of facts or in said civil action shall be conducted in accordance with the laws of Ohio with right of either party to review by petition in error or appeal the judgment rendered therein.

If the subject-matter of the controversy relates to a forfeiture or right of re-entry and the final judgment shall be that the said Trustees of the Cincinnati Southern Railway have a right of re-entry and that the original lease or the extension thereof herein granted has been forfeited, the said party of the second part hereby covenants and agrees with the party of the first part to execute and deliver to the said Trustees a surrender of the original lease and this extension thereof and all rights under the same with power and authority to said Trustees to take possession of the said line of railway and its appendages, with all additions to and improvements thereof including all new constructions and reconstructions thereon, and all other property by said lessee company to be surrendered upon the termination of the original lease or the extension thereof as herein provided.

Lessee to execute and deliver to Trustees a surrender of same and extension.

SECTION 12. That at the execution and delivery of this Indenture the said party of the second part shall execute, acknowledge and deliver to the Trustees of the Cincinnati Southern Railway a deed confirming the mortgage executed and acknowledged on the 11th day of October, 1881, given by the Cincinnati, New Orleans and Texas Pacific Railway Company to said Trustees and extending the lien thereof to all property thereby covered or to be hereafter acquired as security for the performance of the covenants of said lease and of this Indenture and of any supple-

Deed to be executed confirming mortgage of Oct 11, 1881 and extending the lien thereof.

Original lease to remain in full force except as hereinafter provided and amended.

Contact not to be made with the owners of the property or the trustee of the bonds approved by the city of Cincinnati, Ohio, until the date of the first adjournment of the Board of Trustees of the City of Cincinnati, Ohio, as provided in law.

Section 13. The original lease, dated October 11, 1881, is to remain in full force during the term therein granted and during the extension thereof hereby granted, except so far as the same is modified or amended by this indenture, and the said party of the second part for itself, its successors and assigns, hereby covenants and agrees with the said party of the first part, its successors and assigns, that it will keep and perform all the covenants, stipulations and agreements thereof and of this indenture, and will not evade or violate any of the same.

Section 14. This contract of modification and extension shall be of no force or effect unless and until the question of the issuance of the bonds provided for in sections two (2), three (3) and four (4) of the act of the General Assembly of the State of Ohio, passed April 23, 1898 (93 Ohio L. 537), shall have been submitted to a vote of the qualified electors of the City of Cincinnati in the manner provided for in said act, and a majority of all votes cast upon the question of the issuance of said bonds at such election shall have been cast in favor of the issuance of the same, and shall likewise be of no force or effect in the event of a final adjudication of the Supreme Court of Ohio or the Supreme Court of the United States that renders this or the supplemental agreement between the parties hereto, made pursuant to section 2 of said act, invalid in law.

IN WITNESS WHEREOF, Edward A. Ferguson, John Carlisle, Harry R. Smith, Thomas Morrison and John R. Saylor, Trustees of The Cincinnati Southern Railway, authorized by resolution of said Board of Trustees of the Cincinnati Southern Railway, have, on this 7th day of June, 1902, affixed their hands and seals; and the Board of Trustees of the Sinking Fund of the City of Cincinnati, in evidence of their approval hereof, have caused these presents to be attested

upon the day and year above mentioned, by the signature of Charles P. Taft, president of said Board of Trustees of the Sinking Fund; and the said The Cincinnati, New Orleans and Texas Pacific Railway Company has, upon the day and year last above mentioned, caused this indenture to be signed and sealed by Samuel Spencer, its President, and W. A. Shoemaker, its Secretary, as the act and deed of said The Cincinnati, New Orleans and Texas Pacific Railway Company, and its corporate seal to be hereunto affixed by its said Secretary; the question of making such extension and modification having been submitted to a vote of the qualified electors of said city at a general election held in said city upon the 5th day of Nov., 1901, and a majority of all the votes cast upon the question at said election having been cast in favor thereof.

Executed in triplicate upon the day and year above mentioned.

Edward A. Ferguson, [Seal]
John Carlisle, [Seal]
Harry R. Smith, [Seal]
Thomas Morrison, [Seal]
John R. Saylor, [Seal]

Trustees of the Sinking Fund of the City of Cincinnati,
By Charles P. Taft, President.

The Cincinnati, New Orleans and Texas Pacific Railway Company,
Seal of the Co. By Samuel Spencer, President, and
N. O. & T. P. Ry. W. A. Shoemaker, Secretary.
Attest:
W. A. Shoemaker, Secretary.

Witness:
W. T. Berler,
Stanley Ferguson.

Acknowledgment.

State of Ohio, Hamilton County, ss.

Before me, W. T. Porter, a Notary Public in and for the County and State aforesaid, personally appeared Edward A. Ferguson, John Carlisle, Harry R. Smith, Thomas Morrison and John R. Saylor, with each of whom I am personally acquainted, and who upon oath acknowledged themselves to be the Trustees of the Cincinnati Southern Railway, and as such Trustees hereinafter in the within named instrument, and that they as such Trustees, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing their names thereto as such Trustees; and also personally appeared Charles P. Taft, with whom I am personally acquainted, and who upon oath acknowledged himself to be the President of the Board of Trustees of the Sinking Fund of the City of Cincinnati, and that he as such President of said Board of Trustees of the Sinking Fund of the City of Cincinnati, being authorized so to do, executed the foregoing instrument, for the purposes therein contained, by signing the name of said Board of Trustees by himself as such President.

Witness my hand and notarial seal of office in Cincinnati, Hamilton County, State of Ohio, this seventh day of June, A. D. nineteen hundred and two.

[Notarial Seal.]

W. T. Porter,
Notary Public, Hamilton County, Ohio.

State of Ohio, County of Hamilton, ss.

Before me, W. T. Porter, a Notary Public in and for said State and County, personally appeared Samuel Spencer and W. A. Shoemaker, with whom I am personally acquainted, and who upon oath acknowledged themselves to be respectively the President and Secretary of the Cincinnati, New Orleans and Texas Pacific Railway Company, the within named lessee, a corporation, and that they, as such President and

such Secretary, being authorized so to do, executed the foregoing instrument, for the purposes therein contained, the said Samuel Spencer signing the name of the corporation thereto by himself as President, and the said W. A. Shoemaker affixing the corporate seal of said Company thereto by himself as Secretary.

Witness my hand and notarial seal of office in Cincinnati, Hamilton County, State of Ohio, this seventh day of June, A. D. nineteen hundred and two.

[Notarial Seal.]

W. T. Porter,
Notary Public, Hamilton County, Ohio.

State of Ohio, Hamilton County, ss.

Acknowledgment.

Be it remembered, that I, W. T. Porter, a Notary Public in and for said County, do hereby certify that on the seventh day of June, A. D. 1902, personally came before me as such Notary Public at Cincinnati, in the County aforesaid, Edward A. Ferguson, John Carlisle, Harry R. Smith, Thomas Morrison and John R. Saylor, as Trustees of the Cincinnati Southern Railway, and at the same time and place personally appeared before me, Charles P. Taft, as President of the Board of Trustees of the Sinking Fund of the City of Cincinnati; and also, at the same time and place, before me personally appeared The Cincinnati, New Orleans and Texas Pacific Railway Company, by Samuel Spencer, its President, and W. A. Shoemaker, its Secretary, and the foregoing instrument of writing from said Trustees of said Cincinnati Southern Railway and said Trustees of said Sinking Fund to the said The Cincinnati, New Orleans and Texas Pacific Railway Company was produced to me by the parties, and said instrument of writing was then and there acknowledged before me by said Edward A. Ferguson, John Carlisle, Harry R. Smith, Thomas Morrison and John R. Saylor, and by said Charles P. Taft, respectively as Trustees as aforesaid, and by the said The Cincinnati, New Orleans