

Joshua W. Caldwell
Special Master
- to -
Southern Railway Company

In the Circuit Court of the United States.
Central Trust Company of New York
And Others,
Complainants,

Against
East Tennessee, Virginia and Georgia
Railway Company and Others,
Defendants. } In Equity.

An Indenture, made the fourteenth day of July, 1894, by and between Joshua W. Caldwell, Special Master, duly appointed in the suits in Equity hereinafter mentioned, Party of the First Part, and Southern Railway Company, a corporation organized and existing under the laws of the State of Virginia, which was duly filed and recorded its Charter in the several Offices in the State of Tennessee as required by law, Party of the Second Part, Witness:

Whereas, On or about the nineteenth day of July, 1893, the Central Trust Company of New York, Trustee, as complainant, filed its Bill of Complaint in Equity, in the Circuit Court of the United States of America for the Eastern District of Tennessee, Northern Division, against the East Tennessee, Virginia and Georgia Railway Company, a corporation created by and existing under the Laws of the State of Tennessee, as defendant, in which suit in equity it was sought to foreclose the Equipment and Improvement mortgage dated the 1st day of September, in the year 1888, and upon or about that day duly executed, acknowledged and delivered by said Railway Corporation to said Central Trust Company of New York, and also the General Mortgage executed by said Railway Company to said Trust Company, dated December 1st 1890, in which suit it was proposed to sell the whole of the mortgaged property and premises, being the railroads, property, privileges and franchises of said Railway Company, as more specifically described in said two mortgages;

And, Whereas, Thereafter, to wit, on or about the 12th day of May 1893, a certain other cause, then pending in the said Circuit Court of the United States for the Eastern District of Tennessee, entitled, "Samuel Thomas and others, complainants against East Tennessee, Virginia and Georgia

Railway Company and others, defendants," was consolidated with the suit first above mentioned, so as to become Consolidated Cause in Equity No. 957, entitled "Central Trust Company of New York and others, complainants, against East Tennessee, Virginia and Georgia Railway Company and others, defendants;"

And Whereas, Such proceedings were had in the said consolidated cause that on the 4th day of April, 1894, a decree of foreclosure and sale was entered therein by the said Circuit Court of the United States for the Eastern District of Tennessee, Northern Division;

And whereas, similar decrees foreclosing such Equipment and Improvement and General mortgages were subsequently entered in similar suits brought by the Central Trust Company, complainants, against the said East Tennessee, Virginia and Georgia Railway Company, as defendant, in the Circuit Court of the United States for the several districts hereinafter mentioned, on the days following - that is to say, the Southern District of Mississippi on April 11, 1894; the Northern District of Georgia, on April 11, 1894; the Northern District of Alabama on April 11, 1894;

And Whereas, In and by the said decrees the said Joshua W. Caldwell, party of the first part, was appointed Special Master to execute the said foreclosure decrees and to make the sale of property therein provided for and directed;

And Whereas, In pursuance of such appointment the said Special Master afterwards, to wit, on the 7th day of July, 1894, after due advertisement and notice of sale as prescribed in the said decrees, at public auction at the principal passenger station of the said East Tennessee, Virginia and Georgia Railway Company, in the City of Knoxville and State of Tennessee, on the day and at the hour fixed by the said Special Master in his advertisement of sale, in accordance with the request of the solicitor for the complainant, and in the manner specified and directed in the said decrees, did sell all and singular the railroad, equipment, bonds, property, premises, rights, privileges, and franchises which the said Special Master was directed by the said decrees to sell upon the terms and conditions in said decrees fully and at large set forth, to which decrees reference is hereby specially and expressly made;

And whereas, at such sale the said Southern Railway Company,

party of the second part, became the purchaser of all such railroad, property and franchises offered and sold as a single parcel for the sum of One Million, One hundred and five thousand dollars (\$ 1,505,000) ; -

And, Whereas, The said party of the second part in full discharge of its said bid has paid to the said Special Master the sum of One hundred and fifty thousand dollars (\$ 150,000), and has also delivered to him \$ 5,940,000 of Equipment and Improvement bonds of the East Tennessee, Virginia and Georgia Railway Company, with all unpaid Coupons attached to said bonds, and also \$ 3,680,000 of General Mortgage bonds of said East Tennessee, Virginia and Georgia Railway Company, with all unpaid Coupons attached to such bonds, for endorsement of proportionate credit thereon;

And, Whereas, The said Special Master did duly make his report of said sale to the said Circuit Courts for the Eastern District of Tennessee, the Southern District of Mississippi, the Northern District of Alabama and the Northern District of Georgia, and the said sale has been by decrees entered of record duly approved and confirmed by the said Courts, subject to the compliance by the purchaser with all the terms and conditions of said foreclosure decrees and sale and the said several decrees of confirmation;

And, Whereas, An order was made by said Courts in the said suits, on July 1894, authorizing and directing the said Joshua W. Caldwell, party of the first part, as Special Master, upon the terms and conditions set out in the said decrees of confirmation, to execute, acknowledge and deliver a conveyance of all and singular the property, premises, rights, privileges and franchises so sold to the said purchaser thereof, subject to the mortgage liens as specified in and restricted by the said decrees of foreclosure, and subject also to the payment of all outstanding Receiver's certificates or Receiver's notes or obligations issued under the orders of Court in the said suits by the Receivers therein, and subject also to all other claims filed in the said consolidated cause, or in either of the causes therein consolidated, but only when and as the said United States Circuit Court for the Eastern District of Tennessee should allow such claims, and adjudge the same to be prior in lien to the mortgages foreclosed in said consolidated cause, and in accordance with the order or orders of the Court allowing such claims and

44
adjudging with respect thereto; and subject also to all debts and obligations incurred or to be incurred by the said Receiver which had not been or should not have been paid by them, and which should be adjudged by the said Court to be debts or obligations properly chargeable against the property purchased and to be prior or superior to the lien of the said two Mortgages thereby foreclosed, but not subject to any leases or contracts described or referred to in said Equipment and Improvement Mortgage or General Mortgage or decree, not expressly assumed or adopted by the purchaser.

And, Whereas. The said Southern Railway Company as such purchaser has complied with and fulfilled all the terms and conditions of the said order and decrees, so far as the same are now ripe for performance; and is entitled to a conveyance for the property so purchased by and confirmed to it:

Now, Therefore. This Indenture Witnesseth:

That the said party of the first part, to-wit: Joshua W. Caldwell, as such Special Master as aforesaid, and for and in consideration of the sum of One Million five hundred and five thousand dollars (\$1,505,000) paid and to be paid in accordance with the terms of the said decrees, and in consideration that the said party of the second part, as purchaser, will in all respects comply with the conditions of said decrees of foreclosure and sale:

Has granted, bargained, transferred, sold and conveyed, and by these presents does hereby grant bargain sell and convey unto the said Southern Railway Company, a corporation of the State of Virginia, which has duly filed and recorded its charter in the State of Tennessee, as required by law, and to its heirs, successors, and assigns forever: All And Singular the rights, privileges, interests, franchises, lands, tenements, hereditaments, appurtenances and property, of every description, whether real, personal, or mixed, embraced or included in the said decree of sale and the sale pursuant thereto, that is to say:

- I. (a) A line of railway extending from Bristol, in the County of Sullivan and State of Tennessee, via Knoxville to the City of Chattanooga, in the County of Hamilton, State of Tennessee.
- (b) A line of railway extending from Cleveland, in the County of Bradley, in the State of Tennessee, to Dalton, in the County of Whitfield, State of Georgia.

- (c) A line of railway from Coletwah, in the County of James, State of Tennessee, to Red Clay, in the County of Whitfield, State of Georgia.
- (d) A line of railway from Selma, in the County of Dallas, State of Alabama, and extending thence northeasterly to the Georgia State line, and thence in the State of Georgia, through the County of Floyd, via Rome, in the last-named County, and through the Counties of Gordon and Whitfield, to the Town of Dalton, in the last-named County, and terminating at the point or points of connection with the Western and Atlantic Railroad and the other line of railroad of the East Tennessee, Virginia and Georgia Railway Company hereinbefore described.
- (e) A line of railway extending from Morristown, in the State of Tennessee, to Paint Rock, at or near the State line between the States of Tennessee and North Carolina.
- (f) A line of railway extending from Rome, in the County of Floyd, in the State of Georgia, via Atlanta and Macon, to Brunswick, in the County of Glynn, in the State of Georgia, including an undivided one-half interest in a line of railway from Austell, Georgia, to Atlanta, Georgia.
- (g) A line of railway extending from Cochran to Hawkinsville, both in the County of Pulaski and State of Georgia.
- (h) A line of railway extending from Selma, in the County of Dallas and State of Alabama, via Lauderdale, to Meridian, in the County of Lauderdale, in the State of Mississippi.
- (i) One hundred and ninety-one locomotives, 127 passenger cars, 2,836 box cars, 91 refrigerator cars, 3,065 coal cars, 30 coke cars, 85 charcoal cars, 517 flat cars, 141 maintenance-of-way cars, four derricks, three pile drivers, five rock crushers, one steam shovel, one commissary car.
- (j) All the Machinery, tools, implements and other personal property of the East Tennessee, Virginia and Georgia Railway Company, contained in and used in connection with the construction and repair shops of said East Tennessee, Virginia and Georgia Railway Company at Knoxville, Tennessee, at Macon, Georgia, at Atlanta, Georgia, and at Selma, Alabama, said machinery, tools, implements, etc. consisting of stationary engines, boilers, pumps, lathes, drilling machines, slotting machines, planing machines, files, chisels, wrenches, hoists, steam hammers, saws, forges, cranes, anvils, tongs, flatters, fullers, formers, sledges, paints, upholsterers,

tools and patterns, etc.

(k) Also all machinery, tools, implements and other personal property of the East Tennessee, Virginia and Georgia Railway Company not herein before specifically described, which may be attached to or used in connection with the lines of railroad herein before described.

(l) Also the property and premises mentioned and described in a certain instrument of conveyance in the nature of a Mortgage, made by Samuel Thomas to the Central Trust Company of New York, dated April 1st 1883 and recorded in the Office of the Clerk of the Superior Court of Tulton County, Georgia, on the June 30th, 1883, in Mortgage Book K, pages 754-770 inclusive; and in the Office of the Clerk of the Superior Court of Bibb County, Georgia, on October 15th, 1883, Book III, and folios 75-101 inclusive; also all the premises and property mentioned and described in a certain instrument of conveyance in the nature of a Mortgage, made by Samuel Thomas to the Central Trust Company of New York, dated October 14, 1884, and recorded in the Office of the Superior Court at Tulton County, Georgia, on December 9th, 1884, in Book L, pages 795 et seq.

(m) Also a majority in amount of the shares of the common stock of the Memphis and Charleston Railroad Company,

(n) Also a majority in amount of the shares of the common stock of the Knoxville and Ohio Railroad Company.

(o) All the lands, roadways, tracks, superstructures, rails, bridges, piers, wharves, viaducts, culverts, walls, fences, ways and rights of way, depots, stationhouses, buildings and repair-shops, machine shops, depot-grounds and lands, sidings, buildings, structures, erections, improvements, leases, leasehold interests, contracts, choses in action, easements and privileges appertaining to or used, or procured or designed to be used, for the purpose of or in connection with the aforesaid lines of railroad or the maintenance or operation of any part thereof; and all other rolling stock, if any, used or designed to be used upon or in the operation of said lines of railroad, and all other personal property and materials used in connection with the same and not herein before specifically set out.

The foregoing properties, real, personal, choses in action and franchises, being embraced in the lien of the Equipment and Improvement Mortgage of the East Tennessee Virginia and Georgia Railway Company, dated September 1st 1888, and sold in foreclosure of the same.

II.

And Also:

- (a) The line of railroad, together with the branches thereof, known as the Walden's Ridge Railroad, extending from a point in the State of Tennessee, on the line of the Cincinnati, New Orleans and Texas Pacific Railroad, at or near Emory Gap, via Poplar Springs, to a connection with the Knoxville and Ohio Railroad, at or near the Town of Clinton, State of Tennessee.
- (b) The line of railroad known as the Rogersville Branch or Tennessee and Ohio Railroad, extending from Rogersville Junction to Rogersville, in the County of Hawkins, and State of Tennessee.
- (c) The line of railroad known as the Brierfield, Blocton and Birmingham Railroad, extending from Monticello to Blocton, through the Counties of Shelby, Bibb and Jefferson, all in the State of Alabama.
- (d) The line of railroad known as the Cincinnati, Selma and Mobile Railroad, extending from Elizabethton to Akron, through the Counties of Hale, Perry and Dallas, in the State of Alabama.
- (e) The line of railroad known as the Knoxville and Augusta Railroad, extending from Knoxville to Maryville, through the Counties of Knox and Blount, in the State of Tennessee.
- (f) The line of railroad known as the Johnson City and Carolina Railroad, extending from Johnson City to Emberville, in the State of Tennessee.
- (g) The line of railroad known as the Rome and Resatur Railroad, extending from Rome, Georgia, through the County of Floyd, State of Georgia, and the Counties of Cherokee and Etowah, in the State of Alabama, to Attalla, Ala.
- (h) Fifteen locomotives, 19 passenger cars, 92 box cars, 2 refrigerator cars, 22 stock cars, 118 coal cars, 19 coke cars, 22 charcoal cars, 26 flat cars, and 8 maintenance-of-way cars.
- (i) All machinery, tools and equipment of the East Tennessee, Virginia and Georgia Railway Company, used upon and in connection with the seven lines of railroad last above described, and situated and used at various points on the same.
- (j) All the lands, roadways, tracks, superstructures, rails, bridges, piers, wharves, viaducts, culverts, walls, fences, ways, and rights of way, depots, stationhouses, buildings and repair shops, machine shops, depot grounds and lands, sidings, buildings, structures, erections, improvements, leases, leasehold interests, contracts, choses in action, easements, and privileges, appertaining to or used or designated to be used, for the purpose of or in connection

48
with the aforesaid lines of railroad or the maintenance or operation or of any part thereof; and all other rolling stock, if any, used or designed to be used, upon or in the operation of said lines of railroad and all other personal property and materials used in connection with the same, and not hereinbefore specifically set out.

The foregoing properties, real, personal, choses in action and franchises being embraced in the lien of the General mortgage of the East Tennessee, Virginia and Georgia Railway Company, executed December 1- 1890, and sold in foreclosure of the same.

A more full and particular description of the property intended to be conveyed by this instrument being contained in said decree of the 4th of April, 1894, to which reference is hereby made;

Together with all the corporate estate, equity of redemption, rights, privileges, immunities and franchises of said East Tennessee, Virginia and Georgia Railway Company and all the tolls, fares, freights, rents, income, issues and profits of the said railroads, and all interest and claims and demands of every nature and description, and all the reversion and reversions, remainder and remainders thereof, including all the said mortgaged premises and property in said decree directed to be sold, at any time owned or acquired by, and now in the possession of, said East Tennessee, Virginia and Georgia Railway Company, or the Receivers thereof:

To Have and to Hold, all and singular, the above-mentioned railroads, premises, rights, privileges, interests, bonds, stocks, franchises, lands, tenements, hereditaments, appurtenances, and property, of every description, whether real, personal or mixed, herein conveyed or intended to be conveyed, unto the said Southern Railway Company, party of the second part, which is hereby invested with the same as fully and completely as said East Tennessee, Virginia and Georgia Railway Company, defendant in said suits in equity, or said Receivers, held or enjoyed, or were respectively entitled to hold or enjoy, or were seized of or entitled to, at the time of the entry of the said decree or at the time of the commencement of the said suits, or which said Receivers or either of them have since acquired; freed and discharged from the lien and encumbrances of the said two mortgages or deeds of trust foreclosed or barred by the said decree, and freed from all equity of redemption of said mortgages the East Tennessee, Virginia and Georgia Railway Company and of all equity of redemption and of all other claims of all persons whomsoever, claiming or to claim

under the said Railway Company, except as mentioned and reserved in said decree, and fully and absolutely as the said Joshua W. Caldwell, as Special Master, may or ought, by virtue of said decree to bargain sell release assign or convey, but not including in this conveyance any lease of the Louisville Southern Railroad, which lease the purchaser does not assume or adopt.

It is hereby understood and agreed that no personal covenant or liability is to be implied from this deed against the said party of the first part as Special Master, except that he has not in his official capacity made any prior conveyance of the property herein mentioned or of any part thereof.

And Whereas, In order to expediate the recording of this deed, six counterparts thereof are, by order of the United States Circuit Court for the Eastern District of Tennessee, simultaneously executed, acknowledged and delivered by the party of the first part to the party of the second part:

Now Therefore, This Indenture further witnesseth, that although six counterparts are simultaneously executed, acknowledged, and delivered by the party of the first part to the party of the second part, to the end that all or any one or more thereof may be recorded any one or more of such counterparts, when executed, acknowledged and delivered, shall severally or collectively be deemed to be an original, and for all intents and purposes be one instrument.

In Witness Whereof, The party of the first part hereto has hereunto set his hand and seal the day and year first above written:

In presence of	2	Joshua W. Caldwell	S. S.
Francis Lynde Stetson	2	Special Master	
John W. Caldwell	3		
C. H. Harvey	3		

attesting witness

State of Tennessee, 3 Personally appeared before
Knox County 2 me, John W. Caldwell, a Notary
Public of the said County of Knox, in this State of Tennessee, duly and regularly appointed, commissioned and qualified within my said County, - Joshua W. Caldwell, the within named grantor and bargainor, with whom I am personally acquainted, being the same person described in and who executed the foregoing instrument, and he then and there being informed of the contents of the conveyance, acknowledged before me that he voluntarily signed

executed and delivered the within and foregoing instrument on the day the same bears date for the purposes therein contained.

Witness my hand and Official seal, at Office, this fourteenth day of July, 1894.

John D. Caldwell,
Notary Public,
Knox County, Tenn.

John D. Caldwell,
Notary Public.

State of Tennessee }
Knox County } I, Geo. W. Comer, Clerk of the
County Court aforesaid, hereby certify
that John D. Caldwell, whose genuine signature is
affixed to the annexed jurat, was at the date of the same
an acting Notary Public for said County, duly
commissioned and sworn, and all his acts as
such are entitled to full faith and credit.

Witness my hand and Official seal, at Office in
Knoxville this 14th day of July 1894.

Seal of County
Court, Knox County
Tennessee.

Geo. W. Comer,
Clerk.

State of Tennessee, }
Knox County, } S.S.:
City of Knoxville.

I, Charles H. Harvey, Commissioner of Deeds for the
State of Georgia, in Tennessee, duly and regularly
appointed, commissioned and qualified, do hereby
certify that Joshua W. Caldwell, the within named
Bargainor, to me personally known, this day came
before me in person and signed, sealed and delivered
the within and foregoing deed, and made due acknowl-
edgment that he signed, sealed and delivered the same
for the purposes therein stated.

In Witness Whereof, I have hereunto set my hand
and Official seal this 14th day of July, 1894.

Signed, sealed and delivered }
in presence of }
Francis Lynde Stetson }
John D. Caldwell }

C. H. Harvey,
Commissioner of Deeds for the State
of Georgia in Tennessee

C. H. Harvey, commis-
sioner of the State
of Georgia,
in Tennessee at Knoxville

State of Alabama }
Shelby County } I, Geo. S. Leeper Judge of Probate
in & for said County, hereby certify
that the above & foregoing deed was filed in my
Office for Record at 8:10 A.M. on the 25th day of October
1894 & Recorded.

Geo. S. Leeper
Judge of Probate