

ment therefor is made as aforesaid.

Article XI. The bonds and stock of said Red River and Manitoba Railroad Company are to be deposited with said J. S. Kennedy & Co., together with a proxy or proxies, in favor of said parties of the first part, and held by them as Trustees under this agreement, pending the fulfillment thereof. Said parties of the first part shall have the right of representing and voting on said stock, through said proxy or proxies, at all meetings of said Company, and of using the same, so far as shall be necessary, to the control, management and operation by them of said Red River and Manitoba Railroad, and shall also be entitled to receive and expend all incomes derived therefrom, pending the final completion of this agreement.

Article XII. Said parties of the first part having deposited, in the Bank of Montreal, in the City of New York, the sum of Two hundred and eighty thousand dollars (\$280,000.) in gold coin of the United States, as a guarantee and security for the fulfillment of the obligations on their part expressed in this contract, (as appears by a certain letter addressed to J. S. Kennedy & Co., by said Bank, dated February 9th, 1878), said amount shall be paid over, and the said Bank of Montreal is hereby directed and authorized to pay over the same to the said J. S. Kennedy & Co., as agents for said Committee as aforesaid, without further or other order or directions from said parties of the first part, upon delivery to the said George Stephen (of the parties of the first part), at the Bank of Montreal in the City of New York, of this agreement duly executed by said party of the second part, together with a declaration in writing by John S. Kennedy and John S. Barnes, composing said firm of J. S. Kennedy & Co., in the form subjoined to this agreement, stating that they hold in their hands as joint and

several Trustees, named in said agreement, the bonds and stock purchased hereunder, upon the terms, conditions, and trusts herein expressed; and it is understood and agreed that this payment is received by said Committee in full satisfaction of all expenses, disbursements, and liabilities heretofore incurred by them in behalf of said Dutch Bondholders; it being the intent of the parties to this agreement, that the purchasers of said bonds are not, in any manner, to be held in any further or other sum, for any expenses or liabilities incurred by said Committee in behalf of the holders of said bonds, or of said Committee's certificates.

Article XIII. Said parties of the first part further agree, that in case they shall elect to pay for said purchase in bonds and stock as aforesaid, or in case any of said bondholders shall elect to receive payments in said bonds and stock as aforesaid, the issue of bonds proposed under this agreement upon the line of said Railroads, as re-organized, shall not exceed Twelve thousand dollars (\$12,000.) per mile of finished road.

Article XIV. It is further understood that the six (6) pending foreclosure suits in the District Court of the County of Ramsey, Minnesota, and in the Circuit Court of the United States for the District of Minnesota, in the names of Edmund Rice and others, Trustees; of Horace Thompson and others, Trustees; of Jacob S. Wetmore and others, Trustees, and of John S. Kennedy and others, Plaintiffs, and the suit of the First Division of the Saint Paul and Pacific Railroad Company against Edmund Rice, Horace Thompson, John S. Kennedy, Jesse P. Farley and John S. Barnes, commenced in June, 1877, in the District Court of Ramsey County, Minnesota, shall be controlled and conducted by the said parties of

the second part, or their agents, in concert with and under the advice and instructions of the said parties of the first part, as purchasers of said bonds, free from all expense to said parties of the second part, from and after the said 22nd day of December, 1877; provided, that nothing shall be done to delay the prosecution of said suits to their final ending.

Article XV. It is further understood that, in case the Trustees now in possession of said First Division of the Saint Paul and Pacific Railroads, shall hereafter make any division of the earnings of said Railroads now in, or hereafter to come into, their hands, the share of such earnings belonging to the bonds so purchased by said parties of the first part, as aforesaid, shall be paid to them by said Trustees, at the time of making such division.

Article XVI. It is further agreed that said parties of the first part shall have the right, at any time during the pendency of this agreement, to demand and receive from said John S. Kennedy and John S. Barnes, the Trustees holding said bonds, such amounts thereof as they may call for, upon payment in cash to said J. S. Kennedy & Co., as agents of said committee, of the purchase prices aforesaid for the bonds so withdrawn by them; provided, however, that such withdrawal shall not affect the option of the owner or owners of the certificates issued by said committee, representing the bond or bonds so withdrawn, to the payment therefor in bonds and stock as above provided, and that the amounts of bonds remaining in the hands of said Trustees pending said foreclosures, shall not at any time be reduced by such withdrawal below sixty (60) per cent of the total amount of the outstanding bonds of each respective issue, at the time of such withdrawal;

and the bonds so withdrawn shall be retired by exchange for the lands of the Companies, as provided in the several mortgages, and shall be withdrawn and used only for that purpose.

Article XVII. In case any bonds are withdrawn from the Trust deposit, as hereinbefore provided, the cash paid in to said agents of said Committee, in lieu of the bonds so withdrawn, shall be held by them until the final payments are made as herein provided; when said sum and its accumulations shall be paid over to the Trustees to be named in the First Mortgage of the new Company herein provided to be organized, and said sum shall be held by said Trustees as a Sinking Fund, to be applied to the payment of the bonds to be issued under said new mortgage, according to the terms thereof; which shall provide for the application of said Trust fund to the purchase of said bonds at the lowest market price, or by lot, at a premium of five percent on the par thereof.

Article XVIII. It is further agreed, that any mortgage which shall be executed upon said proposed re-organized railroads, and the bonds secured by said mortgage, (in case any of said bonds shall be used in carrying out this agreement), shall be satisfactory to said J. S. Kennedy & Co., and shall before execution be approved by them, as to substance and form, as to the trusts created, and as to the trustees appointed in and by said mortgage, and shall cover all the property of every kind belonging to said new Company at the time of the execution thereof, including its land grants; and shall provide that said bonds shall be receivable at par in payment for the lands of said Company.

Article XIX. It is further agreed that in the event of the loss or destruction of any of said bonds by fire or shipwreck, during their transit from Europe to the City of New York, the said Parties of the first Part will accept as proof of said loss, a notarial certificate, in usual form, attested by an United States Consul, setting forth the numbers of the bonds so shipped; the amounts thereof; and the numbers and amounts of the coupons thereto attached; together with satisfactory proof of the destruction by

fire, or loss at sea of any steamer upon which the same shall have been shipped; and, upon receipt of such certificate and proof of loss, will accept the bonds actually delivered under this contract, and will make the payments herein provided to be made, as though no such loss had occurred, and such lost bonds had actually been delivered; provided that said Committee shall indemnify the said parties of the first part against the production of said lost bonds at any time thereafter.

Article XX. It is further agreed that should it be necessary to produce any of the bonds deposited under this agreement, in court, for the purposes of proof in any of the foreclosure suits now pending in Minnesota, as above stated, or for any other purpose connected with the said suits, said bonds may be removed from the place of deposit hereinafter mentioned, by said Trustees, or either of them, for such purposes; and if said bonds should be required to be used in the purchase of the Railroads and properties covered by the mortgages securing said respective series of bonds, or any of the same, or in completing any of the said foreclosures or the sales thereon, or for the purpose of carrying out this agreement in any manner, or of re-organizing said Railroad Companies, or of issuing the new bonds contemplated by this agreement, the said Trustees are hereby authorized, jointly or severally, to make any use of said bonds that may be necessary for said purposes; and to buy in said Railroads and properties at any sale or sales thereof under the said foreclosures, or any of the same; and to use said bonds in making payments therefor; and shall thereupon take title to said Railroads and properties in their own names or name, as such Trustees, and hold the same until the delivery to them of the cash or the bonds and stock of said new Company, as provided by this agreement; which delivery, being duly made or secured to be made, said Trustees or Trustee so holding title, shall convey the said Railroads and properties to the said newly organized Company.

Article XXI. And it is further agreed that said Trustees shall deposit said bonds and stock certificates, hereinbefore referred to, in the vaults of the Mercantile Safe Deposit Company of the City of New

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Look, in their names as Trustees jointly and severally; and there keep the same in iron safes, rented for that purpose, pending the full and final payment of the purchase price of said bonds and stock, as stipulated in this agreement; except in so far as may be necessary to remove or use the same, or any part thereof as above provided.

Article XXII. It is also understood that either party to this contract shall have the right at any time, to verify the amounts of bonds so deposited, by counting and examining the same in the presence of either of the said Trustees, under such rules and regulations as shall be made by said Trustees for the safe keeping thereof.

Article XXIII. It is further agreed that in case of any failure on the part of said parties of the first part to pay the full amounts of said semi-annual interest, at the times and in the manner aforesaid, and of the continuance of such default for thirty days thereafter, or in case of the failure of said parties of the first part to make the final payment of the purchase price of the said bonds and stock, as hereinbefore stipulated, within six months after the sale under the decree last obtained in said foreclosure suits as hereinbefore provided, any and all sums of money which shall have been paid by said parties of the first part under this contract, including said sum of Two hundred and eighty thousand dollars (\$280,000.) and all payments made on account of interest as herein provided, shall be forfeited to said parties of the second part; and thereupon said trustees shall immediately return and restore to said parties of the second part the ownership, possession and control of the bonds and stocks deposited with said Trustees under this agreement; and all rights which said parties of the first part may have acquired under this agreement shall absolutely cease and determine, and the bonds and stock deposited with said Trustees under this agreement shall be held by them solely for the benefit of said party of the second part, and subject to their exclusive orders, disposition and control.

Article XXIV. It is further agreed that all expenses in the said foreclosures and other suits, incurred since the 22^d day of December, 1877, and all expenses connected with the custody of said bonds and



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