

CENTRAL TRUST CO. AND ANOTHER V.
 WABASH, ST. L. & P. RY. CO. AND OTHERS.¹

Circuit Court, E. D. Missouri. September 30, 1885.

RAILROAD MORTGAGES—PAYMENT OF EXPENSES
 OF NEGOTIATIONS BETWEEN BONDHOLDERS
 FOR THE PURPOSE OF EFFECTING AN
 ADVANTAGEOUS SALE AND
 REORGANIZATION.

Where, while a railroad was in the hands of a receiver appointed in foreclosure proceedings instituted by bondholders, the different classes of bondholders entered into negotiations with each other, having for their object the sale of the road to the best advantage under the final decree, and its purchase by them, and the reorganization of the railroad company, and certain necessary expenses for advertising, etc., were incurred in the course of the negotiations, and an order of the court on the receiver to pay said expenses was asked by the trustees under a general mortgage; but it appeared that there was no surplus in the receiver's hands, and that it was not certain that the negotiations would have any advantageous result: *held*, that the order must be denied.

In Equity.

Petition of the Central Trust Company and James Cheney, trustees under the general mortgage of the Wabash, St. Louis & Pacific Railway Company, asking for an order on the receivers to pay the expenses of certain negotiations between the general mortgage and collateral trust bondholders of said railway company, having for their object the sale of the mortgaged property to the best advantage when the final decree of sale is made, and a reorganization of said company. The negotiations have resulted in an agreement which has been signed or assented to by holders of general mortgage bonds amounting to nearly \$8,000,000, and by the holders of substantially all of the collateral bonds, and the expenses in question have been incurred by a purchasing committee named in the

agreement for advertising and printing, and for engraving certificates to be delivered to the bondholders who are parties to the agreement.

Wells & Blodgett, for receivers.

Butler, Stillman & Hubbard, for petitioners.

BREWER, J., (*orally.*) The petition of the Central Trust Company in the *Wabash Railroad Case* for an order on the receivers to pay the expenses of certain negotiations, and of the preparation of certain certificates, etc., is denied. I doubt not that if this arrangement, which is contemplated, shall be carried out, and the sale and purchase made in pursuance thereof, these expenses will be a proper charge against the property, and to be paid out of the proceeds of the sale. If there was any surplus money in the hands of the receivers, perhaps there would be no impropriety in advancing the money for them; but as there is no surplus money, and as, also, there is no absolute certainty that these negotiations will be carried into effect and the sale and purchase made in pursuance thereof, I do not think it proper for us at present to make the order requested.

¹ Reported by Benj. F. Rex, Esq., of the St. Louis bar.

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