

PAGE'S
OHIO GENERAL CODE
ANNOTATED

CONTAINING

ALL LAWS OF A GENERAL AND PERMANENT NATURE IN FORCE
AT THE DATE OF PUBLICATION, WITH NOTES OF DECISIONS
CONSTRUING THE STATUTES

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EDITOR-IN-CHIEF, PAGE'S OHIO DIGEST, LIFETIME EDITION

Lifetime Edition

COMPLETE IN TWELVE VOLUMES

VOLUME ELEVEN



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TITLE XVIII: RAILROADS

CHAPTER

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2 to 8. [OTHER SPECIAL ACTS]	15151 to 15240

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CHAPTER 1: [CINCINNATI SOUTHERN RAILWAY]

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SECTION

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AN ACT

Relating to cities of the first class having a population exceeding one hundred and fifty thousand inhabitants. (66 v. 60.)

SEC. 15093. Trustees authorized to borrow \$10,000,000, etc., subject to an election. (8307 App. of 1880.) Be it enacted by the General Assembly of the State of Ohio, That whenever, in any city of the first class, having a population exceeding one hundred and fifty thousand inhabitants, the city council thereof shall, by a resolution passed by a majority of the members elected thereto declare it to be essential to the interests of such city that a line of railway, to be named in said resolution, should be provided between termini designated therein, one of which shall be such city, it shall be lawful for a board of trustees, appointed as herein provided, and they are hereby authorized to borrow as a fund for that purpose, not to exceed the sum of ten millions of dollars, and to issue bonds therefor in the name of said city, under the corporate seal thereof, bearing interest at a rate not to exceed seven and threethirds per centum per annum, payable at such times and places, and in such sums, as shall be deemed best by said board. Said bonds shall be

signed by the president tested by the city register of the said a mortgage on the income, and by the city, and a tax, which council thereof and said net income, to a sinking fund for bonds; provided, that on bonds issued providing the line of lution shall be sufficient electors of said to be ordered by which not less than given in the daily other provided, that voting at such election said line of railway tion shall be made by him laid before declare the result issued under the not be sold or par value.

References to Public ownership of Railroads Approval by

1. Constitutional
2. Issuance
3. Various
4. Miscellaneous

1. Constitutional
The legislature: municipal corporation if the greater of the state of O. S. 14.

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See, also, Ch 439 (affirmed), son, 60 O. S. 66

An act authorized of the second 1890 had a population not more than federal census struct a railway in such city (to to Salem), was way v. Martin

In this case explained as a to the statute which confers

2. Issuing bonds
An act of municipality railway having constitutional thereafter court will validity of a renewal or ext

signed by the president of said board, and attested by the city auditor, who shall keep a register of the same, and shall be secured by a mortgage on the line of railway, and its net income, and by the pledge of the faith of the city, and a tax, which it shall be the duty of the council thereof annually to levy, sufficient, with said net income, to pay the interest and provide a sinking fund for the final redemption of said bonds; provided, that no money shall be borrowed on bonds issued until after the question of providing the line of railway specified in the resolution shall be submitted to a vote of the qualified electors of said city, at a specified election to be ordered by the city council thereof, of which not less than twenty days' notice shall be given in the daily papers of the city; and further provided, that a majority of said electors, voting at such election, shall decide in favor of said line of railway. The returns of said election shall be made to the city clerk, and be by him laid before the city council, who shall declare the result by a resolution. The bonds issued under the authority of this section shall not be sold or disposed of for less than their par value.

References to Page's Digest and Ohio Jurisprudence
Public ownership of railroads—Cincinnati Southern Railroad: O-SJR Railroads § 65 et seq.
Approval by electorate: O-SJR Railroads § 67.

ANNOTATIONS

1. Constitutionality
2. Issuing bonds
3. Various acts
4. Miscellaneous

1. Constitutionality

The legislature has power to authorize a municipal corporation to construct a railway having such municipal corporation as one of its termini, even if the greater part of such railway lies outside of the state of Ohio: *Walker v. Cincinnati*, 21 O. S. 14.

This and the following sections are constitutional: *Walker v. Cincinnati*, 21 O. S. 14.

See, also, *Cincinnati v. Ferguson*, 12 O. D. (N.P.) 439 (affirmed, without report, *Cincinnati v. Ferguson*, 66 O. S. 658).

An act authorizing any city of the fourth grade of the second class, which at the federal census of 1890 had a population of not less than 6,760 and not more than 6,800, or which at any subsequent federal census may have such population, to construct a railway, one terminus of which should be in such city (act of May 4, 1891; 88 v. 593; referring to Salem), was held to be unconstitutional in *Railway v. Martin*, 53 O. S. 336, 41 N. E. 890.

In this case *Walker v. Cincinnati*, 21 O. S. 14, was explained as a case in which no objection was made to the statute in question as being a special act which conferred corporate power.

2. Issuing bonds

An act of the general assembly to authorize a municipality to issue bonds for the construction of a railway having been adjudged by this court to be constitutionally valid, and the bonds having been thereupon sold and the improvement made, the court will follow the former decision as to the validity of supplementary acts relating to the renewal or extension of such bonds: *Cincinnati v.*

Taft, 63 O. S. 141, 58 N. E. 68 (affirming *Cincinnati v. Taft*, 19 O. C. C. 649, 10 O. C. D. 751).

The cost of such railway is not necessarily limited by the amount of the bond issue herein provided for. Subsequent bond issues may be provided for: *Thoms v. Greenwood*, 6 Dec. Rep. 639, 7 Am. L. Rec. 320.

Bonds issued by a municipality under authority of G.C. §§ 7910 and 15093 are not subject to the limitations of the Longworth act: 1918 A.G. Opus. vol. 1, p. 246.

3. Various acts

The act of May 4, 1869 (66 v. 80; appendix, § 15093, et seq.), under which the line of railroad known as the "Cincinnati Southern Railway" was constructed, does not require that the road be kept under lease perpetually by the board of trustees provided for by the act nor exclude the power of alienation of the property by the proper municipal authorities, in accordance with appropriate legislation: *Cincinnati v. Dexter*, 55 O. S. 93, 44 N. E. 520.

The act of March 12, 1887 (34 O. L. 83), which authorizes the sale of railways constructed under the appendix, § 15093, et seq., is not in conflict with Art. VIII, § 6 of the constitution of this state nor will a bona fide sale, made under its provisions, constitute a loan of municipal credit to the purchaser, or to any corporation that may obtain control of the road, though in making the sale, the parties contemplate that the road will pass into the hands of a corporation, and a per centum of the future gross earnings of the road is to be paid as a part of its purchase price: *Cincinnati v. Dexter*, 55 O. S. 93, 44 N. E. 520.

The trustees of the Cincinnati Southern Railway, by their action in acquiring property and locating terminals in the vicinity of Mill creek, did not disclose an intention to make those terminals the sole and ultimate terminals of the railway in this city, nor did they thereby exhaust their power for acquiring land for that purpose. On the contrary, the act of April, 1898 (appendix, § 15140), confirms and amplifies the power originally possessed by the trustees in that behalf, and the topographical features of the city and its railway requirements justify the location of the principal terminals on the lower ground near the river, as has been done. The omission of certain property, covered by the declaratory resolution and petition for condemnation, did not vitiate or render void the entire proceeding, but was within the discretion vested in the trustees: *Cincinnati v. Trustees*, 1 O. N. P. (N.S.) 261, 14 O. D. (N.P.) 466 (affirmed, without report, *Cincinnati v. Trustees*, 70 O. S. 476).

The board of public service is not authorized by the act of April 18, 1878 (76 v. 116, § 5; § 8224, Smith & Benedict; appendix, § 15110), to grant to the lessee company the right to occupy the streets of the city of Cincinnati: *Railroad v. Railway*, 3 O. N. P. (N.S.) 109, 16 O. D. (N.P.) 777.

4. Miscellaneous

Payment of the purchase-money in cash is not essential to a valid sale under the statute. The sale is authorized to be made upon terms of payment satisfactory to the designated municipal board: *Cincinnati v. Dexter*, 55 O. S. 93, 44 N. E. 520.

While the states of Kentucky and Tennessee each granted the privilege of constructing the railway within their respective territorial limits, and also certain franchises necessary to the operation and maintenance of the road, which add materially to its value, neither state acquired any property interest in the railway, nor is the consent of either necessary to its sale: *Cincinnati v. Dexter*, 55 O. S. 93, 44 N. E. 520.

It is not a ground of injunction in favor of the debtor, that the act or proceedings sought to be restrained will impair the obligation of his contract; as the creditor is the only party who can be injuriously affected, the remedy belongs to him: *Cincinnati v. Dexter*, 55 O. S. 93, 44 N. E. 520.

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A municipal corporation in Ohio owning and operating a railroad under general legislative authority enacted since the adoption of the constitution of 1851 acts in the performance of a private or proprietary function, and is subject to the same rules and entitled to the same constitutional protection as a private corporation. The provisions of Art. XIII, § 2 of the Ohio constitution give the legislature power to alter or repeal such authority: State, ex rel., v. LeBlond, 108 O. S. 41, 140 N. E. 481.

An arbitration clause in the lease of the Cincinnati Southern Railway was held to be valid and binding upon the city: Cincinnati v. Trustees, 8 O. C. C. 247, 3 O. C. D. 428 [affirmed, without report, Cincinnati v. Bishop, 52 O. S. 537].

The trustees of the Cincinnati Southern Railway have ample power to move the B. & O. S. W. Railway track from the center to one side of the street in order that its own track may be laid on the other side: Gas, Coke, Coal & Mining Co. v. Railway, 14 O. C. C. (N.S.) 195, 22 O. C. D. 193 [affirmed, without opinion, Gas, Coke, Coal and Mining Co. v. Railway, 88 O. S. 343].

The operation of a lessee company of the Southern Railroad owned by the city of Cincinnati in connection with other lines which such lessee company may own or control, is in no sense a combination of the city with such other lines in violation of Art. VI, § 6 of the constitution of Ohio; and the lessee company, by reason of the fact that its lessor is the city of Cincinnati, is in no wise limited as to the character of business it may carry on in the operation of the leased line or in the connections it may make with other roads: Railroad v. Railway, 3 O. N. P. (N.S.) 109, 18 O. D. (N.P.) 777.

The bridge of the Cincinnati Southern Railway, which spans the Ohio river, together with the viaduct or trestle leading up to it, constitutes, with the underlying ground, a part of the roadbed, and is property necessary to the daily operation of the road, and there being no additional charge to shippers or passengers on account of the use of this bridge and viaduct, it should be taxed with the remainder of the road as a unit and "averaged" over the entire road: Railway v. Hynicka, 4 O. N. P. (N.S.) 346, 17 O. D. (N.P.) 181 [affirmed, without report, Hynicka v. Railway, 77 O. S. 523].

The sidetracks of the company, which are in daily use for the loading and unloading of freight, and ground purchased for the purpose of establishing a connection track with another railroad, do not constitute real estate, structures, or stationary personal property to be "localized" for taxation, but should likewise be "averaged" for taxation over the entire road: Railway v. Hynicka, 4 O. N. P. (N.S.) 346, 17 O. D. (N.P.) 181 [affirmed, without report, Hynicka v. Railway, 77 O. S. 523].

If the construction of the Cincinnati Southern Railway injures abutting property, the city of Cincinnati is liable for such damage: English v. Trustees, 8 Dec. Rep. 442, 8 Bull. 16.

Upon motion to appoint a trustee of the Cincinnati Southern Railroad, the court can not determine whether or not the trust has been fulfilled, and the title should be transferred to the beneficial owner, the necessary parties not being before the court: In re Railroad, 9 Dec. Rep. 649, 15 Bull. 7.

Sec. 15094. Duty of city solicitor; of the judges. (8308 App. of 1880.) If a majority of the votes cast at said election shall be in favor of providing the line of railway as specified in the first section, it shall be the duty of the solicitor forthwith to file a petition in the superior court of said city, or, if there be no superior court, then in the court of common pleas of the county in which said city is situate, praying that the judges thereof will appoint five trustees, to

be called the trustees of ——— railway (the blank to be filled with the name given to the railway in the resolution); and it shall be the duty of said judges to make the appointment, and to enter the same on the minutes of the court. They shall enter into bond to the city in such sum as the court may direct, with one or more sufficient sureties, to be appointed [approved] by the court, conditioned for the faithful discharge of their duties. The bond so taken shall be deposited with the treasurer of the corporation for safe keeping.

Board of trustees—in general: OUR Railroads § 59.

Repealed 4/4/77

Sec. 15095. Of the trustees. (8309 App. of 1880.) The said trustees and their successors shall be the trustees of the said fund, and shall have the control and disbursement of the same. They shall expend said fund in procuring the right to construct, and in constructing a single or double track railway, with all the usual appendages, including a line of telegraph between the termini specified in the said resolution; and for the purposes aforesaid shall have power and capacity to make contracts, appoint, employ, and pay officers and agents, and to acquire, hold and possess all the necessary real and personal property and franchises, either in this state or in any other state into which said line of railway may extend. They shall also have power to receive donations of land, money, bonds and other personal property, and to dispose of the same in aid of said fund.

Board of trustees—in general: OUR Railroads § 59.

The trustees of the Cincinnati Southern Railway, whether a corporation or not, formed the agency through which the city operates the railway: Walker v. Cincinnati, 21 O. S. 14 [affirming Walker v. Cincinnati, 13 Dec. Rep. 462, 1 C. S. C. R. 121]; State, ex rel., v. LeBlond, 108 O. S. 41, 140 N. E. 481.

Sec. 15096. President of the board; duties, etc. (8310 App. of 1880.) The said trustees shall form a board, and shall choose one of their number president, who shall also be the acting trustee, with such power as the board may by resolution from time to time confer upon him. A majority of said trustees shall constitute a quorum, and shall hold regular meetings for the transaction of business, at their office in the city under whose action they are appointed, but they may adjourn from time to time to meet at any time and place they may think proper. They shall keep a record of their proceedings, and they shall cause to be kept a full and accurate account of their receipts and disbursements, and make a report of the same to the city auditor annually, and whenever requested by a resolution of the city council. No money shall be

drawn from said said board, except shall be paid on ance of the court proportioned acc ices. (As repeal 80 v. 168.)

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incinnati Southern Rail- or not, formed the y operates the rail- 1 O. S. 14 [affirming Rep. 452, 1 C. S. C. ond, 108 O. S. 41, 140

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drawn from said fund but upon the order of said board, except their own compensation, which shall be paid out of the same upon the allowance of the court appointing them, and shall be proportioned according to their respective services. (As repealed and re-enacted: 75 v. 115 and 80 v. 168.)

SEC. 15097. Security of officers. (8311 App. of 1880.) Said trustees shall have power to take such security from any officer, agent or contractor, chosen, appointed, or employed by them, as they shall deem advisable. They shall not become surety for any such officer, agent or contractor, or be interested directly or indirectly in any contract concerning said railway. They shall be responsible only for their own acts.

SEC. 15098. Removal for cause. (8312 App. of 1880.) Whenever the city solicitor of any city under whose action a board of trustees has been appointed as herein provided, shall have reason to believe that any one of said trustees has failed in the faithful performance of his trust, it shall be his duty to apply to the court that appointed said trustee, by petition, praying that such trustee be removed, and another appointed in his place; and when a vacancy shall occur in said board from any other cause, it shall be filled in like manner. If the said city solicitor shall fail to make application in either of the foregoing cases, after request of any holder of the bonds issued by said trustees or by a tax-payer of the corporation, such bondholder or tax-payer may file a petition in his own name on behalf of the holders of such bonds for like relief, in any court having jurisdiction, and if the court hearing the action shall adjudge in favor of the plaintiff, he shall be allowed as part of his costs, a reasonable compensation to his attorney.

Board of trustees—in general: C-SUR Railroads § 59.

The jurisdiction of the superior court to act under this section is transferred to the court of common pleas. See 109 v. 254, § 6.

Reference in 109 v. 254, § 6 to G. C. § 15098, is sufficiently clear, although G. C. § 15098 is not complete without a reference to G. C. § 15094: State, ex rel., v. LeBlond, 108 O. S. 41, 140 N. E. 491.

109 v. 254, § 6, whereby the jurisdiction conferred by this section is taken from the superior court of Cincinnati and conferred upon the court of common pleas of Hamilton county, is valid: State, ex rel., v. LeBlond, 108 O. S. 41, 140 N. E. 491.

SEC. 15099. Appropriation of land for abutments, etc. (8313 App. of 1880.) Whenever in the construction of a line of railway as herein provided, it shall be necessary to appropriate land for the foundation of the abutments or piers of any bridge across any stream within or bordering upon this state, or for any other purpose, or to appropriate any rights or franchises,

proceedings shall be commenced and conducted in accordance with the act entitled "an act to provide for compensation to the owners of private property appropriated to the use of corporations," passed April 3, 1852, and the acts supplementary thereto, except that the oath and verdict of the jury and the judgment of the court shall be so varied as to suit the case.

Power to condemn: C-SUR Railroads § 63.

SEC. 15100. Purchase of right-of-way, etc. (8314 App. of 1880.) Whenever there shall be between the termini designated in any resolution passed under this act, a railroad already partially constructed, or rights of way acquired therefor, which can be adopted as part of the line provided for in said resolution, the trustees of said line may purchase the said railroad and right of way, and pay for the same out of the trust fund.

SEC. IX. Repealed April 18, 1878: 75 v. 116.

SEC. 15101. Compensation of trustees. (8315 App. of 1880.) The city council of any city passing a resolution as provided in the first session, may appropriate and pay to the said trustees, out of the general fund of said city, such sum as may be necessary for defraying the expenses of the election, and said sum shall be repaid out of said trust fund when raised.

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, A. D. 1869. (67 v. 28.)

SEC. 15102. Advances of funds in certain cases. (8316 App. of 1880.) Be it enacted by the General Assembly of the State of Ohio, That the city council of any city of the first class described in the act to which this act is supplementary, may, after trustees have been appointed, as provided in said original act, advance to said trustees, out of any funds of said city, such sum as may be necessary, not exceeding fifty thousand dollars, for carrying the object for which they are appointed into effect; and said sum shall be repaid out of the trust fund provided for in said original act, when raised.

SEC. II. This act shall take effect on its passage.

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, A. D. 1869. (70 v. 139.)

SEC. 15103. Rights of bondholders, etc. (8317 App. of 1880.) Be it enacted by the General Assembly of the State of Ohio, That the respective holders of all the bonds authorized to be issued by the act to which this act is

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both as to principal and interest in gold or lawful money at such times and places, and in such sums as shall be deemed best by said board: provided, that no money shall be borrowed on bonds issued until after the question of borrowing said money and issuing said bonds shall be submitted to a vote of the qualified electors of said city, at a special election to be ordered by the mayor thereof, of which ten days' notice shall be given in the daily papers of the city; and the mayor shall issue said notice within ten days after the passage of this act, fixing in said notice the day of said election; and further provided, that a majority of said electors, voting at said election, shall decide in favor of borrowing said money. The returns of said election shall be made to the city clerk, and be by him laid before the city council, who shall declare the result by resolution; and provided, that none of the bonds authorized by this act shall be sold for less than par in lawful money or bear a greater rate of interest than seven and three-tenths per centum per annum.

Sec. II. Repealed April 24, 1877: 73 v. 115.

Sec. 15108. Actions relating to said trust. (8322 App. of 1880.) In actions relating to said trust it shall not be necessary to name the individual trustees composing the said board of trustees, and action shall be commenced against them as "trustees of—railway" (filling the blank with the name given to the railway). Service shall be made at the office of the board on the president, secretary, or other officer in charge thereof; and actions now pending may be continued as above provided by striking out the names of the trustees. (Re-enacted 83 v. 38.)

Liability of city and trustees of said Railroads § 70.

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, A. D. 1869. (76 v. 115.)

Sec. 15109. Leasing line of railway. (8323 App. of 1880.) Be it enacted by the General Assembly of the State of Ohio, That the board of trustees appointed under the act to which this is supplementary, shall have power to contract for completing and leasing the whole line of railway for which they are trustees, after its partial construction and before its final completion, upon the conditions and in the mode provided for in the fourth section of the act of April 18, 1873, 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, 1869. Before making any contract for completing and leasing the whole line of such railway, such trustees shall advertise, once a week for

eight weeks, in at least two newspapers published in and of general circulation in each of the cities of Boston, New York, Philadelphia, Baltimore, and Cincinnati, for proposals for completing and leasing the whole line of said railway: provided further, that said trustees may operate so much of said railway as is completed, or any part or parts thereof, until such contract is entered into, and may lease rolling stock for that purpose.

SEC. II. That section two of an act passed on the twenty-fourth of February, A. D. 1876, 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, A. D. 1869, be and the same is hereby repealed.

SEC. III. This act shall take effect and be in force from and after its passage.

Board of trustees—power to contract, sell, and lease: CINCINNATI Railroads § 61.

AN ACT

Supplementary to the acts passed February 24, 1876, and April 24, 1877; supplementary to the act relating to cities of the first class having a population exceeding one hundred and fifty thousand inhabitants, passed May 4, 1869 (O. L., vol. 86, p. 80), and to repeal section nine and a portion of section four of said act. (76 v. 115.)

Sec. 15110. Two million loan authorized. (8324 App. of 1880.) Be it enacted by the General Assembly of the State of Ohio, That it shall be lawful for the board of trustees, appointed under the acts to which this is supplementary, and they are hereby authorized to borrow, as a fund, for the completion of the line of railway for which they are trustees, a sum in addition to the amounts authorized by said acts, not to exceed two millions of dollars, and to issue bonds therefor in the name and under the corporate seal of the city owning the line of railway. Said bonds shall be signed and attested in the same manner as the bonds authorized by the acts to which this is supplementary, and shall be secured by the pledge of the faith of the city, and a tax which shall be annually levied by the council of said city, on the real and personal property therein returned on the grand levy, sufficient to pay the interest thereon and provide a sinking fund for their final redemption, and they may be made payable, both as to principal and interest, in coin or lawful money, at such times and places and in such sums as shall be deemed best by said board of trustees: provided, that none of the bonds authorized by this act shall be sold for less than par in lawful money, or bear a greater rate of interest than seven per cent. per annum: provided, further, that it shall be unlawful for said trustees to use the whole or any part of said bonds, or the proceeds thereof, upon any part of said railway, which may have been in use

for the passage of freight and passenger trains, before the passage of this act, or in providing terminal facilities, yards, workshops, depots, or depot grounds therefor, until after provision shall have been fully made by said trustees, for the complete construction of that part of said railway which may remain uncompleted at the date of the passage of this act, so as to admit of the passage of trains of passenger and freight cars from one terminus to the other terminus of said railway, and until the fund shall have been set aside and appropriated for that purpose, so as not to be diverted to any other object whatever: provided, further, that whenever, and as soon as said railway shall have been so far completed as that passenger and freight cars may pass over its line from one terminus to the other terminus thereof, or to any other railroad of similar gauge in the vicinity of said terminus, and extending thereto, and over said railroad to said terminus, all net earnings and incomes therefrom shall be paid into the treasury of said city, to the credit of the interest fund.

Provided, that said trustees, with the approval of the trustees of the sinking fund of the city owning said line of railway, may expend a sum not exceeding fifty thousand (\$50,000), in the purchase of rights of way, and such other terminal facilities as may be deemed necessary by them to meet the requirements of business and travel on that part of said railway which may, before the passage of this act, have been in use for the passage of freight and passenger trains.

Provided, further, that no bonds shall be issued or sold, until after the question of their issue shall have been submitted to a vote of the qualified electors of said city, after not less than ten days' notice of the time of taking said vote, which time shall be fixed by the mayor of said city, and proclamation thereof shall be made by him of the time of holding such election, which shall be held within twenty days from the passage of this act; and said vote shall be taken at the usual places of holding elections in each ward of said city, and the ballots cast at such election shall have written or printed thereon the words, "For issue of \$2,000,000 bonds—Yes," or, "For issue of \$2,000,000 bonds—No"; and no bonds shall be issued unless a majority of all the votes cast shall have written or printed thereon the words, "For issue of \$2,000,000 bonds—Yes." The returns of said election shall be made to the city clerk, and by him laid before the common council, who shall declare the result by resolution.

The operation of a lessee company of the Southern Railroad owned by the city of Cincinnati in connection with other lines which such lessee company may own or control, is in no sense a combination of the city with such other lines in violation of Art. VI, § 6 of the constitution of Ohio; and the lessee company, by reason of the fact that its lesser

is the city of Cincinnati is in no wise limited as to the character of business it may carry on in the operation of the leased line or in the connections it may make with other roads: Railroad v. Railway, 3 O. N. P. (N.S.) 103, 16 O. D. (N.P.) 777.

The board of public service is not authorized by the act of April 18, 1878 (75 v. 116, § 5; § 8124, Smith & Benson's; appendix, § 15110), to grant to the lessee company the right to occupy the streets of the city of Cincinnati: Railroad v. Railway, 3 O. N. P. (N.S.) 103, 16 O. D. (N.P.) 777.

SEC. 15111. Trustees may lease and hold lands for terminal facilities. (8325 App. of 1880.) Said trustees shall, in addition to the powers granted in the acts to which this is supplementary, have power to acquire by lease and hold lands for terminal facilities and rights of way thereto in the city owning the line of railway. The leases for the land so acquired shall be made to and in the name, and under the corporate seal of said city. They shall be signed and attested in the same manner as the bonds authorized by the acts to which this act is supplementary, and the rents therein reserved shall be secured by a covenant that the council of said city will annually levy a tax on the real and personal property thereof returned on the grand levy sufficient to pay the same: provided, that the aggregate amount of said rents shall not exceed six thousand dollars per annum: provided, that no lands or rights of way shall be leased or acquired by the said trustees, without the approval of the trustees of the sinking fund of said city: provided, further, that all contracts made by the trustees of said railway contrary to any of the provisions of this act shall be void so far as the funds in the hands of the trustees are concerned, but shall be personally binding upon the trustees making the same.

The trustees of the Cincinnati Southern Railway may appropriate realty for terminal facilities even if such realty has been leased. A resolution of council declaring it necessary to appropriate such realty is not necessary: Trustees v. Handy, 8 Dec. Rep. 678, 8 Bull. 82.

SEC. 15112. Repealed. (8326 App. of 1880.) Repealed. (30 v. 168.)

SEC. 15113. Advertisement for proposals to complete road. (8327 App. of 1880.) That before the execution of any lease or license to use any part or all of any such railway, by any trustees appointed under the said act, in any city of the first class, wherein there may be any board of trustees of the sinking fund in any such city, and before the award of any such lease or license to any lessee or licensee, or the delivery of possession under such lease or license to said lessee or licensee, said award and delivery of possession shall be submitted to and receive the approval of the trustees of the sinking fund aforesaid.

SEC. 15114. T or alley unless they public works. (8328 of said railway shall: alley, or other public any part thereof be: they make applicati: the consent thereto c of said city: provide right to use the str: occupied by said rail

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CINCINNATI SOUTHERN RAILWAY

§ 15121

SEC. 15114. Trustees shall not use street or alley unless they receive consent of board of public works. (8328 App. of 1880.) The trustees of said railway shall not use or occupy any street, alley, or other public way, space or ground, or any part thereof belonging to said city, unless they make application, in writing, and receive the consent thereto of the board of public works of said city: provided, that they shall have the right to use the streets and public ground now occupied by said railway.

SEC. 15115. Bond-holders not required to look to application of proceeds. (8329 App. of 1880.) Nothing in this act contained shall require any purchaser or holder for value of any of said bonds authorized by this act, to look to the application of the proceeds thereof to the construction of said lines of said railway according to the requirements of this act.

SEC. 15116. Repeal of section nine of original act. (8330 App. of 1880.) That section nine of the act entitled "an act relating to cities of the first class having a population exceeding one hundred and fifty thousand inhabitants," passed May 4, 1869 (vol. 66, p. 80), be and the same is hereby repealed.

SEC. 15117. Trustees may lease finished parts of road. (8331 App. of 1880.) The trustees of said railway shall have the power, as fast as portions of the line for which they are trustees are completed, with the approval of the trustees of the sinking fund, to rent or lease, temporarily, the right to use and operate such portions upon such terms as they may deem best.

Board of trustees—power to contract, sell and lease: C-S-R Railroads § 61.

SEC. 15118. Inconsistent acts repealed. (8332 App. of 1880.) Any and all parts of the acts to which this act is supplementary, which are inconsistent with or in conflict with the provisions of this act are hereby repealed.

Repealed 8/25/49
AN ACT
Supplementary to an act entitled, "An act supplementary to the acts passed February 24, 1876, and April 24, 1877, supplementary to the act relating to the cities of the first class having a population exceeding one hundred and fifty thousand inhabitants, passed May 4, 1869 (O. L., vol. 66, p. 80), and to repeal section nine and a portion of section four of said act," passed April 18, 1878. (76 v. 652.)

SEC. 15119. Cincinnati Southern Railway loan, and issue of bonds. (8333 App. of 1880.) Be it enacted by the General Assembly of the State of Ohio, That it shall be lawful for the board of trustees, appointed under the acts to which this is supplementary, and they are hereby authorized to borrow, as a fund for the com-

pletion of the line of railway for which they are trustees, a sum, in addition to the amounts authorized by said acts, not to exceed \$2,000,000, and to issue bonds therefor in the name and under the corporate seal of the city owning the line of railway. Said bonds shall be signed and attested in the same manner as the bonds authorized by the acts to which this is supplementary, and shall be secured by the pledge of the faith of the city and a tax which shall be annually levied by the council of said city on the real and personal property therein returned on the grand levy, sufficient to pay the interest thereon, and provide a sinking fund for their final redemption, and they may be made payable, both as to principal and interest, in coin or lawful money, at such times and places and in such sums as shall be deemed best by said board of trustee[s]: provided, that none of the bonds authorized by this act shall be sold for less than par in lawful money, or bear a greater rate of interest than seven per cent. per annum.

This act is valid and constitutional; and does not confer corporate power upon the trustees of the railway. The issue of bonds thereunder can not be enjoined: Thome v. Greenwood, 6 Dec. Rep. 689, 7 Am. L. Rec. 820.

SEC. 15120. Advertisement for proposals to complete road. (8334 App. of 1880.) Within twenty days after the passage of this act, the said trustees are directed and required to advertise, for not less than forty days, twice each week, in three or more daily newspapers of general circulation in the state, one of which at least shall be published in the city owning the said line of railway, for proposals for the completion of the construction of said railway to a junction with any other railroad of similar gauge, in the vicinity of the terminus of said railway, and extending thereto, so as to admit of the passage of trains from one terminus to the other terminus of said railway. And the said board of trustees are hereby authorized and empowered to conditionally accept the lowest and best bid or bids, in their judgment, for the performance of said work, from responsible parties, who shall furnish satisfactory security for the fulfillment of the contract or contracts, if it shall be awarded to them, as shall be prescribed by the board of trustees in the advertisement for such proposals: provided, that such bid or bids shall not, in the aggregate, exceed the amount of bonds authorized by this act.

SEC. 15121. Proceedings after conditional acceptance of bid. (8335 App. of 1880.) When the said board of trustees shall have received and conditionally accepted a bid or bids for the completion of the said railway, as herein provided, they shall notify the mayor of the city owning said line of railway thereof; and the

mayor of said city, within ten days after the receipt of such notice, is hereby authorized and required to issue his proclamation, which shall contain a statement of the aggregate amount of the bid or bids for the completion of said work, and shall declare to the qualified electors of said city the time of holding an election, which shall be within twenty days from the date of such proclamation, at which election the question of the issue of said bonds shall be submitted to a vote of the qualified electors of said city, and said vote shall be taken at the usual places of holding elections in each ward of said city, and the ballots cast at said election shall have printed or written thereon the words and figures, "For issue of \$2,000,000 bonds—Yes," or "For issue of \$2,000,000 bonds—No;" and no bonds shall be issued or sold by said board of trustees, as herein provided, unless a majority of all the ballots cast at said election shall have written or printed thereon the words and figures "For issue of \$2,000,000 bonds—Yes." The returns of said election shall be made to the city clerk of said city, and by him laid before the common council of said city, who shall declare the result by resolution, and if a majority of the electors shall have voted in favor of the issue of said bonds, the said board of trustees shall be authorized and required to formally and finally accept and confirm the bid or bids, theretofore conditionally accepted as herein provided, and to execute a contract or contracts for the completion of the said line of railway in pursuance of said proposals and bid or bids.

SEC. 15122. Disposition of proceeds of bonds. (8336 App. of 1880.) The said board of trustees are hereby required to apply the bonds, or the proceeds from the sale of the bonds herein provided, exclusively in payment for the work in the completion of said railway in pursuance of said contract or contracts, until the said contract or contracts are fully performed, and said work completed, excepting the sum of \$50,000 which they were authorized to expend in terminal facilities and in the purchase of rights of way, by the act passed on April 18, 1878, and which authority is hereby confirmed, under the conditions of the act passed on April 18, 1878.

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, 1862. (77 v. 162.)

SEC. 15123. Trustees of Cincinnati Southern Railroad authorized to borrow additional sum and issue bonds therefor. That it shall be lawful for the board of trustees, appointed under the act to which this is supplementary, and they are hereby authorized to borrow, as a fund for the line of railway for which they are trustees, in

addition to the amount authorized by said original act, and the acts of February 24, 1876, and May 15, 1878, supplementary thereto, a sum not to exceed three hundred thousand dollars, and to issue bonds therefor in the name and under the corporate seal of the city owning the line of railway; said bonds shall be signed and attested in the same manner as the bonds authorized by the act to which this is supplementary, and shall be secured by a pledge of the faith of the city and a tax which shall be annually levied by the council of said city on the real and personal property returned on the grand levy, sufficient to pay the interest, and provide a sinking fund for their final redemption; and they may be made payable, both as to principal and interest, in coin or lawful money, at such times and places and in such sums as shall be deemed best by said board; provided, that none of the bonds authorized by this act shall bear a greater rate of interest than six per cent per annum, nor be sold for less than par.

Terminals and improvements; sinking fund requirements. CINCINNATI RAILROADS §§ 64, 65.

SEC. 15124. May acquire lands for terminal facilities. Said trustees may, in place of issuing the whole or any part of the bonds provided for by the first section of this act, have power to acquire by lease, and hold lands for terminal facilities and rights of way thereto in the city owning the line of railway. The leases for the lands so acquired shall be made to and in the name and under the corporate seal of said city; they shall be signed and attested in the same manner as the bonds authorized by the act to which this act is supplementary, and the rents therein reserved shall be secured by a covenant that the council of said city will, annually, levy a tax on the real and personal property thereof returned on the grand levy, sufficient to pay the same; provided, that the aggregate amount of the rents, hereby authorized shall not exceed eighteen thousand dollars per annum, and provided that the aggregate amount of the bonds issued, and the principal of the leases, which may be made under this act, shall not, together, exceed the sum of \$300,000.

The fact that the Cincinnati Southern Railway has been leased does not preclude the trustees from appropriating ready for terminal facilities. A resolution of the council declaring the necessity of such appropriation is not necessary: Trustees v. Handy, 8 Dec. Rep. 575, 9 Bull. 22.

SEC. 15125. Issue of trustees of sinking fund as to rents hereby authorized, etc. Before issuing any of the bonds, or leasing any of the lands or right of way authorized by this act, said trustees shall apply to and receive the approval of a majority of the trustees of the sinking fund of said city to such issue of bonds

and to every such lands shall contain a city the right to purchase of said lands principal sum to be

SEC. 15126. I fund as to rents hereby the duty of the city of said city to annul in the manner required other taxes, the rate for the payment of fore authorized for said railway; and to place the full amount ordinance with the said trustees of the same preference. for said rents shall gate of taxes other

SEC. 15127. puted claims. It : tees appointed and is supplementary, ized, with the ap; trustees of the sin ever any controver shall hereafter ar: due or claimed to ploye, or other pe tion of said railro upon such terms : and just, such cla

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lands shall contain a provision securing to said
city the right to purchase or appropriate the fee
simple of said lands upon the payment of the
principal sum to be fixed therein.

SEC. 15126. Duty of trustees of sinking
fund as to rents hereby authorized, etc. It shall
be the duty of the trustees of the sinking fund
of said city to annually certify, at the time and
in the manner required by law for certifying
other taxes, the rate of tax necessary to provide
for the payment of the rents hereby and hereto-
fore authorized for bonds and rights of way of
said railway; and the council of said city shall
place the full amount so certified in the tax
ordinance with the other amounts certified by
said trustees of the sinking fund, and with the
same preference. The rate of tax so certified
for said rents shall be in addition to the aggre-
gate of taxes otherwise allowable in said city.

SEC. 15127. Trustees may compromise dis-
puted claims. It shall be lawful for the trust-
ees appointed under the act to which this act
is supplementary, and they are hereby author-
ized, with the approval of a majority of the
trustees of the sinking fund of said city, when-
ever any controversy heretofore has arisen, or
shall hereafter arise, in respect to the amount
due or claimed to be due, to any contractor, em-
ploye, or other person engaged in the construc-
tion of said railroad, to compromise and adjust,
upon such terms as may seem to them equitable
and just, such claim or controversy.

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, 1869. (77 v. 175.)

SEC. 15128. Trustees of Cincinnati South-
ern Railroad required to give bond. That each
and every trustee now in office appointed by
virtue of the second section of the act, and
who has held such office for the period of
five years, shall, within thirty days from the
passage of this act, give a new bond, to take
the place of the one heretofore given to the
city of Cincinnati, in such amount as the superior
court of the city of Cincinnati has or may here-
after appoint, with two or more sureties to be
approved by the said court, conditioned for
the faithful discharge of his duties as said
trustee, and any trustee hereafter appointed,
shall, in like manner, within five years from the
giving of any bond under this act, or under the
act to which this is supplementary, enter into a
new bond, conditioned and approved as herein
directed; provided, however, that the sureties
on any bond, in the place of which a new bond

may be given, as herein provided, shall continue
liable as to any act or matter occurring prior
to the time when such new bond is required to be
given. And a failure of any such trustee to give
said bond within the time so fixed shall be
treated as a failure to discharge his duties as
such trustee, and by the said court as a resigna-
tion of his said office, and the court shall proceed
to fill the vacancy as in the said act provided for
other cases.

Board of trustees—in general: OUR Railroads
§ 60.

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, 1869. (60 v. 168.)

SEC. 15129. Compensation. That the trust-
ees appointed under the act to which this act
is supplementary, shall receive such compensa-
tion, prior to leasing the line of railway of which
they are trustees, as shall be allowed by the
court appointing them, to be paid out of the
trust fund provided for the construction of said
railway, and to be proportioned according to
their respective services. And said court shall
likewise have power to fix, and allow to be paid
out of said fund, the compensation of any com-
missioners heretofore appointed by lawful au-
thority to investigate the affairs of said trustees,
to be proportioned according to their respective
service. *Repealed 4/4/77*

SEC. 15130. Repeal. That section three
(3) of an act passed April 18, 1878, entitled
"an act supplementary to the acts passed Feb-
ruary 24, 1876, and April 24, 1877; supple-
mentary to the act relating to cities of the first
class having a population exceeding one hundred
and fifty thousand inhabitants, passed May 4,
1869 (O. L., vol. 66, p. 80), and to repeal sec-
tion nine and a portion of section four of said
act," be and the same is hereby repealed.

SEC. 15131. When to take effect. This
act shall take effect from and after its passage.
Repealed 8/25/49

AN ACT

To authorize the trustees of the Cincinnati South-
ern Railway to expend money for terminal
facilities. (83 v. 147.)

SEC. 15132. Filling and improvement of
lands for terminal facilities of Cincinnati South-
ern Railway. That the trustees of the Cincin-
nati Southern Railway be and are hereby au-
thorized to expend any part of the moneys
raised by the sale of the bonds described in the
first section of the act passed April 9, 1880,
entitled "an act supplementary to the act re-
lating to cities of the first class having a popula-
tion exceeding one hundred and fifty thousand
inhabitants," passed May 4, 1869, for the pur-

§ 15133

RAILROADS

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pose of filling and improving, for the uses of said railway, any lands which the said trustees may have purchased, or may hereafter purchase or lease, within the limits of the city of Cincinnati, for the purposes of terminal facilities under the authority conferred by said act; provided that, however, before such improvements shall be made, the consent of any company or corporation which may have leased said railway, shall first be had to the appropriation of the money so borrowed, and that said company shall also, before said appropriation shall be made, waive any right it may have to any other or different use of said money than that so adopted.

Sec. 15133. When to take effect. This act shall take effect from and after its passage.

Repeated 8/25/49
AN ACT

To authorize cities of the first grade of the first class to adjust certain claims and to issue bonds for their payment. (83 v. 152.)

Sec. 15134. Authorizing Cincinnati to adjust claims growing out of construction of Southern Railway. That whenever any city of the first grade of the first class shall have built a railway extending from such city into another state, or may hereafter build any such railway, and such city or a board of trustees of said railway shall have appropriated or occupied in whole or in part to the uses and purposes of such railway, any street, alley, road or avenue within such city, and when suits have been brought and judgments obtained against such city or board of trustees of said railway for damages by reason of such appropriation, it shall be the duty of the city solicitor to certify such judgments as are unreversed to the board of trustees of the sinking fund of such city. The board of trustees of the sinking fund are thereupon authorized to issue the bonds of such city in a sum not exceeding one hundred thousand dollars, bearing interest not to exceed five per cent. per annum, and payable at such times as may, in their opinion, be to the best interests of said city; said bonds shall be secured by the pledge of the faith of said city, and a tax, which it shall be the duty of the city council of said city annually to levy upon all the taxable property of said city, in a sufficient sum to pay the interest thereon and to provide a sinking fund for the final redemption of said bonds. The city solicitor of said city is further authorized, by and with the consent of the board of trustees of the sinking fund of such city, to compromise and adjust all claims for damages to abutting property by reason of such appropriation. From the proceeds of said bonds, the board of trustees of the sinking fund of such city are further authorized to pay such unreversed judgments so certified, and settle such claims so adjusted.

Sec. 15135. When to take effect. This act shall take effect from and after its passage.

Repeated 8/25/49
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, 1869 (88 O. L. 30 (80).) (98 v. 537.)

Sec. 15136. Extension of lease to be voted on. That the board of trustees of any railway appointed under the provisions of the act to which this act is supplementary, be and they are hereby authorized, with the approval of the trustees of the sinking fund of said city, to agree with the lessee of any such railway to modify the terms and extend the time of grant in 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; provided, however, that no modification or extension of said 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 after the making of the agreement aforesaid. The mayor of said city shall, upon notice given him of the making of the agreement aforesaid, give at least twenty (20) days' notice of the time of holding such election to the qualified electors of said city. The vote shall be taken at the usual time and place of holding elections in each precinct and ward of said city, and in the usual manner of holding state and municipal elections; and the ballots for such elections shall have printed thereon the words: "Shall the lease of the _____ be extended and modified? Yes. No." (Inserting in said blank space the name of said line of railway). And no such extension or modification shall be made or take effect unless a majority of all the votes cast upon the question of said election shall be cast in favor thereof. The returns of said election shall be made to the board of electors of said city, which shall canvass the same and report the result to the mayor thereof, and if a majority of the electors voting upon the question at such election shall have voted in favor of said extension and modification, the said board of trustees are hereby authorized to so extend and modify said lease and to execute all necessary paper writings therefor.

Board of trustees of extension and alteration of lease; approval by electorate: O-SUB Railroads §§ 62, 67.

This and the following sections must be held to be constitutional in view of the former decisions of the supreme court: Cincinnati v. Ferguson, 12 O. D. (N.P.) 439 (affirmed, without report, Cincinnati v. Ferguson, 68 O. L. 688).

These sections do not violate Art. VIII, § 6 of the constitution of Ohio: Cincinnati v. Ferguson, 12 O. D. (N.P.) 439 (affirmed, without report, in Cincinnati v. Ferguson, 68 O. L. 688).

For the construction of these sections and for the validity of contracts entered into thereunder.

see Cincinnati v. Ferguson (affirmed, without report, 68 O. L. 688).

Sec. 15137. To be lawful for the board of trustees under the act to waive and they are hereby authorized to fund for terminal facilities for said line the sums heretofore expended and to issue bonds under the corporate line of railway; said bonds shall be attested in the same manner as authorized by the act supplementary, and shall be a lien in faith of the city as to other taxes for money to be annually levied. The legislation of said city for property returned or pay the interest on their final redemption both as to principal money of the United States and in such places and in such amounts as shall be authorized by said board; provided, however, that no interest shall be paid for less than four per cent. per annum, and more than five hundred dollars borrowed or bonds year.

Terminals and imp

Sec. 15138. The said railway are hereby authorized to agree with the railway that they wish them in section 2 of the said lessee company supplemental agreement: said lessee company by way of additional way, to pay said interest will equal the interest and provide a sinking fund at maturity.

Sec. 15139. The said vote. Upon the vote for in the preceding sections to the trustees of the sinking fund approval fail so to do with thereof shall be the railway to the municipality shall contain a copy and of the approval

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see Cincinnati v. Ferguson, 12 O. D. (N.P.) 33
(affirmed, without report, Cincinnati v. Ferguson,
66 O. S. 658).

SEC. 15137. Trustees may borrow. It shall be lawful for the board of trustees appointed under the act to which this is supplementary, and they are hereby authorized to borrow as a fund for terminal facilities and permanent betterments for said line of railway, in addition to the sums heretofore authorized, a sum not to exceed two million five hundred thousand dollars, and to issue bonds therefor in the name and under the corporate seal of the city owning the line of railway; said bonds shall be signed and attested in the same manner as the bonds authorized by the act to which this is supplementary, and shall be secured by a pledge of the faith of the city and a tax in addition to all other taxes for municipal purposes, which shall be annually levied by the council or board of legislation of said city on the real and personal property returned on the grand levy sufficient to pay the interest and provide a sinking fund for their final redemption, and they shall be payable, both as to principal and interest in any lawful money of the United States, at such times and places and in such sums as shall be deemed best by said board; provided, that none of the bonds authorized by this act shall bear a greater interest than four per cent. per annum, nor be sold for less than par, and, provided further, that no more than five hundred thousand dollars shall be borrowed or bonds issued therefor in any one year.

Terminals and improvements: C-JUR Railroads 64

SEC. 15138. Condition. The trustees of said railway are hereby authorized and empowered to agree with any lessee of said line of railway that they will exercise the powers granted them in section 2 of this act, on condition that the said lessee company will enter into a supplemental agreement with said trustees by which said lessee company will obligate itself and by way of additional rental for said line of railway, to pay said trustees such sum annually as will equal the interest charge upon said bonds and provide a sinking fund for their redemption at maturity.

SEC. 15139. Sinking fund trustees. Further vote. Upon making the agreement provided for in the preceding section, it shall be submitted to the trustees of the sinking fund of said city for their approval. If the said trustees of the sinking fund approve said agreement, or if they fail so to do within ten days thereof, notice thereof shall be given by the trustees of the railway to the mayor of the city. Said notices shall contain a copy of the agreement aforesaid, and of the approval, or the fact of the failure to

approve. The mayor of said city shall thereupon submit the question of the issuance of the bonds provided for in section 2 of this act, to a vote of the qualified electors of said city at a general election held in said city. The mayor shall give at least twenty days' notice of the time of holding such election, and said notice shall contain a copy of the agreement provided for in section 3 of this act, and the approval aforesaid of the trustees of the sinking fund or the fact of their failure to approve. The vote shall be taken at the usual place of holding such elections in each precinct and ward of said city, and in the usual manner of holding state and municipal elections, and the ballots for such election shall have printed thereon the words: "Shall bonds for terminal facilities and permanent betterments for the — be issued? Yes. No." (Inserting in said blank space the name of said line of railway). And no bonds shall be issued under this act unless a majority of all the votes cast upon the question at said election shall be cast in favor thereof. The returns of said election shall be made to the board of elections of said city, which shall canvass the same and report the result to the mayor thereof, who shall transmit same to the trustees of said railway.

SEC. 15140. Expenditure of fund. The said trustees shall expend the said fund in providing terminal facilities for said railway, and in making permanent betterments upon the line thereof, and they shall have the same powers in the expenditure thereof as they had with reference to the fund expended under the provisions of the act to which this is supplementary.

See notes to G. C. § 15033.

If the trustees of the Cincinnati Southern railway pass a resolution appointing an attorney for the board at a compensation of fifty dollars per month subject to the will and pleasure of the board both as to term of service and rate of compensation, such resolution does not give them power to pay additional compensation for services after such services are rendered; but it may be a question of fact whether services which such attorney actually rendered were rendered under the contract made by such resolution and by his acceptance thereof: *Porter v. Cincinnati Southern R. Co.*, 86 O. S. 23, 117 N. E. 20.

Property acquired by the city of Cincinnati for a viaduct or elevated track and additional terminals for the Cincinnati Southern Railway, owned by said city and operated by a lessee, which property so acquired is being improved by the city for said purpose and when completed is to be turned over to said lessee, is property which is being used in the exercise of a municipal function and while so held by the city is exempt from taxation: *Trustees v. Roth*, 2 O. App. 135, 17 O. C. (N.S.) 582 (reversing *Trustees v. Roth*, 13 O. N. P. (N.S.) 633).

SEC. 15141. Trustees may bid in property. The trustees of any such railway shall have the power, and they are hereby authorized, in case the same shall become necessary, in order to protect the interests of such city under any lease

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and mortgage which may have been made under and by virtue of the act of March 18, 1881, 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, 1869 (78 O. L., page 58), at any sale of the lessee company's property in any judicial proceeding to bid for and acquire such property, and the said bid shall be applied as a credit upon any debt of said lessee company found to be due and owing such city on account of such lease and mortgage. And in case it shall become necessary to incur expense in carrying out the provisions of this section, the said trustees are hereby authorized and empowered to borrow such sum as may be necessary for said purpose, and to issue bonds therefor, payable both as principal and interest in lawful money of the United States at such times and places and in such sums as shall be deemed best by the trustees of such railway. Said bonds shall be signed and attested in the same manner as the bonds authorized by the act to which this is supplementary. Said bonds shall bear a rate of interest not to exceed four per cent. per annum, and be secured by a pledge of the faith of the city, and a tax in addition to all other taxes for municipal purposes, which shall be annually levied by the council or board of legislation of said city sufficient to pay the interest and provide a sinking fund for their final redemption.

SEC. 15142. Further power of trustees. In case the said trustees acquire said lessee company's property by purchase, as provided in the preceding section, or by forfeiture, they shall have power, with the approval of the trustees of the sinking fund, to license the right to use and operate the said line of railway until a lease shall be made thereof, and they shall, as soon as practicable, lease the line of railway to such person or company as shall organize or may be organized under the provisions of section 3838 of the Revised Statutes of Ohio [G. C. § 10170] as will conform to the terms and conditions to be fixed in a form of lease by said trustees, which form shall be subject to the approval of the trustees of the sinking fund of such city; provided, that before making such lease said trustees shall invite propositions for same in accordance with the form aforesaid by advertisements for such length of time and in such newspapers as shall be prescribed by the trustees of said railway and the trustees of the sinking fund of such city; provided, further, that no award of a lease shall be made nor shall possession be delivered thereunder until approved by the said trustees of the sinking fund. And provided further, that no lease of said railway shall be made until the question of making such lease be submitted to the vote of the qualified electors of said city at

a general election held in said city after an award as aforesaid. The mayor of said city shall, upon notice given him of an award of lease as aforesaid, give at least twenty days' notice of the time of holding such election to the qualified electors of said city. The vote shall be taken at the usual place of holding elections in each precinct and ward of said city, and in the usual manner of holding state and municipal elections, and the ballots for such election shall have printed thereon the words: "Shall the — be leased? Yes. No." (Inserting in said blank space the name of the said line of railway). And no such lease shall be binding or take effect unless a majority of all the votes cast upon the question at said election shall be cast in favor thereof. The returns of said election shall be made to the board of elections of said city, which shall canvass the same and report the result to the mayor thereof; and if a majority of the electors voting upon the question at such election shall have voted in favor of said lease, the said boards of trustees are hereby authorized to execute the same upon the terms and conditions fixed in the form thereof hereinbefore provided.

SEC. 15143. Repeal. That the acts of March 18, 1881 (78 O. L., 58), March 12, 1887 (84 O. L., 82), and section 1 of the act of March 8, 1889 (86 O. L., 1) each of said acts being 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, 1869, be and they are hereby repealed.

SEC. 15144. When to take effect. This act shall take effect and be in force from and after its passage.

SEC. 15145. Redemption of bonds. That all bonds of any city which may have been issued for the construction of a railway under the act to which this is supplementary, and which have been redeemed by purchase or exchange by the trustees of the sinking fund of any such city, shall be held and considered to have been fully paid by such redemption, and shall be deemed cancelled and destroyed, and thereafter no part of the income derived from said railway shall be applied to the payment of any interest on, or to the providing of a sinking fund for said cancelled bonds, nor shall any levy for interest or sinking fund be made therefor.

SEC. 15146. Time may be extended. The trustees of the said railway are hereby authorized, by a proper endorsement or stamping on any

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of the outstanding bonds issued under the act supplementary, to agree to a sinking fund of said bonds for a period of years from the maturity of such portions of the same as may agree with, agree thereon to such rate not exceeding three per cent. per annum. And said city is authorized to cause to be attached to such bonds as may be necessary to be paid for the extension of said bonds. Any expense incurred in the extension aforesaid shall be paid by the treasurer upon the order of said railway out of the sinking fund of said railway.

SEC. 15147. The act of March 8, 1889, entitled "An act relating to cities of the first class having a population exceeding one hundred and fifty thousand inhabitants," the same is hereby repealed.

SEC. 15148. This act shall take effect after its passage.

To provide for the and revenue an railroad built entitled, "An act relating to cities of the first class having a population exceeding one hundred and fifty thousand inhabitants," passed May 4, 1869 (78 O. L., 58) the acts amend (93 v. 547.)

SEC. 15149. In any city of the first class having a population exceeding one hundred and fifty thousand inhabitants, passed May 4, 1869 (78 O. L., 58), and the act supplementary thereto thereto shall be made by the city to the effect that in the case of the railroad, the proceeds of the sale of the sinking fund shall be applied to the reduction of the principal of the same shall be made to the principal of the bonds to the

SEC. 15150. This act shall take effect after its passage.

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CINCINNATI SOUTHERN RAILWAY

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issued under the act to which this is supple-
mentary, to agree to extend the time of payment
of said bonds for a period not to exceed forty
years from the maturity thereof, upon the holders
of such portions of said bonds as said trustees
may agree with, agreeing to reduce the interest
thereon to such rate as said trustees shall fix,
not exceeding three and one-half per cent, per
annum. And said trustees are hereby further
authorized to cause to be engraved, printed and
attached to such bonds such additional coupons
as may be necessary to evidence the interest to
be paid for the extended time of payment of said
bonds. Any expense incurred by reason of the
extension aforesaid shall be paid by the city
treasurer upon the order of the board of trustees
of said railway out of any income derived from
said railway.

Sec. 15147. Repeal. That section 2 of
the act of March 8, 1869 (86 O. L., 67), being an
act entitled "An act supplementary to an act
relating to cities of the first class having a
population exceeding one hundred and fifty thou-
sand inhabitants," passed May 4, 1869, be and

the same is hereby repealed.
Sec. 15148. When to take effect. This
act shall take effect and be in force from and
after its passage.

AN ACT
To provide for the disposition of the net earnings
and revenue and the proceeds of the sale of any
railroad built under the provisions of an act
entitled, "An act relating to cities of the first
class having a population exceeding one hun-
dred and fifty thousand inhabitants," passed
May 4, 1869 (Ohio Laws, vol. 66, page 80), and
the acts amendatory and supplementary thereto.
(93 v. 647.)

Sec. 15149. Earning, etc. That whenever
in any city of the first class a railroad has been
built, or may hereafter be built, under the pro-
visions of an act entitled "An act relating to
cities of the first class having a population ex-
ceeding one hundred and fifty thousand inhab-
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page 80), and the acts amendatory and supple-
mentary thereto, all net earnings and incomes
therefrom shall be paid into the treasury of said
city to the credit of the interest fund; and in
the case of the sale or final disposition of said
railroad, the purchase money or price shall be
paid into the treasury of said city to the credit
of the sinking fund, and shall be applied to the
reduction of the bonded debt of said city until
the same shall be extinguished, due regard being
had to the priority right of any issue or issues
of bonds to the proceeds of such sale.

Sec. 15150. When to take effect. This
act shall take effect and be in force from and
after its passage.

Repealed 8/25/49

AN ACT

Supplementary to an act passed April 25, 1898 (98
O. L., p. 637), 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,
1869 (66 O. L., p. 80)," and to all acts supple-
mentary to said act of May 4, 1869, and au-
thorizing the board of trustees appointed under
the act of May 4, 1869, to issue additional
bonds for terminal facilities and permanent
betterments for the line of railway. (102 v.
111.)

[Sec. 15150-1.] Trustees may issue
bonds for terminal facilities and betterment of
railway. §1. That it shall be lawful for the
board of trustees appointed under the act of
May 4, 1869, to which this is supplementary and
they are hereby authorized to borrow as a fund
for completing the terminal facilities for and in
making permanent betterments on the line of
railway of which they are trustees, in addition
to the sum heretofore authorized, a sum not to
exceed five hundred thousand dollars and to issue
bonds therefor in the name and under the cor-
porate seal of the city owning the line of railway;
said bonds shall be signed and attested in the
same manner as the bonds authorized by the act
to which this is supplementary and shall be se-
cured by a pledge of the faith of the city and a
tax in addition to all other taxes for municipal
purposes which shall be annually levied by the
council of said city on the real and personal
property returned on the grand levy sufficient to
pay the interest in any lawful money of the
United States at such times and places and in
such sums as shall be deemed best by said board;
provided that none of the bonds authorized by
this act shall bear a greater rate of interest than
four per centum per annum, nor be sold for less
than par; and provided further, that not more
than one hundred thousand dollars shall be
borrowed or bonds issued therefor in any one
year.

Terminals and improvements: *OUR Railroads* § 64.

This section and G. C. § 15150-4 constitute the
legislation under which is incurred the indebted-
ness provided for by Appendix §§ (15150-1) to
15150-4. It conforms in letter and spirit to the
provision of Art. XII, § 11 of the constitution of
Ohio, and is as effective for that purpose as any
ordinance which the city council could pass: *Cin-
cinnati v. Harris*, 91 O. S. 151, 110 N. E. 463.

[Sec. 15150-2.] Agreement may be
made with lessee. §2. The trustees of said rail-
way are hereby authorized and empowered to
agree with any lessee of said line of railway, that
they will exercise the powers granted them in
the first section of this act, on condition that said
lessee company will enter into a supplementary
agreement with said trustees by which said
lessee company will obligate itself as and by way
of further additional rental for said line of rail-
way, to pay said trustees such sum annually as
will equal the interest charge upon said bonds

§ 15150-3

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and provide a sinking fund for their redemption at maturity.

[Sec. 15150-3.] How fund shall be expended. § 3. The said trustees shall expend said fund in completing any terminal facilities for said railway heretofore determined upon by them and partially completed with the proceeds of the bonds issued under the act of April 23, 1898, to which this is supplementary and in making permanent betterments upon the line of said railway, and they shall have the same powers in the expenditure thereof, as they had with reference to the fund expended under the acts to which this is supplementary.

Under G. C. § [15150-3] the board of trustees can not change the rate of compensation of an attorney at law named in a contract after the services have been rendered: Trustees v. Porter, 31 O. N. P. (N.S.) 441, sub nomine, Railway v. Porter, 80 O. D. (N.P.) 8 [for opinion in supreme court, see Porter v. Railway, 96 O. S. 29].

AN ACT

To supplement "An act supplementary to an act passed April 23, 1898, (93 O. L. p. 637), 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, 1869, (66 O. L. p. 80), and to all acts supplementary to said act of May 4, 1869, and authorizing the board of trustees appointed under the act of May 4, 1869, to issue additional bonds for terminal facilities and permanent betterments of the line of railways," passed May 17, 1911 (102 O. L. p. 111), and to provide for levying a tax to pay the interest and provide a sinking fund for the redemption of bonds issued under the act to which this act is supplementary. (103 v. 112.)

SEC. 15150-4. Tax levy to pay interests and provide a sinking fund for redemption of certain bonds. § 1. That all bonds issued under the provisions of the act passed May 17, 1911 (Appendix [Secs. 15150-1 to 15150-3]), and entitled "An act supplementary to an act passed April 23, 1898 (93 O. L. p. 637), [Appendix, Secs. 15136 to 15144], 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, 1869 (66 O. L. p. 80), [Appendix, Secs. 15093 to 15101], and to all acts supplementary to said act of May 4, 1869, and authorizing the board of trustees appointed under the act of May 4, 1869, to issue additional bonds for terminal facilities and permanent betterments for the line of railway," to which this act is supplementary, shall be secured by a pledge of the faith of the city and a tax in addition to all other taxes for municipal purposes which shall be annually levied by the council of said city on the real and personal property returned on the grand levy sufficient to pay the interest thereon and to provide a sinking fund for their final redemption; and they may be made payable both as to principal and interest in any lawful money of the

United States at such times and places and in such sums as shall be deemed best by the board issuing same.

This section and G. C. § [15150-1] constitute the legislation under which is incurred the indebtedness provided for by Appendix §§ [15150-1] to 15150-4. It conforms in letter and spirit to the provision of Art. XII, § 11 of the constitution of Ohio, and is as effective for that purpose as any ordinance which the city council could pass: Cincinnati v. Harris, 91 O. S. 161, 110 N. E. 463.

AN ACT

Providing that the remaining bonds to be issued under an act passed May 17, 1911 (102 O. L. 111), may bear a higher rate of interest than provided in said act. (106 v. 196.)

[Sec. 15150-5.] Trustees may issue bonds for terminal facilities and betterment of railway at higher rate than provided by former act. § 1. That the bonds remaining to be issued under the provisions of the act passed May 17, 1911 (102 O. L. 111) [Appendix, [Secs. 15150-1 to 15150-3]] entitled "An act supplementary to an act passed April 23, 1898 (93 O. L. p. 637) [Appendix, Secs. 15136 to 15144], 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, 1869 (66 O. L. p. 80),' [Appendix, Secs. 15093 to 15101], and to all acts supplementary to said act of May 4, 1869" and authorizing the board of trustees appointed under the act of May 4, 1869, to issue additional bonds for terminal facilities and permanent betterments for the line of railway", and the act passed March 5, 1913 (103 O. L. 113) [Appendix, Sec. 15150-4], entitled "An act to supplement 'An act supplementary to an act passed April 23, 1898 (93 O. L. p. 637) 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, 1869 (66 O. L. p. 80)' and to all acts supplementary to said act of May 4, 1869, and authorizing the board of trustees appointed under the act of May 4, 1869, to issue additional bonds for terminal facilities and permanent betterments for the line of railway" to which this act is supplementary, and any of said bonds which may be issued after the passage of this act, may bear interest at a rate not to exceed five per centum per annum. Said bonds shall not be sold for less than par, and shall not be issued until the lessee of the railway shall enter into an agreement to pay by way of additional rental for said line of railway such sum annually as will equal said interest and provide a sinking fund for their final redemption. Said bonds shall be secured by a pledge of the faith of the city and a tax in addition to all other taxes for municipal purposes which shall be annually levied by the council of said city on the real and personal property re-

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turned on the grand interest thereon and their final redemption made payable both as in any lawful money at such times and places shall be deemed best

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Supplementary to an act to cities of the first class having a population exceeding one hundred and fifty thousand inhabitants," passed to all acts supplementary to said act of May 4, 1869, for permanent betterment of the line of railway constructed under the act of May 4, 1869. (106 v. 146.)

[SEC. 15150-6] Issue additional bond on line of railway.

for the board of trustees of the act of May 4, 1869, supplementary, and they shall row as a fund for permanent betterment of the line of railway of addition to the sums not to exceed two dollars, and to issue and under the corporate line of railway, and attested in the authorized by the board of trustees and shall be a part of the city's other taxes for municipal purposes, be annually levied on the real and personal property returned on the grand levy sufficient to pay the interest thereon and provide a sinking fund for their final redemption; and they may be made payable both as to principal and interest in any lawful money of the United States at such times and places and in such sums as shall be deemed best by the board issuing same.

[SEC. 15150-7] for additional bonds for terminal facilities and betterment of railway are heretofore determined upon by them and partially completed with the proceeds of the bonds issued under the act of April 23, 1898, to which this is supplementary and in making permanent betterments upon the line of said railway, and they shall have the same powers in the expenditure thereof, as they had with reference to the fund expended under the acts to which this is supplementary.

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additional bonds for
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the provisions of said
acts. (106 v. 140.)

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their final redemption, and said bonds may be
made payable both as to principal and interest
in any lawful money of the United States and
at such times and places and in such sums as
shall be deemed best by the board issuing same.

Terminals and Improvements: O-JUR Railroads § 64

AN ACT

Supplementary to an act entitled, "An act relating
to cities of the first class, having a population
exceeding one hundred and fifty thousand in-
habitants," passed May 4, 1869 (66 O. L. 80), and
to all acts supplementary to said act, and au-
thorizing the board of trustees appointed under
said act of May 4, 1869, to issue additional bonds
for permanent betterments upon the line of
railway constructed under the provisions of said
acts. (106 v. 140.)

[SEC. 15150-6.] Trustees authorized to
issue additional bonds for permanent betterments
on line of railway. § 1. That it shall be lawful
for the board of trustees appointed under the
act of May 4, 1869, to which this act is supple-
mentary, and they are hereby authorized to bor-
row as a fund for permanent betterments on the
line of railway of which they are trustees, in
addition to the sums heretofore authorized, a sum
not to exceed two million, five hundred thousand
dollars, and to issue bonds therefor in the name
and under the corporate seal of the city owning
the line of railway. Said bonds shall be signed
and attested in the same manner as the bonds
authorized by the act to which this is supple-
mentary and shall be secured by a pledge of the
faith of the city and a tax, in addition to all
other taxes for municipal purposes which shall
be annually levied by the council of said city
on the real and personal property returned on
the grand levy sufficient to pay the interest
thereon and provide a sinking fund for their
final redemption; and they may be made payable
both as to principal and interest in any lawful
money of the United States, at such times and
places and in such sums as shall be deemed best
by said board; provided that none of the bonds
authorized by this act shall bear a greater rate
of interest than five per centum per annum, nor
be sold for less than par; and provided further,
that before any money is borrowed or bonds
issued under this act, the agreement authorized
in the second section hereof shall be entered into
by and between the said trustees and the lessees
of said railway.

[SEC. 15150-7.] Agreement with lessees
for additional rental. § 2. The trustees of said
railway are hereby authorized and empowered
to agree with any lessee of said line of railway,
that they will exercise the powers granted them
in the first section of this act, on condition that
said lessee company will enter into an additional

supplementary agreement with said trustees by
which said lessee company will obligate itself,
as and by way of further additional rental for
said line of railway, to pay said trustees such
sum annually as will equal the interest charge
upon said bonds and provide a sinking fund for
their redemption at maturity.

[SEC. 15150-8.] Expenditure of fund.
§ 3. The said trustees shall expend said fund in
obtaining the right to construct and in construct-
ing permanent betterments upon said line of
railway, and they shall have the same powers in
the expenditure thereof as they had with refer-
ence to the fund expended under the acts to
which this is supplementary.

AN ACT

Supplementary to an act entitled, "An act relating
to cities of the first class having a population
exceeding one hundred and fifty thousand in-
habitants," passed May 4, 1869 (66 O. L. p. 80),
and all acts amendatory and supplementary
thereto, and authorizing the trustees of the
line of railway constructed under said acts to
which this act is supplementary, to construct
and lease terminals and to lease railway prop-
erty for terminal purposes. (107 v. 561.)

SEC. 15150-9. Trustees authorized to
construct and maintain railway terminal upon
majority vote; submission of question. § 1.
That the board of trustees of any railway, ap-
pointed under the provisions of the act to which
this act is supplementary, be and they are hereby
authorized to construct and maintain a general
railway terminal in the city owning said line of
railway, which may be a union railway terminal,
whenever the voters of such city shall, by a
majority of those voting thereon, so determine,
upon the submission of the question, "Shall gen-
eral railway terminals be provided by the trustees
of _____ railway, pursuant to contract with
The Company?" (filling the blanks
with the respective names of the railway and the
union depot company), which submission shall be
by the deputy state supervisors and inspectors
of elections, at a general or special election upon
the request of the board of trustees for such line
of railway. After an affirmative vote at such
election, it shall be lawful for the trustees ap-
pointed under the act to which this act is supple-
mentary, and they are hereby authorized to
borrow, as a fund for the purposes of the railway
of which they are trustees, and for the purpose
of the provisions of this act, a sum in addition
to the amounts heretofore authorized not to ex-
ceed twenty million dollars, and to issue the
bonds of said city therefor in the name and under
the corporate seal of the city owning the line
of railway. Said bonds shall be signed and at-
tested in the same manner as the bonds author-
ized by the acts to which this is supplementary.
Said bonds shall not be held to be included in
any limitation of bonded indebtedness prescribed

§ 15150-10

RAILROADS

by law. An annual rental shall be provided for in the lease of such terminal, as hereinafter authorized, sufficient to pay all interest on said bonds and to provide a sinking fund for their final redemption at maturity, which rental shall constitute a fund to be used for said purposes and no other until said bonds are paid; and, provided, further, the taxing authorities of said city shall levy an annual tax to provide such sum as may be necessary, if any be necessary, in addition to the said rental, to pay said interest and provide said sinking fund as aforesaid. Said bonds may be made payable at such times and in such sums as shall be deemed best by said board of trustees, provided, that none of the bonds authorized by this act shall be sold for less than par or bear a greater rate of interest than five per centum per annum, payable semi-annually; provided, further, that no money shall be borrowed or bonds issued therefor under this act until the agreement authorized and provided in the second section of this act shall have been entered into by and between said trustees and a terminal company, organized as provided in second section of this act.

Terminals and improvements: O-JUR Railroads § 64.

SEC. 15150-10. Trustees empowered to make contracts. § 2. The trustees of said railway are hereby authorized to make all necessary contracts to carry out the purposes of this act, and they are hereby empowered to agree with any company duly incorporated under title IX, division II, sub-division II, chapter I of the General Code of Ohio, relating to union depot companies organized by railroad companies, that they will exercise the powers granted them in section 1 of this act, on condition that said company will enter into an agreement with said trustees, by which said company will obligate itself to perpetually lease, use and occupy said depot and terminal property, and pay therefor as rental to said trustees, such sum annually as will equal the interest charge upon all bonds issued to provide the cost thereof, and provide a sinking fund for their final redemption at maturity, including interest and sinking fund charges during the period of construction, and also pay all taxes upon said property including the interest of the lessor as well as that of the lessee therein, also all insurance, assessments and public charges of every nature thereon, and provide for the care, maintenance, improvement and upkeep of said property and all expenses of the trust referable thereto. Such rental to obtain until the maturity of said bonds, and thereafter such annual rental as may be agreed upon at the time of making said lease. Said contract shall also contain provisions obligatory on the lessee to use and occupy said property after maturity and payment of

said bonds. Provided, that the performance of the obligations of said terminal company assumed by and under said contract and lease shall be guaranteed by the respective railroad forming said terminal company in such manner that the aggregate of said several guarantees shall guarantee the fulfillment of all the lessee's covenants of said lease in their entirety. Any railroad company which shall construct its railway into said city hereafter may enter said terminal and connect with said terminal property, which connection shall be in such manner and on the rental and terms prescribed by said trustees.

SEC. 15150-11. Application of proceeds from sale of bonds. § 3. The proceeds of said bonds shall be a fund which shall be used by said trustees in acquiring property for and in constructing a general railway terminal in said city, and they shall have the same powers as to the expenditure thereof as they had with reference to the fund expended under the provisions of the acts to which this is supplementary, including the right and manner of exercising the right of eminent domain. The compensation for such and other services rendered by said trustees shall be such as may be determined, and may be altered from time to time by the court appointing them.

SEC. 15150-12. Power to make perpetual lease. § 4. The said trustees shall have power to lease perpetually to any union terminal company any of the property of such line [of] railway necessary or convenient to the construction or operation of such terminal at such rental as such trustees may determine, provided, such lease shall be subject to any existing lease or leases upon said property, and provided further, that said lease shall reserve to the said line of railway in perpetuity the right to enter and use such union terminal upon terms equal to those had by the most favored railway entering the said terminal, and the said trustees shall also have power to lease perpetually or otherwise, subject to any existing lease or leases thereon, any of the property of the line of railway of which they are trustees to any existing or future railway company to enable it to reach said general railway terminal.

Terminals and improvements: O-JUR Railroads § 64.

SEC. 15150-13. Cumulative powers. § 5. The powers conferred in this act upon said trustees are cumulative to and not in limitation of the other powers conferred upon said trustees by the acts to which this act is supplementary.

Supplementary to an act entitled, "An act relating to cities of the first class, having a population exceeding one hundred and fifty thousand in-

habitants," passed May 1887, to all acts supplementing and authorizing the board of said act of May 4, 1887, bonds for permanent bonds of railway constructed said acts. (108 v. Pt.

[SEC. 15150-14.]

additional bonds for railway. That it shall be lawful for the board appointed under the act to which this act is supplementary, authorized to borrow as needed for betterments on the line, are trustees, in addition to the authorized, a sum not to exceed one hundred dollars and to issue bonds under the corporate seal of the line of railway. Said bonds shall be attested in the same manner as authorized by the act to which this act is supplementary, and shall be secured by a tax, in addition to the city and a tax, in addition to the city and a tax, for municipal purposes levied by the council or personal property tax sufficient to pay the interest on a sinking fund for the bonds they may be made payable and interest on any bonds. State at such times as may be determined by the board that none of the bonds shall bear a greater rate of interest than five per centum per annum, par; and provided money is borrowed under this act, the agreement hereof shall be between the said trustees and the said railway.

For the effect of G. S. 21-2 upon proceeds of 15150-14 (108 v. P. Goodale, 106 O. S. 646)

[SEC. 15150-15.] authorized. § 2. The board is hereby authorized to lease any lessee of said line to exercise the power conferred by this act, and the company will enter into a supplementary agreement with said lessee company, by way of furthering the construction of railway, to pay annually as will equal the interest on said bonds and provide a sinking fund for their final redemption at maturity.

[SEC. 15150-16.] § 3. The said trustees

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CINCINNATI SOUTHERN RAILWAY

§ 15150-18

habitants," passed May 4, 1869 (66 O. L. 80), and to all acts supplementary to said act, and authorizing the board of trustees appointed under said act of May 4, 1869, to issue additional bonds for permanent betterments upon the line of railway constructed under the provisions of said acts. (108 v. Pt. II 1136.)

[SEC. 15150-14.] Authority to issue additional bonds for railway betterments. § 1. That it shall be lawful for the board of trustees appointed under the act of May 4, 1869, to which this act is supplementary, and they are hereby authorized to borrow as a fund for permanent betterments on the line of railway of which they are trustees, in addition to the sums heretofore authorized, a sum not to exceed one million dollars and to issue bonds therefor in the name and under the corporate seal of the city owning the line of railway. Said bonds shall be signed and attested in the same manner as the bonds authorized by the act to which this is supplementary, and shall be secured by a pledge of the faith of the city and a tax, in addition to all other taxes for municipal purposes, which shall be annually levied by the council of said city on the real and personal property returned on the grand levy sufficient to pay the interest thereon and provide a sinking fund for their final redemption; and they may be made payable both as to principal and interest in any lawful money of the United States, at such times and places and in such sums as shall be deemed best by said board; provided, that none of the bonds authorized by this act shall bear a greater rate of interest than five per centum per annum, nor be sold for less than par; and provided further, that before any money is borrowed or bonds are issued under this act, the agreement authorized in the second section hereof shall be entered into by and between the said trustees and the lessee of said railway.

For the effect of G. C. § 2295-15 (109 v. 336, 347, 21-a) upon proceedings pending under G. C. § 15150-14 (108 v. Pt. II 1136), see *Richards v. Goodale*, 105 O. S. 649, 128 N. E. 926.

[SEC. 15150-15.] Lease by trustees authorized. § 2. The trustees of said railway are hereby authorized and empowered to agree with any lessee of said line of railway, that they will exercise the power granted them in the first section of this act, on condition that said lessee company will enter into an additional and supplementary agreement with said trustees by which said lessee company will obligate itself, as and by way of further additional rental for said line of railway, to pay said trustees such sum annually as will equal the interest charge upon said bonds and provide a sinking fund for their redemption at maturity.

[SEC. 15150-16.] Expenditure of fund. § 3. The said trustees shall expend said fund

in obtaining the right to construct and in constructing permanent betterments upon said line of railway, and they shall have the same powers in the expenditure thereof as they had with reference to the fund expended under the acts to which this is supplementary.

[SEC. 15150-17.] Bonds may be issued to provide terminal facilities. § 1. That it shall be lawful for the board of trustees appointed under said act of May 4th, 1869, to which this act [G. C. §§ 15150-17 to 15150-19] is supplementary, and they are hereby authorized to borrow as a fund for the completion of the terminal facilities and permanent betterments heretofore undertaken and for the additional terminal facilities and permanent betterments on the line of railway of which they are trustees, in addition to the sums heretofore authorized, a sum not to exceed two million dollars and issue bonds therefor in the name and under the corporate seal of the city owning the line of railway. Said bonds shall be signed and attested in the same manner as the bonds authorized by the act to which this is supplementary and shall be secured by a pledge of the faith of the city and a tax, in addition to all other taxes for municipal purposes which shall be annually levied by the council of said city on the real and personal property returned on the grand levy sufficient to pay the interest thereon and provide a sinking fund for their final redemption; and they may be made payable both as to principal and interest in any lawful money of the United States, at such times and places and in such sums as shall be deemed best by said board; provided that none of the bonds authorized by this act shall bear a greater rate of interest than six per cent per annum, nor be sold for less than par; and provided further, that before any money is borrowed or bonds are issued under this act, the agreement authorized in the second section hereof shall be entered into by and between the said trustees and lessees of said railway. [110 v. 158, § 1.]

Terminals and improvements: C-SUR Railroads § 64.

[SEC. 15150-18.] Annual rental for interest and sinking fund. § 2. The trustees of said railway are hereby authorized and empowered to agree with any lessee of said line of railway, that they will exercise the powers granted them in the first section of this act, on condition that said lessee company will enter into an additional supplementary agreement with said trustees by which said lessee company will obligate itself, as and by way of further additional rental for said line of railway, to pay said trustees such sum annually as will equal the interest charge upon said bonds and provide a sinking fund for their redemption at maturity. [110 v. 158 (159), § 2.]

§ 15150-19

RAILROADS

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[SEC. 15150-19.] [Expenditure of fund.]

§ 3. The said trustees shall expend said fund in the completion of the terminal facilities and permanent betterments heretofore undertaken and in obtaining the right to construct and in constructing additional terminal facilities and permanent betterments upon said line of railway, and they shall have the same powers in the expenditure thereof as they had with reference to the fund expended under the acts to which this is supplementary. [110 v. 158 (159), § 3.]

Sec. 15150-20. [Trustees may exchange lands for terminal facilities.] That it shall be lawful for the board of trustees appointed under the act of May 4, 1869, to which this act is supplementary, by and with the consent of any lessees thereof, and the trustees of the sinking fund of the city owning such line of railway, to exchange with any union terminal company engaged in providing terminal facilities in any city on such railway, any lands, rights of way, or easements, including easements held in any public ways, for other lands, rights of way, or easements that may be deemed by said board of equal value to said line of railway. [113 v. 205.]

CHAPTERS 2 TO 8: [OTHER SPECIAL ACTS]

SECS. 15151 to 15240. Repealed, 113 v. 685 (687), § 1. [§§ 8337 to 8417 App. of 1880; 79 v. 82; 78 v. 45; 75 v. 113.]

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3. CHICK
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THE STATE OF OHIO

LEGISLATIVE ACTS

PASSED

(EXCEPTING APPROPRIATION ACTS)

AND

JOINT RESOLUTIONS

ADOPTED

By THE

NINETY-EIGHTH GENERAL ASSEMBLY OF OHIO

At Its Regular Session

BEGUN AND HELD IN THE CITY OF COLUMBUS, OHIO

January 3, 1949, to July 29, 1949, Inclusive

ALSO THE TIMES FOR HOLDING THE COURTS OF APPEALS
AND THE COURTS OF COMMON PLEAS IN OHIO
FOR THE YEARS 1948 AND 1950

VOLUME CXXIII


F. J. Herz Printing Company
Columbus, Ohio
1950
Bound at the State Bindery

AN ACT

To permit the use of net earnings of a municipality owned railroad for sinking fund or bond retirement fund purposes and for that purpose to amend section 15149 of the General Code.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 15149 of the General Code be amended to read as follows:

Net earnings and incomes credited to sinking fund or bond retirement fund.

Sec. 15149. That whenever, in any city of the first class a railroad has been built, or may hereafter be built, under the provisions of *** sections 15093 to 15150, inclusive, of the General Code, all net earnings and incomes therefrom shall be paid into the treasury of said city to the credit of the *** sinking fund or bond retirement fund; and in the case of the sale or final disposition of said railroad, the purchase money or price shall be paid into the treasury of said city to the credit of the sinking fund *** or bond retirement fund and shall be applied to the reduction of the bonded debt of said city until the same shall be extinguished, due regard being had to the priority right of any issue or issues of bonds to the proceeds of such sale.

Repeal.

SECTION 2. That existing section 15149 of the General Code is hereby repealed.

JOHN F. CANTWELL,
Speaker of the House of Representatives.

GEORGE D. NYE,
President of the Senate.

Passed June 23, 1949.

Approved July 1, 1949.

FRANK J. LAUSCHE,
Governor.

The sectional number herein is in conformity to the General Code.
WILLIAM D. CANNON,
Director of Code Revision.

Filed in the office of the Secretary of State at Columbus, Ohio, on the 1st day of July, A. D. 1949.

CHARLES F. SWEENEY,
Secretary of State.

File No. 115.

AN ACT

To provide for the levy of taxes upon motor vehicles used by motor transportation companies or common carriers and private motor carriers or contract carriers in the state of Ohio and for that purpose to amend sections 614-91 and 614-112 of the General Code.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 614-94 and 614-112 of the General Code are hereby amended to read as follows:

Taxes paid by motor transportation company, when; purpose; rates; trailer; rates for temporary use; mutual exemptions; accounting and payment of taxes collected.

Sec. 614-94. Every motor transportation company or common carrier by motor vehicle now operating or which shall hereafter operate in this state shall, on and after the 1st day of July, *** 1949, and at the time of the issuance of *** a certificate of public convenience and necessity to such a motor transportation company or common carrier by motor vehicle, and annually thereafter on or between July 1st and July 15th of each calendar year, pay to the public utilities commission of Ohio for and on behalf of the treasurer of state the following taxes for the expense of the administration and enforcement of the provisions of sections 614-83 to 614-128 of the General Code, and for the maintenance and repair of the highways of the state; all taxes levied upon the issuance of a certificate to any motor transportation company or common carrier by motor vehicle shall be reckoned as from the beginning of the quarter in which such certificate is issued or the use of equipment under any existing certificate began.

For each motor propelled or driven vehicle used for transporting persons *** multiply the normal number of passengers that can be seated at one time in such vehicle by four dollars.

For each commercial tractor, as defined in section 6299 of the General Code used for transporting property thirty (30) dollars.

For each motor truck transporting property twenty (20) dollars.

For each motor propelled vehicle used *** for transporting both persons and property simultaneously the tax shall be computed on the basis of either property transportation or passenger capacity and the basis which yields the greater revenue shall apply.

A trailer used by a motor transportation company or common carrier by motor vehicle shall not be taxed under the provisions of this section ***.

The annual tax herein levied shall not apply in those cases where the commission finds that the movement of agricultural commodities or food stuffs produced therefrom require a temporary and seasonal use of vehicular equipment for a period of not more than ninety days. In such event

W. C. L.

THE STATE OF OHIO

LEGISLATIVE ACTS

PASSED

(EXCEPTING APPROPRIATION ACTS)

AND

JOINT RESOLUTIONS

ADOPTED

BY THE

ONE HUNDRED AND SECOND GENERAL ASSEMBLY
OF OHIO

At Its Regular Session
JANUARY 7, 1957, TO JUNE 18, 1957, INCLUSIVE

VOLUME CXXVII

Issued by

TED W. BROWN
Secretary of State



F. J. Hear Printing Company
Columbus, Ohio
1957

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(Amended House Bill No. 314)

AN ACT

Supplementary to an act entitled "An Act relating to cities of the first class having a population exceeding one hundred fifty thousand inhabitants" passed May 4, 1869 (66 O.L. 80) and all acts amendatory and supplementary thereto, and authorizing the trustees of a line of railway constructed under said acts, to which this act is supplementary, to sell, lease, and exchange lands, rights-of-way, and easements.

Be it enacted by the General Assembly of the State of Ohio:

Cincinnati Southern Railway land sale and exchange authorized.

SECTION 1. That it shall be lawful for a board of trustees of the Cincinnati Southern Railway appointed under the Act of May 4, 1869 (66 Ohio Laws 80), to which this act is supplementary, to sell any property, land, right-of-way, or easement which is a part of its line of railway but which is no longer needed, in the opinion of such board of trustees, in the operation thereof, and to exchange any property, land, right-of-way, or easement, which is a part of its line of railway, for other property, land, right-of-way, or easement for the purpose of relocating the tracks or other facilities of its line of railroad.

Cincinnati Southern Railway prior land sales and exchanges approved.

SECTION 2. All the sales and exchanges of lands, rights-of-way, and easements heretofore made by the board of trustees of the Cincinnati Southern Railway, appointed under the Act of May 4, 1869, are hereby confirmed, ratified, and approved.

ROGER CLOUD,
Speaker of the House of Representatives.

PAUL M. HERBERT,
President of the Senate.

Passed May 16, 1957.

Approved May 28, 1957.

C. WILLIAM O'NEILL,
Governor.

This act is of a special nature and does not require a Code sectional number.
OHIO LEGISLATIVE SERVICE COMMISSION
CHARLES W. INGLER, *Director.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the 28th day of May, A. D. 1957.

TED W. BROWN,
Secretary of State.

File

Effective August 27, 1957.

THE STATE OF OHIO

VOLUME CXXIX

LEGISLATIVE ACTS

(EXCEPTING APPROPRIATION ACTS)

PASSED

AND

JOINT RESOLUTIONS

ADOPTED

BY THE

ONE HUNDRED AND FOURTH GENERAL ASSEMBLY
OF OHIO

At Its Regular Session

JANUARY 2, 1961, TO NOVEMBER 21, 1961, INCLUSIVE

Issued by

TED W. BROWN

Secretary of State



The F. J. Heer Ptg. Company
Columbus 16, Ohio

1961

Bound by the State of Ohio

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Passed June 21, 1961.

Approved June 30, 1961.

MICHAEL V. DiSALLE,
Governor.

The sectional number herein is in conformity with the Revised Code.

OHIO LEGISLATIVE SERVICE COMMISSION

LAUREN A. GLOSSER, *Director*

Filed in the office of the Secretary of State at Columbus, Ohio, on the
3rd day of July, A. D. 1961.

TED W. BROWN,
Secretary of State.

File No. 201.

Effective October 2, 1961.

(Senate Bill No. 562)

AN ACT

Supplementing the Act relating to cities of the first class, having a
population exceeding one hundred fifty thousand inhabitants
passed May 4, 1869.

Be it enacted by the General Assembly of the State of Ohio:

Powers of municipal railroad trustees.

SECTION 1. The trustees of any municipally owned line of railway, appointed and acting pursuant to an Act entitled, "Relating to cities of the first class having a population exceeding one hundred fifty thousand inhabitants", passed the 4th day of May 1869, shall have the authority to operate, lease, modify any existing lease, manage, rebuild, relocate and improve such line of railway in accordance with ordinances of the council of the city owning such line of railway, and such authority may be exercised in accordance with such ordinances notwithstanding any provisions of the Act heretofore referred to or any Act supplementing or modifying said Act.

ROGER CLOUD,
Speaker of the House of Representatives.

JOHN W. DONAHEY,
President of the Senate.

THE STATE OF OHIO

VOLUME CXXXVII

LEGISLATIVE ACTS

(EXCEPTING APPROPRIATION ACTS)

PASSED

AND

JOINT RESOLUTIONS

ADOPTED

BY THE

ONE HUNDRED AND TWELFTH GENERAL ASSEMBLY
OF OHIO

AT ITS REGULAR SESSION

JANUARY 3, 1977 TO DECEMBER 21, 1978, INCLUSIVE

Issued by

Anthony J. Celebrezze, Jr.

Secretary of State

The National Graphics Corporation
Columbus, Ohio 43216

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→
(provided)

AN ACT

To repeal Sections 2 and 6 of the Act of May 4, 1869, entitled "to authorize cities of the first class to build railroads and to lease or operate the same," to repeal Section 1 of the Act of April 17, 1883, supplementary to the foregoing Act, and to authorize a city that has built a railroad pursuant to such Acts to provide for a board of trustees therefore.

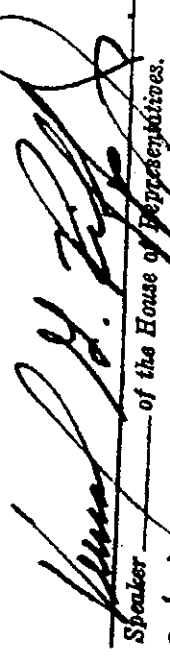
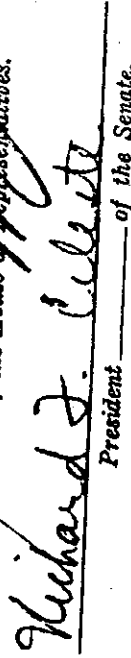
Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. A city that has built a railroad pursuant to the Act of May 4, 1869, and is governing it pursuant to such Act, The Act of April 17, 1883, and other Acts supplementary to the Act of May 4, 1869, shall provide by legislation for the continuance of a board of trustees as a successor to the board in existence on the effective date of this act, which successor board shall continue to have and exercise all power and authority vested in the existing board and not expressly terminated by virtue of the repeals of Section 2 of this act. The board of trustees shall consist of five members who shall be appointed by the mayor with the approval of the city council. At the first meeting of the board, the members shall draw lots to determine which member will initially serve for a term of five years, four years, three years, two years, and one year. Thereafter, terms shall be for five years, and members shall receive no compensation unless otherwise authorized by subsequent action of the city council. At no time shall there be more than three members of the same political party serving on the board. All other terms and conditions of the service of the members of such board, including further details of method of selection, qualifications, method of removal, bonding, and any other necessary provisions, not contained in the remaining provisions of the Act of May 4, 1869, and all acts supplementary thereto, shall be provided by legislation of such city.

SECTION 2. Sections 2 and 6 of the Act of May 4, 1869, en-

titled (66 Laws of Ohio 83) "to authorize cities of the first class to build railroads and to lease and operate the same," also known as Sections 15094 and 15098 of the General Code Appendix, and Section 1 of the Act of April 17, 1883, entitled (80 Laws of Ohio 168) as an Act supplementary to the foregoing Act passed May 4, 1869, also known as Section 15129 of the General Code Appendix, are hereby repealed.

SECTION 3. No portion of a railroad built pursuant to the Act of May 4, 1869, and governed pursuant to such Act, the Act of April 17, 1883 and other Acts supplementary to the Act of May 4, 1869, shall be sold without the approval of the electorate of the city that build the railroad, in a vote to be held at the first General Election occurring not less than forty days, following the announcement of the proposed sale by the board of trustees. This requirement does not apply to the sale of property adjacent to such railroad having no major affect, influence, or importance to its operation.


 Speaker _____ of the House of Representatives.

 President _____ of the Senate.

Passed April 4, 1977

This bill was presented to the Governor April 4, 1977 and was not signed or returned to the House of Representatives wherein it originated within ten (10) days after being so presented, exclusive of Sundays and the day said bill was presented.

TED W. BROWN,
Secretary of State.

Throckmorton's
OHIO CODE
ANNOTATED

BALDWIN'S PERMANENT SERVICE
1948-1952

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ANNOTATED BY

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*Associate Editor, Baldwin's Ohio Code Service and
Baldwin's Ohio Digest Service.*



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An appeal must be pending; otherwise the court lacks power under § 1365-8(a) to suspend sentence or admit to bail; after a case is removed to trial court, reviewing court is without jurisdiction to entertain a motion to suspend sentence and admit defendant to bail; the appeal is no longer pending in the reviewing court. 58 Abs 234, 94 NE(2d) 692.

unrepealed, repealed. 123 v 202. E7. 8-25-49.

[illegible]

This Appendix to the General Code of Ohio is published in the hope that it may be of some value to users. However, §13767 reads in part "All sections, parts of sections, acts and parts of acts, inconsistent with this act, and not included herein are repealed." The Bureau of Code Revision has recommended that the present Appendix be eliminated; that sections be repealed, referred for historical publication, or incorporated into the Code.

815801. Pancreatic 100 - 000

813810. *Reproduced: 123 + 202. E.F. 8-25-40*

310040. Repealed, 193 v 202. Eff. 8-25-49.

44-38861-10000

13842. Banded 192-203
Ym 000 10

15844. *Repubblica*. 192. y 202. E.T. 8-25-49.

8-25-49
103-4717- Repealed. 123 v 202.

8-13918-25]	(106 + 7) Revealed	123 + 202
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813927 to 19024

100

1900

Works has the authority

1156.

Page 1 of 1

123 v 202.
Repealed 123 v 202.
8-25-48.

14152-9]	(102 v 490)	Repealed	123 v

4752-9a Released 100-800

4153-11. Repealed 123 v 202. EFF 8.25.

4178-12 Retailed 100 - 000

4
4
6
4

10

123 & 202. E.H., 8-25-

§ 188. Repealed 123 v 202. EF. 8-25-49.

202. Eff 8-25-49. Repealed.

14198 to 14200. Repealed.	123 v 202. Eff.
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Case No.	Repealed	722	723	724
14220, 14221				

100

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... 1964-65, giving to the state De-