

MORTGAGE RECORD 85

Railroad Company's undivided part ownership in "streamliners", or other trains, or units of rolling stock owned by it jointly with other railroad companies; but excluding engines, cars and other rolling stock now owned or hereafter acquired by Oregon Short Line Railroad Company, Oregon-Washington Railroad & Navigation Company, Los Angeles & Salt Lake Railroad Company and The St. Joseph and Grand Island Railway Company (hereinafter called the "Lessor Companies") although used by the Railroad Company in the operation of the mortgaged railroads.

Also all right, title and interest of the Railroad Company, now existing or hereafter created, in or to any engines, cars or other rolling stock subject to an equipment trust agreement, equipment purchase contract or other similar arrangement, which, if owned by the Railroad Company, would be subject to the lien hereof.

SIXTH: Materials and supplies, including tools, now owned by the Railroad Company or which it shall hereafter acquire, in general stores on the mortgaged railroads or in transit thereto, or distributed along the rights of way of the mortgaged railroads, in section storehouses or otherwise on the mortgaged railroads or in transit for such distribution; but excluding all material, supplies and tools if, when and as they are incorporated in new rolling stock constructed in shops of the Railroad Company or elsewhere, whether for the ownership of the Railroad Company or for one of the Lessor Companies.

SEVENTH: All ownership and interest of the Railroad Company in telegraph and telephone pole and wire lines, and the instruments and equipment appertaining thereto, now located and existing along the mortgaged railroads or as they or any part of them shall hereafter be replaced or reconstructed, and in separate wires of such lines, and all rights of use of any such wires, now possessed or which shall hereafter be possessed by the Railroad Company.

EIGHTH: All rents, profits, tolls, and other income of the mortgaged railroads and other mortgaged properties.

TO HAVE AND TO HOLD, the railroads, franchises and other property hereby mortgaged, conveyed, assigned and transferred, or intended to be mortgaged, conveyed, assigned and transferred (hereinafter called the "mortgaged property") unto the Trustee and to its successors and assigns forever;

SUBJECT, HOWEVER, to the lien of the Railroad Company's First Railroad and Land Grant Mortgage, dated July 1, 1897, and indentures supplemental thereto, securing the First Mortgage Bonds, until said issue of bonds shall have been paid or refunded hereunder, in so far, but only in so far, as the railroads and other property hereby mortgaged are by the terms of the aforesaid mortgage subject to the lien thereof;

AND SUBJECT ALSO to any lien on engines, cars and other rolling stock or rights in respect of such rolling stock now existing under any equipment trust agreement or equipment purchase contract, and to any such lien or rights in respect of such rolling stock hereafter acquired or constructed, created in connection with, or at the time of, the acquisition or construction thereof, it being understood that the Railroad Company shall have the right to extend or refund any obligations secured by any such lien or rights if, as a result thereof, the aggregate principal amount of such obligations is not thereby increased, and in case of the refunding or extension at the same time of obligations secured by lien on, or having rights in respect of, two or more groups of such rolling stock, to include in the security for all such obligations all or any part of the rolling stock included in all such groups, even though the amount of obligations secured by lien on, or rights in respect of, any one or more of such groups may be thereby increased.

AND expressly saving, reserving and excepting to the Railroad Company, so long as the Railroad Company retains actual possession of and is operating the mortgaged railroads, (1) the right to extract and take, without any liability or obligation to account to the Trustee for the value thereof or profits therefrom, all coal, oil, natural gas and other minerals within or underlying any land, including land used for right of way, hereby mortgaged, intending thereby any and all inorganic substances now known to exist, or hereafter discovered upon or beneath the surface of the mortgaged premises, (2) the right to consume and dispose of materials, supplies, furniture, small tools and other portable personal property in any manner, free from the lien of this Indenture and without obligation to account to the Trustee for the proceeds or salvage value thereof, and (3) the right to agree, in the judgment of its management, from time to time, upon modifications and amendments of contracts now existing or hereafter made governing trackage rights and other rights and interests in trackage, and the joint use or other interest in terminals, depots, spurs, yard tracks and other operating facilities, and to enter into new contracts superseding such contracts; but the lien of this Indenture shall in such cases attach to the modified, amended or new contract, subject to like reservation of the right to make further modifications, amendments, and new contracts.

BUT IN TRUST, for the equal and proportionate benefit and security of all present and future holders of the Bonds and for the enforcement of the payment of the Bonds and of the interest thereon, when payable, and the performance of, and compliance with, the covenants and conditions of this Indenture, without preference, priority or distinction as to lien or otherwise of any one Bond over any other Bond by reason of priority in the issue or negotiation thereof or by reason of the purpose of its issue, so that each and every Bond issued or to be issued hereunder shall have the same right, lien and privilege under and by virtue of this Indenture, and so that the principal and interest of each Bond shall, subject to the terms hereof, be equally and proportionately secured hereby, as if all had been duly issued, sold and negotiated simultaneously with the execution and delivery hereof.

And it is hereby covenanted and declared that all the Bonds are to be executed, and authenticated and delivered, and that the mortgaged premises are to be held by the Trustee, subject to the further covenants, conditions, uses and trusts hereinafter set forth; and it is covenanted between the parties hereto and for the benefit of the respective holders, from time to time, of Bonds issued hereunder, as follows, viz:

ARTICLE ONE.

FORM, EXECUTION, REGISTRATION AND EXCHANGE OF BONDS.

SECTION 1. The authorized principal amount of Bonds issuable under this Indenture is limited so that the aggregate principal amount at any one time outstanding shall not exceed Two Hundred Million Dollars (\$200,000,000), except as otherwise provided in Section 12 of this Article One.

SECTION 2. From time to time the Bonds shall be executed on behalf of the Railroad Company, and delivered to the Trustee for authentication by it, and thereupon, as provided in this Article One and in Article Two hereof and not otherwise, the Trustee shall authenticate and deliver the same. Before authenticating or delivering any coupon Bond, the Trustee shall (except as provided in Sections 9, 11 and 12 of this Article One) detach and cancel all coupons then matured and, on its written demand, deliver the same to the Railroad Company or cremate them, in which case a certificate or certificates of creation shall be delivered to the Railroad Company by the Trustee. Bonds may be authenticated and delivered hereunder in advance of the registration or recording of this Indenture, but the Railroad Company covenants that with all convenient speed it will cause this Indenture to be duly recorded as a mortgage upon the railroads and real property herein described.

SECTION 3. The Bonds shall be signed on behalf of the Railroad Company by its President, the Chairman of its Executive Committee or any Vice-President and its corporate seal shall be thereto affixed (or a facsimile thereof imprinted or engraved thereon) and attested by its Secretary or one of its Assistant Secretaries. In case the officers of the Railroad Company who shall have executed any of the Bonds shall cease to be such officers of the Railroad Company before any Bonds so executed shall have actually authenticated and delivered by the Trustee, such Bonds may, nevertheless, be issued, authenticated and delivered, as though the persons who executed such Bonds had not ceased to be officers of the Railroad Company. The coupons to be attached to the Bonds shall bear the engraved facsimile signature of the present Treasurer or of any future Treasurer of the Railroad Company, and the Railroad Company may adopt and use for that purpose the engraved facsimile signature of any person who shall have been such Treasurer, notwithstanding the fact that he may have ceased to be such Treasurer at the time when such Bonds shall be actually authenticated and delivered.