

1882.
NEW ZEALAND.

WAIMEA RAILWAY COMPANY

(MEMORANDUM OF AGREEMENT AND DEED OF MORTGAGE *RE*).

Return to an Order of the House of Representatives, dated 7th July, 1881.

“That a return be laid before this House, and printed, of the terms and conditions upon which the sum of £40,000 (or whatever the sum may be) was advanced to the Waimea Plains Railway Company. The return to show when the money will be, if not now, repaid; interest payable, when and how; and the security given for such loan. Also any moneys that may have been advanced to assist any other railway companies within the colony; the particulars to be supplied as asked for in the case of Waimea Plains Railway Company.”—(*Mr. Shanks.*)

MEMORANDUM OF AGREEMENT.

MEMORANDUM of Agreement made this thirty-first day of March, in the year of our Lord one thousand eight hundred and eighty, between Her Majesty the Queen, of the one part, and the Waimea Plains Railway Company (Limited) (hereinafter called “the company”), of the other part.

WHEREAS the company lately issued its mortgage debentures, numbered consecutively from one (1) to seven hundred and fifty (750) inclusive, each of such debentures being for the sum of one hundred pounds, payable thirty years after date, and having coupons attached thereto for interest on the amount represented thereby at the rate of six pounds per centum per annum: And whereas the company did, on or about the thirty-first day of July, one thousand eight hundred and seventy-nine, deposit the said debentures with the Colonial Bank of Australasia at Melbourne, in the Colony of Victoria, as security for an overdraft of thirty thousand pounds allowed and advanced by the said bank to the company, and charged the whole of the said debentures with the payment of the said sum of thirty thousand pounds and interest thereon, it being agreed that the said bank should send the said debentures to its agents, the London Joint-Stock Bank in London, and that such debentures should from time to time be sold by the said London Joint-Stock Bank at such prices as should appear to the said bank advisable; provided that the minimum price at which such debentures should be sold should be such a sum as would only yield to the purchaser interest on the amount of his purchase-money at the rate of seven pounds per centum per annum at the place where the coupons attached to the said debentures are payable: And whereas the said debentures were sent for sale to the said London Joint-Stock Bank accordingly, but the said bank has hitherto been unable to sell the same or any of them: And whereas by the Act of the General Assembly of New Zealand shortly entitled “The Public Works Act, 1879,” it is provided that it shall be lawful for the Governor in Council from time to time, on being satisfied that the expenditure on any of the district railways specified in the Fourth Schedule to the said Act (which schedule includes the railway of the Waimea Plains Railway Company (Limited) by the company constituted for the purpose of constructing the same has been economically expended, to guarantee, upon such terms and conditions, and subject to receiving such security as the Governor in Council may approve, the debentures or mortgages to be given by any such company for a sum in the aggregate not exceeding seventy-five per centum of the expenditure of the company upon the construction and laying of any railway-line constructed by them, and the erecting and building of any buildings and erections, and the purchase of rails or rolling-stock in connection therewith, being the property of the company: And whereas the company have applied to the Governor in Council to guarantee a portion of the said debentures so issued by the company as aforesaid: Now these presents witness that it is hereby agreed by and between Her Majesty the Queen and the company as follows:—

1. The company shall, without any unnecessary delay, obtain from the Colonial Bank of Australasia or the said London Joint-Stock Bank, and shall deposit with the Agent-General for the Colony of New Zealand, in London, four hundred of the said debentures so issued by the company as aforesaid.

2. So soon as the said four hundred debentures shall have been deposited with the Agent-General, the Governor of the Colony of New Zealand (hereinafter referred to as “the Governor”) shall execute an instrument in writing under his hand, pursuant to the provision in that behalf contained in “The Public Works Act, 1879,” guaranteeing such four hundred debentures on behalf of the colony.

3. Her Majesty shall, out of such moneys as may be legally applicable to such purpose, advance to the company from time to time, by way of loan, upon the security of the said debentures, a sum not exceeding forty thousand pounds.

4. The said four hundred debentures shall be and the same are by the company charged with the payment of the moneys so to be advanced, and interest thereon at the rate of seven pounds per centum per annum.

5. The company shall repay the moneys so to be advanced, with interest thereon, at the rate aforesaid, within two years from the day of the date of these presents, such interest to be computed from the time or respective times of the said moneys being advanced, and to be payable by equal half-yearly payments on the first day of October and the first day of April in each year.

6. If the company shall fail to pay the moneys so to be advanced within the said period of two years, or if the company shall fail to pay any interest payable in respect of the moneys so to be advanced on either of the days hereinbefore appointed for payment of interest, the said debentures shall become the absolute property of Her Majesty; and it shall be lawful for Her Majesty, her heirs or successors, to sell the said debentures or any of them at such price or prices as Her Majesty's Government in New Zealand may think fit, so that the minimum price at which such debentures shall be sold shall be such a sum as will only yield to the purchaser or purchasers interest on the amount of his or their purchase-money at the rate of seven pounds per centum per annum at the place where the coupons attached to the said debentures are payable. And the company will, on demand, pay any deficiency there may be between the amount of the net proceeds realized by the sale of the said debentures and the amount of the moneys so to be advanced to the company as aforesaid, together with interest thereon at the rate aforesaid.

7. Simultaneously with the execution by the Governor of the instrument in writing under his hand guaranteeing the said debentures, the company shall execute to the Public Trustee, as a trustee for and on behalf of the holders of the whole of the said seven hundred and fifty debentures issued by the company as aforesaid, a deed or instrument conveying, assigning, and charging the railway and the works thereof, and all plant, rolling-stock, material, and property of the company, by way of mortgage, for securing the repayment of the amount of such debentures and interest; and such deed or instrument shall contain all usual and necessary powers and remedies contained in instruments of a like nature, including a power of sale in case of default in payment of the principal moneys or interest secured by any debenture or any part thereof respectively.

8. Notwithstanding anything in "The District Railways Act, 1877," or "The District Railways Act 1877 Amendment Act, 1878," to the contrary, the Governor, on behalf of Her Majesty, shall be entitled at any time before the first day of March, one thousand eight hundred and eighty-two, upon giving one month's notice in writing to the company, to purchase and acquire the lands acquired and held by the company for the purposes of the said railway, and also the railway-works, plant, rolling-stock, and implements of the company, and all their rights, powers, and privileges, at the price for the said lands of six pounds per acre, and for the said railway-works, plant, rolling-stock, implements, rights, powers, and privileges an amount equal to the sums actually expended by the company thereon and therefor, together with interest on such sums, computed from the respective times of payment thereof until the time of the completion of the purchase of the said lands, railway-works, and other premises at the rate of seven pounds per centum per annum; and if any profit shall have been made by the company, or any amount shall before the completion of such purchase have been paid by the company to its shareholders as and by way of dividend, the profit so made, or the amount so paid by way of dividend, shall be deducted from the purchase-money or price to be paid to the company; and any moneys for the then time being charged upon the said railway-works, plant, rolling-stock, implements, rights, powers, and privileges, or any part thereof, in respect of the said seven hundred and fifty mortgaged debentures, or otherwise howsoever, shall be deducted from the said purchase-money or price, and the difference only between the moneys charged and the purchase-money or price computed as aforesaid, less the amount of any such profit or dividend as aforesaid, shall be paid to the company: Provided always that if any of the said debentures shall remain in the hands of the company unsold the same may be cancelled, and the amounts thereof shall not in that case be deducted from the said purchase-money.

9. If there shall be any dispute with regard to the amount actually expended by the company upon or for the said railway-works, plant, rolling-stock, implements, and appurtenances, the computation of such amount shall be referred to three (3) arbitrators, one to be chosen by the Governor, one by the company, and the third arbitrator by the two other arbitrators.

10. Upon payment of the purchase-money, or price computed as aforesaid, the company shall convey, assign, and transfer to Her Majesty all their estate, property, and interest in the said lands, railway-works, plant, rolling-stock, and everything appurtenant thereto.

11. All costs and expenses of and incident to these presents, and of and incident to the guaranteeing of the said debentures, and of any incident to the preparation of the said deed or instrument in the seventh paragraph of this agreement mentioned, shall be borne and paid by the company.

In witness whereof the Honorable Richard Oliver, as and being the Minister for Public Works for the Colony of New Zealand, for and on behalf of Her Majesty the Queen, hath hereunto set his hand, and the company have hereunto set their common seal, on the day and year first above written.

Signed by the Honorable Richard Oliver, the Minister for Public Works for the Colony of New Zealand, in the presence of—

JOHN KNOWLES,

Under-Secretary for Public Works, Wellington.

R. OLIVER.

The common seal of the Waimea Plains Railway Company (Limited) was affixed hereto by Bendix Hallenstein, John Roberts, John Davie, and James Taylor Mackerras, four of the directors of the said company, being present at and constituting a board of directors of the said company, in the presence of—

HORACE BASTINGS,
Secretary.

BENDIX HALLENSTEIN.
JOHN ROBERTS.
JOHN DAVIE.
JAS. T. MACKERRAS.

THIS agreement made this tenth day of June, one thousand eight hundred and eighty, between Her Majesty the Queen, of the one part, and the Waimea Plains Railway Company (Limited) (hereinafter called "the company"), of the other part: It is hereby agreed by the parties to the above written deed of the thirty-first day of March, one thousand eight hundred and eighty, that the following additions or variations shall be made thereto, that is to say,—

1. It shall be lawful for Her Majesty the Queen at any time before the thirty-first day of March, one thousand eight hundred and eighty-two, to purchase at par the four hundred debentures mortgaged by the said deed.

2. If at any time before the said thirty-first day of March, one thousand eight hundred and eighty-two, the company shall find any other buyer willing to purchase the aforesaid debentures at par or for a less price, Her Majesty shall, upon receiving notice to that effect, elect to exercise or to waive her right to purchase the said debentures at the price which may be offered and which the company may be willing to accept.

3. This agreement shall stand and be read as if the same had originally formed part of the said deed of the thirty-first day of March, one thousand eight hundred and eighty, and were incorporated therewith.

In witness whereof the Honorable Richard Oliver, as and being the Minister for Public Works for the Colony of New Zealand, for and on behalf of Her Majesty the Queen, hath hereunto set his hand, and the company have hereunto set their common seal, on the day and year first above written.

Signed by the Honorable Richard Oliver, the Minister for Public Works for the Colony of New Zealand, in the presence of—

JOHN KNOWLES,

Under-Secretary for Public Works, Wellington.

The common seal of the Waimea Plains Railway Company (Limited) was affixed hereto by John Davie, James Taylor Mackerras, George Turnbull, and John Roberts, four of the directors of the said company, being present at and constituting a board of directors of the said company, in the presence of—

HORACE BASTINGS,
Secretary.

R. OLIVER.

JOHN DAVIE.
JAS. T. MACKERRAS.
GEORGE TURNBULL.
JOHN ROBERTS.

DEED OF MORTGAGE.

THIS Deed, made the seventeenth day of June, in the year of our Lord one thousand eight hundred and eighty, between the Waimea Plains Railway Company (Limited) (hereinafter called "the company"), of the one part, and the Public Trustee, appointed for the Colony of New Zealand under the provisions of "The Public Trust Office Act, 1872," of the other part.

WHEREAS the company was constituted, established, and incorporated under the provisions of "The Joint-Stock Companies Act, 1860," for the objects following: (a) To acquire, by purchase or otherwise, land and interests in land for railway purposes within the Provincial District of Otago. (b) To construct, maintain, and work a railway in, to, and from the Townships of Gore and Elbow, both in the Provincial District of Otago, and also any other railways in, to, and from other places within the said provincial district. (c) To construct or contribute to the cost of constructing any stations, warehouses, wharves, approaches, roads, bridges, crossings, sidings, workshops, and other buildings and works requisite or convenient for the purposes of the company, or calculated to promote the interests thereof. (d.) To purchase, manufacture, maintain, and hire plant, stores, machinery, rolling-stock, and other property convenient for the purposes of the company. (e.) To convey passengers, merchandise, goods, and chattels upon the railways, to take and levy tolls, rates and charges, and generally to carry on the business of a railway company in all its branches. (f.) To enter into contracts with other railway companies or owners of railways as to running powers, interchange of traffic, or otherwise in relation to the development of the property of the company. (g.) To purchase, hire, or otherwise acquire any personal property, and any rights or privileges necessary or convenient for the purposes of the company. (h.) To borrow or raise money by the issue of or upon bonds, debentures, bills of exchange, promissory notes, or other obligations or securities of the company, or by mortgage or charge of all or any part of the property of the company or of its uncalled capital, or in such other manner as the company shall think fit, and also to make, accept, indorse, and execute promissory notes, bills of exchange, and other negotiable instruments. (i.) To sell, improve, manage, develop, lease, mortgage, dispose of, or otherwise deal with all or any part of the property of the company. (j.) To carry out and accomplish all or any of those objects subject to, and in terms of and under and by virtue of, the provisions of "The District Railways Act, 1877," and so as to secure all the benefits and advantages of said Act, and generally to do all such other things as are incidental or conducive to the attainment of the above objects:

And whereas the company has constructed part of the said line of railway from Gore to Elbow, has erected and constructed certain stations and other conveniences for the purposes of the said railway: And whereas the company has purchased and otherwise acquired, in connection with the said railway, certain freehold lands, and certain plant, rolling-stock, and material: And whereas the company contemplates the completion of the said railway when the funds of the company will permit: And whereas by the articles of association of the company it is, among other things, provided that the Directors may from time to time, at their discretion, borrow any sum or sums of money for the purposes of the company, but so that the moneys at any one time owing shall not exceed the nominal amount of capital of the company, one hundred and fifty thousand pounds (£150,000), and may raise or secure the repayment of such money in such manner, upon such terms and conditions in all respects as

they think fit, and in particular by the issue of debentures or bonds of the company, or by the creation of debenture stock, or by making, drawing, or accepting or indorsing, on behalf of the company, any promissory notes or bills of exchange, or by mortgage or charge of all or any part of the property of the company and of its uncalled capital for the time being: And whereas the company lately issued its mortgage debentures, numbered consecutively from one (1) to seven hundred and fifty (750), inclusive, each of such debentures being for the sum of one hundred pounds, payable thirty years after date, and having coupons attached thereto for interest on the amount represented thereby at the rate of six pounds per centum per annum: And whereas by section forty-eight of "The District Railways Act, 1877," it is provided that any company, in the manner prescribed by its articles of association, may borrow and take up at interest such sum or sums of money as may thereby, or in any other manner, be lawfully authorized, and for the purpose of securing repayment thereof, with interest in the meantime, may convey, assign, or otherwise charge the railway and the works thereof, and all plant, rolling-stock, material, and property of the company, or such part thereof as may be agreed upon, by way of mortgage, with all usual and necessary powers and remedies to the mortgagee, including a power of sale in case of default in payment of such principal or interest, or any part thereof: And whereas by section seven of "The District Railways Act 1877 Amendment Act, 1878," it is provided that every mortgage made or issued under the authority of "The District Railways Act, 1877," or of that Act, shall be subject to the power of purchase reserved to the Governor of the said "District Railways Act, 1877," and shall contain a provision to that effect: And whereas by "The Public Works Act, 1879," it is provided that it shall be lawful for the Governor in Council from time to time, on being satisfied that the expenditure on any of the district railways specified in the Fourth Schedule to the said Act (which schedule includes the railway of the company) by the company constituted for the purpose of constructing the same has been economically expended, to guarantee upon such terms and conditions, and subject to receiving such security, as the Governor in Council may approve, the debentures or mortgages to be given by any such company for a sum in the aggregate not exceeding seventy-five per centum of the expenditure of the company upon the construction and laying of any railway-line constructed by them, and the erecting and building of any buildings and erections, and the purchase of rails or rolling-stock in connection therewith, being the property of the company:

And whereas by deed bearing date the thirty-first day of March, one thousand eight hundred and eighty, and made between the company, of the one part, and Her Majesty the Queen, of the other part, it was, *inter alia*, provided (1) that the company should, without any unnecessary delay, deposit with the Agent-General for the Colony of New Zealand, in London, four hundred of the debentures so issued by the company as aforesaid; (2) that, so soon as the said four hundred debentures should have been deposited with the Agent-General, the Governor of the Colony of New Zealand should execute an instrument in writing under his hands, pursuant to the provision in that behalf contained in "The Public Works Act, 1879," guaranteeing such four hundred debentures on behalf of the colony; (3) that Her Majesty should, out of such moneys as might be legally applicable to such purpose, advance to the company from time to time, by way of loan upon the security of the said debentures, a sum not exceeding forty thousand pounds; and (4) that, simultaneously with the execution by the Governor of the instrument in writing under his hand guaranteeing the said four hundred debentures, the company should execute to the Public Trustee, as a Trustee for and on behalf of the holders of the whole of the said seven hundred and fifty debentures issued by the company as aforesaid, a deed or instrument conveying, assigning, and charging the said railway and the works thereof, and all plant, rolling-stock, materials, and property of the company, by way of mortgage, for securing the repayment of the amount of such debentures and interest, and that such deed or instrument should contain all usual and necessary powers and remedies contained in instruments of a like nature, including a power of sale in case of default in payment of the principal moneys or interest secured by any debentures, or any part thereof respectively: And whereas pursuant to the provision in that behalf contained in "The Public Works Act, 1879," the Governor of the Colony of New Zealand has, by an instrument in writing under his hand, bearing even date herewith, guaranteed, on behalf of the colony, the payment of the said four hundred debentures and interest thereon:

Now this deed witnesseth that the company doth hereby, in exercise of any and every power enabling it in this behalf, grant, transfer, assign, charge, and make over unto the Public Trustee all and singular the lands, tenements, and hereditaments of the company, in the Provincial District of Otago aforesaid, which it has already acquired or may hereafter acquire, in virtue of its incorporation, for the purposes aforesaid, and all easements, rights, and privileges, servitudes or appurtenances appendant or in gross already acquired or which may be hereafter acquired by the company in, to, over, or upon any lands, tenements, or hereditaments in the Provincial District of Otago aforesaid, and whether belonging to Her Majesty or any public body or private individual, and the use and enjoyment of which may have been or shall be hereafter acquired legally, equitably, or permissively for the purposes of the railway-works projected or constructed by the company for the purposes aforesaid; and also the tolls, fares, dues, rates, charges, and other moneys which the company may from time to time be authorized or permitted to levy and demand in respect of the carriage of passengers, goods, and merchandise, or mails, or in respect of any other service which the company may perform or render from time to time by means of its railway-works, or the use of the railway or engines, carriages, trucks, or other rolling-stock belonging to or used by the company (but without prejudice to the rights of the Crown or the said Governor under any agreement already existing or which may be hereafter made with the company), or in respect of the use of any sheds, warehouse, station, or other means of accommodation belonging to, or the use or management of which may be wholly or partially vested in, the company; and also all the clear net income or revenues of the company, from whatever source derived, and at any time or from time to time available; and also all unpaid calls upon the shares in the capital stock of the company already or which may hereafter be allotted by the directors; and also all rolling-stock, plant, machinery, engines, carriages, rails, tools, implements, fittings, fixtures, and all other the goods and chattels of the company now or at any time hereafter belonging to it in connection

with its railway-works or the line or lines of railway aforesaid; and all other the estate, property, claim, and interest, legal or equitable, of the company in or to any of the real or personal property, things, and choses in action aforesaid: to hold and enjoy the same unto the Public Trustee, his successors in office and assigns, according to the nature of the estate or interest granted, charged, or assigned; subject nevertheless to the provisions hereinafter contained, and also to the enactments contained in "The District Railways Act, 1877," "The District Railways Act 1877 Amendment Act, 1878," and every other Act of the General Assembly applicable to the said railway and works, and to any and every power vested in the Governor of the Colony of New Zealand enabling him to purchase the said railway, and also to a power conferred by the company upon the Governor in the said in part recited agreement of the thirty-first day of March, one thousand eight hundred and eighty, to purchase the said railway and works at any time before the first day of March, one thousand eight hundred and eighty-two, upon the terms therein expressed and contained: Provided always that, until default shall be made as and in manner hereinafter expressed, the company shall, at its own free will, and without any let or hindrance on the part of the Public Trustee, his successors in office or assigns, use and enjoy all and every the real and personal estates and interests and choses in action hereby charged, and collect, get in, use, and enjoy all and every the revenues of the company gotten and earned by means of its railway and works, or anything connected therewith, and make, sue for, and enforce payment of any unpaid or unpaid calls in respect of shares already or hereafter to be allotted by the company or the directors thereof; and the company shall also, until default shall be made as aforesaid, be at liberty to make or enter into any contract or agreement affecting the use of the said railway and works, or affecting the tolls, fares, or charges to be levied in respect of the carriage of passengers or goods traffic, and in all other respects to exercise any and every power which the company possesses or is entitled to exercise, save and except the creation of any permanent charge or encumbrance upon its property, revenues, or undertaking, as if this security had not been granted.

And the company hereby covenants, agrees, and declares with and to the Public Trustee, his successors in office and assigns in manner following, that is to say,—

1. That the company will regularly and well and duly keep, in proper books of account to be opened for the purpose, an authentic and correct record of its assets and liabilities, of its receipts and expenditure, of its profits and losses, of all contracts and agreements entered into by the company in connection with its railway and works, and whether in respect of permanent works or repairs, or in respect of the traffic over its line of railway, or in any other respect whatsoever; and also a record containing the names and addresses of the shareholders, the number of the shares held by them, the calls made in respect thereof, the arrears (if any) due in respect of such calls, and the dividend or dividends paid or payable by the company to such shareholders; and generally the books of account so to be kept by the company shall at all times show as nearly and accurately as possible the true financial position of the company, and whether its operations are being carried on profitably or unprofitably, and such books of account shall from time to time be audited and certified by some competent person to be selected and approved by the directors, and be at all times, and whether default shall have been made by the company or not within the meaning of these presents, subject to the inspection of the Public Trustee, his successors in office or assigns, with liberty to take extracts from such books of account or any of them.

2. The company will well and truly pay and discharge at maturity, without preference or priority of any description, all and every the said seven hundred and fifty debentures for one hundred pounds each hereinbefore mentioned, or such of them as shall be actually issued, and such debentures shall be so paid at the places and according to the tenor expressed and contained therein; and shall also in like manner, and without preference or priority of any description, well and truly pay and discharge the instalments of interest represented by the coupons attached to each debenture which shall be actually issued by the company, and such instalments of interest shall be paid at the places and according to the tenor expressed and contained in the said coupons.

3. The company will at all times during the continuance of this security keep insured in one or more responsible insurance offices carrying on business in New Zealand all buildings, rolling-stock, and chattels, or fixtures of any nature or kind belonging to the company in the full insurable value thereof against risks from fire; and will apply all moneys obtained by means of any such insurance towards making good, restoring, or replacing the property or thing so injured or destroyed by fire.

4. The company will not, without first providing for accrued or accruing interest payable in respect of the said debentures or any of them, make, declare, or pay any dividend to the shareholders of the company out of the ordinary revenues of the company.

5. The company will not transfer, charge, or encumber any part of the hereinbefore assigned premises either absolutely or by way of mortgage or security, or do any act, deed, matter, or thing in any way calculated to prejudice or diminish the value of this security.

6. The company will keep the said premises in good working order and repair, and will from time to time renew and reinstate such and such parts of the said premises as may be worn out or otherwise become unserviceable.

7. The company will, so long as the trusts of these presents shall subsist, observe the provisions of all statutes, regulations, and by-laws for the time being applicable to the railway and works hereby charged, and will not do, or knowingly suffer to be done or omit to do, any act, matter, or thing by reason whereof any penalty may be incurred.

8. The company will cause and procure, or use its best endeavours to cause and procure, every body corporate or individual having or claiming any estate, right, title, or interest in or to the said premises hereby charged or assigned, or any of them or any part thereof, at the request of the Public Trustee, his successors in office or assigns, but at the costs and charges of the company during the subsistence and continuance of this security, to execute and do every such act, deed, matter, or thing for the further or more perfectly assuring the said premises respectively or any part thereof unto the Public Trustee, his successors in office or assigns, as shall be reasonably required.

9. The company will, at its own cost and expense, during the subsistence and continuance of this

security, acquire or use its best endeavours to acquire, compulsorily or otherwise, the fee-simple of all lands not held by the Crown or any public body, and which have not been already acquired by the company, requisite for the purpose of completing the said railway, and will thereafter hold the same during the continuance and subsistence of this security, subject to the trusts and provisions of these presents, as if acquired by the company before the execution hereof.

Provided always, and it is hereby expressly agreed and declared, that, if default shall be made by the company either in payment of all or any of the said debentures issued as aforesaid as and when the same shall become due and payable, or in payment of any of the said instalments of interest as and when they shall respectively become due and payable, or in the event of the breach by the company of any of the covenants on its part herein expressed or implied, it shall be lawful for the Public Trustee, his successors in office or assigns, to enter upon and take possession of the railway and premises hereby charged and assigned, and all other the real or personal estate and effects and assets of the company then belonging to it and acquired for the purposes of its said railway-works, as if the same had been held and possessed by the company before or at the time of the execution of these presents, and notwithstanding that there is not contained herein or appended hereto any specific enumeration of the real or personal property, estate, and effects, or choses in action (real or personal) intended to pass or be charged hereby; and to manage the business of the said railway and the premises aforesaid as he or they shall in their discretion think fit; and for that purpose to employ such receivers, managers, workmen, and others upon such terms and with such salaries as he or they shall think proper; and to repair the said premises and keep the same in repair, and renew such of the said plant as shall be worn out, and, subject to the provisions of "The District Railways Act, 1877," and "The District Railways Act 1877 Amendment Act, 1878," to exercise the several powers to enter into agreements for running trains on the said railway or on any line or lines of railway the property of Her Majesty the Queen or the General Government of New Zealand, and any and all powers incidental to arbitration provided for by the said Acts or any of them, and all other powers, authorities, rights, and privileges exercisable by the company, its successors or assigns, by virtue of the said Acts; and, generally, to do or cause to be done all such acts and things respecting the said premises as if the Public Trustee, his successors in office or assigns, were absolute owners thereof, without being answerable for any loss or damage which may happen thereby. And it shall be lawful for the Public Trustee, his successors in office or assigns, at his or their discretion, to demise or let the said premises, or any part or parts thereof, at such rent and upon such terms and conditions, and subject to such stipulations not inconsistent with the provisions herein contained, as he or they shall think fit. And it is hereby declared that the Public Trustee, his successors in office or assigns, shall, by and out of the rents and profits of the said premises and the moneys to be made by him or them in carrying on the said business, or which he or they shall receive by way of compensation in the event of the powers to purchase the said premises in that behalf contained in "The District Railways Act, 1877," or "The District Railways Act 1877 Amendment Act, 1878," being exercised by the Governor, pay and discharge the expenses incurred in and about such management, or in the exercise of any of the powers or trusts aforesaid, or otherwise in respect of the premises, and all outgoings which he or they shall think fit to pay and shall pay, and apply the residue of the said rents, profits, and moneys in or towards satisfaction of the principal and interest due in respect of the said debentures for the time being *pari passu*, and without any preference or priority; and shall invest the residue of the moneys to arise as aforesaid in his or their names upon freehold securities in the Colony of New Zealand, with power to vary or transpose such securities into or for others of the same nature; and shall stand possessed of the securities upon which such surplus moneys shall be invested as aforesaid upon trust, out of the interest, or, if necessary, out of the capital thereof, or a component part thereof, to raise such sum or sums of money as shall from time to time be required to keep down the interest and to pay off the principal moneys secured by the said debentures, as and when the same respectively shall fall due; and to hold the residue of the said securities, after such principal moneys and interest shall have been paid off, in trust for the company, its successors and assigns. And it is hereby declared that the Public Trustee, his successors in office or assigns, shall accumulate the unapplied interest (if any) accruing from any securities effected under these presents by investing such interest and the resulting income thereof upon securities of the nature hereinbefore mentioned, with power to vary or transpose as aforesaid, and shall stand possessed thereof upon the same trusts as are hereby declared concerning the securities from which such unapplied interest shall have arisen: Provided also, and it is hereby expressly agreed and declared, that after default shall have been made in payment of the principal moneys secured by the said debentures or any of them, or in payment of any interest thereon or any part thereof, it shall be lawful for the Public Trustee, his successors in office or assigns, either before entering upon and taking possession of the railway and premises, and other the real or personal estate, effects, and assets of the company, under the authority hereinbefore contained in that behalf, or at any time after taking such possession, after giving the notice to the Governor of his or their intention to sell, as provided by "The District Railways Act 1877 Amendment Act, 1878," but without any further consent or concurrence on the part of the company than is herein contained, and notwithstanding the dissent of the company to sell the said railway-works and premises and all other the property of the company or any part or parts thereof, either together or in lots, and either by public auction or private contract, and upon such terms as the Public Trustee, his successors in office or assigns, shall think fit, and with power on any such sale to make any stipulation as to title, evidence, or commencement of title or otherwise which the Public Trustee, his successors in office or assigns, shall deem proper and expedient, and with power to allow any time for payment of the purchase-money or any part thereof, with or without taking security therefor; and also with power to buy in or rescind or vary any contract for sale, and to resell without being responsible for any loss occasioned thereby; and for the purposes aforesaid or any of them to execute and do all such assurances and things as the Public Trustee, his successors in office or assigns, shall think fit: Provided also, and it is hereby agreed and declared, that upon any sale purporting to be made in pursuance of the aforesaid power the purchaser or purchasers shall not be bound or permitted to see or inquire whether any such default as

aforesaid has been made, or as to the necessity or expediency of any of the stipulations subject to which such sale shall have been made, or otherwise as to the propriety or regularity of any such sale, or to the right to make the same; and such purchaser shall not be affected by express notice from the company that no default has been made or that such sale is unnecessary or improper; and notwithstanding any impropriety or irregularity whatsoever in any such sale, the same shall, as regards the safety and protection of the purchaser, be deemed to be within the aforesaid power in that behalf, and be valid and effectual accordingly. And it is hereby further agreed and declared that the receipt of the Public Trustee, his successors in office or assigns, for the purchase-money of any premises sold, shall effectually discharge the person or persons paying the same therefrom, and from being concerned or permitted to see to the application, or being answerable or accountable for any loss, misapplication, or non-application thereof. And it is hereby further agreed and declared that the Public Trustee, his successors in office or assigns, shall hold and be possessed of the moneys to arise from any such sale or sales, upon trust, in the first place to pay, deduct, and satisfy the costs and expenses of making and carrying into effect such sale or sales and incidental thereto, including all costs and expenses which shall be incurred in or about the taking possession and management of the railway and premises, and all other costs and expenses incidental to the execution of the powers herein contained, or which shall be occasioned by the non-payment of all or any of the moneys hereby secured, or by any breach, non-observance, or non-performance of any of the covenants or agreements herein contained, and on the part of the company to be observed and performed; and shall apply the residue of the said moneys, first, in or towards payment to the holders of such of the said debentures as shall for the time being be outstanding *pari passu* in proportion to the amount due to them respectively, and without any preference or priority whatsoever of all arrears of interest remaining unpaid on such debentures; secondly, in or towards payment to the holders of such debentures *pari passu* in proportion to the amount due to them respectively, and without any preference or priority either on account of priority of issue or otherwise howsoever, of all principal moneys due on such debentures, and that whether the same principal moneys shall or shall not then be payable according to the tenor of the said debentures; and, thirdly, shall pay the residue or surplus (if any) of such moneys unto the company or its assigns. And it is hereby expressly declared and agreed that nothing herein contained or implied shall prejudice or affect the rights conferred upon the Governor of the Colony of New Zealand by "The District Railways Act, 1877," and "The District Railways Act 1877 Amendment Act, 1878," to purchase the railway-works of the company, together with their rolling-stock, plant, machinery, implements, and all their rights, powers, and privileges in manner provided by the said Acts; and such right to purchase shall continue to subsist, and may be exercised accordingly, as fully and effectually as the same might have been exercised if these presents had not been executed: And provided further that, if the Governor shall exercise the right of purchase in the said Acts contained, all moneys payable on such purchase may be paid to the Public Trustee, his successors in office or assigns, and his or their receipt shall be a sufficient discharge therefor.

In witness whereof these presents have been executed by or on behalf the parties hereto the day and year first hereinbefore written.

The common seal of the Waimea Plains Railway Company (Limited) was hereunto affixed by Henry Driver, George Turnbull, John Davie, and John Roberts, being present at and constituting a board of directors of the said company, in the presence of—

HORACE BASTINGS,
Secretary to the Company, Dunedin.

H. DRIVER,
G. TURNBULL,
JOHN DAVIE,
JOHN ROBERTS, } Directors. (Seal.)

The seal of the Public Trustee for the Colony of New Zealand was hereunto affixed by Jonas Woodward, the Public Trustee for the time being, in the presence of—

W. S. REID,
D. M. LUCKIE, } Members of Board.

J. WOODWARD. (Seal.)

MEMORANDUM.—Pursuant to and in exercise of the powers vested in the Governor of the Colony of New Zealand for the time being in that behalf, I hereby consent to the execution of the within-written deed by the Waimea Plains Railway Company (Limited).

Given under my hand at Government House, Wellington, in the Colony of New Zealand, this seventeenth day of June, one thousand eight hundred and eighty.

HERCULES ROBINSON.

HERCULES ROBINSON.

TO ALL TO WHOM THESE PRESENTS SHALL COME, HIS EXCELLENCY THE GOVERNOR OF THE COLONY OF NEW ZEALAND SENDS GREETING:

WHEREAS by the thirty-second section of "The Public Works Act, 1879," it is enacted that it shall be lawful for the Governor in Council from time to time, on being satisfied that the expenditure on any of the district railways specified in the Fourth Schedule hereto by the company constituted for the purpose of constructing the same has been economically expended, to guarantee, upon such terms, conditions, and subject to receiving such security as the Governor in Council may approve, the debentures or mortgages to be given by any such company for a sum in the aggregate not exceeding seventy-five per centum of the expenditure of the company upon the construction and laying of any railway-line constructed by them,

and the erecting and building of any buildings and erections, and the purchase of rails or rolling-stock in connection therewith, being the property of the company, and the Governor may execute any instrument for completing or perfecting such guarantee on behalf of the colony: Provided always that the total amount of debentures or mortgages so guaranteed shall not exceed in the aggregate the sum of sixty thousand (£60,000) pounds: And whereas the Waimea Plains Railway Company (Limited), hereinafter called ("the company"), is one of the district railways specified in the Fourth Schedule to "The Public Works Act, 1879:" And whereas the company has lately issued its mortgage debentures, numbered consecutively from one (1) to seven hundred and fifty (750), inclusive each of such debentures, being for the sum of one hundred pounds, payable thirty years after date, and having coupons attached thereto for interest on the amount represented thereby at the rate of six pounds per centum per annum: And whereas the company has applied to the Governor in Council to guarantee a portion of the said debentures so issued by the company as aforesaid: And whereas the Governor in Council, being satisfied that the expenditure on the said Waimea Plains Railway by the company has been economically expended, has agreed, upon the terms and conditions, and subject to receiving the security specified in a certain memorandum of the Minister for Public Works, approved by the Governor in Council on the thirty-first day of March, one thousand eight hundred and eighty, to guarantee a portion of the said debentures so issued by the company as aforesaid, and numbered consecutively from one (1) to four hundred (400) inclusive: And whereas the sum of forty thousand pounds (£40,000) represented by the said four hundred debentures does not in the aggregate exceed seventy-five per centum of the expenditure of the company upon the construction of the Waimea Plains Railway as required by the thirty-second section of "The Public Works Act, 1879," hereinbefore recited: And whereas, by the terms and conditions hereinbefore mentioned, and approved as aforesaid, it was, among other things, provided that the company should deposit with the Agent-General of the Colony of New Zealand, in London, the said four hundred (400) debentures so issued as aforesaid, and also that the company should execute to the Public Trustee, as a Trustee for and on behalf of the holders of the whole of the said seven hundred and fifty (750) debentures issued by the company as aforesaid, a deed of even date with these presents, conveying, assigning, and charging the railway and the works thereof, and all plant rolling-stock, material, and property of the company, by way of mortgage, for securing the repayment of the amount of such said debentures and interest, with all usual and necessary powers and remedies contained in instruments of a like nature, and the said recited conditions have, *inter alia*, been complied with by the company:

Now these presents witness that, by virtue and in pursuance of the power and authority conferred upon him by the said thirty-second section of "The Public Works Act, 1879," and of all other powers enabling him in that behalf, the Governor of the Colony of New Zealand, with the advice and consent of the Executive Council of the said colony, in consideration of the premises, and on behalf of the said colony, hereby guarantees to the holder or holders of the four hundred (400) mortgage debentures so issued as aforesaid the repayment of the principal moneys and interest thereby secured, as and when the same shall become payable respectively.

In witness whereof Sir Hercules George Robert Robinson, as such Governor as aforesaid, and by and with the advice and consent of the Executive Council as aforesaid, hath hereunto set his hand this seventeenth day of June, one thousand eight hundred and eighty.

FORSTER GORING,
Clerk of the Executive Council.

R. OLIVER.

NOTE.—The above comprises the whole of the information ordered to be supplied; no moneys having been advanced to assist any other railway companies within the colony.