CHAPTER xxv.

An Act for creating a Preference Stock of the Australasian Mortgage and Agency Company Limited and for other purposes relating thereto. [18th June 1894.] A.D. 1894.

WHEREAS the Australasian Mortgage and Agency Company Limited (in this Act called "the Company") was incorporated in the year 1880 under the Companies Acts 1862 1867 and 1877 as a Company limited by shares:

And whereas the capital of the Company is one million five hundred thousand pounds divided into one hundred and fifty thousand ordinary shares of ten pounds each and all the said shares have been issued:

And whereas the sum of two pounds per share has been paid up on all the said one hundred and fifty thousand shares:

And whereas by the articles of association of the Company as varied by special resolutions the management of the affairs of the Company is vested in and is to be conducted by a board of directors in Edinburgh and subject to the control of the Edinburgh Board by a board or boards at Melbourne and other places in Australia:

And whereas on the fourteenth of September one thousand eight hundred and ninety-three the Edinburgh Board of Directors of the Company acting pursuant to the regulations of the Company made a call of one pound per share on all the members of the Company and resolved that in the event of their obtaining a Private Act of Parliament declaring any calls made before its passing into law to have rights preferable to the ordinary capital or to any other privileges in relation thereto the call then made should be entitled to all such rights and privileges And whereas the said call has been paid up by members holding a large proportion of the shares which have been issued as aforesaid And whereas it is possible that before the commencement of this Act a further call may be or have been made on similar terms:

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And whereas the purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

Short title.

1. This Act may be cited as the Australasian Mortgage and Agency Company Limited Act 1894.

Interpretation.

2. In this Act the expression "the directors" means the Edinburgh board of directors for the time being of the Company and includes any committee to which the powers or duties by this Act conferred on the directors may be delegated by the directors The expression "the ordinary shares" means the existing one hundred and fifty thousand shares in the capital of the Company and includes the ordinary shares as from time to time existing by virtue of any division or reduction under the provisions of this Act The expression "the regulations of the Company" means the articles of association or other the regulations for the time being of the Company.

Directors may determine that shares shall be divided with preference to one portion.

3. If and whenever the directors in exercise of the powers vested in them by the regulations make a call on the members in respect of the ordinary shares held by them respectively it shall be lawful for the directors by a memorandum in writing under the common seal to determine that each of the said ordinary shares shall be divided into two shares that is to say one preference share equal to the amount of the call and one ordinary share of a nominal value equal to the nominal value of the share so divided less the amount of the call and that the call so made shall be treated as payable in respect of such preference share and that the residue of the amount paid up on the ordinary share so divided shall be credited as paid up on the ordinary share of reduced amount resulting from such division and such memorandum shall fix the rate per centum per annum of preferential dividend and the date from which the same shall run as regards the preference shares or preference stock to which it relates and every such memorandum shall be filed with the registrar of joint stock companies and the register of members of the Company shall thereupon be altered accordingly and as and when any of the preference shares aforesaid are fully paid up they shall ipso facto be converted into stock to be called "preference stock" Whenever any such division is made the certificates issued in respect of the shares so divided shall be given

Calls when paid in full to be converted into preference stock.

up to the Company to be cancelled or the loss or destruction thereof proved to the satisfaction of the directors and new certificates shall be issued in respect of the ordinary shares and preference shares or stock resulting from the division.

Provisions of section 3 to be retrospective.

4. The provisions of the last preceding section shall be applicable not only as regards a call made after the commencement of this Act but also as regards the said call made on the fourteenth day of September one thousand eight hundred and ninety-three and any subsequent call made before the commencement of this Act and accordingly immediately after the commencement of this Act the directors shall affix the common seal of the Company to a memorandum as aforesaid and file the same with the registrar of joint stock companies.

Payments in advance of calls to be convertible into preference stock.

5. The directors of the Company may at any time and from time to time by resolution determine to offer to the holders of the ordinary shares the option of paying up in full in advance of calls all or any of the ordinary shares held by them respectively on the footing that the amount paid up shall in accordance with the provisions of this Act be converted into preference stock carrying a preferential dividend at a specified rate and from a specified date and that the ordinary shares so paid up in full shall be reduced by a sum equal to the amount so paid up thereon and in the event of such determination the following provisions shall have effect (that is to say):—

Notice of option.

(1.) Notice of the passing of such resolution shall be given to all the holders of ordinary shares by letter posted to the registered address of such holders from the head office of the Company in Edinburgh and shall state the rate per centum per annum of the preferential dividend attached to the preference stock mentioned in such resolution and the date from which such dividend is to run;

Time within which option to be exercised.

(2.) Each holder of ordinary shares shall be at liberty to exercise the option as to all or any of his ordinary shares at any time within sixty days from the time when such notice shall have been posted to him and that by payment either at the Edinburgh or Melbourne office of the Company;

If preference stock over applied for surplus to be returned.

(3.) If the aggregate amount paid up in exercise of the option aforesaid would if converted into preference stock to any extent exceed the limit fixed by section six of this Act so much of the said amount shall be returned to the members as shall bring the amount retained within the limit aforesaid and suffice to pay up in full a specified number of their respective shares and such returns shall be made to the

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members rateably in proportion to the amounts so paid up by them respectively;

Directors to determine the specific shares in respect of which payments to be accepted.

(4.) When and so soon as the directors shall have ascertained the amounts of the payments made in exercise of the said option and to be retained as aforesaid they shall by memorandum in writing under the common seal determine by numbers the shares in respect of which such payments have been made and are to be retained and that such shares shall be reduced in amount by a sum equal to the amount of the payments so made thereon and that fully paid up preference stock shall be registered in the names of the holders of such shares equal in nominal value to the amount so paid up by them respectively and such memorandum shall also state the rate per centum per annum of preferential dividend and the date from which the same shall run as regards the lot of stock to which it relates and the register of members of the Company shall be altered accordingly;

Memorandum to be filed with registrar.

(5.) Every such memorandum shall be filed with the registrar of joint stock companies;

Share certificate to be surrendered and new certificates issued.

(6.) The certificates of title issued in respect of the said shares shall be given up to the Company and shall be cancelled or the loss or destruction thereof shall be proved to the satisfaction of the directors and new certificates shall be issued in respect of the stock and of the shares of reduced nominal amount.

Preferable rights of preference stock.

6. The preference stock created as aforesaid shall carry the right to a fixed cumulative preferential dividend as regards each respective issue or lot of stock at such rate per centum per annum and running from such date as may be fixed in the memorandum filed with the registrar as aforesaid relating to such issue or lot (which date may be either before or subsequent to the date of said memorandum) and subject to section 10 of this Act shall rank both as regards capital and dividend in priority to the ordinary shares and be entitled to have the surplus assets in a winding up available for distribution among the members including uncalled capital applied accordingly but it shall not be entitled to any further participation in the profits or surplus assets of the Company All such preference stock shall rank pari passu without any preference or priority by reason of the date of creation or issue thereof or otherwise but the amount of such preference stock and of the preference shares if any shall not exceed in the aggregate six hundred thousand pounds.

Voting powers.

7. Each holder of any of the preference stock or preference shares shall be entitled to one vote for every one hundred pounds of such stock or shares held by him and a holder of less than one

hundred pounds thereof shall not be entitled in respect thereof to any vote and each holder of any of the said ordinary shares for the time being shall be entitled to one vote for every one hundred pounds nominal of ordinary shares held by him and a holder of less than one hundred pounds nominal thereof shall not be entitled to any vote In all other respects the regulations of the Company in force for the time being shall apply to preference stock or preference shares mutatis mutandis in the same way as if the same respectively represented fully paid-up shares converted into stock or ordinary shares.

Act and memoranda to be lodged with registrar.

8. The Company shall forward to the registrar of joint stock companies a copy of this Act and it shall be filed by him and if such copy be not forwarded within three months after the passing of this Act or if any memorandum sealed pursuant to the third fourth or fifth sections of this Act be not filed with the registrar aforesaid within fourteen days after it is so sealed the Company shall incur a penalty not exceeding two pounds for every day after the expiration of those three months or fourteen days as the case may be during which the copy or memorandum is omitted to be forwarded and every director and manager of the Company who knowingly and wilfully authorises or permits such default shall incur a like penalty and every penalty under this Act shall be recoverable summarily.

Reference to shares in testamentary instruments.

9. In any instrument executed before the passing of this Act references to shares of the Company existing before the passing of this Act shall be construed as references to the ordinary shares and to the preference stock and preference shares of the Company and in the case of any testamentary instrument executed before the passing of this Act any disposition which but for the passing of this Act would have operated as a specific bequest of any such first mentioned shares shall be construed as a specific bequest of the ordinary shares and preference stock and preference shares which may continue vested in the testator or of a proportionate part thereof as the case may be.

Saving as to preference shares and borrowing.

10. Nothing in this Act contained shall—

(1.) Derogate from or abridge any power of the Company to create and issue any new series of preference shares ranking as regards dividend or capital or both in priority to or pari passu with the preference shares and preference stock aforesaid; or

(2.) Alter or relax any limitation or condition as to the amount of the bonds debentures or obligations of the Company for the time being contained in the regulations of the Company.

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General saving clause.

11. Save and except as by this Act is specially enacted nothing herein contained shall be deemed to render valid or invalid any act done or proceeding pending by or against the Company before or at the date of the passing of this Act.

Costs of Act.

12. The costs charges and expenses of and incidental to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

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