CHAPTER xxx.

An Act to authorise the redemption of the existing preference shares of the West Somerset Railway Company and to enable that Company to raise additional capital and for other purposes. [24th June 1889.]

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WHEREAS by the West Somerset Railway Act 1857 (herein-after called "the Act of 1857") the West Somerset Railway Company (herein-after called "the Company") were incorporated with a capital of 120,000*l.* and empowered to construct the railway therein mentioned:

And whereas by the West Somerset Railway Act 1860 (herein-after called "the Act of 1860") the Company were empowered to issue the then unissued portion of their capital and any new shares therein to be issued instead of forfeited or cancelled shares as preference shares:

And whereas by the West Somerset Railway (Additional Capital) Certificate 1866 the Company were empowered to raise 24,000*l.* further capital by the issue of ordinary or preference shares or stock:

And whereas the Company have under the powers aforesaid created and issued preference capital to the nominal amount of 76,200*l.*:

And whereas an agreement has been entered into between the Company and the holders of preference shares in the capital of the Company for the redemption of the existing preference shares and the issue of new preference shares in lieu thereof:

And whereas doubts have arisen as to the power of the several parties to the said agreement to enter into the same:

And whereas it would be greatly for the benefit of the Company in general and especially of the holders of ordinary shares in the capital of the Company that full effect should be given to the said agreement and it is expedient that the same should be confirmed:

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And whereas the Company have raised and expended all the capital authorised as aforesaid and have issued debenture stock to the nominal amount of 40,000*l.*:

And whereas it is expedient that the Company should be authorised to raise additional share and loan capital for improvement of their station accommodation and other the general purposes of their undertaking:

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 West Somerset Railway Act 1889.

Incorporation of general Acts.

2. The provisions of the Companies Clauses Consolidation Act 1845—

With respect to the distribution of the capital of the Company into shares:

With respect to the transfer or transmission of shares:

With respect to the payment of subscriptions and the means of enforcing the payment of calls:

With respect to the forfeiture of shares for non-payment of calls:

With respect to the remedies of creditors of the Company against the shareholders:

With respect to the borrowing of money upon mortgage or bond:

With respect to the conversion of the borrowed money into capital:

With respect to the consolidation of the shares into stock:

With respect to the giving of notices: and

With respect to the provision to be made for affording access to the special Act by all parties interested:

And Part I. (relating to cancellation and surrender of shares) Part II. (relating to additional capital) Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation.

3. The several words and expressions to which by the Acts in whole or in part incorporated with this Act meanings are assigned have in this Act the same respective meanings unless there be something in the subject or context repugnant to such construction and the expression "superior courts" or "court of competent

jurisdiction" or any other like expression in any Act in whole or in part incorporated with this Act shall for the purposes of this Act be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt and not a debt or demand created by statute.

Confirmation of agreement.

4. The agreement dated the twentieth day of October 1888 and made between John Philip Martineau Richard Woollcombe Robert Loveband Fulford Henry Fuller Acland Hood Robert Fuller Acland Hood and Sir Alexander Bateman Periam Fuller Acland Hood Baronet all of whom with their respective executors administrators and assigns are hereinafter referred to as "the preference shareholders" of the one part and the Company of the other part is hereby confirmed and made binding upon the several parties thereto and full effect shall be given to the said agreement as if the provisions thereof had been expressly enacted in this Act and for the purpose of giving effect to such agreement the directors of the Company shall forthwith after the surrender by the preference shareholders of the preference shares now held by them respectively and without any further or other authority whatsoever create and issue in lieu thereof new irredeemable preference shares as provided in the said agreement to the same amount as the preference shares surrendered in accordance with the terms of that agreement and such shares shall be deemed to be fully paid up and shall be in all respects substituted for the existing preference shares of the Company and shall (except as otherwise expressly provided) be entitled to the same rights privileges and incidents as the said existing preference shares.

Incidents of new shares.

5. The new preference shares so substituted for the existing preference shares of the Company shall remain and be vested in the persons to whom they are issued upon the same trusts and subject to the same powers provisoes declarations agreements charges liabilities and encumbrances as at the time of the issue thereof affect the shares for which they are substituted and so as to give effect to and not revoke any testamentary disposition of or affecting the same and the bequest of any specific amount of any such existing shares shall be held to apply to the same amount of new shares for which they are exchanged.

Power to raise additional capital.

6. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise any additional capital not exceeding in the whole ten thousand pounds by the issue at their option of new ordinary shares or stock or wholly or partially by either of those modes respectively and the following provisions shall have effect with respect to such additional capital that is to say:—

(1.) The Company shall not issue any share in such additional capital of less nominal value than ten pounds nor shall any

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share vest in the person or corporation accepting the same unless and until a sum not being less than one-fifth of the amount of the share be paid in respect thereof.

(2.) One-fifth of the amount of a share shall be the greatest amount of a call and three months at least shall be the interval between successive calls and three-fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

(3.) Such capital shall form part of the capital of the Company and the shares or stock therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares or stock were shares or stock in that capital.

(4.) Every person who becomes entitled to such new shares or stock shall in respect of the same be a holder of shares or stock in the Company and shall be entitled to a dividend with the other holders of shares or stock of the same class or description in the capital of the Company proportioned to the whole amount from time to time called and paid on such new shares or to the whole amount of such stock as the case may be.

Power to borrow.

7. The Company may in respect of the additional capital of ten thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of their undertaking any sums not exceeding in the whole three thousand three hundred and thirty pounds but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are issued and accepted and one-half of such capital is paid up and the Company have proved to the justice who is to certify under the 40th section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for the whole of such capital have been issued and accepted and that one-half of such capital has been paid up and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one-half of so much of the said capital as is to be raised by means of stock is fully paid up and the Company have proved to such justice as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted and to the extent aforesaid paid up bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also so

far as the said additional capital is raised by shares that such persons or corporations or their executors administrators successors or assigns are legally liable for the same and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

Existing mortgages to have priority.

8. All mortgages granted by the Company in pursuance of any Act passed before the passing of this Act and subsisting at the time of the passing of this Act shall during the continuance thereof and subject to the provisions of the Acts under which such mortgages were respectively granted have priority over any mortgages to be granted by virtue of this Act but nothing in this section shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Provisions as to appointment of receiver repealed.

9. The provisions of all or any Acts relating to the Company for the appointment of a receiver are by this Act repealed but without prejudice to any appointment heretofore made or proceedings now pending under any such provisions.

For appointment of a receiver.

10. The Company's mortgagees may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver and in order to authorise the appointment of a receiver in respect of arrears of principal the amount of principal owing to the mortgagees by whom the application for a receiver is made shall not be less in the whole than five thousand pounds.

Debenture stock.

11. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 but notwithstanding anything therein contained the interest of all debenture stock at any time after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company and shall have priority over all the principal moneys secured by such mortgages.

Application of moneys.

12. All moneys raised by the Company under this Act whether by shares stock debenture stock or borrowing shall be applied only for general purposes of the Company being purposes to which capital is properly applicable.

Interest not to be paid on calls paid up.

13. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall

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prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

Deposits for future bills not to be paid out of capital.

14. The Company shall not out of any money by this Act authorised to be raised pay or deposit any sum which by any Standing Order of either House of Parliament now or hereafter in force may be required to be deposited in respect to any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or to execute any other work or undertaking.

Provision as to general Railway Acts.

15. Nothing in this Act contained shall exempt the Company or the railway from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised by this Act.

Costs of Act.

16. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto (including all expenses of or connected with the scheduled agreement) shall be paid by the Company.

THE SCHEDULE referred to in the foregoing Act.

An Agreement made the twentieth day of October 1888 between John Philip Martineau Richard Woollcombe Robert Loveband Fulford all of 36 Theobald's Road in the county of Middlesex Esquires Henry Fuller Acland Hood and Robert Fuller Acland Hood of St. Audries Bridgewater in the county of Somerset Esquires and Sir Alexander Bateman Periam Fuller Acland Hood of St. Audries aforesaid Baronet (all of whom with their respective executors administrators and assigns are hereinafter termed the shareholders) of the one part and The West Somerset Railway Company (herein-after called the Company) of the other part.

Whereas by the West Somerset Railway Act 1857 the Company was incorporated and authorised to construct the railway therein mentioned and to raise by the issue of shares of the nominal value of 10*l.* each the sum of 120,000*l.* for that purpose :

And whereas by the West Somerset Railway Amendment Act 1860 after reciting that 5,208 shares of the Company remained unissued it was by the 14th section enacted (so far as is material to this agreement) as follows:—"It shall be lawful for the Company with the consent of three-fifths of the votes of their proprietors present either personally or by proxy and entitled to vote at any ordinary or extraordinary general meeting of the Company specially convened for the purpose from time to time to issue any shares which the Company are by the recited Act empowered to issue and which are not now issued or any part of those shares and also to issue new shares instead of any forfeited or cancelled shares with any preference or priority in the payment of dividends and at any fixed or variable rate of dividend not exceeding five pounds per centum per annum and either in perpetuity or for a term of years and either redeemable or irredeemable and upon such other terms and conditions as the Company may think fit":

And whereas by the West Somerset Railway (Additional Capital) Certificate 1866 the Company were authorised to raise for the purposes of their undertaking in addition to the capital already authorised to be raised by them any further sums not exceeding in the whole 24,000*l.* by the issue of new shares or new stock either ordinary or preference or partly ordinary and partly preference at the option of the Company :

And whereas under the powers contained in the Acts and Certificate hereinbefore recited the Company have in pursuance of special resolutions dated respectively the 9th of July 1860 the 22nd of June 1867 and the 30th of March 1868 issued 7,620 shares of the nominal value of 10*l.* each bearing a preferential dividend at the rate of 5*l.* per cent. per annum and redeemable by the Company at any time after the 1st day of December 1872 upon payment of a premium of 10 per cent. upon the amount of each share :

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And whereas the whole of such preference shares are now held by the shareholders in the following respective proportions :—

JOHN PHILIP MARTINEAU RICHARD WOOLLCOMBE ROBERT LOVEBAND FULFORD	2,800 shares numbered from 3001 to 5000 1437 to 2154 and 2155 to 2236 all inclusive.
HENRY FULLER ACLAND HOOD ROBERT FULLER ACLAND HOOD	2,300 shares numbered from 1 to 1500 1 to 718 and 2237 to 2318 all inclusive.
SIR ALEXANDER BATEMAN PERIAM FULLER ACLAND HOOD Baronet	2,520 shares numbered from 1501 to 3000 5001 to 5220 719 to 1436 and 2319 to 2400 all inclusive

And whereas it has been agreed between the shareholders and the Company subject to the sanction of Parliament being obtained that the shareholders shall surrender their said respective preference shares at par and that the Company shall issue to them in lieu thereof new preference shares of 10*l.* each bearing a preferential dividend at the rate of 4*l.* per cent. per annum and irredeemable :

Now it is hereby agreed by and between the shareholders and the Company as follows that is to say :—

1. The Company shall forthwith apply to Parliament for powers to enable the Company (1) to accept a surrender of the preference shares held by the shareholders (2) to issue to the shareholders new preference and irredeemable shares of 10*l.* each bearing a preferential dividend at the rate of 4*l.* per cent. per annum and equal in number to the shares surrendered by the shareholders and (3) to pay the costs of the application to Parliament and incidental thereto.

2. The shareholders shall forthwith after the sanction of Parliament has been obtained surrender to the Company the whole of the preference shares now held by them respectively.

3. The Company shall forthwith after such surrender as aforesaid issue to the shareholders respectively new preference shares of the nominal value of 10*l.* each bearing a preferential dividend at the rate of 4*l.* per cent. per annum and irredeemable to the same amount as the preference shares so surrendered by the shareholders respectively at par.

4. The shareholders shall accept such respective amounts of new 4*l.* per cent. preference shares in full satisfaction of all their rights against the Company in respect of the redemption of their existing shares whether for principal premium or otherwise.

In witness whereof the said parties hereto have hereunto set their hands and seals and the Company have caused their common seal to be hereunto affixed the day and year first above written. A.D. 1889.

Signed sealed and delivered by the above-named John Philip Martineau in the presence of } JOHN PHILIP MARTINEAU L.S.

P. Hardy
Clerk to Messrs. Walker Martineau and Co.
36 Theobald's Road Gray's Inn London
Solicitors.

Signed sealed and delivered by the above-named Robert Loveband Fulford in the presence of } ROBERT FULFORD L.S.

P. Hardy.

Signed sealed and delivered by the above-named Richard Woollcombe in the presence of } RICHARD WOOLLCOMBE L.S.

L. A. Stooks
Lyneham Plympton
Spinster

Signed sealed and delivered by the above-named Robert Fuller Acland Hood in the presence of } ROBERT F. ACLAND HOOD L.S.

Tudor P. Moreton Gent.
S. Stephen's House Oxford.

Signed sealed and delivered by the above-named Sir Alexander Bateman Periam Fuller Acland Hood and Henry Fuller Acland Hood in the presence of } ALEXANDER B. P. FULLER ACLAND HOOD L.S.

HENRY F. ACLAND HOOD L.S.

P. Roberts
Butler to Sir Alexander Acland Hood
St. Audries.

A.D. 1889. The Common Seal of the Company was hereto affixed in the presence of

JONATHAN BARRETT
EDWIN SLOPER
} Directors.

Seal of the Company.

W. L. HUNT Secretary.

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