

An Act to enable the Proprietors of a certain MELBOURNE FIRE
AND MARINE
ASSURANCE COMPANY.
Joint Stock Company carried on in the Town
of Melbourne in the Colony of New South
Wales under the name style and firm of
“The Melbourne Fire and Marine Assurance
Company” to sue and be sued in the name of
the Chairman of the said Joint Stock Com-
pany for the time being and for other purposes
therein mentioned. [20th October, 1840.]

WHEREAS several persons have formed themselves into a joint Preamble.
stock company or society at Melbourne in the District of Port
Phillip in the Colony of New South Wales under the style and firm of
“The Melbourne Fire and Marine Assurance Company” for the pur-
pose of effecting insurances against fire maritime assurances and all
other risks upon ships vessels and goods on board in harbour and at sea
and also to effect insurances on houses warehouses and other buildings
goods wares merchandise stock effects and all other kinds of property
within the Colonies of New South Wales Van Diemen’s Land and all
other the Australian Colonies from damage or destruction by fire
and also to discount bills of exchange and promissory notes payable
within the Colony of New South Wales and to make advances and to
grant loans on bond or upon any securities other than mortgages
of real estate except as collateral security for money due to the
said joint stock company and whereas the said company is now
being carried on at Melbourne and is under the care management
and superintendence of twelve directors and a secretary one of
such directors being Chairman and another Deputy Chairman of
the

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Actions at law &c.
to be carried on in
the name of the
Chairman.

the said company and whereas difficulties may arise in recovering debts due to the said company and in maintaining actions or in proceeding for damages done to their property and in prosecuting persons who may counterfeit forge steal or embezzle the bills notes bonds mortgages securities moneys goods chattels or effects of the said company and whereas it would be convenient and just that persons having demands against the said company should be entitled to sue some member thereof in place and stead of the whole and whereas the said purposes cannot be effected without the aid and authority of the Legislature Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That from and after the passing of this Act all actions and suits and all proceedings at law or in equity to be commenced instituted and prosecuted or carried on by or on behalf of the said company or wherein the said company is or shall be in any way concerned against any body or bodies politic or corporate or against any person or persons whomsoever whether a member or members of the said company or otherwise shall and lawfully may be commenced instituted and prosecuted or carried on in the name of the person who shall be Chairman of the said company at the time any such action suit or proceeding shall be commenced or instituted as the nominal plaintiff complainant or petitioner for or on behalf of the said company and that all actions suits or proceedings at law or in equity as aforesaid to be commenced instituted and prosecuted or carried on against the said company shall and lawfully may be commenced instituted and prosecuted against the Chairman for the time being of the said company as the nominal defendant for or on behalf of the said company and that all indictments informations and criminal prosecutions to be brought instituted or carried on by or on behalf of the said company for embezzlement robbery stealing counterfeiting or forging the bills notes bonds mortgages securities moneys goods chattels or effects of the said company or for any fraud felony crime misdemeanor or other offence committed against or with intent to injure or defraud the said company shall and may be lawfully so brought instituted and prosecuted or carried on in the name of such Chairman for the time being of the said company and in all indictments and informations it shall and may be lawful to state the property of the said company to be the property of such Chairman and any forgery fraud crime misdemeanor or other offence committed with intent to injure or defraud the said company shall and lawfully may in any prosecution or indictment for the same be stated or laid to have been committed against or with intent to injure or defraud such Chairman and any offender or offenders may thereupon be lawfully convicted of any such forgery fraud crime misdemeanor or other offence and the death resignation removal or other act of such Chairman shall not abate or prejudice any such action suit indictment information prosecution or other proceeding commenced against or by or on behalf of the said company but the same may be continued where it left off and be prosecuted or carried on in the name of any other person who may be or become Chairman for the time being of the said company.

Memorial of the
name of the Chair-
man to be recorded
in the Supreme
Court of New South
Wales and renewed
when any new
Chairman shall be
elected.

2. And be it enacted That a memorial containing the name of the Chairman for the time being of the said company in the form or to the effect set forth in the Schedule to this Act annexed and signed by the said Chairman and by a majority of the directors of the said company shall within sixty days after the passing of this Act be recorded in the Supreme Court of New South Wales upon oath of one of the directors for the time being of the said company administered before any Commissioner of the said Court and when and as often as any person shall be newly elected Chairman of the said company a memorial

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rial of the name of such newly elected Chairman in the same form or to the same effect as the above-mentioned memorial signed by such newly elected Chairman and by a majority of such persons as shall be the directors of the said company at the time of the election of such newly elected Chairman shall in like manner be recorded upon oath in the Supreme Court of New South Wales within sixty days next after the election of such Chairman.

3. Provided always and be it enacted That until such memorial as hereinbefore first mentioned be recorded in the manner herein directed no action suit or other proceedings shall be brought by the said company in the name of the Chairman as aforesaid under the authority of this Act.

No action to be brought until memorial be recorded.

4. And be it enacted That no person or persons or body or bodies politic or corporate having or claiming to have any demand upon or against the said company shall for the same cause bring more than one action or suit in case the merits shall have been tried in such action or suit in respect of such demand and the proceedings in any action or suit by or against the said Chairman for the time being of the said company may be pleaded in bar of any other action or actions suit or suits for the same demand by or against the said Chairman for the time being of the said company.

Only one action to be brought against the Chairman upon the same cause when the merits have been tried.

5. Provided always and be it enacted That in all actions suits petitions informations indictments prosecutions or proceedings in which the said Chairman for the time being shall be on behalf of the said company and under and by virtue of this Act plaintiff complainant petitioner prosecutor or defendant it shall and may be lawful for such Chairman or the Deputy Chairman for the time being or the Secretary or any other officer engaged in the executive duties of the said company to give evidence in such action suit petition information indictment prosecution or other proceedings notwithstanding the name of such Chairman shall be made use of as such plaintiff complainant petitioner prosecutor or defendant therein and notwithstanding that such Chairman Deputy Chairman Secretary or other officer aforesaid shall or may be interested in the result of such action as a shareholder or copartner in the said company.

The Chairman or any other officer of the company to give evidence notwithstanding such Chairman &c. shall be interested.

6. Provided always and be it enacted That execution upon any decree or judgment in any such action suit petition information indictment prosecution or other proceeding obtained against the Chairman for the time being of the said company whether he be plaintiff or defendant therein may be issued against and levied upon the goods and chattels lands and tenements of any member or members whomsoever of the said company for the time being in like manner and not otherwise than as if such decree or judgment had been obtained against such member or members personally.

Execution upon any judgment may be issued against any member of the said company.

7. Provided always and be it enacted That every such Chairman for the time being in whose name any such action suit petition information indictment prosecution or other proceedings shall be commenced prosecuted carried on or defended and every such member or members against whose goods and chattels lands and tenements execution upon any judgment or decree obtained or issued in any such action suit petition information indictment prosecution or other proceeding shall be issued or levied as aforesaid shall in every case be justly indemnified reimbursed and paid out of the funds of the said company or in failure thereof by contribution from the members of the said company all such loss dues damages expenses costs and charges whatsoever without any deduction which any such Chairman for the time being or member or members shall or may have incurred or become chargeable with by reason of such execution and all such remedies for the recovery of the same shall be

Such member to be indemnified out of the funds of the said company.

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allowed between the several members of the said company as if this Act had not been passed Provided further that the body or goods chattels lands or tenements of such Chairman shall not by reason of his being defendant in any such action suit or other proceeding be liable to be arrested seized detained or taken in execution.

Provisions of this Act to extend to the said company notwithstanding any change in the members thereof.

8. And be it enacted That the provisions in this Act contained shall be construed and taken to extend to the said company at all times during the continuance of the same whether the said company be now or hereafter constituted of all or any of the persons who were the original members thereof or of all or any of those persons together with any other person or persons or shall be constituted altogether of persons who were not the original members thereof.

Company not incorporated by this Act.

9. Provided always and be it enacted That nothing in this Act contained shall be construed or taken to extend to incorporate the members or proprietors of the said company or to relieve or discharge them or any of them from any responsibility duties contracts or obligations whatsoever which by law they now are or at any time hereafter during the existence of the said company shall or may be subject or liable to either between the said company and others or between the individuals who constituted the said company or any of them and others or among themselves or in any other manner whatsoever except so far as the same is affected by the provisions of this Act and the true intent and meaning of the same.

Bonds &c. taken in the name of the Chairman may be put in suit either in the name of the Chairman in whose name originally taken or in the name of the Chairman for the time being.

10. And be it enacted That all bonds mortgages warrants of attorney and other securities not being assignable in law which have been or which shall or may be at any time hereafter taken in the name of any person as Chairman for the time being of the said company for or on account of the said company shall and may be put in suit and be sued and prosecuted upon at law or in equity in the name of the Chairman in whose name the same have been taken or in the name of any person who shall or may succeed to that office and be the Chairman of the said company at the time such proceeding or proceedings shall be instituted or commenced notwithstanding the name of such succeeding Chairman be not inserted in such bond mortgage warrant of attorney or other such security as an obligee mortgagee assignee or payee of the sum or sums of money therein mentioned and the death resignation or removal or other act of any such Chairman for the time being of the said company in whose name any such bond mortgage warrant of attorney or other security as aforesaid shall be so put in suit shall not abate any action suit or other proceeding had thereon but the same may be continued where it left off and be prosecuted and carried on in the name of any person who may succeed to that office or be or become the Chairman for the time being of the said company and the legal estate in all lands and tenements belonging or mortgaged to the said company and all legal rights and capacities in respect of the said company shall be and become vested in such succeeding Chairman as aforesaid to all intents and purposes whatsoever immediately upon the recording of the memorial of the name of such Chairman in the said Supreme Court of New South Wales in manner aforesaid and so on *toties quoties* whensoever any new appointment or election of a Chairman for the time being of the said company shall take place and such new memorial thereof shall be recorded as aforesaid.

Plaintiff not to be nonsuited for want of proof of record of memorial.

11. And be it enacted That in any action or suit to be brought by any Chairman for the time being of the said company under and by virtue of this Act the plaintiff therein shall not be nonsuit nor shall a verdict be given against the plaintiff for want of proof of the record of such memorial or memorials as hereinbefore mentioned but in case the defendant in any such action or suit shall make it appear on such trial

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trial that no such memorial or memorials has or have been recorded as aforesaid then a nonsuit shall be entered in such action.

12. And be it enacted That the Chairman of the said company shall within sixty days from the first day of January in each year cause a true list of the names of all the then existing members of such company with their respective places of abode and description to be recorded on oath to be administered before any Commissioner of the Supreme Court of New South Wales in the office of the Registrar of the said Court and such list shall be open for inspection at all reasonable times by any person requiring the same on payment of a fee of one shilling and if any Chairman of the said company shall fail to cause such list to be recorded in manner aforesaid he shall be liable to a penalty of one hundred pounds to be recovered by action of debt in the said Supreme Court by any person or persons who shall sue for the same.

Within sixty days from the first day of January in each year a list of the names of the then existing members shall be recorded in the office of the Registrar of the Supreme Court.

13. And be it enacted That every person whose name shall be so recorded shall be considered a member of the said company and be liable to be sued as such until a new list of the members' names shall be recorded as aforesaid or until he or she shall have given notice in the *New South Wales Government Gazette* of his or her retirement from the said company.

Such persons so recorded to be liable as members until new list be recorded or notice of retirement be given in the *Government Gazette*.

14. Provided always and be it enacted That nothing in this Act contained shall be construed or taken to affect or apply to any right title privilege immunity or interest of Her Majesty Her Heirs and Successors or of any body or bodies politic or corporate or of any other person or persons except such as are mentioned therein or of those claiming by or under her or them.

Nothing in this Act contained to affect any right &c. of Her Majesty or of any bodies politic or corporate.

15. And be it enacted That this Act shall not commence or take effect until the same shall have received the Royal approbation and the notification of such approbation shall have been made in the *New South Wales Government Gazette* by order of His Excellency the Governor for the time being of the said Colony.

This Act to take effect when it shall have received the Royal approbation.

16. And be it enacted That when and as soon as this Act shall have received the Royal approbation and the notification thereof shall have been made as aforesaid the same shall be deemed and taken to be a public Act and shall be judicially taken notice of as such by the Judges of the Supreme Court of New South Wales and by all other Judges Justices and others within the Colony of New South Wales and its dependencies without being specially pleaded.

This Act to be deemed a public Act.

SCHEDULE REFERRED TO.

MEMORIAL of the name of the Chairman of "The Melbourne Fire and Marine Assurance Company" to be recorded in the Supreme Court of New South Wales pursuant to an Act of the Governor and Council passed in the fourth year of the reign of Her Majesty Queen Victoria intituled "An Act to enable the Proprietors of a certain Joint Stock Company carried on in the Town of Melbourne in the Colony of New South Wales under the name style and firm of 'The Melbourne Fire and Marine Assurance Company' to sue and be sued in the name of the Chairman of the said Joint Stock Company for the time being and for other purposes therein mentioned."

A. B. Chairman.

C. D.	} Directors.	N. O.
E. F.		P. Q.
G. H.		R. S.
J. K.		T. U.
L. M.		V. W.

X. Y. Z. of Melbourne gentleman

of the above-named joint stock company maketh oath and saith that he was present and did see the foregoing memorial signed by the Chairman and Directors respectively whose names appear thereto.

Sworn before me this
day of

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G. H.

Commissioner of the Supreme Court.