

*Friendly Societies.***No. X.**

**FRIENDLY SOCIETIES.** **An Act to regulate Friendly Societies in the Colony of New South Wales. [24th November, 1843.]**

Preamble.

Any number of persons may form themselves into a society and raise a fund for their mutual benefit and make rules &c.

Power to alter and amend rules.

Societies in their rules to declare the purpose of their establishment &c.

**W**HEREAS certain Friendly Societies have been established in the Colony of New South Wales and it is desirable to encourage the formation of others for raising by voluntary subscription of the members thereof separate funds for the mutual relief and maintenance of the members of such societies their wives children relations or nominees in sickness infancy advanced age widowhood or any other natural state or contingency whereof the occurrence is susceptible of calculation by way of average or for any other purpose which is not illegal and it is expedient to give protection to such societies and the funds thereby established and to afford encouragement to other persons to form like societies Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That it shall and may be lawful to and for any number of persons in the Colony of New South Wales to form themselves into and to establish a society for the purpose of raising from time to time by subscription of the several members of every such society or by voluntary contributions or donations a stock or fund for the mutual relief or maintenance of all and every the members thereof their wives children relations or nominees in sickness infancy advanced age widowhood or any other natural state or contingency whereof the occurrence is susceptible of calculation by way of average or for any other purpose which is not illegal and to and for the several members of any such society from time to time to assemble together and to make ordain and constitute such proper and wholesome rules for the better government of the same as to the major part of the members of such society so assembled together shall seem meet so as such rules shall not be repugnant to the laws of this Colony nor any of the express provisions or regulations of this Act and to impose and to inflict such reasonable fines and forfeitures upon the several members of any such society who shall offend against such rules as shall be just and necessary for duly enforcing the same to be respectively paid to such uses for the benefit of such society as such society by such rules shall direct and also from time to time to alter and amend such rules as occasion shall require or to annul and repeal the same and to make new rules in lieu thereof under such restrictions as are in this Act contained Provided always that when the rules of any such society provide for relief in any other case than that of sickness infancy advanced age widowhood or other natural state or contingency as aforesaid the contributions for such other purpose shall be kept separate and distinct or the charges defrayed by extra subscriptions of the members at the time such contingencies take place and that no secret society having signs countersigns passwords or numbers nor any trade society shall be entitled to the benefit or deemed to be within the provisions of this Act.

2. And be it enacted That every such society so to be established as aforesaid before any of the rules shall be confirmed by the Justices in the manner hereinafter directed shall in or by one or more of the rules to be confirmed by such Justices declare all and every the intents and purposes for which such society is established or intended to be established and shall also in and by such rules direct all and every the uses and purposes to which the money which shall from time to time be subscribed paid or given to or for the use or benefit of such society

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society or which shall arise therefrom or in anywise shall belong to any such society shall be appropriated and applied and in what shares and proportions and under what circumstances any member of such society or other person shall or may become entitled to the same or any part thereof Provided that the application thereof shall not in anywise be repugnant to the uses intents and purposes of such society or any of them so to be declared as aforesaid and all such rules during the continuance of the same shall be complied with and enforced and the monies so subscribed paid or given or so arising to or for the use or benefit of such society or belonging thereto shall not be diverted or misapplied either by the treasurer trustee or any other officer or member of such society entrusted therewith under such penalty or forfeiture as such society shall by any rule impose and inflict for such offence.

3. And be it enacted That two transcripts fairly written on paper or parchment of all rules made in pursuance of this Act signed by three members and countersigned by the clerk or secretary (accompanied in the case of an alteration or amendment of the rules with an affidavit of the clerk or secretary or one of the officers of the said society that the provisions of the Act under which the rules of the society may have been enrolled have been duly complied with) with all convenient speed after the same shall be made altered or amended and so from time to time after every making altering or amending thereof shall be submitted to the Attorney General or to a barrister at law appointed by the Governor for the purpose of ascertaining whether the said rules of such society or alterations or amendments thereof are calculated to carry into effect the intention of the parties framing such rules alterations or amendments and are in conformity to law and to the provisions of this Act and that the said Attorney General or barrister shall advise with the said clerk or secretary if required and shall give a certificate on each of the said transcripts that the same are in conformity to law and to the provisions of this Act or point out in what part or parts the said rules alterations or amendments are repugnant thereto and one of such transcripts when certified by the Attorney General or barrister shall be returned to the society and the other of such transcripts shall be transmitted by the Attorney General or barrister to the Clerk of the Peace for the county wherein such society shall be formed and by him laid before the Justices of the Peace for such county at the General Quarter Sessions or adjournment thereof held next after the time when such transcript shall have been so certified and transmitted to him as aforesaid and the Justices then and there present are hereby authorized and required without motion to allow and confirm the same and such transcript shall be filed by such Clerk of the Peace with the rolls of the Sessions of the Peace in his custody without fee or reward and that all rules alterations or amendments thereof from the time when the same shall be certified by the said Attorney General or barrister shall be binding on the several members and officers of the said society and all other persons having interest therein.

Two transcripts of rules to be submitted to the Attorney General or to a barrister &c. by whom they are to be certified.

One transcript to be returned to the society and the other to be sent to the Clerk of the Peace.

Justices to confirm rules.

Transcript to be filed.

Rules to be binding when certified by Attorney General or barrister.

4. And be it enacted That in case any such Attorney General or barrister shall refuse to certify all or any of the rules so to be submitted for his perusal and examination it shall then be lawful for any such society to submit the same to the Court of Quarter Sessions together with the reasons assigned by the said Attorney General or barrister in writing for any such rejection or disapproval of any one or more such rules and that the Justices at their said Quarter Sessions shall and may if they think fit confirm and allow the same notwithstanding any such rejection or disapproval by any such Attorney General or barrister Provided that the Court of Quarter Sessions for the

Manner of proceeding in case Attorney General or barrister refuse to certify.

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the aforesaid purpose shall consist of at least three Magistrates and that notice in writing of such submission shall be given to the said Attorney General or barrister at least ten days previously to the sitting of the said Court.

No society entitled to the benefit of this Act unless their rules have been confirmed.

5. And be it enacted That no such society as aforesaid shall have the benefit of this Act unless all the rules for the management thereof shall be entered in a book to be kept by an officer of such society appointed for that purpose and which book shall be open at all seasonable times for the inspection of the members of such society and unless all such rules shall be fairly transcribed and such transcript deposited with the Clerk of the Peace for the county wherein such society shall be established as aforesaid but nevertheless nothing contained herein shall extend to prevent any alteration in or amendment of any such rules so entered and deposited as aforesaid or repealing or annulling the same or any of them in the whole or in part or making any new rules for the management of such society in such manner as by the rules of such society shall from time to time be provided but such new rules or alterations in or amendments of former rules or any order annulling or repealing any former rules in the whole or in part shall not be in force until the same respectively shall be entered in such book as aforesaid and certified when necessary by such Attorney General or barrister as aforesaid and until a transcript thereof shall be deposited with such Clerk of the Peace as aforesaid who shall file and certify the same as aforesaid and that no such rule or alteration in or amendment of any former rule shall be binding or have any force or effect until the same shall have been confirmed by such Justices and filed as aforesaid.

Rules when entered and deposited to be binding on members and depositors.

6. And be it enacted That all rules from time to time made for the management of such society and duly entered in such book and confirmed by the Justices shall be binding on the several members and officers of such society and the several contributors thereto and their representatives all of whom shall be deemed and taken to have full notice thereof by such entry and contribution and the entry of such rules in such book or the transcript thereof deposited with such Clerk of the Peace or a true copy of such transcript examined with the original and proved to be a true copy shall be received as evidence of such rules respectively in all cases and no *certiorari* or other legal process shall be brought or allowed to remove any such rules into the Supreme Court of New South Wales at Sydney or Melbourne respectively and every copy of any such transcript deposited with any Clerk of the Peace shall be made without any fee or reward except the actual expense of making such copy.

Copy transcript to be received in evidence.

No confirmed rule to be altered but at a general meeting of the society &c.

7. And be it enacted That no rule confirmed by the Justices of the Peace in manner aforesaid shall be altered rescinded or repealed unless at a general meeting of the members of such society as aforesaid convened by public notice written or printed signed by the secretary or other principal officer or clerk of such society in pursuance of a requisition for that purpose by seven or more of the members of such society which said requisition and notice shall be publicly read at the two usual meetings of such society to be held next before such general meeting for the purpose of such alteration or repeal unless a committee of such members shall have been nominated for that purpose at a general meeting of the members of such society convened in manner aforesaid in which case such committee shall have the like power to make such alteration or repeal and unless such alteration or repeal be made with the concurrence and approbation of three-fourths of the members of such society then and there present or by the like proportion of such committee if any shall have been nominated for that purpose.

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8. And be it enacted That the rules of every society formed under the authority of this Act shall specify the place or places at which it is intended such society shall hold its meetings and shall contain provisions with respect to the powers and duties of the members at large and of such committees or officers as may be appointed for the management of the affairs of such society Provided always that it shall and may be lawful for any such society to alter their place or places of meeting whenever they may consider it necessary upon giving notice thereof in writing to the Clerk of the Peace for the county or district within which such society shall be held the said notice to be given within seven days before or after such removal and signed by the secretary or other principal officer and also by three or more of the members of such society and provided that the place or places at which such society intend to hold their meetings shall be situate within the county or district in which the rules of the said society are enrolled.

Rules shall specify place of meeting and duties of officers.

Societies may alter place of meeting.

9. And be it enacted That every such society shall and may from time to time at any of their usual meetings or by their committee if any such shall be appointed for that society elect and appoint such person into the office of steward president treasurer or trustee of such society as they shall think proper and also shall and may from time to time elect and appoint such clerks and other officers as shall be deemed necessary to carry into execution the purposes of such society for such space of time and for such purposes as shall be fixed and established by the rules of such society and from time to time to elect and appoint others in the room of those who shall be absent from the Colony be removed vacate or die and such treasurer trustee and all and every other officer or other person whatsoever who shall be appointed to any office in anywise touching or concerning the receipt or expenditure of any sum of money collected for the purpose of any such society before he she or they shall be admitted to take upon him her or them the execution of any such office of trust (if required so to do by the rules of such society to which such officer shall belong) shall become bound in a bond according to the form prescribed in the Schedule to this Act annexed marked A with two sufficient sureties for the just and faithful execution of such office or trust and for rendering a just and true account according to the rules of such society and in all matters lawful to pay obedience to the same in such penal sum of money as by the major part of such society at any such meeting as aforesaid shall be thought expedient and to the satisfaction of such society and that every such bond to be given by or on the behalf of such treasurer or trustee or of any other person appointed to any other office or trust shall be given to the Clerk of the Peace of the county or district where such society shall be established for the time being without fee or reward and in case of forfeiture it shall be lawful to sue upon such bond in the name of the Clerk of the Peace for the time being for the use of the said society fully indemnifying and saving harmless such Clerk of the Peace from all costs and charges in respect of such suit.

Society may appoint officers.

Security to be given for offices of trust if required.

Schedule A.

Treasurer or trustee to give bond to the Clerk of the Peace.

10. And be it enacted That every such society shall and may from time to time elect and appoint any number of the members of such society to be a committee the number thereof to be declared in the rules of every such society and shall and may delegate to such committee all or any of the powers given by this Act to be executed who being so delegated shall continue to act as such committee for and during such time as they shall be appointed for such society for general purposes the power of such committee being first declared in and by the rules of such society confirmed by the Justices of the Peace at their Sessions and filed in the manner hereinbefore directed and in all cases where a committee shall

Appointment of committees.

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Powers of standing committees to be declared in the rules of the society and of particular ones to be entered in a book.

Committee controllable by society.

Members of Friendly Societies may be witnesses.

No fee for oaths before Magistrates in obtaining payment of sick pay.

Treasurer or trustee to invest surplus of contributions

and to bring the proceeds to account.

Treasurer to render accounts and pay over balances &c.

shall be appointed for any particular purpose the powers delegated to such committee shall be reduced into writing and entered into a book by the secretary or clerk of such society and a majority of the members of such committee shall at all times be necessary to concur in any act of such committee and such committee shall in all things delegated to them act for and in the name of such society and all acts and orders of such committee under the powers delegated to them shall have the like force and effect as the acts and orders of such society at any general meeting thereof could or might have had in pursuance of this Act Provided always that the transactions of such committee shall be entered in a book belonging to such society and shall be from time to time and at all times subject and liable to the review allowance or disallowance and control of such society in such manner and form as such society shall by their general rules confirmed by the Justices and filed as aforesaid have directed and appointed or shall in like manner direct and appoint.

11. And be it enacted That on the trial of any action indictment or other proceeding respecting the property of any society enrolled under the authority of this Act or in any proceeding before any Justice of the Peace any member of such society shall be a competent witness and shall not be objected to on account of any interest he may have as such member in the result of such action indictment or other proceeding.

12. And be it enacted That no fee shall be charged to any member of any Friendly Society whatever for any oath or oaths which he may be legally required to make before any Magistrate or Magistrates in order to obtain the payment of his sick pay or allowance any law usage or custom to the contrary notwithstanding.

13. And be it enacted That it shall and may be lawful to and for the treasurer or trustee for the time being of any such society and he she and they is and are hereby authorized and required from time to time by and with the consent of such society to be had and testified in such manner as shall be directed by the general rules of such society to invest such part of all such sums of money as shall at any time be collected given or paid to and for the beneficial ends intents and purposes of such society as the exigencies of such society shall not call for the immediate application or expenditure of in the Savings Bank of New South Wales or Port Phillip respectively in the proper name of such treasurer or trustee and from time to time with such consent as aforesaid to withdraw such amounts as may be required to meet the demands made upon the funds in strict accordance with the rules of such society and that all interest and proceeds which shall from time to time arise from the monies so invested as aforesaid shall from time to time be brought to account by such treasurer or trustee and shall be applied to and for the use of such society according to the rules thereof.

14. And be it enacted That every person who shall have or receive any part of the monies effects or funds of or belonging to any such society or shall in any manner have been or shall be entrusted with the disposal management or custody thereof or of any securities books papers or property relating to the same his or her executors administrators and assigns respectively shall upon demand made or notice in writing given or left at the last or usual place of residence of such persons in pursuance of any order of such society or committee to be appointed as aforesaid for that purpose give in his or her account at the usual meeting of such society or to such committee thereof as aforesaid to be examined and allowed or disallowed by such society or committee thereof and shall on the like demand or notice pay over all the monies remaining in his or her hands and assign and transfer or deliver

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deliver all securities and effects books papers and property taken or standing in his or her name as aforesaid or being in his or her hands or custody to the treasurer or trustee for the time being or to such other person as such society or committee as aforesaid shall appoint and in case of any neglect or refusal to deliver such account or to pay over such monies or to assign transfer or deliver such securities and effects books papers and property in manner aforesaid it shall and may be lawful to and for every such society in the name of the treasurer or trustee or other principal officer thereof (as the case may be) to exhibit a petition in the Supreme Court of New South Wales at Sydney or Melbourne respectively or any Circuit Court which shall and may proceed thereupon in a summary way and make such order therein upon hearing all parties concerned as to such Court in their discretion shall seem just which order shall be final and conclusive and all assignments sales and transfers made in pursuance of such order shall be good and effectual in law to all intents and purposes whatsoever.

And in case of any neglect application may be made to Supreme Court &c.

15. And be it enacted That when and so often as any person seised or possessed of any lands tenements or hereditaments or other property or any estate or interest therein as a trustee of such society shall be out of the jurisdiction of or not amenable to the process of the Supreme Court of New South Wales at Sydney or Melbourne respectively or shall be idiot lunatic or of unsound mind or it shall be unknown or uncertain whether he or she be living or dead or such person shall refuse to convey or otherwise assure such lands tenements hereditaments or property or estate or interest to the person or persons duly nominated as trustee of such society in their stead either alone or together with any continuing trustee as occasion may require then and in every or any such case it may be lawful for the Judges of the said Supreme Court to appoint such person as to such Court shall seem meet on behalf and in the name of the person seised or possessed as aforesaid to convey surrender release assign or otherwise assure the said lands tenements hereditaments or property or estate or interest to such trustee so duly nominated as aforesaid and every such conveyance release surrender assignment or assurance shall be as valid and effectual to all intents and purposes as if the person being out of the jurisdiction of the said Court or not known to be alive or having refused or as if the person being idiot lunatic or of unsound mind had been at the time of the execution thereof of sane mind memory and understanding and had by himself or herself executed the same.

Where trustees &c. are out of jurisdiction of the Supreme Court or it be uncertain whether they are alive or they refuse to convey &c. the Supreme Court may appoint a person to convey.

16. And be it enacted That when and as often as it shall happen that all and every person in whose name any part of the funds shall be invested in the Savings Banks of New South Wales or Port Phillip respectively is are or shall be standing as trustee of any such society shall be absent out of the jurisdiction or not amenable to the process of the said Supreme Court or shall be a bankrupt insolvent or lunatic or it shall be uncertain or unknown whether such trustee is living or dead that then and in such case it shall and may be lawful to and for the Judges of the said Supreme Court or any of them to order and direct that the accountant secretary or deputy secretary or other proper officer for the time being of the Savings Bank do transfer in the book of the said bank such funds standing as aforesaid to the name of such person as such society may appoint and also pay over to such person as aforesaid the interest of such funds and when and as often as it shall happen that one or more only and not all or both of such trustees as aforesaid shall be so absent or not amenable to such process as aforesaid or a bankrupt insolvent or lunatic or it be uncertain or unknown whether any one or more of such trustees is or are living or dead that then and in all and every such last-mentioned case or cases it shall and may be lawful to and for the Judges of the said Supreme Court

When trustees shall be absent &c. Court may order funds to be transferred and interest paid.

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Court or any of them to order and direct that the other and others of such trustees who shall be forthcoming and ready and qualified to act do transfer such funds to the name of such person as aforesaid and also that such forthcoming trustee do also receive and pay over the interest of such funds as such society shall direct and that all such transfers and payments so made shall be and are hereby declared to be valid and effectual to all intents and purposes whatsoever any former statute law usage or custom to the contrary thereof in anywise notwithstanding.

No fee to be taken for any proceeding in Supreme Court.

17. And be it enacted That no fee reward emolument or gratuity whatsoever shall be demanded taken or received by any officer or minister of the said Supreme Court for any matter or thing done in such Court in pursuance of this Act and that upon the presenting of any such petition it shall be lawful for the Judges of the said Court or any of them to assign counsel learned in the law and to appoint an attorney or solicitor of such Court to advise and carry on such petition on the behalf of such society who are hereby respectively required to do their duties therein without fee or reward.

Executors &c. of officers of Friendly Society to pay money due to society before any other debts.

18. And be it enacted That if any person already appointed or who may hereafter be appointed to any office in a society established under this Act and being entrusted with the keeping of the accounts or having in his hands or possession by virtue of his said office or employment any monies or effects belonging to such society or any deeds or securities relating to the same shall die or become a bankrupt or insolvent or have any execution or attachment or other process issued against his lands goods chattels or effects or make any assignment disposition or other conveyance thereof for the benefit of his creditors his heirs executors administrators or assignees trustees or other persons having legal right or the Sheriff or other officer executing such process shall within forty days after demand made in writing by the order of any such society or committee thereof or the major part of them assembled at any meeting thereof deliver and pay over all monies and other things belonging to such society to such person as such society or committee shall appoint and shall pay out of the estates assets or effects real or personal of such persons all sums of money remaining due which such person received by virtue of his said office or employment before any other of his debts are paid or satisfied or before the money directed to be levied by such process as aforesaid is paid over to the party issuing such process and all such assets lands goods chattels property estates and effects shall be bound to the payment and discharge thereof accordingly.

Effects of societies to be vested in the treasurer or trustee for the time being who may bring and defend actions &c.

19. And be it enacted That all freehold and chattel interests in lands monies goods and effects whatever and all titles securities for money or other obligatory instruments and evidences or muniments and all other effects whatever and all rights or claims belonging to or had by such society shall be vested in the treasurer or trustee of such society for the time being for the use and benefit of such society and the respective members thereof their respective executors or administrators according to their respective claims and interests and after the death or removal of any treasurer or trustee shall vest in the succeeding treasurer or trustee for the same estate and interest as the former treasurer or trustee had therein and subject to the same trusts without any assignment or conveyance whatever and also shall for all purposes of action or suit as well criminal as civil in law or in equity in anywise touching or concerning the same be deemed and taken to be and shall in every proceeding (where necessary) be stated to be the property of the person appointed to the office of treasurer or trustee of such society for the time being in his or her proper name without further description and such person shall and he or she is hereby respectively authorized

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authorized to bring or defend or cause to be brought or defended any action suit or prosecution criminal as well as civil in law or in equity touching or concerning the property right or claim aforesaid of or belonging to or had by such society provided such person shall have been thereunto duly authorized by the consent of the majority of members present at any meeting of the society or committee thereof and such person so appointed shall and may in all cases concerning the property right or claim aforesaid of such society sue and be sued plead and be impleaded in his or her proper name as treasurer or trustee of such society without other description and no such suit action or prosecution shall be discontinued or abate by the death of such person or his or her removal from the office of treasurer or trustee but the same shall and may be proceeded in by the succeeding treasurer or trustee in the proper name of the person commencing the same any law usage or custom to the contrary notwithstanding and such succeeding treasurer or trustee shall pay or receive like costs as if the action or suit had been commenced in his or her name for the benefit of or to be reimbursed from the funds of such society.

20. And be it enacted That the treasurer or trustee or any other officer of any society established under the authority of this Act shall not be liable to make good any deficiency which may arise in the funds of such society unless such persons shall have respectively declared by writing under their hands deposited and registered in like manner with the rules of such society that they are willing so to be answerable and it shall be lawful for each of such persons or for such persons collectively to limit his her or their responsibility to such sum as shall be specified in such instrument or writing Provided always that the said treasurer trustee and every other officer of any such society shall and they are hereby declared to be personally responsible and liable for all monies actually received by him her or them on account of or to and for the use of the said society.

Limitation of responsibility of treasurer or trustees.

Treasurer &c. liable for money actually received.

21. And be it enacted That whenever the trustees of any society established under the authority of this Act at any time after the decease of any member have paid and divided any sum of money to or amongst any person or persons who shall at the time of such payment appear to such trustees to be entitled to the effects of any deceased intestate member the payment of any such sum or sums of money shall be valid and effectual with respect to any demand of any other person or persons as next of kin of such deceased intestate member or as the lawful representative or representatives of such member against the funds of such society or against the trustees thereof but nevertheless such next of kin or representatives shall have remedy for such money so paid as aforesaid against the person or persons who shall have received the same.

Payment to persons appearing to be next of kin declared valid.

22. And be it enacted That in case any member of any such society shall die who shall be entitled to any sum not exceeding twenty pounds it shall be lawful for the trustees or treasurer of any such society and they are hereby authorized and permitted if such trustees or treasurer shall be satisfied that no will was made and left by such deceased member and that no letters of administration will be taken out of the funds goods and chattels of such depositor to pay the same at any time after the decease of such member according to the rules and regulations of the said institution and in the event of there being no rules and regulations made in that behalf then the said trustees or treasurer are hereby authorized and permitted to pay and divide the same to and amongst the person or persons entitled to the effects of the deceased intestate and that without administration in the Colony of New South Wales.

For payment of sums not exceeding £20 when members die intestate.



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Justices may hear cases of fraud and punish by fine or imprisonment.

23. And be it enacted That for the more effectually preventing fraud and imposition on the funds of such societies if any officer member or any other person being or representing himself or herself to be a member of such society or the nominee executor administrator or assignee of any member of such society or any other person whatever shall in or by any false representation or imposition fraudulently obtain possession of the monies of such society or any part thereof or having in his or her possession any sum of money belonging to such society shall fraudulently withhold the same and for which offence no special provision is made in the rules of such society it shall be lawful for any one Justice of the Peace residing within the county within which such society shall be held upon complaint made on oath or affirmation by any officer of such society appointed for that purpose to summon such person against whom such complaint shall be made to appear at a time and place to be named in such summons and upon his or her appearance or in default thereof upon due proof upon oath or affirmation of the service of such summons it shall and may be lawful for any two Justices residing within the county aforesaid to hear and determine the said complaint according to the rules of the said society confirmed as directed by this Act and upon due proof of such fraud the said Justices shall convict the said party and award double the amount of the money so fraudulently obtained or withheld to be paid to the treasurer to be applied by him to the purposes of the society so proved to have been imposed upon and defrauded together with such costs as shall be awarded by the said Justices not exceeding the sum of ten shillings and in case such person against whom such complaint shall be made shall not pay the sum of money so awarded to the person and at the time specified in such order such Justices are hereby required by warrant under their hands and seals to cause the same to be levied by distress and sale of the goods of such person on whom such order shall have been made or by other legal proceeding together with such costs as shall be awarded by the said Justices not exceeding the sum of ten shillings and also the costs and charges attending such distress and sale or other legal proceeding returning the overplus (if any) to the owner and in default of such distress being found the said Justices shall commit such person so proved to have offended to the common gaol or house of correction there to be kept to hard labor for such period not exceeding three calendar months as to them shall seem fit Provided nevertheless that nothing herein contained shall prevent the said society from proceeding by indictment or complaint against the party complained of and provided also that no party shall be proceeded against by indictment or complaint if a previous conviction has been obtained for the same offence under the provisions of this Act.

Proceeding necessary for the dissolution of any society.

24. And be it enacted That it shall not be lawful for any such society by any rule at any general meeting or otherwise to dissolve or determine such society so long as the intents and purposes declared by such society or any of them remain to be carried into effect without obtaining the votes of consent of five-sixths in value of the then existing members of such society to be ascertained in manner hereinafter mentioned and also the consent of all persons then receiving or then entitled to receive relief from such society either on account of sickness age or infirmity to be testified under their hands individually and respectively and for the purpose of ascertaining the votes of such five-sixths in value every member shall be entitled to one vote and an additional vote for every five years that he may have been a member Provided however that no one member shall have more than five votes in the whole and in all cases of dissolution the intended appropriation or division of the funds or other property of such society shall be fairly and distinctly stated in the proposed plan of dissolution prior to such

Stock not divisible for general purposes of society.

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such consent being given nor shall it be lawful for such society by any rule to direct the division or distribution of such stock or fund or any part thereof to or amongst the several members of such society other than for carrying into effect the general intents and purposes of such society declared by them and confirmed by the Justices of the Peace as aforesaid according to the directions of this Act but that all such rules for the dissolution or determination of any such society without such consent as aforesaid or for the distribution or division of the stock or fund of such society contrary to the rules which shall have been confirmed by the said Justices at their Sessions and filed in pursuance of this Act shall be void and of none effect and in the event of such division or misappropriation of the funds of such society without the consent hereby declared to be requisite the trustee or other officer or person aiding or abetting therein shall be liable to the like penalties as are hereinbefore provided for in cases of fraud.

25. Provided always and be it enacted That provision shall be made by one or more of the rules of every such society to be confirmed as required by this Act specifying whether a reference of every matter in dispute between any such society or any person acting under them and any individual member thereof or person claiming on account of any member shall be made to such of Her Majesty's Justices of the Peace as may act in and for the county in which such society may be formed or to arbitrators to be appointed in manner hereinafter directed and if the matter so in dispute shall be referred to arbitration certain arbitrators shall be named and elected at the first meeting of such society or general committee thereof that shall be held after the enrolment of its rules none of the said arbitrators being beneficially interested directly or indirectly in the funds of the said society of whom a certain number not less than three shall be chosen by ballot in each such case of dispute the number of the said arbitrators and the mode of ballot being determined by the rules of each society respectively the names of such arbitrators shall be duly entered in the book of the said society in which the rules are entered as aforesaid and in case of the death or refusal or neglect of any or all of the said arbitrators to act it shall and may be lawful to and for the said society or general committee thereof and they are hereby required at their next meeting to name and elect one or more arbitrator or arbitrators as aforesaid to act in the place of the said arbitrator or arbitrators so dying as aforesaid or refusing or neglecting to act as aforesaid and whatever award shall be made by the said arbitrators or the major part of them according to the true purport and meaning of the rules of such society confirmed by the Justices according to the directions of this Act shall be in the form of the Schedule to this Act annexed marked B and shall be binding and conclusive on all parties and shall be final to all intents and purposes without appeal or being subject to the control of one or more Justices of the Peace and shall not be removed or removeable into any Court of Law or restrained or restrainable by the injunction of any Court of Equity and should either of the said parties in dispute refuse or neglect to comply with or conform to the decision of the said arbitrators or the major part of them it shall and may be lawful for any one Justice of the Peace residing within the county within which such society shall be held upon good and sufficient proof being adduced before him of such award having been made and of the refusal of the party to comply therewith upon a complaint made by or on behalf of the party aggrieved to summon the person against whom such complaint shall be made to appear at a time and place to be named in such summons and upon his or her appearance or in default thereof upon due proof upon oath of the service of such summons any two Justices of the Peace may proceed to make such order thereupon

Rules to be made directing how disputes shall be settled.

Appointment of arbitrators.

Schedule B.

Justices shall enforce compliance with the decision of arbitrators.

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upon as to them may seem just and if the sum of money so awarded together with a sum for costs not exceeding the sum of ten shillings as to such Justices shall seem meet shall not be immediately paid then such Justices shall by warrant under their hands and seals cause such sum and costs as aforesaid to be levied by distress and sale of the monies goods chattels securities and effects belonging to the said party or to the said society or other legal proceeding together with all further costs and charges attending such distress and sale or other legal proceeding returning the overplus (if any) to the said party or to the said society or to one of the treasurers or trustees thereof and in default of such distress being found or of such other legal proceeding being effectual then to be levied by distress and sale of the proper goods of the said party or of the officer of the said society so neglecting or refusing as aforesaid by other legal proceeding together with such further costs and charges as aforesaid returning the overplus (if any) to the owner Provided always that whatever sums shall be paid by any such officer so levied on his or her property or goods in pursuance of the award of arbitrators or order of any Justices shall be repaid with all damages accruing to him or her by and out of the monies belonging to such society or out of the first monies which shall be thereafter received by such society.

If rules of society direct reference in case of dispute to arbitration and society refuse to grant arbitrators &c. Justices may determine the dispute.

26. And be it enacted That when the rules of any society provide for a reference to arbitrators of any matter in dispute and it shall appear to any Justices of the Peace on complaint on oath of a member of any such society or of any person claiming on account of such member that application has been made to such society or the steward or other officer thereof for the purpose of having any dispute so settled by arbitration and that such application has not within forty days been complied with or that the arbitrators have neglected or refused to make any award it shall and may be lawful for such Justice to summon the trustee or treasurer or steward or other officer of the society or any one of them against whom the complaint is made and for any two Justices to hear and determine the matter in dispute in the same manner as if the rules of the said society had directed that any matter in dispute as aforesaid should be decided by Justices of the Peace anything in the said recited Act contained to the contrary notwithstanding.

Reference of disputes to Justices if so directed by the rules of the society.

27. And be it enacted That if by the rules of any such society it is directed that any matter in dispute as aforesaid shall be decided by Justices of the Peace it shall and may be lawful for any such Justice on complaint being made to him of any refusal or neglect to comply with the rules of such society by any member or officer thereof to summon the person against whom such complaint shall be made to appear at a time and place to be named in such summons and upon his or her appearance or in default thereof upon due proof on oath or affirmation of the service of such summons it shall and may be lawful for any two Justices to proceed to hear and determine the said complaint according to the rules of the said society and in case the said Justices shall adjudge any sum of money to be paid by such person against whom such complaint shall be made and such person shall not pay such sum of money to the person and at the time specified by such Justices they shall proceed to enforce their award in the manner hereinbefore directed to be used in case of any neglect to comply with the decision of the arbitrators appointed under the authority of this Act.

Provision in case member of society is expelled.

28. And be it enacted That in case any member of a Friendly Society established under this Act shall have been expelled from such society and the arbitrators or Justices (as the case may be) shall award or order that he or she shall be reinstated it shall and may be lawful for

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for such arbitrators or Justices to award or order in default of such reinstatement to the member so expelled such a sum of money as to such arbitrators or Justices may seem just and reasonable which said sum of money if not paid shall be recoverable from the said society or treasurer or trustee or other officer in the same way as any money awarded by arbitrators is recoverable under this Act.

29. And be it enacted That every sentence order and adjudication of any Justices under this Act shall be final and conclusive to all intents and purposes and shall not be subject to appeal and shall not be removed or removeable into any Court of Law or restrained or restrainable by the injunction of any Court of Equity.

Orders of Justices to be final.

30. And be it enacted That a minor may become a member of any such society and shall be empowered to execute all instruments give all necessary acquittances and enjoy all the privileges and be liable to all the responsibilities appertaining to members of mature age notwithstanding his or her incapacity or disability in law to act for himself or herself Provided always that such minor be admitted into such society by and with the consent of his or her parents masters or guardians.

Minors may be members and have legal authority to act.

31. And be it enacted That the rules of every such society shall provide that the treasurers trustees stewards or other principal officer thereof shall once in every year at least prepare or cause to be prepared a general statement of the funds and effects of or belonging to such society specifying in whose custody or possession the said funds or effects shall be then remaining together with an account of all and every the various sums of money received and expended by or on account of the said society since the publication of the preceding periodical statement and every such periodical statement shall be attested by two or more members of such society appointed auditors for that purpose and shall be countersigned by the secretary or clerk of such society and every member shall be entitled to receive from the said society a copy of the said statement on payment of such sum as the rules of such society may require not exceeding the sum of sixpence.

Societies shall make annual statements of the funds to the members.

32. And whereas it is desirable for the better security of such societies that correct calculations of tables of payments and allowances dependent on the duration of sickness and the probabilities of human life may be constructed for their assistance Be it therefore enacted That every such society established or to be established under the authority of this Act shall within three months after the expiration of the month of December one thousand eight hundred and forty-eight and so again within three months after the expiration of every further period of five years transmit to the Colonial Secretary of the Colony for the time being a return of the rate of sickness and mortality experienced by the said society within the before mentioned period of five years according to the form prescribed in the Schedule C appended to this Act a copy whereof shall be annexed to the rules of each society respectively.

Return to be made to the Colonial Secretary at certain periods.

Schedule C.

33. And be it enacted That the said Colonial Secretary shall within one month after the expiration of the month of March one thousand eight hundred and forty-nine and so again within one month after the expiration of every further period of five years transmit to His Excellency the Governor a list of the societies which have been enrolled during such period under this Act specifying their names the places where they have been established and date of enrolment and time of ceasing to exist if such case should arise a copy of which list with the Schedule attached to it shall be laid before the Legislative Council within one month then next ensuing if the Council shall be sitting or within one month after the time when the Council shall next sit.

Returns to be made and transmitted to His Excellency the Governor and laid before the Legislative Council.

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Construction of  
words in the Act.

34. And be it enacted That the word "society" in this Act shall be understood to include friendly society or societies institution or institutions the word "rules" to include rules orders and regulations the word "county" to include county district division or place and the words "treasurer or trustee" to include treasurers or trustees and the word "person" to include persons and the word "book" to include books and the word "bond" to include bonds "name" to include names "account" to include accounts "member" to include members and honorary members "The Supreme Court of New South Wales" to include the Supreme Court of New South Wales at Sydney and Melbourne respectively "Clerk of the Peace" to include Town Clerk unless it be otherwise specially provided.

Act may be amended.

35. And be it enacted That this Act may be altered amended or repealed during the present Session of the Legislative Council.

Saving the rights of  
Her Majesty &c.

36. 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 him her or them.

This Act to be  
deemed a Public Act.

37. And be it enacted That this Act shall be deemed a Public Act and shall extend to all parts of the Colony of New South Wales and be judicially taken notice of as such by all Judges Justices and other persons whatsoever without being specially pleaded.

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SCHEDULES REFERRED TO.

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A.

*Form of Bond.*

Know all men by these presents that we A. B. of treasurer or trustee &c.  
of the Society established at in the county of  
and C. D. of and G. H. of (as sureties on behalf  
of the said A. B.) are jointly and severally held and firmly bound to E. F. the present  
Clerk of the Peace (or Town Clerk) for the county (district division or place as the case  
may be) of in the sum of to be paid to the said E. F. as such  
Clerk of the Peace (or Town Clerk) or his successor Clerk of the Peace (or Town Clerk) of  
the said county (district division or place as the case may be) for the time being or his  
certain attorney for which payment well and truly to be made we jointly and severally bind  
ourselves and each of us by himself our and each of our heirs executors and administrators  
firmly by these presents sealed with our seals dated the day of in  
the year of our Lord

Whereas the above bounden A. B. hath been duly appointed treasurer (or trustee) of  
the Society established as aforesaid and he together with the above bounden  
C. D. and G. H. as his sureties have entered into the above written bond subject to the  
condition hereinafter contained Now therefore the condition of the above written bond is  
such that if the said A. B. shall and do justly and faithfully execute his office of treasurer  
(or trustee) of the said society established as aforesaid and shall and do render a just and  
true account of all monies received and paid by him and shall and do pay over all monies  
remaining in his hands and assign and transfer or deliver all securities and effects books  
papers and property of or belonging to the said society in his hands or custody to such  
person or persons as the said society shall appoint according to the rules of the said society  
together with the proper or legal receipts or vouchers for such payments and likewise shall  
and do in all respects well and truly and faithfully perform and fulfil his office of treasurer  
(or trustee) to the said society according to the rules thereof then the above written bond  
shall be void and of no effect otherwise shall be and remain in full force and virtue.

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B.

