



ANNO QUINTO

VICTORIÆ REGINÆ.

As 20

Private Act.

AN ACT to facilitate proceedings by and against "The South Australian Marine and Fire and Life Assurance Company."

*Amended
No 14-1843*

WHEREAS several persons have formed themselves into a Company or Society established at Adelaide in the Province of South Australia under the name style or firm of "The South Australian Marine and Fire and Life Assurance Company" as well for the purpose of effecting Marine Insurances against loss or damage by Fire Assurances on Lives Survivorships and Endowments granting and purchasing Annuities and Reversions as also for discounting Bills of Exchange and Promissory Notes and granting Loans on Mortgage Deposit of Deeds or Bond at Interest and other purposes and also for transacting and negotiating all such other matters and things as are usually done and performed in relation to or in connection with the ordinary business of Assurance And whereas the said Company is now being carried on in Adelaide aforesaid and is under the care management and superintendance of four Directors and of a Managing Director And whereas difficulties may arise in recovering debts due to the said Company and in maintaining actions or proceedings for damages done to their property and also in prosecuting persons who may steal or embezzle the bills notes bonds mortgages monies 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 it is also deemed expedient and necessary that the names residences and descriptions of all the members of the said Company should be recorded for public information but as these purposes cannot be effected without the aid and authority of the Legislature—

Preamble.

BE IT THEREFORE ENACTED by HIS EXCELLENCY GEORGE GREY ESQUIRE Governor and Commander-in-Chief of Her Majesty's Province of South Australia

**Actions at law
&c. to be in the
name of the Mana-
ging Director, &c.**

Australia by and with the advice and consent of the Legislative Council thereof That from and after the commencement 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 person or persons body or bodies politic or corporate whether a member or members of the said Company or otherwise shall and may be lawfully commenced instituted and prosecuted or carried on in the name of the person who shall be the Managing Director 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 and on behalf of the said Company and that all actions and suits and all proceedings at law or in equity to be commenced instituted or prosecuted against the said Company shall be commenced instituted and prosecuted against the Managing Director for the time being of the said Company as the nominal defendant for and on behalf of the said Company and that all prosecutions to be brought instituted or carried on by or on behalf of the said Company for fraud upon or against the Company or for embezzlement robbery or stealing the bills notes bonds monies goods chattels effects or property of the said Company or for any other offence against the said Company shall or may be so brought or instituted and carried on in the name of such Managing Director for the time being of the said Company and in all indictments and informations it shall be lawful to state the property of the Company to be the property of such Managing Director for the time being of the said Company and any offence committed with intent to injure or defraud the said Company shall and lawfully may in any prosecution for the same be stated or laid to have been committed with intent to injure or defraud such Managing Director for the time being of the said Company and any offender or offenders may thereupon be lawfully convicted of any such offence and in all other allegations or indictments informations or other proceedings it shall and may be lawful and sufficient from and after the commencement of this Act to state the name of such Managing Director and the death resignation or removal or other act of such Managing Director shall not abate any such action suit or prosecution but the same may be continued where it left off prosecuted and carried on in the name of any person who may be or become Managing Director of the said Company for the time being And that where it shall be necessary for any person to serve any summons notice writ or other proceedings at law or in equity upon the said Company service thereof respectively shall be made upon such Managing Director for the time being or at his usual place of abode.

**Memorial of his
name to be record-
ed in the Supreme
Court**

II. And be it Enacted That a memorial of the name of the Managing Director of the said Company in the form or to the effect for that purpose set forth in the schedule hereto annexed signed by the said Managing Director and by a majority of the Directors of the said Company shall be recorded upon oath in the Supreme Court of South Australia within thirty days after the passing of this Act and when and as often as any person shall be newly elected Managing Director thereof a memorial of the name of such newly elected Managing Director in the same form or to the same effect as the above mentioned memorial signed by such newly elected Managing Director and a majority of the persons who shall be Directors of the said Company at the time of the election of such new Managing Director shall in like manner be recorded upon oath in the said Supreme Court within thirty days next after such Managing Director shall be elected.

III. Provided always and be it Enacted That until such memorial as hereinbefore first mentioned be recorded in the manner hereinbefore directed

no action suit or other proceeding shall be brought by the said Company in the name of the Managing Director of the said Company as aforesaid under the authority of this Act.

No action to be brought until memorial recorded.

IV. Provided always and be it Enacted That the Managing Director being the plaintiff complainant petitioner or defendant in any such action suit petition or other proceeding as aforesaid on behalf of the said Company shall not prevent or affect the competency of any such Managing Director so as to prevent him from being a witness in any such action suit petition or other proceeding in the same manner as he might have been if his name had not been made use of as such plaintiff complainant petitioner or defendant in any such action suit petition or other proceeding

Managing Director to be a competent witness.

V. Provided always and be it Enacted That execution upon any decree or judgment in any such action suit petition or other proceeding obtained against the Managing Director 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: Provided always that every such Managing Director in whose name any such action suit petition or other proceeding 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 shall be issued or levied as aforesaid shall always be reimbursed and paid out of the funds of the said Company all such damages dues expenses costs and charges as by the event of any such proceedings such Managing Director or member or members shall or may be put unto or become chargeable with and all such remedies shall be allowed as between the several members of the said Company for the time being as if this Act had not been passed.

Execution upon any judgment may be issued against any member, who shall have his remedy against the other members.

VI. And be it Enacted That the provisions in this Act contained shall extend and be construed deemed 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 composed of some all or any of the persons who were the original or are the present members thereof or of all or some of those persons together with some other person or persons or shall be composed altogether of persons who were not original or are now members of the same.

Act to be at all times valid, notwithstanding a change of members of the Company.

VII. Provided always and be it Enacted That nothing herein contained shall extend or be deemed taken or construed 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 obligation whatsoever which by law they now are or at any time hereafter shall be subject or liable to either between the said Company and others or between the individual members of 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.

Company not incorporated by this Act.

VIII. And be it Enacted That in any action to be brought by any Managing Director of the said Company by virtue of this Act the plaintiff therein shall not be nonsuited 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 shall make it appear on such trial that no such memorial or memorials have been recorded then a nonsuit shall be entered in such action.

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

IX. And

Names, &c. of the existing members to be recorded on oath.

IX. And be it Enacted That the Managing Director of the said Company shall within fifteen 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 in the office of the Judge of the Supreme Court and that the same 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 Managing Director of the said Company shall fail to cause such list to be recorded in manner as 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 suing for the same.

Persons so recorded considered members till new list notified.

X. 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 shall have given notice of his retirement in The South Australian Government Gazette.

Rights of the Crown not affected.

XI. Provided always and be it Enacted That nothing in this Act contained shall be deemed to affect or apply to any right title 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 excepting such as are mentioned therein or of those claiming by or under him or them.

Act not to take effect till Royal approbation.

XII. 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 by His Excellency the Governor in the South Australian Government Gazette.

To be deemed a public Act.

XIII. And be it Enacted that when and so soon as this Act shall have received the Royal approbation and the notification of such approbation shall have been made as aforesaid by his Excellency the Governor in the South Australian Government Gazette this Act 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 the Province of South Australia and its dependencies without being specially pleaded.

GEORGE GREY,
Governor of South Australia.

Passed the Council this Fourteenth day of February One Thousand Eight Hundred and Forty-two.

A. M. MUNDY,
Clerk of Council.

SCHEDULE REFERRED TO.

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MEMORIAL of the name of the Managing Director of "The South Australian Marine and Fire and Life Assurance Company" to be recorded in the Supreme Court of the Province of South Australia pursuant to an Act of the Governor and Council passed in the Fifth year of the reign of Her Majesty Queen Victoria intituled "An Act to facilitate proceedings by and against 'The South Australian Marine and Fire and Life Assurance Company.'"

A. B. Managing Director.

} Directors,

of of the above named Company
maketh oath and saith that he was present and did see the foregoing
memorial signed by the above named Managing Director and Directors
respectively whose names appear thereto.

Sworn this
day of

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