

The Provincial Statutes of Lower-Canada, Being the fourth session of the fourteenth Provincial Parliament of Lower-Canada. Quebec: John Carleton Fisher & William Kemble, Law Printer to the King's Most Excellent Majesty, 1834.

4 William IV – Chapter 33

An Act to authorize the establishment of Mutual Fire Insurance Companies.

18th March, 1834.—Presented for His Majesty's Assent, and reserved for the signification of His Majesty's Pleasure thereon.

15th August, 1854.—Assented to by His Majesty in Council.

7th January, 1835.—The Royal Assent signified by the Proclamation of His Excellency the Governor in Chief.

MOST GRACIOUS SOVEREIGN.

Whereas divers loyal subjects of His Majesty, being Inhabitants of this Province, have by their Petition represented the great advantages that would arise from the introduction into this Province of the principle of mutual insurance against losses by fire, and have prayed the interference-of the Legislature to enable them to bring the said principle into effective operation:—And whereas it hath been made apparent that-the said representation is well founded and that it is expedient that the prayer of the Petitioners be granted:—Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America' and to make further provision for the Government of the said Province;" And it is hereby enacted by the authority of the same, that it shall at any time be lawful for any ten Freeholders in any county in this Province, to call a meeting of the freeholders of the county (and of any one, or of any two adjoining counties if they shall think it necessary) for the purpose of considering whether it be expedient to establish in such county or counties a Fire Insurance Company on the principle of Mutual Insurance: Provided always, that such meeting shall be called by an advertisement mentioning the time, place and object of such meeting, and published and posted on the door of the Church of each Parish, Seigniorie [Seigneurie] or Township within such county or counties, on one Sunday or Holiday immediately after divine service in the forenoon, and inserted during three-weeks immediately preceding the meeting, in some public Newspaper published in the District or Inferior District in which the meeting is to be holden, if any is published therein.

II. And be it further enacted by the authority aforesaid, that if at such meeting there shall not be fewer than forty Freeholders present, and a majority of them shall determine that it is expedient to establish such Company, they may elect three persons from among the Freeholders of the County or Counties to open and keep a Book, in which all Freeholders in the County or Counties may sign their names and enter the sums for which they shall be respectively bound to effect Insurance with the Company.

III. And be it further enacted by the authority aforesaid, that whenever the number of persons duly qualified who shall have signed their names in the said subscription hook, shall be sixty or more, and the sums for which they shall have bound themselves to effect Insurance shall together amount to fifteen thousand pounds currency or upwards, such persons, and' all other persons who may thereafter become Members of the said Company by effecting Insurances therein in the manner hereinafter provided, shall be and they are hereby constituted a Body Politic and Corporate by the name of "The Mutual Fire Insurance Company," and their legal addition shall be of (the County or Counties, by name, for which the, Company shall, have been established) and by that name may mutually insure their respective dwelling houses, shops, stores and other buildings, household furniture and merchandize against loss or damage by Fire, whether the same shall happen by accident, lightning, or by any other means excepting that of design in the insured, or by the invasion of an enemy, or by an insurrection, and may by that name sue and be sued, appear, prosecute and defend in any Court of competent jurisdiction; purchase and hold personal estate; and may hold real estate, to the annual value-of one hundred pounds currency, and no more, and may sell and convey the same at their pleasure, and may make and execute such bye-laws, not contrary to the provisions of this Act or to the Laws of this Province, as they shall deem expedient, and may do and execute all such Acts and things as may be necessary for carrying this Act into effect.

IV. Provided always, and be it further-enacted by the authority aforesaid, that there shall not be more than one such Company in any County, and that whenever any such company shall be established in and for any county or any two, or any three counties, no other such company shall be established in and for the same or any of them, but the company so first established shall alone have the right of insuring property lying within such county or counties under the authority of this Act; but nothing herein-contained shall be construed to prevent any person from causing any such property to be insured by any person or company by whom it may lawfully have been insured, if this Act had not been passed: and provided further, that nothing herein contained shall prevent any such company, after it shall have been lawfully incorporated under the provisions of the foregoing Section, from insuring any property, moveable or immoveable, lying within the county or counties for which it is established, although the owner of such property be not a freeholder in such county or counties; nor to prevent any person so insured from becoming a Member of the company.

V. And be it further enacted by the authority aforesaid, that each and every person who shall at any time become interested in such company by insuring therein, shall be a member

thereof, for and during the time specified in his or her respective Policies, and no longer, and shall during such time be included and bound by the provisions of this Act.

VI. And be it further enacted by the authority aforesaid, that any ten members of the corporation so formed may call the first meeting of the same by notice given in the manner prescribed with regard to the preliminary meeting; and at such meeting the said corporation may elect, by a majority of Votes of the members present, a Board of Directors consisting of not more than nine, nor less than five, members of the corporation; and that a like meeting shall be held on the first Monday in October in each and every year, and that at every such meeting a Board of Directors shall be elected in the manner aforesaid: Provided always, that all vacancies which shall happen in the said Board in the interval between any two such meetings shall be filled by any person or persons elected for that purpose by a majority of the remaining members of the Board, which shall not be competent to act as such until such vacancy or vacancies shall have been filled. Provided always, that it shall be lawful at any time within the year for any ten members of the corporation as aforesaid, to call in the same manner a general meeting of the same, by giving at least fifteen days notice.

VII. And be it further enacted by the authority aforesaid, that the Board of Directors shall superintend the concerns of the company, and shall have the management of the funds and property thereof, and of all matters and things thereunto relating, not otherwise provided for by the corporation; and may from time to time elect one of their members to be President; and may appoint a Secretary and Treasurer, and such other officers, agents and assistants as they shall think necessary, and prescribe their duties, fix their compensation, take security from them for the faithful performance of their duties and remove them at pleasure; and may determine the rates of Insurance, the sum to be insured on any building or other property, and the sum to be deposited on the Insurance thereof, and shall order and direct the making and issuing of all Policies of Insurance, the providing of books, stationary and other things needful for the office of the company, and for carrying on the business thereof; and may order the Treasurer to pay the amount of any loss which may have happened to the company and any expences incurred in transacting the affairs thereof; and may hold special meetings as often as they shall deem necessary, and shall keep a record of their proceedings; and any Director disagreeing with the majority of the Board may enter his dissent on the books of the company, with his reasons for so dissenting, which book shall at all times be open to the inspection of the members of the corporation.

VIII. And be it further enacted by the authority aforesaid, that every member of the said company, shall before he receives his policy, deposit his promissory note payable on demand to the order of the corporation only, for such sum of money, not exceeding ten per cent upon the sum insured, as shall be determined by the Directors, a part of which note not exceeding five per cent shall be immediately paid for the purpose of raising a fund to defray the incidental expenses of the company, and the remainder of the sum mentioned in such note shall be payable, in part or the whole, at any time when the Directors shall deem the same to be necessary for the payment of the losses or expenses of the company; and at the expiration of the term of the Policy, the said note, or such part thereof as shall remain

unpaid, and uncalled for, after all losses and expenses incurred by the company during such term shall have been paid, shall be given up to the Signer thereof.

IX. And be it further enacted by the authority aforesaid, that every member of the company shall pay his proportion of all losses and expenses incurred by the said company, and all real property belonging to the insured at the time of the date of the Policy or during the continuance thereof, shall be mortgaged and hypothecated to the company, from the date of the Policy, for the amount of the promissory note given to the Directors by the party insured under this Act, provided that the company shall cause the Policy to be enregistered in the Registry Office of the county in which such property shall lie, if any such office there be, or otherwise in the office of the Notary nearest to the said premises,

X. And be it further enacted by the authority aforesaid, that whenever any property insured by the company shall have been destroyed or damaged by any fire, the proprietor thereof shall within twenty days after such fire, cause a notice thereof in writing to be delivered at the office of the Secretary of the company, and that such notice shall set forth the sum claimed by such proprietor, as the amount of the loss sustained in consequence of such-fire, and shall also contain the name of some freeholder of the county, in which such fire shall have happened, who shall be the expert named by the claimant, in case the amount to be paid by the company to such claimant shall be afterwards estimated by experts, in the manner provided by this Act.

XI. And be it further, enacted by the authority aforesaid, that the Directors of such company shall within five days after the delivery of such notice answer the same in writing, and shall cause such answer to be delivered at the domicile of the claimant, or to the said claimant in person, and shall state whether the directors; do or do not agree to pay the sum demanded in the notice given by the claimant; and if they do not so agree, such answer shall mention, the sum which, they Directors are willing to pay to the claimant as the amount of such loss, and shall also contain the, name of a freeholder of the county, in which such fire shall have happened who shall be the expert appointed by the company in case the amount to be paid by the company to such claimant shall be estimated by experts as aforesaid.

XII. And be it further enacted by the authority aforesaid, that if, the sum offered by the Directors in their answer be not agreed to by the claimant, the two experts so appointed as aforesaid,, shall appoint a third expert to act jointly with them, and the three experts shall give notice to the Directors and to the claimant of the time and place when and where they intend to proceed, to estimate, the sum to be paid as aforesaid, and shall by such notice require the Directors of the claimant then and there to produce such documents or parole testimony, as they may respectively wish to offer for the consideration of the experts.

XIII. And be it further enacted by the authority aforesaid, that such experts shall not proceed to make such estimate, until they shall have been sworn by some Justice of the Peace (and any Justice of the Peace is hereby authorized and required to administer the necessary oaths) faithfully and impartially to perform their duty as such experts.

XIV. And be it further enacted by the authority aforesaid, that the said experts when so sworn, may at the time and place appointed as aforesaid, proceed to examine the Documentary evidence and the witnesses then and there adduced-, and may if they shall think it necessary, or if required by either party, examine the claimant or the Directors or any of them upon interrogatories. Upon Facts et Articles to be duly exhibited to the said experts, and a true copy thereof served upon the party; to be examined; but they shall not so examine any person who shall not be previously sworn before the said experts (who are hereby authorized to administer the necessary oaths) to declare, the truth, the whole truth and nothing but the truth, in the answers; to be given to the questions put to them by the said experts, and if any person shall wilfully state what is untrue, knowing it to be so, in any such answer, such person shall be guilty of wilful and corrupt perjury, and on being thereof legally convicted, shall incur the pains and penalties attached to that offence.

XV. And be it further enacted by the authority aforesaid, that the award agreed upon by the said experts (or by any two of them in case of difference of opinion) shall be drawn up in writing and signed by the experts agreeing to, the same, who shall cause copies thereof signed by them to be delivered at the domicile of the claimant and at the office of the Secretary of the company.

XVI. Provided always, and be it further enacted by the, authority aforesaid, that if within the delay herein before appointed, the Directors shall deliver no answer to the notice given by the claimant, or shall in their answer to the same, offer to pay no sum to the claimant, or if such offer, shall not be accepted by the claimant, or if such answer shall not contain the name of a person to be an expert, or if no award shall be given by the experts appointed, within thirty days from the time due, notice shall have been given by the claimant to the Directors, or if either party shall be dissatisfied with the award made by the experts, or if the Directors shall refuse or neglect to pay the sum. thereby awarded to the claimant, such, claimant, shall have an action against the company in any Court of competent jurisdiction and either party to such action may demand and obtain a Trial by Jury; and if the verdict given by the Jury shall be for a greater sum than that offered by the Directors in their answer to the notice of the claimant, or (if there shall have been an award of experts) if such Verdict shall be for a greater sum than that awarded, or if the sum so awarded shall not have been legally tendered to the claimant before the action was commenced, the Plaintiff shall have full costs of suit, otherwise full costs of suit shall be given to the Defendant.

XVII. And be it enacted by the authority aforesaid, that whenever any loss or damage by fire sustained by any member is ascertained and is payable by the Company, the Directors shall settle and determine the sums to be paid by the several members as their respective portions of such loss, and publish the same in such manner as shall be provided by the by-laws of the Company; and the sum to be paid by each member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the Treasurer within thirty days next after the publication of such notice; and if any member shall for the space of thirty days after such notice neglect or refuse to pay the sum so determined by the

Directors, the Directors may sue for and recover from such member, the amount of his or her deposit note, and costs of suit, and the amount recovered shall remain in the hands of the Treasurer of the Company, subject to the payment of that portion of all losses and expenses to which such member shall be liable; and the balance, if any, shall be returned to such member at the expiration of the term of his or her Policy.

XVIII. And be it further enacted by the authority aforesaid that if the amount of all the deposit notes shall be insufficient to pay the losses occasioned to two or more sufferers by any one fire, or by two or more fires at the same the sufferers shall receive a proportionate dividend of the whole amount of the said notes, according to the sums for which they shall have been: respectively insured: Provided always, that the sufferers shall have precedence in their claims according to the date of their respective losses, but all losses by any one and the Same fire shall have no precedence the one over the other.

XIX. And be it further enacted by the authority aforesaid, that the said company may insure by the same policy and at one time for any term not exceeding five years, and any policy' of Insurance issued by the Company, and signed by the President, and countersigned by the Secretary, and in the form in the Appendix A of this Act, shall be valid and binding on the company in all cases where the insured party shall have at the time the damage shall occur the title or estate described by him or her at the time of effecting the Insurance to the land on which any property, damaged by fire is situate, but if the insured shall have a less title or estate in such property, or if the same shall be incumbered otherwise than described as aforesaid, the policy shall be void, and every such description of any title or estate or incumbrances shall be written on the back of the Policy and signed by the President and Secretary of the Company.

XX. And be it further enacted by the authority aforesaid, that no allowance shall be made to any Member for any gilding, historical or landscape painting, or carved work, account books, papers, money or jewels destroyed or damaged by fire.

XXI. And be it further enacted by the authority aforesaid, that when any property insured shall be alienated by sale or otherwise, the Policy thereon shall be void and shall be surrendered to the Directors to be cancelled, and upon such surrender the member making it, shall receive the note deposited, at the time it was issued; upon paying his portion of all losses and expenses that have occurred before surrender: Provided always, that the grantee or alienee, having the Policy assigned to him, may have the same ratified and confirmed to him for his proper use and benefit, upon application to the Directors and with their consent, within thirty days after such alienation, on giving his note payable on demand to the Directors for so much of the sum for which, the Promissory Note of the alienor was given as shall then remain unpaid, and by such ratification such alienee shall become entitled to all the rights and privileges, and subject to all the liabilities to which the alienee was subject.

XXII. And be it further enacted by the authority aforesaid, that if any alteration shall be made in any house or building by the proprietor thereof; after he shall have effected

insurance thereon with the Company, whereby it may be exposed to greater risk and hazard from fire than at the time the Policy was made such Policy shall be void, unless an additional premium and deposit after such alteration, be agreed upon and paid by the party insured to the Directors, but no alteration or repair to any building, not increasing such risk or hazard, shall in any wise affect the Policy.

XXIII. And be it further enacted by the authority aforesaid, that if any Insurance on any house or building shall be made with the Company, and with any other Insurance Company or office, or person at the same time, the Policy issued by the Company shall be void, unless such double Insurance shall have been agreed to by the Directors, and their consent to the same signified by an indorsement on the Policy, signed by the President and Secretary; and generally all the Laws of this Province concerning Insurance against Fire, and not contrary to this Act, shall extend to and affect all Insurances made by the Company.

XXIV. And be it further enacted by the authority aforesaid, that nothing herein-contained shall affect the rights of His Majesty, his heirs and successors, or of any person or persons, Body Politic or Corporate, such only excepted as are mentioned in this Act.

XXV. And be it further enacted by the authority aforesaid, that this Act shall be and remain in force until the first day of May, one thousand eight hundred and thirty-nine, and thence until the end of the then next Session of the Provincial Parliament, and no longer.

SCHEDULE A.

No.

This Policy, witnesseth, that A. B. of _____ the County of _____ in the Province _____ or Lower Canada, hath become (or being) a member of "The Mutual Fire Insurance Company," of {and) hath effected insurance with the said Company for: the sum of _____ currency, on the following property: {Description, place in which situate, &c.) for the term of _____ years from the date hereof, and the same: A. B. hath deposited in the hands of the Directors of the said Company, his note payable to their order on demand, for the sum of _____ currency, of which sum he hath paid to the said Directors the sum of _____ being at the rate of _____ per cent thereon, and that by reason of the premises the said A. B. hath become entitled to all the advantages and subject to all the liabilities, to which persons insured by this Company, are entitled and subject under the Laws of this Province.

In witness whereof the said A. B. and the President of the said Company have signed this Policy in duplicate, and the Secretary hath countersigned the same at _____ in the County of _____ in the Province of Lower Canada, this _____ day of _____ one thousand _____

A. B. C. D. (President.)

E. F. Secretary.