

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1847.* Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1847.

10 Victoria – Chapter 79

**An Act to incorporate the Saint John Phoenix Fire Insurance Company. Passed 14th April 1847.**

Whereas the great increase of wealth and combustible property in the Province for several years past renders an increase in the facilities for protecting the same expedient and necessary;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That James Kirk, Robert Jardine, John Wishart, John Duncan, Nathan S. Demill, William J. Ritchie, the Honorable R. L. Hazen, Thomas Vaughan, George Lovett, Thomas Leavitt, Leverit H. Deveber, John Mackay, John V. Thurgar, James R. Crane, and Thomas L. Nicholson, their associates, successors, or assigns, be and they are hereby declared to be a Body Politic and Corporate, by the name of The Saint John Phoenix Fire Insurance Company, and that they shall have all the general powers and privileges made incident to a Corporation by Act of Assembly in this Province, for the purpose of insuring against loss or damage by fire.

II. And be it enacted, That the Capital or Joint Stock of the said Corporation shall consist of the sum of fifty thousand pounds current money of the Province, to be paid according to the legal value thereof at the several times of the payment of the same; ten thousand pounds, being the one fifth part thereof, to be paid within six months after the passing of this Act, and the remaining four fifths, or forty thousand pounds, to be paid at such time or times, and in such parts or portions as the Directors for the time being, or a majority of them, shall from time to time think necessary; the whole amount of such Capital or Stock to be divided into shares of ten pounds each, making in the whole five thousand shares.

III. And be it enacted, That all the subscribers for stock or shares in the said Corporation, shall, previous to the day of the election of Directors, pay into the hands of such person or persons, as the persons incorporated by the first section of this Act, or the major part of them, or in case of the death of any of them, of the major part of the survivors, may direct, a deposit of not less than two per cent., and not exceeding five per cent., upon the amount of Capital or Stock of the said Corporation for which they have subscribed, due notice being given at the time of the notice calling the first meeting of the members and stockholders of the Corporation, of the time or several periods of time when, of the place and places where, and person or persons to whom the said deposit shall be paid; and the said deposit shall be taken and allowed to every subscriber who shall pay it as part and out of the first twenty per cent, of the Capital Stock required to be paid in under and by virtue of this Act; and every subscriber who shall neglect or refuse to pay in the said deposit, shall for every share he shall neglect or refuse to pay in, be deemed a defaulter, and the said share or shares shall be forfeited to the Corporation; and no subscriber shall, upon any pretence whatever, vote at the first meeting for the choice of Directors upon any share or shares upon which he has not paid the said deposit.

IV. And be it enacted, That every stockholder or subscriber shall pay into the hands of the Directors for the time being, or into the hands of such person or persons, or into the Cashier or Cashiers, Treasurer or Treasurers of such Body Corporate, or Bodies Corporate, as the Directors, or a majority of them, shall appoint, within the aforesaid six months, one fifth part or twenty per centum on the whole amount of his or her share or shares, including the deposit mentioned in the third section of this Act, and shall give to the President and Directors hereinafter mentioned, good and sufficient security or securities, either by bond and mortgage on real estate, or by bond with two or more good and sufficient sureties, renewable at least as often as once in three years, to the satisfaction of the said President and Directors for the time being, which securities shall be made and taken, and kept, and continued from time to time, to the satisfaction of such persons as the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice of the Executive Council, shall appoint to examine and report upon the funds and securities of the said Company, that the residue of the whole amount of his or her share or shares shall be paid from time to time, and in such parts or portions as to them the said President and Directors shall seem advisable; provided that the amount so to be called in shall not at any one time exceed twenty per centum on the whole amount of capital or stock belonging to any individual, and that not less than fifty days notice of such payment being required shall be given in one or more of the Newspapers published in this Province: Provided always, that the said Corporation shall not go into operation until the said sum of ten thousand pounds shall have been paid, and shall then be in the vault or office of the said Corporation or Company, and that as soon as the said sum shall have been so paid, the President shall give notice thereof to the Secretary of the Province, for the information of His Excellency the Lieutenant Governor or Administrator of the Government for the time being, who is hereby authorized, by and with the advice of Her Majesty's Executive Council, to appoint three Commissioners, not being stockholders, whose duty it shall be to examine and count the money actually in the vault or office, and to ascertain by the oaths of a majority of the Directors (which oaths any one of Her Majesty's Justices of the Peace for the City and County of Saint John is hereby authorized to administer,) that one fifth part of the amount of the Capital of the said Company hath been paid in by the stockholders towards the payment of their respective shares, and not for any other purpose.

V. And be it enacted, That a general meeting of the members and stockholders of the said Corporation, or the major part of them, shall take place in the City of Saint John, by notice in one or more of the Newspapers published in the said City, fourteen days previous to such meeting; which notice, W. J. Ritchie, or in case of his death, neglect, or refusal, any other of the persons incorporated in and by the first section of this Act, is hereby authorized and empowered to give, for the purpose of making, ordaining and establishing such bye laws, ordinances and regulations for the good order and management of the affairs of the said Corporation, as they shall deem necessary, and also for the purpose of choosing seven Directors, being members and stockholders of the said Corporation, under and in pursuance of the rules and regulations hereinafter made and provided; which Directors shall, as soon thereafter as may be convenient, meet together and choose out of their number a President, and shall also appoint at the same time, or at any future meeting, a Secretary, and so many and such other officers, clerks, servants, and agents, for carrying on the said business, as they shall deem requisite and necessary; and shall at the same time, or at any future meeting, accept and receive what remains due of the first instalment of the

twenty per centum on each subscriber or stockholder's share or subscription, and shall take from such subscriber such securities for the remainder of their subscriptions as is hereinbefore pointed out, and shall commence the operations of the said Insurance Company, subject to the rules and regulations as hereinafter provided, and shall continue and serve to be Directors aforesaid, until the first annual meeting for the choice of Directors as is hereinafter made and provided, or until others are chosen in their room; provided that the laws and ordinances at any time made shall be in no wise contrary or repugnant to the Laws and Statutes of this Province.

VI. And be it enacted, That there shall be a general meeting of the stockholders and members of the said Corporation held annually on the first Tuesday in June in each and every year, in the City of Saint John; at which annual meeting there shall be chosen by a majority of the said stockholders and members of the said Corporation then met, out of the said stockholders and members, seven Directors, who shall continue in office for one year, or until others are chosen in their room; in the choice of which Directors the stockholders and members of the said Corporation shall vote according to the rule hereinafter mentioned; and the Directors when chosen, or the major part of them, shall at the first meeting after their election, choose out of their number a President, who is to be chosen by a majority of votes, each Director having one vote; provided always, that four of the Directors in office shall be re-elected at such annual meeting for the next succeeding year, of which the President shall always be one.

VII. And be it enacted, That the Directors for the time being shall have power to do and execute all the matters and things contained in the preceding sections of this Act, as far as the same may be left unexecuted by the Directors therein mentioned, and that they shall manage the whole concerns of the said Corporation agreeably to this Act of Incorporation, and such bye laws, rules and regulations, as the stockholders and members thereof may from time to time establish, and also do and execute all other matters and things that may be necessary and requisite for the benefit of the Corporation; and also shall have power to appoint such officers, clerks, and agents, and establish such agencies, as they or the major part of them shall think necessary for executing the business of the said Corporation, and shall allow the said officers, clerks, agents and servants such compensation for their respective services as to them, the said Directors, shall appear reasonable and proper, all which, together with the expenses of buildings, house rent, and all other contingencies, shall be defrayed out of the funds of the said Corporation.

VIII. And be it enacted, That not less than three Directors shall constitute a Board for the transaction of business, of which the President shall always be one, except in case of sickness or necessary absence, in which case the Directors present may choose one of their Board as Chairman for the time being; that the President shall vote at the Board as a Director, and in case there be an equal number of votes for and against any question before them, the President shall have a casting vote.

IX. And be it enacted, That no Director shall be entitled to any salary or emolument for his services, but that the members and stockholders of said Corporation for the time being may make such compensation to the President as to them shall appear reasonable and proper.

X. And be it enacted, That no person shall be eligible as a Director unless such person is a stockholder, and holds not less than twenty shares of the Capital Stock of the said Corporation.

XI. And be it enacted, That the number of votes to which each stockholder shall be entitled on every occasion when in conformity to the provisions of this Act, the votes of the stockholders are to be given, shall be in the following proportion: for one share, and not more than two, one vote; for every two shares above two, and not exceeding ten, one vote, making five votes for ten shares; for every four shares above ten, and not exceeding thirty, one vote, making ten votes for thirty shares; for every six shares above thirty, and not exceeding sixty, one vote, making fifteen votes for sixty shares; and for every eight shares above sixty, and not exceeding one hundred, one vote, making twenty votes for one hundred shares; which said number of twenty votes shall be the greatest that any stockholder shall be entitled to have.; and that every person may vote by proxy, provided such proxy be a stockholder, and previous to voting produce a sufficient authority from his constituent or constituents so to act; and provided further, that no stockholder shall hold more than five proxies.

XII. And be it enacted, That if it should so happen that the Directors should not be chosen on the first Tuesday in June in any year aforesaid, it shall and may be lawful to. choose them on any other day, between the hours of twelve at noon and three in the afternoon of said day, upon giving fourteen days notice of the time and place of meeting, which shall take place in the City of Saint John; and in case any Director should disqualify himself by the sale, disposal or transfer of his shares, or of any of them, so as to reduce his interest in said stock to less than twenty shares required for the qualification of a Director, or in case of the removal of a Director by the stockholders for misconduct or mal-administration, his place shall be filled up by the said stockholders, fourteen days notice of the time and place of meeting being first given; and in case of any vacancy among the said Directors by death, resignation, or absence from the Province for three months, the said Directors shall or may fill up the same by choosing one of the stockholders, and the person so chosen by the said Stockholders or Directors shall serve until another be chosen in his room.

XIII. And be it enacted, That as soon as the said first instalment often thousand pounds shall have been actually paid in manner and form as is hereinbefore provided, on account of the subscriptions to the said stock, notice thereof shall be given in one or more of the Newspapers published in the City of Saint John, and the Directors shall commence with the business and operations of the said Corporation: Provided always, that no insurance shall be effected, nor shall any policy be signed in manner as is hereinafter provided, until the sum of ten thousand pounds shall be actually paid and received on account of the subscriptions to the capital or stock of the said Corporation.

XIV. And be it enacted, That the said Corporation shall have power and authority to make insurance on houses, mills, manufactories, buildings, ships or other vessels on the stocks, or in the rivers or in port, merchandize, monies, goods, wares, and effects, against loss or damage by fire, and to fix the premium and terms of payment; and all polices of insurance by them made, shall be subscribed by the President, or in case of his death, absence, sickness or inability, by any two of

the Directors, and countersigned by the Secretary of the said Corporation, or in case of the sickness, absence or inability of the Secretary, by such person or persons as the Directors, or a majority of them, may appoint to act in his stead, and shall be binding and obligatory upon the said Corporation and Company; and that all losses duly arising under any policy so subscribed and countersigned, shall and may be adjusted and settled by the Board of Directors, and the same shall be binding on the said Corporation, and shall be paid to the assured within ninety days from such adjustment: Provided always, that the said Directors shall not in any case make insurance on any single building or goods contained therein, to an amount exceeding three thousand pounds.

XV. And be it enacted, That all policies entered into in behalf of the said Company and Corporation by any agent or agents duly appointed by the Directors, or a majority thereof, shall in addition to the signing and countersigning required by the thirteenth section of this Act, be also countersigned by the said agent or agents, and especially mention in the said policy the invalidity of such policy without such additional countersigning, and no policy entered into by any agent or agents of the said Company or Corporation shall be obligatory upon the said Company or Corporation without these requisites are complied with.

XVI. And be it enacted, That it shall be the duty of the: Directors of the said Corporation, or a quorum thereof, to make half yearly dividends of all the profits rents, premium and interest of the said Corporation, payable at such time: and place as the Directors, or a quorum thereof, shall appoint, of which they shall give thirty days previous notice in one or more of the Newspapers published in the City of Saint John: Provided always, that the monies received for premium of risks which shall be undetermined and outstanding at the time of the making of such dividends, shall not be considered as part of the said profits of the said Company; and provided farther, that if the amount of Capital or Stock paid as by this Act is required, shall be by any means reduced to a sum less than ten thousand pounds, then in such case no dividend or dividends whatsoever shall be declared or made until a sum equal to the said sum of ten thousand pounds shall be vested for the use of the said Company.

XVII. And be it enacted, That the said Corporation shall have full power and authority to take, receive, hold, possess and enjoy in fee simple, any lands, tenements, and real estate, and rents, to any amount not exceeding five thousand pounds: Provided nevertheless, that nothing herein contained shall prevent or restrain the said Corporation from taking or holding real estate or chattels to any amount whatsoever, by mortgage taken as a collateral security for the payment of any sum or sums of money advanced by or debts due to the said Corporation, or for the security of the payment of the amount of such part of the Capital or Stock of the said Corporation that shall at any time or times remain unpaid.

XVIII. And be it enacted, That the Capital or Stock of the Company collected at each instalment, and at the times and manner hereinbefore provided, shall be by the said Directors invested and disposed of in such public funds, or to such public or corporate bodies, or associations, a may be deemed advisable, and in the event of there being no public funds, or public or corporate bodies or associations in which the same can be safely vested, or to whom the same can be advantageously and safely lent and disposed of, then it shall and may be lawful for

the said Directors, or a majority of them, to apply and dispose thereof, by letting the same out at interest, either upon the security of lands or real estate: Provided always, that no monies of the said Corporation shall be put out at interest nor any security taken for the same by bond or mortgage for a shorter period than one year; and further provided, that as long as the amount of the said first instalment of ten thousand pounds, or any part thereof, shall be at the disposal of the said Directors, and shall be required for the use of the Province, then it shall be obligatory upon the said Directors to loan the said sum of ten thousand pounds, or any part thereof, to the Province, or the Treasurer thereof, for the public use of the Province, at the rate of not exceeding six per centum per annum; and further provided, that nothing herein contained shall be construed to extend to deprive the Directors of their right of calling upon the Province for the payment of the said sum of ten thousand pounds, or any part thereof they may require to meet any extraordinary loss the surplus fund hereinafter provided and any disposable fund of the Corporation may not sufficiently provide for or discharge, or to call in the same upon the dissolution of the said Corporation.

XIX. And be it enacted, That the Directors of the said Corporation shall not at any half yearly dividend of the profits, rents and premiums, and interest of the said Company, divide or pay, or cause or permit to be divided or paid, any greater or larger dividend than will amount, to the rate of six pounds per centum on the total amount of Capital Stock collected and actually invested and disposed of as is provided in and by this Act; and also that the sum at any time divided and paid shall not exceed two thirds of the net amount of the actual gains and earnings of the said Company, gained and earned since the making of the then last dividend: Provided always, that whenever the Capital or Stock actually invested as by this Act is required, and the surplus fund, shall together amount to the sum of twenty five thousand pounds, then the Directors of the said Company may, if they think the same advisable, divide and pay the whole of the net amount of the gains and earnings of the said Company at each half yearly dividend, any thing herein contained to the contrary thereof in any wise notwithstanding.

XX. And be it enacted, That it shall and may be lawful to and for the Directors of the said Corporation to use, apply and dispose of the monies arising in the course of the dealing of the said Corporation, and all the profits, rents, premiums, and interest thereof, by letting the same out at interest, either upon the security of lands or real estate, as the Directors thereof may think fit, any thing contained in this Act to the contrary notwithstanding; provided always, that no monies of the said Corporation shall be put out at interest, nor any security taken for the same, except by Bond and Mortgage, nor for a shorter period than one year.

XXI. And be it enacted, That the said Company or Corporation shall not directly or indirectly deal or trade in buying or selling gold or silver coins or bullion, or bills of exchange, or other negotiable instruments, or any goods, wares, merchandize or commodity whatsoever, or deal in the lending of money or in bills of exchange, or other negotiable instruments, by way of discount or otherwise, or engage in any banking operations whatsoever; provided always, that nothing herein contained shall be construed to extend to prevent the Company from hiring or lending its funds arising either from the payment of any instalments or from the accumulation of its profits, rents, premiums, and

interest, agreeably to the terms and provisions of the seventeenth and nineteenth sections of this Act, any thing herein contained to the contrary thereof in any wise notwithstanding.

XXII. And be it enacted, That the shares, capital or stock of the said Company, shall be assignable or transferable, according to such rules and regulations as may by the members and stockholders be established in that behalf, but no assignment or transfer shall be valid or effectual unless such assignment or transfer shall be entered and registered in a book to be kept by the Directors for that purpose, and in no case shall any fractional part of a share be assignable or transferable, and that whensoever any stockholder shall transfer in manner aforesaid all his or her stock or shares in the said Corporation to any other person or persons whomsoever, such person shall cease to be a member of the said Corporation, and the person or persons so purchasing shall become a member of the said Corporation in his or her stead, and be entitled to all the privileges as such.

XXIII. And be it enacted, That in case of any loss or losses taking place, which shall be equal to the Capital or Stock of the said Company, and the President and Directors, after knowing of such loss or losses taking place, shall make any further policy of insurance, they and their estates, jointly and severally, shall be accountable for the amount of any and every loss which shall take place under such policy or policies so made.

XXIV. And be it enacted, That the joint stock or property of the said Corporation shall be responsible for the debts and engagements of the said Corporation, and that no person or persons who shall or may have dealings with the said Corporation, shall on any pretence whatsoever have recourse against the separate property of any present or future member or members of the said Corporation, or against their person or persons, further than has been hereinbefore provided, and that may be necessary to secure the faithful application of the funds of this Corporation.

XXV. And be it enacted, That the bonds and other securities of what nature or kind soever, taken for the payment of the residue of the said Capital or Stock as is hereinbefore directed, shall from time to time be renewed or changed, and other and farther security or securities for the same be given as is provided in and by the fourth section of this Act; and in case of any refusal or delay to renew or change any such security or securities, or to give or grant other and further security or securities therefor, to the satisfaction of the said Directors, or a majority thereof, within thirty days after notice thereof given, then and in such case it shall and may be lawful to and for the said Directors, or a majority thereof, to cause such proceedings both in law or in equity, or either, as may be deemed requisite, to be taken for the recovery of the amount of such several security and securities; or it shall and may be lawful to and for the said Directors, or a majority thereof, if they shall think fit, to declare the shares in the said Capital or Stock, for the amount of the residue of which such security or securities shall have been given, forfeited to the said Company, together with all deposits, instalments, interests, profits or dividends thereto belonging or appertaining, and that such stock, so forfeited shall be sold by public auction for and on account of the said Company, and the purchaser or purchasers thereof shall give such security or securities for the payment of the amount due to the said Company on account of such forfeited shares at the time of such forfeiture, as is hereinbefore provided, and shall likewise be subject to all the

provisions of this Act, any thing herein contained to the contrary thereof in any wise notwithstanding.

XXVI. And be it enacted, That the books, papers, correspondence, and all other matters and things belonging to the said Corporation, shall at all times be subject to the inspection of the Directors, or any of them; but no stockholder, not a Director, shall inspect the account of any individual or corporate body with the said Company.

XXVII. And be it enacted, That the Directors shall at the general meeting to be holden on the first Tuesday in June in every year, lay before the stockholders for their information, an exact and particular statement in triplicate of the then state of the affairs and business of the said Company, agreeably to the several regulations of this Act, and such other rules and regulations as may by the members and stockholders of the Corporation be made by virtue hereof, so as the same may contain a true account of the whole of the affairs of the said Corporation; which statement in triplicate as aforesaid shall be signed by the Directors, and attested on oath by the Secretary, or in case of his sickness, absence, or inability to attend, by such person or persons as the Directors, or any quorum thereof, may appoint to act in his stead, and shall be transmitted to the Secretary of the Province for the information of His Excellency the Lieutenant Governor or Administrator of the Government for the time being, and the Legislature: Provided always, that the rendering of such statement shall not extend to give any right to the stockholders, not being Directors, to inspect the accounts of any individual or individuals with the said Corporation.

XXVIII. And be it enacted, That any Joint Committee hereafter to be appointed by the Honorable the Legislative Council and the House of Assembly, for the purpose of examining into the proceedings of the said Corporation, shall either during the Session or prorogation of the General Assembly, have full access to all the books and accounts of the same.

XXIX. And be it enacted, That any number of stockholders not less than twenty, who together shall be proprietors of one thousand shares, shall have power at any time by themselves or their proxies to call a general meeting of the stockholders for any purpose relating to the business of the said Corporation, other than a dissolution thereof, giving at least thirty days notice in two of the Newspapers published in the City of Saint John, and specifying in such notice the time and place of such meeting, with the objects thereof; and the Directors, or any four of them, shall have the like power at any time (upon observing the like formalities) to call a general meeting as aforesaid.

XXX. And be it enacted, That any number of stockholders not less than thirty, who together shall be proprietors of three thousand five hundred shares, shall have the power at any time by themselves or their proxies to call a general meeting of the stockholders for the purpose of taking into consideration the propriety of dissolving the said Company, giving at least three months previous notice in one or more of the Newspapers published in the City of Saint John, and specifying in such notice the time and place of such meeting, with the object thereof; and should it be agreed upon at such meeting that the said Company or Corporation should be dissolved, such stockholders are hereby authorized and empowered to take all legal and necessary ways and



means to dissolve the said Company; and upon such or any other dissolution of the said Company, the Directors then in office shall take immediate and effectual measures for closing all said concerns of the said Corporation, and for dividing the capital and profits which may remain among the stockholders in proportion to their respective interests.

XXXI. And be it enacted, That the Secretary of the said Company shall on the first Thursday in January in each and every year, make a return in triplicate of the state of the affairs of the said Company, as they existed at three of the clock in the afternoon of that day, and shall forthwith transmit the same to the Office of the Secretary of the Province; which return shall specify the aggregate amount of the risks at that time taken by the said Company; the amount of losses incurred during the preceding year; the amount of Capital actually paid in, and how the same has been invested and secured; also a particular statement of the manner in which the residue of the Capital has been secured; the amount of the dividends for the preceding year, and when declared; together with the amount of surplus profits then belonging to the said Company, and how the same have been invested and secured; the amount of real estates owned by said Company, together with a particular statement of all other the affairs of the said Corporation: which return shall be signed by the Secretary of the said Company, who shall make oath or affirmation before some Magistrate qualified to administer oaths, to the truth of said return, according to the best of his knowledge and belief; and the Secretary of the said Company shall also at the time hereinbefore mentioned make a return, under oath, of the names of the stockholders, and the amount of stock owned by each; and a majority of the Directors of the said Corporation shall certify and make oath or affirmation before the same Magistrate as the said Secretary, that the books of the said Company indicate the state of facts so returned by their Secretary, and that they have full confidence in the truth of the return so made by him; and it shall be the duty of the Secretary of the Province annually to lay before the Legislature of this Province, as soon after the opening of the Session thereof as practicable, such returns as aforesaid, as he may have received since the then last previous Session.

XXXII. And be it enacted, That when the said Corporation shall have provided and secured the said Capital or Joint Stock of fifty thousand pounds as aforesaid, it shall and may be lawful for them to cause insurances to be made on houses, buildings, stores, goods, wares, and merchandize, within this Province, from loss and damage by fire, to the value of two hundred thousands pounds, and no more; and the whole of the said Capital or Joint Stock shall be pledged and liable to make good all and every loss which may happen upon all or any of the said policies; and in case the said Corporation shall at any time make any insurances beyond the said sum of two hundred thousand pounds, each of the members of the said Corporation shall be liable in their own persons and estates for his share or proportion of such sums insured beyond the said sum of two hundred thousand pounds.

XXXIII. And be it enacted, That this Act shall be and continue in force until the first day of May which will be in the year of our Lord one thousand eight hundred and sixty eight.