

Laws of Her Majesty's Province of Newfoundland, passed in the year 1852.

15 Victoria – Chapter 12

An Act to Incorporate sundry Persons by the name of the Newfoundland Marine Assurance Company. (Passed 14th June, 1852.)

Whereas the establishment of a Company at St. John's for making Assurances on Ships, Goods and Freights, against the perils and dangers of the Seas and Navigation, will be advantageous to the Commerce of the Colony: And whereas the several Persons hereinafter named, with others, have entered into a Subscription to raise in Shares such sums as may be sufficient for a Joint Stock or Fund for the said purposes, and have prayed to be Incorporated:

Be it therefore enacted, by the Governor, Council, and Assembly, in Legislative Session convened, and by the authority of the same, That Laurence O'Brien, Eugenius Harvey, James J. Grieve, Robert Prowse, James Furlong, Henry K. Dickenson, James J. Rogerson, Thomas Row, John Munn, Thomas H. Ridley, William Donnelly, Peter McBride, James S. Clift, Edward Bowring, George H. Wilson, William H. Mare, Richard O'Dwyer, Edward L. Jarvis, and all such other Persons as may hereafter become Stockholders in the Company hereby established, their respective Successors, Executors, Administrator and Assigns, shall be and they are hereby united into a Company, and declared to be a Body Politic and Corporate by the name of "The Newfoundland Marine Assurance Company," and by that name shall have perpetual succession, and a Common Seal, with power to alter the same; and by that name also shall and may sue and be sued, plead and be impleaded, at Law or in Equity; and also shall and may from time to time, and at all times, have full power and authority to ordain, make and establish all such Rules and Bye-laws, and to do and perform all such other acts, deeds, matters and things whatsoever as may be necessary to the good government and management of the business of the said Corporation, and as to them as such Body Politic and Corporate shall appertain to do: Provided always that such Rules and Bye-laws shall not be inconsistent with the true intent and meaning of this Act, nor repugnant to the Laws of this Colony.

II. And be it enacted, That the Capital, or Joint Stock of the said Corporation, shall consist of the Sum of Twenty-five Thousand Pounds, in One Thousand Shares of Twenty-five Pounds each; to be paid in Dollars at Five Shillings each, or in other Coins at equivalent value; Two Thousand Five Hundred Pounds whereof, being one-tenth part of the said Capital or Joint Stock, shall be paid within Twelve Calendar Months after the passing of this Act, and the remaining Nine-tenths, or Twenty-two Thousand Five Hundred Pounds, shall be paid at such time or times, and in such parts or portions, as the Directors for the time being of the said Corporation, or a majority of them, shall from time to time think necessary.

III. And be it enacted, That all the Subscribers for Stock or Shares in the said Corporation shall, previous to the day of the First General Meeting of the Members and Stockholders of the said Corporation, to be called as hereafter mentioned, pay into the hands of such person or persons as the persons mentioned by name in and by the First Section of this Act, or the major part of them, or in case of the death of any of them, the major part of the survivors, may direct, a deposit of two and one-half per centum upon the amount of Capital Stock of the said Corporation for which they shall have

subscribed; and the said deposit shall be taken and allowed to every Subscriber who shall pay the same as part and parcel of the first one-tenth part 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 in respect of which he or she 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 General Meeting in respect of any Share or Shares upon which he or she shall not have paid the said deposit.

IV. And be it enacted, That every Stockholder or Subscriber shall, within the said twelve months after the passing of this Act, pay into the hands of the Directors for the time being of the said Corporation, or into the hands of such person or persons as they or a majority of them shall appoint, one tenth part, or ten per centum on the whole amount of his or her Shares, deducting the deposit mentioned in the Third Section of this Act, and shall give to the President and Directors hereinafter mentioned, good and satisfactory security or securities, either by bond and mortgage on real estate or otherwise, at the option and to the satisfaction of the said President and Directors, or a majority of them, renewable at least as often as once in every year, unless secured on real estate, and oftener if the said President and Directors, or a majority of them, shall require, that one other tenth part or ten per centum on the whole of his or her Share or Shares shall also be paid to the said President and Directors for the time being of the said Corporation, within the said twelve months after the passing of this Act, in the manner hereinafter provided, and that the residue of the whole amount of his Share or Shares shall be paid to the said President and Directors for the time being of the said Corporation, from time to time, and in such parts and portions, and in such manner, as to them the said President and Directors, or a majority of them, shall seem advisable; provided that the amount so to be called in shall not exceed at any one time twenty per centum on the whole amount of the Capital Stock of the said Corporation belonging to any individual, and that not less than thirty days' notice of such payment being required shall be given in one or more of the newspapers published at Sr. John's: Provided also, that nothing herein contained shall be so construed as to prevent any Shareholder from paying up the whole amount of his or her Share or Shares, if he may desire to do so, in preference to giving security for any unpaid portion of such Shares, and if the Directors for the time being shall consent to receive such amount in money, upon which such Shareholder shall be entitled to receive dividends in proportion to the sum or sums of money so paid and received: Provided always, that the said Corporation shall not go into operation until the said sum of Two Thousand Five Hundred Pounds shall have been paid, and shall then be in the vault or office of the said Corporation, or deposited in an Incorporated Bank established in St. John's; and that as soon as the said sum of Two Thousand Five Hundred Pounds shall have been so paid, the President shall give notice thereof to the Secretary of the Colony for the time being, for the information of His Excellency the Governor, or Commander-in-Chief for the time being, who is hereby authorised, by and with the advice of Her Majesty's Council, to appoint Three Commissioners, not being Stockholders, whose duty it shall be to examine and certify to His Excellency that the said Money is in the vault or office, or in a Bank as aforesaid; and also 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 District of St. John's is hereby authorized to administer) that one tenth part of the Capital Stock of the Corporation has 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 when Two Hundred and Fifty Shares of the Capital Stock of the Corporation shall have been subscribed for a General Meeting of the Members and Stockholders of the said Corporation shall be called, to take place in St. John's, by notice in one or more of the public newspapers published there, fourteen days at least previous to the day of such Meeting, which notice Edward L. Jarvis, of St John's, or, in case of his death, neglect, or refusal, any other one of the persons mentioned by name in and by the First Section of this Act is hereby authorised 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, by ballot, Nine 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, by ballot, 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 take such security from them, for the due performance of their duties, as they shall think meet and advisable, and shall, at the same time, or at any future Meeting, accept and receive what remains due of the first instalment of the ten per centum on each Subscriber or Stockholder's Share or Subscription, and shall take from such Subscribers such Securities for the remainder of their Subscriptions as hereinbefore pointed out, and shall commence the operations of the said Assurance Company, subject to the Rules and Regulations as hereinafter provided, and shall continue and serve as Directors as aforesaid, until the First Annual Meeting for the choice of Directors, as hereinafter provided, or until others are chosen in their room.

VI. And be it enacted, That there shall be a General Annual Meeting of the Stockholders and Members of the said Corporation held on the Second Tuesday in May, in each and every year after the present year One Thousand Eight Hundred and Fifty-two, at St. John's; at which Annual Meeting the Stockholders and Members of the said Corporation then present, or represented by proxy, shall first elect, by ballot, Five Directors for the ensuing year, out of the Nine Directors who shall have served for the preceding year, of which Five Directors the President shall always be one (subject, nevertheless, to removal from his said Office of President in manner hereinafter provided). And the said Stockholders shall then elect, by ballot, Four other Directors from the Stockholders of the Company qualified to become Directors. Provided always, that it shall be competent for the said Stockholders to re-elect the four persons who were Directors for the preceding year, if they shall think fit so to do.

VII. And be it enacted, That the Directors for the time being of the said Corporation 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 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 said Corporation, and also shall have power to appoint and remove at pleasure a Secretary, and such other Officers, Clerks and Agents, as they, or the major part of them, shall think necessary for executing the business of the said Corporation, and shall allow the said Secretary, 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 or Office 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 all questions relating to any business to be transacted at the Board shall be decided by a majority of the votes of the Directors then present, and that no Director shall have more than one vote except the President or Chairman so chosen as aforesaid, who shall vote at the Board as a Director, and shall also have a casting vote in all Questions where the Votes shall happen to be equal.

IX. And be it enacted, That the said Directors, and such others as may be chosen by the said Stockholders, shall receive reasonable compensation for their attendance at the Board, to be ascertained and determined by a Bye-law or Rule of the Corporation, which compensation shall not exceed Five Shillings for each day's attendance at the Board by the President or any of the Directors.

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 Ten Shares of the Capital Stock of the said Corporation in his own right.

XI. And be it enacted, That in all Actions, Suits and Prosecutions in which the said Corporation may be at any time engaged, the Stockholders, Secretary, and other Officers of the said Corporation, shall be competent Witnesses, notwithstanding any interest they may have therein.

XII. And be it enacted, That on every occasion when, in conformity to the Provisions of this Act, the Votes of the Stockholders are to be given, every Stockholder may vote by Proxy, provided such Proxy be a Stockholder, and, previous to voting, produce a sufficient authority in writing, from his Constituent or Constituents, so to act; that all questions be decided by a majority of the Votes of all the Stockholders then present or represented by Proxy; and that the number of Votes which each Stockholder shall be entitled to give, shall be One Vote for each Share he may hold in the Capital Stock of the said Corporation; provided that no Stockholder shall hold at any one time more than Five Proxies: And provided also, that no Stockholder shall be allowed to give more than One Hundred Votes upon any question, either in respect of his own Shares or in respect of any Proxy or Proxies of which he may be the holder.

XIII. And be it enacted, That if it should so happen that the Directors should not be chosen on the Second Tuesday in May in any Year, as aforesaid, it shall and may be lawful to choose them on any other day, between the hours of Eleven in the Forenoon and Four in the Afternoon of the said Day, upon giving Fourteen Days' Notice of the time and place of meeting, which shall take place at St. John's; and in case the President, or any other Director, should disqualify himself by the Sale, Disposal or Transfer of his Shares or any of them, so as to reduce his interest in the said Capital Stock to less than the Ten Shares required for the qualification of a Director, or in case of the removal of the President, or any other 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 being first given; and in case of

any vacancy among the said Directors by the death, resignation, or absence from the Colony for Three Months, the said Directors for the time being shall and may, if they shall think fit, fill up the same by choosing One of the Stockholders, duly qualified, and the Person so chosen by the said Stockholders, or by the said Directors, shall serve until another be chosen in his room.

XIV. And be it enacted, That as soon as One-half of the Capital Stock of the said Company shall have been subscribed, and instalments amounting to Two Thousand Five Hundred Pounds, shall have been actually paid in manner and form as hereinbefore provided, and good and satisfactory Security for the sum of Ten Thousand Pounds of the said subscribed Stock shall have been given in the manner provided by the Fourth Section of this Act, on account of the Subscriptions to the said Capital Stock, notice thereof shall be given in the Royal Gazette and One or more of the other Newspapers published in this Colony, 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 hereinafter provided, until the Said sum of Two thousand Five Hundred Pounds shall be actually paid in and received on account of the Subscriptions to the Capital Stock of the said Corporation.

XV. And be it enacted, That the said Corporation shall have power and authority to make Marine Insurance on Vessels, Freights, Monies, Goods and Effects, and in case of Money lent upon Bottomry and Respondentia, and to fix the provisions and terms of payment, and all Policies 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 shall be countersigned by the Secretary of the said Corporation, or in case of the sickness, absence, or inability of the Said Secretary, then 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 on the said Corporation; 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 Sixty Days after such adjustment:

Provided always, that the said Directors shall not in any case make Insurance on any single risk to an amount exceeding Three Thousand Pounds.

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, Premiums and Interest of the said Corporation, or of so much thereof as they shall think fit, payable at such time and place as the said 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 this Colony: Provided that the Monies received and Notes taken for Premiums of Risks which shall be undetermined and outstanding at the time of making any such Dividend, shall not be considered as part of the said profits of the said Corporation: And provided further, that no Dividend or Bonus shall be declared or paid out of the Capital Stock of the said Corporation.

XVII. And be it enacted, That the said Corporation shall have full power and authority to take, receive, hold, possess and enjoy, 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 collateral security for the payment of any sum or sums 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 Stock of the said Corporation as shall at any time or times remain unpaid.

XVIII. And be it enacted, That the Capital Stock of the said Corporation, collected at each instalment and at the times and manner hereinbefore provided, shall be by the said Directors invested in such Public Funds or Loaned to and invested on the security of such Public or Corporate Bodies or Associations, or Joint Stock Companies, as may by the said Directors be deemed advisable; and in the event of there being no Public Funds or Public or Corporate Bodies or Associations, or Joint Stock Companies, to which the same can be advantageously lent and disposed of, or in which the same can be safely invested, then it shall and may be lawful for the said Directors, or a majority of them, to apply the same and dispose thereof by letting out the same at Interest upon the security of Lands, or upon other security, as they may think fit: Provided that no Loan of the Capital Stock at any time to be created under the provisions of this Act, or any part thereof, shall be made directly or indirectly to any Director of the said Company, nor shall any such Director be a party to any Security for any such Loan; and no Stockholder to whom any part of the said Capital Stock shall have been lent shall be eligible as a Director while the Loan continues.

XIX. 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 other Property, or otherwise, as the Directors thereof may think fit, anything contained in this Act to the contrary notwithstanding; and the restrictions as to loans to Directors, and to the eligibility as Directors of Stockholders to whom Money may have been loaned, which are contained in the last preceding section with regard to the Capital Stock, shall extend and apply in all respects to any loans of money to be made by virtue of this present section, in like manner as if the same were repeated herein: Provided always, that nothing herein contained shall be so construed as to prevent any Director's Note from being received by the said Corporation on account of any Premium for a Policy of Insurance granted on behalf of such Director, as a party assured, either on his individual account, or as Agent for others.

XX. And be it enacted, That the said Corporation shall not directly or indirectly Deal or Trade in Buying or Selling any Goods, Wares, Merchandize or Commodities whatsoever: Provided nevertheless that it shall be lawful for the said Corporation to take, receive, hold, possess and enjoy any Ships, Goods, Merchandize, Chattels or Commodities whatsoever, which shall have been abandoned to the said Corporation by reason of any loss or damage having occurred to the same, and shall and may sell and dispose of the same at such time or times, and in such manner, as to the said Directors for the time being shall seem expedient.

XXI. And be it enacted, That the Shares or Capital Stock of the said Corporation shall be liable to Attachment and Execution in like manner as the Shares in the St. John's Gas Light Company, and shall be assignable or transferable according to such Rules and Regulations as may be by the Members and Stockholders 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 whenever 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, the Person so transferring 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 and subject to all the liabilities as such; Provided always, that nothing herein contained shall be construed to exempt any Shareholder who may transfer his Share aforesaid from any liability he may have incurred as a member of the said Corporation up to the time of the transfer aforesaid.

XXII. And be it enacted, That in case of any loss or losses taking place, which shall be equal to the Capital Stock of the said Corporation, and the President and Directors after knowing of such loss or losses taking place shall make any further Policy of Assurance, 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.

XXIII. And be it further enacted, That the Stockholders of the said Corporation shall be individually liable for the payment of the Debts and Engagements of the said Corporation to an amount equal to that of the Stock owned by them respectively: Provided that nothing herein contained shall be construed to exempt the Joint Stock of the said Corporation from being liable for, and chargeable with, the Debts and Engagements of the same.

XXIV. And be it enacted, That the Bonds and other Securities of what nature or kind soever, taken for the payment of the Second Instalment and residue of the said Capital Stock as is hereinbefore directed, shall from time to time be renewed or changed, and other and further 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 and 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 of them, to cause such proceedings both in Law or Equity, or either, as may be deemed requisite, to be taken for the recovery of the amount of such several and respective securities, or it shall and may be lawful to and for the said Directors or a majority of them, if they shall think fit, to declare the Shares in the Capital Stock of the said Corporation for the amount of the residue of which such security or securities shall have been given, forfeited to the said Corporation, 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 Corporation, and the purchaser or purchasers thereof shall give such security or securities for the payment of the amount due to the said Corporation 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, anything herein contained to the contrary notwithstanding.

XXV. 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 Corporation, unless at any General or Special Meeting of Stockholders.

XXVI. And be it enacted, That the Directors shall, at the General Meeting to be holden on the Second Tuesday in May, in each and 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 Corporation, agreeably to the several Regulations of this Act and such other Rules and Regulations as may by the Members and Stockholders of the said 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 shall be transmitted to the Secretary of the Colony for the information of His Excellency the Governor or Commander-in-Chief for the time being, and the Legislature.

XXVII. 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 Corporation, shall, either during the Session or Prorogation of the General Assembly, have free access to all the Books and Accounts of the same.

XXVIII. And be it enacted, That any number of Stockholders, not less than Twelve, who together shall be proprietors of Four Hundred 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 this Colony, and specifying in such notice the time and place of such Meeting, with the object thereof; and the Directors, or any Five of them, shall have the like power, at any time, upon observing the like formalities, to call a General Meeting as aforesaid.

XXIX. And be it enacted, That any number of Stockholders, not less than Twenty, who together shall be Proprietors of Seven Hundred and Fifty Shares in the Capital Stock of the said Corporation, 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 Corporation, giving at least Three Months' previous notice in two or more of the Newspapers published in this Colony, and specifying in such notice the time and place of such Meeting, with the objects thereof; and should it be agreed upon at such Meeting that the said Corporation should be dissolved, such Stockholders are hereby authorised and empowered to take all legal and necessary ways and means to dissolve the said Corporation; and upon such or any other dissolution of the said Corporation, the Directors then in Office shall take immediate and effectual measures for closing all the concerns of the said Corporation, and for dividing the Capital and Profits which may remain, among the Stockholders, in proportion to their respective Shares.

XXX. And be it enacted, That the Secretary of the said Corporation shall, on the Second Thursday in January in each and every Year, make a Return in Triplicate of the state of the affairs of the said Corporation, 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 Colony, which Return shall specify the aggregate amount of the risks at that time taken by the said Corporation, the amount of losses incurred during

the preceding Year, the amount of Capital actually paid in, 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, and the amount of the Dividends for the preceding Year, and when declared, together with the amount of Surplus Profits, if any, then belonging to the said Corporation, and how the same have been invested and secured; the amount of Real Estate owned by the said Corporation, 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 Corporation, who shall make Oath or Affirmation before some Justice of the Peace for St. John's, as to the truth of the said Return, according to the best of his knowledge and belief; and the Secretary of the said Corporation shall also at the same time make a Return, under Oath or Affirmation, 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 that the Books of the said Corporation 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 Colony annually to lay before the Legislature of this Colony, so soon after the opening of the Session as practicable, such Returns as aforesaid, as he may have received since the then next preceding Session.

XXXI. And be it enacted, That this Act shall be deemed a Public Act, and shall be judicially taken notice of as such in all Courts of Law and Equity in this Colony by all Judges, Justices and other Persons; whatsoever, without the same being specially shewn or pleaded.