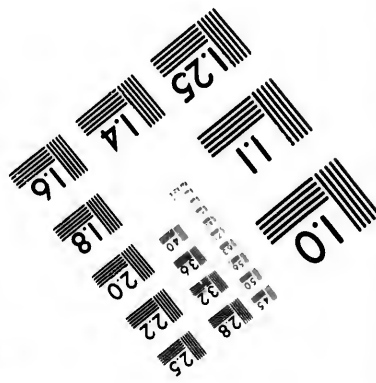
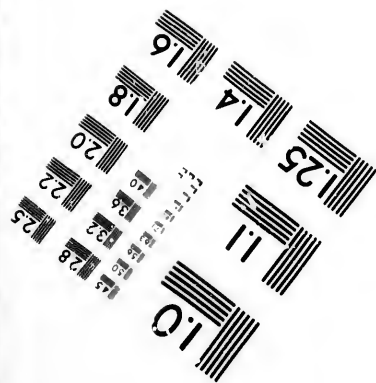
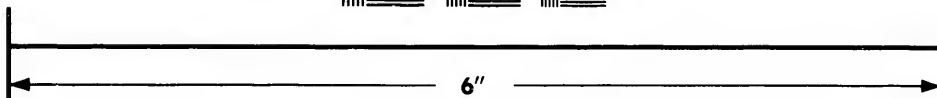
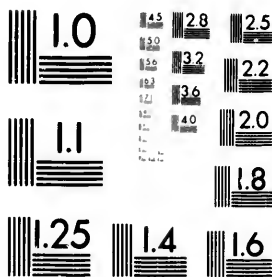


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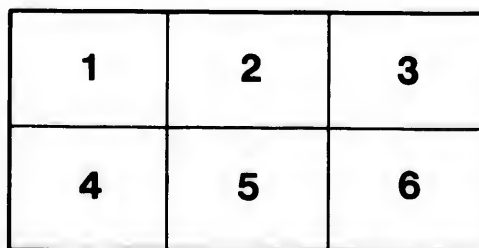
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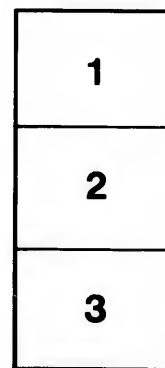
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PUBLIC GENERAL ACTS

OF THE ONTARIO LEGISLATURE

RELATING TO INSURANCE.

WITH NOTES OF AMENDMENTS AND AN ANALYTICAL INDEX; ALSO A LIST OF

SPECIAL ACTS OF INCORPORATION.

BY

J. HOWARD HUNTER, M.A.,

Inspector of Insurance, for Ontario.



Toronto:

PRINTED BY C. BLACKETT ROBINSON, 5 JORDAN STREET.

1881.

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ACTS OF THE

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- (b) Mutual Companies. { Examination into Company's affairs, ch. 161, s. 78.
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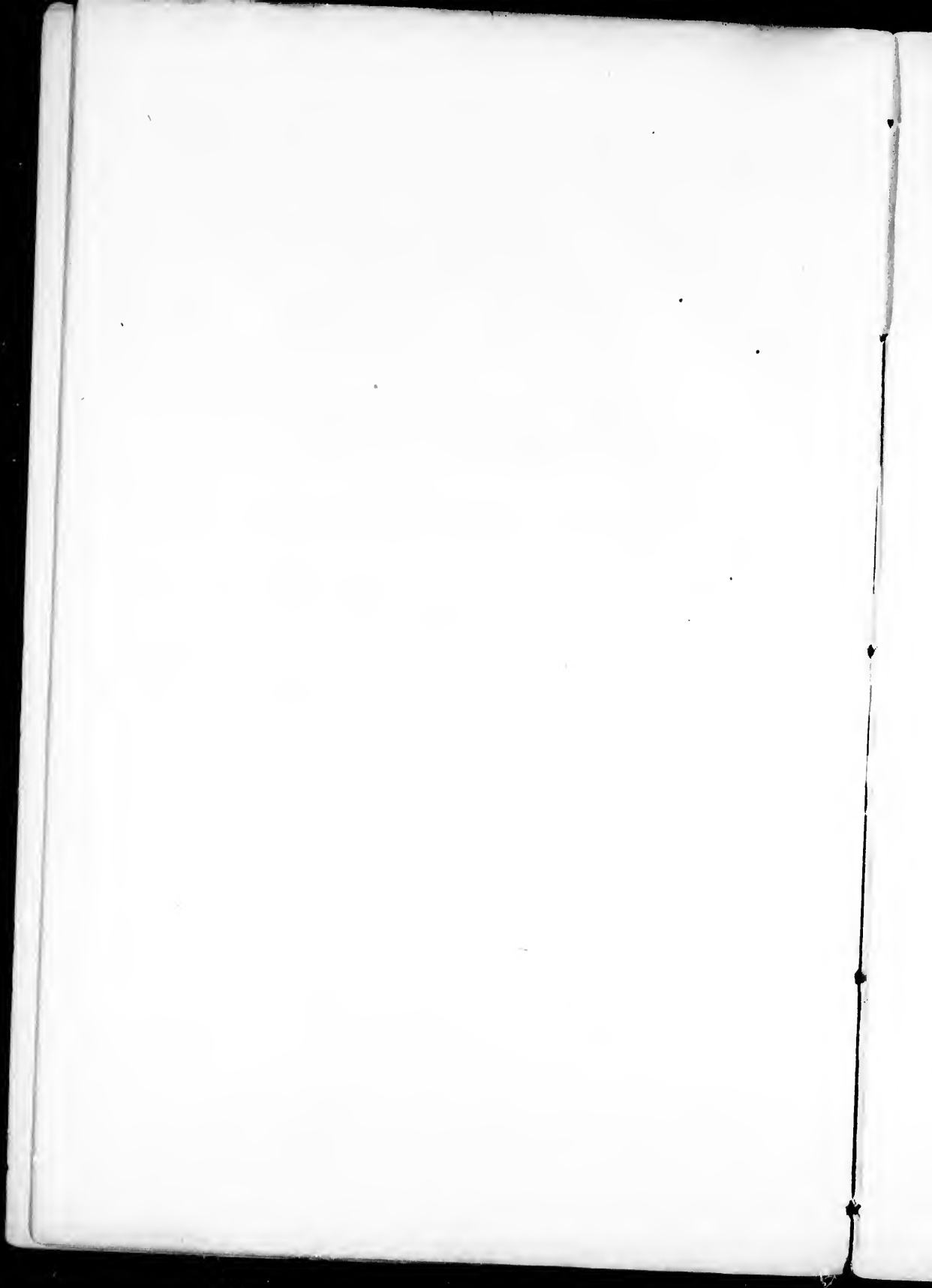
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PROVINCE OF ONTARIO.

PUBLIC GENERAL ACTS

RELATING TO INSURANCE.

CHAPTER 160.

REVISED STATUTES OF ONTARIO.

An Act respecting Insurance Companies.

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Companies to which Act does not apply, s. 2.	Duty of Company ceasing to do business, ss. 23-25.
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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Ontario Insurance Act.*" Short title.
2. This Act shall not apply to any Company licensed under Act of the Parliament of Canada to transact business of insurance in Canada, nor to any Company incorporated by Act of Parliament of Canada, nor to any Mutual Fire Insurance Company which does not receive cash premiums in lieu of premium notes, but acts exclusively on the mutual principle. 39 V., c. 23, s. 1.

To what Companies this Act does not apply.

What Companies may transact business in Ontario.

3. Except such Insurance Companies as are mentioned in the next preceding section, it shall not be lawful for any Insurance Company to accept any risk or issue any policy of insurance, or receive any premium or transact any business of insurance in Ontario, or to prosecute or maintain any suit, action or proceeding, either at Law or in Equity, relating to such business without first obtaining a license from the Provincial Treasurer, to carry on business in Ontario. 39 V., c. 23, s. 2.

Form of license.

4. The license shall be in such form as may be, from time to time, determined by the Provincial Treasurer, and shall specify the business to be carried on by the Company; and shall expire on the thirtieth day of June in each year, but shall be renewable from year to year. 39 V., c. 23, s. 3.

When license shall issue.

5. As soon as the Company applying for a license has deposited with the Provincial Treasurer the securities hereinafter mentioned, and has otherwise conformed to the requirements of this Act, the Treasurer shall issue the license. 39 V., c. 23, s. 4.

Deposit to be made.

6. Before issue or renewal of the license, each Life, Fire, Inland, Marine Insurance or Guarantee Company shall deposit the sum of twenty-five thousand dollars at the least, and the further sum of five thousand dollars for every one million of dollars over five million dollars of risks of such Company, on the thirty-first day of December in the year next preceding, until the amount becomes fifty thousand dollars; and every Accident Insurance Company shall deposit the sum of twenty thousand dollars.

2. Every Company incorporated before the commencement of the Session of the Legislature held in the thirty-ninth year of Her Majesty's reign may make such deposit in three equal annual instalments, on or before the first day of July in each year beginning with the first day of July, 1876, and a license may be issued to every such Company upon the deposit for the current year being duly made.

3. This section shall not apply to Companies mentioned in the tenth section of this Act.

4. Of Fire Insurance Companies whose risks do not exceed five million dollars, the deposit shall be ten thousand dollars at the least, to be increased by five thousand dollars for every one million dollars over two million dollars of risks of such Company. 39 V., c. 23, s. 5.

Deposits, in what securities.

7. Such deposits may be made in securities of the Dominion of Canada, or in securities issued by any of the Provinces of Canada; and the value of such securities shall be estimated at their market value at the time when they are so deposited.

2. If any securities other than those above named are offered as a deposit, they may be accepted at such valuation and on such conditions as the Provincial Treasurer may direct.

3. If the market value of any of the securities which have been deposited by any Company declines below the value at which they were deposited, the Treasurer may, from time to time, call upon the Company to make a further deposit, so that the market value of all the securities deposited by any Company shall be equal to the amount which they are required to deposit by this Act. 39 V., c. 23, s. 6.

If market value declines Company to make further deposit.

8. When any Company carries on more than one description of insurance business, it shall make a separate deposit as aforesaid for each branch of its business: but a Company combining Life and Accident Insurance or Fire and Inland Marine Insurance shall only be required to make one deposit for each such combination. 39 V., c. 23, s. 7.

Deposit for each branch of business. Proviso: as to combination of certain branches.

9. Any Mutual Fire Insurance Company not required to be licensed by the laws of the Dominion of Canada, doing any business in Ontario, for cash premiums on risks other than from its own members, shall, on or before the first day of July in each year, deposit with the Provincial Treasurer an amount equal to one-fourth of the net cash premiums received by the Company for such business in Ontario during the year ending on the thirty-first day of December next preceding, and shall keep such amount on deposit, subject to increase or reduction yearly on the first day of July, according to the amount of such one-fourth; and upon such deposit being made and continued, the Treasurer shall issue or renew the license to the Company.

Deposits by and licenses to certain Mutual Fire Ins. Companies.

2. Any Mutual Fire Insurance Company authorized before the tenth day of February, 1876, by any statute to transact any business for cash premiums on risks other than for its members, may make such deposit in three equal annual instalments, the first being made on or before the first day of July, one thousand eight hundred and seventy-seven, and the license may issue to such Company accordingly, or be renewed as the deposit for each year is duly made. 39 V., c. 23, s. 8.

Deposits by other Companies than as above.

10. Whenever and so long as the deposit of any Life Insurance Company is less than twenty-five thousand dollars, the agent of the Company shall send in yearly to the Provincial Treasurer, within one month after the first day of January of each year, a return, under oath (Schedule A.), of the amount of Life Insurance premiums received by the Company on risks for the period covered by the annual statement mentioned in section twenty-six, and after deducting twenty-five per cent. therefrom, and the net amount of losses or claims actually paid, shall invest the same in such of the securities authorized by this Act as his Company directs, or in default of such direction, as he

Additional obligation of a Life Insurance Company whose deposit is less than \$25,000 to make returns of premiums received and deposit the amount in securities.

thinks fit, and shall deposit such securities in the hands of the Provincial Treasurer, for the purposes of this Act and subject to its provisions the balance of such premiums, until the deposit of such Company is equal to fifty thousand dollars; and so long as such deposit is under fifty thousand dollars, no interest or dividends shall be paid on the actual deposit, but such interest or dividend shall be added to the principal every half-year until, with the premiums hereinbefore mentioned, the deposit amounts to fifty thousand dollars.

2. Every Company which has not deposited the full amount required under the provisions of the sixth section of this Act, shall be credited in its annual payments on account of such deposit with the amounts deposited under the provisions of this section. 39 V., c. 23, s. 9.

Company may deposit beyond the amount absolutely required.

As to withdrawal of surplus.

11. A Company may deposit in the hands of the Provincial Treasurer any sums of money or securities beyond the sum required; and such further sums of money or securities therefor, shall be dealt with as if the same had been part of the original deposit; and no part of the additional deposit shall be withdrawn except with the sanction of the Lieutenant-Governor. 39 V., c. 23, s. 10.

Withdrawal of deposit where Company licensed by Dominion.

12. A Company having made a deposit under this Act shall be entitled to withdraw such deposit, with the sanction of the Lieutenant-Governor in Council whenever it is made to appear to the satisfaction of the Lieutenant-Governor in Council that such Company is carrying on its business of insurance under license from the Dominion of Canada. 39 V., c. 23, s. 11.

Any deficiency of security to be made good, or license forfeited.

13. If from the annual statements, or after examination of the affairs and condition of any Company, it appears that the re-insurance value of all its risks outstanding in Ontario, together with any other liabilities in Ontario, exceeds its assets in Ontario, including the deposit in the hands of the Treasurer, then the Company shall be called upon by the Treasurer to make good the deficiency at once, and on failure so to do its license shall be cancelled. 39 V., c. 23, s. 12.

As to interest on securities.

14. Except in cases with respect to which it may be otherwise provided by the Lieutenant-Governor in Council, so long as any Company's deposit is unimpaired and no notice of any final judgment or order to the contrary is served upon the Provincial Treasurer, the interest upon the securities forming the deposit shall be handed over to the Company. 39 V., c. 23, s. 13.

Certain documents to be filed before license is granted; what they must show.

15. Before the issue of a license to any Company, the Company shall file in the Department of the Provincial Treasurer a certified copy of the Act of Incorporation, or other instrument of association of the Company, and also a power of attorney from the Company to its head officer or agent in Ontario,

under the seal of the Company or resolution, and signed by the President and Secretary or other proper officer thereof, containing the matters hereinafter mentioned, verified by their oath, and further corroborated on oath by the head officer or chief agent of such Company, or by some person cognizant of the facts necessary to its verification, and also a statement of the conditions and affairs of such Company on the thirty-first day of December then next preceding, or up to the usual balancing day of the Company (but such day shall not be more than twelve months before the filing of the statement), in such form as may be required by the Treasurer of Ontario.

2. The said power of attorney shall declare at what place in Ontario the head office or chief agency of the Company is or is to be established, and shall expressly authorize such attorney to receive process in all suits and proceedings against such Company in Ontario for any liabilities incurred by the Company therein, and shall declare that service of process for or in respect of such liabilities at such office or chief agency, or personally on such attorney, at the place where such head office or chief agency is established, shall be legal and binding on the Company to all intents and purposes whatsoever.

Contents
power of
attorney.

3. Whenever any Company licensed under this Act changes its chief agent or chief agency in Ontario, such Company shall file a power of attorney as hereinbefore mentioned, containing any such change or changes in such respect, and containing a similar declaration as to service of process as hereinbefore mentioned.

If changes are
made in chief
agency, docu-
ment to be
filed.

4. Duplicates of all such documents duly verified as aforesaid shall be filed at Toronto, in the Process Office of the Superior Courts of Common Law, and in that of the Clerk of Records and Writs of the Court of Chancery. 39 V., c. 23, s. 14.

Such docu-
ments to be
filed in Court.

16. After the certified copies referred to in the last preceding section and such power of attorney are filed as aforesaid, any process in any suit or proceeding against such Company, for any liabilities incurred in Ontario, may be served on the Company at its chief agency, and all proceedings may be had thereupon to judgment and execution in the same manner and with the same force and effect as in proceedings in any civil suit in Ontario.

Process and
suits.

2. Nothing herein contained shall render invalid service in any other mode in which such Company may be lawfully served. 39 V., c. 23, s. 15.

Service other-
wise than as
above.

17. Every Company obtaining such licence as aforesaid shall forthwith give due notice thereof in the *Ontario Gazette*, and in at least one newspaper in the County, City or place where the head office or chief agency is established, and shall

Companies to
give notice of
licence.

and of ceasing business. continue the publication thereof once each week for the space of four weeks: and the like notice shall be given for the same period when such Company ceases, or notifies that it intends to cease to carry on business in Ontario. 39 V., c 23, s. 16.

Statement to be published by Provincial Treasurer.

18. The Provincial Treasurer shall cause to be published half-yearly in the *Ontario Gazette* a list of Companies licensed under this Act, with the amount of the deposit made by each Company; and upon any new Company being licensed, or upon the license of any Company being withdrawn in the interval between two such half-yearly statements, he shall publish a notice thereof in the *Ontario Gazette* for the space of two weeks. 39 V., c. 23, s. 17.

Penalty for transacting business in contravention of this Act.

19. Any person who delivers any policy of Insurance or collects any premium or transacts any business of Insurance on behalf of any Company as aforesaid, without such Company being licensed under his Act, or if such license has been withdrawn, or without the renewal thereof, or without filing the copy of the Act of incorporation, or other instrument of association of the Company, and the power of attorney or any renewal thereof in the event of any change as hereinbefore provided, shall be liable to a penalty of two hundred dollars for each such contravention of this Act, which penalty may be sued for and recovered on information filed in the name of the Attorney-General of Ontario; and one-half of the said penalty, when recovered shall be paid to the Crown, and the other half of the said penalty to the informer; and in case of non-payment of such penalty and costs within one month after judgment, the person so offending shall be liable to imprisonment in any gaol or prison for a period not exceeding three months, in the discretion of the Court wherein he is convicted. 39 V., c. 23, s. 18.

How enforced and applied.

Licenses forfeited by failure to deposit, non-payment of claims and consequent deficiency of security.

20. Wherever any Company fails to make the deposits under this Act at the time required, or wherever written notice has been served on the Provincial Treasurer of any undisputed claim arising from loss insured against in Ontario remaining unpaid for the space of sixty days after being due, or of a disputed claim after final judgment in a regular course of law and tender of a legal valid discharge being unpaid, so that the amount of securities representing the deposit of such Company is liable to be reduced by sale of any portion thereof, the license of the said Company shall *ipso facto* be null and void, and shall be deemed to be withdrawn; but such license may in the two last mentioned cases be renewed, and the Company may again transact business, if within sixty days after notice to the Provincial Treasurer of the Company's failure to pay any undisputed claim, or the amount of any final judgment as provided in this section, such undisputed claims or final judgments upon or against the Company in Ontario are paid and satisfied, and the Company's deposit is no longer liable to be reduced below the amount required by this Act. 39 V., c. 23, s. 19.

Renewal on certain conditions.

21. Any Company shall be liable to have its deposits in the hands of the Provincial Treasurer administered in manner hereinafter mentioned upon the failure of such Company to pay any undisputed claim arising from loss insured against, in Ontario, upon any policy held in Ontario, for the space of sixty days after being due, or if disputed, after final judgment and tender of a legal valid discharge, and (in either case) after notice thereof to the Provincial Treasurer. In case of such administration, all deposits of such Company held by the said Treasurer shall be applied *pro rata* towards the payment of all claims duly authenticated against such Company, as well as in respect of unearned premiums upon or in respect of policies issued to policy holders in Ontario, and the distribution of the proceeds of such deposit may be made by order of the Court of Chancery.

When a Company shall be liable to have deposits administered.

Provision for application of deposits in such case.

2. In any case where a claim for loss is by the terms of the policy payable on proof of such loss, without any stipulated delay, the notice to the Provincial Treasurer under this section shall not be given until after the lapse of sixty days from the time when the claim becomes due. 39 V., c. 23, s. 20.

Proviso, if delay was given for payment of any loss.

22. Upon granting an order for administration as aforesaid, the Court shall appoint a receiver, who may be an officer of the Court, who shall forthwith call upon the Company to furnish a statement of all its outstanding policies in Ontario, and upon all such policy holders to file their claims; and upon the filing of the claims before the receiver, the parties interested shall have the right of contestation thereof, and the right of appeal from the decision of the receiver to the Court as aforesaid, according to the practice of the Court; and in case of any such administration, the parties insured in Ontario shall be entitled to claim for a part of the premiums paid proportionate to the unexpired period of their policies respectively, and such return premium shall rank with judgments obtained and claims accrued in the distribution of the assets; and upon the completion of the schedule to be prepared by the receiver of all judgments against the Company upon such policies held in Ontario, and of all claims for re-insurance or for surrender of policies the Court shall cause the securities held by the Provincial Treasurer for such Company, or any part of them, to be sold in such manner and after such notice and formalities as the Court appoints; and the proceeds thereof, after paying expenses incurred, shall be distributed *pro rata* amongst the claimants according to such schedule, and the balance, if any, shall be surrendered to the Company. But, if any loss is sustained or any claim arises after the statement of such outstanding policies has been obtained from the Company, as hereinbefore provided, and before the final order of the Court for the distribution of the proceeds of the securities, or if the proceeds of the securities are not sufficient to cover in full all claims recorded in the schedule, such policy-holders shall not be barred

Appointment of receiver: his duty.

Proceedings in case of administration.

What may be claimed by parties insured in Ontario.

Sale of securities deposited.

If further loss occurs and deposits do not cover claims.

from any recourse they may have either in law or equity against the Company issuing the policy in respect of such deficiency ;

Court may confer upon receiver the powers of a Master.

2. The Court, by the order appointing a receiver, or by any subsequent order, may authorize the receiver to exercise in respect of the accounts of the Company all or any of the powers which the Master of the Court would have if he were taking an account of the claims against the said deposit, and every receiver so authorized shall possess the said powers as well as the powers usually enjoyed by a receiver appointed under an order of the said Court. 39 V., c. 23, s. 21.

Duty of Company ceasing business.

23. When any Company has ceased to transact business in Ontario, and has given written notice to that effect to the Provincial Treasurer, it shall insure, on behalf of its Ontario policy holders, all their outstanding risks, in some Company or Companies licensed to do business in Ontario, or obtain the surrender of the policies, and its securities shall not be delivered to the Company until the same is done to the satisfaction of the Treasurer. 39 V., c. 23, s. 22.

Conditions on which deposits may be released.

24. Upon making application for its securities, the Company shall file with the Provincial Treasurer a list of all Ontario policy holders who have not been so re-insured or have not surrendered their policies; and it shall at the same time publish in the *Ontario Gazette* a notice that it has applied to Government for the release of its securities on a certain day, not less than three months after the date of the notice, and calling upon its Ontario policy holders opposing such release to file their opposition with the Provincial Treasurer on or before the day so named; and after that day, if the said Treasurer is satisfied that the Company has ample assets to meet its liabilities to Ontario policy holders, all the securities may be released to it by an Order of the Lieutenant-Governor in Council, or a sufficient amount of them may be retained to cover the value of all risks respecting which opposition has been filed; and the remainder may be released, and thereafter from time to time as such opposing risks lapse, or proof is adduced that they have been satisfied, further releases may be made on the authority aforesaid. 39 V., c. 23, s. 23.

Company ceasing business in certain cases to pay losses.

25. After a Company has ceased to transact business in Ontario after the notice hereby required, and its license has in consequence been withdrawn, such Company shall nevertheless pay the losses arising upon policies not re-insured or surrendered, as if such license had not been withdrawn. 39 V., c. 23, s. 24.

Yearly statement to Treasurer of Ontario, what it must show,

26. It shall be the duty of the President, Vice-President, or Managing Director, and Secretary or Manager of every Company incorporated for purposes of transacting business of insurance in Ontario to prepare annually, under their oath, on the

first day of January, or within one month thereafter, a statement of the condition and affairs of such Company on the thirty-first of December then next preceding, exhibiting the facts and items in the form given in Schedule B appended to this Act, and to cause such statement to be deposited in the office of the Provincial Treasurer; such statement to be accompanied by a declaration to the effect shown in the said Schedule, sworn to before some person duly authorized to administer oaths in any legal proceeding, and every such person is hereby authorized to administer any oath required under this Act.

and how
must be
verified.

2. The Provincial Treasurer may, from time to time, make such changes in the form of the statements as seem to him best adapted to elicit from the Companies a true exhibit of their condition in respect to the several points hereinbefore enumerated; and also to make the statement applicable to so much of the business of Mutual Fire Insurance Companies as is transacted on the cash premium principle. 39 V., c. 23, s. 25.

Form of
statement
may be
changed by
Provincial
Treasurer.

27 Any violation of the next preceding section shall subject the Company violating the same to a penalty of two hundred dollars for each violation, and of the additional sum of one hundred dollars for each month during which any such Company neglects to make such publication, or to file such affidavits and statements as are therein required; if such penalties are not paid the Lieutenant-Governor in Council may order such Company's license to be suspended or cancelled, as may be deemed expedient. 39 V., c. 23, s. 26.

Penalty for
contravention
of above
section.

28. For the efficient administration of insurance business in this Province, and to enforce strictly the provisions of this Act, with the necessary details resulting therefrom, the Provincial Treasurer may, through any officer in his department, examine and report to the Lieutenant-Governor, from time to time, upon all matters connected with insurance, as carried on by the several Companies licensed to do business in Ontario, or required by this Act to make returns of their affairs; and may also examine into and report to the Lieutenant-Governor upon the affairs and transactions of any Mutual Fire Insurance Company doing business in Ontario, and to which any provision of this Act, or of *The Act respecting Mutual Fire Insurance Companies* applies. 39 V., c. 23, s. 28.

Provincial
Treasurer may
examine and
report to
Lieutenant-
Governor as
to insurance,
&c.

Rev. Stat.
c. 161.

29. A record shall be kept in the Treasury Department of the several documents required to be filed by each Company under the fifteenth section of this Act, and under the heading of each Company shall be entered the securities deposited on its account with the Provincial Treasurer, naming in detail the several securities, their par value, and value at which they are received as deposit; and before the issue of any new license, or the renewal of any license to any Company, the requirements

Certain
records to be
kept in the
Treasury
Department.

Terms where-
on license may
be renewed.

of the law shall be complied with by such Company, and the statement of its affairs shall show that it is in a condition to meet its liabilities; and a record of the licenses as they are issued or renewed shall be kept in the Treasury Department. 39 V., c. 23, s. 29.

The Treasurer may examine the affairs of each Company and report.

30. The Provincial Treasurer, from the yearly statements required to be made by each Company, shall prepare an annual report, showing the results of each Company's business, together with an analysis of each branch of insurance, with each Company's name, classified from the statements made by each Company; and the Treasurer shall lay such annual report before the Legislative Assembly at each Session thereof. 39 V., c. 23, s. 30.

Report of Provincial Treasurer to lay before the Legislative Assembly.

31. The Provincial Treasurer may, through an officer or clerk of this Department, visit the head office of each Company in Ontario at any time, and may examine the condition and affairs of each Company, and may report thereon to the Lieutenant-Governor in Council. 39 V., c. 23, s. 30.

Provision if Treasurer considers further inquiry necessary.

32. If after an examination into the condition and affairs and business of any Company licensed under this Act, from the annual or other statements furnished by such Company to the Treasurer of Ontario, or for any other cause, the said Treasurer deems it necessary and expedient to make a further examination into the affairs of such Company, and so reports to the Lieutenant-Governor in Council, the Lieutenant-Governor may appoint one or more qualified persons, at the expense of the Company, to visit the office of such Company, to thoroughly inspect and examine into all its affairs and to make all such further inquiries as are necessary to ascertain its condition and ability to meet its engagements; and it shall be the duty of the officers or agents of such Company to cause their books to be open for the inspection of the person or persons so appointed, and otherwise to facilitate such examination so far as it is in their power; and for that purpose the said person or persons so appointed shall have power to examine under oath such officers or agents of the Company, and such other person or persons, as they may think fit. 39 V., c. 23, s. 31; 40 V., c. 7, *Sched. A* (144).

Compulsory proceedings to the Court to decree a discontinuance of business on unfavourable report.

33. Whenever it appears to the Lieutenant-Governor in Council from such examination that the assets and financial position of such Company are such as not to justify the continuance in business of any such Company, the Attorney-General may apply in a summary manner on motion to one of the Superior Courts of Law or Equity for an order requiring such Company to show cause why the business of the Company should not be closed, and the Court shall thereupon proceed to hear the said parties, and in case it appears to the said Court that the assets and funds of the Company are not

sufficient as aforesaid, the Court shall decree that the business of the said Company as an Insurance Company ought to be discontinued; and it is hereby declared that thenceforward the business of the said Company as an Insurance Company shall be discontinued accordingly, and all the powers of the said Company as an Insurance Company shall cease, and all other powers granted to the said Company shall likewise cease, except so far as may be necessary for holding and disposing of the property, and winding up the affairs of the Company. 39 V., c. 23, s. 31; 40 V., c. 7, *Sched. A* (144).

34. If it further appears to the Treasurer of Ontario, after full consideration of the affairs of any Company, and a reasonable time being given to the Company to be heard by him after such further inquiry and investigation (if any) as he may see proper to make, that the assets of the Company are insufficient to justify its continuance of business, and he so reports to the Lieutenant-Governor in Council, then if the Lieutenant-Governor in Council also concurs in such opinion, an Order in Council may issue suspending or cancelling the license of such Company, which shall then, during such suspension or cancellation, be held to be unlicensed; and after the notification of the suspension or cancelling of such license in the *Ontario Gazette*, any person delivering any policy of insurance, or collecting any premium, or transacting any business of insurance on behalf of such Company, shall be liable to the penalties provided for by the twenty-seventh section of this Act. 39 V., c. 23, s. 32.

If the Company appears unsafe, Lieutenant-Governor may cancel license.

Penalty for doing business, after suspension of license and notice thereof.

35. Each Company shall pay to the Treasurer of Ontario the following fees:—

Fees to be collected.

For recording and filing in his office the several documents required of each Company, under the fifteenth section of this Act	\$10 00
For change of attorney under the said section	5 00
For license to do business (except as to Companies mentioned in section nine, for which the fee shall be \$50)	100 00
For every renewal of such license (except as to Companies mentioned in section nine, for which the fee shall be \$25) ..	50 00
For filing annual statements of each Company	5 00

39 V., c. 23, s. 33.

SCHEDULE "A."

(Section 10.)

ANNUAL RETURN OF PREMIUMS.

Amount of premiums received by (*name of Company*) during the year commencing on the day of , A.D. 18 , and ending on

the day of , A.D. 18 , on risks effected in Canada,
less twenty-five per cent. thereof..... \$

Net amount of losses or claims actually paid \$

Form of Declaration to accompany the Statement.

Province of Ontario, } I
County of } Chief Agent in Ontario (*name of Company*), make
oath and say :

That the foregoing statement truly shows the amount of premiums received by the said Company, during the year above designated, on risks effected in Ontario, less twenty-five per cent. thereof, and also truly shows the net amount of losses or claims actually paid by the said Company during the said period.

Sworn before me at
in the County of , this }
day of , A.D. 18 . }

SCHEDULE "B."

[The form of the Annual Statement may be varied at the discretion of the
Provincial Treasurer, ch. 160, s. 26].

(Section 26.)

DETAILS OF ANNUAL STATEMENTS REQUIRED.

List of shareholders.

A list of the shareholders, with the amount subscribed for, the amount paid thereon, and the residence of each shareholder.

The property or assets held by the Company, specifying—

1. The value (as nearly as may be) of the real estate held by such Company ;
2. The amount of cash on hand and deposited in banks to the credit of the Company,—specifying in what banks the same are deposited, with amounts separately ;
3. The amount of cash in the hands of agents ;
4. The amount of loans secured by bonds and mortgages constituting either a first or second lien on real estate in separate schedules ;
5. The amount of loans on which interest has not been paid within one year previous to such statement, with a schedule thereof ;
- 6 The amounts due the Company for which judgments have been obtained ;
7. The amount of Canadian or other stocks owned by the Company,

specifying in detail the amount, number of shares, and par and market value of each kind of stocks owned by the Company absolutely ;

8. The amount of stocks held as collateral security for loans, with the amount loaned on each kind of stock, its par and market value ;

9. The amount of assessments on stock and premium notes paid and unpaid ;

10. The amount of interest actually due and unpaid ; also the amount of interest accrued and unpaid ;

11. The amount of premium notes on hand on which policies are issued, with amount paid thereon ; also bills receivable held by the Company and considered good, the amounts of each class separately, and the amounts on each class overdue ;

12. The amount of all other property belonging to the Company, with a detail thereof.

The liabilities of the Company, specifying—

1. The amount of losses due and yet unpaid ;

2. Amount of losses adjusted, but not due ;

3. Amount of losses incurred during the year, including those claimed, not yet adjusted, and of those reported to the Company upon which no action has been taken,—the amounts of each class separately, carrying out the totals in one sum ;

4. Amount of claims for losses resisted by the Company, distinguishing those in suit ;

5. Amount of dividends declared and due, and remaining unpaid ;

6. Amount of dividends declared, but not yet due.

7. Amount of money borrowed, and security given for payment thereof, stating each loan separately, and the interest paid therefor.

8. The amount of unearned premiums, stating each description of business separately ;

9. Amount of all other claims against the Company, with a detailed statement thereof ;

10. Aggregate amount of all unpaid losses, claims and liabilities whatsoever, except capital stock.

Income of the Company, specifying—

1. Amount of cash premiums received, less re-insurance ;

2. Amount of notes received for premiums, less re-insurance ;

3. Amount of interest money received ;

4. Amount of income received from all other sources.

Expenditure of the Company, specifying—

1. Amount paid for losses which occurred prior to the current year or to date of last statement, deducting savings and salvage, which losses were estimated in the last statement at \$;

2. Amount paid for losses which occurred during the year, deducting savings and salvage ;
3. Total amount actually paid during the year for losses in each branch, in separate columns ;
4. Amount and rate of dividend paid during the year ;
5. Amount of expenses paid during the year, including commissions and fees to agents and officers of the Company ;
6. Amount of all other payments and expenditures, with details thereof.

Miscellaneous.

1. Gross amount of risks taken during the year, original and renewal, in each branch of the Company's business separately,—deducting amount of re-insurance effected thereon in each branch separately ;
2. And amount of risks in force at the end of the year in each branch of the Company's business, deducting re-insurance ; and showing at foot, in separate columns, the net amount of risks then in force.

Form of Declaration to accompany the Statement.

Province of Ontario, } We,
County of }

President, and
Secretary of

Company, severally make oath and say, and each for himself says, that we are the above described officers of the said Company, and that on the day of last, all the above described assets were the absolute property of the said Company, free and clear from any liens or claims thereon, except as above stated, and that the foregoing statement, with the schedules and explanations hereunto annexed and by us subscribed, are a full and correct exhibit of all the liabilities, and of the income and expenditure, and of the general condition and affairs of the said Company, on the said day of last, and for the year ending on that day, according to the best of our information, knowledge and belief respectively.

Signatures.

Sworn before me, at the , }
in the County of , this }
day of , A.D. 18 . }

CHAPTER 161.

REVISED STATUTES OF ONTARIO.

An Act respecting Mutual Fire Insurance Companies.

Formation of Companies, ss. 1-9.

General meetings, ss. 10-13.

Board of Directors—

Qualifications, ss. 14-16.

Election, ss. 17-21.

Quorum, s. 22.

Recording dissent, s. 23.

Powers, ss. 24-29.

Admission and withdrawal of mem-

bers, ss. 30-31.

Policies of Insurance, ss. 32-44.

Premium notes and assessments, ss.
45-55.

Payment of losses, ss. 56-63.

Branches or Departments of Com-
pany, ss. 64-67.

Miscellaneous—

Liability of members, s. 68.

Security by officers, s. 69.

Location of head office, s. 70.

Suits in Division Court, where to
be brought, s. 71.Lands which may be held by Mu-
tual Insurance Companies, s. 72.Premium notes not to create a
lien on lands, s. 23.Guarantee capital, how far auth-
orized to be raised, s. 74.Power of Mutual Insurance Com-
panies to insure on the cash
principle, s. 75.Annual statements to be made,
ss. 76, 77.Examination into affairs of Mu-
tual Insurance Companies, s. 78.Act to apply to Companies formed
under prior Acts, s. 79.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

FORMATION OF COMPANIES.

1. Ten freeholders in any Municipality may call a meeting of the freeholders thereof to consult whether it be expedient to establish therein a Fire Insurance Company upon the mutual principle. 36 V., c. 44, s. 1.

2. Such meeting shall be called by advertisement, mentioning the time and place within the County in which the Municipality is situate, and the object of the meeting; and the advertisement shall be published for three weeks in one or more of the newspapers published in the County. 39 V., c. 44, s. 2.

3. If thirty freeholders of such Municipality are present at such meeting, and a majority of them determine that it is expedient to establish a Mutual Fire Insurance Company, they may elect three persons from among them to open and keep a subscription book in which the owners of property, movable or immovable, within the Province of Ontario, may sign their

names, and enter the sums for which they shall respectively bind themselves to effect insurances with the said Company, 36 V., c. 44, s. 3.

When meeting
may be called.

4. Wherever fifty or more persons being owners of movable or immovable property in the Province of Ontario, have signed their names in said subscription book and bound themselves to effect insurances in said Company, which in the aggregate shall amount to one hundred thousand dollars at least, a meeting shall be called, as hereinafter provided. 36 V., c. 44, s. 4.

How meeting
to be called.

5. As soon as convenient after the subscription book has been completed in manner aforesaid, any ten of the subscribers thereto may call the first meeting of said Company, at such time and place within the Municipality as they may determine; such meeting shall be called by sending a printed notice by mail, addressed to each subscriber at his post office address, at least ten days before the day of such meeting, and by advertisement in one of or more papers published in the County in which the Municipality is situated.

2. The said notice and advertisement shall contain the object of said meeting, and the time and place at which it is to be held. 36 V., c. 44, s. 5.

Election of
Directors.

6. At such meeting, the name and style of the Company, including the appellations "Fire" and "Mutual" shall be adopted, and a Secretary *ad interim* appointed, and a Board of not more than fifteen or less than five Directors shall be elected, and the place named in the Municipality at which the head office of the Company shall be located. 36 V., c. 44, s. 6.

Names of
Directors to be
filed with the
Registrar.

7. Copies of the resolutions adopting such name or style and the place of the head office of the Company, and of such subscription book, and the names of the Directors elected, shall thereupon be made; and all such documents being certified as correct under the hands of the Chairman and Secretary, shall be filed in the office of the Registrar of the County or other Registration Division within which the Municipality is situate. 36 V., c. 44, s. 6.

Thereon the
corporation
formed.

8. Upon the filing of said documents, with such certificate, the several subscribers above mentioned, and all other persons thereafter effecting insurances therein, shall become members of the said Company and shall be a body corporate and politic by and under such name so adopted, which shall not thereafter be changed. 36 V., c. 44, s. 6, U. C. *Amended by sec. 26, Act of 1881, which expunges all the words after the word "adopted."*

Meeting of
Directors to
elect President
and officers.

9. As soon after the aforesaid meeting as convenient, the Secretary *ad interim* shall call a meeting of the Board of Directors, for the election of a President and Vice-President

from amongst themselves, for the appointment of a Secretary, Treasurer, or Manager, and the transaction of such other business as may be brought before them. 36 V., c. 44, s. 6.

GENERAL MEETING.

10. A meeting of the members for the election of Directors shall be held in every year, within two months after the thirty-first day of December in each year, at such time and place as may be prescribed by the by-laws of the Company. 36 V., c. 44, s. 8. Annual meeting for election of Directors.

11. At annual meetings in addition to the election of Directors, a report of the transactions of the Company for the year ending on the previous thirty-first day of December, shall be presented and read, together with a full and unreserved statement of its affairs, exhibiting receipts and expenditures, assets and liabilities. 36 V., c. 44, s. 9. Annual report and statement.

12. Notice of any annual or special meeting of the members of said Company shall be published in one or more newspapers for at least two weeks previous to the day of such meeting; and the Board of Directors may convene at any time a general meeting of the Company upon any urgent occasion, giving notice thereof as herein provided. 36 V., c. 44, s. 10. Notice of annual or special meetings.

13. Each member of the Company shall be entitled, at all meetings of the Company, to the number of votes proportioned to the amount by him insured, according to the following rates that is to say: For any sum under fifteen hundred dollars, one vote; from fifteen hundred to three thousand dollars, two votes; from three thousand dollars to six thousand dollars, three votes; and one vote for every additional three thousand dollars; but no member shall be entitled to vote while in arrear for any assessment or premium due by him to the Company. 36 V., c. 44, s. 11. Members to have votes proportionate to the amount of their insurance.

BOARD OF DIRECTORS.

Qualification, Election, &c.

14. The Directors shall be members of the Company, and insurers therein, for the time they hold office, to the amount of eight hundred dollars at least. 36 V., c. 44, s. 15. Qualification of Directors.

15. The Manager of any Mutual Insurance Company may be a Director of such Company, and may be paid an annual salary, but only under a by-law of the said Company. 36 V., c. 44, s. 16. Manager may be a Director. His salary.

16. No agent or paid officer, or person in the employment of any such Company, other than the Manager, shall be eligible Certain persons not eligible to be

electd Directors. to be elected a Director, or shall be allowed to interfere in the election of Directors for such Company. 36 V., c. 44, s. 17.

Election of Directors. **17.** The election of Directors shall be held and made by such members of the Company as attend for that purpose in their own proper persons. 36 V., c. 44, s. 12.

Mode of election. **18.** The election of Directors shall be by ballot. 36 V., c. 44, s. 13.

Case of a tie at an election. **19.** If at any such election two or more members have an equal number of votes, in such manner that a less number of persons than the whole number to be elected appear to have been chosen Directors by a majority of votes, then the said members of the Company shall proceed to elect by ballot, until it is determined which of the persons so having an equal number of votes shall be the Director or Directors, so as to complete the whole number of Directors to be elected: and the Directors shall at their first meeting after any such election, proceed to elect by ballot among themselves, a President and Vice-President, and at such election the Secretary shall preside. 36 V., c. 44, s. 14.

Election of a President and Vice-President.

Vacancies in office of Director, how filled up. **20.** If any vacancy happens among the Directors during the term for which they have been elected, by death, resignation, ceasing to have the necessary qualification under the fourteenth section of this Act, insolvency, or by being absent without previous leave of the Board from the Board for three regular meetings in succession, which shall *ipso facto* create such vacancy, such vacancy shall be filled up for the remainder of the term, by any person duly qualified to be nominated by a majority of the remaining Directors, and as soon as may be after the vacancy occurs. 36 V., c. 44, s. 20.

Provision in case of failure of election of Directors on proper day. **21.** In case an election of Directors is not made on the day on which it ought to have been made, the Company shall not for that cause be dissolved, but the election may be held on any subsequent day, at a meeting to be called by the Directors, or as otherwise provided by the by-laws of the Company, and in such case the Directors shall continue to hold office till their successors are elected. 36 V., c. 44, s. 21.

Quorum of Directors. Equality of votes. **22.** Three Directors shall constitute a quorum for the transaction of business; and in case of an equality of votes at any meeting of the Board the question shall pass in the negative. 36 V., c. 44, s. 18.

Directors disagreeing may record their dissent. **23.** Any Director disagreeing with the majority of the Board at any meeting, may have his dissent recorded, with his reasons therefor. 36 V., c. 44, s. 19.

Powers.

24. The Board may from time to time appoint a Manager, Secretary, Treasurer, and such other officers, agents or assistants as to them seem necessary; prescribe their duties, fix their compensations or allowances; take such security from them as is required by this Act for the faithful performance of their respective duties, and remove them and appoint others instead; the Board may also adopt a tariff of rates for insurance, and vary the same from time to time, and determine the sum to be insured on any property; they may hold their meetings monthly, or oftener if necessary, for transacting the business of the Company; and they shall keep a record of their proceedings. 36 V., c. 44, s. 22.

Appointment of Manager and other officers.

Board may adopt a tariff of rates. Meetings of the Board.

25. The Board of Directors may from time to time make and prescribe such by-laws as to them appear needful and proper, respecting the funds and property of the Company, the duty of the officers, agents and assistants thereof, the effectual carrying out of the objects contemplated by this Act, the holding of the annual meeting, and all such other matters as appertain to the business of the Company, and are not contrary to law, and may from time to time alter and amend the said by-laws, except in cases with regard to which it is provided that any such by-laws shall not be repealed, or where such repeal would affect the rights of others than the members of the Company, in any of which cases such by-law shall not be repealed.

The Board may pass by-laws.

When by-laws are not repealable.

2. Every by-law of the Board shall be duly entered in the minutes, and when confirmed at any subsequent meeting of the members, shall be held to be and have the same force and effect as a by-law of the Company. 36 V., c. 44, s. 23.

When resolution of the Board to have the effect of a by-law.

26. The Board of Directors shall superintend and have the management of the funds and property of the Company, and of all matters relating thereto, and not otherwise provided for. 36 V., c. 44, s. 24.

The Board to manage the property, etc., of the Company.

27. The Board of Directors may make arrangements with any Mutual or other Insurance Company for the re-insurance of risks, on such conditions with respect to the payment of premiums thereon as may be agreed between them. 36 V., c. 44, s. 25.

Reinsurance of risks.

28. The Board of Directors may invest the capital and funds of the Company in shares of any chartered bank having its head office in Ontario, in mortgages on freehold real estate, municipal debentures, and the public securities of the Dominion or of this Province; and may, in the name of the Company, recover from any member of such Company, in any Court of competent jurisdiction, any premium or assessment upon his premium note payable by him. 36 V., c. 44, s. 28.

Investment of capital and funds of the Company.

Recovery of assessments.

Directors may issue debentures and promissory notes for loans ;

assets of the Company to be liable for the same.

Amount of debentures, etc., limited.

29. The board of Directors may issue debentures or promissory notes in favour of any person, firm, Building Society, Banking or other Company, for the loan of money, and may borrow money therefrom on such debentures or promissory notes for any term not exceeding twelve months, and on such conditions as they think proper, and may renew the same from time to time for any such term, the whole of the assets, including premium notes of the Company, being held liable to pay the same at maturity, but no such debenture or promissory note shall be for a less sum than one hundred dollars.

2. All the debentures and promissory notes at any one time outstanding shall not exceed one-fourth of the amount remaining unpaid upon the same premium notes. 36 V., c. 44, s. 29.

ADMISSION AND WITHDRAWAL OF MEMBERS.

Power to admit members and insure.

30. The Company may admit, as a member thereof, the owner of any property, movable or immovable, and may insure the same whether the owner thereof be or be not a freeholder ; and every person admitted a member of said Company by such insurance shall be entitled to the like rights, and be subjected to the like liabilities as other members of said Company. 36 V., c. 44, s. 7.

Members withdrawing.

31. Any member of such Company may, with the consent of the Directors, withdraw therefrom upon such terms as the Directors may require. 36 V., c. 44, s. 27.

POLICIES OF INSURANCE.

Term of policies.

32. The Company may issue policies of insurance for any term not exceeding five years. 36 V., c. 44, s. 30.

When policies may issue.

33. No policy of insurance shall be issued by any such Company until application has been made for insurance, to the extent of one hundred thousand dollars at least, and approved of by the Board. 36 V., c. 44, s. 31.

Renewing policies.

34. Any policy that may be issued for one year or any shorter period may be renewed at the discretion of the Board of Directors by renewal receipts instead of policy, on the insured paying the required premiums, or giving his premium note or undertaking : and any cash payments for renewal must be made at the end of the year, or other period for which the policy was granted, otherwise such policy shall be null and void. 36 V., c. 44, s. 32.

Void conditions.

35. Every condition endorsed upon, or affecting any policy of insurance, which is held by the Court or Judge before whom any question relating thereto is tried, not to be just and reasonable, shall be absolutely null and void. But

the decision of the Court or Judge shall be subject to review or appeal to the same extent as a decision by such Court or Judge in other cases. 36 V., c. 44, s. 33; 38 V., c. 65, s. 3.

36. The Company may insure dwelling houses, stores, shops and other buildings, household furniture, merchandise, machinery, live stock, farm produce, and other commodities, against damage or loss by fire or lightning, whether the same happens by accident or any other means, except that of design on the part of the insured, or by the invasion of an enemy, or by insurrection. 36 V., c. 44, s. 34.

Property which may be insured.

37. The minimum rate to be charged or taken by any Company for insuring first-class isolated non-hazardous property shall be not less than thirty-three and one-third cents per one hundred dollars per annum; and the minimum rate of insurance upon other property shall be increased relatively with the increased risk, according to the nature of such property. 36 V., c. 44, s. 35.

Minimum rates.

38. All policies of insurance issued by the Board of Directors, sealed with the seal of the Company, signed by the President or Vice-President, and countersigned by the Secretary or acting Secretary, shall be binding on the Company. 36 V., c. 44, s. 36; 39 V., c. 7, *Schedule A*.

Policies to be binding on the Company.

39. If an insurance subsists by the act or with the knowledge of the insured in the Company and in any other office at the same time, the insurance in the Company shall be void, unless the double insurance subsists with the consent of the Directors signified by endorsement on the policy, signed by the Secretary or other officer authorized to do so, or otherwise acknowledged in writing. 36 V., c. 44, s. 37.

Double insurance.

40. Whenever notification in writing has been received by a Company from an applicant for insurance, or from a person already insured, of his intention to insure, or of his having insured an additional sum on the same property in some other Company, the said additional insurance shall be deemed to be assented to, unless the Company so notified, within two weeks after the receipt of such notice, signify to the party, in writing, their dissent; and in case of dissent the liability of the insured on the premium note or undertaking shall cease from the date of such dissent, on account of any loss that may occur to such Company thereafter, and the policy of the assured shall be void, at the option of the Directors of the Company. 36 V., c. 44, s. 38.

Notification of insurance in another Company.

Dissent of the Company to the additional insurance.

41. In case any property, real or personal, is alienated by sale, insolvency or otherwise, the policy shall be void, and shall be surrendered to the Directors of the Company, to be cancelled; Policy to be void on alienation of property insured.

Assignee may have the policy assigned.

and thereupon the assured shall be entitled to receive his deposit note or notes, upon payment of his proportion of all losses and expenses which had accrued prior to such surrender; but the assignee may have the policy transferred to him, and upon application to the Directors such assignee, on giving proper security to their satisfaction for such portion of the deposit or premium note or undertaking as remains unpaid, and with their consent, within thirty days next after such alienation, may have the policy ratified and confirmed to him, and by such ratification and confirmation said assignee shall be entitled to all the rights and privileges, and be subject to all the liabilities and conditions to which the original party insured was entitled and subject.

Assignment to a mortgagee.

2. In cases, however, where the assignee is a mortgagee, the Directors may permit the policy to remain in force, and to be transferred to him by way of additional security, without requiring any premium note or undertaking from such assignee, or his becoming in any manner personally liable for premiums or otherwise; but in such cases the premium note or undertaking and liability of the mortgagor in respect thereof shall continue in nowise affected. 36 V., c 44, s. 39.

Where the premises are altered, or risk increased.

42. If any alteration is made in any house or building insured by the proprietor thereof, or if the risk on any house or building or other property insured is increased by any means whatever after the insurance has been made thereon with the Company, whereby it is exposed to greater risk or hazard from fire than it was when insurance was effected, the insurance thereon shall be void, unless previous notice thereof has been given in writing and the requisite additional premium note or deposit after such alteration be given or paid to the Directors; but no alterations or repairs in buildings not increasing such risk or hazard shall affect the insurance previously made thereon. 36 V., c. 44, s. 40.

Optional with Directors to pay claims void under ss. 39-42.

43. It shall be optional with the Directors to pay or allow claims which are void under section thirty-nine, forty, forty-one or forty-two of this Act, in case the said Directors think fit to waive the objections mentioned in said sections. 40 V., c. 8, s. 61.

Cancellations of policies.

44. The Company shall be at liberty to cancel any policy by giving to the insured notice to the effect that they have cancelled or will cancel the same, by registered letter, signed by the Secretary of the Company, addressed and sent by mail, postage paid, to the post-office address of the insured, as given by him or her in the application for insurance or subsequent writing to the Company, or by giving to the insured, personally, notice in writing, signed by the Secretary, or an officer or agent of the Company, to such effect; the party insured shall, nevertheless be liable to pay his proportion of the losses and expenses of the

Company, to the time of cancelling the policy, and on payment of his proportion of all assessments then payable and to become payable in respect of losses and expenses sustained up to such period, shall be entitled to a return of his premium note or undertaking, and such portion of the premium paid by him as has not been absorbed by the losses and expenses of the Company up to such period; and a condition to this effect shall be endorsed on the policy. 36 V., c. 44, s. 26.

PREMIUM NOTES AND ASSESSMENTS.

45. The Company may accept premium notes, or the undertaking of the insured, for insurances, and may issue policies thereon; said notes or undertakings to be assessed for the losses and expenses of the Company in manner hereinafter provided. 36 V., c. 44, s. 41. Company may accept premium notes.

46. The Directors may demand a part or first payment of the premium note or undertaking at the time that application for insurance is made; and such first payment may be in cash or by promissory note, and may be credited upon said premium note or undertaking or against future assessments. 36 V., c. 44, s. 42. *Amended by 44 Vic., chap. 20, sec. 22. See p. 58.* Part payment may be demanded at the time of application for insurance.

47. All premium notes or undertakings belonging to the Company shall be assessed under the direction of the Board of Directors, at such intervals from their respective dates, for such sums as the Directors determine, and for such further sums as they think necessary to meet the losses and other expenditures of the Company during the currency of the policies for which said notes or undertakings were given, and in respect to which they are liable to assessment; and every member of the Company or person who has given a premium note or undertaking, shall pay the sums from time to time payable by him to the Company during the continuance of his policy, in accordance with such assessment: and any such assessment shall become payable in thirty days after notice of such assessment has been mailed to such member, or person who has given the premium note or undertaking, directed to his post-office address, as given in his original application, or in writing to the Secretary of the Company. 36 V., c. 44, s. 43. Assessment of premium notes.

48. If the assessment on the premium note or undertaking upon any policy is not paid within thirty days after the day on which the said assessment has become due, the policy of insurance, for which such assessment has been made shall be null and void as respects all claim for losses occurring during the time of such non-payment: but the said policy shall be revived when such assessment has been paid, unless the Secretary gives notice to the contrary to the assessed party in the manner in this Act provided; but nothing shall relieve the assured party from his liability to pay such assessment or any Policy to be void, if any assessment or note is not paid within thirty days, but shall be revived by subsequent payment.

subsequent assessments, nor shall such assured party be entitled to recover the amount of any loss or damage which happens to property insured under such policy while such assessment remains due and unpaid, unless the Board of Directors in their discretion decide otherwise. 36 V., c. 44, s. 44.

Requisites of notice of assessment.

49. A notice of assessment upon any premium note or undertaking mailed as aforesaid shall be deemed sufficient if it embodies the number of the policy, the period over which the assessment extends, the amount of the assessment, the time when and the place where payable. 36 V., c. 44, s. 45.

Assessment, how proportioned.

50. The assessment upon premium notes or undertakings shall always be in proportion to the amount of said notes or undertakings, having regard to the branch or department to which their policies respectively appertain. 36 V., c. 44, s. 46.

Company may sue for assessments on premium notes.

51. If any member or other person, who has given a premium note or undertaking, for thirty days after notice of assessment has been mailed to him in manner aforesaid, neglects or refuses to pay said assessment, the Company may sue for and recover the same with costs of suit, and such proceeding shall not be a waiver of any forfeiture incurred by such non-payment. 36 V., c. 44, s. 47.

Certificate of the Secretary to be *prima facie* evidence of amount due to the Company.

52. Whenever any assessment is made on any premium note or undertaking given to the Company for any risk taken by the Company, or as a consideration for any policy of insurance issued, or to be issued by the Company, and an action is brought to recover such assessment, the certificate of the Secretary of the Company, specifying such assessment, and the amount due to the Company on such note or undertaking by means thereof, shall be taken and received as *prima facie* evidence thereof in any Court in this Province. 36 V., c. 44, s. 48.

Reserve fund.

53. The Company may form a reserve fund, to consist of all moneys which remain on hand at the end of each year, after payment of the ordinary expenses and losses of the said Company; and for that purpose the Board of Directors may levy an annual assessment not exceeding ten per centum on the premium notes or undertakings held by said Company; and such reserve fund may from time to time be applied by the Directors to pay off such liabilities of the Company as may not be provided for out of the ordinary receipts for the same or any succeeding year.

Annual assessment,

how applied,

how invested.

2. Such reserve fund shall be invested either in debentures or other securities of the Dominion of Canada or of this Province or in municipal debentures, or remain in a chartered bank in Ontario on deposit at interest. 36 V., c. 44, s. 49.

54. Forty days after the expiration of the term of insurance, the premium note or undertaking given for such insurance, shall, on application therefor, be given up to the signer thereof, provided all losses and expenses with which said note or undertaking is chargeable have been paid. 36 V., c. 44, s. 50.

When premium note is to be returned.

55. No Mutual Fire Insurance Company incorporated under the Act passed in the thirty-sixth year of Her Majesty's reign and chartered forty-four, or under this Act, shall issue policies otherwise than upon the mutual principle. 36 V., c. 44 (O), s. 51.

Policies to be only on mutual principle. 36 V., c. 44 (O).

PAYMENT OF LOSSES.

56. In case of any loss or damage by fire happening to any member upon property insured with the Company, such member shall give notice thereof to the Secretary of the Company forthwith, and the proofs, declarations, evidences, and examinations, called for by or under the policy, must be furnished to the Company within thirty days after said loss, and upon receipt of notice and proofs of claim as aforesaid, the Board of Directors shall ascertain and determine the amount of such loss or damage, and such amount shall be payable in three months after the receipt by the Company of such proofs. 36 V., c. 44, s. 52.

Notice of loss.

57. If the party is not satisfied with the determination of the Board of Directors, all questions as to the value of property damaged or destroyed may be submitted to three disinterested persons as referees, one of whom shall be named by the Board and one by the suffering party, and the third by the two referees, or on their failing to agree in their choice, by the County Judge of the County in which the loss has taken place, and the decision or award of a majority of them shall be binding. 36 V., c. 44, s. 53.

In cases of dispute, the value to be determined by arbitration.

58. No action or suit either at Law or in Equity shall be brought against such Company upon any policy or contract of insurance granted or entered into by such Company after the lapse of one year next after the happening of the loss or damage in respect of which such action or suit is brought, saving in all cases the right of parties under legal disability; and all policies to be issued by such Company shall have a condition to this effect endorsed thereon. 36 V., c. 44, s. 54.

Limitation of suits against Company.

This condition endorsed upon policies.

59. If upon the trial of such action a greater sum be recovered than the amount determined upon by the Directors, or if the Company refused or neglected to pay that amount, or any amount awarded, the party suffering shall have judgment therefor against the Company, with interest thereon from the time such loss or damage would become payable under section fifty-six of this Act, with costs of suit. 36 V., c. 44, s. 55; 40 V., c. 7, *Sched. A* (145).

Interest and costs where more is recovered than the Directors determine.

Costs where no more is recovered than the amount so determined by Directors.

60. If no more is recovered than the amount so previously determined upon by the Directors, the plaintiff in the suit shall have judgment for such amount only, and if before action such amount was tendered, he shall not be entitled to costs against the defendants, and the defendants shall be entitled to costs against the plaintiff, as in the case of a verdict for the defendant. 36 V., c. 44, s. 56; 40 V., c. 7, *Sched. A* (146).

Issue of execution against Company.

61. No execution shall issue against the Company upon any judgment until after the expiration of three months from the recovery thereof. 36 V., c. 44, s. 57.

Section 61, amended in Act of 1881 (44 Vic., chap. 20), sec. 27, by adding: But this section shall not apply to any judgment recovered on any policy or undertaking of the Company heretofore issued or given where more than fifty per centum of the premium or the premium note was paid in cash at the time of the insurance or the application therefor. A Judge in Chambers or a Referee in Chambers shall, upon the recovery of a judgment against the Company, upon the application of the person in whose favour the same has been recovered, upon notice to the Company inquire into facts, and if he shall certify that more than fifty per centum of the premium or the premium note was paid in cash at the time of the insurance or the application therefor, execution may be forthwith issued upon such judgment.

Justices of the Peace, &c., may swear and examine witnesses regarding loss.

62. Any Justice of the Peace, or any one having lawful authority to administer an oath or affirmation in any legal proceeding, may examine on oath or solemn affirmation any party or person who comes before him to give evidence touching any loss by fire in which any Mutual Insurance Company is interested, and may administer any oath or affirmation required under this Act. 36 V., c. 44, s. 58.

Directors may retain amount of premium notes.

63. If there is any loss on property insured by the Company, the Board of Directors may retain the amount of the premium note or undertaking given for insurance thereof, until the time has expired for which insurance has been made, and at the expiration of said time the insured shall have the right to demand and receive such part of the retained sum as has not been assessed for. 36 V., c. 44, s. 59.

BRANCHES OR DEPARTMENTS.

Establishment of branches.

64. Any Mutual Company may separate its business into branches or departments, with reference to the nature or classification of the risks, or of the localities in which insurances may be effected. 36 V., c. 44, s. 60.

Scale of risks to be made for each branch.

65. The Directors of every such Company so separating its business shall make a scale of risks and tariff of rates for each branch, and direct that the accounts of each shall be kept separate and distinct the one from the other. 36 V., c. 44, s. 61.

66. Members of any such Company insuring in one branch shall not be liable for claims on any other branch. 36 V., c. 44, s. 62. Members to be liable to one branch only.

67. All necessary expenses incurred in the conducting and management of such Companies shall be assessed upon and divided between the several branches in such proportion as the Directors determine. 36 V., c. 44, s. 63. Expenses to be divided between branches proportionately.

MISCELLANEOUS PROVISIONS.

68. No member of any Mutual Insurance Company to which this Act may apply shall be liable in respect of any loss or other claim or demand against the Company, otherwise than upon and to the extent of the amount unpaid upon his premium note or undertaking. 36 V., c. 44, s. 64. Liability of members.

69. The Treasurer or other officer having charge of the money of the Company shall give security to the satisfaction of the Board of Directors in a sum of not less than two thousand dollars for the faithful discharge of his duties. 36 V., c. 44, s. 65. Treasurer to give security.

70. The present location of head offices of Companies in existence, and the original location of head offices of Companies hereafter to be formed, shall only be changed by a two-third vote of the members of the Company at a special meeting called for that purpose. 36 V., c. 44, s. 66. Head office can be changed only by a two-thirds vote.

71. Any suit cognizable in a Division Court upon or for any premium note or undertaking, or any sum assessed or to be assessed thereon, may be entered and tried and determined in the Court for the division wherein the head office or any agency of such Company is situate. 36 V., c. 44, s. 67. Suits in Division Courts where brought.

72. Every Mutual Insurance Company may hold lands, but such lands only as are requisite for the accommodation of the Company, in relation to the transaction of their business, or such lands as have been *bona fide* mortgaged to them by way of security, or conveyed to them in satisfaction of debts contracted in the course of their dealings previously to such conveyance, or purchased at sales upon judgments obtained for such debts, and may from time to time sell and convey or lease any such lands. 36 V., c. 44, s. 68. Lands that may be held by the Company.

73. No premium note or undertaking shall create any lien upon lands on which the insured property is situate. 36 V., c. 44, s. 69. Liens on lands for premium notes abolished.

74. No guarantee capital or fund shall hereafter be raised by any Company to which this Act is applicable, except as herein-after mentioned; nor shall any such Company contract with any Director or officer thereof for any loan or borrowing of money or credit, and every such attempted loan or borrowing is hereby prohibited and declared void. 36 V., c. 44, s. 70. No guarantee capital. [Cf. sec. 75.] Loans to or from Directors, &c., forbidden.
Guarantee Capital authorized by Act of 1881 (44 Vic. chap. 20). sec. 7.

Powers of incorporated Companies to insure on the cash premium principle.

75. Any Mutual Fire Insurance Company incorporated before the twenty-ninth day of March, 1873, and now doing business in Ontario, and to which this Act applies, may effect any insurance upon the cash premium principle, for a period not exceeding three years on farm and other non-hazardous property, and for one year or less on any other class of property; but the amount of cash insurances in any one year shall be limited, so that the cash premiums received thereon during any one year shall not be in excess of one-half of the amount still payable in respect of premium notes or undertakings on hand on the thirty-first day of December of the previous year, according to the statement made under the next following section: and all the property and assets of the Company, including premium notes or undertakings, shall be liable for all losses which may arise under insurances for cash premiums; and any such Company may also create or possess a guarantee capital or fund for such Company, according to the provisions of this Act. 36 V., c. 44, s. 71. *Amended by 41 Vic., cap. 8, sec. 17, which strikes out the final words, "this Act," and substitutes the following: "The Acts respecting Mutual Fire Insurance Companies in force before the said twenty-ninth day of March, one thousand eight hundred and seventy-three;" and the said section as amended shall be deemed to have been in force on and from the first day of January last.*

Guarantee fund.

Annual statements.

76. It shall be the duty of the President or Manager and Secretary of each Mutual Fire Insurance Company incorporated under this or any former General Act respecting Mutual Insurance Companies, or any Special Act, and transacting the business of Fire Insurance in this Province, annually on the first day of January, or within one month thereafter, to prepare, and deposit in the office of the Treasurer of this Province, a statement verified by their own oath of the condition of such Company on the thirty-first day of December then next preceding, exhibiting the following facts and items in the following form, namely:—

First—The assets of the Company, specifying—

- (a) The value of real estate;
- (b) The amount of cash on hand and deposited in banks to the credit of the Company, naming the banks and amount in each;
- (c) The amount of cash in Company's office and in agent's hands respectively;
- (d) The amount of any loans or investments, and the nature of the security held therefor, in detail, and what, if any, payments are in arrear thereon;
- (e) The amount of assessments on premium notes or undertakings unpaid, and what portion of the said amount the deponents consider good;
- (f) The amount still payable upon premium notes or undertaking on hand, on the 31st day of December preceding, and not then assessed for;
- (g) Other amounts due the Company;

Secondly—The liabilities of the Company, specifying—

- (a) The amount of losses due and yet unpaid;
- (b) The amount of claims for losses resisted;
- (c) The amount of losses incurred during the year, including those claimed but not adjusted;
- (d) The amount payable for money borrowed, and security given and interest payable;

(e) The amount of all other existing claims against the Company ;
 (f) The amount covered by policies in force in respect of each class of risk ;
Thirdly—The income of the Company for the preceding year, specifying—

(a) The amount of cash received on premium notes, in respect (1) of assessments payable in that year, and (2) assessments payable in previous years ;

(b) The amount of premium notes or undertakings ;

(c) The amount of interest received ;

(d) The amount of income from all other sources, and also the amount of cash premiums received for insurances effected in that year ;

Fourthly—The expenditure during the preceding year, specifying—

(a) The amount of losses paid during the year, stating how much of the same accrued prior and how much subsequent to the date of the preceding statement, and the amount at which such prior accrued losses were estimated in such preceding statement ;

(b) The amount of expenses paid during the year ;

(c) The amount of taxes ;

(d) The amount paid for re-insurance ;

(e) The commission paid to agents or others on premium notes or undertakings received during the year by the Company ;

(f) The amount of all other payments and expenditures under their appropriate heads ;

36 V., c. 44, s. 72 ; 38 V., c. 65, s. 4 ; 39 V., c. 23, s. 27.

2. Any Company shall further, when required, make prompt and explicit answer in reply to any inquiries in relation to its transactions, which may be required by the Lieutenant-Governor in Council.

Companies to reply to inquiries of Lt.-Gov. in Council.

3. If any such Mutual Fire Company fails to make and deposit such statement so verified, or to reply to such inquiry, its Manager and Secretary shall be subject, respectively, for each offence, to a fine or penalty of fifty dollars, to be recovered on behalf of Her Majesty, for the use of this Province ; and it shall be the duty of the Provincial Treasurer to publish a synopsis of such returns, as well as the names of such Companies as have not made returns, in the *Ontario Gazette*, on or before the first day of March in each year. 36 V., c. 44, s. 72 ; 39 V., c. 23, s. 27.

Penalty for not replying.

77. The foregoing section and all the provisions thereof shall also apply to every Fire Insurance Company, by whatever authority incorporated, and now or any time hereafter transacting the business of Fire Insurance in this Province, and to which the provisions of *The Act respecting Insurance Companies* do not apply. 36 V., c. 44, s. 73.

Previous section to apply to certain Fire Ins. Cos.

Rev. Stat., c. 160.

78. The Lieutenant-Governor in Council, whenever he deems it expedient, may appoint any one or more qualified persons, not being officers of any other Fire Insurance Company, to examine into the affairs of any Mutual Fire Insurance Company, incorporated under this Act, or to which the provisions of this Act apply, and also into the affairs of any Fire Insurance Company doing business in this Province ; and it shall be the duty of the officers or agent of any such Company to cause their books to be opened for the inspection of the person or

Lt.-Governor in Council may appoint persons to examine into the affairs of Insurance Companies.

Proceedings to close Companies whose affairs are in an unsatisfactory condition.

persons so appointed, and otherwise to facilitate such examinations; and for that purpose such person or persons shall have power to examine, under oath, such officers and agents, and such other person or persons as they may think fit; and whenever it appears from such examination that the assets and financial position of such Company are such as not to justify the continuance in business of any such Company, the Attorney-General of Ontario may apply, in a summary manner, on motion to one of the Superior Courts of Law or Equity, for an order requiring such Company to show cause why the business of the Company should not be closed; and the Court shall thereupon proceed to hear the allegations and proofs of the respective parties, and in case it appears to the satisfaction of the Court that the assets and funds of the Company are not sufficient as aforesaid, or that the interests of the public so require, the said Court shall decree that the business of the said Company as an Insurance Company ought to be discontinued; and it is hereby declared that thenceforward the business of the said Company as an Insurance Company shall be discontinued accordingly, and all the powers of the said Company as an Insurance Company shall cease, and all other powers granted to the said Company shall likewise cease, except so far as may be necessary for holding and disposing of the property and winding up the affairs of the Company. 36 V., c. 44, s. 74; 40 V., c. 7, *Sched. A* (147).

This Act to apply to Companies formed under previous Acts.
C. S. U. C., c. 52; 36 V., c. 44 (O).

79. The provisions of this Act shall apply to every Mutual Fire Insurance Company doing business in this Province and incorporated under chapter fifty-two of the Consolidated Statutes for Upper Canada, or chapter forty-four of the Acts passed in the thirty-sixth year of Her Majesty's reign, or any special Act of the former Province of Canada, or of Ontario. 36 V., c. 44, s. 77.

CHAPTER 162.*

REVISED STATUTES OF ONTARIO.

An Act to secure Uniform Conditions in Policies of Fire Insurance.

Short title, s. 1.

When imperfect compliance with conditions not to avoid policy, s. 2.

Statutory conditions to be incorporated in all policies, s. 3.

Variations from statutory conditions to be printed in conspicuous type, s. 4.

Variations not binding unless distinctly indicated, s. 5.

Conditions other than statutory may be declared void, if not just and reasonable, s. 6.

Decisions of Court or Judge as to such conditions to be appealable, s. 7.

* By Sec. 28 of the Act of 1881 this Act is made to apply to Mutual Insurance Companies.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. This Act may be cited as "*The Fire Insurance Policy Act*." Short Title.

2. Where, by reason of necessity, accident or mistake, the conditions of any contract of fire insurance on property in this Province as to the proof to be given to the Insurance Company after the occurrence of a fire have not been strictly complied with: or where, after a statement or proof of loss has been given in good faith by or on behalf of the insured, in pursuance of any proviso or condition of such contract, the Company, through its agent or otherwise, objects to the loss upon other grounds than for imperfect compliance with such conditions, or does not within a reasonable time after receiving such statement or proof notify the assured in writing that such statement or proof is objected to, and what are the particulars in which the same is alleged to be defective, and so from time to time; or, where for any other reason, the Court or Judge before whom a question relating to insurance is tried or inquired into, considers it inequitable that the insurance should be deemed void or forfeited by reason of imperfect compliance with such conditions—no objection to the sufficiency of such statement or proof or amended or supplemental statement or proof (as the case may be) shall, in any of such cases, be allowed as a discharge of the liability of the Company on such contract of insurance wherever entered into; but this section shall not apply where the fire has taken place before the twenty-first day of December, 1374. 38 V., c. 65, s. 1.

If due proof of loss not given through accident, &c., or objection not made thereto, or made on other grounds than non-compliance with conditions,

or, if full compliance adjudged inequitable,

in above cases, liability and policy not vacated.

3. The conditions set forth in the Schedule to this Act shall, as against the insurers be deemed to be part of every policy of fire insurance hereafter entered into or renewed or otherwise in force in Ontario with respect to any property therein, and shall be printed on every such policy with the heading "*Statutory Conditions*." 39 V., c. 24, s. 1, *part*.

Statutory conditions to be part of every policy unless varied.

4. If a Company (or other insurer) desires to vary the said conditions, or to omit any of them, or to add new conditions, there shall be added in conspicuous type, and in ink of different colour, words to the following effect :—

Variations, how indicated

VARIATIONS IN CONDITIONS.

"This policy is issued on the above statutory conditions, with the following variations and additions :

"These variations (or as the case may be) are, by virtue of the Ontario Statute in that behalf, in force so far as, by the Court or Judge before whom a question is tried relating thereto, they shall be held to be just and reasonable to be exacted by the Company."

39 V., c. 24, s. 1.

Variations not binding unless clearly indicated.

5. No such variation, addition or omission shall, unless the same is distinctly indicated and set forth in the manner or to the effect aforesaid, be legal and binding on the insured; and no question shall be considered as to whether any such variation, addition or omission is, under the circumstances, just and reasonable, but, on the contrary, the policy shall, as against the insurers, be subject to the statutory conditions only, unless the variations, additions or omissions are distinctly indicated and set forth in the manner or to the effect aforesaid. 39 V., c. 24, s. 2.

Policy containing other than statutory conditions.

6. In case any policy is entered into or renewed containing or including any condition other than or different from the conditions set forth in the Schedule to this Act, if the said condition so contained or included is held, by the Court or Judge before whom a question relating thereto is tried, to be not just and reasonable, such condition shall be null and void. 38 V., c. 65, s. 2; 39 V., c. 7, s. 2, *Sched. B*; 39 V., c. 24, s. 1, *part*; 40 V., c. 7, *Sched. A* (148).

Appeal.

7. A decision of a Court or Judge under this Act shall be subject to review or appeal to the same extent as a decision by such Court or Judge in other cases. 38 V., c. 65, s. 3; 39 V., c. 24, s. 3.

SCHEDULE.

(Sections 3 and 6.)

STATUTORY CONDITIONS.

Misrepresentation or omission.

1. If any person or persons insures his or their buildings or goods, and causes the same to be described otherwise than as they really are, to the prejudice of the Company, or misrepresents or omits to communicate any circumstance which is material to be made known to the Company, in order to enable it to judge of the risk it undertakes, such insurance shall be of no force in respect to the property in regard to which the misrepresentation or omission is made.

Policy sent to be deemed as applied for unless variance pointed out.

2. After application for insurance, it shall be deemed that any policy sent to the assured is intended to be in accordance with the terms of the application, unless the Company points out, in writing, the particulars wherein the policy differs from the application.

When a change as to risk shall avoid a policy. Notice of change, &c.

3. Any change material to the risk, and within the control or knowledge of the assured, shall avoid the policy as to the part affected thereby unless the change is promptly notified in writing to the Company or its local agent; and the Company when so notified may return the premium for the unexpired period and cancel the policy, or may demand in writing an additional premium, which the insured shall, if he desires the continuance of the policy, forthwith pay to the Company; and if he neglects to make such payment forthwith after receiving such demand, the policy shall be no longer in force.

Change of property.

4. If the property insured is assigned without a written permission endorsed hereon by an agent of the Company duly authorized for such purpose, the policy shall thereby become void; but this condition does

not apply to change of title by succession, or by the operation of the law, or by reason of death.

5. Where property insured is only partially damaged, no abandonment of the same will be allowed unless by the consent of the Company or its agent; and in case of the removal of property to escape conflagration, the Company will ratably contribute to the loss and expenses attending such act of salvage. Partial damage—salvage.

6. Money, books of account, securities for money, and evidences of debt or title are not insured. Money securities, &c.

7. Plate, plated ware, jewellery, medals, paintings, sculptures, curiosities, scientific and musical instruments, bullion, works of art, articles of vertu, freascos, clocks, watches, trinkets, plate glass, and mirrors, are not insured unless mentioned in the policy. Plate, paintings, &c.

8. The Company is not liable for loss if there is any prior insurance in any other Company, unless the Company's assent thereto appears herein or is endorsed hereon, nor if any subsequent insurance is effected in any other Company, unless and until the Company assents thereto by writing signed by a duly authorized agent. Prior or subsequent insurance.

9. In the event of any other insurance on the property herein described having been assented to as aforesaid, then this Company shall, if such other insurance remains in force, on the happening of any loss or damage, only be liable for the payment of a rateable proportion of such loss or damage without reference to the dates of the different policies. Case of assent to other insurance.

10. The Company is not liable for the losses following, that is to say:— Liability in cases of non-ownership.

(a) For loss of property owned by any other party than the assured, unless the interest of the assured is stated in or upon the policy;

(b) For loss caused by invasion, insurrection, riot, civil commotion, military or usurped power; Riot, invasion, &c.

(c) Where the insurance is upon buildings—for loss caused by the want of good and substantial brick or stone chimneys; or by ashes or embers being deposited, with the knowledge and consent of the insured, in wooden vessels; or by stoves or stove pipes being, to the knowledge of the assured, in an unsafe condition or improperly secured; Chimneys, ashes, stoves.

(d) For loss or damage to goods destroyed or damaged while undergoing any process in or by which the application of fire heat is necessary. Goods to which fire heat is being applied.

(e) For loss or damage occurring to buildings or their contents while the buildings are being repaired by carpenters, joiners, plasterers or other workmen, and in consequence thereof, unless permission to execute such repairs had been previously granted in writing, signed by a duly authorized agent of the Company. But in dwelling-houses, fifteen days are allowed in each year in incidental repairs, without such permission; Repairs by carpenters, &c.

(f) For loss or damage occurring while petroleum, rock, earth or coal oil, camphine, burning fluid, benzine, naphtha or any liquid products thereof, or any of their constituent parts (refined coal oil for lighting purposes only, not exceeding five gallons in quantity, excepted), or more than twenty-five pounds weight of gunpowder, are stored or kept in the building insured or containing the property insured, unless permission is given in writing by the Company. Gunpowder, coal oil, &c.

11. The Company will make good loss caused by the explosion of gas in a building not forming part of gas works, and loss by fire caused by any other explosion or by lightning. Explosion. Lightning.

Proof of loss when payable to other than assured. 12. Proof of loss must be made by the assured, although the loss be payable to a third party.

Directions to be observed on making claim. 13. Any person entitled to make a claim under this policy is to observe the following directions :

(a) He is forthwith after loss to give notice in writing to the Company ;

(b) He is to deliver, as soon afterwards as practicable, as particular an account of the loss as the nature of the case permits ;

(c) He is also to furnish therewith a statutory declaration declaring,

(1) That the said account is just and true ;

(2) When and how the fire originated, so far as the declarant knows or believes ;

(3) That the fire was not caused through his wilful act or neglect, procurement, means or contrivance ; and

(4) The amount of other insurances ;

(d) He is, in support of his claim, if required and if practicable, to produce books of account, and furnish invoices and other vouchers ; to furnish copies of the written portion of all policies ; and to exhibit for examination all that remains of the property which was covered by the policy.

(e) He is to produce, if required, a certificate under the hand of a magistrate, notary public, or clergyman residing in the vicinity in which the fire happened, and not concerned in the loss or related to the assured or sufferers, stating that he has examined the circumstances attending the fire, loss or damage alleged, that he is acquainted with the character and circumstances of the assured or claimant, and that he verily believes that the insured has by misfortune and without fraud or evil practice sustained loss and damage on the subject assured, to the amount certified.

Proof of loss may be made by agent. 14. The above proofs of loss may be made by the agent of the assured, in case of the absence or inability of the assured himself to make the same such absence or inability being satisfactorily accounted for.

False statement or fraud vitiates claim. 15. Any fraud or false statement in a statutory declaration, in relation to any of the above particulars, shall vitiate the claim.

Arbitration in case of differences. 16. If any difference arises as to the value of the property insured, of the property saved, or amount of the loss, such value and amount, and the proportion thereof (if any) to be paid by the Company, shall, whether the right to recover on the policy is disputed or not, and independently of all other questions, be submitted to the arbitration of some person to be chosen by both parties, or if they cannot agree on one person, then to two persons, one to be chosen by the party insured and the other by the Company, and a third to be appointed by the persons so chosen ; and such reference shall be subject to the provisions of "*The Common Law Procedure Act* ;" and the award shall, if the Company is in other respects liable, be conclusive as to the amount of the loss and proportion to be paid by the Company.

Loss due thirty days after proof. 17. The loss shall not be payable until thirty days after completion of the proofs of loss, unless otherwise provided by statute or the agreement of the parties.

Company may reinstate, instead of paying. 18. The Company, instead of making payment, may repair, rebuild or replace, within a reasonable time, the property damaged or lost, giving notice of their intention within fifteen days after receipt of the proofs herein required.

19. The insurance may be terminated by the Company at any time, by giving ten days' notice to that effect, and by repaying a rateable proportion of the premium for the unexpired term; and the policy shall cease after the expiration of ten days from the receipt of such notice and repayment.

Termination of policy on notice and repayment of proportions of premiums.

20. No condition of the policy, either in whole or in part, shall be deemed to have been waived by the Company, unless the waiver is clearly expressed in writing, signed by an agent of the Company.

Waiver of condition.

21. Any officer or agent of the Company, who assumes on behalf of the Company to enter into any written agreement relating to any matter connected with the insurance, shall be deemed *prima facie* to be the agent of the Company for the purpose.

Officers assuming to agree in writing to be deemed agents.

22. Every suit, action or proceeding against the Company for the recovery of any claim under or by virtue of this policy, shall be absolutely barred, unless commenced within the term of one year next after the loss or damage occurs. 39 V., c. 24, *Sched.*; 40 V., c. 7, *Sched. A* (148).

Suits to be brought within one year.

42 Victoria.]

CHAPTER 25.

[1879.

An Act to provide for the Inspection of Insurance Companies.

[Assented to 11th March, 1879.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. For the efficient administration of the Insurance business in the Province of Ontario, the Lieutenant-Governor in Council may appoint an officer to be called the Inspector of Insurance, who shall act under the instructions of the Treasurer of Ontario, and his duty shall be to examine and report to the said Treasurer from time to time upon all matters connected with insurance as carried on by the Companies subject to the legislative authority of this Province doing the business of Insurance in Ontario, or required by the said Acts or by this Act to make returns of their affairs.

Appointment of Inspector.

(2) The salary of the Inspector shall not exceed two thousand dollars per annum, and it shall be lawful to provide from time to time such assistance as may be found necessary.

Salary.

2. The Inspector of Insurance shall visit the Head Office of every such Company in Ontario at least once in every year, and shall carefully examine the statements of the Company as to its condition and affairs and report thereon to the Treasurer as to all matters requiring his attention and decision.

Duties.

(2) The Inspector shall from such examination prepare and lay before the Treasurer an annual report of the condition of every Company's business as ascertained by him from his personal inspection, and such report shall be made within thirty days after the commencement of each annual session of the Parliament of Ontario.

Provision if
Inspector
deems further
inquiry
necessary.

3. If the Inspector after a careful examination into the condition and affairs of any Company, deems it necessary and expedient from the annual or other statement furnished by such Company to the Treasurer, or from any other cause, to make a further examination into the affairs of such Company and so reports to the Treasurer, the Treasurer may in his discretion instruct the Inspector to visit the office of such Company, to thoroughly inspect and examine into all its affairs, and to make all such further inquiries as are necessary to ascertain its condition, and ability to meet its engagements, and whether it has complied with the conditions of the Ontario Insurance Act and the Act respecting Mutual Fire Insurance Companies and any other statutes, conditions, and provisions applicable to transactions of the Company.

Powers of
Inspector.

(2) It shall be the duty of the officers or agents of any such Company to cause their books to be open for the inspection of the Inspector, and otherwise to facilitate such examination so far as may be in their power; and the said Inspector shall have power to examine under oath any officer or agent of the Company relative to its business.

Report of
Inspector.

(3) A report of all companies so visited by the Inspector shall be entered by him in a book kept for that purpose, with notes and memoranda showing the condition of each Company, and a special written report shall be communicated to the Treasurer stating the Inspector's opinion of the condition and financial standing of each Company, and all other matters desirable to be made known to the Treasurer.

Provision if
Company ap-
pears unsafe.

(4) If it appears to the Inspector that the assets of any Company are insufficient to justify its continuance of business, or unsafe for the public to effect insurance with it, he shall make a special report on the affairs of such Company to the Treasurer.

Company as-
suming name
of other Com-
pany.

(5) If it appears to the Inspector that any Company, which has not been incorporated by special Act of the Legislature of Ontario, has assumed the name of a previously established Company, or any name liable to be unfairly confounded therewith, or otherwise on public grounds objectionable, he shall make a report thereof to the Treasurer.

Report of
Treasurer.

(6) After full consideration of the report, and a reasonable time being given to the Company to be heard, and if, after such

further inquiry and investigation (if any) as he may see proper to make, the Treasurer reports to the Lieutenant-Governor in Council that he agrees with the Inspector in the opinion expressed in his report, then, if the Lieutenant-Governor in Council also concurs in such opinion, an order in Council may issue, suspending or cancelling the license of such Company, and prohibiting the said Company from doing any further business, and thereafter it shall not be lawful for such Company to do any further business in Ontario, until such suspension or prohibition is removed by the Lieutenant-Governor in Council.

(7) Notice of the suspension or cancelling of any license, and prohibition from doing any further business, shall be published in the *Ontario Gazette*; and thereafter any person delivering any policy of insurance, or collecting any premiums, or transacting any business of insurance on behalf of such Company, shall be liable to a fine of one thousand dollars, which penalty may be sued for and recovered on information filed in the name of the Attorney-General of Ontario; and one-half of said penalty when recovered shall be paid to the Crown for the benefit of the Province, and the other half of the said penalty to the informer; and in case of non-payment of such penalty and costs within one month after said judgment, the person so offending shall be liable to imprisonment in any gaol or prison for a period not exceeding six months in the discretion of the Court wherein he is convicted.

Suspension of License and notice thereof.

4. The Inspector of Insurance, or any officers under him, shall not be interested as shareholders, directly or indirectly, with any insurance Company doing business in Ontario.

Inspector and Officers not to be interested in any company.

5. Towards defraying the expense of the office of the Inspector, a sum not exceeding three thousand dollars shall be annually contributed by the insurance companies hereinbefore referred to, and consisting of all companies required to be licensed under this Act, or under the Ontario Insurance Act, and also of all Mutual Insurance Companies required to make returns under the Act respecting Mutual Fire Insurance Companies, and this sum shall be assessed *pro rata* upon the gross premiums or premium notes or undertakings received by each Company during the preceding year, the proportion whereof is properly applicable to the payment of premiums for such year, such sum to be paid upon the issue of the annual license, or at such other time as the Treasurer may direct, and the Treasurer's certificate shall be conclusive as to the amount each or any Company is to pay. *Amended by 43 Vic., Cap. 20.*

Contribution from companies to expenses.

43 Victoria] CHAPTER 20. [1880.

An Act respecting the Expenses of Inspecting Insurance Companies.

[Assented to 5th March, 1880.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Mode of determining the amount of contribution to expenses.

The amount to be annually contributed by the Insurance Companies within the operation of the Act passed in the forty-second year of Her Majesty's reign, chapter twenty-five, and intituled "An Act to provide for the inspection of Insurance Companies," shall be assessed *pro rata* upon the amounts of risks taken by each company during the preceding year, and such sum shall be paid to the Provincial Treasurer upon the issue of any annual license, or such other time as he may require, and his certificate as to the amount so payable by each or any Company shall be conclusive; and this section shall be construed to apply as well to the year now last past for settling the contributions for that year by the said respective companies.

44 Victoria,] CHAPTER 20. [1881.

An Act to give increased stability to Mutual Fire Insurance Companies.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Copies of resolutions, subscription books, and statements of proposed business to be transmitted to Insurance Inspector.

1. When a mutual fire insurance company has been formed under the Act respecting Mutual Fire Insurance Companies, chapter one hundred and sixty-one of the Revised Statutes of Ontario, and has filed in the registry office copies of the resolutions and the subscription books, and the names of the directors, under the provisions of section seven of the said Act, and before they shall transact or be entitled to transact any insurance business, the chairman and secretary shall also transmit or deliver like copies duly certified to by

them to the Inspector of Insurance, at his office in Toronto, accompanied by a statement signed by such chairman and secretary, stating the kind and character of the risks intended to be taken by the company, that is to say, whether the business to be transacted is the insurance of farm and isolated buildings and property, or of commercial, manufacturing and other hazardous and extra hazardous properties.

2. Upon receipt of such certified copies and of the aforesaid statement by the Inspector, he shall proceed to ascertain whether the proceedings for the incorporation of such company have been taken in accordance with the law in that behalf, and whether the subscriptions are *bona fide*, and by persons possessing property to insure, and whether the proposed name is the same as that of any existing company, or may be easily confounded therewith, and he may require the declaration of any person or persons upon oath to be filed with him, touching any matters concerning which he is called upon to make inquiry.

Inquiries to be made by Inspector after receiving statement.

3. If upon such examination the Inspector shall find that the provisions of the Act have been complied with, and that the said subscriptions have been made in good faith by persons entitled to make the same, and that the proposed name of the company is satisfactory, he shall so certify to the Treasurer of the Province; if upon such examination the Inspector shall find that the proposed name is one which may be easily confounded with that of an existing company, the Lieutenant-Governor in Council may require the directors of the company to select some other name, to be approved of by the Lieutenant-Governor in Council, and they shall by resolution do so, and such resolution shall be filed with the Registrar in like manner as the other proceedings are required to be filed; upon the Inspector reporting to the Treasurer the facts aforesaid, the Treasurer may thereupon issue his certificate, in duplicate, under his hand and seal to the said company, setting forth that it has been made to appear to him that they have become a body corporate and politic under the said Act respecting Mutual Fire Insurance Companies, by the name of the Mutual Fire Insurance Company of, and that they have complied with the requirements of the law in that behalf, and that they will, from and after the filing of one of the duplicate copies of such certificate in the office of the registrar of the county or other registration division within which the municipality in which such company has been established is situate, be entitled to receive applications and to issue policies of insurance, and to transact all the business which a mutual fire insurance company formed under the aforesaid Act may lawfully do in respect of that kind or character of business mentioned in their statement to the Inspector.

On receipt of certificate from Inspector, Provincial Treasurer to certify that company entitled to transact business.

Inspector to keep papers on file.

4. The Inspector shall keep on file the said papers so furnished to him, and shall keep a book in which shall be entered the name of the company, the statement delivered by the company as to the character of the business to be transacted by the company, and a copy of the Treasurer's certificate.

Fee to Treasurer on delivery of certificate.

5. There shall be paid to the Treasurer upon the delivery of any such certificate to the said company, the sum of twenty dollars.

Company may do business only of kind stated in certificate.

6. Subject to the provisions of the one hundred and sixtieth chapter of the Revised Statutes of Ontario, any such company may, after receiving the aforesaid certificate and filing the same with the registrar as aforesaid, do and transact any business of a mutual fire insurance company of the kind and character mentioned in the certificate of the Treasurer, but of no other kind; nevertheless, any such company may at any time thereafter apply to the Treasurer for a supplementary certificate to enable the company to extend their business to other classes of risks than those included in their certificate, and the same may, upon the report of the Inspector of Insurance, be granted by the Treasurer. When any supplementary certificate is granted it shall be recorded in the books of the Inspector of Insurance, and filed in the registry office in which the certificate has been filed.

GUARANTEE CAPITAL.

Power to raise a guarantee capital.

7. Any mutual insurance company formed under this Act or any former Act, may raise by subscription of its members, or some of them, or by the admission of new members not being persons insured in the company, or by loan or otherwise, a guarantee capital of any sum not less than twenty thousand dollars nor exceeding two hundred thousand dollars, which guarantee capital shall belong to such company and be liable for all the losses, debts and expenses of the company, and subscribers of such capital shall, in respect thereof, have such rights as the directors of the company declare and fix by a by-law to be passed before such capital is subscribed, and unless such capital is paid off or discharged, such by-law shall not be repealed or altered without the consent of the majority of votes of the shareholders or subscribers of such capital who represent a majority of the shares subscribed, either personally or by proxy, at a meeting held for that purpose of the holders of such capital, each shareholder or subscriber being entitled to a vote for every share of fifty dollars held by him.

Limitations as to guarantee capital.

8. Such capital shall be subscribed by not less than ten persons, and no one person shall subscribe or hold or receive dividends, interest or commissions, upon more than twenty per centum of such guaranteed capital of said stock; the original list of the subscribers to such guarantee capital shall be

transferred to and be deposited with the Treasurer of this Province, and shall be held as security for the payment of all losses and other policy liabilities of such companies.

(2) The company may from time to time, in accordance with the provisions of any by-law in that behalf, require any portion of the subscribed guarantee capital to be paid over to the company for the purpose of settling any losses of the company. Any sums so advanced shall be repaid by the company within one year thereafter from the proceeds of assessments upon the premium notes liable to assessment for such purpose, and such assessments may be made from time to time by the company for the purpose of repaying such advances.

9. Said guarantee capital, or any part of the same, shall not be withdrawn until the premium notes held by such company for insurance actually in force, shall amount to three per centum of the amount of property covered by policies in the company nor until one year's notice shall have been given to the Inspector of Insurance of the intention to withdraw the same; whenever the premium notes held by such company shall have reached the above amount, the president and secretary, or the directors of the company, may file a certificate, under oath, with the Inspector of Insurance, stating that the company holds premium notes of the amount and kind aforesaid, and publish a copy of said certificate, once a week or oftener, for at least four weeks, in some newspaper having general circulation and published in the county or city where such company has its principal office, and also in the *Ontario Gazette* for a like period.

Guarantee capital not to be withdrawn until premium notes amount to 3 per cent. of amount at risk.

10. When the company shall have filed such certificate, and also proof of such publication, with the Inspector, the latter shall make or cause an examination to be made, and if he shall find that the company has the above amount of premium notes of the kind and character aforesaid, and is in a sound and solvent condition, he shall report the same to the Treasurer who may give such company a certificate discharging said fund from all its obligations and liabilities; upon which said fund shall be surrendered to the parties depositing or entitled to receive the same, and they may be discharged from their obligations as such guarantors as aforesaid.

On report of Inspector, Treasurer may give certificate discharging guarantee capital.

(2) Immediately after the discharge or withdrawal of a guaranty fund or capital, the company shall give notice thereof in the *Ontario Gazette*, and in some newspaper published in the county town of the county in which the company has its head office, by insertion of such notice once a week for at least three successive weeks in the *Gazette* and in said newspaper.

SHARE OR STOCK CAPITAL.

11. Any mutual fire insurance company, incorporated under

Power to raise share capital.

this or any former Act, may raise a share or stock capital of not less than one hundred thousand dollars, and may increase the same from time to time to a sum not exceeding five hundred thousand dollars.

Subscribers to become members of company. **12.** Every subscriber shall, on allotment of one or more shares to him, become a member of the said company, with all incidental rights, privileges and liabilities.

Transfer of shares. **13.** The said shares shall be personal estate, and shall be transferable, but no transfer shall be valid unless made on the books of the said company; and, until fully paid up, no share shall be transferable without the consent of the board of directors, nor shall any transfer be valid while any call previously made remains unpaid; and the company shall have a lien on the shares of any shareholder for unpaid calls or other debts due by him to the company, and for any obligation held by the company against him, and after such call, debt or obligation becomes due, the company may, upon one month's notice to the shareholder, his executors, or administrators, sell such shares or a sufficient portion thereof to pay such call, debt or obligation, and transfer the shares so sold to the purchaser.

Forfeiture of shares. **14.** The company may, also, after default made in the payment of any call upon any share for one month, and after notice having been first given as in the next preceding section mentioned, declare such share and all sums previously paid thereon, forfeited to the company, and the company may sell or re-issue forfeited shares on such terms as they shall think fit for the benefit of the company.

When company may make insurances for premiums payable wholly in cash. **15.** After the sum of one hundred thousand dollars of the said stock or share capital has been *bona fide* subscribed, and twenty per centum paid thereon into the funds of the said company, the said company may make insurances for premiums payable wholly in cash; but no insurance on the wholly cash principle shall make the insured a member of the company, or make him liable to contribute or pay any sum to the company, or to its funds, or to any other member thereof, beyond the cash premium agreed upon, or give him any right to any participation in the profits or surplus funds of the company, but the company shall not transact any such business on the wholly cash principle without first procuring a license from the Provincial Treasurer, and for this purpose the provisions of the Ontario Insurance Act, except section nine, shall apply to the company, except in so far as anything contained therein may be inconsistent with this Act.

Dividends. **16.** The net annual profits and gains of the said company, not including therein any premium notes or undertakings, shall be applied, in the first place, to pay a dividend on the said share capital, not exceeding the rate of ten per centum per annum,

and the surplus, if any, shall be applied in the manner provided by the by-laws of the company.

17. After the share capital has been subscribed as aforesaid, at least two-thirds of the persons to be elected directors of the company, in addition to the qualifications required by the fourteenth section of the Act respecting Mutual Fire Insurance Companies, shall be holders of shares of the said capital stock to the amount of three thousand dollars, on which all calls have been fully paid; the other one-third of the directors to be elected shall possess at least the qualifications required by the said fourteenth section of the Act respecting Mutual Fire Insurance Companies.

Qualification
of directors.

18. The board of directors of any company which shall raise a share or stock capital under this Act, may make such by-laws, subject to the provisions of this Act and not inconsistent with or contrary to law, as may be necessary to carry out the objects and intentions of this Act, and to give effect to the provisions thereof; and may rescind, alter, vary, or add to the same from time to time.

By-laws.

19. Any mutual insurance company heretofore incorporated or organized, or which may be hereafter incorporated or organized, under any of the laws of this Province, having surplus assets, aside from premium notes or undertakings, sufficient to reinsure all its outstanding risks, after having given notice once a week for four weeks, of their intention, and of the meeting hereinafter provided for, in the *Ontario Gazette* and in a newspaper published in the county where such company is located, may, with the consent of two-thirds of the members present at any regular annual meeting, and of two-thirds of the subscribers of guarantee capital or share or stock capital, or at any special meeting duly called for the purpose, or with the consent, in writing, of two-thirds of the members of such company, and the consent, also, of three-fourths of the directors, and of two-thirds of the subscribers to the guarantee capital and share or stock capital, notwithstanding anything contained in the third and fifty-first sections of the one hundred and fiftieth chapter of the Revised Statutes of Ontario, become a joint stock company, under the said one hundred and fiftieth chapter of the Revised Statutes of Ontario, by conforming to and otherwise proceeding in accordance with the provisions of the said last mentioned Act; and every member of such company, on the day of said annual or special meeting, or the date of said written consent, shall be entitled to priority in subscribing to the capital stock of said company, for one month after the opening of the books of subscription to such capital stock, in proportion to the amount of insurance held by such members on unexpired risks in force on the day of said annual or special meeting, or the date of said written consent; and every company so

How a mutual
company may
become a
stock com-
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changed or organized shall come under and be subject to the provisions of the said last mentioned Act.

New company to be answerable for liabilities of former company.

20. Any company which may be formed under the provisions of the last preceding section shall be answerable for all the liabilities of the company from which it has been formed, and may be sued therefor by or under its new corporate name, and the assets, real and personal, of the old company shall pass to and become vested in the new company.

Company to keep such books as may be directed by Lieutenant-Governor in Council.

21. Any insurance company or association formed under this Act or any former Act shall keep such a classification of its risks and such registers and books of account as may from time to time be directed or authorized by the Lieutenant-Governor in Council; and if it appears at any time to the Inspector that such books are not kept in such a business-like way as to make at any time a proper showing of the affairs and standing of the company, he shall report the same to the Treasurer of the Province, who shall thereupon nominate a competent accountant to proceed, under the directions of the Inspector, to audit such books and give such instructions as will enable the officers of such company to keep them correctly thereafter, the expenses of such accountant to be borne by the company to which he is sent, and shall not exceed five dollars per day and necessary travelling expenses.

R. S. O., c. 161, s. 46, amended.

22. Section forty-six of the Act respecting Mutual Fire Insurance Companies is amended by adding thereto the following words: "but not more than fifty per centum of any premium or premium note shall be paid in cash at the time of such application or of effecting the insurance."

Penalty for violation of this Act.

23. Any officer, agent, employee, or other person, who shall hereafter solicit risks, issue policies or renewals, or effect contracts of insurance in contravention of the terms of this Act, shall be liable to the penalties provided for by section nineteen of the one hundred and sixtieth chapter of the Revised Statutes of Ontario, and such penalties may be recovered, imposed and enforced in the manner provided for by said section.

Change of name.

24. Where any insurance company which is within the legislative authority of this Province, is desirous of adopting another name differing from that by which it was incorporated, or where in the opinion of the Lieutenant-Governor in Council the name by which such company was so incorporated, may be easily confounded with that of any other existing company, the Lieutenant-Governor in Council, upon being satisfied that a change of name will not work or effect any improper purpose, may by Order in Council change the name of the company to some other name to be set forth in the Order in Council; but no such change of name shall affect the rights or obligations of the company; and all proceedings which might have been con-

tinued or commenced by or against the company by its former name may be continued and commenced by or against the company by its new name.

25. The Lieutenant-Governor in Council may require the same notice to be given upon any application for such change of name as is required under an application for Letters Patent by the one hundred and fiftieth chapter of the Revised Statutes of Ontario. Notice of application for change of name.

26. The Revised Statute respecting Mutual Fire Insurance Companies, chapter one hundred and sixty-one, section eight, is hereby amended by striking out all the words after the word "adopted" in the fifth line of the said section. R.S.O., c. 161, s. 8, amended.

27. Section sixty-one of the Act respecting Mutual Fire Insurance Companies, is amended by adding thereto the following: But this section shall not apply to any judgment recovered on any policy or undertaking of the company heretofore issued or given where more than fifty per centum of the premium or premium note was paid in cash at the time of the insurance or the application therefor. A judge in chambers, or a referee in chambers, shall, upon the recovery of a judgment against the company, upon the application of the person in whose favour the same has been recovered, upon notice to the company, inquire into the facts, and if he shall certify that more than fifty per centum of the premium, or of the premium note, was paid in cash at the time of the insurance, or the application therefor, execution may be forthwith issued upon such judgment. Sec. 61 amended.

28. The Fire Insurance Policy Act, chapter one hundred and sixty-two, of the Revised Statutes of Ontario, shall apply to mutual fire insurance companies and to all policies to be hereafter issued by any mutual fire insurance company except where the provisions of the Act respecting mutual fire insurance companies are expressly inconsistent with, or are supplementary and in addition to the provisions of the said Fire Insurance Policy Act. R.S.O., c. 162, to apply to mutual fire insurance companies.

29. This Act shall be read and construed with and as part of the Act respecting Mutual Fire Insurance Companies. This Act to be read as part of R. S. O., c. 161.

30. This Act may be cited as "The Mutual Fire Insurance Companies' Act, 1881." Short title.

CHAPTER 129.

REVISED STATUTES OF ONTARIO.

An Act to secure to Wives and Children the benefit of Assurances on the Lives of their Husbands and Parents.

Persons may insure for benefit of their wives or children, s. 1.	Surrender of policy at any time for a paid-up policy, s. 12.
Apportionment may be charged, ss. 2, 3.	Power to borrow on the policy, s. 13.
Where no apportionment is made, shares to be equal, s. 4.	Death of some of beneficiaries, s. 14.
Mode of insurance, ss. 5, 6.	Application of bonuses and profits on policies, s. 15.
Insurances before 18th September, 1865, s. 7.	Insurance under this Act to be for separate use of wife, and free from creditors' claim, &c., s. 16.
Sum insured under this Act free from creditors' claims, s. 8.	Frauds on creditors, s. 17.
Payment of the money, ss. 9, 10.	Act not to affect existing rights, s. 18.
Investment of shares of minors, s. 11.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Persons may insure for the benefit of their wives or children;

1. Any person may insure his life for the whole term thereof, or for any definite period, for the benefit of his wife or of his wife and children, or of his wife and some or one of his children, or of his children only or some or one of them, and may apportion the amount of the insurance money as he may deem proper where the insurance is effected for the benefit of more than one. 29 V. c. 17, s. 1.

And may change apportionment.

2. The insured may, from time to time, by any further or other instrument in writing attached to or endorsed on the policy, alter the shares and allotments of the insurance money among the parties entitled to be benefited, as he may deem proper. 36 V. c. 19, s. 3, *last clause*.

Insured may on death of any beneficiary re-allot the share of deceased.

3. In the event of some of the persons for whose benefit an insurance under this Act has been effected, dying in the lifetime of the insured, the said insured, after the death of such person, by any instrument in writing attached to or endorsed upon the policy of insurance, may declare that the share formerly allotted to such person or persons shall be for the benefit of such other person or persons as the said insured may determine. 36 V. c. 19, s. 3, *first clause*.

4. Where no apportionment is made in any policy or declaration as aforesaid, all parties interested in the said insurance shall be held to share equally in the same; and where it is stated in such policy or declaration that the insurance is for the benefit of the wife and children generally, or of the children generally without specifying their names, then the word "children" shall be held to mean all the children of the person whose life is insured living at the time of his death, whether by any other marriage or not. 29 Vic. c. 17, s. 4.

Where no apportionment is made among the children.

5. The said insurance may be effected either in the name of the person whose life is insured, or in the name of his wife, or of any other person (with the assent of such other person) as trustee; and the premium on any policy of insurance effected under this Act may be payable during the whole of the said person's life, or during any lesser period, by annual, half-yearly, quarterly or monthly payments; or the insurance may be effected by the payment of one sum as the premium for such insurance; and the policy of insurance may be for a limited term of years. 29 V. c. 17, s. 2; 36 V. c. 19, s. 1.

How insurance may be effected, and premiums payable.

6. All such policies of insurance as were effected before the twenty-ninth day of March, 1873, by the payment of one sum as premium, or for a limited term of years, in pursuance of the Acts theretofore in force for the same purposes as this Act, are hereby made valid and effectual as if made in pursuance of and under this Act. 36 V. c. 19, s. 2.

Certain policies made valid.

7. It is hereby declared to have been lawful for any person, on or before the 18th day of September, 1866, to have endorsed upon or attached to any policy of insurance on his life which may have been effected and issued before the 18th day of September, 1865, a written declaration that such policy and insurance was for the benefit of his wife, or of his wife and children, or of his wife or some or one of his children, or of his children only, or of some or one of them, and to have apportioned the amount of the insurance money as he may have deemed proper where the insurance was declared to be for the benefit of more than one. 29 V. c. 17, s. 3.

Insurances effected before 18th September, 1865, may be endorsed in favour of wives or children.

8. Upon the death of the person whose life is insured, the insurance money due upon the policy shall be payable according to the terms of the policy or of the declaration as aforesaid, as the case may be, free from the claims of any creditor or creditors whomsoever, except as herein provided. 29 V. c. 17, s. 5.

Sum so insured not liable to creditors.

9. In all cases where the party insured under any policy has heretofore directed, or hereafter directs, the insurance money, or any portion thereof, to be paid to his child or children, without naming any person to receive the same on his or their behalf during his or their minority, it shall be competent

Insurance moneys due to minors, may be paid to executors of the insured.

to the Assurance Company granting such policy to pay the amount due to such of the children as are minors into the hands of the executor or executors of such insured person, who shall hold the same as trustee or trustees for such children, and the receipt of such executor or executors shall be a sufficient discharge to the Company. 33 V. c. 21, s. 1.

If an insured dies intestate, without appointing any one to receive the insurance moneys, they may be paid to a guardian for a minor.

Security by guardian.

10. If the said insured has heretofore died or hereafter dies intestate, and without having appointed in writing any person to whom such payment may be made on behalf of such infants, the payment to a guardian of such infants, duly appointed by one of the Surrogate Courts of this Province, shall be a sufficient discharge to the Assurance Company for the money so paid, and the Company shall not be bound to see to the application of the money, or be liable for the subsequent misapplication thereof; but the guardian so appointed shall give security to the satisfaction of the Judge of such Court for the faithful performance of his duty as guardian, and the proper application of the moneys which he may receive. 33 V. c. 21, s. 2.

Fees where insurance not more than \$200.

Rev. Stat. c. 46, s. 66.

2. Where the amount of the insurance money payable to a guardian of infants as aforesaid, does not exceed two hundred dollars, the fees payable on the appointment of such guardian shall be two dollars and no more, and such fees shall be regulated in the manner prescribed by the sixty-sixth section of "*The Surrogate Courts Act.*" 40 V. c. 7, *Sched. A* (159).

Powers as to insurance moneys due to minors.

11. The trustee or trustees named in the last two preceding sections may invest the moneys so to be received upon Government securities or municipal debentures or on mortgage of real estate, with full power from time to time to alter, vary and transpose the same, and to apply all or any part of the annual income arising from the share or presumptive share of each of the children, of and in the said trust funds, in or towards his or her maintenance and education, in such manner as the trustee or trustees think fit, and also to advance unto and for each or any of the said children, notwithstanding his or her minority, the whole or any part of the presumptive share of the same child of and in the said trust moneys for the advancement or preferment in the world or in marriage of any such child. 33 V. c. 21, s. 3.

Power to surrender policy.

12. If a person who has heretofore effected or hereafter effects an insurance in the terms of this Act, finds himself unable to continue to meet the premiums, he may surrender the policy to the Company granting the same, and accept in lieu thereof a paid-up policy for such sum as the premiums paid would represent, payable at death in the same manner as the original policy; and the said Company may accept such surrender, and grant such paid-up policy notwithstanding any such declaration or direction in favour of the wife and children, or any or either of them, of the insured. 33 V. c. 21, s. 4.

Section 13 is in virtue of 41 V. (1878), c. 8, s. 14, superseded by the following provision:

The person insured may, from time to time, borrow from the Company insuring, or from any other Company or person, on the security of the policy, such sums as may be necessary to keep the said policy in force, and the sums so borrowed, together with lawful interest thereon as may be agreed, shall be a first lien on the policy and on all moneys payable thereunder, notwithstanding any such direction in favour of the wife or children or any or either of them.

Power to borrow on policy in order to keep same in force.

14. In the event of some of the parties for whose benefit the said insurance has been effected dying in the lifetime of the insured, the moneys payable thereunder shall be payable to the survivor or survivors of such parties, or in case they also die, to the executors or administrators of the assured, but nothing herein contained shall be held to prevent the said assured from assigning the policy for the benefit of any future wife or children, or executing a declaration in their favour or in favour of some or one of them as hereinbefore is mentioned.

Provision in case of death before the insured of any one beneficially entitled.

Section 15 is in virtue of 44 V. (1881), c. 15, superseded by the following provisions:

Any person who effects any such policy of insurance under this Act, or who has duly declared or may hereafter duly declare a policy effected on his life to be for the benefit of his wife and children, or any of them, may in writing require the Assurance Company issuing such policy to pay the bonuses or profits accruing thereunder, or portions of the same, to the insured, or to apply the same or portions of the same in reduction of the annual premiums payable by such insured in such way as he may direct, or to add the said bonuses or profits to the policy, and the said Assurance Company shall apply such bonuses or profits as such insured directs, and according to the rates and rules established by such Company.

Insured may direct application of bonuses and profits.

2. This Act shall apply to policies heretofore made, and to bonuses or profits now declared in respect of such policies, and to policies hereafter to be created under the said Act.

Application of Act.

16. A policy of insurance effected by any married man on his own life, and expressed upon the face of it to be for the benefit of his wife, or of his wife and children or any of them, or upon which he has heretofore endorsed, or may hereafter endorse thereon that the same shall be for the benefit of his wife, or of his wife and children or any of them, shall enure and be deemed a trust for the benefit of his wife for her separate use, and of his children or any of them, according to the intent so expressed, and shall not, so long as any object of the trust remains, be subject to the control of the husband or his creditors or form part of his estate, save and except for such

Insurance by husband for the benefit of wife and children to be separate use of wife, &c.

Appointment by the Court of trustee, if no other trustee or executor appointed.

amount as the same may be pledged to any person or persons prior to any endorsement thereon for the benefit of his wife or children or any of them, when the sum secured by the policy becomes payable; in the event of no executor or trustee having been appointed by the husband by will, a trustee thereof may be appointed by the Court of Chancery upon the application of the wife, or in the event of her death, by the children or their guardian, and the receipt of such executor or trustee shall be a good discharge to the office in which such insurance is effected. 35 V. c. 16, s. 4; 36 V. c. 19, s. 5.

Fraud in payment of premiums.

17. If it is proved that the policy of insurance was effected and premiums paid by the husband with intent to defraud his creditors, they shall be entitled to receive out of the sum secured an amount equal to the premiums so paid. 35 V. c. 16, s. 4.

Act not to affect existing rights.

18. Nothing contained in this Act shall be held or construed to restrict or interfere with the right of any person to effect or assign a policy for the benefit of his wife or children in any other mode allowed by law. 29 V. c. 17, s. 6.

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