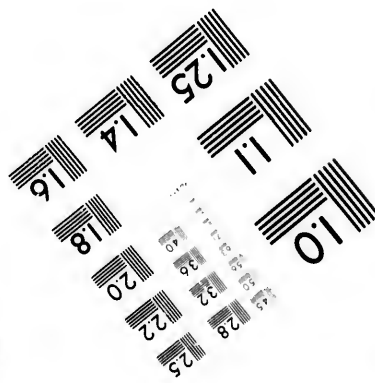
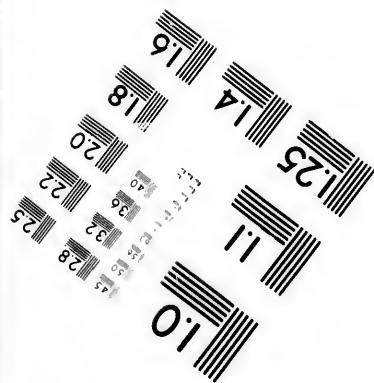
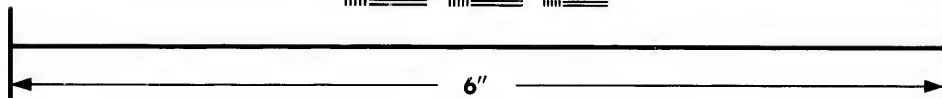
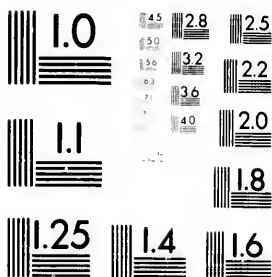


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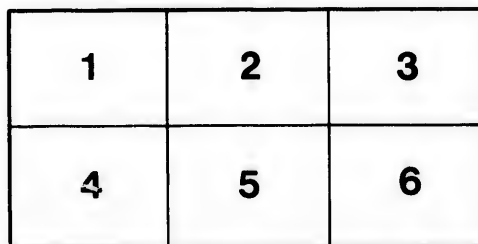
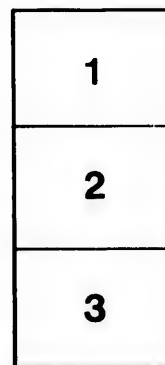
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THE

ONTARIO INSURANCE ACT, 1887,

(50 V. c. 53.)

BEING AN ACT FOR CONSOLIDATING AND AMENDING THE  
ACTS RESPECTING INSURANCE COMPANIES.

TO WHICH ARE PREFIXED

NOTES ON THE NEW PROVISIONS.

BY

J. HOWARD HUNTER, M.A.,

*Inspector of Insurance for Ontario.*

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**Toronto:**

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1887.



1474

T H E

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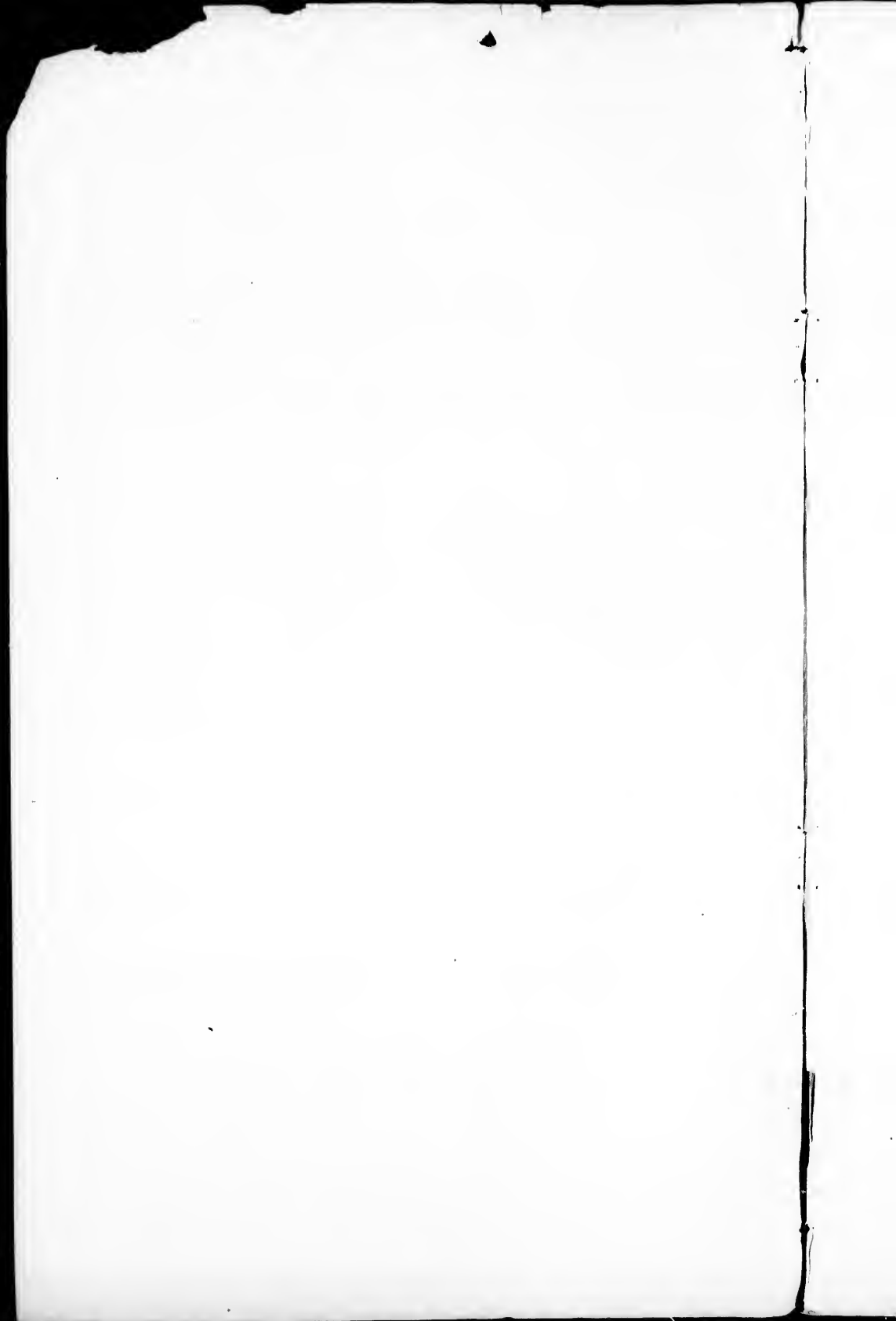
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# THE ONTARIO INSURANCE ACT, 1887,

(50 VIC., C. 53),

BEING AN ACT FOR CONSOLIDATING AND AMENDING THE  
ACTS RESPECTING INSURANCE COMPANIES.

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## NOTES ON THE NEW PROVISIONS.

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1. Apart from Dominion legislation—the constitutionality of which is an unsettled question—the public general law of Ontario respecting Insurance is drawn from two sources: (a) from the Common Law of England and certain Imperial statutes passed prior to 1792, which by the first enactment of the Parliament of Upper Canada (32 Geo. III., c. 1) became the law of the Province; and (b) from Provincial Legislation.

### IMPERIAL STATUTE 14 GEO. III., C. 78, REPEALED.

2. In 1774 the British Parliament passed an Act (14 Geo. III., c. 78) commonly called the Metropolitan Building Act. Despite a title indicating only local applications, this statute contained some general provisions which were held \*to govern fire insurance contracts generally throughout England, and so must have passed into the law of Upper Canada by virtue of the Provincial Act of 1792. In *Gaston v. Wald* (1860) 19 Q. B., 586, section 86 of the Metropolitan Building Act—defining an insurance company's liability on accidental fires—was expressly recognized by Robinson, C. J., as the law of Upper Canada. In *Stinson v. Pennock* (1868) the 83rd section, requiring the company to rebuild on the request of certain parties interested (e. g., a mortgagee) was held by Mowat, V.C., to be in force in Ontario, 14 Chy., 604. The statute clashes with certain of the Statutory Conditions, and by s. 154 of the Ontario Insurance Act, 1887, it is declared not to be in force in the Province.

### IMPERIAL STATUTES STILL IN FORCE.

3. It is important to remember that parts of the following Imperial statutes still remain unrepealed in Ontario.

A.D. 1746, 19 Geo. II., c. 37.  
1774, 14 Geo. III., c. 48.  
1788, 28 Geo. III., c. 56.

The doctrine of "insurable interest," as it now obtains in this Province, rests partly on the old Common Law of England,

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\* E. G., by Lord Westbury in *Re Barker* (34 Law J. Bankr, 1.)

partly on the above statutes and partly on the fourth Statutory Condition of the Provincial enactment, 39 V. c. 24, (Ontario Ins. Act, 1887, s. 114 Stat. Con. 1). Until 1876 it was the law of Ontario that, to sustain an action upon a contract of insurance, the assured must have an "insurable interest" in the subject of insurance both (1) at the time of effecting the insurance, and also (2) at the time of the loss. The first requirement of this doctrine remains unaltered. The second requirement, if taken strictly, might, and sometimes did, occasion great hardship. For example, it was, in a New York case,\* held that where the party insured had no interest in the property at the time of the loss the policy was void, although the loss was by the terms of the policy made payable to a third person and such third person at the time of the loss had an interest in the property! In 1876, the severity of this old Common Law doctrine was mitigated in Ontario. The fourth of the *Statutory Conditions* framed by a commission of judges was enacted as the law of the Province by 39 V. c. 24, and provided that mere change of title should not avoid the policy if such change was caused "by succession or by operation of the law or by reason of death." The law of insurable interest as thus settled in 1876 is not altered by any provision in the enactment of 1887, except that the thirteenth Statutory Condition as now amended requires (sub-sec. c, division 5) that a claimant under any contract of insurance shall in his declaration disclose all liens and incumbrances subsisting on the subject insured, and thus in effect, shall disclose how far the original insurable interest of the assured has been altered.

Where the insurance exceeds the insurable interest there is an obvious temptation to arson. It is therefore now provided by section 120 (2) that a magistrate investigating the circumstances of a fire may take evidence, not only "as to the origin or cause of the fire," but also "as to the persons, if any, profiting thereby."

#### "CONTRACTS" [S. 2 (6)].

4. Contracts of insurance made otherwise than by sealed instrument or "policy," were not recognized by the statute law of Ontario until 1882, when the Act 45 Vic. c. 20 provided that *written and oral* contracts of fire insurance shall be governed by the Statutory Conditions. In the Act of 1887, "contract," wherever the term occurs, (unless the context otherwise requires,) includes sealed, written, and oral contracts.

Much fire insurance of the mercantile class is now effected by telephone, the oral contract being followed at an interval of some hours, or perhaps days, by a written memorandum (e. g. an "interim receipt,") or by a sealed instrument. When the latter is executed in the particular manner prescribed by section 110, the Company is estopped from denying the contract; but if a fire-claim arises before the oral or written contract has merged in a policy, the claimant is left to the ordinary law of evidence to prove his contract. If, however, a contract is proved to exist, then the Act operates upon it and (s. 114) construes it by the Statutory Conditions.

#### AUTHORIZED AND UNAUTHORIZED INSURANCE.

5. The new Act has made an important advance in requiring (s. 55) that, after the 30th of June, 1887, every company or underwriter (s. 2 (4)) undertaking or offering to undertake con-

\* *Tullman v. Atlantic F. & M. Ins. Co.* 29 How. N. Y. 71.

tracts of insurance in Ontario shall hold a license either of the Province or of the Dominion; and s. 56 imposes a penalty of \$200 for each contravention of the Act. Hitherto the law against unauthorized insurance has been found ineffective, chiefly from the difficulty of obtaining the peculiar evidence necessary for conviction. Hereafter there should be no such difficulty. "Offering to undertake contracts" is, by s. 56, made a penal offence in any unlicensed company or underwriter; and "Offering to undertake contracts" is, by s. 2 (5), declared to include "the setting up of a sign or inscription containing the name of the company, or the distribution or publication of any proposal, circular, card, advertisement, printed form or like document, in the name of the company, or any written or oral solicitation in the company's behalf." Provincial licenses are annually renewable on the 1st of July (s. 57).

#### FORMATION OF JOINT STOCK COMPANIES.

6. Hitherto it has been necessary for companies desiring incorporation for purposes of insurance or suretyship to resort to the Legislature and obtain a special act. This was a matter of some expense, and on public grounds was inexpedient. Hereafter (ss. 4, 5) a joint stock company desiring incorporation for any purpose of the Act, can, on the recommendation of the Inspector of Insurance, be organized and chartered under the Companies' Acts, R. S. O., 1877, c. 149 and c. 150. Certain requirements and safeguards are added (s. 6) as to the subscribed and paid-up capital in companies so organized.

#### DEPOSITS WITH THE PROVINCIAL TREASURER.

7. The Act, in section 40, removes doubts as to the deposits required of new companies. It is there provided that in each case a foreign company shall deposit twice the sum required of a Canadian or Provincial company. This requirement proceeds on the principle that Ontario policy-holders have, as against foreign companies, the Government deposit as their sole effective security, whereas the whole assets of home companies are practically liable to administration in Canadian courts on failure after a certain time to discharge any claim for which final judgment has been given.

SECTION 47 defines much more explicitly than had hitherto been done the contracts for which the deposit is to be deemed security.

#### MAXIMUM TERM OF FIRE INSURANCE CONTRACTS.

8. The maximum term of fire insurance contracts will be hereafter (s. 106) for all companies, three years. This important reform will remove a fruitful source of unhealthy competition, of disorder in books, and of uncertainty in financial statements.

#### MINIMUM ASSETS IN MUTUAL COMPANIES, (Section 109).

9. Until the company has at risk \$2,000,000, the premium note hereafter shall be not less than one per cent. per annum of the amount insured; when the amount at risk exceeds \$2,000,000 a lower rate may be taken, but so that the total assets shall never fall below two per cent. of the gross amount at risk, unless the company deposits with the Provincial Treasurer the full security required of new companies under the Act.

**STATUTORY CONDITIONS.**

10. **STATUTORY CONDITION 5.**—Formerly, this Condition closed with the following words:—“In case of the removal of property to escape conflagration, the Company will rateably contribute to the loss and expenses attending such act of salvage.” Some uncertainty arose as to the construction of “rateably”; in *McLaren v. Commercial Union*, “rateably” was held to refer exclusively to contribution between two or more companies on the same risk, so that the assured was absolved from all contribution. The Condition is now amended in the following terms:—“The Company will contribute to the loss and expenses attending such act of salvage proportionately to the respective interests of the Company or Companies and the assured.
11. **STATUTORY CONDITION 8.**—The principle of constructive assent to further insurance has, since 1859, been embodied in the Provincial law governing mutual and cash-mutual companies. (22 V. c. 46, s. 13.) It is now extended to joint stock companies. The burden of proof is cast on the assured; he has to establish that he gave written notice to the Company or to an authorized agent of his desire or intention to effect further insurance. (Statutory Conditions 8, 23.)
12. **STATUTORY CONDITION 10 (e)** is now extended to the contents of buildings.  
 10 (f). It is now allowable to keep in an insured building lubricating oil not exceeding five gallons in quantity; but such lubricating oil must not be crude petroleum nor oil of less specific gravity than is required by law for illuminating purposes, *i.e.*, must not be of less specific gravity than .775, water being unity. (*Consol. Statutes of Canada*, 1886, c. 102, s. 3.)
13. **STATUTORY CONDITION 13 (c).**—The claimant must under subdivision 4, in addition to the information heretofore required, state: “(5) All liens and incumbrances on the subject of insurance,” and, “(6) The place where the property insured, if movable, was deposited at the time of the fire.”  
 13 (d). In addition to former requirements, the assured must, if required, and if practicable, “produce warehouse receipts and stock lists,” and he is further required “to separate as far as reasonably may be, the damaged from the undamaged goods.” The former amendment is a serviceable check on fictitious losses; the latter defines the practical obligation flowing from the principle of non-abandonment which was affirmed in the 5th condition.  
 13 (e). The certificate of personal knowledge of the circumstances, etc., may now issue from a commissioner for taking affidavits, or from a municipal clerk instead of from a clergyman.
14. **STATUTORY CONDITION 16.**—Where the two arbitrators are unable to agree in choosing a third, the County Judge shall appoint the third; then, as to the costs of the arbitration,—“Where the full amount of the claim is awarded, the costs shall follow the event; and in other cases, all questions of costs shall be in the discretion of the arbitrators.” Claimants have frequently represented that the costs of a favourable arbitration may easily outweigh the value of the award.

15. **STATUTORY CONDITION 17.**—The loss shall be payable by mutual and cash-mutual companies, 60 days (instead of three months as heretofore) after proof of loss. The allowance of three months for payment of losses was a survival of the first rule Insurance Act passed in Upper Canada more than fifty years ago (6 W. IV, c. 18, s. 18). In those days money was indeed scarce and difficult to collect. Not only in theory, but in practice, Mutual Companies paid every fire claim by special assessment. The Insurance Act of 1859 (22 V. c. 46) set out in the first section by declaring it to be the intention "to provide for the speedy and certain payment of losses incurred"; so, for the first time, and with this express object in view, guarantee capital was devised. For the purpose of discharging the guarantee capital, a reserve might be accumulated from surplus income (22 Vic. c. 46, s. 3). The Act of 1873 (36 V. c. 44) authorized (s. 49) a permanent reserve fund, and for purposes of such reserve empowered the directors to levy an annual assessment, not exceeding ten per cent., on the premium notes. In the new Act this provision is continued (s. 130 (1)) and (sub-sec. 2), a still wider range than formerly is given for the profitable investment of reserve funds. Mutual Companies thus enjoy in the law the most ample facilities "for the speedy and certain payment of losses incurred."
16. **STATUTORY CONDITION 19** has been re-cast, and a sub-section added. Notice of cancellation by Company is altered to 5 days (excluding Sunday) if notice is given by personal service; or 7 days from arrival of written notice at post office. Sub-section (b) provides that the assured may terminate the contract by written notice (to be given in terms of Stat. Con. 23), the company retaining short rates for the expired part of the term, and refunding the balance of the premium.
17. **STATUTORY CONDITION 23.**—This new condition defines "written notice" for purposes of the Statutory Conditions, and thus removes many perplexing questions as to effectual notification.

#### MISCELLANEOUS NEW PROVISIONS.

18. **SECTION 120.**—This important section, which is new as to sub-sections 2 and 3, authorizes a searching investigation by a magistrate in case of suspected incendiarism; and provides for the preservation of evidence.
19. **SECTION 127.**—This section, by the insertion of the words "or the class" after "department," authorizes differential assessments of premium not 3 according to the classes of risks for which the notes were taken.
20. **SECTION 141.**—Untrue entries or wilful omissions in the books of a company, and refusal to exhibit the company's books for purposes of inspection are made punishable by imprisonment. This section merely extends to insurance companies the provisions applicable to commercial companies generally.
21. **SECTION 149.**—To prevent the detention of original documents in courts of law for purposes of evidence, this section provides that a copy of any document in the office of the Inspector certified by him to be a true copy, and sealed with the seal of his office, shall be held to be authentic, and shall be *prima facie* evidence of the same legal effect as the original.

22. SECTIONS 51 and 151 (2).—Re-insurance for the purposes of the Act, must be effected in some company licensed to transact business in the Province, and approved by the Provincial Treasurer. Under these sections companies are permitted to substitute re-insurance for cash securities. Practically, in such case the company withdraws from the policy-holder the assets of the company with which he made his contract, and substitutes for those assets the liability of another company with which he, individually, has no contract. Under such circumstances it is of manifest importance that—as in effect is here provided,—the re-insuring company be of undoubted solvency, and be amenable to the jurisdiction of Provincial courts.

I. HOWARD HUNTER.

TORONTO, April 26th, 1887.

An Act consolidating and amending the Acts  
respecting Insurance Companies.

SUMMARY OF PROVISIONS.—

- PRELIMINARY: SHORT TITLE, s. 1; INTERPRETATION, s. 2; APPLICATION OF ACT, s. 3.
- TITLE I.—Joint Stock Companies: Formation, and General Provisions governing, s. 4; Directors, s. 5 (*See also ss. 89-98*); Capital Stock, s. 6, (*for Share or Stock Capital in Mutual and Cash-Mutual Fire Insurance Companies, see under TITLE VI*); Forfeiture of Corporate Powers, s. 7; Liquidation, s. 7, (*See also under TITLE XVII*).
- TITLE II.—Formation and Incorporation of Mutual and Cash-Mutual Fire Insurance Companies, ss. 8-19.
- TITLE III.—Change of Name or of Head-Office (*all Companies*), ss. 20-22.
- TITLE IV.—Branches and Departments in Mutual and Cash-Mutual Fire Insurance Companies, ss. 24-26.
- TITLE V.—Guarantee Capital in Mutual or Cash-Mutual Fire Insurance Companies, ss. 27-29.
- TITLE VI.—Share or Stock Capital in Mutual or Cash-Mutual Fire Insurance Companies, ss. 30-39.
- TITLE VII.—Government Deposits (*all Companies*), ss. 40-52.
- TITLE VIII.—License (*all Companies*), ss. 53-62.
- TITLE IX.—Fees (*all Companies*), s. 63.
- TITLE X.—Internal Management of Mutual and Cash Mutual Fire Insurance Companies: 1. Admission and Withdrawal of Members, ss. 65-68; 2. General Meetings, ss. 69-73; 3. Directors—Qualification, Election, etc., ss. 74-87.
- TITLE XI.—Powers of Directors—General Provisions (*all Companies*), ss. 88-98. (*As to Joint Stock Companies, see also s. 5.*)
- TITLE XII.—Books, Accounts, and Returns (*all Companies*), ss. 99-105.
- TITLE XIII.—Contracts of Fire Insurance—General Provisions (*all Companies*), ss. 106-113.
- TITLE XIV.—Statutory Conditions and Provisions relating thereto, (*binding all Fire Insurance Contracts whatsoever in Ontario, See Section 3*) ss. 114-120.

TITLE XV.—Premium Notes and Assessments (*Mutual and Cash-Mutual Fire Insurance Companies*), ss. 121-136.

TITLE XVI.—Inspection of Companies (*all Companies*), ss. 137-149.

TITLE XVII.—Liquidation and Winding-up of Companies (*all Companies*), ss. 150-153. (*See also as to Joint Stock Companies, s. 7.*)

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

Title and  
commence-  
ment of Act.

1. This Act may be cited as *The Ontario Insurance Act, 1887*, and shall go into effect on the 30th day of June next after the passing hereof, except that sections 114 to 116 shall not take effect, as respects insurance companies which have their head office in Great Britain or Ireland, until 31st December next. R. S. O. 1877, c. 160, s. 1.

Interpretation 2. In this Act, unless the context otherwise requires:—

“Province.” 1. “Province” and “Legislature” mean respectively the  
“Legislature.” Province and the Legislature of Ontario.

“Treasurer.” 2. “Treasurer,” means the Treasurer of the Province; or  
any member of the Executive Council to whom from time to time may be transferred, either for a limited period, or otherwise, the powers and duties which are by this Act assigned to the Treasurer.

“Inspector.” 3. “Inspector” means the Inspector of Insurance for the  
Province.

“Company.” 4. “Company” means and includes any corporation, or  
any society or association, incorporated or unincorporated, or any partnership, or any underwriter, except as provided by section 3, that undertakes or effects for valuable consideration, or agrees or offers so to undertake or effect, in the Province, any contract of indemnity, guarantee, suretyship, insurance, endowment, tontine, or annuity on life, or any like contract which accrues payable on or after the occurrence of some contingent event.

“Offer to un-  
dertake con-  
tracts.” 5. The expression “offer to undertake contracts” shall include  
the setting up of a sign or inscription containing the name of the company; or the distribution or publication of any proposal, circular, card, advertisement, printed form, or like document in the name of the company, or any written or oral solicitation in the company’s behalf.

“Contract.” 6. “Contract” means and includes any contract or agree-  
ment, sealed, written or oral, the subject matter of which is within the intent of sub-section 4.

“Written.” 7. “Written,” as applied to any instrument, includes written  
or printed, or partly written and partly printed.

“Provincial  
Company.” 8. “Provincial Company” means a company which has its  
head office in Ontario.

“Canadian  
Company.” 9. “Canadian Company” means a company incorporated or  
legally constituted in the Dominion of Canada, but which has its head office in some Province of Canada other than Ontario.



10. "Municipality" has the same meaning as in *The Municipal Act*. "Municipality."
11. "Mutual Insurance" means insurance given in consideration of a premium note or undertaking with or without an immediate cash payment thereon; and "Mutual Company" means a Company empowered solely to transact such insurance. "Mutual Insurance." "Mutual Company."
12. "Cash-Mutual Company" means a company organized to transact mutual insurance, but empowered to undertake contracts of insurance on both the cash plan and the premium note or mutual plan. "Cash Mutual Company."
13. "Inland-Marine Insurance" means marine insurance in respect of subjects of insurance at risk above the harbour of Montreal. Dom. Act, 49 Vic. c. 45, s. 1 (g); cf. R. S. O. c. 160, s. 6. "Inland Marine Insurance."
14. "Member" means a policy-holder on the premium note plan; but as to those mutual, or cash-mutual companies which, in terms of this Act have guarantee or joint stock capital, "Member" includes, where the context so requires, any holder of one or more shares of the capital. 46 V. c. 15, s. 15; 44 V. c. 20, ss. 7, 12. "Member."
15. "Registry Office" means the registry office of the Registry Division within which the head office of the company is situate; and "Registrar" includes the Registrar and Deputy Registrar of such registry office. "Registry Office." "Registrar."

## APPLICATION OF ACT.

## 3. The provisions of this Act shall not apply:—

1. To a company licensed by the Dominion of Canada, except as to sections 114 to 120 inclusive, which shall apply to all Fire Insurance companies transacting business in Ontario. R. S. O. 1877, c. 162, ss. 2, 3; c. 161, s. 79; c. 160, s. 2. Dominion licenses exempted, except as to sections 114-120.
2. This Act shall not apply to any benevolent, provident, industrial or co-operative society not requiring a license for any such contract as aforesaid before the passing of this Act. Also certain societies.

[TITLE I.—JOINT STOCK COMPANIES: Formation and general provisions governing, s. 4; Directors, s. 5, (*see also* ss. 89-98). Capital Stock s. 6 (for share or stock capital in Mutual or Cash-Mutual Fire Insurance companies, *see* under Title VI.); Forfeiture of corporate powers, s. 7; Liquidation, s. 7 (*see also* under TITLE XVII.).]

## INCORPORATION OF JOINT STOCK COMPANIES.

4. — (1) Notwithstanding section 4 of *The Ontario Joint Stock Companies' Letters Patent Act*, the Lieutenant-Governor in Council may, on the written recommendation of the Inspector, approved by the Treasurer, or some other member of the Executive Council, grant by letters patent, Formation of Companies.

under the Great Seal, a charter to any number of persons not less than five, who shall petition therefor, constituting such persons and others who may become shareholders in the company thereby created a body corporate and politic for any purpose or object within the intent of this Act; but such incorporated company, before undertaking, effecting, or offering to undertake or effect, or soliciting any contract within this Act, shall file in the office of the Inspector satisfactory evidence that this Act has been complied with in respect of stock subscribed and of calls thereon paid, and further shall make the necessary deposit and be licensed as hereinafter provided.

Acts applying  
to Joint  
Stock com-  
panies formed  
under this Act

(2) To every company so incorporated *The Ontario Joint Stock Companies' Letters Patent Act* and *The Ontario Joint Stock Companies' General Clauses Act*, shall apply in all unprovided cases so far as not repugnant to the express provisions of this Act.

(3) To every joint stock company heretofore incorporated and acting under license of the Province the Acts cited in the last sub-section shall also apply, except where repugnant to the express provisions of this Act, or to the special Act of the Province incorporating the company, or to any Act of the Province amending the special Act of incorporation.

Directors.

5.—(1) The affairs of every company incorporated under section 4 shall be managed by a board of not less than five nor more than nine directors. (*cf.* R. S. O. 1877, c. 149, s. 8.)

(2) The first five of the persons named in the charter of incorporation shall be directors of the company until replaced by others duly named in their stead. (*cf.* R. S. O. 1877, c. 149, s. 9.)

(3) The after directors of the company shall be elected by the shareholders in general meeting of the company, assembled at such times, in such wise, and for such term, not exceeding two years, as the by-laws of the company may prescribe. R. S. O. 1877, c. 149, s. 11.

Capital stock.

6. The capital stock of a company incorporated under section 4 shall be as follows:—

1. If a Fire, or Fire and Inland Marine, or Accident, or Life, or Life and Accident, or Guarantee, or Surety company, the capital stock shall be not less than \$500,000, with liberty to increase the same to \$1,000,000 with the assent of the Lieutenant-Governor in Council; and before applying for license the company shall furnish to the Inspector satisfactory evidence that of the said capital stock at least \$300,000 has been subscribed for and taken up *bona fide*, and that \$30,000 of the said subscribed stock has been paid into some chartered bank. (*cf.* 49 Vic. c. 86.)

2. If a live stock insurance company, the capital stock shall be at the least \$300,000, with liberty to increase the same as in the first sub-section to \$500,000, of which, as in said sub-section, \$150,000 shall be shewn to have been subscribed, and \$15,000 to have been paid into some chartered bank. (*cf.* 37 V. c. 88.)

3. If a plate glass insurance company, or a company insuring against the explosion of steam boilers, the capital stock shall be at the least \$100,000, with liberty to increase the same as in the first sub-section to \$250,000, of which as in said sub-section \$60,000 shall be shewn to have been subscribed, and \$6,000 to have been paid into some chartered bank. (*cf.* Dom. Act, 38 V. c. 95.)

7. The corporate powers of any company whether incorporated under this Act or under any special Act shall be forfeited by non-user during three years after the date of its incorporation; or if, after a company has undertaken contracts within the intent of this Act, such company discontinues business for one year; or if its license remains suspended for one year; or if its license is cancelled otherwise than by mere effluxion of time and is not renewed within the period limited in section 46; and thereupon the company's corporate powers shall *ipso facto* cease and determine, except for the sole purpose of winding up its affairs; and the High Court, upon the petition of the Attorney-General, or of any person interested, may by decree limit the time within which the company shall settle and close its accounts, and may for this specific purpose, or for the purpose of liquidation generally, appoint a receiver. R.S.O. 1887, c. 150, s. 63, and Public Statutes of Mass., 119, ss. 24, 37, 50.

Corporate power forfeited by non-user, or discontinuance of business; or suspension or cancellation of license; except for winding-up; which may be limited by decree. Public Receiver.

#### TITLE II.—FORMATION AND INCORPORATION OF MUTUAL AND CASH-MUTUAL FIRE INSURANCE COMPANIES.

8. Ten freeholders in any municipality or association of municipalities may call a meeting of the freeholders thereof to consult whether it be expedient to establish therein a Fire Insurance company upon the mutual or cash-mutual principle. R. S. O. 1877, c. 161, s. 1.

Meetings to establish Companies, how called.

9. The meeting shall be called by advertisement, mentioning the time and place and object of the meeting; and the advertisement shall be published once in the *Ontario Gazette* and for three weeks in one or more of the newspapers published in the County. *cf.* R. S. O. 1877, c. 161, s. 2.

Advertisement calling such meeting.

10. If thirty freeholders of the municipality are present at the meeting, and a majority of them determine that it is expedient to establish a Mutual or Cash-Mutual Fire Insurance company, they may elect three persons from among them to open and keep a subscription book, in which 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 company. R. S. O. 1877, c. 161, s. 3.

Subscription books.

11. Where fifty or more persons, being owners of movable or immovable property in the Province of Ontario, have signed their names in the subscription book, and bound themselves to effect insurances in the company, which in the aggregate

When meeting may be called.

gate shall amount to \$100,000 at least, a meeting shall be called, as hereinafter provided. R. S. O. 1877, c. 161, ss. 4, 33.

How meeting to be called.

**12.**—(1) 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 the 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 every subscriber at his post office address, at least ten days before the day of the meeting, and by advertisement in one or more papers published in the county in which the municipality is situated.

(2) The said notice and advertisement shall contain the object of the meeting, and the time and place at which it is to be held. R. S. O. 1877, c. 161, s. 5.

Election of directors.

**13.**—(1) 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 Directors elected as hereinafter provided and the place named at which the head office of the company shall be located. R. S. O. 1877, c. 161, s. 6; 48 Vic. c. 36, s. 1.

(2) To constitute a valid meeting for the purposes of the first subsection, at least twenty-five of the aforesaid subscribers must be present.

(3) In case of a county or township the head office may be in any city, town, or village within the boundaries of the county or township or adjacent thereto.

Names of directors to be filed in registry office.

**14.** Copies of the resolutions adopting the name or style and the place of the head office of the company, and of the subscription book, and the names of the directors elected shall thereupon be made; and all such documents certified as correct under the hands of the chairman and secretary, shall be filed in the Registry Office. R. S. O. 1877, c. 161, s. 7.

Thereon the corporation formed.

**15.**—(1) Upon the filing of said documents, with the certificate, the subscribers above mentioned, and all other persons thereafter effecting insurances in the company, shall become members of the company and shall be a body corporate by and under the name so adopted. R. S. O. 1877, c. 161, s. 8; 44 V. c. 20, s. 26.

Forfeiture of corporate powers.

(2) But the corporate powers of the company shall be forfeited by non-user, or by discontinuance of business, or by suspension or cancellation of license as is provided in section 7, which section shall in all respects apply as well to Mutual and Cash-Mutual companies as to joint stock companies. *cf.* R. S. O. 1877, c. 150, s. 63; and Public Statutes of Mass., 119, ss. 24, 37, 50.

Meeting of directors to elect president and officers.

**16.** 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. R. S. O. 1877, c. 161, s. 9.

Copies of resolutions, subscription

**17.** After the company has filed in the registry office, the documents mentioned in section 14, and before the com-

pany shall transact or be entitled to transact any insurance business, the chairman and secretary shall transmit or deliver like copies duly certified by them to be true copies and endorsed by the Registrar as having been duly filed to the Inspector at his office in Toronto, accompanied by a statement signed by the 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 mercantile, manufacturing and other hazardous and extra hazardous properties, or of both; also whether the company has been organized and incorporated as a Mutual or as a Cash-Mutual company. 44 V. c. 20, s. 1.

books, and  
statements of  
proposed busi-  
ness to be  
transmitted to  
Insurance  
Inspector.

18. 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 the 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. 44 V. c. 20, s. 2.

Inquiries to  
be made by  
Inspector  
after receiving  
statement.

19. If, upon examination, the Inspector shall find that the said subscriptions have been made in good faith by persons entitled to make the same, and that the proposed name is satisfactory, and that the company has complied with this Act in respect of deposit, and in all other respects, the Treasurer may thereupon issue a license under his hand and seal setting forth that it has been made to appear to him that the company has complied with the requirements of the law; and that the company is accordingly licensed to transact the kind of business specified in the license, for a term therein also specified, but not exceeding twelve months from the date of issue; but such license may from time to time be renewed as hereinafter provided.

On report of  
Inspector  
Treasurer may  
issue license.

### TITLE III.—CHANGE OF NAME OR OF HEAD OFFICE.—(All Companies)

20. Where any company is desirous of adopting a 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 within the legislative authority of this Province was 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 continued 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. 44 V. c. 20, s. 24; 46 V. c. 15, s. 4, *part*.

Change of  
name.

Change of head office.

**21.**—(1) The head office of any company may be removed from one municipality to another by authority of the Lieutenant-Governor in Council. 46 V. c. 15, s. 4, *part*.

(2) In other cases 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-thirds vote of the members or shareholders of the company at a special meeting called for that purpose. R. S. O. 1877, c. 161, s. 70; 46 V. c. 15, s. 4, *part*.

(3) Where any company is entitled to remove its head office from one place to another, without the consent of the Lieutenant-Governor in Council, notice of any such change and of any resolution or by-law authorizing the same, shall be forthwith given by the secretary of the company to the Inspector of Insurance. 46 V. c. 15, s. 4.

Notice of application for change of name.

**22.** The Lieutenant-Governor in Council may require the same notice to be given upon any application for such change of name or of head office as is required upon an application for Letters Patent by the Act entitled "*An Act respecting the Incorporation of Joint Stock Companies by Letters Patent.*" 44 V. c. 20, s. 25.

**23.** Notice of any change of name or of head office shall be forthwith inserted by the company in the *Ontario Gazette*.

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#### TITLE IV.—BRANCHES AND DEPARTMENTS IN MUTUAL AND CASH-MUTUAL FIRE INSURANCE COMPANIES.

Establishment of branches.

**24.** Any Mutual or Cash-Mutual Company may, with the previous assent of the Lieutenant-Governor in Council, 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. R. S. O. 1877, c. 161, s. 64.

Scale of risks to be made for each branch.

**25.** 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. R. S. O. 1877, c. 161, s. 65.

Expenses to be divided between branches proportionately.

**26.** 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. R. S. O. 1877, c. 161, s. 67.

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#### TITLE V.—GUARANTEE CAPITAL IN MUTUAL OR CASH-MUTUAL FIRE INSURANCE COMPANIES.

Power to raise a guarantee capital.

**27.** Any Mutual or Cash-Mutual Fire Insurance Company, incorporated under this Act or any former Act, may raise by subscription of its members, or some of them, or by the admis-

sion of new members not being persons insured in the company, or by loan or otherwise, a guarantee capital of any sum not less than \$20,000, nor exceeding \$200,000, which guarantee capital shall belong to the 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 the capital is subscribed, and unless the capital is paid off or discharged, the by-law shall not be repealed or altered without the prior assent of the Lieutenant-Governor in Council nor 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 \$50 held by him. 44 V. c. 20, s. 7.

28.—(1) The 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 the guaranteed capital of the stock; the original list of the subscribers to the 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. Limitations as to guarantee capital.

(2) The company may from time to time, in accordance with the provisions of any by-law in that behalf, approved by the Lieutenant-Governor in Council, 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 the purpose, and assessments may be made from time to time by the company for the purpose of repaying the advances. 44 V. c. 20, s. 8. Calls upon guarantee capital.

29. In substitution for the subscription list of guarantee capital deposited as security with the Treasurer, the company may, with the Treasurer's consent, deposit cash or unconditional securities for cash of the kind and to the amount prescribed in section 40 of this Act; and the Treasurer shall thereupon release and discharge the said subscription list. Substitution of other securities.

#### TITLE VI.—SHARE OR STOCK CAPITAL IN MUTUAL OR CASH-MUTUAL FIRE INSURANCE COMPANIES.

30. Any Mutual or Cash-Mutual Fire Insurance Company, incorporated under this or any former Act, may with the prior assent of the Lieutenant-Governor in Council raise a share or stock capital of not less than \$100,000, and may with the like assent increase the same from time to time to a sum not exceeding \$500,000: Provided that the same public notice as that prescribed by section 9 has been given by the company of its intention to raise, or to increase such capital. 44 V. c. 20, s. 11. Power to raise share capital.

31. Every subscriber shall, on allotment of one or more shares to him, become a member of the company; with all incidental rights, privileges and liabilities. 44 V. c. 20, s. 12. Subscribers to become members of company.

Transfer of shares.

**32.** The shares shall be personal estate, and shall be transferable, but no transfer shall be valid unless made on the books of the 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 any call, debt or obligation becomes due, the company may, upon one month's notice to the shareholder, his executors, or administrators, sell his shares or a sufficient portion thereof to pay the call, debt or obligation, and transfer the shares so sold to the purchaser. 44 V. c. 20, s. 13.

Forfeiture of shares.

**33.** 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 the 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 think fit for the benefit of the company. 44 V. c. 20, s. 14.

When company may make insurances for premiums payable wholly in cash.

**34.** After the sum of \$100,000 of the stock or share capital has been *bona fide* subscribed, and twenty per centum paid thereon into the funds of the company, the 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 a participation in the profits or surplus funds of the company, but the company shall not transact any business wholly on the cash principle without first procuring a license from the Treasurer, pursuant to this Act. 44 V. c. 20, s. 15.

Dividends.

**35.** The net annual profits and gains of the company not including therein any premium notes or undertakings shall be applied, in the first place, to pay a dividend on the 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. 44 V. c. 20, s. 16.

Qualification of directors.

**36.** 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 section 74 of this Act, shall be holders of shares of the capital stock to the amount of \$3,000, 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 section 74. 44 V. c. 20 s. 17.

By-laws.

**37.** 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. 44 V. c. 20, s. 18.



**38.** Any Mutual or Cash-Mutual Fire 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 the company is located, 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 the 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, may, as provided in section 4 of this Act, be formed into a joint stock company under *The Ontario Joint Stock Companies Letters Patent Act*, application having been made in terms of that Act; and every member of such company, on the day of said annual or special meeting, or the date of the written consent, shall be entitled to priority in subscribing to the capital stock of the company, for one month after the opening of the books of subscription to the capital stock, in proportion to the amount of insurance held by such members on unexpired risks in force on the day of the annual or special meeting, or the date of the written consent; and every company so changed or organized shall come under and be subject to the provisions of the said last mentioned Act as provided in section 4 of this Act. 44 V. c. 20, s. 19.

How a mutual company may become a stock company.

**39.** 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. 44 V. c. 20, s. 20.

New company to be answerable for liabilities of former company.

#### TITLE VI.—GOVERNMENT DEPOSITS. (ALL COMPANIES.)

**40.**—(1) Except Mutual Fire Insurance companies licensed only for the insurance of farm buildings and isolated risks, every company shall, before the original issue or the renewal of the license, lodge with the Treasurer either in cash, or in any stock, debentures, or other securities in which trustees may invest trust money, the initial or renewal deposits respectively below stated: Provided that this section, in so far as it amends the statutes heretofore in force shall not apply to such companies as have heretofore reported to the Department of the Treasurer; but shall, from the passing of this Act, apply to all other companies thereafter licensed. 40 V. c. 16, s. 24; 42 V. c. 21, s. 1; R.S.O. c. 107, s. 28.

Application of section.

(2) The initial deposit to be made by any company before the original issue of the license shall be the sum appointed for such company in sub-section 4 of this section. R. S. O. c. 106, s. 6 (1).

Initial deposits.

Renewal deposits.

(3) Before the annual renewal of licenses the amount of deposit required of any company shall on or before the first day of July in each year be readjusted in terms of the next following two sub-sections. R. S. O. c. 160, s. 6 (1).

Deposits for contingent liability of \$2,000,000 and under.

(4) If on the preceding 31st day of December in any year the company's total contingent liability or amount at risk does not exceed \$2,000,000;

Then every Joint Stock Fire, or Fire and Inland-Marine Insurance company, and every Life, or Life and Accident company, and every Guarantee and Surety company shall keep on deposit with the Provincial Treasurer, if a Provincial or Canadian company, \$25,000 and if a foreign company \$50,000. R. S. O. c. 169, s. 6 (1);

Every Accident company, if Provincial or Canadian, shall keep on deposit with the Provincial Treasurer, \$20,000 and if a Joint Stock foreign company, \$40,000. R. S. O. 1877, c. 160, s. 6 (1);

Every Provincial Mutual Fire, or Fire and Inland-Marine company, insuring mercantile and manufacturing risks shall keep on deposit with the Provincial Treasurer, \$5,000; and every Provincial Cash-Mutual Fire, or Fire and Inland-Marine company insuring mercantile and manufacturing risks, \$10,000

Every Live Stock Insurance company shall keep on deposit as aforesaid, if Provincial or Canadian, \$10,000; and if foreign Joint Stock, \$25,000;

Every Plate Glass Insurance company, and every company insuring against the explosion of steam boilers shall keep on deposit, as aforesaid, if Provincial or Canadian, \$5,000; and if foreign Joint Stock, \$10,000.

Additional deposit for each additional million or fraction thereof.

(5) If on the preceding 31st day of December in any year, the company's total contingent liability, or the amount at risk, exceeds \$2,000,000, then for each additional \$1,000,000, or fraction thereof, the companies enumerated in the next preceding sub-section shall respectively keep on deposit, with the Provincial Treasurer, by way of additional security, a sum equal to one-fifth of the initial deposit; and the additional deposit shall be either in cash or securities as aforesaid. R.S.O. c. 160, s. 6 (1).

Deposits, in what securities.

**41.**—(1) Securities of the Dominion of Canada, or securities issued by any of the Provinces of Canada, shall be accepted at their market value at the time when they are deposited.

(2) The other securities above specified shall be accepted at such valuation and on such conditions as the Treasurer may direct.

If market value declines company to make further deposit.

(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 com-

pany shall be equal to the amount which they are required to deposit by this Act. R. S. O. 1877, c. 160, s. 7.

(4) Where any security, obligation or covenant, or any interest in any real or personal estate, effects, or property is given, or transferred to, made with, or vested in the Treasurer of Ontario, by virtue of his office of Treasurer, such security, obligation or covenant, and any right of action in respect thereto, and all the estate, right or interest of the said Treasurer in respect of such real or personal estate, effects or property upon the death, resignation or removal from office of the Treasurer, from time to time, and as often as the case happens and the appointment of a successor takes place, shall, subject to the same trusts as the same were respectively subject to, vest in the succeeding Treasurer by virtue of this Act, and shall and may be proceeded on by any action or in any other manner, or may be assigned, transferred or discharged, in the name of such succeeding Treasurer as the same might have been proceeded on, assigned, transferred or discharged by the Treasurer to, with or in whom they were first given, transferred, made, or vested if he had continued to hold office. 47 V. c. 6. s. 1.

Securities, etc., vested in Treasurer of Ontario by virtue of his office, to vest in his successor.

(5) Every such security, obligation, covenant or interest in real or personal estate, effects and property may in like manner as in the last section mentioned be proceeded on, assigned, transferred or discharged by and in the name of any member of the Executive Council of Ontario, acting under the authority of section 3 of *The Act respecting the Executive Council*. 47 V. c. 6, s. 2.

Assignment, etc., of securities.

(6) The fourth sub-section shall apply to every security, obligation or covenant, and every interest in real or personal estate, effects or property given or transferred to, made with, or vested in any former Treasurer of Ontario, by virtue or on account of his office, and shall transfer all the interest, rights and estate of the former Treasurer to the present Treasurer of Ontario, to be vested in him by virtue of his office and subject to the provisions of this Act. 47 V. c. 6, s. 3.

Application of sub-sect. 4.

(7) Where any company desires to substitute other securities within section 40 for securities deposited with the Treasurer, the Treasurer, if he thinks fit, may permit the substitution to be made. 47 V. c. 6, s. 4.

Treasurer may allow companies to change securities deposited with him.

42. A company may deposit in the hands of the Treasurer any sums of money or securities of the kind prescribed by section 40, beyond the sum by the said section required; and such further sums of money or securities 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 in Council. R. S. O. 1877, c. 160, s. 11.

Company may deposit beyond the amount absolutely required.

As to withdrawal of surplus.

43. A company having made a deposit under this Act shall be entitled to withdraw the 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 the company is carrying on its business of insurance under license from the Dominion of Canada. R. S. O. 1877, c. 160,

Withdrawal of deposit where company licensed by Dominion.

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

**44.** 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, and its corporate powers shall thereupon cease and determine, except for the purpose of winding up its affairs as provided in section 7. R. S. O. 1877, c. 160, ss. 13, 3.

As to interest on securities.

**45.** 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. R. S. O. 1877, c. 160, s. 14.

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

**46.** Where a company fails to make the deposits under this Act at the time required, or where written notice has been served on the Provincial Treasurer of an 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 the company is liable to be reduced by sale of any portion thereof, the license of the company shall *ipso facto* be null and void, and shall be deemed to be cancelled as in section 44; but the 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. R. S. O. 1877, c. 160, s. 20.

Renewal on certain conditions.

Government deposit security for certain contracts only.

**47.** The securities deposited with the Treasurer shall be subject to administration only in respect of any contract which falls within section 2, and which further has for its subject some property in the Province, or property in transit to or from the Province, or the life, safety, health, fidelity, or insurable interest of some resident of the Province, or where the contract itself makes the payment thereunder primarily payable to some resident of the Province. 46 V. c. 15, s. 14.

When a company shall be liable to have deposits administered.

**48.—(1)** Any company shall be liable to have its deposits in the hands of the Treasurer administered in manner hereinafter mentioned upon the failure of the company to pay any undisputed claim arising under any contract within section 47 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, and to the Inspector of Insurance. In case of such administration,

all deposits of the company, held by the Treasurer, shall be applied *pro rata* towards the payment of all claims duly authenticated against the company, as well as in respect of unearned premiums, such being claims and premiums under the contracts aforesaid, and the distribution of the proceeds of such deposits may be made by order of the High Court.

Provisions for application of deposits in such case.

(2) In any case where a claim accruing on the occurrence of any event is by the terms of the contract payable on proof of such occurrence, without any stipulated delay, the notice required under this section shall not be given until after the lapse of sixty days from the time when the claim becomes due.

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

R. S. O. 1877, c. 160, s. 21.

**49.** Before an application is made to a Court for the surrender of a company's deposit with the Government at least ten days' notice of such intended application shall be served on the Treasurer or his deputy, and also upon the Inspector of Insurance; and the notice shall designate the Court to which application is proposed to be made, and shall state the day named for the hearing of the same.

Surrender of deposit.

**50.—(1)** 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 contracts, being within the sections 2 and 47, and upon all claimants under such contracts 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 claimants aforesaid shall be entitled to claim for a part of the premiums paid proportionate to the unexpired period of their contracts respectively, and such unearned premiums 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 the said outstanding contracts, and of all claims for unearned premiums or for surrender of policies, the Court shall cause the securities held by the Treasurer for the 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 the schedule, and the balance, if any, shall be surrendered to the company.

Appointment of receiver; his duty.

Proceedings in case of administration.

What may be claimed by parties insured in Ontario.

Sale of securities deposited.

But, if any claim arises within section 47 after the statement of the said outstanding contracts 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 additional claimants shall not be barred from any recourse they may have against the company in respect of such deficiency.

If further loss occurs and deposits do not cover claims.

(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 in Ordinary would have if he were taken.

Court may confer upon receiver the power of a Master.

ing 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. R. S. O. 1877, c. 160, s. 22.

Duty of Company ceasing business.

**51.** Where a company has ceased to transact business in Ontario, and has given written notice to that effect to the Treasurer, and to the Inspector, it shall re-insure all such outstanding contracts as are within section 47 in some company or companies licensed to do business in Ontario, or obtain a discharge of such contracts, and its securities shall not be delivered to the company until the same is done, to the satisfaction of the Treasurer. R. S. O. 1877, c. 160, s. 23.

Conditions on which deposits may be released.

**52.** Upon making application for its securities, the company shall file with the Inspector a list of all contracts within section 47 which have not been so re-insured or have not been discharged; 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 all claimants, contingent or actual, opposing the release to file their opposition with the Inspector on or before the day so named; and after that day, if the Treasurer is satisfied that the company has ample assets to meet its liabilities under section 47, all the securities may be released to the Company by an order of the Lieutenant-Governor in Council, or a sufficient amount of them may be retained to cover the claims filed; and the remainder may be released, and thereafter from time to time as such opposing claims lapse, or proof is adduced that they have been satisfied, further releases may be made on the authority aforesaid. R. S. O. 1877, c. 160, s. 24.

#### TITLE VIII.—LICENSE—(All Companies.)

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

**53.**—(1) Before the issue of a license to a company not incorporated by Provincial authority, the company shall file in the office of the Inspector, 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 chief officer or agent in the Province, under the seal of the company, 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 said chief officer or agent in the Province, or by some person cognizant of the facts necessary to its verification, and also a statement of the condition and affairs of the company on the 31st day of December then next preceeding, 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.

Contents of power of attorney.

(2) The power of attorney shall declare at what place in the Province the chief agency of the company is, or is to be established, and shall expressly authorize the attorney to receive process in all actions and proceedings against the company in the Province for any liabilities incurred by the company

therein, and shall declare that service of process for or in respect of such liabilities at the chief agency, or personally on the attorney, at the place where such chief agency is established, shall be legal and binding on the company to all intents and purposes.

(3) Whenever a company licensed under this Act changes its chief agent or chief agency in Ontario, the company shall file a power of attorney as hereinbefore mentioned, specifying the change, and containing a similar declaration as to service of process as hereinbefore mentioned.

If changes are made in chief agency, document to be filed.

(4) Duplicates of all such documents duly verified as aforesaid shall be filed at Toronto, in the office of the Clerk of the Process. R. S. O. 1877, c. 160, s. 15.

Such documents to be filed in Court.

(5) There shall be kept in the office of the Inspector a record of the several documents filed by every company under this section, and under the heading of the 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 a new license, or the renewal of a license to a company, the requirements of the law shall be complied with by the company, and the statement of its affairs must shew that it is in a condition to meet its liabilities; and a record of the licenses as they are issued or renewed shall also be kept in the office of the Inspector. R. S. O. 1877, c. 160, s. 29.

Certain records to be kept in the Treasury Department.

Terms whereon license may be renewed.

**54.**—(1) After the certified copies referred to in the last preceding section and the power of attorney are filed as aforesaid, any process in any action or proceeding against the company, for liabilities incurred in the Province, 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 the proceedings in a civil action in the Province.

Process and actions.

(2) Nothing herein contained shall render invalid service in any other mode in which the company may be lawfully served. R. S. O. 1877, c. 160, s. 16.

Service otherwise than as above.

**55.** Except companies licensed by the Treasurer, and companies specified in section 3, it shall not be lawful for a company to undertake or effect or solicit, or to agree or offer to undertake or effect, any contract within the intent of section 2, whether the contract be original or renewed; or to accept, or agree or negotiate for any premium or other consideration for the contract; or to prosecute or maintain any action or proceeding in respect of the contract, except such actions or proceedings as arise in winding up the affairs of the company under section 7. R. S. O. 1877, c. 160, s. 3.

Companies required to be licensed.

**56.** Any director, officer, agent, employee, or other person who, in contravention of section 55 undertakes or effects, or agrees or offers to undertake or effect, or solicits, any contract or collects any premium in behalf of any company, without the company being licensed under this Act, or if such license has been withdrawn, without the renewal thereof, or

Penalty for transacting business in contravention of this Act.

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 \$200 for every 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 penalty, when recovered, shall be paid for the use of the Province, and the other half of the penalty to the informer; and in case of non-payment of the 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. R.S.O. 1877, c. 160, s. 19; 44 V. c. 20, s. 23.

How enforced  
and applied.

Form of  
license.

**57.** The license shall be in such form as may be from time to time determined by the 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. R. S. O. 1877, c. 160, s. 4.

When license  
shall issue.

**58.** As soon as the company applying for a license has deposited with the Treasurer the securities hereinbefore mentioned, and has otherwise conformed to the requirements of this Act, the Treasurer may issue the license. R. S. O. 1877, c. 160, s. 5.

Companies to  
give notice of  
license.

**59.** Every company obtaining a license 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 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 the company ceases, or notifies that it intends to cease, to carry on business in Ontario. R. S. O. 1877, c. 160, s. 17.

and of ceasing  
business.

**60.**—(1) Where a company desires to extend its business to some other branch within the intent of this Act, and has complied with the law in respect of additional deposit and otherwise, the Treasurer may on the report of the Inspector issue to the company a supplementary license authorizing it to undertake such other branch of business.

(2) When a supplementary license is granted, it shall be recorded in the books of the Inspector and filed in the same registry office as the original or prior license.

(3) The provisions herein enacted as to the continuance, renewal, suspension, and cancellation of licenses, shall equally apply to supplementary licenses. 44 V. c. 20, s. 6; 47 V. c. 28, s. 1.

Company  
ceasing busi-  
ness in certain  
cases to pay  
losses.

**61.** After a company has ceased to transact business in Ontario after the notice hereby required, and its license has in consequence been withdrawn, the company shall nevertheless pay the losses arising from policies not re-insured or surrendered, as if the license had not been withdrawn. R. S. O. 1877, c. 160, s. 25.



**62.** The Provincial Treasurer shall cause to be published Statement to be published by Provincial Treasurer. 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 a new company being licensed, or upon the license of a 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. R. S. O. 1877, c. 160, s. 18.

TITLE IX.—FEES.—(All Companies.)

**63.** Each company respectively shall pay to the treasurer the following fees :—

1	For recording and filing in the office of the inspector the documents required by sections 4, 17, 53. ....	\$ 10 00
2	For change of attorney under section 53 .....	5 00
	Application for change of name or of head office .....	10 00
3	For initial license to do business :—	
	Joint stock company.....	100 00
	Cash-Mutual company.....	50 00
	Mutual .....	25 00
4	For each annual renewal of license :—	
	Joint stock company.....	50 00
	Cash-Mutual company.....	25 00
	Mutual .....	5 00
5	For each Supplementary License :—	
	Initial .....	20 00
	Renewal .....	10 00
6	For filing annual statements :—	
	Joint stock company.....	5 00
	Cash-Mutual company.....	5 00
	R. S. O. 1877, c. 160, s. 35 ; cf. 44 V. c. 20 s. 5 ; 47 V. c. 28, s. 2.	

TITLE X.—INTERNAL MANAGEMENT OF MUTUAL AND CASH-MUTUAL FIRE INSURANCE COMPANIES.

**64.** Sections 65 to 87 inclusive, shall apply only to Mutual Restricted application. and Cash-Mutual Fire Insurance companies.

1.—Admission and withdrawal of members.

**65.** The company may admit, as a member thereof, the Power to admit members and insure. owner of any property, movable or immovable, and may insure the same, whether the owner thereof is or is not a freeholder; and every person admitted a member of the company by the insurance shall be entitled to the like rights, and be subjected to the like liabilities as other members of the company. R. S. O. 1877, c. 161, s. 30.

**66.** Members of any such company insuring in one Mutual Members to be liable to one branch only. branch shall not be liable for claims on any other Mutual branch; but this limitation of liability shall not apply as between the Cash branch of a Cash-Mutual company and any other branch thereof. R. S. O. 1877, c. 161, ss. 66, 29.

Liability of members.

**67.** 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. R. S. O. 1877, c. 161, s. 68.

Members withdrawing.

**68.** Any member of the company may, with the consent of the directors, withdraw therefrom upon such terms as the directors may lawfully require. R. S. O. 1877, c. 161, s. 31.

*2.—General Meetings.*

Annual meeting for election of Directors.

**69.** 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. R. S. O. 1877, c. 161, s. 10.

Annual report and statement.

**70.** 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. R. S. O. 1877, c. 161, s. 11.

Notice of annual or special meetings.

**71.** Notice of any annual or special meeting of the members of the company shall be published in one or more newspapers for at least two weeks previous to the day of the 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. R. S. O. 1877, c. 161, s. 12.

Members to have votes proportionate to the amount of their insurance.

**72.** 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 \$1,500, one vote; from \$1,500 to \$3,000, two votes; from \$3,000 to \$6,000, three votes; and one vote for every additional \$3,000; but no member shall be entitled to vote while in arrear for any assessment or premium due by him to the company. R. S. O. 1877, c. 161, s. 13.

Right of applicants to vote.

**73.** No applicant for insurance shall be competent to vote or otherwise take part in the company's proceedings until his application has been accepted by the board of directors. 48 V. c. 36, s. 6.

*3.—Directors.—Qualification, Election, etc.*

Qualification of directors.

**74.** The directors shall be members of the company, and insured therein, for the time they hold office, to the amount of \$800 at least; and where the Company has a share capital two-thirds of the Directors shall have the further qualification mentioned in section 36 of this Act. R. S. O. 1877, c. 161, s. 14.

Number of directors to be determined by resolution.

**75.**—(1) The Board of directors shall consist of six, nine, twelve or fifteen directors, as shall be determined by resolution passed at the meeting held under section 13 or at

an annual meeting of the company, or at a special general meeting called for the purpose of such determination and election.

(2) The number of directors constituting such board may from time to time be increased or decreased, if so decided at a special general meeting of the company called for the purpose, or at an annual meeting, if notice in writing of the intention to move a resolution for that purpose at such annual meeting is given to the secretary of the company at least one month before the holding of the meeting; but the increased or decreased number of directors shall in any such case be six, nine, twelve or fifteen as aforesaid. 48 V. c. 36, s. 1.

**76.** A copy of the resolution specified in the last preceding section, together with a list of the directors elected thereunder, both documents being duly certified under the hands of the chairman and secretary of the annual meeting or special general meeting aforesaid, shall be filed in the office of the Inspector and also in the Registry Office. 48 V. c. 36, s. 2.

Copy of resolution and list of directors to be filed.

**77.** Of the directors elected, as hereinbefore provided, one-third shall retire annually in rotation, and at the first meeting of the directors, or as soon thereafter as possible, it shall be determined by lot which of them shall hold office for one, two or three years respectively, and the determination shall be entered of record as part of the minutes of said first meeting. 48 V. c. 36, s. 3.

Retirement of directors in rotation.

**78.** At every annual meeting of the company thereafter, one-third of the total number of directors shall be elected for a period of three years, to fill the places of the retiring members, who shall be eligible for re-election. 48 V. c. 36, s. 4.

Annual election to fill vacancies.

**79.** The Manager of a Mutual Insurance Company may be a director of the company, and may be paid an annual salary, but only under a by-law of the company. R. S. O. 1877, c. 161, s. 15.

Manager may be a director. His salary.

**80.** No agent or paid officer, or person in the employment of the company, other than the manager, shall be eligible to be elected a director, or shall be allowed to interfere in the election of directors for the company. R. S. O. 1877, c. 161, s. 16.

Certain persons not eligible to be elected directors.

**81.** 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. R. S. O. 1877, c. 161, s. 17.

Election of directors.

**82.** The election of directors shall be by ballot. R. S. O. 1877, c. 161, s. 18.

Mode of election.

**83.** 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

Case of a tie at an election.

Election of a President and Vice-President. 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. R. S. O. 1877, c. 161, s. 19.

Vacancies in office of director, how filled up. **84.** If a vacancy happens among the directors during the term for which they have been elected, by death, resignation, ceasing to have the necessary qualification under section 74 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, the vacancy shall be filled up, until the next annual meeting, 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; and at the next annual meeting the vacancy shall be filled for the portion of the term still unexpired. R. S. O. 1877, c. 161, s. 20; 48 V. c. 36, s. 5.

Provision in case of failure to elect directors on proper day. **85.** 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 a 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. R. S. O. 1877, c. 161, s. 21.

Quorum of directors. **86.** 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. R. S. O. 1877, c. 161, s. 22.

Directors disagreeing may record their dissent. **87.** A director disagreeing with the majority of the board at a meeting, may have his dissent recorded, with his reasons therefor. R. S. O. 1877, c. 161, s. 23.

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TITLE XI.—POWERS OF DIRECTORS—GENERAL PROVISIONS—  
(All Companies.)

Application of ss. 89-98. **88.** Sections 89 to 98 inclusive shall apply to all companies transacting business under license of the Provincial Treasurer.

Appointment of Manager and other officers. **89.** The board of directors 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 table of rates, premiums, or premium notes, as the case may be, and vary such table from time to time, and determine the amount of the contract to be undertaken; 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. R. S. O. 1877, c. 161, s. 24.

Board may adopt a tariff of rates.

Meetings of the board.

- 90.**—(1) The board 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 the 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.
- (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. R. S. O. 1877, c. 161, s. 25.
- (3) There shall be filed with the Inspector copies of all by-laws that may from time to time be passed by the company or the board. 46 V. c. 15, s. 2, *part*.

The Board may pass by-laws.

When by-laws are not repealable.

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

**91.** The board 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. R. S. O. 1877, c. 161, s. 26.

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

**92.** The board may make arrangements with any other company licensed to transact business in the Province for the re-insurance, on such conditions with respect to the payment of premiums thereon as may be agreed between them. R. S. O. 1877, c. 161, s. 27.

Re-insurance of risks.

**93.** The board may, in the name of the company, invest the capital and funds of the company in any stock, debentures, or other securities in which trustees may invest trust money, and may, if a Mutual or Cash-Mutual Company, 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. R. S. O. 1877, c. 161, s. 28.

Investment of capital and funds of the Company.

Recovery of assessments.

**94.**—(1) The board 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 the 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 \$100.

Directors may issue debentures and promissory notes for loans;

assets of the Company to be liable for the same.

(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. R. S. O. 1877, c. 161, s. 29.

Amount of debentures, etc., limited.

Land that may be held by the Company.

**95.** Every company may hold 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. R. S. O. 1877, c. 161, s. 72.

Loans to or from directors, etc., forbidden.

**96.** No company shall contract with any director or officer thereof for any loan or credit, or borrowing of money, and every such attempted loan or borrowing is hereby prohibited; and any contract in violation of this section shall be void. R. S. O. 1877, c. 161, s. 74; 46 V. c. 15, s. 3.

Treasurer of Company to give security.

**97.** The treasurer of the Company 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 \$2,000 for the faithful discharge of his duties. R. S. O. 1877, c. 161, s. 69.

Remuneration of directors.

**98.** At any annual meeting of the members or stockholders of a company, or at any special general meeting thereof, if such purpose was clearly expressed in the notice of the special general meeting, it shall be lawful to enact by-laws or pass resolutions for the remuneration of the directors of the company, and copies of such by-laws or resolutions shall, within one week after their passing, be filed with the Inspector of Insurance, with whom also shall be filed copies of all other by-laws that may from time to time be enacted by the company or by the board of directors. 46 V. c. 15, s. 2.

TITLE. XII.—BOOKS, ACCOUNTS AND RETURNS,—(All Companies.)

Application of ss. 100-105.

**99.** Sections 100 to 105 shall apply to all companies within the intent of this Act.

Company to keep such books as may be directed by Treasurer.

**100.** Every company shall keep such a classification of its contracts, and such registers and books of account as may from time to time be directed or authorized by the Provincial Treasurer; and if it appears at any time to the Inspector that such books are not kept in such 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 Provincial Treasurer who shall thereupon nominate a competent accountant to proceed, under the directions of the Inspector, to audit such books and to give such instructions as will enable the officers of the company to keep them correctly thereafter, the expense of the accountant to be borne by the company to which he is sent, and shall not exceed \$5 per day and necessary travelling expenses; the account for such audit and instructions shall be certified and approved as provided in section 148, and thereupon shall be payable by the company forthwith. 44 V. c. 20, s. 21; 43 V. c. 20, s. 1; 42 V. c. 25, s. 5 *part*.



condition in respect to the several points hereinbefore enumerated. R. S. O. 1877, c. 160, s. 26.

**Companies to reply to inquiries of Lt. Governor in Council.** (3) 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. R. S. O. 1877, c. 161, s. 78 (2).

**Penalty for contravention of above section.** **104.** Any violation of the next preceding section shall subject the company violating the same to a penalty of \$200 for every violation, and of the additional sum of \$100 for every month during which the company neglects 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. R. S. O. 1877, c. 160, s. 27. See c. 161, s. 76.

**Report of Provincial Treasurer to be laid before the Legislature.** **105.** The Provincial Treasurer from the yearly statements required to be made, shall prepare annually an abstract report, shewing the results of every company's business together with an analysis of every branch of insurance, with the company's name, classified from the statements made by the respective companies; and the Treasurer shall publish the said abstract report forthwith for general information. R. S. O. c. 160, s. 30.

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TITLE XIII.—CONTRACTS OF FIRE INSURANCE—GENERAL PROVISIONS.—(All Companies.)

**Term of contracts.** **106.** Contracts of fire insurance shall not in any case exceed the term of three years; and the insurance of mercantile and manufacturing risks shall, if on the cash system, be for terms not exceeding one year. R. S. O. 1877, c. 161, s. 75; 41 V. c. 8, s. 17; cf. Statutes of Canada 49 V. c. 45, s. 48: and see R. S. O. c. 161, s. 32.

**Renewing policies.** **107.** Any contract that may be made 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 the policy shall be null and void. R. S. O. 1877, c. 161, s. 34.

**Property which may be insured.** **108.** The company may, within the limits prescribed by the license, 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. R. S. O. 1877, c. 161, s. 36.

**Minimum rates.** **109.** The rate to be charged or taken by way of premium note for insuring first-class isolated non-hazardous property shall be not less than one dollar 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: provided that premium notes of less than \$1 per \$100 per annum may be charged or taken when and so long as the gross amount at risk exceeds \$2,000,000, and the total assets of the Company do not fall below two per centum of the gross amount at risk; or so long as the Company keeps on deposit with the Provincial Treasurer the full amount required of new companies licensed after the commencement of this Act. R. S. O. 1877, c. 161, s. 37.

**110.** All contracts of fire 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. Policies to be binding on the Company. R. S. O. 1877, c. 161, s. 38.

**111.—(1)** Whenever notification in writing has been received by a company from a person already insured, of his intention or desire to insure 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 within two weeks after the receipt of such notice, signify to the party insured in writing, their dissent; and, in case of dissent, the liability of the insured on the premium note or undertaking, if any, shall cease from the date of the dissent, on account of any loss that may occur to such company thereafter. Notification of insurance in another Company. Dissent of the Company to the additional insurance. R. S. O. 1877, c. 161, s. 40.

(2) The notification to the Company, and any other written notice to a Company for any purpose of this Act, where the mode thereof is not expressly provided, may be by letter delivered at the Head Office of the Company in Ontario, or by registered post letter addressed to the Company, its manager or agent, at such Head Office, or by such written notice given in any other manner to an authorized agent of the Company.

**112.** It shall be optional with the directors to pay or allow claims which are void under the 3rd, the 4th, or the 8th Statutory Condition, or section 111 of this Act, in case the said directors think fit to waive the objections mentioned in the said sections. Optional with Directors to pay claims void under s. 111, etc. R. S. O. 1877, c. 161, s. 43.

**113.** The party insured shall if insured against fire on the Mutual plan 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. Cancellation of policies. R. S. O. 1877, c. 161, s. 44.

TITLE XIV.—STATUTORY CONDITIONS AND PROVISIONS RELATING THERETO (*Binding all Fire Insurance Contracts whatsoever in Ontario. See Section 3.*)

Statutory conditions to be part of every policy unless varied.

114. The conditions set forth in this section shall, as against the insurers, be deemed to be part of every contract, whether sealed, written or oral, of fire insurance hereafter entered into or renewed or otherwise in force in Ontario with respect to any property therein or in transit therefrom or thereto, and shall be printed on every such policy with the heading *Statutory Conditions*; and no stipulation to the contrary, or providing for any variation, addition or omission, shall be binding on the assured unless evidenced in the manner prescribed by sections 115 and 116. R. S. O. 1877, c. 162, ss. 3, 5; 45 V. c. 20, ss. 2, 3, 4: 44 V., c. 20, s. 28.

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 be 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, etc.

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 assured 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 hereby 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.

Partial damage—salvage.

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 contribute to the loss and expenses attending such act of salvage proportionately to the respective interests of the company or companies and the insured.

Money, securities, etc.

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

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

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, or unless the Company does not dissent in writing within two weeks after receiving written notice of the intention or desire to effect the subsequent insurance, or does not dissent in writing after that time and before the subsequent or further insurance is effected. 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 ratable 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:

(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; Liability in case of non-ownership.

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

(c) Where the insurance is upon buildings or their contents —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 assured, 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 for incidental repairs, without such permission; Repairs by carpenters, etc.

(f) For loss or damage occurring while petroleum, rock, earth or coal oil, camphene, gasoline, burning fluid, benzene, naphtha or any liquid products thereof, or any of their essential parts (refined coal oil for lighting purposes only, not exceeding five gallons in quantity, or lubricating oil not being crude petroleum nor oil of less specific gravity than required by law for illuminating purposes, not exceeding five gallons in quantity, excepted), or more than twenty-five pounds weight of gunpowder is or 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, etc.

Explosion.  
Lightning.

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

Proof of loss  
when payable  
to other than  
assured.  
Directions to  
be observed on  
making claim.

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

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 ;

(4) The amount of other insurances ;

(5) All liens, and incumbrances on the subject of insurance.

(6) The place where the property insured, if movable, was deposited at the time of the fire.

(d) He is in support of his claims, if required and if practicable, to produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers ; to furnish copies of the written portion of all policies ; to separate as far as reasonably may be the damaged from the undamaged goods, 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, commissioner for taking affidavits, or municipal clerk, 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 assured 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 dif-  
ferences.

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, or on their failing to agree, then by the County Judge of the County wherein the loss has happened; and such reference shall be subject to the provisions of the laws applicable to references in actions; 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; where the full amount of the claim is awarded the costs shall follow the event; and in other cases, all questions of costs shall be in the discretion of the arbitrators. R. S. O. 1887, c. 161, s. 157.

17. The loss shall not be payable until <sup>days after Loss when</sup> completion of the proofs of loss, unless otherwise provided for <sup>payable.</sup> by the contract of insurance.

(a) The blank shall be filled in the case of mutual and cash <sup>mutual and cash</sup> companies with the word "sixty," and in the case of other companies with the word "thirty."

18. The company, instead of making payment, may repair, <sup>Company may</sup> rebuild or replace, within a reasonable time, the property <sup>replace, in-</sup> damaged or lost, giving notice of their intention within fifteen days <sup>instead of pay-</sup> after receipt of the proofs herein required.

19 The insurance may be terminated by the company by <sup>Insurance</sup> giving notice to that effect, and, if on the cash plan, by tendering <sup>terminable on</sup> therewith a ratable proportion of the premium for the unexpired <sup>notice.</sup> term, calculated from the termination of the notice: in the case of personal service of the notice five days' notice, excluding Sunday, shall be given. Notice may be given by any company having an agency in Ontario by registered letter addressed to the assured at his last post-office address notified to the company, and where no address notified, then to the post-office of the agency from which application was received, and where such notice is by letter, then seven days from the arrival at any post-office in Ontario shall be deemed good notice. And the policy shall cease after such tender and notice aforesaid, and the expiration of the five or seven days as the case may be.

(c) The insurance, if for cash, may also be terminated by the assured by giving written notice to that effect to the company or its authorized agent, in which case the company may retain the customary short rate for the time the insurance has been in force, and shall repay to the assured the balance of the premium paid.

20. No condition of the policy, either in whole or in part, <sup>Waiver of con-</sup> shall be deemed to have been waived by the company, unless <sup>dition.</sup> the waiver is clearly expressed in writing, signed by an agent of the company.

21. Any officer or agent of the company, who assumes on <sup>Officers assum-</sup> behalf of the company to enter into any written agreement <sup>ing to agree</sup> relating to any matter connected with the insurance, shall be <sup>in writing to</sup> deemed *prima facie* to be the agent of the company for the <sup>be deemed</sup> purpose. <sup>agents.</sup>

22. Every action or proceeding against the company for the <sup>Actions to be</sup> recovery of any claim under or by virtue of this policy, shall <sup>brought within</sup> be absolutely barred, unless commenced within the term of one <sup>one year,</sup> year next after the loss or damage occurs. R. S. O. 1877, c. 162, *Schedule*.

What constitutes written notice.

23. Any written notice to a company for any purpose of the statutory conditions, where the mode thereof is not expressly provided, may be by letter delivered at the head office of the company in Ontario, or by registered post letter addressed to the company, its manager or agent, at such head office, or by such written notice given in any other manner to an authorized agent of the company.

Variations, how indicated.

115. 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 on the instrument of contract containing the printed statutory conditions words to the following effect, printed in conspicuous type, and in ink of different colour:—

“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.” R. S. O. 1877, c. 162, s. 4.

Variations not binding unless clearly indicated.

116. 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 assured; 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. R. S. O. 1877, c. 162, s. 5.

Policy containing other than statutory conditions.

117. In case a 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. R. S. O. 1877, c. 162, s. 6; c. 161, s. 35, (see s. 119, *infra*.)

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

118. 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 such insurance is tried or inquired into, considers it inequitable that the insur-

or, if full compliance adjudged inequitable,

ance 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. R. S. O. 1877, c. 162, s. 2.

**119.** 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. R. S. O. 1877, c. 162, s. 7; c. 161, s. 35.

**120.**—(1) 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 Fire Insurance Company is interested, and may administer any oath or affirmation required under this Act. R. S. O. 1877, c. 161, s. 62.

(2) On receiving a written request from any officer or agent of any insurance company with security for the expenses of an investigation, any Justice of the Peace may at once proceed to hold an investigation as to the origin or cause of any fire that has happened within his county or district, and as to the persons if any, profiting thereby.

(3) The Justice of the Peace shall have power to send for persons and papers, and to examine all persons that appear before him on oath or solemn affirmation; and he shall keep a record of all such proceedings and of the evidence given before him.

**TITLE XV.—PREMIUM NOTES AND ASSESSMENTS. (*Mutual and Cash—Mutual Fire Insurance Companies.*)**

**121.** Sections 122 to 136 inclusive shall apply only to Mutual and Cash-Mutual Fire Insurance Companies.

**122.** The company may accept premium notes, or the undertaking of the insured, for insurances, and may undertake contracts in consideration thereof; said notes or undertakings to be assessed for the losses and expenses of the company in the manner hereinafter provided. R. S. O. 1877, c. 161, s. 45.

**123.** The directors may demand in cash a part or first payment of the premium, or premium note or undertaking at the time that application for insurance is made; and such first payment shall be credited upon said premium note or undertaking or against future assessments, but not more than fifty per centum of any premium or premium note or undertaking shall be paid in cash at the time of such application or of effecting the insurance. R. S. O. 1877, c. 161, s. 46; 44 V. c. 20, s. 22.

**124.** 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

Notice to be given of the assessment.

such sums as the directors determine, and for such further sums as they think necessary and as are authorized by this Act for losses, expenses, and reserve, 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 the assessment; and the assessment shall become payable in thirty days after notice thereof has been mailed to the member, or person who has given the premium note or undertaking, directed to his post office address, as given in his original application, or otherwise in writing to the company. R. S. O. 1877, c. 161, ss. 47, 53.

Policy to be void, if any assessment or note is not paid within thirty days.

**125.** If the assessment on the premium note or undertaking upon a policy is not paid within thirty days after the day on which the assessment has become due, the contract of insurance, for which the assessment has been made shall be null and void as respects all claim for losses occurring during the time of non-payment: but the contract shall be revived if the assessment has been paid, unless the Secretary give 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 the assessment or any subsequent assessments, nor shall the assured party be entitled to recover the amount of loss or damage which happens to property insured under the contract while the assessment remains due and unpaid, unless the Board of Directors in their discretion decide otherwise. R. S. O. 1877, c. 161, s. 48.

but shall be revived by subsequent payment.

Requisites of notice of assessment.

**126.** A notice of assessment upon any premium note or undertaking mailed as aforesaid shall be deemed sufficient if it embodies the register number of the contract the period over which the assessment extends, the amount of the assessment, the time when and the place where payable. R. S. O. 1877, c. 161, s. 40.

Assessment, how proportioned.

**127.** The assessment upon premium notes or undertakings shall always be in proportion to the amount of the notes or undertakings, having regard to the branch or department or the class to which their policies respectively appertain. R. S. O. 1877, c. 161, s. 50.

Company may sue for assessments on premium notes.

**128.** If a 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 the assessments, 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. R. S. O. 1877, c. 161, s. 51.

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

**129.** Where an assessment is made on any premium note or undertaking given to the company for a 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 the assessment, the certificate of the secretary of the company, specifying the assessment, and the amount



due to the company on the note or undertaking by means thereof, shall be taken and received as *prima facie* evidence thereof in any Court in this Province. R. S. O. 1877, c. 161, s. 52.

**130.**—(1) 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 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 the company; and the 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. R. S. O. 1887, c. 161, s. 53 (1). Reserve fund.  
Annual assess-  
ment.  
how applied,

(2) The reserve fund shall be invested in stock, debentures or other securities in which trustees may invest trust money, or may remain in a chartered bank in Ontario deposited at interest in the name of the company. R. S. O. c. 161, s. 53; 42 V. c. 21, s. 2; 49 V. c. 16, s. 24. how invested.

**131.** If there is a 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. R. S. O. 1877, c. 161, s. 63. Directors may  
retain amount  
of premium  
notes.

**132.** Forty days after the expiration of the term of insurance, the premium note or undertaking given for the insurance, shall, on application therefor, be given up to the signer thereof, provided all losses and expenses with which the note or undertaking is chargeable have been paid. R. S. O. 1877, c. 161, s. 54. When pre-  
mium note is  
to be returned.

**133.** Any action 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 the company is situate. Action in  
Division  
Courts where  
brought.

Provided always, that the provisions of this section shall not apply to nor include any such premium note or undertaking made or entered into after the first day of July, 1885, nor any sum assessed thereon, unless within the body of such note or undertaking or across the face thereof, there was at the time of the making or entering into the same, printed in conspicuous type, and in ink of a colour different from any other in or on such note the words following: "Any action which may be brought or commenced in a Division Court in respect or on account of this note or undertaking, or any sum to be assessed thereon, may be brought and commenced against the maker hereof in the Division Court for the division wherein the head office or any agency of the company is situate." R. S. O. 1877, 161, s. 71; 48 V. c. 35, s. 1. Actions on  
premium notes  
in Division  
Courts, where  
brought.

**134.** No premium note or undertaking shall create a lien upon lands on which the insured property is situate. R. S. O. 1877, c. 161, s. 73. Premium  
notes not to  
create lien on  
land.

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

**135.** Any Cash-Mutual Fire Insurance company licensed under this Act 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 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 section 103; and all the property and assets of the company, including premium notes and 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 the company, according to the provisions of this Act. R. S. O. 1877, c. 161, s. 75; 41 V. e. 8, s. 17; 44 V. e. 20, s. 7.

Guarantee fund.

Issue of execution against company.

**136.**—(1) No execution shall issue against a Mutual or Cash-Mutual company upon a judgment until after the expiration of sixty days from the recovery thereof; 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 or undertaking was paid in cash at the time of the insurance or the application therefor.

(2) 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, or undertaking was paid in cash at the time of the insurance, or upon the application therefor, execution may be forthwith issued upon such judgment. R. S. O. 1877, c. 161, 61; 44 V. e. 20, s. 27.

#### TITLE XVI.—INSPECTION OF COMPANIES—(All Companies.)

Appointment of Inspector.

**137.**—(1) For the efficient administration of the Insurance business, 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 within this Act. 42 V. e. 21, s. 1.

(2) The salary of the Inspector shall be such sum per annum as the Legislature shall, from time to time, determine: and it shall be lawful to provide from time to time such assistance as may be found necessary. 42 V. e. 25, s. 1; 46 V. e. 15, s. 6, *part.*

Inspector to keep papers on file.

**138.** The Inspector shall keep on file the various documents required by this Act to be filed in his office, and shall keep a record of all licenses issued by the Treasurer. 44 V. e. 20, s. 4.

Duties.

**139.**—(1) The Inspector of Insurance shall, personally or by deputy, 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.

(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 such inspection, and such report shall be published forthwith after the completion thereof. 42 V. c. 25, s. 2.

**140**—(1) It shall be the duty of the officers or agents of the company to cause their books to be open for the inspection of the Inspector, and otherwise to facilitate the examination so far as may be in their power; and the Inspector or deputy aforesaid shall have power to examine under oath any officer or agent of the company relative to its business. 42 V. c. 25, s. 3, (1, 2). Powers of Inspector.

(2) A report of all companies so visited shall be entered in a book kept for that purpose, with notes and memoranda shewing the condition of each company; and, where a special examination has been made, a special written report shall be communicated to the Treasurer stating the Inspector's opinion of the condition and financial standing of the company, and all other matters desirable to be made known to the Treasurer. 42 V. c. 25, s. 3, (3). Report of Inspector.

**141.** Every director, officer, agent, or employee of a company who, knowingly, makes or assists to make any untrue entry in any of the company's books, or who refuses or neglects to make any proper entry therein, or to exhibit the same or allow the same to be inspected and extracts to be taken therefrom shall be guilty of an offence, and, being convicted thereof, shall be imprisoned with or without hard labour in the Central Prison or any gaol of the Province, for a period not exceeding three months. 24 V. c. 18, s. 28; Dom. Act, 32-3 V. c. 29, s. 90. Entries, untrue or omitted.  
Access to books and papers.

**142.**—(1) 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 the company to the Treasurer. 42 V. c. 25, s. 3 (4). Provision if company appears unsafe.

(2) 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 the company, and prohibiting the company from doing any further business, and thereafter it shall not be lawful for the company to do any further business in Ontario, until the suspension or prohibition is removed by the Lieutenant-Governor in Council. 42 V. c. 25, s. 3 (6); R. S. O. 1877, c. 160, s. 34. Suspending license of company.

**143.** 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 trans- Notice of suspension of license.

acting any business in behalf of the company, except for winding up its affairs pursuant to section 7, shall be deemed to have contravened sections 55 and 56, and shall be liable for each offence to the penalty enacted in section 56. R. S. O. 1877, c. 160, s. 19; 42 V. c. 25, s. 3 (7).

Company assuming name of other company.

**144.**—(1) If it appears to the Inspector that a company which has not been incorporated by special Act of the Legislature 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. 46 V. c. 25, s. 3 (5).

(2) And such name may, upon the written recommendation of the Inspector, be changed by the Lieutenant-Governor in Council, pursuant to section 20.

Inspection of books and papers.

**145.** In order to facilitate the inspection of an insurance company's books and papers the company may be required by the Inspector to produce the said books and papers at the county town of the county in which the head office of the insurance company is situated, or at such other convenient place as the Inspector may direct. 46 V. c. 15, s. 5.

Examination of company's affairs.

**146.** Whenever the affairs of any insurance company doing business in Ontario appear to require the same, the Inspector of Insurance, with the approval of the Provincial Treasurer, may, at the expense of the company, have abstracts prepared of its books and vouchers and a valuation made of the assets and liabilities; and the certificate of the Inspector approved of by the Provincial Treasurer, shall be conclusive as to the expenses to be paid by the company in respect thereof. 46 V. c. 15, s. 7.

Inspector and officers not to be interested in any company.

**147.** 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. 42 V. c. 25, s. 4.

Contribution from companies to expenses.

**148.**—(1). Towards defraying the expenses of the office of the Inspector, a sum not exceeding \$3,000 shall be annually contributed by the companies required to be licensed under this Act.

Mode of determining the amount of contribution to expenses.

(2). The amount to be annually contributed by the insurance companies under the provisions of the last preceding sub-section shall be assessed *pro rata* and based on the gross amount at risk as shown by the books of the several companies on the 31st day of December next preceding. 42 V. c. 25, s. 5, *part*; 43 V. c. 20, s. 1, *part*; 46 V. c. 15, s. 6, *part*.

Time and manner of payment.

(3). All sums under this Act payable to the Treasurer shall be so paid before the issue of the license, and the Treasurer's certificate, or approval of an account certified by the Inspector, shall as to the amount so payable by each or any company be held conclusive. 42 V. c. 25, s. 5 *part*; 43 V. c. 20, s. 1.

**149.** A copy of any document in the office of the Inspector, certified by him to be a true copy and sealed with the seal of his office, shall be held to be authentic, and shall be *prima facie* evidence of the same legal effect as the original in any Court or elsewhere. R. S. O. 1877, c. 30, s. 8.

Certified copies of documents in Inspector's office.

TITLE XVII.—LIQUIDATION AND WINDING UP OF COMPANIES  
(*All Companies.*)

**150.** When a company proposes to go into voluntary liquidation, at least one month's notice in advance shall be given to the Treasurer and to the Inspector; the like notice shall also be published by the company in two consecutive issues of the *Ontario Gazette*, and in some other newspaper should the Inspector so require; and the notice shall state the date at which contracts shall cease to be taken by the company, also the name and address of the company's liquidator, or the intention of the company to apply on a stated day for the appointment of a liquidator. 46 V. c. 15, s. 9.

Voluntary liquidation.

**151.**—(1) At the winding up of a Mutual or Cash-Mutual Fire Insurance company, after notice has been given as required by section 51, it shall be lawful for the directors of said company to reinsure out of the reserve fund the unexpired contracts for which premiums or premium notes have been taken. 46 V. c. 15, s. 16.

Disposal of reserve at winding up of company.

(2). The said re-insurance shall be effected in some company licensed to transact business in the Province, and approved by the Treasurer.

Reinsuring companies.

**152.** When any company is wound up each person contracted with on the cash plan shall be entitled to a refund from the company of the unearned proportion of the cash premium calculated from the date at which the company, according to the notice in section 150, ceased to undertake contracts; but this shall not destroy or defeat any other remedy such person may have against the company in respect thereof or for any other cause. 46 V. c. 15, s. 10.

Unearned premiums.

**153.** Every receiver, assignee, or liquidator of a company shall, until the affairs of the company are wound up and the accounts are finally closed within seven days after the close of each month, file with the court or other authority appointing him, and also with the Inspector of Insurance, detailed schedules shewing, in such form as may be required, receipts and expenditures, also assets and liabilities, and he shall, whenever by the authority appointing him, or by the Inspector of Insurance, so required to do, exhibit the company's books and vouchers, and furnish such other information respecting the company's affairs as may be required; and any receiver, assignee or liquidator refusing or neglecting to furnish such information, shall, for each offence, be subject to a penalty of not less than \$50 nor more than \$200, to be recovered on behalf of Her Majesty for the use of this Province; and he shall in addition render himself liable to be dismissed or removed. 46 V. c. 15, s. 11.

Receiver to file statements.

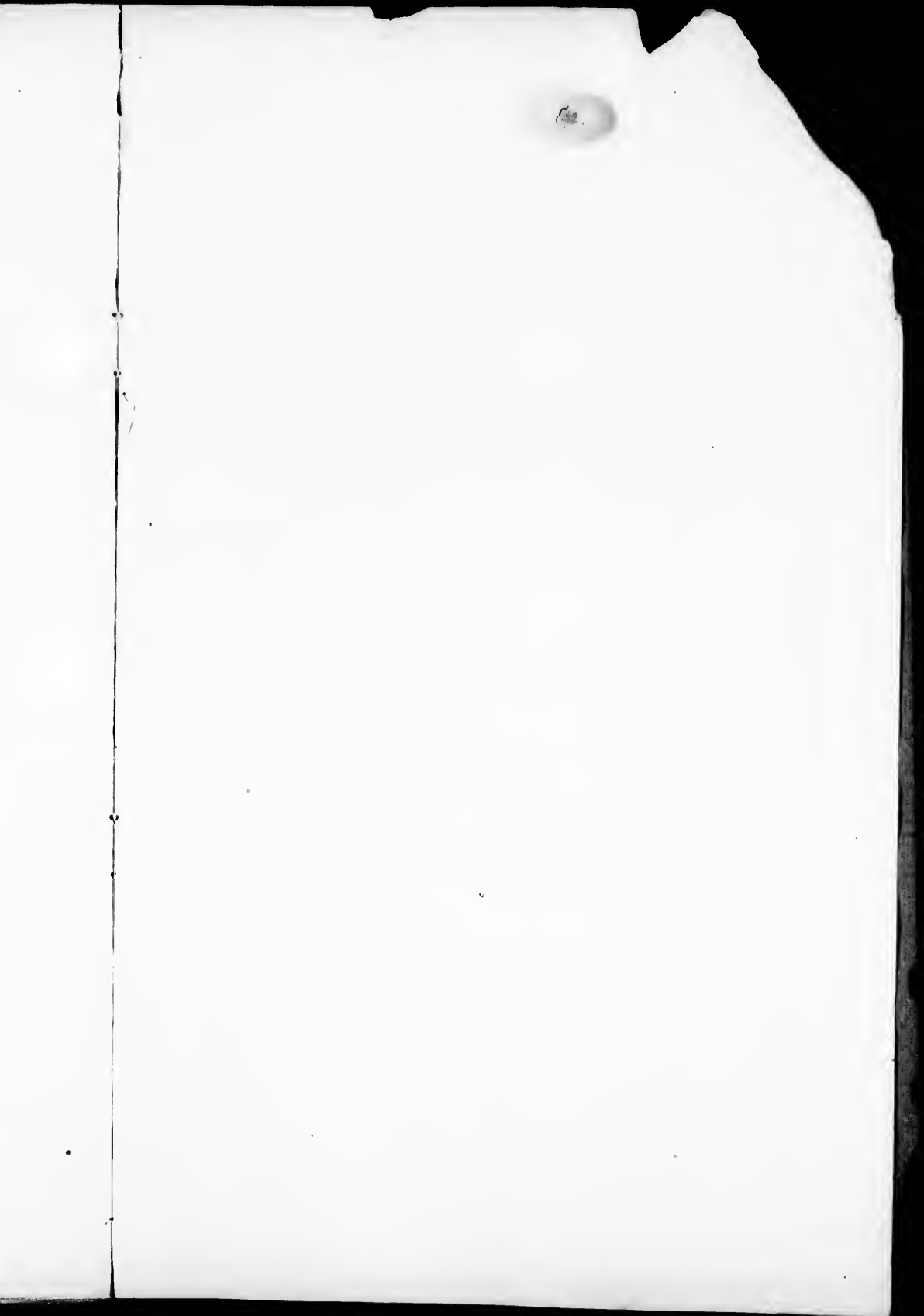
**Acts repealed.** 154.—(1) The provisions of the statute passed in the 14th year of His Majesty King George the Third and chaptered 78, shall be deemed not to be in force in regard to property in the Province.

(2) The Acts and portions of Acts mentioned in the schedule hereto, are hereby repealed.

SCHEDULE OF ACTS REPEALED.

*Schedule of Acts repealed from the day upon which the Ontario Insurance Act, 1887, takes effect.*

TITLE OF ACT.	Extent of Repeal.
R.S.O. 1877 c. 160, An Act respecting Insurance Companies	The whole except as mentioned in section 40 of this Act.
R.S.O. 1877 c. 161, An Act respecting Mutual Fire Insurance Companies	
R.S.O. 1877 c. 162, An Act to secure Uniform Conditions in Policies of Fire Insurance	The whole.
41 V. c. 8, An Act to make certain amendments in the Revised Statutes	Section 17.
42 V. c. 25, An Act to provide for the Inspection of Insurance Companies	The whole.
43 V. c. 20, An Act respecting the Expenses of Inspecting Insurance Companies	The whole.
44 V. c. 20, An Act to give increased stability to Mutual Fire Insurance Companies	The whole.
45 V. c. 20, An Act to extend the application of the Fire Insurance Policy Act	The whole.
46 V. c. 15, An Act relating to the Law of Insurance	The whole.
47 V. c. 6, An Act respecting Securities vested in the Treasurer of the Province	The whole.
47 V. c. 28, An Act respecting Supplementary Licenses to Mutual Fire Insurance Companies	The whole.
48 V. c. 35, An Act to amend the Act respecting Mutual Fire Insurance Companies	The whole.
48 V. c. 36, An Act to regulate the Election of Directors of Mutual Fire Insurance Companies	The whole.



No. 66

1st Session, 6th Legislature, 50 Vic., 1887.

**BILL.**

An Act consolidating and amending the  
Acts respecting Insurance Companies.

First Reading,	21st March, 1887.
Second "	28th "
Third "	22nd April, 1887.

The ATTORNEY-GENERAL.

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No. 68

