

No. 136.

4th Session, 3rd Parliament, 14th Victoria, 1851.

BILL.

An Act to incorporate *The Western Assurance Company.*

Received and read a first time, Monday, 16th June, 1851.

Second reading, Tuesday, 17th June, 1851.

HON. MR. SHERWOOD.

TORONTO: PRINTED BY LOVELL AND GIBSON.

B I L L .

An Act to incorporate *The Western Assurance Company*.

WHEREAS Thomas Haworth, E. Bradburne, William Wakefield, James Browne, Thomas Baines, John O. Heward, Hugh Scobie, Duncan Macdonell, Alexander Wilson, Marcus Rossin and Brothers, J. W. Skelton, George B. Spencer, Nash Cayley and Company, John Cameron, Rice Lewis and George A. Phillpotts, have petitioned the Legislature that an association under the style and title of *The Western Assurance Company*, may be incorporated, to enable parties owners of or interested in property to insure the same against loss by Fire, and also to carry on the business of Marine and Inland Navigation, Assurance and Life Assurance generally;

And whereas it hath been considered that the establishment of such an association would be greatly beneficial to the interests of this Province, and tend to the retaining therein a large portion of the moneys annually sent away as premiums for such assurances:—Be it therefore enacted, &c.

That all such persons as now are, or hereafter shall become, Stockholders of the said association shall be, and are hereby ordained, constituted and declared to be a body corporate and politic in law, in fact and in name, by the style and title of *The Western Assurance Company*, and by that name, style and title, they and their successors, shall and may have continued succession; and shall be capable in law of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all manner of actions, suits, complaints, matters and causes whatsoever, and that they and their successors may have a common seal and may change and alter the same at pleasure, and also that they and their successors by and under the name, style and title of *The Western Assurance Company*, shall be capable in law of purchasing, holding or conveying any estate, real or personal, for the use of the said corporation, subject to the rules and conditions hereinafter mentioned.

II. And be it enacted, That a share in the Stock of the said Company shall be *ten pounds*, and the number of shares shall not exceed *ten thousand*, and that books of subscription shall be opened in the principal Cities and Towns of the Province, at the same time, of which public

Proviso:
stock may be
increased.

notice shall be given, by such person or persons and under such regulations, as the majority of the Directors hereinafter appointed shall direct: Provided always, that it shall and may be lawful for the said Corporation to increase its Capital Stock to a sum not exceeding *two hundred and fifty thousand pounds*, as a majority of the Stockholders, at a meeting to be expressly convened for that purpose, shall agree upon. 5

Subscriptions:
amount to be
paid down.

III. And be it enacted, That it shall be lawful for any person or persons, or body politic, to subscribe for such and so many shares as he, she or they may think fit, not however exceeding, during the first month the subscription books are opened, *one hundred shares*; and *one pound* per cent. shall be paid at the time of subscription, and *four pounds* per cent. shall be ready as a deposit, to be called for by the Directors as soon as they may deem expedient, and the remainder shall be payable in such instalments as a majority of the Directors may determine upon: Provided always that no instalment shall exceed *ten* per cent upon the Capital Stock in any period of four 10 15 20

Proviso: as to
instalments.

Forfeiture
for non-
payment.

months, nor be called for nor become payable in less than sixty days after public notice shall have been given in one Newspaper published in the City of Toronto, and the Canada Gazette, and by circular addressed to each Stockholder at his, her or their last known residence: If any Stockholder or Stockholders as aforesaid, shall refuse or neglect to pay to the said Directors the instalment due upon any share or shares held by him, her or them, at the time required so to do, such Stockholder or Stockholders as aforesaid shall forfeit such share or shares as aforesaid, together with the amount previously paid thereon, and such forfeited share or shares may be sold at a public sale by the said Directors, after such notice as they may direct, and the moneys arising therefrom shall be applied for the purposes of this Act: Provided always, that in case the money produced by any sale of shares, be more than sufficient to pay all arrears and interest together with the expense of such sale, the surplus of such money shall be paid on demand to the owner, and no more shares shall be sold than shall be deemed necessary to pay such arrears, interest and expenses. 25 30 35 40

Proviso.

Forfeiture
taken off in
certain cases.

IV. And be it enacted, That if payment of such arrears of calls, interest and expenses be made before any share so forfeited and vested in the Company shall have been sold, such share shall revert to the party to whom the same belonged before such forfeiture, as if such calls had been duly paid; and that in all actions or suits for the recovery of such arrears or calls, it shall be sufficient for the said Company to declare in an action of debt in manner following: 54 50

Form of
action for
instalments
given.

977

“For that whereas the defendant heretofore, to wit, on The Form.
 “the day of 18 was
 “indebted to *The Western Assurance Company*, in the
 “sum of for divers calls and dues
 5 “upon certain Stock and Shares of the said Company,
 “held by the defendant before then due and unpaid upon
 “the said Stock and Shares, and being so indebted then
 “became liable to pay the said amount to the said plaint-
 “iffs, whereby an action hath accrued to the said plaint-
 10 “iffs, to ask and demand the same from the defendant;
 “yet the defendant, although often requested hath not
 “paid the same or any part thereof, to the plaintiff’s da-
 “mage of pounds. Wherefore they
 “bring suit, &c.

15 And on the trial, it shall only be necessary to prove that Proof.
 the defendant was owner of some shares in the Company,
 that such calls were in fact made, and that notice was
 given as directed by this Act, and it shall not be ne-
 cessary to prove the appointment of Directors who made
 20 such calls, nor any other matter whatsoever.

V. Provided also, and be it enacted, that if the whole Proviso. if all stock be not taken up within a certain time.
 number of shares shall not be subscribed for, within one
 month after the said books of subscription shall be opened,
 then it shall be lawful for any former subscriber or sub-
 25 sscribers to increase his, her or their, subscription: And Proviso.
 provided, further, that if the total amount of subscriptions
 within the period aforesaid, shall exceed the Capital
 Stock, limited by this Act to *one hundred thousand pounds*,
 then and in such case the shares of each subscriber or
 30 subscribers above ten shares, shall as nearly as may be,
 be proportionably reduced until the total number of shares
 be brought down to the limits aforesaid: And provided, Proviso.
 nevertheless, that the said limitation in respect to persons
 subscribing to the said Capital Stock, shall not extend or
 35 be construed to extend, to prevent the acquisition of a
 greater number of shares by purchase, after the said
 Corporation shall have commenced its operation.

VI. And be it enacted, That the Corporation hereby Of what the business of the Company shall consist.
 erected shall have power and authority to make and effect
 40 contracts of assurance with any person or persons, body
 politic or corporate, against loss or damage by fire on any
 houses, stores, or other buildings whatsoever, and on any
 shipping or vessels whatsoever, wheresoever or whither-
 soever proceeding, against loss or damage by fire, water,
 40 or any other risk whatever, and in like manner on any
 goods, chattels, or personal estate whatsoever, whether
 on shore or afloat; and to make and effect assurances on
 life or lives, or in any manner dependant on life or lives,
 and to grant annuities, to receive money for investment,
 45 and to purchase reversionary interests, under such modi-
 fications and restrictions as may be bargained or agreed

upon or set forth, and to cause themselves to be insured against any loss or risk they may have incurred in the course of their business, and generally to do and perform all other necessary matters and things connected with and proper to promote those objects.

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Power to acquire and hold property.

VII. And be it enacted, That the said Corporation shall be in law capable of acquiring by purchase, lease, mortgage or otherwise, and of holding absolutely or conditionally, any lands, tenements, real or personal estate, and the same may sell, let, release, transfer and dispose of as to them shall seem expedient: Provided always, that nothing herein contained shall be considered as permission to hold any real estate beyond what may be necessary for the said Corporation to hold for its own immediate accommodation, in relation to the convenient transaction of its business, or such as shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts; and provided also, that it shall not be lawful for the said Corporation to deal, use, or employ any part of the stock funds or moneys thereof, in buying or selling any goods, wares or merchandize, or in any banking operations whatsoever; but it shall, nevertheless, be lawful for the said Corporation to purchase and hold, for the purpose of investing therein any part of the said funds or money, any of the public securities of this Province, the Stocks of any of the Banks or other chartered Companies, and the bonds and debentures of any of the incorporated cities, or towns, or Municipal Districts, and also to sell and transfer the same, and again to renew such investment when and as often as a due regard to the interests of the said Company shall require, and also to make loans of the funds on bond and mortgage, at any legal rate of interest, and with power to receive the same in advance, and the same investments to call in and re-loan as occasion may require.

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Proviso.

What stock and securities the Company may hold.

Board of Directors.

VIII. And be it enacted, That the property, affairs and concerns of the said Company shall be managed and conducted by a Board of Directors, one of whom shall be chosen President, and one Vice President, which Board, in the first *cast over*, and until others shall be chosen and appointed as hereafter provided, shall consist of _____, and which said Directors shall hold their offices until the election hereinafter provided for, shall take place.

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Election of Directors.

IX. And be it enacted, That it shall and may be lawful as soon as *two thousand* out of the aforesaid *ten thousand* shares shall have been taken up, or *twenty thou-*

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and pounds out of the aforesaid Capital Stock of *one hundred thousand pounds*, shall have been subscribed, for the Shareholders or subscribers to proceed to the election by ballot, of *Directors*, at such time and *place* as the present Board shall appoint, giving fifteen *days'* notice thereof in the Canada Gazette, and in one newspaper at least, in the cities of Toronto, Hamilton, Kingston, Montreal and Quebec, which *Directors* shall be subjects of Her Majesty, and Stockholders at the *time* of their election and during their continuance in office, to the amount of twenty shares, and shall have power to choose from among themselves a President and Vice President; and the said *Directors* shall thereupon at their first meeting thereafter divide themselves by lot into classes, of *each*, who shall go out of office in rotation as hereafter provided for.

X. And be it enacted, That each Stockholder shall *be entitled* to a number of votes proportioned to the number of shares which he or she shall have held in his or her name, at least one month prior to the time of voting according to the following ratios: that is to say, at the rate of one vote for each share, not exceeding four; five votes for six shares, six votes for eight shares, seven votes for ten shares, and one vote for every five shares above ten; and that all votes given at any meeting may be either personally or by proxy, the holders of such proxies being Stockholders authorized by writing, under the hands of the Stockholders nominating such proxy, and every proposition at any such meeting shall be determined by a majority of the votes of the parties present, including proxies: Provided always, that the authority to any such proxy shall bear date within *of the time of meeting* at which it is produced; and provided also, that no person, or co-partnership or body politic, shall be entitled to more than *votes* at any such meeting on any one proposition.

XI. And be it enacted, That if any Director of the said Corporation shall die, resign or become disqualified, or incompetent to act as a Director, or shall cease to be a Director through any other cause than that of going out of office by rotation as aforesaid, the remaining Directors, if they think proper so to do, may elect in his place any Stockholder duly qualified to be a Director, and the Stockholder so elected to fill up any such vacancy shall continue in office until the first yearly meeting after such vacancy, and the Stockholders then present, shall elect a new Director, who shall hold office for the same period as the Director would have done, whose death, resignation or disqualification caused the vacancy.

XII. And be it enacted, That a general meeting of the Shareholders of the said Company, shall be held in the

city of Toronto on such day in each and every year, as a majority of the said Directors shall appoint, after giving thirty days' notice thereof; and at such meeting the Directors whose names stand first on the list of Directors, shall be held to vacate their seats, and the Stockholders present at such meeting, either in person or by proxy, shall proceed to elect by ballot Directors to serve as Directors for the ensuing year, who shall, upon election, be placed at the bottom of the Roll of Directors: Provided always, that nothing herein contained shall be held to render the retiring Director ineligible for re-election. 5 10

Proviso.

Statements to be produced at annual meetings.

XIII. And be it enacted, That at the annual general meeting of the Company, and before the Directors then assembled, the Board of Directors shall exhibit a full and unreserved statement of the affairs of the Company, of the funds, property and securities, showing the amount in real estate, in bonds and mortgages and other securities, or in public debt or other Stock, and the amount of debt due to and from the said Company. 15 20

Case of failure to elect provided for.

XIV. And be it enacted, That if it shall happen at any time or for any cause, that an election of Directors shall not be made on any day when, pursuant to this Act or the ordinances of the Company, it ought to have been made, the said Corporation shall not for that cause be dissolved; but it shall be lawful on any other day, to hold and make an election of Directors in such manner as shall have been regulated by the By-laws and Ordinances of the Company; and the Directors in office shall so continue until a new election shall be made. 25 30

By-laws how to be made.

XV. And be it enacted, That any number of Directors of the said Company, being a majority of the said Directors, shall have full power and authority to make, prescribe and alter such by-laws, rules, regulations and ordinances as shall appear to them proper and needful, touching the well-ordering of the Company, the rates and amount of assurance and issuing of policies, the management and disposition of its stock, property, estate and effects, and also to call in any instalment or instalments at such times and seasons as they shall think fit, giving due notice thereof as hereinafter provided; and also to declare and cause to be paid or distributed to the respective Stockholders of the Company, any dividend or dividends of profit, at such times and seasons as they shall deem expedient; and also to appoint a managing Director, Secretary and Treasurer, or any of them, with such salary or allowances to each, as well as to other officers or agents of the Company as may be thought reasonable, and to take security for the due performance of their respective duties as they shall think advisable: Provided always, that for the purposes in this section mentioned, except as 35 40 45 50

Proviso.

hereinafter specially provided, a majority of the Directors shall be present and assisting, and it shall not be competent for a Board consisting of a less number of Directors than were present at the time to alter, repeal or amend any matter or thing so done.

XVI. And be it enacted, That it shall be lawful for a majority of the said Directors, if they shall deem it for the interest of the said Company, to return to the holders of policies or other instruments such part or parts of the actual realized profits of the Company, in such parts, shares and proportions, and at such times and in such manner as the said Directors may deem advisable, and to enter into obligations so to do, either by endorsements on the policies or otherwise: Provided always, that such holders of policies or other instruments shall not be held to be in anywise answerable for the debts or losses of the said Company, beyond the amount of the premium or premiums which may have been actually paid up by him, her or them.

Directors may declare Bonuses, &c.

Proviso.

XVII. And be it enacted, That there shall be a weekly meeting of the Board of Directors of the said Company, and any three or more of the said Directors shall be a quorum for the purpose of transacting and managing the details of business and affairs of the said Company, and at all meetings of the Board of Directors, all questions before them shall be decided by a majority of voices or votes, and in case of an equality of votes, the President, Vice President or presiding Director shall give the casting vote over and above his proper vote as a Director: Provided always, that nothing herein contained shall be construed to authorize the making, altering, or repealing any by-laws or ordinances of the said Company or calling in any instalments on stock, or declaring dividends of profits, or the appointment of managing Director, Secretary or Treasurer, or the appointments of Salaries to or securities from officers or agents of the said Company, by any less number of Directors or in any other manner than is hereinbefore mentioned and provided.

Weekly meetings of Directors.

Proviso.

XVIII. And be it enacted, That the Directors for the time being shall receive a reasonable compensation for their attendance at the Board, to be ascertained and determined by a by-law or rule of the Board; and the said Directors shall be indemnified and saved harmless by the members of the said Corporation in proportion to the several interests in the same, in and for their giving out and signing policies of assurance, and all other lawful acts, deeds, and transactions, done and performed in pursuance of this Act, and neither shall the said Directors be answerable for or chargeable with the defaults, neglects or misdeeds of others of them.

Compensation of Directors.

Policies, &c.
how executed.

XIX. And be it enacted, That all policies, checks, or other instruments issued or entered into by the said Company, shall be signed by the President, Vice President, or Managing Director, and countersigned by the Secretary, or as otherwise directed by the rules and regulations of the Company in case of their absence; and being so signed and countersigned, and under the seal of the said Company shall be deemed valid and binding upon them according to the tenor and meaning thereof. 5

Votes on
transferred
shares.

XX. And be it enacted, That no transferred share shall entitle the person to whom it is transferred to a vote until the expiration of thirty days after such transfer. 10

Transfers to
be entered, &c.

XXI. And be it enacted; That no transfer of any share of the said Corporation shall be valid until entered in the books of the Corporation according to such form as the Directors may from time to time determine, and that until the whole of the Capital Stock of the said Corporation is paid up, it shall be necessary to obtain the consent of the Directors to such transfer being made; Provided always, that no Stockholder indebted to the said Corporation shall be permitted to make a transfer or receive a dividend until such debt is paid, or secured to be paid, to the satisfaction of the Directors. 15 20

Proviso.

Penalty on
officers guilty
of fraud.

XXII. And be it enacted, That any person who, as Secretary, Clerk, or other officer of the Company, shall be guilty of any designed falsehood or fraud in any matter or thing pertaining to his office or duty, shall be guilty of a misdemeanor; and any person offering to vote in person at any election of Directors in the said Company, who shall falsely personate another, or who shall falsely sign or affix the name of any other person a member of this Company to any appointment of a proxy, shall be guilty of a misdemeanor. 25 30

Double
insurance
without con-
sent void.

XXIII. And be it enacted, That if any insurance on any house or building shall be and subsist in the said Company and in any other office or form and by any other person or persons at the same time, the assurance made in and by this said Company shall be deemed and become void, unless such double assurance subsist with the consent of the Directors, signified by endorsement on the policy, signed by the President, Secretary, or otherwise as directed by the by-laws and regulations of the Company. 35 40

Officers may
be witnesses.

XXIV. And be it enacted, That in all actions, suits and prosecutions, in which the said Company may be at any time engaged, any officer or Stockholder in the said Company, shall be a competent witness, notwithstanding any interest he may have therein. 45

983

XXV. And be it enacted, That during the hours of ^{As to lists of} business, every Stockholder of the said Corporation shall ^{Stockholders.} have power to ask and receive from the President, Secretary or other officer, the names of all the Stockholders of
5 the said Corporation.

XXVI. And be it enacted, That this Act be, and is ^{Public Act.} hereby declared a public Act, and that the same may be construed as such in Her Majesty's Courts in this Province.

10 XXVII. And be it enacted, That the present Act shall ^{Non-user.} in nowise be forfeited for non-user at any time before the day of one thousand eight hundred and fifty-five.

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