

(No. 103.)



1873.

T A S M A N I A.

H O U S E O F A S S E M B L Y.

L I F E A S S U R A N C E A C T.

C O R R E S P O N D E N C E W I T H N E W S O U T H W A L E S.

Laid upon the Table by the Attorney-General, and ordered by the House to be printed, October 7, 1873.



Attorney-General's Office, Hobart Town, 16th August, 1873.

SIR,

I SHOULD feel greatly obliged by any information you could give me as to the effect of your Act, 26 Vict. No. 13 (the Act for the encouragement of Life Assurance); and, in particular, whether any legal difficulty has been experienced in attempting to insist on its provisions.

In this Colony a transcript of your Act has been in force, unchallenged, for some years; but, in a recent case decided in our Supreme Court, both Judges were of opinion that the protection afforded by the Act was, by virtue of the 2nd Section, restricted to Insurance Companies incorporated or enabled to be sued in Tasmania by any Act.

The Policies then litigated on were in the Liverpool and London and the Standard Insurance Companies, which I imagine are in the same position in New South Wales as in Tasmania; viz.—Foreign Companies,—having only agencies for carrying on business, but having no distinct legal status, either by Colonial incorporation or enactment. The effect of the decision of our Court has been to deprive all Policy-holders of the protection it was supposed they possessed, as we have no local Company engaged in Life Assurance business.

New legislation will therefore be required; and it is to guide me in that legislation that I venture to trouble you with the above request.

I have, &c.,

(Signed) W. R. GIBLIN.

The Hon. the Attorney-General, Sydney.

Attorney-General's Department, Sydney, 4th September, 1873.

SIR,

WITH reference to your letter of 16th ultimo, requesting information as to the effect of our local Statute, 26th Victoria, No. 13 (the Act for the encouragement of Life Assurance); and, in particular, whether any legal difficulty has been experienced in attempting to insist on its provisions, I do myself the honor to inform you that our Life Assurance Encouragement Act of 1862, in its first Section, limits, in terms, the operation, and therefore the *protection* given by the Act to "Life Insurances to Companies incorporated, or regulated, or enabled to sue by Charter, or by any Act." This being the case, legal difficulties, of the nature you have indicated, would not be likely to have arisen:

I am not aware of any decision of our Court upon the construction of the words just quoted, but they have generally been understood as excluding Companies not enabled by Charter, Act, or otherwise from suing and being sued.

One of the local Companies mentioned in your letter—the London and Liverpool—(now the London and Liverpool and Globe Insurance Company) has been expressly enabled, by Statute, to sue and be sued in New South Wales. (See that Company's Private Act of the 28th Victoria.)

Other Life Assurance Companies have also obtained similar enabling Acts:

I have, &c.,

(Signed) E. BUTLER, *Attorney-General.*

*The Hon. the Attorney-General,
Hobart Town, Tasmania.*

New South Wales.



ANNO VICESIMO-OCTAVO

VICTORIÆ REGINÆ.



LIVERPOOL AND
LONDON AND GLOBE
INSURANCE COM-
PANY.

An Act to give effect in this Colony to the alteration of the Name of
“The Liverpool and London Fire and Life Insurance Company”
and to consolidate and amend the Laws relating to the said
Company. [22nd April, 1865.]

Preamble.

WHEREAS in the year one thousand eight hundred and thirty-six a Company or Association was established in England by the name of “The Liverpool Fire and Life Insurance Company” for the purposes of making and effecting insurances on houses warehouses and buildings shipping in port goods wares merchandise farming stock utensils and property of all descriptions against loss or damage by fire insurances on lives and survivorships the sale and purchase of annuities reversions and contingent interests and the endowment of children and generally to carry on the business usually called or known as fire and life insurance and all matters connected therewith And whereas upon the establishment of the said Company or Association a deed of settlement was made dated the twenty-first day of May one thousand eight hundred and thirty-six And whereas by an Act of the Imperial Parliament passed in the eleventh year of the reign of Her present Majesty intituled “An Act to change the Name of the Liverpool Fire and Life Insurance Company and for other purposes relating thereto” the name of the said Company was changed to “The Liverpool and London Fire and Life Insurance Company” And whereas a supplemental deed of settlement was made by the said Company dated the twenty-eighth day of February one thousand eight hundred and fifty-one And whereas by virtue of the powers in that behalf given by the said supplementary deed of settlement to the Board of Directors for the time being of the said Company a local board of Directors of the said Company was in the year one thousand eight hundred and fifty-three duly appointed in the city of Sydney in this Colony for carrying on and managing in this Colony the business of the said Company and all matters connected therewith and for other purposes in connection with the affairs of the said Company And whereas by virtue of powers duly delegated to them for that purpose by the Board of Directors of the said Company the said local Board of Directors has from time to time appointed Trustees for the Company in this Colony duly qualified in accordance with the said deeds of settlement and all lands tenements and hereditaments situate in this Colony belonging to the said Company as absolute owners or as mortgagees or otherwise and all moneys belonging to and invested for the said Company in this Colony and all securities for or relating thereto have from time to time been duly vested in such Trustees for the time being And whereas in order to prevent the complication and expense occasioned to the Company by the necessity of from time to time on the occasion of appointing new Trustees for the Company of transferring the trust moneys securities and property of the Company to such new Trustees an Act was passed in the twentieth year of the reign of Her present Majesty intituled “An Act to vest the trust moneys securities and property of the Liverpool and London Fire and Life Insurance Company in this Colony in the local Trustees of the said Company for the time being” And whereas an Act was passed in the twenty-sixth year of the reign of Her present Majesty intituled “An Act to enable the Liverpool and London Fire and Life Insurance Company to sue and be sued in the Name of such Company” And whereas by an Act of the Imperial Parliament passed in the twenty-seventh and twenty-eighth years of the reign of Her present Majesty intituled “An Act to confirm an Agreement for the amalgamation of the Globe Insurance Company with the Liverpool and London Fire and Life Insurance Company and to alter the Name of the last-mentioned Company and for other purposes” the name and style of the said Company was changed into and

became "The Liverpool and London and Globe Insurance Company" And whereas it is expedient to give effect in this Colony to the said change of name of the said Company and to remove all doubts as to the effect of the said change of name upon the existing contracts and engagements of the said Company in this Colony and also to consolidate the enactments contained in the said Acts of the twentieth and twenty-sixth Victoria respectively Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. The said Acts passed in the twentieth and twenty-sixth years of the reign of Her present Majesty relating to the Liverpool and London Fire and Life Insurance Company shall be and the same are hereby repealed provided that the said repeal nor anything herein shall in any manner prejudice or affect any act deed matter or thing lawfully done or executed or commenced or agreed to be done or executed under the authority of the said Acts.

Acts 20 Victoria and
26 Victoria repealed.

2. All Acts of Parliament Acts of Council Royal Charters contracts and engagements and all policies agreements bonds deeds assurances and other instruments whatsoever wherein the Liverpool and London Fire and Life Insurance Company are named or referred to by or with reference to their name of the Liverpool Fire and Life Insurance Company or their name of the Liverpool and London Fire and Life Insurance Company shall be read and have effect as if they were named or referred to therein by or with reference to their new name of the Liverpool and London and Globe Insurance Company and all rights of action or suit and other rights and privileges possessed or enforceable by or on behalf of or against the Liverpool and London Fire and Life Insurance Company shall be deemed to be rights and privileges possessed or enforceable by or on behalf of or against the Liverpool and London and Globe Insurance Company and all such contracts engagements rights of action and suit and other rights and privileges shall and may be proceeded upon and enforced accordingly.

New name of Com-
pany to apply to
existing engagements.

3. All actions suits and proceedings at law or in equity or in bankruptcy or insolvency to be commenced instituted or carried on in this Colony by or on behalf of the Liverpool and London and Globe Insurance Company or wherein the said Company is or shall be concerned or interested against any person whether such person shall be a member or proprietor of or in the said Company or not shall be commenced instituted presented and prosecuted or carried on in the name of the said Company in the same manner as if the same had been incorporated by such name And all actions suits and proceedings at law or in equity to be commenced or instituted in this Colony against the said Company by any person whether such person is or shall then be a member or proprietor of or in the said Company or not shall be commenced instituted and prosecuted or carried on against the said Company by its name in the same manner as if the same had been so incorporated And all prosecutions to be brought instituted or carried on for fraud upon or against the said Company or for embezzlement robbery or stealing any money notes bills effects securities goods chattels or property of the said Company or for any other offences against the said Company shall be so brought or instituted and carried on in the name of the Company as if the same were incorporated and in all indictments and informations it shall be lawful to state the property of the said Company to be the property of the said Company by its name as if incorporated And any offences committed with intent to defraud or injure the said Company shall and lawfully may in such prosecution be laid to have been committed with intent to defraud or injure the said Company by its name as if incorporated And any offender may thereupon be lawfully convicted of any such offence and in all other allegations and indictments informations and other proceedings whatsoever in which in the absence of legislative provision as herein it would have been necessary to state the names of the persons composing the said Company it shall be lawful and sufficient to state the name of the Company and no change in the persons composing the Company shall abate any such action suit proceeding or prosecution.

Actions and suits be
in the name of the
Company.

4. All bonds covenants mortgages warrants of attorney and other securities not being assignable at law which have been or which shall or may at any time hereafter be taken in the names of any persons as the local Trustees for the time being of the said Company shall and may be put in suit and be sued and prosecuted upon at law or in equity in the name of the said Company as if the same had been incorporated by such name.

Actions on bonds and
other specialties.

5. No action or suit against the said Company shall be in anywise affected or defeated by or by reason of the plaintiff therein or of any other person in whom any interest may be averred or who may be in anywise interested or connected in such action or suit being or having been a proprietor or a partner in the said Company or of such action or suit arising out of the partnership relation of the plaintiff or other person as aforesaid and the Company but any proprietor or partner or late proprietor or partner in the said Company shall and may have the same right of action or suit

No action against the
Company to be
affected in conse-
quence of the plaintiff
being proprietor.

and remedy to be proceeded in and enforced in the same manner against the said Company which he or they might have had if he or they had been a stranger and not a proprietor or partner in the said Company.

No action commenced by the Company to be affected in consequence of the defendant being a proprietor.

6. No action or suit commenced by the said Company shall be in anywise affected or defeated by or by reason of the defendant therein or of any other person in whom any interest may be averred or who may be in anywise interested or concerned in such action or suit being or having been a proprietor or partner in the said Company or of such action or suit arising out of the partnership relation of the Company and the defendant or such other person but the said Company shall and may have the same right of action or suit and remedy to be proceeded in and enforced in the same manner against any proprietor thereof or partner or late proprietor or partner therein either alone or jointly with any other person or persons which the said Company might have had if such cause of action or suit had arisen with a stranger and not a proprietor or partner in the said Company.

Decrees against the Company to have effect against the Company.

7. All and every judgment decree or order made or pronounced in any action suit or proceeding in any Court of law or equity against the said Company shall have the like effect and operation upon and against the property and funds of the said Company and upon and against the persons and property of every proprietor thereof as if all the proprietors of such Company were parties before the Court to and in such action suit or proceeding. And it shall be lawful for any Court in which such judgment order or decree shall have been made to cause such judgment order or decree to be enforced against all and every or any proprietor of such Company in like manner as if all the proprietors of such Company were parties before such Court to and in such action suit or proceeding.

Company not incorporated by this Act.

8. Provided always that nothing herein contained shall extend or be deemed construed or taken to extend to incorporate the said Company or to relieve or discharge the said Company or any of the proprietors thereof or subscribers thereto from any responsibility duties contracts or obligations whatsoever which by law they now are or at any time hereafter may be subject or liable to either between the said Company and others or between the individual proprietors of the said Company or any of them and others or amongst themselves or in any manner whatsoever except so far as the same is affected by the provisions of this Act and the true intent and meaning thereof.

Memorial of the names of the Directors and Trustees to be recorded.

9. The Sydney local Board of Directors of the said Company for the time being shall within thirty days after the passing of this Act cause a memorial of the names of the Sydney local Directors and of the local Trustees of the said Company for the time being in the form or to the effect for that purpose set forth in the Schedule to this Act annexed to be recorded in the Office of the Supreme Court of this Colony at Sydney and when and as often as any new local Director or Trustee shall be appointed then the said local Board shall within thirty days thereafter cause a like memorial of the names of the then local Directors and Trustees including such new Director or Trustee in lieu of the Director or Trustee in whose place he shall have been appointed to be recorded as aforesaid.

Memorial to be verified by declaration.

10. Every such memorial shall be verified by the solemn declaration of the local or resident Secretary of the Company or in case there shall be no local or resident Secretary at the time or in his absence then by the solemn declaration of one of the local Directors for the time being.

Memorial recorded to be conclusive evidence.

11. The memorial last recorded shall be conclusive evidence against the Company of the persons named in such memorial as the local Directors and local Trustees thereof being such local Directors and Trustees of the Company for the time being and of the regularity of their or his appointment. And the acts and deeds of the persons so named in such memorial shall be binding on the Company notwithstanding that they shall not be the Directors and Trustees thereof. And all persons paying money to the persons named in such memorial as Trustees of the said Company shall be exonerated from all liability in respect of the non-application or misapplication of such money.

Trust moneys land and other property to be vested in the Trustees for the time being.

12. The trust moneys securities property lands tenements and hereditaments of the said Company which now belong to the said Company in this Colony and which are vested in the present local Trustees of the said Company whose names are set forth in a memorial recorded in the Office of the Supreme Court in pursuance of the said recited Act twentieth Victoria or which may hereafter belong to or be acquired or obtained within this Colony by the said Company or the Trustees thereof whether as absolute owners thereof or otherwise shall vest and be vested in the local Trustees of the said Company at Sydney for the time being by force of this Act and by virtue of their appointments merely and of which appointments the memorial recorded in the Office of the Supreme Court as required by this Act shall be conclusive evidence without any assignment transfer or conveyance and the said local Trustees for the time being shall have the same powers and rights both at law and in equity with respect to

the said trust moneys securities property lands tenements and hereditaments of the Company so vested in them as aforesaid as they would have if the same had been duly assigned transferred or conveyed to them.

13. This Act shall be styled and may be cited as "The Liverpool and London and Globe Insurance Company's Act of 1865." Short title.

THE SCHEDULE REFERRED TO IN THE FOREGOING ACT.

MEMORIAL of the names of the Sydney Local Directors of the Liverpool and London and Globe Insurance Company and of the Local Trustees thereof to be recorded in the Supreme Court of New South Wales pursuant to "The Liverpool and London and Globe Insurance Company's Act of 1865."

} Local Directors.

} Local Trustees.

I _____ of _____ do solemnly and sincerely declare that the above memorial contains the names of the present Local Directors and of the present Local Trustees of the above-named Company at Sydney.

Made and declared at Sydney before me this _____ day of _____ in the year of our Lord one thousand eight hundred and sixty