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# VICTORIÆ REGINÆ.

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AUSTRALIAN  
GENERAL ASSURANCE  
COMPANY.

An Act to simplify Proceedings at Law or in Equity by or against "The Australian General Assurance Company" and for other purposes therein mentioned. [27th October, 1845.]

Preamble.

Proceedings to be in name of Secretary.

**W**HEREAS a joint stock company carrying on business under the style and firm of "The Australian General Assurance Company" is established in this Colony and it is expedient to simplify all future proceedings at law or in equity to be commenced by or against the said company Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That from and after the passing of this Act every action suit or proceeding at law or in equity to be commenced or prosecuted by or on behalf of the said company against any person or persons whether a member or members of such company or otherwise or against any body or bodies politic or corporate for the recovering any debt or property real or personal or enforcing any claim right or demand of the said company or relating to any matter connected with the concerns or business of the said company may be commenced and prosecuted in the name of the Secretary for the time being of the said company as the nominal plaintiff complainant or petitioner for and on behalf of the said company and that all actions suits or proceedings as aforesaid to be commenced or prosecuted against the said company shall be commenced instituted and prosecuted against the Secretary for the time being of the said company as the nominal defendant for and on behalf of the said company and in all criminal prosecutions to be instituted or carried on by or on behalf of the said company for fraud upon or against the said company or for embezzlement robbery stealing or counterfeiting the bills notes bonds moneys effects or property of the said company or for any felony misdemeanor or other offence by which the said company or their property shall or may be affected it shall be lawful and sufficient to state the property of the said company to be the property of such Secretary for the time being of the said company and any offender or offenders may be thereupon lawfully convicted of any such offence and that neither the death resignation suspension nor removal of such Secretary shall abate or prejudice any such action suit or proceeding but the same may be continued in the same name or in the name of the next or any succeeding Secretary for the time being of the said company Provided nevertheless that the body or goods lands or tenements of such Secretary shall not by reason of his being the nominal defendant in any such action suit or proceeding be liable to be arrested seized or taken in execution.

*Australian General Assurance Company.*

2. And be it enacted That as soon as conveniently may be after the passing of this Act and from time to time upon or as soon as conveniently may be after the appointment of any new Secretary of the said company a memorial in writing shall be recorded in the Supreme Court of New South Wales wherein shall be set forth the style and firm of the said company and the Christian and surnames of the Secretary and of every director for the time being of the said company in the form or to the effect set forth in the Schedule to this Act annexed and that every such memorial shall be signed by the Secretary for the time being of the said company and by the directors therein named and shall be verified by the oath of the said Secretary made before the registrar or some commissioner of the said Court that the same contains a true account of the several particulars therein set forth to the best of the knowledge and belief of the deponent.

Memorial of style of company and names of Secretary and directors to be recorded and renewed on every new appointment of Secretary.

3. And be it enacted That until the first of such memorials so verified shall be recorded as aforesaid no action suit or other proceeding at law or in equity shall be commenced for or on behalf of or against the said company under the provisions of this Act and unless such memorial shall be from time to time recorded as aforesaid within the space of thirty days after the appointment of any new Secretary as aforesaid no new action suit or other proceeding as aforesaid shall be commenced for or on behalf of the said company until the memorial hereby required upon such appointments respectively shall be duly recorded.

No action to be brought pursuant hereto until memorial recorded.

4. And be it enacted That in any action to be brought in the name of any Secretary of the said company by virtue of this Act the plaintiff therein shall not be nonsuited nor shall a verdict be given against the plaintiff for want of proof of the record of such memorial as hereinbefore mentioned but in case the defendant in any such action shall specially plead such defence and on the trial of such action shall make it appear that no such memorial has been recorded then a nonsuit shall be entered in such action.

Plaintiff is not to be nonsuited for want of proof of memorial.

5. And be it enacted That in all actions suits petitions or other proceedings in which the said Secretary for the time being shall be on behalf of the said company plaintiff complainant petitioner or defendant it shall and may be lawful for such Secretary or for any other officer or director or chairman engaged in the executive duties or management or direction of the said company to give evidence in any such action suit or other proceeding notwithstanding that the name of such Secretary shall be used as plaintiff complainant petitioner or defendant and notwithstanding that such Secretary or other officer director or chairman may be interested in the result of such action suit petition or proceeding as a shareholder or copartner in the said company.

Secretary and other officers of the company to be competent witnesses.

6. And be it enacted That execution upon any judgment or decree in any such action suit petition or other proceeding obtained against the Secretary for the time being of the said company whether he be plaintiff or defendant therein may be issued against and levied upon the goods chattels lands and tenements of the said company or of any member or members for the time being of the said company when ascertained by writ of *scire facias* in like manner as if such judgment or decree had been obtained against such member or members personally.

As to mode of levying under execution against the company.

7. And be it enacted That for the purpose of giving better effect to the provision last hereinbefore contained the Secretary for the time being of the said company shall within thirty days from the passing of this Act and thereafter in the month of January in each year cause a true list of the names of all the then existing members of such company with their respective places of abode and descriptions

List of members to be recorded on oath by the Secretary and renewed annually.

*Australian General Assurance Company.*

- so far as is within his knowledge to be recorded on oath in the office of the Registrar of the Supreme Court and the same shall be open for inspection at all reasonable times by any person requiring the same on payment of a fee of one shilling and if such Secretary shall fail to cause such list to be recorded in the manner aforesaid he shall be liable to a penalty of one hundred pounds to be recovered by action of debt in the said Supreme Court by any person suing for the same.
- Penalty.
- Persons recorded as members to be *prima facie* liable as such.
8. And be it enacted That every person whose name shall be recorded shall by reason thereof be considered *prima facie* a copartner of the said company and unless his copartnership be disproved be liable as such copartner until a new list of the names of the copartners shall be recorded as aforesaid or until he shall have given notice in the *New South Wales Government Gazette* of his or her retirement from the said company or of the dissolution thereof Provided always that every such Secretary in whose name any action suit petition or other proceeding shall be commenced prosecuted or carried on or defended and every such member or members against whose goods chattels lands or tenements execution shall be so issued as aforesaid shall always be reimbursed and paid out of the funds of the said company all such damages costs and expenses as by the event of any such proceedings such Secretary or member or members shall or may be put unto in respect thereof and all existing remedies shall be allowed as between the several members of the said company for the time being in addition to those provided by this Act.
- Reservation of remedies *inter se* for reimbursement contribution &c.
- Choses in action to be sued upon by Secretary for time being and actions not to abate by change of Secretary.
9. And be it enacted That all bills notes bonds warrants of attorney and other securities not assignable in law which have been or shall or may at any time hereafter be taken by the said company in the name of any person as Secretary of the said company for or on account of the said company shall and may be put in suit and be sued or prosecuted upon at law or in equity in the name of the Secretary for the time being of the said company and the proceedings instituted upon or in respect of such bills notes bonds warrants of attorney or other securities shall not abate by reason of the death suspension or removal of any such Secretary pending such proceedings but the same may be continued prosecuted and carried on in the name of the same or of the succeeding Secretary to be recorded in the memorial as hereinbefore provided for in that behalf and so on from time to time whensoever any new appointment or election of Secretary shall take place.
- As to plea of judgment recovered in bar.
10. And be it enacted That in case the merits of any demand by or against the said company shall have been determined in any action or suit by or against any such Secretary the proceedings in such action or suit may be pleaded in bar of any other action or suit by or against the Secretary of the said company for the same demand.
- Shares of capital or dividends not to be set off against any claim of the company.
11. And be it enacted That no claim or demand which any member of the said company may have in respect of his share of the capital or joint stock thereof or of any dividends interests profits or bonus payable or apportionable in respect of such share shall be capable of being set off either at law or in equity against any demand which the said company may have against such member on account of any other matter or thing whatsoever but all proceedings in respect of such matter or thing may be carried on as if no claim or demand existed in respect of such capital or joint stock or of any dividends interests profits or bonus payable or apportionable in respect thereof.
- Change of members not to affect the operation of this Act.
12. And be it enacted That the provisions of this Act shall extend to the said company whether the said company be now or hereafter composed of some or all or any of the persons who were the original or are the present members thereof or of all or some of those persons together with some other person or persons or shall be composed

*Australian General Assurance Company.*

posed altogether of persons who were not original nor are present members of the same.

13. Provided always and be it enacted That nothing in this Act contained shall be deemed to affect or apply to any right title or interest of Her Majesty Her Heirs or Successors or of any body politic or corporate or of any other person or persons excepting such as are mentioned herein or of those claiming by or under him her or them.

Saving of rights of the Crown and of all persons not mentioned herein.

14. And be it enacted That this Act shall not commence or take effect until the same shall have received the Royal approbation and the notification of such approbation shall have been made in the *New South Wales Government Gazette* by order of His Excellency the Governor for the time being of the said Colony.

This Act to take effect when it shall have received the Royal approbation.

15. And be it enacted That this Act shall be deemed and taken to be a public Act and shall be judicially taken notice of as such in all cases without being specially pleaded.

Act to be deemed a public Act.

SCHEDULE REFERRED TO.

MEMORIAL of the names of the Secretary and Directors for the time being of "The Australian General Assurance Company" recorded in the Supreme Court of New South Wales pursuant to an Act of the Governor and Council of New South Wales made and passed in the ninth year of the reign of Her Majesty Queen Victoria intituled "An Act to simplify proceedings at law or in equity by or against the Australian General Assurance Company and for other purposes therein mentioned."

C. }  
D. } Directors. { F.  
E. } { G.  
 { H.

A. B. Secretary.

A. B. of \_\_\_\_\_ gentleman Secretary of the above-named company maketh oath and saith that he duly signed the above memorial and that he was present and did see the same signed by the above-named directors respectively whose names appear thereto.

Sworn, &c. }  
before &c. this }  
day of \_\_\_\_\_ A.D. }

A. B.