

New Zealand.

## ANALYSIS.

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1887, No. 2.—*Private.*

AN ACT to enable the Phoenix Assurance Company of London to sue and be sued in the Name of the Company, and for other Purposes connected therewith. Title.  
[23rd November, 1887.]

WHEREAS in the year one thousand seven hundred and eighty-one a company or association was established in England by the name of "The Phoenix Assurance Company of London," for the purpose of making and effecting insurances on houses, warehouses, and buildings, shipping in port, goods, wares, and merchandise, farming stock, utensils, and property of all descriptions against loss or damage by fire, and generally to carry on the business usually called or known as fire insurance, and all matters connected therewith; and upon the establishment of the said company or association a deed of settlement was made, dated the twenty-seventh day of December, one thousand seven hundred and eighty-one: And whereas by an Act of the Imperial Parliament, passed in the fifty-third year of the reign of His late Majesty King George III., intituled an "Act to enable the Phoenix Assurance Company of London to sue and be sued in the Name of their Secretary or any Member," the company were enabled to sue and be sued in the name of their Secretary or any member: And whereas the said company has for several years carried on, and still continues to carry on, such business in New Zealand, under the direction of its General Agent and Attorney, in the name of the Phoenix Assurance Company of London: And whereas it is expedient to enable the said Phoenix Assurance Company of London to sue and be sued in New Zealand in the name of the company: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

- Short Title.** 1. The Short Title of this Act is "The Phoenix Assurance Company of London Act, 1887."
- Interpretation clause.** 2. The words "the company" in this Act mean the Phoenix Assurance Company of London, and this Act shall be construed to apply to the company, whatever persons may from time to time be members of or constitute the company, as if the same had been incorporated by that name.
- Actions by the company.** 3. All actions, suits, and proceedings at law or in equity, or in bankruptcy, to be commenced, instituted, or carried on in New Zealand by or on behalf of the company, or wherein the company is or shall be concerned or interested, against any person or persons, whether such person or persons shall be a member or members of the company or not, shall be commenced, instituted, and carried on in the name of the company.
- Actions against the company.** 4. All actions, suits, and proceedings at law or in equity to be commenced or instituted in New Zealand against the company by any person or persons, whether such person or persons is, are, or shall then be a member or members of the company or not, may be commenced, instituted, and carried on against the company in the name of the company.
- Criminal proceedings.** 5. Prosecutions to be brought, instituted, or carried on for fraud upon or against the company, or for embezzlement or robbery of or stealing any property of the company, or for any other offence committed against or with intent to injure or defraud the company, may be brought or instituted and carried on in the name of the company, and in all informations and other proceedings it shall be lawful to state the property of the company to be the property of the company, and any offence committed with intent to defraud or injure the company shall, and lawfully may, in such prosecution be laid to have been committed with intent to defraud or injure the company, and any offender may thereupon be lawfully convicted of any such offence, and in all civil, criminal, or other proceedings whatsoever in which, in the absence of legislative provision, it would be necessary to state the names of the persons constituting the company, it shall be lawful and sufficient to state the name of the company, and no change in the persons constituting the company shall abate any action, suit, prosecution, or proceeding.
- Judgments against the company.** 6. All and every judgment, decree, or order pronounced or made in any action, suit, or proceeding in any Court of law or equity against the company shall have the like effect and operation upon and against the property and funds of the company, and upon and against the person and property of every member of the company who would have been liable in or to such action, suit, or proceeding if such member had been made a party by name and were before the Court to and in such action, suit, or proceeding; and it shall be lawful for any Court in which such judgment, decree, or order shall have been pronounced or made to cause such judgment, order, or decree to be enforced against every or any such member of the company in like manner as if all such members of the company were parties by name before the Court to and in such action, suit, or proceeding.
- Appointment of General Agent and Attorney of the company.** 7. The company may from time to time, by an instrument in writing under the hand and seal of the Chairman of the Board of

Directors of the company, or executed in such manner as to be binding on the company, appoint any person in New Zealand to be General Agent and Attorney of the company in New Zealand, with such authorities and powers to act for and on behalf of the company as may be therein prescribed; and the General Agent and Attorney of the company may, for and on behalf and in the name of the company, commence, institute, bring, appear to defend, carry on, refer to arbitration or compromise, and generally do all such acts and things as the members of the company might personally do if they were parties or proceeding in their own names in any such action, suit, prosecution, or other proceeding as aforesaid.

8. Where in any action, suit, or proceeding an affidavit or statutory declaration is required to be made by or on behalf of the plaintiff or defendant, or any other party, and such plaintiff, defendant, or other party be the company, such affidavit or statutory declaration may be made by the General Agent and Attorney of the company, and shall be deemed to be for all intents and purposes the affidavit of the company.

Affidavits.

9. The company shall, within sixty days after the commencement of this Act, cause a memorial of the name of the General Agent and Attorney of the company, in the form in the Schedule hereto or to the like effect, together with a certified copy of the instrument appointing him to be such General Agent and Attorney, to be filed with the Registrar of the Supreme Court nearest to the place where the company for the time being shall have its head office in New Zealand; and when and as often as any new General Agent and Attorney in New Zealand of the company shall be appointed, then the company shall, within sixty days after such appointment, cause a like memorial of the name of the new General Agent and Attorney, together with a certified copy of the instrument appointing him to be such new General Agent and Attorney, to be filed as aforesaid; and every such memorial shall be verified by the solemn declaration of the General Agent and Attorney of the company in New Zealand.

Memorial and certificate copy of power of attorney to be filed with Registrar of Supreme Court.

10. The company shall have a head office or place of business in New Zealand, and for the purposes of this Act the following provisions shall have effect:—

Company to have an office in the colony.

- (1.) The General Agent and Attorney of the company shall, within sixty days after the commencement of this Act, insert in the *New Zealand Gazette*, and in at least one public newspaper circulating in the town or place where the head office or place of business of the company in New Zealand is, a notice stating the situation and locality of such office or place of business.
- (2.) Such notice shall be inserted in at least three consecutive issues of such *Gazette* and newspaper.
- (3.) If any change shall be made in the situation or locality of such head office or place of business, the General Agent and Attorney of the company shall cause a like notice of such change to be given in the manner hereinbefore provided.
- (4.) Legal proceedings and any notice may be served upon the company by serving the same upon the General Agent and Attorney of the company personally, or by sending the

same through the post in a prepaid letter addressed to him, or leaving the same at the head office or place of business of the company in New Zealand, and such service shall be good service upon the company.

Fees to be paid on memorial.

11. There shall be paid to the Registrar of the Supreme Court, upon the filing of every such memorial, the sum of five shillings, and the said Registrar shall cause every such memorial to be filed and kept in his office, and any person or persons shall from time to time have liberty to search for and inspect such memorial on payment of the sum of one shilling for every search.

Memorial recorded to be conclusive evidence.

12. The memorial last recorded shall be conclusive evidence against the company of the person named in such memorial as the General Agent and Attorney in New Zealand of the company being such General Agent and Attorney for the time being, and of the regularity of his appointment; and the acts and deeds of the person so named in such memorial shall be binding on the company notwithstanding that he shall have ceased to be the General Agent and Attorney of the company; and all persons paying money to the person named in such memorial as the General Agent and Attorney of the company shall be exonerated from all liability in respect of the non-application or mis-application of such money.

Company not incorporated by this Act.

13. Nothing herein contained shall be deemed or construed to incorporate the company.

Schedule.

#### SCHEDULE.

MEMORIAL of the name of the General Agent and Attorney in New Zealand of the Phoenix Assurance Company of London, to be filed in the Supreme Court of New Zealand pursuant to "The Phoenix Assurance Company of London Act, 1887:"  
[Here insert name in full, location of head office, &c.]

A.B.,

General Agent and Attorney for the Colony of New Zealand.

I, A.B., of &c., do solemnly and sincerely declare that the above memorial contains the name of the present General Agent and Attorney of the above-named company in New Zealand.

Declared at , this day of , 18 ,  
before me,

C.D.,

A Justice of the Peace for the Colony of New Zealand.