

[No. 186.]

AN ACT

To incorporate the New Castle Mutual Insurance Company, of Mercer county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same:* That John Reynolds, W. Dickson, John Willson, jr., J. T. Boyd, R. W. Cunningham, C. T. Whippo, R. Cochran, W. Dickey, Joseph Kissick, James Banks, E. Sankey, and all other persons, being citizens of the United States, who may hereafter associate with them in the manner herein prescribed, shall be a corporation, by the name of the New Castle Mutual Insurance Company, for the purpose of insuring their respective dwelling houses, stores, shops and other buildings, household furniture, merchandize and other property, against loss or damage by fire. Corporators.
Name and style.

SECTION 2. All persons who shall hereafter insure with the said corporation, and also their heirs and executors, administrators and assigns, continuing to be insured with said corporation hereinafter provided, shall thereby become members thereof during the period they shall remain insured by said company, and no longer. Who shall be members.

SECTION 3. The affairs of said company shall be managed by a board of directors, consisting of nine members, chosen or appointed as hereinafter provided; all vacancies happening in said board to be filled by the remaining directors for the remainder of the year, for which they were elected, or until a new election, and a majority of the whole shall constitute a quorum for the transaction of business. The eleven persons named in the first section of this act shall be the first directors; and business of said corporation shall be done and transacted at such place in the borough of New Castle, as shall be designated by a majority of the directors present, at any regular meeting of the board; and said board shall continue in office for one year after the passage of this act, and until others are chosen in their place, which board of directors shall thereafter be elected yearly, at such time and place in the borough aforesaid, as the corporation in their by-laws shall appoint, of which election public notice shall be given, in at least one of the newspapers printed in Beaver county, and one in Mercer Affairs of co. how to be managed.
Quorum.
First directors
To be elected annually.

county, at least thirty days immediately preceding such election; such election shall be holden under the inspection of three members, not being directors, to be appointed by the directors previous to every election, and such election shall be made by ballot, and by a plurality of the members then present, allowing to each member one vote, for every one hundred dollars insured for him with said corporation. The aforesaid directors shall elect one of their number president, they shall also elect a secretary and treasurer, who may be selected from their own number: *the secretary may receive such compensation as the board may think proper: the treasurer shall give bail to the satisfaction of the board of directors.*

SECTION 4. The directors shall determine, as nearly as practicable by their by-laws, the rates of insurance on the different classes of property, and the sum to be deposited for any insurance; they shall also fix the sum to be insured.

SECTION 5. Every member who shall become a member of said corporation by effecting insurance therein, shall, before he receives his policy, deposit his promissory note for such a sum of money as shall be determined by the directors, a part not exceeding ten per centum of said note shall be immediately paid, and the remainder of said deposit-note shall be payable in part or the whole, at any time when the directors shall deem the same requisite for the payment of losses by fire, and such incidental expenses as shall be necessary for transacting the business of said corporation; and at the expiration of the time of insurance, the said note or such part of the same as shall remain unpaid, after deducting all losses and expenses during said term, shall be relinquished and given up to the maker thereof: and it shall be lawful for said company to loan such portion of their money on hand, as shall not be wanted immediately for the purpose of said corporation, to be secured by bond (or mortgage) on real estate of double the value of the sum loaned above all incumbrances, for a term of time not exceeding one year, the interest to be paid half yearly, and in default of such payment, the principal, as well as the interest, to become immediately due and collected.

SECTION 6. And said company shall have a lien in the nature of a judgment, waiving the right of inquisition upon all the said property of the insured, to the amount of his deposit-note, or so much thereof as may be unpaid, which shall continue till the amount of such note, with interest and costs of execution, if any, shall have been paid or satisfied according to the provisions of this act: *Provided,* Said company shall file, in the office of the prothonotary of the county wherein such real estate shall be, a memorandum of the name of the individual insured, a description of the property, the amount of the deposit-note unpaid, and the term for which the insurance shall continue; and the prothonotary with whom

Vote.

Officers.

Rates of insurance.

Payment of insurance made by deposit notes.

Lien.

Proviso.

the same shall be filed is hereby required, forthwith, to enter the same at large upon his judgment docket; and the same, when so entered, shall be deemed and taken to be, in all respects, as a judgment entered upon confession, by virtue of a warrant of attorney, and execution may, at any time, be had thereof, for so much as, by virtue of the provision of this act, may be due and demandable; but the lien thereof shall commence with the filing of the memorandum in the office of the prothonotary: *Provided further*, That such a lien shall not be construed to take from such person insured, as aforesaid, the privileges of a freeholder. ^{2d Proviso.}

SECTION 7. When property insured by this corporation shall be alienated by sale, or otherwise, the policy shall therefore be void, and be surrendered to the directors of said company to be cancelled; and upon such surrender, the assured shall be entitled to receive his deposite note, with an order, signed by the president and secretary of the board of directors, directing the prothonotary, in whose office a memorandum of said notes may have been entered, as hereinafter provided, to enter satisfaction thereon: *Provided*, That the assured shall first pay his proportion of the balance of losses and expenses, if any, which have accrued prior to such surrender; but the grauntee or alienee having the policy assigned to him, may have the same ratified and confirmed to him, for his own proper use and benefit, upon application to the directors; and with their consent, within thirty days next, such alienation, on giving security to the satisfaction of said directors, for such portion of the deposite or premium note as shall remain unpaid; and by such ratification and confirmation, the party causing such security to be given, shall be entitled to all the rights and privileges, and be subject to all the liabilities to which the original party was liable and subjected to under this act. ^{Alienation of the property to make void the policy.} ^{Proviso.} ^{Alienee may have the policy confirmed to him.}

SECTION 8. Suits at law may be maintained by said corporation against any of its members for the collection of said deposite notes, or for any cause relating to the business of said corporation, or against any person for moneys due said corporation, or for injury done to their corporate property, books or papers, or for causing the destruction by fire of any property by them insured, and for no other cause; but said corporation shall not hold any property, except what may be absolutely necessary for the transaction of their corporate business, unless purchased by said company for the purpose of collecting or securing debts; and property, so purchased, shall escheat to the commonwealth, unless the same shall have been sold and passed bona fide from the possession and ownership of said corporation within six years next succeeding such purchase. ^{Of suits at law}

SECTION 9. In case of any loss or damage by fire happen-

ing to any member upon property insured in and with said company, the said member shall give notice thereof, in writing to the directors, or some one of them, or to their secretary, within thirty days from the time such loss or damage may have happened; and the directors, upon view of the same, or in such other way as they may deem proper, shall ascertain and determine the amount of said loss or damage; and if the party suffering is not satisfied with the determination of the directors, the question may be submitted to referees, or said party may bring an action against said company for said loss or damage, at the first court in the said county of Mercer, aforesaid, and if, upon trial of said action, a greater sum shall be recovered than the amount determined upon by the directors, the party suffering shall have judgment therefor against said company with interest thereon, from the time said loss and damage happened, and costs of suit: but if no more shall be recovered than the amount aforesaid, the said company shall recover their costs; *Provided, however;* That execution shall not issue on any judgment against said company until after the expiration of three months from the rendition thereof.

Proviso.

Proportions of loss how paid &c.

Sue deposite note.

SECTION 10. The directors shall after receiving notice of any loss or damage by fire sustained on property insured by said corporation, and ascertaining the same, or after the rendition of any judgment, as aforesaid, against said company for loss or damage, settle and determine the sums to be paid by the several members thereof as their respective proportions of such loss, and publish the same as they may see fit, or in such manner as their by-laws shall have prescribed; and the sum to be paid by each member shall always be in proportion to the original amount of his deposite note or notes, and shall be paid to the treasurer within thirty days next after the publication of said notice; and if any member shall, for the space of thirty days after the publication of said notice, neglect or refuse to pay the sum assessed on him as his proportion of the loss aforesaid, in such case the directors may sue for and recover the whole amount of his deposite note or notes, with costs of suit, or may have execution for the whole amount, as provided for in the sixth section of this act; and the amount thus collected shall remain in the treasury of said corporation, subject to the payment of such delinquent's proportion of prior or future losses and expenses, and the balance, if any remain, shall be returned to the party from whom it was collected on demand, after thirty days from the expiration of the term for which insurance was made.

Proceedings when available funds are not sufficient to

SECTION 11. If the available funds on hands and the amount of deposite notes should be insufficient to pay the loss occasioned by any fire or fires, in such case the sufferers insured by said company, shall receive towards making good their re-

spective losses, a proportionate dividend of the whole amount pay loss &c. of said deposit according to the sums to them respectively insured, and in addition thereto a sum to be assessed on all the members of said company, on the same principles as regulated the amounts of their respective deposit notes, but not exceeding one dollar on every one hundred dollars to them respectively insured; and no member shall be required to pay for any loss occasioned by fire, at any time more than one dollar on every hundred dollars insured by said company in addition to his deposit note, nor more than that amount for any such loss after his said note shall have been paid in and expended; but any member upon payment of the whole of his deposit note, and surrendering his policy before any subsequent expense or loss has accrued, may be discharged from said company.

SECTION 12. No policy shall be issued by said company When policy till application be made for insurance for twenty-five thousand may issue. dollars at least.

SECTION 13. Said company shall not insure property for a longer period than seven years. Insurance limited.

SECTION 14. This act shall take effect immediately after its passage, and continue in force twenty years, but the legislature of this commonwealth may at any time alter, modify or annul its provisions. Duration and repeal.

WM. HOPKINS,

Speaker of the House of Representatives,

W. T. ROGERS,

Speaker of the Senate.

APPROVED—The twenty-eighth day of April, eighteen hundred and forty,

DAVID R. PORTER.

[No. 187.]

A SUPPLEMENT

To the act entitled "An act changing the time for holding special courts in the fourteenth judicial district, and for other purposes," passed the sixth day of June, one thousand eight hundred and thirty-nine, and for other purposes."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That the fourth section of the act entitled "An