

No. 13636

Supreme Court of Illinois

City of Peoria

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vs.

Illinois Mutual Fire Ins. Co.

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STATE OF ILLINOIS,  
SUPREME COURT,  
Third Grand Division.

**No. 183**

*City of Peoria*

*Best Fire*

*Ins. Co.*

*1862*

*319*

*Referred*

*13636*

In Supreme Court, Ottawa, April Term, 1862.

APPEAL FROM PEORIA BY DEFENDANT.

THE CITY OF PEORIA,

vs.

THE ILLINOIS MUTUAL  
FIRE INSURANCE COMPANY.

}  
} Agreed Case.

- This agreed case shows, that on the 23d day of February, 1839, the General Assembly of the State of Illinois passed an act entitled, "An act to incorporate the Illinois Mutual Fire Insurance Company," and on the 5th day of March, A. D. 1843, the said General Assembly passed an act entitled, "An act to amend an act entitled an act to incorporate the Illinois Mutual Fire Insurance Company," approved February 23, 1839. And on the 13th day of February, A. D. 1847, the said General Assembly passed an act entitled, "An act to amend the act, entitled an act to incorporate the Illinois Mutual Fire Insurance Company, approved Feb. 23, 1839.
- 1.

- And on the 13th day of February, 1855, the said General Assembly passed
2. an act entitled, "An act to extend the charter of the Illinois Mutual Fire Insurance Company," approved Feb. 23, 1839; all of which acts are filed herewith, and made part of this agreement. That the said Company immediately after the passage of the said act of 23d February, 1839, was in due form of law organized, and has continued to act as such Company under its said charter, and the amendments aforesaid, thence hitherto until the present time, taking risks and issuing policies of insurance by itself, and agents in various portions of the State of Illinois during all that time: and that on the 20th day of July, A. D. 1861, the said defendant, through its agent, John M. Cyrus, (having previous thereto, established an agency for insurance purpose, and doing business as an insurance Company under its said charter, in the city of Peoria,) did issue a policy of insurance in said city, under its said charter, to one Melchier Mussli, and did execute and deliver the same to him, upon some property and real estate, situated within the city of Peoria, and that neither the defendant nor said Cyrus had at that time nor since, has had any license from the city of Peoria, authorizing said Cyrus or the defendant to issue such policy, or to do business as an Insurance Company in said city.

It is further agreed, that on the 12th day of February, 1855, the General Assembly of the State of Illinois, passed an act, entitled "An act to amend an act, entitled an act to incorporate the city of Peoria," in force December 3. 3rd, 1844, and the several acts amendatory thereto. The 20th Section of which said act is as follows: "The City Council of said city shall have exclusive power to license, tax, and regulate within said city, all Insurance Companies and their agencies doing business in said city, and to compel said Companies or their agents to take out such licenses and pay such taxes." It is further agreed, that on the 18th Oct., 1856, the City Council of the city of Peoria, in due form, passed and published an Ordinance, which is as follows:

For Ordinance at large, see pages 3, 4, 5, 6, 7, of Record.

8. It is further agreed, that upon the foregoing statement of facts, and the law arising thereon, this cause shall be submitted to the Circuit Court for trial, to be decided at any time hereafter when said court shall be in session, and that if upon the law and the facts, the court shall be of opinion that the defendant is bound to pay a license or tax to the plaintiff for the privilege of establishing an agency, or affecting insurances within said city of Peoria, then judgment shall be entered for the plaintiff for the sum of one hundred dollars. Otherwise judgment shall be entered in favor of the defendant. It is further agreed that either party may appeal or prosecute a writ of error to the Supreme Court, from the decision of said Circuit Court, as in other cases.

N. H. PURPLE, Defendant's Attorney.

JULIUS MANNING, Plaintiff's Attorney.

9-12 From an examination of the charter, it will be seen that the grant of the Franchise is upon the mutual insurance principal, (see Sections 1, 2, 3, 4, 5, of said charter,) each person insuring in the Company for the time being, becoming a member of the Company, &c.

12 The 6th Sec. provides that, "The Directors shall extend the insurance of said Company to every part of this State, on all real and personal property within the same, &c.

3. The city of Peoria assume the right to tax the defendants Franchise under and by authority of the 20th Sec. of the amendment of the city charter, approved February 12, 1855, which is as follows: "The City Council of said city shall have exclusive power to tax, license, and regulate within said city all insurance companies and their agencies doing business in said city, and to compel said companies, or their agents to take out such licenses, and pay such taxes." And by virtue of the 7th and 11th Section of an Ordinance of said city, passed Oct. 18th, 1856, pursuant to the provisions of said Section of

5-6. said act; which Sections provide for licensing and taxing insurance agencies, and impose a fine of from \$25.00 to \$100, for a violation of the same.

The court after examinaing the case gave judgment for the Plaintiff for \$100.00

THE ERRORS ASSIGNED ARE.

1st. Rendering judgment in favor of the Plaintiff, and against Defendant.

2d. In not dismissing the suit at the cost of the Plaintiff.

POINTS, BRIEFS AND AUTHORITIES.

1st. The General Assembly having granted to the Defendant its Franchise in 1839, can not subsequently prohibit its exercise directly by repeal of the charter—nor indirectly by imposing a license as a condition precedent to the exercise of the Franchise.

2d. This is not a tax within the meaning of the Constitution. It is not a tax on property. But a license merely to exercise a right already granted without restriction or limitation.

3. The act of incorporation of the Defendant makes it obligatory on the Defendant to extend its business and agencies to all parts of the State. The General Assembly subsequently say, this shall not be done in cities, unless the company will pay a license of \$100.00.

4. A tax upon the stock or property of a corporation might be legal. The General Assembly is presumed not to surrender its right to tax property.

But the imposition of a tax or license like this, is a blow aimed at the Franchise itself—and the assumption of a power to destroy it.

Sec. 4, Peters 514.

Sec. 6, Howard 507.

N. H. PURPLE, Appellants Attorney.

432 <sup>185</sup>  
The City of Peoria  
vs

The Illinois Mutual Fire  
Insurance Company  
Abstract Point  
& Brief

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Filed & paid \$5.00  
Paid April 22d/62  
Lorenzo Leland  
Clerk.

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In Supreme Court, Ottawa, April Term, 1862.

APPEAL FROM PEORIA BY DEFENDANT.

THE CITY OF PEORIA,

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FIRE INSURANCE COMPANY.

} Agreed Case.

1. This agreed case shows, that on the 23d day of February, 1839, the General Assembly of the State of Illinois passed an act entitled, "An act to incorporate the Illinois Mutual Fire Insurance Company," and on the 5th day of March, A. D. 1843, the said General Assembly passed an act entitled, "An act to amend an act entitled an act to incorporate the Illinois Mutual Fire Insurance Company," approved February 23, 1839. And on the 13th day of February, A. D. 1847, the said General Assembly passed an act entitled, "An act to amend the act, entitled an act to incorporate the Illinois Mutual Fire Insurance Company, approved Feb. 23, 1839.

2. And on the 13th day of February, 1855, the said General Assembly passed an act entitled, "An act to extend the charter of the Illinois Mutual Fire Insurance Company," approved Feb. 23, 1839; all of which acts are filed herewith, and made part of this agreement. That the said Company immediately after the passage of the said act of 23d February, 1839, was in due form of law organized, and has continued to act as such Company under its said charter, and the amendments aforesaid, thence hitherto until the present time, taking risks and issuing policies of insurance by itself, and agents in various portions of the State of Illinois during all that time: and that on the 20th day of July, A. D. 1861, the said defendant, through its agent, John M. Cyrus, (having previous thereto, established an agency for insurance purpose, and doing business as an insurance Company under its said charter, in the city of Peoria,) did issue a policy of insurance in said city, under its said charter, to one Melchier Mussli, and did execute and deliver the same to him, upon some property and real estate, situated within the city of Peoria, and that neither the defendant nor said Cyrus had at that time nor since, has had any license from the city of Peoria, authorizing said Cyrus or the defendant to issue such policy, or to do business as an Insurance Company in said city.

It is further agreed, that on the 12th day of February, 1855, the General Assembly of the State of Illinois, passed an act, entitled "An act to amend an act, entitled an act to incorporate the city of Peoria," in force December 3. 3rd, 1844, and the several acts amendatory thereto. The 20th Section of which said act is as follows: "The City Council of said city shall have exclusive power to license, tax, and regulate within said city, all Insurance Companies and their agencies doing business in said city, and to compel said Companies or their agents to take out such licenses and pay such taxes." It is further agreed, that on the 18th Oct, 1856, the City Council of the city of Peoria, in due form, passed and published an Ordinance, which is as follows:

For Ordinance at large, see pages 3, 4, 5, 6, 7, of Record.

8. It is further agreed, that upon the foregoing statement of facts, and the law arising thereon, this cause shall be submitted to the Circuit Court for trial, to be decided at any time hereafter when said court shall be in session, and that if upon the law and the facts, the court shall be of opinion that the defendant is bound to pay a license or tax to the plaintiff for the privilege of establishing an agency, or affecting insurances within said city of Peoria, then judgment shall be entered for the plaintiff for the sum of one hundred dollars. Otherwise judgment shall be entered in favor of the defendant. It is further agreed that either party may appeal or prosecute a writ of error to the Supreme Court, from the decision of said Circuit Court, as in other cases.

N. H. PURPLE, Defendant's Attorney.

JULIUS MANNING, Plaintiff's Attorney.

9-12 From an examination of the charter, it will be seen that the grant of the Franchise is upon the mutual insurance principal, (see Sections 1, 2, 3, 4, 5, of said charter,) each person insuring in the Company for the time being, becoming a member of the Company, &c.

12 The 6th Sec. provides that, "The Directors shall extend the insurance of said Company to every part of this State, on all real and personal property within the same, &c.

3. The city of Peoria assume the right to tax the defendants Franchise under and by authority of the 20th Sec. of the amendment of the city charter, approved February 12, 1855, which is as follows: "The City Council of said city shall have exclusive power to tax, license, and regulate within said city all insurance companies and their agencies doing business in said city, and to compel said companies, or their agents to take out such licenses, and pay such taxes." And by virtue of the 7th and 11th Section of an Ordinance of said city, passed Oct. 18th, 1856, pursuant to the provisions of said Section of

5-6. said act; which Sections provide for licensing and taxing insurance agencies, and impose a fine of from \$25.00 to \$100, for a violation of the same.

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THE ERRORS ASSIGNED ARE.

1st. Rendering judgment in favor of the Plaintiff, and against Defendant.

2d. In not dismissing the suit at the cost of the Plaintiff.

POINTS, BRIEFS AND AUTHORITIES.

1st. The General Assembly having granted to the Defendant its Franchise in 1839, can not subsequently prohibit its exercise directly by repeal of the charter—nor indirectly by imposing a license as a condition precedent to the exercise of the Franchise.

2d. This is not a tax within the meaning of the Constitution. It is not a tax on property. But a license merely to exercise a right already granted without restriction or limitation.

3. The act of incorporation of the Defendant makes it obligatory on the Defendant to extend its business and agencies to all parts of the State. The General Assembly subsequently say, this shall not be done in cities, unless the company will pay a license of \$100.00.

4. A tax upon the stock or property of a corporation might be legal. The General Assembly is presumed not to surrender its right to tax property.

But the imposition of a tax or license like this, is a blow aimed at the Franchise itself—and the assumption of a power to destroy it.

Sec. 4, Peters 514.

Sec. 6, Howard 507.

N. H. PURPLE, Appellants Attorney.

1863  
The City of Peoria  
Iris

The Illinois Mutual Fire  
Insurance Company

Abstract  
Point of View

Filed July 5, 1862

Paid April 22<sup>nd</sup> 1862

Lorenz Leland

Clerk

1  
Hear before the Circuit Court, within and for the  
County of Peoria, in the State of Illinois, on the  
Eighth day of February, in the year of our Lord one  
thousand eight hundred and sixty two.

Be it remembered that on the day and year aforesaid  
there was filed in the office of the Clerk of the Circuit  
Court of Peoria County, Illinois, an agreed case in  
words and figures as follows, to wit:

The City of Peoria	}	In the Circuit Court of Peoria County Term 1861.
vs.		
The Illinois Mutual Fire Insurance Company		
		Agreed Case

It is agreed by the Parties that on the 23<sup>rd</sup> day of  
February 1839, the General Assembly of the State of  
Illinois passed an act entitled "an act to incorporate  
the Illinois Mutual Fire Insurance Company"  
And on the 4<sup>th</sup> day of March A.D. 1843, The said  
General Assembly passed an act entitled "an act to  
amend an act entitled "an act to incorporate the  
Illinois Mutual Fire Insurance Company," approved  
February 23, 1839. — And on the 13<sup>th</sup> day of February  
A.D. 1847 the said General Assembly passed an act  
entitled "an act to amend the act, entitled "an  
act to incorporate the Illinois Mutual Insurance Company,  
approved Feb. 23, 1839. —

And on the 13<sup>th</sup> day of February 1855 the

2  
Said General Assembly passed an act entitled "an act to extend the charter of the Illinois Mutual Fire insurance Company - approved Feb 23. 1839." all of which acts are filed herewith and made part of this agreement; That the said Company immediately after the passage of the said act of 23rd February 1839. was in due form of law Organized and has continued to act as such Company under its said Charter and the amendments aforesaid thence hitherto until the present time, taking risks and issuing policies of insurance by itself and agents in various portions of the State of Illinois during all that time: and that on the 20th day of July A.D. 1861 the said Defendant through its agent John W. Cyrus (Having previous thereto established an agency for insurance purposes and doing business as an insurance company under its said Charter in the City of Peoria) did issue a policy of insurance in said City under its said Charter to one Melchior Mussli, and did execute and deliver the same to him - upon certain property and real Estate situated within the City of Peoria; and that neither the defendant nor said Cyrus had at that time nor since has had, any License from the City of Peoria authorizing said Cyrus or the defendant to issue such policy or to do business as an Insurance Company in said City.

It is further agreed that on the 12th day of February 1855 the General Assembly of the State of Illinois passed an act entitled "An act to amend an act entitled" an act to incorporate the City of Peoria,"

3  
in force December 3rd 1844, and the several acts  
amendatory thereto. The 20th section of which said  
act is as follows: "The City Council of said City shall  
have Exclusive power to license, Tax, and regulate within  
said City all Insurance Companies and their agencies  
doing business in said City, and to Compel said  
Companies or their agents to take out such licenses  
and pay such taxes." -- It is further agreed that  
on the 18th Oct. 1836. the City Council of the City of  
Peoria in due form passed and published an Ordinance  
which is as follows.

Revised Ordinances.

CHAPTER XXXI.

LICENSES FOR VARIOUS PURPOSES.

AN ORDINANCE in relation to licenses for various purposes.

- Sec. 1. Goods and merchandise not assessed, owners must pay a license.
2. Auctioneers, hawkers, peddlers, retailers, to be licensed.
3. Brokers, pawn-brokers and money-changers to be licensed.
4. Circuses, menageries, theatres, concerts, etc., to be licensed.
5. Ten-pin alleys, billiard and bagatelle tables to be licensed.
6. Eating-houses to be licensed.
7. Insurance agents must procure licenses and make affidavit.
8. Who may grant licenses, and the terms and conditions of the same.
9. Licenses, by whom made out and signed.
10. May be transferred with consent.
11. Persons taking license subject to ordinances; license must be paid for.

Be it ordained by the City Council of the City of Peoria:

SEC. 1. That it shall not be lawful for any person to enter into the business of selling any goods, wares, lumber or merchandise of any kind whatever from any boat, or in any store, or at any place within said city, after the annual assessment shall have been made out and returned by the city assessor on the personal property in said city, without first

3  
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Be it ordained by the City Council of the City of Peoria:

SEC. 1. That it shall not be lawful for any person to enter into the business of selling any goods, wares, lumber or merchandise of any kind whatever from any boat, or in any store, or at any place within said city, after the annual assessment shall have been made out and returned by the city assessor on the personal property in said city, without first

having obtained a license for that purpose as hereinafter provided; and in all cases where the city assessor may have failed or omitted to assess the stock or capital of any merchant, dealer or other person, such merchant, dealer or other person is hereby required to take out a license in the same manner and shall be charged the like amounts as are hereinafter required of merchants, dealers and others entering into the business as aforesaid after the said assessment for any year shall have been made out and returned as required by ordinance. And any person violating or failing to comply with any of the provisions of this section shall, on conviction, forfeit and pay not less than five nor more than one hundred dollars for every offense.

§ 2. It shall not be lawful for any person within said city to exercise the business, trade or vocation of an auctioneer, nor to sell or vend at public auction any goods, wares, merchandise or real estate, or any interest therein, except constables, marshals, masters in chancery, coroners, collectors, sheriffs, executors and administrators, by virtue of their office,<sup>1</sup> nor to exercise the business, trade or vocation of a hawker or peddler of goods, wares or merchandise, or a retailer of the same at any stand or table in any public place, without first having obtained a license for that purpose as hereinafter provided. And any person violating any of the provisions of this ordinance shall, on conviction, forfeit and pay not less than five nor more than one hundred dollars for every offense.

§ 3. It shall not be lawful for any person in said city to exercise the business of a stock or exchange broker, in buying or selling stocks, bank-notes, gold and silver money, or bills of exchange, nor to exercise the business of a pawn-broker or money-changer, without first having obtained a license for that purpose as hereinafter provided. And any person violating any of the provisions of this section shall, on conviction, forfeit and pay not less than twenty-five nor more than one hundred dollars for every offense.

§ 4. It shall not be lawful for any person, company or association in said city to exhibit any show, ledgerdemon, menageries, figures or other things; nor to perform any feats, such as circus-riding or exhibitions, or any thing of the like nature; nor to exhibit any panoramas, curiosities or other things; nor to give theatrical or musical performances or musical concerts or entertainments; nor to perform any tricks such as are played by persons generally known by the name of magicians, rope and wire dancers; nor to perform any sleight of hand with cards, cups, balls or other things where money is charged for admission to hear or see the same, or where money is charged or solicited for hearing or seeing any such performances or exhibitions, without first having obtained a license for that purpose as hereinafter provided. And any person violating any of the provisions of this section shall, on conviction, forfeit and pay not less than five nor more than one hundred dollars for every

NOTE.

1. Liabilities, etc., of auctioneers, 15 Ills., 407; 1 Gilm., 264; 2 Gilm., 617; 11 Ills., 254.

offense: *provided*, that the provisions of this section shall not apply to concerts or any exhibitions by any individual resident in the City of Peoria, nor to any company or association the whole or a majority of whose members are residents of said city.

§ 5. It shall not be lawful for any person in said city to keep any nine or ten pin alley, or billiard or bagatelle table, with a view of gain, or where money is charged for the use of or for playing on the same, without first having obtained a license for that purpose as hereinafter provided. And any person violating any of the provisions of this section shall, on conviction, forfeit and pay not less than fifty nor more than one hundred dollars for every offense.

§ 6. It shall not be lawful for any person in said city who is not licensed to sell liquors to keep an ordinary or eating-house, without first having obtained a license for that purpose as hereinafter provided. And any person violating any of the provisions of this section shall, on conviction, forfeit and pay not less than ten nor more than one hundred dollars for every offense.

§ 7. It shall not be lawful for any person or persons in said city to exercise the business, trade or vocation of an insurance agent for any insurance company or companies, in any way or manner whatever, either by taking or negotiating for insurances on life or property, or by effecting an insurance, or by aiding in the effecting of an insurance on life or property, without first having obtained a license for that purpose as hereinafter provided. And any person violating any of the provisions of this section shall, on conviction, forfeit and pay not less than twenty-five dollars nor more than one hundred dollars for every offense.<sup>1</sup>

§ 8. The city council, when in session, and the mayor and city clerk when the council is not in session, may grant licenses for any of the purposes contemplated by this ordinance, upon the following terms and conditions, to-wit:

1. To merchants, dealers and others contemplated by the first section of this ordinance, a license may be issued, and the same shall run till the next annual assessment thereafter shall be made upon the personal property in said city, and the rates to be charged for said licenses on the stock or capital of the applicant shall be the same per centum as the tax levied on personal property for the year in which the license is issued: *provided*, that no license shall be issued for a less sum than two dollars, and the amount charged in said license shall be in lieu of city taxes on the stock or capital of the applicant for the year in which such license may be issued; and *provided, further*, that the owner, captain or agent of any boat from which lumber or other merchandise may be sold, shall pay not less than two dollars for each and every load or part of a load so sold, and that said license to sell from a boat shall not extend over ten days.

2. To auctioneers for the period of one year for the sum of two hundred dollars; and for any period less than one year at the rate of three

NOTE.

1. Sec 13 Ills., 557, and sec. 20 of the act of Feb. 12, 1855, page 44 *ante*.

hundred dollars per annum: *provided, however*, that persons licensed to sell at auction shall have but one regular place of business, and shall keep and use but one auction or sale room, and shall not permit other persons to sell under their licenses; and *provided, further*, that persons licensed to sell at auction shall observe and comply with the ordinances of said city now in force or that may hereafter be passed, regulating auctioneers and restricting them in the use and occupancy of the streets and sidewalks.

3. To hawkers and peddlers and retailers at stands or tables, for any term not exceeding one year, and for a sum not less than two dollars: *provided*, that retailers at stands or tables shall, with the written consent of the occupant of the lot or building in front of which he may desire to stand first had and obtained, be permitted to use and occupy four feet, and no more, of the sidewalk extending from the front line of such building or lot.

4. To stock and exchange brokers, for the term of one year, and for a sum of not less than one hundred dollars.

5. To pawnbrokers and money-changers, for the term of one year, and for a sum of not less than two hundred dollars.

6. To circus companies, their managers or agents, to exhibit and perform for one day seventy-five dollars, for two days one hundred dollars, and twenty-five dollars per day for every day after two days.<sup>1</sup>

7. To the managers or agents of theatres, shows, menageries, concerts or exhibitions, performances or entertainments of any kind whatever as contemplated by this ordinance, for a sum of not less than two dollars for each and every day such persons shall exhibit, perform or show.

8. To the keepers of nine or ten pin alleys, for the term of one year, and for a sum of not less than twenty-five dollars for each and every alley.

9. To keepers of billiard and bagatelle tables for the term of one year, and for a sum of not less than fifty dollars for each and every table.

10. To the keepers of ordinaries or eating-houses for the term of one year, and for a sum of not less than ten dollars.

11. To insurance agents, for the term of one year, and for a sum of not less than twenty-five dollars for each and every company for which the applicant may act as agent; and the agent shall annually, on the expiration of any license, make and file with the city clerk an affidavit setting forth the number of companies for which he is agent and the names of the same, and the place where each company is located; and on failure or neglect to do so, said agent shall forfeit and pay twenty-five dollars for every offense.

§ 9. All licenses issued by virtue of this ordinance shall be made out by the city clerk, and signed by the mayor under the seal of the city, and countersigned by the city treasurer, on his receiving from the

NOTE.

1. 3 Scam., 1; 12 Ills., 339.

applicant the amount required to be paid for such license; and the said clerk shall keep a register of all licenses granted according to the provisions of this ordinance, and shall charge the amount thereof to the said treasurer.

§ 10. No license issued under this ordinance shall be transferred unless with the consent of the city council, or the mayor and city clerk, and such transfer shall be indorsed on the license by said clerk.

§ 11. All persons taking out licenses under this ordinance, shall be subject to and be governed by the ordinances of said city now in force, or that may hereafter be passed, in relation to any of said licenses or the business connected therewith; and no person shall be deemed to be duly licensed under this ordinance unless he has paid the amount charged for the same, and unless the license has been actually issued and delivered to him.

Passed October 18, 1856.

8

It is further agreed that upon the foregoing statement of facts, and the law arising thereon, this cause shall be submitted to the Circuit Court for trial to be decided at any time hereafter when said Court shall be in session. and that if upon the law and the facts, the Court shall be of opinion that the defendant is bound to pay a license or tax to the Plaintiff for the privilege of establishing an agency or affecting insurances within said City of Peoria, then Judgment shall be entered for the Plaintiff for the sum of One hundred dollars. Otherwise Judgment shall be entered in favor of the defendant. It is further agreed that either party may appeal or prosecute a writ of Error to the Supreme Court, from the decision of said Circuit Court, as in other cases.

W. H. Purple left atty.  
Julius Manning Plfs atty.

7

# Charter

## of the

### Illinois Mutual Fire Insurance Company.

Approved February 23, 1839.

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An act to Incorporate the Illinois Mutual Fire Insurance Company

Section. 1. Be it Enacted by the People of the state of Illinois, Represented in the General Assembly, That Benjamin F. Long, Elias Hibbard, Moses G. Atwood, Alfred Dow, Robert Smith, Wm. M. Carlin, Norman H. Purple, John F. Rague, J. M. Woodworth, and all other persons who may hereafter become members of said company, in the manner herein prescribed, be, and they hereby are incorporated and made a body politic, for the term of twenty years, from the passage of this act, by the name of "The Illinois Mutual Fire Insurance Company" for the purpose of insuring their respective dwelling-houses, stores, shops, and other buildings, household furniture and merchandise, against loss or damage by fire, whether the same shall happen by accident, lightning, or any other means, excepting that of design in the insured, or by the invasion of an enemy, or insurrection of the citizens of this or of any of the United States: and by that name may sue and be sued, plead and be impleaded, appear, prosecute and defend, in any court of record, or other place whatever; may have and use a common seal; may purchase and hold such real and personal estate as may be necessary to effect the object of their association, and the same may sell and convey at pleasure, provided such real estate shall not exceed one hundred and sixty acres; may make, establish and put

10. into execution such by-laws, ordinances, and resolutions, not being contrary to the laws of this State, or of the United States, as may seem necessary or convenient for their regulation and government, and for the management of their affairs; and do and execute all such acts and things as may be necessary to carry into full effect the purposes intended by the Charter.

§ 2. That all and every person and persons who shall at any time become interested in said Company, by insuring therein, and also their respective heirs, executors administrators and assigns, continuing to be insured therein, as hereinafter provided, shall be deemed and taken to be members thereof, for and during the term specified in their respective policies, and no longer; and shall, at all times be concluded and bound by the provisions of this act.

§ 3. There shall be a meeting of said Company at Alton in the county of Madison, on the first Wednesday in January annually, or on such other day as said Company may hereafter determine; at which first annual meeting shall be chosen, by a majority vote of the members present, and by proxy, a Board of Directors, consisting of not more than fifteen nor less than nine members, who shall continue in office until other have been chosen, and accepted the trust in their stead. In all vacancies happening in said Board, whether by removing from the state, dying or refusing or neglecting to act for and during the space of three months successively, then and in every such case, another Director shall be chosen in the place of each Director so removing, dying, refusing or neglecting to act as aforesaid, by a majority of the Directors present at any monthly meeting, which Director so chosen

shall remain in office until the next general election of Directors; and a majority of the whole Board shall constitute a quorum for the transaction of business. At their first regular meeting, the Board of Directors shall class themselves by lot, into three classes of an equal number each, the terms of whose service shall respectively expire as follows: the first class in one year, the second class in two years, and the third class in three years. Special meetings of the Company may be called by order of the Directors, or whenever the owners of one tenth part of the property insured in said Company shall apply to the Directors, setting forth in writing the purposes for which a meeting is desired.

§ 4. The Board of Directors shall superintend the concerns of said Company, and shall have the management of the funds and property thereof, and of all matters and things thereunto relating, not otherwise provided for by said Company. They shall have power from time to time to appoint a Secretary, Treasurer, and such other officers, agents and assistants, as to them may seem necessary, and prescribe their duties, fix their compensation, and take such security from them as they may deem necessary for the faithful performance of their respective duties. They shall determine the rates of insurance, the sum to be insured on any building not exceeding two thirds of its value, nor one half the value of personal property, and the sum to be deposited for the insurance thereof. They shall order and direct the making and issuing of all policies of insurance; the providing of books, stationery and other things needful for the office of said Company and for carrying on the affairs thereof; and may draw upon the Treasurer for the payment of all losses which may have happened, and for expenses incurred in transacting the concerns of said Company.

They shall elect one of their own number to act as President, and may hold their meetings monthly, and oftener if necessary, for transacting the business of the Company; and shall keep a record of their proceedings; and any Director disagreeing with a majority of the Board, at any meeting, may enter his dissent, with his reasons therefor, on record.

§ 5. It shall be the duty of the Directors of said Company, whenever the premium notes thereof shall amount to the sum of One hundred thousand dollars, to build or cause to be built, or procure for the use of said Company, a fire proof building, suitable for the transaction of business, and for the preservation of the funds and other property belonging to said Company from destruction by reason or means of fire. And for the purpose of providing said building, the Directors may assess any sum not exceeding five per cent of the amount of premium notes aforesaid in any one year; and it shall be the duty of the Directors to keep said building in proper repair, and to renew the same in whole or in part as they may think necessary and expedient.

§ 6. The Directors shall extend the insurance of said Company to every part of this state, on all real and personal property within the same, with the exceptions and provisions hereinafter enacted, not exceeding the sum of ten thousand dollars in any one risk, at such rate or rates as said Directors may, in view of the equity of the case and the interest of the Company, determine. Insurances shall be made, in all cases, upon the representation of the assured, contained in his application therefor, and signed by him or his attorney; which representation shall, in fairness and good faith, state all the material circumstances within his knowledge which may affect the risk; Provided, that in case of any loss or

13 damage by fire, the valuation of the property at the time of such loss or damage shall be determined by the award of impartial men, as hereinafter provided.

§ 7. Books of accounts, written securities or evidences of debt, title deeds, manuscripts or writings of any description, money or bullion, shall not be deemed nor taken to be objects of insurance in said Company. Curiosities, jewels, medals, musical instruments, plate, paintings, sculpture, statuary, watches, gold or silver ware of any kind, shall not be deemed to be included in any policy of insurance, unless those articles, or any of them, form part of the usual and regular stock in trade of the assured, or are particularly specified in the policy. Breweries, chemical establishments, bleaching houses, Oil mills, or the contents of either of them, alcohol, aquafortis, gunpowder, spirituous liquors, tar, turpentine, varnish, or any other trades, wares, or merchandize, which may hereafter be excluded by said Company at any annual meeting, shall never be deemed insurable by the Directors of said Company, nor any policy issued thereon.

§ 8. Every person who shall become a member of said Company by effecting insurance therein, shall, before he receives his policy, deposit his promissory note, for such sum or sums of money, as shall be determined by the Directors; a part, not exceeding ten per cent, of which note shall be immediately paid, for the purpose of discharging the incidental expenses of the institution, and the remainder of said deposit note shall be made payable in part or the whole at any time when the Directors shall deem the same requisite for the payment of losses or other expenses; and at the expiration of the term of insurance, the said note, or such part,

14 of the same as shall remain unpaid, after deducting all losses and expenses occurring during said term, shall be relinquished and given up to the signer thereof.

§ 9. Every member of said Company shall be, and hereby is, bound to pay his proportion of all losses and expenses happening and accruing in and to said Company; and all buildings insured by and with said Company, together with the right, title, and interest of the assured, to the lands on which they stand, shall be pledged to said Company; and the said Company shall have a lien thereon against the assured, during the continuance of his, her, or their policies.

§ 10. In case of any loss or damage by fire happening to any member, upon property insured in and with said Company, the said member shall give notice thereof in writing, to the Directors, or to some one of them, or to the Secretary of said Company, within thirty days from the time such loss or damage may have happened; and the Directors upon a 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 the said party may bring an action against said Company for said loss or damage, at the next court to be holden in and for the County of Madison, and not afterwards, unless said court shall be holden within sixty days after said determination; but if holden within that time, then at the next court holden in said County thereafter; 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 the said loss or damage happened and costs of suit; but if no more shall be recovered than the amount aforesaid, the said party shall become nonsuit, and the said Company shall recover their costs: Provided, however, That the judgment last mentioned shall in no wise affect the claims of said suffering party to the amount of loss or damage as determined by the Directors aforesaid; And Provided, also, that Execution shall not issue on any judgment against said Company, until after the expiration of three months from the rendition thereof.

2. 11. The Directors shall, after receiving notice of any loss, or damage by fire sustained by any member, and ascertaining the same, or after the rendition of any judgment as aforesaid against said Company, for such loss or damage, settle and determine the sums to be paid by the several members thereof, as their respective proportion of such loss, and publish the same in such manner as they shall see fit, or as the By Laws may have prescribed; and the sum to be paid by each member shall always be in proportion to the original amount of his premium 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 such notice, neglect or refuse to pay the sum assessed upon him, her or them, as his, her or their proportions of any loss as aforesaid, in such case the Directors may sue for and recover the whole amount of his, her, or their deposit note or notes, with costs of suits; and the money thus collected shall remain in the treasury of said Company, subject to the payment of such losses and expenses as have or may

thereafter accrue, and the balance, if any remain, shall be returned to the party from whom it was collected, on demand, after thirty days from the term for which insurance was made.

§ 12. If it shall ever so happen that the whole amount of deposit notes should be insufficient to pay the loss occasioned by any one fire, in such case the sufferers insured by said company shall receive, toward making good their respective losses a proportionate dividend of the whole amount of said notes, according to the sums by them respectively insured; and, in addition thereto, a sum to be assessed on all the members of said company, not exceeding fifty cents on every hundred dollars by them respectively insured; and the said member shall never be required to pay for any loss occasioned by fire, at one time, more than fifty cents on each hundred dollars insured in said company, in addition to the amount of 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 loss or expense has occurred, may be discharged from said company.

§ 13. Said company may make insurance for any term not exceeding ten years; and any policy of insurance, issued by said company, signed by the President, and countersigned by the Secretary, shall be deemed valid and binding on said company, in all cases where the assured has a title in fee simple unincumbered, to the building or buildings insured, and to the land covered by the same; but if the assured have a less

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estate therein, or if the premises be incumbered, the policy shall be void, unless the true title of the assured, and the incumbrances on the premises be expressed therein.

§ 14. The Directors shall settle and pay all losses within three months after they shall have been notified as aforesaid, unless they shall judge it proper, within that time, to rebuild the house or houses destroyed, or repair the damages sustained which they are empowered to do, in convenient time: Provided, they do not lay out and expend in such building or repairs more than the sum insured on the premises; but no allowance is to be made, in estimating damages, in any case, for gilding historical or landscape painting, stucco or carved work; nor the same to be replaced if destroyed by fire.

§ 15. When any house or <sup>other</sup> building shall be alienated by sale or otherwise, the policy thereupon shall 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, her, or their deposit note, upon the payment of his, her, or their proportion of all losses and expenses that have accrued prior to such surrender: Provided, however, that the grantee, or alienee, having the policy assigned to him, may have the same ratified and confirmed to him, her or them, for his, her, or their own proper use and benefit, upon application to the Directors, and with their consent, within thirty days next after such alienation, or giving proper security to the satisfaction of the said Directors, for such portion of the deposit or premium note as shall remain unpaid; and by such ratification and confirmation, the party causing the same shall be entitled to all the rights and privileges, and subject to all the

liabilities, to which the original insured was entitled and subjected under this act.

§. 16. If any alteration shall be made in any house or building, by the proprietor thereof, after insurance has been made thereon, with said Company, whereby it may be exposed to greater risk or hazard from fire than it was at the time it was insured, then, and in every such case, the insurance made upon such house or building shall be void, unless an additional premium and deposit, after such alteration, be settled with and paid to the Directors; but no alterations or repairs in buildings, not increasing such risks or hazard shall in anywise affect the insurance previously made thereon.

§. 17. In case any building or buildings, situated upon leased lands, and insured by said Company, be destroyed by fire, and the owner or owners thereof shall prefer to receive the amount of such loss in money, in such case the Directors may retain the amount of the premium note given for the insurance thereof until the time for which insurance was made, shall have expired; and at the expiration thereof, the assured shall have the right to demand and receive such part of said retained sum or sums as has not been expended in losses and assessments.

§. 18. If insurance on any house or building shall be and subsist in said Company, and in any other office, or from and by any other person or persons at the same time, the insurance made in and by said Company shall be deemed and become void, unless such double insurance subsist by and with the consent of the Directors, signified by indorsement on the back of the Policy

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signed by the President and Secretary.

§ 19. The Company hereby created, shall not be concerned in any trade or <sup>other</sup> business except the insurance of property against loss or damage by fire; nor shall said Company, by any possible construction of the powers granted in this act, exercise any banking privileges whatever; but this act shall be deemed and taken to be a public act, and shall be liberally construed to effect the ends and purposes hereby intended and contemplated.

§ 20. The Directors of said Company shall not make more than one assessment for losses in any one year; and in order that such assessment may be made payable at the annual meeting of the Company, the Directors are authorized, in case of any loss or damage by fire, to borrow such sum or sums of money as may be required to pay such loss or damage, and in making the annual assessment, the interest accruing on money borrowed, and also all necessary incidental expenses, shall be included in such assessment.

§ 21. Each and Every member of said Company shall be entitled to and allowed an examination of the books, papers, and general transactions of said Company, upon application therefor to the Secretary.

§ 22. It shall be the duty of the Directors to make an annual report of the condition, progress and affairs of said Company, a copy of which report shall be furnished to the General Assembly.

§ 23. The individuals named in the first section of this act shall be, and they hereby are, constituted a Board of Directors for said Company, to serve as such until the <sup>first</sup> annual election of Directors therein provided for. They shall have power, if they think fit, to make up their number to fifteen, as allowed in the third section of this act, from among the members of said Company; and all vacancies which may occur in said Board, by death, resignation, removal, or refusal to serve, may be filled by the remaining members of said Board, and a majority of their number at any time shall constitute a quorum for the transaction of business. They may call the first meeting of the members of said Company at any suitable time and place, in Alton, aforesaid, by advertisement in the several newspapers printed in said city, giving at least ten days notice of the place, time and design of the meeting. They may make and establish By Laws for the government of said Company until the first annual meeting thereof, and may transact any business necessary and proper to carry into effect the provisions and intentions of this act: Provided however, that no policy shall be issued by said Company, until his Excellency, the Governor of the State, shall have made proclamation that application has been made for insurance in said Company on fifty thousand dollars, at least, of which notice shall be given him by the Directors.

§ 24. This act shall take effect from and after its passage.  
Approved February 23, 1839.

# Amendments to The Charter

of the

## Illinois Mutual Fire Insurance Company.

Approved - March 4, 1843 - February 13, 1847 - February 13, 1855.

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An act to amend the act entitled "An act to incorporate The Illinois Mutual Fire Insurance Company" Approved February 23, 1839.

§ 1. Be it enacted by the People of the State of Illinois, represented in the General Assembly, That the Directors of said Company be, and they are hereby, authorized to settle and pay all losses at only one uniform period in each year subsequent to the annual assessment: Provided, That members sustaining loss or damage by fire shall be allowed interest thereon from the time due notice has been given of such loss, until payment is made. And so much of the fourteenth section of said act as is inconsistent with the provisions of this act, be, and the same is hereby, repealed.

§ 2. In all suits by or against said Company, any member of said Company shall be a competent witness, except in suits in which he or she shall be directly a party: Provided, That such person shall not be otherwise disqualified.

§ 3. The record of said Company, or copies thereof duly authenticated by the signatures of the President and Secretary, shall be competent evidence in any suit in which said Company may be a party.

§ 4. In case it shall become necessary to resort to the lien on the property insured, the Treasurer shall demand payment of the insured, or his legal representative, and of the tenant in possession; and in case of non payment, said Company may sustain an action on the deposit note, and their execution may be levied on the insured premises, and the officer making the levy may sell the whole or any part of the estate at auction, giving notice and proceeding in the same manner as is required in sales under execution, or may proceed in equity, at the option of the Company.

§ 5. That any person or persons, who are or shall become members of said Company, by effecting insurance therein, their heirs, Executors, <sup>administrators</sup> or assigns, shall neglect or refuse the payment of any assessment or assessments duly ordered by the directors of said Company, for the term of thirty days after the same shall have become payable, agreeable to public notice by the Treasurer the party so in default shall be excluded and debarred, and shall lose all benefit and advantage of his her or their insurance or insurances respectively, for and during the term of such default or non payment; and notwithstanding shall be liable and obliged to pay all assessments that shall be made during the continuance of his, her, or their policies of insurance, pursuant to the provisions of the act to which this is an amendment.

§ 6. That in all cases where real or personal property insured by said Company, shall become alienated by sale, by change in partnership or ownership, or otherwise, the policies issued thereon shall be void, and shall be surrendered to said Company to be cancelled;

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and the said Company shall not be liable for any loss and damage which may happen to any property after such alienation as aforesaid, unless the policies issued thereon shall have been duly assigned ~~and~~ <sup>or</sup> confirmed, by the consent of the Directors, to the actual owner or owners thereof, previous to such loss and damage. And no policy, issued by said Company, shall be deemed to have been duly assigned ~~or~~ confirmed unless the consent of the Directors to such assignment or confirmation is certified on such policy by the Secretary of said Company.

§ 7. That so much of the act, to which this is an amendment, as is inconsistent with this act, be, and the same is hereby repealed.

§ 8. This act shall not affect the rights of any person or persons who have become members before the passage of this act, unless such persons assent to the provisions of the same, by themselves or proxies, at the next annual meeting of said Company, or signify their assent in writing, directed to the Board of Directors.

Approved March 4, 1843.

An act to amend the act entitled "An act to incorporate the Illinois mutual Fire Insurance Company" Approved Feb. 23. 1839.

§ 1. Be it enacted by the People of the State of Illinois, represented in the General Assembly, That the President of the Board of Directors of the Illinois mutual Fire Insurance Company, and his successor in office, is hereby authorized

and Empowered to administer oaths to the Directors and other officers of said company, for the faithful performance of their respective duties.

§ 2. This act to take effect from and after its passage.  
Approved February 13. 1847.

An act to extend the Charter of the Illinois Mutual Fire Insurance Company Approved, February 28, 1839.

§ 1. Be it enacted by the People of the State of Illinois, represented in the General Assembly, That the time limited in the first section of said act for the existence of said company, be, and the same is hereby, extended, for the term of twenty years.

§ 2. This act to be in force from and after its passage.  
Approved February 13. 1855.

( ) By-Laws ( )  
of the  
Illinois Mutual Fire Insurance Company  
Article 1.

§ 1. The annual meeting of the company shall be holden on the first Thursday of April, at 2 O'clock in the afternoon at such place in Alton, in the County of Madison, as the Directors for the time being may order; and shall be notified by advertisement, signed by the Secretary, and published twice at least in one or more of the newspapers printed in said Alton, the second publication of which shall not be less than ten days before the time of holding said meeting.

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§ 2. At every meeting of the Company, the President if present, shall preside; and in his absence, the Secretary or Treasurer shall call to order, and preside until a chairman be chosen. The election of Directors shall be by ballot, each member having one vote; and absent members voting by proxy, must authorize such proxy or proxies in writing, signed by the person represented, which shall be filed with the Secretary. All other questions may be determined by voting in such way as the majority present may deem proper.

### Article 2.

§ 1. The President shall attend as often as it becomes necessary, at the office of the Company: he shall examine alone, or jointly with any Director, all applications for insurance; shall fix the sum or sums to be taken on each, and the rates of insurance, and shall approve the same by indorsement upon the back of the application; and jointly with any two Directors, shall adjust and pay all losses sustained by the Company. The President shall sign all checks and orders for the payment of money; and the same shall be countersigned by the Secretary. He shall have general supervision of the affairs of the Company, and shall see that the funds and other property belonging thereto shall be safely kept; and he shall exhibit to the Directors, at each monthly meeting, a statement of the affairs of the Company. In the event of the temporary absence or indisposition of the President, the examination and approval of applications for insurance may be made by any two of the Directors, whom the Secretary shall designate.

§ 2. The Secretary shall keep the books and accounts, fill up and record all policies of insurance, countersign policies

and checks, notify and attend all meetings of the Directors and Company, and perform all such other duties in the office as the President may require. He shall be, *Ex Officio*, a Director, and shall hold his office during good behaviour and shall be sworn to the faithful discharge of his duties.

### Article 3.

§. 1. Notice of assessments shall be given by the Treasurer, and published in one or more of the newspapers printed in Alton, three weeks successively, the last publication of which shall not be less than thirty days prior to the time fixed for the payment; and in such other newspaper or newspapers as the Directors may deem necessary or expedient. The Directors may also cause such notice to be published in hand-bills posted up at such places as they may direct.

### Article 4.

§. 1. The company will make insurance for the term of six years; and the amount of the premium note or sum to be deposited for the insurance of any building, shall be according to the hazard of such building, or danger to which it may be exposed to loss or injury by fire, taking into consideration the material of which it is composed, the manner of its construction, the purposes for which it is used, its situation as to other buildings, and all other circumstances affecting ~~the~~ its risks.

§. 2. Buildings are divided into the following classes; and the amount of the premium notes required for their insurance will be the aggregate amount of the yearly premiums for six years, agreeably to the rates following, to wit:

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First class. — Dwelling houses or stores, wholly of brick or stone, covered with metal or slate, unconnected with and not exposed by other buildings, 2 to 4 per cent. of the value at which they are insured. Wood roofs, 1 to 3 per cent. additional.

Second class. — Like buildings when connected with or exposed to fire from other buildings, from 3 to 6 per cent. Wood roofs 1 to 6 per cent. additional. In blocks of more than three, 2 to 8 per cent. additional.

Third class. — Houses or stores with bricks or stone sides or ends, in which the fire-places are constructed, covered with metal or slate, standing alone, and not exposed by other buildings, from 3 to 5 per cent.

Fourth class. — Like buildings, connected with or exposed by other buildings, from 4 to 8 per cent. Wood roofs, 1 to 6 per cent. additional.

Fifth class. — Houses or stores, built wholly of wood, standing alone, and not exposed by other buildings, from 4 to 6 per cent.

Sixth class. — Like buildings, connected with or exposed by other buildings, from 6 to 12 per cent. In blocks of more than three, 2 to 8 per cent. additional.

Seventh class. — Buildings of any of the foregoing descriptions, when occupied as taverns, from 1 to 2 per cent. in addition to the foregoing rate.

**Eighth Class.** - Barns and stables, wholly of bricks or stone, slate or metal roofs, unconnected with or not exposed by other buildings, from 4 to 6 per cent; connected with or exposed by other buildings, from 6 to 10 per cent; wood roofs, from 1 to 2 per cent. additional. Barns and stables, built wholly of wood, unconnected with and not exposed by other buildings from 6 to 10 per cent; connected with or exposed by other buildings from 8 to 12 per cent.

**Ninth Class.** - School-houses and meeting-houses, and buildings used for social assemblies, unconnected with or not exposed by other buildings, and built wholly of stone or brick covered with slate or metal, from 3 to 6 per cent; wood roofs, 1 to 2 per cent. additional. Connected with or exposed by other buildings, from 6 to 12 per cent. School-houses and meeting-houses and buildings used for social assemblies, wholly of wood, unconnected with or not exposed by other buildings, from 6 to 10 per cent; connected with or exposed by other buildings, from 8 to 15 per cent. In blocks of more than three wooden buildings, 2 to 5 per cent. additional.

**Tenth Class.** - On all buildings warmed by stoves, where the pipes pass nearer than four inches of any wood work, an addition of from 1 to 2 per cent. higher than the foregoing rates may be charged. When stove pipes pass through a floor or wood partition before entering the chimney, an additional charge will be made. Stove pipes passing out through the roof, or through the side of a building, will be charged extra, or excluded. An additional per cent will be charged on dwelling houses occupied by more than one family.

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Eleventh Class. — Private ware-houses and pork-houses without rendering and smoking, wholly of stone or brick, slate or metal roofs, unconnected with or not exposed by other buildings, 4 to 6 per cent.; Connected with or exposed by other buildings, 6 to 10 per cent; wood roofs, 1 to 2 per cent additional. Private ware-houses and pork-houses, without rendering and smoking, wholly of wood, unconnected with or not exposed by other buildings 6 to 10 per cent; Connected with or exposed by other buildings, 8 to 12 per cent; in a block of more than three buildings, 2 to 8 per cent. additional. Public ware-houses livery stables, water-mills, slaughter-houses, lard rendering houses, soap and candle factories, tanneries, and spice mills, wholly of brick or stone, unconnected with or not exposed by other buildings, 9 to 15 per cent; Connected with or exposed by other buildings, 2 to 10 per cent additional. Wholly of wood, unconnected with or not exposed by other buildings, 12 to 20 per cent; Connected with or exposed by other buildings, 2 to 10 per cent additional.

Twelfth Class. — Carriage makers' shops, house joiners' and carpenters' shops, cabinet makers' shops, <sup>coopers' shops</sup> blacksmiths' shops, machine shops, forges, foundries, and potteries, wholly of brick or stone, slate, metal, or tile roof, unconnected with or not exposed by other buildings, 12 to 20 per cent; Connected with or exposed by other buildings, 2 to 10 per cent additional; wood roof, 2 per cent. additional; wholly of wood, unconnected or not exposed, 18 to 30 per cent; Connected or exposed, 2 to 10 per cent additional.

Thirteenth Class. — Mills and manufactories, propelled by steam built wholly of brick or stone, slate or metal roof, unconnected

with or not exposed by other buildings, 18 to 20 per cent; Connected or exposed by other buildings, 6 to 10 per cent additional; wood roof, 2 to 5 per cent. additional; wholly of wood, unconnected with and not exposed by other buildings, 30 to 100 per cent; Connected or exposed, 100 to 200 per cent. If not in perfectly good order, not insurable.

**Fourteenth Class.**— Every other kind of buildings or property considered insurable by other good Companies, not enumerated in the foregoing thirteen classes, 6 to 200 per cent, in the discretion of the directors.

§ 3. Furniture and goods, not deemed hazardous, will be insured at the same rates with the buildings in which they are contained.

§ 4. The following trades and merchandise are deemed hazardous, and additional premium will be charged upon their insurance, to wit: Bakers, bookbinders, books and stationery, apothecaries, China, earthen or glass-ware, Confectionary, type foundries, and such other trades and merchandise as the Directors may determine. When a building is adjoined on both sides by other buildings, and communicates by openings in division walls, an additional charge should be made in every case. Wooden ranges of stores, when more than five in a range, should not be insured, except in small amounts.

§ 5. In case of fire or of loss or damage thereby, or of exposure to loss or damage thereby, it shall be the duty of the insured to use their best endeavors for saving and preserving the property;

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and it is mutually understood that there can be no abandonment to the Company of the subject insured.

§ 6. Policies of insurance shall take effect at 12 O'clock, noon, on the day of the approval of the application at the office of the Company, and shall be binding thereafter.

§ 7. Five per cent of the premium note shall be paid in all cases, and indorsed thereon, at the time of receiving a policy, by the assured. One dollar shall be paid for each policy and record of the same, by the person receiving it; and fifty cents shall be allowed to agents for each application taken by them, to be paid out of the five per cent fund.

§ 8. Insurance shall not be made to a greater amount than ten thousand dollars on any one risk.

§ 9. In case where no permanent lien can be created, as on household furniture, merchandise, or other personal property or in case of mortgage, the Directors may require an indemnity in lieu thereof, by an approved surety on the premium notes.

§ 10. Whenever required in writing, the assured, or person claiming, shall produce and exhibit his books of account and other vouchers, to the Directors, or their duly appointed agent, in support of his claim, and permit extracts and copies thereof to be made.

\* By a vote of the company, at the annual meeting in 1843, the time of holding the same was changed to the fourth Thursday in April.

The following resolution was adopted at the annual meeting in 1845:

Resolved, That in towns or settlements, where there are no laws in existence regulating the keeping of gunpowder, members of this company be permitted to keep for sale any quantity not exceeding twenty five pounds: Provided, it be kept in tin or copper canisters, and kept at all times standing in a conspicuous place, easily accessible to any one entering the room.

The following resolution was adopted at the annual meeting in 1848.

Resolved, that hereafter, all persons whose property may be insured in this company, shall give notice to the Secretary, or an authorized agent of the company, of all buildings which may be erected after such insurance, within one hundred feet of the building insured, and also of all changes made in the business carried on in such buildings so insured, by which the risk may be rendered more hazardous than at the time of insurance. And in all such cases where it is determined that the risk has been increased, the policy thereon shall be void, unless an additional premium and deposit be settled with and paid to the Directors.

33.

Proceedings at a term of the Circuit Court begun and held at the court-house in and for the County of Peoria and State of Illinois, on the first Monday in the month of February in the year of our Lord one thousand eight hundred and sixty two, it being the third day of said month. Present, James Stewart, Sheriff. and Conck P. Sloan clerk, The Honorable Amos S. Merriman, Judge of the 16th Judicial Circuit in said state, not being present, Court stands adjourned to 9 O'clock tomorrow morning by force of the statute in such case made and provided. Tuesday morning February 4<sup>th</sup> 1862, Court met pursuant to adjournment, and the said Judge having arrived before four O'clock in the afternoon of said day, Court was opened in due form, after which it was ordered that Court adjourn to 10 O'clock tomorrow morning.

Saturday February 8<sup>th</sup> A.D. 1862:

• Court met pursuant to adjournment.

City of Peoria

vs

Agreed Case

The Illinois Mutual  
Fire Insurance Company

The plaintiff in this cause by Manning its attorney, and the defendant by Purple its attorney, submitted this cause to the court on a written agreement and briefs, and the court after taking the matter under advisement, and now being fully advised in the premises, do find for the plaintiff, and assess its damages at the sum of One hundred dollars. Therefore it is considered by the court that the said City of

Peoria have and recover of the said Illinois Mutual Fire Insurance Company the said sum of One hundred dollars its damages aforesaid, and also its costs and charges by it in this behalf expended, and that Execution issue therefor.

Saturday February 15<sup>th</sup> A. D. 1862.

The City of Peoria

vs

Agreed Case

The Illinois Mutual

Fire Insurance Company

This day come defendant and prayed an appeal to the Supreme Court of this State, which is allowed on its filing a bond in the sum of Two hundred dollars payable to said Plaintiff, conditioned as the law directs, with security to be approved by the clerk of this court by agreement in said Clerk's office in thirty days.

and afterwards, to wit: on the 10<sup>th</sup> day of March, in the year of our Lord one thousand Eight hundred and sixty two, the was filed in the office of the clerk of said court, a bond, in words and figures as follows, to wit:

APPEAL BOND FROM CIRCUIT TO SUPREME COURT.

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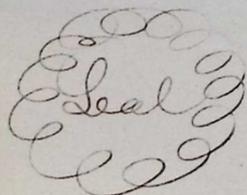
KNOW ALL MEN BY THESE PRESENTS: That we The Illinois Mutual Insurance Company by W. G. Atwood, President, John Atwood Secretary and Lewis Kellenberger Treasurer & A. P. Bartlett of the County of Peoria and State of Illinois, are held and firmly bound unto The City of Peoria

in the penal sum of two hundred <sup>100</sup> Dollars, for the payment of which well and truly to be made, we, and each of us, bind ourselves, our heirs, executors and administrators, jointly and severally, and firmly by these presents, Sealed with our seals, and dated at Peoria this twenty seventh day of February Anno Domini, one thousand eight hundred and sixty two

The Condition of the above Obligation is such: That whereas the above bounden The City of Peoria did on the Eighth day of February one thousand eight hundred and sixty two at a term of the Circuit Court then being holden within and for the County of Peoria and State of Illinois, obtain a judgment against the above bounden The Illinois Mutual Insurance Company for the sum of one hundred Dollars and Costs, and cost of suit,

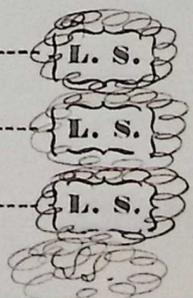
from which judgment the said The Illinois Mutual Insurance Company has prayed for and obtained an appeal to the Supreme Court of said State.

Now if the said The Illinois Mutual Insurance Company shall duly prosecute said appeal and shall moreover pay the amount of the judgment, costs, interest and damages, rendered and to be rendered against it the said The Illinois Mutual Insurance Company in case the said judgment shall be affirmed in the said Supreme Court, then the above obligation to be null and void, otherwise to remain in force and virtue.



The Illinois Mutual Fire Ins. Co.  
By W. G. Atwood Pres.

John Atwood Sec  
Lewis Kellenberger Treas  
A. P. Bartlett



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State of Illinois  
Peoria County } S.S.

I, Enoch P. Sloan, clerk of the Circuit Court, within and for said county do hereby certify that the foregoing is a true and complete copy of all the papers filed in my office in the foregoing cause, wherein The City of Peoria is plaintiff, and The Illinois Mutual Fire Insurance Company is defendant, and of the proceedings of said Circuit therein, as the same remains on file and of record in my office.

Given under my hand, and the seal of said Circuit Court at Peoria, this 29th day of March, in the year of our Lord One thousand Eight hundred and sixty two.

Enoch P. Sloan clerk  
J. W. Newton Spt

Received of Judge People ten dollars for  
this record  
E. Sloan, clk

The City of Peoria } In the Supreme  
vs } Court  
The Illinois Mutual } Appeal from  
Fire Insurance Company } Peoria. by Defendant

And now comes the said Defendant and says that in the Record and proceedings and in the Rendition of the Judgment aforesaid there is manifest Error in this to wit

The said Court erred in rendering Judgment in favor of the Plaintiff and against the Defendant

The said Court erred in not dismissing the Plaintiff suit at the Cost of the Plaintiff

For these and other Errors manifest in said Judgment & proceedings aforesaid the Defendant Prays that the said Judgment may be reversed &c

A. M. Hupke  
Atty for Appellant

The Illinois Mutual Fire Insurance Company  
The City of Peoria

And now comes the said  
City of Peoria Appellee in this cause and say that  
in this record there is not any error and  
therefore pray that the said judgment may  
be in all things affirmed.

Hanning & McCulloch  
Attys for Appellee

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The City of Peoria

The Illinois Mutual  
Insurance Company

Record

Filed April 22. 1862  
L. Leland  
Clerk