

paid by said Swan while holding the office of acting commissioner of public buildings, at Iowa City, to one William Skeen, a workman on the state house, and not charged by him in his account, together with interest on the same from the time the said Swan went out of office as acting commissioner aforesaid.

SEC. 2. Time of taking effect. This act to take effect from and after its passage.

Approved, 29th January, 1844.

[82] CHAPTER 67.

FIRE INSURANCE COMPANY.

AN ACT to incorporate the Du Buque, Clayton, Delaware and Jackson Mutual Fire Insurance Company.

Be it enacted by the Council and House of Representatives of the Territory of Iowa.

SECTION 1. Organization of company; name and style; object of; in what cases company to be liable; powers of. That John Gammel, E. G. Potter, Ansel Briggs, Patrick Maloney, Thomas Wright, R. B. Wykoff, James McCabe, Thomas McCraney, James Langworthy, William Myers, Lyman Dillon, J. M. Emerson, Caleb H. Booth, Robert Waller, and David Moreland, and all other persons who may hereafter become members of said company in the manner herein prescribed, be and are hereby incorporated and made a body politic and corporate, by the name and style of "The Du Buque and Jackson 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 by any other means, except that of design in the assured or by the invasion of an enemy or insurrection of the citizens of this territory, or of any other of the United States; and by that name they 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, and alter the same at pleasure; may purchase and hold such real and personal estate as may be necessary to effect the objects of their association, and the same may sell and convey at pleasure; may make, establish and put in execution, such [83] by-laws, ordinances and resolutions, not being incompatible to the constitution and laws of the United States, or the laws of this territory, 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 this grant.

SEC. 2. First meeting of commissioners, when and where to be held; president and secretary when to be elected, who to be members and how long. That the above named commissioners, or a majority of them, shall meet on the first Saturday after the first Monday in August next, in the city of Du Buque, at the house of Emerson, Shields & Co., or at such other place as to them may seem fit, and proceed to elect from their number a president and secretary, who shall act as such agreeable to the rules and by-laws of the association; and 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 time of their respective policies and no longer, and shall at all times be concluded and bound by the provisions of this act.

SEC. 3. Annual meeting where and when held, notice and particulars of, by whom given, how given; to choose directors; number of, their term of office; vacancies in how filled; quorum, special meetings. That there shall be a meeting of said company annually, at such time and place in the county of Du Buque, as shall be determined by the directors, or on such other day as the said company may hereafter determine, notice of which shall be given by the secretary, or on his failure by the president or either of the directors, stating the time, place, and design of said meeting, by publication four weeks successively in a newspaper printed in the county of Du Buque, the last of which publications shall be at least eight days previous to the time of holding said meeting, at which meeting there shall be chosen by a major vote of the members present a board of directors, consisting of not more than thirteen nor less than nine members, who shall continue in office until others shall have been chosen and qualified. All vacancies happening in said board may be filled by the remaining members thereof until the next annual meeting, and a majority of the whole number of said board shall constitute a quorum for the transaction of business; special meetings of the company may be called by order of the directors, or in such manner as the by-laws thereof may prescribe.

SEC. 4. Premium notes, when to be executed; extent of liability of the assured thereon. That 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 a sum of money as shall be determined by the directors, which shall not exceed six per cent. of which said 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 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 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.

SEC. 5. Each member obliged to pay his proportion of the general loss; lien on his property to secure same. That every member of said company shall be and hereby [84] is bound and obliged to pay his portion of all losses and expenses happening or 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.

SEC. 6. In case any person insured sustain loss, notice of loss how and to whom given; amount of damage, how ascertained and recovered; proceedings in district court, judgment, effect of, execution on, when to issue against company. That in case of any loss or damage happening by fire to any member of the association 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 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 loss or damage at the next court, to be holden in the county of Du Buque, unless said court shall be holden within thirty days after said

determination; but if holden within that time then at the next court to be 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 loss or damage happened, and costs of suit; but if no more shall be recovered than the amount aforesaid, the party shall suffer a non-suit, and the said company shall recover their costs: provided, however, that the judgment last mentioned shall in nowise affect the claim of the 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 the expiration of sixty days from the rendition thereof.

SEC. 7. When any loss is ascertained directors to fix the amount to be paid by each member on deposit note; application of money when collected. That the directors, 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 said 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 a manner as they shall see fit, or as the by-laws shall have prescribed; and the sums to be paid by each member shall always be in proportion to the original amount of his deposit note, and shall be paid to the treasurer within thirty days after publication of said notice. And if any member shall, after the space of thirty days from the publication of said notice, neglect or refuse to pay the sum assessed upon him, her or them, as his, her, or their proportion 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 suit; 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 hereafter accrue, and the balance, if any remain, shall be returned to the party of whom it was collected, on demand after thirty days from the expiration of the term for which the assurance was made.

[85] **SEC. 8. Not to insure for a longer term than seven years; policy, how executed; effect of in cases where assured has a clear title in fee simple to the property; in cases where he has a less title or one incumbered.** That the said company may make insurance for any term not exceeding seven years; and the 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 when the assured has a title in fee simple unincumbered to the building or buildings insured, and to the land covered by them; but if the assured have a less estate therein, or if the premises be incumbered, the policy shall be void unless the true title of the assured and the incumbrance of the premises be expressed therein, and in the application therefor.

SEC. 9. Where loss sustained on leased lands, premium notes may be retained until the expiration of insurance. That in case any building upon leased lands, and insured by said company, be destroyed by fire, in such cases the directors may retain the amount of the premium note given for insurance thereof until the time for which insurance was made shall have expired, and at the expiration thereof the assured shall have a right to demand and receive such part of said retained sum or sums as has not been expended in losses or assurances.

SEC. 10. Double insurance, consent of directors necessary to create liability. That if insurance on any house or building shall be and subsist in said company and in any other office, or from 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 with the consent of the directors, signified by endorsement on the back of the policy, signed by the president and secretary.

SEC. 11. **Repeal power reserved; time of taking effect.** That it shall be in the power of the legislative assembly of this territory, or the future state of Iowa, at any time, to annul, vacate, and make void, this charter. This act to take effect from and after the first day of August next.

Approved, 5th February, 1844.

CHAPTER 68.

NEW COUNTIES.

AN ACT to organize the counties of Keokuk and Mahaska.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

[86] SECTION 1. **Organization of from 1st of March next, rights of citizens, to be part of 2d judicial district.** That the counties of Keokuk and Mahaska be, and they are hereby, organized, from and after the first day of March next; and the inhabitants of said counties shall be entitled to all the rights and privileges to which by law the inhabitants of other organized counties of this territory are entitled to; and the said counties shall constitute a part of the second judicial district of this territory.

SEC. 2. **First election in, by whom ordered, number of officers to be elected for each, when election to be held, place and judges of election, by whom appointed; notice of, how given.** That for the purpose of organizing said counties, it is hereby made the duty of the clerk of the district court of each of said counties, and in case there should be no such clerk appointed and qualified, or for any cause, said offices or either of them should become vacant on or before the tenth day of March next, then it shall be the duty of the sheriff of such county, to proceed immediately after the tenth day of March next to order a special election in their respective counties, for the purpose of electing three county commissioners, one judge of probate, one county treasurer, one clerk of the board of county commissioners, one county surveyor, one county assessor, one sheriff, one coroner, one recorder of deeds, and such number of justices of the peace and constables for each of said counties as may be directed by the officer ordering said elections, (the said officer having due regard to the convenience of the people,) which special election shall be on the first Monday in the month of April next; and that the officer ordering such elections shall appoint as many places of holding elections in said counties as the convenience of the people may require, and shall appoint three judges of election for each place of holding election in said counties, and issue certificates to said judges of their appointment; and the officers ordering such election shall give at least ten days previous notice of the time and place of holding such election, by at least three written or printed advertisements, which shall be posted up at three or more of the most public places in the neighborhood where each of the polls shall be opened as aforesaid.

SEC. 3. **To whom returns to be made; by whom certificates of election granted; duty of clerk of board of commissioners, by whom discharged and how long.** That the officer ordering each of the elections aforesaid shall receive and canvass the polls, and grant certificates to the persons elected to fill the several offices mentioned in this act; and in all cases not provided for by this act, the officer ordering each of said elections shall discharge the duties