

ROCHESTER HISTORY

Edited by Joseph W. Barnes, *City Historian*

Vol. XXXVIII

April and July, 1976

Nos. 2 and 3

The Arson Years

Fire Protection, Fire Insurance, and Fire Politics 1908-1910

By Joseph W. Barnes

The human fascination with fires and fire-fighting endures through the years. If tragic losses of life and property are still a serious concern, despite modern building codes and fire-fighting methods, only a small leap of imagination is needed to appreciate how frightening fire could be in the years when even the downtown sections of cities were largely wooden; when spark-generating coal was the major fuel for all purposes; and when hundreds of hay-filled barns were tucked behind houses and commercial establishments. As in other American cities, these conditions prevailed in turn-of-the-century Rochester. A legendary kerosene lamp started the fire which leveled Chicago in 1871. Thirty or forty years later such lamps were still common in barns, and gas lights could still be found in homes. The incandescent lamp was replacing gas, but the rapid introduction of electricity created another hazard until principles of safe wiring were learned.

ROCHESTER HISTORY, published quarterly by the Rochester Public Library, distributed free at the Library, by mail 50 cents per year. Address correspondence to City Historian, Rochester Public Library, 115 South Ave., Rochester, N.Y. 14604.

While the idea of regulating construction to lessen fire risks was nothing new, Rochester's building code at the beginning of the century was a patchwork affair. The National Board of Fire Underwriters made strong recommendations and outlined the general goals of local building codes, but its experts were then still working toward a universal code for local governments to use as a guideline. Despite the absence of a universal code, the national underwriters — along with state and local boards of underwriters — possessed a suprising amount of influence over local fire protection methods. Citizens and political leaders watched the actions of the insurance men closely, not merely for their suggestions about building codes and the fire department, but because the industry held monopolistic control over fire insurance rates. If Rochester experienced too many fires, or if its fire department or building code failed to satisfy the insurance men, they could impose the dreaded "pink slip" — a notice of a temporary change in premiums sent to all property owners, often amounting to a 25 or 33 per cent increase.

Fear of financial loss and fear of the insurance industry were thus joined to uncertainties over Rochester's basic ability to protect itself from fire. During the nineteenth century Rochester had experienced what might be called a "normal" quota of disastrous fires as well as routine losses. Successive city administrations responded by first professionalizing and then steadily expanding the fire department; by launching an outstanding water system in the 1870s and then paying for its extension; and by repeatedly amending ordinances designed to prevent fire or lessen its hazards. But despite Rochester's preparations, as the city entered the twentieth century it would be sorely tested by fire.

No fire in Rochester's history is as famous as the Sibley fire in 1904, which accounted for \$2,500,000 in property losses while devastating a major share of the dry goods

district. Less well known is the fact that the Sibley fire was not an isolated phenomenon. During the next five years a number of fires in the downtown section threatened to destroy entire blocks. Although few fires went out of control and none achieved the spectacular results of the Sibley fire, in the city as a whole statistics of reported and actual fires reached frightening proportions:

	Fires	Alarms	Estimated Losses
1905	560	646	\$195,658
1906	638	724	245,048
1907	726	829	493,978
1908	918	1070	470,725
1909	964	1063	703,785

Source: Chief Engineer of the Fire Department, *Annual Report* in *Annual Reports of the Department of Public Safety*, City of Rochester, 1905-1909.

The year 1909 proved climactic. There was no longer any doubt that Rochester was the victim of at least one, and probably several arsonists. For a time, newspapers filled their local columns with little else besides news of fires and the police department's efforts to capture alleged incendiaries. Emotions ran high; criticism of the city administration and its handling of the crisis was heard in some quarters, notably from James Johnston, a leader of the local board of fire underwriters who happened to have figured as an administration opponent in earlier election years. When the insurance men issued a pink slip calling for a temporary increase in fire rates, they soon found themselves indicted on several counts of conspiracy to maintain a monopoly. In addition, the insurance industry was criticized for promoting arson through the practice of overinsurance.

The story of the arson years contains interest not only for the drama of such episodes, but also because it illustrates the

city's response to an extremely serious crisis. The danger of arson can never be wholly overcome, but the risks of fire loss can be lessened in a number of ways. Such ordinary efforts as improving the water supply, strengthening the fire department, and toughening the building code all helped overcome the crisis of 1909. The pink slip controversy has special historical significance because of the light it sheds on past practices of the insurance industry, but the story of Rochester's larger battle with fire is at least as important.

Fires and Fire Protection in the Nineteenth Century

If the first decade of the twentieth century was indeed a "trial by fire," it would be worthwhile to examine how well or poorly the city faced the challenge of fire in its earlier years. Although the full assumption of civic responsibilities for fire protection was slow, steady progress was made during the previous century.

Efforts to prevent fires through regulation of property appeared earlier than efforts to establish a fire department, and property regulations were probably far more effective than fire-fighting for some decades. The very first "Bye-Laws & Regulations" drawn up by the village trustees in 1817 contained provisions requiring property owners to keep fireplaces and chimneys in good repair and to supply houses with fire buckets.¹ Ten years later a published compilation of fifty-four village ordinances contained nineteen ordinances promoting fire safety.² In subsequent decades the fire code grew by gradual addition. Amendments were often passed when the adequacy of local ordinances was questioned. In 1888, for example, the Steam Guage & Lantern Works fire took thirty-eight lives and many of the victims perished because a wooden escape platform burned. Shortly thereafter the common council passed a stricter ordinance requiring

iron platforms and escapes.³

Enforcement of fire regulations was the responsibility of the city fire marshal, who became a paid, full-time official by the early 1860s. (In 1865 his annual salary of \$900 was paid one-half by the city and one-half by the fire underwriters.)⁴ The fire marshal's routine duties at first included inspection of theaters, livery stables, and the like, but gradually expanded to include issuance of permits for the storage of inflammables, inspection of factories, and finally oversight of new construction. In the 1880s, the fire marshal requested contractors to submit plans for new buildings on a voluntary basis and in 1894 the council mandated permits for wooden buildings.⁵ At the close of the century Rochester's "Penal Ordinance . . . Relating to Buildings" contained sixty-nine pages. Part I of this document, "General Regulations," strictly required persons to obtain permits for either the "erection, remodeling or moving of buildings."⁶

Rochester's fire department began as a battalion of volunteer companies. The shortcomings of the volunteer system were manifest before the Civil War, and the urgencies of that conflict helped prove the case for full-time firemen.

The city's experience with volunteer firemen was little different from that of other places. Most volunteers were no doubt well-intentioned citizens willing to donate their physical strength and capacity for bravery to the public good, but nevertheless the volunteer companies earned a reputation for rowdiness and inefficiency. The "engines" used by Rochester's early fire companies were hand drawn carts containing pumps operated by teams of men. As Frank H. Goler described them years later, "the volunteers were redundantly voluntary." Every fire was an occasion for physical contests among the companies, beginning with a foot race to see who would arrive at the scene first. "The trick," according to Goler, ". . . was to force the opposing company off into an obstruction of some kind, which

naturally stopped them for a moment while the passers ran merrily ahead.”⁷ If the supply of water was some distance from the fire, the volunteers lined up their engines and stretched hose to connect one pump to the next. According to another eyewitness, the companies could then see who pumped the fastest: “Red Rover Three could ‘wash’ any other engine, that is, could pour the water into its box faster than it could pass the stream along. But Zack Weaver, foreman of Torrent Two, could lick any other foreman. This will enable you to understand the interest that the boys took in the Fire Department and its powers.”⁸

The great Minerva Block fire on August 17, 1858 marked the beginning of the end of the volunteer system. The fire began during the local celebration of the first laying of the Atlantic cable. There was a large fireworks display featuring a number of wires stretched between buildings to which pigeons, drawing flaming materials, were attached. Adding to the hazards was a torchlight parade, in which the volunteer fire companies and the militia participated. A series of late rallies, with the usual liquid refreshment, capped the evening. It was nearly midnight when fire broke out in a livery stable on Minerva Place. The next day citizens surveyed the ruins of a large area including the Third Presbyterian Church and five blocks containing twenty stores on the south side of Main Street. Losses were estimated at about \$188,000.⁹

The Minerva Block fire was by no means the only large fire in pre-Civil War Rochester — in fact the 1850s witnessed an unusual number of them — but it set a record for monetary loss and served to focus discontent with the volunteer department, its antiquated equipment, and an inadequate water supply. The common council ordered the volunteers disbanded (reorganized companies filled their place for a time), purchased new hose and equipment, and deployed six new fire-fighting reservoirs at strategic locations. Finally, in

response to long-standing demands, the city purchased two steam fire engines. By 1863 there were four steam engines and a paid force of fifty men to operate them. The new engines represented an investment of about \$4,000 apiece and had to be drawn by horses, an additional investment. Such equipment was not to be entrusted to volunteers, many of whom were, in any case, now enlisting in the Union Army.¹⁰ In subsequent decades a few volunteer companies maintained a precarious existence as adjuncts to the paid force, which grew to nearly 200 by 1900.¹¹

Of equal if not greater importance was the provision of a good public water supply. The six small reservoirs, or cisterns, built in the aftermath of the Minerva Block fire were similar to those dating from village days. Such reservoirs supplemented other readily-available sources: the canal, river, and mill races. The supply of non-drinking water seemed sufficient during the hand pump fire-fighting era and helped delay construction of a real water system. For several decades after receiving their city charter, Rochesterians made do with wells for domestic purposes. Several proposals for water companies either failed to advance from the drawing board stage or foundered from lack of capital or lack of political support. When public action finally was taken, early in the 1870s, the danger of fire played a decisive role. Several holders of large properties, led by Daniel Powers, had resisted construction of a water works as an unnecessary tax expenditure. After events in Chicago demonstrated the destructive power of fire which leveled even "fireproof" cast iron blocks, Powers and other property owners altered their position.¹²

Rochester built not one, but two water works. The Holly system, finished in less than two years, was a network of high-pressure water mains supplying river water to 105 fire hydrants in the downtown section. A pumping station on Brown's Race contained both steam engines and water-



Alert Hose Company

One of three remaining volunteer companies in 1890. House at 9 Fitzhugh Street North, near Main Street.



Engine Number Two

Photograph c. 1907. House at 600 Clinton Avenue North.

powered turbines, calculated to deliver 950 horsepower. At its trials on February 18, 1874, the Holly system proved extraordinarily successful. Firemen were able to throw a 5-inch column of water several hundred feet vertically using Holly pressure alone.¹³ (Because the Holly system supplied quantities of water under high pressure, hose companies could effectively fight fires without the aid of steamers. One short-term result was the revival of a few volunteer hose companies who received part-time pay. The volunteers were again disbanded in 1893.)¹⁴ The capacity of the Holly system was augmented by completion of the first phase of the Hemlock water system in 1876. Domestic water drawn from Hemlock Lake 28 miles south fell by gravity to reservoirs in the Town of Rush and on the hill which later became Highland Park. Not only did the Hemlock system supply hundreds of fire hydrants outside the downtown section, its mains could be connected directly to the Holly pumps in times of fire emergency.

The city's steady growth during the last third of the century demanded constant expansion and refinement of its fire protection efforts. At the close of the Civil War, Rochester's population had not quite reached 51,000; in 1900 it exceeded 162,000. Meanwhile, through annexation the city's area more than doubled. Both water systems were extended to meet this growth; a second conduit from Hemlock Lake to Rochester built in 1894 increased the calculated capacity of the gravity system from 9 to 23 million gallons a day and "Underwriters'" pumps fitted to the Holly system increased its capacity from 7 to 13.5 million gallons a day.¹⁵ An electrical fire alarm telegraph, first introduced in 1869, was steadily improved so that by 1900 fire department headquarters could dispatch companies to local emergencies with reasonable precision. An odd feature of Rochester's fire alarm system at the close of the century was its connection to the City Hall bell. The great bell rang

out at every alarm, alerting the citizenry who then rushed to the scene of fire much as they had done in village days. There was little public purpose in alerting the whole city to every fire, except that citizens still enjoyed lending critical support to the fire department. By 1900 the department they watched had grown to eight engine companies, assisted by five hose, five ladder, and two chemical trucks.¹⁶

Trial By Fire

Despite this progress, Rochester had not eliminated the danger of serious fire. The fact is demonstrated by even a partial list of major fires which occurred in the 1890s: St. Mary's Hospital, the Grand Opera House, the Sibley Seed Store, Glen House, and Corinthian Hall were all largely destroyed. The new century began inauspiciously. In the early morning of January 8, 1901, fire at the Rochester Orphan Asylum killed twenty-eight children and three adults.¹⁷ During the next few years fire was not so destructive to life, but a number of valuable commercial properties burned. In 1903 seven separate fires destroyed properties valued at \$75,000 or above.¹⁸

All previous ideas of large fires were revised, however, after the Sibley fire of February 26, 1904. The fire did not begin in the Sibley, Lindsay, & Curr Store, then located in the Granite Building, but in the Rochester Dry Goods store several doors eastward on Main Street. An electrical fuse for an elevator blew, and sparks ignited nearby draperies. A night watchman discovered the fire and sounded the alarm at 5:00 A.M. So quickly did the fire rage out of control that officials, fearing for the whole downtown area, sent calls for help to Buffalo and Syracuse at 6:00 A.M. Each neighboring city sent two engines and two hose companies by trains which arrived in a few hours. It was then discovered that the

“foreign” equipment could not be attached to the Rochester hydrants, because hose fittings were not standardized! The Buffalo and Syracuse engine companies drew water from the Johnson and Seymour mill race after tearing planks up from North Water Street. Despite the firefighters’ best efforts, the fire spread westward through the tightly built up dry goods district. In forty hours all the buildings on the north side of Main Street from St. Paul Street halfway to Clinton Avenue were burned, along with a strip of buildings on the north side of Division Street. The 13-story fireproof Granite Building on the northeast corner of Main and St. Paul, built in 1893, was entirely gutted.¹⁹

Losses from the Sibley fire, estimated by some sources as high as \$3,000,000, were large partly because Sibley’s and its neighboring competitors had just finished receiving their spring stock of goods. The timing of the fire was also unfortunate because it occurred only nineteen days after a disastrous fire in Baltimore which destroyed 140 acres of downtown property valued at \$100,000,000. A nationwide increase in insurance rates took effect here after the Sibley fire, and the National Board of Fire Underwriters sent a team of engineers to inspect local conditions. The underwriters’ detailed, 40-page report, published in December, contained a long list of specific recommendations for improvements in the water supply, the building code, and the fire department.²⁰

Fortunately, the administration of Mayor James G. Cutler was prepared to meet the underwriters’ demands. In fact, many needed improvements, some prompted by the fires of 1903, were already underway. Eight-inch distributing mains in the Holly system were being replaced by twelve-inch lines, and four-inch mains in the Hemlock system upgraded to eight-inch. The underwriters’ experts were also impressed by plans for a new distributing reservoir on Cobbs Hill, scheduled for completion in 1908. The Cutler administration granted the experts’ request for additional engines, hose, and



Scenes of the Sibley (dry goods district) Fire
February 26, 1904.

men for the fire department; the department's employees increased from 228 in 1904 to 281 in 1908. Improvements in the fire protection system cost the Cutler administration about \$1,000,000 (not counting the long range capital expense of Cobbs Hill reservoir, most of which was a water works expense), but results were gratifying, at least temporarily. During 1905 and 1906 estimated fire losses averaged about \$220,000 annually, resulting in some relief in insurance rates.²¹

As Mayor Cutler stepped aside from renomination in 1907, he no doubt took satisfaction from a recent "Supplementary Report" on Rochester issued by the national underwriters, which praised the city for progress toward implementing their safety recommendations.²² And, when a crowd estimated at 10,000 lined up at City Hall on January 2, 1908 to greet incoming Mayor Edgerton and shake hands with the boss, George Aldridge, it was partly a token of confidence in the continuation of such Republican policies.²³ Aldridge had chosen wisely in selecting the new mayor. Edgerton was a popular war horse who had served in a variety of political posts, most recently as President of the Common Council during the Cutler administration. The new mayor was widely respected; his inauguration in 1908 marked the beginning of the first of seven two-year terms. Much of Edgerton's success in his first years of office he owed to his predecessor, for Edgerton continued Cutler's programs for civic improvement, even as he carried over several of Cutler's key appointees.²⁴ Ironically, the crisis that would give his first administrative term its most severe test was the threat of conflagration supposedly laid to rest by the previous administration. As Edgerton greeted well-wishers in his flower-bedecked office, he may have worried over recent figures compiled by Fire Chief Charles Little. After the respite of 1905 and 1906, fire losses were again increasing, reaching nearly half a million dollars in 1907.

Early in February, 1908, a large warehouse on North Water Street in the most congested part of town was destroyed. According to one newspaper account, the Fee Building fire "could easily have swept North Water Street from Main Street to Andrews Street." But firemen, working through the night in a blinding snowstorm with temperatures that reached ten below zero, managed to contain the fire.²⁵ Five months later serious fires broke out simultaneously in the barns of the American Brewery on Hudson Avenue and Crosman Brothers' nursery on Monroe Avenue.²⁶ In the fall the pace of destruction quickened. The fire department counted 102 alarms during September, an all-time monthly record. On a single night in October, fifteen alarms were recorded, which was thought extraordinary until forty-nine alarms sounded on election night in November.²⁷ The number of fires during 1908 was well above any level set during previous years. Still, the fire chief attributed no more than one or two per month to "incendiary" causes.²⁸

One consequence of the alarms during the fall of 1908 was the silencing of the City Hall bell. At first, city officials said the bell could no longer be rung because it needed repair; support beams had weakened from the constant ringing. Public Safety Commissioner Charles Owen's office was located in the floor beneath the bell. Mayor Edgerton told a reporter that "Mr. Owen is afraid the bell will fall down through the roof into his office."²⁹ But, as repairs seemed to encounter endless delays, officials admitted that police and firemen were happier with the bell quiet. As Edgerton and Owen became increasingly reticent on the subject, the *Democrat and Chronicle* supposed that "aside from the precarious position of the old gong, resting on weather-beaten timbers, there is the argument against it that it is an anachronism, derogatory to a first-class city." In the future, the paper speculated, "the public may be cheated of the free amusement of attending fires and interfering with the efforts

of the fire fighters.”³⁰ Responding to a series of critical letters-to-the-editor, Commissioner Owen did order repairs in time for the election night fires, but that night was the last time the public fire alarm was rung.³¹

The latest visit by a team from the National Board of Fire Underwriters, during November, was a more serious matter. Given the rash of fires, their visit could hardly have been more poorly timed. However, the inspection of the Holly system, the alarm telegraph, and the fire engines went smoothly.³² So much work had been completed in the short time since the city received its last major report, the four experts could find little to criticize in the fire fighting system. They focused instead on the city’s building code, which, despite revisions in 1904, was deemed inadequate. At a press conference attended by city officials, the visiting engineers predicted that their written report would contain proposed amendments concerned with noncombustible roofs, more secure skylights, greater regulation of density, and, most importantly, extension of the “fire limits” – the line drawn around the central commercial section of the city in which no frame construction was permitted. When asked by Mayor Edgerton whether they could supply the city with a model building code, the underwriters’ spokesman said that Cleveland’s was often cited as a good one, but that, in fact, “the model ordinance is in existence only in theory.” The expert promised to give the Rochester fire marshal a copy of a good one with passages marked.³³

The underwriters’ team made no mention of the rising incidence of fire during their visit or in their formal report issued in February, 1909. But the number of suspicious fires was becoming alarming. Of the large number of fires in January and February, eleven were definitely ascribed to arson and another twenty-eight listed with “unknown causes.” The daily newspapers of course wrote feature stories marking the fifth anniversary of the Sibley fire, adding to

public concern.³⁴ On March 19, a three-alarm fire in the East Side Savings Bank at the corner of Main Street and Clinton Avenue caused \$30,000 worth of damage, and closed a 24-hour period in which there were at least six incendiary fires. Official spokesmen began to caution against jumping to conclusions, but, as the daily *Herald* reported, little guesswork was needed in the case of several incidents. The paper cited the example of the Langslow-Fowler furniture company on South Avenue "where boards were torn from a rear window and a torch thrown in with 500 Morris chairs packed in excelsior."³⁵ Another paper described the person starting the fires as "an ingenious fiend . . . versatile, as well as bold." Detectives investigating an incident at a basket factory on Grape Street discovered several holes bored through a rear wall, through which alcohol had been poured.³⁶

Mayor Edgerton publicly acknowledged the dangerous situation on March 24 with the declaration of a \$1,000 standing reward for the capture or evidence leading to the conviction of arsonists.³⁷ In the wake of the East Side Savings Bank fire some local insurance men warned, off the record, that soon the question would not be higher rates but the availability of any insurance at all.³⁸

Public Safety Commissioner Charles Owen and Police Chief Joseph Quigley grimly warned that action would be taken against all incendiaries. A police dragnet during the weekend after the Savings Bank fire produced almost a hundred alleged arsonists and suspicious persons. Judging from newspaper accounts of information supplied in police court, not all these arrests would withstand legal tests today. After discovering a fire in a kiln at the Morse Lumber Company on Sunday afternoon, police arrested a man found nearby changing his overalls "who did not give a good account of himself." James English, a man recently released from the penitentiary, was found walking on North Clinton Avenue and similarly was unable to supply officers with a



Charles Owen



Hiram Edgerton



George Aldridge

“good account.” William F. Collins was brought in for “acting suspiciously and having matches in his pocket.” George Streichel was arrested on Andrews Street Bridge on a “holding charge” for “acting strangely and having two candles on his person.” More than seventy-five men received penitentiary sentences of up to six months, for, as one newspaper put it, Police Justice John Chadsey “was determined to aid the police in their efforts to rid the city of undesireables in which class come the fire fiends.”³⁹

Despite elements of black comedy in these efforts, there was enough evidence of real incendiary activities to alarm anyone. At 3:00 A.M. Monday, during the police dragnet, a watchman at the valuable Hayden furniture properties on North Goodman Street gave chase to two men. They escaped pursuit, but on his way back the watchman discovered kerosene and oily rags in the adjacent Hollister lumber yards. A barn on Ely Street was discovered containing charred excelsior which had been forced through a knot hole. During the same weekend, a Mrs. J.J. Jones reported a fire in her house on Oak Street. The fire was small and easily extinguished, but Mrs. Jones had been indiscreet enough to tell a neighbor about a \$1,000 insurance policy on her furniture. Police Inspector Michael Zimmerman, making the arrest on a charge of first degree arson, noted that Mrs. Jones’ furniture was not worth more than twenty-five dollars.⁴⁰ A week later police arrested another housewife-arsonist along with her daughter. The woman said that fire began when she dropped a lighted lantern in the ground floor bakery of her house, but firemen who responded to the alarm discovered four separate fires in the upper floors.⁴¹

Amateur arsonists like these were encouraged by the climate of incendiarism which they hoped would cover their crimes. At least, this was one theory of police spokesmen, who also spoke of a “cycle of imitation.” The *Evening Times*, praising police efforts and calling on citizens to support them

by bringing forth information, said "some degenerate has set a pace and other degenerates are following it instinctively."⁴²

At the close of March there was another fire in the downtown section, one of the most dangerous to date. The 81-year old Reynolds Arcade, an enormous commercial structure of wood-and-lath construction, was heavily damaged. Fire Chief Little considered it remarkable that the whole structure was not burned, and that his men were able to prevent the spread of fire to more than one adjacent building. The Arcade fire was serious enough, causing \$70,000 to \$100,000 in damage and temporarily crippling Rochester's Western Union Office. Fire in the Arcade was also significant, because, as the *Democrat and Chronicle* phrased it, "many persons have for half of their lifetimes cherished the idea that the old building would one day give them a spectacle which would loom up as the starting point for the calculations of future generations, so far as big fires were concerned." The imaginary Reynolds Arcade fire "was supposed to occur in the dead of night, perhaps during a furious storm, and what it would do to the city was left unsaid because of the lack of fitting words."⁴³

Coincidentally, on the day of the Arcade fire members of the Underwriters' Association of the State of New York (the state board with jurisdiction over western New York) traveled to Rochester to meet with local insurance men. No special purpose for the meeting was disclosed, and in their public statements the insurance men seemed mainly concerned about sensationalism accompanying the outbreak of fires. One local board member observed that if rates are increased, "I think we can attribute it to the ridiculous estimates of fire losses given by property owners and published in the newspapers." The insurance man cited several examples of inflated loss figures recently publicized, and worried what effect such news would have on insurance company executives in New York City.⁴⁴ But James Johnston, a leader of the local insurance board, warned that

if "normal conditions" were not returned in the near future, "insurance companies will be strongly tempted to take radical measures."⁴⁵

In April, law enforcement agencies intensified their efforts to put a stop to arson. A prominent police official, who chose to remain anonymous, told reporters that "slowly the net is tightening." There were four kinds of arsonists according to this spokesman: pyromaniacs; those who burned for revenge; those who burned for the excitement of seeing the fire companies work; and last, those who set their own property on fire to collect insurance under cover of a firebug scare. The official hinted that police might already have the irrational culprits locked up, and that detective work was now being focused on arson-for-gain.⁴⁶

An air of mystery surrounded one new theater of investigation. During the first week of April, Commissioner Owen, Police Chief Quigley, and Police Inspector Zimmerman conferred with County Sheriff Willis K. Gillette and District Attorney Howard H. Widener, who were planning a "sheriff's hearing" into the cause of the fires. By means of this rarely-used legal device, information would be gathered for the May grand jury. The hearing began on April 6, with day-long testimony by firemen and detectives on the causes of recent fires, and for several days the sheriff heard information on suspicious house fires like those caused by the alleged housewife-arsonists.⁴⁷ The intention seemed to be to gather testimony in advance for the next grand jury so that its work on these cases could be expedited, but soon the sheriff's hearing would take an unexpected turn.

Meanwhile, the epidemic continued. On April 4 there was a serious fire in the Bartholomay brewery, said to have started by spontaneous combustion. On April 5, the J.A. Hinds flour mill on the city's west side was destroyed with losses officially estimated at \$20,000. Police did not suspect arson in this fire, but local insurance men did, prompting

them to match the city's \$1,000 outstanding reward for the capture of arsonists.⁴⁸ On April 7 the long-feared fire in the Hollister lumber yard and Hayden furniture factory next to the New York Central yards heavily damaged both properties. Total losses from the fire, officially attributed to "unknown" causes, were set at \$37,000 by the fire department.⁴⁹

On April 13, 1909, Rochester experienced the most dangerous conflagration in its history. The fire began at 11:00 A.M. in a 4-story building at 428-438 Main Street East, known as the "old Selden Building." Whipped by 60-mile-an-hour winds, the fire jumped northward into a densely populated residential section. Within an hour or two, fifteen brick or stone buildings and forty-nine frame dwellings were on fire in a zone more than one-half mile in length. At one o'clock Mayor Edgerton, Commissioner Owen, and Chief Little hastily conferred and agreed to telegram Buffalo and Syracuse for help. As they had done five years before, the neighboring cities responded immediately by loading equipment and men on special trains. The Syracuse train of flat cars carrying engines and firemen already booted and coated created a spectacle which thousands of persons crowded the New York Central yards to see and cheer.⁵⁰

Luckily, the high winds which spread the flames presaged a change of weather. By late afternoon when the Buffalo and Syracuse firefighters arrived, only to be held in reserve, the Rochester department had nearly checked the spread of flames and the first signs of rain signalled the end of the emergency. The local militia called out to guard furniture and property left in the streets were drenched that night by heavy rains. The fire destroyed both sides of Gibbs Street for almost its entire length north of Main Street, along with a section west of Stillson and north of Grove streets; an entire block bounded by Hudson Avenue, Nassau, Chatham, and Kelley streets; a large section between Baden and Vienna



Northeast Corner of Main and Gibbs Streets, April 13, 1909

streets east of Hanover Street; and scattered houses in the intervening areas.⁵¹

Alleged Conspiracy

At 5:00 P.M. on the day of the fire, the Underwriters Association of the State of New York announced a pink slip against Rochester, increasing insurance premiums 25 cents for every \$100 of insurance policy value. James N. Elwood, the local representative of the state association, told local newspapers that “orders came from headquarters” even though local insurance men tried to postpone the action. Buildings equipped with sprinklers and dwellings were exempt from the increase.⁵²

The suddenness of the insurance industry’s announcement shocked local editorialists and city officials. Despite the city’s recent loss record, the imposition of the pink slip on the same afternoon Rochester firemen were valiantly containing the residential conflagration seemed unfair. The *Union and Advertiser*, noting that the big fire seemed to precipitate the underwriters’ action, also noted that it “was not of incendiary origin and, once stated, could hardly have failed to be disastrous in consequence of the gale then blowing.”⁵³ The *Herald* linked the pink slip to recent publicity about incendiaries and was annoyed that “because of the existence of a few evil-minded scoundrels within these corporate limits, the insurance companies are going to punish the whole community.” All five Rochester newspapers (united in opinion for once, it seemed) questioned the legitimacy the industry’s raising premiums simply because losses had to have been paid. On successive days the *Herald*’s editorials were headlined “Our Pink Slip,” “The Insurance Grab,” and finally “The Insurance Conspiracy.”⁵⁴

Mayor Edgerton conferred with municipal attorneys to learn if the insurance companies could be legally restrained. "We will find out," the mayor told newspapers, "whether the companies have any right to impose this increase when conditions do not warrant it. We propose to learn whether the companies have the right to do just as they please."⁵⁵ Sheriff Gillette promised that his investigation would take a new turn. "I have nothing to say as to the increase in rates," the sheriff said, "but I have the right to inquire how far the insurance companies have contributed to this climax by any possible negligence."⁵⁶

Ten days after the pink slip announcement, the executive committee of the state association of underwriters came to Rochester to explain its position. The committee's chief spokesman was F.W. Jenness, executive secretary for the state board. The insurance men agreed to meet with city officials and leaders of the Rochester Chamber of Commerce. The hoped-for result was mutual understanding, but the conference was not a happy one. City Engineer Edwin A. Fisher presented an extensive report on the city's efforts to improve fire protection. By official reckoning, some \$2,200,000 had been spent on capital improvements in the water supply and fire department in the five years since the Sibley fire. Moreover, every recommendation contained in the national underwriters' reports was being followed out. In reply, Jenness maintained that the industry's only consideration was balancing premiums and losses. He submitted figures that showed \$6,990,000 collected in premiums and \$5,381,000 paid out in losses in Rochester in the nine-year period from 1900 to the end of 1908. Since the "cost of doing business" was figured at 33-1/3 percent of premiums, the aggregate expenditures of the insurance companies was set at \$7,711,000 and their net losses at \$721,000. The insurance men said that the pink slip had not been motivated by the April 13 fires, but by calculations under study for

weeks; that they were not really interested in how much the city had spent on fire protection; and that they could not, as one Chamber of Commerce member suggested, average recent losses in Rochester with those from before 1900.⁵⁷

The style of the state board members did not win them friends in Rochester. The *Herald* felt that “a more insolent, discourteous, and surly exhibition was never made to the representatives of the business interests, the city government, the press, and the public than was manifested by this distinguished galaxy of prominent insurance men.”⁵⁸

The next day the scene shifted from the Chamber of Commerce to the Court House, as Sheriff Gillette and District Attorney Widener continued their investigation. Local insurance men, called upon to explain the use of “blanket” policies – with which inspection of property was waived and the danger of overinsuring was greatest – admitted that the practice was growing, but they could not agree whether blanket policies were necessary. The city’s two most prominent insurance agents testified in the same morning. Milton Clark felt that “evils have crept into the insurance business” and that more inspections of property would be salutary. The loquacious James Johnston strongly disagreed. He told the district attorney that “there is no way to prevent designing persons getting excessive insurance.” According to Johnston, the crisis in Rochester was the fault of incendiarism, and the continuing epidemic of incendiary fires was the fault of the police. Too often, said Johnston, when insurance men found evidence of arson, the police disagreed. The police, he said, “refuse to consider any fire as incendiary if it could be proved otherwise.” In Johnston’s opinion, the pink slip was caused by police officials’ failure to cooperate with the insurance men and the state board’s feeling that Rochester needed a shaking up. Johnston also insisted that the local insurance agents had nothing to do with the pink slip decision.⁵⁹

Johnston restated his charges more strongly at a special Chamber of Commerce meeting nine days later, leveling his criticism at Mayor Edgerton's recent appointment of Police Chief Joseph Quigley. The executives of the state board, he said, felt that the Rochester policemen "will not work for the present chief" and that "the police force is badly demoralized."⁶⁰ Johnston's remarks, offered to a packed audience which included half a dozen city officials and George Aldridge, were not appreciated by Mayor Edgerton and Commissioner Owen. Both men rose to defend the police department in the strongest terms. The mayor engaged in a heated exchange with Johnston, who nevertheless held his ground.⁶¹ Owen declared that "the men have been on the job night and day." They had followed up every lead and had already arrested several persons for arson, and the commissioner promised that "conviction will follow." Finally, said Owen, "I will not have the whole department maligned."⁶²

In the midst of this controversy, the number of serious fires and the monthly statistics of fire losses dropped abruptly. From April's high point of \$354,165, the estimated losses dropped to \$63,465 in May and \$21,075 in June. For the balance of 1909 monthly losses averaged only \$15,350.⁶³ But the pink slip remained, and with it Rochester's resentment of the fire insurance industry.

Johnston's criticisms of city leadership shifted attention from the state board of underwriters to the local board. A hasty attempt by a Rochester assemblyman to amend the state's penal code to forbid price fixing by insurers failed, but District Attorney Widener, who helped write the proposed amendment (and who would suggest this legislative remedy again), was determined to seek redress. When the May grand jury finished hearing evidence on alleged acts of arson, Widener summoned witnesses to show evidence of a conspiracy on the part of local insurers.⁶⁴

In June the grand jury returned an indictment against James Johnston and five other members of the Rochester Board of Fire Underwriters. One count charged them with conspiracy "with unknown persons" to unlawfully raise insurance premiums during the April 13 fires, with the purpose of "... destroying the effect of free competition among themselves and the said unknown persons." Two other counts charged the alleged conspirators with depriving local insurance men who were not board members of the means of doing business. The lengthy indictment cited Chapter 690 of the Laws of 1899, New York's anti-monopoly Donnelly Act. The jurors reproduced the constitution and by-laws of the local board, and with legalistic dryness declared that the alleged conspirators "agreed among themselves and with other unknown persons that they should be known as the 'Underwriters Association of the State of New York' and the 'Rochester Board of Fire Underwriters.'" ⁶⁵

The grand jury indictment was returned on June 4, 1909. Through the hot summer weather James Johnston and his colleagues made few public statements. While attorneys for the defendants labored over legal motions (and District Attorney Widener departed for a month's vacation) Johnston refrained from further criticism of the city administration.

Mayor Edgerton, no longer obliged to answer criticisms from local insurers, cooperated with the Chamber of Commerce in preparing a detailed report to the state underwriters association. The report, sent early in July, described additional progress in upgrading fire protection since the April visit of the state board's executive committee. In that short space of time, nine additional men had been added to the central fire companies; the bureau of buildings had been reorganized and a new fire marshal appointed; and a \$250,000 bond issue to accelerate the replacement of water mains had been authorized by the common council. The



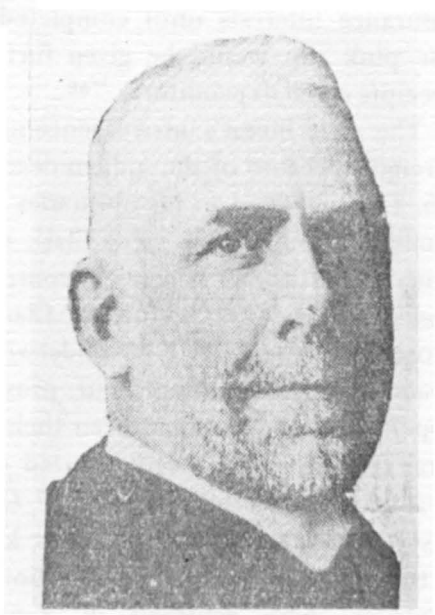
Joseph Quigley



Willis Gillette



Howard Widener



James Johnston

mayor had also taken steps to revise the city's building code, a reform called for in successive national underwriters' reports, by appointing a four-man commission to assist the fire marshal in preparing amendments.⁶⁶ The report concluded with the wish that the burden of the pink slip would soon be removed from Rochester. Weeks passed and no reply came from the Syracuse headquarters of the state association. The chairman of the Chamber of Commerce committee appointed to deal with the pink slip made inquiries, and learned that no reply would be forthcoming until Executive Secretary F.W. Jenness returned from summer vacation.⁶⁷

The message finally received from Jenness in mid-August was not pleasing. Jenness repeated the state board's argument that the pink slip was justified because of the companies' losses over a nine year period. While the city's improvements in fire protection were "gratifying," they could not affect the insurance interests until completed. Jenness promised that the pink slip would be given further consideration "when receipts equal expenditures."⁶⁸

The state board's intransigence may have gained additional strength because of the sudden death of Milton Clark on July 16. Characterized in his obituaries as one of the city's most well-known insurance men, Clark was also the keystone of District Attorney Widener's conspiracy case against local insurers. The exact nature of Clark's grievance against the Rochester Board of Fire Underwriters remained hidden in grand jury proceedings, but prosecution spokesmen told reporters that Clark had been their "inside" witness and his oral testimony had been counted on to prove monopolistic practices by the indicated men.⁶⁹ Clark's death, at the age of sixty, was caused by a lengthy kidney disease.⁷⁰ Defense attorneys made preliminary motions, but District Attorney Widener, who returned in September, expressed little enthusiasm for the case and hoped it would soon be wiped from the court calendar.⁷¹

Insurance Politics

The Rochester Board of Fire Underwriters conducted its annual meeting in September. The local insurance men elected Henry Webb, one of the six indicted men, as their president. In a statement to reporters, Webb repeated the local board's assertion that it "had nothing to do with the pink slip." Moreover, said Webb — and this was something new — the local board had "endeavored to have it removed."⁷² The statement seemed to signal a change of heart by the local insurers. Perhaps it meant that they would now be willing to work with city officials and others in the campaign to remove the pink slip. A week after the board's meeting and Webb's statement, Mayor Edgerton entertained a conference at city hall. Commissioner Owen, Police Chief Quigley, and Fire Chief Little were present, and so were Henry Webb, James Johnston, and one other indicted "conspirator." None of the men would make any comment after the city hall meeting, except for Mayor Edgerton who declared, "all want the pink slip taken off."⁷³ The *Evening Times* suggested that "powerful influences" were at work and hinted that the pink slip would be removed from Rochester within a short time.⁷⁴

To be of the greatest benefit, from the Republican organization's point of view, removal of the pink slip or news of its removal had to come before the November elections of local officials. It may have been fortuitous that another team of engineers representing the National Board of Fire Underwriters arrived in October to inspect local conditions once again. The engineers, who had been dispatched from Chicago and New York, professed ignorance of local insurance rates. After three days in the city, their spokesman, Frank P. Walther of Chicago, said, "I believe, on the whole, that our report on Rochester will be favorable. I don't know anything about this pink slip; we were sent here simply to see what has

been done in the way of carrying out the National Board's recommendations."⁷⁵

In the closing weeks before the election the city administration's Democratic opponents did attempt to use the pink slip as a key campaign issue. But Republicans were able to point out that news stories carrying Democratic charges of inefficiency in the police and fire departments were printed side-by-side with good news from the underwriters' experts.⁷⁶ The engineers' final report, made public on October 26, praised improvements in the water supply, fire alarm system, and fire department. The experts reported the reorganization of the buildings department and Mayor Edgerton's appointment of a commission to work on revisions of the building code. In fact information contained in the report paralleled Edgerton's July communication to the state board of underwriters in several particulars. In addition, however, the report contained praise for the police department for checking incendiarism. Four convictions for arson during the year and "vigorous measures to rid the city of vagrants and dissolute characters" were noted.⁷⁷

Even without the new underwriters' report and speculation that the pink slip would soon be removed, the plan to embarrass the administration on this issue would have backfired. As one letter-writer to the sedate *Post-Express* put it, "Do I understand him [Democratic candidate for mayor Nelson E. Spencer] to defend the action of the Insurance Trust? Is he in sympathy with that monopoly?"⁷⁸ Since April local newspapers of every persuasion had repeatedly editorialized against the behavior of the insurance industry. None was more vehement than the respected (and non-Republican) *Herald*. During the summer, while Rochester's appeal to the state board lay on F.W. Jenness' desk, a water line break in Buffalo exposed that city to a serious fire emergency. The *Herald*, observing that Buffalo had recently won removal of a pink slip, waxed indignant over the incident.

The insurance ring took the pink slip from property in Buffalo, even when conditions of fire protection were such that a break in a single water main exposed \$100,000,000 worth of property to the danger of destruction by fire. The same combination of companies put the pink slip on Rochester property, and insolently keeps it there . . . The incident goes to prove what we have repeatedly said; that discrimination is practiced by the insurance combine against Rochester; that rates of insurance are imposed without any equitable basis of cause; that conditions of fire protection are ignored in exacting increased premiums; and that all pretense of justice or fair dealing by the fire insurance trust is a sham and a swindle.⁷⁹

Rochester voters were more persuaded by criticism of this kind than by James Johnston's earlier charges against the city administration, or by the Democrats' attempt to capitalize on the pink slip issue. Hiram Edgerton won re-election handily with 22,301 votes to his opponent's 15,858.⁸⁰ Republican aldermen on the common council found their numbers increased from nine to twenty, and they now held an overwhelming majority of the twenty-two wards represented.⁸¹

The pink slip was removed in two stages. On November 9, 1909, the state association of underwriters, meeting in Syracuse, decided to eliminate the surcharge for all property in Rochester outside the congested fire limits and to modify its application inside the fire limits. The effect was to retain the charge only on some non-fireproof buildings and certain manufacturing and mercantile establishments.⁸² Two months later, after another conference in Rochester with Chamber of Commerce and city officials, the state board removed the pink slip from these remaining properties.⁸³

Rochester's declining rate of fire loss, combined with its very substantial improvements in fire protection, were said to be decisive. In the eight-month period ending on December 31, 1909, the city erected three new firehouses, reorganized the fire department from two into three battalions and appointed a new battalion chief; added fifty men to the department; appointed a new fire marshal and reformed the buildings bureau; replaced miles of water mains and added

scores of new fire hydrants.⁸⁴ Perhaps most significantly, the city had begun the difficult process of completely revising its building code; the commission appointed by Mayor Edgerton completed its work in 1910 and most sections of the revised code were adopted by the end of the year.⁸⁵ George Dietrich, President of the Rochester Chamber of Commerce, was greatly relieved at the final removal of the pink slip and was lavish in his praise: "All worked together for the good of all until the removal was accomplished. We can say with truth that the insurance men of the city, many of them, are to be commended for their zeal in seeking for the removal of the surtax." But Dietrich reserved his greatest praise for Mayor Edgerton and city officials.⁸⁶

Insurance Regulation

Rochester's tiring struggle with the fire insurance industry ultimately influenced statewide reform in the method of setting premium rates. Although Howard Widener did not pursue his conspiracy case against the Rochester insurance men, after the 1909 election the district attorney corresponded with the State Superintendent of Insurance, William H. Hotchkiss. Widener wished to see the state's criminal code amended to strengthen future conspiracy cases against the insurance industry. His proposed new subdivision of the section specifying monopolistic and conspiratorial practices "to the detriment of trade and commerce" would have read, "or to raise the premium on fire insurance; or, to fix a uniform rate of fire insurance among themselves and destroy competition; or, to prevent another person or persons from obtaining insurance."⁸⁷ There is no evidence that Hotchkiss replied to Widener's proposal. By year's end, however, two members of Rochester's legislative delegation were actively

pursuing insurance reform. State Senator George L. Meade revealed that he had conferred with Superintendent Hotchkiss to explore modifications in the way fire insurance companies set rates and settled claims.⁸⁸ More significantly, local Assemblyman John J. McNerney was preparing to introduce a resolution calling for legislative hearings on the entire fire insurance question. Neither legislator, however, seemed interested in the district attorney's proposal to control insurance premiums through the use of conspiracy and anti-monopoly statutes. An explanation for their attitude may be found in the special status accorded the insurance industry by case law and by state regulation.

Even if the conspiracy case against the Rochester insurance men had been successfully prosecuted, it is doubtful that higher courts would have upheld their conviction. Perhaps District Attorney Widener was not aware of the United States Supreme Court decision in *Paul vs. Virginia* (1868). That case, considered a landmark in the history of insurance in the United States, resulted in the decision that fire insurance *was not commerce*. The case concerned an insurance agent who was convicted and fined for violating Virginia insurance law. The agent had persisted in writing policies on behalf of several New York City companies which had not qualified to do business in that state. The basis of the appeal to the Supreme Court was the argument that only Congress had the right to regulate interstate commerce. But the Supreme Court upheld the conviction, ruling that fire insurance contracts were not articles of commerce in the usual sense, and that the industry was therefore the proper subject of state, not federal, regulation. The decision in *Paul vs. Virginia* was not reversed until 1944, when the Justice Department successfully prosecuted the South Eastern Underwriters Association in a celebrated anti-trust case. In the meantime, the doctrine that fire insurance was not commerce protected companies and agents from federal and state anti-monopoly laws.

The only hope of controlling potential abuses in the fire insurance industry, when *Paul vs. Virginia* held sway, was through state regulation; but state supervision of insurance was notoriously impotent.⁸⁹ State regulation of insurance began in New Hampshire in 1851, and in Massachusetts and Vermont in 1852. New York is credited with creating the first separate insurance department headed by a full-time superintendent, in 1860. Interestingly enough, the original legislation creating New York's Insurance Department was discussed and approved by a committee of the state board of underwriters, and on its recommendation the cost of operating the department was borne by the insurance companies themselves. State regulation was not hostile to the interests of the industry, but was frankly viewed as an extension of the cooperative and self-regulatory efforts of the industry's own boards and associations. Early regulation was directed toward disclosing the financial condition of fire insurance companies, and was only later extended to life and marine insurance.⁹⁰

By 1892, when New York recodified its General Insurance Law, the functions of the Insurance Department included jurisdiction over "foreign" (including out-of-state) companies, which had to meet special deposit and tax requirements; regulation of insurance companies' investment of capital and surplus (there were, for example, restrictions on holding real property); and the issuance of all-important "certificates of authorization," without which a company or agent could not do business in the state.⁹¹ Insurance regulation, which had begun with the efforts of fire insurance companies to police the financial solvency of their associated fellows, had grown in a few decades to a fairly comprehensive institution affecting all types of insurance.

If, at the turn of the century, the regulatory system administered by New York's Insurance Department seemed thorough, the image was shattered by the famous investiga-

tions of the Armstrong Committee in 1905. The Armstrong Committee directed its attention at the life insurance companies, where evidence of widespread corruption, mismanagement, and jobbery was discovered.⁹² In an era when the public eagerly sought news which cast "trusts" in a bad light, the Armstrong Committee revelations were a sensation. After publication of the Armstrong Committee's report, the legislature enacted new measures governing life insurance companies, prohibiting political contributions by corporations, and requiring registration of lobbyists. Charles Evans Hughes, chief counsel for the Armstrong Committee and author of its report, was launched on his political career. The public's suspicion of the insurance industry (another branch of generally suspect financial big business) was reinforced, perhaps to a degree far out of proportion to the amount of actual legislation the Armstrong Committee generated. For several years the climate was right in Albany for additional investigation of insurance practices and additional legislative reforms.

Mild reform, and not radical change in the accommodations between the industry and the Insurance Department, seems to have been a persistent theme during this era. At least, this conclusion would be justified by the outcome of Rochester Assemblyman McNerney's resolution calling for hearings on fire insurance practices, which was introduced in the Assembly for him by majority leader Edwin A. Merritt, Jr.⁹³

Like the earlier Armstrong Committee, the Merritt Committee, organized on July 8, 1910, had investigative functions outside its principal job of reporting on the fire insurance question. It investigated charges of bribery in connection with Governor Hughes' Anti-Race Track Gambling Bill and it studied alleged corruption in connection with milk legislation. But two-thirds of the Merritt report dealt with fire insurance. The Merritt Committee held numerous public hearings in New York City, attended by

representatives of the underwriting boards. In general, the Committee failed to find evidence of excessive profits; it frowned on "anti-compact" laws, and it upheld the principle of "co-insurance."⁹⁴ However, it did recommend that rate-making bodies such as the Underwriters Association of the State of New York and the New York Fire Insurance Exchange be required to submit rate changes to the Insurance Department. The State Superintendent of insurance would be empowered to hear grievances and would arbitrate charges of discrimination. The Merritt reforms also called for a state Fire Marshal and progress toward a state-wide building code for minimum standards. Representatives of the underwriters who attended the Merritt Committee hearings did not object to these measures, and neither did the committee's counsel object to making alterations in the final report at the suggestion of the underwriters.⁹⁵ With the adoption of the new legislation in 1911, the state Insurance Department was charged with seeing that fire insurance rates were "reasonable and adequate" and "not unfairly discriminatory."⁹⁶ In practice, the Insurance Department could now serve as a convenient lightning rod for the fire insurance industry, diverting future protest like that which had so animated Rochester in 1909. The fairness of rates would, in future, be decided among experts of the underwriting boards and the Insurance Department, and not be a fruitful subject of angry debate among local officials, editorialists, businessmen, and the insurance industry.⁹⁷

Conclusions

Rochester's epidemic of arson resulted in significant improvement of its fire protection system. The epidemic also triggered a spirited confrontation between city leaders and the fire insurance industry, which in turn helped move the question of insurance reform in the state legislature.

The cause and cure of the epidemic cannot be described exactly. The city's vulnerability to fire, discussed at the beginning of this article, worsened the effects of arson but did not cause it. Several spectacular fires just after the turn of the century, climaxed by the Sibley fire in 1904, may have started the "cycle of imitation" which police theorists used to account for some of the arson during 1908 and 1909. Police speculation that incendiary fires were motivated in some cases by greed, and in some cases by thrill-seeking, seems to have been sound. Excessive insurance obtained because agents casually issued blanket policies may have contributed to the problem, but this line of inquiry was not pursued.

The rough police methods used to clear the city streets of vagrants and "suspicious characters" and the arrest and eventual conviction of four persons on arson charges may have checked the wave of incendiarism which crested in March and April of 1909. This was the conclusion reached by Police Chief Joseph Quigley in his annual report at the end of the year, and it was a point of view endorsed earlier by the team from the National Board of Fire Underwriters. None of the four persons imprisoned for arson was a professional criminal. One of the four was sent to Matteawan State Hospital for the Criminally Insane. A woman who set fire to the house she lived in to collect insurance on her furniture received the stiffest sentence, four to eight years at Auburn Prison.²⁸

Because of the death of Milton Clark, and perhaps also because they became allies in the city administration's campaign to remove the pink slip, the proceedings against James Johnston and the other local insurance men were quietly dropped. The chances of making a conviction stand against them, on the basis of a state anti-monopoly statute, were shaky at best. It would be wrong, however, to assume that the indictments were foolish or without effect, for Johnston and his colleagues were established businessmen unaccustomed to the criminal courtroom. That George Aldridge or his dependents, Howard Widener and Hiram Edgerton, would countenance the use of such a drastic weapon is a measure of the impatience felt by political leaders over the pink slip and Johnston's criticism. Because the city administration enjoyed the support of the public, newspapers, and business, it was able to turn the confrontation with the insurance industry into an election day asset. Mayor Edgerton won support partly because of the forthright way he pushed recommended improvements in the fire protection system, despite the cost. The administration enjoyed the support of the business community because of the substantial financial penalty the pink slip represented. The high-handed manner with which representatives of the insurance industry handled relations with the city was an additional bonus for incumbent officials.

If the indictments against the local insurance men were a cynical exercise of political power, perhaps they were justified by the equally cynical use of financial power exercised by the industry. The events indicate that Rochester's temporary pink slip was not based on the objective considerations claimed by the state underwriters, but was an attempt to "shake up" the city, just as the outspoken James Johnston said. To the city administration, which needed no reminders of the seriousness of the arson crisis, the dissembling of insurance spokesmen was a powerful provocation.

Notes

1. "Records of the Doings of The Trustees of the Village of Rochester-ville," June 2, 1817.
2. **Directory for the Village of Rochester**, 1827, pp. 98-103.
3. Blake McKelvey, Rochester, **The Flower City 1855-1890** (Cambridge, Mass., 199), p. 261.
4. **Rochester Union and Advertiser**, November 1, 1865.
5. **Union and Advertiser**, May 3, 1894.
6. **Penal Ordinance of the City of Rochester Relating to Buildings (Passed May 11, 1897)** (Rochester, N.Y., 1898), p. 4.
7. Frank H. Goler, "Main Street: In Retrospect," Rochester Historical Society **Publication Fund Series**, Vol XX (1942), pp. 87-95.
8. Rossiter Johnson, "The Grandest Playground in the World," paper delivered April 15, 1918 and published in RHS **Publication Fund Series**, Vol. VII (1928), pp. 69-89.
9. Lyle Wilson Holden, "Fire Protection in Rochester," typescript in Rochester Public Library, n.d., p. 6; McKelvey, **Flower City**, pp. 31-32; John S. Wilson, "Rochesters Centenarian of 1915," RHS **Publication Fund Series**, Vol. XX (1942), pp. 1-23.
10. **Union and Advertiser**, April 4, 1863; Holden, "Fire Protection," p. 4; McKelvey, **Flower City**, pp. 81-82.
11. Chief Engineer of the Fire Department, **Annual Report**, in **Annual Report of the Department of Public Safety**, City of Rochester, 1900; McKelvey, **Rochester, The Quest for Quality, 1890-1925** (Cambridge, Mass., 1956), p. 29.
12. McKelvey, "Water for Rochester," **Rochester History**, Vol. XXXIV (July, 1972), No. 3, pp. 1-24. Local property owners faced a 20 to 30 per cent increase in insurance rates after the Chicago fire, a circumstance with aided re-evaluation of the public expense of a water works, McKelvey, **Flower City**, p. 118.
13. Unidentified newspaper clippings dated February 19, 1874, **Barton Scrapbook** (R.P.L.), Vol. III, pp. 37-40.
14. McKelvey, "Water for Rochester," pp. 7-8.
15. Edwin A. Fisher, "History and Engineering of Rochester's Water Supply in its First Century," **Proceedings of the Rochester Academy of Sciences**, Vol. VII (March, 1932), pp. 59-95.
16. Chief Engineer of the Fire Department, **Annual Report**, 1900.

17. Charles W. Peiffer, "Our Firemen; History of the Rochester Fire Departments," typescript in R.P.L., 1940, Vol. II, p. 133-135.
18. Unidentified newspaper clipping dated February 29, 1904, **Samson Scrapbook** (R.P.L.), Vol. 104, p. 72; 437 fires in 1903 compare with 418 in 1901, 402 in 1902, 571 in 1904, and 560 in 1905, Chief Engineer of the Fire Department, **Annual Reports**, 1901-1905.
19. **Sibley Fire Scrapbook** (R.P.L.); Holden, "Fire Protection," pp. 8-9; Mississippi Wire Glass Company, **A Reconnaissance of the Baltimore and Rochester Fire Districts with some Illustrations and Excerpts from Opinions no less Authoritative than Significant** (New York, 1904?), pp. 70-76.
20. National Board of Fire Underwriters, Committee of Twenty, **Report on the City of Rochester, N.Y., 1904**.
21. McKelvey, **Quest for Quality**, p. 93; Chief Engineer of the Fire Department, **Annual Reports**, 1904-1906, 1908; National Board of Fire Prevention, **Supplement to Report ... Rochester, N.Y.**, May 7, 1907.
22. **Ibid.**
23. **Union and Advertiser**, January 2, 1908.
24. McKelvey, "His Honor, The Mayor of Rochester, 1900-1928," **Rochester History**, Vol. XXXI (January, 1969), No. 1, pp. 1-24; **Quest for Quality**, pp. 98-100.
25. **Rochester Democrat and Chronicle**, February 7, 1908.
26. **Rochester Evening Times**, July 8, 1908.
27. **Union and Advertiser**, October 5, November 4, 1908.
28. Chief Engineer of the Fire Department, **Annual Report**, 1908.
29. **Union and Advertiser**, October 9, 1908.
30. **Democrat and Chronicle**, October 10, 1908.
31. **Herald**, November 3, **Union and Advertiser**, November 4, 1908.
32. **Democrat and Chronicle**, November 9, **Union and Advertiser**, November 10, **Evening Times**, November 12, 1908.
33. **Rochester Post-Express**, **Evening Times**, **Union and Advertiser**, November 19, 1908.
34. **Union and Advertiser**, February 10, **Evening Times**, February 26, 1909.

35. Rochester **Herald**, March 20, 1909.
36. **Union and Advertiser**, March 31, 1909.
37. **Evening Times**, March 24, **Herald**, March 25, 1909.
38. **Evening Times**, March 20, 1909.
39. **Post-Express**, **Union and Advertiser**, March 22, 1909.
40. **Ibid.**
41. **Post-Express**, April 3, 1909.
42. **Evening Times**, March 22, 1909.
43. **Union and Advertiser**, March 31, **Democrat and Chronicle**, April 1, 1909.
44. **Evening Times**, March 31, 1909.
45. **Democrat and Chronicle**, March 31, 1909.
46. **Union and Advertiser**, April 2, 1909.
47. **Evening Times**, **Union and Advertiser**, April 5, 6, 1909.
48. **Evening Times**, April 6, 7, **Union and Advertiser**, April 7, 1909.
49. Chief Engineer of the Fire Department, **Annual Report**, 1909; **Evening Times**, April 8, 1909.
50. **Evening Times**, **Union and Advertiser**, April 14, 15, 1909.
51. **Ibid.**, **Herald**, April 14, 1909.
52. **Democrat and Chronicle**, **Evening Times**, April 14, 1909.
53. **Union and Advertiser**, April 15, 1909.
54. **Herald**, April 15, 16, 20, 1909.
55. **Union and Advertiser**, April 19, **Herald**, April 20, 1909.
56. **Post-Express**, April 16, 1909.
57. **Union and Advertiser**, April 23, **Democrat and Chronicle**, **Post-Express**, April 24, 1909.
58. **Herald**, April 24, 1909.
59. **Evening Times**, **Union and Advertiser**, April 24, 1909.
60. **Evening Times**, May 4, 1909.

61. **Herald, Post-Express**, May 4, 1909.
62. **Union and Advertiser**, May 4, 1909.
63. Chief Engineer of the Fire Department, **Annual Report**, 1909.
64. **Democrat and Chronicle**, April 27, **Herald, Post-Express**, May 4, 1909.
65. **Evening Times, Union and Advertiser**, June 4, **Post-Express**, June 5, 1909.
66. **Herald**, June 29, 1909, **Democrat and Chronicle, Evening Times**, July 10, 1909.
67. **Democrat and Chronicle**, July 29, 1909.
68. **Democrat and Chronicle, Post-Express**, August 12, 1909.
69. **Democrat and Chronicle, Herald**, July 30, 1909.
70. **Herald**, July 18, 1909.
71. **Herald**, September 9, **Post-Express**, October 22, 1909.
72. **Herald, Post-Express**, September 14, 1909.
73. **Evening Times**, September 21, 1909.
74. **Ibid.**
75. **Democrat and Chronicle**, October 21, 1909.
76. **Evening Times, Post-Express**, October 23, 1909.
77. **Evening Times**, October 26, **Democrat and Chronicle**, October 27, 1909. According to figures supplied to the Committee on Fire Prevention by police and fire officials, incendiary fires had averaged 18 per month during February-May, 1909. During June-September the incendiary rate had dropped to 4.25 per month.
78. **Post-Express**, October 20, 1909. The Republican **Democrat and Chronicle** ridiculed Democratic use of the pink slip. "Mr. Spencer and his campaign partner, James Johnston, are going to have a hard time convincing the businessmen of Rochester that people are setting fire to their homes because Mr. Edgerton instead of Mr. Spencer is mayor of the city." **Democrat and Chronicle**, October 29, 1909.
79. **Herald**, July 20, 1909.
80. **Union and Advertiser Year Book for 1911**, p. 78.

81. Rochester Bureau of Municipal Research, "Canvass of Votes and Political History of Rochester's Councils and Mayors and Monroe County's Boards for 100 Years, 1834-1934," typescript in R.P.L., pp. 84-85.
82. **Evening Times, Herald**, November 10, **Democrat and Chronicle**, November 11, 1909.
83. **Evening Times, Post-Express**, January 5, 12, 1910.
84. **Herald**, January 12, 1910.
85. **Building Code of the City of Rochester**, Adopted by the Common Council September 27th, October 25th, December 13, 1910, and January 10th, 1911.
86. **Herald**, January 14, 1910.
87. **Herald**, November 18, 1909.
88. **Herald, Post-Express**, December 24, 1909.
89. Lester W. Zartman, **Yale Readings in Insurance; Life Insurance**, (New Haven, Conn., 1909), pp. 312-333.
90. John Gudmundsen, **In The Public Interest; One Hundred Years of Insurance Supervision in New York State** (Insurance Industry Committee for the New York Insurance Department Centennial, 1960), pp. 12-18. New York's legislation was widely imitated, and by 1870 most states had insurance departments or some equivalent. The network of state regulation which grew up, coordinated in a National Association of Insurance Commissioners, complemented the fire insurance industry's older network of state, regional, and national boards and associations.
91. *Ibid.*, 19-20.
92. According to one authority, "A succession of highly paid and hitherto respected insurance executives admitted that they retained control over their companies through extralegal devices, made regular campaign contribution to the Republican party, bribed legislators of both parties, paid out large sums to corrupt the press, maintained lobbyists at Albany and other state capitals, arranged illegal loans between their companies and banks on whose boards they served, speculated with their companies' funds in other enterprises, falsified their books, and knew virtually nothing about the actual conduct of the insurance business." David M. Ellis *et al.*, **A History of New York State** (Ithaca, N.Y., 1967), pp. 383-384.
93. **Herald**, January 19, 1910.

94. New York *Times*, January 29, February 2, 1911. An "anti-compact" law could take different forms, but the idea was to discourage collusion among insurance companies and agents in setting rates. District Attorney Widener's proposal would have employed the criminal sanctions of New York's anti-monopoly law; some states attempted to accomplish the same end through amendment of insurance laws. "Co-insurance" was, and is, a complex principle enforced by underwriters which requires an insured party to assume a portion of the risk of loss.
95. New York *Times* March 2, 1911.
96. Gudmundsen, In *The Public Interest*, p. 27.
97. The Merritt reforms did place some check on the previously unbridled powers of the underwriting boards. In fairness to the point of view of the fire insurance industry, the fact that rate-setting was an exceedingly complex process argued against undue governmental interference. cf. W.F. Gephart, "Fire Insurance Rates and State Regulation," *Quarterly Journal of Economics*, Vol. XXVIII (May, 1914), pp. 447-465. Attempts to enforce competition among insurance companies were strongly resisted, and with some justification, because of the argument that the only fair rate was a *uniform* rate based on careful analysis of the fire hazard. Some states did attempt to enforce competition, with disastrous consequences. W.E. Underwood, "Missouri Anti-Trust Law." and "The Fire Insurance Trust," *Independent*, Vol. LXXIV (April 17 & May 8, 1913), pp. 891 & 1060. If fire insurance is conceded to be a natural monopoly, then the "fairness" of rates depends on the profitability of the industry. During the contest between Rochester and the Syracuse-based state underwriters association, the industry submitted figures showing a slight loss over a ten-year period; but the companies' report of expenditures included a 33-1/3 per cent of premiums allowance for expenses. The industry's national statistics contained an even more inflated "expense" allowance. The National Board of Fire Underwriters, at its 47th annual meeting in 1913, compiled statistics of the industry's profit and loss record for the previous ten years:

Premiums		\$2,550,290,543
"Increase in liabilities"	\$ 153,413,427	
Losses paid	1,427,214,115	
Expenses	<u>973,030,796</u>	
		<u>2,553,658,338</u>
Deficit		-(\$ 3,367,795)

Source: W.E. Underwood, "National Board of Fire Underwriters," *Independent*, Vol. LXXIV (May 29, 1913), pp. 1218-19.

In this case, expenses, which included such items as dividends, executive salaries, agents' commissions, and office management, were set at 38 per cent of premiums, or nearly two-thirds the amount of losses paid (a meaningful gauge of the service provided).

98. Chief of Police, **Annual Report in Annual Report of the Department of Public Safety**, 1909; **Herald, Post-Express**, April 6, **Union and Advertiser**, July 13, **Democrat and Chronicle, Herald**, August 11, 1909.

