STEINBACH *v.* INSURANCE COMPANY.

On a policy of insurance requiring, though in a printed part, that fire *works* should be specially written in it, and which added 50 cents on the $100 as premium for insuring them, *Held* that evidence was rightly refused to prove that they constituted "an article in the line of a German jobber and importer," the stock of which sort of dealer by a *written* description had been insured, with a privilege to keep fire *crackers*.

ERROR to the Circuit Court of the United States for Maryland.

Steinbach sued the Relief Fire Insurance Company on a policy of insurance against fire.

The subject insured was described *in writing*, as follows, in the body of the policy:

"On his stock of fancy goods, toys, and other articles in his line of business, contained in the brick building situated, &c., and now in his occupancy *as a German jobber and importer*. Privileged to keep *fire-crackers* on sale."

The premium paid was 40 cents on the $100.

It was provided in the *printed* part of the policy that

"If the premises should be used for the purpose of carrying on therein any trade or occupation, or for storing or keeping therein articles denominated hazardous, or extra hazardous, or specially hazardous, in the second class of hazards annexed to the policy, except as herein specially provided for, or hereinafter agreed to by this corporation in writing upon the policy, the policy shall be of no effect."

Among the second class of hazards, classed as hazardous No. 2, were enumerated "fire-crackers in packages," and it was stated that they add to the rate of premium 10 cents per $100. And classed as specially hazardous were "*fireworks*," it being stated that articles in that class add 50 cents or more to the rate, and to be covered must be specially written in the policy.

The plaintiff proved that the stock of goods in his store was insured in five other companies; in four of which there were the words, "fireworks permitted."

Argument for the assured.

The fire, about which there was no doubt, originated in the fireworks that the plaintiff had in store for sale; and this being admitted, the plaintiff offered to prove "that fireworks constituted an article in the line of business of a German jobber and importer." The defendant objected and the court refused to admit the evidence. The plaintiff excepted, and on writ of error brought by him after judgment against him, the question was whether, in its refusal, the court had erred.

Messrs. A. Sterling, Jr., and A. Wolff, for the plaintiff in error:

1. The written part of the policy controls the printed part.

2. For the purpose of showing that the written part of the policy covered fireworks, it was proper to prove what "articles" were in the plaintiff's "line of business as a German jobber and importer," and it was a question for the jury whether fireworks were part of the stock of fancy goods, toys, and other articles in the plaintiff's line of business.

3. Although fireworks and other articles kept on hand by the plaintiff and by persons in his line of business are enumerated in the printed part of the policy as "hazardous," "extra hazardous," or "specially hazardous," and are required, in order to be insured, to be specified in the policy in writing, yet if it can be proved that fireworks were kept on sale by the plaintiff and constituted an "article in his line of business, &c.," then fireworks are within the language of the written part, and are insured without reference to the printed part, and are in law "specified in the policy in writing."

The insurer, instead of enumerating specially all the plaintiff's stock of goods which he intended to cover by the policy, comprised them in a general description in writing, by specifying them as all articles in the plaintiff's line of business as a German jobber and importer, and thereby insured all articles so kept by the insured, and necessary for the proper carrying on of his business.

Mr. William Shepard Bryan, contra.

Statement of the case.

The CHIEF JUSTICE delivered the opinion of the court.

The only question in this case arises upon the construction of the policy sued upon.

It contained a clause providing that fireworks, among other things, should be specially written in the policy. Otherwise they were not to be covered by the insurance. It is not pretended that fireworks are included under the name of fire-crackers. But the plaintiff contends that they are included in the description of "other articles in his line of business." The answer to this is, that the policy itself requires that fireworks shall be specially written in it. They are among the goods described as specially hazardous, and add 50 cents on the $100 to the ordinary rate of insurance.

It is impossible to think they are described by the general terms used in the policy. The insurance was at the ordinary rates. There can be no doubt that the evidence was properly rejected; and the judgment of the Circuit Court must, therefore, be

AFFIRMED.

PHILIP ET AL. *v.* NOCK.

The right given by the acts of February 18th, 1861, and July 20th, 1870, of appeal or writ of error without regard to the sum in controversy in questions arising under laws of the United States, granting or conferring to authors or inventors the exclusive right to their inventions or discoveries, applies to controversies between a patentee or author and alleged infringer as well as to those between rival patentees.

MOTION to dismiss an appeal from the Supreme Court of the District of Columbia.

The Judiciary Act of 1789, as is known, gives jurisdiction to this court in ordinary cases only "where the matter in dispute exceeds the sum or value of $2000."

The Patent Act of February 18th, 1861,* provides that

"From *all* judgments and decrees of any Circuit Court, ren-

* 12 Stat. at Large, 130.