

A Chartered Town

An opportunity to secure a change in local government occurred when the First Legislative Assembly of the Territory of Iowa convened at Burlington on November 12, 1838. Dubuque County was represented in the Council by Stephen Hempstead and Warner Lewis, the former serving as president. On November 24th, scarcely two months after the Dubuque trustees had been chided for neglect of duty, Hempstead presented a bill in the Council to incorporate Dubuque. After considerable discussion and amendment the measure passed the Council on December 4, 1838, and was adopted by the House of Representatives with further amendments three days later. But the eagle eye of Governor Robert Lucas detected a flaw. The judicial powers of the mayor, he said, were incompatible with the organic law of the Territory and certain acts of Congress dealing with the fugitive slave clause. He accordingly vetoed and returned the measure on January 8, 1839. Eight days later Hempstead moved that the charter be referred to the committee on incorporations. During the waning days of the session the bill apparently was forgotten.

A year elapsed before Dubuque had another

opportunity to petition the legislature. On November 11, 1839, Representative Edward Langworthy sought permission to introduce in the House at some future day a bill to incorporate Dubuque. Representatives Edward Langworthy, Loring Wheeler, and James Churchman, all of Dubuque, were appointed to draw up the measure. On December 2, 1839, House Bill No. 51 was reported "to incorporate the city of Du Buque." Read a second time on December 6th, the bill with certain amendments was discussed and, on motion of Mr. Langworthy, was tabled. Nearly a month later, January 3, 1840, it was taken from the table, referred to a select committee, and presented on January 6th in amended form. Having passed the House on January 9th, it was transmitted to the upper chamber where it was considered in committee of the whole, amended, and finally passed on January 14th. Governor Lucas approved the measure on January 17, giving Dubuque a special charter for a mayor-council type of government.

The Dubuque charter of 1840 was far more comprehensive than the articles of incorporation under which the trustees had functioned. It contained twenty-one sections compared with only twelve in the old act. It bounded the town as "surveyed and laid off by the commissioners appointed under an act of Congress to lay off the towns of Fort Madison, Burlington, and Du Buque." It provided for the annual election of one mayor and six

aldermen instead of five trustees. It granted corporate powers, outlined the work of the city council, prescribed the duties of the mayor and other city officers, arranged for the creation of wards, described the method of holding elections, and regulated the opening and paving of streets, lanes, alleys, and sidewalks.

The extreme care with which the special charter of 1840 was drafted is illustrated by section 5 which outlined the powers of the council: "The city council shall have power to grade, ditch and cut sewers, to make, alter, widen and repair streets, lanes and alleys; to make and repair wharves or public landings within the corporation, to license houses where liquor is sold by the dram, to license drays, carts and other vehicles kept for public hire, to license and prohibit shows and other public exhibitions, to dig and keep in repair public wells, to license and regulate billiard tables, to prohibit the discharging of firearms and the racing or immoderate running of horses within the corporation, to levy and collect a tax upon dogs, to restrain or prohibit the running at large of ferocious animals, to establish and regulate the rate of wharfage of all boats or vessels or rafts landing within the limits of the corporation, to establish a ferry or ferries and for annually leasing the same, to cause to be fenced vacant or unimproved lots, to restrain and prohibit houses of ill fame, and all indecent exhibitions within the city."

This same section also permitted the city council "to hold, purchase and convey real and personal estate for the use of said city" and to borrow money "at any rate of interest not to exceed twenty per cent per annum." The law required, however, that the borrowed money must be expended exclusively in the "public improvement of the city" and could be repaid by a city tax not to exceed "one-fourth of one per centum" of all real and personal property. Finally, the council could organize "fire companies not to exceed twenty-five men each" whose members would be "exempt from militia duty." In a word the council was granted power "to pass all laws and ordinances not inconsistent with the constitution of the United States and laws of this territory."

The special charter provided that the legal voters should assemble at the courthouse on the first Monday in March of 1840 and ballot on the new charter. If a majority favored it the law became effective two weeks later. The citizens were then to vote for new officers on the first Monday in April. For some unknown reason no such vote was taken until March 1, 1841, when the charter was adopted by a vote of 58 to 38. Subsequently, on April 5, 1841, the citizens elected Caleb H. Booth as Mayor and Jesse P. Farley, Charles Miller, Edward Langworthy, W. W. Coriell, H. Simplot, and Timothy Fanning as aldermen. Four of the six aldermen — Farley, Miller, Langworthy, and

Fanning — had seen previous service on the old board of trustees.

The charter provided that the polls should be open "from nine in the morning to five o'clock in the afternoon" when the judges were to issue election certificates to the persons having the greatest number of votes. This was accomplished on the evening of the election and four aldermen were sworn in. The trustees thereupon turned over the books and papers to the new aldermen who were present. Langworthy took the oath of office on April 12th, Farley in the following week, and Mayor Booth on April 26th.

Meanwhile, the new city fathers began a period of intense activity which did not abate until the heat of summer blistered the straggling community. On April 12, 1841, Timothy Mason appeared and complained vehemently against a "Log Cabin occupied by T. E. Norris as a Stable." Dennis O'Shea was allowed six dollars for two days' work with his horse and cart on Bluff Street. Benjamin Rupert was elected clerk pro tem. It was not until May 3, 1841, however, that the regular election of officers occurred. At that time Benjamin Rupert was elected clerk, B. F. Davis was named marshal and collector, E. C. Dougherty was chosen assessor and street commissioner, William Lawther selected as treasurer, and Charles Miller designated as weighmaster. Two weeks later the clerk reported that all had agreed to serve

except Lawther, who was absent. He also declared he had made a contract with E. C. Dougherty for a room back of the recorder's office at the rate of two dollars per month.

One of the largest items of municipal expense was the improvement of streets and alleys. On May 24th the city council appropriated twenty dollars for work on Eighth Street west of Bluff. "We are happy to perceive," remarked the *Iowa News* of May 29, 1841, "a spirit of energy in the movements of our new corporation which will before long remedy the evils under which our citizens have so long suffered. The work of straightening Eighth Street and repairing the road through Lorimer Hollow, over which a considerable portion of the business of the town with the country in its rear is done, will not only be of great benefit to our trade, but will stop the rush of water which for the past two years has been ruining the property at the south end of Locust Street." On June 10th the street commissioner was ordered not to pay more than \$2.50 per day for a man with horse and cart; in August he was instructed to collect the tools of the city and put them in a safe place.

Even more costly were the efforts to improve the river front by excavating a canal between the inner and outer slough. On May 26th the council held a special meeting and placed the street commissioner in charge of the work. "After this improvement is completed," the *Iowa News* asserted,

"a current will be thrown into the inner slough which will render its waters sweet and healthy and enable steamboats to approach the wharves in ordinary stages of water. We have too long remained in a state of apathy in regard to the disadvantages suffered on account of the obstructions of our harbor and the consequent injury to the health and business of this place. . . . After this canal is commenced all our citizens who feel interested in its speedy completion will have an opportunity of affording such assistance to the corporation as they may deem expedient either in teams or labor." The sums expended on this project were large. On June 7th the council paid \$100 in orders to Street Commissioner E. C. Dougherty for work on the canal. At subsequent meetings sums totalling \$500, \$400, \$1000, and \$500 were expended in scrip for canal excavation. By September 6, 1841, the council had appropriated \$3500 for this purpose.

There were other bills to be met. On June 28, 1841, James V. Campton and William Redman were allowed \$65.50 for blacksmith service. William Smith was paid \$15 as assessor and Charles Miller got \$14 for some "scrapers." W. W. Coriell printed five ordinances in the *Iowa News* for \$19. The total expenditures for the year ending April 1, 1844, amounted to \$1491.61. The smallest sum was 75 cents to O. Bobien for hauling lumber for a bridge; the largest was \$200 for five

culverts. By 1844 the total city indebtedness equalled \$5461.84, a staggering sum for pioneer days.

Meanwhile, city revenue was just as difficult to collect as under the old board of trustees. "The taxes assessed," railed the *Iowa News* on June 16, 1840, "upon houses and lots in the town of Du Buque, to which the government title has not yet been extinguished, being illegal, our citizens are not willing to pay, without better evidence is furnished them, that the money heretofore collected has been expended in a way to benefit the town. It is time enough to pay our taxes when we have our evidences of title in our pockets." A tax of one-fourth of one per cent (two and one-half mills) on real and personal property had been levied on June 28, 1841. For the year ending March 29, 1844, a total of \$1434.65 was collected, or slightly less than had been expended. The great bulk of the money was derived from two sources: the real and personal property tax brought in \$527.86, while the grocery license for selling liquors accounted for \$525 more. The Howes & Mabey circus paid a five dollar fee while another five dollars was derived from pedlar and theatre licenses. The sale from hogs taken up in the street netted \$62.50; the dog tax brought in \$26; and the hay scale accounted for \$10.50. A half dozen other items completed the list of the sources of revenue for local government.

Although the special charter had granted power on many subjects, it was still necessary for the council to pass numerous ordinances. The first provided for the appointment of certain city officers and prescribed their duties. Next, an ordinance regulating groceries fixed the license for these liquor establishments at not less than \$25 or more than \$100. A fine of from \$10 to \$40 might be imposed for permitting "riotous conduct in or about" a grocery. Grades and sidewalks were regulated and citizens were enjoined from throwing filth, rubbish, or dead animals in the streets and alleys. Citizens were also prohibited from slaughtering animals at home. On June 7, 1841, Samuel B. Johnson appeared before the council and entered a complaint against the "Dutch Butcher" who was located at the corner of Fourth and Main streets.

Several ordinances regarding hogs running at large were passed and met with considerable opposition. To protect the public graveyard, a fine of three dollars was imposed on any person guilty of placing animals inside the fence. Another ordinance declared that no more than "two Hogs or one Sow and Sucking pigs" belonging to a single family would be permitted to "run at large" within the city limits. Owners of any animal taken up had to pay a fine of fifty cents plus expenses. If the stock was not immediately recovered it was sold and the proceeds put in the treasury. "As the season for fleas is approaching," cautioned the

Iowa News, "we beg leave to direct the attention of the corporation to the droves of hogs which infest our streets."

The large number of dogs prompted the council, on July 19, 1841, to ordain that all "who may keep or harbor any dog or Slut" must pay a two dollar tax and place on the animal a "metallic collar" durably and legibly engraved with the owner's name. Failure to comply might bring a fine of ten dollars. Furthermore, the marshal was directed to kill all dogs running at large.

On August 28th, the *Miners' Express* printed the following letter: "Mr. Editor: I wonder if the dogs of Dubuque have ever had the Dog Law read to them? for I see them walking about the city as carelessly as though they were entirely ignorant of the Ordinance which has been promulgated by the City Council. By the way, I would propose that the penalty be commuted, and instead of the punishment contemplated, that they be collected together and driven down Locust-street. Should any be fortunate enough to pass over the gully without breaking their necks, they ought to be permitted to escape."

The scope of general welfare legislation was further enlarged by various safety precautions, but the ordinance to regulate stovepipes for fire prevention caused an unexpected repercussion when the marshal found that four of the seven stovepipes out of order in Dubuque belonged to

Alderman Timothy Fanning. Sleights could not be driven "out of a walk" unless the vehicle was provided with bells attached to the horse or horses. A two dollar fine was imposed for the first offense and three dollars for each additional offense.

Some of these ordinances were very unpopular. On June 7, 1848, a subscriber to the *Miners' Express* complained when a "City Inspector and Measurer of Wood and Lumber" was appointed. "Where did these wise Aldermen find a precedent for the act?" the irate citizen inquired. "Did they advise with the people, or was it from a desire to rob the poor wood haulers? If the latter, let me assure the Hon. Board, their city will go without wood."

A capable group of officials served Dubuque under the special charter. Samuel D. Dixon was elected mayor in 1842 and James Fanning succeeded him in 1843. F. K. O'Ferrall broke a one-term precedent when he was elected in 1844, 1845, and 1846. Although Dubuque was strongly Democratic, it appears that, with the election of P. A. Lorimier in 1847 and George L. Nightingale in 1848, the Whigs came into power. As the election of 1849 approached, the intensely partisan *Miners' Express* called attention to those Whigs who were commencing the "old cry" of "no partyism" with its attendant plea for "honesty and capability" as the determining qualities for office. "Honesty and capability are, in our estimation," the editor de-

clared on March 20, 1849, "indispensable qualities in an office-holder, but when the office is vacant, and the people are called upon to fill it, such men should be selected as possess, not only the qualities above referred to, but such political opinions as are agreeable to the taste of the majority. Dubuque is decidedly a Democratic City, and we have not been able to discover any good reason why her political opinions should not be reflected by her rulers. What say you? Shall we have a Democratic City Council for the coming year?"

From the creation of the Territory of Iowa in 1838 until the practice was prohibited by the constitution of 1857, forty Iowa cities and towns received special charters from Territorial or State legislatures. Twenty-seven of these towns were granted one charter, eight obtained two charters, three had three charters, while Mount Pleasant and Dubuque each operated under four special charters. The original Dubuque charter of 1840 was followed by another approved on January 19, 1846. In the following year, 1847, a third special charter was provided by the legislature. Ten years later, in 1857, the fourth special Dubuque charter was approved by Governor James W. Grimes and remained the organic law of the city for sixty-three years. This charter, with the compiled city ordinances, comprised in 1919 a thick 497-page volume, ample proof of the complexity of local government in the Key City of Iowa.