

Government by Ordinance

Though ardent partisanship is aroused by national politics and major candidates attract the most attention, the daily welfare of the common people is more directly affected by local government. In Territorial times the Iowa pioneers exercised their autonomy by managing the affairs of their neighborhood as they pleased. Rules of conduct were adopted by local officials for the benefit of the community. A few of the larger towns obtained special charters for their government. The ordinances in those cities now include a multitude of subjects — the whole range of the alphabet from airports to zoning — but a hundred years ago municipal functions were not so complex. Transportation facilities, health, morals, orderly conduct, the observance of the Sabbath, and taxes were the matters of chief concern. In one respect, however, conditions do not seem to have changed. Municipal officers were criticized in 1838 for their laxity in the performance of their simple duties.

One of the first responsibilities of a new town is to determine the geographical limits of its authority. In this regard an early Dubuque ordi-

nance is unique in its reference to landmarks which were not permanent. The northern boundary of the town was described as a line running parallel to a fence "which is near the grave yard and about 150 yards north of a house occupied by Mr. Plumb". From the east end of this fence the boundary extended "in a direct line therewith to low water mark on the slough of the Mississippi river". From the west end of the fence the boundary projected through the grave yard "to the foot of the bluff, at which point is placed a stake". The south and west town limits were described in a similar manner. The east boundary of the town was designated as "the line of low water mark of the Mississippi river."

Realizing the stern necessity of funds with which to carry on municipal functions, the town aldermen of Burlington passed an ordinance which provided that all lots or parcels of land within the corporate limits should be taxed at the rate of twenty cents on each hundred dollars of taxable value, and that each building should be taxed at the rate of fifteen cents per hundred dollars of valuation.

For the purpose of opening and keeping in repair the streets, alleys, and roads in Fort Madison, a poll tax payable in labor was adopted. This statute required every male inhabitant of the

town, between the ages of twenty-one and fifty years, to render two days' labor each year, but any one could substitute the payment of two dollars for each day of labor. In Dubuque a similar requisition was made applicable to all male residents under the age of sixty years. If any one were not able to work, however, he might be excused by the town marshal.

Various license fees formed another source of revenue. In Dubuque any person who intended to exhibit for money "any wax-figures, rope or wire dancers, cups and balls, thimble playing, sleight of hand, circus riding" — or any other exhibition had to obtain a license from the town trustees. The license fee was not less than five dollars nor more than one hundred dollars. Burlington charged twenty-five dollars a day for exhibiting "any show of wax figures, wire-dancing, circus riding, or any exhibition of any wild animals".

In the regulation of river transportation, Dubuque in 1838 adopted an ordinance which provided that all steamboats arriving at "any of the wharves, shores or landing within the corporate limits of the town", at each trip from the port below, should pay to the marshal of the town for the use of the corporation the sum of five dollars. Moreover, "the owner of each and every raft"

had to pay two dollars for landing and two dollars for every twenty-four hours that it remained at the wharves.

Local interest was protected, however, by the exception that "rafts of logs intended to be sawed at the steam mill of O'Ferrall, Booth and Co.", should not be subject to this tax. Neither did the regular landing fees apply to persons who had a yearly license for the use of the wharves.

Another significant regulation pertaining to transportation and health in Dubuque provided for the appointment "of some person well skilled in the science of medicine, to be styled the Port Physician", whose duty it was to visit vessels coming into port to ascertain if they carried any infected or diseased persons. If persons so afflicted were found on board, the physician of the port was directed to report this fact to the president of the trustees. He, in turn, was obliged to "order the Boat or vessel to be immediately removed, and anchored in the middle of the main channel of the Mississippi river", there to remain for such time as the port physician should think necessary, or as the public good should require. The president was further authorized to issue a proclamation "prohibiting all intercourse between the town and any boats or vessels" thus anchored in midstream.

In regard to street traffic no person in Dubuque could receive "hire or pay for the hauling or transportation of any articles whatever, in or upon any wagon, cart, dray or sled", within the limits of the corporation, unless the carrier was licensed by the president and trustees of the town. Such a license for the transportation of goods could be obtained from the town clerk upon the payment of a fee of five dollars a year. Every "wagon, cart, dray or sled" thus licensed was required to bear a registration number plainly painted "on the near side of the carriage".

A health and safety regulation adopted in Dubuque a hundred years ago is significant for its modern attitude toward public welfare. For a "better supply of good and wholesome water, and in order to guard against the destruction of property by fire", the president was authorized to contract for the construction, "in a good and substantial manner", of three public wells, to be situated in the town at points most convenient to the public. The "faith of the corporation" was pledged to pay for digging these wells. Nevertheless, "any monies raised by voluntary subscription of the citizens" to aid in this worthy cause were to be "faithfully applied to that purpose".

In Fort Madison the president and trustees authorized the appointment of two health officers,

whose duty it should be to visit "every house and lot" within the corporation, "once every month if necessary, and oftener if required." If any nuisance were found on any property the officers were directed to notify the owner or his agent, and report the matter to the trustees. No one was allowed to put "dirt, rubbish, trash or chips" in the streets.

In the interest of public safety in Burlington, any person who placed, caused to be placed, or allowed to remain upon the public streets, sidewalks, or alleys, "any lumber or any species of property whatsoever", or who threw or caused to be thrown on the streets, sidewalks, or alleys, "any filth, trash or nuisance of any description", was subject to a penalty for each offense. Furthermore, any person or persons who should "unnecessarily and furiously, run, gallop, ride or drive any horse, mule or other animal", within the limits of the town, was liable for the payment of a fine.

Another ordinance provided that if any one should "maliciously or wilfully disturb the peace or quiet of any person or family, or any congregation assembled for religious worship" within the town, either in the day time or in the hours of the night, "by loud or unusual noises, or by tumultuous and offensive behavior", he should be fined a

sum not to exceed ten dollars. If any person should, "except in defense of his person or property", shoot, discharge, or cause to be discharged "any fire arms, of any description whatsoever", or if he should cause to be discharged or set off "any squibs, crackers, or any other composition of gun powder", within the limits of the town, he should be subjected to a similar fine.

Concerning games of chance and the protection of morals the Burlington council passed an ordinance that was at once explicit and inclusive. A fine of from eight to ten dollars was imposed upon the gambler who, by playing any game within the town, should "bet, win or lose, any sum or sums of money, or goods, wares, merchandise, or other valuable thing or things, or property of any description". Moreover, any one proven to be "guilty of any gross public indecency, tending to corrupt the morals and manners of the people", was liable to be fined as much as ten dollars.

Peace and quiet within the corporate limits of Fort Madison were highly prized and zealously guarded. Conviction upon a charge of assault and battery carried with it a possible fine of fifty dollars. Moreover, any person who disturbed the peace of the inhabitants by "making any loud and unusual noises, or by threatening, traducing, quarreling" or challenging to fight, might be subjected

to the same penalty. Such activities as "blowing horns, trumpets, or bugles, ringing bells, beating drums, hollooming and shouting" were also made offenses under this ordinance. In like manner, any person who should "in the night time set fire to a tar barrel", or to "any thing or substance which will produce a blazing light" might thereby become subject to a fine ranging from three to thirty dollars.

Characteristic of pioneer piety, the desecration of the Sabbath was rigorously prohibited. To "engage in any ordinary labor, or keep open the houses of trade or business, except in cases of extreme necessity," was a serious misdemeanor. An exception to the rule was that provisions might be sold to incoming boat passengers, and that freight might be unloaded at the wharves on Sunday.

A "Sunday" ordinance in Dubuque, however, provided that "no steam boat, vessel or craft" should land or discharge any freight within the corporate limits of the town "on the Lord's day, or Sabbath, commonly called Sunday." If any freight were "handled or discharged" contrary to the provisions of this ordinance, the owner, clerk or proper officer of the boat was liable to a fine of ten dollars "for each and every cask, barrel, box or package so landed or discharged."

In Fort Madison it was illegal to "play at any

game of ball" or "any game of quoits", "pitch dollars or any other coin", "discharge any fire arms or pistols", "run a foot race on a wager", or "keep open or admit any person into any shop, grocery or store for the purpose of trade within the limits of this corporation on the Sabbath day".

Such, briefly and in part, were the typical ordinances of Iowa towns a hundred years ago. Yet it is well to recall that "governments, like clocks, go from the motion men give them". Laws must be effectively administered as well as carefully written. Enforcement, even in pioneer days, was not always easy, and occasionally harsh criticisms were heard.

In the autumn of 1838 a citizen of Dubuque decried local officials in no uncertain terms. "If our town Trustees", he said, "are not a little more attentive to their duties hereafter we'll expose them by publishing their names as such! Why are persons permitted to haul sand from the middle of Locust street at the crossing of Third? thereby endangering the lives of persons riding in the night. And why are the butchers permitted to throw the heads of animals in our streets? at which half a dozen dogs are frequently to be seen growling round and fighting for. Many other growing evils might be pointed out — but it seems altogether useless, at least unless they do some-

thing in order to show that there is a board of Trustees. Most of our citizens have paid their tax, and the law is sufficient for their collection from those who have not, leaving no excuse for this neglect of duty. We hope it will be attended to."

In the century that has passed since these words were written, municipal functions have multiplied and expanded a hundred fold. The simple, explicit statutes of the pioneer towns — not always faithfully observed — constitute a valuable index to the character of the people and their manner of living. These relics of local self-government are, to us, a challenge to carry on the tradition of democracy toward the ideal of general welfare.

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