

A Town Incorporated

Jonathan W. Parker was in a dilemma.

Only eleven days previously, on the morning of January 10, 1839, he had successfully moved that "no new business of any description" should be introduced into the Council of the Territory of Iowa after January 20th. His resolution was quite in order for there was grave danger of clogging the legislative wheels. Now, however, Mr. Parker found that he himself had forgotten to introduce what was probably the most important measure to many of his constituents — a bill to incorporate his home town of Davenport.

Late in the afternoon of January 21, 1839, Parker rose in the Council Chamber and asked his colleagues to suspend the resolution prohibiting the introduction of any new business in order to propose his bill. His request was granted, whereupon he introduced "A Bill, No. 57, Council file, to incorporate the town of Davenport." The bill was read, but before further action could be taken the Council adjourned. Only four more days of the session remained.

Jonathan W. Parker was twenty-eight years old when he introduced his bill to incorporate

Davenport. Born in Clarendon, Vermont, on August 10, 1810, he studied law in Pennsylvania. With his father he came to Davenport in 1836 and was admitted to the bar at the first term of court. When the Territory of Iowa was established in 1838, he was elected to represent Scott and Clinton counties in the First Legislative Assembly. He was reëlected to the next three Assemblies, serving as President of the Council during the session of 1841-1842. He was a trustee of Davenport in 1839 and 1840, and in 1841 his fellow townsmen named him mayor. Nine years later he died of cholera while on a visit to Cincinnati.

In January, 1839, when Parker introduced the bill of incorporation, Davenport was only an unkempt river town of scattered cabins. Victorious over Rockingham in two fraudulent elections to locate the county seat, Davenport was still uncertain of becoming the political capital of Scott County. Perhaps incorporation was designed to facilitate that object. At any rate Parker's bill was "read and considered" in the committee of the whole Council on the morning of January 22, 1839. Chairman Stephen Hempstead reported the bill back "without amendment", in which the Council concurred. Hempstead then moved that the rule requiring bills to be engrossed be suspended; the bill was read a third time, and passed.

In the afternoon of the same day Peter B. Loop, Assistant Secretary to the Council, informed the House that the Council had passed a bill "to incorporate the town of Davenport." That evening the House, Andrew Bankson presiding, approved the bill to incorporate Davenport without amendment, ordered it read a third time, and reported its passage to the Council. Governor Robert Lucas signed the measure on January 25, 1839.

The act to incorporate Davenport was approved just two days after Bloomington (Muscatine) was incorporated. While the two acts were alike in some respects they differed considerably in others. Davenport's charter was shorter, containing one less section than Bloomington's. It could be amended or repealed by any future legislative act. Indeed, this charter remained in effect only three years.

The first section incorporated the "original town plat" and the additions made thereto by Antoine Le Claire, together with all additions that might be approved by two thirds of the qualified voters, provided the town did not "exceed two miles square". Clearly the incorporators did not dream of the modern metropolis!

Elections were simple and inexpensive in 1839. The act provided that the qualified voters should meet on the first Saturday in April at some "con-

venient place" and elect by ballot "a Mayor, Recorder, and five Trustees" for a one year term. Two judges and a clerk, chosen by the electors *viva voce*, were to preside at the first election. In subsequent elections the mayor (or any two trustees) were to sit as judges. Polls were to be open "between the hours of one and two in the afternoon, and close by the hour of four the same afternoon". Thereupon the votes were to be counted and the results "proclaimed at the door of the house" in which the election was held.

The rights and duties of the town officials were clearly defined. The mayor, recorder, and trustees, constituting the council, were declared to be a political and corporate body legally capable of acquiring and conveying real and personal property. The town could have a common seal and could sue or be sued in any Territorial court. The officers were empowered "to make, ordain, and publish all by-laws and ordinances" necessary for the promotion of morality as well as for the "good regulation, interest, safety, health, cleanliness, and conveniences" of the town and its citizens. Vacancies could be filled and a treasurer, marshal, or other subordinate officers appointed and removed at will. The recorder was required to keep a true record of the by-laws and ordinances, and of the proceedings of the council.

INCORPORATIONS.

AN ACT to incorporate the town of Davenport.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That so much of township seventy-eight, north, of range three east of the fifth principal meridian, in the county of Scott, as is comprised within the limits of the original town plat of the town of Davenport, and the additions made thereto by Antoine Le Clair, together with all additions that may hereafter be recorded thereto, by consent of two-thirds of the qualified voters of said town, be and the same is hereby created a town corporate, and shall hereafter be known by the name of the "Town of Davenport:" *Provided,* That said town shall not exceed two miles square.

SEC. 2. That the qualified voters for members of the Legislative Assembly, residing within the limits of said corporation, shall meet at some convenient place within the same, on the first Saturday of April next, and on the first Saturday of April annually thereafter, at such place in said town as the town council shall direct, and then and there proceed to elect, by ballot, a Mayor, Recorder, and five Trustees, who shall have the qualifications of electors, and reside within the limits of the corporation; and the mayor, recorder, and trustees, so elected, shall hold their offices one year, and until their successors are elected and qualified: *Provided,* That a failure to elect on said day shall not forfeit the charter, but an election may be had on any succeeding day, by giving due notice.

SEC. 3. That at the first election to be held under this act, two judges and a clerk shall be chosen, *viva voce*, by the electors present, and at all subsequent elections the mayor, or any two of the trustees, shall sit as judges, and the recorder, or in his absence, some one of the council, *pro tempore*, shall sit as clerk, and at all such elections the polls shall be opened between the hours of one and two in the afternoon, and close by the hour of four the same afternoon, and at the close of the polls the votes shall be counted, and a statement thereof proclaimed at the door of the house in which the election shall be held; and the persons elected shall, within ten days after their election, take an oath to support the constitution and laws of the United States, and of this Territory, and an oath of office, a certificate of which shall be deposited with the recorder, and by him preserved.

SEC. 4. The mayor, recorder, and trustees of said town

Incorporating
clause.

When Mayor,
Recorder, and
Trustees to be
elected.

Proviso.

At first elec-
tion judges and
clerk to be cho-
sen.

How future
elections to be
conducted.

Oath to be ta-
ken by the per-
sons elected.

Corporate

Four sections were devoted to the problem of taxation. The council could levy taxes on property, for Territorial and county purposes, not to exceed one per centum of its assessed value in any one year. The town marshal was to collect any taxes assessed and provision was made for the sale of property on which taxes were delinquent. Such property could be redeemed within two years by paying the purchase money, with interest, and an additional twelve per cent penalty. Twenty days before each annual election the town council was required to post in a conspicuous place an accurate account of the money received and expended by the corporation since the last election.

The trustees had the power to "establish and organize a fire department, to procure an engine, hose, hooks, ladders, and other implements of use in the arrest and extinguishment of fire." Moreover, the trustees were authorized to "regulate and improve all streets, alleys, sidewalks, drains, or sewers, to sink and keep in repair public wells, remove nuisances, and regulate markets, to grant licenses for retailing ardent spirits within the limits of said corporation, and to appropriate the proceeds of such licenses for the benefit of the town". Finally, the act described the entire system of streets and alleys as a "road district", including

the several roads leading from the town for a distance of one mile.

The first election was held on April 6, 1839. Rodolphus Bennett was elected mayor; Frazer Wilson, recorder; and Dr. A. C. Donaldson and D. C. Eldridge, trustees. Apparently some of the men originally elected failed to take office, for on May 1st John Forrest, John Litch, and Jonathan W. Parker were appointed to fill the "vacancies". Then, on May 4th, A. C. Donaldson resigned and was immediately succeeded by Andrew F. Russell. Soon afterward it was discovered that Russell lived outside the corporate limits and John Owens was named in his stead. At the first meeting of the town council on April 20th James M. Bowling was appointed treasurer; William Nichols, street commissioner; and W. H. Patten, marshal.

Though the government seems to have been organized with considerable difficulty, there was no lack of activity once the offices were filled. Three meetings were held in rapid succession. But on May 4th the trustees decided to meet thereafter at 3 P. M. on the last Saturday of each month. Despite this resolution they apparently did not meet between July 27th and November 23rd. During 1839 they met wherever it was convenient: in the schoolroom opposite the Davenport Hotel,

at the postoffice, and in the house of D. C. Eldridge. Finally, on December 18, 1839, John Owens was appointed a committee to procure a room for the council. Sometimes the trustees failed to act because no quorum was present; at other times they adopted only one or two resolutions. The record of the first year's work fills only eight pages: the "Proceedings" from 1839 to 1850 constitute a single volume only a half inch thick.

At one of the earliest sessions the council adopted the American Eagle on a twenty-five cent piece as the temporary seal. Either times were hard, the officers poor, or the quarter a rare coin on the frontier, for within six months the council changed its temporary seal to the American Eagle on a ten-cent piece.

The highway problem was apparently the most acute issue before the trustees. As early as May 1, 1839, Street Commissioner Nichols was instructed to "open the streets and allys in said Borough". A. F. Russell was named "borough surveyor" on June 29th. At the same time the council resolved that a day's work should consist of "ten hours" and ordered Commissioner Nichols to call on citizens to work out their road tax in order to open the "streets and allys". On December 30th the commissioner was instructed to "com-

plete the ditch" designed to "convey the water from the Upper part of town into the river" as soon as the weather would permit. When Nichols failed to perform this work Strong Burnell was appointed street commissioner but he refused to accept the appointment when he found that the ditch and a bridge to cross it was involved in his work. By June, 1840, this project was still an unsolved problem.

Another matter that required considerable attention was that of fire protection. On June 29, 1839, the ordinance committee was requested to report on apparatus for the fire department. T. K. Mills was appointed fire warden in November. Some difficulty was encountered in formulating the fire ordinance, because some citizens believed that the "owner" and not the "occupant" of a house should be responsible for providing the number of fire buckets specified in the ordinance. On January 29, 1840, certain Davenport residents presented a petition requesting that a hook and ladder company be organized. The council promptly appropriated twenty-five dollars out of the treasury to form such an organization.

In order to secure funds for the use of the town in 1839, the council levied a tax of one-fourth of one per cent on personal property and real estate. A. F. Russell was appointed assessor and allowed

six dollars for his work. He was ably assisted by S. F. Whiting who received two dollars.

On April 4, 1840, an election was held at the Davenport Hotel at which the following were duly proclaimed elected "by the voice" of the Recorder: John H. Thorington, Mayor; Frazer Wilson, Recorder; and William Nichols, Seth F. Whiting, George L. Davenport, Jonathan W. Parker, and John Forrest, trustees. New committees were appointed and such problems as "streets and allys", the regulation of the sale of spirituous and vinus liquors, the preservation of the health of the town, shade trees and sidewalks, and breaches of the peace commanded the attention of the council.

The trustees of Davenport did not take their work too seriously, however. On July 25, 1840, Mayor John H. Thorington found that he alone was present in his office for the regular meeting called for four o'clock that afternoon. According to James Thorington, his son who transcribed the minutes, "all the Trustees together with the Records being absent and there not being a quorum to Transact business The Council of the town of Davenport is Therefore adjourned for the want of such quorum."

WILLIAM J. PETERSEN