

Government by Town Trustees

Brawling miners prowled the streets of Dubuque in 1836. So at least it seemed to nineteen-year-old W. H. C. Folsom upon his arrival from Maine in the winter of 1836. "Sundays were especially days of strife, and Main street was generally the field of combat" between the "Catholic and Orange Irish", Folsom recalled. "Women even participated. There was no law, there were no police to enforce order. The fight went on, the participants pulling hair, gouging, biting, pummeling with fists or pounding with sticks, till one or the other was victorious. These combats were also accompanied with volleys of profanity, and unlimited supplies of bad whisky served as fuel to the flames of discord. Dubuque was certainly the worst town in the West, and, in a small way, the worst in the whole country. The entire country west of the Mississippi was without law, the government of Wisconsin Territory not yet being extended to it. Justice, such as it was, was administered by Judge Lynch and the mob."

Not all the people in Dubuque were dissolute ruffians. Lieutenant Albert M. Lea found the average pioneer of 1836 "steadily pursuing his own

business without interrupting his neighbour." Such men, no doubt, were responsible for securing the passage of a bill to incorporate towns in the Territory of Wisconsin. The enactment of this measure was an important factor in establishing political order in Dubuque and other communities.

The original statute for the government of towns was composed of twelve sections. It provided that the white male inhabitants of any town or village of not less than three hundred population might incorporate their community for the "better regulation of their internal police". To do this all citizens over twenty-one who had resided six months in a town could simply assemble at the courthouse or other meeting place and choose a president and clerk. Notice of such a meeting had to be given in a newspaper or by an advertisement posted ten days in advance. Those present were to decide on incorporation by a viva voce vote. If two-thirds voted in favor, the clerk was to give "at least five days public notice" for the citizens to assemble and select by ballot five trustees from their fellow townsmen.

The board of trustees, who were elected for one year, were to choose a president from their own body. They were to be considered in "law and equity a body corporate and politic" with full power to sue and be sued. They might devise a

corporate seal which could be altered at pleasure. They were to name a clerk who was to keep a "fair journal and record" of all proceedings, and inscribe all by-laws and ordinances in a book provided for that purpose. The trustees were to choose a town treasurer who was required to give bond.

The powers of the president and trustees were clearly defined. A majority of them were empowered "to make, ordain and establish and execute such ordinances in writing, not inconsistent with the constitution and laws of the United States and of this Territory, as they shall deem necessary, to prevent and remove nuisances, to restrain and prohibit gambling or other disorderly conduct, and to prevent the running of and indecent exhibitions of horses within the bounds of such town; to provide for the licensing of public shows, to regulate and establish markets, to open ditches, and to provide for drawing off water, to sink and keep in repair public wells, to keep open and in repair the streets and alleys of such towns, by making pavements or side walks, or other improvements". In addition, they could provide fire protection, define the boundaries of the town, and levy and collect taxes. The act provided that the limits of the town must not exceed two miles square. Taxes could not exceed fifty cents on ev-

ery hundred dollars of assessed valuation of real estate and twenty-five cents on the same amount of personal property.

The law was just as clear regarding the duties of the trustees. They were to keep in good repair all streets and alleys and the public roads passing from and through the town for one mile from the center. To do this every male resident over the age of twenty-one and under sixty years was required to labor on the "streets, alleys and roads, at least two days in each and every year" or pay one dollar per day instead. If such labor was insufficient, the trustees might appropriate the necessary funds from the tax levied on real estate and personal property.

All funds collected through "taxes, fines, penalties and forfeitures" were to be used solely "towards the erecting and improving and regulating those objects" placed under the control of the trustees. Delinquent taxes might be collected after giving at least fifteen days public notice. Fines ranging from twenty-five cents to ten dollars, together with the cost of suit, might be imposed for breaches of ordinances. The law provided for the legal dissolution of a town by a two-thirds vote of the qualified electors. Signed by Speaker of the House, Peter H. Engle, and President of the Council, Henry S. Baird, the bill was approved by

Governor Henry Dodge on December 6, 1836. It took effect immediately.

The citizens of Dubuque lost no time in utilizing the provisions of this act. At a meeting in the Methodist Church on March 25, 1837, the resolution to incorporate was adopted and April 1st fixed as the date for electing the first trustees. At the polls in Hempstead and Lorimier's store on April Fool's Day, 1837, William Myers, Thomas S. Wilson, Charles Miller, Thomas C. Fassitt, and Timothy Fanning were declared to be a "Board of Trustees under the name and title of the President and Trustees of the Town of Dubuque". On the following Monday, April 3rd, the trustees met to organize and elect officers. Thomas S. Wilson, a young lawyer who had arrived from Ohio in 1836, was elected president of the board of trustees. Charles Corkery was named clerk, Patrick Quigley appointed treasurer, Philip C. Morheiser selected as marshal and collector, and Ezekiel C. Dougherty chosen as assessor.

When the board convened on April 8th, Timothy Fanning moved that the trustees borrow enough money to remove the "obstructions from the slough" in order to render it "navigable for Steam Boats". A committee was appointed which reported at the following meeting that it had "car-

ried the instructions of the Board into effect as far as practicable but were compelled to desist from further improvement in the Slough in consequence of high water."

A distinguishing feature of the Dubuque trustees was their serious attention to their duties. Unlike the first city fathers of Davenport and Bloomington, the Dubuque trustees met regularly, even holding special meetings. Between 1837 and 1841 the clerk filled eighty-three pages in the large "Council Journal" with the minutes of the proceedings. In another volume he copied the thirty ordinances, several many pages long, which were passed during that period.

The real work of the trustees began on April 16, 1837, when Mr. Fassitt moved that President Wilson draft the following ordinances: (1) on the stated meetings of the board; (2) on establishing certain offices and defining the duties; (3) on breaches of ordinances; (4) on regulating the town police; (5) on preventing the running and indecent exhibition of horses; (6) on fines and forfeitures; (7) on the provision of fire ladders by the treasurer; (8) on the furnishing of fire buckets by citizens; and (9) on the formation of a fire company. Wilson was instructed to prepare these ordinances in manuscript in time for the following board meeting. So well did he perform his work

that when the ordinances "were severally read from the clerk's table" all but one were quickly passed. The police ordinance "elicited considerable discussion" but after "various amendments" it too was passed unanimously. Mr. Fanning thereupon resolved that the trustees exert their "best endeavors to enforce the provisions of the ordinances just past".

The first ordinance provided for a treasurer, a clerk, an assessor, and a marshal. The second designated every Saturday as the day for regular meetings and required only two votes to call a special meeting. The third fixed a fine of ten dollars for any resistance of process concerning breaches of ordinances. The minute manner in which some ordinances were drafted is illustrated by the second section of the police ordinance: "And be it further ordained That if any person or persons shall within said Town, in the night time, wilfully disturb the peace and quiet of any street, lane, alley or neighbourhood, or any private family or person by loud or unusual noise, by blowing horns, trumpets or other instruments or engines, by the rattling of drums, tambourines, kettles, pans, tubs or other sounding vessels, by the rattling of bells or other noisy instruments, engines or machines, by hallowing, shouting, loud and boisterous laughing, singing, bellowing, howling,

swearing, obscene language or conversation, or by any device or means, whatsoever, or by tumultuous or offensive language or carriage, by threatening, quarreling, scolding, traducing, challenging or fighting under any pretense or pretext whatsoever," should be deemed "guilty of a misdemeanor" and subject to a fine of not less than one dollar nor more than fifty dollars and costs. The ordinance defined night as after ten o'clock in the spring, summer, and fall seasons and after eight o'clock in the winter.

The last three ordinances dealt with fire protection. The treasurer was authorized to provide two twenty-five foot and two fourteen foot fire ladders, and two fire hooks of the proper dimensions. These were to be deposited in some "convenient place" and a penalty of five dollars imposed for their removal for private use. The citizens were required to furnish fire buckets. Every owner or tenant of any "two story dwelling house, store or warehouse" was to provide "two strong, substantial and sufficient leather buckets" painted in conspicuous letters with the name of the owner. One-story homes were required to furnish only one bucket. These buckets were to be kept in some convenient or public part of the house and a penalty of five dollars imposed for their illegitimate removal. Citizens above the age of sixteen might

form a volunteer fire company not to exceed one hundred members. Only twenty volunteers were needed to adopt by-laws and form a company.

Additional ordinances were adopted subsequently. On May 6, 1837, Mr. Miller moved that President Wilson prepare an ordinance on revenue and taxes. A week later the trustees read, studied, and returned Wilson's tax bill "with a request that he will so amend it as to make it applicable to the present situation of the Town of Dubuque". The tax ordinance was accordingly revised and adopted on May 16th.

By this time Wilson apparently found the task of drafting ordinances rather onerous, particularly when Governor Henry Dodge appointed him prosecuting attorney of Dubuque County. On June 17th he addressed a communication to his colleagues stating he would be "necessarily absent for some time". His arduous "professional engagements" obliged him to tender his verbal resignation on August 19th. The trustees insisted on a "written" resignation which was tendered and accepted the following week. Thereupon the board named Peter A. Lorimier to fill the vacancy but that gentleman declined. The position was next proffered to John Plumbe, Jr., who accepted "with a deep sense of honor" and was seated on September 2, 1837.

By the time Dubuque received a special charter in 1840 a number of citizens had become skilled in local government. Between 1838 and 1841 such notable pioneers as Alexander Butterworth, S. D. Dixon, E. C. Dougherty, J. P. Farley, Thomas C. Fassitt, Edward Langworthy, Timothy Mason, John McKenzie, Charles Miller, Philip C. Morheiser, John Plumbe, Patrick Quigley, Benjamin Rupert, and Loring Wheeler had served as trustees. Thomas C. Fassitt was named to fill Wilson's unexpired term as president on September 2, 1837. Philip C. Morheiser was named president in 1838, Patrick Quigley was elevated to the post in 1839, and S. D. Dixon was chosen in 1840.

During the first five months no mention was made by the clerk of the meeting place of the board of trustees. It was not until September 6, 1837, that the trustees decided to meet in the house behind John Regan's store. This could be rented for five dollars a month but one dollar was set aside for making fires in the stove twice a week, thus bringing the total rent to six dollars. Unabashed by such extravagance, the board directed the clerk to procure furniture, stationery, a stove, and other equipment.

Thus far the trustees had borrowed money from the more affluent citizens for necessary expenses. The ordinance to lay and collect taxes had been

passed on May 16th and Ezekiel C. Dougherty was soon at work assessing property. Anxious to secure funds, the trustees held a special meeting. "After a tedious examination", the clerk recorded on July 3, 1837, "a large amount of property was found to have been omitted through mistake". The lists were accordingly returned to Dougherty with specific instructions, and rejected at two subsequent meetings before they were finally approved. A bill of \$37.50 was submitted on October 28th for assessing Dubuque property.

With money tinkling into the city coffers, the trustees commenced paying some of the corporate bills. A considerable sum was expended on the slough and even more on the streets, alleys, and sidewalks. There were also numerous other expenses. Thus, on September 23rd, the trustees refused to accept the bill of the *Iowa News* for printing ordinances, on the grounds that it was too high. They paid back to T. C. Fassitt and Robert D. Sherman, however, the fifty dollars loaned to the corporation in April; and to Gehon & Hendry their twenty-five-dollar loan. Attorney W. W. Chapman was paid fifty dollars for representing the corporation in the five cases pending in June and Clerk Corkery presented a bill for fifty dollars for three months' service. Meanwhile, the trustees had agreed to pay Stephen

Hempstead \$200 for representing the corporation as the town attorney during the remainder of the term of the board. After paying several more bills the treasurer reported a balance of thirty-six dollars on November 4, 1837.

Meanwhile, the trustees continued to draw up more ordinances. The boundaries of the town were defined, the discharge of fire arms prohibited within the village limits, and licenses required of any circus, show, or exhibition. A wharfage tax of five dollars was imposed on every steamboat or other craft arriving from below. Drivers of wagons, carts, drays, and sleds who worked for hire paid a five dollar license. Only ferrymen, stagecoach, and hack drivers were exempted in the ordinance preventing Sabbath breaking. A port physician "skilled in the science of medicine" was appointed to inspect "every Steam Boat or other vessel, coming from any port known to be infected with any pestilential or contagious disease". Other ordinances dealt with public wells, the appointment of a town engineer, the construction of sidewalks, and the prevention of obstructions on streets, alleys, and wharves. The trustees were compelled to legislate against "digging" land out of the streets. Their last ordinance was passed on August 10, 1840, and provided for "grading certain parts of Main Street".

Such were the problems facing the Dubuque trustees before 1841. Their diligence, however, was not above reproach. "If our town Trustees", the *Iowa News* asserted in 1838, "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 something 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." Doubtless such opinions were important in leading to the dissolution of the board of trustees and the acquisition of a special city charter from the Territorial legislature.

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