

their heirs and assigns, be and they are hereby authorized to erect and keep a dam across a bayou of Skunk river; where the county and territorial roads leading from Washington to Brighton, in Washington county, crosses said bayou on the south half of the northwest quarter of section number twenty, in township number seventy-four north of range number eight west, and situated in the county aforesaid; provided, they do not enter upon and flow the lands of any other person without his consent.

SEC. 6. Persons to injure or destroy guilty of trespass—wilfully or maliciously doing so guilty of misdemeanor—penalty. That if any person shall destroy, or in any wise injure said dam, he shall be deemed to have committed a trespass, and shall be liable accordingly; and any person who shall wilfully or maliciously destroy or injure said dam, shall be deemed guilty of a misdemeanor, and on conviction thereof, before any court of competent jurisdiction, shall be fined [41] treble the amount of damages the owners may have sustained, or be imprisoned at the discretion of the court.

SEC. 7. May be altered, amended or repealed. Any future legislature of the Territory of Iowa or State, (as the case may be) may at any time, alter, amend, or repeal this act.

SEC. 8. This act shall take effect and be in force from and after its passage. Approved February 10, 1842.

CHAPTER 57.

AN ACT to incorporate the town of Davenport.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. Inhabitants of the town of Davenport made a body corporate—name and style—powers. That the inhabitants of the town of Davenport, be and they are hereby constituted a body politic and corporate, with perpetual succession, by the name of "the Mayor and Aldermen of the town of Davenport," and by their corporate name may sue and be sued, plead, and be impleaded; may receive, purchase, acquire and hold, and grant, sell and convey, real, personal and mixed property, and do all other acts as natural persons may do; may have and use a common seal, the same at pleasure or break.

SEC. 2. Boundaries. The limits of boundaries of said town shall be as follows: Beginning at the point in the middle of the main channel of the Mississippi where the western boundary line of the old town of Davenport, extended, would intersect the middle of the said main channel; thence running northward by and along said western boundary line, to the northwest corner of said old town; thence eastwardly along the northern boundary line of said old town, to the northeast corner thereof; thence eastwardly and along the northern line of blocks numbered on the plat of Le Clair's addition to said town, as blocks number forty-nine, fifty, fifty-one, and fifty-two, to the northeast corner of block fifty-two; thence in the same direction across Rock Island street; thence southwardly along the eastern side of said street to Sauk or Second street; thence eastwardly along the northern boundary of said last mentioned street, to where the same if extended, would reach low water mark on the bank of the Mississippi river; thence at right angles to the last course, to the middle of the main channel of said river, and thence down and along the middle of said main channel to the place of beginning.

SEC. 3. Town divided into wards—1st ward, 2d ward, 3d ward. The said town shall be and the same is hereby divided into three wards as follows: All

that part of said town lying west of the middle of Harrison street, shall constitute the first; all that part of said town lying between the middle of Harrison street and the middle of Brady street, shall constitute the second ward; and all that part of said town lying east of the middle of Brady street, shall constitute the third ward.

SEC. 4. Officers—qualifications—duties of mayor—provision in case of absence, death or resignation of mayor. The said corporation shall consist of a mayor, who shall be a resident of said town, and six aldermen, two aldermen to be elected in each ward, and to be residents of the ward in which they shall be elected; and the said mayor and aldermen shall be over twenty-one years of age; the mayor shall preside at all meetings of the corporation, but [42] shall not vote on any question except in case of a tie, when he shall give the casting vote. In case of the death, absence, resignation, sickness, or other disability of the mayor, the aldermen shall elect one of their number mayor pro tempore, who shall have all the authority, and perform all the duties of mayor during his absence, or until another shall be elected and qualified.

SEC. 5. How and when polls to be opened—qualification of voters—proviso. On the first Saturday of April, 1842, and on the first Saturday of April annually thereafter, polls shall be open at one convenient place in each ward, in said town, at which the qualified voters for members of the legislative assembly, residing within the limits of the ward in which they shall offer their votes, may vote by ballot for a mayor and two aldermen; and the mayor and aldermen so elected, shall hold their offices for one year, and until their successors are elected and qualified: provided, that a failure to hold said election on the day herein prescribed, in any year, shall not work a forfeiture of this charter; and an election may be on any succeeding day, by giving notice thereof according to the provisions of the eleventh section of this act.

SEC. 6. First election—how held—judges of election—clerk—vacancies—qualification of judges and clerks of election—duties of clerks of elections—result of election to be proclaimed—certificates of votes examined—certificate of elections given—oath to be taken—proviso. At the first election to be held under this act, two judges of election and one clerk in each ward, shall be chosen viva voce, by the electors of the ward present; and at all subsequent elections the mayor and aldermen, shall at least one day previous to such elections, appoint two judges of elections for each ward; and said judges for each ward respectively, shall appoint their own clerk; and in case of failure of said judges, or either of them to attend, or of refusal to act, the electors present shall choose viva voce a judge or judges to supply such vacancies. No person shall be competent to act as a judge or clerk at such election, who is not a qualified elector. At all such elections the polls shall be opened between the hours of one and two in the afternoon, and closed at the hour of four in the same afternoon; and the clerk at each ward shall keep a poll book, in which he shall enter the name of every voter, in the order in which he shall vote; and at the close of the polls the votes shall be counted by said judges and clerk, and an entry made on the poll books of the number of votes given to each person voted for, and for what office, which shall be certified by the said judges and clerk, and a statement of the result of the election, shall be proclaimed at the door of the house in which election shall be held; and the two judges and clerk of each ward shall give to each of the two persons having the greatest number of votes in their wards for alderman, a certificate of his election; and the judges of the different wards, shall attend at the office of the mayor, between the hours of nine o'clock a. m. and twelve m., on the first Monday after the election with the poll books, and shall examine the certificate of the votes given to each person at the different wards for mayor; and the person having the greatest number of votes, shall be declared duly elected mayor of said town; and the said judges shall make and

deliver to such person, a certificate of his election, which shall be signed by at least a majority of all the judges of said three wards. The mayor and aldermen so elected shall, within ten days after their election, take and subscribe an oath to support the constitution and laws of the United States, and of Iowa, and faithfully, impartially, and to the best of their ability, to discharge the duties of their respective offices; which shall be deposited with and safely kept by the clerk of said corporation: provided, however, that the judges of the first election held under the act, shall [43] meet to examine the returns for the several wards at the office of the district court of Scott county.

SEC. 7. Powers of mayor and aldermen—officers to be appointed by them—salaries—duties of clerk—journals, laws, bills, bonds, etc., to be signed by the mayor and attested by clerk—to be binding on corporation. The said mayor and aldermen, a majority of whom shall be a quorum for the transaction of business, shall have power to adjourn their meetings from time to time, unless sooner called together by a written notice from the mayor, designating the time and place of such meeting; they may also by ordinance, prescribe the times for holding their regular meetings; they shall also have power to appoint a clerk, a treasurer, a marshal, an assessor, and such other subordinate officers as they may deem needful; to prescribe their duties and require surety for their performance; to remove at pleasure and appoint others in their stead; to establish the fees or salaries of all such officers of the corporation, where the same are not ascertained by this act; they shall cause their clerk to keep a correct journal of their proceedings, and enter the yeas and nays on any question, at the request of any member; they shall cause to be recorded in a plain legible hand, in a book to be provided for that purpose alone, all the by-laws and ordinances made and ordained by them; which book, together with the said journal, shall be at all times open to the inspection of the electors of said town; the journal of the proceedings of each meeting shall be signed by the mayor and clerk; they shall also sign all by-laws and ordinances passed by said corporation, and the same shall be carefully filed and preserved by the clerk; all bills, bonds, notes, drafts, or contracts, ordered by said corporation, shall be signed by the mayor and attested by the clerk; and all bills, bonds, notes, drafts, or contracts so signed and attested, and in the case of bonds or contracts under seal, sealed with their common seal, shall be valid and binding on said corporation, in law and equity in every court in Iowa.

SEC. 8. Powers of mayor and aldermen—license of retailers of spirituous liquors—drays, carts, etc.—theatres—public market—fire companies—bakers—to pass all laws necessary to the health, etc., of said town. The mayor and aldermen shall have full power and authority, to pass all by-laws and ordinances to regulate the stationing, anchorage, landing, mooring, or unloading of boats, vessels, rafts, and all other water-crafts within the limits of said town; to prevent and remove nuisances, to establish night-watches, erect lamps; to provide for licensing and regulating retailers of spirituous liquors within said town; and for annulling the same on good and sufficient complaint made against any person holding such license; to license and regulate drays, carts, and other vehicles, kept for public hire; to prohibit the discharging of fire-arms, and the racing or immoderate running or driving of horses, drays, carts, carriages, wagons, or other vehicles in said town; to provide for licensing and regulating shows, theatricals, and other amusements in said town; to regulate and establish markets, and to rent out the stalls in the same; and to prohibit the selling of meats, poultry, fish, or game, except at the public market; to erect and repair bridges, to regulate and improve all streets, avenues, alleys, side-walks, landings, wharves, public grounds and squares, drains and sewers; to sink and keep in repair public wells; to establish and regulate fire wards and fire companies; to provide for the prevention and extinguishment of fires and if necessary, to

remove or pull down buildings or fences, for the prevention of the spreading of the same; to license bakers and regulate the price and weight of bread, and to prohibit the baking of the same for sale, except by those licensed; and also to pass all such by-laws and ordinances not inconsistent with the constitution and laws of the United States, or of Iowa, as they shall deem [44] necessary and proper, for the health, safety, cleanliness, and convenience of said town.

SEC. 9. Levy fines—proviso—may be recovered—imprisonment—proviso—marshal duties—compensation of marshal. The mayor and aldermen shall also have power to fix and impose fines and penalties, for breaches of the by-laws and ordinances by them passed and ordained: provided, the same shall not exceed twenty dollars, for any breach or violation by any one person of any one by-law or ordinance, and the same may be recovered with costs of suit before any justice of the peace or court, having jurisdiction thereof, by action of debt in the name of said corporation; and such person fined as aforesaid, may remain in custody of the marshal until such debt and cost is paid, or shall suffer not more than four months actual imprisonment in the common jail of the county, or guard house of said corporation, provided there shall be one within the limits of said town: provided, that such person fined as aforesaid, shall have the right of appeal to the district court in and for said county, by filing bond with approved security, before the tribunal trying such offender, on the day of said trial; and the marshal of said town shall have the same authority, and may do and perform the same duties, and shall be subject to the same liabilities in the service and return of all such writs and process issued, by and in attending the trial before such justice, for recovery of fines and penalties, for the breach or violation of any of the by-laws or ordinances of said corporation, that constables are in their respective counties; and said writs and process shall be directed to "The marshal of the town of Davenport, or any constable of said county;" and the marshal shall receive for his services, the same fees that are or may be allowed by law to constables for like services.

SEC. 10. Vacation of office—special election. The absence from said town for three consecutive months of the mayor or any alderman, or the removal of any alderman out of the ward for which he was elected, shall vacate his office, and a special election shall be held to supply such vacancy; and the person so elected shall hold the office for the remainder of the term for which his predecessor was elected; such special election shall be held and returns made and certificates given in the same manner that the annual elections are, and the person so elected, shall qualify in the same manner.

SEC. 11. Notice of election to be published—proviso. The mayor shall give at least ten days previous notice, of every annual or special election; and of the places of holding the same, by advertisement in some newspaper published in said town, or by one written notice, set up at some public place in each ward of said town, in which such election is to be held; provided, that the notice for the first election to be held under this act shall be given by the town council of said town.

SEC. 12. Mayor and aldermen may levy tax—rate of tax—duty of assessor—power to correct injudicious assessment. The mayor and aldermen shall have power to assess and levy an annual tax on all property in said town, made subject to taxation by the laws of Iowa for county purposes, not exceeding in any one year one half per centum on the value thereof; which value shall be ascertained by the assessor of said town; and they shall prescribe by ordinance, the time within which said assessor shall make out and return to their clerk the assessment roll, and also the time within which the clerk shall make out and deliver to the marshal, a duplicate thereof, together with a warrant for the collection of the taxes so assessed, signed by the mayor and clerk, and sealed with the common seal of the corporation; [45] they shall also have power to correct or equalize any erroneous or injudicious assessment.

SEC. 13. Marshal shall be tax collector—written notice to be given and put up—distress and sale—voucher—unpaid lots to be published for eight weeks, stating tax, costs, and number of lots—if not paid to be sold—compensation to marshal for collecting taxes—mayor to execute a deed—good and valid. The marshal shall be collector of all taxes assessed as aforesaid, by said corporation; he shall, upon receiving the duplicate and warrant aforesaid, make personal demand of every resident charged with tax, if to be found within the town, or leave a written notice of the amount of such tax at his usual place of abode; and shall also put up at least one written notice in each ward in said town, that if the taxes are not paid within twenty days thereafter, the same will be collected by sale of the property of delinquents; at the expiration of which twenty days, said marshal shall, and he is hereby authorized and required by distress and sale of personal property of such delinquent or delinquents, as constables on execution to collect said tax, and all costs remaining unpaid, and pay the said tax over to the treasurer, and the treasurer's receipt shall be his voucher therefor; and if the tax on any lot or piece of land, in which no personal property can be found, shall remain unpaid at the expiration of said twenty days, then the said marshal shall give notice by publication in the nearest newspaper, for eight consecutive weeks, stating the amount of said tax and costs, and the number of the lot, or description of the piece of land on which the same are due, and the owners name if known; and that the said lot or piece of land will be sold to discharge such tax and costs and printer's fees, on a day and at the place in such notice mentioned, and which shall be at least three months after the day of its first publication, unless payment thereof be made on or before said day of sale; on which day, if the said tax, costs, and printer's fees, be not previously paid, said marshal shall proceed to sell the said lot or piece of land, or so much thereof as will discharge said tax, costs, and printer's fees; said sale to take place at the door of the court house in said town, or at the door of the mayor's office; and the mayor and aldermen shall, by ordinance, fix the costs or fees to be allowed said marshal for collecting taxes by sale either of personal or real property, by virtue of this act; the marshal shall give to each purchaser at such sale, a certificate containing the number of the lot or description of the piece of land purchased, the price paid therefor, and the day of sale, and at the expiration of the time limited for the redemption thereof, if the same shall not be redeemed in compliance with the general law in relation to the redemption of lands sold for taxes, the mayor shall execute to the purchaser or his assignee, a deed therefor, under the seal of said corporation, and the same if acknowledged or proven, and recorded as other deeds are, or may be required to be acknowledged or proven and recorded, shall be good and valid in law and equity, to pass a valid title to such a lot or piece of land.

SEC. 14. By-laws to be published—copy of by-laws with certificate good evidence in suits. The by-laws and ordinances of said corporation shall be published in a newspaper published in said town, or posted up at one public place in each ward, fifteen days before the taking effect thereof, and the certificate of the clerk, in the book in which said by-laws and ordinances are recorded, shall be sufficient evidence of the same having been done; and the said book, or a copy of any by-law or ordinance, with the certificate of the clerk of publication aforesaid, certified by the said clerk to be a true copy of such by-law or ordinance and certificate, shall be sufficient authentication to allow the same to be read or received in evidence in all actions and suits in any court in this Territory.

[46] **SEC. 15. Receipts and expenditures of corporation signed by clerk to be published.** Twenty days before each annual election the mayor and aldermen shall put up in some conspicuous place in said town, or publish in some newspaper published therein, an account of all the monies received and expended by said corporation since the last annual election, with the sources from which

they were derived, and the objects on which they were expended, which shall be certified by the clerk.

SEC. 16. Streets and alleys—supervisor. The streets and alleys of said town, together with the several roads leading therefrom, for the distance of one mile from the corporation limits, shall constitute one road district; and the mayor and aldermen shall have the exclusive right of appointing the supervisor, and if they should deem it necessary of appointing two or more supervisors for said district, who, in every respect, shall act as though appointed by the county commissioners.

SEC. 17. Mayor and aldermen to receive no compensation unless approved by a majority of voters—additional wards may be created—proviso. The mayor and aldermen shall receive no compensation for their services, unless the ordinances allowing the same shall first be submitted to and approved by a majority of the voters of said town, in general meeting assembled, ten days' previous notice of the time, place, and object of which meeting shall be given by the mayor, by notice set up at one place in each ward; and the certificate of such approval, signed by the chairman and secretary of said meeting, filed with the clerk and recorded by him with the ordinance, shall be sufficient evidence of such approval. The mayor and aldermen may at any time alter or change the boundaries of the wards herein established, or create additional wards in said town; provided the ordinance passed for that purpose shall be approved, and such approval certified and recorded in the manner provided in this section in relation to the ordinances allowing the mayor and aldermen compensation for their services.

SEC. 18. Act to incorporate the town of Davenport repealed—proviso—process against mayor—how served. The act entitled "an act to incorporate the town of Davenport," approved January 25th, 1839, be and the same is hereby repealed, from and after the first Saturday in April next: provided, however, that all by-laws and ordinances in force in said town, on said first Saturday of April next, shall continue in force until altered or repealed by the corporation created by this act; and no suit or judgment then pending or unsatisfied, to which said corporation shall be a party, shall abate, but the same may be prosecuted and enforced, in the name of the mayor and aldermen of the town of Davenport; and suits may be instituted and sustained either in favor of or against them, on such debts, covenants, promises, contracts, agreements, and liabilities, as might or could have been in favor of or against said corporation created by the act hereby repealed, if this act had not been passed. The service of all process against said mayor and aldermen shall be by leaving with the mayor or in his absence with the clerk, a certified copy thereof, and in case of subpoena in chancery, a certified copy of the bill also.

SEC. 19. Special election to be held for adoption of this act of incorporation—in case of adoption when to take effect. That a special election shall be held within the corporate limits of the town of Davenport, on the second Monday of March, 1842, at which time a poll shall be opened, at some convenient place in each ward in said town, at which time and place the qualified electors may vote, by ballot, for or against the adoption of this act of incorporation; and if upon a count of the ballots it shall be found that a majority of said electors are in favor of its adoption, then and in that case this act shall take effect and be in force from and after the first Saturday of April, 1842, otherwise it shall be null and void.

[47] **SEC. 20. A. Le Claire relieved from penalty.** That Antonie Le Claire is hereby relieved from any penalties to which he may be liable, for selling lots in said town of Davenport, or any of its additions, before the plat of said town, or its additions, were duly recorded.

SEC. 21. May be altered, amended or repealed. That any subsequent legis-

lature of the Territory or State of Iowa may alter, amend, or repeal this act, as they may deem expedient.

Approved February 11, 1842.

CHAPTER 58.

AN ACT to authorize Ransom Long to keep a ferry across the Mississippi river, opposite Salem, in Muscatine county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. Authorized to keep a ferry—location and limits—term. That Ransom Long, his heirs and assigns, be and they are hereby authorized to establish and keep a ferry across the Mississippi river, at the southern extremity of the fifth principal meridian, opposite to the town of Salem, in Muscatine county, and half a mile east and half a mile west of said meridian, up and down the river, for the term of twenty years from and after the passage of this act.

SEC. 2. Subject to same restrictions that other ferries are now or may be. That said ferry shall be subject to the same regulations, and under the same restrictions as other ferries are or may hereafter be, by the laws of this Territory, or the State of Iowa, fixing the rates of toll, and prescribing the manner in which licensed ferries shall be kept and regulated.

SEC. 3. Good boat and hands to be kept. That said Ransom Long, his heirs or assigns, shall keep at said ferry a good and sufficient flat-boat, and number of hands to work the same, for the transportation of all persons and their property across said river, when passable, without delay.

SEC. 4. May be repealed. This act may be altered or repealed by any subsequent legislature, and no provision herein contained shall interfere with the rights of other persons.

SEC. 5. That this act shall take effect and be in force from and after its passage.

Approved February 12, 1842.

CHAPTER 59.

AN ACT to relocate a part of a territorial road in Jefferson county.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. Names of commissioners—route of road—when and where commissioners to meet—to comply with provisions of act regulating roads and highways—compensation to be fixed by county commissioners of Jefferson county. That O. Kinsman, of the county of Washington, B. F. Chastain and James F. Chambers, of the county of Jefferson, be and they are hereby appointed commissioners to review, mark, lay out, and [48] establish, all that part of the territorial road, from the northern boundary of Washington county, to Iowaville, in Van Buren county, which lies between Brighton, in Washington county, and Fairfield, in Jefferson county. Said commissioners, or a majority of them, shall meet at Brighton, on the first Monday in April next, or on such other day as they may agree on, within three months thereafter, and proceed to the duties required of them by this act; commencing at Brighton, thence the