

[74] CHAPTER 87.

AN ACT to relocate that portion of the territorial road leading from Fairfield, in Jefferson county, to Wapello, in Louisa county, that lies between Checauque river and Jefferson in Henry county.

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

SECTION 1. Names of commissioners—route. That Christian Bean, Philip Miller and Joseph Morrison of the county of Henry, be and they are hereby appointed commissioners to relocate that part of the territorial road leading from Fairfield, in Jefferson county, to Wapello, in Louisa county, that lies between Checauque river and Jefferson in Henry county, making the town of Trenton a point on said road.

SEC. 2. Time and place of meeting. That said commissioners shall meet at the town of Trenton, or a majority of them, on the first Monday of April next, and shall proceed to relocate that part of said road according to the provisions of an act to locate and establish territorial roads.

SEC. 3. That this act take effect and be in force from and after its passage. Approved, February 17, 1842.

CHAPTER 88.

AN ACT to review a part of the territorial road from Moscow via Rochester, to Marion in Linn county.

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

SECTION 1. Names of commissioners—route. That John Wilson, Sr. and George Hunt of Muscatine county, be and they are hereby appointed commissioners to review the road from Moscow via Rochester, to Marion in Linn county, from the bridge north of Moscow in Muscatine county, in the north half of the southwest quarter of section four, township seventy-eight north, to the southwest corner of Harvey Hatton's field, in section thirty-two, township seventy-nine, range two west, and that they receive such compensation as the board of commissioners of Muscatine county shall allow them.

Approved, February 17, 1842.

CHAPTER 89,

AN ACT to incorporate the town of Fort Madison.

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

SECTION 1. Town constituted a body politic—may sue and be sued—use of seal. That the inhabitants of the town of Fort Madison, [75] 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 Fort Madison," 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, and the same at pleasure alter or break.

SEC. 2. Limits and boundaries. The limits and boundaries of said town shall be as defined and laid down on the plat of said town recorded in the recorder's office of Lee county, and extending to the middle of the main channel of the Mississippi river, and co-extensive along the middle of said main channel, east and west, with the limits of said town.

SEC. 3. President and trustees to divide the town into wards—public notice—power to change boundaries of wards. The president and trustees of the town of Fort Madison, incorporated under the act of the legislature of the Territory of Wisconsin, shall ten days before the time mentioned in this act for holding the first election, divide the said town into three wards, define their boundaries, and give public notice of the same together with the time and place of holding said election, provided, that the mayor and aldermen of said town, shall have power to change the boundaries of said wards at their discretion.

SEC. 4. Aldermen to be elected—residence—mayor pro tem. 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 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. Time and place for opening polls—term of office—forfeiture of charter. On the first Monday of April 1842, and on the first Monday of January, annually thereafter, polls shall be opened 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 vote, 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 held on any succeeding day, by giving notice thereof, according to the provisions of the eleventh section of this act.

SEC. 6. Election of officers—appointment of clerk—refusal to act—qualified electors—time of keeping open polls—certificate of election—canceling votes—oath to support the constitution—judges to examine returns. 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 election, 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 close at the hour of four in the same afternoon. 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-book 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 such 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 ward, 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 o'clock m., on the first Monday after the election, with the poll-books, and shall examine the certificate of the votes given to each person, [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 this act, shall meet to examine the returns from the several wards, at the office of the clerk of the district court of Lee county.

SEC. 7. Power to transact business—prescribing time and place of meeting—appointment of officers—duties—salaries—journal of proceedings—inspection of journal—signing of by-laws—seal. The said mayor and aldermen, or 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 them at pleasure, and appoint others in their stead, and 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 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 the 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.

[77] **SEC. 8. Power to pass ordinances—to remove nuisances—retailers of liquors—licenses—regulating drays and carts—inhibition of dangerous past-times—shows and theatricals—markets, their regulation—power to regulate streets, sidewalks, wharves, public grounds, fire companies—bakers and bread—health of the town—establishment of ferries.** The said mayor and aldermen, shall have full power and authority to pass all by-laws and ordinances, to regulate the stationing, anchorage, landing, mooring or unlading 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 pro-

vide for licensing and regulating retailers of spiritous 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, sidewalks, 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 necessary and proper for the health, safety, cleanliness, and convenience of said town, and the citizens thereof; and also whenever any license or charter for any ferry or ferries, within the limits of said town, now in existence, shall have determined, either by lapse of time, expiration of charter, or forfeiture, the said mayor and aldermen, shall have the exclusive right to establish a ferry or ferries, across the Mississippi river, within the limits of said town, and to lease the same for a year or term of years, as to them may seem most expedient.

SEC. 9. Fines for breaches of law—process to collect fines—imprisonment for breaches—appeal to the court—authority and duty of marshal—fees of marshal. The said 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 cost of suit, before any justice of the peace or court, having jurisdiction thereof, by action of debt, in the name of the said corporation; and such person fined as aforesaid, shall remain in custody of the marshal, until such debt and cost is paid, or shall suffer not more than four months nor less than ten days, 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 [78] 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 Fort Madison, or any constable of said county; and the said 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 certificate 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. 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 recorder of said town.

SEC. 12. Power to assess and levy taxes—return of assessment roll. 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 per centum on the value of real estate, and one-half per centum on the value of personal estate, 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; they shall also have power to correct or equalize any erroneous or injudicious assessment.

SEC. 13. Collector—written notice to tax payers—distress of delinquents—notice in newspapers—execution of lots for taxes—place of sale—costs and fees—marshal's certificate to purchasers—redemption. The marshal shall be the 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, on 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 owner's name if known; and that the said lot or piece of land, will be sold to discharge [79] 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 hereinafter limited for the redemption thereof, if

the same shall not be redeemed, the mayor shall execute to the purchaser or his assignees, 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 lot or piece of land.

SEC. 14. Right to appeal in two years—minors. If the owner of such lot or piece of land, or his assignees, or grantee, or his, her, or their attorney, shall appear at any time within two years after such sale, and pay the purchase money with interest, and twenty per centum penalty thereon, or deposit the same with the treasurer, he shall be entitled to the right of redemption of said lot or piece of land; saving, however, to minors the right of such redemption, at any time within one year after arriving at full age.

SEC. 15. By-laws and ordinances to be published. 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 copy of 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 a sufficient authentication to allow the same to be read or received in evidence, in all actions and suits, in any court in this territory.

SEC. 16. Moneys received and expended. 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 moneys 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. 17. Right of corporation over road district—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 for said district, who in every respect shall act as though appointed by the county commissioners.

SEC. 18. No compensation for mayor, etc. The mayor and aldermen, shall receive no compensation for their services.

[80] **SEC. 19. Repeal of former act—by-laws to continue in force until—validity of contracts.** The act now in force, passed by the legislature of the Territory of Wisconsin, incorporating the town of Fort Madison, be and the same is hereby repealed, from and after the first Monday in April next: provided, however, that all by-laws and ordinances in force in said town, on said first Monday of April, 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 Fort Madison; and all debts, covenants, promises, contracts, and agreements, and all liabilities contracted, made and entered into by the president and trustees of said town, or by their authority, to or with any person or persons, shall survive and be as good and valid in law and equity, as if contracted, made, and entered into, by the said mayor and aldermen, of the town of Fort Madison; 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 alder-

men, 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.

Approved, February 17, 1842.

CHAPTER 90.

AN ACT relative to officers of the legislative assembly.

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

SECTION 1. Election for Secretary and Sergeant-at-arms for the council—for the house—oath. That at the commencement of each session of the legislative assembly, there shall be elected by ballot, one secretary, and one sergeant-at-arms, for the council; and one chief clerk, and one sergeant-at-arms, for the house of representatives; said officers when elected, shall be sworn by the presiding officers of their respective houses, faithfully and promptly to perform the duties of their offices.

SEC. 2. Duties of officers—employment of assistants. That it shall be the duty of the secretary and chief clerk, to keep the journals of their respective houses, and record them; they shall do the engrossing and enrolling also, of each house; they each shall be allowed (when the president of the council, or speaker of the house shall deem it necessary) to employ an assistant secretary or clerk, who shall be allowed three dollars per day; also an engrossing clerk, who shall be allowed two dollars per day.

SEC. 3. Sergeant-at-arms to act as door-keeper—employment of fireman—boy as messenger—duty of sergeant-at-arms. That the sergeant-at-arms in each house, shall, in addition to the duties of his office, perform those of door-keeper; he shall employ a trusty person as fireman, whose compensation shall not exceed one dollar and fifty cents per day; also an active, intelligent boy, as messenger, who shall be allowed one dollar per day. The sergeants-at-arms shall take care of the apartments of their respective Houses, keep them clean, and the furniture in order, and exercise a general supervision over the [81] conduct of the firemen and messengers, who shall act as their assistants when necessary.

SEC. 4. Control of officers. All the officers shall be under the direction of the presiding officer of their respective houses.

SEC. 5. Per diem. The secretary and chief clerk, shall each be allowed four dollars per day, in full for their services, and the sergeants-at-arms three dollars per day.

Approved, February 17, 1842.

CHAPTER 91.

AN ACT to incorporate the Cedar Rapids Manufacturing Company.

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

SECTION 1. Names of corporators—power of company to contract, to sue and be sued—use of common seal. That N. B. Brown, A. L. Roach, Harman Van Antwerp, S. H. Tryon, and their associates and successors, be and they