

# Daily Press and Dakotian.

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YANKTON, DAKOTA TERRITORY, WEDNESDAY EVENING, JANUARY 29, 1879.

Number 235

## DAKOTA LEGISLATURE.

Thirteenth session.—Daily Report of the Proceedings of the Council and House of Representatives.

### SIXTEENTH DAY.

#### GENERAL COMMENTS.

The consideration this morning in the council of the bill to modify the exemption law, developed an apparent majority opposed to its passage, and a decided disposition to dispose of it by an indefinite postponement, thus avoiding a direct vote on the question of its passage. The motion to indefinitely postpone was characterized by Mr. Roberts as a means of killing the bill and at the same time shirking the responsibility of a direct vote; pro or con. Considerable sharp parliamentary practice was indulged in, and finally, while a motion to order the previous question on the motion to indefinitely postpone was pending, the council adjourned, without disposing of the troublesome customer. In favor of the passage of his bill Mr. Day this morning presented two petitions from citizens of Bon Homme county, which, however, were not read. The petitions contain over one hundred names, principally farmers, and their petition declares that the proposed modification of the law would be for the "benefit of all good, honest and law-abiding citizens of the territory." The bill will come up in the council to-morrow in the regular order.

A bill was introduced in the council yesterday by Mr. Day for the repeal of sections 43 and 44 of the penal code. These sections embody what are designated as the "Blue laws" of our code, and make all travel on Sunday, for pleasure or recreation, a crime punishable by fine. The provisions of the section are repugnant to the general public idea; and as they are practically a dead letter, the bill for their repeal will, we apprehend, meet with little opposition.

The local option bill had its run in the house this morning and a very successful one it was, the opposition being able to muster only eight votes on the final passage. It now goes to the council, but will probably be defeated, as it does not there possess the original strength which gave it such force in the house. The bill amended establishes absolute prohibition in the unorganized counties. There was a considerable attendance of ladies this morning, though not so large as yesterday.

There was found upon the desks of members this morning a printed remonstrance against the passage of Mr. Brown's proposed bill for the consolidation of Jim river counties. The remonstrance related wholly to contemplated changes in the boundaries of Hanson county and was signed by sixty-nine taxpayers of that county. Mr. Brown does not attach much significance to the remonstrance and manifests an intention to put in his bill at the proper time.

## THE COUNCIL.

Wednesday, Jan. 29.—The council met at 10 o'clock a. m. and was called to order by the president.

Prayer by the chaplain.

Roll called; members all present.

The minutes of yesterday's proceedings were read and approved.

#### PETITIONS.

Mr. Day presented two petitions from citizens of Bon Homme county, asking for the passage of the bill now before the legislature, for the modification of the exemption law.

#### REPORTS OF COMMITTEES.

Mr. Wynn, from the committee on education, reported back house file No. 2 without recommendation, and council bill No. 35, recommending its passage.

Mr. Roberts from the judiciary committee reported back council bills No. 23 and 27, without recommendation; council bill No. 33 with amendments, and house files Nos. 5, 8 and 9 with a recommendation that they pass.

Mr. Ellis, from the committee on counties, reported back council bill No. 32, and recommended its passage.

#### MOTIONS.

Mr. Wynn moved that the select committee to examine the books and accounts of the territorial auditor, and to ascertain the amount paid for printing during the past two years, be increased from three to five.

A rising vote was taken on the motion, and resulted in Messrs. Edmunds and Wynn voting in the affirmative, and Messrs. Day, Kuykendall and Roberts in the negative, so the motion was not adopted.

#### NOTICE OF BILLS.

By Mr. Wynn—A bill for an act to amend section 20 of chapter 39 of the penal code.

By Mr. Miner—A bill for an act relating to poll tax and defining the duties of road supervisors.

#### INTRODUCTION OF BILLS.

By Mr. Kuykendall—A bill for an act to establish a territorial wagon road from the northeast corner of the Yankton reservation to Brule City in Brule county.

By Mr. Rohr—A bill for an act to fund the indebtedness of Union county.

By Mr. MacNider—A bill for an act to attach the counties of Wallete and Monttraile to Burleigh county for certain purposes.

By Mr. Day—A bill for an act to amend sections 308 and 585 of the penal code.

#### FIRST READING OF BILLS.

Council bill No 40—A bill for an act defining the boundaries of certain counties in this territory.

Council bill No 41—A bill for an act to establish a territorial wagon road from the northeast corner of the Yankton reservation to Brule City in Brule county.

Council bill No 42—A bill for an act to fund the indebtedness of Union county.

Council bill No 43—A bill for an act to attach the counties of Wallete and Mon-

traile to Burleigh county for certain purposes.

Council bill No 44—A bill for an act to amend sections 308 and 585 of the penal code.

#### SECOND READING OF BILLS.

The following bills were read a second time and referred as follows:

Council bill No 34, to a special committee.

Council bill No 36, to a special committee of three.

Council bill No 37, to the committee on judiciary.

Council bill No 39, to the committee on judiciary.

#### MESSAGE FROM THE HOUSE.

A message from the house announced the passage by that body of house files No. 13 and council bill No. 19, and the defeat of council bill No. 12.

#### THIRD READING OF BILLS.

Council bill No. 23—A bill for an act to amend sections 324 and 325 of the code of civil procedure, was read a third time. [This bill proposes a modification of the exemption law].

Mr. Miner moved that the bill be indefinitely postponed, which was seconded by Mr. Ellis.

Mr. Roberts hoped the motion would not prevail. He looked upon the bill as an important one and upon the subject matter of which members of the council had strong and positive views. The effect of the motion, if adopted, would dispose of the bill in such a manner as to permit certain members to shirk the responsibility of placing themselves on record either for or against it, and he therefore hoped that the motion to indefinitely postpone would be voted down.

Mr. Day also spoke against the motion, and wanted the bill to take its regular order. He desired to speak in favor of the bill, and presumed other members also desired to be heard for or against it. Petitions from the people had been presented asking for the modification of the law, and he desired the bill to come to a direct vote, and not be thrown aside as unworthy of consideration.

Mr. Cuppett said that this question of exemption was one that was fully discussed by the people, every man had positive views in regard to it, and he believed was willing to express them.

Mr. Miner said he was in favor of the present exemption law, and was opposed to reducing or increasing it.

Mr. Valentine moved that the further consideration of the bill be postponed until 2 o'clock p. m. next Saturday, and that it be made the special order for that hour.

Mr. Rohr moved the previous question on the motion to indefinitely postpone, but before this motion was seconded,

Mr. Day moved to adjourn, which motion prevailed, and the council was accordingly declared adjourned until 10 o'clock to-morrow morning.

## THE HOUSE.

The house met, pursuant to adjournment, at ten o'clock a. m.

Mr. Speaker in the chair.

Prayer by the chaplain, Rev. J. P. Coffman.

Roll call showed all members in their seats.

The journal of yesterday's session was read and approved.

#### EXCUSED.

Mr. Brown asked to be excused until Monday, in consequence of sickness, and, on motion of Mr. Langness, he was so excused.

#### MOTIONS AND RESOLUTIONS.

Mr. Gamble moved a reconsideration of the vote by which council bill seventeen was indefinitely postponed. So ordered.

#### COMMITTEE OF THE WHOLE.

On motion of Mr. Gamble, the house went into committee of the whole on council bill seventeen, Mr. Stephens in the chair.

#### COUNCIL MESSAGE.

A message was received from the council, announcing the passage of council bill thirty-one.

#### COMMITTEE OF THE WHOLE.

After consideration of council bill seventeen the committee rose and reported a recommendation that the bill pass without amendment.

On motion of Mr. Gray, the report of the committee was adopted.

Council bill seventeen then passed to its third reading and final passage and was passed by a vote of 18 to 8.

#### NOTICE OF BILLS.

By Mr. Gamble—For an act to amend section 22 of the code of civil procedure.

By Mr. Gray—For an act to amend section 450 of the civil code.

By Mr. Flick—For an act to amend section 324 of the code of civil procedure.

By Mr. Weeks—For an act to provide for the erection of a jail and other public buildings for the county of Clay.

#### INTRODUCTION OF BILLS.

By Mr. Burbank—House file 27—For an act authorizing school district number one, Richland county, to issue bonds to build a school house.

By Mr. Burbank—House file 28—A memorial to congress praying that section 2294 of U. S. statutes be amended and that sections 2262, 2290 and 2263 of the U. S. statutes be amended.

#### COUNCIL BILLS.

Council bill thirty-one had its first reading.

The following council bills had their second reading and were referred as indicated:

Number seven—Judiciary committee, on motion of Mr. Stephens.

Number eighteen—committee on mines and mining, on motion of Mr. Stephens.

Number twenty-five—committee on counties and townships, on motion of Mr. Gamble.

Number twenty-six—committee on insurance, banks and banking, on motion of Mr. Gray.

Number thirty—committee on—  
—, on motion of Mr. Langness.  
Number one came up for its third reading and passage and was so read and passed by the unanimous vote of the house.  
Number fifteen came up for third reading, was so read and referred to the judiciary committee, on motion of Mr. Gamble.

#### HOUSE BILLS.

The following house bills had their second reading and were referred as indicated:  
Number twenty—committee on judiciary, on motion of Mr. Flick.

Number twenty-one—committee on territorial affairs, on motions of Mr. Stephens.  
Number twenty-two—judiciary committee on motion of Mr. Fockler.

Number twenty-four—to special committee, on motion of Mr. Whitfield.

Number twenty-six—committee on territorial affairs, on motion of Mr. Whitfield.  
House file number twenty-three was, under a suspension of the rules, on motion of Mr. Cross, read a third time and passed by unanimous vote.

#### THE LOCAL OPTION BILL.

House file number four, Mr. Langness' local option bill, came on for action upon the report of the committee of the whole at 11.20 o'clock a. m. The report of that committee was that the bill pass, with amendments.

Mr. Stephens moved that the measure be indefinitely postponed and called for the yeas and noes.

The yeas and noes being ordered the motion was defeated by the following vote:

Yeas—Messrs. Burbank, Flick, Gamble, Gunderson, Mauksch, Shely, Stephens—7.  
Noes—Messrs. Brown, Cross, Fockler, Gray, Helvig, Hoyer, Hoyt, Huseboe, Johnson, Langness, Simonson, Stewart, Trygstad, Walton, Webber, Weeks, Whitfield, Mr. Speaker—19.

Mr. Fockler moved that the report of the committee be adopted. So ordered.

The bill then came up for final passage.  
Mr. Gamble made a lengthy argument in opposition to the measure as being an effort to create a law which would be inoperative and ineffectual.

Mr. Gray was called to the chair and the speaker took the floor and spoke in favor of the bill. He promised that it would pass the house and pass to day.

The previous question was ordered and the question was on the passage of the bill.

The yeas and noes were called and the bill passed by the following vote:

Yeas—Messrs. Brown, Cross, Fockler, Helvig, Hoyer, Hoyt, Huseboe, Johnson, Langness, Peterson, Simonson, Stewart, Trygstad, Walton, Webber, Weeks, Whitfield, Mr. Speaker—18.  
Noes—Messrs. Burbank, Flick, Gamble, Gray, Gunderson, Mauksch, Shely, Stephens—8.

Before the vote was announced, Mr. Stephens changed from no to aye.

On motion of Mr. Gamble the title of the bill was amended to conform to the amendments in the bill.

Mr. Stephens gave notice that he would move a reconsideration of the vote by which the bill was passed.

#### ADJOURNMENT.

On motion of Mr. Jackson, the house at 12.25 p. m.; adjourned to ten o'clock a. m., January 30th.

#### CALENDAR OF BILLS.

##### IN COUNCIL.

##### ON SECOND READING.

Council bill No. 40, by Mr. Pettigrew—A bill for an act to define the boundaries of certain counties of this territory.

Council bill No. 41.—By Mr. Kuykendall—A bill for an act to establish a territorial wagon road from the northeast corner of the Yankton reservation to Brule City in Brule county.

Council bill No. 42.—By Mr. Rohr—A bill for an act to fund the indebtedness of Union county.

Council bill No. 43.—By Mr. MacNider—A bill for an act to attach the counties of Walleto and Montraile to Burleigh county for certain purposes.

Council bill No. 44.—By Mr. Day—A bill for an act to amend sections 308 and 585 of the penal code.

Council bill No. 33, by Mr. Cuppett—A bill for an act providing for the organization of civil townships and the government thereof.

##### IN HANDS OF COMMITTEES.

C. B. No. 14, by Mr. Roberts—A bill for an act to amend section 20 of chapter 40 of the political code, relating to school district meetings—education.

C. B. No. 16, by Mr. Kuykendall—A bill for an act for the protection of stock, and to regulate the branding and herding thereof—territorial affairs.

Council bill No. 21, by Mr. Cuppett—A bill for an act to amend chapter 40 of the political code, approved February 17th, 1878, relating to public education—education.

Council bill No. 28, by Mr. Wynn—A bill for an act to amend an act entitled an act to incorporate the city of Yankton, approved January 8th, 1873, as amended—finance and expenditures.

Council bill No. 34, by Mr. Pettigrew—A bill for an act to provide for the building and government of a territorial penitentiary—special committee of three.

Council bill No. 36, by Mr. Roberts—A bill for an act amending section 665 of the code of criminal procedure—special committee of three.

Council bill No. 37, by Mr. Roberts—A bill for an act relating to the rules of evidence in criminal cases—judiciary.

Council bill No. 39, by Mr. Day—A bill for an act to repeal sections 43 and 44 of the penal code—judiciary.

House file No. 6—A bill for an act to prevent fraudulent banking—judiciary.

##### ON THIRD READING.

Council bill No. 23, by Mr. Day—A bill

for an act to amend section 324 and 325, of article 13 of the code of civil procedure.

Council bill No. 27, by Mr. Edmunds—A bill for an act to amend section 14 of chapter 28 of the political code.

Council bill No. 32, by Mr. Roberts—A bill for an act locating the county seat of Grand Forks county.

Council bill No. 33, by Mr. Kuykendall—A bill for an act amending section 1 of chapter 17 of the political code relating to notaries public.

Council bill No. 35, by Mr. Miner—A bill for an act to amend an act creating a board of education for the city of Vermillion.

House file No. 2, by Mr. Gray—A bill for an act concerning corporations and persons engaged in the business of banking.

House file No. 5, by Mr. Gamble—A bill for an act authorizing the employment of short hand reporters in the district court, of Dakota territory.

House file No. 8, by Mr. Gamble—A bill for an act to amend section 336 of the code of civil procedure.

House file No. 9, by Mr. Gamble—A bill for an act to amend sections 8, 92 and 101 of the justice code.

##### SPECIAL ORDER.

Substitute for council bill No. 3, reported by a special committee—A bill for an act establishing the Dakota hospital for the insane, providing for the government of the same, and for the care of the insane—For Thursday, January 30, at 11 o'clock a. m.

##### IN HOUSE.

##### ON SECOND READING.

Council bill No. 31—A bill for an act to amend the act incorporating the city of Vermillion.

H. F. 28—By Mr. Burbank—A memorial to congress relating to homestead entries.

H. F. 27—By Mr. Burbank—For an act authorizing school district numbers one, of Richland county, to issue bonds to build a school house.

##### IN HANDS OF COMMITTEES.

C. B. No. 7, by Mr. Kuykendall—A bill for an act concerning the relations of landlord and tenant—judiciary.

C. B. No. 26, by Mr. Day—A bill for an act to amend section 510 of article 11 of the civil code—insurance, banks and banking.

C. B. No. 25, by Mr. Pettigrew—A bill for an act enlarging the boundaries of the county seat of Clay county—counties and townships.

C. B. No. 18, by Mr. Pettigrew—A bill for an act to amend section 3, chapter 38, of the revised codes of 1877—mines and mining.

H. F. No. 20, by Mr. Whitfield—For an act to amend section 38 of chapter 27 of the political code—judiciary.

H. F. No. 21, by Mr. Helvig—For an act to provide for a superintendent of weights and measures—territorial affairs.

H. F. No. 22, by Mr. Walton—For an act to amend section 56 of the justice code.

—judiciary.

H. F. No. 24—By Mr. Mauksch—For an act providing for the payment of a revision commissioner—special.

H. F. No. 25—By Mr. Fockler—For an act to amend sections two and four of chapter sixty of the penal code—counties and townships.

H. F. No. 26—By Mr. Fockler—For an act regulating the time and manner of making fire guards—territorial affairs.

Council bill No. 15—By Mr. Kuykendall—A bill for an act to amend chapter 3 of title 2, part 3 of the civil code of this territory, in relation to corporations—judiciary.

Council bill No. 20—By Mr. Roberts—A bill for an act authorizing the county of Grand Forks to issue bonds for the purpose of building a court house and jail—territorial affairs.

H. F. No. 18—By Mr. Burbank—A memorial to congress praying for a division of the territory and protesting against the passage of the bill for the admission of the whole territory as a state—judiciary.

Council bill No. 26—By Mr. Kuykendall—A bill for an act to regulate the rate of interest in certain counties in this territory.—insurance, banks and banking.

Council bill No. 22—By Mr. Roberts—A bill for an act to establish the boundaries of the judicial districts of the territory, and for fixing the terms of court therein—judiciary.

Council bill No. 24—By Mr. MacNider—A bill for an act to fund the outstanding indebtedness of the counties of Moody, Brookings, Burleigh and Grand Forks—insurance, banks and banking.

H. F. No. 12—By Mr. Flick—For an act relating to fences and enclosures—territorial affairs.

H. F. No. 16—By Mr. Gray—To amend section 325 of chapter thirteen of the code of civil procedure—judiciary.

C. B. No. 2, by Mr. Kuykendall—A bill for an act increasing the number of justices of the peace and constables, and providing for the election thereof—judiciary.

C. B. No. 10, by Mr. Kuykendall—A bill for an act to remove the cloud from certain titles—judiciary.

C. B. No. 11, by Mr. Pettigrew—A bill for an act to amend section 93 of the justice code—judiciary.

C. B. No. 13, by Mr. Pettigrew—A bill for an act to amend the penal code—committee of the whole.

House file No. 10, by Mr. Gamble—For an act to amend chapter ten of the political code—judiciary.

House file No. 3—By Mr. Gray—For an act to provide for the organization of railroad companies and to regulate the taxation of their property.—railroads.

H. F. No. 18, by Mr. Burbank—Memorial to congress praying for a division of Dakota territory, and protesting against the passage of the bill for the admission of the whole territory as a state—judiciary.

House file No. 7—By Mr. Flick—For an act to amend section ten of chapter twenty-seven.—enrollment and engrossment.

House file No. 1—By Mr. Weeks—For an act amending the law relating to the time when taxes become delinquent.—committee of the whole.