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Number 236

DAKOTA LEGISLATURE.

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

SEVENTEENTH DAY.

GENERAL COMMENTS.

In our yesterday's report we stated that Mr. Brown, of the house, asked to be, and was, excused from attendance until next Monday. This was an error on the part of the reporter. Mr. Brown asked to be excused for non-attendance on Monday last, and was so excused. In the confusion which existed at the time, the reporter misinterpreted Mr. Brown's request.

The bill upon which a call of the house was made this morning and a final adjournment effected without a vote being reached is Mr. Kuykendall's bill, permitting any rate of interest which may be contracted upon between parties. Mr. Kuykendall is a member of the council from the Black Hills and when the bill came to a vote in the house it was discovered that the two house members from that district were absent. Without deeming this an intentional act upon their part, the house thought it advisable to procure their views upon the bill, as it was made more particularly for the benefit of their district, and the sergeant at arms was sent out to bring in Mr. Flick and Mr. Whitfield. He failed to find the former, whereupon the house adjourned without action upon the bill, in order to give the Black Hills members an opportunity to cast their votes upon the measure.

A bill was introduced to-day by Mr. Gunderson, of Clay county, providing for the relief of the bondsmen of R. J. Simonson, an ex-treasurer of Clay county, whose money and books were destroyed by fire. The bill authorizes the commissioners of Clay county to credit Mr. Simonson with something over \$3,000, the amount of his shortage. It was introduced by Mr. Gunderson upon the petition of sixty nine citizens of Clay county.

THE COUNCIL.

Thursday, Jan. 30.—The council met at 10 o'clock a. m. and was called to order by the president.

Prayer by the chaplain.

Roll call showed all members present.

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

PETITIONS.

Mr. Day called for the reading of the petitions presented by him yesterday, and they were accordingly read. The petitions advocate the modification of the exemption law.

On motion of Mr. Wynn, the petitions were placed on file.

REPORTS OF COMMITTEES.

Mr. MacNider reported council bill No. 19 properly enrolled.

Mr. Valentine, reported back council bill No. 16, a bill for an act for the protection of stock, and to regulate the branding and herding there, with a recommendation that it do not pass.

On motion of Mr. Kuykendall the bill was re-committed to the committee on agriculture.

NOTICE OF BILLS.

By Mr. Miner—To amend section 47 of the political code.

By Mr. Roberts—To amend section 3 of chapter 13 of the political code.

INTRODUCTION OF BILLS.

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

By Mr. Cuppett—A bill for an act to amend chapter 28 of the political code, entitled "Revenue," passed at the 12th session of the legislative assembly.

By Mr. Miner—A bill for an act amending sections 66 and 68 of chapter 29 of the political code.

By Mr. Kuykendall—A bill for an act to prescribe fees for the secretary of the territory in certain cases.

By Mr. Day—A bill for an act providing for the publication of certain local laws in the German language and making an appropriation for the same.

By Mr. Cuppett—A bill for an act authorizing the counties of Lincoln, Turner, Moody, Minnehaha, Grand Forks, Traill, and Pembina in Dakota territory, and organized townships, towns and cities therein to issue bonds to aid in the construction of railroads in said counties, townships, towns and cities.

FIRST READING OF BILLS.

Council bill No. 45—A bill for an act to amend section 20 of chapter 39 of the political code.

Council bill No. 46—A bill for an act to amend chapter 28 of the political code, entitled "revenue," passed at the 12th session of the legislative assembly.

Council bill No. 47—A bill for an act amending section 66 and 68 of chapter 29 of the political code.

Council bill No. 48—A bill for an act to prescribe fees for the secretary of the territory in certain cases.

Council bill No. 49—A bill for an act providing for the publication of certain local laws in the German language, and making an appropriation for the same.

Council bill No. 50—A bill for an act authorizing the counties of Lincoln, Turner, Moody, Minnehaha, Grand Forks, Traill and Pembina, in Dakota territory, and organized townships, towns and cities therein to issue bonds to aid in the construction of railroads in said counties, townships, towns and cities.

SECOND READING OF BILLS.

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

Council bill No. 38, to the committee on territorial affairs.

Council bill No. 40, to the committee on counties.

Council bill No. 41, to the committee on highways and bridges.

Council bill No. 42, to the committee on agriculture.

Council bill No. 43, to the committee on counties.

Council bill No. 44, to the committee on judiciary.

MESSAGE FROM THE HOUSE.

A message from the house announced the passage by that body of council bills Nos. 1, 5 and 17; also house files Nos. 15 and 23, and requested the concurrence of the council therein.

THIRD READING AND PASSAGE OF BILLS.

Council bill No. 23, to amend sections 324 and 325, of article 13 of the code of civil procedure, having had its third reading yesterday, came up for final passage.

Arguments in favor of the passage of the bill were made by Messrs. Day and Roberts, and Messrs. Miner and Cuppett opposed it.

Before the discussion was concluded, the hour of 11 o'clock arrived, for which hour the bill in regard to the insane had been made the special order, and on motion of Mr. Pettigrew the bill under consideration was recommitted to the committee on judiciary.

SPECIAL ORDER.

The council then went into committee of the whole on the bill to establish a hospital for the insane and provide for the government thereof.

Mr. Miner was called to the chair, and took a seat at the clerk's table.

Mr. Valentine raised the point of order that the chairman was not in his proper place—that he should occupy the president's chair.

Mr. Miner stated that whilst acting as chairman of the committee he would run it as he thought was the correct way, and if the committee didn't like it, it could put somebody else in the chair.

Mr. Valentine called the chair to order and insisted that he should take the president's chair.

The chairman retorted that he knew his place and would retain it.

Mr. Valentine—I appeal from the decision of the chair.

Mr. Miner—The chair will not entertain any such proposition.

At this point the president resumed the chair and stated that as the committee was out of order he took the chair to place it in order.

Mr. Edmunds then moved that the council go into a committee of the whole on the insane bill, which motion prevailed, and Mr. Roberts took the chair.

The bill was considered by sections, and variously amended, but without concluding the consideration of the amendments proposed, on motion of Mr. Kuykendall the committee rose, reported progress and asked leave to sit again.

On motion of Mr. Edmunds it was voted to resume the consideration of the bill in committee of the whole at 11 o'clock to-morrow.

On motion of Mr. Rohr, the council adjourned.

THE HOUSE.

The house convened, 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 the members in their seats.

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

COMMITTEE REPORTS.

Mr. Gamble, from the judiciary committee reported back house file twenty-seven, with amendments, and recommended its passage; also house file twenty-two, without amendments, and a like recommendation; also house file eighteen, with like recommendation; also a majority report on council bill twenty-two, suggesting amendments.

Mr. Brown, from the committee on counties and townships, reported back council bill twenty-five, with a recommendation that it pass.

Mr. Stephens, from the committee on insurance, banks and banking, reported back council bills twenty-six, twenty and twenty-four, without amendment, and a recommendation that they pass.

On motion of Mr. Gray, council bill twenty-two was referred to committee of the whole, and made the special order for to-morrow at 11:30 o'clock a. m.

NOTICE OF BILLS.

By Mr. Weeks—For an act to amend chapter three of the political code.

By Mr. Walton—For an act to amend section 1,098 of chapter three of the civil code.

INTRODUCTION OF BILLS.

H. F. 29—By Mr. Stewart—For an act to amend section 43 of chapter 4 of the penal code.

H. F. 30—By Mr. Peterson—For an act in relation to the county seat of Union county.

H. F. 31—By Mr. Gunderson—For an act for the relief of R. J. Simonson, late judge of probate and ex-officio county treasurer of the county of Clay, in the territory of Dakota.

H. F. 32—By Mr. Weeks—For an act to provide for the erection of a jail and other public buildings for the county of Clay.

H. F. 33—By Mr. Gamble—For an act to amend chapter 3 of the civil code and for other purposes.

H. F. 34—By Mr. Gamble—For an act to amend section 22 of the code of civil procedure.

H. F. 35—By Mr. Gamble—For an act to amend section 26 of the code of civil procedure.

SPECIAL COMMITTEE.

The speaker announced as special committee for the consideration of house file twenty-four, Messrs. Whitfield, Stewart, Trygstad, Fochler and Brown.

COUNCIL BILLS.

Council bill thirty-one had its second reading and was referred to the committee on counties and townships.

Council bill eighteen came up for third reading and, on motion of Mr. Gamble, was indefinitely postponed.

Council bill twenty came up for third reading and, on motion of Mr. Weeks, was referred to the committee of the whole and made the special order for Saturday at eleven o'clock a. m.

Council bill twenty-four came up on the report of the committee, which report was adopted and the bill passed to its third reading and final passage and was passed by a unanimous vote.

Council bill twenty-five came up on the report of the committee to which it was referred, and the report was adopted, the bill passed to its third reading and final passage, and was passed by unanimous vote.

Council bill twenty-six came up on the report of the committee to which it was referred, the report was adopted, and, on motion of Mr. Gamble, the bill was laid upon the table until to-morrow morning.

HOUSE BILLS.

House file twenty-seven came up for its second reading, and was, on motion of Mr. Langness, referred to the judiciary committee.

House file twenty-eight came up for second reading, and, on motion of Mr. Fockler, the rules were suspended, the bill had its third reading, was put upon its final passage, and passed by unanimous vote.

House file seven had its third reading, and, on motion of Mr. Gamble, was referred to the committee on enrollment and engrossment.

House file eighteen had its third reading, and came up for final passage, and was passed, Messrs. Helvig, Peterson and Gray voting in the negative.

Mr. Burbank moved to reconsider the vote by which the bill passed and to lay the motion to reconsider upon the table. So ordered.

House file twenty came up under the report of the committee to which it was referred and the report of the committee was adopted. The bill was placed upon its third reading and final passage and was passed by unanimous vote, Messrs Burbank and Whitfield being absent from their seats and not voting.

House file twenty-two, referred back from committee, went through the usual orders and was passed by unanimous vote.

COUNCIL BILL TWENTY.

On motion of Mr. Weeks the vote by which council bill twenty was referred to committee of the whole and made a special order was reconsidered.

On motion of Mr. Stephens the report of the committee upon the bill was adopted. The bill then came up for final passage.

CALL OF THE HOUSE.

Mr. Gray stated that two of the gentlemen interested in the passage of the bill were absent and moved a call of the house. So ordered.

Roll call showed that Messrs. Flick and Whitfield were absent, and the sergeant-at-arms was instructed to hunt them up.

After a lapse of fifteen minutes the sergeant-at-arms returned with Mr. Whitfield, and announced his inability to find Mr. Flick.

Mr. Whitfield stated that he did not leave the house for the purpose of evading a vote. He had been sick all night, and did not feel well to-day.

ADJOURNMENT.

On motion of Mr. Burbank, the house, at 11:45 a. m. adjourned to ten o'clock a. m. January 31st.

CALENDAR OF BILLS.

IN COUNCIL.

ON SECOND READING.

Council bill No. 45, by Mr. Wynn—A bill for an act to amend section 20 of chapter 39 of the political code.

Council bill No. 46—by Mr. Cuppett—A bill for an act to amend chapter 28 of the political code, entitled "revenue," passed at the 12th session of the legislative assembly.

Council bill No. 47—by Mr. Miner—A bill for an act amending sections 66 and 68 of chapter 29 of the political code.

Council bill No 48—by Mr. Kuykendall—A bill for an act to prescribe fees for the secretary of the territory in certain cases.

Council bill No. 49—By Mr. Day—A bill for an act providing for the publication of certain local laws in the German language and making an appropriation for the same.

Council bill No. 50—By Mr. Cuppett—A bill for an act authorizing the counties of Lincoln, Turner, Moody, Minnehaha, Grand Forks, Traill and Pembina in Dakota territory, and organized townships, towns and cities therein to issue bonds to aid in the construction of railroads in said townships, towns and cities.

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—agricultural.

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.

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—judiciary.

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

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

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

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

Council bill No. 38, by Mr. Cuppett—A bill for an act providing for the organization of civil townships and the government thereof—territorial affairs.

ON THIRD READING.

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 Friday, January 31, at 11 o'clock a. m.

IN HOUSE.

ON SECOND READING.

H. F. 29—By Mr. Stewart—For an act to amend section 43 of chapter 4 of the penal code.

H. F. 30—By Mr. Peterson—For an act relation to the county seat of Union county.

H. F. 31—By Mr. Gunderson—For an act for the relief of J. Simonson, late judge of probate and ex-officio county treasurer of the county of Clay, in the territory of Dakota.

H. F. 32—By Mr. Weeks—For an act to provide for the erection of a jail and other public buildings for the county of Clay.

H. F. 33—By Mr. Gamble—For an act to amend chapter 3 of the civil code, and for other purposes.

H. F. No. 34—By Mr. Gamble—For an act to amend section 22 of the code of civil procedure.

H. F. No. 35—By Mr. Gamble for an act to amend section 26 of the code of civil procedure.

IN HANDS OF COMMITTEES.

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

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—judiciary.

C. B. No. 7, by Mr. Kuykendall—A bill for an act concerning the relations of landlord and tenant—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. 24—By Mr. Mausch—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. 29—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. 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 92 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.

ON THIRD READING.

Council bill No. 20—By Mr. Kuykendall—A bill for an act to regulate the rate of interest in certain counties in this territory.

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.

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