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Number 238

## DAKOTA LEGISLATURE.

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

### NINETEENTH DAY.

#### GENERAL COMMENTS.

Mr. Whitfield to-day gave notice of a bill to be introduced by him providing for the division of Lawrence county and the organization of a new county from the agricultural portion thereof, the new county thus created to be called Howard county. This bill is to be introduced by Mr. Whitfield because, he has been petitioned to take the step by a large number of the non-mining residents of Lawrence county. The petitioners represent that they are willing to pay their proportion of the present indebtedness of the county and that they desire separation because the county is being run into debt at a rate which promises to absorb all their possessions. This measure will doubtless meet with strong opposition from Deadwood.

The local option bill, which has passed the house, was received in the council this morning and referred to the committee on immigration. Just what connection there is between immigration and whisky, or vice versa, is not clearly apparent, but we presume the council took into consideration the composition of that committee, and knew what it was about. Messrs. Cuppet, Roberts and Kuykendall compose the council committee on immigration, and doubtless each of these gentlemen will be glad to receive suggestions from the friends of the measure—especially the ladies.

#### THE COUNCIL.

Saturday, Feb. 1.—The council met at 10 o'clock and was called to order by Mr. Valentine, president pro tem.

Prayer by the chaplain.

Roll called; members all present except Mr. Walsh.

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

#### PETITIONS.

Mr. Edmunds presented a petition from thirty-three citizens of Bon Homme county, protesting against the modification of the exemption law.

#### REPORTS OF COMMITTEES.

Mr. MacNider reported council bills Nos. 1, 5, 17 and 25 correctly enrolled.

Mr. Ellis, from the committee on counties, reported back council bill No. 40, defining the boundaries of certain counties, and recommended its passage.

Mr. Miner, from the committee on agriculture, reported back council bill No. 16, in regard to herding and branding stock, with amendments; also, council bill No. 42, to fund the indebtedness of Union county, and recommended their passage.

#### MOTIONS.

Mr. Kuykendall moved that the vote by which house file No. 5, providing for the employment of short hand reporters, was defeated yesterday be reconsidered, which motion prevailed, and the bill ordered to come up in its regular order on Monday next.

Mr. Edmunds moved that the reference of council bill No. 28, to amend the charter of the city of Yankton, be transferred from the committee on finance and expenditures to a committee composed of the Yankton county members of the legislative assembly, which motion prevailed, and the bill was so referred.

#### NOTICE OF BILLS.

By Mr. Kuykendall—To provide for the appointment of a fire warden for the town of Deadwood, and for other purposes.

#### INTRODUCTION OF BILLS.

By Mr. Pettigrew—A bill for an act establishing a board of education for the village of Sioux Falls.

By Mr. Wynn—A bill for an act fixing the compensation of clerks of the district courts of the several judicial districts of the territory.

By Mr. Edmunds—A bill for an act to reimburse the governor of the territory for money expended on the insane asylum.

#### FIRST READING OF BILLS.

Council bill No. 52—A bill for an act establishing a board of education for the village of Sioux Falls.

Council bill No. 53—A bill for an act fixing the compensation of clerks of the district courts in the several judicial districts of the territory.

Council bill No. 54—A bill for an act to refund to the governor the money expended by him on the insane asylum.

#### SECOND READING OF BILLS.

Council bill No. 50, authorizing the counties of Lincoln, Turner, Moody, Minnehaha, Grand Forks, Traill and Pembina to issue bonds for railroad purposes, was read a second time and referred to the committee on railroads.

#### THIRD READING OF BILLS.

Council bill No. 40—A bill for an act to define the boundaries of certain counties in this territory, was read a third time. [This bill proposes to cut off one tier of townships from the eastern part of Hanson county, and attach them to McCook county.]

Mr. Edmunds believed that the provisions of the bill were opposed by the people of Hanson county, and hoped the bill would be laid over until further information can be obtained in regard to the wishes of the people.

After some discussion, on motion of Mr. Pettigrew, the further consideration of the bill was postponed until next Wednesday.

#### MESSAGE FROM THE GOVERNOR.

A message was received from the governor announcing his approval of council bill No. 8, creating a lien for miners and laborers in certain cases.

#### MESSAGE FROM THE HOUSE.

The council was informed by a message that the house had passed house file No. 12, an act regulating fences and enclosures in

the Black Hills counties; also that the house had passed council bill No. 31, amending the charter of the city of Vermillion, and the following council bills with amendments: No. 20, to regulate the rate of interest in the counties of Lawrence, Pennington and Custer; No. 22, establishing the boundaries of the judicial districts of the territory; and No. 29, authorizing the county of Grand Forks to issue bonds for the purpose of building a court house and jail.

#### HOUSE BILLS.

House file No. 12, in regard to fences in the Black Hills counties, was read a first time.

The following house bills had their second reading and were referred as indicated: No. 4, known as the local option law, to the committee on immigration.

No. 13, relating to the compensation of public officers, to the committee on education.

No. 15, relating to qualification for office, to the committee on elections.

No. 20, amending the law in regard to the compensation of judges and clerks of elections to the committee on elections.

No. 22, to amend section 36 of he justice code, to the committee on counties.

No. 23, asking an appropriation to remove obstructions from the Missouri, to the committee on immigration.

No. 28, a memorial praying for the amendment of certain United States statutes, to the committee on territorial affairs.

#### ADJOURNMENT.

On motion of Mr. Pettigrew, the council adjourned until 10 o'clock Monday morning, February 3.

#### 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 excepting Mr. Gray.

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

#### COUNCIL BILL TWENTY-SIX.

Mr. Burbank moved that the vote by which council bill twenty-six was yesterday passed, be reconsidered. So ordered.

Mr. Burbank moved that further consideration of council bill twenty-six be indefinitely postponed. Adopted.

This is the bill which was designed to prevent insurance companies doing business in the territory from publishing annual statements of their standing and condition, as required under the present law.

#### COUNCIL MESSAGE.

A message was received from the council announcing the passage of council bills 32, 33, 35 and 43, and house files number 6 and 18.

#### NOTICE OF BILLS.

By Mr. Flick—To amend sections 325 and 324 of the code of civil procedure.

By Mr. Whitfield—To amend chapter 39 of the political code.

By Mr. Whitfield—To organize the county of Howard and to define the boundaries thereof.

#### INTRODUCTION OF BILLS.

By Mr. Weeks—H. F. 38—For an act relating to the taxation of property.

By Mr. Weeks—H. F. 39—To amend chapter three of the political code.

By Mr. Gamble—H. F. No. 40—to amend section 460 of "the penal code," relating to ferries.

#### THE FIFTH ORDER.

On motion of Mr. Stephens (the house reverted to the fifth order of business, reports of standing committees, and Mr. Huseboe, from the committee on education, reported back house file twenty-seven, authorizing school district number one, Richland county, to issue bonds, with sundry amendments thereto and recommended its passage as amended.

On motion of Mr. Langness, the report was adopted.

#### COUNCIL BILLS.

Council bills 32, 33, 35 and 43 had their first readings.

#### HOUSE BILLS.

House file 36 had its second reading and was referred to the committee on agriculture. The bill provides that ten per cent shall be the legal rate, of interest in the territory of Dakota.

House file 37 had its second reading, and under a suspension of the rules, passed to its third reading and final passage and passed by unanimous vote. It is a memorial asking for an extension of mail service from Canton to Milltown.

House file 27, reported back with amendments from the committee on education, was, on motion of Mr. Burbank, under suspension of the rules, read a third time and passed by unanimous vote.

#### CALL OF THE HOUSE.

On motion of Mr. Burbank, a call of the house was ordered, when it was discovered that Mr. Gray was absent. The sergeant-at-arms was dispatched with instructions to bring in Mr. Gray.

After waiting some fifteen minutes, Mr. Stephens moved that further call of the house be dispensed with, but the motion was voted down, under a motion from Mr. Burbank that Mr. Stephens' motion lie on the table.

At half past eleven o'clock the sergeant at-arms returned and reported Mr. Gray present.

He was commanded to place Mr. Gray before the bar of the house, where any excuses he might offer would be heard and acted upon.

Mr. Gray said it was absolutely necessary that he be absent and thought he ought to be excused.

Mr. Burbank moved that Mr. Gray be fined fifteen cents and costs. So ordered.

Mr. Burbank, by request and on motion of Mr. Gamble, was excused for non-attendance at yesterday's roll call.

**ADJOURNMENT MOTION.**

Mr. Flick moved that the house adjourn. Mr. Burbank seconded the motion and called for the ayes and noes. The roll was called and the motion lost.

**COMMITTEE REPORTS.**

Mr. Husbece, from the committee on education, reported back council bill 30 with sundry amendments and recommended their adoption and the passage of the bill.

**EXCUSED.**

By request, and on motion of Mr. Burbank, Mr. Whitfield was excused from attendance until Tuesday morning.

On motion of Mr. Gunderson, Mr. Cross was excused from attendance until Tuesday morning.

**CALL OF THE HOUSE.**

On motion of Mr. Gray a call of the house was ordered, and it was found that Mr. Flick was absent. The sergeant-at-arms was sent out with orders to bring in Mr. Flick.

After waiting some three-quarters of an hour, Mr. Stephens moved that further call of the house be dispensed with. On a call of the ayes and noes, the motion was lost by a vote of eighteen to seven.

Mr. Gamble moved that the assistant clerk, the enrolling and engrossing clerk, and the messenger, be made a special committee to assist in the search for Mr. Flick, and to report progress. So ordered.

At this juncture a written message was handed in, addressed to Mr. Stephens. It was from the sergeant-at-arms, and read as follows:

Stephens—There is no use of your staying there any longer, as I can't find Flick, and can't find out where he is. J. H. DIX.

The speaker ruled that no action could be taken upon the communication from the sergeant-at-arms, as it was not addressed to the speaker.

Shortly before one o'clock, the sergeant-at-arms and his posse returned, and the commander-in-chief of the expedition reported that he had the missing member in his possession. He was directed to bring Mr. Flick before the bar of the house, and when there Mr. Flick was asked to present his excuse for absence.

Mr. Flick, (who is a physician) said he had a professional call to make, and as he supposed the house was about to adjourn, he had gone to meet his engagement.

Mr. Flick was fined twenty cents and excused.

Mr. Stephens then presented an apology for the sergeant-at-arms for his unparliamentary manner of communicating intelligence to the house, and everything was once more harmonious.

**ADJOURNMENT.**

The house at one o'clock p. m., adjourned to February 3d, at ten o'clock a. m.

**CALENDAR OF BILLS.**

**IN COUNCIL.**

**ON SECOND READING.**

Council bill No. 46—By Mr. Cuppett—A bill for an act to establish a board of education for the town of Sioux Falls.

Council bill No. 51—By Mr. Miner—A bill for an act to amend section 47 of chapter 27 of the political code.

Council bill No. 52—By Mr. Pettigrew—A bill for an act to establish a board of education for the town of Sioux Falls.

Council bill No. 53—By Mr. Wynn—A bill for an act providing compensation for the clerk of the district courts of the several judicial districts of this territory.

Council bill No. 54, by Mr. Edmunds—A bill for an act to refund to the governor the money expended by him in preparing an insane asylum.

House file No. 12, by Mr. Flick—A bill for an act relating to fences and enclosures.

**IN HANDS OF COMMITTEES.**

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

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

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

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—finance and expenditures.

Council bill No. 50—By Mr. Cuppett—A bill for an act authorizing the counties of Lincoln, Turner, Moody, Minnehaha, Grand Forks, Trull 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—railroads.

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.

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—Yankton county delegation.

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 605 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 48 and 44 of the penal code—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. 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. 44—By Mr. Day—A bill

for an act to amend sections 308 and 385 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.

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

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

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

House file No. 4—By Mr. Langness—For an act to provide for the submission to vote in the several counties of the question of granting licenses to sell intoxicating liquors therein, under chapter thirty-five of the political code—immigration.

H. F. No. 18—By Mr. Stewart—For an act to amend section 15, chapter 39, of the revised code, relating to the compensation of public officers—education.

H. F. No. 15—By Mr. Stewart—For an act to amend section 2 of chapter 5 of the revised code, relating to qualifications for office—elections.

H. F. No. 20, by Mr. Whitfield—A bill for an act to amend section 38 of chapter 27 of the political code—elections.

H. F. No. 22, by Mr. Walton—To amend section 36 of the justice code—counties.

H. F. No. 23, by Mr. Gunderson—A memorial for an appropriation for the removal of obstructions from the Missouri river—immigration.

H. F. No. 28, by Mr. Burbank—A memorial praying for the repeal of certain sections of the United States statutes—territorial affairs.

**ON THIRD READING.**

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.

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

**POSTPONED.**

Council bill No. 40, by Mr. Pettigrew—A bill for an act to define the boundaries of certain counties of this territory—Wednesday, Feb. 5th.

**IN HOUSE.**

**ON SECOND READING.**

H. F. 38—By Mr. Weeks—For an act relating to taxation of property.

H. F. 39—By Mr. Weeks—For an act to amend chapter three of the political code.

H. F. 40—By Mr. Gamble—For an act to amend section 400 of the penal code.

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

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.

**IN HANDS OF COMMITTEES.**

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

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

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—special, Clay county members.

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—counties and townships.

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

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

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

By Mr. Walton—H F 36—For an act to amend section 1098 of chapter three of the civil code—agriculture.

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.

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.

Council bill No. 30, by Mr. Roberts—A bill for an act authorizing school district No. 2, in the county of Grand Forks, to issue bonds—committee of the whole.

Council bill No. 6—A bill to amend section 1,748 of the civil code referring to the removal of chattel mortgage—education.