

Daily Press and Dakotian.

Volume 4.

YANKTON, DAKOTA TERRITORY, MONDAY EVENING, FEBRUARY 3, 1879.

Number 239

DAKOTA LEGISLATURE.

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

TWENTY-FIRST DAY.

GENERAL COMMENTS.

While yet there is much left undone, the subject of adjournment begins to be broached. A resolution in the house this morning cutting off new business after the thirty-sixth day gave rise to a discussion in which it was suggested that pay of members would be stopped after the thirty-second day, as the appropriation would by that time be exhausted. In the council a resolution to adjourn on the thirteenth inst. was presented, but not acted upon, a committee being appointed to wait upon the secretary and enquire into the state of the public finances.

The gallant Captain Miner, of Clay county, has distinguished himself by the introduction of a bill granting suffrage to the ladies of the territory. Council bill number fifty-one is the measure referred to and it is amendatory to section forty seven of chapter twenty-seven of the political code, the bill providing that the word "male" shall be expunged from that section. Should the captain's bill become a law all persons, male or female, who have resided a sufficient length of time within the territory, will be entitled to vote and to hold office.

Mr. Langness, the author of the local option bill which created so much excitement last week, has in preparation another bill upon the same subject, which he will introduce in a day or two. It will contain stringent regulations concerning the sale of liquor, and will provide that licenses shall not be issued for a less sum than \$200 or \$300 per year. This measure will carry greater strength than the local option bill.

Mr. Gray, to-day, gave notice of a bill which will undertake to attach to the third (northern) judicial district the counties of Lincoln, Minnehaha, Clark, McCook, Lake, Moody, Wood, Brookings, Hamlin, Deuel, Codington, Grant, Greeley and Stone. Just how popular this measure will be with the people of those counties remains to be seen.

Governor Howard sent to the legislative council to-day his nomination for the various territorial officers which it is his province to name. This afternoon, the council confirmed W. H. McVay of Yankton, as territorial treasurer, and E. A. Sherman, of Sioux Falls, as auditor. The appointment of Mr. Sherman, former territorial treasurer, to the office of auditor is a testimonial of the governor's confidence which completely exonerates that gentleman from the reflections cast upon him in the message of Governor Howard, which was submitted to the legislature on its assembling. In this act, the governor says to the world in the most emphatic manner, that

the error was his own. The appointment of Capt. W. H. McVay to the position of territorial treasurer could not have been improved upon. He is one of the most successful financial men in the territory, and stands at the head of one of the best national banks in the whole country.

THE COUNCIL.

Saturday, Feb. 3.—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 Saturday's proceedings was read and approved.

REPORTS OF COMMITTEES.

Mr. Cuppett, from the committee on immigration, reported back house file No. 23, asking an appropriation to remove obstructions from the Missouri river, and recommended its passage.

Mr. Rohr, from the committee on elections, reported back house file No. 15, relating to qualifications for office, and house file No. 20, to amend section 38 of chapter 27 of the political code, with a recommendation that they do not pass.

Mr. MacNider reported council bill No. 24 correctly enrolled.

Mr. Ellis from the committee on counties, reported back house file No. 22, to amend section 36 of the justice code, and recommended its passage.

Mr. Roberts, from the committee on judiciary, reported back council bill No. 37, relating to rules of evidence in criminal cases; No. 39, to repeal sections 43 and 44 of the penal code, and recommended their passage; also council bill No. 45 to amend section 20 of chapter 39 of the political code, and council bill No. 47, to amend sections 68 and 69 of chapter 29 of the political code, with a recommendation that they do not pass.

The same committee reported back council bill No. 44, amending sections 308 and 385 of the penal code, with amendments, and recommended its passage.

Mr. Ryan, from the committee on education, reported back council bills No. 14 and 21, relating to public education, with a substitute for the same, the passage of which is recommended by the committee.

Mr. Valentine, from the committee on territorial affairs, reported back council bill No. 48, relating to fees for the secretary of the territory in certain cases, with amendments, and recommended its passage as amended; also house file No. 28, a memorial asking for the repeal of certain sections of the United States statutes, and recommended its passage.

INTRODUCTION OF BILLS.

By Mr. MacNider, changing the boundaries of the counties of Emmens and Morton, and on his motion the rules were suspended and the bill passed.

By Mr. Wynn, creating a school law for the territory of Dakota, which was read a first time.

RESOLUTION.

Mr. Edmunds by consent, introduced the following resolutions:

Resolved, (the house of representatives concurring,) That the legislative assembly adjourn without day on the 13th day of February, instant.

Resolved, That a copy of this resolution be transmitted to the house of representatives asking the concurrence of that body therein.

Mr. Edmunds stated that the money appropriated for the expenses of the legislative assembly will be exhausted by the date named in the resolution; but that the exact facts may be understood he moved that a committee of three members of the council be appointed to act with a committee of four members of the house to confer with the secretary of the territory in regard to the amount of funds in his hands. This motion was adopted and Messrs. Pettigrew, Miner and MacNider were appointed as the council members of said committee.

MESSAGE FROM THE GOVERNOR.

The governor transmitted to the council a sealed message to be opened in executive session; also returned with his objections council bill No. 19, relating to a change of place of trial in justices' courts. The message was not read.

CONSIDERATION OF HOUSE MESSAGE.

The message from the house received on Saturday announcing the passage of council bills Nos. 22, 20 and 29, with amendments, was taken up.

On motion of Mr. Kuykendall, council bill No. 22, was referred to a special committee of three.

On motion of Mr. Kuykendall the house amendments to council bill No. 20 were concurred in.

On motion of Mr. Roberts, the council concurred in the house amendments to council bill No. 29.

SECOND READING OF BILLS.

Council bill No. 46, relating to revenue, was read a second time.

Council bill No. 51, amending section 47 of chapter 27 of the political code, had its second reading and was referred to the committee on elections.

Council bill No. 53, relating to compensation of clerks of the district courts was read a second time and referred to the committee on territorial affairs.

FIRST READING OF BILLS.

Council bill No. 16—A bill for an act for the protection of stock and to regulate the branding and herding thereof. Passed.

Council bill No. 37—Relating to the rules of evidence in criminal cases. Passed.

Council bill No. 39—A bill for an act to repeal sections 43 and 44 of the penal code, [These sections constitute what are known as the "blue laws."] The bill passed by the following vote: Ayes—Messrs. Cuppett, Day, Kuykendall, MacNider, Roberts, Valentine and Mr. President. Noes—Messrs. Edmunds, Ellis, Miner, Pettigrew, Rohr and Wynn.

Council bill No. 42—A bill for an act to fund the indebtedness of Union county, was read a third time and recommended to the committee on engrossment to correct certain clerical errors.

Council bill No. 45—A bill for an act to reduce the fees of jurors, was read a third time and rejected by a vote of noes 10, ayes 3.

Council bill 47, amending sections 66 and 68 of chapter 29 of the political code. The amendments increase the labor which each citizen is required to perform on the roads from one to two days. The bill was lost, Mr. Miner being the only one voting in the affirmative.

Council Bill No. 38—A bill for an act to prescribe fees for the secretary of the territory in certain cases, was read a third time and on motion of Mr. Pettigrew was recommended to committee on judiciary.

Council bill No. 44—A bill to amend section 308 and 385 of the penal code. The amendments give justice of the peace final jurisdiction in assault and battery and petit larceny. On motion of Mr. Pettigrew the bill was recommended to the committee on judiciary.

EXECUTIVE SESSION.

Mr. Edmunds moved that the council go into executive session on the sealed message of the governor received this morning.

Mr. Miner moved that the council adjourn until 2 o'clock p. m. which motion was lost.

Mr. Edmunds' motion to go into executive session was amended, and 2 o'clock this afternoon set for the hour of holding the executive session.

HOUSE BILLS.

House file 27, authorizing school district No. 1, in Richland county to issue bonds, and house file 37, a memorial asking for an increase of mail service from Canton to Milltown, were read a first time.

House file No. 12, relating to fences and enclosures in the Black Hills, was read a second time, and referred to the committee on territorial affairs.

House file No. 5, relating to the employment of short hand reporters in the district courts, was read a third time and passed.

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

House file No. 15, relating to the qualifications for office, coming up for its final passage, was defeated by a unanimous vote.

House file 20, to amend section 38 of chapter 27 of the political code, relating to compensation of judges of elections, was lost by a vote of 12 noes to ayes 1.

House file No. 22, to amend section 36 of the justice code. Passed.

House file No. 23, asking for an appropriation to remove obstructions from the Missouri river at Vermillion.

Mr. Edmunds said he would like to know whether the passage of the memorial would not be a recognition by this body of its confidence in the liberality of congress. If such would be the construction he hoped the memorial would not pass as congress had shown no liberality towards this territory, not even appropriating enough money to pay the expenses of the legislative assembly.

Mr. Pettigrew said he was opposed to the passage of any and all memorials asking any favors of the general

government. All our requests in that direction have been treated with silence or contempt, and he did not wish to place himself in the attitude of a suppliant when he knew the application would not meet with favor or even respectful consideration.

On calling the ayes and noes the memorial passed by ayes 12, noes 1—Mr. Pettigrew casting the negative vote.

House No. 28, a memorial praying for the repeal of certain sections of the United States statutes. Passed.

RECESS.

On motion of Mr. Pettigrew the council took a recess until 2 o'clock p. m.

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 members in their seats, excepting Mr. Whitfield, excused, and Mr. Flick.

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

COMMITTEE REPORTS.

Mr. Gray, from the committee on railroads, reported back house file three—a bill to amend chapter three of title two of part three of division second of the civil code, and provide for the organization of railroad corporations, to regulate the operation thereof—with sundry amendments and recommended its passage. Mr. Gray moved that it be referred to the committee of the whole and made a special order for Tuesday at eleven o'clock a. m. So ordered.

THE SERGEANT-AT-ARMS.

Mr. Gamble moved that a special committee of five be appointed, with power to send for persons and papers, to ascertain whether or not the sergeant-at-arms took dinner, Saturday, during the call of the house.

The motion was adopted, and Messrs. Gamble, Stephens, Gray, Burbank and Flick appointed as such committee.

NOTICE OF BILLS.

By Mr. Langness—A bill to regulate the sale of intoxicating liquor.

By Mr. Weeks—Providing for the levy of a tax for county purposes.

By Mr. Gray—To annex certain counties to the third judicial district.

By Mr. Gray—To authorize the county of Burleigh to issue bonds for building a court house.

INTRODUCTION OF BILLS.

H. F. No. 41—By unanimous consent a memorial to congress concerning surveys and appropriations therefor.

Under a suspension of the rules the memorial had its several readings, and was passed by unanimous vote.

COUNCIL MESSAGE.

A message was received from the council announcing the reference of council bill twenty-eight to a special joint committee consisting of the Yankton county members. This is Mr. Wynn's bill amending the charter of Yankton.

FROM THE GOVERNOR.

A special message received from Governor Howard, through his private secretary, General Beadle transmitted to the house a special message embodying the report of the special agent to arrange for the temporary care of the insane.

COUNCIL BILLS.

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

C. B. 32—to the committee on territorial affairs. It provides for locating the county seat of Grand Forks, county at Grand Forks, the record of a previous location having been accidentally destroyed.

C. B. 33—to the judiciary committee, on motion of Mr. Stephens. It amends section one of chapter seventeen of the political code and relates to notaries public.

C. B. 35—to the committee on education, on motion of Mr. Brown. It amends the act creating a board of education for the city of Vermillion.

C. B. 43—to a committee of one, consisting of Mr. Gray, on motion of Mr. Stephens. It provides for attaching the counties of Walleette and Mountraille to Burleigh county for bridge corporation purposes.

Council bill thirty, authorizing district No. 2 of Grand Forks county to issue bonds for the purpose of building a school house, came up for its third reading and final passage, and passed by a vote of 20 to 3, Messrs. Fockier, Johnson and Peterson voting in the negative. The title of the bill was agreed to.

HOUSE BILLS.

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

H. F. No. 38—to judiciary committee, on motion of Mr. Stephens. It provides that taxable property shall be assessed on the 1st of February of each year and at its full value.

H. F. No. 39—to judiciary committee, on motion of Mr. Cross. This is a bill to amend the statutes so that each county treasurer shall be entitled to a copy of the revised codes, and that each county clerk shall not be entitled to one; also that each member of each board of county commissioners shall be entitled to a copy of the same.

H. F. No. 40—laid over until to-morrow. It provides that any person who shall maintain a ferry for profit without procuring a license therefor shall be guilty of a misdemeanor; that all ferry licenses shall give the persons holding them exclusive privilege for a distance of two miles up and down the stream; that persons carrying passengers or goods in a skiff, scow or boat without a license shall be guilty of a misdemeanor.

House file three, Mr. Gray's railroad bill, reported back from the committee on railroads, was made the special order for to-morrow at eleven o'clock a. m.

MOTIONS AND RESOLUTIONS.

Mr. Burbank presented the following resolution and moved its adoption:

Resolved, That no house bills shall be introduced after the thirty-sixth day of the session.

Mr. Gamble moved as an amendment to Mr. Burbank's motion that the resolution lie on the table until to-morrow. Lost.

Mr. Gamble moved to amend the resolution by substituting "thirty-second day" for "thirty-sixth" day.

Mr. Burbank moved that the amendment be laid upon the table. So ordered.

The resolution then came up under a call of the previous question and was adopted by a vote of 23 to 1, Mr. Stephens voting in the negative.

THE GOVERNOR'S MESSAGE.

The special message of Governor Howard was then taken up and read as follows:

TERRITORY OF DAKOTA,
EXECUTIVE OFFICE,
YANKTON, Feb. 3, 1873.

To the House of Representatives of the territory of Dakota: I transmit herewith the report of Hon. E. A. Sherman, special agent to negotiate with the authorities of the state of Minnesota for an extension of the time for removing the insane of the territory. It will be seen that his mission was successful so far as their local board had power to act. The time for removing them was extended until the regular meeting of the board, sometime about the 11th of March. When their board shall be together in full session the time may be further extended so as to embrace the whole sixty days asked for; but every consideration of good faith requires that we should relieve the authorities of that state at the earliest moment possible. Your attention is called to the fact that one patient is at St. Peters from the Black Hills who is reported to be entirely cured. Provision shall be made for returning him here at once and thus relieve the territory from the expense of his keeping. The expense should be paid by the county.

WM. A. HOWARD
Governor.

SPECIAL AGENT SHERMAN'S REPORT.

To His Excellency, Gov. Wm. A. Howard, Yankton, D. T.—DEAR SIR: As the special agent of the territory, by act of the legislature, 27th ult., to make necessary arrangements with the authorities of Minnesota the temporary care and keeping of the insane, in accordance with your special message to that effect, I have the honor of submitting the following report:

Your letter to Gov. Pillsbury was by his excellency referred to the trustees of the asylum, a majority of whom reside at St. Peter. A visit to the institution at that place, inspection of its management, and conference with its officers, reveals the following facts:

That our patients from Dakota, 18 in number, are receiving the best of care and attention, and on the same footing, and enjoying the same privileges as patients from the state of Minnesota.

That the authorities in so doing have put themselves to great inconvenience during the past few months owing to the increased number of patients from their own state and the lack of accommodation for them.

That the people of this territory are under the deepest obligations to the authorities of Minnesota, for the spirit of accommodation they have manifested in this matter, and for the patient manner in which they have borne with us, in view of our extremity.

The completion of a building at Rochester, Minn., and the recent removal of 50 patients from St. Peter to that place, relieves temporarily their overcrowded condition.

It is estimated that the capacity of both institutions at Rochester and St. Peter by crowding them all that is consistent, with the welfare of the patients, is 700. They have now in both places 674 including our own.

The increase in the number of patients, as shown by their records, averages nearly 8 per month, so that it is a question of about 90 days when they will again be crowded for room, unless the legislature of that state, now in session, make some provision for the erection of another building or addition, which it is not considered likely they will do.

The trustees express themselves as disposed to further favor us to the greatest extent possible, but in view of their own needs earnestly desire the removal of our insane at the earliest practicable moment.

In closing I wish to add a word in appreciation of the courteous manner in which your agent was received for the attentions shown him, and for the hearty sympathy expressed for the welfare and prosperity of the bordering state of Dakota.

Respectfully,

E. A. SHERMAN,
Special Agent.

On motion of Mr. Gamble, the message and accompanying report was referred to the committee on charitable and penal institutions.

ADJOURNMENT.

On motion of Mr. Stephens, the house, at 11:10 a. m., adjourned to ten o'clock a. m. February 4th.

CALENDAR OF BILLS.

IN COUNCIL.

ON SECOND READING.

Council bill No. 55, by Mr. Wynn—A bill for an act creating a school law for the territory of Dakota.

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

House file No. 27—A bill for an act authorizing school district No. 1 in Richland county to issue bonds.

House file No. 37—A memorial for an increase of mail service between Canton and Milltown.

IN HANDS OF COMMITTEES.

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

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—territorial affairs.

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

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

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, 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—railroads.

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 665 of the code of criminal procedure—special committee of three.

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 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.

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.

ON THIRD READING.

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. 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.

IN HANDS OF COMMITTEES.

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

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

Council bill No. 43—By Mr. MacNider—A bill for an act to attach the counties of Wauwata and Montreille to Burleigh county for certain purposes—referred to committee of 1, Mr. Gray.

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

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—judiciary.

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—education.

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 relating 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. 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.

By Mr. Walton—H. F. 36—For an act to amend section 1008 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. 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. 6—A bill to amend section 1,748 of the civil code referring to the renewal of chattel mortgages—education.

SPECIAL ORDER.

House file No. 3—By Mr. Gray—For an act to provide for the organization of rail-road companies and to regulate the taxation of their property.—special order in committee of the whole, 11 a. m., Feb. 4th.