

Daily Press and Dakotian.

Volume 4.

YANKTON, DAKOTA TERRITORY, TUESDAY EVENING, FEBRUARY 11, 1879.

Number 248

DAKOTA LEGISLATURE.

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

TWENTY-NINTH DAY.

GENERAL COMMENTS.

Judge Kuykendall yesterday introduced in the council a bill dividing the territory into council and representation districts and apportioning the representation therein. The bill defines the districts and assigns representation as follows: 1st district, Union county—one member of the council and two of the house; 2d district, Clay county—one member of the council and two members of the house; 3d district, Yankton county, one member of the council and two of the house; 4th district, Bon Homme, Charles Mix, including the Yankton reservation, Brule, Buffalo, Hutchinson, Armstrong, Hanson and Davison counties—one member of the council and two members of the house; 5th district, Lawrence county—two members of the council and five members of the house; 6th district, Turner and Lincoln counties—one member of the council and two members of the house; 7th district, Minnehaha and McCook counties—one member of the council and two of the house; 8th district, Lake, Moody, Brookings, Deuel, Codington, Hamlin, Wood and Grant—one member of the council and two members of the house; 9th district, Cass, Richland, Barnes, Ransom, Foster and Stutsman counties—one member of the council and two members of the house; 10th district, Traill, Grand Forks, Ramsey, and Pembina—one member of the council and two members of the house; 11th district Burleigh, Kidder, Morton, Emmons and Stevens—one member of the council and one member of the house; 12th district, Pennington and Custer counties—one member of the house.

C. H. McKinnis brought into the house his morning a big bundle of paper which being unrolled proved to be a petition signed by nine hundred residents of Lawrence county protesting against a division of the county. Mr. McKinnis telegraphed to the county. Mr. McKinnis telegraphed to Deadwood that a bill would be put in to the house for the creation of the county of Howard out of a portion of Lawrence county and this petition comes in reply to his information. The Deadwood Pioneer of a recent date takes occasion to compliment Mr. McKinnis for his prompt action in this matter and intimates that the names to the petition asking for the division of the county were not procured in a straightforward manner. From the tone of the Pioneer upon this subject we infer that Deadwood is opposed to any division of Lawrence county.

The penitentiary bill had its run through the house this morning and passed by a very large majority, with a couple of fresh sections tacked to it which materially modify the measure. The bill locates the

penitentiary at Sioux Falls, but before it can be built an appropriation bill must pass. Mr. Stephens fought hard against the bill but was outnumbered.

The bill giving Clay county the privilege of levying a tax for the construction of a jail and other public buildings has been one of the most closely contested measures of the session. The Clay county house delegation was equally divided, one-half favoring the bill and the other half opposing it. It came to a vote in the house to-day and was passed by a majority of four, Mr. Gunderson speaking in its favor and Mr. Cross against it. The bill now goes to the council.

THE COUNCIL.

Tuesday, Feb. 11.—The council met at 10 o'clock, and was called to order by the president.

Prayer by the chaplain.

Roll call; members all present.

On motion of Mr. Pettigrew the reading of the minutes of yesterday's session was dispensed with.

PETITION.

Mr. Roberts presented a petition which at his request was laid upon the table to be called up at some future time.

REPORT OF COMMITTEES.

Mr. MacNider, from the committee on enrollment, reported sundry council bills correctly enrolled.

Mr. Pettigrew, from the committee on railroads, reported back council bill 38 with amendments.

Mr. Ellis, from the committee on counties, reported back house files 27 and 47 and recommended their passage.

INTRODUCTION OF BILLS.

By Mr. Kuykendall—A bill for an act to amend sections 323, 324 and 325 of the code of civil procedure; also, a bill for an act to exempt volunteer firemen from service as jurors and payment of poll tax.

By Mr. Cuppett—A bill for an act to authorize certain towns and townships in Lincoln county and the village of Dell Rapids to aid in the construction of railroads.

SECOND READING OF BILLS.

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

No. 64, to fund the indebtedness of Lawrence county, to the committee on judiciary.

No. 69, to issue bonds for the construction and maintenance of insane asylum and penitentiary, to the committee on judiciary.

Nos. 70 and 71, making appropriations for construction of insane asylum and penitentiary, to the committee on judiciary, with instructions to embody the appropriations in one bill.

No. 77, providing extra compensation for the judge of the first judicial district, to the committee on judiciary.

MESSAGE FROM THE HOUSE.

A message informed the council that the house had passed council bills 68, 83 and 88,

the two last with amendments; also house files 26, 43 and 53, and a joint resolution giving to each employe of the legislative assembly a copy of the revised codes.

On motion of Mr. Kuykendall, the house amendments to council bill 33, relating to notaries public, were concurred in.

On motion of Mr. Cuppett, house amendments to council bill 38, providing for the organization and government of civil townships, were concurred in.

THIRD READING OF BILLS.

Council bill No. 50, authorizing certain counties to aid in the construction of railroads, was read a third time, and referred to the committee on engrossment.

Council bill No. 62, relating to mill dams and mills, having been passed, and the vote by which it passed reconsidered, came up for consideration, and on motion of Mr. Edmunds was referred to the committee on judiciary with instructions to report a substitute for the bill.

On motion of Mr. Kuykendall, council bills 66, 74, 75, 76 and 78 were referred to the judiciary committee.

THE QUESTION OF PER DIEM.

The president read a communication from the secretary of the territory in reply to a joint resolution of the legislature, inquiring in regard to the per diem of members. In his reply, the secretary says that he submitted the matter to the proper authorities at Washington, and the construction placed upon the law by them is, that members shall receive four dollars a day instead of six.

COMMITTEE OF THE WHOLE.

The council at 11 o'clock went into committee of the whole, Mr. Valentine in the chair, on council bill No. 56, relating to a public school law.

Mr. Roberts moved to commence at the beginning of the bill and consider it by sections, which motion was lost.

Mr. Pettigrew moved to commence the consideration at section 8, which motion was also lost.

Mr. Walsh presented a substitute for the first seven sections of the bill.

On motion of Mr. Pettigrew the substitute was ordered printed and the whole subject made a special order at 11 o'clock to-morrow.

The committee then rose, reported progress and asked leave to sit again at 11 o'clock to-morrow forenoon, which report was adopted.

HOUSE FILES.

The following house bills had their first reading.

No. 26, relating to fire guards.

No. 43, providing for the expenses of the territorial library.

No. 53, annexing certain territory to the Yankton school district.

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

No. 54, to the committee on judiciary.

No. 56, on president's table.

THIRD READING.

House file No. 37, authorizing school district No. 1, Richland county, to issue bonds. Passed.

House file No. 47, authorizing the county of Richland to fund its out-standing indebtedness. Passed.

House file No. 57, refunding to Grand Forks county territorial taxes for the years 1878 and 1879. Passed.

RESOLUTIONS.

The house concurrent resolution in regard to furnishing the employes of the legislative assembly with copies of the revised codes was read, and laid over to come up in its regular order.

Mr. Edmunds called up the resolution offered by him several days ago in regard to the final adjournment of the legislature on the 13th inst. and moved to amend the resolution by fixing the day of adjournment on the 18th of February.

Pettigrew moved to amend by fixing the day of adjournment on the 22d inst. which motion prevailed.

Mr. Cuppett then moved that the resolution be indefinitely postponed, which motion prevailed.

ADJOURNMENT.

On motion of Mr. Miner the council adjourned until 10 o'clock to-morrow morning.

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. Hoyer.

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

A REMONSTRANCE.

Mr. Cross presented a remonstrance signed by 140 residents of Clay county against the passage of any act authorizing a tax for the purpose of building a jail or other public buildings.

COMMITTEE REPORTS.

Mr. Stephens, from the committee to whom was referred house file 50, reported the same back without amendment and recommended its passage.

On council bill 34, the Sioux Falls penitentiary bill, Mr. Stephens asked for a little time to procure the signature of an absent member of the committee to the report. The bill had been referred to the committee on insurance, banks and banking.

Mr. Walton, from the committee on engrossment and enrollment, reported back-house files number 6, 19, 22, 18, 8, 23 and 41, as correctly enrolled.

Mr. Gamble, from the judiciary committee, reported back council amendments to house file 13, relating to compensation of public officers, with a recommendation that the house concur in said amendments.

Mr. Gray rose to a personal explanation, in which he stated that he had signed the

committee report on the Sioux Falls penitentiary bill, which reported the bill back without recommendation. He now understood that the report had not been submitted, and desired to give notice that he would submit a minority report.

Mr. Stephens, chairman of the committee to whom the bill had been referred, stated that his report was made out and ready to hand in. It was signed by three members of the committee, and he was waiting to procure the signature of Mr. Hoyer, a fourth member, who was absent this morning.

Mr. Burbank moved that the committee be allowed further time. The motion was lost.

Mr. Stephens then put in the report of the committee without the signature of Mr. Hoyer.

Mr. Peterson presented a minority report recommending the passage of council bill 34.

Mr. Brown reported back house file 59, concerning highways, &c., in Union county, with a recommendation that it pass.

CONCURRED IN.

The amendments to house file 13, made by the council, reported back from the judiciary committee with a recommendation that the house concur therein, were concurred in.

NOTICE OF BILLS.

By Mr. Mauksch—An act for retracing and re-establishing obliterated survey lines and for restoring mounds destroyed on the north and west boundaries of Yankton county.

INTRODUCTION OF BILLS.

H. F. No. 71.—By Mr. Walton—For an act to amend the act establishing a board of education for the city of Yankton.

COUNCIL BILLS.

Council bill 58, authorizing the appointment of a fire warden in the city of Deadwood, had its second reading and was referred to the committee on mines and mining, on motion of Mr. Flick.

Council bill 59, amending the act incorporating the city of Fargo, had its second reading, and, on motion of Mr. Burbank, under a suspension of the rules, had its third reading and was passed by a unanimous vote.

Council bill 60, prescribing rules and regulations for the execution of the trust arising under the congressional act for the relief of residents upon public lands. Referred to the committee on highways, roads and bridges, on motion of Mr. Gray.

COUNCIL MESSAGE.

A message was received from the council announcing the passage of council bills number 46, 63 and 65; also house file number 3 with amendments; also the concurrence of the council in the house amendments to council bill number 15.

FROM THE SECRETARY.

A communication was received from Secretary Hand in response to joint resolution number one, requesting him to communicate with the secretary of the treasury and obtain his construction of the law relating to the per diem of mem-

bers of the legislature. The secretary had communicated as directed and the response from the treasurer was that the members of the territorial legislatures were entitled to a per diem of four dollars and not six dollars. On motion of Mr. Gray, the communication was referred to the committee on agriculture.

THE RAILROAD BILL.

The message from the council returning house file 3, the railroad bill, with sundry amendments, was taken up and, on motion of Mr. Gamble, the amendments were referred to the committee on railroads, with instructions to report thereon to-morrow.

REFERENCE.

House files number 5 and 8 were referred by the speaker to the committee on enrollment.

COUNCIL BILLS.

Council bill 46, relating to revenue, and council bill 55, for the relief of Lawrence county commissioners who are in doubt about the length of their terms, were read a first time.

Council bill 63 had its first reading and, under a suspension of the rules, passed to its second reading and was referred to the judiciary committee. It is an act to remove doubts as to the eligibility of certain officers of Duell, Grant, Codington and Hamlin counties.

Council bill 34, providing for the location and erection of a penitentiary at Sioux Falls, reported back from the committee on insurance, banks and banking with a majority report making no recommendation and a minority report recommending that it pass, was taken up.

Mr. Stephens moved that the bill be made the special order for the 23d inst., but the motion was not seconded.

Mr. Langness moved that the minority report be accepted.

Mr. Gray spoke in favor of the bill.

Mr. Stephens opposed the bill.

Mr. Gray moved the previous question, which was ordered.

Mr. Langness moved that the bill be read at length by sections and the bill put upon its final passage.

The bill was read at length and amendments were made to sections 5, 27 and 7. Two sections were added. One, on motion of Mr. Gamble, providing that no obligation shall be incurred under the act unless an appropriation shall have been previously made therefor. Another on motion of Mr. Burbank, which makes it unlawful for any director of the penitentiary or any territorial official to be interested in any contract relating to the penitentiary.

On motion of Mr. Langness, the bill then came up for final passage and was passed by a vote of 23 to 3, Messrs. Cross, Stephens and Stewart voting in in the negative.

Mr. Stephens changed his vote to aye and gave notice of a motion to reconsider.

RECESS.

On motion of Mr. Brown, the house, at

11:30 p. m., took a recess to two o'clock p. m.

AFTER RECESS.

On motion of Mr. Gunderson, Mr. Hoyer was excused from attendance on account of sickness.

On motion of Mr. Langness, the house took up the regular order of business.

HOUSE BILLS.

House file 64, to amend section 324 of chapter 13 of the code of civil procedure, was referred to the committee on territorial affairs, on motion of Mr. Peterson.

House file 65, to amend chapter one of the political code, so that the capital of Dakota shall be at Bismarck instead of at Yankton. Referred to the committee on insurance, banks and banking, on motion of Mr. Gray.

House file 66, to amend sections 5 and 6 of chapter 39 of the political code, was referred to the committee on territorial affairs, on motion of Mr. Peterson.

House file 68, relating to the insurance of bonds for building school houses in certain counties, was referred to the committee on education, on motion of Mr. Stephens.

House file 69, a memorial in relation to the extension of certain mail routes, had its several readings under a suspension of the rules and was passed by unanimous vote.

House file 63, relating to the establishment of the office of supreme court reporter and the filling of the same, was referred to the committee on judiciary, on motion of Mr. Gray.

A CLINCHER.

Mr. Gray moved to reconsider the vote by which council bill 34, the penitentiary bill, was passed and to lay the motion on the table. Adopted.

HOUSE BILLS PASSED.

House file 70, to consolidate certain election precincts in the Black Hills counties, had its third reading and was passed by unanimous vote.

House file 54, authorizing Burleigh county to issue bonds for the purpose of building a jail, had its third reading and was passed by unanimous vote.

House file 59, concerning highways &c., and road supervisors in Union county, had its third reading and was passed by unanimous vote.

House file 32, providing for the levy of a tax for the purpose of erecting a jail and other public building in the county of Clay. This bill had been reported back from the special committee of the Clay county delegation, half the committee favoring its passage and half opposing it. The report of the committee favoring the passage of the bill was, on motion of Mr. Burbank, adopted and the bill had its third reading and was passed by a vote of 14 to 11.

House file 61, for the purchase and distribution of one hundred volumes of the 1st Dakota supreme court reports, had its third reading and was passed by a vote of 21 to 4.

REFERRED BACK.

On motion of Mr. Langness, council bill 52, providing a board of education for Sioux Falls, was referred back to the delegation from Minnehaha county.

COMMITTEE OF THE WHOLE.

On motion of Mr. Fockler, the house at 3:10 p. m., went into committee of the whole, Mr. Gray in the chair, on house file 53 and council bill 40, the two measures for the consolidation of certain Jim river counties and for changing the boundaries of others.

By a motion of Mr. Burbank outside parties were permitted to speak for and against the bill, the object being to give the committee an opportunity to acquire all the information possible upon the subject. M. T. Woolley, of Yankton, and A. D. LaDue, of Rockport, addressed the committee in opposition to the measure and Jared Boughton, of Yankton, on the other side.

Mr. Gamble made a motion that

THE COMMITTEE RISE.

and report a recommendation that house file 53 and council bill 40 be referred to a special committee of five, to be appointed by the speaker.

The chairman of the committee of the whole managed to get to his seat, but in attempting to make his report he became so tangled up that he was unable to straighten himself out and the house was once more compelled to go into

COMMITTEE OF THE WHOLE.

to give its chairman fresh instructions.

Mr. Gray in the chair.

Mr. Gamble repeated his motion and the chair insisted that he put it in writing. The motion was put in writing and was again adopted.

The chair enquired what was the further pleasure of the committee.

Mr. Burbank—The committee would be pleased if the chairman would report the action of the committee.

The chair rose to a question of privilege, and said he trusted a motion to rise and report would now be in order.

Mr. Gamble—Does the chair decide that the committee has not risen?

Mr. Chairman—The chair does not rise.

Mr. Gamble—I move that Mr. Fockler take the chair. The motion was seconded.

Mr. Chairman—There is no question before the house.

Mr. Fockler—My understanding is that the committee has voted to rise and report.

Mr. Jackson—I move that the committee now rise and report.

Mr. Gamble—I rise to a point of order—

Mr. Chairman—It is moved that the committee now rise. Are there any remarks?

Mr. Gamble—I insist that the motion to rise and report has already been carried. I do not think it comports with the dignity of this body to submit to such proceedings.

Mr. Burbank—I move that it is declared the sense of this committee that the sergeant-at-arms be directed to remove the chairman of the committee of the whole from the chair.

The chairman put the motion and then declared it out of order.

An appeal was taken and the chair refused to entertain it.

Mr. Fockler—The committee is evidently out of order and I ask that the speaker take the chair and put it in order.

The chair ruled that the point was well taken, and vacated the chair, which was taken possession of by Mr. Jackson.

Mr. Gray then attempted to make the report of the committee of the whole, but wandered off again and got lost, and finally Mr. Burbank settled the difficulty by presenting a majority report of the committee of the whole, which conformed to Mr. Gamble's motion. The report was adopted.

ADJOURNMENT.

On motion of Mr. Burbank, the house, at five o'clock p. m. adjourned to ten o'clock a. m. Feb. 12.