



DAKOTA'S LEGISLATURE.

The Press and Dakotian's Report of the Proceedings of the Council and House of Representatives.

Fourteenth Session—29th Day.

Council.

Tuesday, February 8.—The council met at 10 o'clock a. m., the president in the chair.

Prayer by the chaplain.

Roll call showed all members present. Minutes read and approved.

MESSAGE FROM THE HOUSE.

A message from the house announced that that body had passed with amendments council bill 31, providing for the construction of a penitentiary at Sioux Falls, and that the house had refused to concur in council amendments to house bill 31, relating to the teaching of foreign languages in the public schools.

REPORTS OF COMMITTEES.

Mr. Jolley, from the committee on enrolled and engrossed bills, reported that council bill 17, amending the act to fund the indebtedness of Bon Homme county, had been presented to the governor, and council bill 24, providing for funding the indebtedness of Charles Mix county, was correctly enrolled.

Mr. Gamble, from the judiciary committee, reported with amendments house file 29, and recommended its passage.

Mr. Scobey, from the committee on education, reported back and recommended the passage of house file 48.

Mr. Jolley called upon the committee on chromos for a report.

President Walsh, chairman of that committee, stated that arrangements had been made with DeLong & Son for taking the pictures of the councilmen, and that members who had not already had their "sittings" were requested to call at DeLong's studio and get "shadowed."

INTRODUCTION OF BILLS.

By Mr. Fisher—For an act to amend section 6 of chapter 27 of the session laws of 1879, entitled judicial districts.

By Mr. President—For an act establishing independent school district No. 1, of Grand Forks county.

Also, for an act providing for the erection of a jail and bridges in Grand Forks county.

Also, for an act to prevent nuisances upon the Red river of the north and its tributaries.

THE FOREIGN LANGUAGE BILL.

The house message announcing the non-concurrence by that body in council amendments to house file 31, requiring instruction in foreign languages in the public schools, coming up for consideration, on motion of Mr. Day the council receded from its amendments by the following vote:

Ayes—Messrs. Day, Gamble, Jolley, Martin, Scobey, Wallace, Walsh, of Union, Wilson—8.

Noes—Messrs. Fisher, Shaw, Wiggin, and Mr. President—4.

READING OF COUNCIL BILLS.

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

No. 63, to amend section 53, of chapter 21, of the political code, to the finance committee.

No. 64, to fund the railroad bonds and coupons of Yankton county, to the judiciary committee.

No. 66, defining the jurisdiction of township justices of the peace, to the judiciary committee.

No. 67, to amend section 39 of the justices' code, to the judiciary committee.

No. 69, relating to brands on stock in the Black Hills counties, to the committee on agriculture.

No. 70, regulating liquor licenses in Bon Homme county, to the judiciary committee.

No. 71, to divide Grand Forks county into five commissioner districts. Laid on the table for third reading.

No. 72, to authorize school districts in Grand Forks county to issue bonds. Laid on table for third reading.

No. 73, to authorize Sioux Falls to fund its indebtedness and to issue bonds to provide protection against fire, to committee on finance and expenditures.

No. 77, providing for serving process and papers on railroad companies, to committee on judiciary.

THIRD READING.

No. 68, to amend section 7, chapter 31 of the political code. Passed.

No. 54, to incorporate the city of Spring field. Passed.

Mr. Gamble gave notice that he would to-morrow move to reconsider the vote by which the last named bill passed.

Mr. Scobey moved that the vote by which the bill passed be reconsidered.

Mr. Wilson moved to lay the last motion on the table, which motion prevailed.

These motions were for the purpose of settling a question of parliamentary practice which had been before the council at a former time. The decision today was a reversal of the former ruling.

HOUSE FILES.

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

No. 59, to incorporate the city of Deadwood, to committee on counties.

No. 63, to establish the county of Griggs and defining its boundaries, laid on table for third reading.

No. 35, to establish and define the boundaries of Walsh county, to the committee on counties, together with a remonstrance of citizens of Grand Forks county against the establishment of such county.

No. 66, for bounty on wolf scalps, to committee on agriculture.

No. 82, a memorial for a branch mint at Deadwood.

On motion of Mr. Wilson the rules were suspended and the bill passed to its third reading.

House files 34, 48 and 82 were then read a third time and passed.

CONCURRENCE.

On motion of Mr. Shaw the house

amendments to council bill 31, to provide funds for the construction of a penitentiary at Sioux Falls, were concurred in.

SPECIAL ORDER.

The special order, being council bill 36, to amend section 1,804 of the civil code, providing for a vendor's lien, was placed upon its passage and was lost—ayes 4, noes 8.

ADJOURNMENT.

On motion of Mr. Shaw, the council adjourned.

House.

Tuesday, Feb. 8.—The house convened at ten o'clock a. m. and was opened with prayer by the chaplain.

Mr. Speaker in the chair and all the members present.

The journal of the preceding session was read and approved.

MESSAGE FROM THE GOVERNOR.

The following message was received from the governor, through his private secretary:

TERRITORY OF DAKOTA, EXECUTIVE OFFICE, }
February 8th, 1881. }

To the House of Representatives of the Territory of Dakota:

I return herewith to the house of representatives, in which body it purports to have originated "house file No. 13" entitled "An act providing for the erection and construction of a court house and jail for the county of Pembina," without my approval and signature, and with the following objections to its becoming a law:

I. From the filings which appear upon it and from circumstances within my own knowledge, and from members of the house of representatives, I have serious doubts whether this proposed measure has passed through the necessary legislative stages.

II. The substance of the proposed measure is open to nearly all of the objections set forth in my message vetoing council bill No. 8, entitled "An act providing for the erection and construction of a jail for the county of Lincoln" which objections were considered and sustained by the house of representatives as will appear upon the records thereof.

III. This measure is also open to other more serious objections than those laid before the legislature in connection with council bill No. 8.

It allows a higher rate of interest, viz: 10 per cent. per annum upon the bonds proposed to be issued, which bonds become a lien upon all property in Pembina county for twenty years, instead of the 8 per cent. bonds running ten years as provided for in the Lincoln county bill. In view of the fact that 4 or 5 per cent. per annum is now equal to the former rates of 8 and 10 per cent. it ought to be apparent to every member of the legislature that a county which cannot negotiate legal 8 per cent. bonds should not be allowed to run in debt for expensive county buildings.

It compels the county officials of Pembina county, under the penalty of a prosecution for a misdemeanor, to carry out all the provisions of the bill without regard to their individual judgment or the popular will of the people of that county.

It locates and provides for the erection of expensive and permanent county buildings, without the consent of the voters and taxpayers, at the extreme northeast corner of one of the longest counties in the territory and within three or four miles of the Canada line.

The county of Pembina is more than three times as large as the county of Lincoln, and the town of Pembina, the proposed permanent county seat, much more difficult of access than the proposed site for a jail in Lincoln county. If the lines of Pembina county remain as at present, settlers in the southern or eastern portions of the county will be compelled to travel from forty to fifty-five miles to reach the county seat and even if the proposed county of Walsh should be created, the distance to the said county seat from what will then be the southern and eastern lines of Pembina county would only be reduced about twelve miles and still compelling all of the inhabitants in those sections of the county to travel from thirty to fifty miles to reach the county seat, for the transaction of all county business.

The financial condition of Pembina county is such that it will not justify the legislative assembly in forcing this extraordinary debt upon the early settlers. The total amount of the assessed value of property in that county, according to the last assessment was but \$267,749, and the creation of this large debt of \$15,000, at the high rate of interest named, together with the amount of outstanding indebtedness proposed to be funded at the same high rate of interest, will certainly make a heavy lien upon the assessable property in the county.

When the new railroad lines starting from Fargo and Casselton are pushed north through the entire length of Pembina county, and the towns along those lines are built up, making new business centers, there will be good reasons for legitimate action by the people looking to the erection of county buildings.

In making these suggestions in regard to forcibly and permanently locating the county seat at the town of Pembina, I do not wish to be understood as disparaging in the slightest degree the enterprise and energy of those who have built up that thriving town which has been heretofore the largest and not unnatural place for the county seat, yet the fact remains that in order to continue it there, the inalienable right of the people to a voice in all such questions should not be ignored or trampled upon.

It may be said that the county seat can be changed under existing law by a two-thirds vote, but I apprehend that the passage of this act would effectually close the door to any such future action, especially after these expensive buildings have been constructed and this large debt created.

Under the provisions of the United States laws which distinctly declare that territorial legislatures shall not grant "special privileges" and that territorial enactments shall be general in this character, all previous legislatures in this territory have sacredly guarded the right of the people to vote upon all questions relating to the location and construction of county buildings, as will be seen by reference to the revised political code, chapter 21, sections 6 and 7, and also section 32 of the same chapter which expressly declares: "That they (the county commissioners) shall submit to the people of the county at any regular or special election any question involving any extraordinary outlay of money by the county or any expenditure greater in amount than can be provided for by the annual tax; or whether the county will construct any court house, jail or other public buildings, or aid or construct any road or bridge, and may aid any enterprise designed for the benefit of the county whenever a majority of the people thereof shall authorize the same."

Section 34, same chapter, carefully points out the mode of submitting all these questions to the people and distinctly defines the precise manner in which all such propositions shall be published and posted before the vote is taken.

There are no provisions in this bill for

submitting any of the questions therein contained to the people of the county as provided in the before mentioned sections, nor does the bill leave it discretionary with the duly elected county officers to carry its provisions into effect; but on the contrary, it provides in substance that in case the county officials of Pembina county should agree with the views I have expressed, and refuse to locate and erect county buildings and place a lien upon all of the property in the county for twenty years by issuing bonds, each and every such county official would be subject to a prosecution for a misdemeanor and punishable therefor under this bill.

I can hardly conceive of a more flagrant violation of the principles laid down in the organic law and in previous territorial legislation than this arbitrary provision of the act to which I especially call your attention.

I am admonished of the injury that is likely to result from this species of special legislation by letters and telegrams received from persons having large interests in the various sections of the territory, and cannot doubt from these protests that nearly all of the bonds issued, or taxes levied for their liquidation will be contested. I am also led to believe that the litigation which is likely to ensue over these forced loans will seriously impair the credit of the territory and will probably be made an excuse to prevent early admission as a state.

I regret exceedingly that, as the executive of this territory, I have felt compelled in defence of the right of the people who ought to have a voice in regard to these extraordinary expenditures, to differ with a majority of those they have chosen to represent them; but recognizing my obligation to see that the laws and constitutional requirements are faithfully observed and the public policy is conserved, I have felt constrained under advice from the department of justice to interpose my objections to this measure.

N. G. ORDWAY,
Governor.

COUNCIL MESSAGE.

A message was received from the council announcing the passage by that body of the following bills:

Council bills twenty-six, fifty-five, fifty-nine, sixty and sixty-two; also house bills twenty-seven, thirty-two, forty-six, forty-nine; also concurrence asked in council amendments to house bills twenty-seven and thirty-two; also that the council concurred in the house amendments to council bill twenty-two.

THE VETOED BILL.

The veto message of the governor, respecting house file thirteen, was taken up and read at length. The question being upon the passage of the bill, the veto to the contrary notwithstanding, the roll was called and the bill was passed, Messrs. Ellefson and Thompson voting in the negative and all the rest in the affirmative.

PETITIONS.

Mr. Boyles presented a petition from citizens of Brown county against a division of the county.

Mr. Thielman presented a petition from inhabitants of range fifty-six of McCook county, asking that the north-west corner boundary line of McCook county be more definitely fixed.

ENROLLED AND ENGROSSED.

House files twenty-one, fifty-eight and twenty-four and joint resolution providing for the printing of reports were reported correctly enrolled.

House files sixty-four and fifty-two were reported correctly engrossed.

BILLS SIGNED.

The speaker called attention to the signing of the following bills:
House file fifty-eight.

House file twenty-one, amending section twenty-eight, chapter twenty-eight, political code.

House file forty-two, relating to marks and brands on live stock.

House joint resolution providing for printing reports of territorial officers.

Council bill twenty-four, authorizing commissioners of Charles Mix county to fund the indebtedness of the county.

COMMITTEE REPORTS.

Mr. Baynes, from the committee on judiciary reported back council bill forty-four with a recommendation that it pass. It provides for the collection of costs in certain criminal cases.

Also council bill fifty-eight, with a recommendation that it pass. It repeals section fourteen, chapter thirty-nine of the political code.

Also council bill forty-six, with a recommendation that it pass with amendments. It amends section fourteen of chapter twenty-one of the political code.

Also council bill forty-five with a recommendation that it pass. It amends section one of chapter twenty-two of the political code.

Mr. La Moure, from the committee on counties and townships, reported back house substitute for house file thirty-six. It amends section eighteen, chapter twenty-one of the revised code, relating to counties and county officers.

Mr. McBratney, from the special committee consisting of the Lawrence county delegation, reported back house file fifty-six with amendments and a recommendation that it pass.

Mr. Wells, from special committee, reported back house file fourteen with a substitute for the amendments thereto and recommended its passage.

NOTICES OF BILLS.

By Mr. Kennedy—Regulating insurance companies and the business of insurance.

By Mr. Kennedy—To locate, establish and endow a state normal school at New Madison, Lake county.

By Mr. Van Oadel—Relating to the sale or removal of property covered by chattel mortgage.

By Mr. Van Oadel—To prevent the division of organized counties in certain cases.

By Mr. Van Oadel—To regulate the tariff of railroad corporations on freight and passenger traffic.

By Mr. Van Oadel—Relating to the taxation of property.

By Mr. Thompson—To locate, establish and endow a state normal school at Canton.

By Mr. Thompson—To regulate the toll on grinding.

By Mr. Miller—Establishing a normal school at Wahpeton.

By Mr. Thorne—To establish a state normal school on Bachelor creek.

By Mr. Thielman—To establish and endow a normal school at Parker.

By Mr. Thorne—To prescribe the duties of clerks of the district courts.

By Mr. Wells—To repeal section three, chapter twenty, laws of 1879, relating to the fees of county treasurer.

By Mr. Wells—To amend section 648 of the civil code, relating to recording transfers.

By Mr. Wells—To establish and endow territorial normal schools at Jamestown, Grand Rapids and Bismarck.

By Mr. Dickey—That I will not on tomorrow or any subsequent day introduce a bill to locate a normal school.

By Mr. Dickey—That I may introduce a bill to locate, establish and endow a female seminary at Valley City.

COMMITTEE REPORT.

Mr. Cross, from the special committee of the fifth district delegation, reported back house file seventy-five, relative to the sale, purchase and disposition of live stock with amendments and a recommendation that it pass.

INTRODUCTION OF BILLS.

By Mr. Dickey—House file eighty-nine—To legalize the acts of voters of Barnes county.

By Mr. Baynes—House file ninety—To locate, establish and endow a territorial normal school.

By Mr. Boyles—House file ninety-one—To protect manufacturers and dealers in beer, soda water, &c., from loss of packages in transportation.

By Mr. Speaker (Mr. La Moure in the chair), House file ninety-two—to provide boards of education for Deadwood and Bismarck, and to continue the boards of education in Yankton, Fargo and Vermillion, and for the management of the public schools therein.

By Mr. Warner—House file ninety-three—To locate, establish and endow a territorial normal school.

By Mr. Wells—House file ninety-four—To incorporate the village of Jamestown.

CONCURRED IN.

The house concurred in the council amendments to house bills thirty-two and twenty-seven.

COUNCIL BILLS.

The following council bills had their first reading:

Number twenty-six—amending sections thirty-one and thirty-three, chapter twenty-seven, political code.

Number fifty-five—Amending the board of education act of the city of Yankton.

Number fifty-nine—relating to attorneys' fees in justices' courts.

Number sixty-two—amending section three hundred and thirty-two of the code of civil procedure.

Number sixty—amending section two, chapter twenty-six, laws of 1879.

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

Number eighteen—providing for the schooling of children in organized districts, to the committee on education.

Number fifty, a memorial to congress, asking that the military reservation in Charles Mix county be vacated, to the committee on territorial affairs.

Number fifty seven, providing a board of education for the city of Fargo, to the committee on education.

The following council bills had their third reading and were passed by unanimous vote.

Number thirteen—providing rules and regulations for the execution of the trust arising from the congressional act for the relief of the inhabitants of towns and cities upon public lands.

Number thirty-four, amending section ten, chapter two, of the Elk Point incorporation act.

Number forty, amending the public school law.

Number forty-one, amending the Sioux Falls board of education act.

Council bill fifty-one, exempting the Black Hills counties from the provisions of the interest law, was passed, Mr. Van Oadel alone voting in the negative.

HOUSE BILLS.

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

Number seventy-nine, to locate, establish and endow a state normal school at Watertown, to the committee on railroads, which committee, on motion of Mr. Dickey, was given exclusive charge of all bills relating to this subject.

Number eighty-one, to provide for the election of commissioners in Union county, to the committee on counties and townships.

Number eighty-three, to define the boundaries of McCook county, to the committee on counties and townships.

Number eighty-four, to legalize the acts of W. T. Burman as commissioner of Grant county, to the committee on territorial affairs.

Number eighty-five, to consolidate the plats of Big Stone City, Inkpa City and Geneva, to the committee on territorial affairs.

Number eighty-six, to vacate the town plat of Madison, Lake county, to the committee on counties and townships.

House file fourteen, providing for the registry of voters, and to prevent fraudulent voting, had its third reading and was passed; Messrs. Cross, Hale and Thompson voting in the negative, Mr. Inman not voting, and all the rest voting in the affirmative.

The following house bills had their third reading and were passed by a unanimous vote:

Number fifty-two, providing a building committee and government for the hospital for the insane.

Number fifty-five, authorizing the commissioners of Minnehaha county to issue bonds for the completion of a jail.

Number sixty-four, for furnishing and maintaining the hospital for the insane.

Number seventy-seven, for the repeal of the act concerning corporations and persons engaged in the banking business.

BILL INTRODUCED.

By consent, Mr. La Moure introduced a bill to repeal certain parts of the law relating to the compensation of public officers.

RECESS.

On motion, the house, at 12:10 p. m.,
took a recess until two o'clock p. m.