



DAKOTA'S LEGISLATURE.

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

Fourteenth Session—36th and 37th Days.

Council.

AFTERNOON SESSION.

The council met at 2 p. m., for the consideration of special orders in committee of the whole.

Mr. Fish in the chair.

COUNTY TREASURERS.

Council bill 20, fixing the salary of county treasurers, was taken up and read.

Mr. Day moved to amend section twenty-one, providing that in counties where the amount of taxes collected per annum is ten thousand and under fifteen thousand dollars, the salary of the county treasurer shall be five hundred dollars a year.

Pending discussion upon this motion, Mr. Wilson moved as a substitute for the bill that in counties where the tax levy is twenty thousand dollars or less the commissioners may pay the treasurer a salary not to exceed \$400 a year, to which Mr. Wallace offered an amendment that where the treasurer fails to collect three fourths of the taxes levied each salary shall not be allowed and paid.

President Walsh moved that when the committee rise it recommend the indefinite postponement of the bill, which motion was lost.

A motion by Mr. Gamble that the bill be re-committed to the judiciary committee was adopted.

INSANE ASYLUM.

House file 52, to provide for a building committee and for the better government of the hospital for the insane, was then taken up and read section by section.

Section one having been read, Mr. Gamble moved that the bonds required to be given by the trustees shall be \$5,000 instead of \$10,000, which motion was lost.

The same gentleman moved that a majority of the trustees shall be residents of Yankton county, which motion was also lost.

The amendments reported by the committee on charitable and penal institutions, were adopted.

Section two was then read, and there being no amendments thereto, it was recommended for adoption.

Section three was read and the amendments of the committee on charitable and penal institutions adopted.

Mr. Wilson moved to amend section five, which provides for the salary of officers, by inserting \$1,000 in lieu of \$1,500, as the amount of the salary of the steward of the hospital, which motion prevailed.

Mr. Day moved to make the salary of superintendent \$1,500 instead of \$1,800 as provided in the original bill, which motion also prevailed.

On motion of Mr. Wilson, section eight was amended so as to make the bond required to be given by the superintendent \$2,500, instead of \$10,000, the amount named in the bill.

Mr. Gamble moved that the committee rise, and report the bill back to the council and recommend its passage as amended, which motion prevailed.

The committee then rose and reported, accordingly.

MESSAGE FROM THE HOUSE.

A message was received from the house announcing the passage of council bill 71, to provide for redistricting Grand Forks county; 84, authorizing the issue of bonds for the erection of public buildings in Grand Forks county, and 85, to prevent nuisances on the Red river of the north.

ADJOURNMENT.

The council then adjourned until ten o'clock Wednesday morning.

Council.

Wednesday, February 16.—The council met at 10 a. m., the president in the chair and all members present.

Prayer by the chaplain.

Journal read and approved.

A COMMUNICATION.

Capt. Jolley laid before the council the following dispatch, signed by a number of his constituents, and addressed to him in his official character as a member of the legislature:

"Vermillion, Feb. 15.—To J. L. Jolley—Fornication; have nothing in the statutes covering the same. We want it at once. Mail will explain."

TAXING BULLION.

The president read several dispatches from the Merchant's Protective association, of Central City, and the board of trade of Deadwood, protesting against the passage of a law taxing bullion.

Messrs. Fisher and Martin read similar dispatches from prominent business men of the Black Hills.

REPORTS OF COMMITTEES.

Mr. Jolley, from the committee on engrossed and enrolled bills reported that on yesterday he presented to the governor council bills 28, 32, 33, 52, 56, 57, 59 and 68; and that the committee had examined and found correctly enrolled.

MESSAGES FROM THE HOUSE.

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

No. 55, amending an act providing a board of education for the city of Yankton.

No. 64, authorize Yankton county to fund railroad bonds and coupons.

No. 74, restoring the boundaries of Mercer county.

And that council bill 47, prescribing fees of district attorney of the first district, had been indefinitely postponed.

Also, that the house had passed house files 23, 25, 79, 88, 93, 94, 105, 109, 110, 164, 165, 166 and 167, and that Messrs. Dickey, Boyles and Rohr had been appointed a conference committee on the disagreement of the two houses on council bill 23, to amend chapter 28 of the political

code, and chapter 49 of the session laws of 1879, entitled revenue.

In consideration of the foregoing message, the president appointed Messrs. Fisher, Wilson and Wiggin as a conference committee on the part of the council on said council bill 38.

INTRODUCTION OF BILLS.

By Mr. Jolley—For an act relating to fornication.

By Mr. Wiggin—For an act to amend section 452 of the civil code.

Also, for an act to incorporate the city of Canton.

COUNCIL BILLS.

were read a second time and referred as follows:

No. 124, relating to water rights, to the committee on mines and mining.

No. 130, providing for the construction of a court house and jail in Hughes county, laid on the table for third reading.

No. 128, to vacate a portion of Rudolph's addition to Canton, to the committee on counties.

No. 127, to amend chapter eight of the code of civil procedure, to the committee on judiciary.

No. 131, providing for the payment of the commissioner for compiling the laws under authority given by the 10th legislative assembly, to a special committee consisting of Messrs. Scooby, Fisher and Wilson.

No. 134, to incorporate the city of Canton, to the committee on counties.

HOUSE FILES.

House files 164, 110, 123, 25, 78, 83, 93, 94, 105, 109, 165, 167 and 168 were read the first time.

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

No. 67, to the judiciary committee.

No. 83, celling the boundaries of McCook county to the committee on counties.

No. 87, to incorporate the city of Tower city, to the committee on counties.

No. 92, to provide for the recording of deeds &c., made in unorganized counties in the county to which such unorganized county is attached for judicial purposes, to the judiciary committee.

No. 103, to the judiciary committee.

No. 119, to amend chapter two of the session laws of 1879, making an apportionment of the members of the legislative assembly to the special committee on apportionment.

No. 164, to establish a board of health, to a special committee consisting of Messrs. Day, Martin and Walsh, of Union

No. 165, to incorporate the city of Deadwood, was read a third time and passed.

REPORTS OF COMMITTEES.

Mr. Day, from the committee on counties, reported back and recommended the passage of council bill 134, to incorporate the city of Canton. Under a suspension of the rules the bill was read a third time and passed.

Mr. Fisher from the conference committee on council bill thirty-three, reported recommending that the council concur in one of the house amendments to said bill, but refuse to agree to that exempting Union county from its provisions. The report of the committee was adopted, and subsequently a message was received from the house announcing that it had receded from its amendment relating to Union county.

Mr. Gamble, from the judiciary committee, reported with amendments council bill 109, fixing the salary of the territorial treasurer. The committee recommended that the salary be fixed at \$1,200 per annum.

Mr. Jolley moved to amend the report by fixing the salary at \$1,000.

Mr. Wilson moved as an amendment, that the salary be made \$1,500, and that the treasurer be required to give a bond in the sum of \$50,000.

A vote was taken on that part of Mr. Wilson's motion, fixing the salary at \$1,500, and it was lost by a tie vote, the vote being:

Ayes—Messrs. Day, Gamble, Martin, Scooby, Wallace and Wilson—6.

Noes—Messrs. Fisher, Jolley, Shaw, Walsh, of Union, Wiggin and Mr. President—6.

A motion to adopt the report of the committee was then made and carried as an amendment to Mr. Jolley's motion. This fixes the salary of the treasurer at \$1,200 a year.

Mr. Wilson's motion requiring the treasurer to give bond in the sum of \$50,000 was adopted.

The bill was then read a third time and passed.

RECESS.

On motion the council took a recess until 2:30 p. m.

House.

AFTERNOON SESSION.

Tuesday, February 15.—The house reconvened at two o'clock p. m. and continued the general order.

A BILL INTRODUCED.

Mr. French, by unanimous consent, introduced house file 165—to provide for insuring the territorial library and for the purchase of certain books therefor, and appropriating funds for the payment of the same.

Under a suspension of the rules, the bill had its second and third readings and the bill was passed, Mr. LaMoore alone voting in the negative.

THE CITY OF DEADWOOD.

House file fifty-nine, returned from the governor for correction, was made house file 166, and under a suspension of the rules had its second reading and was referred to the enrolling committee. It incorporates the city of Deadwood.

COUNTY BOUNDARIES.

Mr. Baynes, by unanimous consent, introduced house file 167, fixing the boundaries of Hanson, Davison and other counties. Under a suspension of the rules, the bill had its several readings and was passed by a unanimous vote. It provides for a division of Hanson and Davison counties by a north and south line instead of an east and west line, provided a majority of the voters of each county vote for such division.

A GARNISHERS BILL.

Mr. Kennedy, by unanimous consent,

introduced house file 168, to provide for garnishment by attachment.

COUNCIL BILLS.

The following council bills had their third reading and were disposed of as indicated:

Number thirty-six, to amend section 804 of the civil code, was lost by a vote of twelve to twelve.

Mr. Wells moved to reconsider the vote by which the bill was passed and Mr. Thorne moved to lay the motion on the table. Mr. Thorne's motion was lost and the motion of Mr. Wells was sustained.

Mr. Ellefson moved to indefinitely postpone further action on the bill. The motion was lost.

The question now recurred upon the passage of the bill and, the roll being called, the bill passed by a vote of fourteen to ten, Messrs. Baynes, Cross, Ellefson, French, McBratney, Moore, Rohr, Thompson, VanOsdal and Mr. Speaker voting in the negative.

Mr. LaMoure moved that the vote be reconsidered, and an effort to lay the motion to reconsider on the table was defeated and the motion to reconsider was sustained.

Mr. Rohr moved that further consideration of the bill be indefinitely postponed.

Mr. Dickey moved to lay the motion on the table which was adopted.

Mr. Nonland moved the bill be made the special order for to-morrow at two o'clock and the motion was adopted.

Number fifty-five, to amend the board of education act of the city of Yankton, was passed, Mr. LaMoure alone voting in the negative.

Number sixty-four, to fund the bonds and coupons of the county of Yankton, was passed by unanimous vote.

Number sixty-seven, to amend section thirty-nine and forty, article six, chapter one of the justices' code, was passed by a vote of fifteen to nine, Messrs. Cross, Ellefson, Miller, Moore, Nonland, Rohr, Thompson, VanOsdal and Mr. Speaker, voting in the negative.

Mr. LaMoure gave notice of a motion to reconsider the vote by which the bill was passed.

Number seventy-one, to re-district the county of Grand Forks, was passed nineteen to four, Messrs. Cross, Moore, Thompson and Thorne, voting in the negative.

Number seventy-four, to restore the boundaries of Mercer county, was passed, Mr. Ellefson alone voting in the negative.

Number eighty-five, to prevent nuisances upon the Red River of the north and its tributaries, was passed by unanimous vote.

Number eighty-four, providing for the construction of jail and bridges in Grand Forks county, was passed by unanimous vote.

HOUSE BILLS.

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

Number ninety-nine, to incorporate the village of Wahpeton, to the committee on counties and townships.

Number 130, to provide a uniform school law, to the committee on education.

Number 134, joint resolution restricting the introduction of new business to the 15th inst., to the committee on railroads.

The following house bills had their third reading and were disposed of as indicated.

CALL OF THE HOUSE.

Substitute for No. 23, amending the exemption law, came up for passage, when a call of the house was moved and roll call showed that Messrs. Dickey and LaMoure were absent.

The sergeant-at-arms was sent in pursuit of the missing members. In the course of time he returned and reported that he could not find them. They had in the meantime climbed through a transom into the house chamber and were in their seats.

BUSINESS RESUMED.

Business was resumed on the passage of the substitute for house bill 23, which was referred to the committee on engrossment for correction.

Number seventy-nine, to locate and endow a state normal school at Watertown, was passed, Messrs. Ellefson and Thompson voting in the negative.

Number eighty-nine, to amend sections eight and twenty-nine of the public school laws of Dakota, giving women authority to become county superintendents of schools, was passed by unanimous vote.

Number ninety-two, providing boards of education for Deadwood and Bismarck, was passed, Mr. Van Osdal alone voting in the negative.

Mr. French gave notice of a reconsideration.

Number ninety-three, locating and endowing a territorial normal school at Spearfish, was passed twenty-one to two, Messrs. Ellefson and Thompson voting in the negative.

Number 103, incorporating the city of Deadwood was passed by unanimous vote.

Number 106, preventing the division of organized counties in certain cases, was amended by Mr. Dickey and Mr. Wells, and passed, Mr. Hale alone voting in the negative.

Number 105, authorizing the commissioners of Custer county to issue bonds for the construction of a jail and a court house, opening a new road and funding the county indebtedness, was passed.

Number 109, defining the boundaries of LaMoure county, was passed by a unanimous vote.

Number 110, to incorporate the village of Mandan, was passed by a unanimous vote.

Number 132, to legalize the acts of the commissioners of Lake county, and for other purposes, was passed, Mr. Cross alone voting in the negative.

Number 23, substitute, to amend certain sections of the code of 1877, modifying the exemption law, was passed, fourteen to nine. The following was the vote: Ayes, Boyles, Cross, Dickey,

Hale, LaMoure, Landman, McBratney, Miller, Nonland, Thielman, Thorne, Warner, Wells, and Mr. Speaker. Nays, Baynes, Donaldson, Ellefson, French, Loman, Kennedy, Moore, Rohr and Mr. Thompson; Mr. VanOsdal was excused, using temporarily absent from the room. Mr. Dickey moved to reconsider the vote and lay the motion on the table. Adopted.

COMMITTEE OF THE WHOLE.

On motion of Mr. Wells, the house, at 5:20 p. m., went into committee of the whole for the consideration of the general order, Mr. LaMoure in the chair.

THE COMMITTEE ROSE

at 5:40 p. m., reported progress and asked leave to sit again.

The speaker called attention to the signing of the following bills:

House file ten, to more definitely define the boundaries of Lawrence county.

House file thirty-three, authorizing the commissioners of Minnehaha county to issue bonds for the completion of a jail.

House file thirty-eight, authorizing the commissioners of Hutchinson county to fund the outstanding indebtedness of the county, and to legalize warrants issued by the commissioners of Armstrong county.

House file sixty-four, an appropriation or furnishing and maintaining the hospital for the insane.

House file ninety-six, to legalize the assessment of property taxation in Traill county for the years 1870 and 1890.

House file fifty-six, supplemental to house file nineteen, authorizing the voters of Richland county to vote upon the proposition to bond the county for the construction of county buildings.

Council bill twenty-nine, to legalize the acts of George H. Walsh as notary public.

Council bill thirty-two, fixing the fees of coroners.

Council bill fifty-two, repealing section 427 of the penal code in the Black Hills counties.

Council bill fifty-six, relating to the jurisdiction of township justices of the peace.

Council bill fifty-seven, providing a board of education for the city of Fargo.

Council bill fifty-nine, fixing the fees of attorneys in justices' courts.

Council bill sixty-eight, establishing a fee of fifty cents for recording the final receipt from the receiver of any United States land office.

ADJOURNMENT.

The house, at 5:35 p. m., adjourned to nine o'clock to-morrow morning.

HOUSE.

Wednesday, February 16.—The house convened at 9 o'clock a. m., and the chaplain not being present, the usual prayer was omitted.

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

The journal of the preceding session was read and approved.

COMMITTEE OF THE WHOLE.

On motion of Mr. Wells, the house at 3:15 a. m., went into committee of the whole for the consideration of the general order, Mr. Baynes in the chair.

MESSAGE FROM THE GOVERNOR.

The following message was received from the governor:

Executive Office, Territory of Dakota, February 16th, 1881.—To the house of Representatives of the Territory of Dakota: I return herewith to the house of representatives, in which body it originated, bill No. 35, entitled "An act creating the county of Walsh, defining its boundaries, and for other purposes," without my approval and signature, and with my objections thereto:

I. This bill contravenes a general principle which I regard as eminently just and sacred, viz.: That organized counties should not be dismembered or divided without the consent of a majority of the legal voters in all counties to be affected by such division or dismemberment. This doctrine, I am informed, is embodied in a general bill now before the legislature.

II. This bill proposes to create the new county of Walsh out of the southern portion of Pembina county and the northern portion of Grand Forks county without adjusting the share of the present taxes and indicating indebtedness of these counties which the proposed county of Walsh should assume.

III. The bill only provides for submitting the question of division and formation of a new county to the voters in the portions proposed to be taken from Pembina and Grand Forks counties who will have a strong pecuniary inducement to vote to be thus set off in order to escape their just share of the indebtedness of those counties; whereas justice to all the taxpayers in Grand Forks and Pembina counties requires that the question of division and formation of a new county should be submitted to a vote of the people in both of these counties before any dismemberment is made.

IV. The bill proposes to fix the east line of the new county on the west bank of the Red river, while the organic act fixes the east line of the territory in the channel of the Red river, showing clearly that there is a serious error in fixing the east line of the proposed county, and would leave a place or refuge on the west side of the channel which might become a rendezvous for outlaws and a safe place to ship property to avoid the assessor.

V. The second section of the bill is ambiguous and inconsistent, as it directs the county officers of Grand Forks and Pembina counties to open polls and hold a special election in the portions of those counties proposed to be set off only, while near the close of the same section it provides that "if the governor and secretary shall find that each of said counties of Grand Forks and Pembina have voted in favor of the division then it shall be the duty of the governor to issue his proclamation &c." The latter clause would indicate that at some time the bill had provided for a submission of the question of division to all the voters of both counties which I regard as absolutely essential since it is well known that protests numerously signed by the people most to be affected against the formation of this new county have been forwarded to the legislature and the executive.

I regard many of the provisions of this bill as highly objectionable in form and substance and subversive of the rights and interests of the majority of the people in the counties from which the new county is proposed to be created, hence I interpose these objections to its passage.

N. G. OGDWAY,
Governor.

On motion of Mr. McBratney, the message of the governor was made the special order for to-morrow at two o'clock p. m.

COMMITTEE OF THE WHOLE.

Business was continued in committee of the whole.

THE COMMITTEE ROSE

at 10:45, and reported sundry bills with a recommendation that they pass.

The report was accepted and adopted.

PRINTING THE BILLS.

Mr. Kennedy, by unanimous consent, introduced house file 169, to authorize the printing of bills ordered by either branch of the legislature and providing funds for the payment of the same. It appropriates \$100 to be taken from the fund already provided.

A motion to suspend the rules and place the bill upon its several readings and final passage was adopted.

The bill was read a first, second and third times and being put upon its passage was lost by a vote of 12 to 11.

Mr. Thorne gave notice of his intention to move a reconsideration of the vote whereby house file 169 was lost.

COMMITTEE REPORTS.

Mr. Donaldson, from the committee on ways and means, reported back house file 108, providing for the taxation of the net proceeds of mines, with a recommendation that it be considered in committee of the whole.

Mr. Warner, from the committee on education, reported back council bill ninety-two, to establish an agricultural college at Brookings, with a recommendation that it pass.

Also council bill eighty-three making an independent district of school district number one, Grand Forks county, with a recommendation that it pass.

Mr. Miller, from the committee on finance and revenue, reported back council bill 78 with a recommendation that it do not pass.

Mr. LaMoure, from the committee on counties and townships, reported back house file 99 with a recommendation that it pass.

LOCAL SCHOOL PROVISION.

It having been found that the bill providing boards of education for Deadwood and Bismarck contained provisions not acceptable to Yankton, Fargo, Vermillion and Sioux Falls, Mr. French moved a reconsideration of the vote by which the bill was passed yesterday, which motion was adopted.

The bill was then amended by striking out the objectionable features, the rules were suspended, the bill had its several readings and was passed by unanimous vote.

CONFERENCE COMMITTEE REPORT.

Mr. Dickey reported from the conference committee on council bill 33, changing the time for the assessment of property from February to May, that the council had receded from one amendment and the house from the other.

INTRODUCTION OF BILLS.

By Mr. McBratney—House file 170—to regulate the fees of certain officers of Lawrence county.

By Mr. Wells—House file 171—to regulate the compensation of the county commissioners of Stutsman county.

By Mr. Wells—House file 172—to amend section seven, chapter 29 of the political code.

By Mr. Kennedy—House file 173—to authorize the publication of 5,000 copies of the school laws of Dakota.

COUNCIL MESSAGES CONSIDERED.

The council amendments to house file 123 were concurred in.

The message of the governor relating to his veto of council bill 22 and the accompanying notice that the council had passed the bill over the veto, was taken up, and, on motion of Mr. LaMoure, was made the special order for two o'clock to-morrow afternoon.

COUNCIL BILLS.

Council bill 111 had its first reading.

Council bill 119, defining the boundaries of judicial districts of Dakota came up on its first reading, and, under suspension of the rules, had its second reading and was referred to the committee on judiciary.

Council bill 87 had its first reading.

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

Number 10, authorizing the commissioners of Kingsbury county to issue bonds for the construction of a new house and jail, to the committee on counties and townships.

Substitute for number 43, to amend section 215 of article four of chapter 10 of the code of civil procedure, to the committee on judiciary.

Number 90, to amend certain sections of chapter 59 of the laws of 1901 providing for the organization of townships and for the government thereof.

Number 95, to amend section 41, chapter 28, of the political code, to the committee on judiciary.

Number 91, to create a board of immigration, to the committee on immigration.

Number 99, for the protection of fields, to the committee on territorial affairs.

Number 100, defining certain duties of county clerks, to the committee on judiciary.

RECESS.

On motion of Mr. Ellefson, the house at 12:15, took a recess until two o'clock p. m.