



DAKOTA'S LEGISLATURE.

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

Fourteenth Session—39th and 40th Days.

Council.

Saturday, February 19.—The council met at 9 a. m., the president in the chair.

Prayer by the chaplain.
Members all present.
Minutes read and approved.

PETITIONS.

Mr. Wallace presented a petition from citizens of Union county praying that Clay and Union counties may be made one council and representative district. Mr. Gamble also presented a similar petition from citizens of Elk Point.

On motion of Mr. Jolley, these petitions were referred to the committee on apportionment.

REPORTS OF COMMITTEES.

Mr. Gamble from the judiciary committee, reported amendments to house file 174, defining the boundaries of Walsh county, recommending its passage.

Mr. Jolley, from the committee on territorial affairs, reported and recommended the passage of house file 163, providing for the insuring of the territorial library.

Also, reporting from the same committee house file 100, to prevent the division of organized counties with a recommendation that it do not pass.

Mr. Gamble, from a special committee, reported in favor of the passage of house file 25, to amend the act providing a board of education for the city of Yankton.

Mr. Scooby, from the committee on education, reported house file 38, to amend the public school law of the territory, and recommended its passage.

Mr. Day, from the committee on counties, reported back, and recommended the passage of house file 132, to legalize the acts of the commissioners of Lake county; house file 94, to incorporate the village of Jamestown; and house file eighty-seven, to incorporate the village of Tower City.

Mr. Gamble, from the committee on judiciary, reported with amendment council bill 127, to amend chapter 8 of the code of civil procedure.

On motion of Mr. Day, the report of the judiciary committee on council bill 127 was adopted.

Mr. Jolley, from the committee on enrollment, reported correctly enrolled council bills 55, 64 and 131, which were then signed by the president.

Mr. Day, from the committee on counties, reported back and recommended the passage of council bill 136, extending the time when taxes shall become delinquent for the year 1880.

MESSAGE FROM THE HOUSE.

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

No. 88, making an appropriation for a deaf and dumb school at Sioux Falls.

No. 80, to provide for the instruction of deaf and dumb persons.

No. 97, appropriating \$500 for the removal of dead bodies buried upon grounds owned by the Dakota hospital for the insane.

Also the passage of house file 170, to legalize the assessment of Trail county.

INTRODUCTION OF BILLS.

By Mr. Gamble—For an act to amend section 13 of chapter 39 of the political code.

By Mr. Fisher—For an act to amend an act to amend chapter 23 of the political code and chapter 49 of the session laws of 1879, entitled revenue.

By Mr. President—For an act to amend section 1, chapter 23, of the laws of 1879, entitled intoxicating liquors.

By Mr. Scooby—For an act to incorporate the town of Brookings.

By Mr. Shaw—For an act to amend section 667 of the code of civil procedure. Which several bills were given their first reading.

SECOND READING.

Council bills had their second reading and were disposed of as follows:

No. 138, authorizing the city of Bismarck to fund its outstanding indebtedness, referred to Mr. Wallace.

No. 139, to provide for the election of justices of the peace in the county of Morton, to the committee on immigration.

No. 140, to change the name of the town of Stickney to that of Ojata, to the committee on towns and counties.

No. 141, legalizing certain acts of the city council of the city of Fargo, relating to the construction of street railways, to the committee on judiciary.

No. 142, amending the act in relation to funding the indebtedness of Moody, Brookings, Burleigh and Grand Forks counties, to the committee on judiciary.

SUSPENSION OF RULES.

It having transpired that the bill passed a few days ago changing the time of making assessments from February 15th to May 1st, contained serious defects, Mr. Fisher this morning introduced a bill to remedy the defects, and on his motion the rules were suspended and the bill given its several readings and passed by a unanimous vote.

On motion of Mr. Scooby the rules were further suspended and council bill 147, to incorporate the town of Brookings passed.

THIRD READING.

The following council bills were read a third time and passed:

No. 127, to amend section 94, chapter 8 of the code of civil procedure.

No. 136, to extend the time in which taxes shall become delinquent for the year 1880.

MESSAGE FROM THE GOVERNOR.

The following message was received from the governor:

Territory of Dakota, Executive office, February 19, 1881.—To the legislative council of the territory of Dakota:—I

return herewith to the council, in which body it originated, bill No. 71, entitled an act to re-district the county of Grand Forks, without my approval and signature and with my objections thereto.

I. This bill provides for a special and unusual division of the county of Grand Forks into commissioner districts, and provides for a separate and different mode of electing county commissioners from that provided for in the other counties.

II. It grants special privileges to two different individuals by seeking to elect them to the offices of commissioners for Grand Forks county by the legislature in contravention to the organic act, which does not vest the power of electing officers in the legislative assembly.

The proposed arrangement may be wise and convenient to the county, but the mode of procedure, in my judgment, is unwarranted.

N. G. ORDWAY,
Governor.

HOUSE FILES.

House file 179 was read a first time.

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

No. 24, to amend section 27, of the political code, to the judiciary committee.

No. 73, to empower school districts to issue bonds to build school houses, to the committee on education.

No. 91, to protect manufacturers and dealers in ale, beer, &c., from loss of bottles and packages, to the judiciary committee.

No. 95, to amend section 9 of chapter 39, of the political code, to the committee on judiciary.

No. 113, requiring owners of stallions kept for breeding purposes to take out a license, to the committee on agriculture.

No. 116, to amend section 7 of chapter 21 of the political code, to the committee on counties.

No. 117, for the protection of large game, to the committee on judiciary.

No. 126, to amend section 63 of chapter — of the political code, to the judiciary committee.

No. 133, to authorize the printing of bills and to provide for the payment of the same, was, on motion of Mr. Jolley, indefinitely postponed.

No. 171, regulating the compensation of the commissioners of Stutsman county, to the committee on counties.

No. 175, a joint resolution relating to the appointment and election of United States and territorial officers in the territory of Dakota.

On motion of Mr. Jolley, the rules were suspended and the resolution read a third time and placed on its final passage.

Before the roll was called quite a discussion was had upon the merits of the resolution, which asserts that all appointing officers should be selected from *bona fide* residents of the territory, and that certain territorial officers, now appointed by the governor, should be elected by the people. Several speeches were made *pro* and *con*, but the most effective argument against the passage of the resolution was made by Mr. Wallace, of Burleigh county.

Mr. Wallace said that he opposed the sentiments of the resolution on principle. As

chairman of the committee on immigration, it was his duty to oppose any measure that would prevent the territory from receiving valuable acquisitions to its population. The policy of the government, which this resolution antagonizes, had given us such citizens as ex-Governors Pennington, Faulk and Edmunds, Governor Ordway, and many others he might name, and why should the legislature now say to the government we don't want you to send any more such men to settle amongst us. These men are full of enterprise, regular wrestlers; they help to build up the territory, and he wanted the government to send along all it can find places for.

Mr. Scooby said he had intended to say something in support of the resolution, but he now felt that it would be wrong to chill with plain, cold words the delicious flowers of thought that beautified the remarks of the gentleman from Burleigh.

The roll was then called, and the resolution passed—ayes 8 and noes 4. Messrs. Day, Wallace, Walsh of Union, and Wilson voting in the negative.

No. 176, to provide funds from the territorial treasury for the printing of bills introduced in the house and council, was, on motion of Mr. Gamble, indefinitely postponed.

No. 177, appropriating \$300 to the chief clerks of the two houses to compensate them for finishing up the records of the two houses, to the committee on finance and expenditures.

No. 178, to incorporate the village of Scotland, was on motion of Mr. Day, passed under a suspension of the rules.

MESSAGE FROM THE HOUSE.

A message was received from the house announcing the passage by that body of council bill 119, defining the boundaries of the judicial districts, with amendments, and requesting the concurrence of the council in said amendments.

THIRD READING.

The following house files were read a third time and passed:

No. 93, to incorporate the village of Tower City.

No. 84, to incorporate the village of Jamestown.

No. 25, to amend the act establishing a board of education for the city of Yankton.

No. 88, to amend sections 8 and 29 of the public school law of the territory.

No. 123, to legalize certain acts of the commissioners of Lake county.

No. 169, to provide for insuring the territorial library and for the purchase of certain books.

No. 100, to prevent the division of counties in certain cases. This bill was defeated by a vote of ayes, 4; noes, 8; Messrs. Day, Wallace, Walsh, of Union, and Wilson voting aye.

CONSIDERATION OF HOUSE MESSAGE.

The message from the house relating to council bill 119, fixing the boundaries of judicial districts, &c., was taken up and the house amendments thereto concurred in.

REPORT OF A COMMITTEE.

By unanimous consent, Mr. Wallace, from a special committee, reported back with amendments, council bill 138, to authorize the city of Bismarck to fund its outstanding indebtedness, recommending its passage, and upon his motion the rules were suspended and the bill passed.

MESSAGE FROM THE HOUSE.

A message was received announcing the passage by the house of council bill 92, establishing a state agricultural college at Brookings.

ADJOURNMENT.

On motion of Mr. Scooby, the council adjourned.

House.

Friday, Feb. 18.—The following is the conclusion of the afternoon proceedings: COMMITTEE REPORTS.

Mr. Boyles, from the committee on judiciary, reported back house bill 144, calling a constitutional convention, with amendments and a recommendation that it be referred to the committee of the whole.

Also house file 161, with a recommendation that it do not pass.

Also council bill 100, with a recommendation that it do not pass.

Also council bill 90, with a recommendation that it pass.

Also house file 173, with a recommendation that it do not pass.

Also council bill ninety-five, with a recommendation that it do not pass.

Also house file 170, with amendments and a recommendation that it pass.

Also council bill ninety-six, with amendments and a recommendation that it pass.

Mr. Miller, from the committee on finance and revenue, reported back house file 98 with a recommendation that it pass.

Mr. Donaldson, from the committee on ways and means, reported back council bill 104, with amendments and a recommendation that it pass.

Mr. Rohr, from the committee on territorial affairs, reported back house file 43 without recommendation.

Mr. French, from the printing committee, reported the cost of printing the reports of the officers of the insane hospital and the territorial auditor and treasurer, and, on motion of Mr. Cross, the committee was instructed to procure the printing of the reports at the price given.

NOTICES OF BILLS.

By Mr. Moore—To enable owners of mills and mill dams to maintain their rights.

By Mr. Donaldson—To locate a blind asylum.

By Mr. McBratney—To repeal house file seven of the fourteenth legislative session, exempting the Black Hills counties from the provisions of chapter thirty-eight of the code of civil procedure.

INTRODUCTION OF BILLS.

By Mr. Hale—House file 180—supplemental to an act to provide for the compensation of the judge of the first judicial district. Under a suspension of the

rules the bill had its first and second readings and was referred to the committee on ways and means. It provides that the judge of the first judicial district shall have an extra compensation of \$24, instead of \$24.00.

By Mr. Miller—House file 181—to authorize school district seventeen of Richland county to issue bonds. Under a suspension of the rules, the bill had its first and second readings and was referred to the committee on charitable and penal institutions.

By Mr. Donaldson—House file 182—providing for the construction of three wagon bridges across the Big Sioux in Moody county. Under a suspension of the rules, the bill had its second readings and was referred to the committee on highways, roads and bridges.

By Mr. Thorne—House file 183, relating to the territorial university.

By Mr. McBratney—To repeal house file seven of the 14th session.

BILLS PASSED.

Mr. Cross called up council files 97, 88, and 89 and asked that they be acted upon, and they were passed by unanimous vote. Number 89 provides for the instruction of deaf and dumb persons. Number 97 appropriates \$500 for the removal of the remains of persons buried on the insane hospital grounds. Number 88 provides an appropriation for the deaf and dumb school at Sioux Falls.

Mr. Boyles called up council bill 119, to define the boundaries of judicial districts, and it was passed by unanimous vote.

ADJOURNMENT.

The house, at five o'clock p. m., adjourned to nine o'clock a. m.

House.

Saturday, February 19.—The house convened at 9:30 a. m. and was opened with prayer by the chaplain.

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

The journal of the preceding session was read and approved.

VISITORS ADMITTED.

On motion of Mr. La Moure, the rules were suspended and Hon. R. L. McCormack, of Grand Forks, and Hon. H. F. Miller, of Fargo, were invited to seats within the bar of the house.

COUNCIL MESSAGE.

A message was received from the council announcing the passage by that body of council bills 122, 128 and 135, and house bills 83, 98, 103, 110, 63 (over veto), and 35 (over veto). Also that the council concurred in the house amendments to council bill sixty-four.

A BILL INTRODUCED.

By Mr. Donaldson—House file 184—to locate and establish a territorial institution for the education of the blind at Flandran.

COUNCIL MESSAGES CONSIDERED.

House file 52, providing for the management of the insane hospital, returned from the council with amendments came up for consideration and the house concurred in all the amendments excepting

those relating to the salaries of superintendent and steward.

On motion of Mr. Cross, a committee of conference consisting of three members, was appointed to consider the rejected amendments.

Mr. Cross, Mr. LaMoure and Mr. Wells were appointed as such committee.

House file 150, authorizing Custer county to issue bonds, was returned with amendments, and, on motion of Mr. Cross, the amendments were concurred in.

RECALLED.

A concurrent resolution, introduced by Mr. Warner, recalling from the governor, for correction, house file 56, was adopted.

COUNCIL BILLS.

The following council bills had their first reading:

Number 30, to provide a commissioner of finance and banking.

Number 70, to authorize the commissioners of Bon Homme county, to regulate licenses in the county.

Number 117, concerning the development of mines.

Number 124, a memorial to congress praying for the division of Dakota into North, South and West Dakota.

MESSAGES FROM THE GOVERNOR.

Two messages were received from the governor and were read by the clerk.

The first announced that the governor returned house file 55, authorizing the commissioners of Minnehaha county to issue bonds for the completion of a jail and other purposes, without his approval and with his objections thereto.

Mr. Thorne moved that the bill pass, the objections of the governor to the contrary notwithstanding, and a vote being taken the bill was passed, Mr. Thompson alone voting in the negative.

The second message announced that the governor returned house file 80, defining the boundaries of the county seat of Richland county, without his approval and with his objections thereto. The following is his message on the subject:

Territory of Dakota, Executive Office, Feb. 19th, 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. 80, entitled, "an act to define the boundaries of the county seat of Richland county," without my approval and signature and with my objections thereto:

I. This bill seeks by indirection and usurpation to overthrow the wise provisions of the general law providing for the location of county seats, embraced in chapter 21, sections from 6 to 12 of the political code. Section six says when any county shall have been organized the qualified voters thereof are empowered to select the county seat.

Section seven provides that whenever the inhabitants of any county are desirous of changing the place of their county seat, upon petition of two-thirds of the qualified voters of the county, the question of removal of the county seat shall be submitted to the voters of the county, and if it shall appear that any other place has two-thirds of the votes polled, such place shall be the county seat.

It will therefore be seen that under the wise and just provisions of the general law as it now stands in our code, the legal voters and taxpayers in any county can always change the county seat whenever the advancing interests of a county, by reason of new settlement in its various parts, require such change.

If this bill which I regard as violently opposed to the principles of justice and the organic act, should be passed, notwithstanding my objections, an attempt will unquestionably be made under its provisions to hold the county seat within the limits it describes, forever, the people of Richland county to the contrary, notwithstanding.

II. The first section of this bill after defining the metes and bounds of Wahpeton on the extreme eastern border reads as follows:

"It (Wahpeton) is hereby declared to be the county seat of said Richland county," thus clearly granting an "special privilege" as plainly as if described in a deed to Wahpeton.

The second section expressly declares that "all acts and parts of acts in conflict with the provisions of this act are hereby repealed."

With these positive declarations contained in the bill, I submit that no one can doubt that the provisions of the general law which I have quoted are in conflict with this bill and that it is the sole purpose of the promoters of this measure to repeal the general law so far as it conflicts with the continuance of the county seat of Wahpeton.

III. This is the second attempt which has been made during the present session to forcibly and permanently fix the county seat at Wahpeton, without the consent of the people of Richland county. The first was through an act entitled "An act providing for the location, erection and construction of a court house and jail in Richland county." This bill provides for locating these county buildings at Wahpeton, and for issuing fifteen thousand dollars in bonds to pay the cost thereof, without submitting any of these questions to the voters and taxpayers of the county.

In accordance with my convictions, after carefully considering the provisions of this measure, and believing its provisions to be unwarranted by the organic act, contrary to public policy and highly injurious to the people of Richland county, I interpose my objections to its passage upon grounds similar to those here indicated. After the veto message to which I have referred had been sent to the legislature and overrode, various members of each branch assured me that the position I had taken was right, and that the members of the legislature had only consented to the passage of that and similar measures, to oblige their colleagues wholly on personal grounds; but with a distinct agreement in this case that a supplementary bill should immediately be passed, covering and endorsing the grounds which I had taken in my veto message, viz.: "That no buildings should be located or built, or bonds issued without the consent of the voters in Richland county."

In pursuance of that pledge, as I am informed, a bill substantially covering the views contained in my message, has passed both houses and is now in my hands. This bill which sets forth that it is a supplement to house file No. 19 (that being the bill which I had vetoed), declares: "That nothing in said No. 19 shall be so construed as to authorize any action to be taken by the said board of county commissioners towards the location and erection of county buildings before the questions have been submitted to the legal voters of the county of Richland at a general or special election called for that purpose and decided in the affirmative."

"ative by a majority of the legal voters of "the same" referring to Richland county.

With this strong indorsement by both houses of the position I had taken in my message vetoing house bill No. 19 embodied in the supplementary bill which must have passed both houses since the bill under consideration passed, I cannot doubt that these strong objections will be sustained.

It would certainly make a remarkable record if the same views contained in the supplementary bill, distinctly and unequivocally set forth in these objections, should again be reversed by the passage of this measure, and thus necessitate another supplementary bill to put the legislature in accord with the executive on the question of allowing the people to have a voice in locating county seats and building county buildings.

Firmly adhering to the good old fashioned doctrine that the legislative branch of the government should always be subject to the will of the people and that all officers are chosen to serve instead of being masters of the people, I shall interpose my objections to all measures of this character which in my judgment are calculated to deprive the people of their just rights and the privileges guaranteed by the supreme law of the territory and the wise enactments of the political code.

N. G. ORDWAY,
Governor.

Mr. Cross moved that action upon the message be postponed until Tuesday at two o'clock, and the motion was lost.

The motion being upon the passage of the bill, it was passed; Messrs. Moore, Thompson and Mr. Speaker voting in the negative, and all the rest in the affirmative, except Mr. Landman, who was absent.

COUNCIL MESSAGE.

A message was received from the council announcing the passage by that body of council bills 144, 138 and 147. Also that the council concurred in the house concurrent resolution relating to house file 56.

COUNCIL BILLS.

Council bill 132, relating to fornication, had its first reading.

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

No. 109, to amend section three chapter 30, of the political code, to the committee on ways and means.

Number 122, relating to water rights among miners, to the committee on mines and mining.

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

Number seventy-two, authorizing several school districts in Grand Forks county to issue bonds, passed unanimously.

Number seventy-five, authorizing school district number one of Morton county to issue bonds, was lost by a vote of eighteen to three.

Number ninety-two, to locate and establish a state agricultural college at Brookings, was passed; Messrs. Cross, Ellefson, French, Moore, Thompson and Van Osdel voting in the negative.

Number 78, exempting certain settlers on government lands from taxation, passed; Messrs. Ellefson, French, Kennedy, Van Osdel and Mr. Speaker voting in the negative.

Number 61, to amend the township law, was passed, Messrs. Donaldson, Inman, Thielman, Thompson, Thorne, Van Osdel and Mr. Speaker voting in the negative.

Number 99, for the protection of fish, was passed, Messrs. Ellefson, French, Thompson and Van Osdel voting in the negative.

Mr. Kennedy moved a reconsideration of the vote by which council bill 61 passed and the motion was adopted.

Mr. Ellefson moved that further action on council bill 61 be indefinitely postponed and the motion was adopted.

Number 101, to authorize the commissioners of Moody county to issue bonds to build a court house, passed by unanimous vote.

Number, 120, to amend the act relating to persons and corporations engaged in the business of banking, was passed, Messrs. Rohr, Thompson and Van Osdel voting in the negative.

Number 123, to amend section five chapter 22 of the political code, was passed by unanimous vote.

Number 121, to amend section eight of chapter 39 of the political code, giving authority to increase the salaries of county clerks of counties having over 6,000 inhabitants to \$1,200 per year, was referred back to the committee on judiciary, on motion of Mr. Dickey.

Number 110, changing the name of the county of Gingras to Wells, was passed, Mr. Cross alone voting in the negative.

On motion of Mr. Donaldson, the rules were suspended and council bill 147, incorporating the village of Brookings, was given its several readings and was passed, Mr. Cross alone voting in the negative.

On motion of Mr. Cross, the rules were suspended and council bill 144, to amend an act to amend chapter 23 of the political code and chapter 49 of the laws of 1879, was given its several readings and was passed; Mr. Moore alone voting in the negative.

On motion of Mr. Wells, the rules were suspended, and council bill 138, relating to the debt of Bismarck, had its several readings, was amended and passed by unanimous vote.

ADJOURNMENT.

On motion of Mr. Dickey, the house at noon, adjourned until 10 o'clock Monday, morning.