



DAKOTA'S LEGISLATURE.

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

Fourteenth Session—46th and 47th Days.

Council.

AFTERNOON SESSION.

The council re-assembled at 2 p. m., the president in the chair, and the members all present.

MESSAGE FROM THE HOUSE.

A message was received from the house announcing the defeat in the house of the following council bills:

No. 91, to create a board of immigration.

No. 121, to amend section 8 of chapter 39 of the political code.

And the passage of the following council bills:

Number 136, to extend the time in which taxes shall become delinquent for the year 1880, with amendments.

No. 154, to relieve certain citizens of Morton county from paying liquor licenses to said county and for other purposes.

Also, the passage of the following house bills:

No. 223, relating to the assessment of Lawrence county.

No. 229, to authorize school district No. 6 in Davison county, to issue bonds.

MESSAGE FROM THE GOVERNOR.

A sealed message was received from the governor for the consideration of the council in

EXECUTIVE SESSION.

On motion of Mr. Wilson, the council went into executive session for the consideration of the governor's message. After a brief session the doors were thrown open and business was resumed.

REPORTS OF COMMITTEES.

Mr. Gamble, from the committee on judiciary, reported without recommendation, house file 117, for the protection of large game.

Mr. Fisher, from the committee on railroads, reported and recommended the passage of house file 206, authorizing the counties of Grand Forks, Walsh and Pembina to vote aid to railroads.

HOUSE FILES.

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

□ No. 229, to the committee on education.

No. 228, to a special committee consisting of the members from Lawrence county.

No. 130, to the committee on education.

No. 227, to the committee on counties.

No. 124, to the judiciary committee.

No. 182, the committee on roads and bridges.

No. 170, to the member from Lawrence county.

No. 189, to the judiciary committee.

No. 226, to the committee on education.

No. 43, to a special committee consisting of Messrs. Scobey, Shaw and Fisher.

No. 202, to the committee on territorial affairs.

No. 143, to the judiciary committee.

NON-CONCURRENCE.

The council refused to concur in house amendments to council bill 136, extending the time in which taxes shall become delinquent for the year 1880, and appointed Messrs. Gamble, Wilson and Fisher as a conference thereon.

COMMITTEE REPORTS.

Mr. Wallace reported back the bill creating a board of education for the city of Bismarck.

Mr. Gamble, from the committee on judiciary, reported with amendments house file 194, amending the election law and recommended its passage.

Mr. Wilson reported back house file 228, relating to the assessment of Lawrence county, recommending its passage.

Mr. Scobey, from the committee on education, reported and recommended the passage of house file 229.

HOUSE FILES.

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

No. 92, creating a board of education for the city of Bismarck.

No. 117, for the protection of large game.

Number 194, to amend sections 3, 29 and 36 of chapter 27 of the political code.

No. 206, authorizing Grand Forks, Pembina, and Walsh counties to aid in the construction of railroads.

No. 228, relating to assessments in Lawrence county.

Number 229, to authorize a school district in Davison county to issue bonds.

COUNCIL BILL PASSED.

Council bill 163, to amend the act to fund the indebtedness of Moody, Brookings, Grand Forks and Burleigh counties, was read a third time and passed.

ADJOURNMENT RESOLUTION.

On motion of Mr. Wilson the joint resolution providing for the final adjournment of the legislature on Monday next, introduced several days ago and laid on the table, was taken up.

Mr. Fisher moved to amend the resolution by fixing the day of adjournment on Tuesday next, which motion was adopted.

The question then being on the adoption of the resolution as amended it was defeated by the following vote:

Ayes—Messrs. Fisher, Jolley, Wilson, and Mr. President—4.

Noes—Messrs. Gamble, Martin, Scobey, Shaw, Smith, Walsh and Wiggin—7.

Mr. Day absent and not voting.

ADJOURNMENT.

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

Council.

Saturday, February 26.—The council met at 10 a. m., with the president in the chair and all the members present.

Prayer by the chaplain.

Minutes read and approved.

REPORTS OF COMMITTEES.

Mr. Jolley, from the committee on engrossed and enrolled bills, reported that he had presented to the governor the following council bills:

No. 10, to authorize the commissioners of Kingsbury county to issue bonds for the erection and construction of a court house and jail.

No. 53, amending section 65 of the civil code.

No. 66, defining the jurisdiction of township justices of the peace.

No. 87, to amend section 60 of the civil code.

No. 109, to amend section 3 of chapter 39 of the political code.

No. 114, to amend section 567 of the civil code.

No. 141, to legalize and make valid ordinance No. 53 of the city of Fargo relating to the construction of street railroad in said city.

MESSAGE FROM THE HOUSE.

A message was received from the house announcing the passage of a number of house files, and asking the concurrence of the council therein. Also, that the house had passed council bill 162, supplemental to council bill 150, to provide a new charter for the city of Fargo.

INTRODUCTION OF BILLS.

By Mr. Wallace—For an act to amend an act entitled an act to incorporate the city of Bismarck.

On motion the rules were suspended and the bill passed.

By Mr. Scobey—For an act to provide for an apportionment of the members of legislative assemblies in case of a division of the territory.

The bill was read a second time and referred to a special committee consisting of Messrs. Scobey, Gamble, Day, Martin and Jolley.

HOUSE FILES.

The following house files were considered and disposed of as indicated:

No. 201, to amend section 64, of chapter 21, of the political code, to the judiciary committee.

No. 214, to protect deer, to the committee on agriculture.

No. 200, defining the boundaries of Miner county, to the committee on counties.

No. 196, to establish a normal school at Jamestown, was put upon its final passage and lost. Ayes, 6; noes, 6.

No. 104, regulating insurance corporations and regulating the business of insurance, referred to the committee on insurance, banks and banking.

No. 184, to locate and establish at Flandrean a territorial institute for the education of the blind, to the committee on education.

No. 154, to amend section 3 of chapter 24 of the political code, to the judiciary committee.

No. 156, to amend section 128 of chapter 5 of the probate code, to the committee on judiciary.

No. 140, establishing a school district in Lake county, to the committee on education.

No. 125, to fix the compensation of the territorial auditor. Passed.

No. 138, to change the territorial road from Dell Rapids to Madison, to committee on counties.

No. 137, regulating the time for school district officers to qualify, to the committee on education.

No. 159, to amend chapter 31 of the political code. Passed.

No. 215, amending the act incorporating Jamestown.

No. 227, to vacate a portion of the plats of the towns of Freeman and Menno in Hutchinson county. Passed.

No. 151, making an appropriation to C. J. B. Harris for codifying the laws. Lost—ayes, 3, noes, 9.

No. 526, establishing an independent school district in the village of Valley Springs. Passed.

No. 139, to amend chapter 31, of the political code. Passed.

CONFERENCE COMMITTEE.

The house having informed the council that it had refused to concur in the council amendments to house file 92, and appointed a conference committee, on motion, Messrs. Wilson, Martin and Wiggin were appointed a committee on part of the council.

On the disagreement of the two houses on council bill 158, Messrs. Wilson, Gamble and Shaw were appointed as a conference committee.

MESSAGE FROM THE GOVERNOR.

A special message, for the consideration of the council in executive session, was received from the governor, also, one approving the following council bills:

No. 43, to amend section 215 of the code of civil procedure.

No. 75, to authorize school district No. 1 of the county of Morton to issue bonds for the purpose of building a school house.

No. 90, to amend certain sections in chapter 59 of the laws of 1879, providing for the organization of civil townships.

No. 109, to amend subdivision 2 of section 199 and section 218 of the code of civil procedure.

No. 104, to provide for the purchase of the 2nd volume of Dakota reports.

No. 123, to amend section 5 of chapter 22 of the political code.

Also, the following message returning without his approval the Moody county court house bill:

MESSAGE FROM THE GOVERNOR.

The following message was received from the governor:

TERRITORY OF DAKOTA.

EXECUTIVE OFFICE,
Yankton, Feb. 26, 1881.

To the Legislative Council of the Territory of Dakota—I return herewith to the council in which body it originated bill 101 entitled "an act to authorize the board of county commissioners of the county of Mooey, territory of Dakota, to issue bonds for the erection and construction of a court house for the use of said county," without my approval and signature and with my objections thereto:

I. The first section of this act "authorizes and fully empowers" the county commissioners of Moody county, for the purpose of erecting a court house, to issue bonds without limit.

The second and third sections fully authorize the selection of a site, and the

preparation of plans, immediately upon the passage of the act, and all of the sections of the bill up to the tenth, clearly indicate that it is the purpose of the promoters of this measure to go ahead and build a court house in Moody county.

The tenth section reads as follows: "The acts herein authorized to be done by the board of county commissioners of Moody county by this act shall be valid when ratified by a majority vote of the electors of said county."

I do not regard this provision as a proper restriction upon the preceding positive authorization to locate, erect and issue bonds for a court house.

The words "shall be valid when ratified" in what assumes to be a restriction, clearly means that something which has been done shall be ratified at some future time; and the language is not sufficient to secure to the electors a vote upon this question before the burden of a county building is placed upon them.

II. It is well settled by the decisions of the United States supreme court that where bonds are issued under proper authority and have passed into the hands of innocent holders, such bonds are not invalid, although the county, city or town officials may have neglected to perform some requirements relating to their issue.

I, therefore, am clearly of the opinion that the county commissioners of Moody county, who are among the petitioners for authority to erect this public building can proceed, under this bill, to erect a court house in accordance with their express desire, notwithstanding the provisions of the tenth section of this bill, or anything therein contained.

If the legislative assembly intended to restrain the issuing of bonds for the purposes named until after the people of Moody county shall have voted upon these questions, the bill should so state in plain and unmistakable terms, that the added cost of litigation may not follow; but if the design was to allow the commissioners to go on with a work and seek subsequent ratification from the people, I presume both houses will override my objections to this policy, so often and earnestly expressed.

With the credit of the territory seriously menaced through the authorization, at the present session, of nearly a half million of dollars in bonds in various forms, I cannot refrain from once more appealing to the legislative assembly to insure to the voters an opportunity to pass upon the questions involving extraordinary expenditures before further indebtedness is placed upon them.

N. G. ORDWAY,
Governor.

On the roll being called on the question to pass the bill over the veto there were ayes 2, noes 10; so the bill was lost.

RECESS.

At 12:39 the council took a recess until 2 p. m., to go into executive session on the sealed messages from the governor.

House.

Saturday, February 26.—The house convened at ten o'clock a. m. and was opened with prayer by the chaplain.

Mr. Speaker in the chair and all members present, excepting Mr. La Moure, excused.

The journal of the preceding session was read and approved.

A PETITION FROM YANKTON.

A petition was read by the clerk, from Melvin Van Ornum, which related that certain parties had built fences across certain streets and that certain other parties had built fences across the back ends of their lots, all of which the petitioner thought was wrong. The petition closed with the significant suggestion that the petitioner was not alone in urging this subject upon the legislature.

The petition was referred to the mayor of Yankton with instructions that he refer it to the city council.

COUNCIL MESSAGES CONSIDERED.

House file 142, amended by the council. The amendments were concurred in.

House file 92, amended by the council. The amendments were non-concurred in and a committee of conference appointed.

COUNCIL BILLS.

Council bill 161, vacating a portion of the plat of the village of Canton, under a suspension of the rules, had its first and second readings and was referred to the committee on incorporations.

Council bill 163, relating to funding the indebtedness of Moody county, had its first and second readings and was referred to the committee on judiciary.

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

Number 145, to amend section 607 of the code of civil procedure, to the committee on judiciary.

Number 151, substitute, to amend the mechanics lien act, to the committee on judiciary.

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

Number 122, relating to water rights, was passed by unanimous vote.

Number 128, to vacate a part of Rudolph's addition to Canton, was passed by unanimous vote.

Number 150, amended by Mr. Thorne so as to provide for the transportation of prisoners from Detroit to the Sioux Falls penitentiary, was passed by unanimous vote.

Number 130, providing for the construction of a jail in Hughes county, was passed.

Number 133, to amend section 452 of the civil code, was passed.

Number 135, to amend the charter of the city of Bismarck, was rejected.

Number 139, to provide for the election of justices of the peace in Morton county, was passed.

Number 140, to change the name of the town of Stickney, in Grand Forks county, to Ojata, came up for passage and a conflict arose which necessitated a recess of five minutes. After recess a vote was taken and the bill was passed by a vote of twelve to ten.

MESSAGE FROM THE GOVERNOR.

A message was received from the governor, through his private secretary, announcing his approval of the following bills:

House file 24, amending the act establishing the board of education of the city of Yankton.

House file 88, amending section eight and 29 of the public school law.

House file 95, providing for recording instruments touching upon the transfer of property in unorganized counties.

House file 105, authorizing the commissioners of Custer county to issue

bonds for the construction of a court house and jail.

House file 165, authorizing the insurance of the territorial library.

House file 177, providing extra compensation for the chief clerks of the council and house.

RECESS.

The house, at 11:50, took a recess until four o'clock p. m.