



## DAKOTA'S LEGISLATURE.

### A Complete Report of the Proceedings of the Council and the House.

Fifteenth Session—Twenty-Fourth Day.

#### Council.

Council convened at 10 a. m., Mr. President in the chair.

Prayer by the chaplain.

Roll call showed that all the members were in their seats except Mr. Jerauld, and Mr. Burdick.

Journal read and approved.

#### HOUSE MESSAGE.

A message was received from the house announcing the passage by that body of house files 14, 35, 37, 39, 40 and 47. Also that the house had concurred in council amendments to house file 26, but that the house still refused to concur in council amendments to house file 9. Message announced the passage by the house of council bills 4 and 38, and the refusal of the house to pass council bill 44.

#### NOTICES OF BILLS.

By Mr. Jackson—to issue bonds for the making of permanent improvements to the Dakota penitentiary.

By Mr. Nickens—for erection of jail and court house for La Moure county.

By Mr. Nickens—to provide a board of education for the city of Jamestown.

#### INTRODUCTION OF BILLS.

By Mr. Nickens—Council bill fifty-four—to regulate marriage and provide for the keeping of a record of marriages.

Mr. Walsh—Council bill fifty-two—an act to establish the independent school district of Grand Forks.

Mr. Walsh, from the select committee, reported back a substitute for council bill incorporating the city of Grand Forks.

This bill was decided by the chair to properly come up for its third reading instead of its first; it being merely an amendment to the original bill.

Mr. Ziebach appealed from the decision of the chair. The council sustained the chair.

#### SECOND READING.

The following council bills were then given their second reading and referred to committees as indicated:

Forty-seven—to amend sections 377 and 381 of the code of civil procedure. In relation to the allowing of costs to plaintiffs in actions—committee on judiciary.

Forty-eight—an act relating to costs in civil actions—committee on judiciary.

Fifty—to allow organized townships to issue bonds for the improvement of the public highways.

Fifty-one—to locate the seat of government of the territory at Huron.

Mr. Walsh moved to amend by referring to a select committee of five.

Mr. Dewey moved to amend by referring to committee on territorial affairs. Carried.

Mr. Ziebach moved to further amend by referring it to the committee on appropriations. Lost.

Fifty-two—to amend sub-division 14, of section 2, chapter 28, of the political code—providing for the exemption of a certain amount of land if there be planted upon it growing trees—committee on judiciary.

Fifty-three—an act regulating wheat elevators and the grading of wheat—committee on counties.

#### THIRD READING.

The following council bills were read a third time and put upon their final passage:

Forty-five—to print reports of territorial auditor and treasurer. All voted aye.

#### HOUSE FILES.

House files 14, 35, 39, 40, 37 and 47 were given their first reading.

#### SECOND READING.

The following house file was then given its second reading and referred to committee as indicated:

Twenty-two—committee on incorporations.

#### COMMITTEE OF THE WHOLE.

At 10:45 the council went into committee of the whole to consider the reports of committees, Mr. Ziebach in the chair.

At 11:50 the committee arose to report. The report was as follows:

Council bill eleven—committee on counties reported a substitute and recommended its passage. Report adopted.

Mr. Walsh moved that the rules be suspended and the bill read and put upon its final passage. Carried.

The bill is to incorporate the city of Grand Forks. On its passage all members voted aye.

Mr. Jackson moved to reconsider the vote by which house file twenty-eight was rejected. Lost.

Mr. Jackson was called to the chair to act as president *pro tem*.

#### COMMITTEE REPORT.

Mr. Donaldson, from the committee on engrossed and enrolled bills, reported council bills seventeen and eighteen properly engrossed.

These bills now being on their third reading, they were taken up and put upon their final passage.

Seventeen—Providing that no fees shall be allowed to any person except an officer for serving summons in justice court, except at the discretion of the court. All voted aye.

Eighteen—is the same as seventeen except that it relates to the district court. All voted aye.

Mr. Roberts moved that steps be taken to secure more stationery for the use of the members. Carried.

By consent Mr. Washabaugh introduced council bill fifty-six—a bill to amend section 471 of the code of civil procedure.

Mr. McIntosh introduced council bill fifty-seven—to fund the indebtedness of Davison county.

#### NOTICES OF BILLS.

Mr. Dewey—a bill to provide for the construction of the west wing of the insane hospital, and to provide for the

care of the insane for the ensuing two years.

Mr. Dewey—a memorial to congress asking that the governor be granted power to incorporate insurance companies in this territory.

Mr. Dewey—to amend article eleven of the civil code, relating to insurance.

#### RECESS.

At 11:20 o'clock the council took a recess of thirty minutes.

At 11:50 the council was called to order.

#### HOUSE MESSAGE.

A message was received from the house announcing the appointment of Messrs. Nowlin, Wynn and Ellis, as a conference committee to confer with a similar committee of the council and try and adjust the differences on council bill thirteen.

Mr. Scobey moved that no member of the house be allowed to smoke in the council chamber under the penalty of being "fired out" by the sergeant-at-arms.

Mr. Nickens move to amend "unless he bring cigars for the members of the council."

Amendment accepted.

Motion carried.

Mr. Donaldson reported council bill twenty-seven correctly engrossed.

Mr. Nickens moved the rules be suspended and the bill put upon its third reading and passage. Carried. The bill defines the boundaries of Foster county. All voted aye.

Mr. Alfred, of the house, came in smoking. The sergeant-at-arms was notified to do his duty. Mr. Alfred immediately produced a handful of cigars.

Mr. Donaldson wished to know if that was all the cigars the member had, and requested that they be passed around.

Mr. Jackson moved that they be passed around in the order of the roll call.

Mr. Ziebach objected.

Mr. Jackson moved the committee on mines and mining be ordered to see if it is not possible to procure pure water and ice for the use of the council.

Mr. Washabaugh moved to amend to committee on territorial affairs. Lost.

Original motion carried.

#### COMMITTEE REPORT.

Mr. Roberts, from committee on judiciary, reported back council bill twenty-six, with the recommendation that it do pass.

This bill provided for the taking of an appeal from the board of county commissioners, by the district attorney, upon proper petition of the citizens of the county.

On its passage the vote was as follows: Ayes—Nickens, Roberts, Washabaugh, Ziebach, Scobey. Total, 5.

Nays—Dewey, Donaldson, Jackson, McIntosh, Walsh. Total, 5.

Absent—Jerauld and Burdick.

The bill was declared lost.

#### ADJOURNMENT.

At 12:10 council adjourned to ten o'clock to-morrow morning.

#### House.

The House convened at ten a. m., Mr. Speaker in the chair.

Prayer by the chaplain.

Roll call showed all members in their seats excepting Mr. Inman, who was excused.

The journal was read and approved.

#### COMMITTEE REPORTS.

Mr. Rinehart, from the special committee appointed to consider house file 44, the bill repealing the act granting Judge Moody additional salary, reported:

That the law sought to be repealed was constructed for the benefit of one person, and that, considering the present financial condition of the counties of Lawrence, Pennington and Custer, it is a burden which is unjust; that the committee recommend the passage of house file 44, the repealing act. The report was signed by all the committee—Messrs. Rinehart, Bowman and Choteau.

On motion of Mr. Rice the report of the committee was adopted.

#### NOTICES OF BILLS.

By Mr. McCallister—to authorize the village of Madison, Lake county, to issue bonds for the purpose of paying for normal school lands.

By Mr. Thompson—to amend section 59 of the laws of 1879—entitled townships.

#### BILLS INTRODUCED.

By Mr. Benson—House file 58—to authorize the commissioners of Morton county to issue bonds to fund the outstanding indebtedness of the county.

By Mr. Robinson—House file 59—to legalize acts of a secular nature on holidays.

#### HOUSE BILLS.

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

No. 51—to amend chapter thirteen, code of civil procedure—relating to exemption from seizure for debt—territorial affairs.

No. 52—to require express companies to pay taxes the same as railroad corporations—judiciary.

No. 53—to amend sections one and sixteen, chapter one hundred, of the laws of 1881—establishing a normal school at Spearfish, Lawrence county—education.

No. 54—to regulate the revenue and collection thereof to be derived from mining—providing for the appointment of a board mining commissioners by the governor and the legislative council.

Mr. Bowman moved that further consideration of 54 be indefinitely postponed. Lost.

Mr. Benson moved that the bill be referred to a special committee of five.

Mr. Bowman moved as a substitute that the bill be referred to the standing committee on mines and mining. Lost.

Mr. Benson's motion was then adopted, and Messrs. Benson, Thompson, Tyelsen, Rice and Bowman were appointed by the speaker as such committee.

No. 55—to authorize the county of Barnes to fund its indebtedness—judiciary.

No. 56—providing that persons convicted of murder shall suffer the death penalty or imprisonment for life, at the discretion of the jury—judiciary.

No. 57—to amend the exemption law

of the territory of Dakota—judiciary.

House file 44—repealing the act granting Judge Moody additional salary came up on its third reading and passage and was lost, Messrs. Nelson and Pyatt being excused, Mr. Hauser not voting and all the rest voting in the affirmative.

#### COUNCIL MESSAGE.

A message was received from the council announcing the passage by that body of council bill 42—relating to docketing judgments; also council bill 35—granting husband or wife power to control real estate in certain cases; also house file 24—prescribing rules for the execution of the trust arising under the act of congress for the relief of inhabitants on public lands; also house file 29—to legalize the acts of E. T. White as notary public; also that house file 27—providing that ninety days' residence was qualification for the position of notary public—was lost; also that the council had concurred in the house amendments to council bill 12—to prevent the spread of glanders; also that the council had refused to concur in the house amendments to council bill 13—relating to increase in grand juries—and that a conference committee consisting of Messrs. Washbaugh, Jackson and Donaldson had been appointed.

Mr. Nowlin moved that the speaker appoint a conference committee of three on council bill 13. Adopted and Messrs. Nowlin, Wyan and Ellis appointed.

#### ADJOURNMENT.

The house, at 11:30 a. m., adjourned to ten o'clock Friday morning.

#### Session Notes.

Mr. Bowman's house bill relative to the exemption of property from seizure for debt provides:

Section 1. The following property only shall be exempt from attachment and execution, when owned by any person other than the head of a family:

1st. The wearing apparel of all persons.

2d. The necessary tools and implements of trade of any mechanic whilst carrying on his trade.

Sec. 2. The following property when owned by the head of a family, shall be exempt from attachment and execution:

1st. Ten swine, two horses or mules, or two yoke of cattle, ten head of sheep and the product thereof in wool, yarn or cloth; two cows and calves, one wagon, one plow, one harrow, and all necessary farm implements for the use of one man.

2d. All family pictures; a pew or other sitting in any house of worship; a lot or lots in any burial ground; the family bible; all school books used by the family, and all other books used as a part of the family library, not exceeding in value one hundred dollars.

3d. All wearing apparel of the family; all household and kitchen furniture used by the debtor and his family not exceeding three hundred dollars in value; and in case the debtor shall own more than three hundred dollars worth of such property, he must select therefrom such articles to the value of three hundred dollars, leaving the remainder subject to legal process.

4th. The necessary tools and implements of trade of any mechanic while carrying on his trade.

5th. All such provisions as may be on hand for family use, not exceeding one hundred dollars.

6th. The library and instruments of all lawyers, physicians, ministers of the gospel and teachers in the actual prosecution of their calling, not to exceed three hundred dollars in value.

7th. The homestead as created, defined and limited by law, but not to exceed two thousand dollars in value.

Sec. 3. Each head of a family, at his election, in lieu of the property mentioned in the first and second subdivisions of section 2, may select and hold exempt from attachment and execution any other property, real, personal or mixed, not exceeding in value three hundred dollars.

Sec. 4. None of the exemptions prescribed in this chapter shall be allowed against an execution issued for the purchase money of property claimed to be exempt and on which such execution is levied.

Sec. 5. Section 323, 324, 335 of chapter XIII of the code of civil procedure are hereby repealed.

There was a brief contest in the house this morning over the reference of Mr. Benson's mining tax and commissioner bill. The question came up on the reference of the bill, Mr. Benson desiring to place it in the hands of a special committee, as the standing committee on mines and mining contains three of the four Black Hills members. Mr. Bowman tried to strangle the bill in its inception by causing its indefinite postponement, but the house refused to take this action, by a rising vote—twelve to nine. Mr. Benson gained his first point, but it cannot be said that the vote for and against indefinite postponement is an indication of the real strength for and against the measure, as many members prefer to have an important bill examined upon its merits, duly reported upon and discussed. There is a prospect that the bill will be closely contested.

Mr. McCallister, of the house, has put in a bill which will accord with popular sentiment. It provides that the punishment for murder shall be fixed by the jury which convicts the murderer and that it shall be either death or life imprisonment. This is a move to modify the present inexorable law for the punishment of murder.

It is a matter of grave regret that the house yesterday killed the resolution which was the first step in the direction of a constitutional convention and statehood. It would seem that the matter was not given the consideration its importance demands. It will be two years before Dakota will have another opportunity to take the initiative.

The first strictly party vote of the session in the council was taken this morning. Mr. Ziebach appealed from the decision of the chair, and on the question being put the republicans voted solidly to sustain the chair while the democrats were equally solid against it.

The elections committees of the council and house held a long session last night at which the contested case from the seventh district was again the subject of enquiry, new evidence from Spink county having been submitted. It is expected that the committees will report to-morrow.

The bill introduced in the council for the purpose of locating the capital at Huron was to-day referred to the com-

mittee on territorial affairs, which consists of Mr. Jackson, of Minnehaha, Mr. Nickens, of Statesman and Mr. McIntosh, of Aurora.