



DAKOTA'S LEGISLATURE.

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

Fifteenth Session—Thirty-Fifth Day.

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

Prayer by the chaplain. Roll called showed that all the members were in their seats.

Journal read and approved.

MESSAGE FROM THE HOUSE.

A message was received from the house announcing that that body had passed a joint resolution requesting the governor to return house file No. 41 for amendment; also the passage of house file No. 50—to amend section 3, chapter 21, of the political code.

House file No. 81—to provide funds for the establishment of a normal school at Madison; No. 93—to authorize the erection of a wagon bridge across the Pembina river, at Wallahalla, and the issue of bonds therefor.

COMMITTEE REPORTS.

Mr. McAuley, from the committee on enrolled and engrossed bills, reported council bill No. 56, to amend section 471 of the code of civil procedure as correctly enrolled.

NOTICES OF BILLS.

By Mr. McAuley—creating the counties of Richmond, and Edgerton, and Inman, and defining their boundaries, and defining the boundaries of the county of Brown.

By Mr. Burdick—to allow counties to change their county seat by a majority vote in certain cases.

INTRODUCTION OF BILLS.

The following bills were introduced and given their first reading:

By Mr. Walsh—council bill 101, locating and establishing the university of north Dakota at Grand Forks.

By Mr. Walsh—council bill 102—for an act providing funds for the construction of the university of north Dakota.

By Mr. McAuley—council bill 103—to empower school district 28, Spink county to issue bonds to build a school house.

By Mr. Jerauld—council bill 104—to create a board of railroad commissioners and to define and regulate its powers and duties.

By Mr. Jerauld—council bill 105—to amend sections 601 and 612 of the code of civil procedure.

By Mr. Jerauld—council bill 106—to amend sections 73, 74, and 75 of chapter 28 of the political code.

By Mr. McAuley—council bill 107—creating the counties of Richmond and Edgerton and Inman and defining their boundaries and defining the boundaries of the county of Brown.

SECOND READING OF COUNCIL BILLS.

The following bills were given a second reading and referred to the committees indicated.

Council bill No. 92—to incorporate the city of Jamestown—committee on incorporations.

Council bill No. 99—to amend section 667 of the civil code—committee on judiciary.

PASSAGE OF BILLS.

The following council bills were given a third reading, and on being put upon their final passage were disposed of as indicated:

Council bill No. 87—regulating the conditional sales of rolling stock and railroad equipments, compelling in such cases that the property be marked with the names of the owners or lessors. Passed, all voting in the affirmative.

HOUSE FILES.

The following house files were given a first reading:

House file No. 50—to amend section 3, chapter 21 of the political code.

House file No. 81—to provide funds for a normal school at Madison.

House file No. 93—to authorize the issue of bonds for a wagon bridge at Wallahalla, Pembina county.

SECOND READING OF HOUSE FILES.

The following house files were read a second time and referred to the committees indicated:

House file No. 55—to authorize the county of Barnes to issue bonds to fund its outstanding indebtedness—committee on counties.

House file No. 62, a substitute bill—to amend chapter 49, of the session laws of 1879, entitled townships—committee on counties.

House file No. 73—to amend section 400, of the civil code, entitled corporations—committee on judiciary.

House file No. 75—to authorize arrest and bail—committee on judiciary.

House file No. 79—to protect the passage of fish in Goose river—committee on counties.

PASSAGE OF HOUSE FILES.

The following house files were given a third reading and disposed of as indicated.

House file No. 32—to incorporate the village of Scotland—passed, all voting in the affirmative.

Mr. Nickens moved that the council proceed to take up the business on the speakers table, which motion prevailed.

House file number 14—To make the office of the clerk of the court elective was then taken from the table for consideration.

Mr. Jerauld moved that it be recommended to the committee of the whole, and Mr. Nickens moved to amend by striking out the enacting clause, which motion was declared out of order and the roll being called upon the motion by Mr. Jerauld, it was lost by a vote of 6 to 6.

The bill was then read the third time and put upon its final passage, and was lost by the following vote:

Voting aye, Messrs Jerauld, Roberts, Ziebach and Mr. President. Voting nay—Messrs. Burdick, Dewey, Jackson, McAuley, McIntosh, Nickens, Walsh and Washbaugh.

Mr. Nickens moved that the vote by which the bill was lost be reconsidered

and that the motion to reconsider be laid on the table. The motion prevailed. Ayes, 7; nays, 5.

The joint resolution asking the governor to return house file No. 43 for amendment was then read three times and passed unanimously under a suspension of the rules.

COMMITTEE OF THE WHOLE.

The council then resolved itself into a committee of the whole for the consideration of committee reports, Mr. Roberts in the chair.

When the committee arose it reported through its chairman with recommendations as follows:

That house file 65—to amend an act to establish a fence law in the counties of Pennington, Lawrence, Custer, Mandan, and Forsyth; council bill 70—providing compensation for publishing tax sale; council bill 83—to provide for the construction and furnishing of a normal school at Spearfish; council bill 68—to provide for the construction and furnishing of a normal school at Springfield; council bill 71—to provide funds for completing the university of Dakota and constructing the main building; council bill 64—authorizing the construction of a west wing to the insane asylum, and for improvements and additions; and council bill 76—for making permanent improvements at the territorial penitentiary, purchasing or leasing a stone quarry, &c., do pass.

That council bill 59, appropriating \$36 extra compensation to Frank J. Mead, do not pass; and that council bill 75—making appropriations for the current and contingent expenses of the territorial penitentiary; and council bill 67—providing an agricultural college at Brookings, be amended, and that the bills pass as amended.

The report of the committee of the whole was adopted.

The council then adjourned.

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 Messrs. Rice, Ellis, Thompson and Van Woert, who were excused.

The journal was read and approved.

COUNCIL MESSAGE.

A message was received from the council announcing the passage by that body of council bill 41—to amend section 333 of the code of civil procedure; also council bill 79—authorizing Kidder county to issue bonds for the construction of a court house and jail; also council bill 80—to authorize school district one, Kidder county, to issue bonds to build a school house, also council bill 81—authorizing Yankton county to issue bonds to fund its outstanding indebtedness; also council bill 84—authorizing the city of Deadwood to issue bonds in aid of a railroad; also that the council had refused to adopt house file 69—providing that where county seats possessed no suitable place for holding courts the judge could designate a place for holding court.

A PETITION.

Mr. Rinehart presented a petition from the residents of six townships in Lawrence county asking the legislature to so divide Lawrence county as to separate the mining portion from the agricultural portion. Mr. Rinehart announced that he would introduce a bill covering the subject. The petition was referred to the committee on counties, towns and cities.

COMMITTEE REPORTS.

Mr. McCallister, from the committee on education, reported house file 70—to authorize district one, Clark county, to issue bonds—with amendments and a recommendation that it pass.

Mr. Wagner, from the committee on territorial affairs, reported house file 95—authorizing the governor to offer rewards for escaped convicts—with a recommendation that it pass.

A RECOMMENDATION.

Mr. Rinehart introduced a resolution requesting the council to give immediate attention to house file 44—to repeal chapter 83 of the laws of 1881.

On motion of Mr. Rinehart, the resolution was adopted.

NOTICES OF BILLS.

By Mr. Inman—to give a lien upon mares and cows and their offspring for services of stallions and bulls.

By Mr. Inman—providing for the destruction of Canada thistles and cockle burrs.

By Mr. Inman—providing for punishing persons who permit Canada thistles and cockle burrs to grow upon their land.

By Mr. Inman—to require notaries public to affix at the end of their signatures the time when their term of office expires.

By Mr. Harvey—to locate, establish and endow a territorial normal school at Minto, Walsh county.

By Mr. Benson—to incorporate the city of Valley City.

BILLS INTRODUCED.

By Mr. Nowlin—House file 110—to define the boundaries of the county of Fall River.

By Mr. Phillips—House file 111—to amend section 509, of article 11, of chapter three of the civil code.

By Mr. Harvey—House file 112—to incorporate the town of Portland, Traill county.

By Mr. Nowlin—House file 113—to amend section 597 of the code of civil procedure.

By Mr. Speaker (Mr. Rinehart in the chair)—House file 114—to protect farmers from damages from fires caused by railroad companies.

CONCURRED IN.

House file 47—to require railroads to construct fences in certain cases—was returned from the council with amendments.

On motion of Mr. Sterling, the house concurred in the council amendments.

COUNCIL BILLS.

The following council bills had their first reading: No. 84—to authorize the city of Dead-

laid to issue bonds in aid of a railroad. No. 81—to authorize the county of Yankton, to issue bonds to refund its railroad indebtedness.

No. 80—to authorize school district one, Kidder county, to issue bonds.

No. 79—for the erection of a court house and jail in Kidder county.

No. 41—relating to exemptions of purchase money.

No. 78—to incorporate the city of Redfield.

No. 82—to amend section 718 of the criminal code.

No. 61—to amend section one, chapter 86, laws of 1881.

No. 57—to authorize Davison county to issue bonds to fund its outstanding indebtedness.

No. 43—relating to costs in civil actions.

No. 47—relating to fees and costs in certain cases.

HOUSE BILLS.

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

No. 70—to authorize district one, Clark county, to issue bonds—counties, towns and cities.

No. 109—to provide for drainage of mines, etc.—mines and mining.

No. 108—to grant the right to establish and maintain a ferry across the Missouri river in township 121, range 98, Walworth county—highways, bridges and fences.

No. 107—to amend chapter 19 of the political code and for other purposes—judiciary.

No. 101—to provide for the registration of births and deaths—judiciary.

No. 96—to establish school district 39, Turner county, as independent school district number one—education.

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

No. 95—to amend section 589 code of civil procedure—passed, Mr. Townner alone voting in the negative.

No. 70—to authorize school district one, Clark county, to issue bonds—passed by unanimous vote.

No. 90—to amend sections 8, 31 and 63, chapter 59 of the laws of 1879, entitled townships—passed by unanimous vote.

No. 88—to amend section 28 chapter 18 of the political code—was lost.

COUNCIL BILLS.

Mr. Inman moved that the rules be suspended and that all council bills past their first reading be given their second reading and their reference to committees.

The motion was adopted and the following council bills (the character of which is indicated under the head of first reading) had their second reading and were referred to committees as indicated:

No. 47—judiciary; No. 61—judiciary; No. 82—judiciary; No. 48—judiciary; No. 57—counties, towns and cities; No. 78—counties, towns and cities; No. 41—judiciary; No. 79—counties, towns and cities; No. 80—education; No. 84—railroads; No. 81—special committee consisting of Messrs. Wynn, Rinehart and Sterling.

ADJOURNMENT.

The house, at noon, adjourned to ten o'clock Tuesday morning.

Session Notes.

Mr. Jerauld this morning introduced council bill number 101 which provides that the governor and legislature shall appoint three railroad commissioners to hold office two, three and four years respectively, each commissioner to receive a salary of \$3,500 per annum and be empowered to employ a chief clerk at \$2,000 per annum and a marshal at \$1,000. The principal office of said commission shall be at Yankton, with branch offices at Huron, Grand Forks or Fargo. The chief clerk has power to subpoena witnesses and administer oaths, and the marshal to serve notices and papers. The board must meet at least once per month and none of the commissioners can be in any way connected with any railroad, and to accept for themselves or friends passes, gratuities, bribes or place is a misdemeanor. They can in pursuance of official duties travel free on passes issued by the territorial auditor. It is made the duty of the board to investigate the causes of all railroad accidents requiring investigation and to keep posted as to the manner of operating railroads and their compliance with the laws of the territory; also to examine the books or affairs of any railroad corporation, and to compel the attendance of witnesses and the production of books or papers. Whenever the board finds a violation of the organic or constitutional law, or discrimination in freight or passenger rates it must give notice, in writing, to the offending corporation, and if continued afterward must forthwith present the facts to the district attorney or attorney general, who shall take such action as is necessary for the protection of the public interests. The commissioners are further empowered to investigate and give advice relative to rates of fare, change in terminal facilities, repairs, or purchase of additional rolling stock, improvements of depots, mode of business, &c., and if changes are deemed expedient, must give notice to the railroad officials, who are to be given a hearing, and failing to justify their acts or methods, then the commissioners must submit the case to the district attorney for action. Section 6 provides that the railroad officials are required to furnish information on demand especially as regards rates of transportation, and also to furnish copies of all contracts, agreements or leases, with any person, or persons, or corporation. But such commissioners are not required to give publicity to such information if the public interest, in their judgment, does not require it, or the welfare or business of the railroads might be injuriously affected thereby. The receiving of such information from one railroad company and giving it to another is made a misdemeanor. Section 8. The board can compel railroad companies to submit reports of business transacted

and can dictate the form of such reports. The board must report to every legislature concerning every railroad company and its relation to the public and it is made its duty to draft bills and recommend changes in railroad legislation, and to take testimony relative to any proposed change in railroad laws if requested so to do by the governor, legislative assembly, railroad committee or any railroad company or incorporated organization representing commercial or agricultural interests, and report the same to the person or organization making the request. Members of the board can be engaged in no other business. For the first term they get their pay from the territorial treasury and afterward from the railroad companies on an apportionment of the expense made by the territorial treasurer and auditor as equally as can be. The basis for one half the assessment shall be according to the gross earnings of the roads and for the other one half the number of miles of road operated. This tax can be collected by distress and sale in case of a refusal to pay, and the commissioners have power to employ experts, engineers and extra clerks. Thirty thousand dollars is appropriated to carry out the provisions of this act for two years. Mr. Jerauld, the author of the bill, states that there are twenty-one commissioners of the kind in the United States, and holds that as the courts have declared railroads to be public highways, that the appointment of a board of this kind with advisory and investigating powers, is the only way the people can get a technical knowledge that will admit of fair and proper legislation on the subject.

The amendment to the council bill, appropriating money for the contingent and current expenses of the penitentiary, provides that the warden of the institution must be a resident and voter in Dakota.

The appropriation for the agricultural college for Brookings was reduced from \$30,000 to \$25,000 in committee of the whole on motion of the gentleman introducing the bill.

Bills are before the legislature providing for a penitentiary at Fargo, an insane asylum at Jamestown and a university at Grand Forks. We do not know whether or not it is the intention to push these measures, but they certainly contain sufficient merit to entitle them to consideration. The facilities afforded by the penitentiary and asylum are not sufficient to accommodate the entire territory, and the item of transportation from the north to the south is a large one. When the territory is divided each half can assume the liability for its own institutions.

Mr. McCauley introduced in the council this morning a bill to cut up the overgrown county of Brown and make four counties out of it by adding a tier of townships from McPherson and Edmunds counties on the west and from Day county on the east. The proposed four counties will contain sixteen townships each and will be named Brown, Richmond, Edgerton and Inman. The division has been asked for by a petition

containing the names of 1,140 voters of Brown county, which is a large majority. Delegations from Aberdeen, Groton, Frederick and Ordway are here to urge the change.

Last week Mr. Rinehart gave notice that in the future he would object to the habit of introducing bills without previous notice and fortified his position with sufficient reasons. This morning there was a perfect shower of bills in the house of which no previous notice had been given. They came so thick that Mr. Rinehart was overwhelmed and while the laugh was on him he good naturedly subsided and did not attempt to object. There seemed to be a preconcerted arrangement and he took in the situation.

Porter Warner, of the Deadwood Times, is in Yankton in opposition to the proposed division of Lawrence county, a bill for which Mr. Rinehart gave notice in the house this morning.

Mr. Nowlin's bill introduced in the house this morning for the creation of the county of Fall River, proposes to restore the old county of Forsyth, lying south of the South Cheyenne and between the 26th and 27th meridians, under the name of Fall River. At the last session of the legislature, Forsyth was abolished and attached to Custer county.