



## DAKOTA'S LEGISLATURE.

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

Fifteenth Session—Thirty-Seventh Day.

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

Prayer by the chaplain.

Holl 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 it had passed council bill No. 35—granting to husband and wife power to sell or control real property in certain cases; council bill 41—relating to exemptions for purchase money; council bill No. 61—to amend section 1, chapter 86 of the laws of 1881; council bill No. 80—authorizing school district number one, of Kidder county, to issue bonds for the erection of a school house; and council bill No. 83—to amend section 718 of the penal code; and that it refused to pass council bill No. 73—to amend section 321 of the civil code; that it had passed house file 68—to authorize the establishment of a normal school at Madison; house file 76—to amend section 5, chapter 19 of the political code; house file 87—to amend section 1,743 of the civil code; house file 96—to establish school district No. 39 of Turner county; house file 97—authorizing the counties of Pennington and Custer to refund outstanding indebtedness, and house file 107—to amend chapter 19 of the political code.

#### PETITIONS AND COMMUNICATIONS.

Mr. Scooby presented a communication from the citizens of Grant county relative to the submission to the people of the question of a removal of the county seat and authorizing a vote thereon.

#### NOTICES OF BILLS.

By Mr. McIntosh—to authorize school district No. 1 of Aurora county and school district No. 12, of Davison county to issue bonds for the erection of school buildings.

#### INTRODUCTION OF BILLS.

By Mr. Jerauld—council bill No. 115—to amend section 2, chapter 41 of the session laws of 1871, relative to the trapping and ensnaring of certain kinds of game.

By Mr. Jerauld—council bill No. 116—to regulate the foreclosure of mortgages by advertisement, and to provide for perpetuating the evidence in the case.

By Mr. Burdick—council bill No. 117—to amend section 22, chapter 33, of the revised code of 1877—relative to the rates of publication of legal notices.

By Mr. Roberts—council bill No. 118—to amend the act incorporating the city of Casselton.

#### SECOND READING OF COUNCIL BILLS.

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

No. 97—to authorize an issue of bonds for the erection of a court house and jail for Hughes county—committee on public buildings.

No. 98—to incorporate the city of Mitchell—committee on incorporations.

No. 100—granting a right to maintain a ferry across the Missouri river in township 121, range 78 west—committee on railroads.

No. 103—to authorize school district No. 28, of Spink county, to issue bonds for the erection of a school house—committee on appropriations.

No. 107—creating the counties of Richmond, Edgerton and Iman and defining their boundaries, and those of Brown county—committee on counties, townships and cities.

No. 109—to amend the incorporation act of Valley Springs—committee on incorporations.

No. 111—to legalize the incorporation of Casselton and the acts of its officials—committee on judiciary.

No. 114—to amend section 1745 of the civil code—committee on judiciary.

#### PASSAGE OF BILLS.

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

Council bill No. 51—to remove the territorial capital to Huron. Mr. Nickens offered the following resolution:

*Resolved*, That the president appoint a committee of five to whom shall be referred council bill No. 51, providing for the removal of the capital. Said committee is hereby authorized and directed to enquire

First, Is it expedient to remove the capital from its present location? If yes, then in what manner shall another site be selected and located; and

Second, to what point in this territory shall the capital be taken; and

Third, What inducements will be offered the territory for its location at a point the committee may recommend, or a proper and convenient place; and it is hereby made the duty of the committee to give a reasonable hearing to all persons interested in the removal of the said capital and to report to the council its recommendation, either by bill or otherwise, at an early time.

Mr. Walsh moved the adoption of the above resolution.

The ayes and noes being called it was adopted by the following vote:

Voting aye—Messrs. Burdick, McAuley, Nickens, Roberts, Walsh, Ziebach and Mr. President.

Voting nay—Dewey, Jackson, Jerauld, McIntosh and Washabaugh.

Council bill 71—authorizing the treasurer of Lincoln county to collect school taxes voted by districts 55 and 71 of that county at their annual meeting in 1882, passed, all voting in the affirmative.

Council bill No. 92—providing a charter for the city of Jamestown, passed, all voting in the affirmative.

#### MESSAGE FROM THE HOUSE.

A message was received from the house announcing that council bill No. 78—to provide for the erection of a court house and jail for Kidder county, had been

passed by the house with certain amendments.

#### HOUSE FILES.

House files Nos. 63, 76, 87, 96, 97 and 107 referred to in the house message, were given their first reading.

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

No. 70—to authorize school district No. 1 of Clark county to issue bonds for a school house. Committee on appropriations.

No. 88—to amend section 28 of chapter 28, of the political code entitled revenue. Committee on judiciary.

No. 90—to amend sections 8, 31 and 63, of chapter 59 of the session laws of 1879, entitled townships. Committee on judiciary.

No. 95—to amend section 583 of the criminal code—judiciary committee.

No. 100—to create the office of district attorney for the different counties—committee on judiciary.

#### PASSAGE OF HOUSE FILES.

The following house files were given their third readings, and on being put on their final passage were disposed of as follows:

No. 30—defining the boundaries of Hyde county—passed, all voting in the affirmative, except Mr. Nickens, who was excused.

No. 52—compelling express companies to pay taxes on gross earnings—was lost, all voting in the negative except Mr. Roberts, who voted in the affirmative.

No. 66—to repeal a part of the funding act of Pennington and Custer counties—passed, all voting in the affirmative.

No. 72—to vacate the town plat of Roscoe, Moody county—passed, all voting in the affirmative.

No. 83—to amend the incorporation act of Flandrau—passed, all voting in the affirmative.

Mr. Walsh moved the council concur in house amendments to council bill No. 79—to issue bonds for the construction of a court house and jail for Kidder county, referred to in message. Carried.

#### MESSAGE FROM THE GOVERNOR.

A message was received from the governor announcing that he had signed and approved the following council bills:

Number 23 to amend section 45, chapter 24 of the political code, No. 16, to punish the use of obscene language,

No. 32, to amend section 615 of the code of civil procedure, No. 27, defining the boundaries of Foster county, No. 45, a joint resolution authorizing the printing of the biennial reports of the territorial auditor and treasurer and making an appropriation to pay for the same, No. 20,

to amend chapter 46 of the laws passed in the year 1879 and number 42, to amend section 300 of the code of civil procedure.

The chair then announced that Messrs. Nickens, Walsh, Burdick, Ziebach and Jerauld had been appointed the special committee for the consideration of council bill No. 51, to remove the capital to Huron. On request of Mr. Jerauld, Mr. Dewey was named a member of committee, the former withdrawing.

#### COMMITTEE OF THE WHOLE.

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

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

That house file 81—to provide funds for the construction and furnishing of a normal school at Madison do pass.

That council bill 102—providing funds for the construction of a university of north Dakota at Grand Forks be amended, and that the bill do pass as amended.

That council bill 72—providing for the erection of a court house in La Moure county do pass.

That house file 82—to legalize the acts of the incorporated village of Flandrau in issuing bonds do pass.

That council bill 101—locating and establishing the university of north Dakota do pass.

On motion, the report of the committee was adopted.

Mr. Jackson moved to suspend the rules, and that council bill No. 109 be read a third time and put upon its final passage. Carried. A vote being taken it was passed, all voting in the affirmative.

Mr. Washabaugh moved the council take a recess until two p. m. Carried.

#### AFTERNOON SESSION.

The council convened at 2 p. m. with Mr. President in the chair.

#### COMMITTEE OF THE WHOLE.

The council then went into a committee of the whole with Mr. Walsh in the chair, for the consideration of reports of committees.

When it arose it reported with recommendations as follows:

That the council bill relative to the creation of the office of county auditor, be recommitted to a special committee. The report was adopted.

The chair appointed as such committee Messrs. Jerauld, Ziebach and Roberts.

Mr. Nickens moved the council proceed to the election of an assistant enrolling and engrossing clerk.—carried.

Mr. Nickens nominated for such office B. J. Shannon.

Mr. Washabaugh nominated Wm. F. Eldridge.

Mr. Walsh nominated N. C. Nash. A vote was taken which was as follows: Shannon, 7; Eldridge, 3; Nash, 2.

Mr. Shannon was declared elected and took the oath of office.

Mr. Burdick from the committee on education submitted a report which was returned to the general order.

By unanimous consent Mr. Washabaugh introduced the following bill which was read the first time.

Council bill No. 119 to establish a board of health and examiners to regulate the practice of medicine. Adjourned.

#### House.

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

Prayer by the chaplain.

Roll call showed all the members in their seats.

Journal read and approved.

#### COUNCIL MESSAGE

A message was received from the council announcing the passage by that body of house file 65—to amend the act to establish a fence law in the Black Hills counties.

#### COMMITTEE REPORTS.

Mr. Nelson, from the committee on counties, towns and cities, reported house file 11—to create the county of Raymond—with a recommendation of six of the seven members of the committee that it do not pass; also house file 58—authorizing Norton county to issue bonds—by substitute and a recommendation that it pass; also house file 71—to incorporate the city of Lisbon—with a recommendation that it pass; also council bill 11—to amend the act to incorporate the city of Grand Forks—with a recommendation that it pass; also house file 86—to authorize Norton county to bridge Heart river and provide for the issue of bonds—with amendments and a recommendation that it pass; also house file 92—to create the county of Nelson—with a recommendation that it pass.

Mr. Lamb, from the committee on enrolled bills, reported house files 47 and 42 as properly enrolled.

#### A RULE RESTORED.

Mr. Bowman moved that rule 27—amended yesterday so as to require the first and second readings of bills on the same day, be again amended so as to restore it as it originally stood. Adopted.

#### NOTICES OF BILLS.

By Mr. Nelson—to establish a territorial normal school at Pembina.

By Mr. Benson—to incorporate the city of Steele.

By Mr. Benson—to amend the act to incorporate the village of Mandan.

By Mr. McCallister—to amend chapter 13 of the code of civil procedure.

By Mr. Thompson—to amend section two, chapter 35 of the political code.

#### BILLS INTRODUCED.

By Mr. Robinson—House file 123—to amend article 12 of the justice code.

By Mr. Nowlin—House file 124—to incorporate the city of Rapid City.

By Mr. Nowlin—House file 125—to protect the hides of neat cattle.

By Mr. Nowlin—House file 126—to repeal section one of chapter 29, entitled highways, bridges and ferries.

By Mr. Nowlin—House file 127—to amend section 197 of the code of civil procedure.

By Mr. Benson—House file 128—to incorporate the city of Valley City.

By Mr. Speaker—House file 129—to provide for locating and building a penitentiary for northern Dakota at Bismarck.

#### COUNCIL BILLS.

The following council bills had their first reading:

No. 76—providing an appropriation of \$30,000, for permanent improvements and the purchase or lease of a stone quarry for the territorial penitentiary.

No. 64—providing \$25,000 for the construction of a west wing for the hospital for the insane.

No. 68—to provide funds for a normal school at Springfield.

No. 83—providing funds for a normal school at Spearfish.

No. 75—providing funds for the completion of the territorial penitentiary.

No. 70—providing additional compensation for the publication of tax sales.

No. 71—providing funds for the completion and maintenance of the university at Vermillion.

No. 67—appropriating \$25,000 for the establishment and maintenance of an agricultural college at Brookings.

Mr. Inman moved that the rules be suspended and the foregoing bills be given their second reading and reference. Lost.

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

No. 79—providing for a court house and jail in Kidder county—passed unanimously, with amendments.

No. 11—to amend the incorporation act of Grand Forks—passed unanimously.

No. 18—relating to service of summons in district courts—passed, Messrs. Alfred, Benson, Ellis, Inman, McCallister, Phillips, Robinson and Mr. Speaker voting in the negative and all the rest in the affirmative.

No. 17—relating to service of summons in justice courts—passed, Messrs. Alfred, Ellis, Inman, McCallister, Phillips, Robinson and Towner voting in the negative and all the rest in the affirmative.

No. 57—authorizing the commissioners of Davison county to fund its indebtedness—passed unanimously.

#### HOUSE FILES.

The following house files were given their second reading and were referred to committees as indicated:

No. 121—to give a lien upon mares and cows and their offspring for services of stallions and bulls—military affairs.

No. 118—to divide Lawrence county and organize the county of Hale, counties, towns and cities.

No. 111—to amend section 508, of article 11, of chapter three of the civil code—banking and insurance.

No. 114—providing for punishing persons who permit Canada thistles and cockle burrs to grow upon their land.—agriculture.

The following house files (see committee reports) were given a third reading and disposed of as indicated:

No. 92—passed, Mr. Alfred alone voting in the negative.

No. 86—passed unanimously.

No. 71—passed unanimously.

No. 58—passed, Mr. Rice alone voting in the negative.

No. 11 came up for final action.

Mr. Pyatt moved a call of the house and the call was ordered.

Roll call showed that Messrs. McCallister, Nowlin and Robinson were absent.

The sergeant-at-arms proceeded in search of the absentees and in a few moments brought them in. Further pro-

ceedings under the call were dispensed with.

House file No. 11, on motion of Mr. Rice, was made the special order for Friday afternoon, at two o'clock.

#### A COUNCIL MESSAGE

informed the house that the council had concurred in the house amendments to council bill 79—the Kidder county court house bill.

#### COMMITTEE OF THE WHOLE.

The house, at 11:30 a. m., went into committee of the whole on the general order, Mr. Sterling in the chair. At 11:35 the committee rose and reported that there was nothing to consider.

#### EXEMPTION REFORM KILLED.

Mr. Rice moved the consideration, as the special order, of house file 57—Mr. Wynn's bill to amend the exemption act. The motion prevailed.

Mr. Rice then moved the adoption of an amendment, which was lost.

After considerable discussion, Mr. McCallister moved that the enacting clause to the bill be stricken out.

The motion was adopted by the following vote:

Ayes—Messrs. Alfred, Benson, Ellis, Inman, McCallister, Phillips, Rice, Towner, Tyehsen, Van Woert, Wagner and Mr. Speaker—12.

Nays—Messrs. Bowman, Choteau, Harvey, Lamb, Nowlin, Pyatt, Rinehart, Robinson, Sterling, Thompson, and Wynn—11.

The adoption of Mr. McCallister's motion kills the bill.

#### ADJOURNMENT.

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

#### Session Notes.

Mr. Wynn's bill for the modification of the exemption law went to pieces in the house this morning without any ceremony. It was shorn of its enacting clause by a vote of 12 to 11.

The various appropriation bills which went from the council to the house were to-day placed in the hands of the committee.

A northern member to-day defined the position of the north in reference to the appropriation bills for charitable and penal institutions. He said they would fully endorse all appropriations for the care of unfortunates and criminals, but they did not think it best to spend much in the way of permanent building improvement or grounds adornment until it was decided how much of Dakota was to become the state of Dakota. They look upon the condition of affairs as yet unsettled and, until boundary lines are permanently defined, feel that public institutions should not draw heavily upon the treasury.

In giving the vote yesterday on accepting the report of the committee on territorial affairs on the capital removal bill, the name of Mr. Jackson was omitted. He voted with the majority to adopt the report of the committee.

The move to-day on the capital bill re-commits that bill to a special committee, armed with the power to decide whether or not it is expedient to move the capital, and if so, to what place it shall be moved. This action reopens the whole question and the bill, which was practically defeated, will doubtless be reported by substitute, or its equivalent, whenever the committee sees fit to so report. The fact that the council is evenly divided on the main question renders the subject one of interest.