



DAKOTA'S LEGISLATURE.

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

Fifteenth Session—Fifty-Third Day.

Council.

FRIDAY'S SESSION—CONTINUED.

The passage of council bills was resumed.

No. 155—to amend section 13 of chapter 46 of laws of 1879, was passed all voting in the affirmative, except Messrs. Dewey, Jackson, Jerauld, McIntosh and Ziebach.

No. 156—to annex certain territory to Vermillion city school district passed, all voting in the affirmative.

HOUSE FILES.

House files No. 159, 194, 171, 190, 208, 210, and 211, referred to in house message were given their first reading.

Mr. Walsh moved the suspension of the rules, and that house file 159—creating the county of Benson, be put on its final passage. Carried.

The bill was so read and passed, all voting in the affirmative.

SECOND READING OF HOUSE FILES.

The following house files were given second readings, and were referred to committees as indicated:

- No. 174—committee on elections.
- No. 194—committee on incorporations.
- No. 199—committee on incorporations.
- No. 208—committee on public printing.
- No. 210—authorizing the county commissioners of Union county to levy a tax on certain property and appoint a commissioner to expend the same was put on its final passage under a suspension of the rules and passed, all voting in the affirmative except Messrs. McAuley, Roberts, Walsh and Mr. President.

House file No. 179—referred to above was put on its final passage under a suspension of the rules and passed, all voting in the affirmative except Mr. Walsh.

House file No. 211—providing funds for the maintenance of the penitentiary at Sioux Falls was read a second time and referred to the committee on charitable and penal institutions.

Under a suspension of the rules council bill No. 194 was put on its final passage and passed, all voting in the affirmative.

Mr. Nickens moved house file 163 be made the special order for to-morrow at three p. m. Carried.

Mr. Ziebach moved an adjournment. Lost.

Mr. Nickens moved a recess until two p. m. be taken. Carried.

Fifty-Fourth Day.

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

Prayer by the chaplain.

Roll call showed all members in their seats, except Mr. McAuley.

Journal read and approved.

MESSAGE FROM THE HOUSE.

A message was received from the house announcing the passage by that body of council bills 153, 128, 205, 190, 163 and 178; that house had passed with amendments council bills 53 and 125; that the house had passed house files 189, 136, 182, 182 and 216.

MOTIONS.

Mr. Burdick moved that the vote by which house file 179 was lost be reconsidered and that the bill be recommitted to the committee on territorial affairs. Adopted.

Mr. Dewey moved that under a suspension of the rules council bill 202—a memorial to congress asking for authority to organize insurance companies—have its several readings and be put up on its passage. The bill passed unanimously.

CONCURRED IN.

The council concurred in the house amendments to council bill 53—to provide for grading and weighing wheat; also to house amendments to council bill 129—to create the county of Brishbraine—the amendment changing the name to Sanborn.

COUNCIL BILLS.

Council bill 216—to provide for the appointment of court commissioners and to define their duties—had its first and second readings and was referred to the judiciary committee.

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

- No. 176—to amend section 1,754 of the civil code—judiciary committee.
- No. 177—to provide for a commission to examine the financial condition of Yankton county—territorial affairs committee.
- No. 189—to amend sect 17 justice code—judiciary committee.

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

No. 90—to prohibit the manufacture and sale of adulterated liquors—passed, Mr. Ziebach alone voting in the negative and Mr. Washabaugh being excused.

No. 96—to fund the indebtedness of Spink county—passed unanimously.

No. 192—to provide funds for the construction of a main building for deaf mute school at Sioux Falls—passed unanimously.

No. 195—to govern the introduction and use of text books in the common schools—passed, Messrs. Roberts, Washabaugh and Ziebach voting in the negative, Mr. Nickens being excused and the rest voting in the affirmative.

No. 198—to fix the salary of territorial superintendent of instruction and to provide for the office of assistant superintendent of instruction—passed, Mr. Washabaugh alone voting in the negative.

No. 213—to amend the act relative to proof and acknowledgement of instruments—passed unanimously.

HOUSE FILES.

The following house files had their

first and second readings and were referred to committees as indicated.

No. 189—to establish and provide for the maintenance of a general and uniform system of common schools—education committee.

No. 216—to authorize Grant county to issue bonds—appropriations committee.

No. 190—to amend the incorporation act of Springfield—incorporations committee.

No. 190—to create the counties of Delano, Pyatt, Scooby, &c—committee on counties.

No. 182—to change the location of the county seat of Bon Homme county—committee on counties.

No. 186—to incorporate the city of Steele—incorporations committee.

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

No. 167—for the protection of game—passed unanimously.

No. 193—to legalize the organization of school district 19, Richland county—passed unanimously.

No. 195—to vacate a territorial road across the insane asylum grounds—passed unanimously.

No. 211—to authorize the issue of bonds for improvements at the Sioux Falls penitentiary—passed unanimously.

THE HURON BILL.

Mr. Dewey presented a resolution calling upon the special committee to whom was referred council bill 51, to report forthwith and providing that the committee be discharged from further consideration of the bill, and that the bill be placed upon its third reading and final passage.

The resolution went to the clerk's desk, under the ruling of the president, to come up in its regular order.

This bill is the one which provides for the location of the territorial capital at Huron.

COMMITTEE OF THE WHOLE.

The council, at 11:20 a. m., went into committee of the whole, on the general order, Mr. McIntosh in the chair.

At twelve o'clock the committee rose, and reported sundry bills.

RECESS.

The council then took a recess until two o'clock p. m.

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.

MESSAGE FROM THE COUNCIL.

A message was received from the council announcing the concurrence in house amendment to council bill 45—creating the county of Brule, and in No. 123—to redistrict Grand Forks county; also the passage of council bills No. 151—to reimburse Martin & Anderson for losses on penitentiary, No. 145—a joint resolution for the creation of a tax commission; No. 155—to amend section 13 chapter 46 of the laws of 1879; No. 158—to incorporate the city of Vermillion; No. 133—creating school districts in Minnehaha county. No. 212—to provide for a normal school at Springfield.

Also the passage of house files No. 184—creating Villard and other counties; No. 166—creating the county of Townier; No. 175—legalizing the acts of the county commissioners of Walsh county; No. 161—creating the county of Nickens; No. 165—creating the county of Harvey; No. 158—legalizing acts of common council of Howard; No. 225—providing for a normal school at Spearfish; No. 110—authorizing the taxation of certain Union county property; No. 119—vacating a part of the township of Pierre; No. 194—incorporating Scotland; No. 156—to create the county of Benson, No. 162—establishing a normal school at Larimore; and No. 124—incorporating Rapid City; also the passage with amendments of No. 174—providing for the stocking of the waters of Dakota with fish, and No. 115—to incorporate the city of Pierre; also, that it had refused to pass house file 120—compelling notaries to fix the date of the expiration of their commissions to their seals.

COMMITTEE REPORTS.

Mr. Bowman, from the committee on mines and mining reported house file No. 200—creating the office of assayer—favorably.

Mr. Sterling, from the committee on judiciary, reported house file 203—to change the name of Clark Center to Clark—favorably; also recommending the passage of a substitute to council bill 54—regulating marriage; also the passage of council bill 164—to amend section 8 of chapter 84 of the laws of 1881.

Mr. Nelson, from the committee on counties, towns and cities, recommended the passage of house file 106—incorporating Hillsboro, with amendments; also the passage of house file 128—incorporating Valley City—and that house file 186—to regulate the survey of public highways—be referred to the committee of the whole.

Mr. Wagner, from the committee on territorial affairs returned house file 176—to amend sections 324, 325, and 328 of chapter 13, of the civil code, without recommendation and recommended the passage of council bill 134 establishing a school for deaf mutes.

REPORTS SPECIAL COMMITTEES.

Mr. Pyatt from the special committee for the consideration of house bill 217 creating a commission to remove the capital, reported favorably with certain amendments.

NOTICES OF BILLS.

By Mr. Choteau—to authorize school district No. 5 to issue bonds for the creation of a school house.

CONSIDERATION OF THE MESSAGE.

Mr. Thompson moved the house concur in council amendment to house file 174.

Mr. Sterling moved to lay the motion on the table. Lost.

The ayes and noes being called on Mr. Thompson's motion it was carried by a vote of 13 to 9.

It was moved that the house concur in

the council amendments to house file 115. Carried.

FIRST READING OF COUNCIL BILLS.

The following council bills were given their first reading:

No. 108—amending the charter of Yankton.

No. 212—establishing a normal school at Springfield.

Mr. Pyatt moved that the above bill be given its several readings and be put on its final passage. Carried.

It was so read and passed all voting in the affirmative except Messrs. Rice and Tychsen, voting nay.

The order was resumed and council bills 211, 203, 193, 155, 145 and 131 were given their first reading.

Mr. Wynn moved that the rules be suspended and that house file 108 be given its several readings and be put on its final passage. Carried.

It was so read and passed, all voting in the affirmative.

MESSAGE FROM THE COUNCIL.

A message was received from the council announcing the passage of a concurrent resolution requesting the governor to return the council bill providing for a normal school at Springfield.

Mr. Sterling moved its adoption. Carried.

PASSAGE OF COUNCIL BILLS.

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

No. 54—substitute bill regulating marriage. Mr. Thompson moved it be referred to the committee of the whole. Carried.

No. 104—to amend section 3, chapter 8 laws of 1881. Passed, all voting in the affirmative except Messrs. Rinehart and Robinson voting nay, and Mr. McCallister excused.

No. 134—establishing a school for deaf mutes at Sioux Falls. Passed, all voting aye, except Messrs. McCallister, Phillips, Nowlin, Rinehart, Sterling and Inman.

Mr. Thompson moved a reconsideration and that the motion be tabled. Carried.

HOUSE FILES.

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

No. 226—establishing a normal school at Madison.

Mr. McCallister moved the rules be suspended and that the bill be given its third reading and be put on its final passage. Carried. It was so read and passed, all voting in the affirmative.

No. 177—to prevent the spread of noxious weeds—territorial affairs.

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 indicated:

No. 123—incorporating Valley City, passed, all voting in the affirmative.

No. 184—regulating marriage—on motion was referred to the committee of the whole.

No. 109—incorporating Hillsboro, passed as amended, all voting in the affirmative.

No. 203—changing the name of Clark Centre to Clark. Passed, all voting in the affirmative.

No. 200—creating the office of assayer, passed by a vote of twenty-two to one.

THE REMOVAL BILL.

No. 217—providing for the creating of a commission to remove the territorial capital.

Mr. Rice offered an amendment orally making the capital grounds 640 acres instead of 30, and was instructed by the chair to submit it in writing.

Mr. Inman gave notice that he desired to offer several amendments and properly consider and prepare them, and moved the bill be made a special order for Monday at 11 a. m.

Mr. Pyatt moved to lay Mr. Inman's motion on the table.

The ayes and noes being called, Mr. Pyatt's motion was carried by the following vote:

Ayes—Allred, Benson, Bowman, Choteau, Harvey, McCallister, Nelson, Pyatt, Sterling, Thompson, Townner, Van Woert, Wagner, Mr. Speaker—14.

Nays—Ellis, Inman, Nowlin, Phillips, Rice, Rinehart, Robinson, Tychsen, Wynn—9.

Mr. Pyatt moved the rules be suspended and that the report of the committee be adopted.

Mr. Inman moved an adjournment.

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

Voting aye—Ellis, Inman, Nowlin, Phillips, Rice, Rinehart, Robinson, Tychsen and Wynn—9.

Voting nay—Allred, Benson, Bowman, Choteau, Harvey, McCallister, Nelson, Pyatt, Sterling, Thompson, Townner, Van Woert, Wagner and Mr. Speaker—14.

Mr. Rice moved that the motion to suspend the rules be laid on the table, and was declared out of order by the chair.

The ayes and noes being called for on the motion to suspend the rules, it was lost by the following vote:

Voting aye—Allred, Benson, Bowman, Choteau, Harvey, McCallister, Nelson, Pyatt, Sterling, Townner, Van Woert and Wagner—12.

Voting no—Ellis, Inman, Nowlin, Phillips, Rice, Rinehart, Robinson, Thompson, Tychsen, Wynn and Mr. Speaker—11.

Mr. Inman moved an adjournment. The ayes and nays being called it was lost by a vote of 14 to 9—being the same as upon his motion to this effect above.

Mr. Pyatt moved that the special committee be allowed to withdraw its report.

Mr. Inman stated that it would require a two-thirds vote to do. The report was the property of the house and it would require a suspension of the rules.

Mr. Rice understood that the committee wanted to withdraw its report and recommend the passage of the bill immediately and maintained the motion was out of order. He was called to order by the chair.

Mr. Rice appealed from the decision of the chair—

Mr. Inman bobbed up serenely with his motion to adjourn.

The ayes and noes being called it was lost by a vote of 9 to 14, as above.

The chair then stated that it required only a majority vote to permit the withdrawal of a report, and the ayes and noes being called on Mr. Rice's appeal, the chair was sustained by a vote of 13 to 1, the chair and six members not voting.

The committee was allowed to withdraw its report by the same vote of 14 to 9.

Mr. Pyatt moved that the special committee be instructed to report immediately.

Mr. Rice moved to amend by referring the bill to the judiciary committee.

Mr. Nelson moved that Mr. Rice's motion be tabled. The ayes and noes being called it was carried by a vote of 14 to 8, Mr. Ellis being excused.

Mr. Inman moved to adjourn. The ayes and noes being called, the motion was lost by a vote of 9 to 14.

Mr. Rice moved that it be referred to the committee on ways and means.

Mr. Nelson moved that his motion be tabled, and the ayes and noes being called it was carried by a vote of 14 to 9.

Mr. Inman then moved to adjourn, which, on call of the ayes and noes, was lost by a vote of 14 to 9.

Mr. Nelson moved the previous question, and on a rising vote it was carried. Mr. Pyatt then submitted the report of the committee, which was for the passage of the bill without amendment.

A motion to adjourn was again lost.

Mr. Nelson moved the report of the committee be adopted. Carried.

Mr. Rice then moved to amend the bill by increasing the amount of capital land from 20 acres to 640.

Mr. Nowlin moved to amend the bill by providing for the election of the commissioners to be apportioned equally among the three judicial districts.

Mr. Pyatt moved both resolutions be laid on the table.

Mr. Rinehart objected and wanted both motions to be voted on separately. The ayes and noes being called, each motion was separately carried by a vote of 14 to 9.

Mr. Inman moved that the bill be amended by striking out the word "20," in line 4, section 4, and inserting 60. He explained his motion by stating that it was for an increase of the amount of land for capital purposes, which would be right and just inasmuch as land was cheaper here than east and twenty acres was manifestly not enough. He further stated that it was not the purpose of his party to filibuster in the ordinary acceptance of the term. They only asked that a bill of such importance to the territory take its regular course, and not be rushed through with such undue haste; the bill did not meet the views of a large part of the people and he only desired time to offer amendments to the same. He spoke at length, in a very vigorous and forcible manner pointing out the respon-

sibility of the members in the matter and alluding to the interest which the 300,000 people of the territory have in the removal, which was not being considered by the little body of thirty-six men on whom the responsibility rested, and who would have to answer to their constituents for their action. Moreover it was clearly repugnant to the organic act, which prescribed the manner of removal, and vested it in the governor and the legislative assembly. This bill provides that the power shall be delegated to a committee, and the legislature has no more right to delegate its authority in such a manner than it would have to delegate some man to occupy Mr. Lamb's seat here during his absence.

Mr. Rice commenced a speech in the same tenor, but referred to the governor as a non resident—He was called to order and requested to touch that subject lightly—as no reflections on His Excellency would be allowed. Mr. Rice then denied having mentioned the governor's disparagingly, he had not called him a carpet bagger nor an interloper. He was again called to order by the chair. He asserted that the bill was repugnant to the organic act and after dwelling on that, drifted back to the legislature and the governor, and was called to order again. He proceeded advocating an increased amount of land for a site as a measure to increase the revenue and lighten taxation. The twenty acres should be made 640.

Mr. Pyatt moved Mr. Inman's motion be laid on the table, which was carried by a vote of 14 to 9.

Mr. Pyatt moved the previous question on the third reading and passage of the bill. Carried by a vote of 14 to 9.

Mr. Inman moved to adjourn, which was lost by a vote of 9 to 14.

The clerk read the bill by its title and it was passed by the following vote:

Voting aye—Allred, Benson, Bowman, Choteau, Ellis, Harvey, McCallister, Nelson, Pyatt, Sterling, Thompson, Townner, Van Woert, Wagner and Mr. Speaker—15.

Voting nay—Inman, Nowlin, Phillips, Rice, Robinson, Tychsen and Wynn—7. Rinehart not voting.

Mr. Ellis explained that he voted for all the dilatory measures because he had not the time he desired to investigate the merits and demerits of the bill, but voted for the bill, as according to his understanding it was the best one that could be devised.

Mr. Rinehart commenced explaining his vote but attacked the bill and was declared out of order. He threw up his hands and refused to vote, declaring he was not a member, to all appearances.

Mr. Inman asked to be excused from voting and got in a final shot at the bill in an explanation. On being called to order he withdrew his excuse and voted no.

Mr. Rice was up to the same dodge and wound up by gracefully voting no.

A motion to adjourn was then lost. Mr. Thompson moved a reconsideration of the vote by which the bill was

passed and that the motion be tabled. Mr. Pyatt moved an adjournment which was carried.

Session Notes.

The house to-day passed the extraordinary bill put forth by the syndicate of townsite boomers and named the capital removal bill. It was valiently contested by the minority of eight, led by Mr. Luman and Mr. Rice, who fought against the measure step by step in the face of fifteen voters and a hostile speaker against them. It was the old story, that might makes right, and the presiding officer of the house held strictly to the theory. In an early stage of the proceedings the bill was placed in a position where it would have gone over until Monday under a fair ruling. The select committee to whom it was referred reported it to the house in its regular order with amendments. Under the rules a measure thus reported goes to the committee of the whole for the consideration of the amendments. Discovering this, the committee asked leave to withdraw the report and this was carried through by the force of circumstances and the speaker's gavel. The committee then asked leave to re-report the bill out of its regular order. Such a request can only be granted, under all precedents and the house-rules, by a two-thirds vote. But Speaker Williams ruled that a majority vote could suspend the rules, and they were accordingly suspended by a majority vote, not that they should be, but because the speaker said it was right. He has ruled so many times that the rules can only be suspended by a two-thirds vote, that his action in this instance very justly places him in the attitude of one who shapes his rulings to meet his own desires. But for his action the bill would not have been put upon its passage to-day. Of course, this is only an incident in the drama which is now being enacted in our midst. It is in keeping, however, with the entire deal of the townsite speculators. The final vote on the passage stood fifteen for to seven against. Mr. Lamb, who voted with the opponents of the bill yesterday was absent, having been called home, as was announced yesterday. Mr. Binehart did not vote. He was opposed to the bill, but was rapped down by the speaker while attempting to explain his vote and feeling that the action was an effort to gag him did not vote at all. Mr. Sterling and Mr. Ellis, who yesterday voted with the opponents of the bills to-day voted upon the other side. A flop inside of twenty-four hours is a subject not open to discussion. Mr. Ellis explained that he had since read the bill and was captured by its beauties. Mr. Sterling said nothing—not even so much as to refer to the instructions of the convention which nominated him. It may be that the speaker was somewhat confused to-day by the pressure of excitement. It was noticed that on one or two occasions, when Mr. Pyatt rose to make motions, the speaker would put the motion before Mr. Pyatt had said what it was he wanted to move. But

the speaker was correct in each instance. Mr. Pyatt was going to say just what the speaker announced that he had said. He is evidently a mind reader. But then there was much confusion and excitement and the crowd in the lobby was buzzing all the while. The bill will go to the council next Monday and will probably take its regular course there. During the interesting debate in the house to-day over the capital removal bill the council chamber was almost depopulated. The lobby crowded the house chamber and most of the council members followed suit.