

# HOUSE JOURNAL

OF THE

## SEVENTH SESSION

OF THE

# LEGISLATIVE ASSEMBLY

OF THE

## TERRITORY OF DAKOTA.

BEGUN AND HELD AT YANKTON, THE CAPITAL OF SAID  
TERRITORY, ON MONDAY, DECEMBER 22, A. D. 1867.  
AND CONCLUDED JANUARY 10th, A. D. 1868.

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YANKTON, DAKOTA TERRITORY,  
Geo. W. KINGSBURY, PUBLIC PRINTER, UNION AND DAKOTAIAN OFFICE.  
1867:68.

# **HOUSE JOURNAL**

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## FIRST DAY.

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TERRITORY OF DAKOTA, }  
HOUSE OF REPRESENTATIVES, }  
YANKTON, Monday, December 2, 1867. }

On the second day of December, A. D. 1867, being the day provided by law for the convening of the Legislative Assembly of the Territory of Dakota, a quorum of the members elect of the House of Representatives met in the hall of Representatives of the Capitol at Yankton, at the hour of 12 o'clock M., and proceeded to organize in the following order, to wit:

F. Wixson, esq., chief clerk of the last preceding session, after calling the house to order, proceeded to call the roll of the members elect as taken from the official returns of the election of October 8, 1867, on file in the office of the Secretary of the Territory.

Whereupon the following gentlemen answered to their names, to wit:

*First District.*—Messrs. I. T. Gore, Thomas C. Watson, Caleb Cummings, Wm. Blair, Michael Curry, Michael Ryan and Martin V. Farris.

*Second District.*—Messrs. John L. Jolley, Calvin G. Shaw, A. Hanson, J. D. Tucker, William Brady and Hans Gunderson.

*Third District.*—Messrs. G. C. Moody, M. U. Hoyt, F. Bronson, T. Nelson and J. Brauch.

*Fourth District.*—Messrs. Jonathan Brown and James Kegan.

*Fifth District.*—Messrs. F. J. Dewitt and F. Fallas.

*Sixth District.*—Mr. John J. Thompson.

*Pembina County.*—Mr. Enos Stutsman.

*Laramie County.*—Not represented.

By invitation, Mr. M. S. Woodruff addressed a prayer to Almighty God, to bless the future deliberations of the house now about to organize.

After which, the members above named took the prescribed oath of office, which was administered by Chief Justice Bartlett.

Mr. Stutsman moved that the house do now proceed to organize by the election of officers.

Which motion prevailed; whereupon,

Mr. Moody nominated the Hon. John L. Jolley, of Clay, for speaker, and

Mr. Dewitt nominated the Hon. Enos Stutsman, of Pembina, for the same office; and

The roll being called,

Mr. Jolley received 10 votes; and

Mr. Stutsman received 12 votes; as follows:

Those voting for Mr. Jolley, are

Messrs. Brady, Bronson, Brauch, Gunderson, Hansen, Hoyt, Moody, Nelson, Shaw and Tucker.

Those voting for Mr. Stutsman, are

Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Kegan, Ryan, Thompson and Watson.

Mr. Jolley voted for Mr. Bronson,

Mr. Stutsman not voting.

And it appearing that Mr. Stutsman had received a majority of all the votes cast,

He was declared duly elected speaker of the house of representatives.

Mr. Thompson moved that a committee of two be appointed to wait upon the speaker elect and escort him to the chair,

Which motion prevailed ; whereupon,

The clerk appointed Messrs. Thompson and Dewitt as such committee.

The committee having discharged that duty,

The speaker took the chair, and said :

*Gentlemen of the House of Representatives :*

In selecting me to preside over your deliberations, you have conferred upon me an honor, as unmerited as it has been unsolicited and I accept the responsible trust with many misgivings, feeling as I do, that there are gentlemen on this floor who possess a fitness for the position which I can only strive to emulate. But as you have seen fit to place me in the chair, I will endeavor to discharge the duties thereby imposed to the very best of my ability, and as patiently and impartially as it is possible for one of my impulsive temperament ; this I can promise, and nothing more.

And in conclusion I beg you to accept my thanks for this unexpected manifestation of your generous confidence.

Chief Justice Bartlett then administered to him the oath of office.

The speaker then announced as the order of business,

The election of subordinate officers of the house ; whereupon,

Mr. Thompson nominated Mr. Pack Halnan for chief clerk ; and

Mr. Moody nominated Mr. H. J. Brisbane for the same office.

The roll being called,

Mr. Halnan received 13 votes ; and

Mr. Brisbane received 11 votes ; as follows :

Those voting for Mr. Halnan, are

Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Kegan, Ryan, Thompson, Watson and Mr. Speaker.

Those voting for Mr. Brisbane, are

Messrs. Brady, Bronson, Brauch, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Shaw and Tucker.

And it appearing that Mr. Halnan had received a majority of all the votes cast,

He was declared duly elected chief clerk of the house of representatives.

Mr. Dewitt then nominated Mr. Silas W. Kidder, for assistant clerk ; and

Mr. Moody nominated Mr. G. Ogglesburg, for the same office.

The roll being called,

Mr. Kidder received 13 votes ; and

Mr. Ogglesburg received 11 votes ; as follows :

Those voting for Mr. Kidder, are

Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Kegan, Ryan, Thompson, Watson and Mr. Speaker.

Those voting for Mr. Ogglesburg, are

Messrs. Brady, Bronson, Brauch, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Shaw and Tucker.

And it appearing that Mr. Kidder had received a majority of all the votes cast,

He was declared duly elected assistant clerk of the house of representatives.

Mr. Ryan then nominated Mr. R. A. Wall for sergeant-at-arms ; and

Mr. Moody nominated Mr. Adolph Mauchs, for the same office.

The roll being called,

Mr. Wall received 13 votes ; and

Mr. Mauchs received 11 votes ; as follows :

Those voting for Mr. Wall, are

Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Kegan, Ryan, Thompson, Watson and Mr. Speaker.

Those voting for Mr. Mauchs, are  
Messrs. Brady, Bronson, Brauch, Gunderson, Hanson, Hoyt,  
Jolley, Moody, Nelson, Shaw and Tucker.

Mr. Wall having received a majority of all the votes cast  
Was declared duly elected sergeant-at-arms of the house of  
representatives.

Mr. Curry then nominated Mr. J. Reandeau, for messenger ;  
and

Mr. Jolley nominated Mr. George Owens, for the same  
office.

The roll being called,

Mr. Reandeau received 12 votes ; and

Mr. Owens received 12 votes ; as follows :

Those voting for Mr. Reandeau, are  
Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas,  
Farris, Gore, Ryan, Thompson, Watson and Mr. Speaker.

Those voting for Mr. Owens, are  
Messrs. Brady, Bronson, Brauch, Gunderson, Hanson, Hoyt,  
Jolley, Kegan, Moody, Nelson, Shaw and Tucker.

The vote being a tie, a second ballot was ordered, and

The roll being called,

Mr. Reandeau received 13 votes ; and

Mr. Owens received 11 votes ; as follows :

Those voting for Mr. Reandeau, are  
Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas, Far-  
ris, Gore, Kegan, Ryan, Thompson, Watson and Mr.  
Speaker.

Those voting for Mr. Owens, are  
Messrs. Brady, Bronson, Brauch, Gunderson, Hanson, Hoyt,  
Jolley, Moody, Nelson, Shaw and Tucker.

Mr. Reandeau having received a majority of all the votes  
cast, he was declared duly elected messenger of the house of  
representatives.

Mr. Watson then nominated Mr. J. Bruette for fireman,  
and

Mr. Jolly nominated Mr. C. Stacy, for the same office.

The roll being called,

Mr. Bruette received 13 votes; and

Mr. Stacy received 11 votes; as follows:

Those voting for Mr. Bruette, are

Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Kegan, Ryan, Thompson, Watson and Mr. Speaker.

Those voting for Mr. Stacy, are

Messrs. Brady, Bronson, Brauch, Gunderson, Hoyt, Jolley, Moody, Nelson, Shaw and Tucker.

Mr. Bruette having received a majority of all the votes cast, was declared duly elected fireman of the house of representatives.

Mr. Moody then nominated Mr. M. S. Woodruff for chaplain, and there being no other nomination,

The roll was called, and

Mr. Woodruff received 24 votes; as follows:

Those voting for Mr. Woodruff, are

Messrs. Brady, Blair, Brown, Brauch, Bronson, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Mr. Woodruff having received all the votes cast, he was declared duly elected chaplain of the house of representatives.

Chief Justice Bartlett then administered the prescribed oath to each, the sergent-at-arms, messenger and fireman, and they entered upon the discharge of the duties of their respective offices.

The chief clerk and assistant clerk elect, not appearing to take the oath of office, and to enter upon the duties of their respective offices,

On the motion of Mr. Moody, the house proceeded to elect a chief clerk, *pro tem.*, whereupon,

Mr. Jolley nominated H. J. Brisbine for that office.

And there being no other nomination made,  
The roll was called, and

Mr. Brisbine received 20 votes; as follows:

Those voting for Mr. Brisbine, are

Messrs. Brady, Blair, Bronson, Brouch, Brown, Cummings,  
Dewitt, Fallas, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan,  
Moody, Nelson, Shaw, Tucker, Watson and Mr. Speaker.

Mr. Brisbine having received all the votes cast, he was de-  
clared duly elected chief clerk, *pro tem.*, of the house of repres-  
entatives, whereupon,

Chief Justice Bartlett administered to him the oath of office.

Mr. Moody moved that the house do elect an assistant clerk,  
*pro tem.*

Which motion prevailed.

Mr. Moody then nominated Mr. G. Ogglesburg for assistant  
clerk, *pro tem.*, and

Mr. Curry nominated Mr. John Lawrence for the same office.

The roll being called,

Mr. Ogglesburg received 12 votes; and

Mr. Lawrence received 12 votes; as follows:

Those voting for Mr. Ogglesburg, are

Messrs. Brady, Bronson, Brauch, Gunderson, Hanson, Hoyt,  
Jolley, Moody, Nelson, Shaw, Tucker and Watson.

Those voting for Mr. Lawrence, are

Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas,  
Farris, Gore, Kegan, Ryan, Thompson and Mr. Speaker.

The vote being a tie, a second ballot was ordered.

The roll being called,

Mr. Ogglesburg received 12 votes; and

Mr. Lawrence received 12 votes; as follows:

Those voting for Mr. Ogglesburg, are

Messrs. Brady, Bronson, Brauch, Gunderson, Hanson, Hoyt,  
Jolley, Moody, Nelson, Shaw, Tucker and Watson.

Those voting for Mr. Lawrence, are

Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Kegan, Ryan, Thompson and Mr. Speaker.

The vote being a tie, a third ballot was ordered.

The roll being called,

Mr. Ogglesburg received 11 votes; and

Mr. Lawrence received 13 votes; as follows:

Those voting for Mr. Ogglesburg, are

Messrs. Brady, Bronson, Brauch, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Shaw and Tucker.

Those voting for Mr. Lawrence, are

Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Kegan, Ryan, Thompson, Watson and Mr. Speaker.

Mr. Lawrence having received a majority of all the votes cast, was declared duly elected assistant clerk, *pro tem.*, of the house of representatives.

Mr. Moody then offered the following resolution:

*Resolved*, That the chief clerk, *pro tem.*, be instructed to inform the council that the house is permanently organized by the election of the following officers, to-wit:

Enos Stutsman—*Speaker*.

Pack Halnan—*Chief Clerk*.

Silas W. Kidder—*Assistant Clerk*.

R. A. Wall—*Sergeant-at-Arms*.

Joseph Reandeau—*Messenger*.

Israel Bruette—*Fircman*.

M. S. Woodruff—*Chaplain*.

H. J. Brisbine—*Chief Clerk, pro tem.*

John Lawrence—*Assistant Clerk, pro tem.*

On motion of Mr. Watson,

The above resolution was adopted.

Mr. Jolley submitted the following resolution:

*Resolved*, That the rules of the last house be adopted for the government of this house until others shall be adopted.

On motion of Mr. Gore,

The resolution was adopted.

Mr. Moody submitted the following resolution :

*Resolved*, That a committee of three be appointed by the chair, to prepare permanent rules for the government of the house.

On motion of Mr. Hoyt,

The resolution was adopted ; whereupon,

The speaker appointed as such committee, Messrs. Moody, Dewitt and Gore.

The following communication from the council was then read :

COUNCIL CHAMBER, }  
December 2, 1867. }

MR. SPEAKER.—I am instructed to inform the house that the council is permanently organized by the election of the following officers :

Hon. H. J. Austin—*President*.

George I. Foster—*Secretary*.

Lucian O'Brian—*Assistant Secretary*.

T. M. Bryan—*Sergeant-at-Arms*.

W. E. Root—*Messenger*.

A. Bruce—*Fireman*.

Rev. C. W. Batcheller—*Chaplain*.

GEORGE I. FOSTER,  
*Secretary*.

On motion of Mr. Moody,  
The house then adjourned.

ENOS STUTSMAN,  
*Speaker*.

*Attest* :

H. J. BRISBINE,  
*Chief Clerk, pro tem.*

## SECOND DAY.

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HOUSE OF REPRESENTATIVES. }  
 Tuesday, December 3, 1867. }

The house met pursuant to adjournment, and was called to order by the

Speaker in the chair.

Prayer by the chaplain.

Roll called.

The following members answered to their names :

Messrs. Brady, Blair, Brouch, Bronson, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Mr. Whithead.

On the motion of Mr. Watson,

The reading of yesterday's journal was postponed until tomorrow morning.

Chief Justice Bartlett administered the prescribed oath to J. Shaw Gregory, who assumed his seat as a member of the house.

The Chief Justice also administered the oath of office to Mr. M. S. Woodruff as chaplain, and John Lawrence as assistant clerk, *pro tem*,

Mr. Moody, from the select committee on house rules, submitted the following report :

MR. SPEAKER.—Your committee on house rules beg leave to report the following rules and order of business, and recommend their adoption. Which were read as follows :

## RULES.

1. The speaker shall take the chair at the time to which the house stands adjourned, and the house shall then be called to order, and the roll of the members called, and the names of absentees shall be entered upon the journal of the house.

2. Upon the appearance of a quorum, the journal of the preceding day shall be read by the clerk, and any mistake therein may be corrected by the house.

3. Any four members shall be authorized to compel the attendance of absent members.

4. The speaker shall preserve order and decorum and shall decide questions of order subject to an appeal to the house.

5. The speaker shall vote on all questions taken by yeas and nays, (except on appeals of his own decisions) and in all elections or divisions called for by any member.

6. When the house adjourns the members shall keep their seats until the speaker announces the adjournment.

7. Every member previous to his speaking, shall arise from his seat, and respectfully address himself to the speaker.

8. When two or more members rise at once, the speaker shall designate the member who is first to speak; but in all cases the member who shall first rise and address the chair, shall speak first.

9. No member shall speak more than twice on the same subject without leave of the house, nor more than once until every member choosing to speak on the question pending shall have spoken.

10. No motion shall be debated or put, unless the same be seconded; it shall be stated by the speaker before debate, and any such motion shall be reduced to writing, if the speaker or any member desire it.

11. After a motion shall be stated by the speaker, it shall be deemed to be in possession of the house, but may be withdrawn at any time before amendment or decision; but all motions, resolutions, or amendments, shall be entered on the journal, whether they are rejected or adopted.

12. When a question is under debate, no motion shall be re-

ceived but to adjourn, to lay on the table, for the previous question, to postpone indefinitely, to a certain day, to commit or to amend, which several motions shall have precedence in the order in which they stand arranged; and a call of the house may be had upon the demand of two members.

13. A motion to adjourn shall always be in order; except when a member is addressing the chair, or a vote is being taken, that and the motion to lay upon the table, shall be decided without debate.

14. The previous question shall be in this form: "Shall the main question be now put?" It shall only be admitted when demanded by a majority of the members present, and its effect shall be to put an end to all debate, and bring the house to a direct vote upon the amendments, reported by a committee, if any, upon pending amendments and then upon the main question. On a motion for the previous question, and prior to the seconding of the same, a call of the house shall be in order; but after a majority shall have seconded such motion, no call shall be in order prior to decision of the main question.

15. When the previous question is decided in the negative, it shall leave the main question under debate for the residue of sitting, unless sooner disposed of by taking the question, or in some other manner.

16. All incidental questions of order arising after a motion is made for the previous question during the pending of such motion, or after the house shall have determined that the main question shall be now put, shall be decided, whether on appeal or otherwise, without debate.

17. Petitions, memorials and other papers addressed to the house shall be presented by the speaker, or by a member in his place.

18. Every member who shall be present before the vote is declared from the chair, and no other, shall vote for or against the same, unless the house shall excuse him, or unless he is immediately interested in the question, in which case he shall not vote.

19. When the speaker is putting the question, no member shall walk out or across the house; nor when a member is speak-

ing shall any person entertain any private discourse, or pass between him and the chair.

20. If the question in debate contains several points, any member may have the same divided.

21. A member called to order shall immediately sit down, unless permitted to explain, and the house, if appealed to, shall decide the case. If there be no appeal, the decision of the chair shall be submitted to. On an appeal, no member shall speak more than once without leave of the house, except when a member is called to order for offensive language, in which case there shall be no debate.

22. Every bill shall be introduced by a motion for leave, or by an order of the house on a report of a committee; and one day's notice at least shall be given of a motion for leave to bring in a bill, unless two-thirds of the members present shall vote in favor of its being brought in without such previous notice. Every notice of a motion for leave to bring in a bill, shall be in writing, and shall contain the title of the bill.

23. Every bill, before being introduced, shall have endorsed thereon the title of the same; and every bill or resolution shall have thereon the name of the member introducing it; and when ordered by a committee, the names of such committee shall be endorsed thereon.

24. All bills, memorials or joint resolutions, shall be read the first time for information, and if opposition be made to it, the question shall be: "Shall this bill be rejected?" If no opposition be made, or if the motion to reject be lost, the bill shall go to its second reading without a question.

25. All bills, memorials, or joint resolutions, on their second reading, shall be read at length, and the question taken upon their commitment, amendment or engrossment for a third reading.

26. All bills, memorials, or joint resolutions, on third reading shall be read by their title, and no amendment shall be in order except by unanimous consent of the house.

27. Every bill shall be read on three different days, unless in case of urgency two-thirds of the house shall deem it expe-

dient to dispense with this rule ; and no bill shall be passed unless it shall have been read once at length.

28. No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment ; no bill or resolution shall at any time be amended by annexing thereto, or incorporating therewith, any other bill or resolution pending before the house.

29. In forming committee of the whole house, the speaker shall appoint a chairman to preside.

30. Bills committed to the committee of the whole house, shall, in committee of the whole thereon, be first read through, unless the committee shall otherwise order, and then read and debated by sections, leaving the title to be last considered ; all amendments shall be noted in writing, and reported to the house by the chairman.

31. All questions whether in committee, or in the house, shall be put in the order they are moved, except in cases of privileged questions, and in filling up blanks, the largest sum and the longest time shall first be put.

32. A similar mode of proceeding shall be observed with bills which have originated in and passed the council, as with bills originating in the house except they shall not be printed.

33. No motion for reconsideration shall be in order unless on the same or the day following that on which the decision proposed to be reconsidered took place, nor unless one of the majority shall move reconsideration.

34. When notice of the intention to move the reconsideration of any bill or joint resolution shall be given by a member, the clerk of the house shall retain the said bill or joint resolution until after the time during which the said motion can be made, unless the same can previously be disposed of.

35. Any member who votes on that side of a question which prevailed, may be at liberty to move a reconsideration, and a motion for a reconsideration shall be decided by a majority of votes.

36. The rules of the house shall be observed in committee of the whole house, so far as may be applicable, except that the

yeas and nays shall not be called, the previous question enforced, nor the time of speaking limited.

37. A motion that the committee rise, shall always be in order, and shall be decided without debate.

38. Standing committees shall be appointed on the following subjects :

1. Ways and means, consisting of five members.
2. Judiciary, five members.
3. Railroads, seven members.
4. Public lands, three members.
5. Federal relations, three members.
6. Education, three members.
7. Towns and counties, three members.
8. Military affairs, three members.
9. Incorporations, three members.
10. Agriculture, three members.
11. Manufactures, three members.
12. Elections, five members.
13. Indian affairs, three members.
14. Public buildings, three members.
15. Public printing, three members.
16. Highways, ferries and bridges, three members.
17. Mines and minerals, three members.
18. Engrossment, three members.
19. Enrollment, three members.

39. The committee on engrossment shall examine all bills after they are engrossed, and report the same to the house, correctly engrossed, before their third reading ; said committee may report at any time.

40. The committee on enrollment shall examine all house bills and joint resolutions, which have passed the two houses, and when reported correctly enrolled, they shall be presented to the presiding officers of the house and council for their signatures, and when so signed, to the Governor for his approval ; said committee may report at any time.

41. Select committees to whom references shall be made, shall, in all cases, report a state of facts and their opinion thereon, to the house.

42. In all cases where a bill, order, or resolution, or motion shall be entered upon the journals of the house, the name of the member moving the same shall be entered on the journals.

43. No person shall be admitted within the bar of the house but the executive, members of the council, Territorial treasurer, and auditor, judges of the supreme and district courts, members of congress, those who have been members of congress and of the legislative council.

44. The speaker shall cause the clerk of the house to make a list of all bills, resolutions, reports of committees, and other proceedings of the house, which are committed to a committee of the whole house, and which are not made the order of the day for any particular day, and to number the same, which list shall be called "the general order of the day;" and they shall be taken up in the order in which they are numbered, unless otherwise ordered by a majority of the house, and the clerk shall also keep a book showing the situation and progress of bills.

45. After calling the house to order, the order of business for the day shall be as follows:

1. Prayer by the Chaplain.
2. Calling the roll.
3. Reading the journal.
4. Presentation of petitions and communications.
5. Reports of standing committees.
6. Reports of select committees.
7. Motions and resolutions.
8. Notices of bills.
9. Introduction of bills, joint resolutions, and memorials.
10. Consideration of messages from the council.
11. First reading of council bills, resolutions and memorials.
12. Second reading of the same.
13. Third reading of the same.
14. Second reading of the house bills, joint resolutions and memorials.
15. Third reading of the same.
16. Consideration of the general orders.
17. Unfinished business.

46. Whenever the report of any committee of conference contains several modifications or amendments, any member may have the same divided, and the question of concurrence taken separately upon each modification or amendment.

47. When the house have arrived at the general orders of the day, they shall go into committee of the whole upon such orders, or a particular order designated by a vote of the house and no other business shall be in order until the whole are considered or passed, or the committee rise; and unless a particular bill is ordered up, the committee of the whole shall consider, act upon or pass the general orders according to the order of their reference.

48. The speaker may leave the chair and appoint a member to preside, but not for a longer time than one day, except by leave of the house.

49. The rules of parliamentary practice embraced in Barclay's Digest, shall govern the House in all cases to which they are applicable, and in which they are not inconsistent with the standing rules and orders of the house, and the joint rules and orders of the council and house of representatives.

50. No rule of the house shall be suspended, altered or amended, without the concurrence of two-thirds of the members present.

51. The hour of the daily meeting of the house shall be ten o'clock in the morning, until the house direct otherwise.

52. The ayes and noes shall not be ordered unless demanded by two members, except upon the final passage of bills, joint resolutions and memorials in which cases the ayes and noes shall be had without any demand.

53. All house bills of a general nature shall, after their first reading, be printed without a special order from the house, except bills that are rejected.

On the motion of Mr. Watson,

The report was adopted, and the committee discharged.

The following message from the council was then read :

COUNCIL CHAMBER,  
December 3, 1867. }

MR. SPEAKER.—I am instructed by the council to inform the house, of the passage of the following resolution, to wit :

*Resolved*, That the secretary be instructed to request the house to specify the time for the meeting for the two houses in joint convention, to receive any communication that his excellency, the Governor, may have to make.

GEO. I. FOSTER,  
*Secretary.*

Mr. Moody submitted the following resolution :

*Resolved*, That the chief clerk *pro tem.* be instructed to inform the council, that the house will meet that honorable body in joint convention in the hall of representatives, this day at 2 o'clock, P. M., for the purpose of receiving the annual message of his excellency, the Governor, and to transact any other business that may properly come before the joint convention.

On the motion of Mr. Watson,  
The resolution was adopted.

Mr. Jolley submitted the following resolution :

*Resolved*, That a committee of three be appointed to act in conjunction with a similar committee on the part of the council, to inform his excellency, the Governor, that the two houses are now organized, for the transaction of business.

On the motion of Mr. Curry,  
The resolution was adopted,

Whereupon, Messrs. Jolley, Gregory and Farris were named by the speaker as such committee.

On the motion of Mr. Moody

The chief clerk *pro tem.* was instructed to cause one hundred copies of the house manual, to be printed for the house.

The following message from the council was then read :

COUNCIL CHAMBER,  
December 3, 1867. }

MR. SPEAKER.—I am instructed by the council to inform the house of the passage of the following resolution, to wit :

*Resolved*, That a committee of three be appointed by the president to unite with a like committee on the part of the house, to wait upon his excellency, the Governor, and inform him that the two houses are now organized and ready to receive any communication he may be pleased to make, and that Messrs. Mills, Benedict and Carpenter have been appointed such committee.

GEO. I. FOSTER,  
*Secretary.*

Mr. Jolley submitted the following resolution :

*Resolved*, That a committee of three be appointed by the speaker to act in conjunction with a like committee on the part of the council to propose and report joint standing rules.

On the motion of Mr. Bronson,  
The resolution was adopted.

Thereupon, the speaker named Messrs. Jolley, Watson and Dewitt, as such committee.

On the motion of Mr. Jolley,  
The house took a recess of ten minutes.

At 11 o'clock A. M.,  
The speaker resumed the chair, and  
Called the house to order.  
Quorum present.

Mr. Jolley from the joint committee to wait upon his excellency the Governor, submitted the following report :

Mr. SPEAKER.—Your committee appointed to act in conjunction with similar committee on the part of the council to wait upon his excellency, the Governor, and inform him that the two houses will meet in joint convention, have performed the duty assigned them, and beg leave to report that his excellency, the Governor, will communicate to the joint convention this day at 2 o'clock, P. M.

On the motion of Mr. Farris,  
The report was received and the committee discharged.

The following message from the council was then read :

COUNCIL CHAMBER, }  
December 3, 1867. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council will meet the house in joint convention at the hour designated by the house, to hear any communication his excellency, the Governor, may be pleased to make.

GEO. I. FOSTER.

*Secretary.*

On the motion of Mr. Jolley,  
The house took a recess until 2 o'clock, P. M.

AFTERNOON SESSION.

At the hour of 2 o'clock, P. M.,  
The speaker resumed the chair and called the house to order.  
Quorum present.

Mr. Moody submitted the following resolution :

*Resolved*, That a committee be appointed by the speaker to inform the council that the house is now in session, and ready to meet that body in joint convention, and to escort the honorable council to the hall of representatives.

On the motion of Mr. Curry,  
The resolution was adopted.

Thereupon, the speaker named Messrs. Moody and Dewitt, as such committee.

After a brief absence the committee conducted the honorable council to seats within the hall.

IN JOINT CONVENTION.

The speaker of the house presiding, called the joint convention to order.

The chief clerk *pro tem.* of the house and secretary of the council, were

On the motion of Mr. Moody,  
Instructed to act as clerks of the joint convention.

The roll being then called,

The following gentlemen answered to their names, to wit :

*Members of the House*—Messrs. Brady, Blair, Bronson, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Ryan and Whitehead.

*Members of the Council*—Messrs. Benedict, Brookings, Carpenter, Fraley, Green, Hampton, Kellogg, Lewis, McIntyre, Mills, Rossteuscher, Thomas and Mr. President.

A quorum of each house being present,

The chair proclaimed the joint convention fully organized, and ready for the business for which it was convened ;

Whereupon, Mr. Gregory moved

That a committee of two from each house be appointed to wait upon his excellency, the Governor, and inform him that the two houses have assembled in joint convention, and await his pleasure.

Which motion prevailed.

Whereupon, the chair named Messrs. Gregory, Moody, Thomas and McIntyre, as such committee.

After a brief absence,

The committee returned and reported as follows :

MR. CHAIRMAN. —Your committee appointed to wait upon his excellency, the Governor, and inform him that the joint convention of the legislative assembly is now in session, and awaiting his pleasure, herein report that we have discharged the duty assigned us, and that the Governor will immediately communicate with the joint convention.

His excellency in person entered the hall, accompanied by his staff, and federal officials, and delivered his second annual message, as follows :

## GOVERNOR'S MESSAGE.

*Gentlemen of the Council and House of Representatives:*

After the lapse of a year you again have met to discharge the duties imposed upon you by the Organic Act. Our first duty should be to give expression to our feelings of gratitude to the Giver of all good for the favorable circumstances which surround us. The blessings of health, to a degree almost unknown in other parts of the Union, have been vouchsafed to us during the whole of the past year; while the season of crops has been more than usually favorable. Immigration has added largely to our numbers, and the most favorable evidences of prosperity and increase are springing up everywhere within our borders. I have heretofore expressed unbounded confidence in our natural advantages; in the salubrity of the climate, and the inexhaustible fertility of the soil of Dakota. And others from abroad, also, are beginning more clearly to realize and appreciate these important truths. Within the past twelve months it has been estimated that the population of the Territory has been more than doubled by immigration. A sober, industrious, and intelligent population are coming among us, whose influence and capital are being felt in every department of trade and enterprise, adapted to our present condition and wants. From all these auspicious omens we may justly congratulate ourselves; and, taking fresh courage from past success, renew and continue the efforts so well and effectually made by past Executives, Legislatures, and People, for the general prosperity and rapid growth of the Territory.

During my unavoidable absence from Dakota, embracing about one-third of the past year, the duties of the Executive office devolved upon, and were discharged, by the Hon. Secretary of the Territory; and I am pleased to say, with that promptness and ability for which his well known legal and practical training so highly qualify him.

## OUR INDUSTRIAL INTERESTS.

While it should be our aim to foster and encourage all

branches of industry, yet agriculture may justly be considered the real basis of our future hopes and prosperity. In this department of labor probably rests our best hope of the future, in the pursuit of which we will in time build up a thrifty population, the bone and sinew of our future commonwealth. Millions of acres of the richest grasses, and most prolific soil, here await the industrious emigrant, almost "without money and without price." Here labor is dignified; and we look with pride upon those of our neighbors who make to themselves homes and fortunes by honest and ennobling toil. Here, on these broad, lovely, and fertile prairies, there is a vast field for industrial development, while there is ample room and work for all, and a bountiful reward for all who do not despise the day of small things; but who, with the cheerful faith, courage and patience of the true pioneer, beginning low down at the bottom of the ladder, ascend its rounds by slow and sure degrees.

It would be well to consider whether there is any way by which you may, by your deliberations, create an increased interest in this branch of industry. Societies might be encouraged, local and territorial, through which agricultural science might be advanced. These would soon become the receptacles of practical knowledge, well calculated to stimulate enterprise in the importation and improvement of stock, cereals, plants, fruits, and everything pertaining to agriculture, in all its important ramifications.

#### INDIAN RELATIONS.

The past year has been one of peace with the Indians, so far as concerns the settled portions of eastern and southern Dakota. In the west, owing chiefly to the hostility of certain Indians to the Powder river wagon road, which, to the white race, has become a convenient if not indispensable thoroughfare to and from the mining regions of Montana, war has until recently existed, accompanied with its attendant horrors. But the travel and rapidly growing trade on the Missouri river, have scarcely met with any opposition whatever, in the past year, from this cause—while, on the contrary, the tribes having their homes in the neighborhood of this stream, manifest an increas-

ed anxiety to abandon their nomadic habits, and obtain their future subsistence, under the guardianship of the government, by means of pastoral or agricultural pursuits.

#### TERRITORIAL LIBRARY.

Congress, a few years since, appropriated \$2,500 to purchase a Territorial Library for Dakota, in common with other Territories. These books are of course the exclusive property of the Territory, and as such under the control of the legislature. I would recommend that an appropriation be made out of the Territorial treasury, for the purpose of paying some competent person to catalogue these books, and for the purpose of printing such catalogue.

#### TERRITORIAL ARMS AND ARMORY.

In my last message I called your attention to the importance of providing for the reception and safe-keeping of certain government arms due this Territory, and to the propriety of collecting and preserving those already entrusted to our charge, with the view to be thoroughly prepared for our own defence, against any apprehended attacks of hostile Indians. Nothing, however, was done by the Legislature to meet the emergency. Since then one thousand stand of arms, with the necessary fixed ammunition, together with equipments sufficient for four hundred cavalry, were received by the Adjutant-General, from the Secretary of War, on my requisition; a portion of which he has issued out to military companies, which, with a most laudable and patriotic zeal, on the part of the citizens of the Territory, were promptly organized and officered, under the militia law, approved May 8, 1862. The cost of transportation was charged to the public treasury, and but little expense to the Territorial treasury was incurred in connection with their delivery. Still a large portion of the arms and ammunition yet remain on hand, without any suitable provision for their storage or safe-keeping. It would be well for you to consider whether, since the government has dealt toward us with such a liberal hand, you cannot devise some appropriate means by which the remainder can be securely kept for future use; and whether some amendments to the militia law, above referred to, may not be required to make it more efficient and useful.

For further information on this subject I respectfully refer you to the report of the Adjutant General. I also refer you to the reports of the Territorial Auditor, Treasurer, and Superintendent of Public Instruction, for much useful and gratifying information connected with the finances of the Territory, and with the condition and progress of the public schools.

#### EDUCATION.

Considering the obstacles to be overcome in a new and sparsely settled country like this—the straightened means of an infant Territory—the schools already seem to be in a flourishing condition. The progress made, the good accomplished and in prospect, amply vindicate the wisdom and forecast of the men, who, at the session of the first Legislature, convened in the spring of 1862, laid the foundation of this system of education. Its beneficent results to be realized in future years, in a moral, social, and political aspect, can scarcely be foretold or even appreciated. Its impartial diffusion of knowledge gives it the pre-eminence over all older systems; and I apprehend we must adhere to it, so long as we base the preservation of our constitutional liberty, and free institutions, on the intelligence of the masses, or sincerely believe in man's capacity for self-government. The provision made by congress, and approved March 2, 1861, for the future education of the people of this Territory, is most ample, and will produce a school fund of infinite value, when we have thrown off our present condition, and assumed the proud position of a State in the Union. The liberal grant seems to have been inspired by the great example set by our illustrious fore-fathers, in the congress of 1787, when on the 20th of May, speaking in reference to the munificent land grants for the then Northwestern Territory, they declared: "That religion, morality, and knowledge, being necessary to good government, and the happiness of mankind, schools, and the means of education, shall be forever encouraged."

#### OUR RAILROADS.

At the last session of the legislature, acts were passed incorporating the Dakota and Northwestern, and the Minnesota and Missouri river railroad companies, the corporators of which have since met and fully organized, according to the provisions

of the acts named. Interest, in regard to these important projected improvements, has been considerably awakened during the course of the last year, and it may be presumed that Congress will be applied to, at the coming session, for grants of land to aid and encourage the said companies in their construction. Whether or not the Legislature should memorialize Congress in behalf of these grants, is a matter for you to decide. It is presumed that we have, in the vast bounds of Dakota, rich and valuable lands enough to fully indemnify capitalists for the investment of their money in these enterprises; and if we sufficiently consider the effect, when made, upon the future of this Territory, we will not withhold an expression of sympathy in behalf of such a donation. Congress has given liberally, as well of the public money as the public lands, to aid in constructing the great Pacific road across the continent, including its branches. It is therefore not to be presumed that land grants will be denied to these roads, which are almost national improvements in point of importance, if the subject is properly brought to their attention.

Two important railroads will soon be completed to Sioux City, Iowa: one a branch of the Pacific road, to which I referred in my last annual message; and the other the Dubuquo and Sioux City, which has been leased for twenty years to the Illinois Central. The benefits of these improvements will rapidly be felt beyond their western termini, by the stimulus thus given to immigration, agriculture, and all branches of industry in southern Dakota; and will thus daily add to the already increasing demand for a similar road, from Sioux City, up the valley of the Missouri, to Yankton, a distance of sixty-five miles. As our population increases, and the business expands, cheaper and speedier communication between the west and the east will be demanded; therefore, in pressing this subject upon the attention of the Government, and of capitalists, we are only anticipating the wants and wishes of the people who are soon to inhabit this Territory.

I have spoken of our own contemplated roads as being almost national improvements in point of value. The time is coming when such language will be viewed as timid to a fault, and when the military and commercial wants of the country, east and

west, will demand a railroad through the valley of the Missouri, and by way of the Black Hills, to Montana and Idaho, and thence to the Pacific States and Territories. And capitalists cannot, if they would, ignore the advantages of the route, or its influence in developing the rich resources of the country through which it will be located. And the Government cannot, if it would, ignore the fact of its great national advantages, in establishing a military road by this route, and by cementing, by ties of mutual interest, the Pacific and the Atlantic States.

#### LARAMIE COUNTY.

Your attention is invited to that large part of Dakota, known in our statutes as Laramie county, lying west of the 104th meridian. The extension of the Union Pacific railroad through the southern portion of this county, has given a strong impetus to immigration in this direction, and it would be well to consider whether we have it in our power, by legislative enactment, to afford them the benefits of civil protection. Experience demonstrates that our courts, as at present organized and located, at such a remote distance from their settlements, can be of but little service to them in the administration of justice. The civil cases which will continually arise, must be attended to; and crime, which now goes unwhipt of justice, must be punished. We may render aid, to the extent of the authority given us, under the organic law; but if this is not sufficient in their opinion, I know of no good reason why they may not be clothed with all the blessings and protection of a separate organization. The lines embracing the limits of a new Territory would most likely be identical with those which now embrace this new county, and I know of no policy of our own, counterbalancing the benefits of such an organization to them, for opposing such a measure. It is certainly important that the arm of the law should be sufficiently convenient, and sufficiently powerful, for the protection of life and property; and that the unrestrained and unpunished criminals of that neighborhood may not give rise to an apparent necessity for the citizens, in their own names, and without the authority of law, to undertake the administration of justice. Where the Territorial courts are located, a feeling of security exists. The law is wisely interpreted and promptly applied by an upright, able,

and faithful judiciary, and we are in duty bound to aid in the extension of these indispensable benefits and blessings to the remotest corners of our Territory. Besides, as regards the friendly Indians in that country, until courts are brought within their immediate reach, the trade and intercourse laws of Congress will be a dead letter. Unprincipled white men will, with impunity, introduce among them spirituous liquors and other unlawful traffic, always demoralizing to the Indian, and dangerous to the peace and safety of the inhabitants.

#### MODIFICATION OF LAWS.

I have but few recommendations to make in regard to the legislation required at the present session. With but slight exceptions, it is believed that the present laws are amply sufficient for our present necessities. What we probably need now, more than new laws or amendments—which serve in many instances only to complicate and render the whole difficult of application—is a codification or revision of those already enacted, and a remodeling of the act known as the Code of Civil Procedure. A memorial to Congress was passed at the last session, praying for authority to codify our laws, but I regret to say was not successful. Whether another similar application be advisable, at this time, is a question for you to determine. But to remodel the Civil Code is a work altogether at your own option. After years of experience, I am informed, it has proved to be very defective, uncertain in its meaning, and difficult of correct application. Therefore your attention is respectfully invited to this subject, being fully impressed with the belief that it would be a work highly appreciated by all who are now, or may hereafter be, interested in the administration of our civil laws.

Your attention is also invited to the propriety of passing a general incorporation act to meet the growing demands of the Territory. By an act of the 39th Congress, approved March 2, 1867, it is provided as follows :

“That the legislative assemblies of the several Territories of the United States shall not, after the passage of this act, grant private charters or especial privileges; but they may, by general incorporation acts, permit persons to associate themselves together, as bodies corporate, for mining, manufacturing, and other industrial pursuits.”

Acts granting private charters, or special privileges, except for municipal purposes, or in cases where, in the judgment of the legislature, the objects of the corporation cannot be attained under general laws, have, in some of the states, been prohibited by constitutional provision. This power, in too many instances, became the fruitful source of favoritism and corruption in many legislative bodies, at the expense of the just rights of the whole people, and at the sacrifice of the veneration and respect due to the law-making power; while all the legitimate objects sought for, in these special privileges, consistent with the ends of justice, might have been as effectually secured under the provisions of a general law. In this case, argument is cut off as to the merits or demerits of a general or special act, by the act of Congress above named; and you have no power left in the premises, by which you can legislate for the benefit of your constituents, but to mature such a general incorporation act as will meet their wants and expectations.

Under the Organic Act of this Territory, approved March 2, 1861, section 5, it was ordained as follows:

“That every free white male inhabitant of the United States, above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States.”

This section of our Organic Act was modified at the second session of the 39th Congress, January 24, 1867, so far as to prohibit the legislatures of any of the Territories of the United States from denying the elective franchise to any of the citizens thereof on account of their race, color, or previous condition of servitude. Therefore, so far as our Territorial election laws may prove to be inconsistent with the provisions of this last act, they are null and void, and will necessarily require your supervision.

## PUBLIC BUILDINGS.

At the last session of the legislature, memorials to Congress were adopted, praying for appropriations to erect a capitol building and penitentiary, which, I regret to say, were not successful. A building for the safe keeping of prisoners previous to trial and conviction, and where those who receive sentence may undergo suitable punishment, is imperatively required. As regards this building, I am requested by the Hon. Secretary of the Interior to inform you that an act was passed by Congress, approved January 22, 1857, setting aside certain proceeds from internal revenue for the erection of penitentiaries in all the Territories where appropriations for that purpose may not have been made. This embraces the nett proceeds of the internal revenue, for the fiscal year ending 30th June, 1856, and the two succeeding years thereafter. The building is to be erected under direction of the Secretary of the Interior, at such place as may be designated by the legislature. The proceeds collected in Dakota Territory, applicable to the purpose, are limited to forty thousand dollars, which would be ample to erect such a building as is at present needed. But the obstacle in the way of success to this grant is simply, so far as I can learn, that we have no nett proceeds from this source. And though the population and business are on the increase, at a highly encouraging rate, we probably cannot expect a sufficient nett revenue, from this source, within the time limited by the act, to answer the purpose designed. A direct appropriation of money is the only thing that can meet our present wants, and this should be pressed upon the attention of Congress without hesitation.

The capitol building, now in use, is totally unfit for the purpose, being but a temporary frame, not sufficiently commodious or comfortable for a winter session. The buildings occupied by the several federal officers are liable to the same objections. It is therefore highly important that this subject should be kept before Congress, until an appropriation for this purpose is secured. The insecurity of the public records, arising from the danger of fire and from the scattered and loose manner in which, from unavoidable necessity, they are now kept, as well as the comfort of the legislature and federal officers, together

with considerations of economy, might all be urged upon their attention with propriety.

#### HOMESTEAD LAW.

The last legislature memorialized the honorable commissioner of the general land office, in regard to securing a more rigid observance of the homestead law, alleging that in many instances, the land is held by individuals with the object of evading its provisions, for speculative purposes, and not with the *bona fide* intention of residing on said land for the space of five years.

The honorable commissioner, I am pleased to inform you, with his accustomed vigilance and fidelity to the public interests, promptly acknowledged the receipt of your memorial, in a letter to the executive, dated January 28, 1867, in which he authorizes me to say that he has instructed the local officers to take such measures as will bring the cases alluded to before them for examination, and, where the charges are sustained by corroborating testimony, to forward the cases, with the proofs, to his office. Therefore, where individuals merely hold their homesteads for sale, and not in good faith for actual settlement, those interested may, under these instructions, have the subject speedily investigated and decided, in accordance with the spirit and meaning of this most humane and beneficent law.

#### WESTERN DAKOTA AND THE INDIAN POLICY.

At the last meeting of the legislature, I suggested the propriety of making an effort to secure military protection to immigrants who might wish to locate around the Black Hills of Dakota. To this the legislature promptly responded in the form of a memorial to Congress, setting forth, in a lucid and satisfactory manner, the great natural resources of that country, and its vast importance to the future growth and prosperity of this Territory; but I regret to say, without being gratified with that success which was hoped for, and which seemed of such vital importance to us as a people.

Like most of the region north and west of the Yankton cession, the Indian title had never been extinguished to this locality, and, strictly speaking, we had no right to occupy or use it

until, by suitable treaty or treaties with the Indian tribes in possession, we had obtained their consent. But blame does not justly attach to us for this omission. The question of title had not been broached in the previous memorials and letters to which I then called your attention; and, indeed, it did not seem to have had any weight even with Congress itself, as was evidenced by their act authorizing surveys of government roads through the unceded lands of Dakota, with a view to open up thoroughfares between the eastern States and the mining regions of Montana and Idaho. It seemed, from the rapid occupation and use of the Powder river road, and surveys and contemplated use of the Niobrara and Big Sheyenne roads, that the necessary negotiations were rather to follow, than to precede, the making and occupation of these and other contemplated national improvements. Even the trade and intercourse laws, which recognized the Indian title, and seemed to furnish some guarantee of protection to the aboriginal owners and possessors of the soil, were, for the time being, apparently laid aside and forgotten in the midst of the fever of excitement then existing, prompted as it was by rich discoveries of gold and silver in the newly organized Territories of the Northwest, and the supposed wealth of the Black Hills, in minerals and pine timber, within our own borders.

But though the true value of the Black Hills, as the basis of untold wealth to Dakota, remains the same as before, and is appreciated to its full extent, I am obliged to inform you that, from present indications, the past policy of the government is undergoing a change in relation to this region; and unless public opinion can be brought to bear on the action of Congress during the coming session, by the action of the legislature and people of this Territory, and, if need be, by the voice of the people of the whole Missouri valley, whose business interests are involved, our brightest hopes and expectations heretofore indulged in, must fail. I refer to the bill passed and approved at the adjourned session of Congress, in July last, appointing a peace commission, whose duty it is, if possible, to establish peace with certain hostile tribes of Indians in the West. Among other duties enjoined on these Commissioners, they are required to examine and select a district of country, having an area

sufficient to receive all the tribes east of the Rocky Mountains, not now residing on reservations, and at peace with the government, to which the government has the right of occupation, or to which the commissioners can obtain the right of occupation; and in which district there shall be sufficient tillable or grazing land to enable the tribes to support themselves by pastoral or agricultural pursuits. Possibly it would be more correct to say that two such districts are in contemplation, one of which is to be in the northwest and the other in the southwest. It has been generally understood that the one which concerns us is to be located within the present boundaries of Dakota, having the Missouri river as its boundary line on the east, the Yellowstone on the north, and the Niobrara on the south. The bare statement of the boundaries, as above given, will be sufficient to satisfy you, I trust, that the proposition, if carried out, must prove fatal to our Territorial interests. The lignite coal beds of the Bad Lands, the immense forests of pine timber of the Black Hills, together with the precious metals and beds of gypsum, are all west of the Missouri, and enclosed within these limits. Tribes of Indians, inured to savage and relentless warfare against the white race since the outbreak in Minnesota, in 1862, and until recently engaged in deadly conflict to recover possession of the Powder River road, and along the Platte, will, under treaties of peace, be brought and located along side of our present promising settlements; and the progress of these settlements westward will thenceforward forever be limited by the boundary of the Missouri river. All access to the reservation is to be cut off except to the officers and other employees of the Government, at least, without permission of the tribes interested. And it is not probable, in my opinion, even were all other objections removed, that the white inhabitants located on the east side of the river would be able peaceably to trade and barter, with these ignorant Indians, the products of our soil or our manufactories, for the timber and other desirable articles of that region. It would doubtless remain, for many years at least, locked up from the white race and diverted from the manifest uses designed by Providence. Thus this unfortunate barrier to our progress would discourage enterprise, turn the tide of immigration away from us, and effectually check the

further growth and prosperity of the Territory, now so encouraging. The valuable building material, never used or cared for by Indians, would be placed beyond our reach, while, as at present, no other could be had at reasonable rates. Thus, by act of Congress, a stupendous wrong would be inflicted on the people who are destined to inhabit this Territory, as the effect would be to establish an oppressive monopoly in favor of the lumber markets of the Mississippi and the Lakes.

I do not wish to discourage, by any act of mine, the past policy of the Government, which was to recognize the original right of the Indian to his hunting ground. He has a possessory right or title, which in justice we must respect. His weakness, and our strength, furnish no justification for an invasion of his rights without compensation. We must show our superiority over him in acts of justice and magnanimity, as well as mere military prowess; in our efforts to ameliorate and improve his condition, as well as to outstrip him in industry, civilization and progress. All experience shows that the Indian cannot sustain himself by the chase alone, after the white man once invades and occupies his country. The buffalo and other game will disappear before the railroads and other highways and settlements, and the Indian must, as a consequence, fade away and disappear also, unless, under the fostering hand of the Government, his nomadic habits are abandoned and he is taught the arts and advantages of civilization. The Indian should, therefore, not have a district of country so large that he can roam forever in a wild and uncivilized state; but he should be placed on reservations, where, aided liberally by the Government, he could be taught the superior advantages of a pastoral or agricultural life, over his present wandering and aimless existence; and where the benign influences of religious instruction, the arts of peaceful industry, and the schools of earning, shall finally qualify him for the higher position of an American citizen.

The government, in our case, as in the case of California, Utah, Colorado, and other Territories, extended its civil jurisdiction over this country, by organizing a territorial government, without waiting for the extinguishment of the Indian title, except in the southeastern portion, purchased under the

Yankton treaty. From this circumstance the Government has incurred a double obligation, which, in justice to the Indian and the citizens should be faithfully discharged to both. First, as to the Indian: Treaties should at once be made with a view to purchase their title to the Black Hill country, and the Bad Lands, west of the Missouri, including the Big Sheyenne; and the right of way, by means of railroad and other improvements, to and from those regions, and to and from the mining regions of Montana and Idaho; at the same time securing them reservations on the bottom lands of the Missouri, or elsewhere, of suitable size and quality for farming purposes, with ample guarantees for their future protection and support during good behaviour. So much, at least, in my judgment, is due to the Indian.

As respects the white citizen, I contend that the extension of civil jurisdiction over this Territory, carries with it a guarantee of protection. It was an invitation to occupy and possess the land, by the introduction of agriculture, trade and commerce. It was a pledge of protection to life, liberty and property, to all who would cast their lots within our borders. It was an implied contract with the citizen, that the Indian title should in due time be extinguished, and that the fuel, building material and mineral deposits, including all the materials which enter into the composition of industrial life, should be his at Government price. It was an invitation to organize communities, in which the temple of God and the school house should be erected, under the ægis of the Government, and where the arts and sciences of civilized life should be permitted to flourish without fear of savage molestation. It is right, therefore, that the Government, instead of dooming this country forever to savage control, should at once secure to us, under the operation of the homestead, pre-emption and mining laws, by purchase of the Indian title, the valuable resources referred to; which are essential to the prosperity and happiness of the citizen, but which possess no value in the eyes of the Indian, and would remain buried out of sight for ages to come if left to his disposition, skill, or industry, to develop.

It is due to justice and truth in this connection, to say, that whatever may be the result of this important movement, in its

bearing upon us, I have the utmost confidence in the ability, patriotism, impartiality and good judgment of the gentlemen who compose the peace commission. If great legislative experience, long and distinguished public services, and extensive acquaintance with the intricate subject of Indian affairs, are qualifications, then they are eminently fitted for the discharge of the duties intrusted to them. And if they fail to remove all just causes of complaint on the part of the Indian, or to establish peace and security on a basis of future prosperity for the citizen, I am confident that no particle of blame should be attached to them for such failure.

But, notwithstanding this, it would be right and proper, in my opinion, for the legislature to respectfully memorialize congress, to whom the final disposition of this subject belongs, so far as their action may injuriously effect our well known Territorial interests. We should protest against the mutilation of our boundary lines as contemplated; we should remonstrate against giving up the public highways already established by authority of the government, such as the Sioux City and Big Sheyenne wagon road, and that of the Niobrara route; we should remonstrate against any congressional action which would tend to deprive the white citizen of the full benefit of the Black Hill resources, and we should press our objections to an act establishing this great Indian district or reservation along side of the settlements of southern Dakota.

It would be well to suggest to congress that we have space enough, north of the Big Sheyenne, to accommodate, on reservations, ample in size and quality, all the tribes on the plains east of the Rocky Mountains, and north of the Platte; and in the midst of the best buffalo hunting grounds on the continent. This would be safe for us and an actual benefit to the Indian, while with proper regulations, it would be a protection rather than an injury to the interests of the North Pacific Railroad. It would be well to suggest that a reservation which should embrace the Black Hill country, could not in view of the past history of the country, be a permanent one, and for that reason would not answer the design of the government. The rich mineral deposits and the vast forests of pine of that region, are destined to allure thousands of adventurers to that locality

who will eventually break over these temporary barriers, involve the government in new conflicts with the Indian tribes, and thus compel new treaties, and a new order of things, more in harmony with the progress and spirit of the times. I do not speak of this aggressive spirit, peculiar to our race, with a view to extol or even to justify it; but as a fact worth taking into account by those whose duty it is to legislate on the subject referred to. I mean by it to point out what experience teaches, that reservations unwisely chosen, because of the manifest obstructions offered to the progress of the white race, can only at best be temporary homes for the Indian tribes, and rendering their condition worse than they were before.

The remaining duties appertaining to this and other subjects to which I have invited attention, now rest with you. Wherein I have omitted subjects of importance, dwelt on in my annual message of last year, I respectfully refer you to that document for my opinions and recommendations. But, as heretofore, you will have my cordial co-operation in whatever concerns the true interest or welfare of this Territory; and in all your deliberations I invoke the direction of Infinite Wisdom.

A. J. FAULK.

EXECUTIVE OFFICE, YANKTON, }  
December, 1867. }

His excellency having retired,  
On the motion of Mr. Brookings,  
The joint convention then dissolved.

The house was then called to order by the speaker in the chair.

On the motion of Mr. Moody;  
*Ordered*, That two thousand copies of the Governor's message be printed for the use of the house.

On the motion of Mr. Jolley,  
The Governor's message was made the special order for Saturday next, at 11 o'clock, A. M.

Mr. Watson presented the following resolution :

*Resolved*, That the territorial officers, viz: auditor, treasurer, adjutant general and superintendent of public instruction, be requested to hand in their several reports to the house, to-morrow, at 10 o'clock, A. M.

On the motion of Mr. Cummings,  
The resolution was adopted.

On the motion of Mr. Moody,  
Rule 54 was stricken from the report of the committee on house rules.

On the motion of Mr. Gregory,  
The house adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest :*

H. J. BRISBINE,  
*Chief Clerk, pro tem.*

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## THIRD DAY.

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HOUSE OF REPRESENTATIVES, }  
Wednesday, December 4, 1867. }

The house met pursuant to adjournment, and was called to order by the

Speaker in the chair.

Prayer by the chaplain.

Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Brown, Bronson, Brauch, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Han-

son, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Mr. Whitehead.

The journal of the 2d inst., was then read, corrected and approved.

After which, the journal of yesterday was read, corrected and approved.

Mr. Hoyt gave notice that on to-morrow or some subsequent day of the session, he would ask leave to introduce a bill in relation to town sites entered as such under the act of congress, approved March 2, 1867.

Mr. Jolley gave notice that on to-morrow, or some subsequent day of the session, he will ask leave to introduce a bill to simplify and abridge the practice, pleadings and proceedings of the courts of this Territory.

Also a bill relating to grand and petit jurors of the district courts of the Territory.

Mr. Moody gave notice that on to-morrow, or some subsequent day of the session, he will ask leave to introduce a bill to provide for the incorporation of towns.

Also a bill providing for the incorporation of manufacturing and mining companies, &c.

Also a bill to provide for mechanic's liens in certain cases, and the repeal of chapter 54 of the laws of 1862.

Also a bill to create and establish the county of Carter.

Also a bill to provide for elections and to prescribe the canvass and return of the votes at the same, and to repeal all other laws upon the subject.

Also a bill to amend chapter 10 of the laws of 1866 and 1867, an act to provide for schools, &c.

By unanimous consent, Mr. Hoyt introduced house file No. 1, entitled an act in relation to town sites entered as such under the act of congress, approved March 2d, 1867.

The bill was then read the first time.

The Speaker presented the reports of James S. Foster, superintendent of public instruction,  
Moses K. Armstrong, territorial treasurer, and  
I. T. Gore, territorial auditor,  
Which were read as follows :

REPORT OF THE SUPERINTENDENT PUBLIC INSTRUCTION.

OFFICE OF SUPERINTENDENT PUBLIC INSTRUCTION, }  
YANKTON, DAKOTA TERRITORY, Dec. 3, 1867. }

*To the Honorable the Legislature of Dakota :*

GENTLEMEN.—In conformity to law, I herewith submit the fourth annual report of the Superintendent of Public Instruction.

Three years ago the superintendent of public instruction presented his first annual report to the legislature of Dakota. At that time no public, and but few private, schools existed in the Territory. The country was so thinly settled that schools could not be supported, and doubtless many families that would have been valuable settlers and zealous supporters of the cause of education, turned their course back toward the homes they had left, when they contemplated the lapse of years that would, in all probability, sweep past them before this beautiful valley could be provided with schools and other social advantages which they had enjoyed in their more eastern homes. But we are thankful that the prosperity and rapid growth of our Territory has materially shortened the length of time which we then thought we must reasonably expect to wait for public schools to become thoroughly established along the Missouri slope. We have today, a free school system in practical operation in this Territory, with all its various machinery of district, county, and territorial officers, and although some of our hastily constructed school houses may suffer some by comparison with the superb school buildings of older and wealthier States, still they are servicable to us, and will in due time, we trust, give place to more suitable school houses. We have no reason for discouragement. Our brightest anticipations are in a fair way to be realized. A good school has been established and schools opened in every hamlet, and he who shall, three years hence, present to the legislature of Dakota the annual school report, will number the pupils of our publicschoools by thousands, and the teachers by hundreds. Within the last year many school districts have

been organized, and a free school supported for one term or more. For the educational statistics of the year, your attention is called to the following extracts from the reports of the several county superintendents :

DON HOMME COUNTY.

Number of organized districts . . . . .	1
"    "    private schools . . . . .	1
"    "    children in the county between 5 and 21 . . . . .	40
"    "    "    attending private schools . . . . .	10
"    "    "    not attending school . . . . .	30
"    "    male teachers . . . . .	1
Amount of money raised by tax . . . . .	\$ 50.00
"    "    "    "    "    subscription . . . . .	450.00
Total amount raised for schools . . . . .	500.00
Amount expended for teachers wages. . . . .	509.00

Owing to the sparseness of our population it has been difficult to collect a sufficient number of children at one point, to support a public school; but the prospects are that we shall have a school this fall and winter. Several pupils from this county have attended the schools in Yankton county.

D. P. BRADFORD,  
*Superintendent.*

BUFFALO COUNTY.

Number of children in the county between ages of 5 and 21 25	
"    "    "    not attending school . . . . .	25
Value of school house (belonging to U. S. ) . . . . .	\$2000

These twenty-five children do not extend to children having no visible sires and living wandering lives like Indians. Of this latter class there may be 100 who make this agency their head-quarters, whose existence here is a perpetual reminder of the success of the "brave volunteers in conquering a rebellious people." There are two Government school houses here not used for such purposes, valued at \$2000. There are no schools of any kind in this county. I would furnish a building free to a county school teacher.

J. R. HANSON,  
*Agent.*

## CHARLES MIX.

Number of children in county between ages of 5 and 21	20
“ “ “ “ not attending school . . .	20

There are no public schools in the county.

WILLIAM COX.

## CLAY COUNTY.

Number of organized districts . . . . .	7
“ “ unorganized . . . . .	4
“ “ children between ages of 5 and 21 . . . . .	201
“ “ “ attending public schools . . . . .	96
“ “ “ not attending schools . . . . .	105
“ “ male teachers . . . . .	1
“ “ female . . . . .	3
“ “ official visits made by county superintendent . . . . .	3
Amount of public money . . . . .	\$255,32
“ raised by tax . . . . .	\$29,94
“ “ “ subscription . . . . .	\$57,78
Total amount raised for schools . . . . .	\$608,04
Amount expended for teachers wages . . . . .	\$346,00
“ “ “ “ new buildings . . . . .	_____
Value of school property in the county . . . . .	\$300

The reports of district clerks are very imperfect. \* \* \*

A considerable amount of the public fund remains in the hands of the treasurer. Districts No. 2 and 3, have each levied a tax for a new school house. District No. 9, is a fractional district, annexed to District No. 12, of Union county, and has built a new log school house. District No. 10, has just organized. District No. 11, will organize in a few days. The reports of district clerks I have not thought proper to transmit.

M. S. BURR,  
*Superintendent.*

## LARAMIE COUNTY.

Number of children in the county between ages of 5 and 21	200
“ “ “ “ not attending school . . . . .	200

\* \* \* I will show Mr. Gildersleeve, county superintendent elect, your letter, as soon as he is qualified, and urge him to act without delay. We have no schools, either public or private, as yet in this county, but hope to show a good beginning this winter.

We have labored under many disadvantages, but are getting in a position to make our county organization effective which is the foundation for success with public schools. I will place the number of children in this county, between the ages of 5 and 21, at two hundred. You can rest assured, that I will use my best exertions toward effecting school organizations in this county. \* \*

W. L. KOYKENDALL,  
*County Judge.*

MINNEHAHA COUNTY.

Number of children in the county between ages of 5 and 21, 15  
 " " " not attending public school, . . . 15

You see by the foregoing report that we have no schools in this county, which is not to be wondered at, as two-thirds of the children came here less than two months ago. I can assure you that as soon as they provide homes for themselves for winter, the education of their children will be their next care. We are all united, therefore, we expect success to crown our efforts. You may expect a better report next year.

JOHN THOMPSON,  
*Superintendent.*

PEMBINA COUNTY, D. T.

Number of children between ages of 5 and 21 . . . . . 563  
 " " private schools . . . . . 2  
 " " pupils, males 73, females 41, total . . . . . 114  
 " " teachers, males 2, females 1, " . . . . . 3  
 Amount expended annually in support of private schools \$600.00  
 Value of school property . . . . . \$1200.00

As the above county was organized only on the 12th of August last, there has been no tax assessed and collected for the erection of new school buildings, and for the support of common schools. Neither has the superintendent of schools, for that county, had time to prepare and send in the reports required by law, and reorganize the old schools, and establish new ones where needed.

TODD COUNTY.

No report.  
 Number of children reported last year . . . . . 25  
 " " Indian children residing on Ponca Indian agency 150  
 Amount of school property (belonging to U. S.) \$17,500.00

No school has been started in this county. Seventeen thousand five hundred dollars has been expended in erecting a school building, which is not completed. This building is for a manual labor school, for the children of Ponca Indians, provided for them by the Government under treaty stipulations, and a school will no doubt soon be started in accordance with their treaty.

J. A. POTTER,  
*U. S. Indian Agent.*

## UNION COUNTY.

Number of organized districts . . . . .	16
“ “ unorganized “ . . . . .	1
“ “ children between ages of 5 and 21 . . . . .	724
“ “ “ attending public schools . . . . .	296
“ “ “ not attending school . . . . .	428
“ “ male teachers . . . . .	6
“ “ female “ . . . . .	5
“ “ official visits of county supt. . . . .	5
Amount of public money . . . . .	\$285.00
“ raised by tax . . . . .	\$579.28
“ “ “ subscription . . . . .	\$187.50
Total amount raised for school purposes . . . . .	\$1051.78
Amount paid for teachers wages . . . . .	\$608.93
“ “ “ new buildings . . . . .	\$138.00
Total amount paid for all purposes . . . . .	\$1199.50
Value of school district property in the county . . . . .	\$949.00

Our schools are getting in running order as fast as the condition of the country will admit. Most of the districts that are provided with suitable buildings are intending to support schools this winter, and probably every organized district will be able to keep up schools after the coming winter. The several district clerk's reports show you the exact condition of the schools in each district.

D. P. PHILLIPS,  
*Superintendent.*

## YANKTON COUNTY.

Number of organized districts . . . . .	5
“ “ private schools . . . . .	1
“ “ children in county between 5 and 21 . . . . .	225
“ “ “ attending public schools . . . . .	29
“ “ “ “ private schools . . . . .	100

Number of children not attending school . . . . .	96
“ “ male teachers . . . . .	1
“ “ female “ . . . . .	3
“ “ official visits of county superintendent . . . . .	3
Amount public money . . . . .	\$129.00
“ raised by subscription . . . . .	\$1606.00
Total amount raised from all sources . . . . .	\$1735.00
Amount paid for teachers wages . . . . .	\$435.00
“ “ new buildings . . . . .	\$1300.00
Total amount raised for school purposes . . . . .	\$1735.00
Value of school property in county . . . . .	\$3000.00

No public school has been kept in any district in this county except number two. Number one is nearly ready with its house, and will probably start a school sometime during next month. The other districts are building houses and will commence schools soon. This accounts for only one licensed teacher—the others, teaching private schools, needed no license.

A. G. FULLER,  
*Superintendent.*

STATISTICAL AGGREGATE FOR 1867.

Number of organized districts . . . . .	29
“ “ unorganized “ . . . . .	5
“ “ private schools . . . . .	2
“ “ children between ages of 5 and 21 . . . . .	1550
“ “ “ attending public schools . . . . .	421
“ “ “ “ private schools . . . . .	160
“ “ “ not attending school . . . . .	970
“ “ male teachers . . . . .	10
“ “ female teachers . . . . .	13
“ “ school visited by territorial superintendent . . . . .	5
Amount of money raised for school purposes . . . . .	\$5000,00
Paid for teachers wages . . . . .	\$2388,00
“ “ new buildings . . . . .	_____
Amount of money expended for school purposes . . . . .	\$2612,00
Value of school district property in Territory . . . . .	\$5500,00
Total value school property in Territory including Indian schools . . . . .	\$24,240,00

INDIAN SCHOOLS.

There are now no Indian schools of importance in this Ter-

ritory except the one at the Yankton agency, and yet it is our firm belief that much could be done towards bettering the condition of the Indian tribes, if their young people could be brought under the influence of schools. In fact the few experiments that have been tried with them, in learning them to read and write, have been very successful. The general government has expended large sums of money in erecting school houses, and supporting teachers among them, while but very few Indian schools have been taught, notwithstanding the salaries of teachers have generally been drawn by some attaché of the agency, or other person who cared but very little for, and did still less, towards instructing the Indian children. Would it not be proper for the Territorial legislature to ask the general government to place the Indian schools in this Territory under the charge of the school department of the Territory. At most of the agencies there are erected valuable school buildings, which with proper care would accommodate a large number of pupils. The sums of money appropriated by Congress to the several tribes, from time to time, for educational purposes, if judiciously expended, would, with a system of wholesome supervision and thorough inspection, be sufficient to pay the wages of a corps of faithful and energetic teachers, whose influence in educating and civilizing these frontier tribes could not fail of producing good results. In proof of the statement that the government has now the necessary school buildings at our agencies for flourishing Indian schools, we need only to call your attention to extracts from letters received from Hon. J. R. Hanson and Dr. Joel A. Potter, U. S. Indian Agents, which are embodied in this report.

The following extracts from a letter received from Hon. P. H. Conger, Yankton Indian Agent, shows conclusively that Indian children are willing to learn if they have an opportunity :

YANKTON AGENCY, D. T., }  
July 31st, 1867. }

DEAR SIR:—I take pleasure in complying with your request to furnish you such information as I can in regard to the educational interests of Yankton Indians and half breeds belonging to this tribe who reside upon the reservation. In the first place I will premise by saying that since I have been the

Agent for the Yankton Indians, the government has not placed any funds in my hands applicable to schools for these Indians. But notwithstanding which, my wife taught a small class for three months last season, and this spring I fitted up a room and she has had a very interesting school numbering from twenty to twenty-five daily attendants, ten of which scholars are males and fifteen female, and I am happy to say that they are all making rapid progress both in acquiring our language and in their studies. They manifest an eagerness to learn that is truly gratifying and wonderful, furnishing conclusive evidence that their race is capable of advancement and civilization.

I have not filled up the blanks you sent me, preferring to give you a few facts which you are at liberty to use as you see proper.

Of course the branches taught here are elementary only, reading, spelling and writing, and I believe also a small class in geography.

I extend to you a cordial invitation to visit the school, could you make it convenient, when doubtless you would be prepared much better to report upon the same than you can be from these meagre facts. Assuring you that I take pleasure in any way promoting the cause for which you are laboring,

I have the honor to be  
 Very Respectfully,  
 Your ob't sv't.  
 P. H. CONGER.

#### TEXT BOOKS.

The school superintendents of the several counties of this Territory, have, upon due consideration, adopted a uniform set of text books for the use of our public schools, and arrangements have been made with publishers of the national school series, to introduce them into all our schools, and henceforth it is to be hoped that in this Territory, a similarity of text books will relieve teachers from much of their former embarrassment and perplexity, and tend to add interest to the class exercises in every school. It will also save much valuable time for the teacher, by reducing the number of his classes, for

it is quite as easy to conduct a class exercise with eight or ten pupils in a class of the same qualifications, as it is to conduct one with two or three only in a class, and we have often thought it was far easier to get up an interest in fair sized classes than in very small ones. Occasionally we find persons who object to the use of any new text books, and who will stoutly contend that Daboll's arithmetic or Murrays' grammar are as good school books as the more recent publications. Doubtless they were good books in their day, but there has been much improvement in school books during the last half century, as well as in other school apparatus; new forms of presenting the various subjects taught in our schools have given rise to new books with diagrams and illustrations, greatly simplifying the subjects taught, and most likely this progress will still continue, and the time may not be far distant when our present excellent text books must give place to other and more practical works yet to be brought forth. But we do not wish to be misunderstood. We do not advise frequent changes in text books. When uniformity is once obtained, let not the patrons of our schools be subjected to the unnecessary and useless expense of a change of text books, until it is evident that a change would be beneficial.

#### TEACHERS INSTITUTES.

Agreeably to the suggestion of the territorial superintendent in his last annual report, a teachers institute was held in the new court house at Elk Point, the county seat of Union county, commencing on the 11th of November, and continuing five days. The following named gentlemen were elected officers of the institute:

SUPT. D. P. PHILLIPS,	<i>President.</i>
HENRY W. MCNEIL,	<i>Secretary.</i>
REV. THOS. STUART,	} <i>Instructors.</i>
HON. E. C. COLLINS,	
HENRY W. MCNEIL,	
JAMES S. FOSTER,	

The following named gentlemen delivered lectures before the institute:

REV. THOS. STUART, of Elk Point. Subject—*The Teacher's Mission.*

HON. W. W. BROOKINGS, of Yankton. Subject—*Thoroughness in Teaching.*

HON. S. L. SPINK, of Yankton. Subject—*Our Common Schools.*

JAMES S. FOSTER, of Yankton. Subject—*Popular Education.*

The lectures were well attended, and well received, and no doubt will have the effect to create an interest in the subject of schools in the minds of those who heard them. The exercises consisted of class exercises in reading, spelling, geography, arithmetic, grammar, composition writing, and criticisms, discussions, addresses, essays, vocal music and a general interchange of views upon the different methods of conducting a school.

The young teachers present, far from being embarrassed, seemed to enjoy themselves and frequently expressed themselves disappointed in finding the exercises so entertaining to them. Much credit is due superintendent Phillips and Mr. Henry McNeil of Union county, for their self sacrificing spirit and earnestness in the cause of education. Hon. E. C. Collins of Union, also contributed much to the interest of the institute by his genial presence and his genuine sympathy in the cause of education; and to Rev. Mr. Stuart we shall ever feel indebted for the generous and hearty assistance he rendered us in instructing classes, and contributing generally to the interest of the institute. The people of Elk Point, generally, were kind and hospitable and deserve the thanks of all who shared their generous bounty. Superintendent Burr, of Clay, and Fuller, of Yankton, were unable to be present much of the time, but their sympathies were with us, and their influence helped to make the Institute a success.

The attendance was not large, but full as many were present as could be expected under the circumstances. But when we say that as many teachers were present as we anticipated, we do not wish to be understood as apologizing in the least for the absence of any one. No ordinary excuse should keep a teacher in this Territory from an institute.

If he is a beginner, or is young and inexperienced, he owes it to the patrons of the school who have employed him to teach

that he should attend all convocations of teachers and learn whatever he can from those older and more experienced than himself. If a teacher has taught some years and is a man of ability and stands "head and shoulders" above his fellow teachers, then the cause of education demands of him that he should attend the institutes and instruct those less experienced than himself. If a teacher is "rusty," so-called, the institute is just the place for him; it will do him good to "stir him up by way of remembrance." If a teacher is modest or timid, and feels his disqualification to discharge the important duties of teacher aright, then by all means it is just the place for him. It may be possible that some timid teachers feared to trust themselves in the hands of the institute, lest their inaccuracies should be sneered at and they be put to shame before their fellow teachers. To such we must say that they mistake the nature and object of these institutes if they suppose any one would be so ungentlemanly as to say a single unkind word or do an unkind act that need to cause any young teacher at an institute to feel embarrassed. In short, if a young teacher is really poorly qualified to discharge the duties of teacher, it is far better to attend institutes, even though their cheeks are frequently suffused with blushes, than to appear before a school poorly qualified and there be made to blush, for as soldiers are first to discover a want of bravery in their leader, so are children apt to discover the least embarrassment on the part of the teacher, and these embarrassments often tend to disconcert the teacher and bring confusion to the school room. Excessive timidity or bashfulness is an evil in a teacher that needs to be overcome, and where, or how, can one more easily overcome this habit than at an institute. Perhaps these timid teachers never intend to associate with their fellow teachers until they gain confidence in themselves; but how can this confidence in ones-self be gained, unless he associates with others and overcomes this diffidence little by little. Of the importance of institutes there is but one opinion among educational men and that is that they are indispensable. A distinguished New England Educator remarks that "No teacher can afford to lose them, and that no district can afford to hire teachers that will not attend them."

The character of teachers institutes are very different in different States. Our institutes should be quite practical and aimed at the common schools and should address themselves not only to teachers but to patrons of schools and citizens generally. Such institutes must operate favorably upon teachers by quickening their appreciation of the responsibilities of their profession and upon patrons by wakening an active and intelligent interest in our common schools. A large volume might be written and read by our citizens profitably concerning institutes, their importance and usefulness, but it is a good argument in their favor that in every northern and western State institutes are held in nearly every county with no diminution of interest, and certainly if teachers in the older States need these annual drills or schools of training we here cannot afford to dispense with them, for in the States most of the young teachers, and those who are supposed most to need these helps commence their schools fresh from the numerous academies and normal schools and are supposed to be well prepared for the work they are undertaking. While here our young teachers are compelled to engage in the work of teaching without the benefits of such assistance. Hence we conclude that if institutes are beneficial anywhere it must be in the new Territories where no academies or normal schools exist.

#### IMPORTANCE OF GOOD COMMON SCHOOLS.

Our common schools are called "peoples colleges," because the great mass of the people obtain their education in them. But few who receive their education in our western States and Territories, ever are favored with collegiate or even an academic education, hence the importance of making our common schools worthy of the patronage of all. A higher grade of scholarship should be aimed at, and such a course of study pursued, as will in a measure, prepare our young men and young women educated at our schools, for the real duties of future life. Much might be said here upon the importance of commodious school houses, increased salaries for teachers, and of ample school apparatus. But we must first do what we can and not what we would like to do. We are far out on the frontier, and far from the old organized districts to which we formerly

belonged. We have not a munificent school fund like the older States, nor have we even a thickly settled farming community upon whom to saddle a heavy tax to erect our school houses with and support our schools. But we find a fertile soil, a healthy climate, and an excellent opening to build up a home. The pioneer selects a promising location, erects his cottage, fences his fields, breaks the ground and puts in the seed, plants forests and fruit trees around his new home, and presently another and another settler commences his improvements till enough are congregated in that locality to organize a school. Then the log school house is built and the teacher employed. Thus the great work of settling up the West goes on quietly but surely, and so rapidly is the work of settling done, that it is not unfrequently that where in the spring not a furrow was broken or a house foundation laid, before christmas comes, a good settlement is formed, with public schools in operation, well organized and supported, the whole neighborhood presenting the appearance of having been long settled.

But generally it requires time to open a farm on the prairie, and it is no wonder that two, and perhaps three years, should roll by before a school district can be organized, and a school put into working order. The first great duty of settlers in a new Territory is to provide a home, and after that as soon as possible a place to educate their children.

It is not really as much trouble to organize districts as some of our people may think, and if any neighborhood wishing to start a school will send to either the county or territorial superintendent for directions, they will cheerfully aid them. Our worthy Secretary of the Territory, honorable S. L. Spink, will furnish laws of the Territory for the use of school district officers, when ordered in the proper manner by the register of deeds of each county. If each register of deeds would make a requisition for enough of the last session laws to supply all the school district officers of his county, and forward the same to the county superintendents of schools for his county, he will greatly facilitate the organization of districts. The people of this Territory know well enough that it is best to organize a district as soon as a sufficient number of families can be gathered in one neighborhood, for this fact alone is a great inducement

for others to come and settle near them so as to have the benefit of school immediately. It is far better to organize districts and support schools even though your school house is made of logs, and your school furniture of slabs, than to let our children grow up in ignorance, because we cannot erect an elegant school house with patent school furniture.

One of the greatest hindrances to organizing school districts is the sparseness of our population. Not unfrequently large tracts of country are included in the same district, and a school house built by tax or subscription, in which burden all who are residents of the district bear a part. In a few years the country becomes more thickly settled, and the people tired of the long walks of their children to school, conclude it's better to have a new district, and a call is made for a subdivision of the district. The school house at first built in the center of the district now falls near the outer edge of the new districts, and hence accommodates neither:—or if it falls near enough in the center of one to answer for awhile, a question comes up, as to whom it now belongs, and not unfrequently much difficulty arises in settling these perplexing matters. It would be well so to modify our school law as to authorize the levying of a tax, by the district retaining the school house, to refund to the newly organized district, a sum of money equal to their equitable interest in the school property of the former district, and to avoid as much as possible the occurrence of such cases in the future, I would recommend that the county superintendents of the several counties, as soon as practicable, proceed to district their entire county into such sized districts as will likely within a few years to be required, and having in view the future wants of a district. In the older States it has been for some years to come, a source of great evil that the school districts are so small, and great efforts have been made to consolidate districts until pupils enough shall be gathered together, to form a school. Let us take warning, from these facts, and keep our districts sufficiently large to enable us to support a good school even if pupils have to walk a little farther to get to school. Not unfrequently in some districts of the eastern States, the school houses are closed a great portion of the year for want of pupils to make up a school, and the consequence is, that those

who wish to attend school must go to the adjoining district, frequently two or three miles distant. It is better far to keep the districts sufficiently large so that there will be a likelihood of having pupils enough for a school, and taxable property enough within the district to support it.

#### PUNCTUALITY OF ATTENDANCE.

It is a fact that will not be controverted that punctuality of attendance in pupils is essential to the prosperity of a school. It is a singular fact too, that parents knowing that their children are habitually tardy in the morning, tolerate this pernicious practice when they must know that it is destructive of much of the good that ought to be accomplished by their children attending school. It is a fact noticeable by all, that these pupils who attend school regularly and are prompt in the morning generally succeed well in their studies and have an attachment for the school room, while on the other hand those who do not attend regularly are generally backward in their studies and more generally apt to be dissatisfied with the school. Besides the loss of knowledge which might have been gained, a bad habit of carelessness is acquired by habitually tardy pupils which will be likely to last through a life time. There is still another class of citizens who will not avail themselves of the benefits of schools after they are provided for them by their generous neighbors. The time may come in our Republican Government when the question shall be agitated whether it would not be just to compel the attendance of pupils for a certain length of time in the public schools. It is said to be good Republican theory, that intelligent citizens are the wealth and power of a State.

If this be true, ought not every reasonable means to be used to bring all children every where under the influence of common schools, in their earlier years, keeping them constantly in the common schools until they graduate honorably from them, with a good practical common school education, with which, if a habit of reading has been cultivated, all pupils may become well educated; thus increasing the wealth and power of the nation. It is also claimed in Republican governments to be true that the intelligence of the people is the best safe-

guard or security to life and property. If this be true, ought not then the property of a country to educate the children of that country. In any government, good and wholesome laws, in time of peace, give the best public security to life and property, and just and equitable laws cannot be expected to be enacted by any people not intelligent and well informed, and among whom the benefits of education have not been diffused. And since general intelligence and popular education cannot obtain without the aid of the common schools, therefore we conclude that all persons, rich and poor, are interested in the spread of universal education, and ought to contribute to its support, since upon the intelligence of a community rests the security of life and property. We frequently find persons who object to paying a school tax and who seldom object to paying a county tax, a large portion of which is made up of fees of officers of the criminal courts, which, according to the criminal statistics of the country, would not probably have been created had good sound moral and intellectual instruction been given to those law breakers in their youthful days.

According to the statistics of this country it is far better for a man to pay a school tax of two mills on the dollar for the support of common schools where all the children of both rich and poor can be educated, than to pay a much larger tax for the payment of officers and magistrates fees in the criminal courts, and for the support of prisons and alms houses. It is a notorious fact that a majority of the inmates of prisons and poor houses have not had the advantages of an education. If, as has been stated, property is taxed for school purposes under the supposition that the intelligence of the people affords greater security to property, have not property holders and tax payers an undoubted right to demand that they shall receive the benefit of their taxation in this greater security of life and property which can only be secured by a general diffusion of intelligence, and how can this intelligence be spread among those who never attend the common schools or other institutes of learning.

In short, if people who have children will claim, as they do, and rightfully claim it too, that those citizens who have no children but have property should help to educate their chil-

dren, then have not the tax payers a right to demand in return that all children of school age shall attend some portion of the year at these schools which they are supporting.

It is not probably best now, if ever, to enact a law compelling attendance on some school either public or private by all children, although such enactments are in force not only in the old world, but in our own country in some of the New England states. It is well however to contemplate the mischief that is wrought in our public schools from this unnecessary source. It is curious and even profitable for us to contemplate how closely the interests of the people of a Republican Government are connected and interwoven with each other. One man cannot improve his farm without in some measure increasing the value of the farms of all his neighbors. A man cannot engage in any worthy private enterprise without benefitting in some way nearly every citizen in his community. Every important act of our whole lives operates in some way upon our fellows, and affects them for good or for evil in a greater or less degree. So every private wrong, if we may be allowed the expression, for we much doubt if there be such a thing as a private wrong, operates upon the public and prejudices the minds of people to some extent against the inhabitants of the place where the wrong was committed. Now this intimacy of relation exists nowhere to greater extent than in our public schools. No patron can withdraw from the school a pupil for any length of time without injuring the interests of his class-mates and associates, especially if the pupil is to be returned again to the same school within a few days or during the term, and these temporary withdrawals from school are more injurious when they are most frequent. Too much cannot be said upon this subject. It is all important to the success of our schools that patrons act in concert with school officers and teachers in securing prompt and punctual attendance at the public schools.

#### THOROUGHNESS IN TEACHING.

“Not how much, but how well” has been a favorite motto of ours in the school room for several years. The want of thoroughness in studying on the part of the pupil and of illustration and examination on the part of the teacher is a serious evil.

in our schools. To insure thoroughness on the part of the pupil in all his studies, will require the united effort of teacher, pupil and patron. It is almost useless for the teacher to try to secure a perfect understanding in the mind of the pupil of all his studies, especially in mathematics, if his efforts are not heartily seconded by the patron. If parents will allow pupils to remain at home upon a frivolous excuse whenever they may choose to do so, they will frequently avail themselves of this privilege and most generally when the class is passing over some difficult subject that requires extra labor and which the pupil is apprehensive he cannot master to his liking. If he stays away from school until the "class" has passed over that subject he can join the class in the next rule and so he manages to "keep up with the class" and finally gets "through the book" as soon as any of the class.

#### THE WORK OF EDUCATION IS PROGRESSIVE.

It consists of a succession of processes, the latter process generally depending upon the former and hence if the former lesson was not thoroughly learned it is almost impossible to comprehend the latter one. It is of the utmost importance that each step should be well and thoroughly learned before passing to the next. A pupil cannot wait until the close of the term and then go back and learn the few lessons he skipped entirely, or passed over lightly, but he must commit them as he goes, for each succeeding step may be, and probably is, the foundation for the next. We have frequently observed the methods of classification practised, and have found them to vary considerably. Some teachers arrange their classes according to the size of their pupils, others to accommodate the different kinds of text books in use without regard to the former training or advancement of their pupils. We have been amused frequently to see pupils who have been out of school for two whole terms demand that they should be placed in classes with those who were their superiors in study when they were formerly pupils together, and who have not lost a single school day for a whole year, simply because they were class-mates in a former term. And our amusement has culminated in a hearty laugh, when the parents of such pupils second the demands.

of their children. Such a course would be most certain of injuring a school and destroying the reputation of the teacher if permitted—a judicious classification is necessary to a system of thorough teaching, and indispensable not only in arithmetic and grammar and the higher English branches, but in the fundamental branches of an education—reading and spelling. Thoroughness in teaching also depends upon the punctual and constant attendance of *all* the pupils of a school. Teachers are not as responsible for the advancement of those pupils who are not punctual as they are for those who are in constant attendance during the whole term.

Some parents are in the habit of requesting of the teacher, permission for their children to come home as soon as they are done reciting. This is another fruitful source of annoyance in school. It disturbs the other pupils in his leaving and creates a discontentedness in the minds of those remaining, while it takes the pupil, who is excused, from his proper studies, and the consequence is he does not study as many hours as his schoolmates, and must therefore have less perfect lessons. If parents and patrons of schools would secure the greatest amount of good to their children, they will insist upon being prompt in attendance every day of the school, if possible, and will not relax their energies there, but watch faithfully the progress their children make each day in their studies. But one will say “I have enough to do without watching my children. We hire the teacher to do that work.” Now this may be true, but can not the patrons of our schools do much to strengthen the power and influence the teacher may have over their children for good if they will manifest an interest in the studies of the children, inquire about their progress and proficiency, encourage them to be diligent in their studies and insist upon their children being at school in time, and upon their not remaining at home a single day unless it is absolutely necessary. If such a course is taken by patrons, but little trouble is experienced by competent teachers in getting up an interest in the school, and of making rapid progress in most of the branches taught. While on the other hand if parents manifest an indifference either by countenancing tardiness and absence from school, or by expressing their disapprobation of the teacher before their

children, they weaken if they do not destroy the usefulness of the school.

#### GYMNASTICS.

It is a common thing for pupils in a warm school room to get drowsy and tired, and consequently they wish to walk out into the fresh air and brighten up, preparatory to resuming their task at their desk. But teachers cannot be annoyed with too frequent requests for a "recess," neither can they allow their pupils much time to play at recess, hence the necessity of some exercises in the school room in which all can join, and which will not only relieve the mind from its constant application to study, but will also relieve the body by affording physical exercise. Most teachers in the larger eastern schools introduce quite successfully a series of physical exercises, requiring exercises of the muscles of the whole system as much as possible, during which exercises the room is well ventilated. These exercises may be introduced once or twice a day at the discretion of the teacher. But we do not wish to be understood as advocating those violent gymnastics practiced by some teachers. Gymnastics in school are good in their proper time and places, but generally in winter time, our children who are coming to, and going from school, have to face the cold storms that sweep across our prairies, practice all the gymnastics essential to their physical development. But in summer time when the younger pupils are apt to grow dull in school, some simple exercises requiring the pupils to exercise their hands and feet without their leaving their seats will no doubt prove beneficial.

#### SCHOOL BUILDINGS.

It is thought by some that any building will answer for a school house; but with such persons we do not agree. We have before stated in this report, and we repeat the sentiment again that neighborhoods should not wait until they are able to raise a tax without burden, to erect a commodious school house before they organize and start a school. But this does not imply that we advise using old rotten cabins or some old cast off dilapidated building, as is sometimes done, for a school

house. Such buildings are altogether unfit for school purposes. An earnest advocate of good school buildings with pleasant surroundings says: "It is barely possible that an intellect disciplined and developed in one of our miserable rickety uncouth school cabins may put on as fair and symmetrical proportions, with habits, tastes and aspirations as exact, critical and lofty, as one raised amid healthful, inviting and inspiring surroundings of a model school building; but the probabilities are strongly in favor of dwarfing the intellect, distorting the disposition and blunting the sensibilities." In these sentiments we heartily concur. The school sites should be suitably selected, and pleasantly located, and even if the school house is to be made of logs let it be well put up, having proper proportions and finished up in good style; not with costly, fancy trimmings which would make it nearly as expensive as a frame or brick building, but made of logs of even size and length, with a suitable roof, and plained seats, with shade trees planted and a well dug, if possible, giving to the school grounds an air of comfort. Such a school house will not cost much but labor, and will answer well its designed purpose until a better one can be obtained.

#### COUNTY SUPERINTENDENTS.

Perhaps there is not another person who can and ought to exercise so much influence over the schools of his country, as the person holding the responsible position of county superintendent. His good judgment is called into exercise in districting his county into proper districts, suitable in size and shape; his discretion, in recommending, and licensing proper persons to teach; his faithfulness by the number of times he visits, and the length of time he attends at a school, and his patience when he comes to make his annual report. County superintendents should be "wise as serpents and harmless as doves," in order to accomplish the greatest possible amount of good in visiting their schools. A county superintendent of schools, residing in one of the older States, complains that he cannot do any good by visiting the districts, and states that he saw a pupil on one of the seats without a book—he asked the lad if his father chewed tobacco, and received the simple honest answer that he

did. Whereupon the superintendent told the boy to tell his father for him, to stop chewing for a month; or to chew less and save money enough to purchase him a book. The boy told his father as directed, and the father was justly offended at the superintendent's remark, and yet the superintendent complains that he cannot do good in his visits because people will not heed his advice. Now in this case, the superintendent was at fault. It was his duty to say or do nothing calculated to give offence, but to encourage teachers, pupils and patrons in the good work, by kind words, if he saw any thing to encourage; and to correct their errors by kind and gentlemanly remonstrance if he saw aught that was wrong.

#### NORMAL SCHOOL.

In most of the States, normal schools are established by law and supported from the public fund. Their object is, the educating of a class of persons for the express purpose of teaching. The utility of these schools is acceded by all, and they are considered as indispensable to the progress of common schools. If these normal schools are so essential in the States where colleges, universities and academies are so numerous, how much more are they needed here at the west in new Territories, where few such institutions exist. In New York and other large States, each county has a branch of the normal school, where teachers can receive gratis that peculiar instruction calculated to prepare them especially for the great work of teaching.

It is not so here. We must take teachers as they come from our common schools, and entrust to them the education of our children. How much better would it be for us who reside in the Territories, for future generations to come and for the nation at large, if each Territory was provided with a normal school for the training of its teachers. Who could calculate the untold benefits that would result from such an institution. The general government, often liberal in expenditures for the benefit of the Territories, has made a wide distinction between the States and Territories in granting donations of public lands for school purposes. Large tracts of lands have been appropriated to every State that would accept them, upon the conditions

named by congress, while the Territories have been excluded from such benefits.

It would seem proper that the general government should appropriate a quantity of land in each Territory, for the purpose of supporting a normal school. If, as it is generally admitted, intelligent citizens increase the wealth and power of a nation, is it not the duty of congress to assist in providing some suitable school for the education of teachers in the Territories. As congress will probably pass a law authorizing the creation of a national bureau of education, it would doubtless be well to memorialize congress on the subject, and ask that the Territories may be included within its provisions, and also asking that a grant of land be made within each Territory, for the support of a normal school in each Territory.

#### AMENDMENTS AND MEMORIALS.

The language of the present school law is so indefinite, that it does not appear distinctly whether county superintendents are to be elected for one or two years. Some of the counties have elected superintendents annually, while others contend the election is for two years.

I would recommend that the law be amended so as to require county superintendents of schools to be elected once in two years, and at the same time and in the manner as other county officers.

I would recommend the passage of a memorial to Congress, requesting that the Territories be included in the operations of the National Bureau of Education when said Bureau is organized, and that a petition be presented to Congress for a land grant for a normal school in each Territory.

The per diem of the superintendent of public instruction is inadequate to furnish any reasonable compensation for the labor performed, as it requires a sum equal to his per diem to pay his traveling expenses. It is not to be presumed that officers will take any extra pains to perform well any duties required of them, for which they receive no compensation. If the system of supervision and visiting is not to be abandoned, as of course it ought not to be, I would recommend that the law be changed so as to allow the superintendent of public instruction,

in addition to his per diem, traveling expenses not to exceed two dollars per day for the time actually engaged in visiting schools.

I am happy to be able to say that there are gratifying evidences in our community of an increased and growing interest in our common schools, and the time is near at hand when our public schools will be, if properly sustained, what they ought to be—the pride of our citizens. We are pleased to see an interest manifested by all classes in supporting good schools in every neighborhood. It is a mistaken notion that some business men seem to have, that our schools are philanthropic institutions which should be given over into the charge of those who habitually labor for the good of the public. This feeling I am glad to say does not exist in our Territory to any extent, but all classes alike are earnest in their support of our schools. If this sympathy for the cause of education shall continue, it will not be long before the character of our schools will be elevated to their proper sphere and become entitled to the respect and admiration of our people.

Allow me in concluding this report to express a hope that the coming year will be one of prosperity to our schools and that we may be more successful in obtaining a thorough and complete statistical report.

Respectfully submitted  
 JAMES S. FOSTER,  
*Supt. Public Instruction.*

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AUDITOR'S REPORT.

TERRITORIAL AUDITOR'S OFFICE, }  
 YANKTON, D. T., Dec. 4, 1867. }

*To the Honorable Members of the Council and House Representatives:*

GENTLEMEN:—I have the honor to present this my first annual report as Territorial Auditor, showing the amount of claims presented to and audited by this office against the Territory since the first of January, 1867, giving also the date, amount, and number of each warrant, to whom issued, for what issued, amount audited.

In submitting this report I respectfully beg leave to recommend to the legislature the propriety of changing the time for receiving the annual reports of territorial auditor and treasurer, from the 3d, day of each session as now provided by law until the last week in December, by which time the reports of these officers would be able to show to the legislature the condition of the Territorial finances at the close of each year, after all the organized counties shall have reported to the auditor and treasurer.

The following is an exhibit of the proceedings of this office from January 1, 1867, up to the present time :

DATE 1867.	NO.	AMOUNT		TO WHOM ISSUED.	FOR WHAT ISSUED.	REMARKS.
		\$	Cts.			
Jan. 3	A	50	00	I. T. Gore	Services as Territorial Treasurer for the year 1865-66	Am't claimed \$ 16,00
" 21	1	14	00	Chas. F. Rossteuscher	For appearing before Legislative committee . . . . .	
" 29	2	20	00	Jas. S. Foster	Services as Superintendent Pub. Inst.	
" 29	3	7	00	John Thompson	Transportation and charges on books Ter. Library	
Feb. 5	4	2	00	Jas. A. Hand	Blank books for Auditors office	
" 5	5	40	00	L. Case	Services as engrossing and enrolling cl'k for Council	
" 11	6	25	00	Geo. W. Kingsbury	Print'g bl'k Ter. warr'ts and reports Supt. Pub. Inst.	
" 11	7	2	00	M. K. Armstrong	Blank book for Treasurers office	
March 13	8	10	40	John Bradford	Bringing Election returns from Union County	
" 14	9	20	00	S. L. Spink	Advanced charges on Law Book	
" 25	10	12	50	I. T. Gore	Salary as Auditor from January 1st, to March 31, 1867	
" 30	11	6	00	N. Edmunds	Services on Board of Education	
" 30	12	6	00	S. L. Spink	" " " " "	
Apr. 3	13	12	50	M. K. Armstrong	Salary as Treasurer from January 1st, to July 1st 1867	
" 10	14	20	00	Geo. Stickney	Furnishing Abs't. of Ent'd. lands throughout Ter.	
June 18	15	44	00	Geo. W. Kingsbury	Printing School Blanks	
July 10	16	12	50	I. T. Gore	Salary as Auditor from April 1st, to July 1st, 1867	
" 10	17	29	25	J. L. Kelley	Cash advanced in handling arms ammunition for Ter	
Aug. 9	18	2	35	John Thompson	Transportation on Books for Territorial Library	
Oct. 1	19	12	50	I. T. Gore	Salary as Auditor from July 1st, to Sept. 30th 1867	
" 1	20	12	50	M. K. Armstrong	" " Treasurer " April 1st, to July 1st, "	
Nov. 18	21	12	50	M. K. Armstrong	" " " " July 1st, to Sept. 30th, "	
		\$372.	60			
					RECAPITULATION	
					Amount of claims presented . . . . .	\$ 374,60
					" " " audited and warrants issued . .	\$ 372,60
					Respectfully submitted,	
					I. T. GORE, Territorial Auditor.	

## TREASURER'S REPORT.

TERRITORIAL TREASURER'S OFFICE. }  
 YANKTON, D. T., Dec. 3, 1866. }

*To the Honorable Members of the House of Representatives :*

GENTLEMEN:—I have the honor to present, herewith, my first annual report as Territorial treasurer, showing the receipts and disbursements of this office, and the present condition of the finances of the Territory.

By the provisions of the revenue law of the Territory it is made the duty of the county treasurer of each organized county to make report to this office, and pay into the Territorial treasury the proportion of Territorial tax collected and due the Territory from each respective county, on or before the first day January in each year. The full extent of time allowed not having yet expired, the counties of Todd, Pembina, and Laramie, do not appear in this report, no return having been received from those counties. The counties of Pembina and Laramie organized by the last legislature, being so new and remote, could hardly be expected to complete the assessment and collection of taxes during the present year. The act of last session creating the county of Pembina, not providing for any officer than one to administer oaths to the county officers appointed in pursuant with said act, and the only person in said county authorized to administer oaths being absent, the county was not fully organized until August, and therefore too late for an assessment and collection of taxes to be reported to this office during the present session of the legislature. The county of Todd, has been notified by me, and is expected to report by the first of January.

The present report of this office does not include warrants issued prior to the year 1865, all of which, by an act passed in that year, were debarred from payment until such time as the condition of the treasury would warrant the liquidation of the same by special act of the Legislature. The amount of said suspended outstanding warrants do not exceed in the aggregate, five hundred dollars, and it remains for the present legislature to take such action in the matter as to them may seem best.

The following is an exhibit of the Territorial finances since my assuming the duties of this office on the first of January, 1867 :

## RECEIPTS.

*Yankton County.*

RECEIVED, January 28, 1867, of A. G. Fuller Treasurer	
" Yankton county . . . . .	\$60.00
" February 25, . . . . .	50.00
" June 7, . . . . .	44.00
	<hr/>
	\$154.00

*Union County.*

" January 1, of I. T. Gore, former Treasurer,	
" Territorial tax due from Union county.	\$60.00
" February 1, of Wm. Scarles, treasurer of Union	
county . . . . .	92.50
	<hr/>
	\$152.50.

*Clay County.*

" January 5, Ole Bottlefson, treasurer of Clay	
county . . . . .	\$49.82
	<hr/>
	\$49.82

*Charles Mix County.*

" December 3, of treasurer of Charles Mix	
county . . . . .	\$20.17
	<hr/>
	\$20.17

*Bon Homme County.*

" December 3, of Benton Fraley, treasurer of Bon	
Homme county . . . . .	\$10.00

" *Todd County.*—Not reported.

" *Pembina County.*—Not reported.

" *Laramie County.*—Not reported.

Total receipts	\$386.49
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## D I S B U R S E M E N T S .

No. OF WAR'NT.	AM'T	DATE OF ISSUE.	DATE OF PAYMENT.	TO WHOM ISSUED.	TO WHOM PAID.	NATURE OF INDEBTEDNESS.
A	\$ 50.00	Jan. 3	Jan. 3	I. T. Gore	I. T. Gore	Services as Territorial Auditor for 1865-66
1	14.00	" 21	" 21	Chas. F. Rossteuscher	Chas. F. Rossteuscher	Services as witness before Legislature
2	20.00	" 29	" 31	Jas. S. Foster	Jas. S. Foster	Services as Superintendent Public Schools
3	7.00	" 29	Feb. 1	John J. Thompson	Bramble & Miner	Transportation and charges on books
4	2.00	Feb. 5	" 5	Jas. A. Hand	Jas. A. Hand	Blank book for Auditors office
5	40.00	" 5	" 6	L. Case	L. Case	Services as enrolling and engrossing clerk of council
6	25.00	" 11	" 12	G. W. Kingsbury	G. W. Kingsbury	Printing blank Territorial warrants and school reports
7	2.00	" 11	" 12	M. K. Armstrong	M. K. Armstrong	Blank book for Treasurers office
8	10.40	March 13	April 3	John Bradford	John Bradford	Bringing election returns from Union county
9	20.50	" 14	March 15	S. L. Spink	S. L. Spink	Money advanced to pay charges on books
10	12.50	" 25	" 25	I. T. Gore	Geo. H. Hand	First quarters salary as Auditor
11	6.00	" 30	" 30	N. Edmunds	N. Edmunds	Services on Board of Education
12	6.00	" 30	" 30	S. L. Spink	S. L. Spink	" " " " "
13	12.50	April 3	April 2	M. K. Armstrong	M. K. Armstrong	First quarters salary as Treasurer
14	20.00	" 10	May 23	Geo. Stickney	Geo. Stickney	Furnishing abstract of taxable lands in the Territory
15	44.00	June 18	June 23	G. W. Kingsbury	G. W. Kingsbury	Printing school blanks
16	12.50	July 10	July 10	I. T. Gore	I. T. Gore	Second quarters salary as Auditor
17	29.25	" 10	" 10	J. L. Kelley	J. L. Kelley	Money advanced for transportation of arms &c.
18	2.35	Aug. 9	outstanding	John Thompson	Unpaid	Transportation on books
19	12.50	Oct. 1	Nov. 18	I. T. Gore	Geo. H. Hand	Third quarters salary as Auditor
20	12.50	" 1	" 18	M. K. Armstrong	M. K. Armstrong	Second quarters salary as Treasurer
21	12.50	Nov. 18	outstanding	M. K. Armstrong	Unpaid	Third quarters salary as Treasurer
Total Disbursements						\$357.75.

## RECAPITULATION.

Total receipts since January 1, 1867 . . . . .	\$357.75
Total disbursements . . . . .	\$386.49
Balance in Treasury . . . . .	\$28.74
Amount of outstanding warrants Nos. 18 and 21 . . . . .	\$14.85
Assets in treasury above all outstanding indebtedness . . . . .	\$13.89

Respectfully submitted,

**M. K. ARMSTRONG,***Territorial Treasurer.*

On the motion of Mr. Moody ;

*Ordered* That 1000 copies of the report of the superintendent of public instruction, and 500 copies of the reports of the auditor and treasurer, be printed for the use of the house.

On the motion of Mr. Jolley,  
The house then adjourned.

**ENOS STUTSMAN,***Speaker.**Attest:***H. J. BRISBINE,***Chief Clerk, pro tem.*


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**FOURTH DAY.**


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HOUSE OF REPRESENTATIVES, }  
Thursday, December 5, 1867. }

The house met pursuant to adjournment, and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Brown and Whitehead.

The journal of yesterday was then read and approved.

Mr. P. H. Halnan, chief clerk elect, and Mr. Silas W. Kidder, assistant clerk elect, made their appearance and were then sworn in by the speaker,

Whereupon, they entered immediately upon the discharge of the duties of their respective offices.

The speaker then announced the following standing committees :

#### STANDING COMMITTEES.

*Ways and Means*—Messrs. Curry, Brady, Hoyt, Kegan and Thompson.

*Judiciary*—Messrs. Jolley, Gregory, Moody, Dewitt and Gore.

*Railroads*—Messrs. Gregory, Dewitt, Brown, Moody, Tucker, Blair and Watson.

*Public Lands*—Messrs. Cummings, Shaw and Fallas.

*Federal Relations*—Messrs. Gore, Bronson and Farris.

*Education*—Messrs. Moody, Gregory and Jolley.

*Towns and Counties*—Messrs. Ryan, Gunderson and Brauch.

*Military Affairs*—Messrs. Farris, Hanson and Nelson.

*Incorporations*—Messrs. Bronson, Curry and Brown.

*Agriculture*—Messrs. Watson, Tucker and Brauch.

*Manufactures*—Messrs. Blair, Brady and Kegan.

*Elections*—Messrs. Dewitt, Cummings, Shaw, Hoyt and Thompson.

*Indian Affairs*—Messrs. Gregory, Bronson and Ryan.

*Public Buildings*—Messrs. Hoyt, Fallas and Cummings.

*Public Printing*—Messrs. Gore, Brauch and Brown.

*Highways, Ferries and Bridges*—Messrs. Kegan, Watson and Fallis.

*Mines and Minerals*—Messrs. Curry, Shaw and Moody.

*Engrossment*—Messrs. Jolley, Farris and Dewitt.

*Enrollment*—Messrs. Hoyt, Brady and Ryan.

The following communication from Adjutant General J. L. Kelly was then read:

ADJUTANT GENERAL'S OFFICE. }  
YANKTON, D. T., December 4, 1867. }

*To the Honorable House of Representatives of the Legislative Assembly of Dakota Territory:*

Owing to the throng in the printing office, I regret to say, that my report will not be ready before to-morrow morning, (December 5th.)

I have the honor to be,

Very Respectfully,

J. L. KELLY,

*Adjutant General Dakota Ter'y.*

The speaker laid before the house the report of the adjutant general of the Territory, which was read as follows, viz:

ADJUTANT-GENERAL'S REPORT.

HEADQUARTERS DAKOTA MILITIA, }  
ADJUTANT-GENERAL'S DEPARTMENT. }  
YANKTON, D. T., Dec. 1st, 1867.

To His EXCELLENCY, A. J. FAULK,  
*Governor Dakota Territory.*

SIR.— I have the honor to submit to your excellency, this, my first annual report of all matters coming within this department for

the year 1867, as required by law, showing the various organizations furnished by the Territory since the commencement of my term of office, and exhibiting the transactions as much in detail as may be necessary for public information.

In response to an unexpected appointment, I entered on the duties of this office on the 14th day of March last.

On the 11th day of the same month, your excellency made a requisition upon the secretary of war, for one thousand (1000) stand of Smith's carbines, and one hundred thousand (100,000) round of carbine ammunition for the use of this Territory, under the law of congress, approved, April 7th, 1866, and chargeable to the Territory on account of its quota now due, or to become due, under the act of congress, approved, April 23d, 1868, for arming and equipping the militia.

On the 15th of the same month, a requisition was made by your honor for four hundred (400) cavalry saddles, four hundred (400) curb bridles, one hundred (100) army revolvers, and ten thousand (10,000) rounds of revolver and carbine ammunition, under the law of congress, approved, April 23d, 1868, and were duly received by me on the 14th and 21st days of May last.

The arms and other stores, so furnished to the Territory, amount to \$38,625,00, from which being deducted \$11,083,91, now credited to the Territory, on account of its quota under the law of 1868, it is now in excess of its quota to the amount of \$27,541,09, to be charged against the quota of the Territory to become due under the law of congress, approved, April 23d, 1868.

In response to your suggestions to the sixth annual-session of the legislative assembly of the Territory of Dakota, and to the proclamation of the 13th day of April, 1867, by Hon. S. L. Spink, as acting-governor, calling for the people to organize into companies for home protection against a threatened invasion of the hostile Indians; the following companies were organized as follows, viz :

RANK.	OFFICERS AT ORGANIZATION.	DATE OF RANK.	STRENGTH OF ORGANIZATION.
<i>Co. "A," Bon Homme county, 1867.</i>			
Captain,	W. A. Burleigh,	June 15,	52
1st Lieut.,	Nathan W. Daniels,	June 15,	
2d Lieut.,	Geo. W. Owens,	June 15,	52
<i>Co. "B," Clay county,</i>			
Captain,	Nelson Miner,	June 22,	
1st Lieut.,	Franklin Denison,	June 22,	
2d Lieut.,	John L. Jolley,	June 22,	100
<i>Co. "C," Yankton county,</i>			
Captain,	Geo. A. McLeod,	June 25,	
1st Lieut.,	A. M. English,	June 25,	
2d Lieut.,	C. B. Wing,	June 25,	90
<i>Co. "D," Yankton county,</i>			
Captain,	C. W. Batcheller,	July 2,	
1st Lieut.,	H. H. Smith,	July 2,	
2d Lieut.,	C. H. Brured,	July 2,	60
<i>Co. "E," Todd county,</i>			
Captain,	J. A. Lewis,	July 30,	
1st Lieut.,	Fred W. Edgar,	July 30,	
2d Lieut.,	John Collins,	July 30,	30
<i>Co. "F," Yankton county,</i>			
Captain,	W. W. Benedict,	July 6,	
1st Lieut.,	C. G. Irish,	July 6,	
2d Lieut.,	W. Leaning,	July 6,	41
<i>Co. "G," Union county,</i>			
Captain,	Harvey Fairchild,	July 20,	
1st Lieut.,			
2d Lieut.,			85
<i>Co. "H," Union county,</i>			
Captain,	Thomas C. Watson,	July 20,	
1st Lieut.,	W. H. H. Fate,	July 20,	
2d Lieut.,	H. J. Corykendall,	July 20,	80

These companies comprise in the aggregate 538 men, all of which, with the exception of company "E," have received the necessary amount of arms, ammunition and equipments, according to the strength of the company.

The following officers were also appointed, who, with the Governor comprise the present roster of the Dakota militia, viz:

*Governor and Commander-in-Chief,*

A. J. FAULK.

*Adjutant General,*

JAMES L. KELLY.

*Quartermaster General,*

D. M. MILLS—*Brig. Gen.*

*Paymaster General,*

JOHN L. JOLLEY—*Colonel.*

*Aid-de-camp to the Governor,*

JOHN LAWRENCE—*Colonel.*

Inventory of arms, ammunition, and horse equipments on hand May 21st, 1867, the number issued to organized companies, and the number remaining on hand Dec. 1st, 1867.

*Smith's Carbines,*

Number on hand May 21st, 1867,	1000
Number issued,	525
	<hr/>
Number on hand December 1st, 1867,	475

*Revolvers,*

Number on hand May 21st, 1867,	100
Number issued,	95
	<hr/>
Number on hand December 1st, 1867,	5

*Carbine ammunition,*

Number of rounds on hand May 21st, 1867,	100,000
Number issued,	39,000
	<hr/>
Number on hand December 1st, 1867,	61,000

*Revolver ammunition,*

Number of rounds on hand May 21st, 1867,	10,000
Number issued,	8,000
	<hr/>
Number on hand December 1st, 1867,	2,000

*Horse equipments—cavalry saddles,*

Number on hand May 21st, 1867,	400
Number issued,	395
	<hr/>
Number on hand December 1st, 1867,	5

*Curb bridles,*

Number on hand May 21st, 1867,	400
Number issued,	395
	<hr/>
Number on hand December 1st, 1867,	5

The arms and ammunition remaining on hand, are without a suitable building for their safe keeping, and I most respectfully recommend to your excellency, the propriety of the Legislature appropriating a small annual amount, sufficient to defray the expense of storing the same, or to erect a building for that purpose.

When these arms were received by me in May last, I was at a loss for some time to know where to store them. Through the kindness, however, of Hon. W. A. Burleigh, I was permitted to store the greater portion of them in his ware room, and the balance I was compelled to store in the back room of the executive office, where they are at the present time, without any protection whatever, from Indians, or any persons that might see fit to supply themselves, for which, I am not responsible.

The arms and ammunition, (twenty-nine tons, including two six pound brass field pieces,) that were shipped from the St. Louis arsenal by the government to this Territory, and were received and receipted for by Gov. Jayne, in the month of November, 1862, a portion of which are still in the hands of the disbanded militia throughout the Territory, and can be collected by order at any time.

In the month of December, 1862, a large portion were in store at Yankton and Vermillion, including fifteen boxes of shot and shell, 120 Prussian muskets, and 60,000 rounds of musket ammunition. Since which time, all the ammunition and the greater portion of the arms have been lost or destroyed for want of some suitable place to

store them. The two brass field pieces, one at Yankton and one at Vermillion, are standing out exposed to the weather, and unless something is done, by which they can be collected together and stored in some suitable place, they will in a short time be unserviceable.

The muster and descriptive roll of Co. "G," was forwarded to Capt. Fairchild, with instructions from this office, to enter on such names as have enlisted since the roll was made out, and return by mail without delay. But as yet, nothing has been received, consequently I am unable to give the names of his two Lieutenants. With regard to the strength of his company I am not certain, not having received any returns.

Since the organization of Co. "B," John L. Jolley, who was elected 2d Lieutenant of said company, has been appointed and commissioned by your excellency, Paymaster General with the rank of Colonel.

The inequality existing in the distribution of the cavalry saddles and navy revolvers, is to be regretted; but the circumstances then existing, precluded the possibility of a more equal arrangement. The first companies formed were organized, by their own choice, as cavalry, claiming cavalry equipments, to which I readily acceded under the impression, which was commonly entertained at that time, that not more than four or five companies, at most, would organize. In this I was very agreeably disappointed, as, up to the 20th July last, muster and descriptive rolls for eight companies were presented, three of which are without their proportion of these equipments as cavalry companies. This inequality is altogether unavoidable, and must exist, if all prefer to be cavalry, until a new requisition by the Governor enables me to make up the deficiency.

I have the honor to be,

Very respectfully,

Your obedient servant,

J. L. KELLY,

*Adjutant General, Dakota.*

On the motion of Mr. Gregory,

*Ordered,* That the report of the adjutant general, be printed together with the reports of the auditor and treasurer.

The following communication from the Hon. Secretary of the Territory was then read, as follows :

SECRETARY'S OFFICE, }  
 YANKTON, D. T., December 5, 1867. }

*To the Honorable, the Speaker and Members of the House of Representatives :*

GENTLEMEN :—I have the honor to inform you that I will furnish to each member, and the clerk, and assistant clerk, of your house, five copies of the *Dakota Republican* and the same number of the *Dakotaian* during the session.

I have the honor to be,

Most Respectfully,

Your Ob't. Serv't.

S. L. SPINK,

*Secretary of Dakota Ter'y.*

Mr. Jolley from the special committee on joint rules submitted the following report :

MR. SPEAKER.—Your committee on joint rules appointed to act with a like committee on the part of the council, have performed the duty assigned to them, have agreed upon the following rules, and have instructed me to report the same with the recommendation that they be adopted.

#### JOINT RULES

1. In every case of disagreement between the two houses, if either house request a conference, and appoint a committee for that purpose, the other house shall appoint a committee to confer therewith upon the subject of their disagreement. They shall meet at a convenient time to be agreed upon by their chairman, and having conferred freely, each shall report to their respective house the result of their conference.

2. When a message shall be sent from either house to the other, it shall be announced at the door of the house to which it is sent, by the doorkeeper thereof, and shall be respectfully communicated to the chair by the person by whom it was sent.

3. All messages between the two houses shall be communicated by the secretary or chief clerk, or their respective assistants.

4. When a bill shall have passed both houses, it shall be duly enrolled by the enrolling clerk of the house in which it origina-

ted and the fact of its origin shall be certified by the endorsement of the secretary or clerk thereof.

5. When bills are enrolled they shall be examined by a joint committee of three from the council and three from the house of representatives, who shall be a standing committee for that purpose, and who shall carefully compare the enrollment with the engrossed bills, as passed in the houses, correct any errors therein, and make report thereof forthwith to their respective houses.

6. After said report, each bill shall be signed, first by the speaker of the house of representatives, and then by the president of the council, in the presence of their respective house, and attested by the secretary and chief clerk.

7. After the bill shall have been thus signed in each house, it shall be presented by said committee to the Governor for his approval, and they shall forthwith report the day and hour of presentation, which shall be entered upon the journal of the house in which the bill originated.

8. All joint resolutions and memorials to Congress, to the President of the United States, to the heads of departments, or to any other person or persons, after they shall have passed both houses, shall be carefully enrolled, signed by the speaker of the house of representatives and the president of the council, and attested by the secretary and chief clerk, and before being transmitted to the secretary of the Territory for safe keeping, shall be carefully copied by the enrolling and engrossing clerk, and such copies after being attested by the presiding officers of each house, and the secretary of the council, and the chief clerk of the house, shall be forwarded by the presiding officer of the house in which they originated to the President of the United States, or the Speaker of the House of Representatives of Congress, or to the person or persons to whom they are intended to be sent.

9. When any bill, joint resolution, or memorial which shall have passed one house, is rejected in the other, notice of said rejection shall be given to the house, which passed the same.

10. When a bill, joint resolution, or memorial which shall have passed one house, is rejected in the other, it shall not be again introduced during the session without five days notice, and leave of two thirds of the members voting thereon.

11. Each house shall transmit to the other, with any bill, resolution or memorial, all papers upon which the same shall be founded.

12. When each house shall have adhered to their disagreement, a bill or resolution is lost.

13. When any bill or resolution, which may have passed one house, is ordered printed by the other, a greater number of copies shall not be printed than is necessary for the use of the house making the order. When any other bill or resolution shall be ordered printed by either house, a sufficient number of copies shall be printed for the use of both houses.

14. It shall be the duty of the chief clerk of the house of representatives, and secretary of the council, when any document, except bills and resolutions, is ordered to be printed in their respective houses, forthwith to communicate such order to the other house.

15. On all questions in joint convention of the two houses, the names of the members shall all be arranged in alphabetical order, and they shall be called upon to vote in the order in which they stand arranged.

On the motion of Mr. Moody,

The report was adopted and the committee discharged.

Mr. Moody gave notice that on to-morrow or some subsequent day of the session, he will ask leave to introduce a bill to amend chapter 8 of the laws of 1865 and 1866, entitled "an act exempting certain property from execution, &c."

By leave, Mr. Jolley introduced house file No. 2, entitled a bill to simplify and abridge the practice, pleadings and proceedings of the courts of this Territory.

On the motion of Mr. Moody

The rules were suspended,

The bill read the first time by its title.

Upon leave, Mr. Moody introduced house file No. 3, entitled a bill for an act to enforce mechanic's liens on buildings,

The bill was read the first time.

Upon leave, Mr. Moody also introduced house file No. 4, entitled a bill for an act to amend chapter 10 of the session laws of 1866-7.

The bill was read the first time.

House file No. 1, entitled an act in relation to town sites entered as such under the act of congress approved March 2, 1867,

Was then taken from the table, and  
 On the motion of Mr. Moody  
 The rules were suspended, and  
 The bill read the second time by its title, and  
 On the motion of Mr. Hoyt  
 The bill was referred to the committee on towns and counties.

There being no further business before the house,  
 On the motion of Mr. Moody  
 The house adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest :*

P. H. HALNAN,  
*Chief Clerk.*

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## FIFTH DAY.

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HOUSE OF REPRESENTATIVES. }  
 Friday, December 6, 1867. }

The house met pursuant to adjournment, and was called to order by

The speaker in the chair,  
 Prayer by the chaplain,  
 Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Brown and Whitehead.

The journal of yesterday was then read and approved.

Mr. Jolley gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill relative to the challenging of jurors in civil and criminal cases.

By unanimous leave, Mr. Jolley introduced house file No. 5, entitled a bill for an act respecting grand and petit jurors of the district court,

Which was read the first time.

By leave, Mr. Jolley also introduced house file No. 6, entitled a bill for an act for the challenging of jurors in civil and criminal cases,

Which was read the first time.

By leave, Mr. Moody introduced house file No. 7, entitled a bill providing that the exemption law, approved, January 9, 1865 and 1866, shall apply only to residents of this Territory,

Which was read the first time.

The following communication from the council was then read :

COUNCIL CHAMBER, }  
December 6, 1867. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council has adopted the following resolution :

*Resolved*, That a committee of one from each county be appointed to act with a like committee on the part of the house to report on the mineral agricultural and manufacturing resources of this Territory,

And that Messrs. Brookings of Yankton, Kellogg of Union, Hampton of Clay, Thomas of Charles Mix, Fraley of Bon Homme and Lewis of Todd, have been appointed as such committee.

GEO. I. FOSTER.

*Secretary.*

Mr. Farris moved that the speaker appoint a like committee to act with the committee of the council,  
Which motion prevailed,

Whereupon, the speaker named Messrs. Farris of Union, Jolley of Clay, Moody of Yankton, Kegan of Bon Homme, Dewitt of Charles Mix and Gregory of Todd, as such committee.

*Ordered,* That the chief clerk inform the council of the action of the house, with reference to said committee.

House file No. 2, entitled a bill to simplify and abridge the practice, pleadings and proceedings of the courts of this Territory,

Was then taken from the table, and  
On the motion of Mr. Jolley  
The rules were suspended, and  
The bill read the second time by its title, and  
On the motion of Mr. Jolley  
The bill was referred to the committee on judiciary.

House file No. 3 was then taken from the table and  
On the motion of Mr. Moody,  
The rules were suspended, and  
The bill read the second time by its title, and  
Referred to the committee on judiciary.

House file No. 4, was then taken from the table and  
Read a second time, and  
Upon the motion of Mr. Moody  
It was ordered engrossed for a third reading.

There being no further business before the house,  
On the motion of Mr. Kegan,  
The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALNAN,  
*Chief Clerk.*

## SIXTH DAY.

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HOUSE OF REPRESENTATIVES, }  
 Saturday, December 7, 1867. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,  
 Prayer by the the chaplain,  
 Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Brown, Gregory and Whitehead.

The journal of yesterday was then read and approved.

Mr. Hoyt presented the petition of John Lawrence and others.

Which was read as follows :

*To the honorable Legislative Assembly of Dakota Territory :*

We the undersigned respectfully ask that your honorable body pass a law in relation to townsites entered as such under the act of Congress, approved March 2, 1867, in substance as contained in the accompanying, bill, and as in duty bound we will ever pray.

[SIGNED]—John Lawrence, Franklin Wixson, William Miner, D. T. Bramble, William Borden, R. T. Hoyt, L. Congleton, L. W. Case, James S. Foster, Wm. N. Collamer.

On the motion of Mr. Moody,

The petition was referred to the committee on towns and counties.

Mr. Ryan from the committee on towns and counties submitted the following report, viz :

MR. SPEAKER.—Your committee on towns and counties have had under consideration house file No. 1, entitled an act in relation to townsites entered as such under the act of Congress approved March 2, 1867; have agreed upon a substitute for said bill and have instructed me to report the same back to the house with the recommendation that it be adopted.

Mr. Moody moved that the report be adopted.

Which motion prevailed, and

On motion of Mr. Moody,

The bill was ordered engrossed for a third reading.

Mr. Jolley from the committee on judiciary submitted the following report :

MR. SPEAKER.—Your committee on judiciary have had under consideration house file No. 3, entitled a bill to enforce mechanics lien's on buildings, and have agreed upon the amendment attached and have instructed me to report the same with the recommendation that it be adopted, and that the bill do pass.

The amendment was then read as follows, viz :

Amend section 9 by striking out all between 1862, on the second line of said section, and provided on the fourth line and substituting in lieu thereof "entitled an act to create a lien for mechanics in certain cases is hereby repealed."

And the question being put "will the house agree thereto?"

It was decided in the affirmative,

So the amendment was adopted, and

On motion of Mr. Moody,

The bill was engrossed for a third reading.

Mr. Jolley from the committee on engrossment submitted the following report :

MR. SPEAKER.—Your committee on engrossment have examined house file No. 4, entitled a bill to amend chapter 10 of

the session laws of 1866 and 1867, and have instructed me to report the same back as correctly engrossed.

On the motion of Mr. Moody,  
House file No. 1 (substitute) was ordered printed.

Mr. Moody gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill, entitled a bill for an act incorporating the Dakota hall and associate mission school.

House file No. 6 was then taken from the table, and  
On motion of Mr. Jolley,  
The rules were suspended, and  
The bill read the second time by its title, and  
On the motion of Mr. Jolley,  
The bill was referred to the committee on judiciary.

House file No. 7 was then taken from the table, and  
On the motion of Mr. Moody,  
The rules were suspended, and  
The bill read the second time by its title, and  
On motion of Mr. Moody,  
The bill was ordered engrossed for a third reading.

House file No. 4, entitled an act to amend chapter 10 of the session laws of 1866 and 1867, was then taken from the table, and

Read the third time, and

The question being upon its passage, it was put "shall the bill pass?"

It was decided in the affirmative.

Ayes 23; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed, and

The question being upon agreeing to the title of the bill,

Upon the motion of Mr. Moody,

The title was amended by adding the following words thereto; "By striking the word 'white' therefrom."

*Ordered*, That the chief clerk transmit the bill to the council requesting their concurrence therein.

On the motion of Mr. Moody,

The consideration of general order was postponed to two o'clock P. M., this day, and

On the motion of Mr. Dewitt,

The house took a recess to two o'clock, P. M.

AFTER RECESS.

At two o'clock, P. M.,

The speaker resumed the chair and called the house to order.

There being a quorum present,

On the motion of Mr. Moody,

The house resolved itself into the committee of the whole house on general order,

Mr. Moody in the chair,

And after some time spent in the consideration of the general order, the committee rose, and through its chairman reported as follows:

MR. SPEAKER:—The house in committee of the whole house have had under consideration the general order, to-wit; the Governors' message, have instructed me to report the following recommendations:

That all that part of the message under the head of Our Industrial Interests, be referred to the committee on ways and means.

That all that part of the message under the head of Indian Relations, be referred to the committee on Indian Affairs.

That all that part of the message under the head of Territorial Library, be referred to the committee on education.

That all that part of the message under the head of Territorial Arms and Armory, be referred to the committee on military affairs.

That all that part of the message under the head of Education, be referred to the committee on education.

That all that part of the message under the head of Our Railroads, be referred to the committee on railroads.

That all that part of the message under the head of Laramie County, be referred to the committee on education.

That all that part of the message under the head of Modification of Laws, be referred to the committee on judiciary.

That all that part of the message under the head of Public Buildings, be referred to the committee on public buildings.

That all that part of the message under the head of Homestead Law, be referred to the committee on public lands.

And that all that part of the message under the head of Western Dakota and the Indian Policy, remain as the general order in committee of the whole house.

And the committee ask leave to sit again.

On motion of Mr. Watson,

The report was adopted, and leave granted.

Mr. Moody submitted the following resolution :

*Resolved*, That a committee of two be appointed by the speaker, to confer with a like committee on the part of the council, upon the subject of the appointment of an enrolling clerk, in common for both houses.

On the motion of Mr. Jolley,

The resolution was adopted.

Whereupon the speaker named Messrs. Moody and Watson as such committee.

*Ordered*, That the chief clerk inform the council of the action of the house upon said resolution.

On motion of Mr. Farris,

The house then adjourned.

ENOS STUTSMAN,

*Speaker.*

*Attest :*

P. H. HALNAN,

*Chief Clerk.*

## EIGHTH DAY.

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HOUSE OF REPRESENTATIVES, }  
Monday, December 9, 1867. }

The house met pursuant to adjournment, and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to the names:

Messrs. Brady, Blair, Brown, Brauch, Cummings, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Brown, Curry, Gregory, Ryan and Whitehead.

Journal of the 7th inst., read and approved.

Mr. Gunderson, from the committee on towns and counties, submitted the following report:

MR. SPEAKER:—Your committee to whom was referred the petition of John Lawrence and others, asking for the passage of a bill relating to town sites, beg leave to report the same back without recommendation, inasmuch as there is now a bill upon that subject pending in this house, we therefore recommend that the petition lie upon the table.

On motion of Mr. Hoyt,

The report was adopted.

On motion of Mr. Moody,

The vote on the seventh inst., whereby house file No. 1, en-

titled an act in relation to town sites entered as such under the act of Congress, March 2d, 1867, was ordered engrossed for a third reading, was reconsidered.

Mr. Moody then offered the following amendment to said bill :

Amend by adding to section seventeen, as follows :

*Provided further,* That said adverse claimants shall within thirty days from the taking effect of this act, make known their claims to the particular lot or lots, by filing notice thereof in the office of the register of deeds of Yankton county, and serving a copy thereof upon said Fuller, and the person to whom he may have conveyed."

And the question being put, "will the house agree thereto?"

It was decided in the affirmative.

So the amendment was adopted, and

On the motion of Mr. Moody,

The bill was ordered engrossed for a third reading.

Mr. Bronson submitted the following resolution :

*Resolved,* That the use of this hall be tendered to the Dakota Historical Society on Tuesday evening next, for the purpose of listening to the address of his honor Judge J. P. Kidder, on "The prominent characteristics of New England Civilization."

On the motion of Mr. Moody,

The resolution was adopted.

Mr. Jolley submitted the following resolution :

WHEREAS, The hon. Secretary of the Territory has (as we are informed) furnished the council chamber with a clock said to be a perfect time keeper, and

WHEREAS, No such useful and ornamental article of furniture has been furnished the hall of representatives, and

WHEREAS, We are confident that this seeming discrimination on the part of the hon. Secretary has only been an oversight, therefore,

*Resolved,* That the speaker be requested to address a note to the hon. Secretary requesting him to furnish a good time keeper for the use of this hall.

On the motion of Mr. Kegan,

The resolution was adopted.

Mr. Brauch submitted the following resolution :

*Resolved*, That the use of this hall for to-morrow evening be granted to the members of the legislature for the purpose of holding a railroad meeting.

On the motion of Mr. Moody,  
The resolution was adopted.

Mr. Jolley gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill entitled a bill regulating the sale of spirituous liquors.

Also, a bill concerning licenses.

Mr. Blair gave notice that he will on to-morrow, or some subsequent day of the session, ask leave to introduce a bill entitled an act to amend section 7 and 8, of chapter 10 of session laws of 1866-7.

Mr. Brauch gave notice that he will on to-morrow, or some subsequent day of the session, ask leave to introduce a bill entitled a bill for an act relating to settlers upon land without the legal title thereto.

On leave, Mr. Moody introduced house file No. 8, entitled a bill for an act for the incorporation of manufacturing and mining companies, and companies for mechanical, chemical and building purposes,

Which was read the first time.

Mr. Moody also introduced house file No. 9, entitled a bill for an act incorporating the Dakota hall and associate mission school,

Which was read the first time.

Mr. Jolley from the committee on engrossment submitted the following report :

MR. SPEAKER.—Your committee on engrossment have examined house file No. 1, (substitute) entitled a bill in relation to town sites entered as such under act of congress approved March 2, 1867; and house file No. 3, entitled a bill to enforce mechanics liens on buildings; and house file No. 7, entitled a bill providing that the exemption law approved, January 9, 1866, of the session laws of 1865-6, shall apply only to resi-

dents of this Territory ; and have instructed me to report the same back as correctly engrossed.

House file No. 5, entitled an act respecting grand and petit jurors of the district courts, was then taken up, and

On the motion of Mr. Jolley,

The rules were suspended, and

The bill read the second time by its title, and

On the motion of Mr. Jolley,

The bill was referred to the committee on judiciary.

House file No. 1, entitled an act in relation to town sites entered as such under the act of congress approved, March 2, 1867, was then taken up, and

Read the third time.

The question being upon its passage, and it being put, "shall the bill pass?" it was decided in the affirmative,

Ayes 21 ; noes none ; as follows :

Those voting in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Cummings, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed, and

The question being upon agreeing to the title of the bill

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the council requesting their concurrence therein.

House file No. 3, entitled a bill for an act to enforce mechanic's liens on buildings, was then taken up, and

Read the third time.

The question being upon its passage and it being put "shall the bill pass?" it was decided in the affirmative.

Ayes 21; noes none; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Cummings, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan,

Moody, Nelson, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed,

And the question being upon agreeing to the title of the bill,

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the council, requesting their concurrence therein.

The following message from the council was then read :

COUNCIL CHAMBER,  
Monday, December 9, 1867. }

MR. SPEAKER.—I am instructed to inform your honorable body that in response to your message of this day, the council did by motion provide for the appointment of a committee of two, to confer with your committee upon the subject of the appointment of an enrolling clerk in common for both houses, and that Mr. Brookings and Carpenter have been appointed as such committee on the part of the council.

GEO. I. FOSTER,  
*Secretary.*

House file No. 7, entitled a bill providing that the exemption laws approved, January 9, 1866, of the session laws of 1865-6 shall apply only to residents of the Territory, was then taken up, and

Read the third time.

The question then being upon its passage, and it being put "shall the bill pass?" it was decided in the affirmative,

Ayes 21; noes none; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Cummings, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Shaw, Thompson, Tucker, Watson and Mr. Speaker,

None voting in the negative,

So the bill was passed.

The question being upon agreeing to the title of the bill,

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the council, requesting their concurrence therein.

On the motion of Mr. Moody,  
The consideration of the general order was postponed to Saturday next at 11 o'clock, A. M.

On the motion of Mr. Brauch,  
The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALNAN,  
*Chief Clerk.*

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## NINTH DAY.

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HOUSE OF REPRESENTATIVES, }  
Tuesday, December 10, 1867. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names:

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Gregory and Whitehead.

The journal of yesterday was then read and approved.

Mr. Moody then presented the petition of Hodgmaer & Bro., and others of Cheyenne City, which was read as follows :

*To the Legislative Assembly of the Territory of Dakota :*

Your petitioners, citizens of Cheyenne, Dakota Territory, would respectfully represent :

1. That the said city of Cheyenne is at the present time and has been up to the present time without a proper and legally organized government. The men assuming to act as city officers having been selected when there were but few residents of the place, at which election, soldiers of the regular army, miners and whoever pleased was allowed to vote ; further, said election was intended to be provisional only and to supply a much needed want of some government until the meeting of the legislative assembly.

2. That by the charter under which the said election was held, and in accordance with the provisions of which men have acted as officers of said city, judicial officers were created which are not authorized by the Organic act of this Territory.

We would therefore respectfully petition this legislative assembly to pass, at as early a day as practicable, the charter for this city, appended to this petition, or some similar one, and we would petition this legislative assembly to declare by bill or otherwise that those acts of the acting city government and those only done and performed in a manner or by an authority not in conflict with the organic act and the laws of this Territory be declared to be legal and binding, and that the present acting city officers shall render a full and accurate account of all their doings in their several offices to the persons solicited as city officers at the election provided for in sections 8 and 9 of said charter.

[SIGNED.]—Hodgmaer & Bro., and thirty others.

Mr. Moody also presented petition of A. B. More and twenty-two others, citizens of Laramie county, which was then read as follows :

*To the honorable Legislative Assembly of the Territory of Dakota :*

Your petitioners citizens of Laramie county in said Territory, would respectfully represent :

*First.* That the election held on the 8th of October, 1867, in and for the county of Laramie as organized under an act entitled "an act to create and establish the county of Laramie" approved January 9, 1867, was irregular and illegal, and not pretended to be in accordance with the provisions of said act, since the said election was called by a small meeting of interested parties, and commissioners were by them selected who appointed judges and clerks of the election, and made rules for the regulation of the same, and further, a notice of 10 days as required by law was not given.

*Secondly.* That since the organization of this county, one year ago, settlements have been made in the western section of this county, and the people there have assumed to organize a county embracing exactly the same extent of Territory as the organized county of Laramie, and it will be necessary to provide some way to prevent a conflict of authority.

*Thirdly.* The distance of the two sections from each other will render it expensive, inexpedient, if not impossible to serve process of the courts of this section in the new settlements.

*Therefore,* We would respectfully petition this legislative assembly to declare the aforesaid act and all elections held or assumed to have been held, under said act, to be null and void.

And we would respectfully petition this legislative assembly to pass the following or similar acts at as early a day as practicable, viz :

An act to create and establish the county of Laramie.

Section 1. Boundaries of Laramie county ; names of officers appointed by this act.

Sec. 2. Notaries public may be appointed for said county.

Sec. 3. County seat at Cheyenne City.

Sec. 4. County entitled to one member of the council and two members of the house of representatives.

Sec. 5. When the act shall take effect.

Also an act to create and establish the county of Sweet Water.

And we your petitioners will ever pray.

[SIGNED.]—A. B. More and twenty-one others.

On the motion of Mr. Moody,

The above petition, and accompanying papers were referred to the committee on Judiciary, with instructions to report upon the same by bills or otherwise.

Mr. Jolley from the committee on judiciary submitted the following report:

MR. SPEAKER.—Your committee on judiciary having had under consideration house file No. 6, entitled “an act relating to challenging of jurors in civil and criminal cases,” have instructed me to report the same back to the house with the recommendation that the bill do pass.

Mr. Jolley from the same committee also submitted the following report:

MR. SPEAKER.—Your committee on judiciary having had under consideration house file No. 5, entitled an act “respecting grand and petit jurors” have agreed upon the amendments attached numbered 1, 2, 3, 4, and 5, and have instructed me to report the same back to the house with the recommendation that the bill as amended do pass.

The amendments were then read, as follows:

Number 1. Amend section 11 by inserting the words “or if no jury is drawn as above provided” between the words “complete” and “the” on the fourth line.

No. 2. Add the following as section 12:

“Whenever the panel of the petit jurors shall be exhausted by the challenging of either party in any action the judge of the court shall order the sheriff, deputy sheriff, or coroner, to summons without delay a sufficient number of persons possessing the qualifications of jurors as before provided to complete the number required for a jury in that particular case.”

No. 3. Amend section 14 by inserting the words “in this regarding the provisions of this act.” Between the words

“contempt” on the twenty-sixth line and the word “May” on the twenty-seventh line.

No. 4. Amend section 15 by striking out the words “one dollar and fifty cents” on the second and third lines and by inserting in lieu thereof the words “two dollars.”

No. 5. Strike out all of section 16 and insert in lieu thereof, Chapter fifty-two of the session laws of 1862, and chapter twenty-six of the session laws of 1862-3, and all other acts and parts of acts in conflict with the provisions of this act are hereby repealed.

On the motion of Mr. Moody,  
The amendments reported were adopted, and

On the motion of Mr. Jolley,  
House file No. 5 was ordered engrossed for a third reading.

Also on the motion of Mr. Jolley,  
House file No. 6 was ordered engrossed for third reading.

Mr. Moody from the select joint committee submitted the following report:

Mr. SPEAKER.—Your select committee appointed to confer with a similar committee on the part of the council upon the subject of the appointment of an enrolling clerk, in common for both houses, beg leave to report that they have held such conference with the committee on behalf of the council, and have agreed to recommend the appointment of such enrolling clerk, to be paid by the territorial treasurer, and have further agreed to recommend H. J. Brisbane, for such appointment.

The following message from the council was then read:

COUNCIL CHAMBER, }  
Tuesday, December 10, 1867. }

Mr. SPEAKER.—I have the honor to inform your honorable body, that the council has unanimously passed house file No. 4, a bill to amend chapter 10 of the session laws of 1866-7, by striking the work white therefrom, which bill I herewith transmit.

GEO. I. FOSTER,  
*Secretary.*

On the motion of Mr. Kegan,  
Mr. Brown was excused for unavoidable absence on Friday,  
Saturday and Monday last.

On motion of Mr. Farris,  
Messrs. Curry and Ryan were excused for unavoidable ab-  
sence on yesterday.

On the motion of Mr. Thompson,  
Mr. Gregory was excused for non attendance on account of  
sickness.

Mr. Dewitt moved that the house do now proceed to the elec-  
tion of an enrolling clerk,  
Which motion prevailed,  
Whereupon, Mr. Dewitt nominated H. J. Brisbine for such  
office.

And there being no other nomination made and a vote being  
taken,

Mr. Brisbine received 24 votes, as follows:

Those who voted for Brisbine. are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings,  
Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt,  
Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker,  
Watson and Mr. Speaker.

Mr. Brisbine having received all the votes cast, he was de-  
clared duly elected enrolling clerk of the house.

He then presented himself at the speaker's desk and took the  
oath of office, and entered upon the discharge of his official  
duties.

Mr. Jolley from the committee on engrossment submitted the  
following report:

MR. SPEAKER.—Your committee on engrossment, have ex-  
amined house file No. 6, entitled an act relating to challenging  
jurors in civil and criminal cases, and have instructed me to re-  
port the same back as correctly engrossed.

Mr. Gore gave notice that he will on to-morrow or some  
subsequent day of the session, ask leave to introduce a bill for  
an act relating to garnishees.

Mr. Watson gave notice that he will on to-morrow or some subsequent day of the session, introduce a bill for an act to amend chapter 10 of the session laws of 1866-7.

On leave, Mr. Jolley introduced house file No. 10, entitled a bill for an act regulating the sale of spirituous liquors,  
Which was read the first time.

On leave, Mr. Brauch introduced house file No. 11, entitled a bill for an act relating to settlers upon land without a legal title thereto,  
Which was read the first time.

House file No. 8, entitled a bill for an act for the incorporation of manufacturing and mining companies and companies for mechanical and building purposes,  
Was then taken from the table, and  
On the motion of Mr. Moody,  
The rules were suspended, and  
The bill read the second time by its title, and  
On the motion of Mr. Moody,  
The bill was referred to the committee on judiciary.

House file No. 9, entitled a bill for an act incorporating the Dakota hall and associate mission school,  
Was then taken from the table, and  
On the motion of Mr. Mopdy,  
The rules were suspended, and  
The bill read the second time by its title, and  
On the motion of Mr. Farris,  
The bill was referred to the committee on education.

House file No. 6, entitled an act relating to the challenging of jurors in civil and criminal cases,  
Was then taken up, and read the third time.  
The question then being on its passage and being put, "shall the bill pass?" it was decided in the affirmative.  
Ayes 24; noes none; as follows:  
Those who voted in the affirmative, are  
Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings,

Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed,

The question then being on agreeing to the title of the bill,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council, with the request that they concur therein.

*Ordered*, That the chief clerk inform the council of the election of H. J. Brisbane, as enrolling clerk.

On the motion of Mr. Curry,

The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALNAN,  
*Chief Clerk.*

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## TENTH DAY.

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HOUSE OF REPRESENTATIVES, }  
Wednesday, December 11, 1867. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Dewitt, Gregory and Whitehead.

The journal of the 10th inst. was then read, corrected and approved.

Mr. Jolley from the committee on judiciary submitted the following report :

MR. SPEAKER.—Your committee on judiciary to whom was referred house file No. 8, entitled “a bill for an act for the incorporation of manufacturing and mining companies and companies for mechanical, chemical and building purposes,” have had the same under consideration and have instructed me to report the same and recommend that the bill do pass.

On the motion of Mr. Moody,

It was ordered engrossed for a third reading.

Mr. Jolley, from the committee on engrossment submitted the following report :

MR. SPEAKER.—Your committee on engrossment to whom was referred house file No. 5, entitled “an act respecting grand and petit jurors of the district court” have examined the same and have instructed me to report the same as correctly engrossed.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have examined house file No. 4, entitled “an act to amend chapter 10 of the session laws of 1865-7 by striking the word “white” therefrom” and find the same correctly enrolled.

The speaker then signed house file No. 4,

By unanimous leave, Mr. Stutsman introduced house file No. 12, entitled “a memorial to Congress relative to the survey of the public lands on and near the Red River of the North.”

Which was read the first time.

Mr. Jolley from the committee on engrossment submitted the following report :

MR. SPEAKER.—Your committee on engrossment have examined house file No. 8, entitled “a bill for an act for the incorporation of manufacturing and mining companies, and companies for mechanical, chemical and building purposes” and have instructed me to report the same as correctly engrossed.

House file No. 10, entitled “a bill regulating the sale of spirituous liquors,”

Was then taken from the table, and  
On the motion of Mr. Jolley,  
The rules were suspended, and  
The bill was read the second time by its title, and  
On the motion of Mr. Jolley, it was  
Referred to the committee on judiciary.

House file No. 11, entitled “an act relating to settlers upon land without the legal title thereto,”

Was then taken from the table, and  
On the motion of Mr. Moody.  
The rules were suspended, and  
The bill read the second time by its title, and  
Referred to the committee on judiciary.

The following message from the council was then read :

COUNCIL CHAMBER,  
December 11, 1867. }

MR. SPEAKER.—I am instructed to inform your honorable body that the council has passed council bill No. 6, (substitute) entitled a bill to authorize the county commissioners of the several counties in this Territory to build jails, which bill I herewith transmit and respectfully request the concurrence of the house therein.

GEO. I. FOSTER,  
*Secretary.*

House file No. 5, entitled an act respecting grand and petit jurors of the district court,

Was then taken up, and

Read the third time.

The question then being on its passage, and it being put,  
"shall the bill pass?"

It was decided in the affirmative.

Ayes 23; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings,  
Curry, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley,  
Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Wat-  
son and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to the title of the bill

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the council  
requesting their concurrence therein.

House file No. 8, entitled a bill for an act for the incorpora-  
tion of manufacturing and mining companies and companies for  
mechanical, chemical and building purposes, was then taken up,  
and

Read the third time.

On the motion of Mr. Farris,

The further consideration of the bill was postponed until to-  
morrow.

Council bill No. 6, entitled a bill to authorize the county  
commissioners of the several counties in this Territory to build  
jails,

Was then taken from the table, and

Read the first time, and

On the motion of Mr. Moody,

The rules were suspended, and

The bill read the second time by its title, and

Referred to the committee on judiciary.

On the motion of Mr. Farris,  
The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALNAN,  
*Chief Clerk.*

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## ELEVENTH DAY.

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HOUSE OF REPRESENTATIVES. }  
Thursday, December 12, 1867. }

The house met pursuant to adjournment, and was called  
to order by

The speaker in the chair,  
Prayer by the chaplain,  
Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings,  
Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson,  
Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson,  
Tucker, Watson and Mr. Speaker.

Absent, Messrs. Gregory and Whitehead.

The journal of yesterday was then read and approved.

On leave, Mr. Watson introduced house file No. 13, entitled  
a bill to amend chapter 10 of the session laws of 1866 and  
1867.

Which was read the first time.

On leave, Mr. Jolley introduced house file No. 14, entitled  
a bill for an act concerning licenses.

Which was read the first time.

On leave, Mr. Blair introduced house file No. 15, entitled a bill for an act to amend sections 7 and 8 of chapter 10 of session laws of 1866-7.

Which was read the first time.

House file No. 12, entitled a memorial to congress relative to the survey of public lands on and near the Red River of the North,

Was then taken from the table, and

On motion of Mr. Jolley,

The rules were suspended, and

The bill read the second time by its title, and

On the motion of Mr. Jolley, it was

Referred to the committee on public lands.

Under the head of unfinished business, house file No. 8, entitled a bill for an act for the incorporation of manufacturing and mining companies and companies for mechanical, chemical and building purposes,

Was then taken up and it having been read the third time yesterday.

The question being upon its passage, it was put "shall the bill pass?"

It was decided in the affirmative.

Ayes 23; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegau, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed, and

The question being upon agreeing to the title of the bill,

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the council requesting their concurrence therein.

On leave, Mr. Moody introduced house file No. 16, entitled a

bill for an act to create and establish the county of Carter and providing for the appointment of officers therein.

Which was read the first time.

On the motion of Mr. Watson,

The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALNAN,  
*Chief Clerk.*

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## TWELFTH DAY.

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HOUSE OF REPRESENTATIVES, }  
Friday, December 13, 1867. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names:

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Gregory and Whitehead.

The journal of yesterday was then read, corrected and approved.

Mr. Jolley from the committee on judiciary, submitted the following report:

**MR. SPEAKER.**—Your committee on judiciary have had under consideration house file No. 12, entitled “an act relating to settlers upon land without a legal title thereto” and have agreed upon the amendments attached Nos. 1 and 2, and have instructed me to report the same and recommend their adoption and that the bill do pass.

The amendments were then read as follows :

Amend section 1 by inserting the following words “or his principle as the case may be” between the words “he and is” on the sixteenth line, and by inserting the following words “the possession of to and the” on the twenty-second line.

Amendment No. 2. After section 4 add the following as sections 5 and 6 :

Section 5. Nothing in this act contained shall be held to authorize a justice of the peace to try the issue in any action where the title to real estate comes in question, and whenever the answer of the defendant in any cause alleges title in himself or other party from whom he derives his right of possession, the justice of the peace shall immediately certify the proceedings to the district court of the county in which such action is pending, and in such district court the action proceed the same as though it originated in said district court.

Sec. 6. All pleadings in actions arising under the provisions of this act shall be verified by the affidavit of the party, his agent or attorney.

On the motion of Mr. Ryan,

The report of the committee was adopted.

So the amendments were agreed to, and

On the motion of Mr. Moody,

The bill was ordered engrossed for a third reading.

Mr. Jolley from the same committee submitted the following report :

**MR. SPEAKER.**—The majority of your committee on judiciary have had under consideration house file No. 10, entitled “an act regulating the sale of spirituous liquors, and have agreed upon the amendments attached numbered 1, 2, 3, 4, 5 and 6 and have instructed me to report the same with the recommendation that the bill as amended do pass.

Mr. Dewitt from the same committee submitted the following minority report :

MR. SPEAKER.—As a minority of your committee on judiciary, I recommend the following amendment to house file No. 10 :

Strike out all of section No. 3 of the bill, and that the bill so amended do pass.

Upon the motion of Mr. Moody,  
House file No. 10, was then recommitted to the committee on judiciary.

Mr. Cummings from the committee on public lands submitted the following report :

MR. SPEAKER:—Your committee on public lands have had under consideration house file No. 12, a memorial to congress relative to the survey of public lands, on and near the Red River of the North, and have instructed me to report the same back to the house with the recommendation that it do pass.

Mr. Bronson submitted the following preamble and resolutions :

WHEREAS, A deep interest is being manifested by the citizens of this Territory in railroad matters, and

WHEREAS, It has been thought of the highest importance that steps be taken to secure congressional aid to the construction of a railroad from Sioux City Iowa, to Yankton in Dakota, and thence to the mouth of the Cheyenne River in said Territory, and

WHEREAS, There seems to be a diversity of opinion in this legislative assembly as to the manner in which congressional aid should be solicited, and there not evidently being a very definite understanding as to what may be wanted or desired by the company, which it is supposed will be most likely to construct the line of road mentioned, therefore

*Resolved*, That the speaker of the house of representatives be requested to transmit a copy of this preamble and resolution to Hon. J. I. Blair, president of the Sioux City branch of the Pacific railroad, to the care of Mr. Wm. Walker, chief engineer at Cedar Rapids, Iowa, with a request that if not con-

venient to visit this capitol in person during the present session of the legislature, Mr. Blair will communicate by letter to the speaker of the house of representatives, his views, as to what action by the legislative assembly of this Territory is needed, or will tend to insure the early completion of said railroad from Sioux City, Iowa, to Yankton, in Dakota Territory.

On motion of Mr. Ferris,  
The resolution was adopted.

The following message from the council was then read:

COUNCIL CHAMBER,  
Friday, December 13, 1867. }

MR. SPEAKER.—I am instructed to inform the house that the council has passed council bill No. 8, an act to regulate the sale of spirituous liquors and for other purposes, which bill is herewith transmitted and the concurrence of the house requested therein.

I have also to inform your honorable body, that the council has passed substitute for house file No. 1, a bill in relation to townsites entered as such under the act of congress approved March 2, 1867, with attached amendments; also council substitute for house file No. 7, a bill providing that the exemption laws of this Territory shall apply only to residents thereof.

Which bill I herewith transmit and respectfully request the concurrence of the house in said amendments.

GEO. I. FOSTER,  
*Secretary.*

On leave, Mr. Moody introduced house file No. 17, entitled a bill for an act for the incorporation of towns, defining their powers, providing for the electing of the officers thereof and defining their duties.

On the motion of Mr. Curry,  
The rules were suspended, and under the operation thereof,  
The bill read the first time by its title.

By unanimous leave, Mr. Stutsman introduced house file No. 18, entitled a memorial to the Secretary of war, praying for the construction of a military post on the Pembina river under the appropriation of March 2, 1861.

The bill was then read the first time.

House file No. 1, (substitute) entitled a bill in relation to town sites entered as such under the act of Congress approved March 2, 1867, returned from the council with amendments.

Was then taken up,

The amendments were then read as follows, viz :

No. 1. Strike out in line 3 and 4 of section 1, (of printed bill) all after the word "lots" in the 3d line and before the words "with streets" in the fourth line.

No. 2. Insert in next to last line of section 17, after the word "Fuller," the words "or his successor in office."

No. 3. Add to said section the following words "and in case such notice shall be filed and served as aforesaid, or in case there are other instances where no title has yet been made, the successor of said Fuller shall upon receiving such notice immediately proceed to call a meeting of the occupants of said land, and the same proceedings shall thereafter be had so far as the disputed claims, and those where no title are concerned as provided for in this act, such proceedings to commence with the calling of such meeting.

The question then being upon the house concurring in the amendments, and it being put,

It was decided in the affirmative.

So the amendments of the council to said bill were concurred in.

*Ordered*, That the chief clerk notify the council that the house has concurred in the council amendments to house file No. 1.

House file No. 7, entitled a bill providing that the exemption law, approved, January 9, 1866, shall apply only to residents of the Territory,

Having been returned from the council by a substitute, and having retained the original bill.

On the motion of Mr. Moody, it was

*Ordered*, That the chief clerk be instructed to request the council to return to the house the original of house file No. 7.

Council bill No. 8, entitled an act regulating the sale of spirituous liquors and for other purposes,

Was then taken from the table,

On the motion of Mr. Curry,

The rules were suspended, and under the operation thereof,

The bill was read the first time by its title.

House file No. 13, entitled a bill to amend chapter 10 of session laws of 1866-7,

Was then taken from the table, and

Read the second time, and

On motion of Mr. Watson,

The bill was referred to the committee on education.

House file No. 14, entitled a bill for an act concerning licenses,

Was then taken from the table.

On the motion of Mr. Jolley,

The rules were suspended and under the operation thereof,

The bill was read the second time by its title, and

On the motion of Mr. Jolley,

The bill was referred to the committee on Judiciary.

House file No. 15, entitled a bill for an act to amend section 7 and 8 of chapter ten of session laws of 1866-7,

Was then taken from the table.

On the motion of Mr. Blair,

The rules were suspended and under the operation thereof,

The bill was read the second time by its title.

On the motion of Mr. Watson,

The bill was then referred to the committee on education.

House file No. 16, entitled "a bill for an act to create and establish the county of Carter and providing for the appointment of officers,

Was then taken from the table.

On the motion of Mr. Moody,

The rules were suspended and under the operation thereof,

The bill was read second time by its title, and

On motion of Mr. Moody,

The bill was then referred to the committee on towns and counties.

House file No. 12 entitled "a memorial to Congress relative to the survey of public lands on and near the Red River of the North,"

Was then taken up, and

Read the third time.

The question then being upon its passage and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being upon agreeing to the title of the bill, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the council requesting their concurrence therein.

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have to report that they did on this day at eleven o'clock A. M., present to his excellency the Governor for his approval, house file No. 4, entitled an act to amend chapter ten of the session laws of 1866-7 by striking the word "white" therefrom.

On motion of Mr. Farris,

The house then adjourned.

ENOS STUTSMAN,

*Speaker.*

*Attest:*

P. H. HALNAN,

*Chief Clerk.*

## THIRTEENTH DAY.

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HOUSE OF REPRESENTATIVES, }  
Saturday, December 14, 1867. }

The house met pursuant to adjournment, and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names:

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Gregory and Whitehead.

The journal of yesterday was then read, corrected and approved.

Mr. Jolley from the committee on judiciary submitted the following report :

MR. SPEAKER.—Your committee on judiciary have had under consideration house file No. 10, entitled a bill regulating the sale of spirituous liquors, and have instructed me to report the same with the amendments attached thereto, numbers 1, 2, 3, 4, 5, 6, 7 and 8, and recommend their adoption and that the bill do pass.

The amendments that were not read on yesterday were then read as follows :

1st. Amend section 1 by striking out the word "pint" in the third line and inserting in lieu thereof the word "quart."

2d. Add the following as sections 13 and 14.

Sec. 13. All licenses to sell liquor, granted by the county commissioners according to the provisions of this act, shall continue and be in force and effect for one year from the time of the issuing of said license.

Sec. 14. Whenever application shall be made for a license to sell liquor according to the provisions of this act, when the board of county commissioners shall not be in session, the register of deeds may in his discretion according to the provisions of this act, grant permission to such applicant to sell liquor until the next succeeding regular meeting of the board of county commissioners and shall assess the amount to be paid by such applicant for such permission, and at the next regular meeting of the board, the register of deeds shall report his action to the board, and the board shall at such meeting take action on the application the same as if such application was an original application made before them.

3d. Sections 13 and 14 in the original bill to be numbered 15 and 16.

The above amendments together with the amendments reported on yesterday by the majority of the committee were then acted upon as the majority report, and

On motion of Mr. Moody,  
The majority report was adopted.

The following message from the council was then read :

COUNCIL CHAMBER,  
Saturday, December 14, 1867. }

MR. SPEAKER.—I have the honor to inform the house that the council did on the 10th inst., elect Mr. H. J. Brisbane enrolling clerk for the council.

GEO. E. FOSTER.  
*Secretary.*

House file No. 10, entitled a bill regulating the sale of spirituous liquors,

Was then taken up, and

On the motion of Mr. Jolley,

It was ordered engrossed for a third reading.

Mr. Jolley from the committee on judiciary submitted the following report :

MR. SPEAKER.—Your committee on judiciary have had under consideration the petition of Hodgmaer & Bro., and others of Cheyenne city, and have instructed me to report in favor of the prayer of the petitioners and submit the accompanying bill as prayed for by the petitioners.

The following message from the council was then read :

COUNCIL CHAMBER, }  
Saturday, December 14, 1867. }

MR. SPEAKER.—I have the honor to return to the house, in response to a request of said body communicated to the council this day, house file No. 7. (original bill) entitled a bill providing that the exemption laws of this Territory shall apply only to residents thereof, which bill was unintentionally left on the secretary's table when the substitute bill was transmitted.

GEO. I. FOSTER,

*Secretary.*

Mr. Jolley from the committee on engrossment submitted the following report :

MR. SPEAKER.—Your committee on engrossment have examined house file No. 11, entitled "an act relating to settlers upon land without the legal title thereto" and have instructed me to report the same as correctly engrossed.

Mr. Moody gave notice that he would on to-morrow or some subsequent day of the session, ask leave to introduce a "bill regulating the recording of mining claims, providing regulations for the government of miners in quartz and placer diggings, &c."

Mr. Ryan gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill for an act to create and establish a territorial road commencing at the south east corner of section 33, township 9, north, range 49 west, running due north on said line until it intersects the territorial road running from Reaudeaus to the north line of Union county.

By unanimous leave, Mr. Stutsman introduced house file No. 19 entitled a memorial to Congress relative to a United States land office in the Red River valley,  
Which was then read the first time.

House file No. 20, entitled "a bill for an act to incorporate the city of Cheyenne" as reported by the committee on judiciary,  
Was then read the first time.

Mr. Ryan from the committee on towns and counties submitted the following report :

MR. SPEAKER.—Your committee on towns and counties to whom was referred house file No. 16, a bill for an act to create and establish the county of Carter &c., have had the same under consideration and have instructed me to report the same back with the following amendments and they do recommend that the amendments be adopted and the bill as amended do pass.

Amend section 4, by striking out the word "March" and inserting in lieu thereof the word "May" and by striking out the word "three" and inserting in lieu thereof the word "five."

And amend section 5 by striking out the word "double" and inserting in lieu thereof the words "four times."

On the motion of Mr. Moody,

The report of the committee was adopted, and

On the motion of Mr. Moody,

House file No. 16, entitled a bill for an act to create and establish the county of Carter, and providing for the appointment of officers therein,

Was ordered engrossed for a third reading.

By unanimous leave, Mr. Stutsman introduced house file No. 21, entitled a memorial to congress praying for the establishment of a mail route from Fort Totten to St. Joseph D. T.,  
Which was then read the first time.

Council bill No. 8, entitled an act to regulate the sale of spirituous liquors and for other purposes,  
Was then taken from the table.

On the motion of Mr. Moody,  
 The rules were suspended and under the operation thereof  
 The bill was read the second time by its title, and  
 Referred to the committee on judiciary.

House file No. 18, entitled a memorial to the secretary of  
 war, praying for the construction of a military post on the Pem-  
 bina river, under the appropriation of March 2, 1861,

Was then taken from the table.

On the motion of Mr. Jolley,  
 The rules were suspended, and under the operation thereof  
 the bill was

Read the second time by its title, and

Referred to the committee on military affairs.

House file No. 11, entitled an act relating to settlers upon  
 land without the legal title thereto,

Was then taken up, and

Read the third time.

The question then being on its passage and it being put,  
 "shall the bill pass,"

It was decided in the affirmative.

Ayes 22; noes none; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings,  
 Curry, Fallas, Farris, Gunderson, Hanson, Hoyt, Jolley, Kegan,  
 Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and  
 Mr. Speaker.

None voting in the negative,

So the bill was passed,

The question then being upon agreeing to its title, and it  
 being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the coun-  
 cil requesting their concurrence therein.

House file No. 7, entitled a bill for an act providing that the  
 exemption laws of this Territory, shall apply only to residents  
 thereof, returned from the council with a substitute,

Was then taken from the table, and

On the motion of Mr. Moody,

The council's amendment to said bill was concurred in.

*Ordered*, That the chief clerk notify the council of the action of the house with reference to said bill.

On the motion of Mr. Jolley,

The further consideration of general order was postponed to the 21st instant at 11 o'clock, A. M.

On the motion of Mr. Curry,

The house adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALNAN,  
*Chief Clerk*

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## FIFTEENTH DAY.

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HOUSE OF REPRESENTATIVES, }  
Monday, December 16, 1867. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names:

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Gregory and Whitehead.

The journal of Saturday was then read, corrected and approved.

Mr. Moody presented the petition of citizens of South Pass City, D. T., which was then read as follows:

At a meeting of the citizens of South Pass City, D. T., Nov. 13th, 1867, J. L. Lowery was chosen president, and W. M. Templeton, Secretary.

Mr. Mills stated the object of the meeting to be, to select some person to represent this community in the legislature of Dakota Territory.

Messrs. A. G. Turner and Charles H. Price were placed in nomination as candidates for such representative.

Mr. Price's name was withdrawn before proceeding to ballot, and Mr. Turner was unanimously elected by acclamation.

On motion the meeting adjourned.

JAMES L. LOWERY, *Pres.*

W. M. TEMPLETON, *Sec.*

SOUTH PASS CITY, DAKOTA TERRITORY, }  
November 13, 1867. }

We do hereby certify that A. G. Turner was duly elected as representative to the Territorial legislature of Dakota Territory, for the session of 1867 and 1868, from the county of Carter.

JAMES S. LOWERY, *Pres.*

W. M. TEMPLETON, *Sec.*

On motion of Mr. Moody,

The petition was referred to the committee on elections.

Mr. Jolley from the committee on judiciary submitted the following report:

MR. SPEAKER.—Your committee on judiciary have had under consideration house file No. 14, entitled a bill for an act concerning licenses, and have instructed me to report the same with the amendments Nos. 1 and 2 attached thereto, and recommend their adoption and that the bill do pass.

The amendments was then read as follows:

1st. Amend section 4, by inserting between the words "the" and "next," in the fifteenth line, the following words, "end of the."

2nd. Amend section 7, by striking out the words "preceding section" in the first line, and inserting in lieu thereof the words "provisions of this act," and by adding at the end of the section the following words, "nor to the sale of agricultural products of any kind."

On the motion of Mr. Farris,

The report of the committee was adopted, and

On the motion of Mr. Jolley,

The bill was ordered engrossed for a third reading.

Mr. Farris from the committee on Military affairs submitted the following report:

MR. SPEAKER.—Your committee on Military affairs, have had under consideration house file No. 18, entitled "a memorial to the secretary of war praying for the construction of a military post on the Pembina river under the appropriation of March 2d, 1861, and have instructed me to report the same back to the house with the recommendation that it do pass.

Mr. Jolley from the committee on engrossment submitted the following report:

MR. SPEAKER.—Your committee on engrossment have examined house file No. 10, entitled "a bill regulating the sale of spirituous liquors," and house file No. 16, entitled "a bill for an act to create and establish the county of Carter and providing for the appointment of officers therein," and have instructed me to report the same as correctly engrossed.

Mr. Gunderson gave notice that on to-morrow or some subsequent day of the session he will ask leave to introduce a bill entitled "an act for the recovery of property removed by high water."

The following message from the council was then read:

COUNCIL CHAMBER. }  
December 16, 1867. }

MR. SPEAKER.—I am instructed to inform the house that

the council did on the 14th inst., unanimously pass council bill No. 5 (substitute) "an act defining land subject to taxation," which bill I herewith transmit and respectfully request the concurrence of the house therein.

GEO. I. FOSTER,  
*Secretary.*

By unanimous consent, Mr. Stutsman introduced house file No. 22, entitled a "memorial to Congress for an appropriation to construct a wagon road from Fort Abererombie down the Red River of the North."

Which was then read the first time.

Also house file No. 23, entitled a "memorial to the President of the United States relative to the removal of the Pembina band of the Chippewa Indians.

On the motion of Mr. Stutsman,  
The rules were suspended and under the operation thereof,  
The bill was read the first time by its title.

Council bill No. 5 (substitute) entitled "an act defining lands subject to taxation,"

Was then taken from the table, and  
Read the first time.

House file No. 19, entitled a "memorial to Congress relative to a United States land office in the Red River valley,

Was then taken from the table, and  
Read the second time, and  
On the motion of Mr. Farris,  
The bill was referred to the committee on public lands.

House file No. 21, entitled "a memorial to congress praying for the establishment of a mail route from Fort Totten to St. Joseph D. T.,

Was then taken from the table, and  
Read the second time, and  
On the motion of Mr. Curry,  
The bill was referred to the committee on federal relations.

House file No. 10, entitled a bill regulating the sale of spirituous liquors,

Was then taken up, and

Read the third time,

The question then being on its passage, and it being put "shall the bill pass?"

It was decided in the affirmative,

Ayes 18; noes 6; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Cummings, Curry, Gore, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Brown, DeWitt, Fallas, Farris, Kegan and Ryan.

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the council requesting their concurrence therein.

House file No. 16, entitled a bill for an act to create and establish the county of Carter and providing for the appointment of officers therein,

Was then taken up and read the third time.

The question then being on its passage, and it being put, "shall the bill pass?"

By unanimous consent the vote on the bill was postponed to Thursday next, at 11 o'clock, A. M.

House file No. 18, entitled a memorial to the secretary of war, praying for the construction of a military post on the Pembina river under the appropriation of March 2, 1861,

Was then taken up, and

Read the third time.

The question then being on the passage of the bill, and it being put, "shall the bill pass?" it was decided in the affirmative,

Ayes 24; noes none; as follows:

Those voting in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker Watson and Mr. Speaker.

None voting in the negative.

So the bill passed,

The question then being on agreeing to the title of the bill, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

On leave, Mr. Gore from the committee on federal relations submitted the following report :

MR. SPEAKER.—Your committee on federal relations have had under consideration house file No. 21, entitled a memorial to congress for the establishment of a mail route from Fort Totten to St. Joseph D. T., and have instructed me to report the same back to the house with the recommendation that the bill do pass.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have examined house file No. 1, an act in relation to town sites entered as such under the act of congress, approved March 2, 1867, also house file No. 7, an act providing that the exemption laws of this Territory shall apply only to residents thereof, and find the same correctly enrolled.

A message from his excellency, the Governor, was then laid upon the speaker's table, which was read as follows :

EXECUTIVE OFFICE,  
Yankton, D. T., Dec. 18, 1867. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives,*

SIR.—I have the honor to return herewith a house bill, entitled an act to amend chapter 10 of the session laws of 1866.

7, by striking the word "white" therefrom, which I have approved and signed.

I am, very respectfully,  
Your ob't servant,  
A. J. FAULK,  
*Governor.*

On the motion of Mr. Tucker,  
The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALNAN,  
*Chief Clerk.*

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## SIXTEENTH DAY.

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HOUSE OF REPRESENTATIVES, }  
Tuesday, December 17, 1867. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain.

Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Dewitt, Gregory and Whitehead.

The journal of yesterday was then read, corrected and approved.

Mr. Jolley from the committee on engrossment submitted the following report :

MR. SPEAKER.—Your committee on engrossment have examined house file No. 14, entitled a bill for an act concerning licenses, and have instructed me to report the same as correctly engrossed.

Council bill No. 5, entitled an act defining land subject to taxation,

Was then taken from the table, and  
Read the second time, and  
On the motion of Mr. Jolley,  
It was referred to the committee on ways and means.

House file No. 20, entitled a bill for an act to incorporate the city of Cheyenne,

Was then taken from the table, and  
On the motion of Mr. Moody,  
The rules were suspended, and  
The bill read the second time by its title, and  
Referred to the committee on judiciary.

House file No. 22, entitled a memorial to congress for an appropriation to construct a wagon road from Fort Abercrombie down the Red River of the North,

Was then taken from the table, and  
Read a second time, and  
On the motion of Mr. Curry,  
The bill was referred to the committee on federal relations.

House file No. 23, entitled a memorial to the president of the United States relative to the removal of the Pembina band of Chippewa Indians,

Was then taken from the table, and  
On motion of Mr. Jolley,  
The rules were suspended, and  
The bill read the second time by its title, and  
On the motion of Mr. Curry, it was  
Referred to the committee on Indian affairs.

House file No. 14, entitled a bill for an act concerning licenses,

Was then taken up, and

Read the third time.

The question then being on its passage, and it being put "shall the bill pass?"

It was decided in the affirmative,

Ayes 23; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

House file No. 21, entitled a memorial to congress praying for the establishment of a mail route from Fort Totten to St. Joseph, D. T.,

Was then taken up, and

On the motion of Mr. Moody,

The further consideration of said bill was postponed until Friday at 11 o'clock.

On the motion of Mr. Curry,

The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

R. H. HALNAN,  
*Chief Clerk.*

## SEVENTEENTH DAY.

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HOUSE OF REPRESENTATIVES, }  
 Wednesday, December 18, 1867. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Carry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Gregory and Whitehead.

The journal of yesterday was then read and approved.

Mr. Curry from the committee on ways and means submitted the following report :

MR. SPEAKER.—Your committee on ways and means to whom was referred council bill No. 5, (substitute) have had the same under consideration, and have instructed me to report the same back to the house and recommend its passage.

Mr. Jolley from the committee on judiciary submitted the following report :

MR. SPEAKER.—Your committee on judiciary have had under consideration house file No. 20, entitled a bill for an act to incorporate the city of Cheyenne, and have instructed me to report the same with the recommendation that the bill do pass.

Mr. Jolley from the committee on judiciary] also submitted the following report :

MR. SPEAKER.—Your committee on judiciary have had under consideration council file No. 6, (substitute) entitled a bill to authorize the county commissioners of the several counties in this Territory to build jails, and have instructed me to report the accompanying bill as a substitute for such bill, and recommend its adoption, and that the substitute bill do pass.

On the motion of Mr. Watson,

The report of the committee was adopted.

Mr. Moody moved that council file No. 6, (substitute) lie upon the table and be ordered printed.

Mr. Gore from the committee on federal relations submitted the following report :

MR. SPEAKER.—Your committee on federal relations have had under consideration house file No. 22, entitled a memorial to congress for an appropriation to construct a wagon road from Fort Abercrombie, down the Red River of the North, and report the same back without amendment and recommend that it do pass.

Mr. Bronson from the committee on Indian affairs submitted the following report :

MR. SPEAKER.—Your committee on Indian affairs, to whom was referred house file No. 23, entitled a memorial to the president of the United States relative to the removal of the Pembina band of Chippewa Indians, beg leave to report the same back without amendment and recommend the passage of the same.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have to report that they did, on this day, at 10 o'clock A. M., present to his excellency, the Governor, for his approval,

House file No. 1, an act in relation to town sites entered as such under the act of congress approved March 2, 1867,

Also house file No. 7, entitled an act providing that the exemption laws of this Territory shall apply only to residents thereof.

On the motion of Mr. Bronson,  
Mr. Dewitt was excused from unavoidable absence on yesterday.

Mr. Brauch gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill for a memorial to congress praying for an appropriation to erect a capitol building at the capitol of Dakota Territory.

On leave, Mr. Gunderson introduced house file No. 24, entitled a bill for an act for the recovery of property removed by high water,

Which was read the first time.

Council bill No. 5, entitled an act defining land subject to taxation,

Was then taken up, and

Read the third time.

The question then being on its passage and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk notify the council in regard to said bill.

House file No. 17, entitled a bill for an act for the incorporation of towns, defining their powers, providing for the election of the officers thereof, and defining their duties,

Was then taken from the table,

On the motion of Mr. Moody,

The rules were suspended, and  
The bill read the second time by its title, and  
Referred to the committee on judiciary.

House file No. 20, entitled a bill for an act to incorporate  
the city of Cheyenne,

Was then taken up, and  
Read the third time.

The question then being on its passage, and it being put,  
"shall the bill pass?"

It was decided in the affirmative.

Ayes 24 ; noes none ; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings,  
Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt,  
Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker,  
Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed, and

The question then being on agreeing to its title, and it being  
put,

The title was agreed to.

*Ordered*; That the chief clerk transmit said bill to the coun-  
cil requesting their concurrence therein.

House file No. 22, entitled a memorial to congress for an ap-  
propriation to construct a wagon road from Fort Abercrombie,  
down the Red River of the North,

Was then taken up, and  
Read the third time.

Mr. Moody moved that the further consideration of the bill  
be postponed to the 11th day of January next.

Mr. Curry moved that the motion of Mr. Moody be laid  
upon the table.

The ayes and noes being demanded and ordered,

It was decided in the affirmative.

Ayes 14 ; noes 10 ; as follows :

Those who voted in the affirmative, are

Messrs. Blair, Bronson, Brown, Cummings, Curry, Dewitt,

Fallas, Farris, Gore, Kegan, Ryan, Thompson, Watson and Mr. Speaker.

Those who voted in the negative, are  
Messrs. Brady, Brauch, Gunderson, Hanson, Hoyt, Jolley,  
Moody, Nelson, Shaw and Tucker.  
So the motion to table prevailed.

The following message from the council was then read :

COUNCIL CHAMBER,  
Wednesday, December 18, 1867. }

MR. SPEAKER.—I am instructed by the council to inform your honorable body that on this day the council has passed house file No. 3, entitled a bill to enforce mechanics liens on buildings ; also house file No. 6, entitled an act relating to the challenging of jurors in civil and criminal cases, which bills are herewith returned.

The council also passed this day house file No. 5, entitled an act respecting grand and petit jurors of the district court, with accompanying amendments, which bill is herewith returned, respectfully asking your honorable body to concur therein.

GEO. I. FOSTER,  
*Secretary.*

On the motion of Mr. Brown,  
The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest :*  
P. H. HALNAN,  
*Chief Clerk.*

## EIGHTEENTH DAY.

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HOUSE OF REPRESENTATIVES. }  
Thursday, December 19, 1867. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummin, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hans Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Gregory and Whitehead.

The journal of yesterday was then read and approved.

Mr. Cummings from the committee on public lands submitted the following report :

MR. SPEAKER.—Your committee on public lands to which was referred house file No. 19, entitled a memorial to congress relative to a United States land office in the Red River valley have had the same under careful consideration, and beg leave to report the same back to the house and recommend that it pass.

Mr. Hoyt gave notice that he will on to-morrow or so subsequent day of the session, ask leave to introduce a bill an act to incorporate insurance companies.

On leave, Mr. Brauch introduced house file No. 25, entitled a memorial to congress praying for an appropriation to erect a capitol building at the capitol of Dakota Territory,

Which was read the first time.

On leave, Mr. Ryan introduced house file No. 26, entitled a bill for an act to locate a road to connect with the branch territorial road, located and surveyed under an act to locate and establish a territorial road, from the Missouri by way of Elk Point and Brule Creek, to the north line of Union county,

Which was read the first time.

By unanimous leave, Mr. Watson introduced house file No. 27, entitled a bill for an act to strike the word "white" out of the election laws.

Mr. Watson moved that the rules be suspended and under the operation thereof the bill be read the first and second time by its title.

Which motion prevailed.

Whereupon, the bill was read the first and second time by its title.

Mr. Watson then moved that the rules be suspended and under the operation thereof the bill be read the third time, and put on its passage.

Which motion prevailed,

The bill was accordingly read the third time.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 19; noes 5; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair; Bronson, Brauch, Cummings, Dewitt, Fallas, Gore, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Brown, Curry, Farris, Kegan and Ryan,

So the bill was passed,

The question then being upon agreeing to the title of the bill, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the council requesting their concurrence therein.

House file No. 5, entitled an act respecting grand and petit jurors of the district court, returned from the council (amended,)

Was then taken from the table.

The amendment was then read as follows :

Amend section 2, by striking out the words "any two" in line three and inserting in lieu thereof the words "or a majority."

The question then being on agreeing to said amendment, and it being put,

It was decided in the affirmative,

So the amendment was concurred in.

*Ordered*, That the chief clerk notify the council of the action of the house on said bill.

Council bill No. 6, entitled a bill to authorize the county commissioners of the several counties in this Territory to build jails,

Having been reported back by the committee on judiciary with a substitute, and the report of the committee having been adopted,

The bill was read the third time,

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 24; noes none; as follows:

Those voting in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative.

So the bill was passed,

The question then being on agreeing to the title of the bill, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the council requesting their concurrence therein.

House file No. 24, entitled a bill for an act for the recovery of property removed by high water,  
Was then taken from the table, and  
On motion of Mr. Jolley,  
The rules were suspended, and  
Under the operation thereof,  
The bill read the second time by its title, and  
Referred to the committee on agriculture.

At 11 o'clock. A. M., the speaker announced the special order, house file No. 13, entitled a bill for an act to create and establish the county of Carter, and to provide for the appointment of officers therein.

The bill having been read the third time, and it being on its passage, the question was put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 22; noes 2; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Blair and Farris.

So the bill was passed.

The question then being on agreeing to the title of the bill, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the council requesting their concurrence therein.

House file No. 19, entitled a "memorial to Congress relative to a United States land office in the Red River valley,

Was then taken up, and

Read the third time.

The question then being on its passage and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to the title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the council requesting their concurrence therein.

House file No. 23, entitled a memorial to the president of the United States relative to the removal of the Pembina band of Chippewa Indians,

Was then taken up and read the third time.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to the title of the bill, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the council requesting their concurrence therein.

House file No. 22, entitled a memorial to congress for an appropriation to construct a wagon road from Fort Abercrombie down the Red River of the North,

Was then taken up under the head of unfinished business.

Mr. Moody moved that the house do now adjourn,

The ayes and noes being called for and ordered, resulted  
Ayes 11; noes 13; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Bronson, Brauch, Gunderson, Hanson, Hoyt,  
Jolley, Moody, Nelson, Shaw and Tucker.

Those who voted in the negative, are

Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas,  
Farris, Gore, Kegan, Ryan, Thompson, Watson and Mr.  
Speaker.

So the motion did not prevail.

Mr. Moody then moved that the house take a recess of 15  
minutes,

The ayes and noes being called for and ordered, resulted  
Ayes 13; noes 11; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Bronson, Brouch, Cummings, Gunderson,  
Hanson, Hoyt, Jolley, Moody, Nelson, Shaw, Tucker and Wat-  
son.

Those who voted in the negative, are

Messrs. Blair, Brown, Curry, Dewitt, Fallas, Farris, Gore,  
Kegan, Ryan, Thompson and Mr. Speaker.

So the motion prevailed, and

The house took a recess of 15 minutes, at 11 and a half A. M.

#### AFTER RECESS.

At 11-45 o'clock, A. M.,

The the speaker resumed the chair and called the house to  
order.

Mr. Moody moved that the further consideration of house  
file No. 22, be postponed to Tuesday the 31st instant, and that  
the bill be made the special order after the reading of the jour-  
nal.

Which motion was unanimously agreed to.

A message from his excellency, the Governor, was then hand-  
ed in by his private secretary,

Which was then read as follows :

EXECUTIVE OFFICE, }  
Yankton, D. T., Dec. 18, 1867. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives,*

SIR.—I have the honor to transmit house bill No — entitled an act providing that the exemption laws of this Territory shall apply only to residents hereof; which I have approved and signed.

I am, very respectfully,  
Your ob't servant,  
A. J. FAULK,  
*Governor.*

The following message from the council was then read :

COUNCIL CHAMBER, }  
Saturday, December 19, 1867. }

MR. SPEAKER.—I am instructed to inform the house that the council did on the 18th instant, pass council bill No. 12, a bill to amend an act entitled an act to incorporate the Dakota and Northwestern Railroad company, which bill is herewith transmitted and the concurrence of the house respectfully solicited.

I have also to inform your honorable body that the council has this day passed council bill No. 7, an act to organize the county of Lincoln, also council bill No. 15, a bill to repeal chapter 39 of the laws of 1862, and chapter 2 of the laws of 1866 67, which bills I herewith transmit and respectfully request the concurrence of the house therein.

GEO. I. FOSTER,  
*Secretary.*

Council bill No. 7, entitled an act to organize the county of Lincoln,

Was then taken from the table.

Mr. Moody moved that the rules be suspended and the bill read the first and second time by its title and referred to the committee on towns and counties,

Which motion prevailed.

The bill was accordingly read the first and second time by its title and referred as above stated.

Council bill No. 12, entitled a bill to amend an act entitled an act to incorporate the Dakota and Northwestern railroad company,

Was then taken from the table.

Mr. Jolley moved that the rules be suspended and the bill read the first and second time by its title and referred to the committee on railroads.

Which motion prevailed.

The bill was accordingly read the first and second time by its title and referred as above ordered.

Council bill No. 15, entitled a bill to repeal chapter 39 of the laws of 1862, and chapter 2 of the laws of 1866 and 1867,

Was then taken from the table, and

Read the first time, and

On the motion of Mr. Moody,

The rules were suspended and under the operation thereof,

The bill was read second time by its title, and

Referred to the committee on judiciary.

On the motion of Mr. Curry,

The house then adjourned.

ENOS STUTSMAN,

*Speaker.*

*Attest:*

P. H. HALNAN,

*Chief Clerk.*

## NINETEENTH DAY.

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HOUSE OF REPRESENTATIVES,  
Friday, December 20, 1867. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain.

Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cumming  
Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoy  
Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker  
Watson and Mr. Speaker.

Absent, Messrs. Gregory and Whitehead.

The journal of yesterday was then read, corrected and approved.

Mr. Watson from the committee on agriculture submitted the following report :

MR. SPEAKER.—Your committee to whom was referred house file No. 24, entitled a bill for an act for the recovery of property removed by high water, have had the same under consideration and beg leave to report the same back to the house and recommend that it do pass.

Mr. Ryan from the committee on towns and counties submitted the following report :

MR. SPEAKER.—Your committee on towns and counties to whom was referred council bill No. 7, entitled an act to organize the county of Lincoln, have had the same under consideration and beg leave to report the same back to the house without amendment and recommend its passage.

Mr. Hanson gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill for an act regulating the keeping of sheep.

Mr. Farris gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill to authorize county commissioners to pay a bounty on wild cat and wolf scalps.

Mr. Thompson gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a memorial to the Hon. Alex. Randall praying for daily service on mail route No. 13801, from Sioux City, Iowa, to Fort Randall, D. T.

Also a memorial to the post master general asking that there be mail service ordered from Fort Randall, D. T. to Fort Rice, D. T.

By unanimous leave, Mr. Gunderson introduced house file No. 28, entitled a bill for an act to change the name of Gunder Gunderson,

Which was read the first time.

By unanimous leave, Mr. Jolley introduced house file No. 29, entitled a memorial to congress asking for an appropriation to codify the laws of Dakota Territory.

Which was read the first time.

By unanimous leave, Mr. Jolley introduced house file No. 30, entitled a bill for an act to confer the right of citizenship on John, Charles and Alexander Cordier,

Which was read the first time.

On leave, Mr. Hoyt introduced house file No. 31, entitled an act to incorporate insurance companies.

On the motion of Mr. Jolley,

The rules were suspended and under the operation thereof,  
The bill was read the first time by its title.

Council bill No. 7, entitled an act to organize the county of Lincoln,

Was then taken up, and  
 On the motion of Mr. Farris,  
 The bill was recommitted to the committee on towns and  
 counties.

House file No. 25, entitled a memorial to congress praying  
 for an appropriation to erect a capital building in Dakota Ter-  
 ritory.

Was then taken from the table.

Mr. Moody moved that the rules be suspended, and under  
 the operation thereof, the bill be read the second and third time,  
 and put upon its passage,

The bill was accordingly read the second and third time.

The question then being on its passage, and it being put  
 "shall the bill pass?"

It was decided in the affirmative,

Ayes 24; noes none; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings,  
 Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt,  
 Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson,  
 Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to the title of the bill,  
 and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the coun-  
 cil requesting their concurrence therein.

House file No. 26, entitled a bill for an act to locate a road  
 to connect with the branch territorial road, located and survey-  
 ed under an act to locate and establish a territorial road from  
 the Missouri by way of Elk Point and Brule Creek, to the  
 north line of Union county.

Was then taken from the table.

On the motion of Mr. Ryan,

The rules were suspended, and under the operation thereof  
 the bill was

Read the second time by its title, and  
 Referred to the committee on highways, ferries and bridges.

House file No. 24, entitled a bill for an act for the recovery  
 of property removed by high water,

Was then taken up, and

Read the third time,

The question then being upon its passage and it being put,  
 "shall the bill pass?"

It was decided in the affirmative,

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings,  
 Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson,  
 Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson,  
 Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being  
 put,

The title was agreed to.

*Ordered,* That the chief clerk transmit said bill to the coun-  
 cil requesting their concurrence therein.

At the hour of 11 o'clock, A. M., the speaker announced as  
 the special order, house file No. 21, entitled a memorial to con-  
 gress praying for the establishment of a mail route from Fort  
 Totten to St. Joseph, D. T.

The bill was read the third time.

The question then being on its passage, and it being put,  
 "shall the bill pass?"

It was decided in the affirmative.

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings,  
 Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson,  
 Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson,  
 Tucker, Watson and Mr. Speaker.

None voting in the negative.

So the bill was passed.

The question then being on agreeing to the title of the bill, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

The following message from the council was then read :

COUNCIL CHAMBER, }  
Friday, December 20, 1867. }

MR. SPEAKER.—I have the honor to inform the house that the council did on the 19th inst., pass council bill No. 2, (substitute) memorial and joint resolution of the legislature of the Territory of Dakota relative to Indian affairs in Dakota Territory, which bill is herewith transmitted and the concurrence of the house respectfully requested.

GEO. I. FOSTER.

*Secretary.*

Council bill No. 2, entitled a memorial and joint resolution of the legislature of the Territory of Dakota relative to Indian affairs in Dakota Territory,

Was then taken from the table, and

Read the first time.

Mr. Moody moved that the bill be laid upon the table and be ordered printed,

Which motion prevailed.

A message from his excellency, the Governor, was then handed in by his private secretary, which was read as follows :

EXECUTIVE OFFICE, }  
Yankton, D. T., Dec. 20, 1867. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives,*

SIR.—I have the honor to transmit house bill No — entitled an act in relation to town sites, entered as such under the act of congress, approved March 2, 1867, which I have approved and signed.

I am, very respectfully,

Your ob't servant,

A. J. FAULK,

*Governor.*

On the motion of Mr. Brown,  
The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALNAN,  
*Chief Clerk.*

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## TWENTIETH DAY.

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HOUSE OF REPRESENTATIVES, }  
Saturday, December 21, 1867. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,  
Prayer by the chaplain,  
Roll called,

The following members answered to their names:

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Gregory and Whitehead.

The journal of yesterday was then read and approved.

Mr. Jolley from the committee on judiciary submitted the following report :

MR. SPEAKER,—Your committee on judiciary have had under consideration house file No. 2, entitled a bill to simplify

and abridge the practice, pleadings and proceedings of courts of this Territory, and have instructed me to report accompanying bill as a substitute and recommend its adoption and that the substitute bill do pass.

On the motion of Mr. Jolley,  
The report of the committee was adopted.

Mr. Jolley from the committee on judiciary also submitted the following report :

MR. SPEAKER.—Your committee on judiciary have had under consideration house file No. 17, entitled a bill for an act for the incorporation of towns, defining their powers, providing for the election of the officers thereof, and defining their duties and have instructed me to report the bill back and recommend that the bill do pass.

Mr. Ryan from the committee on towns and counties submitted the following report :

MR. SPEAKER.—Your committee on towns and counties whom was referred council bill No. 7, entitled an act to organize the county of Lincoln, have had the same under consideration and report the same back to the house with amendments and recommend its passage as amended.

The amendments were then read as follows :

Where the name of "Hinderman" appears in line 25, shall read "Linderman;" and in line 38, after the word "representative" insert the word "judicial."

On the motion of Mr. Jolley,  
The report of the committee was adopted.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have examined house file No. 5, an act respecting grand and petit juries of the district court; also, house file No. 6, an act relating to the challenging of jurors in civil and criminal cases, and find the same correctly enrolled.

On the motion of Mr. Farris,

The messenger was excused for non-attendance on account of sickness.

On the motion of Mr. Moody,  
Council bill No. 2, (substitute,) entitled a memorial and joint resolution of the legislature of the Territory of Dakota relative to Indian affairs in Dakota Territory,

Was taken from the table.

On the motion of Mr. Moody,

The rules were suspended, and under the operation thereof,

The bill was read the second time by its title, and

On the motion of Mr. Moody,

The bill was referred to the committee on Indian affairs.

Council bill No. 7, entitled an act to organize the county of Lincoln, having been reported back by the committee with amendments, and the report of the committee being adopted,

Was then taken up, and

Read the third time.

The question then being on its passage, and it being put,  
"shall the bill pass?"

It was decided in the affirmative.

Ayes 24 ; noes none ; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed, and

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered,* That the chief clerk notify the council in regard to said bill.

House file No. 28, entitled a bill for an act to change the name of Gunder Gunderson,

Was then taken from the table, and

Read the second time.

Mr. Gunderson moved that the rules be suspended and that the bill be read the third time, and put upon its passage.

Which motion prevailed,

The bill was accordingly read the third time as above ordered.

The question then being on its passage and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

House file No. 29, entitled a memorial to congress asking for an appropriation to codify the laws of Dakota Territory,

Was then taken from the table,

Mr. Jolley moved that the rules be suspended, that the bill be read the second and third time, and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage, and it being put "shall the bill pass?"

It was decided in the affirmative,

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the memorial was passed.

The question then being on agreeing to the title of the memorial, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

House file No. 30, entitled a bill for an act to confer the right of citizenship on John, Charles and Alexander Cordier,

Was then taken from the table,

Mr. Jolley moved that the rules be suspended, the bill be read the second and third time and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

House file No. 2, (substitute) entitled a bill to simplify and abridge the practice, pleadings and proceedings of the courts of this Territory,

Was then taken up, and

Read the third time.

The question then being on its passage and it being put,  
 "shall the bill pass?"

It was decided in the affirmative.

Ayes 18 ; noes 3 ; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch,<sup>s</sup>Brown, Cummings,  
 Gore, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Shaw,  
 Thompson, Tucker, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Curry, Fallas and Ryan.

Mr. Dewitt asked to be excused from voting on the above  
 bill, and it being put,

It was decided in the affirmative.

On the motion of Mr. Moody,

Mr. Farris was excused from voting on said bill,

So the bill was passed.

The question then being on agreeing to its title, and it being  
 put,

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the coun-  
 cil requesting their concurrence therein.

House file No. 17, entitled a bill for an act for the incorpo-  
 ration of towns, defining their powers, providing for the election  
 of the officers thereof and defining their duties,

Was then taken up, and

Read the third time.

The question then being on its passage, and it being put,  
 "shall the bill pass?"

It was decided in the affirmative,

Ayes 23 ; noes none ; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings,  
 Curry, Dewitt, Fallas, Farris, Gore, Hanson, Hoyt, Jolley,  
 Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker,  
 Watson and Mr. Speaker.

None voting in the negative.

So the bill was passed,

The question then being on agreeing to its title, and it being  
 put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

The following message from the council was then read :

COUNCIL CHAMBER, }  
December 21, 1867. }

MR. SPEAKER.—I am instructed to inform the house that the council did on the 20th inst., pass council bill No. 13, a memorial and joint resolution of the legislature of the Territory of Dakota to the congress of the United States, asking for a grant of lands to aid in the construction of certain railroads in the Territory of Dakota ; which bill is herewith transmitted and the concurrence of the house respectfully requested.

I have also to inform the house that the council did on the 20th inst., pass house file No. 27, a bill to strike the word "white" out of the election laws of Dakota Territory ; also house file No. 23, a memorial to the president of the United States relative to the removal of the Pembina band of Chippewa Indians ; also house file No. 18, a memorial to the secretary of war, praying for the construction of a military post on the Pembina river under the appropriation of March 2, 1861 ; also house file No. 20, a bill for an act to incorporate the city of Cheyenne, with attached amendments ; which bills are herewith returned, and the concurrence of the house requested in amendments to house file No. 20.

I have also to inform the house that the council did on the 20th inst., concur in house substitute to council bill No. 6, a bill for an act authorizing the county commissioners in this Territory to build jails.

GEO. I. FOSTER.

*Secretary.*

House file No. 20, entitled a bill for an act to incorporate the city of Cheyenne, returned from the council with amendments,  
Was then taken from the table,

The amendments were then read as follows :

Add at the end of section 8, the following words, *Provided further*, That the commissioners named in the 9th section of this act shall have full power to fix the day for holding the first

election of officers under this act by giving at least five days notice of such election, and that the officers elected at such first election, shall qualify and enter upon the discharge of their duties in one week from the day of such election.

Mr. Moody moved that the council's amendments to house file No. 20, be concurred in.

Which motion prevailed.

Council bill No. 13, entitled a memorial and joint resolution of the legislature of the Territory of Dakota to the congress of the United States asking for a grant of land to aid in the construction of certain railroads in the Territory of Dakota,

Was then taken from the table.

Mr. Jolley moved that the memorial be laid on the table and be ordered printed.

Which motion prevailed.

At eleven o'clock the speaker announced the special order to wit: that part of the Governor's message relative to western Dakota and the Indian policy.

Mr. Jolley moved that the further consideration of the special order be postponed until one week from to-day, at eleven o'clock.

Which motion prevailed.

Mr. Watson moved that the house adjourn,

Which motion was lost.

Mr. Tacker moved that the report of the adjutant general be referred to the committee on military affairs; the report of the superintendent of public instruction be referred to the committee on education; and the reports of the territorial auditor and treasurer be referred to the committee on ways and means,

Which motion prevailed.

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have examined house file No. 3, entitled an act to enforce mechanic's liens on buildings, and find the same correctly enrolled.

On the motion of Mr. Ryan,  
The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest :*

P. H. HALNAN,  
*Chief Clerk.*

## TWENTY-SECOND DAY,

HOUSE OF REPRESENTATIVES, }  
Monday, December 23, 1867. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Gregory and Whitehead.

The journal of 21st inst, was then read, and approved.

Mr. Brauch presented the petition of A. G. Turner, which was then read as follows :

*To the Hon. the Speaker, and the House of Representatives of Territory of Dakota :*

I would most respectfully ask of your honorable body, that I be admitted to a seat in this house, as the representative from

Laramie county, a position to which your petitioner believes he is justly entitled, under the circumstances.

Very Respectfully,  
A. G. TURNER.

Mr. Jolley moved that the petition be referred to a special committee of six.

Which motion prevailed.

Whereupon the speaker named Messrs. Jolley, of Clay; Watson, of Union; Moody, of Yankton; Kegan, of Bon Homme; Dewitt, of Chas. Mix, and Thompson, of Todd, as such committee.

Mr. Moody moved that the committee of six on the credentials and petition of Mr. Turner be authorized to send for persons and papers, and to examine witnesses in reference to the subject matter referred to them.

Which motion prevailed.

The following message from the council was then read :

COUNCIL CHAMBER,  
Monday, December 13, 1867. }

MR. SPEAKER.—I am instructed by the council to inform the House that the council did on the 21st inst, pass the following house files, to-wit: House file No. 24, a bill for an act for the recovery of property removed by high water; house file No. 25, a bill for a memorial to congress praying for an appropriation to erect a capitol building in Dakota Territory; house file No. 28, A bill for an act to change the name of Gunder Gunderson; house file No. 30, a bill for an act to confer the right of citizenship on John, Charles and Alexander Cordier; which bills are herewith returned.

GEO. I. FOSTER,  
*Secretary.*

Mr. Jolley from the committee on judiciary submitted the following report :

MR. SPEAKER.—Your committee on judiciary to whom was referred the petition of John Snider and others, citizens of Cheyenne, praying for a reorganization of the county of Laramie, have had the same under consideration, and now report the

same back with the accompanying bill, providing for such re-organization in accordance with the prayer of said petitioners, and recommend the passage of the bill.

Mr. Dewitt from the committee on elections submitted the following report :

MR. SPEAKER.—Your committee on elections, have had under consideration the credentials of A. G. Turner, of Laramie county, and ask leave to return the same to the house and recommend that they be referred to the special committee who have in charge the application of A. G. Turner for a seat in this house.

Mr. Bronson from the committee on Indian affairs submitted the following report :

MR. SPEAKER.—Your committee on Indian affairs, to whom was referred memorial and joint resolution of the legislature of the Territory of Dakota relative to Indian affairs in Dakota Territory, to the congress of the United States, have had the same under consideration and beg leave to report back the same without amendment and recommend its passage.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have examined house file No. 18, entitled a memorial to the secretary of war praying for the construction of a military post on the Pembina river, under the appropriation of March 2d, 1861; also, house file No. 20, entitled an act to incorporate the city of Cheyenne; also, house file No. 23, entitled a memorial to the president of the United States relative to the removal of the Pembina band of Chippewa Indians, and find the same correctly enrolled.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have to report that they did on this day at 11 o'clock, A. M., present to the governor for his approval, house file No. 3, entitled an act

to enforce mechanics liens on buildings; also, house file No. 5, entitled an act respecting grand and petit jurors of the district court; also, house file No. 6, entitled an act relating to the challenging of jurors in civil and criminal cases.

Mr. Moody moved that the committee on enrollment be instructed to present the memorials that have or may pass this legislative assembly, to the governor for his signature, and request him to sign the same if he shall be pleased so to do.

Which motion prevailed.

Mr. Jolley gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill for an act relating to costs of trial on change of venue; also, joint resolution authorizing the adjutant general to rent a building to store arms and ammunition.

Mr. Watson gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill to indemnify persons in a portion of Union county against damages done by stock running at large.

On leave Mr. Thompson introduced house file No. 33, entitled a memorial to the Hon. Alex. Randall, P. M. Gen. of the United States, praying that the mail service on route No. 13801, from Sioux City, Iowa, to Fort Randall, D. T., be increased,

Which was read the first time.

Mr. Moody moved that the rules be suspended, and under the operation thereof, the bill be read the second and third time, and put upon its passage,

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayès 22; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Hanson, Jolley, Kegan,

Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the council requesting their concurrence therein.

By unanimous leave, Mr. Jolley introduced house file No. 34, entitled a joint resolution authorizing the adjutant general to rent a building to store arms and amunition,

Which was read the first time.

By unanimous leave, Mr. Jolley introduced house file No. 35, entitled a bill for an act relating to costs of trial on change of venue,

Which was read the first time.

Council bill No. 2, (substitute) entitled memorial and joint resolution of the legislature of the Territory of Dakota, relative to Indian affairs in Dakota Territory,

Was then taken up, and

Read the third time.

The question then being on its passage and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 22; noes 1; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Mr. Blair voted in the negative,

So the bill was passed,

The question then being on agreeing to the title of the bill and it being put,

The title was agreed to.

*Ordered,* That the chief clerk notify the council of the passage of said bill.

The following message from the council was then read :

COUNCIL CHAMBER, }  
Monday, December 23, 1867. }

MR. SPEAKER.—I am instructed to inform the house that the council has this day passed the following council bills to wit: council bill No. 19, a bill to authorize the county commissioners of Yankton county, to re-locate certain roads and for other purposes; Council bill No. 21, a bill to legalize the assessment and collection of the taxes of Yankton county for the year 1867, which bills I herewith transmit and respectfully request the concurrence of the house therein.

I am also instructed to inform the house that the council has this day passed house file No. 16, a bill for an act to create and establish the county of Carter, and providing for the appointment of officers therein, which bill is herewith returned.

GEO. L. FOSTER,  
*Secretary.*

Council bill No. 19, entitled a bill to authorize the county commissioners of Yankton county to re-locate certain roads and for other purposes,

Was then taken from the table, and was  
Read the first time.

Mr. Dewitt moved that the rules be suspended and under the operation thereof, the bill be read the second time by its title and be referred to the select committee consisting of the Yankton delegation,

Which motion prevailed.

The bill was accordingly read the second time and referred as above ordered.

Council bill No. 21, entitled a bill to legalize the assessment and collection of the taxes of Yankton county for the year 1867,

Was then taken from the table, and was  
Read the first time.

Mr. Dewitt moved that the rules be suspended and under the

operation thereof, the bill be read the second time by its title and be referred to the select committee consisting of the Yankton delegation.

Which motion prevailed.

The bill was accordingly read the second time and referred as above ordered.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have to report that they did on this day at 12 o'clock M., present to the Governor for his approval, house file No. 18, entitled a memorial to the secretary of war praying for the construction of a military post on the Pembina river under the appropriation of March 2, 1861; also house file No. 20, entitled an act to incorporate the city of Cheyenne; also house file No. 23, entitled a memorial to the president of the United States relative to the removal of the Pembina band of Chippewa Indians.

Mr. Curry moved that the house do now adjourn,  
Which motion was lost.

The following message from the council was then read :

COUNCIL CHAMBER,  
Monday, December 23, 1867. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council has this day passed house file No. 33, entitled a memorial to the Hon. Alex. Randall P. M. general United States, praying that the mail service on route No. 13801, from Sioux City, Iowa, to Fort Randall, D. T. be increased, which bill is herewith returned.

GEO. I. FOSTER,  
*Secretary.*

On the motion of Mr. Watson,  
The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALMAN,  
*Chief Clerk.*

## TWENTY-THIRD DAY.

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HOUSE OF REPRESENTATIVES, }  
 Tuesday, December 24, 1867. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,  
 On motion of Mr. Jolley,  
 The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALNAN,  
*Chief Clerk.*

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## TWENTY-FOURTH DAY.

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HOUSE OF REPRESENTATIVES, }  
 Wednesday, December 25, 1867. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair.

The following messages from his excellency, the Governor, were handed in by his private secretary, which were then read as follows:

EXECUTIVE OFFICE, }  
Yankton, D. T., Dec. 24, 1867. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives,*

SIR.—I have the honor to transmit herewith, house bill No. —, entitled an act to incorporate the city of Cheyenne;

Also, house bill No. —, entitled an act respecting grand and petit jurors of the district court;

Also, house bill No. —, entitled an act to enforce mechanic's liens on buildings;

Also, house bill No. —, entitled an act relating to the challenging of jurors in civil and criminal cases;

All of which I have approved and signed.

I am, very respectfully,

Your obedient servant,

A. J. FAULK,

*Governor.*

EXECUTIVE OFFICE, }  
Yankton, D. T., Dec. 24, 1867. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives,*

SIR.—I herewith transmit a memorial to the President of the United States relative to the removal of the Pembina band of Chippewa Indians;

Also, a memorial to the secretary of war, praying for the construction of a military post in the Red River valley under the appropriation of March 2, 1861;

Which I have approved and signed.

I have the honor to be,

Your ob't servant,

A. J. FAULK,

*Governor.*

On the motion of Mr. Kegan,

The house then adjourned.

ENOS STUTSMAN,

*Speaker.*

*Attest:*

P. H. HALNAN,

*Chief Clerk.*

## TWENTY-FIFTH DAY.

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HOUSE OF REPRESENTATIVES. }  
 Thursday, December 26, 1867. }

The house met pursuant to adjournment and was called  
 to order by

The speaker in the chair,

On the motion of Mr. Curry,

The house adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALNAN,  
*Chief Clerk*

## TWENTY-SIXTH DAY.

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HOUSE OF REPRESENTATIVES, }  
 Friday, December 27, 1867. }

The house met pursuant to adjournment and was called to  
 order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names :

Messrs. Brady, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Hanson, Hoyt, Jolley, Kegan, Nelson, Ryan, Shaw, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Blair, Gregory, Gunderson, Moody, Thompson and Whitehead.

The journal of the twenty-second, twenty-third, twenty-fourth, and twenty-fifth days were read and approved.

The speaker presented the petition of Mr. Armstrong, county surveyor of Yankton county, which was read as follows:

*To the Hon. Members of the Legislature of Dakota:*

GENTLEMEN:—I beg leave to ask for the repeal of all that portion of chapter 33, laws of 1865-66, following section 3 of said act, and relating to the manner of subdividing a section of land by a county surveyor, after the exterior lines of the same have been established by the United States survey.

Sections 4, 5, 6, 7 and 8 of said act are in conflict with the act of congress approved, February 11, 1805, which defines the manner in which a section shall be re-subdivided into quarters, eighths and sixteenth parts, and also the manner of dividing fractional sections into their proportionate and legal subdivisions.

By following the method prescribed in the said act of the Territorial statute, the county surveyor will often find a discrepancy of several links, amounting in some instances to a whole chain, in establishing the center of a section at a point equal distant from the opposite quarter section corners, instead of at the point of intersection of the right lines run between said quarter posts, as directed by the act of congress.

In order therefore, to prevent confusion in the system of county surveys and the consequent litigation between adjoining landholders, I would most respectfully recommend the repeal of all of said chapter 33, except sections 1, 2 and 3 which relate to recording of field notes, &c.

Very respectfully,

M. K. ARMSTRONG.

*Co. Surveyor, Yankton Co.*

On the motion of Mr. Hoyt,

The petition was referred to the committee on public lands.

Mr. Jolley offered the following resolution :

*Resolved*, That the chief clerk be directed to request the honorable Secretary of the Territory to furnish to each member of this house one copy of "Armstrong's History of Dakota," as is provided by chapter fifteen of the special laws of 1866 and 1867.

On the motion of Mr. Curry,  
The resolution was adopted.

On the motion of Mr. Jolley,  
Mr. Moody was excused for non-attendance to-day on account of sickness.

Mr. Tucker moved that the name of Mr. Whitehead be stricken from the rolls of the house.

Mr. Watson moved that the motion of Mr. Tucker be laid upon the table until such time as the special committee who have under consideration the credentials of Mr. A. G. Turner, shall have reported.

Which motion prevailed.

Mr. Watson gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill to relocate a portion of a Territorial road running from the town of Vermillion to the Big Sioux river, by way of Brule Creek.

Mr. Curry gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill to regulate and license brewers and distillers.

On leave Mr. Watson introduced house file No. 36, entitled a bill for an act to indemnify persons in a portion of Union county against damages done by stock running at large.

Which was read the first time.

Mr. Watson moved that the rules be suspended and under the operation thereof, the bill be read the second time by its title and be referred to the committee on towns and counties.

Which motion prevailed.

The bill was accordingly read the second time and referred as above ordered.

Council bill No. 13, a memorial and joint resolution of the legislature of the Territory of Dakota, to the congress of the United States, asking for a grant of lands to aid in the construction of certain railroads in the Territory of Dakota,

Was then taken from the table,

On the motion of Mr. Jolley,

The rules were suspended, and under the operation thereof,

The bill was read the second time by its title, and

Referred to the committee on railroads.

House file No. 31, entitled an act to incorporate insurance companies,

Was then taken from the table.

On the motion of Mr. Curry,

The rules were suspended and under the operation thereof

The bill was read the second time by its title, and

Referred to the committee on incorporations.

House file No. 32, entitled a bill for an act to organize the county of Laramie.

Was then taken from the table,

On the motion of Mr. Jolley,

The rules were suspended, and under the operation thereof,

The bill read the second time by its title, and

On the motion of Mr. Curry,

The bill was then referred to the committee on towns and counties.

House file No. 34, entitled a joint resolution authorizing the adjutant general to rent a building to store arms and ammunition,

Was then taken from the table.

On the motion of Mr. Jolley,

The rules were suspended and under the operation thereof,

The bill read the second time by its title, and

Referred to the committee on ways and means.

House file No. 35, entitled a bill for an act relating to costs of trial on change of venue.

Was then taken from the table,

On the motion of Mr. Jolley,  
 The rules were suspended and under the operation thereof,  
 The bill was read second time by its title, and  
 Referred to the committee on judiciary.

On the motion of Mr. Nelson,  
 The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALNAN,  
*Chief Clerk.*

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## TWENTY-SEVENTH DAY.

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HOUSE OF REPRESENTATIVES, }  
 Saturday, December 28, 1867. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names:

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings,  
 Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt,  
 Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson,  
 Tucker, Watson and Mr. Speaker.

Absent, Messrs. Gregory and Whitehead.

The journal of yesterday was then read and approved.

Mr. Curry from the committee on ways and means submitted the following report :

MR. SPEAKER.—Your committee on ways and means to whom was referred house file No. 34, entitled an act authorizing the adjutant general to rent a building to store arms and ammunition, have had the same under consideration and report it back to the house and recommend its passage.

Mr. Cummings from the committee on public lands submitted the following report :

MR. SPEAKER.—Your committee on public lands have had under consideration the petition of M. K. Armstrong, esq., county surveyor of Yankton county, on the subject of the law of this Territory relative to county surveyors, and have agreed upon the the accompanying bill, entitled a bill for an act to repeal certain sections of an act entitled an act relative to county surveyors, approved January 8, 1866; and have instructed me to report the bill to the house with the recommendation that it do pass.

House file No. 37, entitled a bill for an act to repeal certain sections of an act entitled an act relative to county surveyors, approved January 8th, 1866,

Was then read the first time.

Mr. Bronson from the committee on incorporations submitted the following report :

MR. SPEAKER.—Your committee on incorporations to whom was referred house file No. 31, an act to incorporate insurance companies have had the same under consideration, and beg leave to report back the same without amendment and recommend its passage.

Mr. Kegan from the committee on highways, ferries and bridges submitted the following report :

MR. SPEAKER.—Your committee on highways, ferries and bridges to whom was referred house file No. 26, entitled a bill for an act to locate a road to connect with the branch Territorial road located and surveyed under an act to locate and es-

establish a Territorial road from the Missouri by way of Elk Point and Brule Creek, to the north line of Union county, have had the same under consideration and beg leave to report the same back to the house without amendment and recommend its passage.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have examined house file No. 16, an act to create and establish the county of Carter, and providing for the appointment of officers therein ; also house file No. 28, an act to change the name of Gunder Gunderson ; also house file No. 25, a memorial to congress praying for an appropriation to erect a capital building in Dakota Territory ; also house file No. 30, an act to confer the right of citizenship on John, Charles and Alexander Cordier ; also house file No. 33, a memorial to the Hon. Alex. Randall, P. M. Gen. United States, praying that the mail service on route No. 13801, from Sioux City, Iowa, to Fort Randall, D. T., be increased ; and find the same correctly enrolled.

Mr. Moody from the committee on education submitted the following report :

MR. SPEAKER.—Your committee on education to whom was referred house file Nos. 13 and 15, being bills to amend the school laws of this Territory, have had the same under consideration and have instructed me to report a substitute therefor, and recommend the passage of the substitute.

On the motion of Mr. Watson,

The report of the committee was adopted.

Mr. Bronson from the special committee submitted the following report :

MR. SPEAKER.—Your special committee to whom was referred council bill No. 19, entitled a bill to authorize the county commissioners of Yankton county, to re-locate certain roads and for other purposes have had the same under consideration and beg leave to report the same back without amendment and recommend its passage.

Mr. Bronson from the special committee also submitted the following report :

MR. SPEAKER.—Your special committee to whom was referred council bill No. 21, entitled an act to legalize the assessment and collection of taxes in the county of Yankton, Dakota Territory, beg leave to report the same back without amendment and recommend its passage.

On the motion of Mr. Jolley,

Mr. Gunderson was excused for non attendance the last five days of the session.

On the motion of Mr. Curry,

Mr. Blair was excused for non attendance the last five days of the session.

On leave, Mr. Curry introduced house file No. 38, entitled an act to regulate and license brewers and distillers,  
Which was read the first time.

On leave, Mr. Hanson introduced house file No. 39, entitled a bill for an act to amend chapter 32 of the session laws of 1865-6, entitled an act to prohibit sheep and swine from running at large,  
Which was read the first time.

On leave, Mr. Farris introduced house file No. 40, entitled a bill for an act providing bounties for wolf, wild cat and swift scalps.

On the motion of Mr. Jolley,  
The rules were suspended, and  
The bill read the first time by its title.

On leave, Mr. Moody introduced house file No. 41, entitled an act concerning mines and mining.

Mr. Gore moved that the rules be suspended and the bill be read the first time by its title,  
Which motion prevailed.

Mr. Tucker moved that the rules be suspended and under the operation thereof, the bill be read the second time by its title and referred to the committee on judiciary,

Which motion prevailed.

The bill was accordingly read the second time and referred as above ordered.

On leave, Mr. Thompson introduced house file No. 42, entitled a memorial to congress praying for the establishment of a mail route from Fort Randall, to Fort Rice, in Dakota Territory,

Which was read the first time.

Mr. Kegan moved that the rules be suspended, and in the operation thereof, the bill be read the second and third time and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage, and it being asked "shall the bill pass?"

It was decided in the affirmative,

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummins, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, H. Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the committee requesting their concurrence therein.

Council bill No. 19, entitled a bill to authorize the commissioners of Yankton county, to re-locate certain roads and for other purposes,

Was then taken up, and

Read the third time.

Mr. Dewitt moved that the bill be recommitted to the special committee consisting of the Yankton delegation.

Which motion prevailed.

Council bill No. 21, a bill to legalize the assessment and collection of the taxes of Yankton county for the year 1867.

Was then taken up, and

Read the third time.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 21 ; noes 3 ; as follows :

Those who voted in the affirmative, are

Messrs. Blair, Bronson, Brauch, Brown, Cummings, Curry, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Tucker, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Dewitt, Fallas and Thompson.

Mr. Moody asked leave to be excused from voting on the above bill, and it being put it was decided in the affirmative.

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk notify the council of the passage of said bill.

(Substitute) for house file No. 13 and 15, entitled a bill for an act providing common schools for the Territory of Dakota,

Was then taken up,

Mr. Moody moved that the further consideration of said bill be postponed until Monday at 11 o'clock.

Which motion prevailed.

House file No. 26, entitled a bill for an act to locate a road to connect with the branch Territorial road located and surveyed under an act to locate and establish a Territorial road from the Missouri by way of Elk Point and Brule Creek to the north line of Union county.

Was then taken up,

Mr. Moody moved that the further consideration of said bill be postponed until Monday at 11 o'clock.

Which motion prevailed.

House file No. 31, entitled an act to incorporate insurance companies,

Was then taken up, and

Read the third time,

The question then being upon its passage and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

House file No. 34, entitled a joint resolution authorizing the adjutant general to rent a building for the purpose of storing arms and ammunition,

Was then taken up,

Mr. Moody moved that the further consideration of said bill be postponed until Tuesday at 11 o'clock.

Which motion prevailed.

At eleven o'clock the speaker announced the general order to-wit: The governor's message.

Mr. Jolley moved that the further consideration of the general order be postponed until Saturday, January 4th.

Which motion prevailed.

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have examined house file No. 24, an act for the recovery of property removed by high water; also, house file No. 27, an act to strike the word "white" out of the election laws of Dakota Territory; and find the same correctly enrolled.

The following message from the council was then read :

COUNCIL CHAMBER, }  
December 28, 1867. }

MR. SPEAKER.—I am instructed to inform the house that the council has this day passed council bill No 30, a memorial to congress praying for an appropriation to complete the Sioux City and Fort Randall wagon road; also, council bill No. 32 an act to change the name of Milo K. Linedolph; which bills are herewith transmitted and the concurrence of the house respectfully requested.

I have also to inform the house that the council has this day passed the following house files, to-wit: House file No. 19, entitled a memorial to congress relative to the United States land office in the Red River valley; house file No. 21, entitled a memorial to congress praying for the establishment of a mail route from Fort Totten to St. Joseph, D. T.; house file No. 42, entitled a memorial to congress praying for the establishment of a mail route from Fort Randall to Fort Rice, in Dakota Territory; which bills are herewith transmitted.

I have also to inform the house that the council has this day passed council bill No. 22, entitled a bill for an act to divide the county of Union into townships and to provide for the election of officers therein, which bill is herewith transmitted and the concurrence of the house respectfully requested.

GEO. I. FOSTER,  
*Secretary.*

Mr. Brown moved that the house do now adjourn.  
Which motion was lost.

Council bill No. 22, entitled a bill for an act to divide the county of Union into townships and provide for the election of certain officers therein,

Was then taken from the table,

On the motion of Mr. Bronson,

The rules were suspended and the bill read the first time by its title.

Council bill No. 30, entitled a memorial to congress praying for an appropriation to complete the Sioux city and Fort Randall wagon road.

Was then taken from the table, and

Read the first time.

Council bill No. 32, entitled an act to change the name of Milo K. Linedolph,

Was then taken from the table, and

Read the first time.

Mr. Moody moved that the rules be suspended, and under the operation thereof, the bill be read the second and third time, and put upon its passage,

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 23; noes 1; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Mr. Curry voted in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

Ordered, That the chief clerk notify the council of the passage of the bill.

On the motion of Mr. Curry,

The house then adjourned.

ENOS STUTSMAN, *Speaker*.

Attest: P. H. HALNAN, *Chief Clerk*.

## TWENTY-NINTH DAY.

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HOUSE OF REPRESENTATIVES; }  
Monday, December 30, 1867. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names:

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Gregory and Whitehead.

The journal of the 28th inst. was then read, corrected and approved.

Mr. Jolley from the committee on judiciary submitted the following report:

MR. SPEAKER.—Your committee on judiciary have had under consideration council bill No. 15, entitled a bill to repeal chapter 39 of the laws of 1862, and chapter 2 of the laws of 1866-67; and house file No. 35, entitled a bill for an act relating to costs of trial on change of venue, and have instructed me to report the same back with the recommendation that the said bills do pass.

Mr. Gunderson from the committee on towns and counties submitted the following majority report:

MR. SPEAKER.—Your committee on towns and counties have had under consideration house file No. 32, entitled a bill for an act to re-organize the county of Laramie and the undersigned the majority of the committee report the same back with the recommendation that the bill do pass.

Mr. Ryan from the committee on towns and counties submitted the following minority report :

MR. SPEAKER.—A minority of your committee on towns and counties to whom was referred house file No. 32, an act to organize the county of Laramie, have had the same under consideration and recommend that the same be laid on the table until Wednesday the 8th day of January, 1868.

Mr. Moody moved that the further consideration of the above reports be postponed until after passing the calendar,  
Which motion prevailed.

Mr. Hoyt from the committee on enrollment submitted following report :

MR. SPEAKER.—Your committee on enrollment have examined house file No. 19, entitled a memorial to congress relative to a United States land office in the Red River valley ; house No. 21, entitled a memorial to congress praying for the establishment of a mail route, from Fort Totten to St. Joseph, T. ; and house file No. 42, entitled a memorial to congress praying for the establishment of a mail route from Fort Randall to Fort Rice, in Dakota Territory, and find the same correctly enrolled.

Mr. Hoyt from the committee on enrollment submitted following report :

MR. SPEAKER.—Your committee on enrollment have to report that they did on Saturday, December 28th, at 1 o'clock P. M., present to the Governor for his approval, house file No. 16, an act to create and establish the county of Carter, providing for the appointment of officers therein ; also house file No. 28, an act to change the name of Gunder Gunders ; also house file No. 25, a memorial to congress praying for appropriation to erect a capital building in Dakota Territory ; also house file No. 30, an act to confer the right of citizenship on John, Charles and Alexander Cordier ; and house file No. 33, a memorial to the Hon. Alex. Randall, P. M. general United States, praying that the mail service on route No. 138 from Sioux City, Iowa, to Fort Randall, D. T. be increased

Mr. Moody offered the following resolution :

*Resolved*, That the committee on judiciary be instructed to enquire into the expediency of providing a district court for the counties of Laramie and Carter, and to report at an early day by bill or otherwise.

On the motion of Mr. Hoyt,  
The resolution was adopted.

Mr. Moody moved that the vote on council bill No. 21, entitled a bill to legalize the assessment and collection of the taxes of Yankton county, for the year 1867, be reconsidered, and the chief clerk be instructed to request the council to return said bill,

Which motion prevailed.

By unanimous leave, Mr. Jolley introduced house file No. 43, entitled a bill for an act to extend the time for the collection of taxes of Clay county for the year 1867, and for other purposes.

Which was read the first time.

Mr. Jolley moved that the rules be suspended and under the operation thereof, the bill be read the second and third time and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative.

So the bill was passed,

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

On leave, Mr. Watson introduced house file No. 44, entitled a bill for an act to re-locate a portion of a Territorial road running from the town of Vermillion, *via* Brule Creek, to the Big Sioux River, located under an act approved January 1, 1866.

Which was read the first time.

Council bill No. 15, entitled a bill to repeal chapter 3 of the laws of 1862, and chapter 2 of the laws of 1866-7,

Was then taken up, and

Read the third time.

The question then being on its passage and it being put, "Shall the bill pass?"

It was decided in the affirmative.

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummins, Curry, Dewitt, Fallas, Farris, Gere, Gunderson, Harlan, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

(Substitute) for house file Nos. 13 and 15, entitled a bill for an act providing common schools for the Territory of Dakota.

Was then taken from the table.

The following amendments to said substitute were offered by Mr. Moody:

Amend sec. 7, 11th line by inserting between the words "making and proceeding" the words "reports and conducting all necessary."

Amend wherever the word "county clerk" occurs by striking out the same and insert in lieu thereof the words "county register of deeds."

Amend sec. 24, 3d line, by striking out the word "thirty" and inserting in lieu thereof the word "twenty;" amend 2d line of page 24 by striking out therefrom the word "second" and inserting in lieu thereof the word "first."

On the motion of Mr. Moody,  
The amendments were adopted.

On the motion of Mr. Moody,  
It was ordered engrossed for a third reading.

House file No. 26, entitled a bill for an act to locate a road to connect with the branch Territorial road located and surveyed under an act to locate and establish a Territorial road from the Missouri by way of Elk Point and Brule Creek, to the north line of Union county,

Was then taken from the table,

Mr. Moody moved that the bill be referred to a select committee of one from each county on Missouri slope.

Which motion prevailed.

Whereupon the speaker named Messrs. Moody, of Yankton; Watson, of Union; Brady, of Clay; Brown, of Bon Homme; Dewitt, of Chas. Mix, and Thompson, of Todd, as such committee.

Council bill No. 22, entitled a bill for an act to divide the county of Union into townships and to provide for the election of officers therein,

Was then taken from the table,

On the motion of Mr. Watson,

The rules were suspended and under the operation thereof,

The bill was read second time by its title,

Mr. Jolley moved that the bill be referred to a special committee consisting of the Union county delegation,

Which motion prevailed.

Council bill No. 30, entitled a memorial to congress praying for an appropriation to complete the Sioux city and Fort Randall wagon road.

Was then taken from the table,

Mr. Nelson moved that the rules be suspended and under the

operation thereof, the bill be read the second time by its  
and be referred to the committee on federal relations.

Which motion prevailed.

The following message from the council was then read :

COUNCIL CHAMBER,  
Monday, December 30, 1867.

MR. SPEAKER.—I am instructed by the council to inform  
house that the council has this day passed council bill No  
a bill for an act relating to road supervisors ; also, co  
bill No. 28, a bill to provide for the organization of the co  
of Minnehaha ; which bills are herewith transmitted and  
concurrence of the house respectfully requested.

GEO. I. FOSTER,  
*Secretary*

Mr. Jolley from the committee on engrossment submitted  
following report :

MR. SPEAKER.—Your committee on engrossment have  
amined (substitute) for house file Nos. 13 and 15, entitled  
bill for an act providing common schools for the Territory  
Dakota ; and have instructed me to report as correctly  
grossed.

(Substitute) for house file No, 13. and 15, entitled a bil  
an act providing common schools for the Territory of Dal  
reported back by committee as being correctly engrossed,

Was then taken up, and

Read the third time.

The question then being on its passage, and it being  
“shall the bill pass?”

It was decided in the affirmative.

Ayes 24 ; noes none ; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cumm  
Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, E  
Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tu  
Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to the title of the bill, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

House file No. 37, entitled a bill for an act to repeal certain sections of an act entitled an act relative to county surveyors, approved, January 8th, 1868,

Was then taken from the table, and

Read the second time.

Mr. Moody moved that the rules be suspended, and under the operation thereof the bill be read the third time, and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to the title of the bill, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

House file No. 39, entitled a bill for an act to amend chapter 32 of the session laws of 1865-6, entitled an act to prohibit sheep and swine from running at large,

Was then taken up, and

Read the second time,

Mr. Farras moved that the rules be suspended, and under the operation thereof, the bill be read the second and third time and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 18; noes 5; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Dewitt, Fallas, Farris, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw and Tucker,

Those who voted in the negative, are

Messrs. Cummings, Curry; Gore, Thompson and Watson.

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the council requesting their concurrence therein.

On the motion of Mr. Curry,

The speaker was excused from voting on the above bill.

House file No. 35, entitled a bill for an act relating to costs of trial on change of venue.

Was then taken up, and

Read the third time,

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

Council bill No. 18, entitled a bill for an act relating to road supervisors,

Was then taken from the table,

Mr. Jolley moved that the rules be suspended, and under the operation thereof, the bill be read the first and second time by its title and referred to the committee on highways, ferries and bridges.

Which motion prevailed.

The bill was accordingly read the first and second time and referred as above ordered.

Council bill No. 28, entitled a bill to provide for the organization of the county of Minnehaha,

Was then taken from the table, and

Read the first time.

Mr. Curry moved that the rules be suspended and under the operation thereof, the bill be read the second time by its title and referred to the committee on towns and counties.

Which motion prevailed.

The bill was accordingly read the second time and referred as above ordered.

After passing the calendar,

Mr. Jolley moved that the report of the majority committee on house file No. 32, entitled a bill for an act to organize the county of Laramie, be adopted,

Which motion prevailed.

House file No. 32, entitled a bill for an act to organize the county of Laramie,

Was then taken up, and

Read the third time.

The question then being on its passage and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 16 ; noes 8 ; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Bronson, Brauch, Cummings, Gore, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Blair, Brown, Curry, Dewitt, Fallas, Farris, Kegan and Ryan.

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit the bill to the council requesting their concurrence therein.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have to report that they did on this day at 12 o'clock M., present to the Governor for his approval, house file No. 24, entitled an act for the recovery of property removed by high water ; house file No. 27, an act to strike the word "white" out of the election laws of Dakota Territory ; house file No. 42, a memorial to congress praying for the establishment of a mail route, from Fort Randall, to Fort Rice, in Dakota Territory ; house file No. 21 a memorial to congress praying for the establishment of a mail route from Fort Totten to St. Joseph, D. T. ; and house file No. 19, a memorial to congress relative to a United States land office in the Red River valley.

The following messages from his excellency, the Governor, were handed in by his private secretary, which were then read as follows :

EXECUTIVE OFFICE, }  
Yankton, D. T., Dec. 27, 1867. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives :*

SIR.—I have the honor to return herewith a bill entitled an

act to create and establish the county of Carter, and providing for the appointment of officers therein; also a bill entitled an act to confer the right of citizenship on John, Charles and Alexander Cordier; also an act to change the name of Gunder Gunderson,

Which I have approved and signed.

I am, very respectfully,  
Your ob't servant,  
A. J. FAULK,  
*Governor.*

EXECUTIVE OFFICE, }  
Yankton, D. T., Dec. 30, 1867. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives,*

SIR.—I have the honor to return herewith, a memorial to congress relative to a United States land office in the Red River valley; also a memorial to congress praying for the establishment of a mail route from Fort Randall, to Fort Rice, in Dakota Territory; also a memorial to congress praying for the establishment of a mail route from Fort Totten, to St. Joseph, D. T.;

Which I have signed.

I am, very respectfully,  
Your ob't servant,  
A. J. FAULK,  
*Governor.*

EXECUTIVE OFFICE. }  
Yankton, D. T., Dec. 30, 1867. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives,*

SIR.—I have the honor to transmit herewith a bill entitled an act for the recovery of property removed by high water; also a bill entitled an act to strike the word "white" out of the election laws of Dakota Territory;

Which I have approved and signed.

I am, very respectfully,  
Your obedient servant,  
A. J. FAULK,  
*Governor.*

EXECUTIVE OFFICE.  
Yankton, D. T., Dec. 30, 1867. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives,*

SIR.—I have the honor to return herewith a memorial to the Hon. Alexander Randall, P. M. general United States, praying that the mail service on route No. 13801, from Sioux City, Iowa, to Fort Randall, Dakota Territory, be increased; also a memorial to congress praying for an appropriation to erect a capital building in Dakota Territory;

Both of which I have signed.

I am, very respectfully,

Your ob't servant,

A. J. FAULK,

*Governor.*

The following message from the council was then read:

COUNCIL CHAMBER,  
Monday, December 30, 1867. }

MR. SPEAKER.—In compliance with a request of the house, communicated to the council this day, I have the honor to return to the house council bill No. 21, a bill to legalize the assessment and collection of the taxes of Yankton county, for the year 1867; I have also to inform the house that the council has this day passed house file No. 2, a bill to simplify and abridge the practice and proceedings of the courts of this Territory, which bill is herewith transmitted.

GEO. I. FOSTER,

*Secretary.*

Mr. Moody moved that the vote ordering the third reading of council bill No. 21, entitled a bill to legalize the assessment and collection of the taxes of Yankton county, for the year 1867, be reconsidered, and that the bill be recommitted to the special committee consisting of the Yankton delegation,

Which motion prevailed.

Mr. Dewitt from the committee on railroads submitted the following report:

MR. SPEAKER.—Your committee to whom was referred council file No. 13, a memorial to the congress of the United States

asking for a grant of lands to aid in the construction of certain railroads in the Territory of Dakota, have had the same under consideration and beg leave to recommend the adoption of the following amendment: insert after the word forfeitures in the last section, or to some company or companies, to be designated by the president of the United States, that will furnish ample guarantees for an early completion of the proposed roads.

On the motion of Kegan,

The report of the committee was adopted.

Mr. Dewitt from the committee on railroads also submitted the following report:

MR. SPEAKER.—Your committee to whom was referred council file No. 12, a bill to amend an act entitled an act to incorporate the Dakota and Northwestern railroad company, have had the same under consideration and recommend the adoption of the following amendment: strike out the words eighteen months (in the first section) and insert in lieu thereof, “two years and six months.”

Mr. Moody moved that the amendments of the committee be amended by striking out the words “six months,”

Which motion was lost.

On the motion of Mr. Farris,

The report of the committee was adopted.

Mr. Jolley moved that the house do now adjourn,

Which motion was lost.

Council bill No. 12, entitled a bill to amend an act entitled an act to incorporate the Dakota and Northwestern railroad company,

Was then taken up, and

Read the third time.

The question then being upon its passage and it being put, “shall the bill pass?”

It was decided in the affirmative,

Ayes 20; noes 4; as follows:

Those voting in the affirmative, are

Messrs. Blair, Brauch, Brown, Carry, Dewitt, Fallas, Farris, Gore, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Those who voted in the negative, are  
 Messrs. Brady, Bronson, Cummings, Gunderson,  
 So the bill was passed,  
 The question then being on agreeing to its title, and it b  
 put,  
 The title was agreed to.  
*Ordered*, That the chief clerk notify the council of the p  
 age of said bill.

On the motion of Mr. Jolley,  
 The house then adjourned.

ENOS STUTSMAN

*Attest* :

*Spea*

P. H. HALNAN,  
*Chief Clerk.*

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## THIRTIETH DAY.

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HOUSE OF REPRESENTATIVES, }  
 Tuesday, December 31, 1867. }

The house met pursuant to adjournment and was called  
 order by

The speaker in the chair,  
 Prayer by the chaplain,  
 Roll called,

The following members answered to their names:

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummin  
 Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, H  
 Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thomps  
 Tucker, Watson and Mr. Speaker.

Absent, Messrs. Gregory and Whitehead.

The journal of the preceding day was read and approved.

House file No. 22, entitled a memorial to congress for an appropriation to construct a wagon road from Fort Abercrombie, down the Red River of the North,

Was then taken up, and

It having been read the third time,

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 20; noes 1; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Brauch, Brown, Cummings, Curry, Fallas, Farris, Gore, Gundersen, Hanson, Jolley, Kegan, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Mr. Moody voted in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

Mr. Jolley presented petition of citizens of Clay county, which was read as follows:

*To the Honorable the Legislative Assembly of the Territory of Dakota:*

We the undersigned legal voters of Clay county, D. T., respectfully ask that the act of the Legislature of said Territory, approved January 11th 1865, establishing a Territorial road, may be amended, and Geo. W. Pratt, B. W. Collar and A. A. Partridge be appointed commissioners to change the present location of said road, between the south east corner of section 11, township ninety-two of range 52, and the north line of section 11 aforesaid.

B. W. COLLAR,  
WM. SHRINER,  
E. M. BOND,  
JOHN RUSSELL,

Mr. Jolley moved that the petition be referred to the special committee consisting of the Clay county delegation.

Which motion prevailed.

Mr. Jolley from the committee on judiciary submitted following report:

MR. SPEAKER.—Your committee on judiciary have had under consideration council bill No. 8, entitled an act to regulate the sale of spirituous liquors and for other purposes, and I instructed me to report the same with the amendments Nos. 2, 3, 4 and 5, thereto attached and recommend their adoption and that the bill do pass.

The amendments were then read as follows:

AMENDMENT NO. 1.

Section 6, is amended by striking out the word "two" where the same occurs on the sixth line of said section and inserting the word "one" between the words "exceeding" "hundreds," and by striking out the word "one hundred" where the same occurs on the seventh line of said section, between the words "therein" and "dollars," and inserting in thereof the word "ten."

AMENDMENT NO. 2.

Section 8, is amended by inserting between the words "committed" and on the seventh line of said section the following words: "or to a justice of the peace, which justice shall have power to proceed to judgment therein."

AMENDMENT NO. 3.

Section 10, is amended by adding to said section the following words: *Provided*, That if a party or parties has or have been convicted and fined for an offence against the provisions of this act, by a justice of the peace, he or they shall not be subject to indictment by the grand jury for the same offence.

AMENDMENT NO. 4.

Section 6, is amended by inserting between the words "thereof" and "be" on the fifth line, the following words: "or by indictment in any court having jurisdiction of the same or by complaint before a justice of the peace."

## AMENDMENT No. 5.

Section 2, is amended by adding to said section the following words, to wit :

*Provided further,* That the applicant for such license shall execute a bond in the penalty of five hundred dollars, with two or more sureties to be approved by the board or by the register of deeds, conditioned that the applicant will keep an orderly house and that he will not permit any unlawful gaming or riotous conduct in his house.

On the motion of Mr. Curry,

The report of the committee with amendments were adopted.

Mr. Gore from the committee on federal relations submitted the following report :

MR. SPEAKER.—Your committee on federal relations to whom was referred council bill No. 30, entitled a memorial to congress praying for an appropriation to complete the Sioux City and Fort Randall wagon road, have had the same under consideration and report the same back without amendment and recommend its passage.

Mr. Ryan from the committee on towns and counties submitted the following report :

MR. SPEAKER.—Your committee on towns and counties to whom was referred council bill No. 28, entitled a bill to provide for the organization of the county of Minnehaha, have had the same under consideration and report the same back to the house and recommend its passage.

Mr. Curry from the select committee consisting of the Union county delegation, submitted the following report :

MR. SPEAKER.—Your committee consisting of the Union county delegation to whom was referred council bill No. 22, entitled a bill for an act to divide the county of Union into townships and provide for the election of certain officers therein ; have had the same under consideration and report the same back to the house and recommend its passage.

Mr. Moody from the select committee, consisting of one mem-

ber from each county on Missouri slope, submitted the following majority report :

MR. SPEAKER.—Your select committee to whom was referred the petition of A. G. Turner, praying that he be admitted to take his seat as a member of this house from the county of Laramie and Carter, with the accompanying papers, a power to send for persons and papers, beg leave to report that they have had the same under consideration, and that far as was possible in the limited time allowed them by the shortness of the session of this house, examined witnesses were before your committee and are satisfied from the evidence thus adduced that the election under which Mr. Whitehead was elected as representative, was wholly illegal and in fact so far as they know, Mr. Whitehead does not sit as such, never having presented himself nor asked to be admitted.

Your committee are of the opinion that Mr. Turner, the claimant of the seat, should be admitted as from the evidence adduced it clearly appears that he was selected by a large portion of the people of the county of Laramie, to represent the county in the house, and while there possibly was some informality in his election, yet under the circumstances of this case your committee are of the opinion that Mr. Turner should be admitted to take the oath of office.

Mr. Jolley from the select committee, consisting of one member from each county on Missouri slope, submitted the following minority report :

MR. SPEAKER.—Your special committee to whom was referred the petition of A. G. Turner asking for a seat in this house as the member from Laramie county, and to whom was referred the certificate of J. S. Lowery and W. M. Templeton, certify that A. G. Turner was elected by the citizens of South Pass City, D. T., have had the same under consideration.

The committee had A. G. Turner before them as a witness from whose testimony the following circumstances appear : there was a caucus held by about five hundred citizens of South Pass City, D. T., on the 13th day of November, 1867, at which caucus was called by the recorder of that place. At th

cus A. G. Turner was elected unanimously to represent that portion of the Territory in this Territorial Legislature.

The committee had also before them J. L. Laird, of Cheyenne City, Laramie county, from whose statement it appears that the county of Laramie never was organized under the act passed by the Legislature of last winter ; that the election held at which J. R. Whitehead was elected a member of this house, was not in compliance with the election law of this Territory in any respect ; that the people were anxious to be represented in the Legislature this session, and that in his opinion if A. G. Turner was admitted it would be satisfactory to many of the people of his portion of the county.

These are substantially the facts brought before the committee and from which must be decided the question ; shall A. G. Turner be admitted to a seat in this house ?

In the opinion of the minority of your committee it is absolutely impossible for them to report favorable to the admission of A. G. Turner. The election or caucus was in direct violation of law. Not one of the essential provisions of the election law was complied with. The election was not called by the legal officers, the judges were not sworn or clerks appointed, the votes were not cast by ballot. In fact there was no legal notice given of such election and there were no legal officers. The county threw into the face of the Legislature the privileges offered them by the Legislature of last winter to properly organize. For aught your committee know except the oath of A. G. Turner, and a letter from Judge Carter, to his excellency, A. J. Faulk, there was no one present at the caucus except the officers. All law was set aside ; all forms were cast to the wind and all the essential provisions of an election were wholly dispensed with. Yet your committee in justice must state that this people are so far from the other settlements in Laramie county, that it was impossible for them to receive the law without having sent a special messenger for that purpose. They had no mails.

The minority of your committee believe that Laramie county is not entitled to a member on the floor of this house, this session. Everything that could be done for them has been performed by the Legislature of this Territory. Full, ample and

proper authority was given them to bring themselves the cover of law. They spurned the gift. Does it behoove to beseech them to accept what they have absolutely refused to receive? Have the people of that part of the Territory the proper spirit to avail themselves of the advantages in their hands?

It would be impossible in the opinion of the minority of the committee to admit another member while the name of Whitehead appears upon the roll of members of this Territory. The number of members allowed by the Organic Act are twenty-six. That number is apportioned through the Territory. If there are laws they must be complied with. If not complied with, followed and obeyed, why continue the farce of calling the Legislature together to pass laws and then thrust them aside.

The plain question is, will this house admit a member who was elected in the manner A. G. Turner was? We cannot. If we violate, thrust aside and override the laws, can we expect the people we represent to obey them?

We believe that a high sense of duty, a proper respect for the laws on our statute book as well as the preservation of the purity of our elections compel and force us to disagree with the majority of the committee.

We therefore report that in our opinion A. G. Turner should not be admitted as a member of this house and recommend the adoption of the following resolution:

*Resolved*, That the petition of A. G. Turner, be denied and that he be not admitted a member of this house.

JOHN L. JOLLEY  
JAMES KEGAN.

Mr. Hoyt moved that the report of the majority committee be adopted.

The ayes and noes being called for and ordered, the result is as follows:

Ayes 12; noes 12; as follows:

Those who voted in the affirmative, are

Messrs. Bronson, Brauch, Brown, Cummings, Gore, Hoyt, Moody, Nelson, Thompson, Tucker and Watson.

Those who voted in the negative, are

Messrs. Brady, Blair, Curry, Dewitt, Fallas, Farris, Gunderson, Jolley, Kegan, Ryan, Shaw and Mr. Speaker.

So the motion to accept the report of the majority committee was lost.

Mr. Curry moved that the report of the minority committee be adopted,

The ayes and noes being called for and ordered, resulted as follows :

Ayes 12; noes 12; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Curry, Dewitt, Fallas, Farris, Gunderson, Jolley, Kegan, Ryan, Shaw and Mr. Speaker.

Those who voted in the negative are,

Messrs. Bronson, Brauch, Brown, Cummings, Gore, Hanson, Hoyt, Moody, Nelson, Thompson, Tucker and Watson.

So the motion to adopt the report of the minority committee was lost.

Mr. Moody moved that the further consideration of the above reports be postponed until 12 o'clock.

Which motion was lost.

Mr. Watson gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill for an act to establish a fence law in the county of Union.

Mr. Thompson gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill relative to the change of the Big Cheyenne wagon road.

House file No. 34, entitled a joint resolution authorizing the adjutant general to rent a building for the purpose of storing arms and ammunition,

Was then taken from the table.

Mr. Moody offered the following amendments to said bill :

Amend section 1, by striking out the word "rent" in 3d line of section one, and insert in lieu thereof the words "to cause to be erected a suitable."

Strike out the word "rent" in the 6th line and insert in lieu thereof the word "cost."

Strike out the word "one" in the 7th line and insert thereof the words "of two."

Strike out the words "per annum" in the 8th line.

Amend section 2, by striking out the word "rent" in the line and insert in lieu thereof the word "cost."

Strike out the words "in the aggregate" in the fourth and "per annum" in the fifth line and insert in lieu thereof the words "in any year."

On the motion of Mr. Brauch,  
The amendments were adopted.

On the motion of Mr. Curry,  
The bill was ordered engrossed for a third reading.

Council bill No. 8, entitled an act regulating the sale of  
intoxicating liquors,

Was then taken up, and  
Read the third time.

The question then being on the passage of the bill,  
being put, "shall the bill pass?"

It was decided in the affirmative,  
Ayes 24; noes none; as follows:

Those who voted in the affirmative, are  
Messrs. Brady, Blair, Bronson, Brauch, Brown, Cum  
Curry, Dewitt, Fallas, Farris, Gore, Gunderson, H  
Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thomas  
Tucker, Watson and Mr. Speaker.

None voting in the negative,  
So the bill was passed.

The question then being on agreeing to the title of the bill,  
and it being put,

The title was agreed to.

*Ordered*, That the chief clerk notify the council of the passage of said bill.

Council bill No. 22, entitled a bill for an act to divide  
the county of Union into townships and provide for the election of  
certain officers therein,

Was then taken up, and  
Read the third time.

The question then being on its passage and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk notify the council of the passage of said bill.

Council bill No. 28, entitled a bill to provide for the organization of the county of Minnehaha,

Was then taken up, and

Read the third time.

The question then being on its passage and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative.

So the bill was passed,

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk inform the council of the passage of said bill.

Council bill No 30, entitled a memorial to congress praying

for an appropriation to complete the Sioux City and Fort  
Randall wagon road,

Was then taken up, and

Read the third time,

The question then being on its passage, and it being put  
"shall the bill pass?"

It was decided in the affirmative,

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummin  
Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Ho  
Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thomps  
Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it be  
put,

The title was agreed to.

*Ordered*, That the chief clerk inform the council of the pa  
age of said bill.

House file No. 38, entitled an act to regulate and lice  
brewers and distillers,

Was then taken from the table,

Mr. Curry moved that the rules be suspended and the bill  
read the second time by its title, and

Referred to the committee on ways and means,

Which motion prevailed.

House file No. 40, entitled a bill for an act providing bo  
ties for wolf, wild cat and swift scalps,

Was then taken from the table,

Mr. Ryan moved that the rules be suspended and under  
operation thereof, the bill be read the second time by its t  
and be referred to a select committee of one from each cou  
on Missouri slope.

Which motion prevailed.

Whereupon the speaker named Messrs. Ryan, of Unio  
Brady, of Clay; Brauch, of Yankton; Kegan, of Bon Homr

Thompson, of Todd, and Dewitt, of Chas. Mix, as such committee.

Council bill No. 13, a memorial and joint resolution of the legislature of the Territory of Dakota to the congress of the United States, asking for a grant of lands to aid in the construction of certain railroads in the Territory of Dakota,

Was then taken up, and

Read the third time.

The question then being upon its passage and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 21; noes 3; as follows:

Those voting in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Cummings, Curry, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Brown, Dewitt and Fallas,

So the bill was passed,

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk notify the council of the passage of said bill.

Mr. Moody moved that the vote on said bill be reconsidered, and the further consideration of the same be postponed until Tuesday the 7th day of January, 1868.

Which motion prevailed.

Mr. Jolley moved that the further consideration of the petition of Mr. A. G. Turner for a seat in this house be indefinitely postponed.

On the motion of Mr. Moody,

The vote on Mr. Jolley's motion was postponed to the 8th of January, 1868, at 11 o'clock, A. M.

The following message from the council was then read:

COUNCIL CHAMBER, }  
December 31, 1867. }

MR. SPEAKER.—I am instructed to inform the house of the passage of the following resolution by the council:

*Resolved*, That a committee of two be appointed by the council to act with a like committee on the part of the house to wait upon the Hon. W. A. Burleigh, and ask him to donate to the Territory, a lot on the townsite of Yankton, on which to build an arsenal.

Messrs. Rossteuscher and Mills were appointed on the part of the Council.

GEO. I. FOSTER,  
*Secretary.*

Mr. Moody moved that the communication lie upon the table. Which motion prevailed.

The following message from the council was then read:

COUNCIL CHAMBER, }  
Tuesday, December 31, 1867. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council has this day passed the following council bills, to-wit: Council bill No. 31, entitled an act conferring the right of citizenship upon certain halfbreeds in Dakota Territory; council bill No. 34, entitled a memorial to congress asking for the organization of a new Territory out of the southwestern portion of Dakota; council bill No. 20, entitled an act to regulate the keeping of billiard tables and ball alleys, which bills are herewith transmitted and the concurrence of the house respectfully requested.

I have also to inform the house that the council has this day agreed to a house amendment to council bill No. 12, a bill to amend an act entitled an act to incorporate the Dakota and Northwestern railroad company.

GEO. I. FOSTER,  
*Secretary.*

Council bill No. 20, entitled an act to regulate the keeping of billiard tables and ball alleys,

Was then taken from the table,

Mr. Jolley moved that the rules be suspended, and un-

the operation thereof, the bill be read the first and second time by its title and referred to the committee on ways and means,  
Which motion prevailed.

Council bill No. 31, entitled an act conferring the right of citizenship on certain halfbreeds in Dakota Territory,  
Was then taken from the table, and  
Read the first time.

Mr. Farris moved that the rules be suspended, and under the operation thereof, the bill be read the second and third time and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 24 ; noes none ; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to the title of the bill, and it being put,

The title was agreed to.

*Ordered,* That the chief clerk inform the council of the passage of said bill.

Council bill No. 34, entitled a memorial to congress asking for the organization of a new Territory out of the southwestern portion of Dakota,

Was then taken from the table, and

Read the second time.

Mr. Moody moved that the rules be suspended, and under the operation thereof the bill be read the second and third time, and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time above ordered.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 24; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummins, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hans Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to the title of the bill and it being put,

The title was agreed to.

*Ordered*, That the chief clerk notify the council of the passage of said bill.

The following message from the council was then read:

COUNCIL CHAMBER, }  
Tuesday, December 31, 1867. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council has this day passed the following house files, to-wit:

House file No. 29, entitled a memorial to congress asking for an appropriation to codify the laws of Dakota Territory; house file No. 22, entitled a memorial to congress praying for an appropriation to construct a wagon road from Fort Abercrombie down the Red River of the North; house file No. 32, entitled a bill for an act to re-organize the county of Laramie; house file No. 11, entitled an act relating to settlers upon land with the legal title thereto; house file No. 35, entitled a bill for an act relating to costs of trial on change of venue; also, house file No. 37, entitled a bill for an act to repeal certain sections of an act entitled an act relative to county surveyors, approved January 8th, 1866; which bills are herewith returned and

concurrence of the house respectfully requested to council amendments to house files Nos 11 and 32.

GEO. I. FOSTER,  
*Secretary.*

House file No. 11, entitled an act relating to settlers upon land without the legal title thereto,

Returned from the council with amendments,  
Was then taken from the table

The amendments were then read as follows :

Strike out in section 5 the words "though it originated in said district court," and insert in lieu thereof the words "as in cases of appeal; *Provided, however,* Before any allegation of title in defendant shall be considered by the justice of the peace before whom said action was brought, said defendant shall execute an undertaking, with one or more good and sufficient sureties, to the Territory of Dakota, in the penal sum of six hundred dollars, conditioned, that the defendant will prosecute his suit to effect and without unnecessary delay, and that if judgment be adjudged against him before the district court, he will satisfy such judgment and cost, and *provided further,* That whenever judgment is rendered in the district court against the defendant, it shall be by fine according to section 3 of this act."

On the motion of Mr. Moody,

The consideration of said amendment was postponed to Thursday of this week.

House file No. 32, entitled a bill for an act to reorganize the county of Laramie, returned from the council with amendments,  
Was then taken from the table.

The amendment was then read as follows :

Strike out the name of N. J. Bond and insert in lieu thereof M. C. Brown, justice of the peace.

On the motion of Mr. Moody

The council's amendment to house file No. 32, was concurred in.

On the motion of Mr. Nelson,  
The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALNAN,  
*Chief Clerk.*

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## THIRTY-FIRST DAY.

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HOUSE OF REPRESENTATIVES, }  
Wednesday, January 1, 1868. }

The house met pursuant to adjournment and was called  
order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names:

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummin  
Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Ho  
Jolley, Moody, Nelson, Ryan, Shaw, Thompson, Tuck  
Watson and Mr. Speaker.

Absent, Messrs. Gregory, Kegan and Whitehead.

The journal of yesterday was then read and approved.

Mr. Curry from the committee on ways and means submit  
the following report:

MR. SPEAKER.—Your committee to whom was referred ho  
file No. 38, entitled an act to regulate and license brewers :

distillers, have had the same under consideration and report the same back to the house and recommend its passage.

Mr. Jolley from the committee on engrossment submitted the following report :

MR. SPEAKER.—Your committee on engrossment have examined house file No. 34, entitled joint resolution authorizing the adjutant general to rent a building to store arms and ammunition, and have instructed me to report the same as correctly engrossed.

Mr. Hanson gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill to amend chapter 14 of the session laws of 1865-1866 concerning elections.

By unanimous leave, Mr. Jolley introduced house file No. 45, entitled a bill for an act legalizing the acts of John W. Boyle, as clerk of the United States district court, first judicial district of this Territory, and for other purposes.

Which was read the first time.

On leave, Mr. Watson introduced house file No. 46, entitled an act for the establishment of a fence law in Union county.

Mr. Watson moved that the rules be suspended and under the operation thereof, the bill be read the first and second time by its title and referred to a special committee consisting of the Union county delegation.

Which motion prevailed.

The bill was accordingly read the first and second time and referred as above ordered.

On leave, Mr. Thompson introduced house file No. 47, entitled a memorial to congress relative to a change in the route of the Big Shcayenne wagon road.

Which was read the first time.

Mr. Thompson moved that the rules be suspended and the bill be read the second time by its title and referred to the committee on federal relations,

Which motion prevailed.

The bill was accordingly read the second time and referred as above ordered.

House file No. 11, an act relating to settlers upon land without the legal title thereto, returned from the council with amendment,

Was then taken from the table.

Mr. Moody moved that the council's amendment to house file No. 11, be amended by striking out all after the word "appeal" in line four of council's amendment,

Which motion prevailed.

By unanimous leave, Mr. Moody introduced house file No. 48, entitled a bill for an act in relation to the Territorial auditor and treasurer,

Which was read the first time.

Mr. Moody moved that the rules be suspended and under the operation thereof, the bill be read the second and third time and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 23; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered,* That the chief clerk transmit said bill to the council requesting their concurrence therein.

House file No. 44, entitled a bill for an act to re-locate a portion of a Territorial road, running from the town of Vermillion *via* Brule Creek, to the Big Sioux river, located under an act approved January 11th, 1866,

Was then taken from the table,

Mr. Curry moved that the rules be suspended and the bill be read the second time by its title and referred to the special committee consisting of one member from each county on Missouri slope,

Which motion prevailed.

House file No. 34, entitled a joint resolution authorizing the adjutant general to rent a building to store arms and ammunition,

Was then taken up, and

Read the third time.

The question then being on its passage and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 23; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title,

On motion of Mr. Jolley,

The title was amended by striking out all after joint resolution.

*Ordered,* That the chief clerk transmit said bill to the council requesting their concurrence therein.

House file No. 38, entitled an act to regulate and license brewers and distillers,

Was then taken up.

Mr. Moody moved that the further consideration of said bill be indefinitely postponed,

Which motion prevailed.

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have examined house file No. 22, entitled a memorial to congress praying for an appropriation to construct a wagon road from Fort Abercrombie, down the Red River of the North; and find the same correctly enrolled.

Mr. Hoyt from the committee on enrollment also submitted the following report:

MR. SPEAKER.—Your committee on enrollment have examined house file No. 37, an act to repeal certain sections of an act entitled an act relative to county surveyors, approved January 8th, 1866; also house file No. 35, an act relating to costs of trial on change of venue; and house file No. 32, an act to reorganize the county of Laramie, and find the same correctly enrolled.

The following message from the council was then read:

COUNCIL CHAMBER,  
Wednesday, January 1, 1868. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council has this day passed substitute for house file Nos. 13 and 15, entitled a bill for an act providing common schools for the Territory of Dakota, which bill is herewith returned.

I have also to inform the house that the council has this day passed council bill No. 24, entitled a bill for an act to regulate incorporations; also council bill No. 26, a bill to establish the county of Grant; which bills are herewith transmitted and the concurrence of the house respectfully requested.

GEO. I. FOSTER,  
*Secretary.*

Council bill No. 24, entitled a bill for an act to regulate incorporations,

Was then taken from the table.

Mr. Moody moved that the rules be suspended and under the operation thereof, the bill be read the first and second time by its title and be referred to the committee on judiciary,

Which motion prevailed.

The bill was accordingly read the first and second time by its title and referred as above ordered.

Council bill No. 26, entitled a bill to establish the county of Grant,

Was then taken from the table, and  
Read the first time.

Mr. Moody moved that the rules be suspended and the bill be read the second and third time and put upon its passage.

Mr. Dewitt moved that the further consideration of said bill be indefinitely postponed,

Which motion was withdrawn.

The question then being on agreeing to Mr. Moody's motion, and it being put,

It did not prevail.

Mr. Gore from the committee on federal relations submitted the following report :

MR. SPEAKER.—Your committee on federal relations to whom was referred house file No. 47, entitled a memorial to congress relative to a change in the route of the Big Sheyenne wagon road, have had the same under consideration, and re-  
the same back to the house without amendment and recom-  
mend its passage.

House file No. 47, entitled a memorial to congress relative to a change in the route of the Big Sheyenne wagon road,

Was then taken up, and  
Read the third time.

The question then being on its passage, and it being put,  
“shall the bill pass?”

It was decided in the affirmative.

Ayes 19; noes 3; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Cummings, Curry, Farris, Gore, Hanson, Hoyt, Jolley, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Brown, Dewitt and Fallas,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

On the motion of Mr. Shaw,

The house then adjourned.

ENOS STUTSMAN,

*Speaker.*

*Attest:*

P. H. HALNAN,

*Chief Clerk*

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## THIRTY-SECOND DAY.

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HOUSE OF REPRESENTATIVES, }  
Thursday, January 2, 1868. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names:

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Absent, Messrs. Gregory, Kegan and Whitehead.

The journal of yesterday was then read and approved.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have to report that they did on this day at 10 o'clock A. M., present to the governor for his approval, house file No. 37, entitled a bill for an act to repeal certain sections of an act entitled an act relative to county surveyors, approved, January 8th, 1866; also, house file No. 35, entitled a bill for an act relating to costs of trial on change of venue; also, house file No. 32, an act to reorganize the county of Laramie; also, house file No. 22, entitled a memorial to congress praying for an appropriation to construct a wagon road from Fort Abercrombie down the Red River of the North.

Your committee has also examined (substitute) for house file No. 13. and 15, entitled an act providing common schools for the Territory of Dakota, and find the same correctly enrolled.

Mr. Jolley gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill for an act in relation to the forms of certain oaths.

Mr. Moody gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill to incorporate the city of Yankton; also, a bill to change the time for holding the supreme court of this Territory.

Council bill No. 26, entitled a bill to establish the county of Grant,

Was then taken from the table.

Mr. Jolley moved that the rules be suspended and the bill read the second time by its title, and referred to the committee on judiciary.

Which motion prevailed.

The bill was accordingly read the second time and referred as above ordered.

On the motion of Mr. Watson,  
The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALNAN,  
*Chief Clerk.*

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## THIRTY-THIRD DAY.

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HOUSE OF REPRESENTATIVES. }  
Friday, January 3, 1868. }

The house met pursuant to adjournment and was called  
to order by

The speaker in the chair,

Prayer by the chaplain.

Roll called

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings,  
Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson,  
Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw,  
Thompson, Tucker, Watson and Mr. Speaker.

Absent, Mr. Whitehead.

The journal of the preceding day was then read and ap-  
proved.

Mr. Curry from the committee on ways and means submitted  
the following majority report :

MR. SPEAKER.—Your committee on ways and means to whom  
was referred council bill No. 20, entitled an act to regulate the  
keeping of billiard tables and ball alleys, have had the same

under consideration, and the majority of the committee recommend that the bill lie on the table until the 11th day of January.

Mr. Ryan moved that the report of the committee be adopted.

Mr. Moody moved that the report of the committee lie upon the table.

Which motion prevailed:

Mr. Jolley from the committee on judiciary submitted the following report :

MR. SPEAKER.—Your committee on judiciary have had under consideration council bill No. 24, entitled a bill for an act to regulate incorporations, and have instructed me to report the same with the amendment No. 1 thereto attached, and recommend its adoption and that the bill do pass.

The amendment was then read as follows :

Amend by adding the following as section 145.

That wherever the words "county clerk" occurs in this act the same shall be construed to mean register of deeds.

Change section 145 (in the bill) to section 146.

On the motion of Mr. Watson,

The report of the committee with amendments were adopted.

Mr. Jolley from the committee on judiciary submitted the following report :

MR. SPEAKER,—Your committee on judiciary have had under consideration house file No. 41, entitled a bill for an act concerning mines and mining, and have instructed me to report the same with the amendment No. 1 thereto attached and recommend its adoption and that the bill do pass.

The amendment was then read as follows :

#### AMENDMENT NO. 1:

Section 5 is amended by inserting on line 6; between the words "of" and "twenty" "not less than," and by inserting on line eight between the words "of" and "thirty" the words "not less than," and by inserting on line 16 as "between claimants" between the words "shall" and "thereafter" and by

inserting on line 19 between the words "invested and "providing" the words "and upon complying with these conditions, the same shall be treated as real estate."

On the motion of Mr. Kegan,

The report of the committee with amendment was adopted.

Mr. Jolley from the committee on judiciary submitted the following report :

MR. SPEAKER.—Your committee on judiciary have had under consideration the attached resolution relating to providing a district court for the counties of Laramie and Carter, and have instructed me to report the accompanying bill and recommend its adoption and that the bill do pass.

House file No. 49, entitled a bill for an act constituting the counties of Laramie and Carter a part of the second judicial district and providing terms of court therein,

Was then read the first time.

Mr. Moody moved that the rules be suspended, and under the operation thereof the bill be read the second and third time, and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 25; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to the title of the bill, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

Mr. Jolley from the committee on judiciary submitted the following report :

MR. SPEAKER.—Your committee on judiciary have had under consideration council bill No. 26, entitled a bill to establish the county of Grant; and have instructed me to report the same back and recommend that the bill do pass.

Mr. Ryan from the committee on towns and counties submitted the following report :

MR. SPEAKER.—Your committee on towns and counties to whom was referred house file No. 36, entitled a bill for an act to indemnify persons in a portion of Union county against damages done by stock running at large, have had the same under consideration and report the same back to the house and recommend that the bill be indefinitely postponed,

Mr. Farris moved that the report of the committee be adopted.

The ayes and noes being called for and ordered, resulted as follows :

Ayes 12; noes 13; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Curry, Dewitt, Fallas, Farris, Gundersen, Jolley, Kegan, Ryan, Shaw and Mr. Speaker.

Those who voted in the negative are,

Messrs. Bronson, Brauch, Brown, Cummings, Gore, Gregory, Hanson, Hoyt, Moody, Nelson, Thompson, Tucker and Watson.

So the motion to indefinitely postpone was lost.

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have to report that they did on Thursday the 2d inst, present to the Governor for his approval (substitute) for house file Nos. 13 and 15, entitled an act providing common schools for the Territory of Dakota.

Mr. Hoyt from the committee on enrollment also submitted the report:

MR. SPEAKER.—Your committee on enrollment have examined house file No. 29, entitled a memorial to congress asking for an appropriation to codify the laws of Dakota Territory, and find the same correctly enrolled.

Mr. Curry from the select committee consisting of the Union county delegation, submitted the following report :

MR. SPEAKER.—Your committee consisting of the Union county delegation to whom was referred house file No. 46, entitled an act for the establishment of a fence law in Union county, have had the same under consideration and report the same back to the house and recommend its passage.

Mr. Ryan from the select committee consisting of one member from each county on Missouri slope submitted the following report :

MR. SPEAKER.—Your committee to whom was referred house file No. 40, entitled a bill for an act providing bounties for wolf, wild cat and swift scalps, have had the same under consideration and report the same back to the house with the recommendation that it do pass.

Mr. Jolley offered the following resolution :

*Resolved*, That no bills or memorials be introduced into this house after Wednesday, January 8th, 1868, except by a two-thirds vote of the members in favor of introducing such new bill, or memorial sought to be introduced.

On the motion of Mr. Curry,  
The resolution was adopted.

On the motion of Mr. Brown,  
Mr. Kegan was excused for non-attendance the past two days of the session.

On leave, Mr. Jolley introduced house file No. 50, entitled a bill for an act in regard to the forms of certain oaths.

Which was read the first time.

Mr. Jolley moved that the rules be suspended, and under the operation thereof, the bill be read the second and third time and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 25 ; noes none ; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moedy, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

The following messages from his excellency, the Governor, were then handed in by his private secretary :

EXECUTIVE OFFICE, }  
Yankton, January 3, 1868. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives :*

SIR.—I have the honor to return herewith a house bill entitled an act to provide common schools for the Territory of Dakota ; also a bill entitled an act relating to costs of trial on change of venue ; also a bill entitled an act to re-organize the county of Laramie ; also a bill entitled an act to repeal certain sections of an act entitled an act relative to county surveyor's, approved January 8th, 1866.

Which I have approved and signed.

I am, very respectfully,

Your obedient servant,

A. J. FAULK,

*Governor.*

EXECUTIVE OFFICE,  
Yankton, January 3, 1868. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives,*

SIR.—I have the honor to return herewith a memorial to congress praying for an appropriation to construct a wagon road from Fort Abercrombie, down the Red River of the North;

Which I have signed.

I am, very respectfully,

Your ob't servant,

A. J. FAULK,

*Governor.*

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have to report that they did on this day at 11 o'clock, A. M., present to the Governor for his approval, house file No. 29, a memorial to congress asking an appropriation to codify the laws of Dakota Territory.

The following message from the council was then read:

COUNCIL CHAMBER,  
Friday, January 3, 1868. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council did on the 2d inst., pass house file No. 17, a bill for an act for the incorporation of towns, defining their powers, providing for the election of the officers thereof, and defining their duties; which bill is herewith returned.

I have also to inform the house that the council has this day passed council bill No. 38, a bill for an act to create the ninth representative district, which bill is herewith transmitted and the concurrence of the house requested.

GEO. I. FOSTER,

*Secretary.*

On leave, Mr. Hanson introduced house file No. 51, entitled a bill for an act to amend chapter 14 of the session laws 1865-6,

Which was read the first time.

Mr. Bronson from the select committee consisting of the Yankton county delegation, submitted the following report :

MR. SPEAKER.—Your select committee consisting of the members from Yankton county to whom was referred council bill No. 21, entitled an act legalizing the collection of taxes in Yankton county, have had the same under consideration, and have instructed me to report the same back with the following amendment :

Insert in line one, in section two, between the words " of and the " the following : " the final completion of," and recommend the adoption of the amendment and that the bill as amended do pass.

On the motion of Mr. Moody,

The report of the committee with amendment was adopted.

Council bill No. 38, entitled a bill for an act to create the ninth representative district,

Was then taken from the table, and

Read the first time.

Council bill No. 24, entitled a bill for an to regulate incorporations,

Was then taken up, and

Read the third time,

The question then being on its passage, and it being put, " shall the bill pass ?"

It was decided in the affirmative,

Ayes 22 ; noes 3 ; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Dewitt, Fallas and Kegan.

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk notify the council of the passage of said bill.

Council bill No. 26, entitled a bill to establish the county of Grant,

Was then taken up, and

Read the third time.

The question then being upon its passage and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 15; noes 10; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Bronson, Brauch, Gore, Hanson, Hoyt, Jolley, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gregory, Gunderson and Kegan,

So the bill was passed,

The question then being on agreeing to the title of the bill, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk inform the council of the passage of said bill.

House file No. 45, entitled a bill for an act legalizing the acts of John W. Boyle, as clerk of the United States district court, first judicial district of this Territory, and for other purposes,

Was then taken from the table, and

Read the second time.

Mr. Jolley moved that the rules be suspended and under the operation thereof, the bill be read the third time and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 25; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to the title of the bill and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have examined house file No. 2, entitled an act to simplify and abridge the practice, pleadings and proceedings, of the courts of this Territory and find the same correctly enrolled.

Mr. Moody from the select committee, consisting of one member from each county submitted the following report:

MR. SPEAKER.—Your select committee consisting of one from each county to whom was referred council bill No. 19, entitled a bill to relocate a certain Territorial road, and house file No. 26, entitled a bill for an act to locate a road to connect with the branch Territorial road located and surveyed under an act to locate and establish a Territorial road from the Missouri by way of Elk Point and Brule Creek to the north line of Union county, and house file No. 44, entitled a bill for an act to relocate a portion of a Territorial road running from the town of Vermillion via Brule Creek to the Big Sioux river, located under an act approved, January 11th, 1866, have had the same under consideration and have prepared a general bill upon the same subject (highways,) and beg leave to report the same to the house with the recommendation that it do pass.

Your committee also report back said bills with a recommendation that they do lie upon the table.

On the motion of Mr. Hoyt,

The report of the committee was adopted.

House file No. 52, entitled a bill for an act to provide for the opening, vacating and changing of highways,

Was then taken from the table, and

Read the first time,

Mr. Moody moved that the rules be suspended and the bill be read the second time by its title and referred to the committee on highways, bridges and ferries

Which motion prevailed.

The bill was accordingly read the second time and referred as above ordered.

Council bill No. 21, entitled a bill to legalize the assessment and collection of the taxes of Yankton for the year 1867,

Was then taken up, and

Read the third time.

The question then being on its passage and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 25; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk inform the council of the passage of said bill.

Mr. Hoyt from the committee on enrollment submitted the following report:

**MR. SPEAKER.**—Your committee on enrollment have to report that they did on this day at 12 M., present to the Governor for his approval. house file No. 2, entitled an act to simplify and abridge the practice, pleadings and proceedings of the courts of this Territory.

House file No. 36, entitled a bill for an act to indemnify persons in a portion of Union county against damages done by stock running at large,

Was then taken from the table

**Mr. Jolley** offered the following amendments to said bill:

Add the following as section four:

“Sec. 4. That the provisions of this act shall not in any manner effect any of the residents of Ulay county, in this Territory.”

On the motion of **Mr. Curry**,

The amendments were adopted.

**Mr. Farras** offered the following amendments to said bill:

Add the following as section five:

“Sec. 5. That the provisions of this act shall not in any manner effect any of the residents outside of the district mentioned in this act.”

On the motion of **Mr. Kegan**,

The amendments were adopted.

On the motion of **Mr. Curry**,

The bill was ordered engrossed for a third reading.

House file No. 40, entitled a bill for an act providing bounties for wolf, wild cat and swift scalps,

Was then taken from the table.

The following amendments were offered by **Mr. Moody**:

Amend section 4 by striking out in second line the word “after” and insert in lieu thereof the word “until;” and by striking out the word “no” in fifth line same section; and by striking out all after the word “act” in seventh line in same section.

On the motion of **Mr. Jolley**,

The amendments were adopted.

On motion of **Mr. Farris**,

The bill was ordered engrossed for a third reading.

House file No. 41, entitled an act concerning mines and mining,

Was then taken from the table,  
On the motion of Mr. Curry,  
It was ordered engrossed for a third reading.

House file No. 46, entitled an act for the establishment of a fence law in Union county,

Was then taken up, and  
Read the third time.

The question then being on its passage and it being put,  
"shall the bill pass?"

It was decided in the affirmative.

Ayes 25; noes none; as follows :

Those who voted in the affirmative, are

None voting in the negative.

So the bill was passed,

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

On the motion of Mr. Curry,  
The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest :*

P. H. HALNAN,  
*Chief Clerk.*

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## THIRTY-FOURTH DAY.

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HOUSE OF REPRESENTATIVES, }  
Saturday, January 4, 1868. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names:

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson, Whitehead and Mr. Speaker.

Mr. Whitehead the representative from Laramie county, presented his credentials which were read as follows:

WHEREAS, At an election holden in the county of Laramie, in the Territory of Dakota on the 8th day of October, A. D. 1867, duly called by general notice given by the undersigned, appointed for that purpose by a mass meeting of the citizens of said county; James R. Whitehead being a candidate for the office of representative in the Territorial Legislature of Dakota, received thirteen hundred and twenty (1320) votes, W. F. Hurd for the same office, received seven hundred and nine (709) votes, and M. S. Hall received ninety-one (91) votes.

Therefore, this is to certify that James R. Whitehead, having received a large majority of the votes polled, at said election, was duly elected to the office of Territorial Representative as aforesaid.

Witness our hands and seals this 28th day of October, A. D. 1867.

W. S. KUYKENDALL, [L. S.]

THOS. J. STREET, [L. S.]

LUCIAN L. BEDELL, [L. S.]

*Commissioners of Election.*

Mr. Moody moved that the oath be not administered to Mr. Whitehead this morning, and that his credentials be referred to a select committee consisting of one from each county on Missouri slope.

Mr. Whitehead asked leave to address the house in his behalf.

On the motion of Mr. Moody,  
Leave was granted.

After which Mr. Whitehead occupied the floor for some length.

The vote then being taken on Mr. Moody's motion,  
It was decided in the affirmative.

Whereupon the speaker named  
Messrs. Moody of Yankton, Curry of Union, Brady of Clay,  
Kegan of Bon Homme, Gregory of Todd, and Dewitt of Charles  
Mix, as such committee.

Mr. Jolley moved that the committee report on Monday the  
6th inst.,

Which motion prevailed.

The journal of the preceding day was then read and approved.

The following message from his excellency, the Governor,  
was then handed in by his private secretary :

EXECUTIVE OFFICE,  
Yankton, January 4, 1868. }

HON. ENOS STUTSMAN,  
*Speaker of the House of Representatives,*

SIR.—I have the honor to return herewith, a memorial to  
congress asking for an appropriation to codify the laws of Da-  
kota Territory,

Which I have signed.

I am, very respectfully,

Your ob't servant,

A. J. FAULK,

*Governor.*

Mr. Kegan from the committee on highways, ferries and  
bridges submitted the following report :

MR. SPEAKER.—Your committee on highways, ferrries and  
bridges to whom was referred house file No. 52, a bill for an  
act to provide for the opening, vacating and change of high-  
ways, have had the same under consideration and have in-  
structed me to report the following amendments, and recom-  
mend the adoption of such amendments, and that the bill as  
amended do pass.

The amendments were then read as follows :

Add the following new sections.

Section 38. Wherever any road has heretofore been laid out, and used as a highway under law of the Legislative assembly of the Territory of Dakota, any person damaged thereby shall make known his claim for damages, by a petition to the board of county commissioners of the county in which such road is located, within one year from the taking effect of this act, and in case of failure for that length of time so to do, shall thereafter be debarred from recovering any damages by reason of such road having been so laid out and opened whatever, and in case any such petition shall be presented to a board of county commissioners, the same proceedings shall thereafter be had to ascertain and pay such damages as is provided for in this act, upon a remonstrance being presented.

Sec. 39. When any person shall acquire the title to government lands on which any road has been or may hereafter be, duly laid out, subsequent to the laying out of such road, the person so acquiring such title, shall within three months after the receipt of his patent therefore, assert his claim for damage as in the manner provided in the preceding section, and such road shall remain and be a public highway, but his damages if any shall be paid, and in case of a failure for that length of time to assert his claim for damages as aforesaid, he shall thereafter be debarred from asserting such claim.

Sec. 40. All public lands in this Territory settled upon and occupied by settlers thereon, shall be subject to all of the provisions of this act so far as the right and liabilities of such settlers are concerned.

Change the number of sections in the original bill to correspond herewith.

On the motion of Mr. Curry,

The report of the committee with amendments were adopted.

Mr. Jolley offered the following amendments to said bill :

Section 41. That chapter 1 of the session laws of 1866-7 be and the same is hereby repealed.

Sec. 42. This act shall take effect and be in force from and after its passage and approval.

On the motion of Mr. Moody

The amendments were adopted.  
And on the motion of Mr. Moody,  
The bill was ordered engrossed for a third reading.

Mr. Kegan from the committee on highways, ferries and bridges submitted the following report :

MR. SPEAKER.—Your committee on highways, ferries and bridges, have had under consideration council bill No. 17, entitled a bill for an act relating to road supervisors, and instructed me to report the accompanying bill as a substitute and recommend its adoption and that the bill do pass.

On the motion of Mr. Curry,  
The report of the committee was adopted.

On the motion of Mr. Jolley,  
(Substitute), for council bill No. 18, was ordered printed.

Mr. Jolley from the committee on engrossment submitted the following report :

MR. SPEAKER.—Your committee on engrossment have examined house file No. 52, entitled a bill for an act to provide for the opening, vacating and changing of highways, and instructed me to report the same as correctly engrossed.

Mr. Jolley from the committee on engrossment also submitted the following report :

MR. SPEAKER.—Your committee on engrossment have examined house file No. 36, entitled a bill for an act to indemnify persons in a portion of Union county against damages done by stock running at large; also, house file No. 40, entitled a bill for an act providing bounties for wolf, wild cat and scalps; also, house file No. 41, entitled a bill for an act concerning mines and mining, and have instructed me to report the same correctly engrossed.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have examined house file No. 17, an act for the incorporation of towns and defining their powers; providing for the election of the officers

therein, and defining their duties, and find the same correctly enrolled.

Mr. Moody moved that the credentials of Mr. A. G. Turner be recommitted to the select committee consisting of one member from each county on Missouri slope.

Which motion prevailed.

Mr. Thompson moved that the council be requested to return to the house council bill No. 26, entitled a bill to establish the county of Grant, which passed this house yesterday.

Which motion prevailed.

On the motion of Mr. Curry,  
The house took a recess of fifteen minutes.

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AFTER RECESS.

The following message from the council was then read :

COUNCIL CHAMBER,  
Saturday, January 4, 1868. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council has this day passed council bill No. 40, a bill for an act to repeal chapter thirty-nine of the laws of 1862, which bill is herewith transmitted and the concurrence of the house respectfully requested.

GEO. I. FOSTER,  
*Secretary.*

Council bill No. 40, entitled a bill to repeal chapter 39 of the laws of 1862,

Was then taken from the table, and  
Read the first time.

Council bill No. 38, entitled a bill for an act to create the ninth representative district,

Was then taken from the table, and  
Read a second time,

On the motion of Mr. Curry,

The bill was referred to the committee on towns and counties.

House file No. 51, entitled a bill for an act to amend chapter 14 of the session laws of 1865-6,

Was then taken from the table,

Mr. Jolley moved that the rules be suspended and under the operation thereof the bill be read the second time by its title and referred to the committee on elections,

Which motion prevailed.

The bill was accordingly read the second time and referred as above ordered.

House file No. 36, entitled a bill for an act to indemnify persons in a portion of Union county against damages done by stock running at large.

Was then taken up, and

Read the third time.

The question then being on the passage of the bill, and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 14; noes 11; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Bronson, Brauch, Brown, Cummings, Hanson, Hoyt, Jolley, Moody, Nelson, Shaw, Tucker, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Blair, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Kegan, Ryan and Thompson.

So the bill was passed.

The question then being on agreeing to the title of the bill and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

House file No. 40, entitled a bill for an act providing bounties for wolf, wild cat and swift scalps,

Was then taken up, and

Read the third time.

The question then being on its passage, and it being put shall the bill pass?"

It was decided in the affirmative.

Ayes 24; noes 1; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Watson and Mr. Speaker.

Mr. Tucker voted in the negative.

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

House file No. 41, entitled an act concerning mines and mining,

Was then taken up, and

Read the third time.

The question then being on its passage and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 25; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

House file No. 52, entitled a bill for an act to provide for the opening, vacating and change of highways,

Was then taken up, and

Read the third time.

The question then being upon its passage and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 25; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

By unanimous leave Mr. Moody introduced house file No. 53, entitled a bill for an act supplementary to an act to simplify and abridge the practice, pleadings and proceedings of the courts of this Territory.

Which was read the first time.

Mr. Jolley moved that the rules be suspended and under the operation thereof the bill be read the second and third time and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 25; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Han-

son, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed,

The question then being on agreeing to its title and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have to report that they did on this day at 11 o'clock A. M. present to the governor for his approval house file No. 17, entitled an act for the incorporation of towns, defining their powers, providing for the election of the officers thereof, and defining their duties.

Council bill No. 18, (substitute) entitled a bill for an act relating to road supervisors,

Was then taken up, and ●

Read the third time.

The question then being on its passage and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 25; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed,

The question then being on agreeing to its title and it being put,

The title was agreed to.

*Ordered*, That the chief clerk inform the council of the passage of said bill.

The following message from the council was then read :

COUNCIL CHAMBER,  
Saturday, January 4, 1863. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council has this day passed house file No. 47, entitled a memorial to Congress relative to a change in the route of the Big Sheyenne wagon road, with attached amendments, which bill is herewith returned and the concurrence of the house respectfully requested in the said amendment.

GEO. I. FOSTER,  
*Secretary.*

House file No. 47, entitled a memorial to congress relative to a change in the route of the Big Sheyenne wagon road, returned from the council with amendments,

Was then taken from the table.

The amendments were then read as follows :

COUNCIL AMENDMENT TO HOUSE FILE NO. 47.

Strike out all of the bill except the two first words, to-wit: "A memorial," and insert in lieu thereof the following: "To the Secretary of the Interior asking for the appointment of Hon. Horace J. Austin as superintendent of the Big Sheyenne wagon road.

Your memorialist the legislative assembly of the Territory of Dakota would most respectfully represent that the increasing travel from Dakota to Montana imperatively demands that the remainder of the appropriation to open a wagon road from the mouth of the Big Sheyenne river to connect with the Niobrara and Montana wagon road should be expended during the coming spring, and the road completed as provided by the act of congress, entitled "an act to provide for the construction of certain wagon roads in the Territories of Idaho, Montana, Dakota and Nebraska, approved March 3, 1865."

Your memorialists would further recommend, that Hon Horace J. Austin, of Vermillion, Dakota Territory, be appointed superintendent of said Big Cheyenne wagon road. Mr. Austin is a practical engineer and a thorough business man, honest and upright, served his country as a soldier for three years

during the late rebellion, and is most deserving of the position, as well as being in every way well qualified to perform the duties of the office.

Therefore, your memorialists most respectfully, but earnestly ask for Mr. Austin's appointment to the position.

*Resolved*, That a copy of this memorial be sent to the Hon. O. H. Browning, and Hon. W. A. Burleigh.

Mr. Jolley moved that the council amendments to house file No. 47, be concurred in.

The ayes and noes being demanded and ordered, resulted as follows:

Ayes 24; noes 1; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Mr. Curry voted in voted in the negative.

So the motion to concur prevailed.

On the motion of Mr. Gregory,  
The house then adjourned.

. ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALNAN,  
*Chief Clerk.*

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THIRTY-SIXTH DAY.

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HOUSE OF REPRESENTATIVES, }  
Monday, January 6, 1868. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson, Whitehead and Mr. Speaker.

The journal of the preceding day was then read and approved.

Mr. Ryan from the committee on towns and counties submitted the following report :

MR. SPEAKER.—Your committee on towns and counties to whom was referred council bill No. 38, entitled a bill for an act to create the ninth representative district, have had the same under consideration and have instructed me to report the same back to the house and recommend its passage.

On leave, Mr. Gore introduced house file No. 54, entitled joint resolution.

Which was read the first time.

Mr. Jolley moved that the rules be suspended, and under the operation thereof, the bill be read the second and third time and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 25 ; noes none ; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

Council bill No. 38, entitled a bill for an act to create the ninth representative district,

Was then taken up, and

Read the third time,

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 20; noes 5; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Gore, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Dewitt, Fallas, Farris, Gregory and Kegan.

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk inform the council of the passage of said bill.

Mr. Dewitt moved that the further consideration of the general order, to wit—the Governor's message—be dispensed with,

Which motion prevailed.

Council bill No. 40, entitled a bill to repeal chapter thirty-nine of the laws of 1862,

Was then taken from the table, and

Read the second time.

On the motion of Mr. Farris,

The bill was referred to the committee on judiciary.

Mr. Gregory from the select committee consisting of one mem-

ber from each county on Missouri slope submitted the following majority report :

MR. SPEAKER.—A majority of your select committee to whom the credentials of J. R. Whitehead, and A. G. Turner, were referred, having received and duly examined all the testimony to be obtained, beg leave to report the following resolution and recommend its passage :

*Resolved*, That J. R. Whitehead be allowed to qualify and and take his seat as a member of this house from the county of Laramie.

Mr. Moody from the select committee consisting of one from each county on Missouri slope submitted the following minority report :

MR. SPEAKER.—A minority of your committee to whom was referred the credentials of A. G. Turner and J. R. Whitehead, contestants for admission as representatives from the counties of Laramie and Carter, dissenting from the report of the majority of the committee beg leave to present the views of such minority.

The facts as presented to the committee seem to be these: That an election was held in the city of Cheyenne and other places along the line of the Pacific railroad in the western part of this Territory, and in Nebraska, on the 8th of October last, at which Mr. Whitehead received a majority of the votes cast; that a large share of those votes were polled by parties temporarily in this Territory as employees in building the said railroad, and not *bona fide* residents of the Territory. No election precincts were established, no notice of such election was given such as the law requires; no judges appointed in the way pointed out by law and no proper return and canvass of the votes so polled was had. The credentials of Mr. Whitehead clearly show that the election was not held in accordance with the election laws of this Territory; they are not in form or certified by the proper officers. Therefore, the undersigned are of the opinion that said election was wholly null and void.

A minority of your committee further report that subsequently and on the 13th of November last, in pursuance of a notice of eight days given by a person authorized so to do, at a public

meeting of the citizens an election was held in the western part of this Territory in what was part of the county of Laramie and is now the county of Carter, at which Mr. Turner was unanimously elected as representative to the Legislative assembly of this Territory; said election was held evidently without any knowledge by the people of that section of this Territory of what the election laws required, being far removed from the capital, and from any point where the laws could be procured.

Your committee are of the opinion that said last named election was also wholly null and void.

Notwithstanding then that both said elections were evidently under the laws as they exist, not binding upon the house and if the strict letter of the law is adhered to, both of said parties would have to be refused a seat as a member of the house, still your committee are of the opinion that it is of paramount importance that that large and rapidly increasing portion of the population of our Territory should be represented upon this floor, and therefore think that this house should, disregarding the fact that there was not a strict compliance with the election laws, admit one of these gentlemen to a seat, though if the length of the session would permit it and justice to their constituents could be done, the undersigned would favor referring them to the people. The fact then of the want of legal right to a seat being arrived at, and it being the opinion of the committee that one should be admitted, the only question that remains to be discussed is which of the parties contesting shall be admitted. First then as both parties, Mr. Turner presented himself upon the first day of the session, as a representative of the people of that section of the Territory, but in consequence of Mr. Whitehead's name being upon the rolls of this house, as we apprehend without authority, did not for some days present his credentials or ask for a seat but delayed until it was apparent that Mr. Whitehead did not intend to apply for a seat and then applied for his admission, the decision upon which application was postponed by the house. The fact of Mr. Turner's good faith and fidelity to his constituents cannot be questioned.

Mr. Whitehead's first appearance before this house and application for a seat was on the 4th of January, seven days including Sunday, before the close of the short session of

forty days allowed by law, this fact alone unexplained to the absence of other circumstances presented to your committee is sufficient to raise a suspicion of his want of good faith.

These two gentlemen contesting, come from different portions of what was the county of Laramie, now two counties, and were actually voted for by different communities both equally entitled to our consideration, and from the community which elected Mr. Whitehead has been presented to this house, a petition in effect asking that he be not admitted to a seat, that petition is signed by a large and respectable portion of the business men of what is now the county of Laramie and entitled to our consideration. Mr. Turner was sent here in good faith by his people with the expectation that he would be admitted to a seat and was evidently the unanimous choice of a large portion of the people. It is very questionable whether Mr. Whitehead is really the choice of any considerable number of the *bona fide* residents of the Territory of Dakota.

Taking into consideration then the fact that it will be advisable to admit even without a strictly legal election, one representative from the counties of Laramie and Carter, under all the circumstances of the case, the minority of your committee are of the opinion that Mr. Turner should be admitted to a seat as a representative and be allowed to take the oath of office.

The majority and minority of your committee did not disagree in the opinion that both said elections were illegal nor in question of the propriety or policy of the admission of one of the contestants to a seat.

Mr. Kegan moved that the majority report be adopted.

The ayes and noes being demanded and ordered, resulted as follows:

Ayes 9; noes 16;

Those who voted in the affirmative, are

Messrs. Blair, Curry, Dewitt, Fallas, Farris, Gregory, Kegan, Ryan and Mr. Speaker.

Those who voted in the negative, are

Messrs. Brady, Bronson, Brauch, Brown, Cummings, Gore, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Shaw, Thompson, Tucker and Watson.

So the motion to adopt the majority report was not agreed to.

Mr. Hoyt moved that the minority report be adopted.

The ayes and noes being demanded and ordered, resulted, Ayes 14; noes 11; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Bronson, Brauch, Cummings, Gore, Gunderson, Hanson, Hoyt, Moody, Nelson, Shaw, Thompson, Tucker and Watson.

Those who voted in the negative, are

Messrs. Blair, Brown, Curry, Dewitt, Fallas, Farris, Gregory, Jolley, Kegan, Ryan and Mr. Speaker.

So the motion to adopt the minority report prevailed.

Mr. Moody moved that Mr. Turner be allowed to take the oath of office.

The ayes and noes being demanded and ordered, resulted Ayes 15; noes 10; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Bronson, Brauch, Brown, Cummings, Gore, Gunderson, Hanson, Hoyt, Moody, Nelson, Shaw, Thompson, Tucker and Watson.

Those who voted in the negative, are

Messrs. Blair, Curry, Dewitt, Fallas, Farris, Gregory, Jolley, Kegan, Ryan and Mr. Speaker.

So the motion prevailed.

Mr. Turner then appeared at the speaker's desk and the oath of office was administered to him by the speaker.

The following message from the council was then read:

COUNCIL CHAMBER,  
Monday, January 6, 1868. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council did on the 4th inst., pass council bill No. 39, a bill for an act to provide for cataloguing the Territorial library, and to compensate the librarian; also council bill No. 25, a bill for an act concerning revenue; also council bill No. 37, joint resolution relative to the 39th and 40th

congress and the removal of Edwin M. Stanton, secretary of war, and Maj. General Philip H. Sheridan, which bills are herewith transmitted and the concurrence of the house respectfully requested.

I have also to inform the house that the council did on the 4th inst., agree to house amendment, to council amendment, to house file No. 11, a bill for an act relating to settlers upon land without the legal title thereto.

I have also to inform the house that the council has this day passed council bill No. 17, a bill to prevent bulls and swine from running at large, which bill is herewith transmitted and the concurrence of the house respectfully requested.

I am also instructed to inform the house that the council has this day passed the following house files to wit: house file No. 41, a bill for an act concerning mines and minerals; house file No. 12, a memorial to congress relative to the survey of public lands on and near the Red River of the North; house file No. 48, a bill for an act in relation to the Territorial auditor and treasurer which bills are herewith returned.

GEO. I. FOSTER,

*Secretary.*

Council bill No. 17, entitled (substitute) for original bill entitled a bill to prevent bulls and swine from running at large,

Was then taken from the table, and

Read the first time,

Mr. Jolley objected to said bill.

The question then being shall the bill be rejected,

The ayes and noes being demanded and ordered, resulted

Ayes 21; noes 4; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hoyt, Jolley, Kegan, Moody, Ryan, Thompson, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Hanson, Nelson, Shaw and Tucker,

So the bill was rejected.

Council bill No. 38, entitled a bill for an act to create the ninth representative district,

Was then taken from the table, and

Read the first time.

Mr. Moody moved that the rules be suspended and the bill read the second time by its title, and referred to the committee on federal relations.

Which motion prevailed.

The bill was accordingly read the second time by its title and referred as above ordered.

Council bill No. 39, entitled a bill for an act to provide for cataloguing the Territorial library and compensate the librarian,

Was then taken from the table, and

Read the first time.

The following message from the council was then read:

COUNCIL CHAMBER,  
Monday, January 6, 1868. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council has this day passed house file No. 53, a bill for an act supplementary to an act to simplify and abridge the practice, pleadings and proceedings of the courts of this Territory, which bill is herewith returned.

GEO. I. FOSTER.

*Secretary.*

On the motion of Mr. Brown,

The house then adjourned.

ENOS STUTSMAN,

*Speaker.*

*Attest:*

P. H. HALNAN,

*Chief Clerk.*

## THIRTY-SEVENTH DAY.

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HOUSE OF REPRESENTATIVES, }  
Tuesday, January 7, 1868. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Turner, Watson and Mr. Speaker.

The journal of yesterday was then read and approved.

Mr. Jolley from the committee on judiciary submitted the following report :

MR. SPEAKER.—Your committee on judiciary have had under consideration council bill No. 40, entitled a bill to repeal chapter 39 of the laws of 1862, and have instructed me to report the same back with attached amendment No. 1, and recommend its adoption and that the bill do pass.

The amendment was then read as follows :

Amend section 2, by striking out the figures "68" in fourth line and inserting in lieu thereof, the figures "75."

On the motion of Mr. Gregory,

The report of the committee with amendments were adopted.

Mr. Moody from the committee on education submitted the following report :

MR. SPEAKER.—Your committee on education to whom was referred house file No. 9, entitled a bill for an act incorporating the Dakota hall and associate mission school, have had the

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same under consideration and beg leave to report the same back with a recommendation that it do lie upon the table, for the reason that this Legislative assembly has no power under the law of congress prohibiting the granting of private charters by Territorial Legislatures to enact such law, and for the further reason that a general incorporation act under which this school can be incorporated has already passed the Legislative assembly.

On the motion of Mr. Hoyt,

The report of the committee was adopted.

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have examined house file No. 53, entitled a bill for an act supplementary to an act to simplify and abridge the practice, pleadings and proceedings of the courts of this Territory; and also house file No. 12, entitled a memorial to congress relative to the survey of public lands on and near the Red River of the North, which bills we find correctly enrolled.

Mr. Jolley moved that the vote on council bill No. 17, entitled substitute for original bill, a bill to prevent bulls and swine from running at large, that was rejected yesterday, be reconsidered,

Which motion prevailed.

Mr. Jolley moved that the council be requested to return said bill to the house for further consideration,

Which motion prevailed.

By unanimous leave, Mr. Jolley introduced house file No. 55, entitled a bill for an act supplemental to an act entitled an act to simplify and abridge the practice and proceedings of the courts of this Territory,

Which was read the first time.

Mr. Jolley moved that the rules be suspended and under the operation thereof, the bill be read the second and third time and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage, and it being put "shall the bill pass?"

It was decided in the affirmative,

Ayes 25; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Nelson, Ryan, Shaw, Thompson, Tucker, Turner, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

Council bill No. 39, entitled a bill for an act to provide for cataloguing the Territorial library and compensate the librarian,

Was then taken from the table,

Mr. Moody moved that the rules be suspended, the bill read the second time by its title and referred to the committee on public printing,

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

Council bill No. 17, entitled substitute for original bill, a bill to prevent bulls and swine from running at large,

Was then taken from the table.

Mr. Jolley moved that the rules be suspended, the bill read the second time by its title and referred to the committee on agriculture.

Which motion prevailed.

The bill was accordingly read the second time and referred as above ordered.

Council bill No. 40, entitled a bill to repeal chapter 39 of the laws of 1862.

Was then taken from the table, and

Read the third time.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 20; noes 6; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Brown, Cummings, Curry, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Nelson, Ryan, Shaw, Tucker, Turner, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Bronson, Brauch, Dewitt, Fallas, Moody and Thompson.

So the bill was passed.

The question then being on agreeing to the title of the bill and it being put,

The title was agreed to.

*Ordered*, That the chief clerk inform the council of the passage of said bill.

Council bill No. 25, entitled a bill for an act concerning revenue,

Was then taken from the table

Mr. Gregory moved that the rules be suspended, and under the operation thereof, the bill be read the first and second time by its title and be referred to a select committee consisting of one from each county.

Which motion prevailed.

The bill was accordingly read the first and second time as above ordered.

Whereupon the speaker named,

Messrs. Gregory of Todd, Brady of Clay, Farris of Union, Hoyt of Yankton, Kegan of Bon Homme, Dewitt of Charles Mix, and Turner of Laramie as such committee.

By unanimous leave, Mr. Turner introduced house file No. 56, entitled a memorial to the P. M. General, for a mail route

from Fort Bridger, Utah Territory, to South Pass City, in the Territory of Dakota,

Which was read the first time.

Mr. Moody moved that the rules be suspended and under the operation thereof the bill be read the second and third time and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being on its passage and it being put, "shall the bill pass?"

It was decided in the affirmative.

Ayes 24; noes 1; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Gore, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Turner, Watson and Mr. Speaker.

Mr. Farris voted in the negative,

So the bill was passed.

The question then being on agreeing to its title and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

Mr. Moody moved that the vote on council bill No. 13, entitled a memorial and joint resolution of the Legislature of the Territory of Dakota to the congress of the United States, asking for a grant of land to aid in the construction of certain railroads in the Territory of Dakota, be reconsidered.

The ayes and noes being demanded and ordered, resulted

Ayes 20; noes 6; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Cummings, Curry, Gore, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Turner, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Brown, Dewitt, Fallas, Farris, Gregory and Kegan.

So the motion to reconsider prevailed.

Mr. Moody moved that the bill be recommitted to a select committee consisting of one from each county on the Missouri slope,

Which motion prevailed.

Whereupon the speaker named,

Messrs. Moody of Yankton, Dewitt of Charles Mix, Gregory of Todd, Brown of Bon Homme, Brady of Clay, and Curry of Union as such committee.

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have to report that they did on this day at half past ten o'clock A. M., present to the Governor for his approval, house file No. 53, entitled an act supplementary to an act to simplify and abridge the practice, pleadings and proceedings of the courts of this Territory; also house file No. 12, entitled a memorial to Congress relative to the survey of public lands on and near the Red River of the North.

On the motion of Mr. Jolley

The house took a recess of one half hour.

AFTER RECESS.

The speaker resumed his chair and called the house to order.

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have examined house file No. 48, entitled an act in relation to the Territorial auditor and treasurer, also house file No. 47, entitled a memorial to the Secretary of the Interior asking for the appointment of honorable H. J. Austin as superintendent of the Big Cheyenne wagon road, and find the same correctly enrolled.

Mr. Gore from the committee on public printing submitted the following report:

MR. SPEAKER.—Your committee on public printing to whom

was referred council bill No. 39, entitled a bill for an act to provide for cataloguing the Territorial library and compensate the librarian, have had the same under consideration and report the same back to the house and recommend its passage.

Council bill No. 39, entitled a bill for an act to provide for cataloguing the Territorial library and compensate the librarian, was then taken from the table.

Mr. Gregory moved that the rules be suspended and the bill read the third time and put upon its passage,  
Which motion prevailed.

The bill was accordingly read the third time as above ordered.  
The question then being on its passage and it being put "shall the bill pass."

It was decided in the affirmative.

Ayes 25; nees none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brouch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to its title and it being put,

The title was agreed to.

*Ordered*, That the chief clerk inform the council of the passage of said bill.

The following message from his excellency the Governor was then handed in by his private secretary.

EXECUTIVE OFFICE, }  
Yankton, D. T., Jan. 7, 1868. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives,*

SIR.—I have the honor to return herewith, a memorial to

Congress relative the survey of public lands on and near the Red River of the North.

Which I have signed.

I am, very respectfully,

Your ob't servant,

A. J. FAULK,

*Governor.*

EXECUTIVE OFFICE, }  
Yankton, January 6, 1868. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives,*

SIR.—I have the honor to return herewith the house bill entitled an act for the incorporation of towns, defining their powers, providing for the election of the officers thereof, and defining their duties.

Which I have signed.

I am, very respectfully,

Your ob't servant,

A. J. FAULK,

*Governor.*

The following message from the council was then read:

COUNCIL CHAMBER, }  
Tuesday, January 7, 1868. }

MR. SPEAKER,—I am instructed by the council to request of the house the return to that body of house file No. 41, an act concerning mines and mining.

GEO. I. FOSTER,

*Secretary.*

On the motion of Mr. Moody,

The house complied with said communication:

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have to report that they did on this day at twelve and a half o'clock P. M., present to the Governor for his approval, house file No. 47, substitute entitled a memorial to the Secretary of the Interior; ask-

ing for the appointment of the honorable H. J. Austin as superintendent of the Big Cheyenne wagon road ; also house file No. 48, entitled an act in relation to the Territorial auditor and treasurer.

The following message from the council was then read :

COUNCIL CHAMBER,  
Tuesday, Jan. 7, 1868. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council has this day passed council bill No. 42, a bill providing for the recording of deeds, mortgages and other papers in the unorganized counties of the Territory of Dakota, which bill is herewith transmitted and the concurrence of the house requested.

I have also to inform the house that the council has this day passed house file No. 50, entitled a bill for an act in relation to the forms of certain oaths ; also house file No. 45, a bill for an act legalizing the acts of John W. Boyle, as clerk of the United States district court, first district of the Territory, and for other purposes, which bills are herewith transmitted.

GEO. I. FOSTER,  
*Secretary.*

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have examined house file No. 55, entitled a bill for an act supplementary to an act entitled an act to simplify and abridge the practice and proceedings of courts of this Territory, and find the same correctly enrolled.

Mr. Turner gave notice that he will on to-morrow or some subsequent day of the session, ask leave to introduce a bill for an act to provide for an election for county officers for Laramie county.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have to re-

port that they did on this day at 1 o'clock, P. M., present to the Governor for his approval house file No. 55, entitled a bill for an act supplementary to an act to simplify and abridge the practice, pleadings and proceedings of the courts of this Territory.

The following message from the council was then read :

COUNCIL CHAMBER,  
Tuesday, January 7, 1868. }

MR. SPEAKER.—I am instructed to inform the house that the council has this day passed house file No. 55, a bill for an act supplemental to an act entitled an act to simplify and abridge the practice and proceedings of the courts of this Territory, which bill is herewith transmitted.

GEO. I. FOSTER,  
*Secretary.*

Council bill No. 42, entitled a bill providing for the recording of deeds, mortgages and other papers in the unorganized counties,

Was then taken from the table, and  
Read the first time.

Mr. Tucker moved that the rules be suspended the bill read the second time by its title and be referred to the committee on towns and counties.

Which motion prevailed.

The bill was accordingly read the second time by its title and referred as above ordered.

Mr. Turner gave notice that he will on to-morrow ask leave to introduce a bill for an act to amend an act entitled an act to incorporate the city of Cheyenne, Dakota Territory ; also a bill for an act to organize the county of Montana.

On the motion of Mr. Kegan,  
The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest :*

P. H. HALNAN,  
*Chief Clerk.*

## THIRTY-EIGHTH DAY.

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HOUSE OF REPRESENTATIVES. }  
 Wednesday, January 8, 1868. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,  
 Prayer by the chaplain,  
 Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Turner, Watson and Mr. Speaker.

The journal of the preceding day was then read and approved:

Mr. Dewitt from the committee on elections submitted the following report :

MR. SPEAKER.—A majority of your committee on elections to whom was referred house file No. 51, entitled a bill for an act to amend chapter 14 of the session laws of 1865-6, have had the same under consideration and beg leave to recommend that the further consideration of the bill be indefinitely postponed.

Mr. Kegan moved that the report of the committee be adopted.

The ayes and noes being demanded and ordered, resulted  
 Ayes 10; noes 16; as follows :

Those who voted in the affirmative, are

Messrs. Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gregory, Kegan, Ryan and Mr. Speaker.

Those who voted in the negative, are

Messrs. Brady, Blair, Bronson, Brauch, Gore, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Shaw, Thompson, Tucker, Turner and Watson.

So the motion to adopt the report of the committee was disagreed to.

Mr. Gregory moved that the bill be recommitted to a select committee consisting of one from each county to report tomorrow,

Which motion prevailed.

Whereupon the speaker named,

Messrs. Gregory of Todd, Moody of Yankton, Brown of Bon Homme, Dewitt of Charles Mix, Shaw of Clay, Cummings of Union, and Turner of Laramie, as such committee.

The following message from the council was then read:

COUNCIL CHAMBER, }  
January 8, 1868. }

MR. SPEAKER.—I am instructed by the council to inform your honorable body that the council has this day passed council bill No. 44, entitled joint resolution of the Legislative assembly of the Territory of Dakota, relative to our delegate to congress, which bill is herewith transmitted and the concurrence of the house respectfully requested.

GEO. I. FOSTER.

*Secretary.*

Mr. Moody from the select committee consisting of one from each county submitted the following report:

MR. SPEAKER.—Your select committee to whom was referred council bill No. 13, entitled a memorial and joint resolution of the Legislative assembly of the Territory of Dakota, to the congress of the United States, asking for a grant of land to aid in the construction of certain railroads in the Territory of Dakota, have had the same under consideration and have instructed me to report the accompanying substitutes, and they do recommend the passage of the substitute bills.

On the motion of Mr. Jolley,

The report of the committee was adopted.

Mr. Watson from the committee on agriculture submitted the following report:

MR. SPEAKER.—Your committee on agriculture to whom

was referred council bill No. 17, a bill to prevent bulls and swine from running at large, have had the same under consideration and report the same back with a substitute therefor, and recommend the passage of the substitute.

On the motion of Mr. Moody,  
The report of the committee was adopted.

On the motion of Mr. Kegan,  
Mr. Thompson was excused for unavoidable absence on the 2d inst.

On leave Mr. Turner introduced house file No. 57, entitled a bill to provide for an election for county officers for Laramie county,

Which was read the first time.

Mr. Turner moved that the rules be suspended, the bill read the second time by its title and referred to the committee on judiciary,

Which motion was lost.

Council bill No. 44, entitled joint resolution of the legislative assembly of the Territory of Dakota relative to our delegate in Congress,

Was then taken from the table, and

Read the first time.

Mr. Bronson moved that the rules be suspended and under the operation thereof the bill be read the second and third time and put upon its passage,

Which motion was lost.

Mr. Moody moved that the rules be suspended, the bill read the second time by its title and referred to the committee on federal relations,

Which motion was lost.

Council bill No. 17, (substitute) entitled a bill for an act to amend chapter 36 of the session laws of 1862, entitled an act concerning horses and other animals, approved May 15, 1862,

Was then taken up and read the third time,

The question then being on its passage and it being put  
"shall the bill pass?"

It was decided in the affirmative,

Ayes 25; noes 1; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings,  
Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Han-  
son, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw,  
) Thompson, Tucker, Turner and Watson.

Mr. Speaker voted in the negative.

So the bill was passed,

The question then being on agreeing to its title and it being  
put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council  
requesting their concurrence therein.

Substitutes for council bill No. 13, entitled a memorial and  
joint resolution of the legislature of the Territory of Dakota to  
the Congress of the United States asking for a grant of land  
to aid in the construction of certain railroads in the Territory  
of Dakota,

Was then taken up, and

Read the third time,

The question then being on its passage, and it being put  
"shall the bill pass?"

It was decided in the affirmative,

Ayes 26; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings,  
Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Han-  
son, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw,  
Thompson, Tucker, Turner, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

) The question then being on agreeing to the title of the bill  
and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council  
requesting them to concur therein.

The following messages from the Governor, were then handed in by his private secretary :

EXECUTIVE OFFICE,  
Yankton, January 7, 1868. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives.*

SIR.—I have the honor to return herewith, a memorial to the Secretary of the Interior asking for the appointment of Hon. Horace J. Austin as superintendent of the Big Sheyenne wagon road.

Which I have signed.

I am, very respectfully,

Your ob't servant,

A. J. FAULK,

*Governor.*

EXECUTIVE OFFICE,  
Yankton, January 7, 1868. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives :*

SIR.—I have the honor to return herewith, a bill entitled an act in relation to the Territorial auditor and treasurer.

Which I have approved and signed.

I am, very respectfully,

Your obedient servant,

A. J. FAULK,

*Governor.*

Mr. Jolley moved that all committees who have bills in their hands for consideration be instructed to report to-morrow morning,

Which motion prevailed.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have examined house file No. 45, an act to legalize the acts of John W. Boyle, as clerk of the U. S. district court first judicial district of this Territory; and for other purposes ; also, house file No. 50, an act in relation to the forms of certain oaths ; also, house

file No. 11, an act relating to settlers upon land without the legal title thereto; and find the same correctly enrolled.

On the motion of Mr. Moody,  
The house took a recess of fifteen minutes.

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AFTER RECESS.

The Speaker resumed his chair and called the house to order.

The following message from the council was then read:

COUNCIL CHAMBER,  
Wednesday, January 8, 1868. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council did on the 7th inst., pass house file No. 41, a bill for an act concerning mines and mining, with attached amendments; also, house file No. 34, joint resolution with attached amendments, which bills are herewith transmitted and the concurrence of the house to said amendments respectfully requested.

I am also instructed to inform the house that the council did on the 7th inst., pass house file No. 56, a bill for a memorial to the post master general for a mail route from Fort Bridger, Utah Territory, to South Pass City, in the Territory of Dakota; also, that the council has this day passed house file No. 52, entitled a bill for an act to provide for the opening, vacating and changing of highways, which bills are herewith returned.

I have also to inform the house that the council has this day agreed to house substitute for council bill No. 18, a bill for an act relating to road supervisors.

I have also to inform the house that the council did on the 7th inst., pass council bill No. 11, a bill for an act fixing the fees of the clerk of the district court, county attorneys, county officers, justices of the peace, constables, jurors, referees, appraisers and notaries public; also, council bill No. 35, an act to prevent the spread of prairie fires, which bills are herewith

transmitted and the concurrence of the house respectfully requested therein.

I have also to inform the house that the council did on the 7th inst., disagree to house amendment to council bill No 40, a bill to repeal chapter 39 of the laws of 1862.

GEO. I. FOSTER,  
*Secretary.*

Council bill No. 11, entitled a bill for an act fixing the fees for the clerks of the district courts, county attorneys, county officers, justices of the peace, constables, jurors, referees, appraisers and notaries public,

Was then taken from the table,

Mr. Moody moved that the rules be suspended and under the operation thereof the bill be read the first and second time by its title and referred to the committee on judiciary,

Which motion prevailed.

The bill was accordingly read first and second time by its title and referred as above ordered.

Council bill No. 35, entitled an act to prevent the spread of prairie fires,

Was then taken from the table.

Mr. Moody moved that the rules be suspended, and under the operation thereof the bill be read the first and second time by its title and referred to the committee on agriculture.

Which motion prevailed.

The bill was accordingly read the first and second time by its title and referred as above ordered.

House file No. 34, entitled a joint resolution authorizing the adjutant general to rent a building to store arms and ammunition, returned from the council with amendments,

Was then taken from the table,

The amendments were then read as follows:

COUNCIL AMENDMENTS TO HOUSE FILE NO. 34.

Strike out all of section one, of the resolution, and insert in lieu thereof the following:

“That the territorial auditor and treasurer be and are hereby

authorized to cause to be erected a suitable building in the town of Yankton, in which to store the arms and ammunition belonging to the Territory of Dakota.

*Provided however,* That the cost of said building shall not exceed the sum of two hundred dollars, and

*Provided further,* That the town of Yankton shall donate a lot to the Territory of Dakota, on which to erect such building.

Amend section second of the resolution by striking out all after the word act in the fourth line of said section.

On the motion of Mr. Jolley,

The council amendments to house file No. 34, were concurred in.

House file No. 41, entitled an act concerning mines and mining, returned from the council with amendments,

Was then taken from the table.

The amendments were then read as follows:

Amend by inserting between the words "feet" and "with" on the sixth line of section 1, the words "along the ledge or lode;" by striking out the words "or persons finding" on the first line of section 2, and insert in lieu thereof the words "discovering"; by inserting between the words "lode and shall" on the third line of 2d section the words "or whoshall locate a claim thereon after discovery."

And by striking out the words "or names" and "or persons" in last line of said section 2 and by adding to said section 2 the words "or discovering."

Amend section 5 by inserting between the words "feet" and "on" on line twenty-one, the words "and not more than two thousand feet" and by striking out of line twenty-three and twenty-four of section 5 the words "and who have complied with the general incorporation law of the Territory.

On the motion of Mr. Moody,

The council amendments to house file No. 41, was concurred in.

On leave Mr. Turner introduced house file No. 58, entitled a bill amending an act entitled an act incorporating the city of Cheyenne, D. T.

Mr. Moody moved that the rules be suspended and the bill be read the first time by its title.

Which motion prevailed.

Mr. Moody moved that the house recede from its amendments to council bill No. 40, entitled a bill to repeal chapter thirty-nine of the laws of 1862.

The ayes and noes being demanded and ordered, resulted,

Ayes 12; noes 13; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Shaw and Tucker.

Those who voted in the negative, are

Messrs. Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Kegan, Ryan, Thompson, Watson and Mr. Speaker.

Mr. Turner was excused from voting on the above motion.

So the motion to recede was lost.

*Ordered*, That the chief clerk inform the council of the house adhering to house amendments to council bill No. 40.

Mr. Ryan from the committee on towns and counties submitted the following report:

MR. SPEAKER.—Your committee on towns and counties to whom was referred council bill No. 42, entitled a bill providing for the recording of deeds, mortgages and other papers in the unorganized counties, have had the same under consideration and report the same back to the house with amendment and recommend its passage as amended.

The amendments were then read as follows:

Amendment to council bill No. 42.—Amend section 1 by inserting after the word Yankton in line 6, the following words: "Or any other organized county within this Territory."

Mr. Curry moved that the report of the committee with amendment be adopted.

Which motion was lost.

Mr. Gregory offered the following amendments to said bill:

Amend by inserting after the word "Yankton" in section 1, sixth line "or the nearest organized county where the proper records are kept."

On the motion of Mr. Jolley,  
The amendments were adopted.

Council bill No. 42, entitled a bill providing for the recording of deeds, mortgages and other papers in the unorganized counties,

Was then taken up, and

Read the third time,

The question then being on its passage and it being put,  
"shall the bill pass?"

It was decided in the affirmative.

Ayes 26; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Turner, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed.

The question then being on agreeing to the title of the bill and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting them to concur in said amendment.

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have examined house file No. 52, entitled an act to provide for the opening, vacating and change of highways; also house file No. 56, entitled a memorial to the Postmaster General for a mail route from Fort Bridger, Utah Territory, to South Pass city in the Territory of Dakota, and find the same correctly enrolled.

House file No. 39, entitled a bill for an act to amend chapter 31 of the session laws of 1865-6 entitled an act to prohibit sheep and swine from running at large, returned from the council with amendments,

Was then taken from the table,

The amendments were then read as follows :

Add to section 1 the following words :

“Nothing in this act shall be so construed as in anywise to apply to Union county.”

Mr. Gore moved that the house concur in the council amendments to house file No. 39.

Which motion prevailed.

Mr. Jolley moved that the house do now adjourn,

Which motion was lost.

The following message from the council was then read :

COUNCIL CHAMBER,  
Wednesday, Jan. 8, 1868. }

MR. SPEAKER,—I am instructed by the council to inform the house that the council has this day passed house file No. 39, a bill for an act to amend chapter 32 of the session laws of 1865-66 entitled an act to prohibit sheep and swine from running at large, with attached amendment, which bill is herewith returned and the concurrence of the house to said amendment respectfully requested.

I have also to inform the house that the council has this day agreed to house substitute for council bill No. 13, entitled a memorial and joint resolution of the Legislature of the Territory of Dakota to the congress of the United States, asking for a grant of land to aid in the construction of certain railroads in the Territory of Dakota.

GEO. I. FOSTER,  
*Secretary.*

On the motion of Mr. Gregory,  
The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest :*

P. H. HALNAN,  
*Chief Clerk.*

## THIRTY-NINTH DAY.

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HOUSE OF REPRESENTATIVES. }  
 Thursday, January 9, 1868. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Turner, Watson and Mr. Speaker.

The journal of the preceding day was then read and approved.

Mr. Jolley from the committee on judiciary submitted the following report :

MR. SPEAKER.—Your committee on judiciary to whom was referred council bill No. 11, entitled an act fixing the fees of the clerk of the district court, county attorney, county officers, justices of the peace, constables, jurors, referees, appraisers and notaries public, have instructed me to report that the session is so near a close they have not time before the adjournment to properly consider the above bill, and therefore report the bill back without recommendation.

Mr. Jolley from the special committee consisting of the Clay county delegation submitted the following report :

MR. SPEAKER.—Your committee to whom was referred the petition of the citizens of Clay county in reference to the relocation of a territorial road, have had the same under consideration, and have instructed me to report the same back without recommendation. The prayer of the petitioners has been grant-

ed by this legislative assembly by the passage of a general act with reference to the relocation and change of roads.

Mr. Watson from the committee on agriculture submitted the following report :

MR. SPEAKER.—Your committee on agriculture to whom was referred council bill No. 35, entitled an act to prevent the spread of prairie fires, have had the same under consideration and beg leave to report the same back to the house with a substitute and recommend the passage of the substitute.

On the motion of Mr. Moody

The report of the committee was adopted.

Mr. Gregory from the special committee consisting of one from each county submitted the following report :

MR. SPEAKER.—Your special committee to whom was referred house file No. 51, entitled a bill for an act to amend chapter 14 of the session laws of 1865-6, have had the same under consideration and beg leave to report the same back to the house with amendment, and recommend that the bill as amended do pass.

The amendment was then read as follows :

Strike out section 3 and insert in lieu thereof as section 3 the following: "All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

On the motion of Mr. Moody,

The report of the committee with amendment was adopted.

Council bill No. 44, entitled joint resolution of the legislative assembly of the Territory of Dakota relative to our delegate in congress,

Was then taken from the table, and

Read a second time.

Mr. Brown moved that the bill be indefinitely postponed.

The ayes and noes being demanded and ordered, resulted,

Ayes 12; noes 13; as follows :

Those who voted in the affirmative, are

Messrs. Blair, Brown, Curry, Dewitt, Farris, Gore, Gregory, Kegan, Ryan, Thompson, Turner and Mr. Speaker.

Those voting in the negative, are

Messrs. Brady, Bronson, Brauch, Cummings, Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Shaw, Tucker and Watson.

So the motion to indefinitely postpone was lost.

On the motion of Mr. Jolley,

The bill was referred to the committee on federal relations.

Mr. Jolley moved that the petition of the citizens of Clay county be indefinitely postponed.

Which motion prevailed.

Council bill No. 11, entitled a bill for an act fixing the fees for the clerks of the district courts, county attorneys, county officers, justices of the peace, constables, jurors, referees, appraisers and notaries public,

Was then taken up,

Mr. Moody moved that the bill be laid upon the table,

Which motion prevailed:

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have examined house file No. 39, entitled an act to amend chapter 32 of the session laws of 1865-6 entitled an act to prohibit sheep and swine from running at large; also house file No. 34, entitled joint resolution; and house file No. 41, entitled an act concerning mines and mining, and find the same correctly enrolled.

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have to report that they did on yesterday at 3 o'clock P. M., present to the Governor for approval, house file No. 56, a memorial to the Postmaster General for a mail route from Fort Bridger, Utah Territory to South Pass city in the Territory of Dakota; house file No. 45, an act to regulate the acts of John W. Boyle, as clerk of the United States district court, first judicial district of this Territory, and for other purposes; house file No. 50,

an act in relation to the forms of certain oaths ; house file No. 11, an act relating to settlers upon land without the legal title thereto ; also house file No. 52, an act to provide for the opening, vacating and change of highways.

Council bill No. 35, substitute, entitled an act to prevent the spread of prairie fires,

Was then taken up, and

Read the third time.

The question then being on its passage, and it being put "shall the bill pass?"

It was decided in the affirmative.

Ayes 25 ; noes none ; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Turner, Watson and Mr. Speaker.

None voting in the negative,

So the bill was passed,

The question then being on agreeing to the title of the bill, and it being put,

The title was agreed to.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

House file No. 57, entitled a bill to provide for an election for county officers for Laramie county,

Was then taken from the table, and

Read the second time.

On the motion of Mr. Jolley,

The bill was referred to the committee on judiciary.

House file No. 58, entitled a bill amending an act entitled an act to incorporate the city of Cheyenne, Dakota Territory,

Was then taken from the table,

Mr. Curry moved that the rules be suspended and the bill read the second time by its title,

Which motion prevailed.

Mr. Jolley moved that the rules be suspended, and the bill read the third time and put upon its passage,

The ayes and noes being demanded and ordered, resulted

Ayes 14 ; noes 12 ; as follows :

Those who voted in the affirmative, are

Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Jolley, Kegan, Ryan, Turner and Mr. Speaker.

Those who voted in the negative, are

Messrs. Brady, Bronson, Brauch, Gunderson, Hanson, Hoyt, Moody, Nelson, Shaw, Thompson, Tucker and Watson.

So the motion to suspend the rules was disagreed to

On the motion of Mr. Curry,

The bill was referred to the committee on judiciary.

House file No. 51, entitled a bill for an act to amend chapter 14 of the session laws of 1865-6,

Was then taken up, and

Read the third time.

The question then being on its passage, and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 25 ; noes 1 ; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Turner, Watson and Mr. Speaker.

Mr. Curry voted in the negative,

So the bill was passed.

The question then being on agreeing to its title,

On the motion of Mr. Gregory,

The title was amended by striking out all after the figures 1865-6.

*Ordered,* That the chief clerk transmit said bill to the council requesting their concurrence therein.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have to report that they did on this day at 11 o'clock, A. M., present to the Governor for his approval, house file No. 34, entitled joint resolution; also house file No. 39, entitled an act to amend chapter 32, of the session laws of 1865-6, entitled an act to prohibit sheep and swine from running at large; also house file No. 41, entitled an act concerning mines and mining.

The following communication was then received which was read as follows:

*To the Officers and Members of the Legislative Assembly of Dakota Territory:*

It is with extreme pleasure, as well as heartfelt gratitude that I would acknowledge the receipt of \$28.00 and subscriptions amounting in the whole to \$44.00 from the officers and members of the Legislative assembly of Dakota, for the purpose of enabling me to procure artificial limbs, rendered necessary by the amputation of my own nearly two years ago. For this token of regard I sincerely thank you, invoking God's blessing as your reward.

Yours with lasting gratitude,  
C. M. TOMPKINS.

On the motion of Mr. Moody,

Mr. Jolley was allowed to introduce house file No. 59, entitled an act to legalize the acts and proceedings of the acting city clerk, of the city of Cheyenne, and the acting register of deeds of the county of Laramie,

Which was read the first time.

Mr. Curry moved that the rules be suspended and under the operation thereof the bill be read the second and third time and put upon its passage.

Which motion prevailed.

The bill was accordingly read the second and third time as above ordered.

The question then being upon its passage and it being put, "shall the bill pass?"

It was decided in the affirmative,

Ayes 25; noes 1; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Turner, Watson and Mr. Speaker.

Mr. Gore voted in the negative,

So the bill was passed.

The question then being on agreeing to its title,

On the motion of Mr. Moody,

The title was amended to read as follows: an act to legalize the acts and proceedings of the acting city clerk of the city of Cheyenne, and the acting register of deeds of the county of Laramie.

*Ordered*, That the chief clerk transmit said bill to the council requesting their concurrence therein.

The following message from the council was then read :

COUNCIL CHAMBER, }  
Thursday, January 9, 1868. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council did on the 8th inst., pass house file No. 49, entitled a bill for an act constituting the counties of Laramie and Carter a part of the 2d judicial district, and providing for terms of court therein, with attached amendments, which bill I herewith transmit and respectfully request the concurrence of the house to the amendments.

I have also to inform the house that the council has this day passed council bill No. 46, a bill to provide for holding a term of the supreme court; also council bill No. 47, a bill for an act to prevent swine from running at large in Yankton county; also council bill No. 48, a bill to create the tenth representative district and for other purposes; also council bill No. 33, (substitute) an act relating to the United States court in the first judicial district; also council bill No. 45, a bill to organize the county of Montana, in Dakota Territory, which bills are herewith transmitted and the concurrence of the house respectfully requested.

I am also instructed to inform the house that the council adheres to disagreement to house amendment, to council bill No. 40, entitled a bill to repeal chapter 39 of the laws of 1862; also

that the council has this day disagreed to house amendment to council bill No. 42, a bill providing for the recording of deeds, mortgages and other papers in the unorganized counties of the Territory of Dakota.

GEO. I. FOSTER,  
*Secretary.*

House file No. 49, entitled a bill for an act constituting the counties of Laramie and Carter, a part of the 2d judicial district and providing terms of court therein, returned from the council with amendments,

Was then taken from the table.

The amendments were then read as follows :

Strike out sections 1, 2, 3, 4, 5, 6, 7 and 8, and insert in lieu thereof the following sections :

Section 1. That all that portion of the Territory of Dakota known and designated as the county of Laramie and Carter, shall constitute the 3d judicial district, and the district court shall be held at Cheyenne city, in the county of Laramie, on the second Tuesday of February and July in each year ; also at South Pass city, in the county of Carter, on the third Tuesday of August in each year.

Sec. 2. That justice John W. Boyle be and is hereby assigned to said third judicial district ; *Provided*, That either justice Ara Bartlett, or J. P. Kidder, may exchange with, or assist said justice Boyle, in holding the courts in said 3d judicial district.

Sec. 3. That said counties of Bon Homme, Hutchinson, Charles Mix, Buffalo, Todd and Gregory shall be, and are hereby attached to the 2d judicial district for judicial purposes ; and all cases now pending in said 3d judicial district court, shall be transferred to the 2d judicial district, and shall there be disposed of in the same manner as if they had been originally brought in said 2d district.

Sec. 4. There shall be allowed and paid by the treasurer of the said counties of Laramie and Carter, respectively to the judge holding said terms of court, the sum of five dollars per day for each and every day he shall be necessarily occupied in holding said court.

Sec. 5. That in case said counties of Laramie and Carter, shall be organized into a new Territory, then the same counties that now constitute the 3d judicial district shall after such organization, constitute the 3d judicial district.

Change sections 9 and 10 in original bill, to sections 6 and 7.

Amend the title of the bill to read as follows :

A bill for an act constituting the 3d judicial district of the Territory of Dakota.

Council bill No. 33, entitled an act relating to the United States court in the 1st judicial district,

Was then taken from the table, and

Read the first time.

Mr. Curry moved that the rules be suspended and the bill read the second time by its title,

Which motion was lost.

Council bill No. 45, entitled a bill to organize the county of Montana, D. T.,

Was then taken from the table, and

Read the first time.

Council bill No. 46, a bill to provide for holding a term of the supreme court,

Was then taken from the table, and

Read the first time.

Council bill No. 33, entitled an act relating to the United States court in the 1st judicial district,

Was then taken from the table

Mr. Moody moved that the rules be suspended and the bill read the second time by its title.

Which motion prevailed.

Mr. Jolley offered the following amendments to said bill :

Amend council bill 33, by adding the following as section two :

Section 2. That the provisions of this act shall not in any manner interfere with the holding of the terms of the United States district court in the 1st judicial district as now provided by law.

The following message from the council was then read :

COUNCIL CHAMBER,  
Thursday, January 9, 1868. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council has this day passed house file No. 59, a bill to legalize the acts and proceedings of the acting city clerk, of the city of Cheyenne, and the acting register of deeds of the county of Laramie ; which bill is herewith returned.

GEO. I. FOSTER,  
*Secretary.*

On the motion of Mr. Farris,  
The house took a recess of fifteen minutes.

AFTER RECESS.

The speaker resumed his chair and called the house to order.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have examined house file No. 59, entitled an act to legalize the acts and proceedings of the acting city clerk of the city of Cheyenne, and the acting register of deeds of the county of Laramie, and find the same correctly enrolled.

The question then being on adopting the amendments offered by Mr. Jolley, to council bill No. 33,

A call of the house was ordered.

Mr. Gregory moved that the house dispense with the further call of the house,

Which motion prevailed.

Mr. Jolley moved that the further consideration of the amendment be postponed until to-morrow.

The ayes and noes being demanded and ordered, resulted  
Ayes 12; noes 13; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Bronson, Brauch, Gunderson, Hanson, Hoyt, Jolley, Nelson, Shaw, Tucker, Turner and Mr. Speaker.

Those who voted in the negative, are

Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Kegan, Ryan, Thompson and Watson.  
So the motion to postpone was lost.

Mr. Hoyt from the committee on enrollment submitted the following report :

MR. SPEAKER.—Your committee on enrollment have to report that they did on this day at twelve and a half o'clock P. M. present to the Governor for his approval, house file No. 59, entitled an act to legalize the acts and proceedings of the acting city clerk of the city of Cheyenne, and the acting register of deeds of the county of Laramie.

Mr. Jolley moved that the amendments offered to council bill No. 33, be referred to a select committee consisting of one from each county.

Mr. Curry moved that the motion made by Mr. Jolley be laid upon the table.

The ayes and noes being demanded and ordered, resulted  
Ayes 14; noes 11; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Kegan, Ryan and Watson.

Those who voted in the negative, are

Messrs. Brauch, Gunderson, Hanson, Hoyt, Jolley, Nelson, Shaw, Thompson, Tucker, Turner and Mr. Speaker.

So the motion to table was agreed to.

Mr. Curry moved the previous question,  
Which motion prevailed.

Mr. Jolley moved that the house do now adjourn.

The ayes and noes being demanded and ordered, resulted  
Ayes 12; noes 13; as follows :

Those who voted in the affirmative, are

Messrs. Brady, Bronson, Brauch, Gregory, Gunderson, Hanson, Hoyt, Jolley, Nelson, Shaw, Thompson and Tucker.

Those who voted in the negative, are

Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Kegan, Ryan, Turner, Watson and Mr. Speaker.  
So the motion to adjourn was lost.

The question then being on adopting the amendments offered by Mr. Jolley to council bill No. 33,

The ayes and noes being demanded and ordered, resulted  
Ayes 12; noes 13; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Bronson, Brauch, Gunderson, Hanson, Hoyt, Jolley, Nelson, Shaw, Thompson, Tucker and Mr. Speaker.

Those who voted in the negative, are

Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Kegan, Ryan, Turner and Watson.

So the adoption of the amendments was disagreed to.

Council bill No. 47, entitled a bill for an act to prevent swine from running at large in Yankton county,

Was then taken from the table, and

Read the first time,

Council bill No. 48, entitled a bill to create the tenth representative district and for other purposes,

Was then taken from the table, and

Read the first time.

On the motion of Mr. Jolley,

The house then adjourned.

ENOS STUTSMAN,  
*Speaker.*

*Attest:*

P. H. HALNAN,  
*Chief Clerk*

## FORTIETH DAY.

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HOUSE OF REPRESENTATIVES, }  
Friday, January 10, 1868. }

The house met pursuant to adjournment and was called to order by

The speaker in the chair,

Prayer by the chaplain,

Roll called,

The following members answered to their names :

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Kegan, Moody, Nelson, Ryan, Shaw, Thompson, Tucker, Turner, Watson and Mr. Speaker.

The journal of the preceding day was then read and approved.

The following message from the council was then read :

COUNCIL CHAMBER, }  
Thursday, January 10, 1868. }

MR. SPEAKER.—I am instructed by the council to request of the house the return to the council of council bill No. 33 (substitute) an act relating to the United States courts in the first judicial district.

I am also instructed to inform the house that the council did on the 9th inst., pass house file No. 54, joint resolution.

GEO. I. FOSTER.

*Secretary.*

Mr. Turner from the committee on military affairs submitted the following report :

MR. SPEAKER.—Your committee to whom was referred the report of the Adjutant General for the present year have had the same under consideration and beg leave to report the same back to the house without recommending any action thereon.

Mr. Farris from the special joint committee also submitted the following report:

MR. SPEAKER.—The special joint committee of the two houses upon the mineral and agricultural resources of this Territory, have had the subject under consideration, and have agreed upon the following report which is respectfully submitted.

#### MINERALS.

In an article on the prospects of building the Pacific Railroad which is attached to the valuable report on foreign and domestic commerce issued by the Treasury Department in 1864, on page 217, we find the following:

“It now well ascertained that the Black Hills of Dakota Territory, situated on the 84th parallel of latitude, and between the 103d and 105th meridians of longitude are rich in gold and silver as well as coal, iron, copper, and pine forests. With the pacification of the Sioux nation, and the establishment of emigrant roads, Dakota will be the scene of great mining excitement, as the gold fields of the Black Hills, are within one hundred and twenty miles of the steamboat navigation of the Missouri river, at the intersection of its channel with the forty-fifth parallel of latitude.”

On the 643d page of Senate Documents, 2d Session 35th Congress, Vol. 2, Lieut. G. K. Warren, (now Major General) U. S. Topographical Engineers, in his explorations in the Black Hills in the summer of 1857, says:

“In these mountain formations, which border the great plains on the west, are to be found beautiful flowing streams, and rich valleys covered over with fine grass for hay, and susceptible of a high state of cultivation. Fine timber for fuel and lumber, limestone and good stone for building purposes are here abundant. Gold has been found in places in valuable quantities, and without doubt the more common and useful minerals will be discovered when more minute examinations are made.” In the summer of 1866, the Indians brought gold from the Black Hills.

Capt. John Mullen, U. S. A., in his report on Military Wagon roads in the Upper Missouri country, published in 1863, says in relation to western Dakota and east Montana:

“So, that now gold is profitably being taken out at the following points: At Big Hole, Beaver Head and Prickly Pear, in west Dakota (now East Montana). From the same report: “The result of Captain Reynolds’s explorations would show that traces of gold were

found by his party in all the tributaries of the Yellowstone from the south. Enough discoveries have been made to warrant us in thinking that the entire mountain system will be found to be gold bearing." The same author speaks of sulphur being found on the Yellowstone.

"And a coal oil spring exists on the Big Horn river, a tributary of the Yellowstone."

Father De Smet, an Indian Missionary, who has spent many years with wild tribes of the North West, asserts that the Indians have long known and concealed the localities of inexhaustible "graves" of precious metals slumbering in the remote and hidden recesses of the Black Hills of Dakota, where the white man has never intruded.

Captain Reynold's report has never been published so that the most your committee know about his discoveries, is that persons on the expedition with him say that he found gold on several of the small streams running out of the Black Hills into the Big Cheyenne.

The Black Hills of Dakota are but the continuation of the Big Horn and Snow mountains, which are but the continuation of the Rocky Mountains. Gold has already been discovered in the Big Horn and Snow mountains, and in the bed of every stream taking its rise in the mountains, to-wit: Powder, Tongue, Rose Bud and Big Horn rivers, so that reasoning from analogy, gold should be found in the "Black Hills of Dakota," but we have the positive evidence of Lieut. G. K. Warren and several others, that it actually exists there. Lieut. G. K. Warren thus describes Geological formation of the Black Hills of Dakota.

- I. Metamorphosed azoic rock, including granite.
- II. Lower silurian (potsdam sandstone).
- III. Devonian.
- IV. Carboniferous.
- V. Permian.
- VI. Jurasiac.
- VII. Cretaceous."

This whole geological range of rocks from the granite and metamorphosed azoic to the cretaceous formation of the surrounding plains, are developed by the upheaval of the mountain mass. Thus at the junction of the silurian rocks, gold becomes accessible, and the carboniferous strata bring coal measures within reach. The geological formation of these Hills would certainly indicate great richness of minerals of all kinds.

The distinguished geologist, Prof. Owen, says that the Black Hills of Dakota, the silver bearing placers of the Amazon, the rich Cor-

dilleras of Mexico, and the Himlayha range of India, have all emerged from the sea at the same geological period, and the same formation of mineral bearing strata can be traced in each.

#### IRON.

There is no limit to the amount of iron ore in Dakota Territory. Prof. Gregg, of New York, who visited our Territory and Montana Territory, in the summer of 1865, after analyzing some of our iron ore, says: "That the carbonate of iron or clay or iron stone similar and equal to the English iron ore, crops out on the Missouri river from Bijou Hills to above Fort Sully, a distance of one hundred miles, and that the bed in some places is fifty feet thick and inexhaustible." The writer has seen the iron ore and fully confirms the above statement of Prof. Gregg, that in the vicinity of Fort Sully, D. T., there is no limit to iron ore. The men that accompanied Gen. Harney's expedition to the Black Hills say that iron was found so pure that it was used by the blacksmiths of the expedition in its native state; also, the Ponca Indians have brought into the white settlements specimens of iron from these Hills in a very pure state.

Recent discoveries show abundance of iron and coal on the Big Cheyenne river.

#### COAL.

Coal on the Missouri river at Fort Rice has been discovered in great abundance, some veins from ten to fifteen feet thick. The opinion of Dr. J. V. Hayden and Mr. Meek, geologists, is that the carboniferous limestone around the Black Hills belong to the true coal measures, if so, there must be an abundance of coal in that portion of Dakota. Within the last two years inexhaustible beds of coal have been discovered in western Dakota, and iron near these vast coal beds.

According to all analysis coal ought to occupy the geological interval between the limestone of Minnesota and the cretaceous formation on the Upper Missouri; and Featherstonaugh says, that the cretaceous rocks of the Missouri rest upon the carboniferous limestone of the Big Sioux. The coal formation must exist in Dakota. Prof. Owen says that the erratic specimens of coal found on the Blue Earth river in Minnesota, have probably been brought down in the great drift movement from the concealed beds of Dakota; so that when a geological survey of the Territory shall be made, abundance of coal will be found extending over our Territory.

#### COAL OIL, OR PETROLEUM.

Captain Mullen, U. S. A., says, "that a coal oil spring exists on

the Big Horn river." The water in many of the springs along our rivers tastes very much like water coming from the vicinity of coal oil, especially is this so of several springs on the Big Sioux.

#### CLAYS.

There is an abundance of clay, that will make the best of brick, on the Big Sioux, extending to the noted Red Pipe Stone Quarry; an abundance of white marl, that would make brick of great beauty, resembling the celebrated Milwaukee brick, only of more variable colors.

#### BUILDING MATERIAL,

At Sioux Falls, on the Big Sioux river, and at Fort James, on the Dakota river, there is abundance of red sandstone that makes an excellent building stone. Also plenty of good building stone near Yankton. Lieut. G. K. Warren, says of the western portion of the Territory, "Pine timber of the finest quality, in abundance, grows there, easy of access, from which the finest lumber can be made; building stone of good quality abounds." An excellent quality of limestone, as white as marble, was found on the Vermillion river last season where the Brookings wagon road crosses the same. There is more or less limestone on all of the streams of Dakota, and very fair building timber on most of the streams.

#### RIVERS OF DAKOTA.

The Missouri river extends a thousand miles through the Territory, and is navigable for steamboats the entire distance and hundreds of miles above; the river is from one-half to one-third of a mile wide, and Dr. J. V. Hayden, U. S. Geologist, says thus of it in his report of the Missouri country: "The broad bottom prairies of the Missouri, are of inexhaustible fertility, sustaining a vegetation variable in its character and of enormous growth, the upland prairies possess a soil composed of yellow marl well adapted to agriculture and grazing." This stream is well timbered almost its entire length.

The Big Sioux river is two hundred miles long, a running stream of clear water, and quite well timbered; this beautiful valley cannot be surpassed for fertility of soil and the variety and luxuriance of its vegetation; the bottomlands on this stream are from a half to three miles wide, and bear an enormous growth of blue joint grass, which makes hay of an excellent quality.

What has been said of the Big Sioux, may be said of the Dakota and Vermillion rivers, except that there is not so much timber as on

the Sioux, although of very good quality, and well adapted to stock growing. As to the character and description of the other streams, we shall quote from Lieut. Warren.

“The Big Cheyenne is a most important river, and has its extreme source west of the Black Hills, which its two main branches enclose. These forks are supplied by numerous streams from the mountains, and they unite in about longitude  $102^{\circ} 20'$ , the river flowing into the Missouri in latitude  $44^{\circ} 48'$ . In its lower course I am informed there is fertile land on its banks, and there are considerable areas in and around the Black Hills. The Cheyenne river can be rafted, and the stream that comes from the Hills could be used to drive the logs down the river.” And thus the way is open to this supply of timber.

“White Earth river has generally an open well wooded valley, with fine soil and luxuriant grass. Any one who travels in Dakota will always feel rejoiced when he reaches the banks of this beautiful stream. It is much resorted to by the Brule's. It has numerous branches, the largest of which is called the South Fork. The pine on White river and its tributaries is nearly equal in extent to that on the Niobrara. This stream has been used by traders to boat down their furs. I believe it can also be used to raft down the pine timber on its banks and branches.” Lieut. Warren speaks very favorably of the Niobrara river which is partly in our Territory, that there is considerable pine timber on its banks and branches, and much good land and excellent water.

The Red River of the North, rises in Lake Traverse, and flows north 380 miles to the British Possessions, is a navigable stream its entire distance, well wooded and a soil unsurpassed in fertility.—There are a number of other small streams, some of which have abundance of timber and a good soil and clear running water. There are quite a number of lakes in East Dakota remarkable for their beauty, and with their sylvan associations form the prominent charm of its rural landscape. There is an abundance of timber on some of these lakes surrounded with a good soil, water, and plenty of fish in the waters of the same. All the streams of Dakota abound in delicious fish of many varieties.

#### RAILROADS.

The Union Pacific Railroad has already penetrated the southern portion of Dakota, and will, before another year passes by, have crossed the Territory from East to West, and open up some of the richest gold mines in the country.

There are at the present time some six or seven lines of railroads in Minnesota and Iowa, all tending towards Dakota. The Chicago and Northwestern has already reached Sioux City on the eastern border of the Territory. Two other land grant railroads in Iowa, have their terminus on the eastern boundary of Dakota. The Dubuque and Pacific at Richland, about the center of Union county, and the McGregor road, which will strike our Territory about the center of Lincoln county. The land grant railroads in Minnesota that strike the eastern boundary of Dakota, are as follows :

"Routes one and two, from Stillwater by way of Saint Paul, to a point between the foot of Big Stone Lake and the mouth of the Sioux and Wood river, and branch down the Red River of the North."

"Routes three and four, from Saint Paul to the southern boundary of the State in the direction of the Big Sioux river." "Route five, from Winona via Saint Peter to a point on the Big Sioux river, south of the forty-fifth parallel of north latitude." This grant was transferred to the Transit railroad company." The western terminus of this road was once located, temporarily, at Sioux Falls, now in Dakota.

Besides two other roads in Minnesota, which have very liberal grants of land that run through the entire breadth of the State from east to west, having their terminus on our eastern border.

The proposed railroads in Dakota, are as follows:

1. From Sioux City to Yankton, a distance of sixty miles. This road will be constructed in course of two years.

2. The Minnesota and Missouri River Railroad from a point on the eastern boundary line of the Territory, where the first road from Minnesota shall intersect that line, thence via Sioux Falls to Yankton a distance of one hundred miles. This road will pass through one of the finest agricultural countries in the west, besides it will open the way to develop the vast water power of Sioux Falls.

3. The Northern Pacific, which road passes through the northern portion of the Territory, for a full description of which we refer you to an article from the New York Tribune published in this report.

4. A Road from Yankton to Columbus, Nebraska, connecting there with the Union Pacific, a distance of about eighty miles.

5. A Railroad from Yankton (being a continuation of the road from Sioux City to Yankton,) via Bon Homme and Greenwood, to the mouth of White Earth River, thence westerly up the said White Earth River about eighty miles, thence westerly to the forks of the Big Cheyenne river, there to unite with a road from Minnesota, (starting at the foot of Big Stone Lake,) where the two roads will

unite and form one line, and then run westerly up the north fork of the Big Cheyenne to the Little Missouri river, thence northwesterly along the base of the Big Horn Mountains to Helena, Montana Territory, thence to connect with the Northern Pacific, where the two roads united will take the most practicable route to Puget's Sound. This route from Yankton to Helena, Montana, passes through one of the richest mineral countries in the world, which it will take centuries to exhaust. Much of the country along this route is unsurpassed in agricultural resources, the entire route being well timbered and well watered. We can safely say that the resources along this entire line are four times as great as those of the Union Pacific; gold, silver, copper, iron and coal being found in inexhaustible quantities. As to the feasibility of this route, we shall quote from the Pacific Railroad explorations and surveys made by the United States, and an editorial of the New York Tribune of December 24th, 1867.

#### PUGET SOUND; ITS HARBOR, &C.

Captain McClellan, after a thorough examination of the different harbors, pronounces Puget Sound to be superior to all others, and the most suitable for the western terminus of the Pacific Railroad.

"Seattle is the nearest point to the straits of Fuca. It is easily entered with any of the prevailing winds, is secure from heavy seas, and has a most excellent holding ground of blue clay, and a great depth of water—thirty fathoms. The banks are suitable for a town; the deep water comes so near to the shore that but very short warves will be required. Semi-bituminous coal has been found within fourteen miles by water up the D'Wamish. The harbor can be defended by permanent fortifications." Pacific Railroad Surveys, volume 1, page 183.

There are a combination of circumstances beyond those stated by Captain McClellan, which make Puget Sound necessarily the great western terminus of this road. The inexhaustible beds of coal in that vicinity, which already commands \$22 a ton in San Francisco, determines the question of precedence between the two points.

#### ESTIMATED COST, \$50,000,000.

Mr. Lander, on page 35 of his report (Vol. 2, Pacific R. R. Surveys,) says:

"But a road of rough class, admitting the passage of weighty trains, and reaching the Puget Sound terminus by practicable detour, can be completed from the waters of the Missouri river to Seattle, on Puget Sound, for fifty millions of dollars in cash capital, actually expended on the construction and equipment of the road."

Lieut. Saxton, who traversed the route from Wallah-Wallah in Washington Territory, to Dakota, says :

"From the mouth of Wallah-Wallah river (on the Lower Columbia river) to Fort Benton, (on the Missouri river,) no insurmountable obstacle to the construction of a railroad exists, and the Blackfoot or Cadotte's Pass is much the lowest pass through the Rocky Mountains that has yet been discovered, and eminently fitted by nature for the line of railroad. The region is well watered, rich in agricultural and mineral resources, and abounding in fine timber and all other materials necessary for the construction of a railroad. It is destined, and no very distant period, to be occupied by a civilized and energetic population, capable of making roads for themselves, independently of those which are to form the great lines of communication between the eastern and western oceans." Vol. 1, Pacific R. R. Surveys, page 268.

From Cadotte's Pass to Puget Sound, the route is the same as that surveyed by Gov. Stevens. The Hon. Jefferson Davis, Secretary of War, in summing up the advantages of this route, says :

"The advantages of this route are—its low profile, which is important in relation to climate; its easy grades and small amount of ascents and descents, both important, if the road should be developed to its full working power; the great extension west of the prairie lands; in the supplies of the timber over the western half of the route; the facilities with which the Columbia river and its tributaries, and the Missouri, will afford to the construction of the road; in the short distance from the Mississippi to a seaport on the Pacific (1,864 miles to Vancouver;) in the western terminus of the road on Puget Sound, being nearer to the ports of Asia than the termini of other routes; and in the existence of coal on Puget Sound."

For a further description of the route and the country, see in this book the chapter entitled, Description of the Rocky Mountain region from the South Pass to the British possessions, including the region of the headwaters of the Missouri river.

By reference to the map it will be seen that the routes from Yankton to Puget Sound, are almost continuously in the valleys of different streams. The obvious advantage of roads thus located forms a marked and significant characteristic of these routes, the value of which can hardly be overrated.

#### DESCRIPTION OF THE ROCKY MOUNTAIN REGION.

EXTRACTS from the report of Lieutenant R. Saxton, published in Vol 1 of Pacific R. R. Surveys, Page 260, et seq :

"FRIDAY, August 26.—To-day we moved our camp twenty-five miles to the south-east, and encamped on a small creek, a tributary of the Columbia. Our route was along the Flathead river through a fine, open country, with an abundance of fine timber upon the hills back from the river. I found a great quantity of wild fruit particularly excellent plums, nearly as good as those cultivated in the States." Page 260.

"For the last eight miles of the march we followed up the valley of the Joeko river, a beautiful mountain stream, full of fine trout, and capable of supplying water-power enough to propel all the cotton-mills of Lowell." Page 260.

SEPTEMBER 5.—Marched 25 miles due west, along the banks of the Blackfoot Fork river through a magnificent country, fitted to support a numerous population of civilized men. Its bracing air; and the grand mountain scenery, will give inspiration and energy to the future inhabitants of this mountain region." Page 262.

SEPTEMBER 6.—We marched 30 miles and are now encamped on the last dividing ridge of the mountains. We passed through a region of the same fine character as that of yesterday, but with more timber, and more game. I saw numerous large, fine looking elk, which would have made a welcome addition to our slender stock of provisions; but we did not succeed in taking any. We are now near the headwaters of the Blackfoot fork, a branch of the Hell-Gate river, full of mountain trout. The grass and timber are as good as can be found anywhere. It is contrary to my preconceived ideas of the Rocky Mountains, to find such a country in their very heart. Saw to the north-east some high snow-capped mountains." Page 262.

"The mountains, at this point, (speaking of the ridge which divides the waters flowing into the Atlantic from those flowing into the Pacific,) offer no obstacle to the construction of a railroad from this place to the Flathead village. With the exception of one mountain, easily to be avoided, a finer region through which to build a road can nowhere be found. The vast amount of timber and stone, granite and marble, will furnish an inexhaustible resource of materials for its construction." Page 262.

SEPTEMBER 25.—We anchored at night within a few miles of Muscle-Shell river; saw a great number of deer, elk and bears along the banks. The timber on the river is excellent, the soil good, and very few obstructions to navigation by light-draught steamers." Page 263.

OCTOBER 2.—We arrived at Fort Union, near the mouth of the Yellowstone, without having met any trouble from low water or Indians, having traveled from Fort Benton, 750 miles by the river, in eleven days. For the last few days we have seen innumerable herds of buffalo cows, in many places extending in every direction as far as the eye could reach. They are very fat at this season, and I would consider their flesh as preferable to beef.

"I think Fort Union is the finest place on the Missouri for a Military post—in the heart of the Indian country, surrounded with a fertile soil and the finest hunting range, and of easy access by the Missouri, for eight months in the year." Page 264.

"Arrived at Fort Berthold about sunset, (October 9th). We received many visits from the Gros Ventres, and gave them a few presents. These Indians are fine specimens of the red men. They are industrious and raise enough to supply many of their neighbors with bread. They are well disposed towards the whites." Page 265.

EXTRACTS from the Report of Mr. A. W. Tinkham, Assistant Engineer published in Vol. 1, of Pacific R. R. Surveys, Page 276 et seq.

"Until near Flathead lake, the valley of this river (Flathead river,) continues wide, grand, and bordered partially by wooded hills. Most of this land is capable of occupation and settlement. The river is a fine clear stream, one hundred to one hundred and fifty yards wide, occasionally fordable, swift current, and is estimated to have a descent of about ten feet per mile. The Flathead lake is a sheet of water of great beauty, some 25 miles long and 6 or 8 broad; is adorned with a number of picturesque islands rising some 300 feet above the water." Page 276.

"Following down the valley of a fork of Hell Gate river to its junction with the Blackfoot river, as I estimated, about 95 miles from the summit, (much too small an estimate, according to Lieutenant Mullen's odometer measurement,) the valley is unusually favorable either for a wagon route or a railway. From the running water at the foot of the divide to Hell Gate, the valley, according to my estimated distances, has an average descent of 22½ feet per mile. (undoubtedly greater than the actual fall by several feet per mile,) is generally wider than Blackfoot river valley; is generally unobstructed by the woods, and although the present trail in several instances for a few miles, is steep and difficult when forced to the hill side by the river, all these difficulties could be removed with a small amount of labor, or apparently avoided without labor, sometimes by taking the bed of the river for a short distance, (the river has a general depth of near three feet,) or by making river crossings.

The greater part of this valley is a desirable region for settlement. The soil is often gravelly, as is the soil in St. Mary's valley but it is fertile, and there are many agreeable and promising locations for farming, where a good soil, plenty of good wood sufficiently near for lumbering or fuel, pure cool water, good grazing an agreeable and healthy climate, and a pleasing prospect, are inducements not often found united, and are sufficiently attractive to throng these mountain valleys at no distant day with a central population of vast importance, making in the heart of the mountains, and midway between the Missouri and Columbia, a central depot of supplies, a distributing point of labor and materials, and finally a region productive of valuable exports." Page 279.

"Turning up the St. Mary's valley, on November 17th, I rested at Lieut. Mullan's winter establishment, in St. Mary's valley, 14 miles above Fort Owen; the weather mild and pleasant, and, during my stay there, occasionally raining; the grass good, and the animals of the expedition in a thriving condition." Page 279.

"On the 30th day of December I reached Wallah-Wallah. The wooded country ends with the mountains, and then commences the great plain known farther north and west as the great Spokane Plain, and through which, in deep channels flow the Clearwater, Snake and Wallah-Wallah rivers, and other and smaller streams. There is a great deal of good land along the whole route on this section. The bottom lands of the Clearwater were to some extent, cultivated by the Indians, and looked fertile—a dark, gravelly soil. Their corn was

of good size and heavy; wheat of good weight. Corn, wheat, peas, potatoes and melons, are produced by the Indians." Page 281.

EXTRACTS from the Report of Lieut. John Mullan, in Vol. 1, *Pacific R. R. Surveys* Page 306 et seq.

"SEPTEMBER 13, 1853.—On rising this morning we found our camp surrounded by buffalo, so numerous were they in the vicinity. Between the main chains of the Girdle and Judith mountains, and near the gap between them, is a large and beautiful prairie, well grassed, with numerous streams flowing through it, where the buffalo congregate in vast numbers, so that the traveler may be well assured to find an abundance of game, both of the buffalo and antelope, as large bands of the latter were to-day seen along the margin of the western tributary of the Judith river, which are so tame and gentle as to allow the hunter to approach them within a very few yards, and stop and look their pursuers in the face with the greatest curiosity. Our course lay this morning, till near noon, a few degrees east of south; first, over a partially broken country, and then over a most beautiful and large prairie that extends from the Muscle-Shell river to within 30 miles of a spur of the Girdle mountains, covered with very fine grass. We had this morning a very fine view of the Snow mountains, which rear their lofty snow covered summits far above the country for miles around. Game we found on this day exceedingly abundant—the hills and prairies, as far as the eye could reach, being perfectly alive and black with buffalo; not less than from ten to twenty thousand might be seen in bands, running over the prairies. One of our Indians ran into a large band; and having selected one of the fattest, he singled him out from the rest and brought him down, immediately on our pathway. We were not in want of game this day, as we killed, during the morning, two large buck antelopes, the meat of which we found exceeding fine; this, with the buffalo, made us an abundant supper at night. We moved this day at the source of a small stream that empties into the Muscle-Shell river, after having made a journey of twelve miles. During the afternoon our journey lay over the prairie already mentioned, to the muscle-shell river, which we reached at 5 P. M., making five days from Fort Benton, where we struck the river. I estimated it to be 130 miles from the fort. This river is a wide and deep stream, that rises in the Belt mountains, which here form the most eastern range of the Rocky mountains, and empties into the Missouri just below the mouth of the Judith river. It winds through a most beautiful valley of ten miles in width, the grass of which we found very high, excellent and green. This river is about forty to fifty yards wide, and between two and four feet deep, with a very rapid current; the current is much more so where we struck it than that of the Missouri itself." Page 306.

"Our journey lay up the valley of the right bank of the Muscle-Shell river. We struck one of its forks coming in from the south, upon which we moored, eight miles above its junction with the main stream. This fork, or tributary, flows through a beautiful and well grassed valley of two and a half miles in width. The stream, with a rapid current, is at present, (September 18, 1853) only ten yards wide, with a gravelly bottom, well wooded to its source in the Snow

mountains, the cottonwood occurring in great abundance. Extending for a long distance on the right bank of this fork, is a bed of lignite, of twenty-five feet in thickness. From this fork our trail led over a very excellent road for twelve miles, till we struck the main stream of the Muscle-Shell, crossing in the meanwhile several prairie streamlets, that empty their waters into the Muscle-Shell. Traveling up the river four miles further, we encamped on its right bank, finding an abundance of grass, wood and water. Game, to-day, was very abundant. Buffalo in large bands, antelope, elk, geese and ducks were seen during the day." Page 309.

EXTRACTS from the Report of Mr. F. V. Hayden, published Senate Document entitled. *Explorations in the Dakota Country in 1855*, by Lieut. G. K. Warren.

On page 71, he says: "The streams flowing into the Sheyenne at this point, (about 100 west of Fort Pierre, on the Missouri,) have their origin in perpetual springs in the Black Hills, and contain an abundance of fish, and swarms of beaver live along their banks. They are skirted with excellent timber of ash, oak, elm and box-elder, and the level plains are covered with fine carpet of grass which, in spring and early summer is enamelled with myriads of flowers of the richest hues. On the 9th of March, 1855, I ascended Bear Butte, and on the south side, six hundred feet above the level prairie, I found a beautiful plant, (*Anemone Patens*,) just putting forth its blossoms. The Indians call it the navel flowers, for they say that when it blooms young spring is born. At that time the grass was springing up green, and herds of antelopes were quietly reposing upon the sunny sides of streams, like flocks of sheep. This is a portion of the country similar to the White river valley, well adapted for grazing purposes, and capable of sustaining a tolerably dense population."

"Three tribes of Indians on the Missouri are somewhat of an agricultural people. The Minnitares at Fort Berthold raised, in 1854, two thousand bushels of corn and beans, pumpkins in proportion. The Mandans sixty miles below, one thousand five hundred bushels, and the Aricarees, at Fort Clark, four thousand bushels."

On page 79, Mr. Hayden says: "Probably at this time game, such as buffalo, antelope, elk, bighorn and beaver, are more abundant in the Yellowstone valley than in any other portion of the Upper Missouri. In descending the Yellowstone river in 1854, for a distance of 350 miles, I do not think there was a moment in which I could not see game in great numbers."

"The antelope is the most abundant animal in the Sioux country, and confined to the open prairies. Elk are still abundant in the region of the mountains. Large herds of them are seen in the valley of the Yellowstone and along the Missouri above Fort Union."

#### THE NORTHERN PACIFIC RAILWAY.

While the Central Pacific and Union Pacific Railroad companies are pushing on their roads, both from the eastern and western points of departure, with amazing energy and success, the Northern Com-

pany has as yet done little more than enlighten the country on the comparative advantages of its route over any other. The reason is plain. The former has a large government subsidy, a loan of United States credit, while the latter only a simple land grant. These roads lie at all points nearly six hundred miles apart, and for local trade, could never be rivals. If there be any jealousy between them, it is because the Northern road, on account of its shorter distances and easier grades, must eventually be the great highway of international commerce between Europe and Asia, and between Asia and our Atlantic seaboard. But we do not propose to discuss the relative prospects of the roads from any point of view. The vast importance of either to the solid and permanent growth of the Union, to its commercial prosperity and its defensive strength, is beyond any possible estimate. In the midst of the general satisfaction which hails the rapid construction of the one, we simply desire to call attention to the grand resources which the other is likely to command—to the stupendous empire in extent and in natural wealth which is destined to develop. In the success of the latter enterprise, New York and New England have a deep interest, worthy of their most practical consideration. The commercial supremacy of the city of New York can never, of course, be disturbed, but it may be enhanced; and it seems perfectly evident that, should the trade of Asia and the great Northwest be poured into the lakes which wash the northern boundary of the State, whatever is broken in bulk, or distributed to the Atlantic States, will be drawn off to the advantage of this metropolis.

The Company is authorized to build a road from the head of Lake Superior, on a line north of the forty-fifth degree of north latitude, to Puget's Sound, throwing off a branch down the Columbia valley, to Portland, Oregon, from a point on the main line less than 300 miles from its western terminus. This is not only the shortest route across the continent, connecting lines of water communication, but its termini are nearer, the one to Europe, and the other to Asia, than that of any other. Seattle, at the head of Puget's Sound, is one of the finest and safest harbors on the globe, with a broad and deep channel to the ocean. In the distances to Amoor, Shanghai, Canton, and Calcutta, Seattle has the average advantage of 260 miles. Beside, the prevailing winds of the Pacific compel all sailing vessels to enter the Straits of Fuca; and thus, for them, Seattle, has practically an advantage of 700 miles. Seattle is three hundred miles nearer to Chicago by the Northern route than San Francisco by the Central; or, if we compare distances to the commencement of lake navigation, at the heads of Lakes Michigan and Superior respectively

the difference is more than 700 miles in favor of the Northern route,

But is this route between termini so much nearer to each other, and so much better situated with regard to the great commercial points of both hemispheres than those of any other, entirely practicable? We no longer propound the question in doubt, nor attempt to solve upon imperfect data. United States surveyors, explorers, travelers, and scientific men, unite, so far as we are able to learn, in declaring it not only practicable, but comparatively easy and desirable. Leaving the shores of Lake Superior, it will pass for 2,010 miles, to the eastern base of the Rocky Mountains, through a fertile and beautiful country, every square mile of which will sustain a dense population, producing wheat, rye, corn, barley, potatoes, and grass of a superior quality, and in great abundance. Here the mountains are crossed at an elevation 2,500 feet less than on the Central. Even on this mountainous section, there is much fine timber and excellent wheatlands, while the grades are not more difficult than some of those on the Baltimore and Ohio. Here the mountains are so low that the miners have actually conducted the waters of the Missouri across the divide in the little ditches, through the Cascade Range, just east of the Sound, which it was feared might prove a serious obstacle. The recent accurate surveys have developed three passes, either of which is entirely feasible, and the summit of the middle or Snoqualmie Pass is but 3,000 feet above the sea. The snows on these uplands, unlike those on the same range a few hundred miles further south, are never more than two-and-a-half feet deep. They do not fall soft and pack hard, but dry and light, presenting no difficulty to the snow plow. Grand lines of railroad are now in operation in various parts of the world where the snows are heavier and the climate far more severe than upon this. From a point on a line with Fort Laramie, to the Pacific, nature has provided the tepid winds of the ocean, and numberless boiling springs, which make the atmosphere milder and warmer than it is eight or ten degrees further south. This road passes through no vast sage plains or sandy deserts, but through a country everywhere propitious, everywhere inviting to either the grain producer or the stock raiser, whose most ungenial portions sustain animals in winter upon grass alone. It is intersected by four great navigable rivers. It abounds in beautiful lakes and streams of pure water, teeming with fish and wild fowl. When we add to the landscape grandeur of those boundless and luxuriant plains, agreeably diversified with water, wood, and hill, the prodigal yield of food for man and beast which is there promised to the settler, it would seem that in no land under the sun can the immigrant find a more charming home.

When this road strikes the Red River of the North in the neighborhood of Fort Abercrombie, it will receive the trade of that stream, which flows north into Lake Winnipeg, a body of water as large as Lake Michigan. Into the same lake falls the Saskatchewan, a magnificent stream which drains the British Territory from the Rocky Mountains to the Great Slave Lake, and giving, with the Red River and the lake itself, a continuous navigation of over two thousand miles in length, whose outlet must be over this road and through Lake Superior. Again, when it reaches the great bend of the Missouri, about four hundred miles from the west end of Lake Superior, a thousand miles of that mighty stream to the north alone, from Fort Benton to the point of crossing, immediately becomes its tributary. In short, were we to state all or half the grand facts which favor the enterprise in hand, the prodigious sum of that which is possible, and may be accomplished, would startle the imagination. Out of the territories of the United States it seeks to develop eleven great States will be added to the Union, containing some of the richest mineral districts on the continent. Montana, Idaho, and Dakota give as yet but a bare promise of the future. While politically the British Possessions are the property of another power, commercially they are ours, if we choose to make them so; and this fact is one of stupendous importance, whether we consider their extent, their natural capabilities, or the trade they are destined to maintain. From the British line to the sources of the Mackenzie, stretches a magnificent wheat country a thousand miles in breadth; much of it open prairie, and ready for the plow.

Lake Superior projects into the far Northwest several hundred miles further than any other navigable water, and at its head there will be seen a city rivaling any of those which in the ages gone by had enjoyed the commerce of the East before it. West and northwest of it the mighty area we have described, inexhaustible in its minerals and its agricultural productiveness, will pour its unimagined wealth of exchanges into and through it. With fifty bushels of wheat to the acre, as we find it on the Saskatchewan, what may not be predicted of the point which, by geographical necessity, it is to handle the products of a region so vast? Here will be the largest grain elevators ever seen, and that trade which has built so many flourishing cities will build another where nature has made a depot for the most extensive grain growing country on the globe. In the Bay of Superior, at the mouth of the St. Louis, we have the largest harbor on the Lake, land-locked and perfectly sheltered. It now admits lake boats of the heaviest tonnage, and to what extent it may be artificially improved we do not know; but an appropriation for

this purpose was made by the last Congress. A city, on the point of land formed by the St. Louis and the Nemadji, has an elevation of thirty-four feet, and will possess nearly forty miles of water-frontage, where vessels may discharge their freights on all the four sides of a square. The distance to St. Paul the centre of North-Western railways, is only a hundred and thirty-five miles, while from Chicago it is over three hundred and fifty; and when at Chicago you are no nearer to Europe or the Atlantic ports than when at Superior. Various railroads are projected, or in course construction, to connect the Upper Mississippi with the head of the lakes, and the work on the St. Paul end of the St. Paul and Superior road is rapidly progressing.

In view of the facts that we are an essentially pioneer people, that we plant and build wherever nature permits, and especially where she invites, and that we are annually reenforced by an increasing porportion of immigrants from the northern latitudes of Europe peculiary fitted for the settlement of the North-West, it is fair to presume that this generation will see completed what we have only faintly sketched—the commerce of Asia and Europe passing over a grand highway connecting the Atlantic and Pacific, Lake Superior and Pugets Sound, the headwaters of the Mississippi, the Missouri, and the Columbia, with cities at either terminus, whose importance can only be measured by that of the trade they will control.—*New York Tribune Dec. 24, 1867.*

#### HYDRAULIC CAPACITY AND MANUFACTURING RESOURCES.

On all of the streams and their branches, running into the Missouri, there are more or less water falls. At Sioux Falls, the Big Sioux river falls in a few rods over one hundred feet; there are three perpendicular falls, one twelve, fifteen and twenty one feet. Prof. Hayden speaking of this water power says: "The falls of the Sioux fall 110 feet in the distance of half a mile and forms the finest water power I have ever seen in the West, and will some day be of immense value." Gov. Jayne speaking of this water power says: "The falls on the Big Sioux furnishes a motive power sufficient to drive the machinery of the New England mills." With this fine water power, and the great advantage which the Territory possesses for wool growing—the development of woolen manufactories promises largely for the future.

#### SALT.

It is generally believed that there are more or less salt springs

spread over the entire northern portion of our Territory. A statistical writer of Minnesota, says: "A few years ago a supply of salt for the British settlements of the Red river was obtained from north-western Dakota. With the imperfect apparatus employed by the half breeds engaged in the manufacture, the springs near Lake Manitoba are said to yield one bushel of good salt to 24 gallons of brine or 33-1 3 per cent., yielding same proportion of salt to brine as East Saginaw springs, Michigan."

#### THE SOILS OF DAKOTA.

The prevailing soil of east Dakota is a dark calcareous sandy loam, containing a various intermixture of clay, abounding in minerals, salts and an organic ingredient derived from the accumulation of decomposed vegetable matter for long ages of growth and decay. The earthly materials of our soil are minutely pulverized, and the soil is everywhere light, mellow and spongy, while its sandy predominance makes our soil very early. The upland soil of east Dakota, cannot be surpassed for fertility and the variety and luxuriance of its vegetation. And Dr. Hayden, geologist, thus speaks of the western portion: "The numerous broad valleys in the Black Hills possess a very fertile soil, and abound in springs of pure water, and the time cannot be far distant when they will be settled by a thriving population, and the vast forests of pine rendered servicable to the wants of man."

For the productions of Dakota the reader is referred to the reports of the different counties.

#### THE STOCK GROWING BUSINESS.

Dakota is the finest field in the world for stock growing. It stands prominent above all other countries as the best for the production of grass. "The grasses," says Farrey, "are proverbially in perfection only in northern and cold regions. It is in the north alone that we raise animals from meadows and are enabled to keep them fat and in good condition without grain." In none of the prairie districts of North America are the native grasses so abundant and nutritious as on the plains and in the valleys of Dakota. This is sufficiently proved by the countless herds of buffalo that pasture throughout the year upon its plains, even north of the 49° parallel of latitude; a fact which suggests an equivalent capacity for the herding of domestic cattle. Horses and cattle roam during summer and winter over the prairies and through the woods, and keep fat with-

out housing or hay. The wild grasses of Dakota are of many varieties. The blue joint of the valleys makes the best of hay, and generally yields about three tons per acre. The gramana or buffalo grass of the upland prairies is so nutritious that horses will work all the time, that are fed on it, without any grain and keep fat. All of the wild grasses of Dakota are more nutritious than any of the tame grasses; cattle become fatter by pasturing on it. When cut it shrinks much less in curing for hay. It seldom heats. There is no dust in the hay. Horses that eat it never have the heaves. The hay in appearance is green and it smells much sweeter than tame hay. On the whole, it is superior either for pasturage or hay for horses, cattle or sheep. Owing to the healthiness and dryness of the climate of Dakota, sheep must do extremely well in Dakota. We have no cold sleet storms here, that are so fatal to sheep in many countries. The Indians have always kept thousands of horses in this country but never feed them hay in winter.

#### A MARKET FOR DAKOTA.

And here we quote again from Lieut. Warren; who speaking of the frontier settlements on the prairies, says: "But this gives them much of the value of places along the Atlantic frontier, in view of the future settlements to be formed in the mountains, between which and the present frontiers a most valuable trade would exist. The western frontier has always been looking to the east for a market, but as soon as the wave of emigration has passed over the desert portion of the plains, to which the discoveries of gold have already given an impetus that will propel it to the Rocky Mountains, then will the present frontier of Nebraska and Dakota become the starting point of all the products of the Mississippi valley which the population of the mountains will require. We see the effects and benefits from the Santa Fe trade and the impetus given to Leavenworth and Utah trade. The flow of products has, in the last instance been only in one direction, but when these mountains become settled as they eventually must, then there will be a reciprocant trade materially beneficial to both." This is already true, and there is at the present time at least a population of fifty thousand persons in the mountains directly west of Dakota, that depends on the country east of their borders to supply them with all the products that they need for consumption, and such is the demand that all kinds of products raised by the farmers in Dakota, including cattle and horses, are worth twenty-five per cent. more in Dakota than on the Mississippi river. Some of the farmers of Dakota, the present season, although

we have no large farms opened, have raised from fifteen hundred to three thousand dollars worth of crops. The rich discoveries of gold recently made in all the mountain regions on the western boundary of Dakota, will furnish a better market for years to come, than the farmers of the valley of the Mississippi have at present.

## CLIMATE.

The following table will show the mean temperature at the several points indicated, for six months, from Dec. 1853 to May 1854, inclusive. It is compiled from official tables contained in the first and second volume of Pacific Railroad surveys :

MONTHS.	Great Salt Lake City; h'gt above sea 4350 ft	Ft. Benton, lat. 47° 50'; long 110°; height above sea, 2626 ft.	Olympia on Puget so'd Dec. 1854, to May 1855	Ft. Clark on the Mis- souri river, lat. 47°	Dubuque, Iowa	Detroit, Mich.	Lodi, N. Y.	Amherst, Mass	Springton, N. J.	New York City	Philadelphia, Pa.	Pittsburg Pa.	Lewisburg, Va.
DECEMBER .....	42°	33°	43°	33°	27°	27°	23°	22°	29°	28°	31°	29°	34°
JANUARY .....	26	17	42	19	15	24	25	23	35	29	32	26	33
FEBRUARY .....	39	27	45	22	27	27	23	22	32	33	34	31	38
MARCH .....	47	36	47	35	39	37	32	30	39	37	43	33	47
APRIL .....	57	55	50	57	52	45	42	43	50	46	51	47	52
MAY .....	66	58	54	60	60	59	59	57	63	60	65	61	65
Average .....	46°	38°	47°	38°	37°	36°	34°	33°	40°	39°	43°	39°	45°

It will be seen by the above table that at Fort Clark in Dakota Territory, latitude 47, for the six months of December, January, February, March, April and May, it is but one degree colder than at New York City, and Pittsburg, Pa. Besides in our dry atmosphere, the cold is not so intensely felt as in more moist climates. It is impossible to estimate the importance of the manifold services which this characteristic element of the climate of Dakota, the dryness of its atmosphere, renders it the development of all organic life. Dry air is a non-conductor of heat, and as the decrease of moisture is in exact proportion to the decline of temperature, the minimum of both culminating with the mid winter nadir, the atmosphere of Dakota, even in its coldest state, is a robe of arctic furs, which holds in and stimulates the resilient fires of vital heat within the body, imparting in their reaction, a sense of elastic vigor and redundant animation. Damp air on the other hand is a conductor of heat which it insidiously steals from the softened tissues, making a comparatively slight

degree of cold unendurable to the sensation. Thus the same degree of cold in Dakota is felt much less than in the Atlantic states. Colds, chills, coughs and all of the pulmonary diseases are scarcely known in Dakota.

It is owing also to the conservative influence of this dry winter's air, that sheep, cattle and horses which will scarcely survive the damp winter of even the middle States, without careful warm housing, thrive in Dakota, the season through, in the open air, without shelter in winter. The diseases which destroy the herds and flocks of moister latitudes are unknown here. Horses are equally exempt from heaves and similar affections. The winter is thus the season of hearty digestion, of rapid secretion of fat and muscular development in men and animals. This pure and dry atmosphere will make Dakota the sanatorium of consumptive invalids.

This same dry air has a great influence in preventing mildews, rust, blight and other diseases incident to wheat, which pervades most countries, but are unknown to Dakota.

Spring is much earlier in Dakota than in the same latitude east, and here I quote again from J. V. Hayden, U. S. geologist, explorations in Dakota, in the year 1853. "March 7, weather fair; grass starting up fresh and green near Black Hills, ants quite active; antelopes returning to the open prairie from their winter's home in the north." "March 8, weather very fair and warm, saw some striped snakes." "March 10, saw two fine plants on the south side of Bear Peak, one of them was in blossom, the other was fast coming into bloom." "The ice broke up in the Missouri river March 6th, as far as Fort Clark, latitude 47°." April 12, various kinds of insects quite abundant; common garter snake; American elm in full bloom." The foregoing data was taken in latitude 44°, showing how much earlier the Spring is on the Missouri than on the Mississippi in the same latitude. Often all of our spring wheat is sown in March.

The writer's attention was called to the fact stated above in the Spring of 1865, by several officers of Gen. Sully's staff. When this officer left Dubuque, Iowa, none of the trees were in blossom on the Mississippi. They were three days crossing the State of Iowa and were much surprised to find the trees in full bloom on the Missouri. The buffalo grass always starts up fresh and green in March, in Dakota.

#### CONCLUSION.

In conclusion, your committee have not thought it out of the line of their instructions to say a few words in relation to the prospects of

Dakota for the emigrant. Dakota is new and recently organized and consequently very sparsely settled in the southern portion. Most of the land is yet in possession of the general government, and under the homestead law can be had for ten cents per acre, so that he who desires a home can get it in Dakota, and hold it against the merciless creditor, for the homestead law of our Territory protects a man against his creditors to the amount of three thousand dollars. Here is a place for him to rebuild his fortune again; here there need be no poor or destitute, for all that will work there is abundance; here is a land yielding bountifully, open to all nations, where all may enjoy the blessings of a home.

"Dakota Territory occupies the most elevated section of country between the Arctic Ocean and the Gulf of Mexico; forming to a great extent the watershed of the two great basins of North America—the Missouri and Mississippi rivers and the tributaries of Hudson Bay. Thus within the limits of Dakota are found the sources of rivers running diametrically opposite; those flowing northward reach a region of eternal ice, while those flowing southward pass from the haunts of the grizzly bear and the region of wild rice, through the cotton fields and the sugar plantations of the Southernor, until their waters are mingled with the blue waves of the Gulf.

The general surface of the country east and north of the Missouri is a beautiful, rich, undulating prairie, free from marsh, swamp, or slough; traversed by many streams and dotted over with innumerable lakes of various sizes, whose wooded margins and rocky shores and gravel bottoms afford the settler the purest of water, and give to the scenery of the Territory much of its interest and fascination. West of the Missouri the country is more rolling, and gradually becomes broken, hilly and finally mountainous, as the western limits are reached and terminated by the Rocky Mountains.

The mighty Missouri runs through the very heart of our Territory, and gives us more than one thousand miles of navigable water course, thus giving us the facility of cheap water transportation, by means of which we can bear away the surplus products of our rich, luxuriant lands to the southern markets, and receive in exchange the trade and commerce of all climes and lands.

We have, located on the Missouri, Big Sioux, Red River of the North, Vermillion, Dakota, Niobrara, millions and millions of acres of the richest and most productive lands to be found anywhere within the bounds of the National Government.

We have combined the pleasant, salubrious climate of southern Minnesota and the fertility of central Illinois.

The incentive to immigration is so great, and the inducements and advantages so promising, that it is no idle fancy which promises the towns and cities which are soon to cover and enrich our hills and valleys and river sides. In arriving at a correct estimate of the probable settlement of our Territory, it is well to bear in mind some very favorable facts, which promise much in the development of our resources and increase of our population. Thermal statistics and experiments prove that within the limits of our Territory are to be found both the climate and soil necessary to produce most successfully the two great staples of American agriculture—corn and wheat. We find that, starting from Chicago as a point, the isothermal lines rise to a higher and higher degree of latitude as you go westward.

We find that Fort Benton on the Missouri river, in latitude  $47^{\circ} 50'$ , possesses the same mean temperature of Chicago and Albany, New York.

The corn producing belt of country which runs through Ohio, Indiana and Illinois, extends north and west through Iowa, up the valley of the Missouri, through Dakota. According to Blodget, the author of a very able and interesting work on the climatology of the United States, the thermal capacity required for the successful cultivation of Indian corn is a mean temperature of 67 degrees for July, and it may go a little beyond 65 for the Summer. According to the same authority, the thermal capacity required for the successful cultivation of wheat is a mean temperature of from 62 to 65 degrees, during the ripening months. Statistics proves that our Territory possesses a considerable excess of the temperature required, being beyond seventy. The capacity of our Territory for raising immense herds of cattle, and for the production of large crops of corn, wheat, oats, rye, barley, buckwheat, potatoes, sorghum, melons, fruits and vegetables, demonstrate the ability of our country to sustain a dense population.

Shall we not judge of the future by the past. As regards soil, climate, beautiful uplands, rich prairies, luxuriant bottoms, productive mountain valleys, mineral wealth, navigable rivers

upon which to float our cereal products and commercial exchanges, what section of the country within the broad confines of our Republic, is fairer, or lovelier, or richer, or more inviting, as the home of the active, intelligent and industrious citizen; before a generation shall have passed more than a million of people will be living in the valley of the Missouri alone. Pacific railroads will have been completed connecting the two oceans with its iron bands. And here we quote from an able report on Foreign and Domestic commerce published in 1864 by the U. S. Treasurer, on railroads to the Pacific, in speaking of the Northern or Lake route. "The latitude of 45° north, extending west of Minnesota is not only central to the lake coast and the railroads of northern Illinois and Iowa, Wisconsin and Minnesota, but in its traverse of the great plains and the Rocky Mountains, it is most accessible from the mining district now developed, or soon to be occupied in the Territories of Dakota, Montana and Idaho. Other conditions being favorable, the future emigrant route will follow the parallel of 45° and when population warrants, that will be the general direction of the northern or lake railroad route." The same writer predicts that this road will be needed and built in a very few years. Since the foregoing article was written, richer gold discoveries have been made along the proposed line of this route, than any person ever dreamed of. This line passes through the heart of Dakota. "The trade with India and Japan, the commerce of the opulent and gorgeous East, will pass through our borders, on its way to the great cities of the Atlantic. By the transit of a world's commerce over a thousand miles of our Territory, we will derive incalculable benefit. The experience of six thousand years, and the verification of all history is pointed and conclusive that activity, prosperity and opulence are inseparably connected with the great lines of intercourse between nations.

Along the great highways of the world, where pass and re-pass the goods, wares, merchandise; the products, the commodities and wealth of nations, there towns and cities spring up, manufactories are established, and all the industrial arts are quickened and encouraged, and from these centers ramify and extend rivulets of business and avenues of wealth.

Dakota possesses within itself all the elements which are

necessary to constitute a great, prosperous and powerful State. Our rich alluvial lands will produce the corn, and the broad prairies the nutritious grasses, which are ample to feed and support cattle to supply every market in the Union.

The salt lakes in the northern part of the Territory can furnish inexhaustible supplies of the best of salt.

The high, rolling prairies south and west of the Missouri seem especially intended for the herdsmen of sheep and the growth of wool.

The falls on the Big Sioux furnish a motive power sufficient to drive all the machinery of the New England mills.

The Black Hills and the mountain ranges at the sources of the Wind River, Yellowstone and Missouri are rich beyond conception in mineral resources of coal, copper, iron and gold.

With all the elements of power surrounding us—we need but numbers, combined with industry, intelligence and virtue, to make Dakota one of the most desirable and potent States of the government.

#### TO ENCOURAGE MANUFACTORIES.

Our legislature has wisely exempted all property invested in woolen manufactories for a period of ten years, cotton manufactories twenty years, and one half of all others five years; sheep are also exempt a certain number of years from taxation.

In the course of two or three years, several towns are to spring up on the Missouri river within the Territory of Dakota, and between the mouth of the Big Sioux river and the mouth of the Big Sheyenne river, that will vie with Omaha, Nebraska City, and Leavenworth for the overland trade to Montana, Idaho and the northern Pacific states. These new towns will have the advantage of some several hundred miles in distance, over Omaha, Nebraska City and Leavenworth. The thousand miles of country between St. Louis and Fort Sully, Dakota, must soon be supplied with pine lumber from the several millions of acres of pine land of the Black Hills of Dakota, via the White Earth and Big Sheyenne rivers; and we look to see the prediction of J. W. Taylor, fulfilled, the coming spring, who says: "Even if there were no proofs of gold, silver, iron, and copper,

in the gulches of the Black Hills, the demand for pine lumber in the valleys of the lower Missouri, will send armed parties into the forests which darken the flanks of the mountains. Give Dakota the supply of pine timber, to the towns and plains below, and a greater accumulation of wealth, a greater stimulant of agriculture and commerce are assured to the pioneers of this Territory than if the Black Hills prove as auriferous as California."

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## LETTERS FROM THE PEOPLE.

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UNION COUNTY, DAKOTA TERRITORY, }  
 January 4th, 1868.

*To the Honorable Committee &c.*

GENTLEMEN:—In accordance with your request, I hereby submit for your consideration my observations in Union county for the past season, in regard to agricultural productions, &c.

Four years residence in Union county, Dakota Territory, during which time I have been chiefly engaged in agricultural pursuits and stock growing, enables me, I imagine, to speak with some degree of accuracy in relation to the agricultural and manufacturing resources of the county.

Union county was, but a few years ago, the home of the savage and the haunt of the wild beast. Here the buffalo roamed undisturbed save by the untamed red man whose bloody war path alone marked the verdant prairie, and led through the dark depths of the deep forest. But civilization has wrought a marvellous change, and instead of the herds of buffalo, elk, and antelope; droves of domestic animals now browse, in the rich pastures of this favored land. Towns and settlements have sprang up as if by the magic wand of the enchanter and the future seems pregnant with prosperity and plenty.

The south eastern portion of Dakota, which includes Union county, is situated between the Big Sioux and Missouri rivers, consequently the south and east boundaries of the county, bordering on these streams, consists of bottom lands unsurpassed in fertility, and covered with a luxurious growth of wild nutritious grasses. The banks of these streams are skirted with heavy bodies of timber containing hundreds of acres, principally cottonwood, although numerous other varieties are found. The northern portion of the county is chiefly gently undulating prairies, especially adapted to sheep grazing, though capable of producing very heavy crops of all kinds of grain usually cultivated in this latitude. The Sioux Valley extending along the eastern boundary of the county, into Lincoln county, is, in my opinion, unequalled in point of fertility. During the past year a number of industrious and hardy settlers have occupied lands in this valley, both in Union and Lincoln. In fact it cannot long remain unsettled, as it offers superior inducements to the agriculturist as well as the stock growers. Considerable bodies of timber fringe the shores of the river, consisting principally of oak and walnut. Sioux Falls, on the Big Sioux river in Minnehaha county, besides being a natural wonder, combines the practicable with the sublime. Its remarkable water power will, at no distant day, be rendered subservient to the wants of man in propelling machinery. The capacity of these Falls in this respect, is almost beyond calculation. With these great advantages, the hum of the wheel must soon mingle with the roar of its turbulent waters, and its vicinity be teeming with an industrious and intelligent population.

There are other smaller streams in the county, which find outlets in the Sioux and Missouri rivers. Brule Creek is the principal, and empties into the Big Sioux opposite Elk Point. Its valley contains a flourishing settlement, and like all other portions of the county, it keeps pace with the march of improvements and civilization, and continually gains increased advantages and facilities in the general advancement of the Territory. I can scarcely forbear the use of the most extravagant language when I attempt a description of this beautiful country, I refer to the entire south eastern portion of the Territory. With a prolific soil, climate dry and salubrious, it is

destined to become the garden spot of the Northwest. Its great advantages are not confined to agricultural matters alone, for it has no superior as a stock growing country in any other section of our broad National Domain.

During the spring and summer months, cattle subsist and fatten on the rank and nutritious grass of the open prairies, and in the winter they find abundant nutriment in the timber. The wild pea vine with the rushes that are there found in large quantities, afford them a sustenance scarcely inferior to the best cured hay, and it is eaten by them with avidity. The dried prairie grass with these pea vines furnish ample nutriment for horses during the winter months without any other feeding. Several residents of the county thus allow their horses to subsist on this prairie fodder during the entire winter and though it may seem incredible, they actually thrive on it.

The traveler coming into this portion of our Territory from the eastern States, is agreeably surprised to behold numerous herds of sleek and improved breeds of cattle grazing in these fertile meadows. He is reminded of the Scriptural allusion to the pastoral valleys of the Jordan in the chosen land of the Jews, where the sons of Jacob watched their flocks thousands of years ago. With such facilities for stock raising, Dakota will one day feed millions of the hungry with beef from her boundless prairie pastures, exported to eastern as well as to western markets.

In regard to the productions of wheat and other cereals in this county, I am enabled to state reliably that the past year, wheat averaged from 20 to 22 bushels per acre; oats 40 bushels. On account of drouth, corn did not produce a full crop, my fields only yielded 40 bushels per acre. During favorable seasons I have known a crop of from 60 to 70 bushels to be gathered from the acre. All other fruits, cereals and vegetables indigenous to the soil and climate yield profusely and amply reward the husbandman for the toil and care he is necessarily subjected to in sowing, planting and reaping. No better wheat growing country can be found in any section of the United States than Union county. I have known 40 bushels to be secured from the acre in this county, and have no doubt but that in unusually good seasons the yield would exceed even this. The

average yield in ordinary seasons is from 30 to 35 bushels per acre.

It is scarcely necessary in me to speak of the amount of hay that can be secured from the acre, in these rich bottom lands, as Western men are familiar with the subject, knowing as they do, that enormous crops are produced on the level prairie lands all over the west.

Respecting the manufacturing resources of the county, I am gratified to state that during the past year a grist mill has been erected on the Big Sioux river, by Messrs. Hotchkiss & Dexter. It is I believe the first mill of the kind in the Territory. Three steam saw mills are also in operation, one at Elk Point, one at Big Sioux Point and the other in what is known as Bowman's Bend on the Missouri river.

Considerable improvement in agricultural implements and machinery has been made in the introduction of the latest and most approved reapers, mowers, threshers, &c. This alone is an evidence of the enterprising character of our citizens and is indicative of our future prosperity and increase of wealth and population.

Elk Point the county seat of Union county, continues to prosper, and is constantly receiving additions to its population. In case the railroad, which points this way through the Territory, touches in this vicinity, it will become a center of importance to all the adjacent country. It contains churches, school houses and a two story court house, besides two dry goods stores, a tin and hardware store, blacksmith shops and hotels, and new buildings are constantly being erected. In a few years, with favorable circumstances, it will contain a population of three or four thousand.

When I first settled in Union county, it contained but a small scattering population, but the steady stream of emigration that continuously pours its living tide into these inviting western fields, has increased it nearly a hundred fold. I now imagine myself in some old Eastern community, surrounded with all their luxuries, comforts and conveniences. I estimate the present population of the county at from three to four thousand souls, and feel confident of a large influx of emigrants during the year just begun. Churches and schools multiply as the population increases, thus giving our youth educational advan-

tages rarely to be obtained in a frontier settlement.

In conclusion, I am convinced that no other Territory possesses the advantages, or offers the inducements, that Dakota does to the settler. No irrigation is required to produce the fruits of her fertile soil, as in the barren wastes of Colorado, or the arid plains of Arizona and New Mexico. The reviving dews and rejuvenating showers of Heaven replenish her broad acres, causing an abundant production of manifold grains and fruits.

Very respectfully,  
GEO. W. KELLOGG,

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*To the Joint Committee to prepare and submit a report of the Agricultural and Mineral Resources of Dakota Territory:*

GENTLEMEN.—In compliance with your request, I herewith submit the following statement of facts based upon the observations made by a residence of twelve years in this region of the country, most of which time has been spent in agricultural pursuits. I shall here speak more especially of the valley of the Big Sioux, and the general features of the country bordering this beautiful river, together with its many living springs of water, their peculiar location, its countless number of murmuring brooks having their rise in the distant hills, emptying their pure limpid waters into the Sioux.

In briefly noticing the peculiarities of this beautiful valley, I shall only speak of its general appearance for a distance of about seventy miles from its junction with the Missouri.

The character of the soil in this valley is a dark loam, with so little of the mineral in it that a plow must be well polished or the dust will adhere to the plow, showing it to be in a great measure composed of decayed vegetable matter; a very easy soil to work, never baking if plowed when wet; those implements so necessary in pulverizing the soil in other countries are entirely unnecessary here. Mr. I. T. Gore, now a Representative of the Legislature, has been engaged in farming on this valley for five years, and he tells me he has never failed

to raise an excellent crop of the staple grains, such as wheat, corn, oats, and vegetables of all kinds yielding in great abundance and of the most excellent quality.

Mr. Boney, who lives in the same neighborhood, and has been farming some three years, has met with uniform success in raising all kinds of grain and everything usually raised on a farm; the same gentleman came therewith limited means, but by determined industry has surrounded himself with the comforts of life, and now has a beautiful farm. The stranger and immigrant will as they pass up the valley notice his beautiful situation on the banks of the Sioux; 'tis indeed a fairy spot; no other region affords so many truly beautiful situations. The width of the valley varies from one and one-half to three miles, with a gentle inclination from the high lands to the river, so that in case of excessive rains or an occasional overflow of the river, the valley is soon in a condition to plow and cultivate; the grass of the valley is of the best quality, mostly what is known as the blue joint, which will yield from one and one-half to two tons per acre, and thought by many to be nearly, if not quite, equal to the tame hay of the East: one peculiarity is worthy of notice, that horses that are fed on this hay are never troubled with the heaves, whether this is entirely owing to any peculiarity in this hay, or to climate, or other causes, I am unable to say. There are other kinds of grasses that grow abundantly in this valley, one of which is very noticable, growing very tall, moderately fine, with rather broad blade; this kind is thought by many to be better for stock; especially horned cattle, than the blue joint; I am however inclined to the opposite opinion, there is still another kind of grass natural to this valley growing on the more cultivated portion of this valley; I here refer to what is known as the porcupine grass. It is a grass which grows very early in the spring, so that horses which are turned to grass, in the month of March if an early spring, if a late spring in the month April, will get a good coat of flesh on them before there is any grass on the lower lands; this grass has remarkable fattening properties, so much so, that a horse that grasses for one month on it will have a better coat of flesh than could be put on him by the best care that could be given to him in the stable, with a full supply of grain. This species of grass is regarded with especial favor, not only be-

cause it is very early in its spring growth, but it retains its fresh green growth till late in the winter, and sometimes even till spring, so that horses will at all times when the ground is not covered with snow get a good living, and even improve in condition.

In relation to the supply of timber I will say that it is not abundant, but I believe if used with economy there is sufficient to fence all of the valley and in many places a supply for the uplands.

I will here speak of the settlements at Canton, on the Sioux, sixty miles from its junction with the Missouri; this is a new settlement made last summer, of some twenty-five families, at what is known as the Big Timber, eleven miles above the Rock river, here is a fine body of timber and of the best quality, principally oak, with a good quantity of walnut; this portion of the valley is not subject to overflow, and is the most beautiful place I ever saw. Our good mother nature, who has done so much for this beautiful valley seems here to have outdone herself; the beautiful river in its rapid flow over its rocky bed, together with numberless little murmuring brooks with their prattling tide and song go far indeed to make this a picture of almost ideal beauty and grandeur; happy indeed must be he who secures a home in this Eden of the West.

The valley above this is very beautiful, with numerous creeks and generally plentifully supplied with timber. The river bottom in this region lays very high, secure from overflow, with a gentle inclination from bluff to river.

One very prominent feature in this river is its almost innumerable mill privileges; it would be speaking within the bounds of truth to say that there might be one mill put in operation on every mile of the river from Sioux Falls to the mouth of the Rock river a distance by the river of over one hundred miles, and in many places I doubt not, even more than one.

This portion of the river, the bed or bottom of which is very rocky, affords an abundance of stone for building dams and other purposes, rendering it in every sense a remarkable stream for milling and manufacturing purposes, before closing I desire here to notice in a brief manner the famous water fall on the Sioux river, nine miles west of the point where the Iowa State

line touches the Sioux river. In the month of October, 1856, the first settlement was made at this place by myself. I continued to reside at the place a portion of the time, for about one year.

At a point a few rods above the Falls there is a small island densely covered with oak timber, each side of which flows the river, over a stony bed to the first perpendicular fall, which is about twenty-two feet, the river then runs a few rods and falls again in a perpendicular manner a distance of eighteen feet, there is still another fall of some fifteen feet, the three falls together with the rapids making a fall of water in the aggregate of about one hundred feet; the whole bed of the river as well as each side is a stone formation of a red color or nearly so; there is in the vicinity of the Falls vast ledges of stone, all of the same general appearance. I believe it to be an excellent stone for building purposes.

Few water falls that I have ever seen are so available for milling purposes as this one. I have no hesitation in saying that almost any number of mills or machinery of every kind might be put into successful operation at a very small expense. Soon I believe that this fall will be used extensively for the purposes an all wise Being designed them for.

This point is at present held as a military reservation. There is a fine settlement above the Falls composed of hardy pioneers who have determined to make this place their abiding home. Few regions of the west have been so abundantly blessed as this section of the country. I confidently expect to see at no distant day a wealthy farming settlement, and a thriving busy town, with its factories and mills, and other appliances of a prosperous growing city.

I will now proceed to give a short description of the appearance of the country on the lower Sioux, or that portion of the country embraced within the limits of Union county: The county of Union is bounded on the east by the Sioux river, and perhaps the best agricultural county in the Territory; and has a population of about twenty-five hundred; I believe there is not one foot of waste land in the county, all could be brought under cultivation and rendered productive at a very small expense; there are I believe now in the county about four hundred

farms, some of them large and under a good state of cultivation; the farmers of Union county have made commendable progress in improving the soil, when we consider that a great portion of them were men of limited means when they came here, many are now in good circumstances and are plentifully supplied with the necessaries and in some instances with the luxuries of life. When we consider that eight years ago this whole Territory was the property and home of savage Indians, and that four of those years were spent in a struggle for national life and existence; we think that the Territory has made rapid strides towards that grandeur and greatness which awaits it; none need despond or doubt for a moment; this fair land so lately the home of the savage, will soon be a great and prosperous commonwealth; already we see springing up thriving little towns, with their stores and work shops, surrounded by industrious farmers, which are but the forerunners of wealthy communities and thriving populous cities. We have, to bound us on the west and south, the great Missouri, which sends its mighty waters in uninterrupted flow to the mighty Ocean, giving to this fair land an outlet to the broad waters of the Gulf of Mexico. Who will say in view of so favorable a situation that this Territory has not within her borders the elements and resources necessary to make a great and prosperous State. With a climate unsurpassed in healthfulness; with a soil unsurpassed in fertility; with unbounded mineral wealth; with a plentiful supply of timber; with its fertile valleys and prairies growing an abundant supply of grass of the best quality scarcely inferior to the tame hay of the East; with its countless number of murmuring brooks of pure limpid water; its innumerable springs, most of which are situated on high land, affording pure sweet water, some of which are medicinal in their character; with its two great navigable rivers; in view of these advantages, who will doubt the future of this most beautiful of our Territories. Already we have a railroad to within two miles of our border. Next summer we hope to see the commencement of a road that make a continuous line of railway from the Black Hills in our Territory to Chicago. God speed the good work, should be the prayer of every citizen of Dakota. Those of us who have been long in the country have waited patiently for the good time when we should see the iron horse pass through

our fertile valleys; behold I come quickly, for all are prepared to welcome with outstretched arms the coming train which shall carry us with rapid flight to our boyhood homes and friends. With our railroad prospect we shall have a population ere another year rolls around, of double our present population.

Farmers, I say unto you, sow all your cultivated land, you cannot raise to much, for you will find a ready market at your own door, and you now have a fine flouring mill built and put in operation by Hotchkiss, Dexter and Company, who are ready to grind your wheat and corn upon such terms as will satisfy the most fastidious lover of justice and right; the firm will also attach a saw that will make all your logs into boards and such other kinds of lumber as you wish; their mill is built on the Sioux, and is in good running order, demonstrating the assertion that has been made, that this stream may be made available for milling purposes to any extent; there is another firm who are going to put up another flouring mill the coming summer at Canton, forty miles above, all will be needed for we have only commenced the good work.

Dakota looks forward to a bright and happy future; her hardy and industrious sons have seen the dark and gloomy hour, all is bright in the future, perseverance and patience will do the work, and our sons and daughters shall bless us for their future happy homes.

D. M. MILLS.

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UNION COUNTY.

Is the most populous county on the Missouri slope by one half; is situated between the Big Sioux and the great Missouri river's; its population at present is upwards of two thousand, and a climate not to be surpassed on this continent. It is well supplied with timber. The cottonwood timber along these rivers cannot be excelled in any State or Territory; the prairie lands in this county are thickly coated with luxuriant grass, such as blue joint and other varieties found in Iowa, Kansas and Nebraska.

For farming and stock raising this county is not excelled by any

portion of Iowa or Nebraska. The average yield of wheat is from twenty to thirty-five bushels per acre, and is a sure crop.

Corn does well in this county, but we have been visited with grasshoppers this last season which damaged this crop to a great extent, but in portions of this county there was some good average yields, amongst these are Messrs. D. Robinson and J. B. LaPlant, residents of the southern portion of this county. Mr. Robinson planted twenty-eight acres which yielded about forty-three and one-half bushels per acre. Mr. LaPlant's yield was more, being of a different variety. The average yield of the large yellow corn is when seasonable from forty-five to sixty bushels per acre. Oats do well in this county; I have seen when thrashed and well cleaned eighty bushels per acre, but I would put the average yield to sixty-five bushels per acre.

*Potatoes*.—This crop is raised with great success. The white mechanic, and pinkeye, and the Baltimore blue's yield one hundred and fifty to two hundred bushels per acre, and a flavor and size equal to those of Colorado and California.

*Rye and Barley*.—I know of none being sown in this county during the present year, but farmers that have tried both previous to the present year inform me that each yield well.

*Cabbage*.—My brother raised four hundred heads of as good large nice cabbage as I have ever seen.

Melons, squashes, onions, carrots, and in fact all kinds of vegetables grow and perfect as well here as any State or Territory in the Union.

*Stock Raising*.—This country is bordered the whole length on two sides by the Big Sioux and Missouri rivers, which afford abundance of stock water all the year round, and the immense rush beds that grow along these rivers are sufficient to nourish hundreds of cattle and horses all the year. I have known stock to feed all winter on these rushes and wild peas and be fat and in good order in the spring. The rich and nutritious wild hay that is gathered from these bottoms which will yield when cut from two to three tons of hay per acre, is of a quality as nutritious as most of the cultivated grasses of the eastern States. Cattle require but little care or attention.

Sheep do well, and our farmers within the last two or three years have been turning their attention to this most important branch of stock raising, and thus far with gratifying success. There is probably no climate better adapted to sheep growing than this, the pure bracing atmosphere, with the great variety and nutritious grasses seems to be peculiarly adapted to the wants of this as well as other

animals, and from my observations I am led to believe, that wool growing can be prosecuted here with greater success and profit than in the most favored districts of Ohio, or the garden state of Illinois, and the great water power at Sioux Falls, which is so inviting to capitalists, will before many short years be the manufacturing depot of the west, and is distant only fifty miles from the northern boundary of this county.

Union county has passed the hardships and trials of which all new countries are subject. We have a well organized system of free schools, good school houses and the best court house in the Territory at our county seat, Elk Point. We have now in our county six good threshing machines which have been running all the fall, and there are three good steam mills and one of the best flouring mills in the West, which has been completed by those enterprising and energetic men, Messrs. Hotchkiss and Dexter, on the Big Sioux river.

*Public Lands.*—There are quite a number of goods claims yet to be obtained in this county, though they are rapidly being occupied by settlers under the homestead and pre-emption laws, and I know of no State or Territory on the continent that holds out such inducements to the emigrant seeking homes on the public lands and where so valuable lands can be procured as cheap.

*Railroads in Union County.*—The Legislature during this present session has passed two memorials to Congress, asking grants of land to aid in the construction of certain railroads in this Territory, one of which runs the full length of this county commencing at Sioux City, Iowa, a distance of four miles from the eastern boundary of this county, by way of Elk Point, the county seat, and thence to Yankton, the capital of Dakota. The Sioux City branch of the Union Pacific railroad was completed to within twelve miles of Sioux City by the 15th of February, and the probability is, that the road will be built to Yankton within a very short time, a distance of sixty-five miles over a level valley. It is not likely to remain long at Sioux City. As to mines and minerals, we have none in this county. Having completed my task I submit this as my report.

MARTIN V. FARRIS,

*Chairman House Committee on the Agricultural and Mineral Resources of Dakota Territory.*

UNION COUNTY, DAKOTA,  
BRULE CREEK, January 1st, 1868. }

*To the Honorable the Committee of the Legislative Assembly of the  
Territory of Dakota, appointed to gather Agricultural statistics,  
and enquire into the mineral resources of the Territory of Dakota.*

MESSEES :— In reply to your request, I have the honor to state that I have collected a few items in my immediate neighborhood, in the way of agricultural products, and before proceeding to give items allow me to state that I have been a resident of Union county, Dakota Territory, for upwards of seven years, and notwithstanding we have been subjected to some of the inconveniences and drawbacks that are met with in almost all countries and localities, I can say in all truth that I have yet to regret the day that I took up my abode upon the fertile and rich lands of Dakota Territory, and allow me to say further, that I came into the Territory ruined in fortune and have met with severe accidents and losses since I have been a resident in this Territory, for which the country is not to blame, yet thanks be to the Supreme Ruler of the Universe for myself and family we have food and raiment, and as mellow, rich and fertile lands to till as can be found in North America, and that in great abundance, in a word it is a country for the poor and the landless; the wealthy can find also, a good chance for investment; and again, these lands are clothed with all the nutritious grasses known in all the western States of the best and finest quality. A great amount of these lands are almost on a level, or in other words as level as a plane, and the beauty is, after the spring opens and the lands become settled, we have no wet sloughs and marshes to contend with, and I am free to say that it is one of the finest stock growing countries known in this latitude and east of the Rocky Mountains. And, again, with the rich and fertile soils, the great advantages of growing stock of all descriptions, together with the flattering prospects of a railroad within two years and a half, to the Capitol of our Territory, which by the way, is one of the finest locations for a city in the western country, and we know of no good reason why it should not become such, it certainly has many natural advantages, and is now doing a heavy business in the way of trade, and its influence is being felt. And again, we have the flattering prospects that there will be obtained some of the precious metals the coming season, from the Black Hills, in the western portion of our Territory, as Capt. Davy intends to conduct an expedition to those Hills the coming summer, and we believe Capt. Davy is good for it, as we had the honor of listening to Capt. Davy's remarks on this subject, and the Captain

inspired great faith in us when he said that Gen. Grant subdued and vanquished Richmond, and he was bound to take the Black Hills. We wish Capt. Davy's expedition success.

In conclusion allow me to say that we have inducements for the emigrant. Attached to this letter I transmit a few items of the agricultural products of Brule Creek settlement in Union county for the year 1867.

Messrs., I have the honor to remain,  
Your most obedient servant,  
THOS. C. WATSON.

## WHEAT.

	ACRES LAND.	NO. BUSHELS.
Thos. C. Watson	18	856
Caleb Cummings	20	510
David Kilgore	3	72½
Ira Seward	3½	104
Julias Fletcher	14	270
Louis Johnson	17	430
C. Lewison	12½	400
Syvert Barrasson	2½	62
Andrew Larson	2½	72
Hopkins Lutes	5	150
Andrew Anderson	11	346
Thomas Olson	30	683
Carlos Kingsley	5	145
A. R. Stodard	13	316
John Reams	28	690

## OATS.

Ira Seward	3½	140
Hopkins Lutes	4	300
Andrew Anderson	1	86
Thomas Olson	2½	150
John Reams	3	125
Louis Johnson	2	110
C. Louison	1½	85
A. R. Stodard	9	367

## CORN.

Ira Seward	12	360
Julias Fletcher	1	50

## YANKTON COUNTY.

The capital of the Territory is located at the town of Yankton within this county. The town of Yankton is located on the Missouri river, upon an elevated table land, gently sloping to the south and east. It has one of the most magnificent and best locations of any town on the Missouri river above St. Louis, a stone levee that prevents any washing of the banks. Yankton is the largest town in the Territory, and destined at no distant day, to rival any town in the northwest. Some of the merchants of the town during the last year have done a trade to the amount of ninety-six thousand dollars (\$96,000,) and were not able to meet the demand.

There are a large number of stores here at present, but not enough to do the business and more of all kinds are needed. Additional mechanics of all kinds will be wanted in the spring.

This county is twenty-four miles square, and there is not one foot of poor soil in it, but it is covered throughout its whole extent with a fertile soil, producing all the cereals and roots of the temperate zone in great abundance. The soil is a silici calcareous loam lying from two to four feet in depth, thinning on the ridges and deepening in the slopes upon a various subsoil, irregularly distributed in sections of clay, marl, and gravel; in all the valley bottoms a deep alluvial soil prevails to the depth of from two to six feet. This county is bounded on the south by the Missouri river, and the bottom lands along the river are in some places ten miles wide, and heavily timbered. The Dakota river runs through the county from north to south, the second river in size in the Territory, the bottom lands of which are among the best agricultural lands in the west, forming natural meadows unsurpassed in luxuriant vegetation.

Ex-Governor Edmunds of this county, has the largest sheep farm in the Territory; he keeps about seventeen hundred of the best kind of fine wooled sheep. It has been nearly three years since these sheep were brought from Michigan to the Territory and they have done exceedingly well, and proved to be very profitable, the county being admirably adapted to wool growing. All kinds of stock do well and pay fifty per cent yearly on investment. The highest amount of wheat for the year of 1867, was forty-one bushels per acre, and lowest was twenty, in this county.

This county may be considered one of the best grape countries. The wild grape attain an extraordinary luxuriance in the wooded bottoms and large amounts of excellent wine have been made from the same. One person during the last season made as high as three hundred gallons. We believe that the domestic grape will do as

well. No better plum grows than the wild plums of Dakota and other wild fruit in proportion.

The wild hop grows profusely here which indicates that the domestic species would yield bountifully and at the present prices of hops and the increased demand yearly, will eventually make hop growing a most lucrative business in the rich bottom lands of Dakota.

Yankton has a first class school house and graded free schools the year round. Mr. Foster and Mrs. Stewart, experienced teachers from the east having charge of the same at the present time.

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BON HOMME COUNTY, D. T., }  
January 9th, 1868. }

*To the Joint Committee to prepare and submit a report of the Agricultural Resources of Dakota Territory.*

GENTLEMEN:—In accordance with your request I hereby submit for your consideration my observations in Bon Homme county, for the past season in regard to the Agricultural Products.

In regard to farming, we have one of the best farming county's in Dakota, wheat averaged this year 45 bushels per acre notwithstanding the grasshoppers damaged it considerably. Corn averaged 60 bushels per acre, potatoes 125 bushels to the acre, and everything else in proportion.

We have one of the best stock raising county's in the west. Cattle live in the timber the most of the winter and come out in good order in the spring. We can cut four tons of hay to the acre, that of the very best quality of blue joint.

There has been specimens of coal and iron found in this county which I have no doubt will prove to be of very great importance to our Territory. There is also several very fine mtl1 privtleges in this county.

The resourcee of this county compare very favorably with any county in the Territory, it is well watered and plenty of timber, several clear running streams passing through it. This county is exceedingly well adaptep to sheep growing and offers strong inducements to the immigrant.

I remain  
Respectfully yours,  
JAMES KEIGAN.

## CLAY COUNTY

This county is named in honor of Kentucky's noble statesmen—Henry Clay. It consists of townships 91, 92, 93, 94 and 95 and of ranges 51, 52 and 53. It has within its boundaries fourteen townships. The Missouri river is its southern boundary. Within its limits and on the land adjacent to the streams is some of the best grass land there is in the United States. The high land consists of the best agricultural lands in the West, and on its streams are some of the best mill sites in the country. For an agricultural people there is no country which exceeds it and very few equal it. The husbandman can raise his crops which yields him a large harvest, the stock raiser can raise his cattle at little cost; the capitalist can expend his money and have a larger return by investing his means in all kinds of mills and various other manufactories which will be demanded as the country fills up. Such a country must and will be thickly settled. All it requires is for the eastern people to be informed of our advantages and then our prairies will be filled with hamlets and our rivers dotted with mills. The past year has witnessed this country double in numbers. Our town has been filled up with merchants, and yet there is room for more.

*Agriculture.*—This county is rich in agricultural resources. All kinds of grain and vegetables yield abundantly. The time has passed when it can be doubted about this being an agricultural country. With a climate that is unexcelled, with a soil the fertility of which is as yet fully unexplored and with seasons that will assist our present natural advantages, our present immense yield of crops is only a commencement of what we can produce. The bottoms and uplands are equally productive. The Genessee county of New York was long claimed as "the garden of the world," in wheat. In this almost unknown country her most productive yield is surpassed. Thirty bushels of wheat was called at one time an immense crop. This country yields far more. I quote the following from a letter:

"At Green Point, J. L. Fisher sowed upon three acres of ground broke the year before, 5 bushels of wheat put in the first of April, it was harvested and stacked in two stacks one large and the other small, and the small one was torn to pieces by the cattle and the fowls consequently had full play upon it till threshed, which was last part of October, and from the three acres he had 135 bushels, equal to 45 bushels per acre, and those who assisted in threshing were of the opinion that had none been destroyed it would have yielded from 48 to 50 bushels per acre. Mr. Fisher measured his ground before sowing. As it was the first wheat he had sowed

he made it an experient." Green Point is in Clay county. This was in the year 1866. Other farms yielded equally as well it may be presumed, but no record is made of it. Last year the farmers went to work with a will, and on an average this grain yielded thirty bushels to the acre.

Corn yields on an average sixty bushels per acre; many cases are known where it has produced eighty bushels. This grain is in great demand, and high prices are paid for it. All that can be raised finds a ready sale at a high figure.

Oats are a very productive crop and command a very high price at a home market. The average yield is seventy bushels per acre. These two last grains commanded one dollar per bushel last fall almost at the farmer's door.

Potatoes yield from 150 to 300 bushels per acre. This is an average yield. In many places there have been larger yields than this.

Sorghum produces from 200 to 300 gallons of malasses per acre. In garden vegetables, this county cannot be excelled. Onions, cabbages, beets, turnips, mellons, squashes and pumpkins, in size and quantity, the yield is almost wonderful. Mr. Brady pranted some sweet potatoes last summer, as an experiment, and he reports that they did very well.

There are a number of large farms in the county, and each year finds the farms increasing in size and number. Hon. E. M. Bond has a farm of one hundred acres each, and many of forty acres.

Everything that can be raised by farmers, find a home market. In this county there was purchased in a few days, 2,000 bushels of potatoes for the Forts on the Upper Missouri. This will be for years a market for the farmers of this county. The railroad will soon be at our doors, which will carry to the eastern markets all our surplus crops. Before long, with the large population we are receiving and the extensive farms that are opening, it will require such an outlet to carry away the extra grain of this county.

*Timber.*—This county is a thickly timbered county along the banks of the Missouri river. There are many groves along the Vermillion river and Clay Creek. The principal timber is cottonwood, but there is a great quantity of hard wood timber consisting of oak, ask, mulberry, walnut and various other kinds. In ten years from now there will be more timber than there is at present. Every farmer will have his grove. The manner and rapidity of the growth of cottonwood is surprising. The small branch planted in the ground in a few years is a large tree, which forms a beautiful grove, and in time becomes thick heavy timber.

*Stock Raising.*—This at present is a very profitable business in this county. Every farmer has from one hundred to ten head of cattle. The cost of keeping them is very little, and the money made in keeping stock makes it a good investment. During the greater part of the year it costs nothing to keep cattle. The excellent grass land affords them ample food. The cost of wintering them is very little. In summer they roam the prairie almost without care, and are always in excellent condition. The many rivers and creeks serve as good watering places for stock, and in winter the timber serves as a protection for them. In some cases cattle have been known to wander for years no one supplying their wants, at the end of that time have been found in first class condition. Hay can be put up at the small cost of one dollar and fifty cents per ton in the fall of the year; two tons is plenty for each head of cattle. Men of capital who wish to go into this business cannot find a better field than this county to embark in such an enterprise. It is one of the safest and best investments that can be made in any county. There is a good market for all the cattle that can be raised. Drovers pass through the county annually in the fall buying cattle for the eastern market.

*Fruits.*—Wild fruits is plenty, and so far as experiments have been made, the result has proven that all kinds of fruit can and will grow here. Grapes, plums and mulberries grow wild in great profusion and are a great delicacy. There is more of this kind of fruit than can be used to supply a population four times as large as at present within our borders. Some peach and apple trees have been set out, and after two years have given sufficient indications that in this climate the yield will be large. The coming season will witness many thousands of dollars worth of fruit and shrubbery set out in the county. The trees and bushes are obtained from the Rochester, New York nurseries. The reason why this branch has not been attended to before with more care is that in this, like all new countries, settlers think first of providing themselves with the substantials and afterwards take care of the delicacies.

*Indians.*—One great drawback in keeping people from settling in our county is the fear of Indians. This danger exists only in the imagination; there is no real danger. For years we have been as safe from such dangers as the people of Chicago, Milwaukee or Detroit. It is five years since any harm was done by Indians. If they did hazard such a foolhardy raid, the injury would be but small, the attempt would be a complete failure. In the county there is a military company of one hundred men fully armed and equipped by the general government with carbines, revolvers, saddles, bridles and a

complete set of all that is necessary to prepare for the war path in a short time. The company is commanded by the best Indian fighter in the country—Captain Nelson Miner, who served three years under General Sully on his expeditions against the Indians in 1863-64 and 65. Those who live here entertain no fears of these enemies to the settler on the frontier. The time has long since past when such danger was apprehended. The idle rumors started last summer about an attack of Indians on the settlements, originated in the evil minds of those who started such reports. The settlers laughed at such rumors, well knowing them to be false.

*Mills.*—On the Vermillion river there are some of the very best mill sites in the country. The water is ample and the locations are the very best. The banks on either side are so formed that many mills can be erected on them. At present there is not a grist mill in the county. To any one with sufficient means to erect such a mill, this is a capital location and where a good investment can be made.

*Population.*—The population of the county is from 1200 to 1500 persons; this number is constantly increasing. Ere another year passes with everything remaining as favorable as present appearances indicate, this population will increase to 5000 persons. Emigration is rapidly pouring in from every quarter; this county this year will receive a greater part of the people coming into the Territory. There are good reasons for this; the country between this county and the present terminus of the railroad is all taken by settlers. People coming in now can obtain land from the government in this county nearer an eastern market than in any other county. There are thousands upon thousands of acres of land as good as the sun ever shone on, offered by the government under the homestead and pre-emption laws. Farms can be taken along the rivers and creeks, with plenty of land for cultivation—with a sufficient quantity of grass land to supply a large herd of cattle, and with fine watering places for stock. One hundred and sixty acres of land is offered to any one who will settle with us. The speculators have not yet made this Territory a harvest and monopolized the land. The land is not in the market. The settlers coming here the present year will fare better than if they delay their coming for another season. Ere another season comes there will be given by the general government a railroad land grant, which reduces the claims taken within the land granted, one-half. Now is the accepted time for the people of the east to avail themselves of this generous offer of the government.

*Railroads.*—In a few years there will be a railroad running through this county. There is a company organized to build a

road from Sioux City, Iowa, to the Cheyenne river. A memorial was passed this Legislature asking for a grant of land to aid in the construction of a railroad. If the anticipations of the people, and the general desire of the inhabitants are realized, in less than three years the railroads will be built. This road will be a great benefit to the country, running as it will a direct line to all parts of the East.

*Town of Vermillion.*—This is the county seat of the county. It is situated on the Missouri river, at the mouth of the Vermillion river. The channel runs past the town, and there is a steamboat landing for boats carrying freight up the river. Several thousand dollars worth of merchandise was shipped for this point from St. Louis, Mo., during last summer. It is a place of from between 100 to 200 persons, and is constantly growing. The town is not ahead of the country as is generally the case with western towns. The contrary is the fact, for the country is far ahead of the town, and the town must and will increase.

There is now, at this place, two grocery and dry good stores; one large hotel, kept by Capt. Nelson Miner; one hardware store; one harness shop; drug store; a wagon shop, a blacksmith shop; a shoe shop; a saloon; a milliners store; one printing, and three or four law offices. Besides the U. S. land office of the Territory is located here, and the United States district court.

The town needs a tin shop and a furniture store. These stores will pay here. Adjoining the town is a steam saw mill, run by Curliiss & Brother; it does a very large business, at the same time it is unable to supply the demand for lumber. The mill can saw 4,000 feet per day, and still the cry is for more lumber.

There is also, at this place a printing office. A weekly newspaper is published called "*The Dakota Republican*," edited and published by Lucien O'Brien. It is Republican in politics, and is a live wide-awake active paper.

The military road to Fort Randall meets the Missouri river at this town. It is the main traveled road. This road and the river do not meet after they separate at Sioux City, Iowa, until they meet at Vermillion, and here they separate to meet at Yankton, the Capital of the Territory. Vermillion is distant from Sioux City 35 miles, and from Yankton 80 miles. The situation selected for the town promises at some future day a place of considerable importance. Its location on the river, and in the heart of so extensive a settlement, demands a place of some considerable size so as to supply the wants of so large a population.

*Conclusion.*—From the description of the county it can be seen

that the locality is a desirable one. The county is not yet full. There is room for many more, and a right hearty welcome to greet them. Any man, either single or with a family, who is willing to work can find plenty to do, and at the same time establish for himself a home. This is probably the last Territory in the United States in which agricultural pursuits can be followed with profit. Then we ask the men of the East who live a whole lifetime on land belonging to another; why not come out here and obtain sufficient land to make you a home and a competence for life? The Government offers you 160 acres under the Homestead law, by living on it five years and for the small sum of eighteen dollars. The same land can be taken under the pre-emption law, and after a residence thereon for six months, and improvements, it can be purchased for one dollar and twenty five cents per acre. This is far better land than that which brings 25 and 30 dollars per acre further east. To the poor thrifty industrious man, this is a paradise. All can make an honorable living. Then men of the East why not join us? Come, and be our neighbor; come into the land "flowing with milk and honey." Do not be kept back by the dread of Indians, there is no danger from them in this county. Do not remain away by false reports that it does not rain in Dakota; the rain falls in frequent and refreshing showers, which tend to render our harvest abundant. Ample rain falls to assist our grain in ripening in due season. Come to us now. The longer you remain away the further you must go back to obtain your farm.

We ask settlers to come among us, as much for their own benefit and good as for our own advantage. We hope to live to see the day when our prairies will be dotted thickly with abodes of thrifty, honest, and industrious pioneers.

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TODD, GREGORY, CHARLES MIX AND BUFFALO COUNTIES.

These counties all border on the Missouri river, two of them being on the west side and the others on the east side, they are well timbered along the stream and possess much very good farming land but are better adapted to grazing purposes than agricultural.

Minnehaha, Brookings and Deuel counties, are situated along the western boundary of the State of Minnesota. The Big Sioux river running through the center of them from north to south. The mag-

nificent water power of Sioux Falls is in Minnehaha; these three counties are remarkable for the number and beauty of their lakes, with their sylvan associations form the prominent charm of their rural landscape. These lakes consist of transparent, generally very pure and sweet water, and abound with various species of fish of a quality and flavor greatly superior to those of the middle or other western states. The soil of these three counties is unsurpassed for fertility, being composed largely of a black vegetable mould, and yielding luxuriantly of all the more useful crops.

The Minnesota and Missouri river railroads passes through these counties and Sioux Falls, the county seat of Minnehaha is destined to be one of the largest towns in the Territory.

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LETTER FROM HON. ENOS STUTSMAN of *Pembina county, D. T., relative to the Agricultural and Mineral resources of the Valley of the Red River of the North, to the Chairman of the Joint Committee of the Legislative Assembly, on the Agricultural and Mineral resources of Dakota Territory, January 8th, 1868.*

SIR: There is perhaps no subject upon which a man can write, that will give rise to a greater variety of expressions of opinion as to the credibility and truthfulness of facts and descriptions, than when one attempts to write about the mineral or other resources of a new country, of which but little is known by a great majority of the people seeking homes in the West. But so long as such writer confines himself to truth, he should have no fear as to what may be said.

I shall, therefore, in this brief letter on the resources, &c., of the Red River country, confine myself to facts coming within my personal observation, or derived from the most reliable sources, without any regard whatever to the opinion of persons who have never visited that portion of the North-West.

What I shall term the "Red River Valley," is that belt of country lying north of the forty-sixth degree of north latitude, and south of the British Possessions, and between nineteen and one-half and twenty-one degrees of west longitude from Washington, and embraced in the Territory of Dakota.

In giving this high northern latitude many will say, the country must be extremely cold, the climate uncharitable; this, however, is because the subject is not generally understood, and indeed cannot be until the same has been studied.

Humboldt, in his countries that will successfully grow all the grains and vegetables of a temperate climate, lays down "Isothermal lines" inside of which agriculture may be followed with success. This is a crooked, irregular line governed by altitude, air currents, large bodies of water, &c.

This line runs through northern Michigan and Wisconsin, and eastern Minnesota, coming within less than one hundred miles of St. Paul, nearer however, to the head of Lake Superior, but there bears north to Rainy Lake and Lake of the Woods, and where it crosses the longitude of the Red River of the North it is north of Lake Winnipeg, or about the fifty-second degree of north latitude, thereby leaving the northern boundary of Dakota (49° latitude) very much further south of the "Isothermal line" than in St. Paul, Minnesota, and nearly the same distance as are the great wheat fields of Southern Minnesota and northern Iowa. Again, the Red River Valley is in a nearly level basin, lying between the high and heavily timbered lands west of Lake Superior, and the "Grand Coteau Des Prairies" and the Pembina and Turtle Mountains.

Very few streams empty into this great basin from the east or Lake Superior side, in the State of Minnesota, while a great number run east into the main artery—the Red River, from the above named uplands and mountains.

This valley in length being nearly north and south, the sun's rays, are nearly vertical in summer, and consequently the heat greater than it is at points further east on the same parallel of latitude; consequently the spring is as early as at Madison, Wisconsin, and frost in the fall is not as early by about ten days, or from the 20th of September for Wisconsin and northern Illinois, to the 1st of October for the Red River Valley.

This valley in Dakota, is about two hundred miles long, and from forty to sixty miles in width, covering an area of eight thousand square miles, or more than five million acres of land, and possesses greater natural advantages than any district of country in the west, now open to settlement.

*The Rivers.*—There are eight rivers, varying in length from forty to one hundred miles, that run across this valley from west to east, emptying into the Red River, within this Territory, each having numerous creeks and small tributaries that water the country upon each side. The names of these eight rivers are, Wild Rice, Cheyenne, Elm, Goose, Turtle, Big Salt, Park and Pembina.

*The Timber.*—The timber, which is oak, ash, elm, poplar, lynn and maple, is that which will be used for the various purposes of the

farmer for building and fencing, and the various kinds of small timber grown in a timbered country are interspersed with the above. In addition to this home supply of timber, that probably covers one-eighth of the entire valley and pretty equally distributed for use, we have the benefit of the Otter Tail river pineries in Minnesota, which find their natural outlet down this eastern tributary of the Red River, thence to be floated in the logs or in boards, rafted down the Red River the entire length of the valley, thus supplying us with the kinds, quality and quantity that the most favored country can boast.

Like all prairie countries the timber is chiefly confined to the water courses, or in groves, and there is hardly a creek without its belt of timber in and near which are found the various kinds of wild fruits, such as raspberries, strawberries, blueberries, gooseberries, currants, cranberries, grapes, plums, &c., in large quantities and of excellent quality.

As yet no attempt has been made to grow apples, but I have reason to believe that that fruit can be grown as easily as in New England, or Wisconsin.

*The Soil.*—The soil is a black sandy loam of alluvial and vegetable deposit, from two and a half to four feet deep, resting upon a stratum of yellow clay from four to ten feet in thickness. This soil is exceedingly rich, and easily worked, and in a state of nature yields a luxuriant growth of blue joint grass, which makes a quality of hay almost equal to the timothy and herds grass of the Middle States, and in quantity from two to three thousand pounds per acre, and a farmer having a mower and horse rake, can secure his winter's supply of excellent hay at a cost of about one dollar per ton.

One good pair of horses, or two pairs of oxen with a good plow, will turn over from one and a half to two acres of prairie per day, which is then ready for the next seed time; and the same field may be sown to the same kind of grain for years without any apparent diminution in the yield per acre. The soil being of that rich, strong nature, that manuring is never resorted to, nor is it deemed necessary. It does not leach, nor does the surface wash or blow away, or need under draining, offering to the hardy pioneers one of nature's richest gifts to man, needing but his industry to render this entire valley one of the most productive as well as prosperous countries in the North-West.

*What will Grow.*—The grains now raised, and to which the country is especially adapted are wheat, rye, barley and oats. The yield per acre being in excess of anything known east of the Rocky Mountains, but to say fully equal to Minnesota will be quite modest, and

will fall below rather than above the truth. Everything in the line of garden vegetables is raised in the greatest abundance and of the very best quality, with a heavier yield than is usual in the Middle States, and far less labor.

*Our Winters.*—The great dread of deep snow, and cold winters in so high a northern latitude is altogether imaginary. The average depth of snow for the last ten years has not exceeded sixteen inches, which usually remains upon the ground from about the 15th of November, to the last of March, and while the mercury may fall to even thirty-five degrees below zero, owing to the absence of high winds the weather does not seem rigorous, nor does it seem as cold as it does in Michigan or Ohio, when the mercury is at, or even from five to ten degrees above zero.

The snow does not drift as in open prairie countries, and as good sleighing can be relied upon, no trouble is experienced in winter traveling. Cattle and horses that are allowed to run at large in the timber, gather their own living, and but little if any hay is given them during the winter months.

*Our Markets.*—There are but few sections of the United States that have a better home market for their surplus products than has the Red River Valley at the present time. The Red River being navigable from lower Ft. Garry, in British America, eighty-five miles north of our northern boundary, to Fort Abercrombie in this Territory, two hundred miles south of said boundary, making a total distance of two hundred and eighty-five miles, the steamer "International" affords cheap transportation for our surplus products which is purchased by the Hudson's Bay Company, for the supply of their army of employees and trading posts in the interior of their territory, and in addition to this, the various military posts in north-eastern Dakota, and the mining country of the Saskatchewan, in British America, will look to this valley for supplies.

With an eye to this future granary of the West, capitalists are pushing a railroad from St. Paul, north and west, to tap this valley at or near the head of navigation on the Red River, in order to carry to eastern markets our grain, beef, pork, butter, cheese, wool, furs, &c., and to do the already gigantic carrying trade of the Hudson Bay Company, and the British settlements. Eighty miles of this road is already in running order, and within a few years it will be extended to the Red River, placing us in direct communication, by water and rail, with St. Paul, Chicago and the East.

*Public Lands.*—The survey of public lands in the Red River Valley was commenced by the Government late last summer, and with the exception of a few townships subdivided on the Pembina river,

only boundary and meridian lines were run. But during the coming summer the surveys will be extended.

And it is confidently expected that in compliance to the memorial of the present session of our legislature, Congress will provide for the establishment of a United States land office in the Red River Valley, thereby enabling settlers to secure title to their lands by homesteads or pre-emptions.

*Our Minerals.*—Except coal and salt, we have as yet discovered no minerals in this Valley. It is, however, believed that various valuable metals will be discovered in the Pembina and Turtle mountains. But of salt there is an inexhaustible supply. Coal has but recently been discovered near the east base of the Pembina mountain, and accessible to the settlements, and while it is known to be very extensive, its quality has not as yet been tested.

I have sir, the honor to be,

Very respectfully,

Your ob't serv't,

ENOS STUTSMAN.

#### THE TAXES.

The Territory of Dakota is entirely free from all indebtedness never having contracted any debts faster than they have been paid; so are also all of the counties of the Territory, free from the county debts. County and Territorial warrants are at par, a fact which is rarely found in new territories. Our taxes are very light.

To merchants we would say that Elk Point, Richland, Vermillion, Yankton and Bon Homme offer excellent situations for the opening of all kinds of mercantile business; besides affording remunerative and constant labor to the mechanic and laboring man. Wages are high, and business is generally done on the cash system.

Mr. Moody moved that the request of the of the council in the return to the council of council bill No. 33, be granted.

The ayes and noes being demanded and ordered, resulted ayes 13, noes 13, as follows:

Those who voted in the affirmative, are  
 Messrs. Brady, Brown, Brauch, Gunderson, Hanson, Hoyt,  
 Jolley, Moody, Nelson, Shaw, Thompson, Tucker and Turner.  
 Those who voted in the negative, are  
 Messrs. Blair, Brown, Cummings, Curry, Dewitt, Fallas, Far-  
 ris, Gore, Gregory, Kegan, Ryan, Watson and Mr. Speaker.  
 So the resolution was lost.

House file No. 49, entitled a bill for an act constituting the  
 counties of Laramie and Carter a part of the 2d judicial dis-  
 trict, and providing terms of court therein,

Was then taken from the table.

Mr. Moody moved that the council amendments to said bill  
 be not concurred in.

Which motion prevailed.

The following message from the council was then read:

COUNCIL CHAMBER,  
 Friday, January 10, 1868. }

MR. SPEAKER.—I am instructed by the council to inform  
 the house that the council has this day passed house file No. 51,  
 a bill for an act to amend chapter 14 of the session laws of  
 1865-6, which bill is herewith returned.

GEO. I. FOSTER,  
*Secretary.*

Council bill No. 45, entitled a bill to organize the county of  
 Montana, D. T.,

Was then taken from the table.

On motion of Mr. Moody,

The rules were suspended, and

The bill read the second time by its title.

Council bill No. 46, entitled a bill to provide for holding a  
 term of the supreme court,

Was then taken from the table, and

Read the second time..

Mr. Moody moved that the rules be suspended, and

The bill read the third time and put upon its passage.

Which motion prevailed.

The bill was accordingly read the third time as above ordered.

The question then being on its passage and it being put: "shall the bill pass?"

It was decided in the affirmative.

Ayes, 26; noes none; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Blair, Bronson, Brauch, Brown, Cummings, Curry, Dewitt, Fallas, Farris, Gore, Gregory, Gunderson, Hanson, Hoyt, Jolley, Keegan, Moody, Ryan, Shaw, Thompson, Tucker, Turner, Watson and Mr. Speaker.

None voting in the negative,

So the bill passed.

The question then being on agreeing to its title and it being put the title was agreed to.

*Ordered*, That the chief clerk inform the council of the passage of said bill.

Council bill No. 47, entitled a bill for an act to prevent swine from running at large in Yankton county,

Was then taken from the table, and

Read a second time.

Council bill No. 48, entitled an act to create the tenth representative district, and for other purposes,

Was then taken from the table.

On the motion of Mr. Gregory,

The rules were suspended, and

The bill read the second time by its title.

Mr. Gregory moved that the bill be referred to a select committee consisting of one from the counties of Bon Homme, Charles Mix and Todd.

Which motion prevailed.

Whereupon the speaker named Messrs. Gregory of Todd, Dewitt of Charles Mix, and Brown of Bon Homme as such committee.

Council bill No. 33, (substitute) entitled an act relating to the United States court in the first judicial district,

Was then taken up, and

Read a third time.

The question then being on its passage, and it being put,  
"shall the bill pass?"

It was decided in the negative,

Ayes 13; noes 13; as follows:

Those who voted in the affirmative, are

Messrs. Blair, Brown, Curry, Dewitt, Fallas, Farras, Gore,  
Gregory, Keegan, Ryan, Turner, Watson and Mr. Speaker.

Those who voted in the negative, are

Messrs. Brady, Bronson, Branch, Cummings, Gunderson,  
Hanson, Hoyt, Jolley, Moody, Nelson, Shaw, Thompson and  
Tucker.

So the bill was rejected.

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have examined house file No. 54, joint resolution; also, house file No. 51, an act to amend chapter 14 of the session laws of 1865 and 1866, and find the same correctly enrolled.

The following message from the council was then read:

COUNCIL CHAMBER, }  
Friday, January 10, 1868. }

MR. SPEAKER.—I am instructed by the council to inform the house the council has this day passed council amendment to house file No. 49, a bill for an act constituting the counties of Laramie and Carter a part of the second judicial district and providing for terms of court therein.

GEO. I. FOSTER,  
*Secretary.*

Mr. Hoyt from the committee on enrollment submitted the following report:

MR. SPEAKER.—Your committee on enrollment have examined house file No. 49, entitled an act constituting the counties of Laramie and Carter a part of the second judicial district and providing for terms of court therein, and find the same correctly enrolled.

Mr. Hoyt from the committee on enrollment, also submitted the following report :

MR. SPEAKER.—Your committee on enrollment have to report that they did on this day at 11½ o'clock A. M., present to the Governor for his approval, house file No. 51, entitled an act to amend chapter 14 of the session laws of 1865-1866; also house file No. 54, entitled joint resolution.

Mr. Jolley from the committee on judiciary submitted the following majority report :

MR. SPEAKER.—Your committee on judiciary have had under consideration house file No. 57, entitled an act to provide for an election for county officers for Laramie county: and house file No. 58, entitled a bill amending an act entitled an act incorporating the city of Cheyenne, Dakota Territory, and the majority have instructed me to report the said bills back without recommendation.

Mr. Gregory from the committee on judiciary submitted the following minority report :

MR. SPEAKER.—The minority of your committee on judiciary have had under consideration house file No. 57, entitled an act to provide for an election for county officers for Laramie county, and house file No. 58, entitled a bill amending an act entitled an act incorporating the city of Cheyenne, Dakota Territory, and report the same back with the recommendation that they do pass.

House file No. 57, entitled a bill to provide for an election for county officers for Laramie county,

Was then taken up, and

Read a third time,

The question then being on the passage of the bill and it being put, "shall the bill pass?"

It was decided in the negative,

Ayes 12; noes 14; as follows:

Those who voted in the affirmative, are

Messrs. Blair, Brown, Curry, Dewitt, Fallas, Farris, Gregory, Keegan, Ryan, Turner, and Mr. Speaker.

Those who voted in the negative, are  
Messrs. Brady, Bronson, Brouch, Cummings, Gunderson,  
Hanson, Hoyt, Jolley, Moody, Nelson, Shaw, Thompson,  
Tucker and Watson.

So the bill was rejected.

House file No. 58, entitled a bill amending an act entitled an  
act incorporating the city of Cheyenne, D. T.

Was then taken up, and

Read a third time,

The question then being on its passage and it being put,  
"shall the bill pass?"

It was decided in the negative.

Ayes 10; noes 16; as follows:

Those who voted in the affirmative, are

Messrs. Blair, Curry, Dewitt, Fallas, Farris, Gregory, Kee-  
gan, Ryan, Turner and Mr. Speaker.

Those who voted in the negative, are

Messrs. Brady, Bronson, Brouch, Brown, Cummings, Gore,  
Gunderson, Hanson, Hoyt, Jolley, Moody, Nelson, Shaw,  
Thompson, Tucker and Watson.

So the bill was rejected.

Mr. Gregory from the select committee consisting of one  
from the counties of Bon Homme, Charles Mix and Todd, sub-  
mitted the following report :

MR. SPEAKER.—Your special committee to whom was re-  
ferred council bill No. 48, have had the same under considera-  
tion and have instructed me to report the same back with at-  
tached amendment and recommend the bill as amended do pass.

The amendment was then read as follows :

Strike out all of section 4, change section 5 of the bill to  
section 4.

Mr. Brown moved that the report of the committee be  
adopted.

Which motion was lost.

Council bill No. 48, entitled a bill to create the tenth repre-  
sentative district and for other purposes,

Was then taken up, and

Read a third time,

The question then being on its passage, and it being put  
"shall the bill pass?"

It was decided in the affirmative,

Ayes 15; noes 11; as follows:

Those who voted in the affirmative, are

Messrs. Brady, Bronson, Brauch, Dewitt, Fallas, Gunderson,  
Hoyt, Jolley, Moody, Nelson, Shaw, Tucker, Turner, Watson,  
and Mr. Speaker.

Those who voted in the negative, are

Messrs. Blair, Brown, Cummings, Curry, Farris, Gons,  
Gregory Hanson, Keegan, Ryan and Thompson.

So the bill was passed.

The question then being on agreeing to its title and it was  
agreed to.

*Ordered*, That the chief clerk notify the council of the pas-  
sage of said bill.

Mr. Hoyt from the committee on enrollment submitted the  
following report:

MR. SPEAKER.—Your committee on enrollment have to re-  
port that they did on this day at 12 o'clock M. present to the  
Governor, for his approval, house file No. 49, entitled an act  
constituting the counties of Laramie and Carter, a part of the  
second judicial district and providing for term of court therein.

Mr. Moody moved that the original communications and pe-  
titions coming from all the counties in this Territory be depos-  
ited in Secretary's office for safe keeping.

Which motion prevailed.

Mr. Dewitt moved that the rules be suspended and leave be  
granted to Mr. Gregory to introduce a bill of which no pre-  
vious notice have been given.

Which motion was lost.

Council bill No. 45, entitled a bill to organize the county of  
Montana, D. T.

Was then taken from the table.

Mr. Gregory moved that the rules be suspended and under

the operation thereof, the bill be read the third time and put upon its passage,

Which motion was lost.

The following message from the council was then read:

COUNCIL CHAMBER,  
Friday, January 10, 1868. }

MR. SPEAKER.—I am instructed by the council to inform the house that the council has adopted the following resolution:

*Resolved*, That a committee of two be appointed to act with a like committee on the the part of the house to wait upon his excellency, the Governor, and inquire whether he has any further matters to communicate to this legislative assembly and that Messrs. Thomas and Hampton have been appointed such committee.

*Resolved*, That the honorable house of representatives be requested to fix the hour upon which the two houses shall adjourn *sine die*.

GEO. I. FOSTER,  
*Secretary.*

Mr. Turner offered the following resolution:

*Resolved*, That a committee of three be appointed by the house to act with a like committee on the part of the council to wait on his excellency, the governor, and inquire whether he has any further matter to communicate to this legislative assembly.

On the motion of Mr. Turner the resolution was adopted.

Whereupon the speaker named Messrs. Turner, Gregory and Jolley, as such committee.

The committee retired, and after a brief absence returned and reported as follows:

MR. SPEAKER.—Your select joint committee appointed to wait upon his excellency, the governor, to ascertain whether he has any further communications to make to the two houses at this session; have discharged the duty assigned us, and have instructed me to report that his excellency will communicate finally within 30 minutes.

The following messages from his excellency, the Governor, were then handed in by his private secretary :

EXECUTIVE OFFICE,  
YANKTON, January 8, 1868. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives.*

SIR.—I have the honor to return herewith a memorial to the postmaster general for a mail route from Fort Bridger, Utah Territory, to South Pass City, in the Territory of Dakota.

Which I have signed.

I am very respectfully,  
Your obedient servant,  
A. J. FAULK,  
*Governor.*

EXECUTIVE OFFICE,  
YANKTON, January 10, 1868. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives.*

SIR.—I have the honor to transmit herewith a bill entitled an act constituting the counties of Laramie and Carter, a part of the second judicial district, and providing for terms of court therein, Also a bill entitled an act to legalize the acts and proceedings of the acting city clerk of the city of Cheyenne, and the acting register of deeds of the county of Laramie;

Also, a bill entitled an act concerning mines and mining;

Also, a bill entitled an act to amend chapter 32 of the session laws of 1865-66, entitled an act to prohibit sheep and swine from running at large;

Also, a joint resolution to cause to be erected a suitable building in the town of Yankton in which to store the arms and ammunition belonging to the Territory of Dakota;

Also, a joint resolution concerning H. J. Brisbine, enrolling clerk for the council and house of representatives.

All of which I have approved and signed.

I have the honor to be.  
Your obedient servant,  
A. J. FAULK,  
*Governor.*

EXECUTIVE OFFICE,  
YANKTON, January 8, 1868. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives.*

SIR.—I have the honor to return herewith a bill entitled an act in relation to the forms of certain oaths;

Also, a bill entitled an act to legalize the acts of John W. Boyle, as clerk of the United States district court, first judicial district, of this Territory, and for other purposes;

Also, a bill entitled an act to provide for the opening, vacating, and change of highways;

Also, a bill entitled an act relating to settlers upon land without a legal title thereto.

All of which I have approved and signed.

I have the honor to be,

Your obedient servant,

A. J. FAULK,

*Governor.*

EXECUTIVE OFFICE,  
YANKTON, January 8, 1868. }

HON. ENOS STUTSMAN,

*Speaker of the House of Representatives.*

SIR.—I have the honor to return herewith a bill entitled an act supplementary to an act entitled an act to simplify and abridge the practice and proceedings of the courts of this Territory;

Also, a bill for an act entitled an act supplemental to an act to simplify and abridge the practice and proceedings of the courts of this Territory.

Both of which I have approved and signed.

Since having approved the supplementary bills above named, after withholding my name from the original bill, known as the Code of Civil procedure of this Territory, it is due to history that the reasons for such action should be briefly stated. As was expressed in my last annual message, a modification or revision of the code of 1862 was demanded, by the courts and the bar of this Territory, to simplify and improve the practice and proceedings, and to remove what was alleged to be obscure and difficult of application in the old code. To accomplish this

purpose I was anxious to contribute my influence, as far as practicable, or consistent with my other duties. But it was evident from the moment this bill was introduced, that it was not in all respects an improvement, or destined to meet the expectations, or receive the cordial support, of all the members of the bar, or of the court. Weighty objections, in my opinion, were urged against it, on grounds of expediency or necessity; and which the legislative power should probably have considered, with a determination to secure a perfectly satisfactory bill, and one against which it might not be alleged that we had too carelessly rejected the lights of past experience. Besides, it was manifest that a certain degree of deference was due to the opinions of those, whose grave and responsible duty it is to administer the laws, which have been made for our government. And, it was thought by me, that if no higher or more important objections were raised, than those already hinted at, we should at least hesitate before attempting so radical a change upon the settled practice, pleadings, and proceedings, in the courts of this Territory. But other objections did exist, which rendered it impossible for me to approve the original bill, and which I prepared, agreeably to the duty imposed upon me by the laws of Congress, for transmission to the house whence the bill originated.

The bill was in conflict, as I apprehend, with the Organic Act, in one essential particular. That act which is the paramount law of the Territory, provides for a supreme court and the district courts, whose jurisdiction is limited by law, with the exception provided in the ninth section. Among the exceptions, and which are mandatory as regards the legislative power, it is provided that "the supreme and district courts respectively, shall possess chancery as well as common law jurisdiction, and authority for the redress of all wrongs committed against the constitution or laws of the United States, or of the Territory, affecting persons or property." The power of the legislative authority to limit, by their act, the jurisdiction of the courts, is also made subject to the provisions of the sixth section, which declares that their authority "shall extend to all rightful subjects of legislation, consistent with the constitution of the United States, and the provisions of

this act." The ninth section again provides, among other restrictions upon the legislative power to limit, by law, the jurisdiction of the federal courts, that "writs of error, bills of exception, and appeals, shall be allowed in all cases, from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law.

After the most careful and anxious examination of the original bill referred to, I was totally unable to find any clause or section, recognizing the rights of the parties litigant, as regards the writ of error, or bills of exception. The bill throughout spoke only of the right to take a case to the supreme court by appeal; and while carefully regulating the right of appeal, it practically, as I conceived, abolished the writ of error and bills of exception, in defiance, apparently, of the restrictions imposed upon the legislative power, in the ninth section of the Organic Act, as above stated. And though I could discover no language, in express terms abolishing these rights as secured to us in this Territory, yet it was avowed in the preamble to the bill, that "the distinction between legal and equitable remedies should no longer continue; and that a uniform course of proceedings, in all cases, should be established." The title also avowed it as an object "to simplify and abridge the practice, pleadings and proceedings of the courts of this Territory." Thus, in exercising the unquestionable authority to regulate, the legislature, as I conceived, took a step altogether unauthorized when it assumed to "abridge the practice, pleadings and proceedings, of the courts," as regards the writs of error and bills of exception—which are clearly excepted out of the powers granted to the legislature in the Organic Act. These important legal remedies are only made operative, "under such regulations as may be prescribed by law." To exercise the authority to abridge, therefore, by omitting to regulate the mode and manner of proceeding as regards these remedies, would have been practically to abolish them in the practice of other courts. In fact a failure to provide a mode of procedure, by which all the remedies in the paramount law might be made available, would have been an omission to discharge one of the most important of the duties for the performance of which the legislative power was created; and would have been practically to deny these invaluable rights to the people. The

writ of error has been proverbially known as the poor man's remedy; and many cases may and undoubtedly will arise, wherein this writ may become indispensable to the complete and faithful administration of justice. The remedies, which are now provided for the poor and friendless, in the prosecution of their suits through the courts of this Territory, should be regulated with the greatest care; and all the means and facilities should be cheerfully accorded, agreeably to the provisions of the Organic Act. The rich have their remedy under the right of appeal, as they are always supposed to be able to pay costs or give bail. Equal and exact justice is due, under our laws, to the rich and poor alike; and "perfect equality before the law" should be regarded as no idle watch word, to be bandied about for political purposes merely; but this grand American idea should be found embodied in all our laws, and in all our modes of proceeding under these laws, so far as it may be consistent with the higher laws proceeding from the general Government.

The code of Civil Procedure, approved May, 1862, which has heretofore been operative in this Territory, gave the writ of error in full conformity to the Organic Act. But this bill had proposed, in some of its sections, to obrogate all the rules and practice of the courts in civil cases, which might be found inconsistent with its provisions; and in accordance with reasoning above presented, the writ of error would become a dead letter on our statute book, as inconsistent with the whole scope and purpose of this new code, and must have remained so until, by positive enactment, the necessary rules for its enforcement, by subsequent legislation, should be again provided. Thus, though the Organic Act imposes it as an imperative duty, upon the legislature, to prescribe regulations by which the writ of error may be made available, this bill expunged it from the practice of the courts, making it my duty, under the obligations of my oath of office, to return it with my objections. But the two supplemental bills, herewith returned, having been designed to meet the objections above stated, I have suffered the original bill to become a law, in the confident hope that at your next annual meeting you will make still further alterations and im-

provements, which seem in the opinion of some, to be obviously called for.

I have the honor to be,  
Your obedient servant.  
A. J. FAULK,  
*Governor.*

Mr. Jolley offered the following resolution :

*Resolved*, That in response to the message from the council the chief clerk be instructed to inform the council that the house will be ready to adjourn *sine die* this day at two o'clock P. M.

On the motion of Mr. Jolley,  
The resolution was adopted.

Mr. Moody in the chair.

Mr. Jolley offered the following resolution :

*Resolved*, That the thanks of this house are hereby tendered to our presiding officer, Hon. Enos Stutsman for the ability, dignity and promptness and impartiality with which he has during this session discharged the duties of the presiding officer of this house.

His uniform courtesy has commanded our respect, his impartiality and kindness have won our warmest personal regards.

That our thanks are hereby tendered to our gentlemanly and efficient chief clerk P. H. Halnan for the promptness in attending to the duties of his office; his obliging deportment and the correctness of the journals of the proceedings of this body.

That our thanks are due to our assistant clerk S. W. Kidder for his industry in the duties of his office. His clerical abilities displayed in his whole record, challenges the admiration of the public and the sincere thanks of this house.

That the Rev. M. S. Woodruff, chaplain of this house, by unostentatious piety, gentlemanly deportment, has gained our sincere respect, confidence and esteem; and that B. H. Wall, sergeant-at arms, Joseph Rondeau, messenger, and J. Brunette, fireman, for their faithfulness in the discharge of the duties of their respective offices and their obliging conduct, merit our thanks which are hereby freely tendered, and that towards our officers one and all, we retain the kindest feelings, and in closing our official connection wish them and theirs, health, happiness and prosperity.

On the motion of Mr. Jolley the resolutions were unanimously adopted.

Whereupon the speaker acknowledged the compliment in an appropriate manner and resumed the chair.

The hour of two o'clock having arrived, the speaker declared the house adjourned, *sine die*.

ENOS STUTSMAN,  
*Speaker House of Representatives.*

*Attest:*

P. H. HALNAN,  
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