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YANKTON, DAKOTA TERRITORY, SATURDAY EVENING, FEBRUARY 3, 1877.

No. 239.

THE DAKOTA LEGISLATURE.

TWELFTH SESSION.

Twenty-Fifth Day.

Message.

Thursday, Feb. 2.

AFTERNOON SESSION.

The house met at 2 p. m. and was called to order by the speaker.

A message informed the house that the council had passed house file No. 18, attaching the county of Ransom to the county of Richland for the purpose of recording deeds, mortgages and other instruments; also, house file No. 23, to repeal sections two and three, of chapter five and sections two and three, chapter six of the private and local laws of 1874-3.

The committee on ways and means reported back sundry matters referred thereto with recommendations.

The house then resumed the consideration of chapter 30 of house file No. 4, relating to revenue, and continued the consideration thereof until 5 p. m., when the house took a recess until 7 1/4 p. m.

EVENING SESSION.

The house met at 7 1/4 p. m., and was called to order by the speaker.

The house resumed and concluded the reading of section 30 of house file No. 4, when the house adjourned.

HOUSE.

Friday, February 3, 1877.

The house met at 10 a. m. and was called to order by the speaker.

Prayer by the chaplain.

Roll called, members all present.

Minutes read and approved.

Mr. Hexon asked to be excused from further services as chairman of the committee on enrollment. The request was granted and Mr. Coddington was appointed to fill the vacancy.

The committee on elections submitted the following report:

Mr. Speaker—The committee on elections, to which was referred the question involving the right of J. Q. Burbank to the seat in the house of D. M. Kelleher the sitting member from the seventh district, have had the same under consideration, and beg leave to present the following report:

The evidence presented to the committee tends to show that more votes were cast at Jamestown, Stutsman county, on the 7th day of November last than were legally present in the county on that day; yet there was no evidence presented showing that any person voted illegally at said election. Therefore, inasmuch as all, or nearly all the members of this house, heard the evidence and the arguments of the attorneys in the case, the committee report the same back to the house without recommendation.

C. H. Van Tassel, chairman; F. M. Ziebach, F. Taylor, W. F. Dunham, Asa Sargent, committee.

Mr. Sargent offered the following resolution:

WHEREAS, It appears from the testimony before the house that about one hundred illegal votes were cast on the 7th day of November, 1876, at Jamestown, Stutsman county, D. T., for D. M. Kelleher as representative from the 7th district; and

WHEREAS, It appears that John Q. Burbank received the highest number of legal votes from that district,

Be it Resolved, That John Q. Burbank is the legally elected member from the 7th district and is entitled to the seat.

On motion of Mr. Clarkson, the consideration of the matter was postponed until 2 p. m.

Mr. Stewart gave notice of a bill to establish a territorial road from Swan Lake to Sioux Falls.

Several council bills were read a second time and referred.

Council bill No. 22, a joint resolution relating to changing the time of meeting of the legislative assembly, and for an extra session in 1877, was, under a suspension of the rules, read a third time and passed.

House file No. 10, an act providing for the submission to the qualified voters of the respective counties of the territory the question whether license to sell intoxicating beverage shall be granted or refused in such counties, was referred to the committee of the whole having in charge house file No. 4, as a bill for a political code.

House file No. 53, a bill for an act to protect wild animals, fowls and insect destroying birds, was taken up and passed by a vote of 14 to 12.

House file No. 37, a bill for an act to provide for the location and improvement of certain highways from the Missouri river to the Black Hills of Dakota, came up for its third reading.

Mr. Burke offered amendments as follows: substitute three commissioners for six; give the commissioners a compensation of three instead of five dollars per day, and reduce the appropriation from five to three thousand dollars.

Mr. Thompson moved that the bill be referred to the committee on Ways and Means, but afterwards withdrew the motion.

The amendments offered by Mr. Burke were adopted, and the bill passed by a vote of 19 to 7.

Mr. Clarkson moved that the vote by which the bill passed be reconsidered and that the motion to reconsider lie on the table, which motion prevailed.

House file No. 34, a bill for an act to provide for the immediate immigration interests of Dakota territory, was read a third time and passed, by a vote of 14 to 12.

The house then took a recess until 2 p. m.

AFTERNOON.

The special order being the resolution offered by Mr. Sargent this forenoon, was taken up and read.

Mr. Adams offered the following as a substitute for Mr. Sargent's resolution:

WHEREAS, The report of the committee on elections states that no evidence was adduced to show that any illegal votes were cast at Jamestown, Stutsman county, on the 7th of November, 1876; and

WHEREAS, The rights of a sitting member can only be destroyed by evidence that he holds his seat by illegal votes, and as no such evidence has been presented in the case now under consideration; therefore,

Be it Resolved, That D. M. Kelleher, the sitting member, is rightfully entitled to his seat in this house as a member from the 7th legislative district.

Mr. Iverson moved the adoption of the substitute.

Mr. Thompson called for the reading of the testimony.

The motion to read was lost.

The question then recurred upon the adoption of the substitute offered by Mr. Adams.

The yeas and nays being called for the vote resulted as follows:

Yeas—Messrs. Adams, Burke, Beadle, Clarkson, Hackett, Inman, Iverson, Maywald, Soderstrom, Stewart, Tucker, Taylor, Van Tassel and Ziebach—14.

Nays—Messrs. Boe, Coddington, Dunham, Falde, Hopkins, Hexom, Myrom, Sellberg, Sargent, Thompson and Mr. Speaker—11.

So, the substitute was adopted.

Mr. Clarkson moved that the vote by which the resolution was adopted be reconsidered, and that the motion lie on the table.

Which motion, upon a call of the yeas and nays, was adopted by a vote of 15 to 10.

The house then went into committee of the whole, Mr. Coddington in the chair, and resumed the consideration of the political code.

After some time spent therein, the committee arose, reported progress, and asked leave to sit again.

The house then adjourned.

Council.

Saturday, Feb. 3.

Council met at ten o'clock and was opened with prayer by the chaplain.

Present—All the members.

Mr. Wallace asked that the journal be made to show that the floor was occupied by discussion when the council adjourned yesterday.

It was held that the journal as it stood showed that fact.

REPORTS OF SELECT COMMITTEES.

Mr. Bailey, from the finance committee, reported back council bill 30, to fix the rate of tax for territorial purposes for the years 1878 and 1879, and provide for the levy of the same, with the recommendation that the words "for the years 1878 and 1879" be stricken out and that the bill thus amended be passed. The bill provides for a levy of five mills on the dollar of the assessed valuation of this territory.

Mr. Gunderson, from the committee on highways, bridges and ferries, reported back council bill 27, to establish a territorial road from Firesteel to Fort Thompson, with the recommendation that the same be indefinitely postponed.

MOTIONS AND RESOLUTIONS.

Mr. Valentine moved to reconsider the vote by which house file 22 was amended yesterday, whereby the name of Lawrence county was changed to Crook county. He stated that he labors under a misapprehension yesterday when he proposed the amendment. The motion prevailed and the amendment to the bill was laid on the table, by unanimous vote.

INTRODUCTION OF BILLS, ETC.

Mr. Potter introduced a bill to authorize the county commissioners of Yankton county to find out the standing indebtedness of the county and for other purposes. The bill had two readings and was ordered printed and was referred to the committee on counties, consisting of Messrs. La Moure, Potter and Miner.

READING OF BILLS.

Council bill 30, relating to the rate of territorial taxation and fixing that rate at five mills on the dollar, was brought up and had its second and third readings.

Mr. Pettigrew moved to amend the bill by inserting the words "three mills" in the place of the words "five mills."

Mr. Miser moved to amend the amendment by inserting the words "two mills" in place of the words "three mills."

The bill and its proposed amendments were discussed at length by Messrs. Miner, Burleigh, Pettigrew, Bailey, Back, Wallace, Wilson, and Valentine.

Mr. Miser's amendment was lost.

Mr. Bailey moved that Mr. Pettigrew's amendment be amended by striking out the words "three mills" and inserting the words "four mills." Adopted.

Mr. Pettigrew's amendment, as amended, fixing the rate of tax at four mills was lost.

Mr. Bailey moved the previous question. The bill was read by its title and the vote was taken resulting in the rejection of the bill. Yeas—Messrs. Bailey, Potter, Wilson, and Mr. President—4; nays—Messrs. Back, Duncan, Gunderson, La Moure, Miser, Mills, Pettigrew, Valentine, and Wallace—9.

A message was received from the house announcing the passage of council bill 24 and house files 33, 34 and 37.

Mr. Wilson, from the committee on territorial affairs, reported back council bill 23, with a recommendation that it pass. Mr. Wallace gave notice of his intention to present a minority report.

House file 23, special order, was called up and read at length. The bill provides for the establishment of boundaries for Black Hills counties and the names thereof.

On motion of Mr. Bailey the bill was

Mr. Bailey demanded the previous question on the passage of the bill and the demand was sustained.

The bill was then passed, Mr. Minor voting in the negative and the balance of council in the affirmative.

On motion of Mr. Pettigrew the vote by which the bill was passed was reconsidered and the motion to reconsider was laid on the table.

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

House.

Saturday, Feb. 3, 1877.

House met at 10 o'clock, and was called to order by the speaker.

Prayer by the chaplain.

Roll called, members all present.

Minutes read and approved.

A communication was received from the secretary of the territory in regard to the recording of the proceedings of the house, requesting that the house take such action as may be necessary to procure the completion of records by the date of adjournment.

On motion of Mr. Iverson, it was voted that the several assistant clerks of the house report to the chief clerk at the morning hour for assignment to such work as he may have for them.

Mr. Dunham, from the committee on counties and townships, reported back chapter 5, 23 and 25 of house file No. 4, with amendments and recommended their passage. The report was referred to the committee of the whole, having in charge house file No. 4.

Mr. Coddington, from the committee on agriculture, reported that the committee examined house files Nos. 21, 28, 29 and 30, and found them correctly enrolled.

Mr. Hopkins, from the committee on agriculture, reported back house file No. 6, to exempt parts of Richland and Cass counties from the operations of the herd law, recommending its passage.

Mr. Iverson, from special committee reported back with amendments, chapter 42 of house file No. 4, relating to fees of officers, recommending its passage. The report was referred to the committee of the whole having that bill under consideration.

On motion of Mr. Hackett, chapter 7, 8 and 30 of house file No. 4, to the committee on engrossment.

NOTICES OF BILLS.

By Mr. Falde—Relating to delinquent taxes in Lincoln county.

By Mr. Sargent—To authorize school district No. 1 of Grand Forks county to issue school district bonds.

By Mr. Inman—A memorial to the postmaster general asking that mail service be ordered on the route between Vermillion and Sioux Falls.

INTRODUCTION OF BILLS.

By Mr. Thompson—Fixing the time for the election of county officers and for other purposes. The bill was read a first and second time and ordered printed.

By Mr. Stewart—To establish a territorial road from Swan Lake to Sioux Falls.

Council bill No. 14, to provide for funding the outstanding indebtedness of the Minnehaha and Lincoln counties, was read a second time and referred to the committee on ways and means.

House file No. 39, providing for the registration of voters, was read a second time, and referred to the committee on elections.

House file No. 10, providing for submitting the question of license to sell liquor to a vote of the people, was read a third time, and on motion was laid upon the table.

House file No. 6, to exempt Cass and Richland counties from the herd law, was read a third time and the question being on its passage the bill was passed by a vote of 14 to 9.

The house then took a recess until 2 p. m.