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YANKTON, DAKOTA TERRITORY, THURSDAY EVENING, FEBRUARY 8, 1877.

No. 243.

THE DAKOTA LEGISLATURE.

TWELFTH SESSION.

Council.

Wednesday, Feb. 7.

The council met at ten o'clock a. m., and was opened with prayer by the chaplain. All the members were present.

L. D. F. Poore, of Springfield, was, on motion of Mr. Mills, invited to a seat within the bar of the council.

PETITIONS AND COMMUNICATIONS.

Mr. Wallace presented a petition from parties in Union county, representing some \$300,000 worth of property, asking that house file 26, a bill giving authority to build a bridge across the Big Sioux, be not passed, and on motion of Mr. Wallace the bill was indefinitely postponed, and a motion to reconsider was laid on the table.

REPORTS OF COMMITTEES.

Mr. Wilson, from the committee on territorial affairs, reported back council bill 28, with a recommendation that it pass.

House file 33 was reported back from committee with a recommendation that it do not pass.

Mr. Duncan, from the committee on expenditures, reported back house file 26, with a recommendation that it be indefinitely postponed.

Mr. Mills, from the committee on enrollment, reported back council bill 38, with recommendation that it pass.

Mr. Wilson, from the committee on territorial affairs, reported back house file 34, with a recommendation that it pass.

COUNCIL BILLS.

Mr. Bailey introduced a memorial to congress remonstrating against the establishment of a new territory out of the Black Hills portion of Dakota. Under a suspension of the rules the memorial was passed, Mr. Back alone voting in the negative.

Mr. Pettigrew introduced council bill 41, to preserve fish in the waters of Lake county. Also council bill 42, to locate a territorial road from the west line of Minnesota to Ft. Thompson. Referred to their appropriate committees.

The bill for the protection of game, etc., had a third reading, and was, on motion of Mr. Pettigrew, indefinitely postponed.

Council bill 33, exempting the counties in the Black Hills from the provisions of the herd law, was passed, Messrs. Back and Mills voting in the negative.

Council bill 39, to amend chapter fifteen of the local laws of 1874-5, relating to the preservation of fish, was passed, Messrs. Back, Gunderson and Valentine voting in the negative.

HOUSE BILLS.

House file 26 was called up by Mr. Wallace, who moved the adoption of the report of the committee thereon, and that the bill lie on the table. This bill authorizes the commissioners of Union county to aid in rebuilding the bridge across the Big Sioux river.

House file 34, to provide for the immediate immigration interests of Dakota Territory, was taken up and rejected by the following vote: Ayes—Messrs. Pettigrew, Wilson 2; noes—Messrs. Back, Bailey, Duncan, Gunderson, La Moure, Miner, Mills, Potter, Valentine, Mr. President—10.

House file 35, the justice code, was taken up and passed with its several amendments, by the following vote: Ayes—Messrs. Bailey, Duncan, La Moure, Mills, Pettigrew, Valentine, Wallace, Mr. President—8; noes—Messrs. Back, Gunderson, Miner, Potter, Wilson—5.

House.

(Continued from yesterday.)

Wednesday, Feb. 7.

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

Prayer by the chaplain.

Roll called; three members absent.

Minutes read and approved.

Mr. Coddington called up the contest case of Burbank vs. Kelleher.

A call of the house was ordered, and the roll being called, three members were found to be absent.

The sergeant-at-arms brought in the absentees.

Mr. Soderstrom, being absent when the evidence in the case was read on Monday, it was moved and carried that all the evidence be re-read.

Accordingly the clerk commenced reading, and after having read for a short time, Mr. Beadle moved that the further reading of evidence which has been once read before the house be dispensed with, and called the previous question, pending the seconding of which a call of the house was had and the absentees brought in. The previous question was seconded, and a vote being taken upon the main question, the motion was lost.

The clerk then proceeded to read.

A message from the council informed the house that the council had passed council bill No. 19, to amend an act to incorporate the city of Fargo.

Council bill No. 59, to empower the commissioners of Union county, Dakota Territory, to appoint a drainage commission for the county.

Council bill No. 33, to authorize the commissioners of Yankton county the fund the outstanding indebtedness of said county and for other purposes.

Also, council bill No. 40, a memorial remonstrating against the establishment of a new territory out of the Black Hills.

On motion of Mr. Beadle the rules were suspended, the memorial passed through its several readings and passed.

A message was received from the governor in which he informed the house that he had approved house bills No's 2, 18, 19, 21, 23 and 27.

At the conclusion of the reading of the evidence for the contestant, the house took a recess until 1 1/4 p. m.

AFTERNOON SESSION.

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

On motion of Mr. Coddington a call of the house was ordered, and the roll being called Messrs. Adams, Beadle, Clarkson, Inman, Iverson and Van Tassel were absent.

The sergeant-at-arms was directed to close the doors, and bring in the absentees, but before the doors were closed Messrs. Adams and Van Tassel came in.

Messrs. Beadle and Inman were brought in, and upon being arraigned the former gave sickness as his excuse for absence, and the latter that he had accompanied a friend to the U. S. jail to see McCall. The gentlemen were excused.

On motion of Mr. Thompson, further proceedings under the call were dispensed with, and the reading of the testimony in the case of Burbank vs. Kelleher was proceeded with. At the conclusion of the reading of the evidence in the hands of the clerk it being stated that the evidence was not all that taken before the committee, it was moved and carried that those witnesses whose testimony was not taken down by the clerks, should be examined before the house, and the that attorneys for the respective parties to the contest should be present and conduct the examination.

The sergeant-at-arms was instructed to notify the attorneys, Messrs. Tripp and Spink, of the action of the house.

Before the appearance of the attorneys, on motion the resolution to examine witnesses before the house was reconsidered, and the resolution rejected.

After remarks by a number of gentlemen, a vote of the house was taken upon the following resolution offered by Mr. Adams on Friday last, on which day it was adopted by the house, and a motion made and carried to reconsider the vote and the motion to reconsider laid upon the table, to wit:

WHEREAS, The report of the committee on elections states that no evidence was adduced to show that any illegal votes were cast at Jamestown, Sully 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.

The ayes and noes being called for the vote resulted as follows:

Those who voted in the affirmative were Messrs. Adams, Burke, Clarkson, Hackett, Inman, Iverson, Maywald, Soderstrom, Stewart, Taylor, VanTassel and Ziebach—12.

Those voting in the negative were, Messrs. Boe, Beadle, Coddington, Dunham, Falde, Hexom, Hopkins, Myron, Sellberg, Sargeant, Tucker, Thompson and Mr. Speaker—13.

So the resolution was lost.

Mr. Coddington introduced a resolution that J. Q. Burbank be entitled to his seat now occupied by D. M. Kelleher, which was adopted by a vote of 13 to 12.

Mr. Burbank then came forward and was sworn in by Judge Bennett. The house then adjourned.

Thursday, Feb. 8, 1877.

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.

REPORTS OF COMMITTEES.

The committee on counties and towns reported back council bill No. 15, to extend the time of paying the taxes of 1876, in Minnehaha county, without penalty or interest, with amendments, and recommended its passage.

The committee on education reported back and recommended the passage of house file No. 43, to authorize school district No. 1 of the county of Grand Forks to issue bonds for the purpose of funding its outstanding indebtedness.

The special committee on immigration reported back council bill No. 16, for an act to establish a territorial board of immigration, and recommended that the bill go to a third reading.

The committee on enrollment reported house file No. 37 correctly enrolled.

MOTIONS AND RESOLUTIONS.

Mr. Inman moved that the vote by which house file No. 33, defining the duties of the county commissioners of Bon Homme county in certain cases, was rejected, be reconsidered.

The motion was carried, and the question then being, shall the bill pass, the same was passed by a vote of 18 to 7.

NOTICES OF BILLS.

By Mr. Falde—To provide for the payment of delinquent taxes in the county of Lincoln.

By Mr. Hopkins—Changing the boundaries of Hamlin county and creating the county of Coddington, and for other purposes.

By Mr. Ziebach—To regulate allowance for attorneys fees in certain cases, to require plaintiffs in civil actions to give security for costs;

Also, for the assessment and taxation of dogs and the protection of sheep and goats.

By Mr. Adams—To strike out the word "Union" in section 11, chapter 74, laws of 1875-5.

The amendments of the council to house bill to amend the charter of Bismarck, were, together with the bill, referred to the judiciary committee.

COUNCIL BILLS.

No. 12, to regulate the mode of procedure in cases of contested elections of members of the legislative assembly, was read a first time.

No. 19, to incorporate the city of Fargo, was read a first time.

No. 33, authorizing the commissioners of Yankton county to fund the outstanding indebtedness of said county and for other purposes, was read a first time, and the rules being suspended, read a second time, and being amended was read a third time and passed.

No. 35, exempting the counties of Lawrence, Pennington and Custer from the provisions of the herd law, was read three times and passed.

No. 16, to establish a territorial board of immigration, was read a third time, and made the special order at 2 p. m.

No. 15, to extend the term of paying the taxes of 1876 in Minnehaha, Clay, Turner, Lincoln and Lake without penalty or interest, was taken up, the amendments of the committee adopted, and the bill being put upon its passage was defeated by a vote of 16 to 9.

HOUSE BILLS.

No. 45, a memorial to the postmaster general to order service on the mail route from Vermillion to Sioux Falls, was read a second and third time and passed.

No. 43, to authorize school district No. 1 of the county of Grand Forks to issue bonds for the purpose of funding outstanding indebtedness, was read a third time and passed.

A message informed the house that the council had passed house files Nos. 38 and 85; that Nos. 26 and 33 were indefinitely postponed, and that No. 34 was defeated.

The house then went into committee of the whole, Mr. Clarkson on the chair, and resumed the consideration of the code of civil procedure.

After some time spent therein the committee rose, reported sundry amendments, and recommended that the amendments be adopted and the bill passed.

The house members of the joint committee on apportionment, was increased to nine members.

The house then took a recess until 3 p. m.