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YANKTON, DAKOTA TERRITORY, MONDAY EVENING, FEBRUARY 12, 1877.

No. 246.

THE DAKOTA LEGISLATURE.

TWELFTH SESSION.

Council.

Saturday, Feb. 10.

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

Present—All the members except Messrs. Valentine and Mills.

COMMITTEE REPORTS.

Mr. Miner, from the judiciary committee, reported back council bill 36, to amend section 7 of chapter 55 of the laws of 1874, and '75 with recommendation that it pass.

Mr. Wilson, from the committee on agriculture, reported back council bill 47, for the encouragement of agriculture, with a recommendation that it do not pass.

Mr. Bailey, from the select committee to whom was referred house file 12, reported it back with amendments.

COUNCIL BILLS.

Council bill 36, to amend section 7, of chapter 55 of the laws of 1874-5, came up on its third reading. This bill provides for the removal of the United States court from Fargo to Bismarck.

Mr. Back endeavored to have the bill laid over and made a special order for Monday morning, but failed.

The bill being on its engrossment a vote was taken and the council voted against its engrossment.

Mr. La Moure moved that the bill be put upon its third reading and passage. Adopted.

The bill was read a third time.

Mr. Wallace moved a call of the house. The call showed that Messrs. Back, Bailey, Duncan, Gunderson, La Moure, Miner, Pettigrew, Potter, Wallace, Wilson, and Mr. President were present.

On motion of Mr. La Moure a further call of the house was dispensed with.

Mr. Wallace moved that Mr. Wilson be excused from voting on the passage of this bill. The motion was lost. Mr. Wilson being among those who voted in the negative.

Council bill 36 passed by the following vote:

Ayes—Messrs. Bailey, Duncan, Gunderson, La Moure, Miner, Pettigrew, Potter, Wilson, Mr. President—9.

Noes—Messrs. Back, Wallace. Absent and not voting, Messrs. Mills and Valentine.

Council bill 47, to encourage agriculture, was indefinitely postponed.

HOUSE BILLS.

House file 46, to provide for the payment of delinquent taxes in Lincoln county, was referred to the finance committee.

House file 47, to change the boundaries of Hamlin county and to create the county of Coddington, was referred to the committee on counties.

UNFINISHED BUSINESS.

House file 12, the code of civil procedure, was brought up and various amendments were adopted, after discussion.

On motion the council took a recess to two o'clock.

AFTERNOON SESSION.

Mr. Bailey moved the previous question on house file 12, the code of civil procedure and his motion was adopted.

Messrs. Back and Duncan asked to be excused from voting for the reason that the bill had not been read at length and they did not understand it. They were excused.

Messrs. Pettigrew and Wallace were also excused from voting, on their requests.

The bill was then adopted by the following vote: Ayes—Messrs. Bailey, Gunderson, La Moure, Miner, Potter, and Mr. President—6.

On motion, the Yankton county delegation was constituted a committee on conference on the bill providing for the funding of the outstanding indebtedness of Yankton county, to act with a like committee of the house.

Council bill 31, to regulate the time for burning prairies, was called up, read a third time and passed by the following vote: Ayes—Messrs. Back, Bailey, Duncan, Gunderson, Miner, Potter, Wallace—7; noes—Messrs. La Moure, Pettigrew, and Mr. President—3; absent—Messrs. Mills, Valentine, and Wilson—3.

Council bill 23, referring to the same subject was indefinitely postponed.

A message was received from the house giving notice that the house refused to concur in certain council amendments to the civil code and that a committee of conference had been appointed. The council voted to adhere to its amendments and Messrs. Pettigrew, Bailey and Miner were appointed as a conference committee on the part of the council.

The council then adjourned.

Monday, Feb. 12.

The council met at ten o'clock, a. m. Prayer by chaplain.

All members present except Mr. Wilson and Mr. La Moure.

REPORTS OF COMMITTEES.

Mr. Bailey from the finance committee, reported back house file 46; to provide for the payment of delinquent taxes in Lincoln county, with a recommendation that the bill pass.

Mr. Bailey, from the judiciary committee, made a majority report on council bill 45. They reported the bill without recommendation.

Mr. Miner, chairman of the committee, objected to the reading of the report. The bill establishes the boundaries of judicial districts of Dakota territory. The report was received.

COUNCIL BILLS.

Mr. Potter introduced council bill 45, to regulate ferry fees between Bismarck and Fort Lincoln, and between Point Pleasant and Fort Lincoln. Referred to the committee on territories.

Mr. Potter introduced council bill 49, to provide a revenue law for the counties of Dakota and for the collection thereof. Referred to the committee on territories.

Mr. Miner moved a call of the house but the motion was lost.

Mr. Wallace introduced council bill 50, to legalize certain acts of J. F. Folsom, as notary public. Referred to the committee on education.

Mr. Mills from the committee on enrollment reported that council bill 28 had been correctly enrolled.

Council bill 45, came up for its third reading but the clerk reported that it had not been returned from the committee.

Mr. Miner stated that the committee had not agreed upon a report when they last met and he had left the bill at his room. He left the council chamber and went for the bill.

With the understanding that when the bill was returned it would be brought up for action, the council passed to the next regular order.

HOUSE BILLS.

House file 57, to repeal chapter 70 of the laws of 1874-5 so far as it effects Hutchinson Richland and Trail counties, had its first reading and was referred to the judiciary committee.

House file 42, to provide a method for contesting the elections of county officers, had its first reading and was referred to the committee on elections.

House file 46, to provide for the payment of delinquent taxes in Lincoln county, had its third reading and was passed by a unanimous vote.

UNFINISHED BUSINESS.

Council bill 19, to incorporate the city of Fargo, returned from the house with certain amendments, was taken up and, on motion of Mr. Back, the amendments were non-concurred in.

Mr. Pettigrew called up council bill 45.

Mr. Miner presented a report on the bill, signed by himself as chairman, returning the bill without recommendation, his report being similar to the one made by the other members of the committee earlier in the day.

Mr. Pettigrew moved the previous question and his motion was sustained. The bill then passed by the following vote:

Ayes—Back, Bailey, Duncan, Mills, Pettigrew, Valentine, Wallace—7; noes—Gunderson, Miner, Potter, Mr. President—4; absent—La Moure and Wilson.

On motion of Mr. Pettigrew, the vote was reconsidered and the motion to reconsider laid on the table.

The following is the bill as it passed the council:

A bill for an act to establish the boundaries of the judicial district of this territory:

Be it enacted by the Legislative Assembly of the Territory of Dakota:

Section 1. That all that portion of the territory of Dakota west of the right bank of the Missouri river at low water mark and south to the forty-sixth parallel of latitude, shall constitute the first judicial district.

Sec. 2. All that portion of this territory north of the forty sixth parallel of latitude shall constitute the third judicial district.

Sec. 3. All that portion of that territory not embraced in the first and third judicial districts shall constitute the second judicial district.

Sec. 4. All criminal cases in which the United States is a party, shall be tried and disposed of in the court of the district in which they are now pending unless the place of trial shall be changed as provided by law.

Sec. 5. The district court in and for the third judicial district shall be held at Bismarck, in the county of Burleigh, on the second Tuesday of May, and third Tuesday of September of each year.

Sec. 6. The district court in and for the second judicial district, shall be held at Yankton, in Yankton county on the second Tuesday of April, and October of each year.

Sec. 7. The district court in and for the first judicial district shall be held at the county seat of Lawrence county on the first Tuesday of May and October of each year.

Sec. 8. The district courts mentioned in this act shall exercise the power pertaining to district and circuit courts of the United States for the several districts in which they are located.

Sec. 9. Chapter 55, laws of 1874-5, and all acts and parts in conflict with the provisions of this act are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its passage and approval, and the ratification by congress of the agreement with the Sioux Indians ceding the Black Hills.

On motion of Mr. Wallace the rules were suspended and council bill 50, to legalize acts of Mr. Folsom, as notary public was passed by a unanimous vote.

The council took a recess to two p. m.

House.

Saturday, Feb. 10, 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.

REPORTS OF COMMITTEES.

Mr. Coddington from enrollment committee reported that he had presented to the governor for his approval house files Nos. 22 and 37.

The same gentleman, from the committee on ways and means, to whom had been referred the reports of the territorial auditor and treasurer, made the following report:

MR. SPEAKER.—Your committee of ways and means to whom were submitted the reports of the auditor and treasurer, beg leave to submit the following report:

We have carefully examined said reports and by a thorough investigation of the books and accounts of both officers, we have been able to determine in addition to former reports from this committee the following:

Warrants outstanding Jan 1, 1877 \$12,343.69

Cash in treasury..... 968.22

Balance..... \$11,375.40

Assessed valuation of 15 counties heard from by the auditor of 1870. \$6,670,818 25
Amo tax levied on the same at 4 mills. 26,719 30

The counties of Burleigh, Grand Forks, Traill, Richland and Pembina, which have formerly reported, are not included in the above returns of assessments.

G. S. CODDINGTON, Chairman.
Mr. Beadle, from the judiciary committee, reported back house file No. 42, to provide for contesting the election of county officers and to prescribe the manner of proceeding therein, with amendments, and recommended its passage.

NOTICES OF BILLS.

By Mr. Hexom—Providing for a special election in Cass and Richland counties regarding the herd law.

By Mr. Thompson—To amend section 128 of the justice's code.

INTRODUCTION OF BILLS.

By Mr. Inman—To incorporate the city of Vermillion.

By Mr. Clarkson—A memorial for relief of settlers upon the extension of Yankton Indian reservation, read first and second times and referred to committee on counties and townships.

By Mr. Hagle—To repeal chapter 7 of the laws of 1871-5, relating to a numerical index.

By Mr. Hackett—To attach certain counties unorganized for election purposes.

On motion, the rules were suspended and the bill read a second time, and amended so as to include the counties of Richland and Traill; the bill was then read a third time and passed.

Mr. Hagle also introduced a bill to define the liabilities of counties for the payment of costs in certain cases, which was read a first and second time and referred to the committee on judiciary.

The house refused to concur in the council amendments to house file No. 33, the bill in relation to bonding the indebtedness of Yankton county.

A message from the council informed the house that the council had refused to concur in the house amendments to council bill No. 33.

Also, that the council had passed council files Nos. 34, 42, 41, 35 and house files Nos. 45 and 1, the latter with amendments.

The house non-concurred in the council amendments to house file No. 1, a bill for a civil code.

The house voted to have a night session commencing at 7 o'clock.

The house then took a recess until 2 p. m. Monday Feb. 12.

The house met at 9 o'clock, a. m. and was called to order by the speaker.

Prayer by the chaplain.

Roll called; absent, Messrs. Hopkins,

Iverson, Maywald, Sargeant.

Minutes of Saturday read and approved.

REPORTS OF COMMITTEES.

Mr. Clarkson from the committee on education reported back house file No. 59, to provide for the assessment and taxation of dogs and the protection of sheep and goats and recommended that the bill do not pass.

Mr. Dunham, from the committee on counties and townships reported house file No. 55, a memorial asking that certain portions of the Sioux reservation in Charles Mix and Brule counties be opened to settlement; also, house file No. 34, creating new counties, and defining the boundaries thereof, and recommended their passage.

Mr. Adams, of the Union county delegation, to which had been referred council bill No. 29, providing for the appointment of a drainage commission in Union county, reported the same back and recommended that it be indefinitely postponed.

Mr. Coddington, from the joint committee had prepared a bill, and that it would be presented to the house through the council.

Mr. Thompson moved that the vote by which council bill No. 15, extending the time of paying taxes in Minnehaha county, was rejected be reconsidered. After some discussion the further consideration of the matter was postponed until Wednesday.

Mr. Ziebach gave notice that he would on to-morrow or some subsequent day of the session introduce a bill for an act allowing actions to be commenced and prosecuted against the territory of Dakota.

Mr. Coddington gave notice that the committee on ways and means would introduce a bill relating to the appropriation of territorial funds.

INTRODUCTION OF BILLS.

By Mr. Iverson—For an act to regulate passenger and freight tariffs of railroads within the territory of Dakota. Also for an act to legalize the action of the board of county commissioners of Yankton county in settling with the bondsmen of O. F. Odell.

Mr. Hexom—For an act authorizing a special election in the counties of Cass and Richland in regard to the herd law act of 1870-1.

Mr. Hackett—For an act authorizing the county commissioners of Burleigh county to fund the outstanding indebtedness of said county. Also for an act to provide a school fund and building for school district No. 1, Burleigh county, D. T.

Mr. Burbank—For an act for the preservation of fish in the waters of the streams of Richland county.

COUNCIL BILLS.

No. 34, providing for the publication of the decisions of the supreme court, was read a second time and on motion of Mr. Clarkson was referred to the committee on judiciary.

No. 35, a bill to establish courts in the counties of Lawrence, Pennington and Custer, was read a second time and referred to the committee on counties and townships.

No. 41, for the preservation of fish in the waters of Lake county, was read a second time, the rules suspended, read a third time and passed.

No. 42, to locate a territorial road from the west line of the state of Minnesota to Fort Thompson, by way of Fall Rapids, Madison and Hermin, was read a second and third times, and the question being on its passage, it was lost by a vote of 16 to 8.

HOUSE BILLS.

No. 54, defining the duties of the county commissioners of Union county in certain cases, was read a second time.

No. 56, to attach the county of Morton to Burleigh county for election purposes, was read a second and third times and passed.

No. 59, to amend section 138 of the act to establish a code of proceedings in courts of justices of the peace, was read a second time and referred to the committee on judiciary.

No. 24, creating new counties and defining the boundaries thereof, was read a third time and passed.

The country included in these counties is that portion of the territory lying between the counties of Rosk, Morton and Boseman and the Montana boundary, and between the fourth and tenth standard parallels. The counties are named, Emma, Ida, Nellie, Falde, Hagle and Var (Tassel).
No. 50, relating to dogs, she dogs, and sheep and goats, was indefinitely postponed.

No. 55, relating to the Indian reservation in Charles Mix and Brule counties, was read a third time, and passed.

On motion of Mr. Beadle the vote by which house file No. 33, relating to a registry law, was rejected several days ago, was reconsidered; the bill was then slightly amended and passed.

Mr. Burbank moved that council bill No. 10, a bill to exempt Burleigh and Morton counties be taken from the table. The motion was lost.

MESSAGES FROM THE COUNCIL.

A message from the council informed the house that the council refused to concur in the house amendments to council bill No. 19 to amend an act incorporating the city of Bismarck.

Also, that the council had passed council bill No. 45, an act to establish the boundaries of the judicial districts of the territory.

Also, council bill No. 31, to regulate the time for burning prairies.

That the council adheres to its amendments to council file No. 33, relating to bonding the indebtedness of Yankton county.

And also to its amendments to house file No. 1, a bill for a civil code, and appointed as a conference committee Messrs. Bailey, Pettigrew and Miner.

The house took up the message from the council and refused to recede from its amendments to the bill incorporating the city of Fargo.

The house then took up council No. 45, defining the boundaries of judicial districts, and the bill was read a first and second times and referred to the committee on judiciary.

The house then went into committee of the whole.

Mr. Clarkson, in the chair, on house file No. 4, being the political code.

After some time spent therein the committee rose and the house took a recess until 2 p. m.