

Daily Press and Dakotian.

Volume 4.

YANKTON, DAKOTA TERRITORY, FRIDAY EVENING, FEBRUARY 21, 1879.

Number 255

DAKOTA LEGISLATURE.

Thirtieth Session—Daily Report of the Proceedings of the Council and House of Representatives.

THIRTY-NINTH DAY.

GENERAL COMMENTS.

Brown's consolidation bill passed the council to-day, and now goes to the governor for his action. Its provisions were unchanged from the shape in which they were placed by the house. The bill permits the people of Hanson and Davison counties to vote upon the proposition for consolidation, and prohibits the people of Armstrong and Hutchinson counties from so voting, making the consolidation of the last two counties mandatory. People may wonder how so inconsistent a bill has passed the legislature. If the history of the scheming and wire-pulling which has characterized the progress of this measure could be laid bare it would reveal the secret of its final success. Brown has given away everything else that he might fasten upon a portion of his constituency an obnoxious measure, in the very teeth of their earnest protests; and the legislature of Dakota has aided his iniquitous scheme. He feels to-day puffed up and proud of his great victory over right and justice, but the certain day of reckoning will come to this mistaken "statesman," when the heat of the contest has cooled, and an outraged people sit in righteous judgment upon his forty days' work. We have no further strictures to make upon this wonderfully inconsistent enactment. It is the achievement of a man who has made himself the willing tool of more able schemer than he might carry out his designs against the people of Armstrong county. A fund is being raised to contest the law (should it become such) in the courts of the territory, and the end is not yet.

THE COUNCIL.

Friday, February 21.—Council met at 10 o'clock, a. m., and was called to order by the president.

Prayer by the chaplain.

Roll called; members all present.

The minutes of yesterday's session were read and approved.

REPORTS OF COMMITTEES.

Mr. Ellis, from the committee on counties, reported back house file No. 53, being Brown's county bill, without recommendation, which report represented the majority of the committee, Mr. Ellis stating that as the minority of the committee he was in favor of having the question submitted to a vote of the people.

Mr. Kuykendall, from the committee on mines and mining, reported house file 105, without recommendation.

Mr. Roberts, of the judiciary committee, reported back a large number of bills which had been referred to that committee.

Mr. Valentine, from the joint committee on enrollment, reported that he had presented to the governor a number of bills which had passed the house.

Mr. MacNider reported a large number of bills as correctly enrolled.

Mr. Cuppett reported house file 51 with amendments and recommended its passage.

INTRODUCTION OF BILLS.

Mr. Day asked and obtained leave to introduce a bill to amend section 3 of chapter 39 of the political code. The bill provides an annual salary for the territorial treasury of \$600 and \$50 a year for office rent and incidentals.

The bill was amended so as to include the territorial auditor, giving to him the same salary.

After a great many motions tending to defeat the bill had been made and lost, the roll was called upon its passage, and it was lost by a vote of ayes 6, noes 7.

Mr. Wynn, by consent, introduced a bill to amend section 15 of chapter 39 of the political code, fixing the salary of probate judges in counties having over 5,000 inhabitants at \$200 a year, which was read a first time.

MESSAGE FROM THE HOUSE.

A message announced the passage by the house of certain bills.

MESSAGE FROM THE GOVERNOR.

The governor sent in a message announcing his approval of the following council bills:

No. 52—Providing a board of education for the village of Sioux Falls.

No. 58—Authorizing the appointment of a fire warden in the town of Deadwood.

No. 65—For the relief of Lawrence county.

No. 93—Providing a board of education for the city of Fargo.

No. 86—Amending the act incorporating the city of Bismarck.

No. 104—Providing the amount of time for which the assistant clerks of the council and house shall be paid.

THIRD READING OF BILLS.

Council bill 102, providing for a general term of the district court in Lincoln county was, on motion of Mr. Cuppett, indefinitely postponed, on the ground that the provisions of the bill are incorporated in a general measure.

Council bill 105, increasing the compensation of county treasurers. Passed.

Council bill 119, to amend section 5 of chapter 17 of the political code. Passed.

Council bill 120—To amend section 413 of the civil code, relating to the personal responsibility of stockholders in public corporations. Passed.

MESSAGE FROM THE HOUSE.

A message informed the council of the passage by the house of house file 105, fixing the county seat of Turner county; and concurrence in council amendments to house files 61, 73 and 81.

SPECIAL ORDER.

House file No. 67, providing for the

changing, continuing and discontinuing of public highways, having been made a special order at 11 o'clock was taken up, and after some discussion, indefinitely postponed.

HOUSE BILLS.

No. 29—To restore to the code the provision prohibiting Sunday travel, was indefinitely postponed.

No. 84—Authorizing certain counties in northwestern Dakota to issue bonds for railroad purposes, referred to the committee on railroads.

No. 88—To allow the commissioners of Yankton to fund warrants excluded under the former funding law. Passed.

No. 90—Providing compensation for attorneys in certain cases; referred to the committee on finance and expenditures.

No. 83—To attach the county of Kingsbury for election purposes; to the committee on counties.

No. 95—To amend 647 of the civil code; to the judiciary committee.

No. 100—To re-establish the boundaries of Hamlin county; to the committee on counties.

No. 102—To fund the outstanding indebtedness of Pennington and Custer counties; to the judiciary committee.

No. 106—Locating the county seat of Turner county; referred to the members of the council from Lincoln and Turner counties.

THIRD READING OF BILLS.

House file No. 10—Providing for terms of the supreme court, came up for its third reading.

Mr. Kuykendall moved as an amendment that one term of the supreme court shall be held annually at Deadwood, which amendment was adopted—ayes 7, noes 6.

The bill then passed by the same vote by which the amendment was adopted.

House file 51—A bill for an act to regulate the sale of intoxicating liquors.

Mr. Wynn moved to make the "special order of the day at 11 o'clock on Monday next," which was amended by Mr. Cuppett making it the special order at 2 o'clock this afternoon. The amendment and original motion were lost.

On motion of Mr. Roberts, the amendments proposed by the committee of the council to which it had been referred, were adopted.

The bill was then read a third time at length.

Mr. Day spoke against the bill and asked leave to offer an amendment making the maximum license \$500 instead of \$1,000, but objections were made, and the amendment was ruled out.

Mr. Kuykendall moved to recommit the bill to the committee on finance and expenditures, which motion was lost.

On motion of Mr. Pettigrew, the further consideration of the bill was made a special order in committee of the whole, at 2½ o'clock this afternoon.

MESSAGE FROM THE HOUSE.

A message from the house announced the passage of council bills 98, providing for the sale of unclaimed property; 114, amend-

ing section 703 of chapter 56 of the penal code; 124, relating to toll roads; 124, fixing the jurisdiction of justices of the peace in the town of Grand Forks; 116, amending the law establishing the insane hospital; also, the passage of council bill 118, providing for the education of deaf, dumb and blind persons, with amendments.

On motion of Mr. Edmunds, the amendments to council bill 118 were concurred in.

THIRD READING RESUMED.

House file No. 53, being the bill to consolidate certain Jim river counties, came up for its third reading.

Mr. Edmunds moved to adopt the minority report of the committee on counties, recommending that the question be submitted to a vote of the people.

Which motion was lost—ayes 5, noes 8. A motion by Mr. Day to make the bill a special order at 3 o'clock this afternoon, was lost by the same vote.

The rules were then suspended, the bill read a third time, and passed by the following vote:

Ayes—Messrs. Cuppett, Kuykendall, MacNider, Pettigrew, Roberts, Rohr, Valentine and Mr. President—8. Noes—Messrs. Day, Edmunds, Ellis, Miner and Wynn—5.

House file No. 97, relating to the subdivision of judicial districts, was laid over until this afternoon.

A BILL.

Mr. Pettigrew wanted to introduce a bill to amend chapter 39 of the political code, but objections were made and the bill didn't see the light.

RECESS.

At one o'clock p. m. the council took a recess until 2½ o'clock p. m.

AFTER RECESS.

The council met at 2½ o'clock p. m., and was called to order by the president.

MESSAGE FROM THE HOUSE.

A message announced the passage by the house of council bill No. 99, incorporating the city of Sheridan, with an amendment changing the name to Gray City.

On motion of Mr. MacNider the amendment of the house was amended by striking out "Gray City" and inserting "Mandan."

The council was also informed that the house had passed the following resolution:

Resolved, By the house the council concurring, that a joint committee of three members of the house and two members of the council, to be appointed by the speaker of the house and president of the council to report a deficiency appropriation bill.

On motion, the resolution was concurred in, and Messrs. Pettigrew and Miner were appointed as the council members of the committee contemplated by the resolution.

COMMITTEE OF THE WHOLE.

The council then went into committee of the whole, Mr. Cuppett in the chair, on house file No. 51, regulating the sale of intoxicating liquors.

It was voted to read and act upon the bill by sections.

of e- id n- l- t- n- e- f- r-
Mr. Wynn moved to strike out in section one the words five gallons and insert one pint. Lost.

A motion by Mr. Pettigrew to reduce the quantity to one gallon shared the same fate.

On motion of Mr. Roberts, the minimum of the license allowed to be charged by a county was \$200.

Mr. Day moved to make the maximum license \$500 instead of \$1,000.

Mr. Miner commenced to make a speech against the general provisions of the bill, and after having got under way was called to order.

Mr. Miner said if anybody knew the story better than he did they might tell it, and took his seat.

The amendment proposed by Mr. Day was then adopted.

[The conclusion of the afternoon proceedings will be given to-morrow.]

THE HOUSE.

CONCLUSION OF YESTERDAY'S PROCEEDINGS.

The speaker ruled that he could not withdraw a motion—that only the original question was before the house.

Mr. Stephens appealed from the ruling of the speaker.

The speaker stated that the report of the committee was that the committee recommended the passage of the bill.

Mr. Stephens said that a half an hour ago he had withdrawn his motion with the consent of his second and no objection had been made.

The ruling of the speaker was voted down.

Mr. Stephens' motion came up for action and Mr. Jackson moved as an amendment that the committee rise and recommend the passage of the bill without amendments.

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

Mr. Jackson's amendment was adopted. The question being upon the motion as adopted, it was adopted and

THE COMMITTEE ROSE

and reported that it had considered council bills 69 and 71 and that it recommended the passage of the latter.

Mr. Gamble moved a

CALL OF THE HOUSE,

which was ordered and it was found that Mr. Whitfield was absent. The sergeant-at-arms was instructed to bring him in and in a few minutes returned with Mr. Whitfield.

Mr. Fockler moved that the report of the committee be adopted.

Mr. Gamble moved to lay the motion on the table. Lost by a vote of 16 to 10.

On motion of Mr. Gray the previous question, which was the adoption of the report, was ordered by a vote of 14 to 12.

The report of the committee of the whole was then adopted by the following vote:

Ayes—Messrs. Brown, Flick, Fockler, Gray, Helvig, Hoyer, Hoyt, Huseboe, Langness, Shely, Simonson, Trygstad, Webber, Weeks, Mr. Speaker—15.

Noes—Burbank, Cross, Gamble, Gunderson, Johnson, Mauzch, Peterson, Stevens, Stewart, Walton, Whitfield—11.

The question now was upon the passage of the bill making appropriations for a penitentiary and an insane asylum.

Mr. Gamble spoke for nearly two hours upon the subject and in opposition to the bill.

At twenty minutes before six o'clock, Mr. Gamble ceased speaking and Mr. Flick moved that Mr. Pettigrew be permitted to speak and that he be given two and one-half hours' time.

Mr. Burbank moved to amend the motion by fixing eleven o'clock to-morrow as the time for the speaking.

The amendment was lost and the original motion was adopted.

Mr. Pettigrew spoke only about a half an hour, when a call of the house was ordered, and the house held under call until 6:45 o'clock, when further proceedings under the call were dispensed with.

Mr. Fockler moved the previous question.

Mr. Burbank moved to adjourn. Lost—ayes, 11; noes, 13.

The question then being upon the passage of the bill, the ayes and noes were called, and the bill passed by the following vote:

Ayes—Messrs. Brown, Fockler, Gunderson, Helvig, Hoyer, Hoyt, Huseboe, Langness, Peterson, Shely, Trygstad, Webber, Weeks, Mr. Speaker—14.

Noes—Messrs. Burbank, Cross, Gamble, Johnson, Mauzsch, Simonson, Stephens, Stewart, Walton, Whitfield—10.

Before the vote was announced, Mr. Stephens changed from no to aye, and gave notice of a motion to reconsider.

Mr. Fockler moved to reconsider the vote by which the bill passed, and to lay the motion on the table.

Mr. Burbank held that Mr. Fockler's motion was out of order.

The speaker ruled that the point could not be sustained.

Mr. Stephens insisted that as his notice had been given for the purpose of controlling the reconsideration, it should be sustained, and quoted authorities in support of his position.

The speaker yielded to his potent arguments, and held that Mr. Fockler's motion was out of order.

ADJOURNMENT.

On motion of Mr. Burbank, the house, at seven o'clock p. m., adjourned to ten o'clock a. m., February 21st.

TO-DAY'S PROCEEDINGS.

The house convened pursuant to adjournment, at ten o'clock a. m.

Mr. Speaker in the chair.

Prayer by the chaplain, Rev. J. P. Coffman.

Roll call showed all members in their seats except Messrs. Burbank, Gamble, Shely, Walton and Whitfield.

The journal of yesterday's session was read and approved.

A MESSAGE FROM THE COUNCIL was received transmitting council bills 104, to legalize certain acts of the territorial treasurer; 190 to reimburse the counties for the care and custody of the insane; 128 to amend sections 90, 91 and 92 of the justices code; 124, in relation to toll roads; and 125, relating to the jurisdiction of justices of the peace in certain towns, all of which had passed that body.

Also returning house files 61, authorizing the purchase and distribution of 100 volumes of the supreme court reports, and 73, to amend section 664, of the code of criminal procedure, which had passed, with amendments, and house file 135, to amend section 26, of the code of criminal procedure, which had been passed unchanged.

REPORTS OF COMMITTEES.

The committee to which was referred house file 45, reported it back and recommended that it be indefinitely postponed.

The enrollment committee reported house files 69, 54, 63, 26 and 80 as correctly enrolled.

The committee on council bill 116 recommended its passage without amendment.

The committee on house file 103 reported the same back without amendment and recommended that it pass.

The committee on immigration were granted further time to report on bills in their hands.

The special committee on council bill 97, reported the same back with amendments and recommended its passage.

NO OUTSIDER'S CHIN WANTED.

Mr. Gray offered a resolution that no member be allowed to speak more than twice on the same subject, or more than fifteen minutes at any one time. Mr. Whitfield offered an amendment that no person who is not a member of this house be allowed to speak upon this floor. The resolution was adopted.

BY UNANIMOUS CONSENT.

A bill was here introduced,—house file 105—to the effect that when the people of Turner county want to change the location of their county seat, they can do so by voting for it. The rules were suspended and the bill passed.

A MESSAGE FROM THE GOVERNOR

was received announcing his approval of house files 7, 34, 48, 55, 59 and 43.

CONSIDERATION OF COUNCIL MESSAGES.

On motion the council amendments to house files 61 and 73 were concurred in.

THE SPEAKER HAS SIGNED

house files, 80, 26, 54, 63 and 96 and council bills 67, 66, 64, 74, 23, 84, 83, 87, 88, 91 and 97.

FIRST READING OF COUNCIL BILLS.

The following bills were read the first and second times on suspension of the rules. Council bill No. 101, to amend section 6 of chapter 21 of the political code.

Council bill No. 107, amending the act incorporating the village of Sioux Falls. Referred to the delegation from Minnehaha county.

Council bill No. 108, to amend section 54 of chapter 29 of the political code, of 1877. Referred to the judiciary committee.

Council bill No. 114, to amend section 803, chapter 56, of the penal code. The rules were suspended, the bill read a third time and passed.

Council bill No. 115, to amend section 138, chapter 7, title 4, of the code of criminal procedure. Referred to the judiciary committee.

Council bill No. 119, to provide for the education of deaf, dumb and blind persons. Rules suspended, and bill passed with an amendment.

Council bill 124, relating to toll roads. Rules suspended and the bill passed.

Council bill No. 125, fixing the jurisdiction of justices of the peace in Grand Forks county. Rules suspended bill read a third time and passed.

Council bill 152—To amend sections 90, 91 and 92, justices code. Referred to the judiciary committee.

Council bill 110(substitute)—To reimburse counties for expenses in caring for insane persons. Referred to the committee on charitable institutions.

Council bill 104—Legalizing the acts of the territorial treasurer in paying 10 per cent interest. Referred to the judiciary committee.

SECOND READING OF COUNCIL BILLS.

Council bill 98—Providing for the sale of unclaimed property by common carriers, innkeepers, warehousemen, &c. Rules suspended, bill read third time and passed.

Council bill 103—Relating to the compensation of county commissioners. Referred to the committee on territorial affairs.

Council bill 94—Providing for the care of the territorial library. Referred to the judiciary committee.

Council bill 100—Amending sub-division 2 section 5, political code of 1877. Referred to committee on education.

BY PERMISSION,

The speaker then read a communication from R. J. Simonsen of Lodi, asking for a time to be set, when himself and witnesses might come before the house and explain the circumstances in regard to his deficiency. House file 31, the bill for his relief was then reported from a committee with the recommendation that it be indefinitely postponed. After debate the report was adopted.

Mr. Gamble then introduced a bill by permission, to amend section 413, code of civil procedure.

THIRD READING OF COUNCIL BILLS.

Council bill 116—One of the insane hospital bills. Reported from the committee with the recommendation that it pass without amendment. Report adopted, and the bill passed.

Council bill 99—To incorporate the village of Sheridan. Reported from the Burleigh county delegation with an amendment that the name be changed to St. Marys.

Mr. Gamble moved an amendment that the name be Gray's City. This amendment

he next amended in turn, changing the name to Grayback.

The amendment was then adopted.

Mr. Gray, who knew what would follow, moved a reconsideration, which was adopted. The blushing gentleman then punched up Mr. Gamble to start the ball, and amid much enthusiasm the bill was passed with the good name of Gray's City sticking out all over it.

A COUNCIL MESSAGE

was received transmitting council bills 105, to increase the salaries of county treasurers; 119 amending section 55, chapter 15, political code; 120; amending section 413, code of civil procedure, and 129, establishing the boundaries of the second judicial district, and fixing the times of court therein; all of which had passed that body.

Also, returning house file 88, relating to Yankton county's indebtedness, which had passed unchanged.

RECESS.

The house then took a recess until two o'clock.

AFTER RECESS.

The house met again at two o'clock.

Mr. Fockler by permission, introduced a joint resolution, that a committee of three from the house, and two from the council, be appointed, to report to the house the deficiency appropriation bill as soon as expedient. Resolution adopted.

On motion of Mr. Gray, the certificates and signatures attached to house file 2 were read.

THIRD READING OF COUNCIL BILLS.

Council bill 56—For the establishment of a public school law for the territory, reported from the committee on education, with amendments, and a recommendation that it pass. Report of the committee adopted, and the bill passed.

COMMITTEE REPORTS.

The committee on council bill 127 reported the same back, and recommended that it pass without amendment.

Council bill No. 7, the Sioux Falls incorporation bill, was recommended for passage with amendment.

THE RULES WERE SUSPENDED

and council bill 129, regarding the boundaries, etc., of the second judicial district, was read and passed.

Council bill 120, to amend section 413 of the civil code, was referred to the judiciary committee.

Council bill 105—For the compensation of county treasurers, to the committee on territorial affairs.

By unanimous consent, Mr. Gray introduced two bills for the establishment of wagon roads. They are house files 107 and 108.

Council bill No. 108, amending section 5, chapter 17 political code, was read.

Council bill 91, amending section 6 of chapter 21 of the political code, was read a second time, and referred to the committee on territorial affairs.

Council bill No. 103, from the committee on territorial affairs, with a report recommending its passage. Report adopted, and the bill passed.

Council bill 107, the Sioux Falls incorporation bill. Report of the Minnehaha county delegation adopted, and the bill passed.

Council bill 127, from the committee on education with a recommendation that it pass, was read a third time, the report adopted and laid on the table till to-morrow.

A message was received from the council transmitting house file 10, amending chapter 10 of the political code which had passed that body with amendments.

Also, announcing concurrence in the house amendments to council bill 118, and transmitting house files 53, 29 and 67 as having passed.

Further announcing that the president had appointed Messrs. Pettigrew and Miner on the joint committee on the deficiency bill. Messrs. Fockler, Whitfield and Cross is the house wing of the committee.

SECOND READING OF HOUSE BILLS.

House file 106, amending section 413, code of civil procedure. Rules suspended, bill read a third time and passed.

House bill 104. Referred to the judiciary committee.

A MESSAGE FROM THE GOVERNOR

was received, transmitting a list of pardons, reprieves, etc., granted during the two years ending January 1, 1879.

THIRD READING OF HOUSE BILLS.

House file 103, from the committee on insurance, banks and banking, with a recommendation that it pass. The bill was lost.

House file 46, amending section 832, code of civil procedure. The minority report recommending its passage, adopted as amended, and bill passed.

THE LAST COUNCIL MESSAGE

was then taken up. House file ten relating to the time of holding the supreme court was first considered. Amendments offered in the council provided that a term should be held in Deadwood. This caused much discussion, and the amendments would not pass. The council amendments to house file 99 were concurred in.

PRIVILEGE WAIVED.

Mr. Stephens rose and stated that he waived his privilege to move a reconsideration of the vote by which the penitentiary and insane asylum bill passed the house, and moved that his notice be spread upon the journal and that the record of the vote be also changed so as to show that he voted against the measure. Adopted.

Mr. Fockler moved to reconsider the vote by which the penitentiary and insane asylum bill passed and to lay the motion on the table. Adopted.

COMMITTEE REPORTS.

By general consent the house reverted to the order of committee reports, on the request of Mr. Stephens.

Mr. Stephens reported back house file 99, to fix the location of the county seat of

[Concluded on First Page]

[Continued from Fourth Page]

Hamlin county, and recommended that it be indefinitely postponed. The report of the committee was adopted.

Mr. Gamble, from the committee on judiciary, reported back house file 85, for the registration of voters, with amendments, and recommended that it pass as amended. The report was adopted, on motion of Mr. Stephens, and the bill had its third reading, and was passed by unanimous vote.

THE SOVEREIGNS.

Mr. Gray moved that the house chamber be tendered to the use of the sovereigns this evening, from seven to twelve o'clock. Adopted.

COMMITTEE OF THE WHOLE.

On motion of Mr. Gray, the house went into committee of the whole on the general order, Mr. Fockler in the chair.

House file 73, concerning leins, was taken up and considered and

THE COMMITTEE ROSE

and reported it back with a recommendation that it do not pass.

On motion of Mr. Stephens, the report of the committee was adopted.