

COUNCIL JOURNAL

OF THE

FOURTH SESSION

OF THE

LEGISLATIVE ASSEMBLY

OF THE

TERRITORY OF DAKOTA,

**TO WHICH IS PREFIXED A LIST OF THE MEMBERS
WITH THEIR PLACE OF RESIDENCE AND
POST OFFICE ADDRESS.**

PUBLISHED BY AUTHORITY.

**YANKTON, DAKOTA TERRITORY,
G. W. KINGSBURY, PRINTER, UNION & DAKOTAIAN OFFICE
1864-5.**

NAMES OF MEMBERS
OF THE COUNCIL
OF THE FOURTH LEGISLATIVE ASSEMBLY
OF THE
TERRITORY OF DAKOTA,
With their Place of Residence, and Post-Office Address.

NAME.	COUNTY.	POST-OFFICE.
ENOS STUTSMAN,*	Yankton,	Yankton.
J. M. STONE,	Yankton,	Yankton.
GEO. W. KINGSBURY,	Yankton,	Yankton.
J. O. TAYLOR,	Union,	Brule Creek.
M. M. RICH,	Union,	Brule Creek.
JOHN MATHERS,	Union,	Willow.
LASSE BOTHUN,	Clay,	Vermillion.
HUGH COMPTON,	Clay,	Vermillion.
FRANKLIN TAYLOR,	Clay,	Vermillion.
D. P. BRADFORD,	Bon-Homme,	Bon Homme.
J. SHAW GREGORY,	Todd.	Ponca Agency.
JOHN J. THOMPSON,	Charles Mix,	Greenwood.

*President.

COUNCIL JOURNAL.

FIRST DAY.

TERRITORY OF DAKOTA, COUNCIL CHAMBER, }
YANKTON, Monday, Dec. 5, 1864. }

On the fifth day of December, A. D. 1864, being the day provided by law for the convening of the Legislative Assembly of the Territory of Dakota, a quorum of the members of the Council of said Assembly, met in the Council Chamber of the Capitol, at Yankton, at the hour of twelve o'clock M., and proceeded to a temporary organization, in the following order, to wit :

Mr. Kingsbury called the Council to order, and nominated the Hon. J. Shaw Gregory, for temporary President :

And a vote being taken,

Mr. Gregory was declared duly elected temporary President of the Council.

Whereupon the temporary President took the chair, and called the roll of members.

The following gentlemen responded to their names :

First District, Mr. John Mathers.

Second District, Messrs. Lasse Bothun, and Franklin Taylor.

Third District, Messrs. Elias Stutsman, George W. Kingsbury, and James M. Stone.

Fourth District, Mr. Daniel P. Bradford.

Fifth District, Mr. John J. Thompson.

Sixth District, Mr. J. Shaw Gregory.

Mr. Thompson nominated Mr. Kingsbury for temporary Secretary.

And a vote being taken,

Mr. Kingsbury was declared duly elected temporary Secretary of the Council.

A temporary organization being effected,

Mr. Stone moved that the Council do now proceed to a permanent organization,

Which motion prevailed.

Whereupon, Mr. Bothun nominated the Hon. Enos Stutsman for President.

No other nomination being made, and a vote being taken,

Mr. Stutsman was declared unanimously elected President of the Council.

Mr. Bradford moved that a committee of three be appointed by the chair, to escort the President elect to the chair.

Which motion prevailed.

Whereupon, the chair appointed Messrs. Bradford, Thompson and Bothun, such committee.

The committee having discharged that duty,

The President took the chair, and said :

GENTLEMEN OF THE COUNCIL:—Without solicitation on my part, and contrary to my expectations, you have again unanimously chosen me to preside over your deliberations. This repeated evidence of your confidence is all the more gratifying to my feelings, in that it is conferred voluntarily and unsought.

In again accepting the responsible and very delicate position of President of this Council, I do so with a conscious distrust in my ability to discharge the duties of the office in a manner acceptable to you and honorable to myself.

I believe that my experience in the chair, has been sufficient to enable me to form a pretty correct judgment as to the peculiar qualifications and personal characteristics necessary in a presiding officer; and I also believe that I have acted in the capacity just long enough to enable me to see wherein I am deficient in those essential requisites.

There are Honorable gentlemen present, whose coolness and deliberation in the midst of excitement, I have often envied, and vainly sought to imitate. It has pleased the Father of life to endow me with the quick sympathies of an ardent temperament; and I have very often been painfully conscious of having manifested a warmth of feeling, and, I fear discourtesy, to Honorable gentlemen during your deliberations on measures of more than ordinary interest, which I do as deeply regret as you can possibly condemn. But I take great pleasure in bearing witness to your uniform courtesy, and the forbearance you have so kindly extended to my faults, shall be the goad to prompt me to renewed efforts for self government.

I have every reason to believe that your present session will be characterized by harmony and usefulness. And while many questions of general and local interest will doubtless arise, I have sufficient confidence in your intelligence and patriotism, to promise that we will heartily co-operate as a unit for the promotion of the best interests of our young Territory.

When we convened in this Chamber one year ago to-day, our country's sky was so obscured by the gloom of civil war, that the eye of faith could catch only faint glimpses of the sun of peace, while from the combined efforts of rebels in the field, and traitors at home, our free government seemed tottering to its fall. But to-day, the bright arch of promise spans the heavens, and each patriot heart from the Atlantic to the Pacific, and from the St. Lawrence to the southern Gulf, is strong in the faith that the God who inspired and directed our Washington and Adams, our Jefferson and Jackson, holds in reserve a proud destiny for these United States.

Gentlemen, in conclusion, allow me to express to you my sincere thanks for this new mark of your confidence in my fidelity.

The President then announced as the order of business,

The election of officers of the Council for the present session.

Whereupon, Mr. Bradford nominated Geo. N. Propper for Secretary.

No other nomination being made,
And a vote being taken,
Mr. Propper was duly elected Secretary of the Council.

Mr. Gregory nominated James B. Gayton for assistant Secretary.

No other nomination being made,
And a vote being taken,
Mr. Gayton was duly elected assistant Secretary of the Council.

Mr. Bothun nominated Carlos Kingsley for Sergeant-at-arms.

No other nomination being made,
And a vote being taken,
Mr. Kingsley was declared duly elected Sergeant-at-arms of the Council.

Mr. Mathers nominated Mons Bothun for Messenger.

No other nomination being made,
And a vote being taken,
Mr. Bothun was declared duly elected Messenger of the Council.

Mr. Stone nominated William H. Werdebaugh for Fireman,

No other nomination being made,
And a vote being taken,
Mr. Werdebaugh was declared duly elected Fireman of the Council.

Mr. Thompson nominated the Rev. L. P. Judson for Chaplain.

No other nomination being made,
And a vote being taken,
Rev. Mr. Judson was declared duly elected Chaplain of the Council.

The election of permanent officers being concluded,
The officers elect came forward and took the oath of office which was administered by the President, and they severally entered immediately upon the duties of their respective offices.

Mr. Gregory moved that a committee of three be appointed by the chair to inform the House of Representatives of the permanent organization of the Council.

Which motion prevailed.

Whereupon, the President appointed Messrs. Gregory, Bothun and Bradford, as such committee.

Mr. Kingsbury submitted the following resolution :

Resolved, That the rules of the last session of this Council be adopted for the temporary government of this body.

Mr. Kingsbury moved that the resolution be adopted.

Which motion prevailed.

Mr. Gregory moved that a committee of three be appointed by the chair to draft rules for the government of the Council ; also to act jointly with a similar committee on the part of the House, to draft joint rules for the government of the two Houses.

Which motion prevailed.

Whereupon, the President appointed Messrs Gregory, Mathers and Kingsbury, as such committee.

Mr. Gregory submitted the following report :

MR. PRESIDENT :—Your committee appointed to inform the House of the permanent organization of the Council, have discharged that duty.

J. SHAW GREGORY,
Chairman.

Mr. Gregory gave notice that he would, on to-morrow or some subsequent day of the session, introduce a bill for the repeal of chapter 43, of the laws of 1862-3.

On the motion of Mr. Taylor, F.

The Council adjourned to meet to-morrow at ten o'clock A. M.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

SECOND DAY.

COUNCIL CHAMBER,
Tuesday, Dec. 6, 1864. }

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

President in the chair.

Prayer by the Chaplain.

Rolled called.

The following members answered to their names :

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Stone, Thompson, Taylor, J. O., Taylor, F. and Mr. President.

The Journal of the preceding day was then read and approved.

Mr. Kingsbury gave notice that he would, on to-morrow or some subsequent day of the session, introduce a bill establishing the courts and jurisdiction of judges of probate.

Mr. Gregory, from the special committee on rules, submitted the following report :

MR. PRESIDENT:—Your committee appointed to draft rules for the government of the Council, submit the following report and recommend its adoption.

J. SHAW GREGORY,
Chairman.

RULES OF THE COUNCIL.

ORDER OF DAILY BUSINESS.

After calling the House to order, the following order shall govern :

1. Prayer by the Chaplain.
2. Calling the Roll.
3. Reading of the Journal.
4. Petitions or memorials to be offered.
5. Notice of Bills.
6. Introduction of Bills.
7. Resolutions.
8. Reports of Committees.
9. Communications on the President's table.
10. Reports in possession of the Council which offer grounds for a bill.
11. Bills or other matter before the Council and unfinished the preceding day.
12. The general file of bills, and other papers agreeable to their introduction.

R U L E S .

1. The President shall take the chair at eleven o'clock A. M. and call the members to order ; and if a quorum be present he shall direct the journal of the preceding day to be read and mistakes, if any, corrected. He shall preserve order and decorum, and decide all questions of order, subject to an appeal to the Council.

2. One-fourth of the members may have a call of the Council, and absent members be sent for.

3. Questions shall be put in this form, viz: "As many as are of the opinion that (as the case may be) say 'aye.'" And after the affirmative voice is expressed, "as many as are of the contrary opinion say 'no.'" If the President doubt, or a division be called for, the Council shall divide—those in the affirmative of the question shall first rise from their seats, and afterwards those in the negative.

4. All motions (except to adjourn, postpone or commit) shall be reduced to writing, if required by any member of the Council. Any motion may be withdrawn before it is amended by the Council.

5. Every member present, when a question is put, shall vote unless he shall for special cause, be excused by a vote of the Council; but no member shall vote on any question in the event of which he is directly and personally interested, or in any case where he was not present when the question was put.

6. When a member is about to speak in debate, or deliver any matter to the Council, he shall rise from his seat, and respectfully address himself to Mr. President, and shall confine himself to the question under debate, avoid personalities, and the imputation of improper motives.

7. When a question is under debate, no motion shall be received but to adjourn, to lie on the table, for the previous question, to postpone to a day certain, to commit or amend, to postpone indefinitely; which several motions shall have precedence in the order in which they are named; and no motion to postpone indefinitely, being decided, shall be allowed on the same day, and at the same stage of the bill or proposition.

8. 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 Council to a direct vote upon amendments reported by a committee, if ar

then upon pending amendments, and then upon the main question.

9. A motion to adjourn, to lay on the table, and for the previous question, shall be decided without debate; and all incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided—whether an appeal or otherwise—without debate.

10. Any member may call for a division of the question, which shall be divided, if it comprehends propositions in substance so distinct that on being taken away, a substantive proposition shall remain for the decision of the Council. A motion to strike out and insert shall be deemed indivisible; but a motion to strike out being lost, shall preclude neither amendments nor a motion to strike out and insert.

11. Every bill shall be introduced on the report of a committee, or by motion for leave, on giving at least one day's previous notice. Every bill shall receive three several readings previous to its passage; but no bill shall have its second and third readings on the same day without a suspension of this rule.

12. The first reading of a bill shall be for information, and if objections be made to it, the question shall be, "Shall the bill be rejected?" If no objections be made, or the question to reject be lost, the bill shall go to its second reading without further question.

13. Upon the second reading of a bill or resolution, the President shall state it as ready for commitment or engrossment, and if committed, then the question shall be whether to Select or Standing Committee, or a Committee of the Whole.— If to a Committee of the Whole, the Council shall determine on what day. But if the bill be ordered to be engrossed, the Council shall appoint the day when it shall be read the third time. No bill or resolution requiring the concurrence of both houses shall be committed or amended until it shall have been twice read.

14. When a question is lost on engrossing a bill for a third

reading on a particular day, it shall not preclude a question to engross it for a third reading on a different day. On a third reading of a bill or resolution, no amendment (except to fill blanks) shall be received, except by unanimous consent of the members present.

15. A bill or resolution, may be committed at any time previous to its passage.

16. In filling blanks, the largest sum and the longest time shall be first put.

17. When a motion or question has been decided in the affirmative or negative, any member having voted with the majority, may move a reconsideration the same or the day following.

18. Before acting on Executive business, the Council Chamber shall be cleared, by direction of the President, of all persons except members, the Secretary and Sergeant-at-Arms; the members enjoined to observe secrecy, and the Secretary and Sergeant-at-Arms to be sworn.

19. No standing rule or order of the Council shall be rescinded or suspended, except by a vote of two-thirds of the members present.

20. The rules of parliamentary practice comprised in Cushing's Manual, shall govern the Council in all cases to which they are applicable, and in which they are not inconsistent with the standing rules or orders of the Council and the joint rules of the Council and House of Representatives.

21. When the ayes and noes shall be called for by two of the members present, each member called upon shall, unless for special reason be excused by the Council, declare openly and without debate his assent or dissent to the question. In taking the ayes and noes and upon the call of the House, the names of the members shall be taken alphabetically.

22. On the final passage of all bills, the ayes and noes shall be taken. And there shall be the following Standing Committees:

Education,	Territorial Affairs,
Incorporations,	Expenditures.
Elections,	Public Printing,
Finance,	Federal Relations,
Military Affairs,	Agriculture,
Indian Affairs,	Counties,
Public Buildings,	Engrossed and Enrolled Bills,
Judiciary,	Highways, Bridges and Ferries.

23. All bills after a second reading shall be printed, unless otherwise ordered by the Council.

On motion of Mr. Bothun,
The report of the committee was adopted.

The following communication was received from the Hon. Secretary of the Territory :

SECRETARY'S OFFICE,
Yankton, D. T., Dec, 6, 1864. }

To the Hon. President and members of the Council :

GENTLEMEN :—I have the honor to inform you that, your postage, during this session (restricted to official use) will be paid by me at the Post Office in this place, provided that the amount used by no member shall exceed the sum of three dollars. The same amount will be paid for the Chief Clerk ; each member will write, on all letters, papers &c., the initial letters of his name, also, the letters " M. C. " before depositing the same in the office.

I have also to state that each member will be furnished, weekly, with six copies of the " Union and Dakotain," and each officer with three copies.

I am,

Gentlemen,

Your ob't serv't,

JOHN HUTCHINSON:

Secretary.

The following message was received from the House :

HOUSE OF REPRESENTATIVES, }
Dec. 6, 1864. }

MR. PRESIDENT :—I have the honor of informing your Honorable body that the House have passed the following resolution, to-wit :

Resolved, That the Chief Clerk be instructed to inform the Council that the House is now permanently organized by the election of the following officers :

W. W. Brookings—*Speaker*.

Geo. I. Foster—*Chief Clerk*.

L. Congleton—*Assistant Clerk*.

Peter Nelson—*Fireman*.

Erick Nelson—*Messenger*.

L. P. Renne—*Sergeant-at-Arms*.

Rev. M. Hoyt—*Chaplain*.

Also, that the following committee has been appointed on the part of the House to confer with a like committee on the part of the Council, to draft Joint Rules for the government of the two Houses, to wit: Messrs. Hanson, Turner and Kegan.

GEO. I. FOSTER.

Chief Clerk.

Mr. Gregory submitted the following resolution :

Resolved; That the Federal officers of the Territory, members of the House of Representatives, and officers of the same, be admitted to seats within the bar of the Council ; which,

On motion of Mr. Kingsbury,

Was adopted.

Mr. Thompson submitted the following resolution :

Resolved, That the Hon. Secretary of the Territory be requested to furnish a sufficient number of copies of the Rules of the Council for the use of the members thereof ; which,

On motion of Mr. Taylor, J. O.,

Was adopted.

Mr. Gregory moved that a committee of three be appointed by the President to act with a like committee on the part

the House, to wait upon his Excellency, the Governor, and inform him that the Council and House of Representatives, are permanently organized, and await any communication he may have to make.

Which motion prevailed.

Whereupon, the chair appointed Messrs. Gregory, Taylor, J. O. and Taylor, F., as such committee.

Mr. Thompson submitted the following resolution :

Resolved, That the use of the Council Chamber be given to the U. S. Grand Jury, for the purpose of holding their session this day at one o'clock P. M., the Hon. Marshal of the U. S., for the Territory of Dakota having, for the time so occupied, the care of the public property in said Hall ; which,

On motion of Mr. Gregory,

Was adopted.

The following message was received from the House :

HOUSE OF REPRESENTATIVES, }
Dec. 6, 1864. }

MR. PRESIDENT:—I am instructed to inform the honorable Council, that the House has appointed Messrs. Turner, Lawrence and Stickney, to act with a like committee on the part of the Council; to wait upon his Excellency, the Governor, and inform him that the Council and House of Representatives are permanently organized, and that they are now ready to receive any communication he may have to make to them.

GEO. I. FOSTER.

Chief Clerk.

The following message was received from the House :

HOUSE OF REPRESENTATIVES, }
Dec. 6, 1864. }

MR. PRESIDENT:—We have been instructed to inform the Hon. Council that the House will be ready to receive them in joint convention in the Representative Hall to-morrow at two o'clock P. M.

JOHN LAWRENCE, }
B. W. COLLAR, } Committee,
J. H. ROUSE. }

Mr. Gregory from Joint committee appointed to wait upon the Governor, submitted the following report :

MR PRESIDENT:—Your committee appointed to act with a similar committee on the part of the House, to wait upon his Excellency, the Governor, and to inform him that the two Houses, the Council and House of Representatives, are permanently organized, and are ready to receive any communication he may have to make to them, beg leave to report, that they have performed that duty, and are instructed by his Excellency to say that he will be ready to communicate with the two Houses in joint convention to-morrow at 2 o'clock P. M.

J. SHAW GREGORY,
Chairman.

On motion of Mr. Stone,
The committee was discharged from further duty.

Mr. Gregory submitted the following resolution :

Resolved, That the Secretary be instructed to inform the Hon. House that the Council will meet them in joint convention to-morrow at two o'clock P. M.; which,

On motion of Mr. Taylor, J. O.,
Was adopted.

On motion of Taylor, F.,
The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

THIRD DAY.

COUNCIL CHAMBER,
 Wednesday, Dec. 7, 1864. }

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

President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names :

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers Stone, Thompson, Taylor, J. O., Taylor F, and Mr. President.

The Journal of the sixth instant was read and approved.

Mr. Kingsbury, pursuant to previous notice, introduced C. B. No. 1, entitled, An act to establish the courts and jurisdiction of Judges of Probate.

Mr. Gregory, from the committee on joint Rules, submitted the following report :

MR. PRESIDENT:—Your committee appointed to act with a similar on the part of the "House" have to submit the following report and recommend its adoption.

J. SHAW GREGORY.

Chairman.

 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 Sergeant-at-arms thereof, and shall be respectfully communicated to the chair by the person by whom it is 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 committee of the House in which it originated, and the fact of its origin shall be certified by the endorsement of the secretary or chief clerk thereof.

5. When bills are enrolled they shall be examined by a joint committee of two from the Council and two 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.

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 orders, joint resolutions and memorials to Congress 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 after receiving the ap-

proval of the Governor, shall forthwith be transmitted by the Secretary or chief clerk of the House in which they originated to the President of the Senate and Speaker of the House of Representatives of Congress, and also a copy to our Delegate in Congress.

9. When any bill, joint resolution or memorial which shall have passed in 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, 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 shall be ordered printed by either House a sufficient number of copies shall be printed for the use of both Houses.

14. In all elections in joint convention of the two Houses, the names of the members shall be arranged in alphabetical order and they shall be called upon to vote in the order in which they stand arranged.

The report of the committee on joint Rules, was then,
Taken up, and
On motion of Mr. Kingsbury,
Was adopted.

COUNCIL BILLS ON THEIR FIRST AND SECOND
READING.

C. B. No. 1, was then
Taken up, and
Read a first and second time, and
On motion of Mr. Gregory, was
Referred to committee on Judiciary.

The President then announced the following standing committees :

- *Judiciary*, Messrs. Gregory, Taylor J. O., and Kingsbury.
- Education*, Messrs. Mathers, Bothun and Bradford.
- Military Affairs*, Messrs. Gregory, Stone and Rich.
- Incorporations*, Messrs. Bothun, Thompson and Taylor F.
- Finance*, Messrs. Taylor J. O., Compton and Bradford.
- Elections*, Messrs. Bothun, Stone and Gregory.
- Public Buildings*, Messrs. Rich, Compton and Thompson.
- Highways, and Bridges Ferries*, Messrs. Stone, Bradford and Taylor F.
- Counties*, Messrs. Thompson, Compton and Mathers.
- Territorial Affairs*, Messrs. Taylor J. O., Kingsbury and Gregory.
- Public Printing*, Messrs. Stone, Gregory and Mathers.
- Agriculture*, Messrs. Bradford, Rich and Taylor, F.
- Expenditures*, Messrs. Compton, Rich and Bothun.
- Federal Relations*, Messrs. Kingsbury, Taylor J. O. and Thompson.
- Engrossed and Enrolled Bills*, Messrs. Kingsbury, Gregory and Taylor F.

Mr. Stone introduced the following resolution :

Resolved, That Hon. M. K. Armstrong, Editor of the "Union and Dakotain," be admitted to a seat within the bar of the Council; which resolution,

On motion of Mr. Gregory,

Was adopted.

Mr. Bothun introduced the following resolution :

Resolved, That Hon. L. H. Litchfield, be admitted to a seat within the bar of the Council; which resolution,

On motion of Mr. Gregory,

Was adopted.

Mr. Thompson, introduced the following resolution :—

Whereas, The present Criminal Code of Dakota Territory, is deemed insufficient, in many respects, to meet the requirements of justice; thereby impeding and confusing the prosecution of cases arising under it, it is therefore:

Resolved, (The Honorable House concurring therein) That the President of the Council and Speaker of the House of Representatives, be instructed, to invite the Hon. Ara Bartlett, associate justice of Dakota Territory, to co-operate with them in revising and preparing a criminal code and submit the same to this Legislative Assembly, at as early day as practicable, in printed form; which resolution,

On motion of Mr. Gregory,

Was adopted.

The following messages were received from the House:

HOUSE OF REPRESENTATIVES, }
December 7, 1864. }

MR. PRESIDENT:—I have been instructed to inform the Honorable Council that the House has adopted the report of the joint committee on joint Rules.

GEO. I. FOSTER,
Chief Clerk.

HOUSE OF REPRESENTATIVES, }
December 7, 1864. }

MR. PRESIDENT:—I am instructed to inform your Honorable body that the following resolution has been adopted by the House :

Resolved, That a committee of two be appointed by the

Speaker to act in conjunction with a 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 this P. M. at two o'clock to receive any communication he may have to make, and that the chief clerk be instructed to notify the Council forthwith of the adoption of this resolution; and that Messrs. Hanson and Kellogg have been appointed such committee.

GEO. I. FOSTER.

Chief Clerk.

Mr. Gregory introduced the following resolution:

Resolved, That a committee of two be appointed by the President, to act with the committee appointed by the House to wait upon his Excellency, the Governor, and inform him that the Council and House of Representatives have resolved to meet in joint convention, this day at 2 o'clock P. M.; which resolution,

On the motion of Mr. Stone.

Was adopted.

Whereupon the President appointed, Messrs., Gregory and Stone as such committee.

Mr. Gregory, from the special committee to wait upon the Governor, submitted the following report:

MR. PRESIDENT:—Your special committee appointed to act with a like committee from the House, have to report that we have discharged the duty imposed upon us, and that we have been requested by his Excellency, to inform you that he will communicate with the joint convention at the hour named.

J. SHAW GREGORY,

Chairman.

The special committee last mentioned, having finished the business assigned to it, was

On motion of Mr. Mathers,

Discharged.

On motion of Mr. Gregory,

The Council took a recess until the hour of 1½ o'clock P. M., this day.

At half past one o'clock P. M.,
The Council was called to order by the President.

The following communication was received from the U. S. Marshal for Dakota, which was read from the Secretary's desk

U. S. MARSHAL'S OFFICE,
Yankton, D. T., Dec. 6, 1864. }

To the Hon. Council of the Legislative Assembly of Dakota Territory :

MR. PRESIDENT:—I have the honor to acknowledge the receipt, by your Secretary, of the following resolution, passed by the Council this day, to wit :

“*Resolved*, That the use of this Hall be given to the U. S. Grand Jury for the purpose of holding their session this day at 1 o'clock P. M. The Marshal of the U. S., for Dakota Territory, having for the time so occupied, the care of the public property in the Hall.”

In responding to that portion of the resolution which relates to the U. S. Marshal, I have the honor to state for the information of the Council, that the U. S. 2d Judicial District Court is now in session and *has control* of the Hall alluded to, inasmuch as it is rented for a term of years by myself in behalf of the United States for the use of said court, and the Council are only permitted, by courtesy of the court and its officers, to occupy the Hall for their meetings. Such courtesy will be continued to your Honorable body, as long your sessions do not interfere with the business of the court, and grand jury. The chairs in the Hall belong to the court, and as the same have been placed in my charge by the Secretary of the Interior, they will be, as they have been heretofore, properly cared for by me, but any property, which members of the Council may have in the court room, will not be considered at the risk of the U. S. Marshal, though no pains will be spared to preserve the same inviolate.

The U. S. Marshal presumes it was not the intention of the Council to treat the court with contempt by ignoring the fact that the court has been pleased to accommodate them with a place to meet, and the Marshal at the same time presents his thanks to the members of the Council for having so regulated their meetings as not to interfere materially with the business of the court and grand jury.

I have also to state that the court is expected to adjourn *sine die* at an early date, and the further courtesy, of *more complete possession of our court room and furniture*, is cheerfully extended by the court and its officers, during this session of the Legislative Assembly, to the members of the Council, and it is earnestly hoped that the same will be properly cared for by the Hon. Council, and that no judiciary business may arise, requiring the U. S. Marshal to resume possession of the Hall before the final adjournment of your honorable body.

With the assurance of my highest consideration for the Law Makers of our Territory.

I have the honor to remain,

Your obedient servant,

GEO. M. PINNEY,

U. S. Marshal, D. T.

Mr. Gregory moved that the communication from the Marshal be referred to a special committee of two, to be appointed by the President, with instructions to wait upon the Hon. Secretary of the Territory, and ask an explanation of the matters referred to in the communication, and to report the facts to the Council.

Which motion prevailed.

Whereupon the President appointed Messrs. Gregory and Stone as such committee.

A committee from the House being announced, who, through their chairman, communicated as follows :

MR. PRESIDENT:—We have been appointed a committee to inform the Council that the House is now prepared to meet them in joint convention, and the committee will escort the honorable Council to the Representative Hall.

JOHN LAWRENCE.

Chairman.

Thereupon, on motion of Mr. Gregory,
The Council adjourned to the Representative Hall, to meet
the House in joint convention.

IN JOINT CONVENTION.

The President of the Council took the chair, as chairman of
the joint convention.

The Chief Clerk of the House, and the Assistant Secretary
of the Council, were instructed to act as clerks of the joint con-
vention.

The Roll being then called,

The following gentlemen answered to their names:

Members of the House—Messrs. Burgman, Christy, Collar,
Hanson, Kegan, Kellogg, Lemouges, Lawrence, Matthiesen,
Matthews, Owens, Pratt, Reed, Rouse, Shriner, Stickney, Tur-
ner, Weeks and Mr. Speaker.

Members of the Council—Messrs. Bothun, Bradford, Greg-
ory, Kingsbury, Mathers, Stone, Thompson, Taylor, J. O.,
Taylor, F., and Mr. President.

It appearing that a quorum of each House was present,

The Chairman proclaimed the joint convention fully organ-
ized, and ready for the business for which it was convened.

Whereupon, Mr. Kingsbury moved that a committee of two
be appointed by the chairman, to wait upon his Excellency, the
Governor, and inform him that the joint convention is in session
and awaiting his pleasure.

Which motion prevailed, and

The chairman appointed Messrs. Kingsbury and Stickney,
as such committee.

After a brief absence the committee returned and reported
as follows:

MR. CHAIRMAN:—Your committee appointed to inform his

Excellency, Governor Edmunds, that the joint convention of the Legislative Assembly is now in session and awaiting his pleasure, have to report that we have discharged the duty assigned to us, and ask to be relieved from further duty.

GEO. W. KINGSBURY.

GEO. STICKNEY.

Committee.

Upon motion, the committee was discharged.

The following communication was then recieved from his Excellency, the Governor:

DAKOTA TERRITORY, EXECUTIVE OFFICE, }
YANKTON, Dec. 7th, 1864. }

SIR:—I have the honor to transmit herewith my annual message to the Honorable Legislative Assembly, in joint convention assembled.

I am, Sir,

Very respectfully,

Your ob't Ser'vt,

NEWTON EDMUNDS.

HON. E. STUTSMAN,

Chairman of the joint Convention,

Whereupon the fourth annual message of his Excellency the Governor was then read by his private Secretary, as follows:

GOVERNOR'S MESSAGE.

To the Honorable Council and House of Representatives.

GENTLEMEN : Since the assembling of the last Legislature, a year ago to day, important events in our Country's history have been of almost daily occurrence; among the most noteworthy of which is the rapid progress which has been made toward the suppression of the most gigantic Rebellion which the world ever saw, and I think we may now confidently anticipate that the end will soon come.

Our first duty is to return thanks to the Great Ruler of the

Universe for the preservation of our lives and health ; for the return of seed time and harvest in their due season ; and especially should we thank Him for the signal victories which have been vouchsafed to our Army and Navy during the year last past ; but, above all, should we thank God for the patriotism with which He has inspired the *loyal people* of this country in all the sacrifices which they have been called upon to make in the struggle for National existence which has been maintained with such admirable unanimity and earnestness by such numbers in all the loyal States, as to dishearten not only Rebels in arms, but as utterly to abash and defeat, I had almost said annihilate, traitors and rebel sympathizers in our midst. The re-election of Abraham Lincoln to preside over the destinies of this great nation for the next four years, whose first election in 1860 was made the pretext for the inauguration of hostilities, though prior to his entering upon the discharge of his duties seven States had declared themselves out of the Union, and were, so far as any act of their own could take them, actually out of the Union, may very justly be looked upon in the light of a determination of the American people not only to vindicate the right of Self Government, but say to all men that they must submit, and abide by the wishes of the majority, as expressed through the ballot box, and that the people will not allow political tricksters, usurpers and traitors, to subvert the government or interfere in their wishes.

The suppression of the present rebellion may justly be regarded as the vindication of the right of the people to self Government, and will so be regarded, by all the civilized governments of the world. The American people constitute the court before which the momentous questions of this extraordinary crisis are being tried. Its jurisdiction extends over two millions of square miles, or more than three thousand millions of acres, and the character and condition of the one hundred millions of people, which, ere the year nineteen hundred, are to be spread over this vast domain, reaching from ocean to ocean, are involved in the issues now being tried before this august tribunal.

Sublime indeed is the present attitude of the loyal people of this country, who, in their Sovereignty over the destinies of a

vast continent, and the fortunes and well being of such a large number of people, have now this immense stake before them. Fearful is the responsibility now resting upon us as a Nation, and terrible will be the judgment of history if we falter or bend beneath the immense weight which this age has rolled upon us. As all the great questions pertaining to human well being are now engaged in this issue, so are all the higher qualities and attributes of our nature addressed in the adjudication of them. Among the most important of these questions are the supremacy and authority of popular institutions; the integrity and inviolability of constitutional government; the capacity of the people for self government; the inalienable right of man; the question of peace or war now being tried before the American people, as affecting this and subsequent generations; and lastly, whether we shall improve the opportunity now offered for securing a quiet and *permanent* advance toward the unity of the human family, under the dominion of liberty to all, regardless of color, sex or condition.

That these questions are of infinite significance and paramount importance, no thinking man can deny. That we now have the privilege of crowding several ages into a few months of action will be readily conceded by all who recognize and have faith in the laws of natural and social advancement. It is evident, therefore, that while we are addressed in this crisis by considerations of benevolence at the present time, we are at the same time, thoroughly impressed by every motive of selfishness and pride to stand erect under this immense responsibility and with unflinching heroism do the work thus committed to our manhood, virtue, intelligence and energies. He who is incapable under the inspiration of the epoch in which we live, of appreciating the magnitude and importance of the great questions at stake in the contest now before the American people, should at once stand aside, and give place to such as appear fully to appreciate all these great questions, who have by their voices and efforts given an earnest of their desire to extend the area of freedom, under our beneficent constitution with a view to securing to future generations all the blessings secured to us by our fathers in the formation of our present form of government.

What worth would be millions of wealth saved in shrinking the great responsibility now resting upon our loyal people : when all the gold of the Rocky Mountains could not be sufficient to gild a coward temper or a craven spirit into decent respectability with patriotic men and women. Early in American history our forefathers vindicated their honor before the world. Starting with less than three million of people, but poorly furnished for self defense, they burst the bondage of colonial servility against the strongest power on earth—their sense of Justice, pride of character could not and would not brook submission to taxation without representation.

While the patriotism and manhood of our fathers demanded so much to save a single point of right, who are we, that we should tamely submit to the destruction of our whole constitution by traitors, against whom no right had ever been violated? While our ancestors appreciated the magnitude of the work of founding an Empire, what are we, their degenerate offspring, who could not save an empire already four times greater than our fathers conceived, because the work we are called upon to perform might impose a tax upon our surplus wealth?

In less than three quarters of a century from the adoption of the immortal declaration of Independence, the American people waged a bloody war against an adjacent government for the sake of securing justice to a few citizens, in a matter of dollars and cents. In this the object sought was attained, and the richest gold fields of the globe were added to our domain, and covered by our flag. If to enforce a small pecuniary claim, the government made war which resulted in the conquest of such a rich and vast territory, what shall be said of us now, if we refuse to hold that Territory : not only so, but consent to let traitors snatch from the flag one-half of all previous acquisitions, including six of the old sacred thirteen States—yea, more than this, consent to the destruction of the Republic itself.

So highly did the American people estimate the character, and prize the rights of the American Citizens, and so much confidence had they in the protecting influence of the American flag, that wherever they might please to travel, so long as they remained under the protecting fold of that sacred emblem of our country's greatness, within hail of our ships of war,

backed by the whole power of the nation, they felt safe and were respected by the governments of the world. And now from this elevation a large portion of our population would sink our enviable character as a nation to eternal infamy and contempt, at the mere bidding of unoffended traitors.

Every hour of progress in the war has taught us the impossibility of compromise between the contending elements. Time was when, perhaps even a majority of thoroughly loyal and Union men supposed that the rebellion might be put down without materially disturbing the agencies which had produced it, and without our national system being subjected to any considerable or material change. They perhaps, did not see that the conflict was moral, as well as material and political. They failed to see that its causes sprang from a condition of derangement, brought about by the preparation of years, in which the systems of the afflicted members had become diseased, and consequently needed renovation. Time has rapidly corrected all such ideas, as is evinced by the greatly diminished number who now believe that the Union can ever be restored upon the condition of things existing at the breaking out of the rebellion. A vast majority have been forced to the conviction, in the prosecution of the war, that, when the Union is finally reestablished, it must be upon a basis quite different from that upon which it rested when traitors rent it asunder, and if the issue proves to be the total eradication of the cause of the rebellion, who is there to say, that the end will not amply compensate for the afflictions which have been brought upon us in its prosecution. The interests of all true Union men demand that the war shall not cease until the permanency of the government is fully assured by the total eradication of all the causes which produced the conflict, which, if left in existence would be liable to produce its renewal in the future. Clearly then it is both the interest and the duty of all Union men to insist upon the continued and vigorous prosecution of the war, until the root of the rebellion is not only torn up, but its seed banished from the land. This course is clearly indicated by the loyal people of this country as expressed through the ballot box on the eighth of November last, in the triumphant reelection of Abraham Lincoln to the Presidency, whose patriotism

has been so thoroughly tested, and whose heart is so earnestly engaged in the good work.

Already has the leaven of loyalty and patriotism, which, in 1861, (with a few individual exceptions,) was only to be found north of Mason's and Dixon's line, penetrated the border Slave States, and thoroughly permeated the body politic in several of them, to such an extent as to cause them to engraft the principle of universal freedom in their State Constitutions. The State of Maryland, which, in 1861, could not tamely submit to have her soil pressed by the tread of loyal soldiers, leads the column, in the advance towards universal freedom. It is to the loyal soldiers of Maryland, that not only she, but the whole country is indebted for one of the grandest victories of the war. They have lifted "the despot's heel" from her breast. The vote of her soldiers has redeemed the State from the curse of Slavery, and anchored it fast to the Union. This victory shows that her soldiers at least understand the meaning of this war. Her soldiers know that the slaveholder is the direct rival of the free laborer who lives by his daily wages. They know, also, that while Slavery lasts, a permanent peace is impossible. Missouri, Arkansas, Tennessee, Louisiana, Texas, and I trust Kentucky, will soon follow in the wake of Maryland; and thus step by step I hope to see the States array themselves on the side of truth, justice and universal freedom. In this is the saying again verified, that "A little leaven leaveth the whole lump."

PROGRESS OF THE INDIAN WAR.

Since the breaking out of the Indian war in Minnesota, two years ago last August, but little progress has in my opinion, been made towards its extinguishment. I believe this fact to be owing to the extent of country over which these hostile Indians roam, rather than a want of appreciation on the part of the officers placed in charge of the various expeditions, of the magnitude and extent of the difficulties to be overcome in order to so punish the Indians as to bring about a speedy and permanent peace.

Of the three campaigns made against these hostile Indians, one, under Gen Sibley, of Minnesota, in 1863, and two, under

Gen. Sully, starting from Sioux City, Iowa, one in 1863, and one in 1864, I am fully convinced that little, if anything, has been accomplished towards the subjugation of them.

These expeditions have been immensely expensive to the Government, and ought, in my opinion, to have brought about more decided results. I am not prepared to say why they were failures; I leave this subject to the War Department, where it properly belongs.

The effect of the continuance of this war upon the prosperity of this Territory has been most damaging and deleterious. It has retarded its settlement and development to an extent unprecedented in the history of the early settlement of any of our Northwestern Territories. It has confined our settlers to narrow limits bordering the Missouri river; and those of necessity have had to confine their operations, for mutual safety and protection, to little towns at intervals of a few miles, in order to retain possession of the country, it not being safe at and time for the past two years to reside at a distance from the towns by reason of the prevalence of roving bands of hostile Indians, who seem ever present and ready to steal the horses and stock of our settlers, and kill the owners in cases where resistance is made. Our various settlements can but be looked upon as a picket guard to hold this country until such time as peace can be restored between the Government and these Indians. I believe that a chain of small military posts, crossing the country from Lake Shetek, in the State of Minnesota, intersecting the Missouri river at or near the Crow Creek Agency, located at such convenient distances as to enable the country to be daily patrolled between these posts, will not only afford ample and perfect protection to our settlers, but is all that is required to bring about a speedy and permanent peace; provided, disloyal and unscrupulous men are barred from visiting these Indians, and carrying into their country, whiskey, powder and lead, and all articles made contraband by the laws of Congress. Five hundred cavalry, properly distributed at the various posts indicated, under the command of officers who are desirous of protecting the settlements, I believe to be sufficient to afford perfect protection.

Should this course be adopted by the War Department, and

be found to answer the purpose, the immense expense attending the sending of these large expeditions into the hostile country, may in the future be avoided. At any rate, there seems to me to be propriety in making a change of some kind, by which we may, if possible, avoid taxing the Government with another of these unwieldy and immensely expensive expeditions with no adequate results towards bringing about a peace, judging by the past. I would therefore recommend that you memorialize the Secretary of War, urging upon him the importance of the early establishment of the chain of military posts indicated.

ROUTE TO THE GOLD MINES.

In my last annual message, I took occasion to call the attention of the Legislature to the importance of securing a route to the gold mines of Idaho, through the settled or southeastern portion of this Territory. The importance of opening such a route has not in any way diminished since that time. On the contrary, the organization of the new Territory of Montana, and the new discoveries of rich deposits of the precious metals in the vicinity of the eastern base of the Rocky Mountains, clearly indicate the importance and point to the necessity of the speedy opening of the route indicated. The last session of Congress, foreseeing the importance of this route, from a desire to promote and foster the early development of this section of the country, appropriated ten thousand dollars towards the opening of the route indicated, to be expended under the direction of the War Department. Unfortunately for the interests of this section of the country, the expenditure of this sum was committed to Major Maynadier, who, from some cause best known, doubtless, to himself, after entering upon the discharge of his important trust, and expending a portion of the appropriation—perhaps all of it—did not even get on to the ground, or commence the examination of the route. It is unfortunate that the War Department could not have better consulted the interests not only of our citizens, but also the citizens of Montana, in the selection of an officer to expend this appropriation who, either from motives of pride or a sense of duty, would at least have got on to the route and given the eastern portion of

it for one hundred and fifty or two hundred miles at any rate—a personal examination, which could have been done without any risk to that officer, even though he had been entirely unattended by a personal guard—the contemplated route for this distance passing through a section of country not having been infested by hostile Indians the past two years. The first two hundred miles of this route, contemplated by Congress, could have been pretty thoroughly examined and reported upon at an expenditure of one thousand dollars and in my opinion, had a fair comparison have been made in the report between this route and the route known as the Captain Fisk route, which passed through Central Dakota, the result would have been the abandonment by Congress of the Central or Fisk route, and the placing of all future appropriations on the Southern Dakota, or Niobrara route. Indeed, it is not improbable that this may be the case, upon the report of Brigadier General Sully, who was specially instructed by the War Department to report upon the practicability of the Central Dakota route, and who, I am informed, reports the route entirely impracticable.

The influence which the early opening of this route through Southern Dakota, to the gold fields of Montana and Idaho, and the securing of the immense through travel (the large portion of which now passes up the Platte River, through our neighboring Territory of Nebraska) on it, by reason of the distance saved, and its proximity to abundance of good wood and water, towards securing the location of the Northern branch of the Pacific Railroad, cannot be over estimated by our people. Indeed I believe it to be the first, and most important step, to be taken in securing this very important branch road to our Territory.

I would therefore recommend that you early memorialize Congress on this subject, with a view to securing a liberal appropriation to aid in opening this important line of wagon road, via Niobrara or Fort Randall, and the foot of the Black Hills, to Montana and Idaho.

BLACK HILLS.

It is believed by persons familiar with the country in the vicinity of the Black Hills, that the country abounds not only

with the precious metals (Gold and Silver) but that copper, iron, and coal exist to an unlimited extent. Indeed rich specimens of iron and copper have been brought into the settlements, by friendly Indians, from this section of the country, and the bed of the Niobrara River abounds with specimens of stone coal.

It is believed that a thorough geological survey of that portion of our Territory, will establish the existence of large and rich deposit of the minerals named above, and not only this; but that this section of country is capable of supplying for all time to come, not only our own settlers, but all Northwest Iowa with all the pine lumber needed for the future development and improvement of the country. This fact is abundantly established by explorations already made.

APPROPRIATION FOR MILITARY ROAD.

Congress at its last session generously appropriated fifteen thousand dollars toward the opening of a Military Road from Sioux City, Iowa, to Fort Randall. It is believed that this sum if properly expended, at such points along the line of road as most need improvement will be sufficient to open a road which may be traveled at all times of year with facility, and will not only vastly aid the Government in its military operations, but will also be a permanent benefit to our citizens; and inasmuch as the appropriation is placed at the disposal of Capt. S. Bagg, Chief Quartermaster of this Military District, who is familiar with the country over which this road passes, I have thought it would not be improper for the Legislature to suggest to Capt. Bagg the improvement of such points along the line as may be deemed of most importance and likely to secure to the people a good thoroughfare at all seasons of the year.

TERRITORIAL AFFAIRS.

The last Legislature passed a law "concerning Licenses"—Chapter twenty three, laws of 1863-4—which, so far as I know, remains a dead letter upon our Statute Books. I call your attention to this law specially at this time, with a view of securing such action on your part as will cause it to become effectual. Since the organization of this Territory, no person

residing within its limits, has been called upon to contribute either by tax, license or otherwise, anything to the support of the general or Territorial government. Whatever their trade, business or profession, all have thus far been exempt from taxation, with the single exception of the tax levied and collected on the salaries of the federal officers of the Territory, which since the passage of the income law by Congress, has been regularly paid by all these officers into the Treasury of the United States. The burthens of supporting the general and State governments since the breaking out of the rebellion have been cheerfully borne by the people of the loyal States, and there appears to me no good reason why we should participate in all the benefits derived from a liberal government, and not share the burthens, when, as is the case here, we have contracted some indebtedness, now long passed due, for services rendered the Territory, which should at once be liquidated, if we would be just.

On the 8th of May, 1863, four warrants were issued by the Territorial Auditor for service rendered during the first session of the Legislature in 1862, to the amount of four hundred and eighty dollars, and the salaries of Auditor and Treasurer, remain due and unpaid, since these officers first, respectively, entered upon the discharge of their duties, amounting at the present time to four hundred and fifty six dollars and sixty six cents.

The Treasurer and Auditor's offices need also to be supplied with some blank books, suitable for keeping their accounts; and stationery sufficient for the current business of their office. It will perhaps require one hundred dollars for this purpose. Total amount required at this time, to liquidate all claims against the Territory, and provide the Auditor's and Treasurer's office with books and stationery, is one thousand and twenty one dollars and sixty six cents.

In addition to this, the salaries of these two officers should be provided for in the future, so that they may be paid as they become due.

I would therefore recommend, that you take such steps as in your wisdom you shall deem best, to raise a sufficient sum to

liquidate our present indebtedness, and provide for the fiscal year upon which we have just entered.

For a more detailed statement of the financial condition of the Territory, and the remedy to be applied, I refer you to the very able report of the Territorial Auditor, which will be submitted to you in accordance with the statute.

TAXES.

I wish especially to call your attention to the very lax manner in which, in many cases the various county officers in the Territory have discharged their public duties. The first Legislature passed a law creating certain county officers and defining their powers and duties, and it was undoubtedly the design of that Legislature that the persons appointed by the Governor, as well as those subsequently elected to fill these various offices, should faithfully discharge their duties during the time for which they were appointed or elected. This in very many instances has not been done, and our citizens have been subjected to great inconvenience on this account, and in some instances, these officers have entirely neglected their duties.

I attribute much of this negligence to the fact that no means have as yet been provided by the different organized counties, to pay current expenses, and the feeling on the part of some of the officers that it would be so long before they would be paid for their services, that they would not devote the necessary time to discharge their public duties. The consequence has been that in many instances, the people have been unable to get these officers to act. I submit to you, whether it would not be well, in view of the embarrassments which have heretofore been experienced on this account, to pass a law compelling, not only the discharge of official duties, by all civil officers in the Territory, but also providing by law for the levy and collection of a sufficient tax to meet these necessary expenses, at the time they are incurred. The day cannot now be far distant when all the county officers, will not only be self sustaining, but will be sought for, with avidity, by our citizens for the emoluments there is in them.

It seems to me that the time has now arrived, when we should take steps to perfect, and put in running order, our internal

machinery, even though to do so, we have to submit to be lightly taxed for that purpose.

The burthens of Government have thus far fallen lightly upon us as a people, and it appears to me, that we can now afford to come forward and assume our share of the necessary burthens, for the sake of the satisfaction of feeling that we are paying our way as we go.

I feel confident our citizens are not only willing, but desirous, that all who labor for the public weal, should be remunerated for the time necessarily devoted to the discharge of their public duties. I hope our present officers will at once enter upon the discharge of their duties, and levy and collect a sufficient amount in each organized county to discharge all existing obligations, and have a fund on hand to pay their current expenses. It needs but a light tax to accomplish this very desirable object.

During the year last past, important acquisitions have been made to the Territory, by the arrival and permanent settlement of an intelligent, industrious and hardy population from the Eastern and Middle States; and the rapid improvement made in the settled portions of the Territory gives us a sure indication, that we have not only passed the crisis in our Territorial affairs, but that from now, on, our march will be onward and upward in the acquisition of population, wealth and improvement, until ere long we shall be knocking at the door of the Union, fully prepared to take our place in the line of loyal and free States so rapidly being formed under the auspices of our beneficent, liberal and enlightened General Government.

Should peace and confidence soon be re-established between the government and our red brethren, we may, I think, confidently anticipate such an influx of immigration at no distant day, as to forever set to rest all apprehensions of a renewal of hostilities on the part of our red neighbors—a result most ardently desired by all who are permanent settlers in Dakota.

PUBLIC LANDS.

The enlightened and liberal policy pursued by the General Government, in withholding the public domain from market in this Territory, thus keeping the lands in a position to be acquir-

by our actual settlers, on a compliance on their part of the conditions established by the laws of Congress on this subject, cannot be too highly appreciated by our people, and should the same policy be pursued in the future, until the rebellion is put down and peace restored on our borders, we may confidently anticipate that the day is not far distant when the Missouri, Big Sioux, and Dakota River Valleys will be swarming with as dense, industrious, intelligent and active a population as is now to be found in the valleys of the Connecticut or the Ohio.

REVISION OF LAWS.

Experience has developed the fact that discrepancies exist in some of the provisions of our Statutes. This want of harmony has doubtless inadvertently crept into the laws for want of time to duly consider their provisions, in the hurry which usually prevails at or near the close of each session of the Legislative Assembly.

Your attention is called to the subject at this time, from the fact, that it is believed that little new legislation is needed to perfect our internal machinery, and that it will be much better to amend our existing laws with a view to securing harmony in their provisions, than to go largely into the enactment of new statutes. I would by no means, however, at this time recommend a general revision of existing Statutes. It would appear from examination of the laws passed at first Session of the Legislature, Chap 9, Sec. 164—that that Legislature contemplated calling to its assistance the Judges of the Supreme and District Courts of the Territory, for the purpose of securing their aid in harmonizing disagreeing provisions of the Statutes.

I believe this to be not only a good but a very wise provision, though the judges heretofore have not seen fit to present their views to the Legislature on this very important subject. I have no doubt that, should you desire it, the services of the only Judge we have in the Territory can be secured to aid in perfecting and harmonizing existing laws.

EDUCATION.

The last Legislature enacted a school law, which is believed to be ample in its provisions to put into operation in every

neighborhood in our Territory a good common school, if its provisions are complied with in every particular by the people. Within the past year many new schools have been opened, and there is every indication that the subject of Education is receiving that attention from our citizens that is deemed necessary from its primary importance.

The services of a very able Superintendent of Public Instruction have been secured, in the person of James S. Foster, who has had much experience in teaching in Central New York, and it is hoped that our various County Superintendents will heartily co-operate with him in perfecting and putting into operation our common school system.

CONCLUSION.

I have endeavored as is my duty to call your attention to the consideration of such matters as are deemed of the first importance, with a view of aiding you so far as is in my power in the discharge of your public duties. I deem it to be my duty to urge upon your consideration the importance of exercising the most rigid economy in the expenditure of public funds over which you have control, believing it to be a duty we all owe, as good and loyal citizens, to the general government when we call to mind the struggle in which it has been engaged for the past four years against traitors for its overthrow; to economize in every possible manner, that it may be the better able to maintain itself against the insane efforts of these traitors.

And finally, I trust that your deliberations may be marked by that courtesy and cordial good feeling, so commendable under all circumstances in our intercourse with each other, and that at the close of your labors you may return to your constituency with the pleasing reflection resting upon your minds that you have discharged your whole duty with an eye single to the best interests of all.

I assure you I shall at all times take pleasure in furnishing you all the information within my reach, that will in any way aid you in the discharge of your onerous and laborious duties.

NEWTON EDMUNDS.

On motion of Mr. Lawrence,
The Joint Convention dissolved.

Whereupon the Council returned to the Council chamber.
The President resumes the chair.

Mr. Gregory submitted the following resolution :

Resolved, That fifty copies of the Governor's Message be printed for the use of each member of the Council, and twenty-five copies for the use of each of the officers thereof; which resolution was,

On the motion of Mr. Bradford,
Adopted.

J. R. Hanson, Esq., Auditor of the Territory, here presented the second annual report of said office, which was then read as follows:

AUDITOR'S REPORT.

TERRITORIAL AUDITOR'S OFFICE, }
YANKTON, D. T., Nov. 30, 1864. }

To the Honorable Council and House of Representatives.

By the requirements of section two, chapter eight of the general laws of 1863-64, it was the duty of the Governor "to appoint and commission a Territorial Auditor to fill the unexpired term of Justus Townsend." In compliance with this law, I was so appointed and commissioned by his Excellency, Gov. N. Edmunds, on the 21st day of January, 1864, and immediately entered upon the duties of the office.

In submitting this, the second annual report of this office, it is a source of much regret that I am not able to present to you a more favorable condition of the Territorial finances. The state of the Treasury remains the same as when I took charge of the office—empty. The indebtedness of the Territory is increasing, steadily, but surely, as a matter of fact pertaining

to its existence ; and small debts are constantly accruing in the various counties, as a matter of necessity, if any of the laws are to be enforced. For the liquidation of outstanding claims, and for the ready adjustment of such as will be unavoidably incurred in the future, some action should, in my opinion, be taken by the Legislature.

The revenue laws of the Territory appear to be just and wise, and applicable to our youthful state. The wrong necessary to be righted exists with the county officers of the several counties in whose hands the administration of these revenue laws are entrusted. There has come to my knowledge but one exception to a general evasion on the part of these county officers of their official duties. The remedy for this evil is simply some stringent enactment, compelling such officers to a faithful compliance with all the requirements of the law, by assessing property, levying and collecting taxes. I attribute this dereliction of duty not to a willful and culpable determination to violate the law or shun the responsibilities attached to their offices. I believe public sentiment has exerted the influence to which they have yielded. I am aware of three popular objections to the inauguration of a regular system of taxation. One, is the youth of the Territory, and the hitherto rather unsettled and vacillating condition of its population. Another, is a reluctance, on the part of many, to contribute to the public revenue, having been sorely pressed by heavy taxation in the States, from which they emigrated to Dakota, believing that here their property would be free for several years yet to come ; and the other, is an almost general opinion that all the taxable property of the Territory, if properly assessed, taxed and collected upon, would be no more than sufficient to pay the expenses incident to such assessment, taxation and collection.

To these three objections I desire to reply briefly. First, if the youth would become a respectable member of society, he must conform to its habits and customs, and it is well to take frequent lessons from his nearest neighbors. Settlements in Dakota, based chiefly upon experiment, have ceased to be made. Farmers, mechanics, and merchants have surrounded

themselves with such personal and real property, and being freed, by generous military protection, of all danger from hostile Indians, that nothing less than an absolute disruption of the Territorial organization can effect any general or material change. Second, he is neither a wise nor valuable citizen who is unwilling to contribute to such necessary and righteous objects as the safety of person, property, and society. Redress for outrages against either, can only be secured through the channels of law, and law will not and cannot be enforced, if no revenue be raised for the payment of such officers as are necessary to enforce them. Third, so far as I am advised, an assessment of property has been made in Yankton county only. These assessment rolls show the value of the taxable property in the county, for 1864, to be a little less than \$100,000. The counties of Clay and Union will average almost equal with Yankton county, though the kinds of property differ somewhat from it. The county of Bon Homme contains property of the value of about \$50,000. The counties of Todd, Charles Mix and Buffalo combined, including stocks of goods for the purpose of trade with the Indians, and soldiers, all of which are subject to taxation, contains about \$100,000. The law provides that "Government lands shall not be taxed for the year in which the entry, location, or purchase is made." It is fair to assume that the increase of taxable property, from the influx of immigration, and also from many of these "Government lands" becoming subject to taxation, which are not so the present year, will not be less than one quarter in the counties of Union, Clay, Yankton, and Bon Homme, by the close of the fiscal year 1865. According to this calculation the result for 1865 will be, at the highest rate of taxation provided by law, and including a per capita tax of one dollar, as follows:

Counties.	Property.	Territorial.	County.	Per Cap.	Total Co. Tax.
Yankton,	\$125,000,00	\$187,50	\$250,00	\$165,00	\$415,00
Clay,	125,000,00	187,50	250,00	156,00	406,00
Union,	125,000,00	187,50	250,00	234,00	434,00
Bon Homme,	50,000,00	75,00	100,00	35,00	135,00
Todd, Charles Mix&Buffalo,	100,000,00	150,00	200,00	100,00	300,00
Total,	\$525,000,00	\$787,50			\$1740,00

The above exhibit, indicating the probable amount of taxable property in the Territory for 1865; the Territorial, county and per capita taxes accruing to the revenue of the Territory were the laws properly complied with in the various counties, shows a result sufficiently satisfactory to allay all fears of poverty, and place the fresh young Territory of Dakota in a position of honor and respect in the financial world. While the above amount of tax would fall so lightly upon our citizens as to be scarcely perceptible, they would be largely rewarded by the consciousness of having contributed towards the redemption of the Territorial credit and the enforcement of the laws so essential to the undisturbed enjoyment of all their possessions.

Since taking possession of this office no Territorial Warrants have been issued by me, and therefore the total amount issued and now outstanding remains the same as reported by my predecessor to the last Legislature, to wit :

No. 1; May 8th, 1863; James Tufts, for extra pay as Secretary of Council as per General laws 1862,	\$120.00
No. 2; May 8th, 1863; J. R. Hanson, for extra pay as chief Clerk of House of Representatives as per General Laws 1862,	120.00
No. 3; May 8th, 1863; Wm. Goodfellow, for total pay for services rendered as Engrossing and Enrolling clerk of Council as per General Laws 1862,	44.00
No. 4; May 8th, 1863; Wm. Goodfellow, for total pay for services rendered as Engrossing and Enrolling clerk of Council as per General Laws 1862,	196.00
Total and outstanding Warrants	\$480.00

For the payment of which there is no money in the treasury.
Up to and including the last day of the fiscal year ending November 30th, 1864, there will be claims against the Territory (exclusive of warrants issued) as follows :

Salaries of Auditors from May 20th, 1862,	\$129.16 $\frac{1}{2}$	
Books and stationary for Auditors which have been furnished,	25.00	
Salaries of Treasurers from October 1st, 1862,	112.50	
The account of Daniel Gifford for ser- vices rendered as the Engrossing Clerk for the House of Representatives per General Laws 1862,	180.00	\$446.66 $\frac{1}{2}$
	<hr/>	<hr/>
Total indebtedness of Territory December 31st, 1864,		\$926.66 $\frac{1}{2}$

The following estimate will indicate the probable increase of liabilities up to November 30th, 1865 :

Salary of Auditor from November 30th, 1864,	\$50.00	
Salary of Treasurer from November 30th, 1864,	50.00	
Books and stationary for Auditors of- fice,	50.00	
Books and stationary for Treasurers office,	50.00	
Seal for auditors office,	10.00	\$210.00
	<hr/>	<hr/>
Total indebtedness December 31st, 1865,		\$1136.66 $\frac{1}{2}$

To meet these liabilities I would most earnestly recommend some action on the part of the Legislature, compelling county officers in the various counties to a strict compliance with the requirements of our Territorial statutes. And I would further recommend an increase of one half mill on the dollar, on the amount of Territorial tax now allowed by law. This would in my judgment raise sufficient revenue to liquidate all demands against the Territory.

The Legislative Assembly of 1862-63 passed a law appointing and constituting James Tufts a commissioner to audit all

of the military accounts outstanding against the Territory.— (See General Laws 1862–63, chapter 50, page 242.) As appears by said Commissioners report, included in the last annual report of my predecessor in office, the military accounts were so audited, and warrants issued on the Territorial Treasurer to the amount of Twenty-Eight Thousand One Hundred and Thirty Seven Dollars and Seventeen cents (\$28, 137, 17.) The Legislative Assembly of 1863–64 adopted a series of resolutions relating to the accounts and warrants, the First and Second of which are; “That the acts of R. M. Hagaman, as deputy Auditor of this Territory, be and are hereby declared to be illegal and that all Territorial warrants issued by him, for the Territorial Auditor, and on account of military accounts allowed by James Tufts, as Commissioner, be and are hereby declared to be null and void. Second, That Samuel Grant, Samuel Lyon and John Owens, are hereby appointed, and constituted a board of commissioners to examine and re-audit all the militia accounts against the Territory.” The seventh resolution of this law, makes it the duty of the board of commissioners to submit a report of their action on all claims to the territorial auditor, and the eighth resolution provides “That, when the territorial auditor makes his next annual report it shall be his duty to include in his report the report of said board of commissioners as made to him, &c. In obedience to these sections of law, the board of commissioners submitted to me on the 1st day of March of the current year, the following report:

COMMISSIONERS' REPORT.

DAKOTA TERRITORY,)
 OFFICE OF COMMISSIONERS OF MILITIA ACCOUNTS,)
 YANKTON, March 1st, 1864.)

JOSEPH R. HANSON, Esq.,
Auditor of Dakota Territory,

SIR:—In compliance with an act of the Legislative Assembly of the Territory of Dakota, entitled “Joint Resolu-

tion relating to the re-auditing of the Militia accounts against the Territory for expenses incurred during the Fall of 1862, approved January 15th, 1864, the undersigned commissioners submit the following report :

Resolutions two, three, four, six, seven, eight and eleven of the above entitled Act, contain the following provisions : That Samuel Grant, Samuel Lyon and John Owens, are appointed a Board of Commissioners to examine and re-audit all the Militia accounts against the Territory. That said Board of Commissioners shall meet at Yankton on the first Tuesday in February 1864, and to proceed to examine and re-audit the Militia accounts in the hands of the Auditor, and may allow such of said accounts as from their own knowledge, and from the papers accompanying the same, appear just. That said board of Commissioners shall complete the duties assigned them by the first day of March, 1864. Said Commissioners having full power and authority to compel the attendance of witnesses to give testimony if deemed necessary. That Samuel Grant shall be Chairman of said Board of Commissioners, with power to administer oaths. Said Board of Commissioners may call to their assistance an attorney. That after auditing the accounts aforesaid, said Commissioners shall submit a report of this action on all claims, with a full account of their proceedings to the Territorial Auditor. That in itemizing it shall be the duty of said commissioners to state the amount and also what the amount of each claim is for. And that, in case John Owens, or Samuel Lyon or both of them fail to act, Samuel Grant, the Territorial Auditor, and the Territorial Treasurer, shall have power to fill such vacancy or vacancies.

In conformity to the provisions of said Joint Resolutions, Samuel Grant and Samuel Lyon, two of the Commissioners named in said Act, met at their office in the town of Yankton, on Tuesday February 2nd, 1864, and whereas, John Owens, the other Commissioner named in said act, failing to appear, Samuel Grant, Chairman of said Commissioners, and J. R. Hanson Territorial Auditor, and J. O. Taylor Territorial Treasurer, agreed upon and appointed George N. Propper a commissioner to fill the vacancy occasioned by the non-appearance of said John Owens, whereupon Mr. Propper appearing, the following

oath was duly administered to each of said commissioners; "You do solemnly swear that you will well and faithfully perform all the duties assigned to you as commissioners appointed to re-audit the Militia accounts of the Territory of Dakota, so help you God." The Board being now fully qualified, the commissioners entered upon the discharge of the duties of the responsible trust confided to them.

The Commissioners deeming the assistance of an attorney necessary and advisable selected and employed Enos Stutsman to act as Attorney for the Board of Commissioners.

By order of the board the following notice was published in the "Dakotian" a weekly newspaper published at Yankton, to wit: "Notice is hereby given that the Board of Commissioners appointed by an act of the Legislative Assembly, approved January 15th, 1864, will meet at their office, in the town of Yankton, each week day at 9 o'clock A. M., to audit all claims against the Territory of Dakota for Militia service &c., rendered in the Fall of 1862, that may properly come before them. Where it is known to the Board that persons rendered service in the Militia, their claims will be allowed."

Yankton, D. T., Feb'y, 3, 1864.

SAMUEL GRANT,	} Com'rs.
SAMUEL LYON,	
GEQ. N. PROPPER,	

It will be observed that the enactment mentioned confers full power upon the Commissioners to procure such evidence as the Board might deem necessary to a fair and equitable adjustment of such claims as had been audited, as well as those that had been acted upon by the former Commissioner. The Board established as a rule, that all claims presented, whether for materials furnished, labor performed, or services rendered, should be authenticated by the certificate of the Commander-in-Chief of the Militia, or by the Captains or some commissioned officer in command in the County or District where the expense was incurred. Under this rule the Commissioners have acted, and in auditing the claims herewith presented they, in but few instances, deemed it necessary to obtain testimony beyond the authentication of the commanding officer. The claim for ma-

materials and labor are, in nearly every case, marked by moderation and justice, and this class of accounts have, with but few exceptions, been allowed in full.

The proclamation under which the Militia of the Territory was organized and called into active service, was issued on the 30th day of August, 1862. This promptness on the part of our yeoman militia in responding to the call of the Executive for the protection of the homes and lives of our settlers, is highly commendable, and merits the thanks of the people of Dakota.

As said companies had not been formally disbanded up the first day of March 1863; (at which time the Captains Militia companies were ordered to make return of their pay roll to James Tufts Esq, Commissioner under the act of January 9th 1863,) it was but reasonable that the Captains should present claims for the full time, from the date of their organization to the first day of March, 1863. But as the Commissioners are quite aware that the time of actual active service of said Companies would fall considerably short of the period named above, they have therefore endeavored to approximate, in auditing these pay accounts, as nearly as in their power, to such time as would be warranted by facts and strict justice.

While the Commissioners are of opinion that some companies have performed more actual service than others, they have resorted to a uniform rule of allowance for service, commutations &c. for two months, (including the months of September and October, 1862,) amounting in the aggregate to the sum of nineteen thousand three hundred and twenty five dollars, and five cents, (\$19,325.05.)

In conformity to the rule above stated, it is quite possible that slight injustice has been done in some cases, but the Commissioners are confident that no other rule could have been prescribed whereby more exact justice could have been accorded. But few claims have been presented to us for adjustment which have been assigned by the individual performing the service or furnishing the material mentioned in the claim. In all such cases we have audited the account in favor of the person believed to be justly entitled thereto.

All of which is respectfully submitted.

SAMUEL GRANT, }
 SAMUEL LYON, } Commissioners.
 GEO. N. PROPPER }

Resolution 8, chapter 28 of the laws of 1863 & '64 provides that "it shall be the duty of the territorial auditor to forward to our delegate in congress a statement, under seal of his office, of the amount of the militia claims, which have been audited and allowed by said board of commissioners." The foregoing Report of the Board of Commissioners was submitted to me on the 1st day of March 1864, and I immediately transmitted to our Delegate in Congress the following statement :

DAKOTA TERRITORY
 AUDITORS OFFICE
 YANKTON March 1st, 1864. }

HON. WM. JAYNE. M. C.

Washington City, D. C.,

Sir :

In conformity with the requirements of the Resolution No. 8, a law enacted by the Legislative Assembly of the Territory at its third session, entitled, "Joint Resolution relative to the re-auditing of the militia accounts against the Territory for expenses incurred during the Fall of 1862," approved January 15th, 1864, and which will be transmitted you this day by His Excellency, the Governor, I have the honor of informing you that the board of commissioners created by said act, this day submitted to me their report, and that I find by said report that the expenses incurred by our Territorial Militia for two months service, commencing September 1st, 1862, and ending November 1st, 1862, amount in the aggregate to nineteen thousand three hundred and twenty-five dollars, and five cents (\$19,325,05).

Among other things the commissioners in their report to me, said: "It will be observed that the enactment mentioned, confers full power upon the Commissioners to procure such evidence as the Board might deem necessary to a fair and equitable adjustment of such claims as had not been audited, as well as those that had been acted upon by the former commissioners. The Board established as a rule, that all claims presented, whether for materials furnished, labor performed, or services rendered, should be authenticated by the certificate of the Commander-in-chief of the Militia, or by the Captains, or some commissioned officer in command in the county or district where the expense was incurred. Under this rule the Commissioners have acted, and in auditing the claims herewith presented they have in but few instances deemed it necessary to obtain testimony beyond the authentication of the commanding officer. The claims for materials and labor are, in nearly every case, marked by moderation and justice, and this class of accounts have with but few exceptions, been allowed in full.

The proclamation under which the Militia of the Territory was organized and called into active service, was issued on the 30th day of August, 1862. Companys A B C & E were full and reported for duty on the first day of September, 1862.— This promptness on the part of our yeoman militia in responding to the call of the Executive, for the protection of the lives and homes of our settlers, is highly commendable, and merits the thanks of the people of Dakota.

As said Companies had not been formerly disbanded up to the 1st day of March 1863, (at which time the Captains of Militia companies were ordered to make return of their pay rolls to James Tufts, Esq. commissioner under the act of January 9th, 1863,) it was but reasonable that the Captains should present claims for the full time, from the date of their organization to the 1st day of March, 1863. [But as the Commissioners are quite aware that the time of actual active service of said companies would fall considerably short of the period named above, they have therefore endeavored to approximate, in auditing these pay accounts, as nearly as in their power, to such time as would be warranted by facts and strict justice.

While the Commissioners are of opinion that some companies

have performed more actual service than others, they have resorted to a uniform rule of allowance for service, commutations, &c., for two months (including the months of September and October 1862) as may be seen by the schedule of audited accounts hereunto appended, amounting in the aggregate to the sum of nineteen thousand three hundred and twenty-five dollars and five cents (\$19,325.05."

That you may be able to act intelligently in bringing this matter immediately before the present Congress, it may not be improper for me to state that, by virtue of an act of the Legislative Assembly of this Territory, entitled, "an act appointing and authorizing a Commissioner to audit the Military accounts against the Territory of Dakota," approved January 9th, 1863. James Tufts the commissioner created by said act, audited the Militia accounts against the Territory for the services mentioned above, which, according to his report, amounted to the sum, of \$28,137.17. The last Legislature believing that accounts had been audited which of right should not have been allowed, created this new commission to examine and re-audit said accounts, which board has reduced the amount \$8,812.12.

I am, sir,

Your Ob't Ser't,

J. R. HANSON.

Territorial Auditor.

It will be observed that this last board of commissioners have reduced the original amount \$8,812.12; thus bringing the total claims of our citizens, for services rendered and materials furnished during our Indian difficulties of 1862, together with the expenses necessarily attendant upon the proper adjudication of the same, to the moderate sum of nineteen thousand three hundred and twenty-five dollars and ten cents. All of these accounts have been properly audited by me, and are now on record in this office. No warrants have been issued on the same, no appropriation have been made by Congress for their

liquidation, and no seal or proper blank books having been furnished this office, and no money having been in the Treasury for the purchase of the same.

All of which is most respectfully submitted.

J. R. HANSON.

Territorial Auditor.

Whereupon, Mr. Gregory introduced the following resolution:

Resolved, That two hundred copies of the Auditor's Report be printed for the use of the Council; which resolution was,

On the motion of Mr. Stone,
Adopted.

On motion of Mr. Gregory,

The Council then adjourned.

ENOS STUTSMAN,

President.

GEO. N. PROPPER, *Secretary.*

FOURTH DAY.

COUNCIL CHAMBER, }
 Thursday, Dec. 8, 1864. }

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

President in the chair.

Prayer by the Chaplain.

Rolled called.

The following members answered to their names :

Messrs. Bothun, Bradford, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., Taylor F. and Mr. President.

The Journal of the seventh instant was then read and approved.

Mr. Kingsbury moved that the vote by which the resolution, appointing a committee to prepare a Penal Code, was adopted, on the seventh instant, be reconsidered.

Which motion prevailed.

Mr. Kingsbury then introduced the following resolution, as a substitute for the one last above mentioned :

WHEREAS, the present Criminal Code of this Territory, is deemed inefficient, in many respects, to meet the requirements of Justice ; thereby impeding and confusing the prosecution of causes arising under it ; it is therefore,

Resolved, That a committee of one be appointed to act with a like committee, on the part of the House, whose duty it shall be to confer with the Hon. Ara Bartlett, Associate Justice of Dakota, and invite him to co-operate with them in preparing a Penal Code, and submit the same at as early a day as possible, to this Legislative Assembly, in printed form. And that the Honorable House of Representatives are requested to take like action in the premises. Which resolution,

On the motion of Mr. Bothun,

Was adopted.

Mr. Kingsbury moved that the President of the Council act as said committee on the part of the Council.

Which motion prevailed.

Mr. Kingsbury moved that section 22 of the Rules of the Council be amended by inserting the words "Indian Affairs," after the words "Military Affairs," thereby creating a new committee.

Which motion prevailed.

Whereupon the Chair announced the following as the committee on Indian Affairs:

Messrs. Kingsbury, Thompson, and Taylor, J. O.

Mr. Gregory, from the special committee on the Marshal's communication, submitted the following report:

MR. PRESIDENT:—Your special committee, appointed to submit to the Honorable Secretary of the Territory, the communication received from the U. S. Marshal, in relation to the occupancy of the Council Chamber, have to report that they have waited upon the Honorable Secretary, and have received the following communication:

J. SHAW GREGORY.

Chairman. }

SECRETARY'S OFFICE,
Yankton, D. T., Dec, 8, 1864. }

TO THE HON. J. SHAW GREGORY AND J. M. STONE,
Committee of the Council;

GENTLEMEN:—In reply to your inquiries, relative to the right of the Council to occupy the Hall now occupied by said Council, and in reply to the communication of the U. S. Marshal to the Council upon this subject, which you have placed before me—I have the honor to state, that the Hall in which you are now holding your sessions, is rented from the proprietors of the same, by me, on behalf of the General Government, for the use of one branch of the Legislative Assembly, during the present (4th) session.

I also understand, that the same is rented by the U. S. Marshal, for the purpose of holding Court for the Second Judicial District, during the term of Court; and as it was

expected the Court would close its sittings before the assembling of the Legislature, it was not anticipated that the Court would be in the way of the Legislature; but as the Court did not adjourn until the second day of the present Legislative session, it claimed the right to occupy said Hall during the sitting of the Court; but as the Council was not in session during the afternoon of the second day of your session, and as you willingly permitted the Court to occupy the same, I see no occasion for any conflict of rights or interests between the U. S. Marshal and your honorable body, since you in no wise interfered with the sitting of the court.

The Court adjourned on the 6th inst., and will have no right to the possession of the Hall during the present session of the Legislative Assembly. I have further to state, that the Council do not occupy said Hall by the "courtesy of the U. S. Marshal," *but of their own right*, since it is rented for their exclusive use during the present Session.

The key of the Hall is now in possession of their Sergeant-at-Arms, and they will control the same as they may deem proper.

I am,

Gentlemen,

Your ob't serv't,

JOHN HUTCHINSON,

Secretary.

The committee having performed the business confided to it,
was

On motion of Mr. Bradford,
Discharged from further service.

On motion of Mr. Gregory,
The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

FIFTH DAY.

COUNCIL CHAMBER. }
 Friday, December 9th, 1864. }

The Council met pursuant to adjournment, and was called to order by the President in the chair

Prayer by the Chaplain,

Roll called.

The following members answered to their names:

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

The Journal of the eighth instant was then read and approved:

The following message was then received from the House:

HOUSE OF REPRESENTATIVES, }
 December 9, 1864. }

MR. PRESIDENT:—I have the honor to inform the Hon. Council that the House in response to your Resolution of the 8th instant, relative to the revision of the Penal Code, has adopted the following resolution:

Resolved, That the Honorable Speaker of the House be constituted a committee of one on the part of the House to act with the committee on the part of the Hon. Council in the manner contemplated in the Resolution transmitted to the House.

GEO. I. FOSTER,

Chief Clerk.

On the motion of Mr. Bothun,

The Council resolved itself into a committee of the whole House on the Governor's message, and

After some time spent therein,

The President resumed the chair, and

Mr. Kingsbury reported as follows:

MR. PRESIDENT:—The committee of the whole House have

had under consideration the message of his Excellency the Governor, and have agreed upon the following recommendations:

That all that portion of the message comprised under the sub-head of "Progress of Indian War" be referred to committee on Indian Affairs.

That all that portion comprised under the head of "Route to the Gold mines" be referred to the committee on Territorial Affairs.

That all that portion comprised under the head of "Appropriation for Military road" be referred to committee on Highways Bridges and Ferries.

That all that portion comprised under the head of "Taxes" be referred to committee on Finance.

That all that portion comprised under the head of "Public Lands" be referred to committee on Agriculture.

That all that portion comprised under the head of "Revision of Laws" be referred to the committee on Judiciary.

That all that portion comprised under the head of "Education" be referred to committee on Education.

That all that portion comprised under the head of "Territorial Affairs" be referred to the committee on Territorial Affairs, and

That all that portion from the beginning to the first sub-head, be referred to the committee on Federal Relations.

GEO. W. KINGSBURY.

Chairman.

And on the motion of Mr. Stone,
The report of the committee was adopted.

On the motion of Mr. Gregory,
The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

SIXTH DAY.

COUNCIL CHAMBER,
Saturday, Dec. 10, 1864. }

The Council met pursuant to adjournment, and was called to order by the President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names:
Messrs. Bradford, Kingsbury, Rich, Taylor, J. O., and Mr. President.

There not being a quorum present,
The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

EIGHTH DAY.

COUNCIL CHAMBER,
Monday, Dec. 12, 1864. }

The Council met pursuant to adjournment, and was called to order by the President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names:

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., Taylor, F., and Mr. President.

The journal of the ninth instant, was then read and approved, also,

The journal of the tenth instant, was then read and approved.

NOTICE OF BILLS.

Mr. Kingsbury gave notice that on to-morrow, or some subsequent day of the session, he would introduce a bill prescribing the manner of contesting the election of county officers.

INTRODUCTION OF BILLS.

Pursuant to notice, Mr. Gregory introduced C. B. No. 2; entitled An act to repeal chapter forty-three of the private laws of 1862-3.

COUNCIL BILLS ON THEIR FIRST AND SECOND READING.

C. B. No. 2, was then
Taken up, and
Read the first and second time, and
On motion of Mr. Kingsbury, was
Referred to the committee on Incorporations,

On motion of Mr. Gregory,
The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

NINTH DAY.

COUNCIL CHAMBER,
Tuesday, Dec. 13th, 1864. }

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

President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names :

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., Taylor, F. and Mr. President.

The Journal of the twelfth instant, was then read and approved.

NOTICE OF BILLS.

Mr. Bradford gave notice that he would on to-morrow or some subsequent day of the session, introduce a bill to encourage the cultivation of fruit and forest trees and Grape Vines.

INTRODUCTION OF BILLS.

Pursuant to notice, Mr. Kingsbury introduced C. B. No. 3, entitled An act prescribing the manner of contesting the election of county officers.

By unanimous consent, Mr. Gregory introduced C. B. No. 4, entitled An act conferring the rights of citizenship upon David LeClare and Charles LeClare.

REPORTS OF COMMITTEES.

Mr. Gregory, from the committee on Judiciary, submitted.

the following report:

MR. PRESIDENT:—Your committee on Judiciary, to whom was referred C. B. No. 1, An act establishing the courts and jurisdiction of Judges of Probate, have had the same under consideration, and report the same back with the recommendation that it be made the special order in committee of the whole House to-morrow at half past eleven o'clock A. M.

J. SHAW GREGORY,
Chairman.

Mr. Bothun, from the committee on Incorporations, submitted the following report:

MR. PRESIDENT:—Your committee on Incorporations, to whom was referred C. B. No. 2, entitled An act to repeal chapter forty three of the private laws of 1862-3, have had the same under consideration, and report it back without amendment, with the recommendation that it do pass.

L. BOTHUN,
Chairman.

On the motion of Mr. Taylor J. O.,
The report of the committee on C. B. No. 1, was adopted.

**COUNCIL BILLS ON THEIR FIRST AND SECOND
READING.**

C. B. No. 3, entitled An act prescribing the manner of contesting the election of county officers, was then

Taken up, and
Read the first and second time, and
On the motion of Mr. Bothun, was
Referred to the committee on Elections.

C. B. No. 4, entitled An act conferring the rights of citizenship upon David Le Clare and Charles Le Clare, was then

Taken up, and
Read the first and second time, and
On the motion of Mr. Gregory, was
Referred to the committee on Elections.

COUNCIL BILLS ON THEIR THIRD READING.

C. B. No. 2, An act to repeal chapter forty-three of the private laws of 1862-3, 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.

Yeas 10, nays none, as follows :

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., Taylor, F., and Mr. President.

None voting in the negative.

So the bill was passed, and

On motion of Mr. Gregory,

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House in said bill.

The following message was received from the House :

HOUSE OF REPRESENTATIVES, }
December 13, 1864. }

MR. PRESIDENT:—I have the honor to inform the Council that the Speaker of the House has announced the following Standing Committees :

Ways and Means—Messrs. Collar, Hanson and Kellogg.

Judiciary—Messrs. Hanson, Stickney and Shriner.

Internal Improvements—Messrs. Rouse, Reed and Turner.

Public Lands—Messrs. Christy, Burgess and Lawrence.

Federal Relations—Messrs. Kellogg, Shriner and Owens.

Education—Messrs. Stickney, Turner and Pratt.

Towns and Counties—Messrs. Kegan, Mathers and Wall.

Military Affairs—Messrs. Burgman, Le Mouges and McCarthy.

Incorporations—Messrs. Turner, Fallas and Collar.

Agriculture and Manufactures—Messrs. Reed, Mathers and McCarthy.

Elections—Messrs. Matthiesen, Shriner and Le Mouges.

Indian Affairs—Messrs. Shriner, Wall and Owens.

Mines and Minerals—Messrs. Burgess, Lawrence and Kegan.

Engrossment—Messrs. Lawrence, Matthiesen and Stickney.

Enrollment—Messrs. Hanson, Kellogg and Pratt.

GEO. I. FOSTER.

Chief Clerk.

On motion of Mr. Gregory,

The Council then adjourned.

ENOS STUTSMAN,

President.

GEO. N. PROPPER, *Secretary.*

TENTH DAY.

COUNCIL CHAMBER,
Wednesday, Dec. 14th, 1864. }

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

President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names,

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor J. O., Taylor, F. and Mr. President.

The Journal of the thirteenth instant was then read and approved.

INTRODUCTION OF BILLS.

Pursuant to notice, Mr. Bradford introduced C. B. No. 5, entitled An act to encourage the cultivation of Fruit and Forest trees and Grape Vines.

RESOLUTIONS.

Mr. Kingsbury introduced the following resolution :

Resolved, That Major J. A. Lewis, acting agent for the Ponca Indians, be admitted to a seat within the bar of the Council.

Mr. Stone introduced the following resolution :

Resolved, That the Hon. M. M. Rich be excused for non attendance the first, second and third days of this session.

COUNCIL BILLS ON THEIR FIRST AND SECOND READING.

C. B. No. 5, An act to encourage the cultivation of Fruit and Forest trees and Grape Vines, was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Kingsbury, was

Referred to the committee on Agriculture.

Mr. Gregory moved that the resolution introduced by Mr. Kingsbury be adopted.

Which motion prevailed.

Mr. Kingsbury moved that the resolution introduced by Mr. Stone be adopted.

Which motion prevailed.

ORDER OF THE DAY.

The hour having arrived for considering the order of the day,

The President announced C. B. No. 1, An act to establish the courts and jurisdiction of Judges of Probate, in committee of the whole House.

Whereupon, on the motion of Mr. Gregory,

The Council resolved itself into the committee of the whole House, on C. B. No. 1, and

After some time spent therein

The President resumed the chair.

Mr. Gregory reported as follows :

MR. PRESIDENT:—The committee of the whole House have had under consideration C. B. No. 1, An act to establish the courts and jurisdiction of Judges and Probate, and have agreed upon the following recommendation: That it be recommitted to a select committee of three, with instructions to report a substitute in printed form, if they deem it to be advisable.

J. SHAW GREGORY.

Chairman.

On the motion of Mr. Rich,

The report of the committee was adopted.

Whereupon, the President appointed.

Messrs. Gregory, Rich, and Bradford the select committee on C. B. No. 1.

Mr. Taylor J. O., moved that the Secretary notify the House that the Council solicits an interchange of service by the Chaplains of the respective Houses.

Which motion prevailed.

On the motion of Mr. Bothun

The Council then adjourned.

ENOS STUTSMAN,

President.

GEO. N. PROPPER, *Secretary.*

ELEVENTH DAY.

COUNCIL CHAMBER,
Thursday, Dec. 15, 1864. }

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

President in the chair.

Prayer by the Chaplain.

Rolled called.

The following members answered to their names :

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., Taylor F. and Mr. President.

The Journal of the fourteenth instant was then read and approved.

NOTICE OF BILLS.

Mr. Bothun gave notice that he would, on to-morrow or some subsequent day of the session, introduce a bill fixing the time for taking up estray cattle.

INTRODUCTION OF BILLS.

By unanimous consent, Mr. Kingsbury introduced C. B. No. 6, entitled, An act to authorize the Governor to appoint and commission a county superintendent of public instruction, in and for the county of Yankton.

RESOLUTIONS

Mr. Stone introduced the following resolution :

Resolved, That the Hon. Franklin Taylor be excused for non-attendance on the fifth and sixth days of this session, on account of ill health.

Mr. Bradford introduced the following resolution :

Resolved, That Mr. Stone be appointed a select committee of one, with instructions to make search for C. B. No. 63, entitled An act to encourage the cultivation and preservation of timber, passed at the last session of the Legislative Assembly, and approved by the Governor on the 15th day of January, 1864, which bill does not appear in the printed laws of said session. And, that if said bill cannot be found, the committee be instructed to report a bill of like import, if deemed to be advisable.

REPORTS OF COMMITTEES.

Mr. Bothun, from the committee on Elections, submitted the following report :

MR. PRESIDENT:—Your committee on Elections to whom was referred C. B. No. 4, entitled An act conferring the rights of citizenship upon David Le Clare and Charles Le Clare, have had the same under consideration, and report it back, without amendment and recommend that it do pass.

L. BOTHUN,
Chairman.

COUNCIL BILLS ON THEIR FIRST AND SECOND READING.

C. B. No. 6, An act authorizing the Governor to appoint and commission a county superintendent of public instruction, in and for the county of Yankton, was then

Taken up, and

Read the first and second time, and

On motion of Mr. Gregory, was

Referred to the committee on Education.

COUNCIL BILLS ON THEIR THIRD READING.

C. B. No. 4, An act conferring the rights of citizenship upon

David Le Clare and Charles Le Clare, was then

Taken up, and

There being no amendments proposed, it 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.

Yeas ten, and nays none, as follows :

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers,
Rich, Stone, Taylor, J. O., Taylor, F. and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Gregory,

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the
House in the said bill.

The resolution introduced by Mr. Stone, was then

Taken up, and

On the motion of Mr. Bothun,

It was adopted.

The resolution introduced by Mr. Bradford, was then

Taken up, and

On the motion of Mr. Taylor, J. O.,

It was adopted.

On motion of Mr. Gregory,

The Council then adjourned.

ENOS STUTSMAN,

President.

GEO. N. PROPPER, *Secretary.*

TWELFTH DAY.

COUNCIL CHAMBER, }
 Friday, Dec. 16th, 1864. }

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

President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names :

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., Taylor, F. and Mr. President.

The Journal of the fifteenth instant was then read and approved.

The following message was received from the House :

HOUSE OF REPRESENTATIVES, }
 Dec. 16, 1864. }

MR. PRESIDENT:—I have the honor to transmit to the Council, for your concurrence therein, H. F. No 2, An act legalizing the acts of certain county offices of Yankton county ;

H. F. No. 6, An act amendatory of an act granting to Charles E. Rowley a Ferry Charter across the Missouri River; and

H. F. No. 7, An act to provide for the location of the county Seat of Union county ; all of which bills have passed the House.

I am also instructed to inform you, that any exchange of service the Chaplains may see fit to make, will meet the approbation of the House.

GEO. I. FOSTER.

Chief Clerk.

 NOTICE OF BILLS.

Mr. Mathers gave notice that he would, on to-morrow or some

subsequent day of the session, introduce a bill entitled **An act requiring compensation for causing death by wrongful act, neglect or default**

RESOLUTIONS.

Mr Taylor F., introduced the following resolution :

Resolved, That the Hon. John Mathers be excused for non-attendance the sixth day of the present session on the account of ill health.

REPORTS OF COMMITTEES.

Mr. Bradford, from the committee on agriculture, submitted the following report :

MR. PRESIDENT:—Your committee on agriculture, to whom was referred C. B. No. 5, An act to encourage the cultivation of fruit and forest trees and grape vines; have had the same under consideration, and report it back without amendment, and recommend that it do pass.

D. P. BRADFORD.

Chairman.

HOUSE FILES ON THEIR FIRST AND SECOND READING

II. F. No. 2, entitled **An act legalizing the acts of certain county officers of Yankton county**; was then

Taken up, and

Read the first and second time, and

On the motion of Mr Gregory, was

Referred to the committee on Judiciary.

II. F. No. 6, entitled **An act amendatory of an act granting to Charles E. Rowley a Ferry charter across the Missouri river**; was then

Taken up, and

Read the first and second time, and
 On the motion of Mr. Gregory, was
 Referred to the committee on Highways, Bridges and Fer-
 ries.

H. F. No. 7, entitled An act to provide for the location of
 the county seat of Union county; was then
 Taken up, and
 Read the first and second time, and
 On the motion of Mr. Rich, was
 Referred to a select committee of three to be appointed by
 the chair.

Whereupon the President appointed, Messrs. Rich, Stone
 and Bradford, said committee.

COUNCIL BILLS ON THEIR THIRD READING.

C. B. No. 5, An act to encourage the cultivation of fruit and
 forest trees and grape vines; was then

Taken up, and there being no amendments proposed,
 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.

Yeas ten, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers,
 Rich, Stone, Taylor, J. O., Taylor F. and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Gregory

Its title was agreed to.

Ordered, That the Secretary request the concurrence of
 the House in the said bill.

On the motion of Mr. Gregory

The resolution introduced by Mr. Taylor F. was adopted

On the motion of Mr. Gregory,
The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

THIRTEENTH DAY.

COUNCIL CHAMBER,
Saturday, December 17th, 1864. }

The Council met pursuant to adjournment, and was called to order by the President in the chair

Prayer by the Chaplain.

Roll called.

The following members answered to their names:

Messrs. Bothun, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., Taylor F., and Mr. President.

The Journal of the sixteenth instant was then read and approved:

INTRODUCTION OF BILLS.

Pursuant to notice, Mr. Mathers introduced C. B. No. 7, entitled An act requiring compensation for causing death by wrongful act, neglect, or default.

By unanimous consent, Mr. Mathers introduced C. B. No. 8, entitled An act to locate a Territorial road from Paquettes Ferry to Vermillion.

RESOLUTIONS.

Mr. Gregory introduced the following resolution:

Resolved, That the Chaplain be relieved from service Monday next.

 REPORTS OF COMMITTEES.

Mr. Mathers from the committee on Education, submitted the following report.

MR. PRESIDENT:—Your committee on Education, to whom was referred C. B. No. 6, entitled An act to authorize the Governor to appoint and commission a county superintendent of public instruction in and for the county of Yankton, have had the same under consideration, and report it back without amendment, and recommend that it do pass.

JOHN MATHERS.

Chairman.

 COUNCIL BILLS ON THEIR FIRST AND SECOND READING.

C. B. No. 7, entitled An act requiring compensation for causing death by wrongful act, neglect or default; was then

Taken up, and

Read the first and second time, and

On motion of Mr. Kingsbury, was

Referred to the committee on Judiciary.

C. B. No. 8, entitled An act to locate a territorial road from Paquettes Ferry to Vermillion, was then

Taken up, and

Read the first and second time, and

On motion of Mr. Gregory, was

Referred to committee on Highways Bridges and Fences.

 COUNCIL BILLS ON THEIR THIRD READING.

C. B. No. 6, An act authorizing the Governor to appoint and

commission a county superintendent of Public instruction in and for the county of Yankton, was then

Taken up.

Whereupon, Mr. Kingsbury moved the following amendment thereto:

Strike out the word "schools" in the fourth line, and insert in lieu thereof, the words "Public Instruction," and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the amendment was agreed to.

Mr. Kingsbury also moved the following amendment:

Strike out the words "common schools" in the fifth and sixth line of section one, and insert in lieu thereof the words "Public Instruction," and

The question being put, will the Council agree thereto?

It was decided in the affirmative,

So the amendment was agreed to.

All the amendments having been disposed of,

Ordered, That the bill be engrossed, and read the third time on Monday next.

The resolution introduced by Mr. Gregory, was then

Taken up, and

On the motion of Mr. Rich, was

Adopted.

On the motion of Mr. Gregory,

The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

FIFTEENTH DAY.

COUNCIL CHAMBER,
Monday, Dec. 19., 1864. }

The Council met pursuant to adjournment, and was called to order by the President in the chair.

Roll called.

The following members answered to their names:

Messrs. Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

The journal of the seventeenth instant, was then read and approved.

MEMORIALS.

By unanimous consent, Mr. Stone introduced C. B. No. 9, entitled a memorial to the Quartermaster of the first military district of the department of the north west.

NOTICE OF BILLS.

Mr. Rich gave notice that he would, on to-morrow or some subsequent day of the session, introduced a bill providing for the location and establishing of county seats throughout the different counties of the Territory.

INTRODUCTION OF BILLS.

By unanimous consent, Mr. Taylor, J. O., introduced C. B. No. 10, entitled An act qualifying section fifty one, chapter nineteen, general laws of 1863-4.

By unanimous consent, Mr. Rich introduced C. B. No. 11, entitled An act locating a Territorial road from the Big Sioux river to Yankton.

RESOLUTIONS.

Mr. Mathers introduced the following resolution:

Resolved, That the Hon. Franklin Taylor be excused from attendance this day, on the account of sickness.

REPORTS OF COMMITTEES.

Mr. Kingsbury, from the committee on engrossed and enrolled bills, submitted the following report:

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills, have to report that they have examined C. B. No. 6, An act authorizing the Governor to appoint and commission a county superintendent of public instruction, in and for the county of Yankton; and have found the same correctly engrossed.

GEO. W. KINGSBURY.

Chairman.

Mr. Stone, from the committee on Highways, Bridges and Ferries, submitted the following report:

MR. PRESIDENT:—Your committee on Highways, Bridges and Ferries, to whom was referred H. F. No. 6, An act amendatory of An act granting to Chas. E. Rowley a ferry charter across the Missouri River; have had the same under consideration, and report back without amendment, and recommend it do pass.

J. M. STONE,

Chairman.

COMMUNICATIONS ON THE PRESIDENT'S TABLE.

The following message from the House was then read:

HOUSE OF REPRESENTATIVES, }
December 19, 1864. }

MR. PRESIDENT :—I have the honor to inform you that the House has passed C. B. No. 2, An act to repeal chapter forty-three of the private laws of 1862-3.

I have also, to inform you that the House has passed H. F. No. 13, a bill to grant to Christopher Maloney a ferry across the Missouri river, in the county of Union ; and

H. F. No. 12, An act changing the time of holding the district court in the second judicial district ; both of which house files I have the honor herewith to transmit, and respectfully solicit the concurrence of the Council therein.

I also, herewith, return C. B. No. 2.

GEO. I. FOSTER,
Chief Clerk.

UNFINISHED BUSINESS.

C. B. No. 6, An act authorizing the Governor to appoint and commission a county superintendent of public instruction, in and for the county of Yankton ; was then

Taken up, and

Being engrossed, it 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.

Yeas seven, nays none, as follows :

Those who voted in the affirmative, are

Messrs. Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O. and Mr. President.

None voting in the negative,

So the bill was passed, and

On motion of Mr. Gregory,

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House in the said bill.

COUNCIL BILLS ON THEIR FIRST AND SECOND READING.

C. B. No. 9, a memorial to the Quartermaster of the first military district, department of the northwest; was then

Taken up, and

Read the first and second time, and

On motion of Mr. Gregory,

The rules were suspended, and 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.

Yeas seven; and nays none, as follows :

Those who voted in the affirmative, are

Messrs. Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Kingsbury,

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House in the said bill.

C. B. No. 10, An act qualifying section fifty-one of chapter nineteen, general laws of 1863-4; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Kingsbury, was

Referred to committee on Elections.

C. B. No. 11, entitled An act locating a Territorial road from the Big Sioux river to Yankton; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Gregory, was

Referred to the committee on Highways, Bridges and Ferries.

HOUSE FILES ON THEIR FIRST AND SECOND READING.

H. F. No 12, An act changing the time of holding the District Court in the Second Judicial District, was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Stone, was

Referred to a special committee composed of the Yankton delegation.

H. F. No. 13, entitled A bill to grant Christopher Maloney a ferry charter on the Missouri river, in the county of Union, was then

Taken up, and

Read the first and second time, and,

On the motion of Mr. Rich, was

Referred to the committee on Highways, Bridges, and Ferries.

 HOUSE FILES ON THEIR THIRD READING.

H. F. No. 6, entitled An act amendatory of an act granting to Charles E. Rowley a ferry charter across the Missouri river, 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.

Yeas seven, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O. and Mr. President.

None voting the negative.

So the bill was passed, and

On the motion of Mr. Kingsbury,

Its title was agreed to.

On the motion of Mr. Gregory,

The resolution introduced by Mr. Mathers, was adopted.

By unanimous consent, Mr. Gregory, from the committee on Elections, submitted the following report :

MR. PRESIDENT:—Your committee on elections have had under consideration C. B. No. 10, An act qualifying section fifty-one of chapter nineteen, general laws of 1863-4; and report the same back with attached amendments, and recommend that it do pass.

J. SHAW GREGORY,
Chairman.

C. B. No. 10, An act qualifying section fifty-one of chapter nineteen, general laws of 1863-4; was then

Taken up, and

The amendment reported by the committee was read, as follows, to wit :

After the last word in section one, add the following: *Provided*, That but one appointment shall be made under the provisions of this act; and

The question being put, will the Council agree thereto?

It was decided in the affirmative; and

There being no further amendments proposed,

Ordered, That the bill be engrossed and read the third time on to-morrow.

On motion of Mr. Gregory,

The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

SIXTEENTH DAY.

COUNCIL CHAMBER,
 Tuesday, Dec. 20, 1864. }

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

President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names:

Messrs. Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

The Journal of the nineteenth instant was then read and approved.

 NOTICE OF BILLS.

Mr. Bradford gave notice that he would, on to-morrow or some subsequent day of the session, introduce a bill granting the privilege of forming Cemetery associations.

 INTRODUCTION OF BILLS.

By unanimous consent, Mr. Gregory introduced C.B. No. 12, entitled An act to amend chapter eighteen section two of the laws of 1862; also, C. B. No. 13, entitled An act incorporating the town of Spring Lake in Todd county.

 REPORTS OF COMMITTEES.

Mr. Kingsbury, from the committee on Engrossed and Enrolled bills, submitted the following report:

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills, have examined C. B. No. 10, An act qualifying sec-

tion fifty one of chapter nineteen, general laws of 1863-4, and have found the same correctly engrossed.

G. W. KINGSBURY

Chairman.

Mr. Gregory, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills, have, jointly with the committee on Enrollment of the House, examined C. B. No. 2, An act to repeal chapter forty three of the Private laws of 1862-63, and have found the same correctly enrolled.

J. SHAW GREGORY.

Mr. Gregory, from the committee on Judiciary, submitted the following report:

MR. PRESIDENT:—Your committee on Judiciary, have had under consideration C. B. No. 7, An act requiring compensation for causing death by wrongful act, neglect or default; and report the same back without amendment, and recommend that it do pass.

J. SHAW GREGORY,

Chairman.

Mr. Gregory, from the same committee submitted the following report :

MR. PRESIDENT:—Your committee on Judiciary, have had under consideration H. F. No. 2, An act legalizing the acts of certain county officers of Yankton county, and report it back without amendment, and recommend that it do pass.

J. SHAW GREGORY,

Chairman.

COUNCIL BILLS ON THEIR FIRST AND SECOND READING.

C. B. No. 12, entitled An act to amend chapter eighteen, section two, of the laws of 1862; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Gregory, was

Referred to committee on Territorial affairs.

C. B. No. 13, entitled An act incorporating the town of Spring Lake in Todd county; was then

Taken up, and

Read the first and second time, and

On the the motion of Mr Stone, was

Referred to committee on Territorial affairs.

COUNCIL BILLS ON THEIR THIRD READING.

C. B. No. 10, An act qualifying section fifty-one of chapter nineteen, general laws of 1863-64; was then

Taken up, and being engrossed, it was

Read the third time, and

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

It was decided in the affirmative

Yeas 7, nays none, as follows:

Those who voted in the affirmative, are .

Messrs. Bradford, Kingsbury, Mathers, Rich, Stone, Taylor, J. O. and Mr. President

None voting in the negative

So the bill was passed, and

On the motion of Mr. Stone,

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House in the said bill.

C. B. No. 7, An act requiring compensation for causing death by wrongful act, neglect or default; was then

Taken up, and their being no amendments proposed, it 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.

Yeas eight, nays none, as follows :

Those who voted in the affirmative, are

Messrs. Bradford, Gregory, Kingsbury, Mathers, Rich, Stone,
Taylor, J. O. and Mr. President.

None voting in the negative,

So the bill was passed, and

On motion of Mr. Gregory,

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the
House in the said bill.

HOUSE FILES ON THEIR THIRD READING.

H. F. No. 2, An act legalizing the acts of certain county of-
ficers of Yankton county; 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.

Yeas eight, nays none, as follows :

Those who voted in the affirmative, are

Messrs. Bradford, Gregory, Kingsbury, Mathers, Rich,
Stone, Taylor, J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Gregory

Its title was agreed to.

Mr. Gregory announced to the Council that news had just
been received of the occupation of Savannah, Georgia, by the
army under Major General Sherman,

Whereupon, Mr. Kingsbury, by unanimous consent, submit-
ted the following resolution:

Whereas, Information of an authentic nature having been
received, of the occupation of Savannah, Georgia, by Major
General Sherman, and his Patriotic Army, and

Whereas, The achievement of this brilliant success, severs in

'twain the dominion of rebeldom, creates and impassable barrier between its most powerful sections, strikes a vital blow at treason, fractures past all surgery the tough and flexible spine of Jeff's confederacy, and discloses to the world the hordes of southern chivalry poised in awful and helpless agony above the dark and dirty chasm of the "last ditch," be it therefore

Resolved, By the Council, That these tidings are welcomed as the dawn of a speedy and certain peace, to our afflicted country, That in it we behold clearly the "beginning of the end" of our nations troubles, and feel that we can safely congratulate each and every American citizen, who truly loves the Government, established by our fathers, upon the sure prospect of a speedy restoration of our sacred Union, renovated and purged of its iniquity, and established upon the firm and lasting foundations of christianity, liberty, equality and humanity. And while we desire to fully appreciate the important services of the invincible Sherman, in thus delivering to us this great rebel stronghold, we are not unmindful that to God alone is due all honor, praise and thanks, for the perservation and guidance of our army, and the wisdom, sagacity, and courage with which He has endowed our country's defenders.

On the motion of Mr. Gregory,
The resolution was unanimously adopted.

Mr. Gregory moved that the vote last taken be re-considered and also moved that the motion to re-consider be laid on the table,

Which latter motion prevailed.

On motion of Mr. Gergory,
The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

SEVENTEENTH DAY.

COUNCIL CHAMBER,
Wednesday, Dec. 21, 1864. }

The Council met pursuant to adjournment, and was called to order by the President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names:

Messrs. Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

The journal of the twentieth instant, was then read and approved.

On the motion of Mr. Bradford, Commodore H. E. Gregory was admitted to a seat within the bar of the Council.

 INTRODUCTION OF BILLS

Pursuant to notice, Mr. Bradford, introduced C. B. No. 14, Entitled An act granting the privilege of forming cemetery associations.

 REPORTS OF COMMITTEES.

Mr. Stone, from the committee on Highways, Bridges and Ferries, submitted the following report:

MR. PRESIDENT:—Your committee on Highways, Bridges and Ferries have had under consideration C. B. No. 8, An act to locate a Territorial road from Paquetts ferry to Vermillion; and report the same back with the attached amendment and recommend that it do pass.

J. M. STONE.

Chairman.

Mr. Stone, from the same committee, reported as follows :

MR. PRESIDENT:—Your committee on Highways, Bridges and Ferries, have had under consideration C. B. No. 11, An act locating a Territorial road from the Big Sioux river to Yankton ; also, H. F. No. 13, An act granting to Christopher Maloney a Ferry Charter across the Missouri river ; and report the said bills back with the recommendation that they do pass.

J. M. STONE.

Chairman.

Mr. Kingsbury, from the committee on Engrossed and Enrolled Bills, submitted the following report :

MR. PRESIDENT:—In behalf of your committee on Engrossed and Enrolled Bills, I have to report that at 2 o'clock P. M. Dec. 20th inst. we handed to his Excellency the Governor, C. B. No. 2, An act to repeal chapter forty three of the private Laws of 1862-63 ; for his approval.

GEO. W. KINGSBURY.

Chairman.

Mr. Gregory, from special committee on C. B. No. 1, submitted the following report.

MR. PRESIDENT:—Your special committee to whom was referred C. B. No. 1, with instructions to report a substitute if deemed advisable, have had the same under consideration, and have arrived to the conclusion that said bill, in many essential features, is ineffectual and inadequate. We have therefore agreed upon a substitute, which we herewith report, and recommend that it do pass.

J. SHAW GREGORY.

Chairman.

Whereupon said committee introduced substitute C. B. N 1, entitled An act establishing Probate Courts, defining the Jurisdiction thereof, and prescribing the proceedings thereon.

Mr. Stone, from the select committee to enquire after C. B. No. 63, of the last session, submitted the following report:

MR. PRESIDENT:—I have to report that I have examined

the records, and instituted search for C. B. No. 63, passed at the last session of the Legislative Assembly, approved by the Governor; and which does not appear in the volume of printed laws of said session; that I have found said bill among the files of bills of that session, in the office of the Secretary of this Territory, who informed me that in preparing the several acts of the last session for printing, said bill was overlooked, and that the omission was not discovered until after it was too late to be printed with the other laws, but, that, he will have the same printed and appended, with a note of explanation to the printed volume of laws of this session. Having discharged the duty assigned me, as such committee, I ask to be discharged.

J. M. STONE,
Committee.

On motion of Mr. Bradford
Said committee was discharged.

MESSAGE FROM THE HOUSE.

The following message was then received from the House:

HOUSE OF REPRESENTATIVES, }
December 21, 1864. }

MR. PRESIDENT:—I am instructed to inform the Council that the House has passed the following bills:

C. B. No. 4, An act conferring the right of citizenship upon David LeClare and Charles LeClare;

C. B. No. 5, An act to encourage the cultivation of fruit and forest trees and grape vines; and

C. B. No. 9, A memorial to the Quartermaster of the First Military District Department of the Northwest; with the attached amendment; which bills I herewith return.

I have also, to inform you that the House has passed the following House Files:

H. F. No. 8, An act regulating the Weight of Grain &c;

H. F. No 14, An act concerning Vacancies and Special Elections;

H. F. No. 15, An act providing for the recording of Town Plots; and

H. F. No. 16, An act for the Location of a Territorial Road from the mouth of the Running Water *via* the mouth of Ponca creek to Fort Randall, D. T. ; which bills I herewith transmit and request the concurrence of the Council therein.

GEO. I. FOSTER,
Chief Clerk.

COUNCIL BILLS ON THEIR FIRST AND SECOND READING.

C. B. No. 1, (Substitute,) entitled An act establishing Probate Courts, defining the Jurisdiction thereof and prescribing the proceedings therein ; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Taylor J. O., was

Referred to the committee of the whole House, and made the special order for to-morrow at half past eleven o'clock, A. M.

C. B. No. 14, entitled An act granting the privilege of forming Cemetery Associations ; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Gregory, was

Referred to the committee on Territorial offices.

HOUSE FILES ON THEIR FIRST AND SECOND READING.

H. F. No. 8, entitled An act regulating the weight of Grain, &c ; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Gregory, was

Referred to the committee on Agriculture.

H. F. No. 14, entitled An act concerning Vacancies and Special Elections ; was then

Taken up, and

Read the first and second time, and
On the motion of Mr. Stone, was
Referred to the committee on Elections.

H. F. No 15, entitled An act providing for the recording of
Town Plots; was then
Taken up, and
Read the first and second time, and
On the motion of Mr. Mathers, was
Referred to the committee on Judiciary.

H. F. No. 16, entitled An act to Locate and Establish a
Territorial road from the mouth of the Running Water *via* the
mouth of Ponca creek, to Fort Randall, D. T. ; was then
Taken up, and
Read the first and second time, and
On the motion of Mr. Bradford, was
Referred to the committee on Highways, Bridges and Ferries.

COUNCIL BILLS ON THEIR THIRD READING.

C. B. No. 8, An act Locating a Territorial road from
Paquetts Ferry to Vermillion; was then
Taken up, and
The amendment reported by the committee was read as fol-
lows, to wit:

Strike out all of section three, and insert the following as
section three;

“The expenses incurred in surveying, marking and establish-
ing said road, shall be paid by the respective counties through
which it shall pass, each county shall pay the expenses of loca-
ting so much of said road as shall pass through the same,” and

The question being put, will the Council agree thereto?

It was decided in the affirmative,

So the amendment was agreed to.

On the motion of Mr. Gregory

The bill was ordered Engrossed for its third reading on to-
morrow.

C. B. No. 11, An act locating a territorial road from the Big Sioux River to Yankton, was then

Taken up, and

There being no amendment proposed, it 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,

Yeas seven, nay none, as follows:

Those who voted in the affirmative, are

Messrs. Bradford, Gregory, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

None voting in the negative,

So the bill was passed, and

On the motion of Mr. Bradford

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House in the said bill.

HOUSE BILLS ON THEIR THIRD READING.

H. F. No. 13, An act granting to Christopher Malony a ferry charter across the Missouri river, was then

Taken up, and

There being no amendment proposed, it 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.

Yeas seven, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bradford, Gregory, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Stone,

Its title was agreed to.

C. B. No. 9, A memorial to the Quarter Master of the first.

military District Department of the Northwest; was then
Taken up, and

The House amendment thereto was read as follows:

Insert the words "and Ponca" after the words "Choteau,"
and before the word "creeks," also, strike out the word "and"
before the word "Choteau," and

The question being put, will the Council agree thereto?

It was decided in the affirmative,

So the amendment was concurred in.

On the motion of Mr. Gregory

The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

EIGHTEENTH DAY.

COUNCIL CHAMBER,
Thursday, Dec. 22, 1864. }

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

President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names,

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers,
Kach, Stone, Taylor J. O., and Mr. President.

The Journal of the twenty-first instant was then read and

approved.

NOTICE OF BILLS.

Mr. Bothun gave notice that he would, on to-morrow or some subsequent day of the session, introduce a bill increasing the fees of certain county officers.

Mr. Bradford gave notice that he would, on to-morrow or some subsequent day of the session, introduce a bill providing for the protection of game.

REPORTS OF COMMITTEES.

Mr. Taylor, J. O., from the committee on Territorial affairs, submitted the following report:

MR. PRESIDENT:—Your committee on Territorial Affairs, have had under consideration C. B. No. 13, An act incorporating the Town of Spring Lake, in Todd county; and report the same back without amendment, and recommend that it do pass.

J. O. TAYLOR,

Chairman.

Mr. Kingsbury, from the committee on engrossed and enrolled bills, submitted the following reports:

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills, have to report that jointly with the committee on Enrollment of the House, they have examined C. B. No. 5, An act to encourage the cultivation of fruit and forest trees, and grape vine; and find the same correctly enrolled.

GEO. W. KINGSBURY.

Chairman.

MR. PRESIDENT:—Your Committee on engrossed and enrolled bills have to report, that jointly with the committee on Enrollment of the House, they have examined C. B. No. 9, a memorial to the Quartermaster of the first military district, department of the north west; and have found the same correctly enrolled.

G. W. KINGSBURY,

Chairman.

Mr. Gregory, from same committee, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills have to report, that jointly with the committee on Enrollment of the House, they have examined C. B. No. 4 and 8, and find them correctly enrolled.

J. SHAW GREGORY.

ORDER OF THE DAY.

The hour having arrived for considering the order of the day,

The President announced C. B. No. 1, An act establishing probate courts, defining the jurisdiction thereof, and prescribing the proceedings therein, in committee of the Whole House.

Whereupon, on the motion of Mr. Gregory,

The Council resolved itself into the committee of the whole House, on C. B. No. 1, and

After some time spent therein

The President resumed the chair.

Mr. Gregory reported as follows :

MR. PRESIDENT:—The committee of the whole House have had under consideration pursuant to special order, C. B. No. 1, An act establishing probate courts, defining the jurisdiction thereof, and prescribing the proceedings therein; and have agreed upon the recommendation that the bill do pass.

J. SHAW GREGORY,

Chairman.

The following messages were received from the House :

HOUSE OF REPRESENTATIVES, }
Dec. 22, 1864. }

MR. PRESIDENT:—I am instructed to inform you that the House has passed H. F. No. 9, An act prescribing the manner of contesting the election of county officers; also,

H. F. No. 24, joint resolution relative to the employment of an enrolling clerk for the Council and House of Represen-

tatives; which bills I herewith transmit, requesting the concurrence of the Council therein.

GEO. I. FOSTER.

Chief Clerk.

HOUSE OF REPRESENTATIVES, }
December 22, 1864. }

MR. PRESIDENT:—I am instructed to inform you that the House has passed H. F. No. 3, An act concerning money of account and fixing a rate of interest of money; which bill I herewith transmit, requesting the concurrence of the Council therein.

GEO. I. FOSTER.

Chief Clerk.

HOUSE FILES ON THEIR FIRST AND SECOND READING.

H. F. No. 9, An act prescribing the manner of contesting the election of county officers; was then

Taken up, and

Read a first and second time, and

On the motion of Mr. Kingsbury, was

Referred to the committee on Elections.

H. F. No. 3, An act concerning money of account, and fixing a rate of interest of money; was then

Taken up, and

Read the first and second time, and

On the motion of Mr Gregory, was

Referred to the committee on Finance.

H. F. No. 24, joint resolution relative to the employment of an enrolling clerk for the Council and House of Representatives; was then

Taken up, and

Read the first and second time, and

On motion of Mr. Gregory,

The rules were suspended, and

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.

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On motion of Mr. Gregory,

Its title was agreed to.

COUNCIL BILLS ON THEIR THIRD READING.

C. B. No. 1, An act establishing probate courts, defining the jurisdiction thereof, and prescribing the proceedings 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.

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On motion of Mr. Bradford,

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House in said bill.

C. B. No. 13, An act incorporating the town of Spring Lake, in Todd 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.

Yeas nine, nays none, as follows :

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor J. O., and Mr. President.

None voting in the negative.

So the bill was passed,

Whereupon Mr. Gregory moved, that the vote last taken be reconsidered, and also, moved that the motion to reconsider be laid upon the table.

Which latter motion was agreed to.

On motion of Mr. Gregory,

The title of the bill was agreed to.

Mr. Gregory moved that the vote last taken be reconsidered and also moved that the motion to reconsider be laid upon the table.

Which latter motion was agreed to.

Ordered, That the Secretary request the concurrence of the House in the said bill.

On motion of Mr. Kingsbury,

The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

NINETEENTH DAY.

COUNCIL CHAMBER,
Friday, Dec. 23, 1864. }

The Council met pursuant to adjournment, and was called to

order by the

President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names :

Messrs. Bothun, Bradford, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

The Journal of the twenty-second instant was then read and approved.

INTRODUCTION OF BILLS.

Pursuant to notice, Mr. Bothun introduced C. B. No 15 entitled An act increasing the fees of certain county officers.

RESOLUTIONS.

Mr. Stone introduced the following resolution :

Resolved, That the Hon. L. Bothun be excused for non-attendance on the fifteenth, sixteenth and seventeenth days of this session.

REPORTS OF COMMITTEES.

Mr. Bradford, from the committee on Agriculture, submitted the following report :

MR. PRESIDENT:—Your committee on Agriculture, have had under consideration H. F. No. 8, An act regulating the weight of grain &c; and report the same back without amendment, and recommend that it do pass.

D. P. BRADFORD,
Chairman.

Mr. Kingsbury, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills, have to report that, in connection with the committee on Enrollment of the House, they have examined H. F. No. 2, An act legalizing the acts of certain county officers of Yankton county; and

H. F. No. 6, An act amendatory of an act granting Charles E. Rowley a ferry charter across the Missouri river; and have found the same correctly enrolled.

G. W. KINGSBURY,
Chairman.

COUNCIL BILLS ON THEIR FIRST AND SECOND
READING.

C. B. No. 15, An act increasing the fees of certain county officers; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Bothun, was

Referred to the committee on Finance.

HOUSE FILES ON THEIR THIRD READING.

H. F. No. 8, An act regulating the weight of grain, &c.; was then

Taken up, and

On motion of Mr. Stone, it

Was recommended to a select committee of three, consisting of Messrs. Stone, Taylor, J. O., and Bothun.

The resolution introduced by Mr. Stone, was then

Taken up, and

On the motion of Mr. Rich, it was

Adopted.

On motion of Mr. Kingsbury,

The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

TWENTIETH DAY.

COUNCIL CHAMBER, }
Saturday, Dec. 24, 1864. }

The Council met pursuant to adjournment, and was called to order by the President in the chair

Prayer by the Chaplain.

Roll called.

The following members answered to their names :

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., Taylor F., and Mr. President.

The Journal of the twenty-third instant was then read and approved.

RESOLUTIONS.

Mr. Taylor, F., introduced the following resolution :

Resolved, That the special committee to whom was referred H. F. No. 7, An act to provide for the location of the county seat of Union county; be instructed to report the same to the Council on Tuesday Dec. the 26th, 1864.

Mr. Bothun introduced the following resolution :

Resolved, That the Hon. Franklin Taylor be excused for non-

attendance from the 18th to the present day of the session, on account of sickness.

REPORTS OF COMMITTEES.

Mr. Kingsbury from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills, have to report, that they did at eleven and a half o'clock A. M., this day, present to his Excellency, the Governor, for his approval, the following bills:

C. B. No. 5, An act to encourage the cultivation of fruit and forest trees, and grape vines;

C. B. No. 4, An act conferring the rights of citizenship upon David Le Clare and Charles Le Clare, and

C. B. No. 9, a memorial to the Quartermaster of the first military district of the north west.

G. W. KINGSBURY,
Chairman.

COMMUNICATIONS ON THE PRESIDENT'S TABLE.

The following communication from his Excellency, the Governor was then read:

DAKOTA TERRITORY, EXECUTIVE OFFICE, }
YANKTON, Dec. 22, 1864. }

HON. ENOS STUTSMAN,
President of the Council.

SIR:—I have the honor to inform you that I have this day approved and signed C. B. No. 2, An act to repeal chapter forty-three of the private laws of 1862-3; and herewith return the same.

I am, Sir,
Very respectfully,
Your ob't Ser'vt,
NEWTON EDMUNDS.
Governor.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The following message from the House was then read :

HOUSE OF REPRESENTATIVES, }
Dec. 24, 1864. }

MR. PRESIDENT :—I am instructed to inform you that the House has passed the following council bills :

C. B. No. 10, An act qualifying section fifty-one, of chapter nineteen, general laws of 1863-4; and

C. B. No. 13, An act incorporating the town of Spring Lake in Todd county; which bills I herewith transmit.

The House has also passed the following house files :

H. F. No. 22, memorial to Congress asking for the construction of a government wagon road from Yankton, in Dakota Territory, to Virginia City, Montana Territory; and

H. F. No. 25, a memorial and joint resolution praying for the establishment of a mail route from Bon Homme to Ponca Agency, D. T.; which I herewith transmit, and request the concurrence of the Council in the same.

GEO. I. FOSTER.

Chief Clerk.

HOUSE FILES ON THEIR FIRST AND SECOND READING

H. F. No. 22, a memorial to Congress asking for the construction of a government wagon road from Yankton, Dakota Territory, to Virginia City Montana Territory; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Stone, was

Referred to the committee on Federal Relations.

H. F. No. 25, a memorial and joint resolution praying for the establishment of a mail route from Bon Homme to Ponca Agency, D. T.; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Bradford

Referred to the committee on Federal Relations.

Mr. Bothun moved that the journal of the 22d instant, be corrected, as follows: In the report submitted by J. Shaw Gregory, from the committee on Engrossed and Enrolled bills, where it mentions C. B. No. 8, as correctly enrolled, it be amended to read, "correctly engrossed, so far as the said report applies to said bill."

Which motion was unanimously agreed to.

C. B. No. 8, entitled An act to locate a territorial road from Paquettes Ferry to Vermillion, was then

Taken up, and

On motion of Mr. Bothun,

It was recommitted to a select committee of three, consisting of Messrs. Bothun, Mathers and Taylor, F.

The resolution introduced by Mr. Taylor, F., was then

Taken up, and

On the motion of Mr. Taylor J. O.,

It was adopted.

The resolution introduced by Mr. Bothun, was then

Taken up, and

On the motion of Mr. Stone, it

Was adopted.

On motion of Mr. Gergory,

The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

TWENTY-SECOND DAY.

COUNCIL CHAMBER,
Monday, Dec. 26, 1864. }

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

President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names:

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

The Journal of the twenty-fourth instant was then read and approved.

The special committee on H. F. No. 7, An act providing for the location of the county seat of Union county; which were instructed to report on this day, ask further time, and

On motion of Mr. Bothun, time was granted to said committee until Saturday next.

On the motion of Mr. Gregory

The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

TWENTY-THIRD DAY.

COUNCIL CHAMBER,
 Tuesday, Dec. 27th, 1864. }

The Council met pursuant to adjournment, and was called to order by the President in the chair.

Prayer by the Chaplain of the House.

Roll called.

The following members answered to their names :

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Taylor, J. O., and Mr. President.

The Journal of the twenty-sixth instant was then read and approved.

 REPORTS OF COMMITTEES.

Mr. Bothun, from the committee on Elections, submitted the following report :

MR. PRESIDENT:—Your committee on Elections have had under consideration H. F. No. 14, An act concerning vacancies and special Elections, and report the same back without amendment and recommend that it do pass,

L. BOTHUN,
Chairman.

Mr. Bothun, from the same committee, also submitted the following report :

MR. PRESIDENT:—Your committee on Elections, to whom was referred C. B. No. 3, An act prescribing the manner of contesting the election of county officers; and on the 22d inst, H. F. No. 9, An act prescribing the manner of contesting the election of county officers, have had the same under consideration. It will be observed that the titles of the bills are identical,

and upon examination we find that several of the sections in one bill are almost exact copies of corresponding sections in the other. But we are of the opinion that the first named is the nearest a perfect bill. We have therefore agreed upon the attached amendments, numbered respectively one, two, three, four, five, six, seven, eight, nine, ten and eleven, to C. B. No. 3; which we herewith report, recommending their adoption, and that the bill, as amended do pass. We also return H. F. No. 9, with the recommendation that it be laid upon the table.

L. BOTHUN,
Chairman.

Mr. Kingsbury, from the committee on Federal Relations, submitted the following report:

MR. PRESIDENT:—Your committee on Federal Relations have had under consideration H. F. No. 25, A memorial and joint resolution praying for the establishment of a mail route from Bon Homme to Ponca Agency D. T., and report the same back without amendment, and recommend that it do pass.

G. W. KINGSBURY.
Chairman.

Mr. Kingsbury, from the committee on engrossed and enrolled bills, submitted the following reports:

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills, in connection with the committee on Enrollment of the House, have examined C. B. No. 10, An act qualifying section fifty-one of chapter nineteen general laws of 1863-64; and have found the same correctly enrolled.

G. W. KINGSBURY.
Chairman.

Mr. Kingsbury, from the same committee also submitted the following report:

MR. PRESIDENT:—Your committee on Engrossed and Enrolled Bills, in connection with the committee on Enrollment of the House, have examined H. F. No. 24, joint resolution relative to the employment of an Enrolling clerk for the Council and House of Representatives, and have found the same correct-

ly enrolled.

G. W. KINGSBURY.

Chairman.

COMMUNICATIONS ON THE PRESIDENT'S TABLE.

The following communication from his Excellency the Governor, was then read :

TERRITORY OF DAKOTA, EXECUTIVE OFFICE, }
YANKTON, December 24, 1864 }

HON. ENOS STUTSMAN,

President of the Council.

Sir:—I have the honor to enclose herewith, C. B. No. 4, An act conferring the rights of citizenship upon David Le Clair and Charles Le Clair; No. 5, An act to encourage the cultivation of Fruit and Forest trees, and Grape vines; and No. 9, A memorial to the Quarter Master of the first military District Department of the northwest; which I have this day approved and signed.

I am, Sir,

Very Respectfully,

Your ob't ser'vt,

NEWTON EDMUNDS,

Governor.

The following communication from the assistant secretary was then read :

YANKTON, D. T. }
December, 26, 1864. }

MR. PRESIDENT :—I regret the necessity of informing you that private business, of which I had no notice at the time I entered upon the duties of my office, renders it absolutely necessary that I, from this day, absent myself from the sessions of the Council.

Therefore, with my profoundest thanks for the many kindnesses I have received at the hands of yourself and the Hon. gentlemen of this body, I hereby tender my resignation of the

office of Assistant Secretary of the Council.

I am, sir,

Very respectfully,

J. B. GAYTON.

MESSAGE FROM THE HOUSE.

The following message from the House was then read :

HOUSE OF REPRESENTATIVES |
December, 27, 1864. |

MR. PRESIDENT;—I am instructed to inform you that the House has passed C. B. No. 6, An act authorizing the Govern- to appoint, and commission a county superintendent of Public Instruction in and for the county of Yankton, which bill is herewith returned; and, also, that the House has passed H. F. No. 19, An act in relation te summoning Grand and Petit Jurors, which bill I herewith transmit, requesting the concurrence of the Council therein.

GEO. I. FOSTER.

Chief Clerk.

Mr. Gregory introduced the follcwing resolution :

Resolved, That the thanks of the Council are hereby tendered to James B. Gayton, late Assistant Secretary of this Council, for the able and courteous manner in which he has discharged the duties of his office; which resolution,

On the motion of Mr. Bothun,

Was unanimously adopted.

HOUSE FILES ON THEIR FIRST AND SECOND READING.

H. F. No. 19, An act in relation to summoning Grand and Petit Jurors, was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Gregory, was

Referred to the committee on Judiciary.

HOUSE FILES ON THEIR THIRD READING.

H. F. No. 14, An act concerning vacancies and special elections; 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.

Yeas eight, and nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Taylor, J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Gregory,

Its title was agreed to.

H. F. No. 25, A memorial and Joint resolution praying for the establishment of a mail route from Bon Homme to Ponca Agency, D. T.; 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,

Yeas eight, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Taylor J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Kingsbury, its

Title was agreed to

On the motion of Mr. Kingsbury,

The report of the committee on Elections, so far as it recommends that H. F. No. 9, be laid on the table.

Was adopted.

So the bill was laid on the table.

C. B. No. 3, An act prescribing the manner of contesting the Election of county officers ; was then

Taken up, and

The 1st amendment was then read, as follows :

Strike out all of section four, and insert in lieu thereof the following: Where the misconduct complained of is on the part of the judges or clerks of election, in any particular precincts it shall not be held sufficient to set aside the election, unless the rejection of the vote of that precinct would change the result of the election as to that office; and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the 1st amendment was agreed to.

The 2d amendment was then read, as follows :

Strike out all of section 5, and insert in lieu thereof the following, "The court for the trial of contests as provided for in this act, shall be constituted as follows: The Judge of Probate of the county in which the contest arises shall be the presiding officer, and the contestant and incumbent may each name an elector of the county, who shall be associated with the judge of probate as a court, who shall proceed to hear and determine the case as hereinafter provided; *Provided*, That if either the contestant or incumbent fails to nominate an associate, as provided in this section, or that such associate or both of them fail to act, the presiding officer shall appoint a disinterested elector for each person so failing to act; *Provided further*, If the Judge of Probate be an interested party, or if he be absent, or if the office of judge of probate be vacant, then the district attorney of the county shall so preside, and if the district attorney be a party interested or absent, then the chairman of the board of county commissioners shall act as presiding officer of such court, and the presiding officer shall administer to each of his associates an oath to impartially hear and determine the case at issue, according to law and evidence;" and

The question being put, will the Council agree thereto?

It was decided in the affirmative,

So the 2d amendment was agreed to.

The 3d amendment was then read, as follows ;

Strike out all of section 6, and insert in lieu thereof the following :

“The Register of Deeds shall be the clerk of the court hereby established, and shall keep all papers and record the proceedings of the same, in a book kept for that purpose, in a manner similar to the record of the proceedings in the district court, but when the Register of Deeds is a party interested, the presiding officer of the court, shall appoint a suitable person to act as clerk, for the time being, who shall take the oath required by law to be taken by the Register of Deeds, and the appointment and oath, shall be recorded ; and

The question being put, will the Council agree thereto ?

It was decided in the affirmative,

So the 3d amendment was agreed to.

The 4th amendment was then read, as follows :

“Strike out all of section 7,” and insert in lieu thereof, the following :

“The contestant shall file in the officer of register of deeds, within twenty days after the day upon which the returns are canvassed by the board of canvassers of the county, a written statement of his intention to contest the election, setting forth the name of the contestant, and that he is an elector of the county, the name of the incumbent, the office contested, the time of the election, and the particular causes of contest, which statement shall be verified by the affidavit of the contestant or some other elector of the county, that the causes set forth are true, as he verily believes; but before the judge of probate, or district attorney, or chairman of the board of county commissioners, (as the case may be,) is required to take jurisdiction of the contest, the contestant must file, with the register of deeds, a bond, in the penal sum of one hundred dollars, with surety, to be approved by said officer, conditioned that the contestant shall pay all the costs of such contest, in case the election be confirmed, or the statement be dismissed, or the prosecution fail ; and

The question being put, will the Council agree thereto ?

It was decided in the affirmative,

So the 4th amendment was agreed to.

The 5th amendment was then read, as follows:

“Strike out all of section 9, and insert in lieu thereof the following:

“The officer assuming jurisdiction of the contest, as provided by section 7, shall then issue a precept containing a copy of the statement filed in the office of register of deeds, with a written requisition that the incumbent file, within five days after the service of such precept in the office of the register of deeds, a written nomination of one of the associate judges of the court for the trial of said contest; which precept shall be directed to the sheriff, coroner, or any constable of the county, who shall serve the same, by leaving a copy of the precept and requisition with the incumbent, or at his residence or place of business, and make return of his doings within five days after receiving such precept and requisition;” and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the 5th amendment was agreed to.

The 6th amendment was then read, as follows:

“Strike out all of section 10;” and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the 6th amendment was agreed to.

The 7th amendment was then read, as follows:

Before the word “judges,” in the first line of “section 11,” insert the word “associate,” and in the same section, strike out the words “probate judge,” and insert in lieu thereof the words “presiding judge;” and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the 7th amendment was agreed to.

The 8th amendment was then read, as follows:

Strike out all of “section 14,” and insert in lieu thereof the following:

“The judge of probate and register of deeds, as well when interested as otherwise, may issue subpoenas for witnesses under the seal of their respective offices, if there be seals provided.

for the same;" and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the 8th amendment was agreed to.

The 9th amendment was then read, as follows:

Strike out the words "or the probate judge," in the first line of section 21; and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the 9th amendment was agreed to.

The 10th amendment was then read, as follows:

Strike out all of "section 27," and insert in lieu thereof the following:

"The register of deeds is authorized to issue execution for costs, to run against personal property, which costs shall be collected as costs in civil actions, before a justice of the peace; and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the 10th amendment was agreed to, and

The 11th amendment was then read, as follows:

Change the number of "section 11, to section 10," and change the sections following it, to correspond; and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the 11th amendment was agreed to.

All the said amendments having been disposed of,

Ordered, That the bill be engrossed and read the third time on Thursday next.

The office of assistant secretary being vacant,

Mr. Gregory moved that the Council proceed to the election of assistant secretary; and

Nominations being in order,

Mr. Kingsbury nominated Charles F. Rossteuscher; and

Mr. Bothun, nominated A. F. Hayward.

There being no further nominations made, a vote was taken,

Charles F. Rossteuscher, received five votes.

A. F. Hayward, received three votes, as follows:

Those who voted for Mr. Rossteuscher, are,

Messrs. Bradford, Gregory, Kingsbury, Mathers and Taylor,

J. O.

Those who voted for Mr. Hayward, are.

Messrs. Bothun, Rich and Mr. President.

Charles F. Rossteuscher, having received a majority of all the votes cast, he was declared duly elected assistant secretary of the Council.

Whereupon, he came forward, and the oath of office was administered to him by the President, and he entered forthwith upon the duties of his office.

On motion of Mr. Kingsbury,

The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

TWENTY-FOURTH DAY.

COUNCIL CHAMBER,
Wednesday, Dec. 28, 1864. }

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

President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names:

Messrs. Bothun, Bradford; Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

The journal of the twenty seventh instant, was then read and approved.

RESOLUTIONS.

Mr. Bothun introduced the following resolution :

Resolved, That the Hon J. M. Stone be excused from non-attendance on the twenty third day of this session, on account of ill health.

On the motion of Mr. Bradford,

The vote taken yesterday, by which C. B. No. 3 was ordered engrossed for a third reading on Thursday next, was reconsidered on the motion of Mr Kingsbury,

C. B. No. 3, was ordered engrossed for a third reading this day.

REPORTS OF COMMITTEES.

Mr. Stone, from the committee on Highways, Bridges and Ferries, submitted the following report:

MR. PRESIDENT:—Your committee on Highways, Bridges and Ferries have had under consideration H. F. No. 6, An act to Locate and establish a Territorial Road from the mouth of the Running Water *via* the mouth of Ponca creek to Fort Randall D. T.; and report the same back without amendment, and recommend that it do pass.

J. M. STONE.

Chairman.

Mr Kingsbury, from the committee on Engrossed and Enrolled Bills, submitted the following reports:

MR. PRESIDENT:—Your committee on Engrossed and Enrolled Bills have to report that they have examined C. B. No. 3, An act prescribing the manner of Contesting the Election of county offices; and have found the same correctly engrossed.

GEO. W. KINGSBURY.

Chairman.

MR. PRESIDENT:—Your committee on Engrossed and Enrolled Bills have to report, that in connection with the committee on Enrollment of the House, they have examined H. F. No. 13, An act granting to Christopher Malony a Ferry Charter across the Missouri River; and found the same correctly enrolled.

GEO. W. KINGSBURY,

Chairman.

MR. PRESIDENT:—Your committee on Engrossed and Enrolled Bills have to report that in connection with the committee on Enrollment of the House, we have examined C. B. No. 6, An act authorizing the Governor to appoint and commission a county Superintendent of Public Instruction in and for the county of Yankton; and found the same correctly enrolled.

G. W. KINGSBURY

Chairman.

MR. PRESIDENT:—Your Committee on engrossed and enrolled bills have to report, that in connection with the committee on Enrollment of the House, they have examined C. B. No. 10, An act Qualifying Section fifty-one of Chapter nineteen general Laws of 1863-64; and found the same correctly enrolled.

G. W. KINGSBURY,

Chairman.

Mr. Gregory, from the committee on Judiciary, submitted the following report:

MR. PRESIDENT:—Your committee on Judiciary, have to report, that they have had under consideration H. F. No. 15, An act providing for the recording of Town Plots; and have agreed upon the recommendation that said Bill be made the special order in committee of the whole House, on Thursday next, at 12 o'clock M.

J. SHAW GREGORY,

Chairman.

On the motion of Mr. Kingsbury,
The recommendation of the committee was agreed to, and
Said bill was made the special order, in committee of the

whole House, for Thursday next, at 12 o'clock, M.

The following message from the House was then read :

HOUSE OF REPRESENTATIVES, }
December 28, 1864. }

MR. PRESIDENT:—I am instructed to inform you that the House has passed H. F. No. 26, An act granting to Mathias Mitchel a Ferry Charter across the Big Sioux River ; and the concurrence of the Council is requested in the said bill.

GEO. I. FOSTER,
Chief Clerk.

HOUSE FILES ON THEIR FIRST AND SECOND READING

H. F. No. 26, An act granting to Mathias Mitchel a Ferry Charter across the Big Sioux River ; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Gregory, was

Referred to the committee on Highways, Bridges and Ferries.

COUNCIL BILLS ON THEIR THIRD READING.

C. B. No. 3, An act prescribing the manner of contesting the Election of county officers ; was then

Taken up, and being engrossed it was

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.

Yeas eight, nays none, as follows :

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Mathers, Rich, Stone, Taylor, J. O. and Mr. President.

None voting the negative.

So the bill was passed, and

On the motion of Mr. Taylor J. O.

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House in the said bill.

HOUSE FILES ON THEIR THIRD READING.

H. F. No. 16, An act to Locate and Establish a Territorial road from the mouth of the Running Water *via* the mouth of Ponca creek to Fort Randall D. T.; was then

Taken up, and there being no amendments proposed, it 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.

Yeas nine, nays none, as follows :

Those who voted in the affirmative, are Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Bradford,

Its title was agreed to.

The resolution introduced by Mr. Bothun was then

Taken up, and

On the motion of Mr. Rich, was

Adopted.

On the motion of Mr. Kingsbury,

The Council then adjourned.

ENOS STUTSMAN,

President.

GEO. N. PROPPER, *Secretary.*

TWENTY-FIFTH DAY.

COUNCIL CHAMBER,
Monday, Dec. 29, 1864. }

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

President in the chair.

Prayer by the Chaplain of the House.

Roll called.

The following members answered to their names,
Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers,
Rich, Stone, Taylor J. O., and Mr. President.

The Journal of the twenty-eighth instant was then read, corrected and approved.

—

INTRODUCTION OF BILLS.

Pursuant to notice, Mr. Bradford introduced C. B. No. 16, entitled An act to provide for the protection of Game.

By unanimous consent, Mr. Kingsbury introduced C. B. No. 17, entitled a memorial to the Congress of the United States praying for appropriations to construct certain overland routes.

—

REPORTS OF COMMITTEES.

Mr. Taylor J. O., from the committee on Finance submitted the following report:

MR. PRESIDENT:—Your committee on Finance have had under consideration C. B. No. 15, An act increasing the Fees of certain county officers; and report the same back with the rec-

commendation that it do pass.

J. O. TAYLOR.

Chairman.

MR. PRESIDENT:—Your committee on Finance have had under consideration H. F. No. 3, An act concerning money of account and fixing the rate of interest of money; and report the same back with attached amendment, and recommend that it do pass.

J. O. TAYLOR.

Chairman.

Mr. Stone, from committee on Highways, Bridges and Ferries, submitted the following report:

MR. PRESIDENT:—Your Committee on Highways, Bridges and Ferries, have had under consideration H. F. No. 26, An act granting to Mathias Mitchell a ferry charter across the Big Sioux River, and have found the same very deficient in many essential points. Your committee have therefore agreed upon an amendment thereto, which, with the bill, they herewith report; with the recommendation that the amendment be adopted, and that the bill, as amended, do pass.

J. M. STONE.

Chairman.

Messrs Kingsbury, Stone and Stutsman, the select committee on H. F. No. 12, submitted the following report:

MR. PRESIDENT:—Your select committee to whom was referred H. F. No. 12, An act changing the time of holding the District Court in the second Judicial District, have had the same under consideration. Your committee deem it inadvisable to change the time of the Spring term, as now fixed by law; but are favorable to a change in the fall term, not, however, as provided in the bill. Your committee have accordingly agreed upon an amendment, which, accompanied by the Bill, they herewith report, recommending its adoption, and that, as amended, the bill do pass.

G. W. KINGSBURY }
 J. M. STONE } Committee.
 E. STUTSMAN. }

Mr. Kingsbury, from the committee on Engrossed and Enrolled bills, submitted the following report:

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills, have to report, that they presented to his Excellency, the Governor, for his approval, at one o'clock P. M., December 27th 1864, C. B. No. 10, An act qualifying section fifty one of chapter 19, general laws of 1863-64.

G. W. KINGSBURY.

Chairman.

The following message from the House was then read:

HOUSE OF REPRESENTATIVES |
December, 29, 1864. |

MR. PRESIDENT:—I am instructed to inform you that the House has passed C. B. No. 1, An act establishing Probate courts defining the Jurisdiction thereof and prescribing the proceedings therein; with attached amendments, which bill I herewith return; also

H. F. No. 27, An act to repeal section five of chapter forty six, laws of Dakota 1862-63; and

H. F. No. 29, An act granting to Christopher Malony a Ferry charter across the Missouri river; which House Files I herewith transmit, requesting the concurrence of the Council therein.

GEO. I. FOSTER.

Chief Clerk.

COUNCIL BILLS ON THEIR FIRST AND SECOND READING.

C. B. No. 16, entitled An act to provide for the protection of Game; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Stone, was

Referred to the committee on Territorial Affairs.

C. B. No. 17, entitled a memorial to the Congress of the United States praying for appropriations to construct certain overland routes; was then

Taken up, and

Read the first and second time, and

On motion of Mr. Gregory, was

Referred to the committee of the whole House, and was made the special order for Tuesday next, at 12 o'clock M.

HOUSE FILES ON THEIR FIRST AND SECOND READING.

H. F. No. 27, An act to repeal section five of chapter forty six, laws of Dakota, 1862-63; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Stone, was

Referred to the committee on Judiciary.

H. F. No. 29, An act granting to Christopher Malony a ferry charter across the Missouri River; was then

Taken up, and

Read the first and second time, and

Mr. Mathers moved that the rules be suspended, and the bill read the third time.

Which motion was agreed to, and

It 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.

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On motion of Mr. Gregory,

Its title was agreed to.

C. B. No. 1, An act establishing probate courts, defining

the jurisdiction thereof, and prescribing the proceedings therein; returned from the House amended, was then

Taken up, and

Amendment No. 1, was then read, as follows: Strike out after the word "Monday," in the sixth section, the words "of each month," and insert in lieu thereof the words "of January, March, May, July, September and November;" and

The question being put, will the Council concur therein?

It was decided in the affirmative.

So the first amendment was concurred in.

The 2d amendment was then read as follows: Strike out all of sections Nos. 2, 13, 214, 215, 216, 217 and 218, and change the numbers of sections 219, 220 and 221 to 213, 214 and 215; and

The question being put, will the Council concur therein?

It was decided in the affirmative.

So the second amendment was concurred in.

Ordered, That the Secretary notify the House that the Council concurred in the House amendments to said bill.

C. B. No. 15, An act increasing the fees of certain county officers; was then

Taken up, and

On the motion of Mr. Gregory,

It was ordered Engrossed for a third reading on to-morrow.

HOUSE FILES, ON THEIR THIRD READING.

H. F. No. 5, An act concerning money of account, and fixing a rate of interest of money; was then

Taken up, and

The amendment reported by the committee was then read as follows: after section 5, insert the following as section six, "all balanced accounts shall draw interest at the rate of ten per cent per annum. on such balance until paid," and change the number of section 6 to section 7; and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the amendment was agreed to.

Whereupon 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.

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On motion of Mr. Bradford,

Its title was agreed to.

H.F. No. 12, An act changing the time of holding the district court in the second judicial district; was then

Taken up, and

The amendment reported by the committee was read as follows: Strike out all of said bill after the enacting clause and insert in lieu thereof the following words and figures, to wit: Section 1, That section two of an act entitled "An act changing the time of holding the United States district court in the first and second judicial districts," approved January 15th, 1864, be amended to read as follows: That the counties of Yankton and Jayne shall constitute the second judicial district, and there shall be, annually, held therein, two terms of the district court, at the town of Yankton; the first term of each year, to commence on the third Tuesday of April, and the second term of each year, to commence on the third Tuesday of October. And all that portion of ceded land in this Territory, not embraced in any other judicial district, is hereby attached to said second district, for judicial purposes."

Section 2, This act shall take effect from and after its passage; and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the amendment was agreed to.

Whereupon 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.

Yeas nine, and nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers,
Rich, Stone, Taylor, J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Stone,

Its title was agreed to.

H. F. No. 26, An act granting to Mathias Mitchel a ferry
charter across the Big Sioux River, was then

Taken up, and,

The amendment reported by the committee was then read as
follows: Strike out all of said bill after the enacting clause,
and insert in lieu thereof the words and figures as follows, to
wit:

Section 1, That Mathias Mitchel, his heirs, executors, admin-
istrators, or assigns shall have the exclusive privilege, for the
period of ten years from the passage of this act, to keep and
maintain a ferry across the Big Sioux River, at a point on said
river in the county of Union, at or near the center of the east
line of section two in township eighty nine north of range forty-
eight west, and from said point, his exclusive franchise shall ex-
tend one mile up, and one half mile down said river.

Section 2, That said Mathias Mitchel his heirs, executors, ad-
ministrator or assigns, shall on or before the time upon which he
or they shall commence to run said ferry for pay, file, or cause
to be filed, in the office of Register of Deeds of the county of
Union, a bond to said county for the use of the public, in the
penal sum of five hundred dollars, with sufficient surety to be
approved by said Register of Deeds, conditioned that he the
said Mathias Mitchel his heirs or lawful representatives will
fulfill all the duties that are imposed upon him, or them, in this
act, and in case of his or their failure or neglect to do so, he or
they shall forfeit all the benefits that might have accrued to
him or them from this act.

Section 3. Before the said Mathias Mitchel or his lawful representatives shall commence to run said ferry for pay, he or they shall place a good and safe flat-boat at said ferry, and so long thereafter as he or they shall run said ferry for pay, he or they shall at all times keep a safe and good boat in good repair, for the accommodation of all persons wishing to cross said river at said ferry, and shall give prompt and ready attention to all passengers teams or freight, on all occasions from sunrise to sunset, excepting in foggy and tempestous weather, or when the crossing of said river is rendered dangerous by floating ice or by high water.

Section 4. Any person or persons who shall suffer any damage from the neglect, default or misconduct on the part of the person or persons, having charge of said ferry, may have a remedy by a civil action upon the bond required by this act, in and court of competent jurisdiction.

Section 5. The rates charged at said ferry shall not exceed the following :

Foot passengers, each, ten cents.

For each horse, or mule with or without a driver, fifteen cents.

For each head of loose cattle, ten cents

For two horse, mule or cattle team, loaded or without load, with driver, twenty-five cents.

For each single horse or mule to carriage, twenty cents.

For each horse, mule or ox, over two, attached to a team, ten cents.

For each head of swine or sheep, five cents.

All freight not attached to teams, five cents per one hundred pounds.

All lumber in the pile, fifty cents per M.

Section 6. Said ferryman is required to keep a bill of his legal rates posted up in a conspicuous place, at or near said ferry in view of the passing public.

Section 7. This act shall take effect from and after its passage.

Mr. Gregory moved to amend the amendment by striking out the word "ten" after the words "loose cattle," in section 5, and

insert in lieu thereof the word "five," and

The question being on the adoption of the amendment to the amendment, and

It being put, will the Council agree thereto ?

It was decided in the affirmative,

So the amendment to the amendment was agreed to.

The question then recurring on agreeing to the amendment as amended, and

The question being put, will the Council agree thereto ?

It was decided in the affirmative.

So the amendment was agreed to.

Said amendments having been disposed of,

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.

Yeas nine, nays none, as follows :

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On motion of Mr. Stone,

Its title was agreed to.

On motion of Mr. Kingsbury

The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

TWENTY-SIXTH DAY.

COUNCIL CHAMBER,
Friday, Dec. 30, 1864. }

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

President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names :

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

The Journal of the twenty-ninth instant was then read and approved.

 NOTICE OF BILLS.

Mr. Gregory gave notice that he would on to-morrow or some subsequent day of the session introduce a bill granting a ferry charter across the Missouri river, at or about the mouth of the Yellow Stone river.

 REPORTS OF COMMITTEES.

Mr Kingsbury, from the committee on Engrossed and Enrolled Bills, submitted the following reports :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled Bills have to report, that in connection with the committee on Enrollment of the House, they have examined H. F. No. 16, An act to locate and establish a Territorial road from the mouth of the Running Water *via* the mouth of Ponca creek, to Fort Randall D. T.; also, H. F. No. 14, An act con-

cerning vacancies and special elections; and have found the same correctly enrolled.

GEO. W. KINGSBURY.

Chairman.

MR. PRESIDENT:—Your committee on Engrossed and Enrolled Bills have to report that in connection with the committee on Enrollment of the House, they have examined C. B. No. 1, An act establishing probate courts, defining the jurisdiction thereof, and prescribing the proceedings therein; and have found the same correctly enrolled.

G. W. KINGSBURY

Chairman.

MR. PRESIDENT:—Your committee on Engrossed and Enrolled Bills have to report that they have examined C. B. No. 15, An act increasing the fees of certain county officers; and have found the same correctly engrossed.

GEO. W. KINGSBURY.

Chairman.

MR. PRESIDENT:—Your Committee on engrossed and enrolled bills have to report, that they presented to his Excellency the Governor, for his approval, at 1 o'clock P. M., on the 29th instant, C. B. No. 6, An act authorizing the Governor to appoint and commission a county superintendent of public instruction, in and for the county of Yankton.

G. W. KINGSBURY.

Chairman.

Mr. Bothun, from the special committee on C. B. No. 8, An act to locate a Territorial road from Paquettes ferry to Vermillion, submitted the following report:

MR. PRESIDENT:—Your special committee on C. B. No. 8, have to report, that they have had the said bill under consideration, and have agreed upon the following amendments thereto:

First. Strike out the name of "Franklin Taylor," and insert in lieu thereof, the name of "Martin Kellogg." Second, strike

out the word "Vermillion," and insert in lieu thereof, the words, "to the boundary line of Clay county." Third, strike out all of "section 3," and insert in lieu thereof, the following words, "the expenses incurred for surveying, marking and establishing said road, shall be paid by the county of Union." Fourth, amend "section 5," by striking out all after the words "register of deeds," in the fourth line and insert in lieu thereof the following words; "of Union county a plot of said road;" and recommend that the bill, as amended, do pass.

L. BOTHUN,
Chairman.

Mr. Taylor, J. O., from the committee on Federal Relations, submitted the following report:

MR. PRESIDENT:—Your committee on Federal Relations have had under consideration H. F. No. 22, a memorial to Congress asking for the construction of a government wagon road from Yankton in Dakota Territory, to Virginia City, in Montana Territory; and report it back without amendment, and recommend that it do pass.

J. O. TAYLOR.

COMMUNICATIONS ON THE PRESIDENT'S TABLE.

The following communications from his Excellency the Governor, were then read:

TERRITORY OF DAKOTA, EXECUTIVE OFFICE, }
YANKTON, December 29, 1864 }

HON. ENOS STUTSMAN,
President of the Council.

SIR:—Please find herewith enclosed C. B. No. 10, An act qualifying section fifty-one of chapter nineteen, general laws of 1863-4; which I have this day approved and signed.

I am, Sir,

Very respectfully,
Your ob't ser'vt,

NEWTON EDMUNDS.
Governor.

DAKOTA TERRITORY, EXECUTIVE OFFICE, }
 YANKTON, Dec. 30, 1864. }

HON. ENOS STUTSMAN,
President of the Council.

Sir:—I have the honor to enclose herewith, C. B. No. 6, An act authorizing the Governor to appoint and commission a county superintendent of public instruction, in and for the county of Yankton; which I have examined, and this day approved and signed.

I am, Sir,
 Very Respectfully,
 Your ob't ser'vt,
 NEWTON EDMUNDS,
Governor.

The following message from the House was then read:

HOUSE OF REPRESENTATIVES, }
 December 30, 1864. }

MR. PRESIDENT:—I am instructed to inform you that the House has passed C. B. No. 3, An act prescribing the manner of contesting the election of county officers; with the amendments attached, which bill I herewith transmit.

GEO. I. FOSTER.
Chief Clerk.

Mr. Gregory moved that the chair appoint one member of the committee on Engrossed and Enrolled bills, in the place of Taylor, F.

Which motion prevailed.

Whereupon the chair appointed Taylor, J. O., on said committee.

On motion of Mr. Gregory,

H. F. No. 15, An act providing for the recording of Town Plots; which was made the special order for the 29th instant, be made the special order for Tuesday, January 3, next, at 11½ o'clock A. M.

C. B. No. 3, An act prescribing the manner of contesting the election of county officers; was then

Taken up, and

The House amendment thereto, was then read as follows:

Strike out in "section 24," the word "nominated," and after the word "judges," insert the words "and clerk;" and

The question being put, will the Council concur therein?

It was decided in the affirmative.

So the amendment was concurred in.

COUNCIL BILLS ON THEIR THIRD READING.

C. B. No. 15, An act increasing the fees of certain county officers; was then

Taken up, and being engrossed, it was

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.

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On motion of Mr. Gregory,

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House in the said bill.

C. B. No. 8, An act locating a Territorial road from Paquettes ferry to Vermillion; was then

Taken up, and

On the motion of Mr. Bradford, it was

Re-committed to the committee on Highways, Bridges and Ferries.

HOUSE FILES ON THEIR THIRD READING.

H. F. No. 22, a memorial to Congress asking for the construction of a government wagon road from Yankton, Dakota Territory, to Virginia City, Montana 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.

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On motion of Mr. Gregory,

Its title was agreed to.

On motion of Mr. Gregory,

The Council then adjourned.

ENOS STUTSMAN,

President.

GEO. N. PROPPER, *Secretary.*

 TWENTY-SEVENTH DAY:

COUNCIL CHAMBER. }
 Saturday, Dec. 31, 1864. }

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

President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names,
Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers,
Rich, Stone, Taylor J. O., and Mr. President.

The Journal of the thirtieth instant was then read, and approved.

INTRODUCTION OF BILLS.

Mr. Gregory in the chair,

Mr. Stutsman from the Joint committee appointed by resolution of the Council and of the House of Representatives to prepare and report a Penal Code, introduced C. B. No. 18, entitled An act to establish a Penal Code accompanied with the following report :

GENTLEMEN OF THE COUNCIL :—The joint committee appointed by resolution of the Council, and House of Representatives, with special instructions to consult and co-operate with the Hon. Ara Bartlett, associate Justice for the Territory of Dakota, in preparing a Penal Code for this Territory, and to report the result of their joint conclusions at this session of the Legislative Assembly, by printed bill, did, immediately upon their appointment, enter upon the responsible duties assigned them ; and having concluded their labors, they are now prepared and do herewith report the result thereof.

After frequent consultations with the Hon. Gentleman named above, and a careful examination, the committee unanimously agreed to adopt the draft of a Penal Code compiled and prepared for the State of New York, by the Hon. David Dudley Field, the Hon. Wm. Curtis Noyes, and the Hon. Alexander W. Bradford, with such alterations and modifications deemed, by the committee, necessary in order to adapt it to the wants and condition of this Territory.

In arranging and adapting the code, the committee acknowledge themselves greatly indebted to Judge Bartlett, for his

advice, co-operation and valuable suggestions.

In the compilation of the Penal Code, the following have been among the leading objects of the commissioners, named above.

First, to bring within the compass of a single enactment the whole body of the law of crimes and punishments; to define all the crimes for which persons can be punished, and the punishment for the same; altogether to dispense with the necessity of reference to the common law to determine what are the elements which constitute the offence. As long as the criminality of acts is left to depend upon the uncertain definitions or conflicting authorities of common law, uncertainty must pervade all criminal jurisprudence.

Second, to supply deficiencies and correct errors in existing definitions of crimes.

Third, to harmonize provisions of punishment. The progress of society creates new opportunities and new temptations to crime, which require to be met by new provisions of law. It is to be borne in mind, that the subjects of procedure and evidence in criminal cases, are excluded from the scope of the Penal Code; those topics being embraced in the criminal code, now in force, and which are retained so far as applicable, by a provision of the Penal Code. The penal Code relates chiefly to the enumeration and definition of crimes, and the designation of the kind and measure of punishment to be inflicted for each

The first two titles of the code, embody some general principles relative to criminal responsibility, which are independent of the distinctions between offences. The fifteen titles which follow, and which constitute the bulk of the work, are occupied with provisions relative to the various crimes, separately considered. The eighteenth title contains some general provisions concerning the interpretation and application of the preceding portion of the Code.

The foregoing explanation, when considered in connection with the well established fact, that the existing criminal code is defective, vague, and contradictory in its provisions, is, in the judgment of the committee, a sufficient argument for the adoption of the Penal Code.

As a matter of convenience, the Penal Code will be introduced in the Council; and the committee cordially unite in a joint recommendation to their respective Houses, that said act do pass.

All of which is respectfully submitted.

ENOS STUTSMAN,
Committee on the part of the Council
W. W. BROOKINGS,
Committee on the part of the House.

The President then resumed the chair.

By unanimous consent, Mr. Bothun introduced C. B. No. 19, entitled An act providing for the formation and incorporation of Banking associations, and to regulate the same.

RESOLUTIONS.

Mr. Gregory, introduced the following resolutions:

Resolved, that the use of the Council chamber, to-morrow, be tendered to the Clergyman of the city for the purpose of holding divine service.

Resolved, That the use of the Council chamber be granted to the Yankton cotillion club, for Monday evening next.

REPORTS OF COMMITTEES.

Mr. Kingsbury, from the committee on Engrossed and Enrolled bills, submitted the following reports:

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills, have to report that, jointly with the committee on Enrollment of the House, they have examined C. B. No. 3, An act prescribing the manner of contesting the election of county officers, and have found the same correctly enrolled.

G. W. KINGSBURY.

Chairman.

MR. PRESIDENT:—Your committee on Engrossed and en-

rolled bills have to report that they presented to his Excellency the Governor, for his approval, at 12 o'clock, M. Dec. 30th inst. C. B. No. 1, An act establishing Probate courts, defining the Jurisdiction thereof, and prescribing the proceedings therein.

G. W. KINGSBURY.

Chairman.

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills have to report, that jointly with the committee on Enrollment of the House, they have examined H. F. No. 29, An act granting to Christopher Maloney a Ferry Charter across the Missouri River; and have found the same correctly enrolled.

G. W. KINGSBURY

Chairman.

Messrs. Stone, and Bradford, from select committee on H. F. No. 7, submitted the following majority report.

MR. PRESIDENT:—Your select Committee on H. F. No. 7, An act to provide for the location of the county seat of Union county; have had the same under consideration, and being unable to agree thereon, and inasmuch as there is a difference of opinion between the members of the Council and the members of the House, from the county of Union, as to the propriety of said enactment, the majority of said committee, feeling a delicacy in espousing the pro or con of said question, have agreed to report the bill back for the action of the Council, without recommendation.

J. M. STONE, } Majority of
D. P. BRADFORD, } committee.

Mr. Rich, from the same committee, submitted the following minority report.

MR. PRESIDENT:—A minority of your committee to whom was referred H. F. No. 7, have had the same under consideration, and ask to submit the views of the minority, on the same:

This bill provides that a plurality of votes cast, shall permanently locate the county seat of Union. Now suppose that five

places be voted for at said special election, under the provisions of this bill, to wit: Elk Point, Ricbland, Ponca Ferry, Sioux Point, and Willow, and all of the different places have about the same vote. The result is that a small fraction over one fifth of the votes of the county, locate the county seat, and and that permanently. This plurality system is contrary to the usage of locating county seats, and can result in no good; but will have a tendency to create discord and strife in the county. Secondly, This bill makes no provisions for allowing the soldiers to vote on the location of the county seat, although over one third of the soldiers in the Dakota service, are from this county, and are interested in the location of the same, consequently, this bill does great injustice. Thirdly, A special election is called for the location of the county seat, with a large additional cost to the county. Fourthly, On page 251, of the first session, section 20, there is a general law providing for the location of the county seats in this Territory; said law provides that county seats may be located by a majority of the voters, and in our opinion, a very just law, and can see no reason why a new law should be passed contrary to the provisions of the former act. There are too many such laws now. We suppose that this law in its tenth section, intends to repeal the former, and the minority of your committee are of the opinion that the law now upon the statute books, is more just and equitable than this bill, and that the passage of this bill is entirely uncalled for.

Most respectfully,

M. M. RICH,

Minority of committee.

The following message from the House was then read :

MR. PRESIDENT :—I am instructed to inform you that the House has passed H. F. No. 23, An act providing for the foreclosure of mortgages. The concurrence of the Council therein is solicited.

GEO. I. FOSTER.

Chief Clerk.

**COUNCIL BILLS ON THEIR FIRST AND SECOND
READING.**

**C. B. No. 18, An act to establish a Penal Code, was then
Taken up, and**

Read the first and second time, and

On the motion of Mr. Gergory,

The rules were suspended, and

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.

Yeas nine, nays none, as follows :

Those who voted in the affirmative, are

**Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers,
Rich, Stone, Taylor, J. O., and Mr. President.**

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Stone,

Its title was agreed to.

**Ordered, That the Secretary request the concurrence of the
House in said bill.**

**C. B. No. 19, An act providing for the formation and incor-
poration of banking associations, and to regulate the same ; was
then**

Taken up, and

Read the first and second time, and

On the motion of Mr. Kingsbury, was

Referred to the committee on Incorporations.

**Mr. Gregory: moved that the report of the Joint committee
on the Penal Code be printed.**

Which motion prevailed.

**HOUSE FILES ON THEIR FIRST AND SECOND READ-
ING.**

H. F. No. 23, entitled Foreclosure of Mortgages, was then.

Taken up, and
 Read the first and second time,
 Mr. Gregory, moved that the bill be referred to its appropriate committee.
 Which motion prevailed.
 Whereupon it was referred to the committee on Education.

HOUSE FILES ON THEIR THIRD READING.

H. F. No. 7, An act providing for the location of the county seat of 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.

Yeas seven, and nays two, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Stone and Mr. President.

Those who voted in the negative, are

Messrs. Rich, and Taylor, J. O.,

So the bill was passed, and

On the motion of Mr. Gregory,

Its title was agreed to.

On the motion of Mr. Taylor, J. O.,

The resolution, tendering the use of the Council Chamber to the Clergyman of the City for Divine service to-morrow,
 Was adopted.

On the motion of Mr. Bothun,

The resolution granting the use of the Council Chamber on Monday evening next to the Yankton Cotillion Club,
 Was adopted.

On the motion of Mr. Taylor J. O.

The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

TWENTY-NINTH DAY.

COUNCIL CHAMBER,
Monday, Jan. 2, 1865. }

The Council met pursuant to adjournment, and was called to order by the President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names:
Messrs. Bothun, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

The journal of the thirty-first ultimo, was then read and approved.

COMMUNICATIONS ON THE PRESIDENT'S TABLE.

The following communication from his Excellency, the Governor was then read:

DAKOTA TERRITORY, EXECUTIVE OFFICE, }
YANKTON, D. T., Jan. 2, 1865. }

HON. ENOS STUTSMAN,
President of the Council.

SIR:—I have the honor herewith to return C. B. No. 1, An act establishing Probate courts, defining the jurisdiction there-

of, and prescribing the proceedings therein; which I have this day approved and signed.

I am Sir,

Very respectfully,

Your ob't serv't,

NEWTON EDMUNDS,

Governor.

The following message from the House was then read :

HOUSE OF REPRESENTATIVES, }
January 2, 1865. }

MR. PRESIDENT:—I am instructed to inform you that the House has passed H. F. No. 28, An act to prohibit the laying out of strychnine and other poisons ; which I herewith transmit, and request the concurrence of the Council therein.

GEO. I. FOSTER,

Chief Clerk.

HOUSE FILES ON THEIR FIRST AND SECOND READING

H. F. No. 28, An act to prohibit the laying out of strychnine and other poisons ; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Gregory, was

Referred to committee on Agriculture.

Mr. Gregory moved that the Council adjourn.

Which motion did not prevail.

Mr. Gregory moved that the vote last taken be reconsidered.

The chair declared the motion out of order.

Mr. Bothun moved that the Council adjourn to meet to-morrow at 12 o'clock M.

The chair ruled that the motion could not be entertained without a suspension of the rules, which provide that the President shall take the chair at the hour of 11 o'clock A. M., and call the members to order.

Mr. Gregory then moved that the rules be suspended, and that the Council adjourn.

Mr. Stone moved to amend the motion by adding to the hour "half past 12 o'clock P. M., to-morrow."

Mr. Gregory moved to amend the amendment, by striking out "half past 12," and insert in lieu thereof, "2 o'clock."

The amendment to the amendment was accepted.

Whereupon Mr. Gregory accepted the amendment as amended.

The question then being put, on the original motion as amended.

It was decided in the affirmative.

So the Council, adjourned, to meet to-morrow, at the hour of 2 o'clock P. M.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

THIRTIETH DAY.

COUNCIL CHAMBER, }
Tuesday, Jan. 3, 1865. }

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

President in the chair.

Roll called.

The following members answered to their names :

Messrs. Bethun, Bradford, Gregory, Mathers, Rich, Stone, Taylor, J. O., Taylor F., and Mr. President.

On the motion of Mr. Gregory,
H. F. No. 15, An act providing for the record of town plots, which was made the special order for this day at 11½ A. M.,

Was made the special order for Thursday, January 5th, at 12 o'clock M., in the committee of the Whole House.

ORDER OF THE DAY.

The hour having arrived for the consideration of the order of the day,

The President announced C. B. No. 17, a memorial to the Congress of the United States, praying for an appropriation to construct certain overland routes, in committee of the Whole House.

Whereupon, on the motion of Mr. Gregory,

The Council resolved itself into the committee of the Whole House, on C. B. No. 17, and

After some time spent therein,

The President resumed the chair, and

Mr. Gregory reported as follows :

MR. PRESIDENT:—The committee of the Whole House have had under consideration C. B. No. 17, a memorial to the Congress of the United States, praying for an appropriation to construct certain overland routes ; and have instructed me to report the same back to the Council with the recommendation that it be recommitted to a special committee of three.

J. SHAW GREGORY,
Chairman.

On motion of Mr. Rich,

The report of the committee was adopted.

Whereupon, the chair appointed Messrs. Gregory, Kingsbury and Bothun, as such committee.

On motion of Mr. Gregory,

The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

THIRTY-FIRST DAY.

COUNCIL CHAMBER,
Wednesday, Jan. 4th, 1865. }

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

President in the chair.

Prayer by the Chaplain of the House.

Roll called.

The following members answered to their names :

Messrs. Bothun, Bradford, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

The Journal of the third instant was then read and approved.

REPORTS OF COMMITTEES.

Mr. Stone, from the committee on Highways, Bridges and Ferries, submitted the following report :

MR. PRESIDENT :—Your committee on Highways, Bridges and Ferries, have had under consideration C. B. No. 8, An act to locate a Territorial road from Pacquette's Ferry to Vermillion ; and have agreed upon the attached amendments, numbered respectively 1, 2, 3, and 4, which we recommend as sub-

stitutes for the amendments reported by the special committee.

J. M. STONE.

Chairman.

Mr. Bradford, from the committee on Agriculture, submitted the following report :

MR. PRESIDENT:—Your committee on Agriculture have had under consideration H. F. No. 28, An act to prohibit the laying out of strychnine and other poisons ; and report the same back, and recommend that it do pass.

D. P. BRADFORD,

Chairman.

Mr Kingsbury, from the committee on Engrossed and Enrolled Bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled Bills have to report that they handed to his Excellency, the Governor, for his approval, at 12 M., January 2d, instant, C. B. No. 3, An act prescribing the manner of contesting the election of county officers.

GEO. W. KINGSBURY.

Chairman.

The following communications from his Excellency the Governor, were then read :

DAKOTA TERRITORY, EXECUTIVE OFFICE, }
YANKTON, Jan. 3, 1865. }

HON. ENOS STUTSMAN,

President of the Council.

Sir:—I have the honor herewith to enclose C. B. No. 3, An act prescribing the manner of contesting the election of county officers ; which I have this day examined, approved and signed.

I am, Sir,

Very Respectfully,

Your ob't ser'vt,

NEWTON EDMUNDS,

Governor.

The following message from the House was then read :

HOUSE OF REPRESENTATIVES, }
January 4, 1865. }

MR. PRESIDENT:—I am instructed to inform you that the House has passed C. B. No. 15, An act increasing the fees of certain county officers; which I herewith return; and that the House has concurred in the Council amendments to H. F. No. 12, An act changing the time of holding the district court in the second judicial district.

GEO. I. FOSTER.
Chief Clerk.

C. B. No. 8, An act to locate a Territorial road from Paquettes ferry to Vermillion; was then

Taken up, and

The first amendment was then read, as follows :

Strike out all of "section one," and insert in lieu thereof the following words: "that Levi Cross, Charles Le Breeche and Joseph Shayer, be and are hereby appointed commissioners to locate, mark, survey and establish a Territorial road from Paquettes ferry, by way of Willow Post office, Fourteen Mile House and Elk Point, to the east boundary line of Clay county with a branch from the main line to a point on the Big Sioux river opposite Theopholis Bruguier's House;" and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the first amendment was agreed to.

The second amendment was then read, as follows:

Strike out all of "section two," and insert in lieu thereof the following words: "the said commissioners or a majority of them, shall meet at the house of Charles Le Breeche, on or before the first Monday in September next, and proceed to locate said road;" and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the second amendment was agreed to.

The third amendment was then read, as follows :

'Strike out all of "section three," and insert in lieu thereof, the following words: "the expenses incurred in surveying, marking and establishing said road shall be paid by the county of Union;" and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the third amendment was agreed to, and

The fourth amendment was then read, as follows:

Strike out all of "section five," and insert in lieu thereof, the following: "after the road is surveyed and located, it shall be the duty of the surveyor of the same, on or before the first Monday in October next, to file in the office of the register of deeds, of Union county, a plat of said road;" and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the fourth amendment was agreed to.

All the said amendments having been disposed of,

Ordered, That the bill be engrossed for a third reading tomorrow.

H. F. No. 28, An act to prohibit the laying out of strychnine and other poisons; was then

Taken up.

Mr. Bothun moved that the bill be laid on the table.

Which motion was withdrawn.

Mr. Bothun then moved that it be recommitted to a select committee of three.

Which motion did not prevail.

Mr. Stone moved that the bill be made a special order for Saturday, January 7th, at 11½ o'clock A. M., in committee of the Whole House.

Which motion prevailed,

On motion of Mr. Taylor, J. O.,

The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

THIRTY-SECOND DAY.

COUNCIL CHAMBER,
Thursday, Jan. 5, 1865. }

The Council met pursuant to adjournment, and was called to order by the President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names:
Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., Taylor F. and Mr. President.

The journal of the fourth instant was then read and approved.

 INTRODUCTION OF BILLS.

By unanimous consent, Mr. Kingsbury introduced C. B. No. 20, entitled An act specifying the manner of subdividing counties into townships and for other purposes.

Mr. Kingsbury in the chair.

By unanimous consent, Mr. Stutsman introduced C. B. No. 21, entitled Joint Resolution relative to the contest by J. B. S Todd of the seat of Walter A. Burleigh in the 39th Congress of the United States as Delegate from Dakota Territory.

The President resumed the chair.

Mr. Kingsbury moved that the Hon. John W. Boyle be invited to a seat within the bar of the Council.

Which motion prevailed.

 RESOLUTIONS.

Mr. Mathers introduced the following resolution :

Resolved, That the Hon. Franklin Taylor be excused for non-attendance from the 24th of December, to the present day on account of sickness :

REPORTS OF COMMITTEES.

Mr. Kingsbury, from the committee on Engrossed and Enrolled bills, submitted the following reports :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills have to report, that they have examined C. B. No. 8, An act to locate a Territorial Road from Paquetts Ferry to Vermillion; and found the same correctly engrossed.

G. W. KINGSBURY

Chairman.

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills have to report; that jointly with the committee of Enrollment of the House, they have examined C. B. No. 15, An act increasing the fees of certain county officers; also, H. F. No. 3, An act concerning money of account and fixing a rate of interest of money; also, H. F. No. 7, An act to provide for the location of the county seat, of Union county; also, H. F. No. 12, An act changing the time of holding the District court in the Second Judicial District; and have found the same correctly enrolled.

G. W. KINGSBURY.

Chairman.

Mr. Stone, from the select committee on H. F. No. 8, submitted the following report :

MR. PRESIDENT:—Your select committee on H. F. No. 8, An act regulating the weight of grain, &c.; have had the same under consideration, and report it back without amendment, and recommend that it do pass.

J. M. STONE.

Chairman.

**COUNCIL BILLS ON THEIR FIRST AND SECOND
READING.**

C. B. No. 20, entitled An act specifying the manner of subdividing counties into townships and for other purposes; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Rich, was

Referred to the committee on Incorporations.

C. B. No. 21, entitled Joint Resolution relative to the contest by J. B. S. Todd of the seat of Walter A. Burleigh in the 39th Congress of the United States, as Delegate from Dakota Territory; was then

Taken up, and

Read the first and second time.

Mr. Gregory in the chair.

Mr. Stutsman moved that the rules be suspended, and the bill be read third time.

Which motion prevailed.

The President resumed the chair.

Whereupon 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.

Yeas eight and nays two, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Taylor, J. O. and Mr. President.

Those who voted in the negative, are

Messrs. Mathers, and Taylor F.

So the bill was passed, and

On the motion of Mr. Gregory,

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House in the said bill.

COUNCIL BILLS ON THEIR THIRD READING.

C. B. No. 8, An act to locate a Territorial road from Paquettes ferry to Vermillion ; was then

Taken up, and

Mr. Mathers moved that it be indefinitely postponed.

Which motion did not prevail.

The bill was then 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.

Yeas seven, nays three, as follows :

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Kingsbury, Rich, Stone, Taylor, J. O., and Mr. President.

Those who voted in the negative, are

Messrs. Gregory, Mathers, and Taylor F.

So the bill was passed,

Mr. Stone moved the title of the bill be amended to read as follows : An act to locate a Territorial Road from Paquettes Ferry to the east line of Clay county ; and

The question being put, will the Council agree thereto ?

It was decided in the affirmative.

So the title as amended was agreed to.

Ordered, That the Secretary request the concurrence of the House in said bill.

HOUSE FILES ON THEIR THIRD READING.

H. F. No. 8, An act regulating the weight of grain, &c.; 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.

Yeas ten, nays none, as follows :

Those who voted in the affirmative, are
Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers,
Rich, Stone, Taylor, J. O., Taylor F., and Mr. President.

None voting in the negative.

So the bill was passed, and
On motion of Mr. Gregory,
Its title was agreed to.

ORDER OF THE DAY.

The hour having arrived for the consideration of the order of
the day.

The President announced H. F. No. 15, An act provid-
ing for the record of Town Plots,

Mr. Gregory moved that it be made the special order in com-
mittee of the whole House for to-morrow at half past eleven
o'clock A. M.

Which motion prevailed.

On the motion of Mr. Kingsbury,
The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

THIRTY-THIRD DAY.

COUNCIL CHAMBER,
Friday, Jan. 6, 1865. }

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

President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names :

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., Taylor F. and Mr. President.

The Journal of the fifth instant was then read and approved.

Mr. Mathers moved that the resolution introduced by himself yesterday, excusing Mr. Taylor F. for non-attendance, be indefinitely postponed.

Which motion prevailed.

—

REPORTS OF COMMITTEES.

Mr. Gregory, from the committee on Judiciary, submitted the following report :

MR. PRESIDENT:—Your committee on Judiciary have to report, that they have had under consideration H. F. No. 19, An act in relation to summoning Grand and Petit Jurors ; and report the same back with attached amendment, and recommend that it do pass.

J. SHAW GREGORY,
Chairman.

Mr. Gregory, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and En-

rolled Bills have to report that jointly with the committee on Enrollment of the House, they have examined C. B. No. 13, An act incorporating the town of Spring Lake in Todd county; and

H. F. No. 22, a memorial to Congress asking for the construction of a government wagon road from Yankton, Dakota Territory, to Virginia City, Montana Territory; and have found the same correctly enrolled.

J. SHAW GREGORY.

Chairman.

Mr. Mathers, from the committee on Education, submitted the following report:

MR. PRESIDENT:—Your committee on Education have had under consideration H. F. No. 23, entitled Foreclosure of Mortgages, and report the same back with attached amendments numbered respectively 1, 2 and 3, recommending the adoption of the same, and that the bill do pass.

J. MATHERS.

Chairman.

Mr. Kingsbury, from the committee on Engrossed and Enrolled bills, submitted the following reports:

MR. PRESIDENT:—Your Committee on engrossed and enrolled bills have to report, that they presented to his Excellency the Governor, for his approval, on Thursday, January 5th, 1865, at 12 M., C. B. No. 15, An act increasing the fees of certain county officers.

G. W. KINGSBURY

Chairman.

Mr. Kingsbury, from the committee on Territorial affairs submitted the following report:

MR. PRESIDENT:—Your committee to whom was referred C. B. No. 12, An act to amend chapter 18, section 2; of the laws of 1862; have had the same under consideration, and find that the bill contemplates a change in the location of the county seat of Todd county, Dakota Territory. Your committee find

that the county seat of that county, as at present located, is remote from the settlements, and it is the unanimous desire of the citizens of the county, that its location be made as indicated by the bill under consideration. The citizens of the county are apprehensive that the expense attending a special election, for the purpose of effecting this object, would not be justified, inasmuch as the town named in the bill has no competition. In view of these facts, your committee report the bill back, without amendment, and recommend that the same do pass.

G. W. KINGSBURY.

The following message from the House was then read :

HOUSE OF REPRESENTATIVES, }
January 6, 1865. }

MR. PRESIDENT :—I am instructed to inform you that the House has passed H. F. No. 11, A memorial to Congress for a geological survey of the Territory of Dakota;

H. F. No. 32, An act to locate a Territorial road from the north line of Union county to the Big Sioux River; and

H. F. No. 33, An act to locate a Territorial road from Yankton to the Big Sioux River; which are herewith transmitted, and the concurrence of the Council respectfully solicited therein.

I have also to inform you that the House has concurred in Council amendments to H. F. No. 3; An act concerning money of account and fixing a rate of interest of money; and

H. F. No. 22, An act granting to Mathias Mitchel a Ferry charter across the Big Sioux River.

GEO. I. FOSTER.

Chief Clerk.

HOUSE FILES ON THEIR FIRST AND SECOND READING

H. F. No. 11, A memorial to Congress for a geological survey of the Territory of Dakota; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Gregory

Referred to the committee on Federal Relations.

H. F. No. 32, An act to locate a Territorial road from the north line of Union county to the Big Sioux River ; was then Taken up, and Read the first and second time, and On the motion of Mr. Bothun, was Referred to the committee on Highways Bridges and Ferries.

H. F. No. 33, An act locating a Territorial road from Yankton to the Big Sioux River ; was then Taken up, and Read the first and second time, and On the motion of Mr. Kingsbury, was Referred to the committee on Highways, Bridges and Ferries.

COUNCIL BILLS ON THEIR THIRD READING.

C. B. No. 12, An act to amend chapter 18, section two, of the laws of 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, Yeas eight, nays none, as follows : Those who voted in the affirmative, are Messrs. Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor J. O., and Mr. President. None voting in the negative. So the bill was passed, and On the motion of Mr. Gregory, its Title was agreed to *Ordered*, That the Secretary request the concurrence of the House, in the said bill.

HOUSE FILES ON THEIR THIRD READING.

H. F. No. 19, An act in relation to summoning Grand and Petit Jurors; was then

Taken up, and

The amendment reported by the committee, was read, as follows: insert the word "Territorial" in section one, line one, after the word "any," and before the word "District;" and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the amendment was agreed to.

Whereupon 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.

Yeas ten, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O. Taylor F., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Stone,

Its title was agreed to.

H. F. No. 23, Foreclosure of Mortgages; was then

Taken up, and

The first amendment was then read as follows: Strike out the following words, in the ninth and tenth lines of section 4, (written bill) to wit: "in one of the adjoining counties," and insert in lieu thereof the following words "published in this Territory;" and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the first amendment was agreed to.

The second amendment was then read as follows: Strike out the word "or," after the word "assigns," in line seven of section 11, (written bill) and insert in lieu thereof the following words: "if either of them reside in the county in which the sale took place, and if not, then to;" and

The question being put, will the Council agree thereto ?

It was decided in the affirmative.

So the second amendment was agreed to.

And the third amendment was then read, as follows : Amend the title of the bill to read, as follows : An act providing for the foreclosure of Mortgages ; and

The question being put, will the Council agree thereto ?

It was decided in the affirmative.

So the third amendment was agreed to.

All the said amendments having been disposed of,

The bill was read the third time, and

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

It was decided in the affirmative.

Yeas eight and nays one, as follows :

Those who voted in the affirmative, are

Messrs. Bothun, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, F. and Mr. President.

Mr. Taylor J. O. voting in the negative,

So the bill was passed, and

On the motion of Mr. Gregory,

Its title as amended was agreed to.

ORDER OF THE DAY.

The hour having arrived for considering the order of the day.

The President announced H. F. No. 15, An act providing for the record of Town Plots ; and

On the motion of Mr. Kingsbury,

The Council resolved itself into the committee of the whole House, on the special order, and

After some time spent therein,

The President resumed the chair, and

Mr. Mathers reported, as follows :

MR. PRESIDENT :—The committee of the whole House have

had under consideration H.F. No. 15, An act providing for the record of Town Plots, and have arrived at no conclusion thereon.

On the motion of Mr. Taylor J. O.
The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

THIRTY-FOURTH DAY.

COUNCIL CHAMBER, }
Saturday, Jan. 7, 1865. }

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

President in the chair.

Prayer by the Chaplain.

• Roll called.

• The following members answered to their names,
Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers,
Rich, Stone, Taylor J. O., Taylor, F., and Mr. President.

The Journal of the sixth instant was then read, and approved.

INTRODUCTION OF BILLS.

Pursuant to notice, Mr. Gregory introduced C. B. No. 22,

entitled An act granting a ferry charter to James Tufts and associates for a ferry at or near the mouth of Yellow Stone river.

REPORTS OF COMMITTEES.

Mr. Gregory, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills have to report, that, jointly with the committee of the House, they have examined H. F. No. 26, An act granting to Mathias Mitchel a ferry charter across the Big Sioux river; and have found the same correctly enrolled.

J. SHAW GREGORY,
For the committee.

Mr. Gregory, from committee on Judiciary, submitted the following report :

MR. PRESIDENT:—Your committee on Judiciary have had under consideration H. F. No. 27, An act to repeal section 5 of chapter 46, laws of Dakota, 1862-3; and recommend that the same be laid on the table.

J. SHAW GREGORY,
Chairman.

Mr. Kingsbury, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled Bills have to report, that in connection with the committee on Enrollment of the House, they have examined C. B. No. 21, joint resolution relative to the contest by J. B. S. Todd, of the seat of Walter A. Burleigh, in the 39th Congress of the United States, as Delegate from Dakota Territory; and have found the same correctly enrolled.

GEO. W. KINGSBURY.
Chairman.

COMMUNICATIONS ON THE PRESIDENT'S TABLE

The following communication from his Excellency, the Governor was then read :

TERRITORY OF DAKOTA, EXECUTIVE OFFICE, }
YANKTON, January 7, 1865 }

HON. ENOS STUTSMAN,
President of the Council.

SIR :—I have the honor to enclose herewith C. B. No. 15, An act increasing the fees of certain county officers; which I have this day examined, approved and signed.

I am, Sir,

Very respectfully,

Your ob't ser'vt,

NEWTON EDMUNDS.

Governor.

The following messages from the House were then read :

HOUSE OF REPRESENTATIVES, }
January 7, 1865. }

MR. PRESIDENT :—I am instructed to inform you that the House has passed C. B. No. 21, entitled Joint Resolution relative to the contest by J. B. S. Todd of the seat of Walter A. Burleigh in the 39th Congress of the United States, as Delegate from Dakota Territory ; which bill is herewith returned.

GEO. I. FOSTER,

Chief Clerk.

HOUSE OF REPRESENTATIVES, }
January 7, 1865. }

MR. PRESIDENT :—I am instructed to inform you that the House has passed H. F. No. 38, An act to authorize the county commissioners of Yankton county to levy a tax for the year 1864, and to provide for the collection of the same ; also,

H. F. No. 31, a memorial to Congress for the establishment of military post on the Big Sioux and Dakota rivers ; also,

H. F. No. 18, An act to regulate the traffic in spirituous

liquors; which are herewith transmitted, and the concurrence of the Council requested.

I have also to inform you that the House has concurred in the Council amendments to House file No. 19, An act in relation to summoning grand and petit jurors.

GEO. I. FOSTER.

Chief Clerk.

HOUSE OF REPRESENTATIVES, }
January 7, 1865. }

MR. PRESIDENT:—I am instructed to inform you that the House has passed H. F. No. 37, An act granting to Joseph Shayer, a ferry charter across the Big Sioux river; which is herewith transmitted and the concurrence of the Council therein requested.

I have also to inform you that the House has concurred in the Council amendments to H. F. No. 23, An act providing for the foreclosure of mortgages.

GEO. I. FOSTER.

Chief Clerk.

COUNCIL BILLS ON THEIR FIRST AND SECOND READING.

C. B. No. 22, An act granting a ferry charter to James Tufts and associates for a ferry at or near the mouth of the Yellow Stone river; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Gregory, was

Referred to the committee on Highways, Bridges and Ferries.

HOUSE FILES ON THEIR FIRST AND SECOND READING

H. F. No. 30, An act to regulate the traffic in spirituous liquors; was then

Taken up, and

Read the first and second time, and
 On the motion of Mr. Bothun, was
 Referred to the committee on Incorporations.

H. F. No. 31, a memorial to Congress for the establishment
 of military posts on the Dakota and Big Sioux rivers; was then
 Taken up, and
 Read the first and second time, and
 On the motion of Mr. Bradford, was
 Referred to committee on Military Affairs.

H. F. No. 38, An act to authorize the county commission-
 ers, of Yankton county, to levy a tax for the year 1864, and to
 provide for the collection of the same ; was then

Taken up, and
 Read the first and second time, and
 On motion of Mr. Gregory, was
 Referred to the committee on Finance.

Mr. Kingsbury, moved that the vote by which H. F. No. 38,
 was referred to the committee on Finance, be reconsidered.

Which motion prevailed.

Mr. Kingsbury then moved that said bill be referred to a
 special committee consisting of the Yankton Delegation.

Which motion prevailed.

H. F. No. 37, An act granting to Joseph Shayer, a ferry
 charter across the Big Sioux river ; was then

Taken up, and
 Read the first and second time, and
 On the motion of Mr. Kingsbury, was
 Referred to the committee on Highways, Bridges and Fer-
 ries.

H. F. No 27, An act to repeal section 5 of chapter 46, laws
 of Dakota, 1862-3 ; which was reported back by the committee
 on Judiciary, with the recommendation that the same be laid
 on the table, was then

Taken up, and
 On motion of Mr. Bothun,
 The report of the committee was adopted.

So the bill was laid on the table.

Mr. Stone, moved that a committee of three be appointed by the chair, with instructions to have one hundred copies of C. B. No. 21, with suitable remarks, printed in circular form, for the use of the Council.

Which motion prevailed.

Whereupon the chair appointed as such committee Messrs. Stone, Gregory and Bothun.

ORDER OF THE DAY.

The hour having arrived for considering the order of the day.

The President announced H. F. No. 28, An act to prohibit the laying out of strychnine and other poisons ; and

On the motion of Mr. Gergory,

The Council resolved itself into the committee of the Whole House, on H. F. No. 28 ; and

After sometime spent therein,

The President resumed the chair, and

Mr. Bothun reported, as follows

MR. PRESIDENT:—Your committee of the Whole House, pursuant to special order, have had under consideration H. F. No. 28, An act to prohibit the laying out of strychnine and other poisons ; and have agreed upon the accompanying amendments, numbered respectively one and two, which I am instructed to report, with the recommendation that the same be adopted, and that the bill do pass.

L. BOTHUN,
Chairman.

The first amendment was then read, as follows :

Amend " section 1," by inserting after the word " House," the following words : " used and occupied as a dwelling, or as a barn, or stable for stock ;" and

The question being put, will the Council agree thereto :

It was decided in the affirmative.
So the first amendment was agreed to.

The second amendment was then read as follows :

Amend " section 1," by striking out the following words and figures in line 3: " one quarter of a," and insert in lieu thereof the word " one ;" and

The question being put, will the Council agree thereto :

It was decided in the affirmative.

So the second amendment was agreed to.

On motion of Mr. Gregory,

Said bill with amendments was recommitted to a select committee of three, consisting of Messrs. Gregory, Rich and Bothun.

Mr. Gregory moved that the vote by which amendment No. 1, to H. F. No. 28, was agreed to, be reconsidered.

Which motion prevailed.

Mr. Gregory also moved that the vote by which amendment No. 2, to said bill was agreed to, be reconsidered.

Which motion prevailed.

On the motion of Mr. Gregory.

The Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

THIRTY-SIXTH DAY.

COUNCIL CHAMBER, }
 Monday, Jan. 9, 1865. }

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

President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names :

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor, J. O., Taylor F. and Mr. President.

The Journal of the seventh instant was then read and approved.

 PETITIONS.

Mr. Stone in the chair.

Mr. Stutsman presented the petition of Mrs Elizabeth D. Crandall, praying to be released from the bonds of matrimony with Truman K. Crandall.

The President resumed the chair.

The Petition of Elizabeth D. Crandall was then.

Taken up, and

Read, as follows :

To the Honorable, The Legislative Assembly of the Territory of Dakota :

I, Elizabeth D. Crandall, a resident of said Territory, do present to you this petition, praying that the marriage contract existing between myself and my legal husband, Truman R. Crandall, be dissolved, and forever annulled, by an act of said Legislative Assembly ; and that all property, acquired by me prior

to my marriage with said Truman R. Crandall, and all property, real or personal, acquired by me since my separation from said Truman R. Crandall, be declared exempt from any debts or liabilities of said Truman R. Crandall, and without his control or disposal; and that the said Truman R. Crandall be forever barred from any alimony or dower in any property I now possess, or that I may hereafter acquire, both real and personal; and that I shall have full power to grant and sell real estate, and make and execute deeds therefor, which shall be binding both in law and equity; and that I shall have exclusive control of my only child, Nettie C. Crandall, until she shall arrive at the age of majority.

I was married to the said Truman R. Crandall, at New Woodstock, in the county of Madison, in the state of New York; by the Rev. John Fulton, on the 14th day of September, A. D. 1853. I left my said husband on the 8th day of October, A. D. 1861, and have supported myself and child since that time. My reason for leaving my said husband, was, brutal and inhuman treatment, such as striking, choking, and abusive language, allowing me nothing but bread and water for days in succession, as a punishment for going into a neighbor's house without first asking his permission so to do, or for failing to anticipate his wishes before they were expressed, or not being able to tell where his hammer, or axe, or other article was, and because I did not at all times, see that such articles were kept in their proper places, &c. Also, depriving me of all intercourse with my own family, or neighbors. I might state many other facts which are far too gross and indecent to be mentioned in this petition. My reasons for applying to you, instead of seeking a remedy in the District Court are the following; First, That so long as I am his lawful wife, he will follow me up more for the purpose of annoying and persecuting me, than from the desire to live with me, and I am advised that he is now in pursuit of me, with the purpose of taking my child from me, which he has already once done, and fearing that he may accomplish that purpose before another term of the district court, or that the notice in commencing a suit in court, being published, may also inform him of my place of abode, I seek the more speedy remedy herein prayed for; and second, my

present means, after providing for the support and education of my child, will not warrant the necessary expenses of a suit in the district court. It was on account of his persecution of myself and child that I left my friends and kindred and came here to make my home, with you in this Territory.

For a hearing and favorable consideration of this petition, I do most humbly pray.

MRS. ELIZABETH D. CRANDALL

January 9th, 1865.

P. S. In evidence, I am ready to offer the testimony of Charles N. Taylor Esq., of Clay county, D. T.; also, a number of letters from persons familiar with the facts above set forth, some of which are from near relations of said Truman R. Crandall.

MRS. ELIZABETH D. CRANDALL.

INTRODUCTION OF BILLS.

Mr. Stone in the chair.

By unanimous consent, Mr. Stutsman introduced C. B. No. 23, entitled An act to release Elizabeth D. Crandall from the bonds of matrimony.

The President resumed the chair.

REPORTS OF COMMITTEES.

Mr. Stone, from the committee on Highways, Bridges and Ferries, submitted the following report:

MR. PRESIDENT:—Your committee on Highways, Bridges and Ferries, have had under consideration H. F. No. 32, An act to locate a Territorial road from the north line of Union county, to the Big Sioux river; and report the same back with the attached amendment, and recommend its passage. They have also considered H. F. No. 33, An act locating a Territorial road from Yankton to the Big Sioux River; and report the same back and recommend that it do pass. They have also considered C. B. No. 22, An act granting to James Tufts,

Robert M. Hagaman, Enos Stutsman, D. P. Bradford, and their associates and assigns, a charter for a ferry at or near the mouth of the Yellow Stone river; and report the same back, with the recommendation that it do pass.

J. M. STONE.

Chairman.

Mr. Gregory, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills, have to report, that jointly with the committee on Enrollment of the House, they have examined C. B. No. 12, An act to amend chapter 18, section 2, of the laws of 1862-3; and found the same correctly enrolled.

J. SHAW GREGORY,

For the Committee.

Messrs. Rich and Bothun, from the special committee on H. F. No. 28, submitted the following report :

MR. PRESIDENT:—Your special committee on H. F. No. 28, An act to prohibit the laying out of strychnine or any other poison; have had the same under consideration, and report it back with attached amendments, numbered, respectively, one and two, and recommend their adoption, and the passage of the bill as amended.

M. M. RICH,

L. BOTHUN,

Committee.

The special committee on H. F. No. 38, submitted the following report:

MR. PRESIDENT:—Your special committee on H. F. No. 38, An act to authorize the county commissioners of Yankton county to levy a tax for the year 1864, and to provide for the collection of the same; have considered the same, and report it back with attached amendments, and recommend their adoption, and that the bill as amended do pass.

G. W. KINGSBURY,

J. M. STONE,

Committee.

The following message from the House was then read :

HOUSE OF REPRESENTATIVES, }
Jan. 9, 1865. }

MR. PRESIDENT:—I am instructed to inform you that the House has passed H. F. No. 34, An act providing for a term of the district court in Union county; also,

H. F. No. 36, An act requiring the county commissioners to meet on the first Monday in January in each year, and fixing the time for territorial, county and precinct officers to qualify; also,

H. F. No. 39, a bill entitled An act for locating and establishing a Territorial road in Clay county; which bills are herewith transmitted, and the concurrence of the Council therein requested.

The House has also passed C. B. No. 12, An act to amend chapter 18, section two, of the laws of 1862-3; also,

C. B. No. 18, An act to establish a penal code; which bills are herewith returned.

GEO. I. FOSTER.

Chief Clerk.

COUNCIL BILLS ON THEIR FIRST AND SECOND READING.

C. B. No. 23, An act to release Elizebeth D. Crandall from the bonds of matrimony; was then

Taken up, and

Read a first and second time.

Mr. Bothun moved that the bill, together with the petition of Mrs. Crandall, be referred to a select committee of three, to be appointed by the chair.

Which motion prevailed.

Whereupon the chair appointed Messrs. Bothun, Taylor, J. C., and Bradford, such committee.

HOUSE FILES ON THEIR FIRST AND SECOND READING.

H. F. No. 34, An act to provide for a term of the district

court in Union county; was then

Taken up, and

Read the first and second time.

Mr. Mathers moved that the rules be suspended, and the bill be read the third time.

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.

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Mathers, Rich, Stone, Taylor, J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On motion of Mr. Bradford,

Its title was agreed to.

H. F. No. 38, An act requiring the county commissioners to meet on the first Monday in January in each year, and fixing the time for territorial, county and precinct officers to qualify; was then

Taken up, and

Read the first and second time, and

On motion of Mr. Bradford, was

Referred to the committee on Elections.

H. F. No. 39, An act to locate and establish a Territorial road in Clay county; was then

Taken up, and

Read the first and second time, and

On motion of Mr. Bothun, was

Referred to the committee on Highways, Bridges and Ferries.

COUNCIL BILLS ON THEIR THIRD READING.

C. B. No. 22, An act granting to James Tufts, Robert M.

Hagaman, Enos Stutsman, D. P. Bradford, and their associates and assigns a charter for a ferry at or near the the mouth of the Yellow Stone river ; 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.

Yeas nine, nays none, as follows :

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Stone, Taylor J. O., Taylor, F., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Rich,

Its title was agreed to

Ordered, That the Secretary request the concurrence of the House, in the said bill.

HOUSE BILLS ON THEIR THIRD READING.

II. F. No. 28, An act to prohibit the laying out of strychnine and other poison ; was then

Taken up, and

The first amendment was read, as follows :

After the words "dwelling hohse," in line three, of section 1, insert the following words ; " or any barn, stable, or out building, used at the time for the keeping or shelter of horses, cattle, sheep or swine ; and

The question being put, will the Council agree thereto ?

It was decided in the affirmative,

So the first amendment was agreed to.

And the second amendment was then read, as follows ;

Between the words " within " and " miles, " in line three of section 1, strike out all the following words and figures : " one quarter of a," and insert in lieu thereof the word " one ; " and

The question being put, will the Council agree thereto ?

It was decided in the affirmative.

So the second amendment was agreed to.

All the amendments having been disposed of,
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,

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Mathers, Rich, Stone,
Taylor, J. O., Taylor F., and Mr. President.

None voting in the negative.

So the bill was passed, and

On motion of Mr. Rich,

Its title was agreed to.

H. F. No. 32, An act locating a territorial road from the
north line of Union county, to the Sioux river; was then

Taken up, and

The amendment reported by the committee on Highways,
Bridges and Ferries, was then read, as follows:

Strike out the name of "E. B. Lamour," where it occurs in
the bill, and insert in lieu thereof the name of "I. T. Gore;"
and :

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the amendment was agreed to.

The said amendment having been disposed of,
The bill was then 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.

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Mathers, Rich, Stone,
Taylor, J. O., Taylor, F. and Mr. President.

None voting in the negative,

So the bill was passed, and

On the motion of Mr. Taylor, J. O.,

Its title was agreed to.

H. F. No. 33, An act to locate a territorial road from Yankton to the Big Sioux river; 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.

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Mathers, Rich, Stone, Taylor J. O., Taylor, F., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Stone,

Its title was agreed to

H. F. No. 38, An act to authorize the county commissioners of Yankton county to levy a tax for the year 1864, and to provide for the collection of the same; was then

Taken up, and

The amendment reported by the special committee, was read as follows:

Strike out the word "poll," being the last word in section 1, and insert in lieu thereof the following words: "male person, over the age of twenty-one years; and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the amendment was agreed to.

The said amendment having been disposed of.

The bill was then 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.

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Mathers, Rich, Taylor, J. O., and Mr. President.

None voting in the negative.
 So the bill was passed, and
 On motion of Mr. Rich,
 Its title was agreed to.

On motion of Mr. Gregory,
 The rules were suspended, and
 The Council adjourned to meet to-morrow at 10 o'clock A. M.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

THIRTY-SEVENTH DAY:

COUNCIL CHAMBER,
 Tuesday, Jan. 10th, 1865. }

The Council met pursuant to adjournment, and was called to order by the President in the chair.

Prayer by the Chaplain of the House.

Roll called.

The following members answered to their names :

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Taylor, J. O., Taylor F. and Mr. President.

The Journal of the ninth instant was then read and approved.

RESOLUTIONS.

Mr. Bothun introduced the following resolution :

Resolved, That Charles N. Taylor Esq., be invited to a seat within the bar of the Council : which resolution was

On the motion of Mr. Taylor J. O.

Adopted.

 REPORTS OF COMMITTEES.

Mr. Gregory, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT :—Your Committee on engrossed and enrolled bills have to report, that with the enrollment committee of the House, they have examined C. B. No. 18, An act to establish a Penal Code ; and find the same correctly enrolled.

J. SHAW GREGORY.

For the Committee.

Mr. Stone, from the committee on Highways, Bridges and Ferries, submitted the following report :

MR. PRESIDENT :—Your committee on Highways, Bridges and Ferries, have had under consideration H. F. No. 37, An act granting to Joseph Shayer a ferry charter across the Big Sioux River ; and report the same back with attached amendment, and recommend that it do pass. They have also examined H. F. No. 39, A bill entitled An act locating a Territorial road in Clay county ; and report the same back recommending its passage.

J. M. STONE.

Chairman.

Mr. Bothun, from the committee on Incorporations, submitted the following report :

MR. PRESIDENT :—Your committee on Incorporations have had under consideration H. F. No. 18, and find that there is an act now in force that in the opinion of your committee is preferable to the one under consideration. We therefore report

the bill back, with the recommendation that it be indefinitely postponed.

L. BOTHUN

Chairman.

Mr. Gregory, from the committee on Military Affairs, submitted the following report :

MR. PRESIDENT :—Your committee on Military Affairs have had under consideration H. F. No. 31, A memorial to Congress for the establishment of military posts on the Big Sioux and Dakota Rivers : and report the same back with the recommendation that it do pass.

J. SHAW GREGORY.

Chairman.

Mr Bothun, from the committee on Elections, submitted the following report :

MR. PRESIDENT :—Your committee on Elections, have considered H. F. No. 36, An act requiring the county commissioners to meet on the first Monday of January in each year, and fixing the time for territorial, county, and precinct officers, to qualify ; and report the same back with attached amendments, numbered respectively "one and two," and recommend their adoption, and the passage of the bill as amended.

L. BOTHUN.

Chairman.

Mr. Gregory from the special committee on C. B. No. 17, submitted the following reports :

MR. PRESIDENT :—Your special committee on C. B. No. 17, A memorial for the establishment of certain emigrant routes to the Gold mines of Montana ; report the same back without recommendation

J. SHAW GREGORY.

Chairman.

Mr. Taylor, J. O., from the committee on Territorial Affairs, submitted the following report :

MR. PRESIDENT :—Your committee on Territorial Affairs,

have had under consideration C. B. No. 14, An act granting the privilege of forming Cemetery associations ; report the same back recommending its passage. They have also considered C. B. No. 16, An act to provide for the protection of Game ; and report it back with attached amendments, and recommend its passage.

J. O. TAYLOR.

Chairman.

Mr. Kingsbury, from the committee on Federal Relations, submitted the following report :

MR. PRESIDENT:—Your committee on Federal Relations have had under consideration H. F. No. 11, A memorial to Congress for a geological survey of the Territory of Dakota ; and report the same back with the recommendation that the same be made the special order at 11½ o'clock to-morrow, in the committee of the whole House.

G. W. KINGSBURY

Chairman.

Mr. Kingsbury, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills have to report that they presented to his Excellency the Governor, for his approval, at 12 o'clock M. the seventh instant, C. B. No. 21, Joint resolution relative to the contest by J. B. S. Todd of the seat of Walter A. Burleigh in the 39th Congress of the United States as Delegate from Dakota Territory ; and, also, on the 10th instant, at 11 o'clock A. M., C. B. No. 18, An act to establish a Penal Code ; also, C. B. No. 12, An act to amend chapter 18, section 2, of the laws of 1862-63 ; also, C. B. No. 13, An act to Incorporate the town of Spring Lake in Todd county.

G. W. KINGSBURY.

Chairman.

Mr. Bothun, from the special committee on C. B. No. 23, submitted the following report :

MR. PRESIDENT:—Your special committee on C. B. No. 23,

have had the same under consideration and after examining witnesses in the case, they feel satisfied that Mrs. Crandall is entitled to a divorce. They, therefore report the bill with the Petition and affidavit back with the recommendation that the prayer be granted, and that the bill do pass.

L. BOTHUN,
Chairman.

COMMUNICATIONS ON THE PRESIDENT'S TABLE.

The following communication from his Excellency the Governor, was then read :

DAKOTA TERRITORY, EXECUTIVE OFFICE, }
YANKTON, Jan. 10, 1865. }

HON. ENOS STUTSMAN,
President of the Council.

Sir:—I have the honor to return herewith C. B. No. 21, Joint resolution relative to the contest by J. B. S. Todd of the seat of Walter A. Burleigh in the 39th Congress of the United States, as Delegate from Dakota Territory; which I have approved and signed.

I am, Sir,
Very Respectfully,
Your ob't. ser'vt,
NEWTON EDMUNDS,
Governor.

The following messages from the House were then read :

HOUSE OF REPRESENTATIVES, }
Jan. 10, 1865. }

MR. PRESIDENT:—I have the honor to inform the Council that the House has passed H. F. No. 40, A memorial to his Excellency the President of the United States relative to the northern branch of the Pacific Railroad; also

H. F. No. 41, An act to provide for the recording of Certificates of Title for the Lands entered in the local Land offices of this Territory; also

H. F. No. 42, An act changing, vacating and establishing a Territorial road in Yankton county : also

H. F. No. 44, An act granting to John Rouse, E. W. Wall and C. H. McCarthy a charter to keep and maintain a ferry across the Missouri river ; also

H. F. No. 45, An act for the location of a territorial road from the mouth of Emanuel creek to Spring Lakes, Ponca Agency, and Keba Paha ; which bills are herewith transmitted, and the concurrence of the Council respectfully solicited therein.

GEO. I. FOSTER,
Chief Clerk.

HOUSE OF REPRESENTATIVES, }
January 10, 1865. }

MR. PRESIDENT:—I am instructed to inform you that the House has concurred in Council amendments to the following House files, to wit :

H. F. No. 28, An act to prohibit the laying out of strychnine or any other poison.

H. F. No. 32, An act to locate a Territorial road from the north line of Union county to the Big Sioux River. And

H. F. No. 38, An act to authorize the county commissioners, of Yankton county, to levy a tax for the year 1864, and to provide for the collection of the same.

GEO. I. FOSTER.
Chief Clerk.

HOUSE FILES ON THEIR FIRST AND SECOND READING.

H. F. No. 40, a memorial to his Excellency, the President of the United States, relative to the northern branch of the Pacific Railroad ; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Gregory,

The rules were suspended, and

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.

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Taylor J. O., Taylor, F., and Mr. President.

None voting in the negative.

So the bill was passed, and

On motion of Mr. Taylor, J. O.,

Its title was agreed to

H. F. No. 41, An act to provide for the recording of certificates of title for lands entered in the local land office of this Territory; was then

Taken up, and

Read the first and second time, and

On motion of Mr. Gregory, was

Referred to the committee on Judiciary.

H. F. No. 42, An act changing, vacating and establishing a territorial road in Yankton county; was then

Taken up, and

Read the first and second time,

On the motion of Mr. Kingsbury,

The rules were suspended, and

The bill 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.

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Taylor, J. O., Taylor F., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Kingsbury,

Its title was agreed to.

H. F. No. 44, An act granting to John H. Rouse, E. W.

Wall and Charles McCarty, a charter to keep a ferry across the Missouri river ; was then

Taken up, and

Read the first and second time, and

On motion of Mr. Gregory, was

Referred to the committee on Highways, Bridges and Ferries.

H. F. No. 45, An act for the location of a territorial road from the mouth of Emanuel creek to Spring Lake, Ponca Agency and Ke-ha-pa-ha ; was then

Taken up, and

Read the first and second time, and

On the motion of Mr. Gregory, was

Referred to the committee on Highways, Bridges and Ferries.

COUNCIL BILLS ON THEIR THIRD READING.

C. B. No. 14, An act granting privilege of forming cemetery associations ; 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.

Yeas seven, nays none, as follows :

Those who voted in the affirmative are.

Messrs. Gregory, Kingsbury, Rich, Stone, Taylor, J. O., Taylor F. and Mr. President.

None voting in the negative,

So the bill was passed and

On the motion of Mr. Gergory,

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House in the said bill.

C. B. No. 16, An act to provide for the protection of game ; was then

Taken up, and

The amendment reported by the committee, was read, as follows :

Strike out all of "section 5," and insert in lieu thereof "section 6," and

The question being put, will the Council agree thereto ?

It was decided in the affirmative,

So the amendment was agreed to.

Ordered, That the bill be engrossed for its third reading on to-morrow.

C. B. No. 17, a memorial to the Congress of the United States, praying for appropriations to construct certain over-land routes ; was then

Taken up, and

On the motion of Mr. Stone,

It was laid on the table.

C. B. No. 23, An act to release Elizabeth D. Crandall from the bonds of matrimony ; 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.

Yeas eight, nays one, as follows :

Those who voted in the affirmative, are, Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Taylor, J. O., and Mr. President.

Mr. Taylor F., voting in the negative.

So the bill was passed, and

On motion of Mr. Taylor, J. O.

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House, in the said bill.

HOUSE FILES ON THEIR THIRD READING.

H. F. No. 11, memorial to Congress for a Geological sur-

vey of the Territory of Dakota ; was then

Taken up.

Mr. Kingsbury moved that the bill be recommitted to a select committee of three, to be appointed by the chair, with instructions to report on the same to-morrow.

Which motion prevailed.

Whereupon the chair appointed Messrs. Kingsbury, Gregory and Rich, such committee.

H. F. No. 31, a memorial of the Legislative Assembly of the Territory of Dakota, praying for the establishment of military posts on the Dakota and Big Sioux rivers; 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.

Yeas seven, nays none, as follows :

Those who voted in the affirmative are :

Messrs. Gregory, Kingsbury, Rich, Stone, Taylor J. O., Taylor, F., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Gregory,

Its title was agreed to.

H. F. No. 39, An act to locate and establish a Territorial road in Clay 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.

Yeas nine, nays none, as follows :

Those who voted in the affirmative are,

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Taylor, J. O., Taylor F., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Taylor, J. O.,

Its title was agreed to.

H. F. No. 37, An act granting to Joseph Shayer, a ferry charter across the Big Sioux river; was then

Taken up, and

The amendment reported by the committee was read, as follows :

Amend section 5, line 6, (written bill,) by striking out the word " ten," after the word " cattle," and insert in lieu thereof the word " five;" and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the amendment was agreed to.

Said amendment having been disposed of,

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.

Yeas nine, nays none, as follows :

Those who voted in the affirmative are,
Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Taylor, J. O., Taylor, F., and Mr. President

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Taylor J. O.,

Its title was agreed to.

H. F. No. 18, An act to regulate the traffic in spirituous liquors; reported back by the committee with the recommendation that it be indefinitely postponed, was then

Taken up, and

On the motion of Mr. Stone,

The report of the committee was adopted.

So the bill was indefinitely postponed.

H. F. No. 36, An act requiring the county commissioners to meet on the first Monday in January in each year, and fixing the time for territorial, county and precinct officers to qualify; reported back, amended, was then

Taken up, and

The first amendment was then read, as follows :

After the word "year," being the last word in section 2, insert the following words : "*Provided*, That all such officers elected at the October election, 1864, shall qualify into office and give bonds, on or before the first Monday in March, 1865; and

The question being put, will the Council agree thereto ?

It was decided in the affirmative.

So the first amendment was agreed to.

The second amendment was read, as follows : After the word "appointment" and before the word "according" in the last line of section 3, insert the following words "or by special Election." and

The question being put, will the Council agree thereto ?

It was decided in the affirmative.

So the second amendment was agreed to.

The said amendments having been disposed of,

The bill was then 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.

Yeas nine, nays none, as follows :

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Taylor, J. O., Taylor, F., and Mr. President,

None voting in the negative,

So the bill was passed, and

On the motion of Mr. Rich,

Its title was agreed to.

On motion of Mr. Gregory,

The Council resolved itself into the committee of the Whole House, on H. F. No. 15 ; and

After sometime spent therein,

The President resumed the chair, and

Mr. Gregory reported as follows :

MR. PRESIDENT :—The committee of the whole House have had under consideration H. F. No. 15, An act providing for the record of Town Plots ; and have instructed me to report the same back with the recommendation that it be laid upon the table.

J. SHAW GREGORY,
Chairman.

On motion of Mr. Kingsbury,
The report of the committee was adopted.
So the bill was laid upon the table.

On the motion of Mr. Kingsbury,
The rules were suspended, and
The Council then adjourned to meet to-morrow at 10 o'clock
A. M.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

THIRTY-EIGHTH DAY.

COUNCIL CHAMBER,
Wednesday, Jan. 11, 1865. }

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

President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names,

Messrs. Bethun, Bradford, Gregory, Kingsbury, Rich, Stone, Taylor J. O. Taylor F. and Mr. President.

The Journal of the tenth instant was then read, and approved.

INTRODUCTION OF BILLS.

By unanimous consent, Mr. Bradford introduced C. B. No. 24, An act respecting Territorial Warrants.

RESOLUTIONS

Mr. Kingsbury introduced the following resolution :

Resolved, That the Hon. Franklin Taylor, a member of this Council from the second Council district, be excused for non-attendance at the several daily sessions of this body up to the present time.

Mr. Gregory offered the following amendment thereto ; after the word "district" strike out the balance of the resolution and insert the following words in lieu thereof, "and the Hon. John J. Thompson from the 5th district, be excused for non-attendance at the several daily sessions up to the present time ; and

On the motion of Mr. Kingsbury,
The amendment was agreed to.

Mr. Kingsbury then moved that the resolution as amended be adopted.

Which motion prevailed.

REPORTS OF COMMITTEES.

Mr. Gregory, from committee on Judiciary, submitted the following report :

MR. PRESIDENT :—Your committee on Judiciary have considered H. F. No. 41, An act to provide for the recording of certificates of title for Land entered in the local Land office of

this Territory; and report the same back with the recommendation that it do pass.

J. SHAW GREGORY,
Chairman.

Mr. Bothun, from the committee on Incorporations, submitted the following report :

MR. PRESIDENT:—Your committee on Incorporations have considered C. B. No. 19, An act providing for the formation and Incorporation of Banking Associations and to regulate the same; and report the same back with the recommendation that it be laid upon the table.

L. BOTHUN,
Chairman.

Mr. Stone, from the committee on Highways, Bridges and Ferries, submitted the following report :

MR. PRESIDENT:—Your committee on Highways, Bridges and Ferries, have had under consideration H. F. No. 45, An act to locate and establish a Territorial road from Emanuel creek to Spring Lake thence to Ponca Agency and Kerlers trading post at the mouth of the Keha Paha; and H. F. No. 44, An act granting to John H. Rouse, E. W. Wall, and C. H. McCarthy, a ferry charter across the Missouri river; and report the same back with the recommendation that they do pass.

J. M. STONE.
Chairman.

Mr. Gregory, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills, have to report, that jointly with the committee on Enrollment of the House, they have examined H. F. No. 23, An act providing for the foreclosure of mortgages; also, H. F. No. 19, An act in relation to summoning grand and petit jurors; also, H. F. No. 34, An act providing for a term of the district court in the county of Union; and find the same correct-

ly enrolled.

J. SHAW GREGORY,

For the Committee.

Mr. Kingsbury, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT :—Your committee on Engrossed and Enrolled bills have to report, that jointly with the committee on Enrollment of the House, they have examined H. F. No. 8, An act regulating the weight of grain &c. and found the same correctly enrolled.

GEO. W. KINGSBURY.

Chairman.

Mr. Gregory, from the special committee on H. F. No. 11, submitted the following report :

MR. PRESIDENT :—Your special committee have had under consideration H. F. No. 11, A memorial to Congress for a geological survey, of the Territory of Dakota ; and have agreed upon a substitute therefor, which we herewith report, with the recommendation that it do pass.

J. SHAW GREGORY.

For the committee.

Mr. Gregory, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT :—Your Committee on engrossed and enrolled bills have to report, that they have examined C. B. No. 16, and find the same correctly engrossed.

J. SHAW GREGORY.

For the Committee.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES.

The following message from the House, was then read.

HOUSE OF REPRESENTATIVES, }
January 11, 1865. }

MR. PRESIDENT :—I have the honor to inform the Council

that the House has passed H. F. No. 47, An act to amend an act entitled An act for the regulation and support of common schools; also.

H. F. No. 48, An act to dissolve the marriage contract between Georgianna Young and Lewis Young; which bills are herewith transmitted, and the concurrence of the Council respectfully solicited therein.

GEO. I. FOSTER.
Chief Clerk.

COUNCIL BILLS ON THEIR FIRST AND SECOND
READING.

C. B. No. 24, An act respecting territorial warrants; was then

Taken up, and
Read the first and second time, and
On the motion of Mr. Gregory,
The rules were suspended, and
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.

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Taylor, J. O., Taylor F., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Kingsbury,

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House in the said bill.

HOUSE FILES ON THEIR FIRST AND SECOND READING

H. F. No. 47, An act to amend an act entitled an act for

the regulation and support of common schools ; was then

Taken up, and

Read the first and second time, and

On motion of Mr. Gregory,

The rules were suspended, and

The bill was then 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.

Yeas nine, nays none, as follows :

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone,
Taylor, J. O., Taylor, F. and Mr. President.

None voting in the negative,

So the bill was passed, and

On the motion of Mr. Bradford,

Its title was agreed to.

II. F. No. 48, An act to dissolve the marriage contract be-
tween Georgianna Young, and Lewis Young ; was then

Read the first and second time, and

Mr. Bothun, moved that the bill be referred to a special com-
mittee of three to be appointed by the chair.

Which motion prevailed.

Whereupon the chair appointed as such committee Messrs.
Bothun, Gregory, and Bradford.

COUNCIL BILLS ON THEIR THIRD READING.

C. B. No. 19, An act providing for the formation and incor-
poration of Banking associations, and to regulate the same ;
reported back by the committee on Incorporations, with the
recommendation that it be laid upon the table, was then

Taken up, and

On the motion of Mr. Gregory,

The report of the committee was adopted.

So the bill was laid on the table.

C. B. No. 16, An act to provide for the protection of game ;
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.

Yeas seven, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bradford, Gregory, Kingsbury, Rich, Stone,
Taylor J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On motion of Mr. Gregory,

Its title was agreed to

Ordered, That the Secretary request the concurrence of the
House, in the said bill.

HOUSE FILES ON THEIR THIRD READING.

H. F. No. 44, An act granting to John Rouse, E. W. Wall
and C. H. McCarthy a charter to keep and maintain a ferry
across the Missouri river; 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.

Yeas eight, nays none, as follows:

Those who voted in the affirmative are:

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone,
Taylor J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Stone,

Its title was agreed to

H. F. No. 11, a memorial for a geological survey of the
Territory of Dakota; reported back by a special committee
with a substitute for the original bill, was then

Taken up, and

On the motion of Mr. Taylor, J. O.

The report was adopted.

Whereupon the substitute 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:

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Taylor J. O., Taylor, F., and Mr. President.

None voting in the negative.

So the bill was passed, and

On motion of Mr. Rich,

Its title was agreed to.

II. F. No. 45, An act for the location of a territorial road from the mouth of Emanuel creek to Spring Lakes, Pcnca Agency, and Kerler's trading post, at the mouth of the Keha Pahia; 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.

Yeas eight, nays none, as follows:

Those who voted in the affirmative, are,

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Taylor, J. O., Taylor F. and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Rich,

Its title was agreed to.

II. F. No. 41, An act to provide for the recording of Certificates of Title for the Lands entered in the local Land offices 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.

Yeas seven, nays none, as follows:

Those who voted in the affirmative are:

Messrs. Bradford, Gregory, Kingsbury, Rich, Stone, Taylor, J. O. and Mr. President.

None voting in the negative,

So the bill was passed and

On the motion of Mr. Bradford,

Its title was agreed to.

Mr. Kingsbury moved that the Council take a recess until 2 o'clock P. M.

Mr. Kingsbury, by consent, withdrew his motion.

Mr. Kingsbury then moved that the Council take a recess until 2½ o'clock P. M.

Which motion prevailed.

So the Council took a recess until half past two o'clock P. M.

AFTER RECESS.

At half past two o'clock P. M., the President resumed the chair, and

The Council was called to order.

INTRODUCTION OF BILLS.

By unanimous consent, Mr. Bradford introduced C. B. No. 25, An act to locate a territorial road in Bon Homme county.

RESOLUTIONS.

Mr. Stone introduced the following resolution:

Resolved, That the Hon. D. P. Bradford be excused for one day's non-attendance during this session on account of sickness:

COMMUNICATIONS ON THE PRESIDENT'S TABLE.

The following message from the House was then read :

HOUSE OF REPRESENTATIVES, }
Jan. 11, 1865. }

MR. PRESIDENT :—I have the honor to inform the Council that the House has concurred in and passed C. B. No. 24, An act respecting Territorial warrants; which bill is herewith transmitted, also,

C. B. No. 8, An act to locate a territorial road from Paquettes ferry to the east line of Clay county; which bill is herewith transmitted.

I have also to inform you that the House has concurred in Council amendments to H. F. No. 11, a memorial to Congress for a geological survey of the Territory of Dakota :

GEO. I. FOSTER.
Chief Clerk.

HOUSE OF REPRESENTATIVES, }
January 11, 1865. }

MR. PRESIDENT :—I have the honor to inform the Council that the House has passed H. F. No. 35, An act granting to Jefferson Cleveland a ferry charter across the Missouri river; which is herewith transmitted, and the concurrence of the Council respectfully solicited.

GEO. I. FOSTER.
Chief Clerk.

HOUSE OF REPRESENTATIVES, }
January 11, 1865. }

MR. PRESIDENT :—I have the honor to inform you that the House has concurred in the Council amendments to H. F. No. 38, An act requiring the county commissioners to meet on the first Monday in January in each year, and fixing the time for territorial, county and precinct officers to qualify; also, in Council amendments to H. F. No. 37, An act granting to Joseph Shayer, a ferry charter across the Big Sioux river.

I have also to inform the Council that the House has passed H. F. No. 30, An act to regulate the height of fences and

to provide against damages done by stock ;

Which is herewith transmitted, and the concurrence of the Council solicited.

GEO. I. FOSTER,
Chief Clerk.

REPORTS OF COMMITTEES.

Mr. Gregory, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills have to report, that in conjunction with the committee on enrollment of the House, they have examined C. B. No. 24, An act respecting Territorial warrants ; they have also, examined C. B. No. 8, An act to locate a territorial road from Paquettes ferry to the east line of Clay county ; and find the same correctly enrolled.

J. SHAW GREGORY.
For the Committee.

Mr. Kingsbury, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills have to report, that in connection with a like committee on Enrollment of the House, they have examined H. F. No. 38, An act to authorize the county commissioners of Yankton county to levy a tax for the year 1864, and to provide for the collection of the same; also, H. F. No. 28, An act to prohibit the laying out of strychnine and other poisons; and find the same correctly enrolled.

G. W. KINGSBURY
Chairman.

Mr. Kingsbury, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills, have to report, that they presented to his Excellency, the Governor, at 3 o'clock this P. M., for his approval,

C. B. No. 24, An act respecting Territorial warrants ; also, C. B. No. 8, An act to locate a territorial road from Paquettes ferry to the east line of Clay county.

G. W. KINGSBURY.

Chairman.

Mr. Stone from the committee on Highways, Bridges and Ferries, submitted the following report :

MR. PRESIDENT:—Your committee on Highways, Bridges and Ferries have to report, that they have had under consideration H. F. No. 35, An act granting to Jefferson Cleveland a ferry charter across the Missouri river ; and report the same back with attached amendment, and recommend that the bill do pass, as amended.

J. M. STONE.

Chairman.

Mr. Bothun from the special committee on H. F. No. 48, submitted the following report :

MR. PRESIDENT:—Your special committee to whom was referred H. F. No. 48, An act to dissolve the marriage contract between Georgiana Young and Lewis Young ; have had the same under consideration, and report it back without recommendation.

L. BOTHUN.

Chairman.

COMMUNICATIONS ON THE PRESIDENT'S TABLE.

The following communications from his Excellency the Governor, were then read :

DAKOTA TERRITORY, EXECUTIVE OFFICE, }
YANKTON, Jan. 11, 1865. }

HON. ENOS STUTSMAN,

President of the Council.

Sir:—I have the honor to return herewith C. B. No. 12, An act to amend chapter 18, section two of the laws of 1862 ;

which I have this day examined, approved and signed.

I am Sir,

Very respectfully,

Your ob't serv't,

NEWTON EDMUNDS,

Governor.

TERRITORY OF DAKOTA, EXECUTIVE OFFICE, }
 YANKTON, January 11, 1865. }

HON. ENOS STUTSMAN,

President of the Council.

SIR :—I have the honor herewith to transmit, with my approval thereto, C. B. No. 13, An act incorporating the town of Spring Lake in the county of Todd; also, C. B. No. 18, An act to establish a penal code.

I am, Sir,

Very respectfully,

Your ob't ser'vt,

NEWTON EDMUNDS.

Governor.

COUNCIL BILLS ON THEIR FIRST AND SECOND
 READING.

C. B. No. 25, An act to locate a territorial road in Bon Homme county; was then

Taken up, and

Read the first and second time, and

Mr. Bradford moved that the rules be suspended, and the bill read the third time.

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,

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Taylor, J. O., Taylor F., and Mr. President.

None voting in the negative.
 So the bill was passed, and
 On the motion of Mr. Kingsbury,
 Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House in the said bill.

HOUSE FILES ON THEIR FIRST AND SECOND READING.

H. F. No. 35, An act granting to Jefferson Cleveland a ferry charter across the Missouri river; was then

Taken up, and
 Read the first and second time and,
 On the motion of Mr. Kingsbury, it was
 Referred to the committee on Highways, Bridges and Ferries.

H. F. No. 30, An act to regulate the height of fences and to provide against damages done by stock; was then

Taken up, and
 Read the first and second time.

Mr. Kingsbury moved that the bill be referred to a special committee of three, to consist of Farmers.

Which motion prevailed.

Whereupon the chair appointed Messrs. Stone, Bothum and Taylor, J. O., such committee.

HOUSE FILES ON THEIR THIRD READING:

H. F. No. 35, An act granting to Jefferson Cleveland, a ferry charter across the Missouri river; reported back with amendment, was then

Taken up, and

The amendment reported by the committee was read, as follows:

In section 3, line 10 (written bill) strike out the following word "may," before the words "have accrued," and insert in lieu thereof the word "might."

The question then being upon agreeing to the amendment,
and

The question being put, will the Council agree thereto?

It was decided in the affirmative.

So the amendment was agreed to.

Whereupon 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.

Yeas seven, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Rich, Stone, Taylor, J. O., Tay-
lor, F., and Mr. President.

None voting in the negative,

So the bill was passed, and

On the motion of Mr. Stone,

Its title was agreed to.

H. F. No. 48, An act to dissolve the marriage contract be-
tween Georgiana Young and Lewis Young; 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.

Yeas five, nays three, as follows:

Those who voted in the affirmative are,

Messrs. Bradford, Gregory, Kingsbury, Taylor, J. O., and
Mr. President.

Those who voted in the negative are,

Messrs. Bothun, Rich and Taylor F.

So the bill was passed, and

On the motion of Mr. Gregory,

Its title was agreed to.

The resolution introduced by Mr. Stone, was then

Taken up, and

On the motion of Mr. Bothun,

It was adopted.

On motion of Mr. Bradford,
 The rules were suspended, and
 The Council then adjourned to meet to-morrow, at 10 o'clock
 A. M.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

THIRTY-NINTH DAY.

COUNCIL CHAMBER,
 Thursday, Jan. 12th, 1865. }

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

President in the chair.

Prayer by the Chaplain.

Roll called.

The following members answered to their names :

Messrs. Bothan, Bradford, Gregory, Kingsbury, Rich, Stone, Thompson, Taylor, J. O., Taylor F. and Mr. President.

The Journal of the eleventh instant was then read and approved.

On the motion of Mr. Kingsbury,

The vote by which the resolution excusing Messrs. Taylor, F. and Thompson for non-attendance, was adopted, on the 11th inst.,

Was reconsidered.

Whereupon Mr. Bothun read the following certificate, which, upon his motion was

Ordered spread upon the Journal.

I certify that Frank Taylor, a member of the Council of the Legislature of the Territory of Dakota, now in session, was sick, and under my treatment, from December 19th, 1864, to January 2d, 1865, inclusive, and was not permitted by me, in consequence of said illness, to attend the sitting of the Legislative Body, during that time, except on the 24th of December 1864.

Very respectfully.

F. WIXSON, M. D.

Yankton, Dak. Ter., January 12th, 1865.

Whereupon, Mr. Kingsbury introduced the following resolution.

Resolved, That the Hons. Franklin Taylor and John J. Thomson be excused on account of sickness for their recent absence from the daily sessions of this body.

Mr. Bothun moved that the resolution be adopted.

Which motion prevailed.

COMMUNICATIONS ON THE PRESIDENT'S TABLE.

The following communication from his Excellency, the Governor was then read :

DAKOTA TERRITORY, EXECUTIVE OFFICE, }
YANKTON, D. T., Jan. 12, 1865. }

HON. ENOS STUTSMAN,

President of the Council.

SIR :—I have the honor to return herewith C.B. No. 8, An act to locate a territorial road from Pacquettes ferry to the east line of Clay county ; also, C. B. No. 24, An act respecting Territorial Warrants ; which have been examined and ap-

proved by the undersigned.

I am, Sir,

Very Respectfully,

Your ob't ser'vt,

NEWTON EDMUNDS,

Governor.

The following communication from the Honorable Secretary of the Territory, was then read :

SECRETARY'S OFFICE, }
YANKTON D. T. Jan. 12, 1865. }

To the Honorable President and members of the Council :

GENTLEMEN :—I herein furnish you with a copy of the instruction from the Treasury Department, which must govern my action in the payment of the per diem of the members of your body.

The per diem of a member dates from the day he is sworn in as such ; so, if a member does not appear to take his seat until after the first day of the session, he can only be paid from the day he so appears. No deduction will be made when after that day, he is unable to attend the session in consequence of sickness. But, where a member shall be absent from the session for several days, or for the remainder of the session, except for this cause, or such other as shall hereafter be specified, whether it be with leave or not, his pay for the time he shall be so absent will be deducted ; and the presiding officer in the certificate he shall make to you relative to the member's attendance, will so specify it.

The law governing the matter of this expense is too plain to admit of any doubt in relation to its interpretation and meaning. The three dollars per day is not attached to the office while held, as a sinecure, but is expressly given as compensation for, and its payment made dependent upon, the *attendance* of the members. Any departure from the requirements of the law, in this particular, would be alike injurious to the interests of the United States, and a speedy and prompt discharge of

the public business of the Territory.

Very truly,
 Your ob't serv't,
JOHN HUTCHINSON,
Secretary, D. T.

COMMUNICATIONS ON THE PRESIDENT'S TABLE.

The following messages from the House were then read :

HOUSE OF REPRESENTATIVES, }
 Jan. 12, 1865. }

MR. PRESIDENT:—I am instructed to inform you that the House has passed C. B. No. 23, An act to release Elizabeth D. Crandall from the bonds of matrimony ; which bill I herewith return.

GEO. I. FOSTER,
Chief Clerk.

HOUSE OF REPRESENTATIVES. }
 January 12, 1865. }

MR. PRESIDENT:—I have the honor to inform the Council that the House has concurred in and passed C B. No. 25, An act to locate and establish a territorial road in Bon Homme county ; also

C. B. No. 22, An act granting to James Tufts, Robert Hagan, Enos Stutsman, D. P. Bradford and their associates and assigns a charter for a ferry at or near the mouth of the Yellow Stone river ; which bills are herewith returned ; also

H. F. No. 46, An act to amend sections two and four, of chapter 38 of the laws of 1862-63 ; which is herewith transmitted, and the concurrence of the Council respectfully solicited therein.

GEO. I. FOSTER.
Chief Clerk.

HOUSE OF REPRESENTATIVES, }
 January 12, 1865. }

MR. PRESIDENT:—I have the honor to inform the Council

that the House has passed H. F. No. 49, An act to change the name of Bon Homme county to Jefferson county, and the name of Charles Mix county, to Franklin county ; also

H. F. No. 50, An act to change the name of Todd county to Jackson county ; which bills are herewith transmitted and the concurrence of the Council respectfully solicited therein.

GEO. I. FOSTER.

Chief Clerk.

HOUSE OF REPRESENTATIVES, }
January 12, 1865. }

MR. PRESIDENT :—I have honor to inform the Council that the House has passed H. F. No. 43, An act relative to county officers ; which is herewith transmitted, and the concurrence of the Council respectfully solicited therein.

GEO. I. FOSTER.

Chief Clerk.

REPORTS OF COMMITTEES.

Mr. Gregory, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills have to report, that jointly with the committee on enrollment of the House, they have examined H. F. No. 31, A memorial to Congress for the establishment of military posts on the Big Sioux and Dakota Rivers ; also

H. F. No. 36, An act requiring the county commissioners to meet on the first Monday of January in each year, and fixing the time for Territorial, county and precinct officers to qualify ; also

H. F. No. 39, A bill entitled An act for locating and establishing a territorial road in Clay county ; also

H. F. No. 40, A memorial to his Excellency the President of the United States relative to the north branch of the Pacific railroad ; also

H. F. No. 41, An act to provide for the recording of certificates of title for land entered in the local land office of this Territory ; also

H. F. No. 42. An act changing, vacating and establishing a territorial road in Yankton county ; also

H. F. No. 44, An act granting to John H. Rouse, E. W. Wall, and C. H. McCarthy a ferry charter across the Missouri river ; also

H. F. No. 45, An act to locate and establish a territorial road from Emanuel creek to Spring Lakes thence to Ponca Agency and Kerler's trading post at the mouth of the Keha Paha; also

H. F. No. 47, An act for the regulation and support of common schools ; and have found the same correctly enrolled.

J. SHAW GREGORY,
For the Committee.

Mr. Gregory from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills, have to report, that jointly with the committee on Enrollment of the House, they have examined C. B. No. 23, An act to release Elizabeth D. Crandall from the bonds of matrimony ; also,

H. F. No. 11, A memorial to Congress for a geological survey of the Territory of Dakota ; and have found the same correctly enrolled.

J. SHAW GREGORY,
For the committee.

Mr. Kingsbury from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your Committee on engrossed and enrolled bills, have to report that they presented to his Excellency, the Governor; for his approval on Thursday, the 12th instant, at 12 o'clock, m., C. B. No. 23, An act to release Elizabeth D. Crandall from the bonds of matrimony.

G. W. KINGSBURY.
Chairman.

HOUSE FILES ON THEIR FIRST AND SECOND READING

H. F. No. 46, An act to amend sections two and four, of

chapter 38, of the laws of 1862-3; was then

Taken up, and

Read the first and second time.

Mr. Gregory in the chair.

Mr. Stutsman moved that the rules be suspended, and the bill read the third time.

The yeas and nays being called for, and *ordered*.

There were yeas seven, nays three, as follows:

Those who voted in the affirmative, are,

Messrs. Bradford, Gregory, Kingsbury, Stone, Thompson, Taylor, J. O., and Mr. President.

Those who voted in the negative are,

Messrs. Bothun, Rich and Taylor, F.

So the rules were suspended.

The President resumed the chair.

Whereupon 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.

Yeas eight, nays two, as follows:

Those who voted in the affirmative are,

Messrs. Bradford, Gregory, Kingsbury, Rich, Stone, Thompson, Taylor, J. O., and Mr. President

Those who voted in the negative are,

Messrs. Bothun and Taylor, F.

So the bill was passed, and

On the motion of Mr. Stone,

Its title was agreed to.

It appearing that the enacting clause to C. B. No. 25, (engrossed bill,) had been omitted, said bill having passed the House in that condition on the 11th instant.

Mr. Bradford moved that the Secretary be instructed to return said bill to the House, with a note of explanation, requesting the House to reconsider their vote of yesterday, by which said bill was passed, and to amend the same by inserting an enacting clause,

Which motion prevailed.

H. F. No. 49, An act to change the name of Bon Homme

County, to Jefferson county, and the name of Charles Mix county, to Franklin county; was then

Taken up, and

Read the first and second time.

Mr. Gregory moved that the bill be referred to a select committee of three, to be appointed by the chair.

Which motion prevailed.

Whereupon the chair appointed as such committee, Messrs. Gregory, Bradford and Stone.

H. F. No. 50, An act to change the name of Todd county, to Jackson county; was then

Taken up, and

Read the first and second time.

Mr. Gregory moved that the bill be referred to a select committee of three, to be appointed by the chair.

Which motion prevailed.

Whereupon the chair appointed as such committee, Messrs. Gregory, Bradford and Stone.

H. F. No. 43, An act relative to county officers; was then

Taken up, and

Read the first and second time.

Mr. Gregory moved that the rules be suspended, and the bill read the third time.

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.

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Thompson, Taylor, J. O., Taylor, F. and Mr. President.

None voting in the negative,

So the bill was passed, and

On the motion of Mr. Stone,

Its title was agreed to.

On the motion of Mr. Kingsbury,
The Council took a recess until two o'clock P. M.

AFTER RECESS.

At two o'clock P. M., the President resumed the chair,
and
The Council was called to order.

INTRODUCTION OF BILLS.

By unanimous consent, Mr. Gregory introduced C. B. No. 26, An act supplementary to an act to provide for the location of the county seat of Union county.

By unanimous consent, Mr. Gregory introduced C. B. No. 27, An act to change the name of Jayne county to Monroe county.

By unanimous consent, Mr. Kingsbury introduced C. B. No. 28, An act to prohibit drawing sand, earth, and stone, from the levee in the town of Yankton, D. T.

COMMUNICATIONS ON THE PRESIDENT'S TABLE.

The following messages from the House were then read:

HOUSE OF REPRESENTATIVES, }
Jan. 12, 1865. }

MR. PRESIDENT:—I have the honor to inform the Council that the House has passed H. F. No. 51, a memorial to the Honorable Secretary of War, asking for a military escort to the company organized to explore the Black Hills in Dakota, which is herewith transmitted, and the concurrence of the

Council respectfully solicited therein.

GEO. I. FOSTER.

Chief Clerk.

HOUSE OF REPRESENTATIVES, }
January 12, 1865. }

MR. PRESIDENT:—I am instructed to inform you that the House has passed the following resolution ;

Resolved, That, when this House adjourn on to-morrow, it adjourn *sine die* at 11 o'clock A. M. The concurrence of the Council is solicited.

GEO. I. FOSTER,

Chief Clerk.

HOUSE OF REPRESENTATIVES, }
January 12, 1865. }

MR. PRESIDENT:—I am instructed to inform you that the House has reconsidered the vote by which C. B. No. 25, An act to locate and establish a territorial road in Bon Homme county ; was passed Jan. 11th, also that the House has this day passed said bill, with the attached amendment: the bill is herewith transmitted and the concurrence of the Council in the amendment solicited.

GEO. I. FOSTER.

Chief Clerk.

RESOLUTIONS.

Mr. Gregory introduced the following resolution :

Resolved, That the Hon. John Mathers be excused for non-attendance from the 9th instant, on account of sickness.

Mr. Gregory, also, introduced the following resolution :

Whereas, his Excellency, the Governor, has yet several bills in his hands which will require time for examination, until a late hour to-morrow evening, and, as an adjournment at the hour mentioned in the message from the House, would neces-

sarily prevent him communicating his action on the same, therefore be it

Resolved, That the Council do not adjourn *sine die* until such hour to-morrow evening as may suit the convenience of his Excellency, and that the Hon. House, be requested to reconsider their action on the question of adjournment.

REPORTS OF COMMITTEES.

Mr. Gregory, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills have to report, that in conjunction with the committee on enrollment of the House, they have examined H. F. No. 32, An act to locate a territorial road from the north line of Union county to the Big Sioux river ; also,

C. B. No. 22, An act granting to James Tufts, Robert Hagaman, Enos Stutsman, D. P. Bradford and their associates and assigns a charter for a ferry at or near the mouth of the Yellow Stone river ; and find the same correctly enrolled.

J. SHAW GREGORY.

For the Committee.

Mr. Kingsbury, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT:—Your committee on Engrossed and Enrolled bills, have to report, that they presented to his Excellency, the Governor, at 3 o'clock this P. M., for his approval, C. B. No. 22, an act granting to James Tufts, Robert M. Hagaman, Enos Stutsman, D. P. Bradford and their associates and assigns a charter for a ferry at or near the mouth of the Yellow stone river .

Your committee have also to report that they have examined C. B. No. 25, An act to locate and establish a territorial road in Bon Homme county. ; and found the same correctly enrolled,

G. W. KINGSBURY

Chairman.

Mr. Gregory from the special committee on house files 49 and 50, submitted the following report :

MR. PRESIDENT :—Your special committee have had under consideration H. F. No. 49, An act to change the name of Bon Homme county to Jefferson county, and the name of Charles Mix county to Franklin county ; also, H. F. No. 50, An act to change the name of Todd county to Jackson county ; and report the same back without amendment, and recommend that they do pass.

J. SHAW GREGORY.

Chairman.

Mr. Stone, from the special committee on H. F. No. 30, submitted the following report :

MR. PRESIDENT :—Your special committee on H. F. No. 30, An act to regulate the height of fences and to provide against damages done by stock ; have had the same under consideration, and report it back with attached amendments, numbered respectively one and two, recommending their adoption, and the passage of the bill.

J. M. STONE.

Chairman.

Mr. Kingsbury, from the committee on Federal Relations, submitted the following report :

MR. PRESIDENT :—Your committee on Federal Relations have had under consideration H. F. No. 51, a memorial to the Honorable Secretary of War for a military escort to the company organized to explore the Black Hills in Dakota ; and report the same back with the recommendation that it do pass.

GEO. W. KINGSBURY.

Chairman.

COUNCIL BILLS ON THEIR FIRST AND SECOND READING.

C. B. No. 26, An act supplementary to an act to provide for

the location of the county seat of Union county; was then

Taken up, and

Read the first and second time.

Mr. Kingsbury moved that the rules be suspended and the bill read the third time.

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.

Yeas nine, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Thompson, Taylor, J. O., and Mr. President.

Mr. Taylor, F. moved to be excused from voting.

Which motion was agreed to.

So the bill was passed, and

On the motion of Mr. Stone,

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House in the said bill.

C. B. No. 27, An act to change the name of Jayne county to Monroe county; was then

Taken up, and

Read the first and second time, and

Mr. Gregory moved that the rules be suspended, and the bill read the third time.

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,

Yeas ten, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Thompson, Taylor, J. O., Taylor F., and Mr. President.

None voting in the negative.

So the bill was passed, and

On the motion of Mr. Gregory,

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House in the said bill.

C. B. No. 28, An act prohibiting drawing sand, earth and stone, from the levee in the town of Yankton, D. T. ; was then

Taken up, and

Read the first and second time, and

Mr. Stone moved that the rules be suspended, and the bill read the third time.

Which motion prevailed.

It 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.

Yeas nine, nays none, as follows :

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Thompson, Taylor J. O., and Mr. President.

None voting in the negative.

So the bill was passed, and

On motion of Mr. Stone,

Its title was agreed to.

Ordered, That the Secretary request the concurrence of the House, in the said bill.

C. B. No. 25, An act to locate a territorial road in Bon Homme county ; returned from the House amended, was then

Taken up, and

The amendment was read, as follows :

After the title of the bill and before section 1, insert the following words " Be it enacted by the Legislative Assembly of the Territory of Dakota ;" and

The question being put, will the Council concur therein ?

It was decided in the affirmative.

So the amendment was concurred in.

HOUSE FILES ON THEIR FIRST AND SECOND READING

H. F. No. 51, a memorial to the Honorable Secretary of

War, asking for a military escort to the company organized to explore the Black Hills in Dakota; was then

Taken up, and

Read the first and second time, and

On motion of Mr. Gregory,

It was referred to the committee on Federal Relations.

HOUSE FILES ON THEIR THIRD READING.

H. F. No. 30, An act to regulate the height of fences and to provide against damage done by stock; reported back by the special committee with amendments, was then

Taken up, and

The first amendment was read, as follows :

After section 25, insert the following as section 26 : " The counties of Bon Homme, Todd and Charles Mix are exempt from the provisions of this act, and nothing herein shall apply or be in force in the said counties ; and

The question being put, will the Council agree thereto ?

It was decided in the affirmative.

So the first amendment was agreed to.

The second amendment was then read as follows :

Change the number of section 26, (in the original bill,) to section 27 ; and

The question then being put, will the Council agree thereto ?

It was decided in the affirmative.

So the second amendment was agreed to.

The said amendments having been disposed of,

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.

Yeas eight, nays one, as follows :

Those who voted in the affirmative are.

Messrs. Bothun, Bradford, Gregory, Rich, Stone, Thompson, Taylor, J. O. and Mr. President.

Mr. Taylor, F., voting in the negative.

So the bill was passed and

On the motion of Mr. Gregory,
Its title was agreed to.

H. F. No. 49, An act to change the name of Bon Homme county to Jefferson county, and the name of Charles Mix to Franklin 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.

Yeas ten, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Thompson, Taylor, J. O., Taylor, F., and Mr. President.

None voting in the negative,

So the bill was passed, and

On the motion of Mr. Rich,

Its title was agreed to.

H. F. No. 50, An act to change the name of Todd county to Jackson 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.

Yeas ten, nays none, as follows:

Those who voted in the affirmative, are

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Thompson, Taylor J. O., Taylor, F., and Mr. President.

None voting in the negative.

So the bill was passed, and

On motion of Mr. Stone,

Its title was agreed to

H. F. No. 51, a memorial to the Honorable Secretary of War, asking for a military escort to the company organized to explore the Black Hills in 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.

Yeas nine, nays one, as follows :

Those who voted in the affirmative are :

Messrs. Bradford, Gregory, Kingsbury, Rich, Stone, Thompson, Taylor, J. O., Taylor, F., and Mr. President.

Mr. Bothun, voting in the negative.

So the bill was passed, and

On the motion of Mr. Gregory,

Its title was agreed to.

The resolution introduced by Mr. Gregory, excusing Mr. Mathers for non-attendance on account of sickness ; was then

Taken up, and

Mr. Rich moved that it be adopted,

Which motion prevailed.

The resolution introduced by Mr. Gregory, relative to the time of adjourning *sine die* ; was then

Taken up, and

Mr. Stone moved that it be adopted.

Which motion prevailed.

Mr. Gregory moved that the rules be suspended and that the Council adjourn to meet to-morrow at 10 o'clock A. M.

Which motion prevailed.

So the Council then adjourned.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

FORTIETH DAY.

COUNCIL CHAMBER,
Friday, Jan. 13th, 1865. }

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

President in the chair.

Prayer by the Chaplain

Roll called.

The following members answered to their names :

Messrs. Bothun, Bradford, Gregory, Kingsbury, Rich, Stone, Thompson, Taylor F. and Mr. President.

The Journal of the twelfth instant was then read and approved.

 REPORTS OF COMMITTEES.

Mr. Kingsbury, from the committee on Engrossed and Enrolled bills, submitted the following report :

MR. PRESIDENT :—Your committee on Engrossed and Enrolled bills, have to report, that in conjunction with the committee on Enrollment of the House, they have examined H. F. No. 35, An act granting to Jefferson Cleveland a ferry charter across the Missouri river ; also, H. F. No. 37, An act granting to Joseph Shayer a ferry charter across the Big Sioux river ; also, H. F. No. 30, An act to regulate the height of fences and to provide against damage done by stock ; and have found the same correctly enrolled.

G. W. KINGSBURY.

Chairman.

COMMUNICATIONS ON THE PRESIDENT'S TABLE.

The following communications from his Excellency, the Governor were then read :

DAKOTA TERRITORY, EXECUTIVE OFFICE, }
YANKTON, D. T., Jan. 13, 1865. }

HON. ENOS STUTSMAN,

President of the Council.

SIR:—I have the honor herewith to transmit, with my approval, C. B. No. 23, An act to release Elizabeth D. Crandall from the bonds of matrimony ; also, C. B. No. 22, An act granting to James Tufts, Robert Hagaman, Enos Stutsman, D. P. Bradford, and their associates and assigns, a charter for a ferry at or near the mouth of the Yellow Stone River ; also

C. B. No. 25, An act to locate and establish a territorial road in Bon Homme county.

I am Sir,

Very respectfully,

Your ob't serv't,

NEWTON EDMUNDS,

Governor.

TERRITORY OF DAKOTA, EXECUTIVE OFFICE, }
YANKTON, January 13, 1865. }

HON. ENOS STUTSMAN,

President of the Council.

SIR :—I have the honor to transmit herewith, to you, as the presiding officer of one branch of the Legislative Assembly, there being as I am informed, no quorum for the transaction of business in the other branch,) the enclosed bills, which originated in the House of Representatives, all of which were placed in my hands, examined, approved and signed by me on the twelfth instant, (though not in time to be transmitted on that day,) as will appear by the communication enclosed, addressed

to the Honorable Speaker of the House of Representatives, of that date.

I am, Sir,
 Very Respectfully,
 Your ob't ser'vt,
 NEWTON EDMUNDS,
Governor.

—
 DAKOTA TERRITORY, EXECUTIVE OFFICE; }
 YANKTON, Jan. 12, 1865. }

HON W. W. BROOKINGS,
Speaker of the House of Representatives.

SIR:—I have the honor herewith to transmit, with my approval, H. F. No. 11, Council substitute, A memorial to Congress for a geological survey of the Territory of Dakota; also,

H. F. No. 31, A memorial of the Legislative assembly of the Territory of Dakota praying for the establishment of military posts on the Big Sioux and Dakota Rivers; also,

H. F. No. 36, An act requiring the county commissioners to meet on the first Monday of January in each year and fixing the time for territorial, county and precinct officers to qualify; also,

H. F. No. 39, A bill entitled An act locating a territorial road in Clay county; also,

H. F. No. 40, A memorial to his Excellency the President of the United States, relating to the northern branch of the Pacific Railroad; also,

H. F. No. 42, An act changing, vacating and establishing a territorial road in Yankton county; also,

H. F. No. 44, An act granting to John H. Rouse, E. W. Wall and C. H. McCarthy a ferry charter across the Missouri river; also,

H. F. No. 45, An act to locate and establish a territorial road from Emanuel creek to Spring Lakes, thence to Ponca Agency and Kerler's trading post at the mouth of the Keha Paha; also

H. F. No. 46, An act to amend section two and four of chapter 38 of the laws of 1862-63; also

H. F. No. 47, An act to amend an act for the regulation and support of common schools.

I am, Sir,

Very respectfully,

Your ob't ser'vt,

NEWTON EDMUNDS,

Governor.

RESOLUTIONS

Mr. Kingsbury introduced the following resolution.

Resolved, That a committee of three be appointed by the chair, to wait upon his Excellency the Governor, and notify him that the Council is now ready to adjourn *sine die*, and to ask him whether he has any further communication to make to this body.

Mr. Gregory moved that the resolution be adopted.

Which motion prevailed.

Whereupon, the chair appointed as such committee, Messrs. Kingsbury, Gregory and Bothun.

After a short absence, the committee returned and reported as follows:

MR. PRESIDENT:—Your committee, appointed to wait upon his Excellency the Governor, and ascertain whether he has any further communications to make, have to report that they have performed that duty, and were informed by his Excellency that he has no further communications to make.

G. W. KINGSBURY.

J. SHAW GREGORY.

L. BOTHUN.

Committee.

Mr. Gregory moved that the Council take a recess until 3 $\frac{1}{2}$ o'clock, P. M., this day.

Which motion prevailed.

AFTER RECESS.

At half past three o'clock P. M., the President resumed the chair, and

Called the Council to order.

RESOLUTIONS.

Mr. Kingsbury, by unanimous consent, introduced the following resolution :

Resolved, That we acknowledge with gratitude our obligations to our presiding officer, Hon. Enos Stutsman, for the many and various acts of kindness he has bestowed upon us during this session ; for his assiduous attention to the duties of his office ; for his courtesy and deference in the chair, and for his aid and counsel in our respective labors. And in severing our official connection with him, we are constrained to invoke for him, Heavens *choicest* blessings.

Mr. Kingsbury in the chair.

Mr. Gregory moved that the resolution be adopted.

Which motion was *unanimously* agreed to.

The President resumed the chair.

Mr. Gregory introduced the following resolution :

Resolved, That our thanks are due and are hereby tendered to Geo. N. Propper, our efficient Secretary, for his cordial cooperation in the labors of this body, his uniform devotion to the duties of his position, his courteous and obliging conduct towards members, and for the full and impartial record of the proceedings of this Council which he has faithfully kept throughout the session.

Mr. Bothun moved that the resolution be adopted.

Which motion was *unanimously* agreed to.

Mr. Bradford introduced the following resolution :

Resolved, That we esteem our fellow citizen, Rev. L. P. Judson, as an eminently worthy and exemplary man, indefatigable

in promoting the sacred cause of christianity in our Territory, and untiring in his efforts to aid our general interests, especially those of an educational and religious character. That our intercourse with him, during his chaplaincy in this body, has been marked on his part by such general deportment as to heighten our regard; and in severing our official connection with him we can but wish him God speed in his holy calling, and tender our best wishes for his temporal welfare.

Mr. Rich moved that the resolution be adopted.

Which motion was unanimously agreed to.

Mr. Kingsbury introduced the following resolution.

Resolved, That in consideration of the uniform courtesy and kindness which has been manifested toward members of this body by his Excellency Governor Newton Edmunds, and the Secretary of the Territory, Hon. John Hutchinson, and for the disposition they have continually exhibited, in contributing their efforts and counsel in furthering and promoting the business of this Council, we tender to them our highest regard and heartfelt thanks.

Mr. Stone moved that the resolution be adopted.

Which motion was unanimously agreed to.

Mr. Gregory introduced the following resolution :

Resolved, That Charles F. Rossteucher, assistant Secretary; Carlos Kingsley, Sergeant-at-arms; Mons Bothun, messenger; and William H. Wordebaugh, fireman; for their constant attention to duty, and for their obliging deportment in the discharge of their respective duties, merit our thanks, which are hereby tendered.

Mr. Thompson moved that the resolution be adopted.

Which motion was unanimously agreed to.

Mr. Gregory introduced the following resolution.

Resolved, That a committee of three be appointed by the chair to wait upon the House of Representatives, and inform them that the Council, having concluded its business for the session, await a message from the House suggesting an hour for the adjournment, *sine die*, of the two Houses.

Mr. Kingsbury moved that the resolution be adopted.

Which motion was agreed to.

Whereupon, the chair appointed, as such committee, Messrs. Gregory, Kingsbury and Taylor F.

After a brief absence, the committee reported as follows :

MR. PRESIDENT:—Your committee appointed to wait upon the House of Representatives, and to inform that body that the Council had concluded its labors and were ready to receive from the House notification of the hour at which the Legislative assembly should adjourn, *sine die*, have performed their duty so far as to wait upon the House and announce themselves, officially. Mr. Speaker informed them that there was no House in session ; and upon inquiring as to the cause, and at what time the House would be in session, they were informed by the Speaker, that it was none of the Council's business.

J. SHAW GREGORY.

G. W. KINGSBURY.

TAYLOR F.

Committee.

Mr. Kingsbury introduced the following resolution :

Whereas, A committee appointed by this Council to communicate are respectful and necessary message to the House of Representatives, have in endeavoring to perform that duty, received from W. W. Brookings, Speaker of that body, a flagrant and unprovoked insult, which reflects no less upon that committee, than upon the body they represented ; be it therefore,

Resolved, That the Council cannot but regard the ungentlemanly and unwarrantable conduct of Mr. Brookings, not only insulting to themselves, but highly reprehensible, and beneath the dignity and respect of private life, and much more so emanating as it does from the Honorable position of Speaker of the House of Representatives ; attaching odium and disgrace to that position and the House over which he presides.

Mr. Gregory moved that the resolution be adopted.

Which motion was unanimously agreed to.

The Journal of this day was then read and approved.

Mr. Kingsbury moved that the Council take a recess until

11 o'clock and 45 minutes P. M., this day.
Which motion prevailed.

AFTER RECESS.

At 11 o'clock and 45 minutes, P. M.,
The President resumed the chair, and
The Council was called to order.
There being no quorum present, and
The hour having arrived when by limitation of law, the
term office of the members of this Council would expire; at the
hour of 12 o'clock, P. M.

The President declared the Council adjourned without day.

ENOS STUTSMAN,
President.

GEO. N. PROPPER, *Secretary.*

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