

## THE LEGISLATURE.

COUNCIL—JAN. 25.

The Council met at 2 p. m. pursuant to adjournment; after the opening exercises the journal of Friday was read and approved.

Communications were read from General McCook and staff, and Judge Porter, of Morgan County, acknowledging the freedom of the Council chamber.

Mr. Sharp presented a petition from Joseph Hyrum Parry; referred to the committee on claims and public accounts.

Mr. Barton presented a bill amending sections No. 194 and 196 of the code of civil procedure; read the first time and referred to the committee on judiciary.

Special order of the day C. F. No. 8—a bill pertaining to highways—was then taken up. This bill will repeal the old highway act, and will be a great improvement on the old law. There were several minor changes made in the new bill, but the most important amendment was that of Mr. Page, who did not consider it safe to place such power in the hands of road supervisors, viz: that when the poll tax became delinquent the road supervisor could take and sell so much of the delinquent's property as should satisfy the amount due, and no property to be exempt. Mr. Page's amendment provides that the case shall be heard in the Justice's Court, as the delinquent may have something to say why he should not pay said poll tax. In case the judgment was against him then no property should be exempt from execution.

Mr. Sharp moved that the further consideration of this bill be made the special order for to-morrow.

A communication from the House announced the passage by that body of a bill for the selection and payment of jurors, which was read by its title and referred to the committee on judiciary.

C. F. No. 10, a bill supplemental to chap. vi, Session Laws of 1884—an act for the protection of fish and game—was read a third time and passed by the President's casting vote.

C. F. No. 13, a bill providing for a board of Territorial equalization, was read the second time and placed on file for third reading.

A communication from the House was read notifying the council of the adoption of a joint resolution relating to the distribution by the Territorial Treasurer of the 200 copies of West's map of Utah among the United States, Territorial and County officers, with the exception of the words assessor and collector being changed to read the county clerks of each county. A debate ensued as to whether the Council had a right to print bills or resolutions originating in the House, after which the joint resolution was referred to the committee on judiciary.

The bill apportioning the legislative representation was made the special order for Thursday.

The third reading of C. F. No. 14, amending chap. 49, Session Laws of 1884, was further postponed, after which the Council adjourned.

HOUSE—JAN. 25.

The House met on Monday at 2 p. m. pursuant to adjournment. The usual exercises were gone through, and previous minutes disposed of, after which Mr. West requested that his vote might be recorded among the "ayes" on the votes on the bill providing for the selection and payment of jurors, he being absent at the time the vote was taken.

The Speaker announced the receipt of communications from different persons, expressing their thanks for the courtesies of the House extended to them.

The announcement was also made that the Council had passed C. F. No. 12, amending the laws on civil procedure; read the first time in the House and referred to the committee on judiciary.

Council also notified the House that it had passed C. F. 19, a bill amending the session laws of 1884, which was read the first time and referred to the same committee.

Mr. Thurman presented a communication from E. T. Sprague, asking for compensation (\$270) for services rendered as clerk of the Supreme Court of Utah, from 1876 to the present time. Read and referred to the committee on claims and public accounts.

Mr. King, from the committee on agriculture, reported back the House bill in relation to tree culture, with amendments, and recommended that it be put upon its passage; adopted.

Mr. West, from the committee on enrollment, reported that the House bill, No. 13, amending an act relating to the mode of procedure in criminal cases, approved Feb. 22d, 1878, had been correctly enrolled and forwarded to the Governor for his approval; report adopted.

The same gentleman from the same committee reported that the concurrent resolution relating to statements from District Courts had been correctly enrolled and filed with the auditor of public accounts.

Mr. Rider, from the special committee on resolutions, reported that the committee had drafted resolutions of respect to the memory of the late Hon. William Jennings, which were read by the chief clerk, and ordered to be spread on the minutes of the House.

Mr. West presented a bill in relation to justice's courts; referred to the committee on judiciary.

Mr. Stratford offered a bill amending the act in relation to decedents, but

upon Mr. Thurman stating that a similar bill had already been prepared which would supersede the necessity of Mr. Stratford's bill. The last named gentleman, withdrew his bill.

The Council bill amending Section 5, Chapter XXV, Law of Utah, for 1884, was read the second time. The bill relates to the sale of the products of the farm, garden and orchards, and to persons doing business in incorporated cities. It was filed for the third reading.

Another bill, amending sections 4 and 5, Chapter XLV of an act in relation to corporations (1884), was filed for its third reading.

The Council bill prescribing the mode of punishment for misdemeanors was read the second time in the House and filed for third reading.

The House resolution relating to the distribution of maps of Utah was read the third time, amended and then passed unanimously.

The substitute resolution providing for the compilation of the laws of Utah Territory was then taken up.

The clerk read the resolution, which, after some discussion, was recommitted to the conference committee.

A message from the Council, stating that it had acted on the bill amending the session laws of 1884, was filed to come up in its regular order. The bill referred to the same laws, and on motion was afterwards read the first time and referred to the committee on fish and game.

It was then voted to reconsider the motion to refer C. F. 19, amending the session laws of 1884 to the committee on judiciary, and to refer it to the committee on private corporations.

The Speaker's desk now being cleared, at 20 minutes to 4 p. m., the House adjourned till 2 p. m. Tuesday.

COUNCIL—JAN. 26.

At 2 p. m. the Council met pursuant to adjournment, and after the usual opening ceremonies the journal of Monday was read and approved.

Mr. Barton, from the committee on judiciary, reported C. F. No. 22, on the assignments of insolvent debtors; C. F. No. 23, amending Sections 194 and 196 of the code of civil procedure; H. J. R. No. 16, striking out county assessors and retaining Council amendment, and H. F. No. 9, relating to the selection and payment of jurors; adopted and placed on file.

By Mr. Francis, from the committee on claims and public accounts; an account of Joseph Hyrum Parry that had been allowed last session but was left out of the general appropriation bill, and recommended that the sum of \$86.60 be allowed; report adopted.

Mr. Grover presented a bill to incorporate Nephi City, in Juab County, which was read by its title and referred to the committee on municipal corporations and towns.

The special order of the day—a bill pertaining to highways—was then taken up. One of the clauses of this bill authorizes the county courts to erect and maintain mile-stones, guide-boards, and posts on the county roads.

Sec. 18 was amended so as to compel owners of irrigating canals, ditches, etc., which may have been, now are, or hereafter may be constructed to restore the highways they cross to the same condition as they were before the construction of said canals.

Mr. Taylor moved to strike out Sec. 23, which reads: "Any person who drives a herd of horses, cattle, sheep, goats or swine over a public highway, when such highway is constructed on a hillside, shall be liable for all damage done by such animals in destroying the banks, or rolling rocks upon such highways." In support of his motion Mr. Taylor said this section would work a great injury to stockmen. The stock interests were growing in importance throughout the Territory and he was afraid that if this section was allowed to remain on the statute book, road men would be more interested in watching stockmen, than repairing the roads.

Messrs. Barton, Slack and Heyborne were opposed to striking out the section.

Mr. Tuttle remarked that the section was a hardship to cattlemen.

Mr. Francis considered this section was a wise provision, as in some counties large sums had to be expended in keeping in repair our cañon roads, damaged by driving such herds thereon.

The motion to strike out was lost.

Several other minor amendments were made to the bill, when it was placed on file for second reading.

C. F. No. 23, amending sections 194 and 196 of the code of civil procedure act, was read a second time, ordered printed and placed on file for third reading.

H. F. No. 9, a bill for the selection and payment of jurors, was read a second time and placed on file for third reading.

A communication from the House announced its passage of H. F. No. 26, a bill relating to the estates of decedents, which was read and referred to the committee on judiciary.

C. F. No. 13, providing for a Territorial board of equalization, was made the special order for Friday morning.

The bill amending chap. 49, Session Laws of 1884, in relation to irrigation, was read and passed.

Communications were read from Hons. Alex. Ramsey, H. S. Eldredge, F. D. Richards and Mr. Chas. F. Burton, acknowledging the courtesy of the freedom of the Council.

Mr. Hammond reported from the committee appointed at the last session of the Assembly to arrange for the sale of six tons of old books. The committee had sold 4,500 pounds at one

cent per pound and placed the amount realized in the hands of the Territorial Librarian.

Adjourned.

HOUSE—JAN. 26.

At 2 o'clock p. m. down came the Speaker's gavel and once more the House was all attention. The roll was called, and there being a quorum present the chaplain offered prayer. A little time was necessarily consumed in disposing of the previous day's minutes and then business was commenced in earnest, by Mr. Thurman presenting a petition from B. Bachman for payment of \$978.25 for services as deputy clerk, which was referred to committee on claims and public accounts.

Mr. Hatch stated that he had a communication from Prof. White, to the committee on education, relating to the education of deaf mutes and detailing the progress of the labors and success among this class of our fellow-beings; he stating that many parents have been under the necessity of removing their children from the school for want of means to pay their tuition, and asking assistance for this purpose.

The last Legislature, he said, appropriated \$3,000 to aid in this laudable enterprise; and the petitioner prayed the present Legislature to come to his help at this time in a similar manner; referred to the committee on education.

Mr. Rider presented a petition, which was read by its caption, asking help to build a road in Kane County; referred to the committee on highways.

A petition from James Jack was presented by Mr. West, asking for the sum of \$115 to pay his expenses of attending court as witness in the Second District Court at Beaver, in the suit against Josiah Rogerson, late assessor and collector; referred to the committee on claims.

The Speaker stated that he had received communications from a number of gentlemen acknowledging the courtesies of the House, which had been extended to them.

Mr. Thurman, from the committee on claims, reported back the auditor and treasurer's claim of \$124.60—incidental expenses—and recommended that the same be allowed, except \$27.50 which was paid for newspapers. The recommendation was adopted.

The reports of the county clerks were also accepted.

Mr. Thurman also presented a report from the conference committee in reference to the House resolution relating to the compilation of laws. The report embodied a few slight amendments. A lively debate ensued on a motion to adopt the report, which finally prevailed. Hon. Arthur L. Thomas, F. S. Richards, Le Grand Young, S. R. Thurman and J. T. Hammond from the committee to do the work of compilation.

Mr. King introduced a bill amending the laws of 1880, in relation to the election of a secretary for the Board of Directors of the Insane Asylum; read the first time and referred to committee on insane.

Mr. Kimball introduced a bill to amend sec. 2, chapter 2, laws of 1884; read the first time and referred to the committee on fish and game.

On motion of Mr. Rider, a committee was appointed to act with a like committee of the Council, to examine and destroy redeemed auditor's warrants. Messrs. Rider, King and Lunt were appointed the committee from the House.

The bill in relation to amending the law of 1884, in relation to the estates of decedents, etc., was read a second time; after which the rules were suspended and the bill was read the third time and passed.

A bill for the protection of animals from injury from the use of barbed wire fences, was read the second time, and after some discussion in relation to the width of the proposed board to be placed on the top of the fence, the bill was filed to come up in its order.

The Council bill prescribing punishment for misdemeanor was read the third time as passed. This bill is not yet printed.

The Council bill amending sections 4 and 5, chapter 45, was read the third time in the House, discussed, and, on motion of Jos. A. West, was passed by a vote of 23 to 1.

The Council bill amending sections 5, chapter 25, laws of Utah, 1884, was read the third time, and then recommitted to the committee on judiciary.

A communication was read from A. C. Emerson, clerk of the First District Court, in relation to the collection of fines. The information furnished by him was not complete, and Mr. Emerson referred the House to his deputy at Provo for further intelligence in the matter. The chief clerk stated to the House that he had written to the deputy on the subject.

A letter was received from Auditor Clayton in relation to freight bills, also a request from Zera Snow, asking compensation for services rendered, both of which were referred to the committee on claims and public accounts.

The following communication from the Governor was received, read, and ordered to be spread upon the minutes of the House:

TERRITORY OF UTAH,  
EXECUTIVE OFFICE,  
Salt Lake City,  
January 25, 1886.

Hon. W. W. Ritter, Speaker House of Representatives:

Section 388 of "An Act regulating the mode of procedure in criminal cases," provides as follows: "After conviction of an offense not punishable with

death, a defendant, who has appealed, may be admitted to bail: 1—As a matter of right when the appeal is from a judgment imposing a fine only; 2—As a matter of discretion in all other cases."

The bill, now in my hands (H. F. No. 3), for approval, provides as follows:

"That section 388 of 'An Act regulating the mode of procedure in criminal cases,' approved Feb. 22d, 1878, be repealed, and the following substituted in lieu thereof: Section 388. After conviction of an offense, not punishable with death, a defendant who has appealed shall, upon application therefor, be admitted to bail as a matter of right."

With few exceptions, the rule as to the admission of a defendant to bail, after conviction, leaves the question to the discretion of the courts. Bail should be allowed, upon a proper showing to the court, when it may be done without detriment to the administration of public justice, and should be given as a matter of right by an arbitrary statute in cases only in which the peace and welfare of society may not be endangered.

Under the bill before me, a defendant convicted of murder in the second degree, or guilty of rape and other infamous crimes, may prosecute an appeal, and upon application therefor, be admitted to bail as a matter of right, and by operation of law, at once turned loose upon the society he has wronged. Under the practice governing appeals the courts will be left powerless to control or correct this outrage upon the community.

The present law has been fully sustained, and the rights of a defendant under its provisions determined by the Supreme Court of the United States in the late case of the United States vs. Rudger Clawson. The courts have wisely exercised the discretion imposed upon them in granting and denying bail, as the merits of the case suggested, and the practice has informally proved of benefit in executing the law.

In my opinion, by depriving the courts of discretion in this very important feature in criminal proceedings, and which the bill before me does, we place in the hands of those who seek to defeat the execution of the laws, the power to trifle with justice, and to delay and defeat the punishments prescribed by law against those who stand convicted of public offenses.

For these, and other reasons which present themselves, I return the bill to the House in which it originated, without my approval.

I am, sir, very respectfully,  
ELI H. MURRAY,  
Governor.

On motion of Mr. Thurman, the committee on printing was instructed to negotiate for the printing of the notations on the back of bills.

Mr. Cannon, from the committee on printing, called the attention of the House to the importance of printing indorsements on the backs of bills, etc., and stated that the government does not pay for this part of the work. The committee on printing was authorized to negotiate for this part of the work.

A message from the Council was read stating that that body concurred in the House resolution authorizing the distribution of the maps, by the treasurer, which are now in his custody.

Another message informed the House that the Council had passed House bill in relation to irrigation companies, etc.

The House then adjourned till 2 p. m. Wednesday.

COUNCIL—JAN. 27.

After the usual opening exercises, the journal of Wednesday was read.

Nephi W. Clayton petitioned for an appropriation amounting to \$4,000, for paying the assistant he had been compelled to hire during the past four years; also asking that a similar allowance be made for the future; referred to the committee on claims and public accounts.

Mr. Tuttle presented a petition from the inhabitants of Moroni, asking that their municipal boundaries be so reduced as to include the city proper; referred to the committee on municipal corporations and towns.

Mr. Barton, from the committee on counties, reported back C. F. No. 15, defining the manner of determining disputed county boundaries, with a substitute therefor, recommending that it be printed before further action be taken on it; adopted.

Mr. Taylor introduced C. F. No. 25, to amend the act establishing district schools; referred to the committee on education.

Mr. Barton introduced a bill amending Section 2, Chapter 31, session laws of 1880, An Act establishing a Territorial Insane Asylum; read and referred to the committee on asylum for the insane.

C. F. No. 22, a bill to provide for the assignments of insolvent debtors, was read a second time and placed on file for third reading.

C. F. No. 8, a bill pertaining to highways, was made the special order for Monday.

H. F. No. 8, a bill to provide for the selection and payment of jurors, was read the third time. On the clerk reading the last section Mr. Hammond moved that the further consideration of this bill be postponed till Thursday; adopted.

Hon. F. S. Richards acknowledged the courtesy of the freedom of the Council chamber during the session. Adjourned.

HOUSE—JAN. 27.

This morning nearly all the committees were in session, discussing and maturing as far as could then be, measures to be brought before the House for its action upon, either to pass them in their present forms, or as they may be amended, or for its total rejection.

The fact that the Governor has vetoed the first bill presented to him looks ominous, and is calculated to dampen the ardor of the law-makers, but it is to be hoped that the obstructive policy commenced is not going to be followed out by the one man power throughout the entire session.

At the usual hour the House was called to order by the Speaker, and after the ordinary preliminaries had been gone through, the sittings resumed their work.

A message from the Council stated that it had acted on the report of the committee appointed to dispose of a large quantity—some six tons—of old books.

A petition from [the county court of] Beaver County was presented, stating the bad condition of the roads in said county, and asking for an appropriation of \$1,500, to place the same in a good passable condition; referred to the committee on highways.

Mr. King presented a petition from the citizens of Deseret, asking an appropriation of \$1,000 to build a bridge; referred to the same committee.

A petition from Fairview, signed by A. A. Anderson, was presented by Mr. Lund, asking that the sum of \$34 be appropriated to compensate him for jury services; referred to the committee on claims.

Mr. Woolley presented a petition from William Dobbie, asking that his name be changed to Wm. Dobbie Kluse, the latter being the name of petitioner's father, who was killed by Indians in 1865, and Dobbie that of a relative who had adopted him as his son; referred to the committee on judiciary.

Mr. King, from the committee on agriculture, reported back a bill in relation to the encouragement of the growth of timber; which was filed to come up in its order for second reading and ordered to be printed.

Mr. Thurman moved that the report of the committee on incidental expenses, made yesterday, be referred to the committee on appropriations; adopted.

The bill for the protection of animals from injury by barbed wire fences was read the third time, and Mr. Clark moved to strike out the enacting clause. His reason for the motion was that the placing of poles or boards on the top of the fence created a useless expense to the fence-makers. Messrs. Baly and King defended the bill, Messrs. Young and Hatch opposed it. Mr. Smoot made an eloquent and vigorous speech in defense of this bill, of which he was the author.

Mr. West spoke in disapproval of it, because he believed its requirements would work hardship to the farmers.

Mr. King again took the floor and spoke in favor of the measure; he argued that it was a just and fair one, and said the amount thus saved to stock owners annually would more than compensate for the sums expended to place the boards on the wire fence; he would therefore vote for the bill and hoped that it would pass.

Mr. Stratford supported Mr. Clark's motion to strike out the enacting clause.

Mr. Kimball spoke in favor of the bill. He considered the measure was a wise one and would vote for its passage.

A few remarks from Mr. Thurman he argued that the bill was drafted in the interest of stock men and not the farmers; nevertheless the latter are asked to build a fence that will protect the animals of the stockmen, but would only work hardship to the farmer. For these reasons he did not favor the bill.

Mr. Creer, in a short speech, opposed the motion of Mr. Clark, supported the bill, and asked that it be passed and tried for a few years, to see how it will operate, whether in favor or against the interests of the farmers.

Several other members aired their eloquence at some length upon this measure, *pro et con*, after which the motion of Mr. Clark was lost. The bill was subsequently amended, and finally rejected by a vote of 16 to 8.

No other bill which has been introduced in the House has elicited so much discussion as this wire fence bill. It struggled hard for life and perpetuity. Its friends fought for it bravely and manfully, and its opponents battled as persistently to kill it, and they finally succeeded. After its demise the House adjourned till two p. m. Thursday.

COUNCIL—JAN. 28.

At 2 p. m., after the usual opening ceremonies the journal of Wednesday was read and approved.

Mr. Francis, from the committee on claims and public accounts, reported back the petition of A. E. Merriam, Assessor and Collector of Sanpete County, recommending that the sum \$224.25 be allowed him and that said amount be placed in the general appropriation bill; adopted.

Mr. Page, from the committee on highways, reported back the petition of the citizens of Marysville, asking for \$1,000 for roads and bridges, and recommended that the sum of \$700 be appropriated, on condition that the County Court of Plate County shall appropriate the sum of \$300; said sums to be expended under the direction of the County Court; adopted.