

## SEVENTH DAY.

THURSDAY, January 15th, 1874.

The House met at the usual hour and was called to order by the Speaker.

Prayer by the Chaplain.

The roll being called the following members were found to be absent.

Messrs. Clarke, Loomis and McCloskey.

On motion of Mr. Beals leave of absence was granted to Mr. McCloskey.

On motion of Mr. Pratt the reading of the journal of yesterday was dispensed with.

On motion of Mr. Pettit the contested case of Brainard vs. Hoyt was proceeded with.

Mr. Morse offered the following resolution :

Resolved, That the Sergeant-at-Arms be instructed to procure the attendance of persons making depositions in the Contested Election Case of Brainard vs. Hoyt, that their evidence may be taken direct by a committee of this House as may be ordered, which,

On motion of Mr. Pettit the resolution was laid on the table.

The Clerk then proceeded with the reading of the testimony.

Pending which

Mr. Davidson offered the following resolution,

Which was adopted :

Resolved, That the contested case of Howe vs. Ulverstad, of Watonwan county, be set for Tuesday next, 20th, at 11 o'clock a. m., and that the attorneys for the defendant be authorized to examine evidence now on file with the Clerk of this House relating to the same.

The Clerk then resumed the reading of the balance of the testimony in the case of Brainard vs. Hoyt.

Mr. Mason offered the following resolution,

Which was not adopted :

Resolved, That a special committee be appointed to take testimony in the contested case of Brainard vs. Hoyt on part of respondent and report such testimony to the House.

Mr. Graling offered the following resolution :

Resolved, That the case of Brainard vs. Hoyt be and is hereby indefinitely postponed.

Mr. Child raised a point of order,

And stated that the law requires that the House shall take final action in the case.

Mr. Pratt moved that the resolution be laid on the table,

Which motion prevailed.

Mr. Williston offered the following resolution, and moved its adoption :

Resolved, That the testimony offered by the contestant, H. J. Brainard, is not in the judgment of this House sufficient to entitle him to a seat in this body.

Pending which

Mr. Pettit moved that counsel be heard at this time, and that they be allowed one hour each to make their arguments,

Which motion prevailed.

Mr. Mason moved that the counsel for the contestant have the closing argument,

Which motion prevailed.

Mr. Ficker moved that the House take a recess until 2 o'clock p. m.

Which motion did not prevail.

Mr. Davidson, counsel for respondent, proceeded with his argument.

Mr. Sloan moved that the House take a recess until 3 o'clock p. m.

Which motion did not prevail.

Mr. Ficker moved a call of the House,

Which was not ordered.

Mr. Barnes moved that the House take a recess until 2½ o'clock p. m.,

Which motion did not prevail.

Mr. Pierce, counsel for contestant, proceeded with his argument.

Mr. Olds moved that the House do now adjourn until 3½ o'clock

p. m.,

Which motion did not prevail.

Mr. Barnes moved the previous question.

Mr. Davidson moved a call of the House,

Which was ordered.

The roll being called, the following members were found to be absent :

Messrs. Clarke, Hanson A. K., Hansing, Loomis, McCloskey, Morgan, Morse, Rahilly and Taylor J.

Mr. Child moved that further proceedings under the call be dispensed with.

Which motion prevailed.

The previous question was then ordered.

The question was then taken upon the main question, which was the adoption of the resolution offered by Mr. Williston.

Mr. Fletcher called for the yeas and nays.

Which was ordered.

And the yeas and nays being ordered, there were yeas 67, and nays 30, as follows :

Those who voted in the affirmative were—

Messrs. Adley, Auge, Barron, Barnes, Beard, Benz, Berry, Beals, Becker, Brown L. M., Buell, Burlison, Crandall, Daniels, Davidson, Delaney, Dickerson, Drury, Eppel, Ficker, Fleming, Gilmore, Gillick, Graling, Greer, Halvorson, Harrison, Hechtman, Healey, Hill, Hughes, Hyslop, James, Jones, Jordon, Kenworthy, Kletchka, Lawrence, Langley, Latond, Lord, Martin H. B., Martin J., Manning, McDermid, McDonnell, Meyerding, Melrose, Metcalf, Nelson, Norton, Olds, Palmerlee, Passon, Peck, Rieland, Shellman, Smith Isaac,

Messrs. Auge, Becker, Brown L., Delaney, Drury, Ficker, Fleming, Gillick, Greer, Groetsch, Halverson, Hanson A. K., Hansing, Harrison, Hechtman, Hoyt, Hughes, Hyslop, Kletchka, Lawrence, Lafond, Loomis, Martin H. B., Martin J., Mason, McArthur, McCloskey, McDermid, McDonald, Melrose, Morgan, Morse, Norton, Olds, Peck, Rahilly, Rieland, Shellman, Smith Isaac, Smith J. K., Swanstrom, Taylor D., Taylor J., Trask, Truwe, Treadwell, Welles and Williston.

Those who voted in the negative were—

Messrs. Adlev, Barron, Babcock, Barnes, Benz, Benson, Berry, Beales, Brown L. M., Buell, Burlison, Child, Clarke, Crandall, Daniels, Denny, Dilley, Dickerson, Dosdall, Eckdahl, Foss, Gilmore, Graling, Hanson J. N., Healey, James, Jones, Kenworthy, Langley, Lord, Manning, Metcalf, Nelson, Ottun, Palmerlee, Passon, Pease, Pettit, Pond, Pratt, Rice, Sloan, Smith L. D., Stanton, Tirrell, Walker, West, White, Woodbury and Mr. Speaker.

So the motion did not prevail.

Mr. Morse moved that

H. F. No. 22 be referred to the committee on State library.

Which motion prevailed.

Mr. Sloan offered the following resolution, which was adopted:

Resolved, That the judiciary committee inquire into the propriety of revising the general statutes of Minnesota.

Mr. Child moved that the House take a recess until 2½ o'clock, P. M.

Which motion prevailed.

#### AFTERNOON SESSION.

The House met at 2½ o'clock p. m. and was called to order by the Speaker.

A quorum present.

The Speaker stated that the special order for this hour was the contested election case from the Thirty-eighth Legislative and Senatorial district, wherein Ole H. Howe is contestant and L. O. Ulverstad is respondent.

The name of the parties being called, Chas. D. Keer, Esq., appeared as counsel for the contestant and J. Ham Davidson appeared as counsel for respondent.

Charles D. Keer, as counsel for contestant, opened the case by argument.

J. Ham Davidson responded.

The Clerk then proceeded with the reading of the testimony.

Mr. Ficker moved a call of the House,

Which was ordered.

The roll being called, the following members were found to be absent:

Messrs. Adams, Becker, Davidson, Dickerson, Drury, Eckdahl, Halverson, Harrison, Hill, Langley, Lafond, Loomis, McArthur, McDonnell, Melrose, Rahilly, Taylor J., Tirrell, Truwe and Woodbury.

Mr. Child moved that further proceedings under the call be dispensed with,

Which motion prevailed.

Mr. Child moved that further reading of the evidence be postponed and that the case be made the special order for to-morrow at 11 o'clock a. m.,

Which motion prevailed.

On motion of Mr. Jordan the House adjourned.

SAM. H. NICHOLS,  
Chief Clerk House of Representatives.

#### TWELFTH DAY.

ST. PAUL, Wednesday, January 21st, 1874.

The House met at the usual hour and was called to order by the Speaker.

Prayer by the Chaplain.

The roll being called the following members were found to be absent.

Messrs. Fletcher, Hanson A. K., Harrison, Ottun, Taylor D., and Ulverstad.

On motion of Mr. Lafond the reading of the journal of yesterday was dispensed with.

Leave of absence was granted to Mr. Ottun until Monday next.

#### REPORTS OF STANDING COMMITTEES.

Mr. Berry from the committee on engrossment reports that they have examined

H. F. No. 13, A bill to authorize the board of county commissioners of Otter Tail county to issue bonds to fund the floating debt of said county.

Also,

H. F. No. 18, A bill to prevent the running at large of cattle and other domestic animals in the county of Wabasha.

Also,

H. F. No. 21, A bill to amend section six, title 3, chapter 32 of the General Statutes, relating to the office of Surveyor General, and finds the same correctly engrossed.

Mr. Brown, from the committee on judiciary, to whom was referred H. F. No. 23, A bill to amend chapter eighty-one of the General Statutes of 1870, creating the eleventh Judicial District,

Reports the same back, recommending that it pass.  
The report was adopted.

Also,

H. F. No. 52, joint resolution requesting the Senators and Representatives representing Minnesota in Congress to use their efforts to secure a post route in the counties of Lyon, Yellow Medicine and Lac qui Parle,

Reports the same back, recommending that it do pass.  
The report was adopted.

Mr Buell, from the committee on claims, to whom was referred

A petition of John Haws and others, asking for relief for Halger Halvorson, who lost his stables by fire,

Reports the same back, recommending it be referred to the joint special committee on relief.

The report was adopted and bill so referred.

Also,

A petition from Rev. A. Kember and others, asking for relief in seed wheat.

Reports the same back, recommending the same be referred to the joint committee on reliefs.

The report was adopted and the bill was so referred.

Mr. Beal from the committee on claims to whom was referred

A petition from J. C. Binnewitz, praying for an appropriation of one hundred and fifty dollars for circulating pamphlets in Europe on immigration.

Reports the same back, recommending that it be indefinitely postponed.

The report was adopted.

By Mr. Drury—A bill for a charter to establish a steam ferry on the Mississippi river at Read's Landing, in Wabashaw county.

Also,

To incorporate the German Roman Catholic Society in Wabasha.

By Mr. Martin H. B.:—A bill to amend section sixty-two, chapter one, title two of the general laws of 1873, relating to public schools and county superintendents. Approved March 7th, 1873.

By Mr. Hechtman:—A bill to amend section forty-seven of chapter five of the general laws of 1873, relating to roads and cartways.

By Mr. Daniels:—A bill to amend section 9 of chapter 33 of the general laws of 1871, entitled "an act for the preservation of game."

By Mr. Hoyt:—A bill to lay out an avenue 100 feet wide from St. Paul to White Bear Lake, in the county of Ramsey.

By Mr. Foss:—A bill to legalize the acts of the County Commissioner of Stevens county in regard to locating Commissioner district and altering the boundaries thereof.

By Mr. Lawrence:—A bill to encourage the planting and growing of timber.

By Mr. Tirrell:—A bill to amend chapter fifty-nine of the general statutes, relating to appeals from probate courts.

#### MOTIONS AND RESOLUTIONS.

Mr. Child offered the following resolution,

Which was adopted:

Resolved, That the committee on hospital for the insane be instructed to report a bill to amend the laws of the State so as to per-

mit all insane persons of the State to be admitted to the insane asylum at St. Peter at public expense.

Mr. Crandall moved that H. F. No. 36 be taken from the table and referred to the committee on railroads.

Which motion prevailed, and the bill was so referred.

The hour of 11 o'clock a. m. having arrived, the Speaker stated that the special order for this hour was the contested election case from the 38th Legislative and Senatorial district, wherein Ole H. Howe is contestant, and L. O. Ulverstad is respondent.

The clerk proceeded with the reading of the testimony.

Mr. Adley was granted leave of absence for one day.

Leave of absence was granted to Messrs. Olds and Daniels.

Mr. Manning moved that the House take a recess until 2½ o'clock p. m.,

Which motion did not prevail.

Mr. Brown L. M., offered the following resolution:

Resolved, That all of the votes cast in the towns of Fieldon, Madelia and St. James, for Representatives, in the county of Watonwan, at the late general election, be excluded from the canvass made by the canvassing board of said county, and that the person having the highest number of votes for Representative, after such exclusion, shall be entitled to a seat in this House.

Mr. Trask moved that counsel be heard on the resolution,

Which motion prevailed.

Mr. Child moved that they be allowed one half hour each,

Which motion prevailed.

Mr. Walker moved that the House take a recess until 2 o'clock p. m.,

Which motion prevailed.

#### AFTERNOON SESSION.

The House met at 2 o'clock p. m., and was called to order by the Speaker.

The roll being called, the following members were found to be absent:

Messrs. Adley, Barron, Becker, Brown L., Brown L. M., Buell, Daniels, Drury, Fletcher, Greer, Hanson A. K., Hoyt, Jones, Jordon, Mason, Morse, Ottun, Passon, Pettit, Rahilly, Smith J. K., Swansstrom, Tirrell, Trask, Ulverstad, White and Williston.

A quorum present.

The following message was received from the Senate:

MR. SPEAKER:—I am directed to inform the House that the Senate has concurred in the resolution of the House, instructing the judiciary committees of the House and Senate jointly to examine and consider whether it is necessary and expedient for the welfare of the people of the State to make a general revision of the constitution &c., and to report their conclusions by bill or otherwise.

Also, that the Senate has concurred in the House resolution requiring the proper officers of each branch of the Legislature to procure the printing of 200 copies of each of such bills as are required to be printed,

Also, that the Senate has concurred in the House amendment to

S. F. No. 14, A joint resolution requesting the Congress of the United States to extend the time of payment of pre-emption claims,

Also, that the Senate has passed the following concurrent resolution in which the concurrence of the House is respectfully requested:

Whereas, Edward A. Horner, justice of the peace in and for the county of Houston, in this State, represents that he is unable to properly discharge his duties, by reason of his not having a copy of the Revised Statutes of the State of Minnesota, therefore

Resolved, By the Senate (the House of Representatives concurring) that the Secretary of State be and he is hereby instructed to deliver to said Edward A. Horner, justice of the peace, a copy of the Revised Statutes of the State of Minnesota.

CHAS. W. JOHNSON,  
Secretary of the Senate.

J. Ham Davidson, counsel for respondent, presented his arguments.

After which

Chas. D. Kerr, counsel for contestant, presented his arguments.

Mr. Child offered the following as a substitute to the resolution offered by Mr. Brown, of Scott:

Whereas, it is evident to the House that extensive frauds were perpetrated on the ballot box in the towns of Madelia, St. James and Feildon at the last general election; and,

Whereas, It is impossible from the evidence before us, to determine the number of legal votes cast at said election for the contestant or respondent; therefore,

Resolved, That the seat of L. O. Ulverstad, representing the 38th district, be and the same is hereby declared vacant.

And the yeas and nays being ordered, there were yeas 35, and nays 56, as follows:

Those who voted in the affirmative were—

Messrs. Auge, Becker, Buell, Burlison, Child, Davidson, Delaney, Eckdall, Fleming, Foss, Graling, Halvorson, Hechtman, Hughes, Hyslop, Lawrence, Lord, Loomis, Martin H. B., McCluskey, McDermid, Meyerding, Morgan, Nelson, Pease, Peck, Pond, Pratt, Rahilly, Smith L. D., Smith Isaac, Taylor J., Tirrell, Trask and Woodbury.

Those who voted in the negative were—

Messrs. Adams, Barron, Babcock, Barnes, Benz, Benson, Berry, Beals, Brown L. M., Clarke, Crandall, Denny, Dilly, Dickerson, Dosedall, Drury, Eppel, Ficker, Gilmore, Gillick, Groetsch, Hanson J. N., Hanson A. K., Hansing, Harrison, Healey, Hill, James, Kenworthy, Langley, Martin J., Manning, Mason, McArthur, McDonnell, Melrose, Metcalf, Morse, Norton, Olds, Palmerlee, Passon, Rice, Rieland, Shellman, Sloan, Smith J. K., Stanton, Swanstrom, Taylor D., Truwe, Treadwell, Walker, West, Wells, White and Mr. Speaker.

So the motion did not prevail.

Mr. McDermid offered the following amendment to the original resolution:

Amend by inserting the towns of Long Lake, South Branch and Butterfield,

Which amendment did not prevail.

Mr. Brown, of Scott, moved the previous question.

Which was ordered.

The question recurring on the original resolution,

And the yeas and nays being ordered, there were yeas 66 and nays 26, as follows:

Those who voted in the affirmative were—

Messrs. Adams, Auge, Barron, Babcock, Barnes, Benz, Benson, Berry, Beals, Becker, Brown L. M., Clarke, Crandall, Delaney, Denny, Dille, Dickerson, Dosedall, Drury, Eppel, Ficker, Gilmore, Gillick, Groetsch, Hanson, J. N., Hansing, Harrison, Hechtman, Healey' Hill, James, Kenworthy, Kletchka, Lawrence, Langley, Lafond, Lord, Martin J., Manning, Mason, McCluskey, McDermid, McDonnell, Melrose, Metcalf, Morgan, Morse, Nelson, Olds, Palmerlee, Passon, Rahilly, Rice, Rieland, Shellman, Sloan, Smith L. D., Smith J. K., Stanton, Swanstrom, Tirrell, Trask, Truwe, Treadwell, Walker, Wells and Mr. Speaker.

Those who voted in the negative were—

Messrs. Burlison, Child, Davidson, Eckdall, Fleming, Foss, Graling, Halvorson, Hanson A. K., Hughes, Hyslop, Loomis, Martin H. B., McDermid, Meyerding, Norton, Pease, Peck, Pond, Pratt, Smith Isaac, Taylor D., Taylor J., Trask, West and Woodbury.

So the resolution was adopted.

Mr. Morse offered the following resolution, which was adopted: Resolved, That Ole H Howe is, and that L. O. Ulverstad is not entitled to a seat in this House as Representative from the Second Representative district from the 38th Senatorial district of this State.

Mr. Howe then came forward and took the oath of office and entered upon the discharge of his duties.

The Speaker stated that Mr. Howe would be assigned to the same position on the standing committees as that occupied by Mr Ulverstad.

Mr. Berry moved that the House adjourn,

Which motion prevailed.

SAM. H. NICHOLS,  
Chief Clerk House of Representatives.

### THIRTEENTH DAY.

THURSDAY, January 22d, 1874.

The House met and was called to order by the Speaker.

Prayer by the Chaplain.

The roll being called the following members were found to be absent:

JOURNAL

OF

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OF THE

SIXTEENTH SESSION OF THE LEGISLATURE

OF THE

STATE OF MINNESOTA.

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