

Messrs Baldwin, Barton, Donohue, Greene of Olmsted, Leford, Rehfeld, Renz, Robertson, Roy, Sanborn, Sherwood, Stevens, Sweet, Thayer, Tröw and Willey.

The journal of yesterday was read and approved.

Mr. Shriner presented the petition of Mr. Gilley and others, for the altering of a State road in Scott county.

On motion, the petition was referred to the committee on Roads and Bridges and Navigable Streams.

Mr. Taylor asked and obtained leave of absence for a week.

Mr. Tollman asked and obtained leave of absence for a week.

Mr. Acker asked and obtained leave of absence for Mr. Shrewsbury for six or eight days.

Mr. Dayton asked and obtained leave of absence for Mr. Sherwood for eight or ten days.

Mr. Austin asked and obtained leave of absence for six or eight days.

Mr. Shriner asked and obtained leave of absence for eight or ten days.

Mr. Langworthy asked and obtained leave of absence for Mr. Mantor for eight or ten days.

Mr. Chadderdon asked and obtained leave of absence for eight or ten days.

Mr. Orange Walker, from the committee on Elections, presented the report of the majority of the committee in the case of Hayes, Bixler and Caskey, contesting the seats now occupied by Messrs. Waldhier, Newell, and Barton, as follows:

The majority of the Committee on Elections, to which committee was referred the petition of Archibald M. Hayes and Moses Bixler, praying that themselves and Henry Caskey may be admitted to the seats in the House of Representatives of the Legislature of this State, now occupied by Ara Barton, Michael Waldhier and Stephen Newell, beg leave to report as follows:

Your Committee have had the matter referred to them under consideration, have given the parties full opportunity to produce before them all the testimony they had to present, and have examined all the witnesses so brought before them. The oral testimony in the case, they hereto annex, marked "Schedules B, C, D, E, and F." From this testimony, the Committee unanimously agree that the following facts are established:

On the 20th day after the general election held on the 11th day of October last, the canvassing Board of Dakota county, constituting the 3d Representative District, said Board consisting of the Auditor of said county and two Justices of the Peace, called to his assistance, canvassed the returns of the votes cast at that election, from the several towns of said county. The table which is hereto appended, marked "Schedule C," of the votes appearing by these returns to have been then so cast, from the footings of which table the abstract in evidence as made by the Canvassers, (a copy of which is hereto appended, marked "Schedule B,") was prepared, shows that according to the canvass, the following named persons received severally for the office of Representatives to the State Legislature the number of votes hereinbelow set opposite their respective names.

H. G. O. Morrison	1069	votes.
Henry J. Scheffer	1057	"
Michael Waldhier	1042	"
Stephen Newell	1026	"
Ara Barton	1018	"
Archibald M. Hayes,	1010	"
Moses Bixler	1002	"
Henry Caskey	991	"
John H. Flanigan	971	"
John C. Couper	969	"

It also appears from the same table, that the Canvassers included in said canvass, as cast for said persons for said office, at the town of Burnsville, the number of votes hereinbelow set opposite their respective names:

H. G. O. Morrison	25	votes.
Henry J. Scheffer	84	"
Michael Waldhier	84	"
Stephen Newell	86	"
Ara Barton	84	"
Archibald M. Hayes	1	"
Moses Bixler	1	"
Henry Caskey	1	"
John H. Flanigan	60	"
John C. Couper	0	"

It also appears in evidence that the only evidence before the Board of Commissioners of the result of the election at said town of Burnsville, was the two documents, copies of which are appended to the evidence herewith reported, and marked respectively, Schedules "D" and "E." The one marked Schedule "D" [reports to be a return of the votes cast at that election in said town of Burnsville, and to be signed by Mr. McDonald, Chas. O'Neal and Timothy McNamara, as judges, and by Patrick Lynch and James Connolly, as clerks. It was admitted on the hearing before the Committee, on the part of sitting members, and is evident by inspection, that the names of Chas. O'Neal and Michael McDonald, were not written by themselves, but by James Connolly, one of the clerks. No evidence is in the case explanatory of this fact, although said McDonald, O'Neal and Connolly were introduced as witnesses by the sitting members and examined upon other points arising in the case. No other evidence of the votes cast at said town of Burnsville at said election is before the Committee, except that H. C. Hank testifies that he voted then and there for the contestants and for John C. Couper for Representatives to the State Legislature.

It was claimed before the Committee on the part of the contestants that the return (from said Burnsville) must be entirely rejected and that there was thus no evidence before the canvassers or Committee that the sitting members received any votes at said Burnsville. But the majority of the Committee are not willing to assume the responsibility of rejecting the return as "prima facie" evidence. They have however deemed it their duty to examine thoroughly, the alleged fraudulent voting in said town.

In so doing they have been guided mainly by the poll books in evidence, of Glendale in Scott County, and of Burnsville, aforesaid, and by the testimony of John B. Fish, who is a very intelligent and apparently unprejudiced man, an engineer and surveyor by education, with the further facilities for observation and knowledge in the matter afforded by his having his house, store, mills, and town-site located directly on the dividing line between Scott and Dakota counties. The witnesses brought forward by the sitting members

betrayed such utter ignorance of the creation of the line between said counties, that we could give very little weight to their testimony, however honest they might be in giving it.

As the result of this examination the committee unanimously agree that thirteen (13) persons whose names appear on the document hereto appended marked Schedule "E," as having voted at the election in question in Burnsville, are proved to have been residents of Scott County. They farther agree that five other persons whose names appear on said document as voting at Burnsville at said election, appear by said poll list to have voted twice each thereat. A portion of the majority who join in this report are of opinion that the votes of those thus shown guilty of double voting, should be entirely rejected. The others think that only the second vote of each should be thus thrown out. But this question proves by the table and canvass to be not of practical importance, as the deduction of nine illegal votes from those received by Ara Barton would result in the election of Archibald M. Hayes, in his place; and it will require the showing of twenty-five illegal votes cast for Stephen Newell, to elect Moses Bixler in his place.

The majority of your Committee therefore unite in reporting to your honorable body in addition to what they have already submitted, with the recommendation that it pass, the following resolution:

*Resolved*, That Archibald M. Hayes be and he hereby is declared elected to and a member of this House, and that Ara Barton be, and he hereby is declared not a member of this House.

Your Committee would feel themselves not doing justice to Mr. Barton did they not state explicitly, that they have seen and heard nothing in the course of this examination tending in the slightest degree to implicate Mr. Barton as planning, countenancing, or even knowing of the frauds proved to have been perpetrated at said election in said town of Burnsville.

Respectfully submitted,

ORANGE WALKER,  
JNO. B. OLIVIER,  
ALLEN SHULTIS,  
PETER WILKINS,  
Committee on Elections.

SCHEDULE A.

HALL HOUSE OF REPRESENTATIVES,  
Dec. 14th, 1859.

Before the Committee on Elections. The petition of Archibald M. Hayes, Moses Bixler, and Henry Caskey, was read by Mr. Nourse, counsel for contestants.

Answer to petition filed by Mr. Gorman, counsel for sitting members.

*John C. Moloy sworn.* I am Auditor of Dakota county. I have with me, and in my possession, the returns for the different towns of Dakota county, for the election of October 11th, 1859. Also an abstract of votes of Burnsville. The canvass was made by myself and a clerk under my supervision, and that of two justices of the peace, who formed with me the Board of Canvassers. The votes were canvassed twenty days after the election. The figures in the abstract were taken from the table. The election I refer to is that held on the 11th of October, 1859. The certificates given were based on abstracts, and abstracts on the table. The vote on the State ticket was the same. A. M. Hayes is the same person as Archibald M. Hayes. The assessment rolls and poll list of Burnsville, which I have produced, are the

only ones used in making out the canvass for that portion of Dakota county.

I do not know whether the returns and poll lists from Burnsville came together to my office or not. They were not sealed when I got them. I had a clerk in my office. When I went to the office, I found the returns from Burnsville, with others, in a pigeon-hole in my desk. There were no directions on the returns from Burnsville. There was no envelope. I think they were rolled up, one within the other. I do not know whether they were directed to the Register of Deeds, or not. All those directed to the Register of Deeds were opened when I came in. I am sure the returns from Burnsville were not sealed. They were the only papers or evidence used by the Board of Canvassers in making the returns.

*Cross-examined by sitting member's Counsel.* My office is in the same room as that of the Register of Deeds. All returns directed to the Register of Deeds were opened by him before I received them. I think some of the returns were directed to John Kennedy.

Here the Counsel for the sitting member asked the following question:—Is the Register of Deeds of Dakota the political friend of either the contestants or sitting members? Objected to as immaterial and irrelevant. Objection sustained by the Committee.

I. M. Ray and Thos. Howes were the other members of the Board of Canvassers. They were justices of the peace. One of them was generally called a Republican. Mr. Ray was candidate for Sheriff at that election. A. M. Hayes was present during the canvass. To the best of my knowledge, the votes were fully and fairly canvassed by the Board. Mr. Ray is a Republican; Mr. Howes is called a Democrat, and I am one myself. Mr. Hayes, at the time of the canvass, did object to the using of the returns from Burnsville, on the ground, I believe, that they were not properly made, and that he did not consider them returns.

*Charles Harkness sworn.* I am Auditor of Scott county. I have been so for about fourteen months. I have with me the returns and poll lists from Glendale, Scott county, for the election held in October last. (Poll-book produced.) This is the book used at the election held in Glendale, county of Scott, State of Minnesota, on the 11th day of October, 1859.

THURSDAY, Dec. 15.

*John B. Fish sworn.* I live in Dakota county, precinct of Burnsville. I am well acquainted with the town of Burnsville. I have spent most of the time there for the last two years. I am well acquainted with most of the people across the line in Scott county. (The witness recognized the following persons, whose names appear on the Burnsville poll-list as being residents of Scott county): Barney Carr, Martin Quin, Peter Kearney, Pat. McDonald, Michl. Gollaher, Brian Devlin, Pat. McCann, Pat. McCloud, Mat. Roman, James Kearney, Pat. Gilpin, John McCann, John Kearney, William Earley, Dennis McCann, Pat. McLaughlin, Edward Kearney (lives with his father), John Regan, John Glynn, And. Rasberry. My business is in both counties; some of the men work for me. I know and have had dealings with Charles O'Neil, one of the Judges of Election. I have made bargains which required his signature. He was unable to sign his name, but made his mark. It was in June last. I have not heard of his taking lessons in penmanship since.

*Cross-examined by sitting member's Counsel.*

I examined the poll-list two or three weeks ago, in my store. I was not at the election. I have not examined all the laws relating to the lines between Scott and Dakota counties. I know of one law which begins at the

Minnesota river, opposite the mouth of Credit river. I have never known of any survey of the county line but my own. The lines runs between ranges 12 and 13. I do not know of the lines having been removed. I know of no other line except the one just mentioned. Martin Quinn's house is on my property. I have run the county line for a few miles. Part of my land, the W. 100 acres of the S. E.  $\frac{1}{4}$  of sec. 31, T. 27, Range 24. The new Government survey, establishing the meridian line, runs below and south of the before mentioned line. Martin Quinn's house, on my land, is about 1000 feet W. of the East line of this 100 acres, and more than a thousand feet west of the West line of Dakota county. Barney Carr, is a single man. I do not know whether he is the man who voted in Burnsville, as shown by the poll-list. I know a man of that name living in Scott county. Michael Gollaher lives very near the line. I know Edward Kearney: he is a married man. He has a claim two miles east of the west line of Dakota, but he has not lived on his claim this summer. He has boarded with his father and has worked for me. He lives separate from his wife. When I last new Pat. McDonald, he worked for Martin Quinn, before election. He is a single man. William Carrey, is a single man; he worked for me, and boarded at Martin Quinn's before election. Pat. McCloud lives in Scott county. Pat. McLaughlin lived in Scott county the last I heard of him. I do not know where he lived at the time of election. Mathew Ronan is a single man, and lives at his father's, nearly three-fourths of a mile from the Dakota line. I left about the 20th of September, and returned about the 17th of October. The McCoy's I am acquainted with, lived in Dakota county. I do not know whether Ronan worked at haying for McCoy or Chas. O'Neil about the time of election or not. John Glyn worked for me and boarded at Quinn's. I know Peter Karney; he lives in Scott Co., and is a single man. I do not know whether he had any crop in Dakota Co. or not this year. Thos. Burns lives in Dakota Co. When I went away, Pat Kearney was in my employ, but he was not when I returned. Do not know of a "Dennis McCannon." I know of a Dennis McCann, he lives in Scott Co. I cant say whether he is single or married.

*Re-examined for Contestants.*

When I last new Brian Devlin, in Sept., he lived at Burns. Wm. Eavney lived at Quinn's I paid his board.

He worked for me by the year. I s'ood charged with his board all the time I was away. He lost a few days work during my absence. He still boarded at Quinn's. The last place Pat. McLaughlin lived at was his mother's in Scott Co. I know of no change of residence of his. I am an engineer and surveyor.

*H. C. Hank, sworn.*

I have lived at the house of J. B. Fish since June. I was in it Aug. 14th, when Fish, moved in. I was transacting business for him at Burnsville precinct, Dakota Co. I was at the house of one Jam s McKearney, where the voting was done, on the 11th day of October. I went from Mr. Fish's store to the mills, and thence in Charles O'Neil's wagon, with T. M. Peterson, Michael Conolly and James Connolly, and got there at 12 $\frac{1}{2}$ . The polls were not opened then. They were opened from  $\frac{1}{2}$  to  $\frac{3}{4}$  of an hour afterwards. I voted there. I saw one vote polled before I deposited mine. I voted for Caskey, Hayes, Cooper and Bixler, for Representatives to the State Legislature. I knew from the Republican ticket, the Republican candidate. I voted the full Republican ticket. I asked Keenan whether he wouldnt like to see an opposition ticket; he said yes. I then showed him one and read the names. While I was reading, Charles O'Neil, stepped up, snatched the ticket out of my hand, tore it said, "Hank go home or you'll get licked."

After several remarks, Stephen Newell, one of the candidates. said that I would be hurt if I did not leave. He said so threateningly that I should not distribute any Republican tickets. I left then, not more then ten minutes after. Immediately after arriving at the polls, some one introduced a jug of whisky, of which all partook except myself. A few minutes after, a second, and still later a third time, several of the men drinking each time.

The house Mat. Ronan lives in is in Scott county. John Kearney, lives in Scott county, also Ed. Kearney, Mat. Quinn, James Kearney, William. Kerney, John Regan, Peter Kearney, Pat. McCann, Pat. Ronan, Pat. Glyn, Dennis McCann, John Glyn, Pat McDonald, Pat McLaughlin. Andrew Larberry is a teacher, I believe he lives in Scott county.

*Cross examined.*

I did not vote for Stephen Newell. He did not intimate that he, personally, would use violence, but that I should be hurt. I did not show Mr. Newell, a ticket with Mr. Cooper's name scratched off. I did not tell Mr. Newell, at, or after the election, I had voted for him. I did not see any one hindered from voting. I know of one other Republican besides myself in the precinct; he voted the Republican ticket. His name is Michael Connolly. He voted for Mr. Newell, as I understood by heresay. James McKearney lives in Dakota county. Did not see James Kearney, that day, I was not over an hour at the polls.

*Chas. T. Fish, sworn.*

I am the son of J. B. Fish. I live at my father's house. on the day of election I went from my father's store, in a wagon, to Mr. Macey's house in Scott county. T'was after dinner. Henry Stewart, John Glynn, Pat Reiley and Pat McLaughlin were in the wagon. Just before, another wagon owned by Mich. Glynn, went to James McKearney's house. I saw it at Macey's, I saw the owner, Mich. Glynn, at Jas. McKearney's that day. The men in the wagon were singing. Glynn was half tight. I saw Pat McDonald, John Glynn and Pat Glynn, vote at McKearney's. Pat McDonald and John Glynn were working for father at the time, and boarded at Martin Quinn's house. Pat Glynn lives toward Shakopee, in Scott county, about 2 miles. When I was at the polls the men were talking in Irish, and I could not understand them. I did not hear anyone solicit votes. One of the women asked me if I had voted yet. I told her no. She then walked up to the polls. I did not vote, but they wanted me to. I saw a young fellow they called O'Hara at Nancey's, do not know how he got there. Saw Stephen Newell, as Mr. Hank calls him, dealing out whiskey free. [Witness here recognized and pointed out Mr. Newell.] That is the man. I dont know where the County line runs. It was dark when I got home after leaving McKearney's. They were about closing the polls when I left, it was not yet sunset.

*H. G. O. Morrison sworn.* I know Michael McDonald, of Burnsville, member of the Board of Supervisors. I met Mr. McDonald in Hastings two days after the election. He told me they had had a row or a fracas at the election at Burnsville. He said he was forced to gather up his papers and go to his house to make up his returns. He gave me no particulars of the fight. He gave me a blank which the post master had made out with the votes set down, which was made the same as the returns.

Just as soon as I got it, I went home to add it to the returns I already had. There was nothing said about the vote he gave any one person.

James B. Fish recalled, examined the map of the county.

The Counsel for sitting members here admitted that the poll list and signatures thereto were all written by one person, Jas. Connolly, except the names of Timothy McNamara and Pat. Lynch.

FRIDAY, Dec. 10th, 1858.

Witnesses for the defence called.

*Charles O'Neil sworn.*

I was one of the Judges of Election in the precinct of Burnsville, in October last. I am acquainted with that township. I have lived there four years, the 10th of May last. There has been some dispute between the citizens of Scott and Dakota counties about the dividing line. I know Barney Carr. At the time of election he lived in Dakota county; he is a married man; I saw him vote on election day. I am acquainted with Michael Gollaher; he lives in Dakota county. I am acquainted with Mathew Ronan; he wrote for Mr. Peterson and Connolly about three weeks before election; he is a single man; he boarded in James Connolly's house; Connolly's house is in Dakota county; could not say whether he boarded at Connolly's or Peterson's immediately before election.

Counsel for J. M. admitted that John Kearney lived in Scott county; Edward Kearney's property lies in Dakota county; I was Road Supervisor of the district; Ed. Kearney was then a married man; he worked out his road tax. Martin Quinn lived in Dakota county at and before the election; he worked on a place he rented of James Kearney and boarded with him; he worked there about three weeks before and ten days after the election. Bryan Devlin lived in Dakota county pretty near a month before election; he is a single man; he lived at Thos. Burns' at the time of election; Thos. Burns lived in Dakota county.

James Kearney lived in Dakota county at the time of election; the election was held at James Kearney's; it is the same Kearney that has been spoken of; I never understood him to go by any other name than James Kearney; we always understood that Martin Quinn's house was in Dakota county; I could not say exactly where Mr. Earney lived at the time of election; sometimes he lived at Quinn's; he worked about half the time for Fish, sometimes for others, and was gone sometimes; he is a single man; I know John Keagan; I think he lives at McGovern's; I saw him come in McGovern's wagon the day of election; I think he works for the McGovern.

Counsel admits that Patrick McCann and Pat. Ronan lived in Scott county. I know Pat. McLaughlan, a single man, to be working in Dakota county making hay, before election.

John Glynn and Pat. Donald lived in Martin Quinn's house; according to my understanding of the line it was in Dakota county; do not know where he lived or worked at the day of election; Hank, Jas. Connolly, Michl. Connolly and Mr. Peterson came to the election with me at Burnsville; we got there between nine and ten in the morning; the polls were not open when I got there; the polls were opened between nine and ten in the forenoon; no one was intimidated from voting; heard no threats made by any one to Mr. Hank; I was there from the time the polls were open till they were closed; the polls closed between five and six I think; I left a little after six as nigh as I can learn; the ballots were counted before I left; there was no row, riot or fracas on the day of election, while I was there; I heard there were some who wanted to vote the State ticket alone; I don't know how many there were.

*Cross-examined.*

I live a little over two miles from the place I called Kearney's; I was up about daylight; got breakfast about five o'clock; I couldn't say how long after I got up; it might be fifteen minutes; I didn't eat any dinner; I know by my watch it was eight o'clock when I left home; I have a fast team, and drove right there. I might have made some delays on the road. The dividing line between Dakota and Scott counties commences, about the middle of

Oredit River; couldn't tell how far up; I always considered the line from what the settlers who lived there before I did, told me; (I lived there four years) and also because they voted in Dakota.

17. John Kearney lives in Scott county; Barney Carr lives in Dakota county; so does Mich. Gollaher; I know it by what folks told me who lived there before I got there; Pat. Ronan's father lives in Scott county; Pat. Ronan lives at his father's except when he goes out to work; we can cut hay after frost, and after the 11th of October; I couldn't say how late Pat. Ronan cut hay; or whether he worked and boarded with Connolly until election; Michael Gollaher, I supposed from what folks told me or showed me of the line, lived in Dakota county; I never ran, or saw others run a county line; have no other knowledge of it; James Thomson, County Surveyor, and Mr. Burns showed me about two miles of the line at different times and different portions of it; it was part timber where I saw the line; I traveled these two miles a thousand times alone, and in company with others: do not know where B. Carr's wife lived the day of election; I have been to his place, but his wife was not there at the time; I saw him there last fall; I couldn't see what he was doing; I didn't see him; I do not know where John Kearney's wife lived at the time; he worked his taxes on the road; this is the only way I know where he lives; Martin Quinn was working crops in Dakota county; the house he claims as his house, was always understood to be in Dakota county.

I know Brian Devlin lived in Dakota county; he lived where he worked. He was working for Thomas Burnus. Thomas Burns lives one mile and a half inside of the line I understood to be the Dakota county line.

William Earney lived wherever he worked. At the time of election he worked for Fish. I saw John Ragan come in McGovern's wagon, and heard that he was working for him. This is the only way I know where he lived. John Glynn lived at Mart. Quinn's house. I don't know where Pat. McLaughlin lived. I didn't tell Hank anything at the time election only to go home. I am sure I told him so very mildly. I did not drink any. We counted the votes out of the box after election. I am no scholar and can't remember the names. McDonald and the other Judge, McNamara, and the Clerk, counted the votes. No one else was there. It was in Kearney's house, in the only room there is there, we counted the votes. We took in the votes through the window. When we were canvassing the votes we had it shut down. We canvassed between five and six o'clock. The voters didn't want to come in the room. No one was allowed there but the Judges and Clerks. I could not say who sealed the returns. The two Clerks wrote the poll list. Both of them did it. They are Patrick Lynch and James Connolly. I did not write my name. I couldn't say how long after counting, the returns were made. We received the votes in a ballot-box. When we closed the polls at noon, I had charge of the box in the room where we were. Had not any key. Another Judge kept it a while. I disremember his name. There was no fight there. I don't know who took the papers at night. No one took the ballot-box. It was left in the house. I don't know what was done with the ballots or box after we counted. All that I know about the returns is, that the votes were counted between five and six o'clock. I don't know whether they were counted right or not; I couldn't read the names. I know that I stopped on the road going to polls, but couldn't say how long. I was not at the school house.

*John McCoy sworn.*

I live in Burnsville. I am not acquainted with Barney Carr. I am acquainted with Mich. Gollacher. He is supposed to live in Dakota county. I have lived in Burnsville between six and seven years. I am not much ac-

quainted with the lines between Dakota and Scott county. I was chain bearer in running Charles O'Neil's claim, at least the claim was supposed to be Charley O'Neil's, where he now lives. Martin Quinn's house was always supposed to be in Dakota county. It is part of the same claim held by Fish as the town site of Hamilton. The only means I had of knowing the line is, by a corner stake, and the line between O'Neil's and Kearney's. I suppose it is a section line. I know the county line by them that lived there. Mat. Ronan was cutting hay in Dakota county about October; he is a single man. I know Ed. Kearney; he was working on his claim in Dakota county about the time of election. He worked there pretty much all summer working his crops. Martin Quinn was working in James Kearney's field. I saw him working there some time putting in his crops and taking them out, in the spring and fall. He boarded at James Kearney's. James Kearney lives in Dakota county. The election was held in his home. I do not know where Mr. Quinn lives now. Last time I saw him after the election was some five or six days after in James Kearney's field. Brian Devlin; don't know where he lived at election, before he worked at Thomas Burns'. I don't know where Mich. Gollaher lived at election. He lived at Thomas Burns' Dakota county before the election. James Kearney lives in Dakota county. Sometimes, in the Irish language, he is called McKarney. I do not know where Patrick Glynn, John Glynn, Pat. McDonald or Pat. McLaughlin live. Peter Kearney lives at his brother-in-law's, in Dakota county, tending a crop for himself at Thomas Burns'. Peter Kearney's father lives in Scott county. I was told his father chased him away in the spring, and he came to Thomas Burns' in Dakota county. Sometimes he came up to St. Paul, and when he got back he made his home at Thomas Burns'. I should think Mich. Gollaher's was south of Martin Quinn's house. It is south-west of where I live. I live nearly two miles from the line. I can't tell in what direction from Quinn's house I live.

*Cross examined.*

I don't know where the county line runs; I have never seen it run. Counsel for sitting members admit that the precinct or town of Glendale is adjoining that of Burnsville.

MONDAY, Dec. 18th, 1859.

*Michael McDonald sworn.*

I was one of the Judges of Election in Burnsville, on the 11th of October last. I carried the returns from Burnsville to Hastings to the County Auditor's office, as I understand it to be. I gave them to the Auditor's clerk, Fred. Thorman. They were sealed. It was the second morning after the election. The polls at Burnsville were closed I believe at five o'clock. I had no watch but judged it to be that time. The votes were counted immediately after the polls were closed. There was no disturbance at the election, before the polls were closed that I know of. There were some votes cast for State officers and not for county. They were a man by the name of Patrick Glynn, and another Glynn, I disremember his other name. I can't say what was the other men's names. One of the men said he come from Scott county. One of them was a McCann, I think his name was John McCann. That's all I know about it. I do not know where these men lived. They did not say where they resided. I know Barney Carr, he lives somewhere near where the county line is supposed to be, I can't tell in what county. I do not know where the supposed county line is. I live in the south east corner of the town of Burnsville. I know Mich. Gollaher. I don't know what county he lives in. I live south east, as near as I can judge, of Burnsville village, adjoining the town of Lebanon, I live, as I suppose it must be, three miles from the south-west corner. I cannot say whether the township of Burnsville is in

Scott or Dakota. I suppose I live about three and a half miles from the supposed county line. It was two (2) McCann's instead of two Glynn's that voted. There was only one Glynn. I took in the tickets. The men that voted State tickets voted open tickets. There was a row there that day. It begun at the time the returns were half made up, after the votes were counted and declared. I was out of doors; the row begun, and then they came in doors. I ordered out the man who burst in the door. I don't know how many came in after that. There might be seven or eight. Some gathered up the poll books and tickets and went out. As I came out a man struck me. I immediately went to a justice of the peace, and got out two warrants, and had them arrested. The clerk made out the rest of the returns the next morning, and took them to Hastings. There was no disturbance at the election till after the polls were closed and the votes counted.

*Cross-examined.*

The returns were put in a self sealing envelope, didn't use any wafer or wax. They were directed to the County Auditor. I don't know what the fight commenced about, it commenced outside. I took the ballots home, the ballot box was knocked to pieces and laid there. The man who burst in the room didn't claim to vote.

*James Connolly sworn.*

I live in the town of Burnsville. It is about three years last May since I came here. I was one of the Clerks of the Election. I helped to make out the returns, part of them at the poll house and in consequence of a row, had to finish them at Mich. McDonald's, the next morning. As near as I can judge, the votes were counted fairly, and at the poll house, and part of the returns made out that evening. The balance was made at Mich. McDonald's the next morning. I think there was four votes cast for State ticket and not county. I am not much acquainted in Burnsville. I don't know who they were. I left the returns at McDonald's, and he took possession of them.

COPY SCHEDULE "B."

State of Minnesota, County of Dakota:

COUNTY AUDITOR'S OFFICE,  
October 31st, 1859.

We, John C. Maloy, County Auditor, Isaac M. Ray and Thos. Howes, justices of the peace, in and for said county, constituting the Board of Canvassers for said county, on the 11th day of October, 1859, for the election of State and county officers, and after a careful examination of the returns of the different precincts of the said county, at the Auditor's office, in Hastings, in said county, on the 31st day of October, 1859, do hereby certify the persons hereinafter named received the following votes for the officers hereinafter mentioned.

	Votes.
For Governor,	Alexander Ramsey . . . . . 1007
"	George L. Becker . . . . . 1056
For Lt. Governor,	Ignatius Donnelly . . . . . 984
"	S. B. Lowry . . . . . 1036
For Sec. of State,	Francis Baasen . . . . . 1075
"	J. H. Baker . . . . . 984
For Atty General,	John B. Brisbin . . . . . 1054
"	Gordon E. Cole . . . . . 1003
For State Treas.,	Samuel B. Abbe . . . . . 1054
"	Chas. Scheffer . . . . . 1004

For Congress,	Jas. M. Cavanaugh .....	1072
"	Christ. Graham .....	1073
"	Cyrus Aldrich .....	1004
"	William Windom .....	977
For Representatives	Michael Waldhier .....	1042
"	Ara Barton .....	1018
"	H. J. Scheffer .....	1057
"	John H. Flanigan .....	971
"	Stephen Newell .....	1026
"	A. M. Hayes .....	1010
"	Henry Caskie .....	991
"	Moses Bixler .....	1002
"	H. G. O. Morrison .....	1069
"	John E. Cooper .....	969
For Register,	John Kennedy .....	1068
"	George S. Whitman .....	946
For Treasurer,	Eugene Dean .....	847
"	James Wescott .....	1112
For Sheriff,	John Devlin .....	751
"	Isaac M. Ray .....	1214
For District Att'y,	R. A. Phelen .....	1002
"	E. F. Parker .....	1004
For Probate Judge,	O. T. Hayes .....	985
"	F. M. Crosby .....	1038
For Co. Surveyor,	Magner Sampson .....	1034
"	Joseph F. Bean .....	989
For Co. Coroner,	Wm. Felton .....	1079
"	Thomas S. Odell .....	958
For Road Com'r,	Dominik Conlin .....	999
"	Patrick Butler .....	968
"	John Becker .....	1028
"	Charles H. Carr .....	1101

In testimony hereof, we, I. M. Ray and Thomas Howes, Justices of the Peace, set our hands and I, John C. Maloy, County Auditor, have hereunto set my hand, and affixed the seal of the county of Dakota.

L. S.

I. M. RAY, J. P.  
THOS. HOWES, J. P.  
JOHN C. MALOY, Co. Auditor.

COPY OF SCHEDULE "C."

Canvass of Official Returns Polled for State and County Officers for Dakota County, Minnesota, October 11, 1859.

TOWNS.	Gov't	Lt. Gov'r	Sec. State	At. Gen.	Treas'r	R. ps.	Concres.	M. mbrs of House of R-representatives.
Hastings.....	195	216	192	210	91	218	186	183
Marshan.....	42	18	43	17	43	17	4	38
Douglas.....	14	14	14	14	14	14	1	1
Green Vale.....	32	37	34	35	34	35	34	35
Nininger.....	22	21	22	21	22	21	21	22
Rosmont.....	59	57	58	57	58	57	57	58
Inver Grove.....	77	52	77	50	78	50	71	50
Empire City.....	6	42	7	39	8	40	6	7
Castle Rock.....	17	59	18	57	18	57	18	58
Berlin.....	86	69	86	69	86	69	86	69
West St. Paul.....	104	112	97	106	101	95	121	111
Lebanon.....	9	30	9	29	9	29	9	29
Vermillion.....	6	47	6	47	6	47	6	47
Waterford.....	21	26	21	25	21	25	21	25
Sciota.....	8	25	11	42	11	42	10	45
Richmond Randolph.....	44	24	49	19	218	218	218	218
Mendota.....	49	49	49	49	49	49	49	49
Lekeville.....	68	8	70	29	70	29	70	29
Hampson.....	87	87	88	88	88	88	88	88
Burnsville.....	1056	1007	1086	984	1054	1021	1072	1073
Total.....	1056	1007	1086	984	1054	1021	1072	1073

## COPY. SCHEDULE "D."

At an election held at the house of James Kearney, in the town of Burnsville, and county of Dakota, on the 11th day of Oct. 1859, the following named candidates received the number of set opposite their names :

For Governor,	George L. Becker.....	87
"	Alexander Ramsey.....	2
For Lt. Governor,	Sylvanus B. Lowry.....	88
"	Ignatius Donnelly.....	1
For Sec. of State,	Francis Baasen.....	88
"	J. H. Baker.....	1
For Atty. General,	John B. Brisbin.....	88
"	Gordon E. Cole.....	1
For State Treasurer,	Samuel B. Abbe.....	88
"	Charles Scheffer.....	1
For Representatives,	James M. Cavanaugh.....	88
"	Christopher Graham.....	88
"	Cyrus Aldrich.....	1
"	William Windom.....	1
For Congress,	Michael Waldhier.....	84
"	Ara Barton.....	84
"	Henry J. Scheffer.....	84
"	John H. Flanigan.....	60
"	Stephen Newell.....	85
"	Archabald M. Hayes.....	1
"	Henry Caskie.....	1
"	Moses Bix'er.....	1
"	H. G. O. Morrison.....	25
"	John C. Couper.....	00
For Sheriff,	John Devlin.....	84
"	Isaac M. Ray.....	1
For Register,	George S. Whitman.....	75
"	John Kennedy.....	10
For Treasurer,	Eugene Dean.....	84
"	James Wescott.....	1
For District Att'y,	R. A. Phelen.....	84
"	Edward F. Parker.....	1
For Probate Judge,	Orin T. Hayes.....	82
"	Francis W. Crosby.....	3
For Co. Surveyor,	Magna Sampson.....	84
"	Joseph Bean.....	1
For Coroner,	William Felter.....	84
"	Thos. Odell.....	1
For Road Com'er,	Dominick Conlin.....	84
"	Patrick Butler.....	84
"	John Becker.....	1
"	Chas. H. Carr.....	1

M. McDONALD,  
CHAS. O'NEAL,  
McNAMARA,

Judges.

PATRICK LYNCH,  
JAS. CONNELLY,  
Clerks.

## SCHEDULE E.

The following is a list of the names of legal voters at an election held at the house of James Karney, on the 11th of October, 1859 :

James McMillan,	Daniel Byrns,
Patrick Lynch,	James Karney,
Patrick Kennedy,	John Byrns,
H. C. Hank,	Jeremiah Sweeney,
Barney Car,	Thomas Dillion,
Michael Goliher—61	Dennis Brady,
John Carrol,	William Early,
Patrick Egan—58	Peter Fahy,
Patrick Goliher—52	Terrence McGovern,
Matt. Ronin,	W. C. McMartin,
Daniel Canon,	John Regin,
Patrick McCoy,	James O'Hair,
John Carry—56	William Rice,
Brien McDermid,	James Moloney,
Patrick Keenan,	Timothy Regin,
Timothy McNamary,	Patrick Dugin,
James Connelly,	James Kennedy—71
Michael McDonald,	Thomas O'Hara,
Ch. O'Neal,	Luke Manahan,
Edward Carney—67	Frank Doudle,
Stephen Newell,	Thomas Byrns,
Michael Walsh,	Jerry Dillion,
Henry O'Bryan,	Patrick Hines,
William Walsh,	James Kennedy,
Daniel Sullivan,	James Sherida,
Martin Shea,	Michael Nickelson,
John Henesey,	James Newnman,
Thomas O'Hair,	James Walsh,
James Hary,	Thomas Hogin,
Patrick Haskins,	Peter Karney—54
James Connelly,	Patt. McEan,
Bartly Donily,	James McCarthy,
P. M. Paterson,	James Howley,
John McCoy,	James McCarty,
Michail Bonch,	Patrick Ronan—51
M. Connelly—32	Patrick Giinn—40
Martin Quinn—3	Dinnis McCann—10
Brien Devlin,	John McGlinn—48
John Day—6	Patrick McDonald—43
MI. Foley,	Patrick McCloud—53
Pa. Foley,	John McCann—42
John Foley,	Pat. Neasey,
MI. Foley,	Pat. McGlouchlin—18
Wm. Byrns—1	Andrew Carbery.
Thomas Downs,	

Whole number of votes cast, 89.

M. McDONALD,  
CHARLES O'NEAL,  
TIMOTHY McNAMARA,  
Judges.

PATRICK LYNCH,  
JAS. CONNLY,  
Clerks,

## SCHEDULE F.

## POLL-BOOK.

No.	Names.	No.	Names.
1	William Byrnes,	36	Michael Allen,
2	James Kelleher,	37	Neil McCaul, senr.,
3	Thomas Condor,	38	Neil McCaul, junr.,
4	Lawrence Conrad,	39	Thomas O'Brien,
5	Mathew Leddy,	40	Patrick Glenn,
6	John Daly,	41	James Jardine,
7	James Kennedy,	42	John McCame,
8	Patrick H. Byrne,	43	Patrick McDonald,
9	Thomas Cleary,	44	John O'Connor,
10	Dennis McCaune,	45	Thomas Loptes,
11	John Cleary,	46	Mathew Ronayne,
12	Thomas Kennedy,	47	Nicholas Glenn,
13	W. Harrihan,	48	John Glenn,
14	John Harrihan,	49	Thomas Hays,
15	Edmond Harrihan,	50	George Allen, senr.,
16	John Mulkan,	51	Patrick Ronaye,
17	Thomas Nacey,	52	Patrick Gallaber,
18	Patrick McLoughlin,	53	Patrick Riley,
19	John Condon,	54	Peter Carney,
20	John Dorman,	55	Patrick McCloud,
21	J. W. Censerbox,	56	John Carney,
22	Thomas Keane,	57	Michael McCloud,
23	Richard Murphy,	58	Patrick Egan,
24	John Frawley,	59	Patrick Neafsy,
25	George Allen,	60	William Reardon,
26	Thomas Rogers,	61	Michael Gallaber,
27	Charles Wigley,	62	Thomas Gallaber,
28	Alexander Brown,	63	John Keane,
29	John McCaul,	64	E. O. Risley,
30	Mathew Ronayne,	65	James Byrnes,
31	Patrick McCaune,	66	Bernard Logan,
32	Michael Connelly,	67	Edward Carney,
33	William Glynn,	68	John Hammill,
34	Thomas Hill,	69	Michael Shoemaker.
35	Henry Steward,		

STATE OF MINNESOTA, }  
County of Scott, } SS.

I hereby certify that the above and foregoing is a true copy of the original Poll list of the General election, returned to the County Auditor's office of said County, from the Town of Glendale, in said County.

CHAS. HARKENS,  
Auditor of Scott County.

Shakopee, Dec. 9, 1869

Mr. Butler, from the same committee, presented a minority report on the same subject, as follows :

The undersigned, a minority of the Committee on Elections, to which Committee was referred the petition of Archibald M. Hayes and Moses Bixler, praying that themselves and Henry Caskey may be admitted to the seats now held by Michael Waldhier, Stephen Newell and Ara Barton, respectfully reports that he is unable to agree with the conclusions of the report presented by the majority of that committee, in the matter of the alleged return from Burnsville in the county of Dakota.

The evidence as reported by the majority of the Committee, shows that if the alleged vote of the town of Burnsville, be rejected from the canvass of the votes cast for Representatives to the Legislature in the Third Representative District in this State, (comprising Dakota county) the petitioners and Henry Caskey would be entitled to seats in this body, instead of Michael Waldhier, Stephen Newell and Ara Barton. After such rejection, the vote would stand as follows :

For H. G. O. Morrison .....	1034	votes.
“ Archibald M. Hayes.....	1009	“
“ Moses Bixler.....	1001	“
“ Henry Caskey.....	990	“
“ Henry J. Scheffer.....	973	“
“ John C. Couper.....	969	“
“ Michael Waldhier.....	958	“
“ Stephen Newell.....	941	“
“ Ara Barton.....	934	“
“ John H. Flanigan.....	911	“

The undersigned is unable to discover any evidence in the case, establishing the fact that the sitting members received so much as a single vote at the election in question, at the town of Burnsville.

The sitting members, holding the certificates of election from the proper canvassing board, are, of course, *prima facie* entitled to their seats. The burden of proof in commencing the investigation, of course rests upon the contestants—to defeat the right to seats on the part of sitting members, and to establish their own.

They show by the Auditor of Dakota county, one of the Canvassing Board, that no evidence of any election in Burnsville was before that Board, except the papers, copies of which marked respectively schedules “D” and “E,” are appended to the report of the majority of this committee.

These are claimed to be a return and poll list from said town of Burnsville. Each purports to be signed by M. McDonald, Charles O'Neal, and Timothy McNamara as Judges, and by Patrick Lynch and James Connolly, as Clerks. I lay no stress on the utter disregard in both papers of every technicality required by law; that they came into the Auditor's hand unsealed; that neither Judges or Clerks, nor either of them appear, nor claimed to have been sworn; that the return has in it no such word as “votes,”—saying only that “at an election held at the house of James Carney, in the town of Burnsville, and county of Dakota, on the 11th day of October, 1858, the following named candidates received the number of set opposite their names;” that the numbers are expressed by figures, instead of being written out in words as required by law; that the alleged return is not *certified* by those signing as Judges, nor *attested* by those signing as Clerks. Except as by these matters may unite with others in evidence to evince deliberate fraud in the matter, the statute clearly compels us to disregard any lack of merely *technical* correctness in the papers.

But the papers themselves, especially when taken in connection with other evidence in the case, bear such unmistakable evidence of fraud, that I cannot see how they can be regarded as any proof whatever, of the votes cast at the Burnsville election.

The names of M. McDonald and Charles O'Neal, signed as judges, and that of James Connolly, signed as one of the clerks, are evidently to the most casual observer written by the same person; and the contestants admit on the hearing before the Committee that they were all written by James Connolly. All three of these persons testified on behalf of the contestants upon other matters arising in the case, but neither of them explained this matter as they might easily have done, were it an honest, *bona fide* transaction. On the contrary, it appears by their testimony, that O'Neal went home from the polling place before the return was made up; that during the making of the return, a drunken brawl took place outside the house; that the rioters broke into the room where the judges and clerks were canvassing the votes and making the returns (excluding all other persons, contrary to the statute) that the judges were attacked by the rioters; that one judge and one clerk seized the ballots (the ballot box being smashed in the row) and also the partly finished returns, and decamped to the house of said judge, where the clerk, James Connolly, finished the returns on the following day instead of on the day of election, as required by law.

*The return then comes to us ostensibly signed by three judges, but with two of those signatures admitted substantially to be forgeries.*

Waiving for the present, the question, whether a certifying officer could authorize any other person to sign his name as such certifying officer, we come to the question whether any such paper, so tainted with fraud, can properly be taken as evidence by the Committee or the House.

In a court of law, it will not be questioned, an instrument so tainted with fraud on its face would be deemed a nullity. Does not the equitable rule which prevails in such investigations as this, require a similar view to be taken of it?

Especially when we add to this the evidence in this case of grossly fraudulent proceedings throughout the pretended election at Burnsville. The judges and clerks not sworn, the only Republican on the ground driven off by threats, least he should be a witness of their doings; the distribution *gratis* of whiskey; the one vote sworn by H. C. Hank to have been cast by him for John C. Couper, mysteriously disappearing in the count, and turning up in the returns as cast for Stephen Newell; the migration of voters from Scott to Dakota, and from Dakota to Scott during the day; the invitation to Fish from the *strong minded* widow, to cast a vote, and her going to the window, ballot in hand; the exclusion from the room during the canvass of all but the judges and clerks, (in utter violation of law) the final row and riot in the course of which the ballot box is smashed, one of the judges seized by the hair until relieved by one of the clerks; the seizing of the ballots and papers by a clerk and judge and their hasty retreat to another house; the deferring of making the return to the next day; when, I say, we add to all this to the inherent evidence of fraud presented by the pretended poll lists and returns, the conclusion is irresistible in my mind that said papers constitute no returns, no evidence of any election at Burnsville, of any votes there cast and must be entirely rejected.

But waiving for the purpose of the argument, the question of fraud in the returns, how then stands it? We have in that case a document signed by only one of a board of three. The statutes specially requires the act of at least a majority of any number of persons to whom a *joint authority* is given in order to exercise that authority. Here we have the certificate of only

"Timothy McNamara," out of the three professed judges of election at Burnsville, the names of the other two being admitted not to have been signed by them.

I have therefore been driven to the conclusion by the evidence in the case, that said pretended returns should be disregarded and set aside.

The evidence in the case having thus left the sitting members without proof of the votes that may have been cast for them at Burnsville, the burden of proof of course devolved upon them to supply that lack by other evidence of that election and the votes cast thereat. This they have not done. We are left without any proof of such election, and of the votes cast for the sitting members thereat. Deducting the alleged vote of said town from the official canvass, we find the contestants elected over the sitting members, Waldhier, Newell and Barton.

Taking this view of the case, I do not deem it necessary to discuss the fraudulent voting at Burnsville on the day of the election in question, in the matter of which I do not disagree from the views of the majority of the committee.

I therefore beg leave to report the following resolution, with the recommendation that it be adopted by your honorable body:

*Resolved.* That Archibald M. Hayes, Moses Bixler and Henry Caskey are elected to and entitled to, and they be admitted to seats as members of the House of Representatives of the Legislature of Minnesota, and that Michael Waldhier, Stephen Newell, and Ara Barton are hereby declared not to be members of said House of Representatives.

All of which is respectfully submitted,

A. H. BUTLER.

Mr. Knox moved the reports be laid upon the table and ordered printed.

Mr. Sanborn moved to make the reports the special order of Tuesday next.

Mr. Shrewsbury moved to amend by making the reports the special order of January 2d.

The amendment was accepted.

Mr. Abraham moved to divide the question.

Carried.

The question recurring upon the motion to lay upon the table and print, it was carried.

The question recurring upon the special order,

Mr. Abraham moved to amend by striking out "January 2d," and inserting "Tuesday next."

Carried.

The question then recurring upon the motion as amended, it was carried.

Mr. Stewart, from the committee on Claims, presented a report upon the claim of Howard & Pendergrast, as follows:

The Committee on Claims respectfully beg leave to report that they have had the claim presented by Howard & Pendergrast, under consideration, and present for the consideration of the House, the following statement, to wit:

That they consider the charges of the said Howard & Pendergrast for the

Was read the third time.

Mr. Secombe moved that the bill be laid upon the table.

Carried.

Mr. Sweet presented a petition for the annexation of the town of Briggs to the town of Clear Lake in Sherburne county.

Which was referred to the Committee on Towns and Counties.

Mr. Sawyer introduced—

A bill for an act to amend an act to incorporate the City of Rochester.

Mr. Sawyer moved that the rules be so far suspended as to allow the bill to be read a second time.

Carried.

And the bill had its second reading, and was referred to the members from Olmsted county.

Mr. Robertson offered the following resolution :

→ *Resolved*, That the Committee on Elections be instructed to report to this House what action they have taken on the petition of Messrs. Barton, Waldhier, Newell and Flannagan, contestants of the seats of Messrs. Hayes, Bixler, Morrison and Caskey, the sitting members representing the County of Dakota.

Mr. Donohue moved the previous question.

Mr. Robertson called for the yeas and nays which were ordered.

Upon the vote being taken there were yeas 27, nays 40, as follows :

YEAS.			
Mr. Armstrong,	Mr. Hunt,	Mr. Pfaender,	Mr. Sweet,
Beatty,	Johnson,	Renz,	Thayer,
Cleary,	Kinkead,	Robertson,	Tollman,
Donchue,	Mitsch,	Sanborn,	Walker Orange,
Garrard,	Nettleton,	Scheffer,	Watson,
Greene of Steel,	Oids,	Shultis,	Wilkins,
Hulett,	Olivier,	Stearns,	27
NAYS.			
Mr. Abbott,	Mr. Caskey,	Mr. Mantor,	Mr. Skillman,
Acker,	Cleveland,	McDonough,	Stewart,
Anderson,	Coe,	Meighan,	Stoek,
Arnold,	Fox,	Mitchell,	Taylor,
Austin,	Greene of Olmsted,	Morrison,	Temanson,
Baldwin,	Hayes,	Ozman,	Trow,
Bixler,	Langworthy,	Purdie,	Van Vorhes,
Brooks,	Leavens,	Sawyer,	H. Walker,
Burnham,	Letford,	Secombe,	Webster,
Butler,	Mann,	Sherwood,	White,
			40

So the previous question was not ordered.

Mr. Acker moved to lay the resolution upon the table.

Mr. Sweet called for the yeas and nays, which were ordered.

Upon the vote being taken, there were yeas 47, nays 20, as follows :

YEAS.		
Mr. Aaker,	Mr. Cleaveland,	Mr. Mantor,
Abbott,	Coe,	McDonough,
Austin,	Fox,	M-ighan,
Acker,	Garrard,	Mitchell,
Anderson,	Greene of Olmsted,	Oids,
Arnold,	Hayes,	Sanborn,
Baldwin,	Hunt,	Sawyer,
Bixler,	Johnson,	Secombe,
Brooks,	Langworthy,	Sherwood,
Burnham,	Leavens,	Shultis,
Butler,	Letford,	Skillman,
Caskey,	Mann,	Stearns,
		Mr. Stevens,
		Stewart,
		Stoek,
		Taylor,
		Temanson,
		Trow,
		H. Walker,
		Van Vorhes,
		Walker, Orange
		Webster,
		White,
		47

## NAYS.

Mr. Armstrong, Beatty, Cleary, Donohue. Greene of Steele,	Mr. Hulett. Kinkead, Mitsch, Morrison, Nettleton,	Mr. Olivier, Pfaender, Purdie, Renz, Robertson,	Mr. Sweet, Thayer, Tollman, Watson, Wilkins,	20
---	---	---	--	----

So the resolution was laid upon the table.

Mr. Butler presented the following report from the Committee on Elections:

The Committee on Elections to whom was referred the petition of Ara Barton, Michael Waldhier, J. H. Flannagan and Stephen Newell, claiming seats in the House of Representatives of the Legislature of Minnesota as members thereof, beg leave to report, as follows :

It is hardly necessary to call to the remembrance of this House the fact that the right of these petitioners above named to seats therein was at the commencement of the session attacked, that the matter was then thoroughly investigated by this committee and this House, that every facility was then given to said petitioners to establish their right, and that this House by a decisive vote declared them not entitled to seats therein. It is not pretended by them that they have received since any new light upon the subject, or made any new discoveries which would entitle them to a new trial. It is we believe an unheard of thing for a legislative body which has once passed upon the right of one claiming a seat as a member thereof, to again take action thereon. We see no reason why such a course should be taken. The action taken by the House on a full and fair investigation of all matters in dispute should be found.

The other petitioner Mr. Flannagan has certainly failed to show due diligence in presenting his claims to be admitted to a seat as a member of this House. He well knew, it was notorious throughout the State, that the Dakota county election was being investigated by this House early in the session. He then made no claim to be considered a member, offered no evidence, and has not pretended to be elected as such member until this petition is presented by him. Under such circumstances, and after so thorough an examination of the election in Dakota county as was made by this House, (it not being pretended that his case presents facts materially different from that of the other petitioners,) we cannot advise that the House should go into an investigation of the matter at this late day, when the session is apparently very near its close.

Your committee therefore recommend that the petitioners aforesaid have leave to withdraw their petition.

A. H. BUTLER.

Adopted.

Mr. Mann presented the report of the Committee on Incorporations upon S. F. No. 39 recommending its passage as amended.

Adopted.

And the bill was ordered to a third reading.

Mr. Donohue introduced—

A bill for an act to organize the county of Renville, and for other purposes, Which had its first reading.

Mr. Donohue moved to suspend the rules so far as to allow the bill to be read the second time.

Carried.

And the bill had its second reading, and was referred to the Committee on Towns and Counties.

S. F. No. 92 had its second reading.