

Sept. 18.]

## HOUSE OF REPRESENTATIVES.

Messrs. Babcock and Trask were appointed a select committee on the part of the House to act in conjunction with a similar committee on the part of the Council, to fix a plan of operation relative to Legislation.

Mr. Babcock gave notice of a motion for leave to introduce a bill to divide the Territory of Minnesota, into counties, and for other purposes; also,

A bill to divide said Territory into Judicial Districts.

Mr. Jackson, of the select committee to which was referred the petition of Stanislaus Bilanski, praying to be divorced from his wife, Mary Bilanski, asked leave to report by bill.

Leave was granted.

No. 9, H. of R. A bill to dissolve the marriage contract between Stanislaus Bilanski and Mary Bilanski was read the first time.

Mr. Marshall, from the Committee on Elections, to which had been referred the report of the Commissioners, and other papers relative to the contested seat between Mr. White and Mr. Wells, submitted the following report:

→ The Committee on Elections, to which was referred the report of Commissioners on contested seat between White and Wells, have had the same under consideration, and submit the following report:

From the evidence before the committee, it appears, that at the election held at the house of Augustine Rock, in the first Council District, there were thirty-three votes cast, James Wells receiving the whole number for member of the House of Representatives. It further appears that six of the above thirty-three votes were given by the following named persons, viz: Bernard Smith, Wm. Smothers, Edward Beers, Henry E. Baldwin, Abner Beers, and William Cheesbro, who were not legally qualified electors. That therefore, James Wells received but twenty-seven legal votes. It further appears, by the certified return of an election held at the house of Joseph W. Furber, in the aforesaid Council District, that Harly D. White received twenty-nine votes, being a majority of two votes over James Wells.

The committee, therefore, respectfully submit the following resolutions.

*Resolved*, That James Wells is not entitled to a seat in this House.

*Resolved*, That Harly D. White is entitled to a seat in this House.

WM. R. MARSHALL, Chairman.

JOHN J. DEWEY.

The report was read, and

On motion of Mr. Jackson,

*Ordered*, That it lie on the table till to-morrow morning.

No. 8, H. of R. A bill to provide for the construction of a bridge across Rum River, in the county of St. Croix, was read the second time, and,

On motion of Mr. Setzer,

*Ordered*, That it be referred to the committee on Internal Improvements.

On motion of Mr. Setzer,

The House resolved itself into the Committee of the Whole, on No. 5, H. of R. A bill granting a charter to Elam Greely, his heirs, &c.,

Mr. Wilkinson in the chair,

And after some time passed therein, rose and reported the same back to the House with amendments.

The Speaker resumed the chair, and the House proceeded to the consideration of the amendments to said bill,

And the question being on the first amendment, it was agreed to.

And the ayes and nays having been called for, those who voted in the affirmative, are Messrs. Black, Brunson, Dugas, Holmes, Jackson, Johnson, Marshall, Setzer, Trask and Wells—10.

Those in the negative, are, Messrs. Babcock, Bailly, Dewey, Pond, Wilkinson and Furber, (Speaker)—6.

The second amendment was then adopted.

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On motion of Mr. Setzer,

Ordered, That the bill be re-committed to the Committee of the whole House, to be taken up on Saturday next.

That portion of the message from the Council, relating to No. 3, H. of R. A bill for the relief of John Morgan, was then taken up.

The question being put on concurring in the first amendment of the Council to said bill, it was decided in the affirmative.

And the question was then put on concurring in the second amendment of the Council to the bill, and decided in the affirmative.

A division being called for,

There were yeas—7; nays—6.

The question being on a re-consideration of the vote on said second amendment,

Mr. Babcock asked to be excused from voting.

Mr. Trask moved that Mr. Babcock be excused; disagreed to.

The question then recurred on the motion to re-consider the vote on concurring on the second amendment of the Council, and the question being put, it was decided in the negative.

No. 9, H. of R. A bill to dissolve the marriage contract between Stanislaus Bilanski and Mary Bilanski, was read a second time.

On motion of Mr. Jackson,

Ordered, That said bill be referred to a select committee of three, with power to take testimony in the case.

Messrs. Jackson, Pond and Black were appointed said committee.

No. 1, C. F. A joint resolution authorizing the Secretary of the Territory to subscribe for certain newspapers and other purposes, was read a third time, passed, and the title agreed to.

Mr. Wilkinson moved that the parties contesting a seat in this House, be allowed to appear before the House by counsel, or otherwise; agreed to.

On motion of Mr. Wilkinson, the House adjourned.

2 O'CLOCK P. M.

Mr. Babcock moved that the parties interested in the question of contested seat, Mr. White and Mr. Wells, be now heard, by counsel or otherwise, adopted.

On motion of Mr. Brunson,

The resolutions reported by the majority of the committee, and the depositions in the case were then read.

Mr. Bailly moved that the House adjourn; disagreed to.

And a division being called for, there were, yeas—7; nays—8.

On motion of Mr. Pond, the House adjourned.

THURSDAY MORNING, 10 O'CLOCK.

Prayer by the Rev. Mr. Neill.

The journal of yesterday was read and corrected.

Mr. Wilkinson gave notice of a motion for leave to introduce the following bills, viz:

A bill concerning the Supreme and District Courts.

A bill concerning Courts of Record.

2 O'CLOCK, P. M.

Mr. Trask moved that the unfinished business of the morning be now taken up; agreed to.

Mr. Brunson moved a call of the House.

And Mr. Wilkinson was reported absent, and the Sergeant-at-Arms sent to notify him that his attendance was required in the House.

The Sergeant-at-Arms reported the member in attendance.

The unfinished business of the morning being the adoption of the resolutions reported by the Committee on Elections, to which was referred the report of the Commissioners relative to the contested seat between Messrs. White and Wells, was then taken up.

Mr. Wilkinson asked for leave of absence a few minutes.

On motion of Mr. Bailly,

The House granted leave for fifteen minutes.

Pending the consideration of the unfinished business of the morning, a message from the Council by J. R. Brown, their Secretary, was received, as follows:

MR. SPEAKER:—The Council have concurred in the amendments of the House to No. 1, C. F. Joint resolution authorizing the Secretary of the Territory to subscribe for certain papers, and for other purposes, with an amendment, in which the concurrence of the House is requested.

And then he withdrew.

And the consideration of the unfinished business was resumed.

Mr. Marshall, from the Committee on Elections, offered the following resolution as a substitute for the one previously offered by the majority of said committee, viz:

*Resolved*, That the seat now held by James Wells in this House, be declared vacant, and that the Governor be requested to issue his proclamation ordering a new election to fill the vacancy.

Mr. Setzer moved the previous question,

Which was seconded.

Mr. Brunson moved a call of the House.

Mr. Johnson was reported absent.

The Sergeant-at-Arms was desired to notify the member to appear in his seat.

Pending the report,

On motion of Mr. Jackson, the House adjourned.

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#### FRIDAY MORNING, 10 O'CLOCK.

Prayer by the Rev. Mr. Neill.

The journal of yesterday was read and corrected.

Mr. Trask gave notice of a motion for leave to introduce a bill to incorporate the Historical Society of Minnesota.

Mr. Trask, from the Committee on Engrossed Bills, reported,

No. 2, H. of R. Joint resolutions relative to the removal of the Chippewa Indians from the ceded lands within the Territory of Minnesota, as correctly engrossed.

No. 1, C. F. Joint resolution authorizing the Secretary of the Territory to subscribe for certain papers, and for other purposes, was then taken up, and,

Mr. Babcock moved that the amendment of the Council be concurred in; which motion was agreed to.

No. 1, C. F. A bill to authorize the printing of certain laws in the several newspapers of the Territory, was read the first time.

No. 2, H. of R. Joint resolution relative to the removal of the Chippewa Indians from the ceded lands within the Territory of Minnesota,

Was read a third time, passed, and the title agreed to.

On motion of Mr. Jackson,

The unfinished business of yesterday was taken up.

Mr. Brunson moved a call of the House.

Mr. Wilkinson was reported absent.

The Sergeant-at-Arms was directed to notify the absent member to appear in his seat.

Pending the report, Mr. Jackson moved that the further call of the House be dispensed with, which was agreed to, when the Sergeant-at-Arms reported the member present.

The question was then put on agreeing to the resolution offered by Mr. Marshall, of the Committee on Elections, as a substitute to the one previously offered by the majority of said committee, viz:

*Resolved*, That the seat now held by James Wells in this House, be declared vacant, and that the Governor be requested to issue his proclamation, ordering a new election to fill the vacancy.

The yeas and nays being called for, those who voted in the affirmative, are, Messrs. Babcock, Dewey, Marshall and Pond—4.

Those in the negative, are, Messrs. Bailly, Black, Brunson, Dugas, Holmes, Jackson, Morrison, Setzer, Trask, Wilkinson and Furber, (Speaker,)—12.

So the resolution was not agreed to.

Mr. Brunson offered the following as a substitute:

*Resolved*, That the votes of Bernard Smith, Edward Beers, Abner Beers, William Cheesbro, and William Smothers, cast at the Wabashaw precinct, on the first day of last August, were illegal.

Mr. Bailly asked for a division of the question, so that the vote be taken as to the legality of the vote of each of the above named persons separately.

The Speaker decided the question on the resolution not divisible.

Mr. Trask moved the previous question.

Which was seconded.

And the question being, 'shall the main question be now put?'

It was decided in the affirmative.

The yeas and nays being called for, those who voted in the affirmative, are, Messrs. Babcock, Bailly, Black, Dugas, Holmes, Jackson, Johnson, Marshall, Morrison, Pond, Setzer, Trask, Wilkinson and Furber, (Speaker,)—14.

Those in the negative, are, Messrs. Brunson and Dewey—2.

The question then recurred on the resolution offered as a substitute, and the yeas and nays being called for, those who voted in the affirmative, are, Messrs. Babcock, Brunson, Dewey, Johnson, Marshall, Wilkinson and Furber, (Speaker,)—7.

Those who voted in the negative, are, Messrs. Bailly, Black, Dugas, Holmes, Jackson, Morrison, Pond, Setzer and Trask—9.

So the resolution was rejected.

The question then recurred on the adoption of the original resolution reported by the majority of the Committee on Elections, as follows:

*Resolved*, That James Wells is not entitled to a seat in this House.

Which was decided in the negative.

The yeas and nays being called for, those who voted in the affirmative, are, Messrs. Babcock, Brunson, Dewey, Johnson, Marshall, Pond, Wilkinson and Furber, (Speaker,)—8.

Those in the negative, are, Messrs. Bailly, Black, Dugas, Holmes, Jackson, Morrison, Setzer and Trask—8.

On motion of Mr. Marshall, the House adjourned.

2 O'CLOCK. P. M.

Mr. Marshall, chairman of the Committee on Enrollment, reported, No. 3, H. of R. 'A bill for the relief of John Morgan, as correctly enrolled.'

On motion of Mr. Setzer,

No. 5, H. of R. A bill granting a charter to Elam Greely, his heirs, &c., to construct and maintain a dam across Snake river, near the outlet of Cross Lake,

Was taken up.

Mr. Black moved the following amendment:

'Sec. 7. That the sluices of said dam shall remain open, (after all the logs to be sluiced that season shall have been sluiced,) until such time as it may be found necessary to close them in order to fill the dam preparatory to the next spring drive.' Agreed to.

Mr. Wilkinson moved to further amend the bill as follows:

'Strike out ten cents for the first year for every thousand feet of lumber in logs, and six and a fourth cents per thousand thereafter,' and insert five cents per thousand feet.

A call of the House being ordered, the following members were reported absent:

Messrs. Jackson and Pond.

The Sergeant-at-Arms was requested to notify the absent members to appear in their seats.

The Sergeant-at-Arms reported the members in attendance.

The question was then put on concurring in the amendment, and it was disagreed to.

Mr. Wilkinson then offered the following amendment:

'That the said Elam Greely shall sluice all logs whenever he shall be required to do so, by the owner or owners of the said logs, as soon as the same shall have arrived in the boom belonging or attached to the dam; and for every refusal or neglect on the part of the said Greely, so to sluice the said logs, through the said dam, whenever there shall be sufficient water, he shall forfeit and pay to the party injured, the full sum of five hundred dollars, to be recovered by the owner of the logs, in an action of debt, to be brought in any court of competent jurisdiction.'

Mr. Marshall offered the following as a substitute to the amendment:

Which Mr. Wilkinson accepted, viz:

'That the said Elam Greely shall sluice all logs upon the requisition of the owner or owners thereof; commencing to sluice within five days after the logs have arrived in the boom belonging or attached to said dam: *Provided*, That the owner or owners of said logs, or their accredited agents, shall have tendered him the legal toll, or security for the same: and for any violation of this section, the said Elam Greely, shall be responsible to the owner or owners of logs, for any damages sustained, to be recovered in any proper action or suit in any court of competent jurisdiction.'

Then the question was put on the adoption of the substitute; and it was agreed to.

On motion of Mr. Trask,

Ordered, That said bill be engrossed and read a third time on Tuesday next.

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## REPORT

Of Commissioners on contested seat between White and Wells.

*To the Hon. House of Representatives of Minnesota Territory:*

Your Commissioners would respectfully report, that in conformity to the resolution of your honorable body, they proceeded forthwith, on the 6th day of September, to Wabeshaw, and there in presence of both the parties interested, commenced taking the testimony of such persons as were brought before them, and they continued to take such testimony from day to day, until all the depositions hereto attached were taken, and both parties announced to them that they had no more witnesses to produce.

B. W. LOTT, }  
P. P. BISHOP, } Commissioners.

September 14th, 1849.

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DEPOSITIONS,

Taken by P. P. Bishop and B. W. Lott, pursuant to the resolution of the House of Representatives of Minnesota Territory, by which resolution they were appointed Commissioners to take the testimony of such persons as might be brought before them in all matters relating to the petition of Harley D. White, claiming his seat as a member of said House.

George Cottrell, of lawful age, being first duly sworn, deposes as follows:

I am acquainted with William Cheesbro. Mr. White brought him before me, and he said he was not a resident of Minnesota Territory, and never had been. I heard him say that he had no right to vote here, and I think that he admitted he did vote in this district at the late election. I know of no other person by the name of William Cheesbro, who has ever been in this country, and I am pretty well acquainted with the people generally in this section of country, having lived here about thirteen years.

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GEO. COTTRELL.

Willard Ballow, of lawful age, being first duly sworn, deposes as follows:

I am acquainted with Bernard Smith, or Schmit, William Smothers, Edward Beers, Henry E. Baldwin, Abner Beers. On the 3d day of March, 1849, the above named persons were residents of the State of Wisconsin; the said William Smothers, Edward Beers and Abner Beers, resided at the house of James J. Gilbert, at Nelson's Landing, Chippewa County, State of Wisconsin, and the said Bernard Smith or Schmit, resided at Beef Slough, in the same county and State. All the above named persons except Bernard Smith or Schmit, were residing with Charles R. Reed, at Reed's Landing, in the First Council District of Minnesota Territory, on the first day of August last. I am very well acquainted in this part of the country, and know of no other persons bearing the same names as the individuals above mentioned. It is the common report that the said five persons above named, voted at the house of Augustine Rock, in the First Council District of Minnesota Territory, at the late election held on the first day of August last.

WILLARD BALLOW.

Charles R. Reed, of lawful age, being first duly sworn, deposes as follows: I am acquainted with Bernard Schmit or Smith, William Smothers, Edward Beers, Henry E. Baldwin and Abner Beers. I am confident that these five persons were not residents of Minnesota Territory on the third day of March A. D. 1849. They resided, as I am quite certain, in the State of Wisconsin at that time. Subsequently to the said third day of March, the said William Smothers, Edward Beers, Henry E. Baldwin and Abner Beers, came into the Territory and were employed by me. They were residing at my house on the first day of August last, when an election for a Delegate and one Representative, was held at the house of Augustine Rock, in the First Council District lying west of the Mississippi river. It is the common report that the said five persons above named, voted at that election. I live at Reed's Landing, in the Territory of Minnesota, I have resided there the last two years, and I have resided in this part of the country during the last five years. I am well acquainted with the people of this section generally, and I know of no other persons bearing the names above mentioned. If any individuals bearing said names, voted at said election held at the house of Augustine Rock, there is no doubt that they were the men to whom I have above alluded. I am also acquainted with William Cheesbro, I think he has never been a resident of this section of Minnesota Territory.

*Cross examination conducted by James Wells.*

QUES.—At what time did Bernard Smith come into this Territory?

ANS.—He came into my employ with his family, about the middle of July, 1848, and remained about a month at that time.

QUES.—Between that time and this, how often has he been back to the Territory, and what has been his business here?

ANS.—I cannot tell how often he has been back; in the early part of March last, I cannot tell on what day, he came into my employ again and remained with me about six weeks at that time.

QUES.—What was Bernard Smith's trade?

ANS.—He was a carpenter.

QUES.—Between July 1838, and the early part of March last, had he any property on this side of the river?

ANS.—He had none in my possession.

QUES.—Did you hear him express himself as regards his intention, whether it was to remain on the other side or to return here?

ANS.—I have heard him say that he intended to reside in the Territory.

QUES.—How long after Smith came over in the early part of March last, was it before his family came?

ANS.—They came about the last of March, the 27th I think.

QUES.—What property did he bring over with him?

ANS.—Some tools and household furniture.

QUES.—What time did he remain here with his family?

ANS.—He remained here about a month.

QUES.—Do you know where he went to when he left your employ?

ANS.—To the house of Louis Rock, in said precinct.

QUES.—How long did he remain at the house of Louis Rock?

ANS.—I do not know.

*The examination resumed by Harley D. White.*

QUES.—On which side of the river do you think Bernard Smith spent most of his time during the past summer?

ANS.—I think he has been on this side of the river the most.

QUES.—Do you think from any thing Smith had told you, that he intended to return here?

ANS.—I do think so.

QUES.—Do you know Peter Saravere?

ANS.—I think I do.

QUES.—Can you say what age he is of?

ANS.—I do not know his age.

C. R. REED.

Louis Rock, of lawful age, being first duly sworn, deposes as follows:

*Questioned by James Wells.*

QUES.—Have you ever been acquainted with Edward Beers?

ANS.—Yes, I have.

QUES.—When was it that he first came into the Territory?

ANS.—I first became acquainted with him in the summer of 1848.

QUES.—At what place did he reside?

ANS.—He lived part of the time at my house, part of the time he was employed on the other side of the river.

QUES.—Which place did he claim as his residence?

ANS.—His home was with me.

QUES.—What have you heard him say about taking up a claim here, or getting married here?

ANS.—He said he would take a claim here if he could get a chance to marry here.

QUES.—Do you think he spent most of his time on this side or the other side?

ANS.—Plenty on this side, more than on the other side.

QUES.—When he left your place last, did he tell you where he was going?

ANS.—Yes—he said he was going to Milwaukee, and would be back the last of this month, (September.)

QUES.—Has he any property now in your house?

ANS.—He has some blankets, books, and musquito bar.

*Cross examination by Harley D. White.*

QUES.—Was Edward Beers a resident here on the 3d of March last?

ANS.—He had his washing done at my house, and worked on the Chippewa river, in Wisconsin.

QUES.—Did Edward Beers vote at the late election here?

ANS.—Yes sir.

QUES.—Was or was not, his vote challenged at the polls?

ANS.—It was not, that I know of.

QUES.—Did Bernard Smith, William Smothers, Henry E. Baldwin, Abner Beers and William Cheesbro, vote at the late election?

ANS.—They did.

QUES.—Do you know Peter Saravere?

ANS.—I do.

QUES.—Do you know his age?

ANS.—Yes, he is, I think, twenty-one years old, but I am not sure.



*Direct examination resumed.*

Ques. by James Wells.—What do you know of Abner Beers as to his being a resident here on the third day of March last?

Ans.—He came here for his washing at that time.

Ques.—Do you remember how long your wife has been washing for Abner Beers?

Ans.—Yes, last summer a year ago, she did his washing, and during the month of January last.

Ques.—When did your wife begin to do his washing again?

Ans.—In the month of March, I do not remember what time in March.

(Mr. White objected to this testimony, because the exact dates are not stated.)

Ques.—Did Beers remove all his property, such as trunks, bedding, &c., from your house, or was it left there during the time that your wife did not do his washing?

Ans.—His bed and some books were left there.

Ques.—What have you ever heard Abner Beers say about intending to take up property and becoming a citizen here?

Ans.—He is courting a girl here, and he says if he gets married, he intends to live here.

Ques.—What was his intention in respect to returning here when he went away?

Ans.—He told me that he intended to come back about the last of this month, (September,) and then he would try again.

LOUIS ROCK.

William Whitmarsh, of lawful age, being duly sworn deposes as follows:

*Question by James Wells.*

Ques.—What do you know of William Cheesbro, as regards his residence in this precinct?

Ans.—I know he very frequently stops here and makes his home here.

Ques.—Where was he on the 3d of March last?

Ans.—I do not know; he was about here very often last Spring, but I do not know positively as to the day.

Ques.—What do you know of his having property on this side?

Ans.—He stored provisions here sometimes, he also had a trunk and some shirts, which he got washed sometimes here.

Ques.—Did you ever hear him say that he meant to become a resident here?

Ans.—I never did.

Ques.—Had he any employment on this side?

Ans.—I do not know of any.

Ques.—Where has Cheesbro gone now?

Ans.—He told me this morning that he was going below, and I believe he has gone.

Ques.—What do you know of Henry E. Baldwin, as to his having been a resident of this place?

Ans.—He was a resident here in the summer of 1848; he remained here till the Fall of that year.

Ques.—Where did he go then?

Ans.—He went from here to Beef Slough, in Wisconsin.

QUES.—Did he remove his goods and effects?

ANS.—I believe he did the most of them, I held in my possession though, some little of his property all winter.

QUES.—Did he return in the Spring to live here?

ANS.—I think not.

QUES.—Is he still a resident of Wisconsin?

ANS.—He has gone below—I don't know whether he considers himself a resident of Wisconsin or of Minnesota Territory.

QUES.—Did you ever hear him say that he meant to become a resident of Wisconsin?

ANS.—No, I never did.

*Cross examined by Mr. White.*

QUES.—Was Mr. Baldwin a resident of this Territory on the 3d of March, 1849?

ANS.—I cannot say whether he was or not.

QUES.—Was Henry Baldwin employed on Beef Slough, or in Wisconsin somewhere, during the past winter?

ANS.—I think he was at Beef Slough.

QUES.—Has Mr. Baldwin spent the Spring and Summer here?

ANS.—Not altogether, he has been running his logs on the river.

QUES.—Has he any houses, cattle, lands, or other property here?

ANS.—None that I know of, except a horse which he left for Charles Reed to sell.

QUES.—Is he considered a lumberman?

ANS.—He has been logging most of the time since he has been in the country.

*Direct examination resumed.*

QUES.—Were you acquainted with Bernard Smith?

ANS.—I was.

QUES.—Do you know of his being a resident here during the past year?

ANS.—I do not of my own knowledge.

QUES.—What do you know of his residence this year?

ANS.—I know that his family and all his household were moved here early last Spring.

QUES.—Do you know where Smith has gone?

ANS.—He told me he was going to Germany, to bring eight or ten families out with him, to settle in Minnesota Territory, in this precinct.

QUES.—Did he tell you what time he intended to return?

ANS.—Next summer, being the summer of 1850.

QUES.—Are you acquainted with Edward Beers?

ANS.—I am.

QUES.—What do you know of his being a resident here?

ANS.—I do not know whether he was a resident here or not.

*Cross examination resumed by Mr. White.*

QUES.—Was Bernard Smith a resident here on the 3d of March last?

ANS.—I do not know whether he was or was not.

QUES.—How long do you think Mr. Smith remained after he moved here in the spring?

ANS.—I do not know.

QUES.—When did he leave here?

ANS.—I do not know.

QUES.—Has he any property here?

ANS.—None that I know of.

QUES.—Do you know whether he voted here at the late election?

ANS.—I do not know; I was not present.

WILLIAM WHITEMARSH.

Mr. Smothers being called upon by Mr. White to testify, refused so to do; being afterwards called in by Mr. Wells, he testified on oath as follows:

QUES.—When did you first become a resident of Minnesota Territory?

ANS.—I first came here during the summer of 1848.

QUES.—Under whose employ was you?

ANS.—Under Charles R. Reed's employ; I remained with him one month, then I went to Beef Slough, in Wisconsin, with John McKane, and worked about a month and a half; then I came and hired to James J. Gilbert, and worked with him a month and a half or two months.

QUES.—Did you consider this your home during the time you were on the other side?

ANS.—I considered this my home then, and ever shall.

QUES.—Had you your bedding, clothing, &c., on this side, when you were over the river?

ANS.—I had.

*Cross examined by Mr. White.*

QUES.—At what time last Fall did you go over into Wisconsin?

ANS.—It was when the first snow fell.

QUES.—What was your employment?

ANS.—Making shingles, getting logs, chopping, and raising houses.

QUES.—At what time last spring, did you come over here?

ANS.—I do not remember the precise time, it was after the river was clear of ice here.

QUES.—Were you in this Territory on the 3d of March last?

ANS.—I was here on the 1st and 3d both, I came over and then went back again.

QUES.—In whose employ were you at this time?

ANS.—No one's, I was running about on my own hook.

QUES.—At what time did you come here and enter Mr. Reed's employ?

ANS.—I cannot tell; the Highland Mary was at the foot of Lake Pepin at the time I commenced working again on this side.

QUES.—Did you work all winter in Wisconsin?

ANS.—I did.

QUES.—Are you a single man?

ANS.—Yes; but I won't be long.

WILLIAM SMOTHERS.

His X Mark.

Edwin Morse, of lawful age, being first duly sworn, deposes as follows:

I came to Reed's Landing on the 6th of May, A. D. 1847. I am acquainted with Bernard Schmit or Smith, William Smothers, Edward Beers, Henry E. Baldwin, Abner Beers and William Cheesbro.

I have understood from Bernard Smith, that he resided on the opposite side of the river, at Nelson's Landing; and I firmly believe, from seeing him cross and re-cross the river, that he did reside upon the other side since I came on the 6th of May last. I heard Smith and his wife both say that they were

going to Germany; I saw them both leave with all their effects on the steam boat Highland Mary, about two weeks since.

William Cheesbro told me that his place of residence was Du Buque, Iowa; he is a trader upon the river, he has been here two or three times since I have been here; he said he preferred to stop on this side of the river when passing up and down.

I believe that Edward Beers and Henry E. Baldwin, have not had any fixed residence on this side of the river; they have been here a part of the time, and away part of the time, between the time I came and the 1st day of August last.

At the time of the late election, great exertions were used by the friends of Mr. Wells to get as many as possible to vote at the polls, whether they were legal voters or not.

EDWIN MORSE.

Charles Reed being recalled, testifies: That William Smothers, Edward Beers and Abner Beers, have been, since I knew them, transient persons, engaged the greater portion of their time on the Mississippi and Chippewa rivers, or in lumbering in the State of Wisconsin. Henry E. Baldwin was formerly in partnership with me at this place; but in November, 1848, he left and was engaged in lumbering at Beef Slough, Wisconsin, I think, until July last, when he returned here. I understand that some of these men have families residing in this Territory; I think they are all single men.

*Cross examination conducted by James Wells.*

QUES.—What have been the intentions of these men in regard to becoming citizens of Minnesota?

ANS.—So far as Baldwin and Smothers are concerned, I can answer; Baldwin has made his home here more or less during the two years last past, and it is his intention to become a citizen of the Territory. Smothers for one year, and it is his intention to become a citizen as soon as this Half Breed tract is purchased of the Government. I know nothing of the intentions of Edward and Abner Beers.

(Mr. White objects to this last question and answer, upon the ground that it is not competent for one man to testify in regard to the intentions of another.)

QUES.—Has William Cheesbro any property with you, or any in the Territory at present?

ANS.—He has a barrel of pork and a box of goods in store with me; that is all the property that I am aware of his possessing any where.

*Direct examination resumed.*

QUES.—Have you a storehouse here?

ANS.—I have.

QUES.—Do you not frequently store things for any of the lumbermen that are passing down?

ANS.—Yes, for any one that wishes to store property with me.

QUES.—Do you also keep a house to entertain transient persons for a long or short time, as they may see fit?

ANS.—Yes sir.

QUES.—Has any person a right to take a claim here, or make himself a home here, without permission from the inhabitants?

ANS.—I believe no white person has that right.

QUES.—How long has Mr. Cheesbro lived here with you at any one time?

Ans.—Not more than two weeks.

QUES.—By Mr. Wells: What do you mean by a residence?

Their employment was on the other side, and their business led them there.

QUES.—By Commissioners: To what persons do you allude in your last answer?

Ans.—Bernard Smith, Edward Beers and Abner Beers, Henry E. Baldwin and William Smothers.

CHAS. R. REED.

Francis Lapointe, of lawful age, being first duly sworn deposes as follows: I am acquainted with Bernard Smith, William Smothers, Edward Beers, Henry E. Baldwin, Abner Beers, William Cheesbro.

I saw Bernard Smith on this side of the river in the month of March last, but I do not know whether he was here on the 3d day of March. He lived here from March until June last, and then he went over to the other side of the Mississippi river to build a house for Mr. White. He came back during the month of August, to work on this side of the river; his wife went with him when he went over to build White's house. Smith and his wife worked for Mr. Reed, but never kept house on this side of the river. I understand that Smith has gone to Germany with his family. I remember seeing Smith at the polls, on the day of the election. I heard him say that he had a right to vote in this Territory. I heard Mr. Wells ask him if he was a resident of the Territory on the 3d day of March last, and he said he was a resident before that. I heard him say on the day of the election, that he was going over to Germany, to bring eight or ten families into this Territory to reside. I do not know whether William Smothers lived in this Territory on the 3d of last March. I have known him five years; he is a transient man, he works out for hire wherever he can get good wages. During the last four years, I think he has worked most of the time in this Territory. He has gone down the river on rafts a few times. Part of last winter, he worked with Baldwin, at Beef Slough, in Wisconsin.

I have known Edward Beers for two years; he generally follows the river, when he is at work, he is generally engaged in rafting lumber out of the Chippewa river and taking it down to St. Louis. He has been here much of the time since I first knew him; do not know of his having any property here or any where else, nor where he was on the 3d of last March.

I have known Henry E. Baldwin since he first became a partner of Charles Reed, on this side of the river. He was getting out logs at Beef Slough, in Wisconsin, last winter; I do not know whether he was in the Territory or not on the 3d of last March; I saw him here often during the spring and summer. I heard David Webster challenge Baldwin's vote on the day of election. But he was not sworn; some one, Mr. Beers, I think, stated that his trunk and watch were on this side, and they took his vote.

I have known Abner Beers more than two years; he is a carpenter by trade. Since I first knew him, he has worked part of the time on this side and part of the time on the other side. He worked on the other side a part of last winter; I do not know where he was on the 3d day of last March; he was here through the summer; I do not know of his having owned any property on this side of the river; I know nothing about his property.

I have known William Cheesbro five years; most of the time he has been engaged as a raftsman; I believe his home is at Wildcat, below Root river, I heard him say so. He has no family; I do not know whether he was here on the 3d of March last or not. I saw him vote at the election in August last; he lives, I think, about two miles below Root river.

FRANCIS LAPOINTE,  
His X Mark.

Louis Rock being recalled, testified as follows:

My wife washed for William Cheesbro during the summer of 1848, and during the last summer; he was not up here last winter, and my wife did not wash for him. Mr. Cheesbro is a raftsmen, my wife does not wash for the raftsmen generally, but for those she is intimately acquainted with. He has gone down on a raft, he left here yesterday morning, he left some clothing at my house. I do not know whether Cheesbro was here on the 3d day of March last or not. I never heard him say where his house was.

LOUIS ROCK.

Joseph Bisson, of lawful age, being first duly sworn, deposes as follows:

I am acquainted with Bernard Smith, William Smothers, Edward Beers, Henry E. Balwin, Abner Beers and William Cheesbro.

I have known Bernard Smith about three years, when I first knew him, he lived on the east side of Lake Pepin, in the State of Wisconsin. He sold his claim on the other side of the river and came sometime last spring to live on this side; I do not know whether he came before the 3d of March last, or afterwards; I understand he has now gone to Germany, and expects to return here with some of his friends.

I have been acquainted with William Smothers about five or six years. Since I first knew him, sometimes he lived on this side of the river and sometimes on the other, and sometimes he was going down upon a raft. It is more than I can tell, whether he lived on this side on the 3d of March last; I think he has made his home on this side for the last year; I have seen him here often.

I have known Edward Beers a couple of years; most of the time since I have known him, he was going down on rafts; I do not know whether he was here on the 3d day of March last; I saw him vote at the late election in this district. He generally stops on this side of the river when he is up in this part of the country. I do not know where he spent the last winter.

I have known Henry E. Baldwin about two years; since he first came in partnership with Charles R. Reed, at this place. I have understood he dissolved partnership with Mr. Reed during the fall of 1848; he then went to Beef Slough, in Wisconsin; I saw him here off and on since last spring, but I am not sure that he was here on the 3d day of March last. I have understood that he has gone to his home in the East. During the time that I have known him, he spent more of his time on this side of the river than on the other; I do not know whether he has any property on this or the other side of the river.

I have known Abner Beers a couple of years; the first time I knew him, he lived on the opposite side of the Mississippi river; I do not know whether he lived on this side before last spring or not; I do not know whether he lived here on the 3d of March last or not.

I have known William Cheesbro about four years; he is a traveler, he comes up on boats and goes down on rafts. I do not recollect of his staying here during a winter; I do not know whether he resided in this Territory on the 3d day of March last; I suppose he has gone down the river now; I saw him vote at the late election, I heard him say he considered himself a voter here; I heard David Webster question him about his right to vote. I cannot say whether he was sworn or not; I was at the polls all the day on the 1st of August, in this district; I did not hear the judges of election swear any one that day.

JOSEPH BESSON.

His X Mark.

Alexis P. Bailly, of lawful age, being first duly sworn, deposes as follows:

I am acquainted with Bernard Smith, I have known him about a year and a half; when I first knew him, he lived on the east side of Lake Pepin, in Wisconsin. I have heard it said that he has worked on this side of the river since that time, but I do not know it of my own knowledge; I cannot tell on which side of the Mississippi river he lived on the 3d day of March last; some time during the last summer he was in my employ on this side. I could not say whether he voted at the late election or not; I did not attend the polls. I think Mr. Smith lived on the opposite side of the river last winter.

I have known Edward Beers since the summer of 1848, at that time he was residing with Mr. Gilbert, on the other side of the river; since then, he has been up the Chippewa river, employed in rafting. I think he lived on the Chippewa river last winter; I cannot say where he lived on the 3d day of March last. During the last summer, I think he has lived on this side most of the time.

I have known Henry E. Baldwin two years, when I first knew him, he was a partner of Charles R. Reed, at this place; I do not know when he left Mr. Reed; he has since lived on Beef Slough, in the State of Wisconsin; I think he lived there last winter. I do not know where he lived on the 3d of March last. I cannot tell whether he has lived on this side the most of the last summer; I understand he has now left the country.

I first knew William Smothers about seven years ago, when he first came to the country; when I first knew him, he lived at Holmes' Landing, forty miles below this on the Wisconsin side. His general course of life has been trapping; last winter he lived on the opposite side, and trapped on the Chippewa river. I do not know where he lived on the 3d of March last; he has never trapped on this side of the river, to my knowledge.

I first became acquainted with Abner Beers about one year ago, more or less; he was then living with Mr. Gilbert on the Wisconsin side of the river. I do not know where he lived on the 3d of last March; but I think he has lived on this side the greater part of the time during the last summer; I understand that he and Edward Beers are both absent from this country at present. All the men of whom I have spoken, are said to be single men, except Mr. Smith. I do not know of any of these men owning houses or lands on this side of the river. I understand that Smith once owned a place on the other side, but I am not aware that the others have owned any real estate there.

A. P. BAILLY.

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David Webster, of lawful age, being first duly sworn deposes as follows:

I have resided in this vicinity about five years, I am acquainted with Bernard Smith, Edward Beers, William Smothers, Henry E. Baldwin, Abner Beers and William Cheesbro; I was first judge of the late election held at the house of Augustine Rock, in the Wabeshaw District. The above named men all voted there and none of their votes were challenged. From my acquaintance with them and my knowledge that they had resided on this side of the river during the spring and summer, I supposed them to be legal voters, and therefore, thought it my duty as judge, to receive their votes.

I have known Bernard Smith about one year; when I first knew him he was at Mr. Gilbert's, in Wisconsin, with his family. I saw him and his wife here some time in March last; I cannot say when they came over; whenever I have seen them on this side they have been at Mr. Reed's. I live about three miles from said Reed's. I do not know where Smith was last winter; he is a carpenter by trade, and goes wherever his business calls him.

I have known William Smothers about two years; he is a laboring man,

and works about from one place to another: when I first became acquainted with him, he was with Mr. McKane, on the east side of the river. I think he left McKane in February last, since that time he has worked principally on this side of the river. I think that Smothers told me in February, that he had left McKane and brought his things on this side of the river. From the time he came over, till the first of August, he spent most of his time on this side.

I have known Edward Beers about two years, he is a raftsmen; I do not know of his having any fixed residence here, only, that he kept his things at Mr. Rock's, and had his washing done there. Last winter, he was some of the time here and some of the time on the other side. I do not know where he was on the 3d of last March.

I have known Henry E. Baldwin from two to three years; when I first knew him he was a partner of Mr. Reed, at Reed's Landing. Last winter he was engaged in getting out lumber at Beef Slough in Wisconsin. He had property on this side during the whole of last winter, and I heard him speak of this place as his home.

I have known Abner Beers about two years; he was at Mr. Gilbert's, in Wisconsin, when I first knew him. In the summer of 1848, he was running lumber out of the Chippewa river, and down to St. Louis, by the job in company with his brother, Edward Beers. Last winter he was changing about, some of the time he was here and some of the time away; where he was on the 3d day of last March, I am not able to say.

On the day of the election, on the 1st of August last, William Cheesbro told me that he had resided in this Territory about three years, and I as a judge, took his word for it, although he was not sworn. Personally, I have no certain knowledge as to his residence.

*Cross examination by Mr. White.*

QUES.—Do you know that Mr. Smith resided here more than four weeks at any one time?

ANS.—I saw him here off and on all the spring and summer, how long he staid here at any one time without going across the river for an hour or two, I cannot say.

QUES.—Do you know of Edward Beers having lived here more than two months at any one time?

ANS.—I could not say exactly, what time in the spring he came here, but I have seen him here often since that time, as often as I have come here myself.

QUES.—Do you know of Abner Beers having lived here more than two months at any one time?

ANS.—I could not tell how long exactly, he has lived here; I have often seen him, but I never thought it my duty to ask a man how much he had changed about.

DAVID WEBSTER.

Oliver Cratt, of lawful age, being first duly sworn, deposes as follows:

I have known Bernard Smith over twelve months, he resided with his family, at McKane's, on the opposite side of the river; he came over to my house to borrow tools, and told me he was going to work for Charles Reed. I live about three miles from Mr. Reed's; he came to borrow the tools about the last of February, but I do not know that he brought his family over. I saw Mr. Smith vote at the late election.

I have known William Smothers about two years and a half; he lived with Mr. Holmes, on the east side of the Mississippi river; he is a laboring man



and a trapper; he lived most of last winter on Beef Slough, in Wisconsin. I do not know where he was on the 3d day of last March.

I have known Edward Beers something like two years, when I first knew him he was stopping with Mr. Gilbert, in Wisconsin. In the spring of 1848, he and his brother took a contract to run lumber from Allen's mills, on the Chippewa, down to St. Louis; then he told me had at last got his home on this side. Part of last winter he spent on Chippewa river, and as soon as he got through with his business there, he came back here to me, he called this place his home. He has not been very long in any one place since I first knew him, but has been here I think, more than he has on the other side. I cannot tell whether he got back here before the 3d of March last or not. I do not know of his having owned or rented any house or land in this Territory.

I first became acquainted with Henry E. Baldwin nearly two years ago, about that time he went in partnership with Charles R. Reed. He went over to Beef Slough to work some time in the fall of 1848; he come back to this side in the spring; I have had property of his in my possession during the last two summers and the last winter.

I have known Abner Beers something more than two years, when I became acquainted with him, he was living with Mr. Gilbert, in Wisconsin; he is a carpenter by trade; I do not know where he was living on the 3d of last March; I have heard him, when at my house, call this side his home. I have known of his residing on this side, I do not know that he has lived here more than three months at any one time.

OLIVER CRATT.

His X Mark.

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Willard Ballow, being recalled, testified as follows:

In your testimony in chief, you stated that Bernard Smith, William Smothers, Edward Beers, Henry E. Baldwin and Abner Beers, resided in the State of Wisconsin on the 3d day of March last. What meaning did you intend to convey by saying they resided there? Mr. Smothers was at work for Mr. Gilbert by the month, at that time; Edward Beers and Abner Beers, were on the Chippewa river, and whenever they came down from the Chippewa river, they invariably stopped at Mr. Gilbert's house and left their things there and called it their home, and neither of them moved their effects from Mr. Gilbert's before the 20th of March. This I am very positive of.

Bernard Smith and Henry E. Baldwin, spent the winter at Beef Slough, in Wisconsin, getting out shingles, and they did not move from Beef Slough till after the 3d day of March last.

WILLARD BALLOW.

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James J. Gilbert, of lawful age, being first duly sworn, deposes as follows:

I am acquainted with Bernard Smith, William Smothers, Edward Beers, Henry E. Baldwin, Abner Beers and William Cheesbro.

The first acquaintance I had with Bernard Smith, was about a year ago last spring, he came down from Ogalla Mills, and made a claim near Bogus Creek in Wisconsin; after that he came with his family, I hired them, and they lived with me about six months, when he got through working with me he went out to Beef Slough with his family, and he remained there until after the 3d day of March last, with his family.

I have known William Smothers some years; the most of the time since I have been acquainted with him, he has lived in Wisconsin. He works out by the month or job; he was at my place part of the winter, the fore part of

the winter he was at McKanes, on Beef Slough, in Wisconsin. He was living with me on the 3d day of March last, he made my house his home at that time, he had not all his effects there. I do not know where he got his washing done. He left my house after the 20th of March last and came over to Mr. Reed's. I think he is considered a transient man.

A year ago last fall, Edward Beers came to my house, and worked for me all winter, the next summer he ran lumber down from the Falls of Chippewa and down the Mississippi river. Last winter he was on the Chippewa river at work; he was backward and forward during the winter several times; he came back to get provisions; his trunk was at my house during the winter, and he always stopped there whenever he came down. I have frequently heard him remark that my house was the only home he ever had in this country. He made my house his home till after the 3d day of March last. I think he left my house after the 20th of March, when he left my place, he took a raft and went to Galena. Since that time he has been pretty much of the time at Reed's Landing.

My first acquaintance with Henry E. Baldwin, was some three years ago. He came to Reed's Landing, and entered into partnership with Charles R. Reed; he left Reed's some time last fall, and went to Beef Slough, where he was engaged in getting out shingles, &c., till the opening of navigation, which was after the 3d of March last; he remained at Beef Slough getting out logs after the opening of navigation, for some time. I think that most of his effects were at Beef Slough during the time he was there. He was in partnership with McKane there, and did not dissolve partnership with McKane until within a month or two since. Since he dissolved partnership with McKane, he stopped two or three days at my house, and then came over here, (to Reed's Landing,) till he left on a boat.

I became acquainted with Abner Beers over two years ago. He has made my house his home up to the 24th of last March; he has resided on this side mostly since that time; he got his washing done at my house whenever I had a woman that was able to do it.

I know but little of William Cheesbro. I think he was in the employ of Mr. Stone, on the Menominee river, during last winter, and I think he was in Wisconsin until some time in March; he came down in May with Mr. Stone, on a raft from the Menominee River.

JAMES J. GILBERT.

## TERRITORY OF MINNESOTA:

We, the Commissioners, appointed by a resolution of the House of Representatives of Minnesota Territory, do hereby certify that the above named witnesses, prior to the taking of their depositions, were by us, duly sworn to testify the truth in all matters relating to the petition of Harley D. White, claiming his seat as a member of the House of Representatives of Minnesota Territory; and that the said depositions were on the seventh, eighth and tenth days of September, A. D. 1849, at Reed's Landing, in the Wabeshaw District of Minnesota Territory, taken and reduced to writing, and signed and sworn to respectively, by said witnesses in our presence.

Given under our hands and seals, this 14th day of Sept. A. D. 1849.

B. W. LOTT, }  
P. P. BISHOP, } Commissioners.

MINNESOTA TERRITORY, }  
ST. CROIX COUNTY. }

This day, personally appeared before me, one of the Justices of the Peace in and for said county, W. H. Gabbert, who being duly sworn to give evidence in the case of the contested election now pending before the Legislature of Minnesota Territory, between Harley D. White and James Wells, of Wabeshaw precinct; deposeth and saith,

That Bernard Smith, William Smothers, Edward Beers, Henry E. Baldwin, Abner Beers and William Cheesbro, told him, the said Gabbert, both before the day of the late election to the Minnesota Legislature, and on the day of the election, and since the day of the election, that they were not legal voters as they did not reside in the Territory on the 3d of March last. And the said Gabbert says upon his oath, that the aforesaid William Smothers, Edward Beers, Henry E. Baldwin, Abner Beers and William Cheesbro, told him that they did vote at the polls of the election at Wabeshaw precinct, on the first day of August last.

Sworn to and signed before me, this 13th day of September, A. D. 1849.  
W. H. GABBERT.

JOHN A. WAKEFIELD, }  
Justice of the Peace. }