

Buell, David
Potter, G. F.

STATE PRISON.—Pettit, J. L. Armstrong, Wakefield, Baxter, Smith.

STATE LIBRARY.—Miller, Perkins, Smith.

PRINTING.—Brown, Harris, Butters.

ENGROSSMENT.—Folsom, Freeman, Butters.

1868

Jan. 14

JOINT COMMITTEE.

TAX AND TAX LAWS.—A. Armstrong, Smith.

AGRICULTURAL COLLEGE LANDS AND COLLEGE.—Perkins, Bristol.

PRINTING.—Brown.

Mr. Baxter gave notice that he would on to-morrow or some future day introduce

A bill to provide for the appointment of a Railroad Commissioner, and prescribing the duties of his office.

Mr. Daniels gave notice that he would on to-morrow or some future day introduce

A bill to authorize the admission of William W. Billson to the practice of law.

Also,

A bill to amend chapter 83 of Session Laws of 1867.

Mr. E. P. Freeman gave notice that he would on to-morrow or some future day introduce

A bill for an act to amend an act to authorize the county commissioners of the county of Blue Earth to issue bonds, being chapter 43 of special laws of 1865.

Mr. J. L. Armstrong gave notice that he would on to-morrow or some future day introduce

A bill to authorize the Board of Supervisors of the township of Lake City, in the county of Wabasha, and State of Minnesota, to issue bonds.

Mr. Becker gave notice that he would on to-morrow or some future day introduce

A bill to amend section 279 title 23 chapter 66 of the general statutes of Minnesota.

Mr. Pettit gave notice that he would on to-morrow or some future day introduce

A bill to amend chapter 90 of the revised statutes.

Mr. A. Armstrong gave notice that he would on to-morrow or some future day introduce

A bill to amend title 9 chapter 66 of the statutes of Minnesota, relating to attachments.

Mr Gilman gave notice that he would on to-morrow or some future day introduce

A memorial to Congress to give aid for the construction of the Northern Pacific Railroad.

The President announced that he had received sealed communications purporting to be evidence in the contested election case in the

13th Senatorial District, between Geo. F. Potter and David L. Buell. The Senate received the communications, and on motion of Mr. Perkins they were made the special order for to-morrow at 11 o'clock.

Mr. Wakefield gave notice that he would on to-morrow or some future day introduce

A bill to change the name of Edgar Chute to Edgar Nokes.

Also,

A memorial to Congress for a mail route from Jackson, in Jackson county, to Redwood Falls, in Redwood county.

Mr. Freeman offered the following resolution:

Resolved, That 2,200 copies of the Governor's message be printed for the use of the Senate, as follows: 1,000 copies in English, 300 copies in German, 300 copies in Norwegian, 300 copies in Swede, and 300 copies in Welsh.

Mr. Becker called for a division of the resolution.

Mr. Daniels gave notice of debate, and the resolution laid over under the rules.

Mr. Gilman gave notice that he would on to-morrow or some future day introduce

A bill to legalize the issuing of town orders, as a bonus to the St. Cloud Bridge Company.

Mr. J. L. Armstrong offered the following resolution, which was adopted:

Resolved, That a select committee of three be appointed to divide the subjects contained in the Governor's message, for the purpose of referring them to the appropriate standing committees.

Messrs. J. L. Armstrong, Wakefield and Becker were appointed such committee.

Mr. Baxter offered the following resolution:

Resolved, That that the Committee on Retrenchment and Reform be, and they are hereby directed to prepare and report a bill fixing the per diem and mileage of the officers and members of the Legislature.

Upon a division of the Senate, the resolution was lost.

Mr. Becker gave notice that he would on to-morrow or some future day introduce

A bill to amend title 10 of chapter 66 of the general statutes of Minnesota, relating to garnishment.

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

Resolved, That the Secretary of the Senate be authorized to subscribe for five copies of a daily paper, or its equivalent in weeklies,

Which was read the first time and referred to the committee on railroads and railroad grants.

→ The hour of 11 o'clock having arrived, the President announced the special order, being the contested election case in the 13th Senatorial District, between Geo. F. Potter and David L. Buell.

The Secretary called the contestants, who answered in person.

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

Resolved, That the contestant and Senator now in his seat be permitted to appear by their counsel, and present their testimony to the Senate.

Messrs. C. K. Davis and M. S. Wilkinson appeared as counsel for Mr. Potter, and Mr. J. M. Gilman as counsel for Mr. Buell.

Mr. Perkins moved that the notice of contest which specifies the points thereof, be read by the Secretary. Carried.

The following message was received from the House of Representatives:

MR. PRESIDENT:—I have to announce the appointment on the part of the House of the following named Representatives on joint committees:

ON TAXES AND TAX LAWS—Messrs. Bryant, Sawyer and Lewis.

ON AGRICULTURAL COLLEGE LANDS AND COLLEGE—Messrs. Harrington, Ross and Dresbach.

ON PRINTING—Messrs. Proper and Henry.

Also that the House has passed the following concurrent resolution:

Resolved by the House of Representatives, the Senate concurring, That the committee on printing be authorized to procure the printing of 300 copies of the Legislative Manual for the use of the Legislature.

S. P. JENNISON, Chief Clerk.

The Secretary proceeded to read the notice of contest referred to in the resolution of Mr. Perkins.

Mr. Davis offered in evidence the depositions taken on the part of the contestant.

Mr. Gilman, counsel for respondent, objected to the reception of the testimony of the contestant, for reasons specified.

Mr. Perkins moved that the Senate now proceed to the hearing of the testimony of the contestant, subject to the objections made by the respondent's counsel. Carried.

Mr. Wakefield moved that the Senate take a recess until 7 o'clock this evening.

Mr. Daniels moved to amend by striking out "7" and inserting "half-past two." Carried.

The motion as amended was carried.

AFTERNOON SESSION.

The Senate convened at 2½ o'clock P. M., and was called to order by the President.

The roll being called, the following Senators answered to their names:

Messrs. A. Armstrong, J. L. Armstrong, Baxter, Brown, Buell, Butters, Daniels, Folsom, Freeman, Franklin, Griggs, Harris, Perkins, Pettit, Pillsbury, Smith, Wakefield.

Mr. Daniels moved to reconsider the vote by which the Senate agreed to proceed to the hearing of the testimony of the contestant, subject to the objections of the respondent's counsel. Carried.

By consent of the Senate, Mr. Perkins withdrew his motion.

Mr. Davis offered in evidence the testimony taken by the contestant.

Mr. Gilman, counsel for respondent, objected to the introduction of said testimony, so far as it related to illegal voting, on the ground of insufficiency of the specifications, and an abandonment of the contest by contestant.

Mr. Gilman also called for the reading of the affidavit of Hugh Cameron, which was read by the Secretary.

Mr. Davis called for the reading of the affidavit of L. S. Keeler and Walter McArthur, Justices of the Peace, and the same was read by the Secretary.

On motion of Mr. Pillsbury, the Senate took a recess until half-past seven o'clock this evening.

EVENING SESSION.

The Senate convened at 7½ o'clock, P. M., and was called to order by the President.

The roll being called, the following Senators answered to their names:

Messrs. A. Armstrong, J. L. Armstrong, Baxter, Becker, Brown, Buell, Butters, Freeman, Franklin, Griggs, Harris, Miller, Perkins, Pettit, Smith, Wakefield.

Mr. Smith moved that the objections interposed by the respondent, Buell, to the admissibility of the testimony of the contestant, Potter, be, and the same are hereby sustained.

Mr Smith called for a division.

Mr. Daniels moved to lay the resolution on the table, which motion prevailed. Mr. Daniels moved that the testimony of the contestant be now heard—

And the yeas and nays being called for and ordered, there were yeas 15 and nays 3, as follows:

Those who voted in the affirmative were—

Messrs. A. Armstrong, J. L. Armstrong, Becker, Brown, Butters,

Daniels, Franklin, Gordon, Griggs, Harris, Perkins, Pettit, Smith, Wakefield.

The President announced the special order, being the contested election case in the 13th Senatorial District.

→ The Secretary called the parties, who answered in person.

Mr. Franklin arose to a question of privilege, referring to a statement in the St. Paul Press relative to the action of the Democratic members of the Senate upon the contested election case; also involving personal reflections upon himself—denying said charges, and stating that there had been no caucus held by the Democratic members upon the case; and so far as the article reflected upon himself, it was entirely unfounded.

Mr. Davis, for contestant, notified the Senate that he rested his case for the present.

Mr. Gilman, counsel for respondent, called for the reading of the testimony of the respondent.

Mr. Davis objected to the reading of said testimony, for reasons stated.

After some time spent in arguing the question,

On motion of Mr. A. Armstrong, the Senate adjourned.

January 23rd

Buell, David
Potter, G. F.

THIRTEENTH DAY. 1868

THURSDAY, January 23d, 1868.

The Senate met pursuant to adjournment, and was called to order by the President.

Prayer by the Chaplain.

The roll being called, the following Senators answered to their names:

Messrs. A. Armstrong, J. L. Armstrong, Baxter, Bristol, Brown, Buell, Butters, Daniels, Folsom, Freeman, Franklin, Gordon, Griggs, Harris, Miller, Perkins, Pettit, Pillsbury, Smith, Wakefield.

The journal of yesterday was read and approved.

Mr. Perkins presented the petition of citizens of Northfield, Minnesota, against the passage of S. F. No. 5, relating to garnishment,

Which was read and referred to Committee on Judiciary.

The President appointed as the committee on the part of the Senate, under the resolution relating to the State Normal School at Winona, Senators Bristol and Franklin.

Mr. Pettit presented a communication from F. R. Delano, Esq. relative to the Minnesota State Railroad Bonds,

Which was read, and on motion of Mr. Pettit laid on the table and ordered printed.

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S. F. No. 1, A bill for an act to authorize the admission of William W. Billson to the practice of law,

Also,

S. F. No. 9, A memorial to the Congress of the United States for aid in the construction of the Northern Pacific Railroad,

Have been duly signed by the proper officers, and that they have this day been presented to the Governor for his approval.

On motion of Mr. Bristol, the Senate took a recess until two o'clock P. M.

Buell, David
Potter, G. F.

AFTERNOON SESSION.

The Senate convened at 2 o'clock P. M., and was called to order by the President.

The roll being called, the following Senators answered to their names:

Messrs. J. L. Armstrong, Baxter, Brown, Buell, Butters, Daniels, Freeman, Franklin, Gordon, Griggs, Perkins, Pettit, Pillsbury, Smith, Wakefield.

The contested election case in the 13th Senatorial District, being the special order, was taken up.

The Secretary called the parties, who answered in person.

The following message was received from the House of Representatives:

MR. PRESIDENT:—I have to announce that the House of Representatives has concurred in the resolution concerning the improvement of the St. Croix river.

The House has also passed the following bills, herewith transmitted:

H. F. No. 5, An act to legalize and make valid the annual School returns of the counties of Wabasha and Fillmore, and to instruct the Superintendent of Public Instruction to make distribution of public school money to said counties according to number of scholars reported.

H. F. No. 7, An act to amend chapter 65 of the General Statutes, entitled courts of justices of the peace.

H. F. No. 16, An act to authorize the town of Sauk Centre, in the county of Stearns, to issue its bonds to aid the construction of the Northern Pacific Railroad to said town, and to legalize the action of said town in relation thereto.

H. F. No. 11, An act to legalize the action of a special meeting of the Saint Charles School District, in the County of Winona, held Jan. 11, 1868.

S. P. JENNISON, Chief Clerk.

Mr. Baxter moved that the testimony of the respondent be received and read to the Senate in evidence.

And the yeas and nays being called for and ordered, there were yeas 5 and nays 13, as follows:

Those who voted in the affirmative were—

Messrs. Baxter, Butters, Franklin, Griggs, Smith.

Those who voted in the negative were—

Messrs. A. Armstrong, J. L. Armstrong, Bristol, Brown, Daniels, Freeman, Gilman, Gordon, Harris, Miller, Perkins, Pettit, Wakefield.

So the motion was lost.

Mr. Gilman, on behalf of the respondent, asked for further time to take testimony, in such manner as the Senate may prescribe.

On motion of Senator Gilman, the Senate took a recess until half-past seven o'clock this evening.

EVENING SESSION.

The Senate convened at half-past seven o'clock, and was called to order by the President.

The roll being called, the following Senators answered to their names:

Messrs. J. L. Armstrong, Baxter, Bristol, Brown, Buell, Butters, Freeman, Franklin, Gilman, Gordon, Griggs, Harris, Miller, Perkins, Pettit, Smith, Wakefield.

Mr. Baxter moved that the testimony of the respondent be read for the information of the Senate.

On a division of the Senate, the motion prevailed.

The Secretary proceeded to read the testimony.

Mr. Franklin moved that the parties to this contest be granted fifteen days in which to take further testimony.

Mr. Perkins moved that the Senate adjourn.

On a division of the Senate, the motion was lost.

The question recurring upon Mr. Franklin's motion,

Mr. Daniels moved that the Senate adjourn.

On a division of the Senate, the motion was lost.

The question recurred upon Mr. Franklin's motion.

Mr. Gordon moved a call of the Senate.

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

Messrs. Becker, Folsom and Pillsbury.

On motion of Mr. Baxter further proceedings under the call were dispensed with.

The question recurred upon Mr. Franklin's motion.

And the yeas and nays being called for and ordered, there were yeas 10 and nays 8, as follows:

Those who voted in the affirmative were—

Messrs. Baxter, Butters, Freeman, Franklin, Gilman, Griggs, Harris, Pettit, Smith, Wakefield.

Those who voted in the negative were—

Messrs. A. Armstrong, J. L. Armstrong, Bristol, Brown, Daniels, Gordon, Miller, Perkins.

So the motion prevailed.

Mr. Franklin offered the following resolution:

Resolved, That a commission of two be appointed by the President of the Senate for the purpose of taking further evidence in the contested election case of Potter, contestant, vs. Buell, respondent; and the said commission shall have power to issue subpoenas and enforce obedience thereto; to send for prisoners and papers, and to administer oaths.

And the yeas and nays being called for and ordered, there were yeas 10 and nays 8, as follows:

Those who voted in the affirmative were—

Messrs. Baxter, Butters, Freeman, Franklin, Gilman, Griggs, Harris, Pettit, Smith, Wakefield.

Those who voted in the negative were—

Messrs. A. Armstrong, J. L. Armstrong, Bristol, Brown, Daniels, Gordon, Miller, Perkins.

So the resolution was adopted.

Mr. Daniels moved to reconsider the vote by which the Senate refused to receive the testimony of the respondent as evidence.

And the yeas and nays being called for and ordered, there were yeas 17 and nays 1, as follows:

Those who voted in the affirmative were—

Messrs. A. Armstrong, J. L. Armstrong, Baxter, Bristol, Brown, Butters, Daniels, Freeman, Franklin, Gilman, Griggs, Harris, Miller, Perkins, Pettit, Smith, Wakefield.

Mr. Gordon voted in the negative.

So the motion prevailed.

Mr. Gordon moved that the Senate adjourn.

Lost.

The question recurred upon the original motion of Mr. Baxter, that the testimony of the respondent be received and read to the Senate in evidence.

Mr. Gordon moved a call of the Senate.

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

Which motion prevailed.

The question recurred upon Mr. Baxter's motion.

And the yeas and nays being called for and ordered, there were yeas 9 and nays 9, as follows:

Those who voted in the affirmative were—

Messrs. J. L. Armstrong, Baxter, Butters, Freeman, Franklin, Gilman, Griggs, Pettit, Smith.

Those who voted in the negative were—

Messrs. A. Armstrong, Bristol, Brown, Daniels, Gordon, Harris, Miller, Perkins, Wakefield.

So the motion was lost.

Mr. Daniels moved that the Senate adjourn.

On a division of the Senate the motion was lost.

Mr. Smith offered the following resolution:

Messrs. J. L. Armstrong, Baxter, Becker, Bristol, Brown, Buell, Butters, Daniels, Folsom, Franklin, Griggs, Harris, Smith, Wakefield.

Mr. Daniels moved the Senate adjourn.

Which motion was lost.

Messages from the House were taken up.

The House resolution increasing the joint committee on Railroad Bonds was read, and on motion of Mr. Baxter, laid on the table.

The following communication was received from His Excellency, the Governor:

1868

Buell, David
Potter, G. F.

STATE OF MINNESOTA, EXECUTIVE DEPARTMENT, }
SAINT PAUL, February 7, 1868.

Hon. Thos. H. Armstrong, President of the Senate:

SIR:—I have this day approved and signed,

S. F. No. 38, An act to prescribe the fees of court commissioners.

S. F. No. 63, An act to legalize certain proceedings of the county commissioners of Sherburne county, in 1866, and the election of certain officers in said county.

Very Respectfully,

Your Obed't. Serv't.,

WM. R. MARSHALL.

→ On motion of Mr. Becker, the contested election case in the 13th senatorial district was taken up.

Both parties present.

The resolution of Mr. Gordon, relative to respondent's testimony, and the point of order raised by Mr. Becker, being the questions before the Senate.

Mr. Smith moved the resolution be indefinitely postponed.

Mr. Becker insisted upon his point of order.

The President decided the point of order was not well taken,

The question being upon the motion of Mr. Smith.

And the yeas and nays being called for and ordered, there were yeas 15 and nays 6, as follows:

Those who voted in the affirmative were—

Messrs. J. L. Armstrong, Baxter, Becker, Bristol, Brown, Butters, Folsom, Freeman, Franklin, Gilman, Griggs, Harris, Pettit, Pillsbury, Smith.

Those who voted in the negative were—

Messrs. A. Armstrong, Daniels, Gordon, Miller, Perkins, Wakefield.

So the motion prevailed.

Mr. Franklin moved that the Senate adjourn.

Lost.

Mr. Folsom offered the following resolution:

Resolved, That the Hon. Geo. F. Potter is entitled to the seat now

occupied by the Hon. D. L. Buell, as Senator from the 13th Senatorial District, Minnesota.

Mr. Smith offered the following substitute for Mr. Folsom's resolution:

Resolved, That D. L. Buell be, and he is hereby declared to be entitled to his seat in this Senate, as Senator from the 13th Senatorial District of this State.

The question being taken upon Mr. Smith's substitute, And the yeas and nays being called for and ordered, there were yeas 6 and nays 15, as follows:

Those who voted in the affirmative were—

Messrs. Baxter, Becker, Butters, Franklin, Griggs, Smith.

Those who voted in the negative were—

Messrs. A. Armstrong, J. L. Armstrong, Bristol, Brown, Daniels, Folsom, Freeman, Gilman, Gordon, Harris, Miller, Perkins, Pettit, Pillsbury, Wakefield.

So the substitute was not adopted.

Mr. Folsom withdrew his resolution and offered the following substitute:

Resolved, That George F. Potter be; and he is hereby admitted to a seat in the Senate, as the Senator from the 13th Senatorial District, in place of D. L. Buell, the present incumbent.

And the yeas and nays being called for and ordered, there were yeas 15 and nays 6, as follows:

Those who voted in the affirmative were—

Messrs. A. Armstrong, J. L. Armstrong, Bristol, Brown, Daniels, Folsom, Freeman, Gilman, Gordon, Harris, Miller, Perkins, Pettit, Pillsbury, Wakefield.

Those who voted in the negative were—

Messrs. Baxter, Becker, Butters, Franklin, Griggs, Smith.

So the resolution was adopted.

Mr. Gordon gave the following reasons for his vote, and asked that they be entered on the journal.

My reasons for my vote are as follows:

1. The depositions of contestant were properly taken and are legal evidence before the Senate.

2. The evidence in these depositions is sufficient *prima facie* to give the contestant the seat in question.

3. The depositions of respondent were not taken in accordance with law and are *ex parte* in toto, and are therefore improper testimony, and I cannot take them into consideration, whatever may be the opinion in that regard, of my brother Senators. I decide this case, so far as I am concerned, upon my own views and opinions, and

not upon the views and opinions of my brother judges, even if they be in a majority.

On motion of Senator Miller, Mr. Potter came forward and took and subscribed the usual oath.

The President announced Mr. Potter to fill the places upon the different committees heretofore occupied by Mr. Buell.

On motion of Mr. Baxter, the Senate adjourned.

TWENTY-FOURTH DAY.

SATURDAY, February 8th, 1868.

The Senate met pursuant to adjournment, and was called to order by the President.

The roll being called the following Senators answered to their names:

Messrs. J. L. Armstrong, Baxter, Becker, Bristol, Daniels, Griggs, Smith, Wakefield.

No quorum appearing, on motion of Mr. Wakefield, the Senate adjourned.

TWENTY-FIFTH DAY.

MONDAY, February 10th, 1868.

The Senate met pursuant to adjournment and was called to order by the President.

Prayer by the Chaplain.

The roll being called the following Senators answered to their names:

Messrs. A. Armstrong, J. L. Armstrong, Becker, Bristol, Daniels, Folsom, Harris, Perkins, Potter, Smith, Wakefield.

The journals of Friday and Saturday, February 7th and 8th, were read and approved.

Mr. Smith presented petition of T. R. Huddleston, and thirty-eight others, to change the time of holding terms of district court in

Dakota county, which on motion, was referred to the committee on Dakota county, without reading.

Mr. Perkins, on leave introduced

S. F. No. 102, A bill for an act proposing 7 of article 1 of the constitution of the State

Which was read the first time and referred to the committee on

Mr. Wakefield, on leave, introduced

S. F. No. 103, A joint resolution relative to the advance of an appropriation made by Congress for a wagon road from the western boundary of Minnesota to the Red River.

Which was read the first time and referred to the committee on General Relations.

Mr. Wakefield, on leave, introduced

S. F. No. 104, A joint resolution relative to the extension of the Road,

Which was read the first time and referred to the committee on General Relations.

Mr. Bristol, on leave introduced

S. F. No. 105, A bill for an act to provide for the sale of lands in the city of Red Wing.

Which was read the first time and referred to the committee on General Relations.

Mr. Folsom, from the committee on engrossing, reported that they had examined and found correctly engrossed S. F. No. 60, 71, 89 and 96.

Mr. J. L. Armstrong, from the committee on general relations, reported that they had examined and found correctly engrossed S. F. No. 21, A bill for an act to amend section chapter thirteen (13) of the general statutes, relating to roads and bridges.

On motion of Mr. Perkins, S. F. No. 35 was read the first time and placed upon the regular files.

Mr. A. Armstrong, from committee on public lands, reported that they had had under consideration the memorial of the Dakota Territory, in relation to the establishment of the Red River Valley,

And report the same back with a joint resolution recommending to pass.

S. F. No. 106, A joint resolution relative to the establishment of a U. S. Land Office in the Red River Valley.

Which was read the first time.

S. F. No. 100 was read the second time.

H. F. No. 27, was read the second time.

Messages from the House were taken up.

H. F. No. 37, A bill for an act to establish county treasurers.

Which was read the first time and referred to joint committee on roads and tax laws.

On motion of Mr. Smith the Senate adjourned.