

SIXTEENTH DAY.

FRIDAY, July 31, 1857.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

Prayer by the Rev. Mr. PENMAN.

The Journal of yesterday was read and approved.

Mr. BROWN submitted the following report:

"The Committee to whom was referred the subject of the Legislative Department of the Government, and the subject of Congressional and Legislative Apportionment, respectfully submit a report upon the Legislative Department of the Government. The Committee at a future time will submit a report upon Congressional and Legislative Apportionment in a separate Article.

ARTICLE —.

LEGISLATIVE DEPARTMENT.

"SECTION 1. The Legislative Department of the State shall consist of a Senate and House of Representatives, who shall meet at the Seat of Government of the State at such times as shall be prescribed by law.

"SEC. 2. The number of members who compose the Senate and House of Representatives shall be prescribed by law, but the representation in the Senate shall never exceed *one* member for every five thousand inhabitants, and in the House of Representatives *one* member for every two thousand inhabitants. The representation in both Houses shall be apportioned equally throughout the different portions of the State, in proportion to the population thereof, and exclusive of Indians not taxable under the provisions of law.

"SEC. 3. Each House shall be the judges of election returns and eligibility of its own members; a majority of each shall constitute a quorum to transact business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each House may provide.

"SEC. 4. Each House may determine the rules of its proceedings, sit upon its own adjournment, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but no person shall be expelled a second time for the same offense.

"SEC. 5. The House of Representatives shall elect its presiding officer, and each other House shall elect such other officers as may be provided by law—shall keep a Journal of its proceedings, and from time to time publish the same, and the yeas and nays of either House, upon any question upon which they may be had, shall be entered on such Journal.

"SEC. 6. Neither House shall during the session of the Legislature adjourn for more than three days, (Sundays excepted,) nor

to any other place than that in which the two Houses shall be entitled, without the consent of the other House.

"SEC. 7. The compensation of Senators and Representatives shall be three dollars per diem during the first session, but may afterwards be prescribed by law. But no increase of compensation shall be prescribed which shall take effect during the period for which the members of the existing House of Representatives may have been elected.

"SEC. 8. The members of each House shall in all cases except treason, felony, and breach of peace, be privileged from arrest during the session of their respective Houses, and in going to or returning from the same, for any speech or debate in either House, they shall not be questioned in any other place.

"SEC. 9. No Senator or Representative shall during the time for which he is elected, hold any office under authority of the United States, or the State of Minnesota, except that of Post Master, and no Senator or Representative shall hold an office under the State, which had been created, or the emoluments of which had been increased during the session of the Legislature of which he was a member, until two years after the expiration of his term of office in the Legislature.

"SEC. 10. All Bills for raising a revenue shall originate in the House of Representatives, but the Senate may propose and concur with amendments as on other Bills.

"SEC. 11. Every Bill which shall have passed the Senate and House of Representatives, in conformity to the rules of each House, and the Joint Rules of the two Houses, shall before it becomes a law, be presented to the Governor of the State. If he approve, he shall sign and deposit it in the office of Secretary of State for preservation, and notify the House where it originated of the fact. But if not he shall return it with his objections, to the House in which it shall have originated, when such objections shall be entered at large on the Journal of the same, and the House shall proceed to reconsider the Bill. If after such reconsideration, two-thirds of that House shall agree to pass the Bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if it be approved by two thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by the yeas and nays, and the names of the persons voting for or against the Bill shall be entered on the Journal of each house respectively. If any Bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature by adjournment within that time prevent its return, in which case it shall not become a law.

"SEC. 12. No money shall be appropriated except by bill. Every order, resolution or vote, requiring the concurrence of the two Houses, (except such as relate to the business or adjournment of the same,) shall be presented to the Governor for his signature, and before the same shall take effect, shall be approved by him,

or being returned by him with his objections, shall be repassed by two-thirds of the members of the two houses, according to the rules and limitations prescribed in case of a bill.

"SEC. 13. The style of all laws of this State shall be *'Be it enacted by the Legislative Assembly of the State of Minnesota.'*

"SEC. 14. The House of Representatives shall have the sole power of impeachment, through a concurrence of a majority of all the members elected to seats therein. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members present.

"SEC. 15. The Legislative Assembly shall have full power to exclude from the privilege of electing or being elected, any person convicted of bribery, perjury or any other infamous crime.

"SEC. 16. Two or more members of either house shall have liberty to dissent and protest against any act or resolution which they may think injurious to the public or any individual, and have the reason of their dissent entered on the Journal.

"SEC. 17. The Legislative Assembly shall prescribe by law, the manner in which vacancies in either house shall be supplied, and the manner in which evidence in cases of contested seats in either house shall be taken.

"SEC. 18. Each house may punish by imprisonment, during its session, any person not a member, who shall be guilty of any disorderly or contemptuous behavior in their presence, but no such imprisonment shall at any time exceed twenty-four hours.

"SEC. 19. Each house shall be open to the public during the session thereof, except in such cases which, in the opinion of the house, require secrecy.

"SEC. 20. Every bill shall be read on three different days in each separate house unless in case of urgency, two-thirds of the house where such bill is pending, shall deem it expedient to dispense with this bill, and no bill shall be passed by either house until it shall have been previously read twice at length.

"SEC. 21. Every bill having passed both houses shall be carefully enrolled, and shall be signed by the presiding officer of each house. Any presiding officer refusing to sign a bill, which shall have previously passed both houses; shall thereafter be incapable of holding a seat in either branch of the Legislative Assembly.

"SEC. 22. The Legislature shall provide by law for an enumeration of the inhabitants of this State in the year of one thousand eight hundred and sixty-five, and every ten years thereafter. At their first session after each enumeration so made, and also at their first session after each enumeration made by the authority of the United States, the Legislature shall have power to prescribe the bounds of Congressional, Senatorial and Representative Districts, and to apportion anew the Senators and Representatives among the several districts according to the provisions of section second of this article.

"SEC. 23. Members of the House of Representatives shall be

elected to serve for one year, and members of the Senate shall be elected to serve for two years.

"SEC. 24. Senators and Representatives shall be citizens of the United States, and shall have resided for one year in the State, and six months, immediately preceding the election, in the district from which they are elected.

"SEC. 25. Members of the Senate of the United States from this State shall be elected by the two houses of the Legislative Assembly on joint ballot, at such times and in such manner as may be provided by law.

"SEC. 26. No bill shall be passed by either house, embracing any subject not referred to in the title.

"SEC. 27. All members and officers of both branches of the Legislature, shall, before entering upon the duties of their respective trusts, take and subscribe an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Minnesota, and faithfully and impartially to discharge the duties devolving upon him as such member or officer.

All of which is respectfully submitted.

JOSEPH R. BROWN,	WM. P. MURRAY,
HENRY N. SETZER,	ANDREW KEEGAN.
DAVID GILMAN,	W. A. DAVIS,
W. W. KINGSBURY,	O. W. STREETER.

On motion of Mr. SETZER, the report was laid on the table until to-morrow.

Mr. MURRAY offered the following report:

"The Committee to whom was referred so much of the Constitution as relates to a preamble and declaration of rights, would make the following report:

"That they have had the same under consideration and are of opinion that although a declaration of rights is a mere repetition of some of the inherent, fundamental rights of the people which are generally conceded and acknowledged, and of the great, leading provisions of our government, the committee deem such an enumeration of the sacred rights of the people of eminent propriety and utility, not only as a standard easily referred to upon Constitutional questions, but as a brief and paramount declaration of rights, beyond which useless and improvident legislation cannot go.

"The committee therefore recommend the adoption of the following preamble and bill of rights:

PREAMBLE.

"We, the people of Minnesota in order to form a State government and to secure and perpetuate the blessings of liberty, do ordain and establish this Constitution.

DECLARATION OF RIGHTS.

"1st. Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent, together with the right to alter, modify, or reform such government whenever the public good may require it.

"2d. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizens thereof, unless by the law of the land, or the judgment of his peers.

"3d. Neither slavery, nor involuntary servitude, unless for the punishment of crimes, shall ever exist or be tolerated in this State.

"4th. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State to every person; and no person shall be rendered incompetent as a witness on account of his opinions on matters of religious belief, and no religious tests shall ever be required as a qualification for any public office; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of this State.

"5th. The right of trial by jury shall be secured to all, and remain inviolate forever, but a jury trial may be waived by the parties in all civil cases, in the manner to be prescribed by law.

"6th. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in case of rebellion or invasion, the public safety may require it. Excessive bail shall not be required; excessive fines imposed; nor shall cruel and unusual punishments be inflicted.

"7th. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law; the right to be heard and defend in person or with counsel; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him, and to have compulsory process awarded.

"8th. No person shall be held to answer for any criminal offense, unless on the presentment or indictment of a grand jury, except in cases of impeachment, and in cases cognizant before Justices of the Peace, and in cases of militia when in actual service, and the land and naval forces in time of war. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled in any criminal case, to be a witness against himself; and in all cases before conviction the accused shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

"9th. No law shall be passed abridging the right of the people peaceably to assemble to consult for the common good, to instruct their representatives, and to petition the government or any department thereof.

"10th. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous be true and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

"11th. No bill of attainder, ex post facto, or retroactive law, or law impairing the obligation of contracts, shall ever be passed.

"12th. Foreigners who are, or may hereafter become bona fide residents of this State shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property, as native born citizens.

"13th. The right of the people to be secure in their persons, houses, papers and effects against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause supported by oaths or affirmations particularly describing the place to be searched, and the persons and things to be seized.

"14th. Treason against the State shall consist only in levying war against it, adhering to its enemies or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act or on confession in open court.

"15th. No person shall be imprisoned for debt in any civil action on mesne or final process, unless in case of fraud; and no person shall be imprisoned for a militia fine in time of peace. A reasonable amount of property shall be exempt from seizure or sale, for the payment of any debt or liability incurred thereon—the amount of such exemption shall be determined by law.

"16th. Private property shall not be taken for public use without just compensation therefor.

"17th. The military shall be subordinate to the civil power, and no standing army shall be kept up in this State in time of peace.

"18th. All lands within this State are declared to be allodial, and feudal tenures of every description, with all their incidents are prohibited. Leases and grants of agricultural land for a longer period than fifteen years, hereafter made, in which shall be reserved any rent or service of any kind, shall be void.

"19th. All lands within this State, the title to which shall fail from defect of heirs, shall revert or escheat to the people.

"20th. The enumeration of rights in this Constitution shall not be construed to deny or impair others retained by and inherent in the people.

WM. P. MURRAY, }
GOLD T. CURTIS, } Committee.
O. W. STREETER. }

On motion of Mr. MURRAY, the report was laid on the table until to-morrow.

On motion of Mr. FLANDRAU, the Chaplain was excused from attendance for four days.

On motion of Mr. HOLCOMBE, Mr. BUTLER was excused from attendance for five days.

On motion of Mr. MURRAY, the following resolution was adopted :

"Resolved, That no report from any Standing Committee shall be considered, until the same shall have laid upon the table one day after having been printed, unless by unanimous consent of the Convention. *Provided,* That reports heretofore made shall not be affected by the adoption of this resolution."

Mr. M. E. AMES, offered the following resolution :

"Resolved, That 100 copies of the Rules of the Convention including the Enabling Act of Congress, the names and residences of the members, and the Standing Committees, be printed as soon as practicable for the use of the Convention."

Which was adopted.

On motion of Mr. SETZER, the Convention resolved itself into Committee of the Whole,

Mr. M. E. AMES in the Chair,

Having under consideration the report of the Committee on Corporations having no banking privileges.

On motion of Mr. SETZER, it was ordered,

That the report be read section by section.

Whereupon the Secretary read the first section to which no amendment was offered.

Mr. BECKER moved to amend the second section by striking out the words "and in cases where the objects of the corporation cannot be attained under general laws."

Mr. STURGIS moved to amend the amendment by striking out the paragraph after the words "municipal purposes," and adding in lieu thereof the words "railroads and such other public improvements as may be of general interest to the State."

During the discussion of these amendments, on motion of Mr. SETZER,

The Committee rose, reported progress, and asked leave to sit again.

Leave was granted.

On motion of Mr. FLANDRAU, the Convention resolved itself into Committee of the Whole, Mr. BROWN in the chair, having under consideration the report of the Committee on "Militia."

Mr. M. E. AMES moved to amend the first section thereof by inserting after the word "free," in the first line, the word "white," and to strike out the words "negroes and mulattoes excepted."

Which motion was carried.

On motion of Mr. EMMETT,

The vote by which the above amendment was carried, was reconsidered.

Mr. BECKER offered the following substitute for the first section:

"SECTION 1. The Militia shall be composed of all able-bodied male inhabitants possessing the qualifications of voters, between the ages of twenty-one and forty-five years, except such as are exempted by the laws of the United States; but all such citizens who from scruples of conscience, may be averse to bearing arms shall be excused therefrom upon such conditions as shall be specified by law."

Which substitute was rejected.

The question then recurring on Mr. M. E. AMES' amendment,

Was decided in the negative.

On motion of Mr. BECKER,

The Committee rose, reported progress, and asked leave to sit again.

Leave was granted.

On motion of Mr. MEEKER, the Convention adjourned.

H. H. SIBLEY, President.

J. J. NOAH, Secretary.

SEVENTEENTH DAY.

SATURDAY, Aug. 1, 1857.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

The Journal of yesterday was read and approved.

Mr. WARNER submitted a report of the Committee on Postage.

On motion of Mr. SETZER, the report was recommitted to the Committee, with instructions to amend the same by striking out the "suggestion."

Mr. M. E. AMES submitted the following report, which was laid over under the rule: