

January 2, 1856.]

COUNCIL.

3

TERRITORY OF MINNESOTA, }
COUNTY OF FILLMORE. } ss

Subscribed and sworn to this twenty-first day of December, A.D. 1855, before
me, H. S. H. HAYES,
Justice of the Peace.

Laid on the table by the Secretary.

From Joel B. Bassett, contesting the seat of D. M. Hanson, viz :—

From an examination of all the votes that have been returned to the Register of Deeds for the counties of Hennepin and Carver, I find the following to be the result, viz :—For J. B. Bassett, five hundred and twenty-seven votes, (527) for D. M. Hanson, four hundred and eighty-two votes, (482) severally, for the Legislative Council for the years of 1856 and 1857, and I hereby declare the above mentioned J. B. Bassett duly elected Councillor for the Eleventh Council District.

Given under my hand and seal, of the County of Carver,

J. M. DAVIS,
Register of Deeds, L. S.
Carver County.

San Francisco, December 5th, 1855.

ELM CREEK, }
HENNEPIN Co., MIN. TER., Dec. 29, 1855. }

Amos Clark, one of the Judges of Election, in Crow River Precinct, Hennepin county, being duly sworn before me, one of the Justices of the Peace for Hennepin county, hereby testifies, that at the regular election holden in said Precinct, on the 9th day of Oct. 1855, there were thirty (30) votes cast for Joel B. Bassett for Councilman, for the eleventh district.

JOSEPH B. HOLT,

Justice of the Peace.

OFFICE OF REGISTER OF DEEDS, }
HENNEPIN COUNTY, M. T. }

I hereby certify that the official canvass of the votes returned to this office from the several precincts in Hennepin and Carver counties, was made on the 20th day of October, or thereabouts.

GEO. E. HUY,
Register of Deeds.

Both presenting certificates of election, the Secretary referred the subject to the Council, when,

On motion of Mr. Setzer,

D. M. Hanson was admitted to his seat, and the ayes and noes being called on the question,

Those who voted in the affirmative were

Messrs. Ludden.	Freeborn.	Tillotson.
Setzer.	Stone.	Lowry.
Brisbin.	Dooley.	Balcombe.
Rollins.	Thompson.	Flandrau.

There were no votes in the negative ; so the motion prevailed.

On motion of Mr. Setzer,

Hon. J. B. Brisbin was chosen President of the Council *pro tem*.

On motion of Mr. Freeborn,

Wm. Colville was chosen Secretary of the Council *pro tem*.

On motion of Mr. Flandrau,

Chas. H. Mix was chosen Assistant Secretary of the Council *pro tem*.

On motion of Mr. Hanson,

S. D. Heard was chosen Sergeant-at-Arms of the Council *pro tem*.

On motion of Mr. Rollins,

J. P. Howlett was chosen Messenger of the Council *pro tem*.

On motion of Mr. Setzer,

R. F. Houseworth was chosen Enrolling Clerk of the Council *pro tem.*

On motion of Mr. Setzer,

Mr. Heaton was chosen Fireman of the Council *pro tem.*

On motion of Mr. Hanson,

Rev. Dr. Van Ingen was chosen Chaplain of the Council *pro tem.*

Mr. Setzer moved that a Committee of three be appointed to investigate the questions involved in the several contests for seats in this Council: that said committee have power to send for persons and papers, and to administer oaths; and with instructions to report to the Council as early as possible.

Which motion was unanimously adopted, and the Chair appointed Messrs. Setzer, Flandrau and Thompson, said committee.

On motion of Mr. Hanson the Council adjourned.

J. B. BRISBIN,

President of the Council *pro tem.*

A. J. MORGAN, Secretary.

THURSDAY, JANUARY 3, 1856.

The Council met pursuant to adjournment and was called to order by the President *pro tem.*

Prayer by Rev. Dr. Van Ingen.

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

Messrs. Bailly.
Balcomb.
Dooley.
Flandrau.
Freeborn.

Hanson.
Lowry.
Rollins.
Setzer.

Stone.
Thompson.
• Tillotson.
Mr. President *pro tem.*

The Journal of the proceedings of the Council on yesterday, was read and approved.

On motion of Mr. Freeborn,

The officers elected under the temporary organization of the Council were ordered to be sworn into office.

Whereupon Mr. Wm. Colville appeared at the President's desk and took the oath of office, and then assumed the duties of Secretary *pro tem.* to the Council.

Mr. Charles H. Mix was then sworn in by the President *pro tem.* and took his seat as Assistant Secretary *pro tem.* of the Council.

Mr. S. D. Heard was then sworn in as Sergeant-at-Arms *pro tem.* of the Council.

Mr. J. P. Howlett was then sworn in as Messenger *pro tem.* of the Council.

Mr. R. F. Houseworth then appeared at the President's desk and was sworn in as Enrolling Clerk *pro tem.*

Mr. Hanson moved that the Rules for the government of the last Session of the Council be adopted temporarily as the Rules of the present Council, which motion prevailed.

Mr. Setzer moved that the Council do now adjourn until two o'clock this afternoon, which motion prevailed; and the Council adjourned.

On motion of Mr. Setzer, the Council adjourned.

JOHN B. BRISBIN,
President.

W. COLVILLE, Jr., Secretary.

FRIDAY, JANUARY 11, 1856.

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

Prayer by the Rev. Mr. Penman.

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

Messrs. Bailly, Balcomb, Dooley, Flandrau, Freeborn, Hanson, Lowry, Ludden, Rollins, Rolette, Stone, Thompson, Tillotson and Mr. President.

The reading of the Journal of the proceedings of yesterday was commenced.

Mr. Flandrau moved that the reading of the report and evidence on the contested seat of Mr. Lowry, in the Council, be dispensed with, which motion prevailed.

The remainder of the Journal was read and stood approved.

Mr. Freeborn offered the following resolution:

Resolved, That there be 200 copies of the report of the committee on the contest for the seat occupied by Mr. Lowry, printed, together with the evidence submitted to the committee and that said report and evidence be inserted in the appendix to the Journal of the proceedings of the Council.

On motion of Mr. Flandrau, the resolution was adopted.

Mr. Flandrau gave notice that on to-morrow or some future day, he would ask leave to introduce

A bill granting to Richard Ireland and Richard Austin the right to establish and maintain a ferry across the Mississippi river.

Mr. Dooley gave notice that on to-morrow or some future day, he would ask leave to introduce a bill granting to Lewis La Croix the right to establish, and maintain a ferry across the Minnesota river at the town of Little Rapids, in Scott County.

Mr. Freeborn gave notice that on to-morrow or some future day, he would ask leave to introduce a bill to incorporate the town of Red Wing.

Mr. Flandrau gave notice that on to-morrow or some future day, he would ask leave to introduce a bill to organize Brown County, and for other purposes.

Mr. Stone gave notice that on to-morrow or some future day, he would ask leave to introduce a bill to establish a Territorial road from a point on the west side of the Mississippi river, commencing at La Croix landing, about two miles below the mouth of Crow river, and running a westerly course on the south side of said river to Cedar Lake, by the way of the main forks of Crow river. The reports of committees being then in order, Mr. Setzer from the committee on contested elections, made the following report:

Your committee on contested elections, to whom was referred the case of Joel B. Bassett, contesting the seat of Hon. D. M. Hanson, would beg leave to submit the following report. That they have had the subject under consideration, and from the testimony brought before them, find as follows:

That on the 9th day of October last, an election was held at twelve precincts within the county of Hennepin, at which Mr. Hanson and Mr. Bassett received the number of votes set down under their names, at the respective precincts in the county:

	Mr. Hanson.	Mr. Bassett.
1. Minneapolis,	162	159
2. Excelsior,	30	26
3. Minnetonka,	20	7
4. Richland,	27	32
5. Greenwood,	5	
6. Brooklin,	43	79
7. Marshall,	20	40
8. Medicine Lake,	37	2
9. Bloomington,	1	14
10. Eden Prairie,	8	19
11. Wayzata,	6	22

Objection, it appears, had been raised by the canvassers to the admission and counting of the votes cast at the precinct of Wayzata, the District Attorney, J. Atwater, Esq., having pronounced its establishment by the county commissioners of Hennepin county, illegal, but since it does not appear in evidence that the voters were aware of such illegality, your committee would recommend that those votes be counted.

Crow River precinct: This precinct by its poll-book, returns for Joel B. Bassett thirty votes, and Mr. Hanson one vote, *for member of the House of Representatives*. Mr. Bassett attempts to show, by an affidavit from Amos Clark, one of the Judges of election at this precinct, that those votes cast for Mr. Bassett were cast for him as candidate for Councillor; the question, whether the affidavit of one of the Judges, is sufficient to invalidate the regular returns signed by three Judges and two clerks, under the solemnity of their official oaths, and decided by the majority of your committee in the negative, Mr. Thompson dissenting; the result however not being affected by this diversity of opinion the discussion is immaterial to the main point of investigation.

In the county of Carver the precinct of Chanhassan, was organized while said county formed an integral part of the county of Hennepin, and at the late election (notice of which was given in due time by the Register of Deeds of Hennepin county) the said precinct cast for Councillor, for Mr. Hanson 121 votes and for Mr. Bassett thirty-six votes.

Giving in the precincts enumerated, according to the majority of your committee, to Mr. Hanson for Councillor 480 votes, to Mr. Bassett 447 votes, or if the position taken by Mr. Thompson be correct, in regard to Crow River precinct, then Mr. Hanson is entitled to count 481 votes, and Mr. Bassett 477 votes, still leaving Mr. Hanson a majority of four.

It further appears in evidence, that an election was held, or rather pretended to be held, at three places within the county of Carver, to wit: Carver, San Francisco and Glencoe, but the testimony brought before your committee shows such utter disregard to even the forms of law, such evident knowledge on the part of the persons concerned in the transaction, as to the illegality of their proceeding, and such reckless contempt for the sanctity of the ballot-box, that your committee cannot give the slightest credit to the returns emanating from the self-styled Register of Deeds of Carver county. In Glencoe, the polls were opened an hour after sunset, the judges and clerks were not sworn, and no notices of election were given; at San Francisco, the election notices were put up within from three to five days previous to the election; missing ballots were supplied by some accommodating gentleman standing near, and after passing through a number of hands, a certain gentleman, not an official, but who appears to have been the leading spirit of the affair, declared he would have nothing more to do with the concern, and the farce exploded; at Carver, similar circumstances occurred, two of the judges of election were themselves not legal voters in the county of Carver; one of these

gentlemen carried the open ballot-box home with him, when going to his dinner; a few days previous, while conversing as to the illegality of certain transactions of his, in regard to the appointment of a Register of Deeds, the same individual averred that he knew the transaction to be wrong, but observed that "we must beat Hanson and Hunt, and elect Bassett," &c; but the testimony as taken has been placed in the hands of your Secretary, and may be read, if thought advisable. Your committee would, therefore, submit the following resolution:

Resolved: That Mr. Hanson is entitled to the seat he now occupies, representing the 11th District, in the Territorial Council.

H. N. SETZER, Chairman.

C. W. THOMPSON.

CHAS. E. FLANDRAU.

In the matter of the contested seat between D. M. Hanson and Joel B. Bassett, in the Council of Minnesota.

January 4th, 1856.

George E. Huy sworn for Mr. Bassett. I am Register of Deeds of Hennepin county. I have the returns of the late election from Hennepin county and Carver county.

Returns of the election in Carver and Hennepin counties offered.

CROW RIVER PRECINCT.

Members of the House of Representatives.

Joel B. Bassett 30 votes, -

D. M. Hanson 1 "

Affidavit of Amos Clark, one of the judges of election in Crow river precinct, that Bassett received 30 votes for Councilman at the last election. Marked 1.

WAYZATA PRECINCT.

Witness says that an objection was raised by one of the canvassers that the precinct was not properly established. The other Justice asked me what the facts were. They made application to county Commissioners to have it established at one time. The Commissioners asked the advice of the District Attorney, and he said it would not be legal. Mr. Atwater was the District Attorney. Next meeting, the Commissioners did establish a precinct at Wayzata. This was as much as 20 or 30 days before the election. The precinct was not counted—it was thrown out—having been established by the Commissioners within another precinct, or by taking parts of two precincts, and not at the regular meeting.

MINNEAPOLIS PRECINCT.

Hanson 162

Bassett 159

EXCELSIOR PRECINCT.

Hanson 30

Bassett 26

MINNETONKA PRECINCT.

Hanson 20

Bassett 7

RICHLAND PRECINCT.

Bassett 32

Hanson 27

GREENWOOD PRECINCT.

Hanson 5

BROOKLIN PRECINCT

Hanson 43

Bassett 79

MARSHALL PRECINCT

Bassett	40
Hanson	20

MEDICINE LAKE PRECINCT.

Bassett	2
Hanson	37

BLOOMINGTON PRECINCT.

Hanson	1
Bassett	34

EDEN PRAIRIE PRECINCT.

Hanson	8
Bassett	10

(This is all of Hennepin county.)

Carver County.

CHANHASSEN PRECINCT.

Hanson	121
Bassett	36

This precinct was organized by the Commissioners of Hennepin county while Carver was part of Hennepin.

Paper purporting to be a certificate of the Register of Deeds of Carver county, a Justice of the Peace and an assistant, showing the balance of votes cast in Carver county. This paper has never been returned to Hennepin county. Marked (2).

(Witness.) We canvassed the votes on the 20th or 23d of October—think Monday, 23 October, 1855. I gave Hanson a certificate from this canvass; have given him no other.

Thomas B. Hunt, who was the Register of Deeds of Carver county under the appointment of the Governor, came to me and wanted me to issue the notices of election, as he thought the appointment was not regular. I issued them in time. He brought some deeds that he had recorded, and wanted me to record them, as he thought them not properly recorded in Carver. Deeds have been recently sent to me from that county, for record.

Hunt said he had consulted Judge Chatfield on the subject of his appointment, and had been advised that it was not good. The Register, Davis, was the person appointed by the Commissioners of Carver county. That the judges of election of the three precincts in Carver made returns to the Register Davis, as appears by the certificate of Davis and the Justice of the Peace.

Thomas B. Hunt, sworn for Bassett.

I live in Carver county. I have held the appointment of Register of Deeds of Carver county. I was appointed by Governor Gorman. I have acted under the appointment after giving bonds and being sworn in. I am not acting as such now. I stopped acting as such about September, after consulting Judge Chatfield, who advised me my appointment was illegal.

I recorded nothing after that. I refused to act after that. I have stated to Governor Ramsey and Huy, that I thought my appointment illegal, and think I may have stated it to other persons. That has been my usual answer when consulted about the office. I don't think I ever stated such to the County Commissioners of Carver county. I am pretty positive of this. I went to see Huy before the election, and told him that I had seen Judge Chatfield, who had advised me that my appointment was illegal, and had also advised me that the proper officer to give notice of election in Carver was the Commissioner of Hennepin. That was about the 1st of September—might have been the latter part of August—pretty confident that it was in Septem-

ber, about the first. I think I have done no act as Register since receiving the opinion of Judge C. I issued no notices of election. The papers of my office all remain in my hands yet ; no one has asked for them.

Cross examined.—At the time of the election, L. H. Griffin resided in Scott county, across the river, opposite Carver. Griffin, previous to his removal from the county, held the offices of sheriff and assessor of Carver ; he told me he had resigned before he left.

Previous to his removal he came to St. Paul and resigned, as he told me, then went on to his claim in Scott county ; some time in December his case at the land office was decided ; he then moved, I think, to Carver ; I can't say positively about his returning back to Carver.

No returns of elections have been made from Glencoe, Carver and San Francisco precincts to me ; I never resigned my office of Register.

The Commissioners of Carver made a precinct at Chaska, and no election was held there, but the votes of Carver were principally cast at Chanhassen. We went to Chanhassen for the reason that we thought that if we voted at Chaska our votes would be thrown out.

I was told by a man who was at Carver precinct, that the ballots there were put into an open box ; and at 12 m., when the polls were closed for an hour by Levi H. Griffin, he took the box home with him until the polls were re-opened ; this is the same Griffin that I have above spoken of.

Mr. Waggerlin told me that he had voted for me for the House of Representatives at that precinct, and I understand that I got no votes there by the returns. I understand, further, that the man is ready to testify that he cast his vote there for me.

At the time of the election, Griffin resided in Scott county.

The Commissioners of Carver have never asked my attendance at any session of the Board.

Re-examined.—Griffin had a family residing in Scott county at the time of the election. I don't know that he took the ballot box across the river at noon. The man told me he took the box home, but I can't say whether he took it across the river, or to the hotel.

This hotel, I am informed, belonged to the Carver company, of which Griffin was a stockholder. I don't know who kept it at the time of the election.

There was no election at Chaska. Griffin kept the hotel previous to the election. It is now burned down. There is another hotel built in its place.

I consulted Mr. Becker in relation to my appointment. Becker was of the same opinion as Judge C.

I conversed with several citizens of these precincts, and told them that I thought the votes which should be cast in San Francisco, or any other place except Chanhassen, would be illegal, and told them the reasons I have already given. There was no plan that persons should be allowed to vote at these precincts and then not count them.

This subject of the illegality of these precincts was generally understood throughout the county, and the votes of Chanhassen came from all parts of the county. The votes cast at Carver were generally by Swedes and Norwegians, who could not read or write English.

The majority of the Chanhassen votes were from people who could read and write English.

S. D. Heard, sworn for Mr. Hanson.

I live at San Francisco, and did at the time of the election. I am agent with James M. Davis. This is the Carver Register above spoken of. He was appointed about a few days before election as follows. Foster was one of the County Commissioners of Carver. I don't think he was there, but came the next day and conceded to what had been done.

L. H. Griffin thought it was best to have a Register, and proposed Jos. M. Davis.

The parties there wanted me to draw the papers, bonds, &c., and a notary public swore Mr. Davis in. The papers were done up by me, and put in the books that belonged to the county. No Commissioners were present except Foster, who came into the warehouse shortly after; he might have been there at the time but can't say. There was no meeting of the Commissioners on that day. At the request of Griffin and Foster, I drew six notices of election for San Francisco precinct; had been no notice previous to that. I think it was five or six days before the election that the notices were put up. May have been as low as three to five days, not over six. I was there on the day of election. On that day, just before sundown, the ballot-box was seized, and I held him and kept it. There were fourteen votes polled by the books, and sixteen ballots found in the box. I brought the box down to the secretary of Gov. Gorman—private secretary. I delivered him the key.

The ballots were here in possession of the Governor's secretary about twenty days. Davis took them from here, and took them to Chaska. He told me that he got them and brought them to San Francisco.

Immediately after the election, the votes of San Francisco were canvassed by the judges and clerks. The poll books showed fourteen, and the ballot sixteen; they were made to agree. Those fourteen ballots were in my hand writing, and all for Bassett.

After the boxes were in San Francisco, Mr. Davis wanted me to make out the certificates of the precinct officers elected in San Francisco, and found nineteen or twenty votes, five or six besides the votes that were polled and first counted; he had taken them out of the box and had them in a book; all the original ones were there but one, then I took one out of my pocket and supplied the place of it.

I don't know who the other five or six votes were for, Bassett or Hanson. My impression is, they were mixed up and dropped by some mischievous person.

I, seeing how things were going in my absence, told Davis I could do nothing further in the matter.

Cross examined.—I can't say whether there was any appointment of Davis as Register, besides the one I have detailed.

About the time when the Register was appointed as above, it was said by persons that we must defeat Hanson and Hunt, and elect Bassett. They said that they had doubts about the matter, and that it all must go before the legislature, but they must have an election. I saw the first eight votes that were polled. I have understood that Charles Johnson was not a voter. I was requested to vote—I was not a voter at the time. It was by outsiders, and not by officers of the election. The principal object of the people was to show up the precinct and make a newspaper flourish; we were glad to get votes in any way—not to favor any particular candidate. Charley Johnson was one of the judges of election.

ELM CREEK, Hennepin County, }
Minnesota Territory. }

Amos Clark, one of the Judges of Election in Crow River precinct, Hennepin county, being duly sworn before me, one of the Justices of the Peace for Hennepin county, hereby testifies that at the regular election, holden in said precinct on the 9th day of October, 1855, there were thirty votes cast for Joel B. Bassett, for Councilman for the Eleventh District.

JOSEPH B. HOLT,
Justice of the Peace.

TERRITORY OF MINNESOTA, { ss.
County of Carver. }

We do hereby certify that on the 31st day of December we counted votes as returned to the clerk of the County Commissioners and found them to foot up as follows, viz:

FOR DELEGATE TO CONGRESS.

H. M. Rice

had

10 votes.

COUNCIL.

36

Wm. R. Marshall " 62 "
David Olmsted " 80 "

J. M. DAVIS, Clerk of Board Commissioners.
E. ELLSWORTH, Justice of the Peace.
L. H. GRIFFIN, Assistant.

TERRITORY OF MINNESOTA, }
County of Carver. }

We do hereby certify that on the 31st day of December compared the Poll lists of the different precincts and found them to foot up as follows, viz:

FOR MEMBER OF COUNCIL.

Joel B. Bassett	had	16	votes.
Bassett	"	2	"
Dun	"	8	"
Griffin	"	2	"
D. M. Hanson,	"	2	"
W. Flul	"	1	"

MEMBERS OF THE HOUSE OF REPRESENTATIVES.

Albert Wolf	had	44	votes.
Wolf	"	2	"
Charles McCave	"	41	"
Henry E. Wolfe	"	3	"
John Gratz	"	1	"
Arbey Cleveland	"	1	"
P. Faustin	"	1	"
P. B. Hunt	"	1	"

J. M. DAVIS, Clerk of Board Commissioners.
E. ELLSWORTH, Justice of the Peace.
L. H. GRIFFIN, Assistant.

From an examination of all votes that have been returned to the Register of Deeds, for the counties of Hennepin and Carver, I find the following to be the result, viz:

For J. B. Bassett five hundred and twenty-seven votes (527). For D. M. Hanson four hundred and eighty-two, (482); severally for the Legislative Council for the year of 1856—1857, and I hereby declare the above mentioned J. B. Bassett duly elected Councillor for the Eleventh Council District

Given under my hand and Seal of the County of Carver.

J. M. DAVIS,
Register of Deeds, Carver County.

San Francisco, Dec. 5th, 1855.

TERRITORY OF MINNESOTA, }
County of Carver. }

We do hereby certify that on the 31st day of December, A. D. 1855, we proceeded to compare the poll lists of the District Precincts, as returned to this office, and found them to foot up as follows, to-wit: