

# House of Representatives

## CONTESTED ELECTION REPORTS.

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WELLS AGT. RICHARDS.

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### PETITION OF JAMES WELLS.

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

The undersigned petitioner would respectfully represent to your honorable body, that he is a citizen of the Fourth Council District of Minnesota Territory, and that he received nineteen votes for a seat in your honorable body, at an election held at the house of Augustine Rock, in said district, and that Fordyce S. Richards received for the same sixteen votes, all of which will appear by reference to the returns now on file in the office of Register of Deeds for the county of Ramsey, a copy of which is on file in this House. And your petitioner further shows that the precinct above named is the only one legally established in the county.

Your petitioner, therefore, prays that the whole matter may be investigated, and if found as alleged in this petition, he may be admitted to his seat in your honorable body.

JAMES WELLS.

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### STATEMENT OF CONTESTANT.

*To the Committee to whom was referred the Petition of James Wells, claiming his right to a seat in the House of Representatives, now occupied by Richards :*

The contestant claims the following to be the law governing this case, and therefore asks the Committee to engraft into their report the following propositions :

1st. at the time of the organization of the Territory of Minnesota, the county of St. Croix was the only organized county in the Territory ; and no organization of any kind was at that time in being, by or under which the people residing west of the Mississippi river could be entitled to vote or send representatives to the Legislative Assembly.

2d. To provide for this want of organization, the Governor by his proclamation dated 7th July, A. D. 1849, declares among other things, that "The St. Croix Precient

in the county of St. Croix, and the settlements on the west bank of the Mississippi, south of Crow Village, to the line of Iowa, shall constitute the First Council District, &c.," and it is further declared in said proclamation, that the qualified voters in the First Council District west of the Mississippi, shall hold their election at the *house of Augustine Rock at Lake Pepin*. The provisions above mentioned, conferred the only authority which the people of what is now known as Wabasha county had to vote at the first election in this Territory, and the place of voting was limited to the house of Augustine Rock at Lake Pepin.

3d. By virtue of an act entitled "An act providing for the erection of certain counties therein named and other purposes." It is provided that all that portion of the said Territory lying south of a line running due west from a point on the Mississippi river, opposite the mouth of the St. Croix river, to the Missouri river, be and the same is hereby erected into a separate county, which shall be known by the name of Wabasha. And that Wabasha and certain other counties were organized for the sole and only purpose of the appointment of Justices of the Peace and certain other officers therein mentioned. And that the county of Wabasha is attached to Washington county for *judicial purposes*.

4th. The fact that Wabasha county was attached to Washington for judicial purposes, did not give the County Commissioners authority to establish election Precincts beyond the limits of the county.

5th. The establishment of the Precinct at Bunnell's, was without authority and void.

6th. The election at Bunnell's being without authority, should be set aside.

## PROCEEDINGS OF THE COUNTY COMMISSIONERS OF WASHINGTON.

*Territory of Minnesota—To the Honorable the Board of Commissioners for the county of Washington and the counties thereunto attached:*

The undersigned residents of Wabasha county, respectfully represent that the establishment of an election Precinct by your Honorable body, at or near Bunnell's Landing, would greatly conduce to the convenience and advantage of the citizens residing in the southern portion of said county of Wabasha, nearly all of whom are now obliged to travel fifty miles to reach the place of holding the election in said county.

The undersigned, therefore, pray that an election Precinct may be established at Bunnell's Landing, in said county, and that suitable persons to act as judges of the election may also be appointed; and your petitioners will ever pray.

May, 1851.

W. B. BUNNELL,  
JOHN PUNG,  
HARRIS DAY,  
PETER GON,

A. T. TINTLER,  
N. BROWN,  
M. RICHMOND,  
ORRIN PHILLIPS,

H. W. CARROLL.

REGISTER OF DEEDS OFFICE, }  
WASHINGTON Co., M. T. }

I do hereby certify that the above and foregoing is a true copy of the original petition for the establishment of an election Precinct at Bunnell's Landing, in the county of Wabasha, filed in this office July 22, 1851.

Witness my hand, this 19th day of January, 1852.

JNO. S. PROCTOR,  
Register.

At an extra session of the Board of County Commissioners of the county of Washington, held at the office of Register of Deeds in said county, on the 22d day of July, 1851, a petition signed by W. B. Bunnell and other citizens of Wabasha county, was presented, praying the establishment of an election Precinct at Bunnell's Landing, in said county, which was granted. Said Precinct to include so much of Wabasha county as lies south of a line commencing at the mouth of the River Des Ombras, and running thence west to the boundary line of said county. Elections to be held at the house of W. B. Bunnell.

The following persons were appointed as judges of election in said Precinct, viz :

W. B. BUNNELL,  
PETER GON,  
N. BROWN.

REGISTER OF DEEDS OFFICE, }  
WASHINGTON COUNTY. }

I do hereby certify that the foregoing is a true transcript of the record of the proceedings of the Board of Commissioners of the county of Washington, at their session held on the 22d of July, 1851, or so much thereof as relates to the establishment of an election precinct at Bunnell's Landing, in the county of Wabasha.

In witness whereof, I have hereto set my hand, and affixed the  
[L. s.] seal of the Board of Commissioners, this 19th day of January, A. D. 1852.

JNO. S. PROCTOR,  
Register and Clerk Board County Commissioners.

### REPORT OF MAJORITY COMMITTEE.

The committee to whom was referred the Petition of James Wells, contesting the seat in the House now occupied by Fordyce S. Richards, of Wabasha county, have had the matter under consideration, and ask leave to submit the following Report :

That at the General Election held on the 14th day of October, A. D. 1851, there were two Precincts in the county of Wabasha at which elections were held, to wit : One at the house of Augustine Rock, at which James Wells received 19 votes, and Fordyce S. Richards received 16 votes. At the other Precinct, at the house of W. B. Bunnell, Fordyce S. Richards received 12 votes, and James Wells received no votes. That the Precinct at the house of the said Augustine Rock was established by the Governor in his Proclamation of July 7th, 1849, and confirmed by the Legislature.— That the Precinct at the house of the said W. B. Bunnell was established by the Board of Commissioners for Washington county, to which Wabasha is attached, on the 22d day of July, A. D. 1851.

It is therefore the opinion of the majority of the committee that so much of the said petition of James Wells as asks that "he may be admitted to his seat" in this House cannot be granted, inasmuch as he has not received the majority of the legal votes cast in Wabasha county.

Then the only question before the committee is, the legality of the act of the Board of Commissioners in establishing the Election Precinct at Bunnell's, which being entirely a question of law is respectfully submitted for the consideration of the House, together with certified copies of the proceedings of said Board of Commissioners of Washington county.

The petitioner, as also the sitting member, have by their respective attorneys, sub-

mitted to the committee in writing the grounds on which each relies for the support of his case, which is also laid before the House.

D. DAY,  
M. BLACK.

### REPORT OF MINORITY COMMITTEE.

The minority of the committee, to whom was referred the Petition of James Wells, claiming a seat on this floor, would beg leave to Report:—

That he feels constrained to differ with a majority of the committee in the conclusions to which they arrive in their report, and submits the following, as a more legal and rational view to be taken of the case, as the same appeared before the committee.

The undersigned is clearly of the opinion that an election, to be legal and of any force or effect, must—

1st. Be held on the day fixed by law.

2nd. It must be held at a legal precinct.

If the election does not conform in both these particulars to the provisions of the statutes, there can be no doubt, I think, but that the whole vote would be illegal, and should be set aside in the precinct where such illegality existed.

In Wabasha county, an election was held at Bunnell's, at which place twelve votes were cast for the sitting member for representative in the legislative assembly, and none were cast for James Wells.

This vote, if a legal one, elected the sitting member. With the vote of Bunnell's precinct stricken out and rejected, James Wells would have a majority of votes.

This is not denied by the majority of the committee.

The undersigned is decidedly of the opinion that the election at Bunnell's was illegal and should be rejected, for the following reasons, viz:

There had been no election precinct legally and properly established at the point where the said election was held, and consequently the said election was not held at a place fixed by law.

It is contended that the County Commissioners of Washington county established a precinct, and that people voted in good faith, supposing that such precinct was legally established.

The undersigned has not been able to find any law authorizing the Board of County Commissioners of one county to establish election precincts beyond the limits of their own county; indeed it would be impolitic and unjust to allow them that authority.

In the absence of such legal authority, the Commissioners of Washington county could no more establish an election precinct at Bunnell's in the county of Wabasha than they could at Rice creek in the county of Ramsey, which no one will contend they have the power to do.

The last legislative assembly took the same view of this question, and made special provisions for the counties which were not organized for county purposes by enacting as follows:

"That the election precincts in the unorganized counties west of the Mississippi as established by the Governor in his Proclamation of the 7th day of July, one thousand eight hundred and forty-nine, are hereby confirmed and the election shall take place at the time and in the manner herein provided. The voters in said precincts having the right to elect their judges of elections who shall appoint their clerks, and the returns of the said election shall be made in the manner prescribed by law."

Here is a plain and simple provision of the statute designating where the elections on the west side of the Mississippi should be held, and I am at a loss to see how members of this House can disregard so plain an enactment.

It is supposed by some that we are acting in the capacity of arbitrators, and that we

are at liberty to disregard the provisions of the statutes if our notions of right or justice don't harmonize with them; but such is not my opinion. It would seem to me to be a poor precedent, for those who make the laws to be the first to decide against them, and by one decision to totally disregard the plain provisions of the statutes.

It is said that Wabasha is attached to Washington county, and that therefore there was some color of authority for the Commissioners of the last mentioned county to establish the precinct at Bunnell's.

But this reasoning cannot be made of any avail, because the law declares, as plainly as words can declare it, that Wabasha is attached to Washington county for *judicial purposes* only. The law nowhere attaches it to Washington county for election purposes.

I am, therefore, of the opinion that the election held at Bunnell's was not held at a place fixed by law, and that the votes there given were illegal and should be set aside, which would leave James Wells a majority of the votes for Representative in the legislative assembly.

I therefore submit the following resolutions:

*Resolved*, That Fordyce S. Richards, the sitting member, is not entitled to a seat in this House.

*Resolved*, That James Wells is entitled to a seat in this House.

W. P. MURRAY.

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## WARREN AGT. BEATTY.

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### PETITION OF WILLIAM W. WARREN.

*To the Honorable the House of Representatives of the Legislative Assembly of the Territory of Minnesota:*

The petition of William W. Warren, of the county of Benton, in said Territory, respectfully represents:

That at the last general election held in the said Territory, on the 14th day of October, 1851, your petitioner was a candidate for the office of Representative of the county of Benton, aforesaid, in the Legislative Assembly:

That at the election James Beatty received for said office, at Elk river, twenty-six votes, at Sauk Rapids ten votes, at Swan river seventeen votes, at Crow Wing thirteen votes, and at Nokasepi nineteen votes, in all eighty-five votes:

That your petitioner received at the said election for said office, at Elk river two votes, at Sauk Rapids thirty-six votes, at Swan river forty votes, and at Crow Wing one vote, in all seventy-nine votes; as in and by the returns of the said election, on file in the office of the Secretary of the said Territory, and ready to be produced as your Honorable body shall direct, will more fully and at large appear.

That the said James Beatty obtained a certificate of his election to the said office, and has taken a seat in your Honorable body.

Your petitioner, however, represents that the said James Beatty was not justly and