

House of Representatives

REPORT.

The committee to whom was referred the petition of William W. Kingsbury, claimin a seat in the House of Representatives of the Legislative Assembly of this Territory, as a Representative from the First Council District, which seat is now occupied by the Hon. Nathan C. D. Taylor, respectfully report :

That your committee have heard, and examined all of the testimony produced before them on the part of the petitioner and Nathan C. D. Taylor, and have also considered the evidence reported to the Council on the 23d day of January inst., in the matter of the application of Marcus W. McCracken for a seat in that body, which, by consent of both parties, it was agreed, should be regarded as in evidence before your committee in this matter.

Your committee find the facts to be as follows, without reviewing the evidence herewith submitted in detail :

Prior to the canvass of the votes in the First Council District (which was composed of Superior, Doty, Itasca, Chisago, and part of Washington counties, as provided by section 2, of the act of the Legislative Assembly, approved March 1st, 1851, and section 8, of the Act of March 2d, 1855,) and within the time prescribed by section 31, on page 50, of the Revised Statutes of this Territory, the following returns of elections, held in the First Council District on the 9th day of October last, for Representative in the Legislative Assembly, were made to, and received by Mr. Thomas Lacy, the Clerk of the Board of county Commissioners of the county of Chisago :

Twin Lake precinct, Itasca county, William W. Kingsbury had votes 65 ; Minnesota Point precinct, Superior county, William W. Kingsbury had votes 96 ; Grand Marie precinct, Doty county, William W. Kingsbury had votes 53 ; Fon du Lac precinct, Superior county, William W. Kingsbury had votes 23 ; French River precinct, Superior county, William W. Kingsbury had votes 159 ; Lower precinct of Doty county, (Grand Portage,) William W. Kingsbury had votes 56 ; Making the total vote in favor of William W. Kingsbury, at said election, for Representative in the Legislative Assembly, according to the said returns, 452.

By the same returns, Nathan C. D. Taylor received votes for Representative in the Legislative Assembly, as follows :

Taylor's Falls precinct, Chisago county, Nathan C. D. Taylor had votes 68 ; Marine Mills precinct, Washington county, Nathan C. D. Taylor had votes 28 ; Chisago Lake precinct, Chisago county, Nathan C. D. Taylor had votes 5 ; Sunrise precinct, Chisago

county, Nathan C. D. Taylor had votes 24 ; making the total vote in favor of Nathan C. D. Taylor, at said election, for Representative in the Legislative Assembly, according to the said returns, 125. Leaving a majority in favor of William W. Kingsbury of votes 327.

The Clerk of the Board of county Commissioners of Chisago county rejected, and refused to canvass, the votes so returned to him as given, except those which were returned as given at the precincts of Taylor's Falls, Marine Mills, Chisago Lake, and Sunrise. He also refused to return the votes of any of the precincts to the Clerk of the Board of county Commissioners of the county of Washington, with whom, necessarily, his duty was to canvass the votes of that Representative district, Washington county, being in part, within it, and he gave the usual certificate of election to Nathan C. D. Taylor, notwithstanding the said returns.

Evidence, satisfactory to your committee, was also produced in behalf of the petitioner that the Governor of the Territory appointed a Register of Deeds of Superior county on the 7th of April, 1855, and that he appointed Commissioners of that county on the 11th day of May, 1855.

From the above specified facts established affirmatively by the petitioner, your committee have arrived at the following conclusions :

Section 23, on page 61 of the Revised Statutes, made it the duty of the Commissioners of Superior county, thus appointed, to establish election precincts, and in fact, as appears by the oath of the Register of Deeds of that county, made in the case of Mr. McCracken in the Council, the said Commissioners did establish the precincts of French River and Minnesota Point.

Elections in this Territory had before been held at Fon du Lac, and were unquestioned, and the Register of Superior also made oath in the same case, that he issued notices of election to Fon du Lac, Minnesota Point, French River, Grand Marie and Grand Portage, and that the returns from all these precincts were made to him sealed. Whether or not the Executive of the Territory had the legal right to appoint the Register of Deeds and Commissioners of Superior county, is a question, in reference to which there has been, and may properly be, some doubt. But your committee are of the opinion that the people there should not be disfranchised, and deprived of their chosen representative, in consequence of a mistake on the part of the Executive, even conceding that he made a mistake, and had not the power of appointment exercised by him. Moreover, the Governor of the Territory had, by the act of the Legislative Assembly, of March 1, 1852, (chap. 17 ; Laws of 1853, page 37,) the power to establish election precincts in unorganized counties.

Your committee therefore have decided, that as the returns were regularly and properly made to the Clerk of the Board of Commissioners of Chisago county, in the form prescribed by section 30, on page 49 of the Revised Statutes, it was his duty to include these returns in his estimates of votes, pursuant to sec. 43 on page 52, of the Revised Statutes, and that his obligation to do so is not, in any respect, impaired by sec. 49, on page 53, of the Revised Statutes. On the contrary, your committee submit that the obligation of the Clerk is made more imperative thereby. He could not legally reject the returns because the precincts were not *established* precincts. He could not know, officially, whether they were established or not, as they might have been established without the intervention of the Board of which he was Clerk. If the election had been limited to the county of which he was an officer, and of the records of which he had, (so far as the elections were concerned,) the control, there might have been some excuse for his action. But there were three other counties, and part of a fourth county, in that Council District, and the Clerk of the Board of County Commissioners of Chisago county, could not officially know, and could not therefore legally or properly determine what precincts were established within them. They might have been established by the Governor of the Territory, or by the Commissioners of Superior county by him appointed, and the Clerk of the Board of Commissioners of Chisago county might not have known of such establishment officially.

Your committee, in view of the facts and references to law, as above specified, submit to the House, as their views of the case:

1. That the judges of election in the various precincts, and the clerks of such election, must, pursuant to sec. 30, R. S., page 49, state the result of the election from the ballots and poll list.

2. That the statement thus made must, pursuant to sec. 31, R. S. page 50, be enclosed, sealed and directed to the Clerk of the Board of County Commissioners of the county, or of the senior county, as the case may be.

3. That the statements and returns, when so made, and received by the Clerk in the form and within the time prescribed by the statute, are *prima facie* evidence that there were such precincts as are therein specified—that elections were held at the times and places, and with the results as are therein specified, and that the Clerk of the Board of County Commissioners must be governed by such statement and returns, in making out his certificate and abstracts, in conformity with sec. 33, R. S., page 50.

4. That, it appearing that returns and statements of judges and clerks of elections in the first Council District, were made in conformity with the statutes above referred to, and that such returns and statements, and the abstracts therefrom returned to the Secretary of the Territory, shew the majority in favor of the petitioner stated in his petition, he, the petitioner, is entitled to his seat, and that the certificate to Mr. Taylor was improvidently and illegally given.

5. That such being the opinion of your Committee, if Mr. Taylor alleges that the elections, as stated in the returns, were not held as stated, or that being held, they were in any respect illegal, the burthen of proof is upon him, and he must establish such allegations affirmatively.

Evidence in support of the affirmative of the above last mentioned proposition, has been submitted to your committee in behalf of Mr. Taylor, but your committee cannot regard such testimony as justifying them in declaring the elections in the precincts of Twin Lake, Minnesota Point, Grand Marie, Fond du Lac, French River and Grand Portage, (lower precinct of Doty county,) illegal and fraudulent, and therefore null and void.

That there have been informalities in the establishment of these precincts, is probable, nay, certain, but your committee regard the intention of the voters in polling their votes, as in good faith, and therefore deem that justice requires that technicalities should be overlooked by your committee, representing as they, and most of their associates in the House of Representatives do, a frontier constituency, to whom our very new laws are necessarily but little known, and consequently by them but imperfectly observed.

It has been urged before your committee, that the letter of R. H. Barrett, in evidence, the body of the returns from Twin Lake precinct, and the name "Dubay" thereon and the superscription on the envelopes in evidence, are all in the same hand-writing.

It is not alleged that Mr. Barrett's letter is a forgery, nor that it was not written at his request, or with his knowledge. If, even it was a forgery, it forms no part of the returns. Mr. Barrett may have employed some person at Superior to write the letter for him, and also to endorse the envelopes. This is quite probable—Superior being the only place where a Post Office is established in that region. It was quite natural that Mr. Barrett should resort there for the purpose of sending these returns to Chisago county, and it was equally natural that he should request some friend to endorse them, and to write the letter which was to accompany them. It is within the knowledge of a member or your committee signing this report, that "Joseph Dube" cannot write his name, and the same fact has been proven by one of the witnesses. There is not, in the opinion of your committee, any thing strange, or in the least degree indicative of fraud that "Dube" and Mr. Barrett should have employed the same amanuensis.

The theory of the case, as presented on behalf of Mr. Taylor, would seem to be that all of the returns, favorable to the petitioner, are false and fraudulent.

Your committee cannot better respond to this assumption than by using the language

of Hon. C. E. Flandrau, member of the Council, in his report upon the case of Mr. M'Cracken, before referred to, which is strictly applicable, to at least one of your committee.

"It is the opinion of your committee that had so many votes been cast by persons not entitled to the right of suffrage in the precincts above referred to, the fact could have been easily shown, and your committee cannot think that the persons who have made the affidavits that have been used in evidence in this case, all tending to the same conclusion, and the gentlemen who have appeared before the committee as witnesses, have sworn to facts that did not exist, because many of these persons are well known to your committee as men of high respectability and undoubted veracity."

It will be remembered that the evidence in the case of Mr. M'Cracken is also, by agreement, in evidence in this case, so far as relevant.

Allegations have been made before your committee that the names of the counties of Superior and Doty were, by the last Legislative Assembly, changed to "Newton" and "St. Louis," and therefore it is urged that the counties of Doty and Superior had no existence when the returns from those counties referred to were made.

Your committee again refer to the language of Mr. Flandrau, in the report above referred to, as expressive of their views of those allegations.

"The counties of Superior and Doty were, before the election, changed to the counties of Newton and St. Louis, but the change was made by the last Legislature in a manner which satisfies your committee that such change was unknown to the citizens who resided therein, and to any one, until recently. The said counties having been recognized by their former names, and appointments having been made for them under those names, and your committee being unable to see that any injury will result from overlooking change in the name, have decided that the same is immaterial, and in no manner effects the investigation of this question."

There is another assumption made on the part of Mr. Taylor, and that is, that the voters named were not there.

Your committee refer to the testimony of Orrin W. Rice, Alfred Allen, Edmund Rice, and of the witnesses who testified in the case of Mr. M'Cracken, (which latter testimony has been printed and is before the House,) from which it must be apparent that the persons named were there.

Twin Lakes precinct seems to be that which is especially attacked in this investigation. It is conceded by Mr. Kingsbury that there were no *settlements* there at the time of election, except one house. It was, however, proved, and the fact is within the knowledge of a member of your committee, that over one hundred men were at work there on the government road from St. Paul to Superior, and your committee regard the presence there, at that time, of such a number of men so engaged as justifying a vote of sixty-five for Mr. Kingsbury, at least until the contrary has been proven.

The sitting member urged, through his counsel, before the committee, that there was no population on the north shore of Lake Superior, in Minnesota, sufficient, in numbers, to justify the votes specified in the returns.

Your committee again adopt the language of the report of Mr. Flandrau, before quoted, as expressive of their views upon this point:

"In further appears in evidence that the whole country about Lake Superior and these precincts in Doty and Superior counties is heavy timbered and mountainous, which renders it impossible to form any correct estimate of the population from journeying on the Lake coast. It also appears that the country containing mineral is generally back from the coast and that the principle part of the immigration to that country has been persons in pursuit of mineral claims who would go back into the country. Several witnesses state that the greatest body of the settlement is back from the lake. Mr. Orrin Rice says he has kept a store in Superior, and has furnished outfits to many emigrants destined for the Minnesota mines. He thinks the population will fully justify the vote returned. Mr. Alfred Allen, who has resided at Superior for more than a year, estimates the actual

population in Minnesota in these counties at 600 or 700 men, not including women and children. Many of the affidavits produced and referred to above as going to prove the residence of Mr. McCracken in Minnesota, are made by persons who were present at some of the precincts, and they swear that the elections were conducted in every respect with propriety and according to law, and that the persons voting thereat were legal voters of the Territory."

It was again insisted, before your committee, that the votes specified in the returns were *illegal*. Your committee cannot avoid a reference to the fact, that such an allegation is somewhat inconsistent with that which asserts that the voters were not there! They cannot appreciate the force of an argument which first avers that the voters did not exist, and then contends that they had no right to vote! But, to the testimony.

Mr. Kingsbury's majority, according to the returns, over Mr. Taylor, was 327.

Giving to the testimony its full scope, putting down as illegal voters the negro half-breed Bonga, every person bearing an Indian name, and every person whom the witnesses swore to be residents of Wisconsin, and they number only votes 39. Leaving a majority still, in favor of Mr. Kingsbury, of votes 288.

Your committee cannot but regard the rule as well settled, that in all contested elections, he who claims the office on the ground that illegal votes were cast, must *prove* the illegality of enough votes to have changed the result. The reason for the rule is entirely obvious. Legal voters should not be disfranchised, merely because men who are not entitled to the right of suffrage with them voted at the same election.

The illegal votes should be discarded, but the legal votes should be counted. All votes given, and returned according to law, must be presumed to have been legal until the contrary is shown. Therefore, striking out the 39 votes referred to, and even striking out the entire vote of Twin Lake precinct, and yet Mr. Kingsbury has a large majority over Mr. Taylor.

But 39 illegal votes have not been proved. It is no objection to a voter, in this Territory, that he bears either the half or the whole of an Indian name. If such voter is of mixed white and Indian blood, and has adopted the customs and habits of civilization, (sec. 1, R. S., page 45,) he is a legal voter, no matter whether he bears an Indian name in whole or in part. Edmund F. Ely proved but two illegal Indian votes, Baptiste Wah-bah-no, and the half-breed Indian and Negro Bonga.

It is enough again to use the language of Mr. Flandrau, to say, in reference to Bonga: "One man who voted appears to have been of mixed *negro* and Indian blood, who had been born in the country, was a voyageur, and passed as a half-breed; technically this man was not a voter, but your committee are not of the opinion that being so well known as the evidence shows him to have been, and passing as a half breed, the reception of his vote casts no imputation of bad faith upon the election where it was cast."

It was proven that very few of those persons who voted, and who were named on the poll list returned, were, at the time when they voted, residents of Wisconsin. But it was also shown that Messrs. Newton, Culver, and others, although engaged in business at Superior Wisconsin, permanently, or temporarily; had always claimed to be residents of Minnesota, and had claims on the north shore of Lake Superior in Minnesota.

Your committee deem it harsh that a man should be branded as an illegal voter, and that suspicion should be thrown upon an election, merely because the voters preferred voting where their claims were, to voting where they did business to make a living whilst their claims were being made.

Your committee have regarded as important another view of this matter—viz:

It has not been proven that one of the illegal votes alleged to have been cast, was given to Mr. Kingsbury. If not cast for him, why should he be here prejudiced by the casting of them to others? Your committee regard it as incumbent upon Mr. Taylor to prove enough of illegal votes in favor of Mr. Kingsbury, to have changed the result of the election, in favor of himself, and as he has not done so, your committee report the following resolution:

Resolved, That William W. Kingsbury is entitled to a seat in the House of Representatives of the Legislative Assembly, of the Territory of Minnesota, from the First Council District, which seat is now occupied by the Hon. Nathan C. D. Taylor.

WM. STURGIS.
J. F. BRADLEY.

The committee to whom was referred the petition of Wm. W. Kingsbury, claiming to be entitled, and asking to be admitted to the seat in the House of Representatives, now held by Nathan C. D. Taylor, as a representative from the *First Council District*, submitted the following report :

That upon a full and careful examination of all the proofs submitted, both oral and written, as well by the petitioner, Mr. Kingsbury, as by the sitting member, Mr. Taylor, the following are the principal and material facts elicited :

The claims of the petitioner, to a seat in this House, are based upon what purport to be election returns from the following precincts, viz :

Twin Lake precinct, Itasca County.—Here the petitioner claims to have received for House of Representatives, 56 votes.

Minnesota Point precinct, Superior County.—Here the petitioner claims to have received, for the House of Representatives, 96 votes

Grande Marie precinct, Doty County.—Here petitioner claims to have received, for House of Representatives, 53 votes.

Fon du Lac Precinct, Superior County.—Here petitioner claims to have received, for House of Representatives, 23 votes.

French River precinct, Superior County.—Here petitioner received, *per return*, for member of Territorial Legislature, 159 votes.

Lower or Grand Portage Precinct, Doty County.—Here petitioner claims to have received, for House of Representatives, 56 votes.

Of these pretended precincts, but one of the six, is in the county where they purport to be, viz., the precinct of Twin Lakes in Itasca County.

In the first place there are no such counties as Doty and Superior, and have not been since the 3rd. of March, 1855 ; but even did those counties still exist as they were originally erected, on the 20th February, 1855, thirteen days only prior to their extinction ; neither of those five remaining precincts, would be in the territory embraced within the boundaries of the county in which, from the returns given in evidence, they purport to be.

Minnesota Point precinct, instead of being in the county of Superior, would have been in the county of Doty, and was and is in the county of Newton.

Grand Marie precinct, instead of being in the county of Doty, is and was in the county Itasca.

Fon du Lac precinct, instead of being in the county of Superior, would have been in the county of Doty, but is and was in the county of Newton.

French River precinct, instead of being in the county of Superior, would have been in the county of Doty, and is and was in the county of Newton.

Grand Portage or lower precinct, instead of being in the county of Doty, is and was in the county of Itasca.

Thus but one of the precincts, "Twin Lakes," would be in the county where they purport to be, even if there were such counties as Doty and Superior.

The counties of Doty and Superior were erected by the act of February 20th 1855, and by the act March 3d., 1855, changed into the counties of Newton and St. Louis. And, while your committee should have attached but little importance to a mere change of names of those counties, had the pretended precincts, been in the territory composing the counties, as they *did exist*, from which they purport to come ; yet, they can not so far disregard the laws of the Territory as to receive returns purporting to come from one county when if they exist at all, are within the limits of an entirely different

county, not embracing the same territory. And this is the first ground of objection to these returns and to counting the votes they contain.

By the act of March 2nd, 1855, (see Laws of 1855, page 36, Sec. 8.) the counties of Doty and Superior are attached to the First Council District. This is the day preceding the one upon which these counties ceased to exist.

The county of Itasca, before the erection of the counties of Doty and Superior, or Newton and St. Louis, as they now are, was attached for judicial purposes, to the county of Chisago; and the counties of Newton and St. Louis or Doty and Superior being composed out of portions of the county of Itasca, remain for judicial purposes with the original county of Chisago.

Thus then the counties of Itasca, Doty and Superior, or Newton and St. Louis properly, are unorganized counties, attached for judicial, and consequently political purposes, to the county of Chisago.

By the act of March 1, 1855, (see Laws and Reports, page 37, Sec. 1) the Governor had the right, upon the application of a certain number of citizens to establish precincts in unorganized counties, but that right was taken from him by the act of March 5, 1853, (see Laws and Reports, page 36, Sec. 17) and vested in the Commissioners of the organized counties to which the unorganized counties were, or should be, attached for judicial purposes, and there it still remains.

By this act, the Commissioners of organized counties are the only persons who have the power to establish precincts and appoint officers of election for the unorganized counties; and this they are compelled to do, whenever application is properly made to them for that purpose, under the provisions of the act of Feb. 23, 1854, which supersedes sec. 23, page 61, of Revised Statutes.

This comprises the law of the Territory for the establishment of precincts in unorganized counties, and the whole law. Neither the Governor, nor any other person, except the Commissioners of the organized counties, possess the power to establish a precinct or appoint an election officer. The fact here, in proof, by the Register of Deeds and Clerk of the Board of County Commissioners of Chisago county, Mr Lacy, is, that no precinct whatever has ever been established by the Commissioners of Chisago county, at either of the places at which the elections purport to have been held, by virtue of which Mr. Kingsbury claims to have received a majority of votes in that Representative District, and to be entitled to a seat in this House.

This forms the basis of the second objection to the receipt of these returns and to counting the votes purported to have been cast at those pretended precincts. To show that the canvassers of the returns from this Council District were right in refusing to receive these returns and count these votes, it is only necessary to refer to sec. 49, p. 53, of Revised Statutes, which makes it a misdemeanor, and punishable as such, to count votes polled at any but established precincts; and your committee are of opinion, that though they are members of the law making power of this Territory, yet, that they are like other citizens to be governed by the laws of the Territory; and if the law is objectionable, it may be a reason for repealing it, but certainly not for disregarding its provisions.

It is pretended that Commissioners for the county of Superior were appointed by the Governor. The Governor has no such power, and never had any such power under the laws of this Territory. But let us look at the facts:—On the 11th day of May, A. D. 1855, the Governor says he appointed H. Robinson, H. S. Burke and W. W. Mayo, Commissioners of Superior county.

It is in evidence that H. Robinson is a citizen of Wisconsin, and refused to act under the Governor's appointment. Mr. Mayo himself testifies that he is a citizen of St. Paul, Ramsey county; that he has claimed this as his residence ever since he came to the Territory; that his family resided here ever since; and that he has never resided or claimed to reside in any other part of the Territory; and this is his residence now. But even if these men did pretend to act under this appointment, there were no precincts established by them in the county of Superior, or St. Louis; and your committee deem the position

simply ridiculous that these men, even if legally appointed, had the power to establish precincts in other counties, to which they were not appointed—the county of Superior or St. Louis itself, being an *unorganized* county. But even had these precincts been legally established by the proper Commissioners of the proper county, and for existing counties, there is another insuperable objection to receiving these returns and counting these votes.

No election officers were ever appointed for any such precincts by the only proper authority—the County-Commissioners of Chisago, as proved by Mr. Lacy, Register of Deeds, and Clerk of Board of Commissioners of said county.

This being the fact, there is but one other method known to the law, by which they may be selected or chosen, and that is, under sections 8, 9 and 10, on pages 46 and 47 Revised Statutes. When the judges are elected by the qualified voters present, the oath administered to them under sec. 9, shall, by the provisions of sec. 10, *be subscribed by the person administering the same, and prefixed to the poll books. Nothing of the kind has been done in either of these six returns*; and in the absence of this, was all else regular, these returns could not be received, nor the votes purported to be cast at them, counted; and this forms a third and most essential ground of objection to these returns, and to counting these votes.

By sec. 31, page 50, of Revised Statutes, the manner in which the returns of elections shall be made to the Clerk of the Board of County Commissioners, is definitely prescribed. This section provides that the returns shall be conveyed by one of the judges or clerks of the election, or by some other duly appointed person, and delivered to the Clerk of the Board of County Commissioners, to which such county may be attached for judicial purposes; and it is made a *penal offence* by sec. 32, on same page, otherwise to transmit them.

In this case it is certain that these returns were not transmitted according to the provisions of the statute. They, by some means, found their way to the State of Wisconsin, and were there placed in the post office. It would have seemed from the letter accompanying them, that they were enclosed and deposited in the Superior post office by R. H. Barrett; but that inference is rebutted by facts, to which your committee desire to call the special attention of this House.

Mr. Lacy, the Clerk of the Board of Commissioners of Chisago county, proves the fact that these returns were received by him out of the post office at Taylor's Falls. The manner in which these returns were transmitted forms a fourth ground of objection to their being received. And in this connection your committee beg leave to state, that the principal object and purpose of our laws regulating elections, is the purity of the ballot box, and to preserve the sanctity of the elective franchise; and that while the framers of these laws were anxious to extend a right so inestimable to a citizen of a Republican Government, to every legal voter, they were at the same time, no less solicitous in preserving from stain and unhallowed use, the ballot box and its records; and for these reasons threw around them these statutory shields, in order that all those ends might be legitimately attained. By the provisions of this same statute, at the close of the polls, and after the votes have been canvassed, the judges of election shall then *enclose and seal* the poll books, and direct them to the Clerk of the Board of County Commissioners of the proper county; and the packet, *thus sealed*, shall be conveyed by one of the judges, clerk, or other duly appointed person, and by him delivered to the Clerk of the Board of County Commissioners of the proper county.

Thus we see the anxious solicitude felt by those who enacted this law, in striving to shield the returns of election from all chance of being tampered with.

The facts here are, that the whole of these returns, *unsealed*, were in the hands of some one or more individuals, after they had left the point at which they purport from their face to have been made, and before they were deposited in the Superior Post Office, and these facts are no less evident from the returns themselves, than from the testimony of the witnesses of both petitioner and sitting member.

The envelopes enclosing these returns are all of precisely the same kind, and evidently

came from the same bunch or package ; they are all sealed in precisely the same way and with wax of the same tint ; five of them are superscribed in toto in the same hand writing, and the whole of them in part ; the letter accompanying them is in the same hand writing with the superscription upon the envelope and purports to have been written by R. H. Barrett ; the body of the returns, judges and clerks names, of Twin Lake precinct are in the same hand writing ; and Mr. Orrin W. Rice and Mr. R. F. Slaughter, both testify that this is not the hand writing of R. H. Barrett ; and these and other of these returns, which from a comparison of hand writing are not free from suspicion.

Had it been, that this letter and these superscriptions upon the envelopes had been in the hand writing of R. H. Barrett, who it seems, though residing in Newton, was by the Governor appointed Register of Deeds of Superior county, the circumstances attending these returns would have been less suspicious ; but when it is in proof by men of the respectability of Messrs. Rice and Slaughter, that this is not the hand writing of Mr. Barrett, the whole matter is flooded by such a sea of suspicion, that your committee cannot, with these things unexplained, so far forget its duty to the law, to this House and to itself, as, by receiving these returns, to become participants in, what can be denominated at least, a most unauthorized and outrageous transaction ; and when viewed in connection with the following circumstances, an unpardonable and wilful fraud.

Dr. Mayo, of St. Paul, testifies that in the month of August, 1855, he knew every settlement between Minnesota Point and some two miles below Grand Portage, that at that time he was down the shore to that point. From Minnesota Point to Knife river, there did not exceed thirty men—this is a distance from the Point of twenty-five miles. Immediately below Knife river there lived three young men. The next point where there is any settlement is 10 or 15 miles further down the Lake ; here was one man. At Encampment Island, there was a cabin belonging to Ward Follick of Superior, Wis., but no one living in it. The next was Encampment river, where there was a cabin—an old trading post—held by Mr. Elliott, but unoccupied. The next point is Grand Marie, about thirty miles below Encampment river ; there was an old trading point and several old cabins gone to ruin, but there were two recently built shanty's, one of which was occupied by Frank Demor ; the other by two young men, taken there by Rich'd Godfrey ; three Canadians were also taken there by Godfrey, who put up three cabins, but never occupied them—these were back about a mile from the shore. The next point below Grand Marie, is Grand Portage on the Indian Reservation ; there are about twenty cabins here, and about the same number of half-breeds—who call themselves civilized Indians. Then again at Beaver Bay there were three other white men, Robert McLean was one, and the other two were Swedes or Germans.

Here it will be perceived that in August last, there were but sixty men residing on the North shore of Lake Superior, from Minnesota Point to a mile or two below Grand Portage, including the twenty civilized Indians on the Indian Reservation. This is the testimony of a man familiar with the country, and whose business it was to inquire out, and visit every settlement he could discover for the purpose of making mineralogical examination ; and this is a very important fact, when it is conceded that the whole of the settlements made upon the North shore, are made with an eye to mineral's alone. The country is unfit for agriculture, and is sought only for its mineral wealth.

Mr. Edmund Rice testifies that he was up the North shore from twenty to thirty miles, in September, 1855, and remarked the extent of settlement and population. In this distance he counted twelve cabins ; he saw three families at Laundry's ; up French river about a mile, he found one family ; on the opposite side of French river, from Laundry's, there was another settlement, with one house. At Talmadge there were two cabins, and between that and Minnesota Point, there were two other cabins ; at another point, he saw another house, this was called "Nettletons." These were the only habitable places he saw from Minnesota Point to Sucker river, a distance of about thirty miles. Mr. Rice thinks he saw, below the "Point" from sixteen to twenty grown up men, a portion of whom were on the Lake in boats. He met a party coming down from Pigeon river,

six in number, and these he says are to be included in the sixteen or twenty of whom he spoke.

He further says, that he should think there were twenty males in the village of Fon du lac. This is the sum of the testimony of Mr. Rice, and from Fon du lac to Ely's where he saw two other buildings, and from there to Sucker river, a distance of 30 miles below the point, he saw in all during a four days trip, including peasons both on the Lake and the shore—six of whom, were from Pigeon river, and others from places unknown, at his highest estimate forty persons.

This testimony is strongly in corroboration of the testimony of Mayo, and gives it great force in the opinion of your committee. The next witness to whose testimony your committee desire to refer, in this connection, is Alfred Allen.

Mr. Allen says he resides in Superior, Wisconsin, and has been residing there for over a year. He has been to Fon du Lac three times, and once twelve miles down the Lake shore, during the summer of 1855. In the summer of 1854 he did not travel much. He is asked by the petitioners counsel what the population of the country is from Old Fon du Lac to the farthest point he has been down the Lake, viz: twelve miles, and answered, from 300 to 350, and that there were within this distance, at the time he alludes to, from 275 to 300 houses. To testimony of this kind, differing so essentially from that of such men as Mr. Edmund Rice, a gentleman well known throughout the Territory, Dr. Mayo, Rev. Mr. Ely, and Mr. Slaughter, your committee could pay no regard, and even was it not positively contradicted, the fact that he testifies with equal certainty to the population of the whole Lake shore, over but twelve miles of which he has ever been, would induce your committee under any circumstances to receive such testimony with the greatest degree of caution.

As another fact of importance in this connection, it is in proof by the Rev. Mr. Ely, and admitted by the counsel of Mr. Kingsbury, that there is no settlement at Twin Lakes, or between that and Fon du Lac, except the one house at the Lakes.

Taking all this testimony into consideration, and viewing it in the most liberal light, in favor of the petitioner, your committee cannot persuade itself to believe that there is one-fourth of the number of qualified voters in the whole district of country embraced by the six precincts, which the returns from those precincts would show to have voted at them.

This is another reason why your committee has been led to believe that these returns have been unfairly and illegitimately dealt with; and while thus tainted, they should not be received as the votes counted.

There is still another. At, at least two of the precincts, "Minnesota Point and Grand Marie," the officers of election were not all citizens of Minnesota. At Minnesota Point, J. B. Culver acted as one of the judges, and at Grand Marie, Richard Godfrey acted as one of the judges of election there. Now the testimony in regard to Richard Godfrey, is uncontradicted, that he is a citizen of the State of Michigan, residing about twenty miles from Detroit.

With regard to J. B. Culver, he and his family have *actually* resided in Superior, Wisconsin, for the last eighteen months—during the whole of which period he has been engaged in business there as a warehouse-man and merchant. The *intention* of Mr. Culver cannot alter this *fact*; as his intention is to be gathered from his acts and not from his own oath or that of any other person.

As a fact in corroboration of the testimony of Messrs. Rice, Mayo, Ely, Slaughter and others, as to the number of population on the shore, it is in evidence that a large number of the citizens of Wisconsin—known to be so, voted at different precincts, and this is the only way your committee can account for the incredible vote purported to have been cast by those returns; unless we determine that the returns from other precincts were dealt with in like manner to those purporting to come from Twin Lakes.

It would be going too greatly into detail to go over each precinct, and point out the individual names of those who are shown to have been *illegal* voters. They embraced

citizens of the States, Indians, and persons whose residence had not yet entitled them to the right of suffrage here; and in one instance, a negro.

At the precinct of Fon du Lac, a boat load of people arrived from Wisconsin, on the day of election. They were asked to vote and refused, declaring that they were citizens of Wisconsin. At a later hour in the day, Mr. Slaughter witnessed five of these persons vote at that poll.

There are numerous instances of this or a similar character of illegal voting, but all these facts cannot be embodied in this report without extending it to an unreasonable and unwarrantable length. Therefore, in conclusion, the committee desire that the whole of the evidence, with the original returns, envelopes and accompanying letter, purporting to come from R. H. Barrett, may be submitted to the House, and examined by it, as it was impossible to embrace much that is very important in any report of a committee.

It is unnecessary to give the number of votes cast for the sitting member in the different precincts in the counties of Chisago, and part of Washington, forming the first Representative District, in the first Council District, as it is admitted by Mr. Kingsbury that he received a majority of all the votes cast in the different precincts in those counties for member of the House of Representatives.

Your committee would therefore submit, in brief, as the basis of this report, the subjoined:

1st. That none of the six precincts, except that of Twin Lakes, are in the counties where they purport to be, even supposing such counties as Doty and Superior to exist, as originally established.

2nd. That there never were any precincts established at the points, where these elections purport, from the returns, to have been held.

3d. That the County Commissioners of the organized county, to which unorganized counties are attached for judicial purposes, are the only persons vested, under our laws, with the power to appoint officers of election and establish precincts.

4th. That the unorganized counties embraced within the first council district, are, for judicial purposes, attached to Chisago county, and consequently no precincts could be established in those counties, except by the commissioners of Chisago county.

5th. There were no precincts established in those counties by the Commissioners of Chisago county, nor were there any precinct officers appointed by them.

6th. It is a misdemeanor, punishable as such, to receive and count votes polled at any but established precincts.

7th. The Governor had no power to appoint commissioners, or any other county officers, for the unorganized counties of Newton and St. Louis, or Doty and Superior.

8th. The acts of those whom he pretended to appoint, were merely void, and they were bound to know the laws under which they pretended to act.

9th. That those whom he did pretend to appoint, never were or pretended to be, citizens and electors of the county for which they were appointed—one of the commissioners being a citizen of St. Paul, and another a citizen of the State of Wisconsin, the third a citizen of Newton county.

10th. There never were any Commissioners for the counties of Itasca and Doty, except those of the county of Chisago.

11th. That the officers of election, in several instances, were not citizens of Minnesota, which single fact, casts a suspicion on the whole vote cast at such precincts.

12th. The manner of transmitting the returns of the whole of those six precincts was fraudulent, and is, in itself, a penal offence under the Statute.

13th. That in every case where the record of the appointment of precinct officers, for conducting elections, is not found in the office of the Clerk of the Board of county Commissioners of the proper county, the manner of their appointment, and a certificate of the oath administered, must be prefixed to, and accompany the poll books and returns.

14th. Neither the manner of appointment, nor the oath of office, appears here, in case of either return.

15th. That at French River precinct, the votes were not cast for the petitioner for the House of Representatives, but as a member of the Territorial Legislature.

16th. That the poll list from Twin Lakes is not subscribed, even if the whole did not appear to be a fraud.

17th. That there is not a single legal requisite contained in either of these pretended returns; either in the establishment of the precinct, the appointment of officers, their qualification, or in the performance of any one single act of their duty as officers.

18th. That the whole of the envelopes enclosing these returns are identical—the seals upon them identical—the wax and manner of sealing identical—the superscriptions upon them identical—the hand writing of the Twin Lakes return identical with the superscriptions of the envelopes, and the hand writing of the letter purporting to be from R. H. Barrett, identical with that of the Twin Lake returns and the superscriptions on the envelopes.

19th. That it is proof and uncontradicted and uncontroverted, that neither the letter, the superscriptions, nor the returns are in the hand writing of Mr. Barrett; therefore, the whole, until explained, exhibits a *prima facie* fraud.

20th. That in a district of country, which in the month of August, contained a male population not exceeding one hundred; on the 9th day of Oct. polled according to these returns, about four hundred votes, shows conclusively to your committee, that at least three fourths of those votes must be illegitimate.

21st. The votes canvassed for the sitting member, in the opinion of your committee, constitute a majority of all the legal votes in that Representative District, and your committee further say, that the certificate of election was properly and legally granted to Nathan C. D. Taylor by the Board of Canvassers.

Wherefore the following resolution is proposed by your committee and recommended that it be adopted by this House:

Resolved: That Nathan C. D. Taylor, is entitled to the seat he now holds in this House as a Representative from the first Council District of this Territory.

THOMAS B. HUNT,
Chairman Committee.

February 1st, 1856.

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

The petition of William W. Kingsbury, of the county of Superior, in said Territory, respectfully represents:

That at the last general election held in the said Territory, on the 9th day of October, 1855, your petitioner was a candidate for the office of member of the House of Representatives of the Legislative Assembly, for the first Council District of said Territory.

That the following is a correct list of the precincts at which elections were held in the said Council District, viz:—

	Precinct,	Itasca county.
Twin Lakes	"	Superior "
Minnesota Point	"	Doty "
Grand Marie	"	Superior "
Fond du Lac	"	" "
French River	"	Doty "
Lower Grand Portage	"	Chisago "
Taylor's Falls	"	Washington "
Marine Mills	"	Chisago "
Chisago Lake	"	Chisago "
Sunrise	"	Chisago "

That the votes polled at the said precincts respectively at said election for candidate for the office of member of the House of Representatives of the Legislative Assembly were as follows, there being four candidates, to wit:

Nathan C. D. Taylor, Francis Register, L. M. Register, and your petitioner, without reference to the scattering votes.

Nathan C. D. Taylor received in Taylor's Falls, 68 votes; Marine Mills, 28; Chisago Lake, 5; Sunrise, 24; total, 125.

Francis Register received, in Taylor's Falls, 23 votes; Marine Mills, 63; Chisago Lake, 25; total, 111.

L. M. Register received in Taylor's Falls, 2 votes; Chisago Lake, 34; Sunrise, 3; total, 39.

William W. Kingsbury received at Minnesota Point, 96 votes; Grand Marie, 53; Fond du Lac, 23; French River, 159; Lower Precinct, Doty county, 56; Twin Lakes, 65; total, 452.

That the contest of said election being between the said Nathan C. D. Taylor and your petitioner, and your petitioner having received a majority of one hundred and seventy-five more votes than all other candidates together, and three hundred and twenty-eight more votes than were received by the said Nathan C. D. Taylor, is entitled to a seat as member of the House of Representatives of the Legislative Assembly, of the 1st Council District.

That, nevertheless, the Register of Deeds of the county of Chisago, disregarding the said votes, has given a certificate of election to the said Nathan C. D. Taylor, as your petitioner is informed and believes.

Therefore, your petitioner prays that your honorable body will, notwithstanding the said certificate of election, allow your petitioner to take the seat in your honorable body as the member of the House of Representatives from the 1st Council district, to which he is entitled by a majority of three hundred and twenty-eight of the votes over the said Nathan C. D. Taylor, as above specified.

Your petitioner also respectfully prays that a committee may be appointed to examine and determine the rights of your petitioner and the said Nathan C. D. Taylor, respectively, in the premises. And your petitioner will ever pray, &c.

Your petitioner annexes hereto copies of the returns of said election, as the same appear in the office of the Register of Deeds of Chisago county aforesaid, and in the office of the Secretary of the Territory.

Territory of Minnesota,

County of Ramsey.

William W. Kingsbury, being duly sworn, says that he is the petitioner named in the foregoing petition, and that the facts therein stated, upon his own knowledge, are true, and that the facts stated upon information and belief he verily believes to be true.

W. W. KINGSBURY.

Sworn and subscribed before me, the fourth day of January. A.D. 1856.

F. M'CORMICK,

Notary Public.

MINNESOTA POINT, October 18th, 1855.

To the Register of Deeds for Chisago County
Sir:—The enclosed returns of the Election in the different precincts of Superior, Doty and Itasca Counties, have been returned to me as Register of Deeds for Superior County.

I am of the opinion that they should be returned to you, as these counties are all attached to Chisago for judicial purposes, and neither of the above counties are fully organized. I have therefore put them under seal to your address. Will you please see that the official is forwarded to St. Paul immediately.

Very truly yours,

R. H. BARRETT.

The foregoing was addressed to the Register of Deeds of Chisago county.

Certificate of the Election at the precinct of Twin Lakes in the county of Itasca and Territory of Minnesota.

At an election held at the house of Samuel Cochran, in the Twin Lake precinct, in the county of Itasca, and Territory of Minnesota, on the ninth day of October, A.D. 1855, the following named persons received the number of votes annexed to their respective names, for the following described offices, to-wit:

Henry M. Rice had sixty-five (65) votes for Delegate to Congress.

Levi W. Folsom had sixty-two (62) votes for member of the Legislative Council.

Wm. W. Kingsbury had sixty-five (65) votes for member of the House of Representatives.

Certified by us,

THOMAS LENTON,

THOMAS FENNEL,

JOSEPH DOHENY,

Judges of Election.

Attest:

ROSNEY HOGAN,

JOSEPH BUCHMAN,

Clerks of Election.

Certificate of election, Minnesota, Point precinct.

At an election held at the house of G. E. Nettleton, at Minnesota Point, in the county of Superior, Territory of Minnesota, on the ninth day of October, A.D. 1855, the following named persons received the number of votes annexed to their names, for the following described offices, to wit:

Delegate to Congress—Henry M. Rice received ninety-five (95) votes; Wm. R. Marshall had five (5) votes; David Olmsted had (0) votes.

John D. Ludden had two (2) votes for Council; M. W. McCracken had twenty-two (22) votes for Council; Levi W. Folsom had fifty-five (55) votes for Council.

Wm. W. Kingsbury had ninety-six (96) votes for the House of Representatives.

Nicholas Gunny had three (3) votes for Council.

Leonard C. Howard had one (1) vote for Council.

J. B. CULVER,

ROBERT JOHNSON,

ROBERT H. MCQUAID,

Judges of Election.

Attest:

WM. NEWBURY,

P. A. VAN BLARCUM,

Clerks of Election.

At an election held at the house of Richard Godfrey, in the precinct of Grand Marie, in the county of Doty, Territory of Minnesota, on the 9th day of October, A.D. 1855, the following named persons received the number of votes annexed to their respective names for the following described offices, to wit:

Henry M. Rice had (61) sixty-one votes for Delegate to Congress.

Wm. W. Kingsbury had (53) fifty-three votes for Representative.

Marcus W. McCracken had (51) fifty-one votes for member of Council.

Philip W. Godfrey had (61) sixty-one votes for sheriff of Doty county.

Richard Godfrey had (61) sixty-one votes for commissioner of Doty county.

Moses Dufra had (61) sixty-one votes for commissioner of Doty county.

Robert McLane had (50) fifty votes for commissioner of Doty county.

RICHARD GODFREY,

MOSES DUFRA,

JAMES MAUD,

Attest:

Judges of Election.

PHILIP W. GODFREY,

JOHN WHIPPLE,

Clerks of Election.

Precinct of Fon du Lac, }
Superior County. }

At an election held at the house of Francis Rouson, the precinct of Fon du Lac in the county of Superior, Minnesota Territory, on the (9) ninth day of October, A.D. 1855, the following named persons received the number of votes annexed to their respective names for the following offices:

Henry M. Rice had twenty-three votes for Delegate to Congress.

William R. Marshall had one vote for Delegate to Congress.

William W. Kingsbury had twenty-three votes for Representative.

Marcus McCracken had eighteen votes for Council.

Poll list as follows:—Michael Shingoop, David McCormick, J. B. A. St. John, V. Strong, J. Landry, James Dennison, E. Devan, Fernando Cooley, John B. La Gond, R. B. Carlton, Joseph Y. Day, William W. West, David La Wart, E. N. Hall, John B. Gaudon, Francis Benson, John Marshman, Charles Lord, F. P. Shingoop, Terry Landry, Isador Duan, W. M. Carlton, Peter Wells, John Martin.

We certify that the above Poll list is correct.

R. B. CARLTON,

WILLIAM H. WEST,

FRANCIS ROUSSEAU,

Attest:

Judges of Election.

CHARLES LORD,

W. M. CARLTON,

Clerks of Election.

October 9th, 1855.

Precinct of French River, }
Superior county. }

At an election held at the house of Henry Smith in the precinct of French River in the county of Superior, and Territory of Minnesota on the (9) ninth day of October, A.D. 1855, the following named persons received the number of votes annexed to their respective names, for the following described offices, to wit:

Henry M. Rice had (159) one hundred and fifty-nine votes for Delegate to Congress,

Marcus W. McCracken had (102) one hundred and two votes for member of Council.

Wm. W. Kingsbury had (159) one hundred and fifty nine votes for member of Territorial Legislature.

JOHN PARRY,

HENRY SMITH,

JOHN SMITH,

Certified by us as Judges of election,

JOSIAH TALLMAGE,

CHARLES SWEET,

Clerks of Election.

At an election held at the house of H. H. McCullough in the lower precinct of the county

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of Doty, in the Territory of Minnesota, on the ninth day of October, A.D. 1855, the following named persons received the number of votes annexed to their respective names for the following described offices, to wit:

Henry M. Rice had (56) fifty-six votes for Delegate to Congress.

Marcus W. McCracken had (56) fifty-six votes for member of the Legislative Council.

William W. Kingsbury had (56) fifty-six votes for member of the House of Representatives.

Certified by

MICHAEL COLLINS,

JOHN LARGE,

Attest:

Judges of election.

LEWIS CHATTEN,

LEWIS PAUL,

Clerks of Election.

At an election held in the several precincts of Chisago county, Minnesota Territory, on the ninth day of October, A.D., 1855, the following named persons received the number of votes annexed to their respective names:

For member of the Legislative Council and Legislative Assembly.

For Legislative Council: John D. Ludden received at Taylor's Falls precinct, 65 votes; at Chisago Lake precinct, 41 votes; at Sunrise precinct, 29 votes. Levi W. Folsom received at Taylor's Falls precinct, 26 votes; at Chisago Lake precinct, 21 votes; at Sunrise precinct, — votes. Jesse Marks received at Taylor's Falls precinct, 1 vote; at Chisago Lake precinct, — votes; at Sunrise precinct, — votes. N. D. Taylor received at Taylor's Falls precinct, — votes; at Chisago Lake precinct, 2 votes; at Sunrise precinct, — votes.

For Legislative Assembly: Nathan C. D. Taylor received at Taylor's Falls precincts 68 votes; at Chisago Lake precinct, 5 votes; at Sunrise precinct, 24 votes. Francis Register received at Taylor's Falls precinct, 23 votes; at Chisago Lake precinct, 25 votes; at Sunrise precinct, — votes. Harris Washburn received at Taylor's Falls 1 vote; at Chisago Lake precinct, — votes; at Sunrise precinct, — votes. L. M. Register received at Taylor's Falls precinct, 2 votes; at Chisago Lake precinct, 34 votes; at Sunrise precinct, 3 votes. Levi W. Folsom received at Taylor's Falls precinct, — votes; at Chisago Lake precinct, — votes; at Sunrise precinct, 2 votes.

Certified to by us this 27th day of October, A.D., 1855.

THOMAS LACY, Register of Deeds.

JOHN REID,

LI. J. STARK,

Justices of the Peace.

I certify the above to be a true copy the abstract of votes made by the Board of Censors the day and year above written.

THOMAS LACY, Register Deeds Chisago county.

And now comes N. C. D. Taylor, respondent to the petition of W. W. Kingsbury, and in answer to the petition of the said petitioner, denies,

That on the 9th October 1855, the said petitioner received 96, or any other number of legal votes for member of the House of Representatives, at an election regularly and lawfully held at Minnesota Point precinct, in Superior county, and further denies that there is or was on the said 9th day of October, any such precinct. And denies,

That the said petitioner received 53, or any other number of legal votes, for member of the House of Representatives, at any election regularly and lawfully held at Grand Marie precinct, Doty county, on the said 9th day of October, 1855; and further denies that there is or was on said 9th October, any such precinct.

And denies that the said petitioner received 23, or any other number of legal votes for member of the House of Representatives, at any election regularly and lawfully held at Fon du Lac precinct, Superior county, on the 9th October, 1855, and further denies that there is or was on said 9th October, any such precinct.

And denies that the said petitioner received 159, or any other number of legal votes for member of the House of Representatives, at any election legally and regularly held at French River precinct, Superior county, on the 9th day of October, 1855, and further denies that there is or was any such precinct at the time said election purports to have been held.

And denies that the said petitioner received 56, or any other number of legal votes for member of the House of Representatives, at any election regularly and legally held at Lower Grand Portage precinct, Doty county, on the 9th day of October, 1855; and further denies that there is or was on the said 9th day of October, any such precinct.

And denies that the said petitioner received 65, or any other number of legal votes for member of the House of Representatives, at any election regularly and lawfully held at Twin Lake precinct, Itasca county; and also denies that there was on the said 9th day of October, any such precinct.

And the said respondent, N. C. D. Taylor, further answering says,

That at the general election held on the 9th day of October, A.D. 1855, at Taylor's Falls precinct, Chisago county, Minnesota Territory, he received for member of the House of Representatives, of the Legislative Assembly of said Territory, 68 votes.

That at Marine Mills precinct, Washington county, he received 28 votes for member of the House of Representatives, of the Legislative Assembly.

That at Chisago Lake precinct, Chisago county, he received 5 votes for member of the House of Representatives of the Legislative Assembly.

That at Sunrise precinct, Chisago county, he received 24 votes for member of the House of Representatives of the Legislative Assembly, making in all 125 votes received for said office, cast for your respondent at said election.

And he further says, that he has the regular and proper certificate of election to said office of member of the said House of Representatives, and is now occupying a seat therein as a member of said House regularly qualified.

And said respondent further answering, denies that there is belonging to the First Council District of this Territory, either Doty or Superior county.

And further denies that the said petitioner did receive in the said First Council District a majority of the legal votes thereof, at any regular and lawfully conducted election held therein on the said 9th day of October, A.D. 1855.

N. C. D. TAYLOR.

Sworn to and subscribed before me this 14th day of January, 1856.

PHILIP DeROCHEBRUN,

Notary Public.

Testimony of Orrin W. Rice taken provisionally, he being about to go to Lake Superior.

Orrin W. Rice, Sir:

I reside at Superior, Wisconsin; I have resided there since February, 1854. I know where Twin Lakes are on the road from Superior to St. Paul; they are about twenty-two miles from Superior; I am the contractor upon the northern section of the government road, from Superior to St. Paul; I had in the neighborhood of one hundred men employed on that road in the vicinity of Twin Lakes, on and immediately prior to the 9th of October 1855, they would average that, some days they would be under that, some days over. It is thirteen and a half miles from the Bay of Superior to the State line by the government road; it is eight and a half miles from the State line to the house at Twin Lakes. The men were at work on and immediately prior to the 9th of October last from about three or four miles from Superior to Twin Lakes. The men

who were at work on this road, a good many of them, voted at Twin Lakes; I was told so by my partner and by others who had gone out there.

This last testimony objected to by the counsel for Mr. Taylor.

I know that during the fore part of the summer many of those men came across the trail from Taylor's Falls to Superior; I know that they came through the woods; I know that after I had got back there on the Saturday before the election, a good many of them come in and got provisions, and told me they had claims on the north shore; I know that I have seen some of them on the north shore of superior in Minnesota; perhaps not more than three or four.

Questioned.—State what reason you have if any, that more of them than you have mentioned, had claims or resided upon the north shore of Lake superior in Minnesota?

Objected to by the counsel for Mr. Taylor.

Objection overruled.

Answer.—Many of them, quite a number, can't say how many, came in and got provisions of me, and told me that they were going on to their claims, on the north shore, that they were afraid to leave their claims so long. I was anxious to have them stay on the road, and they said they must attend to their claims; that they were afraid to leave them.

I know William H. Newton. All I know about his place of residence is that he signs Deeds describing him as late of Ramsey County, Minnesota, and that he refused to vote at the election in Wisconsin on the 6th Nov. 1855. I do not know of his ever having voted, or exercised citizenship in Wisconsin since I have been there. I only know where he has uniformly claimed his residence to be, from conversation with him.

Question.—Have such conversations been held with him by you once or frequently and within what time?

Objected to.

Objection sustained by Chairman.

Objection overruled.

Answer.—Some three or four, or half a dozen times since last spring.

Question.—Is Mr. Wm. H. Newton regarded at Superior, by the people there as a citizen of Minnesota or a citizen of Wisconsin.

Objected to.

Objection sustained.

I know J. B. Culver. He lives in Wisconsin. He voted at the last election in Minnesota. He was called to serve upon a jury in Wisconsin last August. He refused to act, and made oath before Judge Fuller that he was a citizen of Minnesota. I know that he has a claim on the north shore of Lake Superior in Minnesota.

I know M. W. McCracken. I know that in February last he left Superior for Minnesota on the north side of the Bay, as near as I could know without going with him. I know that Mr. McCracken has refused to claim citizenship in Wisconsin since I have been there.

He refused in the election, and at all political meetings. He has never taken any part and has refused to do so. I have never been on his claim on the north shore, I have had it pointed out to me and have been by it, close to it, in a boat.

I know John J. Post. He has lived in Wisconsin for about eighteen months, done business there, but he has a claim on the north shore of Lake Superior, in Minnesota. He made the claim some time last winter, or late a year ago last Fall. I know that he has never taken a part in any political meeting in Superior, Wisconsin; otherwise I know nothing. His family were in Superior when I left; I have seen his claim, but have never been on it; it is on the Lake shore, just below the head of Minnesota Point; we call it below there.

I know S. K. Reed. I cannot say whether he has a claim on the north shore. I do not know where his residence is. I know Saxton Lyon; I have never seen his claim; I do not know where he claims his residence. I know J. P. W. Neill; I do not know

where his claim is, and where he claims his residence, but from what I have heard him say.

I know Robert and Samuel McQuaid ; they claim and have residence in Minnesota. They claimed and had residence in Minnesota, on the 9th of October, 1855.

I am familiar with the north shore of Lake Superior from old Fond du Lac, to and on, five or six miles below Minnesota Point. I should think that from old Fond du Lac to the head of Minnesota Point there were from fifty-seven to seventy-five voters, as near as I could tell. Outside of the village of Fond du Lac, I should think there were over fifty. I should suppose there were more voters in the village of Fond du Lac last Fall, than voted there ; I got my information as to the number who voted there from newspapers, and from one of the judges of election ; I think it was twenty-four or twenty-five.

Cross-Examined.—I was present at a caucus on what is called Rice's Point, I think in July—at any rate it was before the Territorial Convention—and there were upwards of seventy-five men there, and nearly all of them were residents of Minnesota. I could not say when they went to Minnesota ; I can't name any who came after the middle of April. I know that there were people went there after the middle of April, but I cannot recollect the names of any who were there at the convention, or caucus, I have spoken of ; I know that nearly all that were on the north shore within the limits I have spoken of, went there before the first of April, 1855, otherwise they would have had to have waited until the opening of navigation.

I don't know that any of the persons who had worked for me on the road, and who who had claims on the north shore, and to whom I had furnished provisions, voted at Twin Lakes. I never saw the poll lists.

William H. Newton came to Superior a year ago last July, (1855.) He left there on the 11th day of November, 1854. He came back again in the Spring of 1855. He has been there since, except when he has been on the north shore—he has been there some—not a great deal—he does not pretend to live on the north shore.

John B. Culver is engaged in warehousing and merchandizing, at Superior Wis. He commenced some time in the first part of the summer last (1855.) He lives in one or two rooms over the store of Nettleton & Culver. I have not known him to reside elsewhere since last spring. J. P. W. Neill, lives at Superior. He did when I lived there. He is a druggist. I know that there are a great many people passing between Superior and Minnesota Point—some fishing and some for claims, I mean by Minnesota Point, the north shore.

I know Saxton Lyon. I have only known him in Superior. I have known him to be absent from there a great deal. Robert McQuaid lives, I should say, on the north shore, although I have seen him at work in Superior. He went there some time during the winter 1854-5, and has claimed his residence there since, but has been a good deal of his time since in Superior, working at his trade (carpenter), the nature of the country being such that he was obliged to be there. I say the same of Samuel McQuaid that I have said of Robert. They both work together. Since the 1st May last, the McQuaids have spent most of their time in Superior, but they have been often absent on the north shore ; they keep a boat for the purpose of going to their claims,

By Committee.—I know Joseph Dubay. He can't write. I know R. H. Barrett. I think I can recognize his hand-writing.

[Letter of R. H. Barrett, and the signature of Joseph Dubay here shown to witness.]

Ques.—Do you see any similarity of hand-writing ?

Ans.—"Dubay" looks something like it, but "Joseph," I think, does not.

Ques.—Is that the signature of Mr. Barrett ?

Ans.—I should think not.

[The two small envelopes in evidence here shown to witness.]

Ques.—Can you see any similarity between the endorsements upon them and the signature of Joseph Dubay, and the letter of R. H. Barrett ?

Ans.—I do between the endorsements upon the envelopes and the letter, and the "Dubay" in the signature.

Ques.—Look at the poll list from Twin Lake precinct, and see if you can discern the names of the men who worked for you, and specify them?

Ans.—I will state that I know but few of the men. They were hired by Mr. Hanley, my partner in the road, but I do discover some of the names, more than I supposed I knew. They are: John Maher, Louis LaChants, Joseph Collyer, Michael Case, Frank Morasett, Louis Montrey, Christopher McIntosh, John Collyer, W. H. Lyon, John Peterson, Antonio Case, John Johnson, Patrick O'Brien, Joseph Dubay, Timothy Sullivan, Thos. Shortreed. That is all that I can name that I know.

By Counsel for Mr. Taylor.—There are two John Petersons in this county. I think they are not both citizens of Wisconsin. I think one of them has a claim on the north shore. I do not know whether or not John Johnson is a citizen of Wisconsin. I don't know any of the names I have mentioned to be those of citizens of Wisconsin. I do not know that I ever saw Mr. Barrett (R. H. Barrett) write his name. I have seen his signature which he acknowledged to be his, and which I knew to be his. I have received letters from him. That letter (referring to the letter of R. H. Barrett, in evidence) does not seem to be his hand-writing.

By Committee.—I can call over the names of some on the poll lists who have come from the Mississippi to the north shore of Superior in this Territory. They are:—Wm. H. Newton, Benjamin Gates, L. B. Coffee, F. A. Buckingham, J. B. Culver, Joseph Posey, Z. J. Brown, R. P. Miller, A. Crozier. Those, I believe, are the only ones I knew.

Re-examined.—All that I know about my men voting at Twin Lakes is from hearsay. I see some names of persons on the poll lists, to whom I furnished provisions. I know Joseph Dubay came from Minnesota. I know that Thomas Shortreed came from Minnesota, by hearsay. The witness says that he does not mean that the persons named came to the north shore of Lake Superior, but that they came from the Mississippi.

ORRIN W. RICE.

Sworn to and subscribed before me, January 22, 1856.

THOS. B. HUNT,

Chairman.

TESTIMONY OF EDMUND RICE.

Edmond Rice, Sworn:—I first visited the north shore of Lake Superior in Minnesota, on the 5th of July last; I was up there 4 days; I went up as far as Sucker river; I suppose that was from 20 to 30 miles up the shore; Knife river is beyond there, as I was informed; I mean I was gone four days; I went up Sucker river, fishing, I should think two miles; I remarked the extent of settlement and population; I counted twelve cabins; I saw at Landray's three families; I think his name is Joseph Landray; I went up French river about a mile and there was a settlement of one family at least, they had quite a clearing, I don't know whether there were any more or not; on the opposite side of French Creek near Landry's there was another settlement; I don't remember of there being but one house there; at Talmadges, another place on the Lake shore, there were two, I went to these houses; I think I saw too cabins more between there and the head of Minnesota Point on the shore, I will not be positive, I saw from the shore, some distance from the Lake; quite an improvement I should suppose; quite a settlement; I don't know how many houses were there; I don't know that there was more than one; I saw one; It is called "Nettletons." Those were about all the habitable places that I saw from the head of the point to Sucker river; I didn't see any children except at Landray's; there were three heads of families there, women and children; all the rest that I saw were grown up males; I should suppose over the age of 21 years; I didn't go to all the cabins. I should suppose that I saw, on the Lake and along the shore below the point, somewhere from 16 to 20 grown up men, a portion of whom were on the Lake in boats; that is the only means of communication I knew any thing about; I met a party coming down from Pigeon river; they should be included in

the 16 or 20; there were 6 of them, I believe; they claimed to be citizens of Minnesota; I was at old Fond du Lac village; I did not go ashore any where else above the point, but could see the settlements; it was nearly dark when we took the batteau and we went down in the night; I did not see any improvements until the next day when we got to Ely's place; there were two or three buildings there; there may have been more; I did not take particular notice; at Fond du Lac there is quite a village; there were I should suppose, a dozen houses there; I went to Mr. Carlton's, and from there to a half-breed's, and was there introduced to a Catholic Priest; there were about a dozen half-breed men there beside women and children; I think we got 6 or 8 men to row us down besides our own voyageurs, four of them that we took through, some we hired, and some went on their own account as passengers; I should think there were at least 20 males in the village of Fond du Lac; I may be mistaken; I did not pay much attention. I know William H. Newton; I have known him 3 years; I think intimately; Mr. Newton had his residence here, in Ramsey county, until he went to Superior and has resided there since I suppose; I don't remember when he went to Superior; I think a year ago last spring; I don't know of his having a residence in Ramsey county now.

Cross-examined.—I didn't see the people who were inhabiting the places below the point; I didn't visit the cabins on Sucker river except two or three of them; I saw the smoke from the cabins.

By Committee.—Carp river (Sucker river) is this side of Knife river.

Witness Explains.—As we were going down St. Louis river we stopped at Fond du Lac; there is where we took the batteau. Ely's is down at the mouth of the river on the Bay; that I didn't see until the next day, when we went out on the Bay in a boat.

Sworn to and subscribed before me, Jan. 23, 1856.

EDMUND RICE.

THOMAS B. HUNT,

Chairman.

Alfred Allen's testimony taken provisionally, he being a resident of St. Anthony.

Alfred Allen sworn.—I reside at Superior, Wisconsin. I have resided there since about the 1st of April, 1855. I have been on the north shore of Lake Superior, from old Fond du Lac to twelve miles below the Point. (Minnesota Point.) I was first on the north shore in 1854, in the month of April—about the middle.

In the year 1854, I didn't travel much. I had been along the bay of St. Louis, 4 or 5 miles, and back into the county 4 or 5 miles.

During the summer of 1855, I was three times at Fond du Lac, and once down the lake shore, twelve miles.

I should judge the population, from old Fond du Lac down to where I have been, men, women and children, to be from 300 to 350. I was there last sometime in the month of October, 1855. The population there is composed of young men—single men, almost entirely. As a general thing they have log houses. Some spend their time entirely on their claims, and some spend their time working in Wisconsin. The settlements about the bay, and above three to four miles below, and two or three miles above, extend from three to four miles back from the lake shore. I mean that those who work in Wisconsin are mechanics, and such as work at days work to support themselves.

Those who work in Wisconsin have, as a general thing, their houses on the north shore.

I was in that country during last August. I remember the payment to the Chippewas at La Pointe. As a general thing, the old settlers, the traders, and half-breeds, and some of the white people, attended the payment.

La Pointe is somewhere between 80 and 100 miles from the Bay of St. Louis.

I know J. B. Culver. I have known him since the fall of 1854. When I first knew him, he resided in St. Paul. He has lived during the past summer, most of the time, I think, in Superior, Wisconsin. I have known him to be in Minnesota some. I have known him to leave Superior, sometimes, and be gone two or three days, and, perhaps,

four or five days at a time. I suppose he went to the north shore,—he started for there.

The last testimony objected to by the Counsel for Mr. Taylor.

I never knew of his acting as a citizen of Wisconsin since he has been there, either upon juries, at elections, at public meetings, or otherwise. I have known of his refusing so to act. He was summoned to act as a grand jurymen before the District Court, before Judge Fuller, and swore that he was a citizen of Minnesota, and refused to act on those grounds. I am acquainted with most of the citizens of old Fond du Lac. I was there at the last election. I think there was between 28 and 30 voters on the spot at the time—I don't recollect the exact number. On that day I thought all the voters who lived there were not present at the election—I thought they were able to poll a larger vote there than they did. I know Robert and Samuel McQuaid. I have known them since late in the fall of 1854. Their residence since that time has been in Minnesota. I have been to their house in Minnesota. I was there February 1, 1855. Their house was between two and three miles below Minnesota Point, on the north shore.

Cross-Examined.—R. B. Carlton, Charles Lord, Webster Carlton, seven or eight Frenchmen and half-breeds there. I don't recollect their names. I know the men. — Buckman,—I don't know his first name—he resides a short distance from there. Joseph Laundry, John Laundry. I don't recollect the names now of any others particularly—are citizens of old Fond du Lac. I couldn't say positively whether Joseph Laundry is a citizen of Minnesota or not. I think Joseph Laundry has not a claim near Superior. I know of none.

I should judge that Robert and Sam'l McQuaid had spent one-fourth of their time on their claim in Minnesota since the first of May last, judging from the time they were gone on the North shore. I have, of my own knowledge, known them to have spent one week in Minnesota since the first of May last. I think it was in the month of July last, the latter part.

The greater portion of persons I have mentioned were on the North shore on the first of May last. The land was considered the most valuable, and was claimed the fall before, and in the winter and spring. I should judge that two hundred and seventy-five or three hundred were then there—I mean there were that many claims made—the most of them were residing on their claims. I shouldn't judge that there were two hundred and seventy-five or three hundred houses; some of them had not built their houses, the weather was so cold and the snow was so deep, that some of them did not build their houses until spring. I don't know that there have been a great many claims made by citizens of Wisconsin in the county which I have named, who have never left their residences in Wisconsin; I know of one or two, but they never had residences in Wisconsin as I know of, one of them died a short time since; I know of two and that is all.

By Committee.—I know where Grand Marie is only by hearsay; I know John Parry, I suppose he resides on the North shore, he has spent his time there for the last six, seven, or eight months; I think the most of his time he has spent down the Lake quite a piece, the distance I can't state; French river is somewhere near, the distance I can't say, except from hearsay; I think Mr. Parry lives somewhere near the river; I have never been there; I do not know anything in relation to the extent of population at French river.

(List of votes polled at Fond du Lac presented to witness.)

I see but one here, and I don't know that he is a resident of Wisconsin, (Peter Wells) he has been at work part of the summer in Wisconsin, and I have known him to be a part of the time on the North shore in Minnesota; whether he is a resident of Minnesota or not is more than I know; I spent but a very few minutes at the polls: Mr. Carlton and Mr. Lord were two clerks I think.

Re-Examined.—The people there regarded the country on the North shore which I have referred to, as in Superior county.

Sworn and subscribed before me, January 28, 1856.

ALFRED ALLEN.

THOMAS B. HUNT, Chairman.

TESTIMONY OF LEVI W. FOLSOM.

Levi W. Folsom sworn:—I reside at Taylor's Falls, the county seat of Chisago; I don't know for a certainty when the election returns of Doty, Superior and Itasca counties were received by the Clerk of the Board of County Commissioners of Chisago county.

Objected to because the office of the Register of Deeds will show that fact.

Objection overruled.

Mr. Lacy the Register of Deeds of Chisago county told me "I know I found the returns in the office of the Register of Deeds with the letter attached." I went home from Stillwater with Mr. Lacy, he had been to Stillwater to compare the votes with the Register of Deeds of Washington county immediately after the canvass and I returned with him from Stillwater home; I saw the votes the next morning after returning; I could not fix the date for a certainty, I should judge about the 30th of October, 1855.

Question.—What did Mr. Lacy, the Register of Deeds of Chisago county, say to you at that time, in reference to having received those returns?

Objected to.

Objection sustained.

Objection withdrawn.

Answer.—Mr. Lacy stated that he received the returns by mail, opened them and laid them before the canvassers at the time the other votes were canvassed; by other votes, I mean the votes of Chisago and the votes of Washington county belonging to that district.

Cross-Examined.—I asked Mr. Lacy why these votes from Superior, Itasca, and Doty counties were thrown out? His answer was because he knew of no such precincts, and didn't consider that he had received the votes in a legal manner; he did not say anything else that I think of; I have no recollection of his saying anything about receiving those votes being a misdemeanor. He did not, I think, say that to receive those votes would have been a misdemeanor in office; no words of that kind used; that is all then was said; he stated his reasons, as I have already said, why the votes were not canvassed; I have no recollection of his using the word misdemeanor; he did not to my knowledge use any other word conveying the same meaning any more than I have already testified to.

I don't know that I have at present a case in the Council in which these same questions may arise, I can't say what I may have; in part I rely to sustain my case upon these returns.

I may be mistaken with regard to the time the votes were canvassed at Taylor's Falls. I left home the morning after the election—Wednesday morning—on a journey to Davenport and Rock Island. On my return, I found Mr. Lacy at Stillwater about three o'clock in the afternoon. He stated to me that he had just been comparing the votes as canvassed in Chisago county, with the Register of Washington county. I inferred from conversation with him that the votes had just before been canvassed at Taylor's Falls; that is as near as I know the precise time of the canvass. The votes canvassed at Taylor's Falls were the votes of part of Washington county, Chisago county, and there should have been the votes of Itasca, Doty and Superior counties. The Justices, Reed, and Newbury, and Mr. Lacy I suppose were the canvassers at Taylor's Falls. I do not know, and never asked the question; I do not know that there was no canvass at Taylor's Falls. The Register, as I said before, told me there was a canvass, and I can state further with regard to Washington county if necessary.

LEVI W. FOLSOM.

Sworn to and subscribed before me January 15, 1856.

THOS. B. HUNT, Chairman.

TERRITORY OF MINNESOTA:—RAMSEY COUNTY. SS.

William M. Mayo Sworn:—I am at present staying in St. Paul: I was appointed by

A. C. Smith, Sheriff of Chisago County, to take the Census in Superior and Doty Counties: I am familiar with Minnesota Point: I know where French River is: I know where Grand Marie is: I know where Grand Portage is: I am familiar with the lower part of the Lake at Grand Portage Bay: I passed Twin Lakes, last May: at the time I was at Twin Lakes there was no settlement there: the nearest settlement, to this point, at that time, was Fond du Lac: Fond du Lac is about 18 miles up the St. Louis River from its mouth: I passed, from Minnesota Point, around the North Shore, to a mile or so below Grand Portage,—this is about seven miles from the mouth of Pigeon River. The first time I went down the Lake was in the early part of July last, or the last of June: I was down again the last of July and returned about the twenty-third of August. From Minnesota Point to Knife River is twenty-five miles: there could not be over thirty men between those two points: in this distance there were several claims made, cabins built, and in several of the cabins persons resided: these were all over twenty-one years of age: there are ten cabins, on the other side of Knife River, three cabins occupied by three young men: the next point along the Lake is ten or fifteen miles from Knife River: there was one cabin occupied, when I was there, by one man; the next point below was Encampment Island—there was a cabin, but it was not occupied, it was owned by Ward Follick, of Superior, Douglass County, Wisconsin: the next is at Encampment River, there was one cabin—an old trading post—still held by a Mr. Elliott—there was no one in at any time I passed there: the next is about thirty miles below that at Grand Marie—there is an old trading post and several old cabins, now gone to ruins—these were built by Elliott: there are two other cabins put up recently—one was occupied by Frank Demour during the winter of 1854-5.—There were two young men taken there by Richard Godfrey; also three Canadians, who came from Superior—they put up three cabins, back about a mile, but never occupied them: the next point below that is Grand Portage, on the Indian Reservation; there were two white men—Mr. Elliott and his brother-in-law,—there were at this point twenty claims, occupied by half-breeds, who called themselves civilized Indians; about twenty of those. I forgot one point, on the coast of Beaver Bay, about fifty miles; at that point, there was one cabin and three men living; the only one whose name I remember was Robert McLean; the other two were Germans or Swedes.—Perhaps one half a mile back from this point, there was an unfinished cabin, no one living in it. I was back in the country as far as it was usual to go back there,—my business was exploring for mineral: I was back as far as the settlements extend, and made it my business to visit these places, to see their specimens of Copper, and see where they had taken them from. Between Knife River and Grand Portage there are none others than those I have named: Frank Demour lives below Grand Portage. In regard to the census, I will state that, after I arrived there, I determined to return without taking it, or without acting as County Commissioner, to which I had been appointed; and, at the earnest solicitation of parties there, I determined to do it as well as I could, by employing other agents to go to points where I was unable to go myself.—In the Fond du Lac District I employed R. B. Carlton; he gave me a list of some fifteen heads of families.

There was a Company called the North West Exploring, Richard B. Godfrey was agent for the Company, and he employed me, on some business up the Lake. The business extended from Carp River to Grand Marie: there were four or five men, at different points, located by him, and paid to remain on those places.—I went and examined the places, to see specimens, and to give my opinion of the locations.—By this I examined all the points there were on the Lake; I visited all the places which he had men living upon, as well as those occupied by another Company. These men are placed in this country to secure these claims for mineral purposes—there is no other business done there—no farming: I made it my business to inquire of every person where there were settlements; there is Knife River: I mentioned the settlement there, and Grand Marie: Encampment Island, Gooseberry River: Beaver Bay: Encampment Island River: Grand Portage: Grand Marie: there are two cabins at Gooseberry Mills, but nobody there

when I passed: at Beaver Bay there was one cabin and three men—this is the point I referred to as being the place where there were two Germans, or Swedes, and one American.

I know no others—nor did I hear of any; to the best of my knowledge and belief I have enumerated all.

Cross Examined.—The means of going there was a Mackinaw boat; I started from Superior,—the first time I went only to Knife River; William Herbert, Richard Godfrey, there were also three Canadians managing the vessel.—They all lived at Superior, except Richard Godfrey, he resided in Detroit, or near there. The second time, N. Herbert, the three Frenchmen and another: we landed the first time half way between Knife River and the point: I went back up the River, perhaps two miles, staid there awhile. The next point was Carp River—stopped there perhaps between two and three hours; and went back not so far as at the other place, as the settlement did not extend back so far, there being a show for minerals near the shore: The next point of landing was Knife River,—we went back three or four miles,—staid over night there—the next morning we went over Knife River, towards Carp River, and back almost the same distance from the shore.

From here we went straight back. On the second trip we stopped three or four miles to French River, we took dinner there, remained about two hours; did not go into the country, it was a part of the coast upon which there were no habitations; we went two and a half miles further, that night, and camped about one half mile from Knife River and left the place where we had been, early next morning. We went from there to to Knife River and took breakfast on the beach; from that point I don't know that I can recollect where we next stopped.

We were three days going up, or down rather, to Grand Marie; yes, almost five days. The boat was sometimes rowed and sometimes sailed. I did not return for two weeks—my principal stopping place was Grand Marie.

As we went down again, we left on Sunday afternoon, and got back to Superior by the following Saturday. The farthest back was at Knife River, four miles: I went back much farther at Carp River, we were gone about four or five hours, it is a very rough country.

I do not know Mr Kingsbury: when I was on the Lake shore Mr. Kingsbury lived about a mile from the point: do not know Robert Johnson,—I do not know where he lives—there were several unoccupied. J. S. C. McQuaid lived in the vicinity of Mr. Kingsbury: Mr. Whitesides lived in Superior, when I was there, in the summer, and boarded at the same house where I did.

Robert McQuaid boarded at Reed's, in Superior, at the same time I did; he has a claim on this side.

I cannot call John McFarland to mind, and can't tell where he lived. Benj. Armstrong lived on the North Shore. I know something about the people between Minnesota Point and old Fond du Lac; at the Point there lived a man named Durey—this was on the main land: on the Point were Reuben Barrett and another: another cabin on the same claim with Durey: Robinsen had a claim there, but lived in Superior, and for that reason refused to qualify as County Commissioner: Buckingham: another, whose name I don't know: Brown, Coffee, Burk, Conner, and a Frenchman living on Rice Point. Conner's son, a half-breed, and a Frenchman joining him, contesting the same claim: next to him was Rodgers: next point, Bacon, Hall, Keen, Knox, and a man and his wife—name unknown, Mr. Collins, Kingsbury, and that is as far toward old Fond du Lac as I have any knowledge.

I know when the payment was made at La Pointe; it was in August it should have taken place, but did not take place till September: there was not one went from between Grand Portage and Knife River to the payment. I cannot say who went to the payment from other points.

I do not know any one living on this side who worked in Superior; at the time I spoke of. I never walked from Minnesota Point to Knife River.

Committee.—The distance from French River to Superior is about fifteen miles. The distance from Minnesota Point to Pigeon River is one hundred and fifty miles and eighteen miles from the Point to Fond du Lac.

Re-Examined.—The christian name of Whiteside is William. I do not know what business the McQuaigs, or either of them is engaged in, in Superior: H. S. Burk resides about a mile up the main shore on the north shore. H. S. is I believe the initials of Robinson; he resides in the contested portion of Superior or Superior City.—He said he would not qualify as Commissioner, because he did not consider himself a citizen of Minnesota.

This is my point of residence. I came to St. Paul, last July, twelve months ago—my family reside here, I make this my residence.

Re-Cross-examined.—I am the same gentleman who made an affidavit, in regard to the Superior Election, which was published in the Minnesotian. I was accompanied in one of my trips by Richard Godfrey; he resides now, and did then, near Detroit; there was no one of that name, living on the Lakeshore, to my knowledge.

As far as I am acquainted with Mr. Godfrey, I do not know anything to say against him.

WILLIAM W. MAYO.

Sworn and Subscribed to before me, this 13th day of January, A.D. 1856.

THOMAS B. HUNT, Chairman.

In the matter of the election contest of W. W. Kingsbury vs N. C. D. Taylor, the sitting member in the House of Representatives.

Thomas Lacy sworn on the part of Taylor:—

I reside at Taylor's Falls, Chisago county. I was Register of Deeds of that county at the last October election. I qualified for that office on the 2nd day of July 1855. I continued in that office up to the 8th of January 1856. Itasca is attached to Chisago for judicial purposes. There are not any precincts established by the County Commissioners of Chisago county in the county of Itasca. I remember a conversation with Levi W. Folsom about certain election returns from certain purported precincts in the first Council District. The conversation was not so much between him and me, as it was with some others who were in company with me. The conversation was in regard to the legal establishment of those Precincts; I think Precincts in Itasca, Superior and Doty Counties. There were some remarks that those Precincts were not legally established. Mr. Folsom remarked, they would find out, or something to that effect. This conversation occurred in a wagon, going from Stillwater to Taylor's Falls. I don't think I said anything special to him in regard to the canvass any way; but some of the others did—there were four or five in the wagon. We canvassed at Taylor's Falls, the Chisago Lake Precinct, Sunrise Precinct, and Taylor's Falls Precinct. The object of that canvass was to see how many votes were polled for Delegate to Congress, members of the Territorial Legislature, County and Precinct officers. The votes for Council and House of Representatives of that District was canvassed in my office. That is, that Representative District. The whole District includes a part of Washington County. We canvassed a part of that Representative District in Chisago, and, I presume, a part in Washington.—I could not say. Myself and the Register of Deeds of Washington County canvassed the whole, but in the first place it was canvassed in both places.

Look at the envelopes and returns in evidence and state if those are the same envelopes and returns received by you as Register of Deeds of Chisago County.

Look at the character of the hand writing of the letter from Mr. Barrett, the envelopes, and the returns from Twin Lakes Precinct, and then say whether they are all in the same hand writing.

Those, I think, are the same papers.

I should think that they were all in the same hand writing. I think the hand that made the endorsement on the small envelopes, first handed in, made the D in the name of Joseph Dubay, one of the judges to the Twin Lakes Return. I think all the envel-

opes but one are endorsed by the same person. The endorsement, "Election Returns," on the excepted envelope, is also, I should say, by the same person. They all came sealed up in these separate papers, and all enclosed in another envelope. The whole of these returns. They came by mail. I took them from the Post Office. There were seven documents in all, including the letter from Mr. Barrett. They are all here.

Cross Examination. I do not recollect the day I received those envelopes. It was before the canvass.

CORRECTION.—I cannot say whether all the names on the Twins Lake return were written by the same hand. The words, "Clerk of Election," "Judges of Election," and "Dubay," are in the same hand writing of the envelopes and letter. The whole body of the return is in the same hand writing with the letter of Barrett and the envelopes.

THOS. LACY.

Sworn to and subscribed before me, January 18, 1856.

JAMES F. BRADLEY.

Edmund F. Ely, sworn.—Minnesota Point is marked "1" on the map marked "A"; Lower Portage is marked "2," Fon du Lac "3," French River "4." I reside in Superior City, in Wisconsin. It is not quite two years since I went there; it will be two years in March next. I know the country some about Twin Lakes, Itasca county. I have passed there on the old Indian trail. I was there last about the last of August or 1st Sept. last. I saw no one there then; there was one house. I had occasion to stop at it, and there was no resident in it. I passed on the old Indian trail and a part of the way on the Government road. I passed on the trail. I could not say there was not a settlement within a mile from the house to the right or left of the trail. There was none on the trail for eighteen miles. From Fon du Lac to Twin Lakes is about half that distance, and this was the only building within the eighteen miles. I am acquainted with the country about Minnesota Point, but do not know all the people.

Look at the returns from "Minnesota Point," and then state which, if any of the persons whose names appear upon that return, are citizens of Wisconsin.

J. B. Culver, one of the Judges of Election, Robert McQuaid, Judge of Election, I have seen from time to time, engaged in Superior at his business in connection with his brother as carpenter.

W. H. Newton, S. C. McQuaid, for the same reason that I gave for Robert McQuaid, John J. Post, S. K. Reed, Saxon Lyon, J. P. W. Neill.

Ques.—Are there any Indian or negro names in the same return? No.

Look at Grand Marie and answer the same question as before put, respecting residents of Wisconsin.

I do not see any names here that I know to be residents of Wisconsin. There are Indian names here. Paul Man-na-con wash, Ke-non-gib-wa, A-te-kuns, Joseph Man-na-con-wash, Nan-na-bo-sha, We-jo-bish.

Fon du Lac precinct—first as to residents of Wisconsin. J. Laundry—if it is Joseph Laundry, he is a resident of Wisconsin. I know no other J. Laundry than Joseph. There are two Indian names—Michael Shingoop and F. P. Shingoop.

French River—first as to citizens of Wisconsin. I see none that I know to be residents of Wisconsin.

Indians Joseph Amick, Charles Ne-gigg, Henry Wa-ba-Sish, Charles O-shc-ga, Stephen Muck-a-da-be-na-se, Antoine Wa-nin-ne, Joseph Wa-be-sah, John Baptiste Que-we-sash, Orin A-na-mas-sing, Ba-ta-ke-wis-e, Ken-da-ca-bas-gum, John Baptiste Wa-ba-no.

Twin Lakes, same questions.

I see none that I know to be residents of Wisconsin.

Grand Portage—same questions.

M. W. McCracken, is the only name I see that I know to be a resident of Wisconsin. The Indian names are,

Elie A-de-kon, Clement A-de-kon, William A-de-kon, Louis Me-nas-kan-as, Joseph

Me-nas-kan-as, Paul Me-nas-kan-as, John [Babtiste] Ka-we task, Augustine Ka-te-wish, Francis A-de-kon, Alex. A-de-kon.

John Bungo is a Negro-Indian half-breed, at French River; I presume I know the individual but could not swear his name is John; I have never seen any roads from Twin Lakes, except the Government road—cut out road; when I was there the Government road had not reached that place. The country is generally level about Twin Lakes, densely timbered, and it would have been impossible to get a team through there at the time I passed; there had been a little cutting, as I judge, to locate the road, but it did not come up to the house I speak of; but there was nothing of that kind west of Twin Lakes. I have only been over this trail by Twin Lakes at the time I speak of within the last eight or nine months.

Look at the letter of Governor Gorman, in evidence, and state if you know the persons therein named. W. W. Mayo, I know; Burke, I have a slight acquaintance with; I do not know that I know Robinson, there are two of that name, but I do not know which of them it is resides there. I think the name of the one residing in Superior is William—can't say certainly.

Cross-examination.—I do not know how many men have been at work on the Government road near Twin Lakes.

Question.—Do you know whether the following persons bearing Indian names, mentioned by you, are of whole or mixed blood or whether they have assumed the dress and habits of white men or not? If so state as I call them.

I only recognize one individual of those I have named bearing Indian names; that is John Babtiste Wabano; he is a full blood Indian; I knew his parents and himself from a boy.

J. B. Culver lives in Superior; I speak that from actual knowledge of the fact. W. H. Newton and John J. Post are actually residents of Superior; also, S. K. Reed; also, Saxon Lyon; also, J. P. W. Neill; these persons some of them have resided out of Wisconsin within the past 12 months; some of them have resided in Minnesota within that period; I speak of their present residence when I say they resided in Superior.

I could not answer where all those persons lived on the 9th October, and 6 months prior thereto.

J. B. Culver has resided for some ten or eleven months in Superior, with his family; W. H. Newton is agent of the Superior Company, and has lived and transacted business for that Company, for more than six months prior to the 9th October last in Superior; John J. Post has been engaged for more than a year in merchandise in Superior and for most of that time his family were with him there; where they were the rest of time I can not tell.

S. K. Reed resides in Superior and did reside there on the 9th of October.

Saxon Lyon did reside in Superior for a year and a half past and now holds the office of Justice of the Peace in Douglas county, at least he was elected.

J. P. W. Neill resided in Superior on the 9th of October, he is a druggist in that city.

J. B. Culver resided in Superior on the 9th of October last.

The distance from the place of election at Minnesota Point to Superior is something like six miles; it is this distance by water.

Superior Chronicle, September 25th, 1855, received in evidence.

E. F. ELY,

Sworn to and subscribed before me this 19th day of January, 1855.

THOMAS B. HUNT,
Chairman.

In the matter of the contested election to the House of Representatives of Minnesota Territory, between N. C. D. Taylor and W. M. Kingsbury:

Robert F. Slaughter, sworn on the part of Mr. Taylor, says:

I now reside in St. Paul. I am acquainted somewhat in that portion of Minnesota about Lake Superior. I am acquainted with a portion of the people about Superior,

Wisconsin. I lived just above what is now Superior, Wis., perhaps three-fourths of a mile. I left there October last, one year ago. I resided there for some three or four months with my family. I was there myself from December, 1853, until October, 1854.

I was there last in October, 1855. I think I was there some eight or ten days, from the latter part of September to the 12th of October. I was there at the time of the election in Minnesota. I was at old Fon du Lac, some sixteen or eighteen miles up the St. Louis river, on the day of the election in Minnesota. I saw a portion of the voters at the polls on that day at Fon du Lac.

I saw Indians there. I saw what I called Indians voting. I would say Indian, rather, instead of Indians. I would say I saw an Indian vote there on that day. They called the Indian John Martin. I have seen such a person in that country as Shingoop. There is a family of Shingoops in the vicinity of Lake Superior. We call them Indians. One of the Shingoops—the old man—is the head or chief of the Fon du Lac band of Chippewa Indians. I know of no other family of Shingoops about Fon du Lac than the family I have spoken of. I have known Joseph Laundry. He resides in Wisconsin, immediately opposite the old village of Fon du Lac in Minnesota. He resided at the same point on and prior to the 9th day of October last. I saw him at Fon du Lac on the day of the election. There is no other Joseph Laundry that I know of residing in or about Fon du Lac. I did not see him vote on that day. I was about the polls from 12 o'clock till night.

Ques.—Take the poll list of Fon du Lac and state which, if any, of those named there are citizens of Wisconsin.

Ans.—There is none that I could state to be citizens of Wisconsin on the day of the election but Joseph Laundry.

I can't say that there is any here who was not voters from my own personal knowledge.

When I went to Fon du Lac, as I was going up in the morning, I passed a boat containing eight persons coming out of Pokegamo river in Wisconsin, and we got into Fon du Lac sometime ahead of them; the question was asked them, when they came in, whether they were going to vote—they said they "were not; they were not voters."

(What was said here by the persons referred to, is objected to by counsel for Mr. Kingsbury.)

They stated they did not intend to vote; that they had come up after pay. I afterwards saw five of those men vote. I know R. H. Barrett, of Minnesota Point, I have seen him write.

Look at the letter signed R. H. Barrett, and then, do you believe that to be his handwriting from seeing him write?

Ans.—I should say it was not his handwriting.

Look at the returns from Twin Lake Precinct, the letter signed R. H. Barrett, the superscription in fine, of the envelopes, and the words "Election Returns," on the other two envelopes, and then say, whether, in your opinion, they are in the same handwriting?

Ans.—I should think a portion of them was in the same handwriting.

Quest.—Look at the returns from Minnesota Point, and then say, who, if any, of the persons whose names appear on said return, either as officers or voters, were citizens of Wisconsin, on the ninth day of October last, or at any time within six months prior thereto?

Ans.—I was not about the Lake for six months prior to the election; but can state where men resided on that day.

S. C. McQuaid was residing in Wisconsin on the day of the election: he was residing in Wisconsin on the day before and immediately after the election; I did not see him there on the day of the election.

John J. Post, Robert McQuaid, S. K. Reed, William Whiteside, D. A. Currier, J. B. Culver—that is all that I am positive of—they were residing in Wisconsin, prior to, and subsequent to the election—a day or two prior to the election, and after it.

Cross Examined.—I went to the Lake last the latter part of September; it had been nearly a year since I had been there before. I was at St. Paul most of the time; I be-

lieve, in the mean time, I was at the Lake the last time I was there, for ten days; I did not go along any portion of the shore, except from the head of Minnesota Point to Fon du Lac. I should take John Martin to be a full blooded Indian from all the indications I saw and from appearance. I judge only by his appearance; I know nothing about his nativity. I could not give the names of the family of Shingoops to whom I referred; I do not know that they have any first name. I could not give the names of the persons whom I saw coming out of Pokegamo River, except one, his name is Allen; I could not give his first name; he is the one who is about here; a brother of Alviron Allen of St. Anthony; I know nothing about those not being voters, except what they said there; I could not give the names of those five whom I saw vote.

S. C. McQuaid told me he had been residing in Superior, during the whole summer working, building homes there during the whole summer and spring.

Mr. Currie was keeping a hotel in Superior city, Wisconsin; he told me he had leased the hotel and intended residing in Superior city, making it his home.

Mr. Culver was residing there with his family, as he told me, and was doing business there.

Mr. Reed and Mr. Post were also doing business there, and had resided there. Mr. Reed had resided there for eighteen months or two years; I mean that Robert Reed had resided there for the two years; but S. K. Reed was doing business there. Whiteside kept a grocery there. All I know about these gentlemen residing there was, that they were doing business there and what they told me.

Committee.—I am well acquainted about Minnesota Point.

Ques.—What is the extent of the male population at and around Minnesota Point, over the age of 21 years?

Ans.—What would you call round Minnesota Point?

Ques.—For three or four miles each way.

Ans.—I should say there were twenty-five or thirty persons.

Ques.—From Fon du Lac to five miles below Minnesota Point, what is the number of male population over the age of 21 years, embracing Fon du Lac and Minnesota Point?

Ans.—I should think it would add about ten more; making forty persons, perhaps.

Ques.—Do you know where Grand Marie is?

Ans.—Yes sir, I do. It is on the north shore of Lake Superior, in Minnesota Territory, about seventy-five or eighty miles from Minnesota Point, I should think.

Cross-examined by Mr. Kingsbury's counsel.

In my estimate of the population of the country I have spoken of, I was guided by what I saw last fall. I was not down Minnesota Point more than three or four miles last fall. I was back in the country about three miles, but not that far back below the Point. I can't say that I was down as far as Mr. Kingsbury's shanty—I might have seen Mr. Kingsbury's shanty, but not to know it.

R. F. SLAUGHTER.

Sworn to and subscribed before me, this 23d January, 1856.

THOS. B. HUNT,

Chairman.

EXECUTIVE DEPARTMENT, St. Paul, January 16, 1856.

WM. W. KINGSBURY, Esq.

Sir:—In reply to your enquiry, on the county of Superior, I have to inform you that on the 15th day of May, 1855, I appointed H. Robinson, H. S. Burke, and W. W. Mayo, such Commissioners.

Also, I appointed R. Barrett, Register of Deeds, for said county, on the 7th of April, 1855.

Respectfully your ob't. servant.

W. A. GORMAN.