

DECEMBER 23, 1846.

Introduced on leave, by Mr. MORGAN L. MARTIN, read twice, and referred to the Committee on Territories.

JANUARY 20, 1847.

Mr. DOUGLASS, from the Committee on Territories, reported the following amendatory bill; which was read, and committed to the Committee of the Whole House on the state of the Union.

A BILL

Establishing the territorial government of Itaska.

1 *Be it enacted by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled, That*
3 from and after the third day of July next, all that district of
4 country comprised within the following boundaries, to wit: com-
5 mencing in the middle of the main channel of the Mississippi
6 river at a point where the line of north latitude forty-three de-
7 grees and thirty minutes crosses said river, running thence west on
8 said line of latitude to the line of west longitude ninety-five degrees
9 and thirty minutes, thence on a direct line northwestwardly to
10 the point where the forty-ninth parallel of north latitude crosses
11 the one hundredth parallel of west longitude, thence east and
12 southeast along the line dividing the British and American pos-
13 sessions, to lake Superior at the northwest corner of the State
14 of Michigan, thence along the western boundary of said State
15 to the point in the middle of said lake where the said boundary
16 is intersected by the boundary line of the State of Wisconsin, as

17 established by the "Act to enable the people of Wisconsin Ter-
18 ritory to form a constitution and State government, and for the
19 admission of such State into the Union," approved August sixth,
20 eighteen hundred and forty-six, thence along the line of the said
21 State of Wisconsin to the mouth of the St. Louis river, thence
22 up the main channel of said river to the first rapids in said river,
23 "thence in a direct line southwardly to a point fifteen miles east
24 of the most easterly point in lake St. Croix, thence due south to
25 the main channel of the Mississippi river or lake Pepin, thence
26 down the said main channel of lake Pepin and the Mississippi
27 river" to the place of beginning, shall, for the purposes of tempo-
28 rary government, be and constitute a separate government by the
29 name of the "Territory of Itaska." And after the said third
30 day of July next, all power and authority of the government of
31 Wisconsin in and over any part of the territory hereby consti-
32 tuted shall cease: *Provided*, That nothing in this act contained
33 shall be construed to impair the rights of person or property now
34 appertaining to any Indians within said territory, so long as such
35 rights shall remain unextinguished by treaty between the United
36 States and such Indians; or to impair the obligations of any treaty
37 now existing between the United States and such Indians; or
38 to impair or anywise affect the authority of the United States to
39 make any regulations respecting such Indians, their lands, prop-
40 erty, or other rights, by treaty, or law, or otherwise, which it
41 would have been competent for the government to make if

42 this act had never been passed: *And provided, further,* That
43 nothing in this act contained shall be construed to inhibit the
44 government of the United States from dividing the territory
45 hereby established into two or more other territories, in such
46 manner and at such times as Congress shall, in its discretion,
47 deem convenient and proper; or from attaching any portion
48 of said territory to any other State or Territory of the United
49 States.

1 SEC. 2. *And be it further enacted,* That the said terri-
2 tory of Itaska shall have concurrent jurisdiction on the Mis-
3 sissippi, and all other rivers and waters bordering on said terri-
4 tory, so far as the same shall form a common boundary to said
5 territory, and any States or Territories now or hereafter to be
6 formed or bounded by the same; and the said rivers and waters,
7 and the navigable waters leading into the same, shall be com-
8 mon highways, and forever free as well to the inhabitants of said
9 territory as to all other citizens of the United States, without
10 any tax, duty, impost, or toll therefor.

1 SEC. 3. *And be it further enacted,* That the executive
2 power and authority in and over the said territory of Itaska
3 shall be vested in a governor, who shall hold his office for three
4 years, unless sooner removed by the President of the United
5 States. The governor shall reside within the said territory, shall
6 be commander-in-chief of the militia thereof, shall perform the
7 duties and receive the emoluments of superintendent of Indian

8 affairs, and shall approve all laws passed by the legislative coun-
 9 cil before they shall take effect; he may grant pardons for of-
 10 fences against the laws of said territory, and reprieves for of-
 11 fences against the laws of the United States until the decision
 12 of the President can be made known thereon; he shall com-
 13 mission all officers appointed by him to office under the laws of
 14 said territory, and shall take care that the laws be faithfully
 15 executed.

1 SEC. 4. *And be it further enacted,* That there shall be a
 2 secretary of the said territory, who shall reside therein, and hold
 3 his office for four years, unless sooner removed by the President :
 4 he shall record in proper books to be kept for that purpose, and
 5 preserve, all the laws passed by the legislative council, and all
 6 the acts and proceedings of the governor in his executive depart-
 7 ment. It shall be the duty of the secretary to prepare the acts
 8 passed by the legislature for publication, and to furnish a copy
 9 thereof to the public printer within ten days after the passage
 10 of each act; he shall also transmit one copy of the laws and
 11 one copy of the executive proceedings, on or before the first
 12 day of December in each year, to the President of the United
 13 States, and at the same time two copies of the laws to the
 14 Speaker of the House of Representatives, for the use of Con-
 15 gress. And, in case of the death, removal, resignation, or ne-
 16 cessary absence of the governor from the territory, the secretary
 17 shall have, and he is hereby authorized and required to execute

18 and perform, all the powers and duties of the governor, during
19 such vacancy or absence, or until another governor shall be ap-
20 pointed to fill such vacancy.

1 *SEC. 5. And be it further enacted,* That the legislative
2 power shall be vested in the governor and a legislative council,
3 to consist of nine members, having the qualifications of voters
4 as hereinafter prescribed, whose term of service shall continue
5 one year. Previous to the first election, the governor shall lay
6 off the said territory into counties and townships, and shall cause
7 a census or enumeration of the inhabitants to be taken and re-
8 turned by persons to be appointed by him, within three months
9 after the third day of July next. An apportionment shall be
10 made, as nearly equal as practicable, among the several coun-
11 ties and townships, for the election of members of the council,
12 giving to each section of the territory representation in the ratio
13 of its population, Indians excepted, as nearly as may be ; and the
14 said members of the council shall reside in and be inhabitants
15 of the district for which they may be elected. The first elec-
16 tion shall be held at such time and place, and be conducted in
17 such manner, as the governor shall appoint and direct ; and he
18 shall, at the same time, declare the number of members of the
19 council to which each of the counties or districts is entitled
20 under this act. The number of persons authorized to be elected
21 in each district having the greatest number of votes shall be de-
22 clared by the governor to be duly elected to the council: *Pro-*

23 *vided*, The governor shall order a new election when there is a
 24 tie between two or more persons voted for, to supply the va-
 25 cancy occasioned by such tie. And the persons thus elected
 26 to the legislative council shall meet at such place and on
 27 such day as he shall appoint; but, thereafter, the time, place,
 28 and manner of holding and conducting all elections by the
 29 people, and the apportioning the representation, in the several
 30 counties and townships, to the council, according to population,
 31 shall be prescribed by law, as well as the day of the annual com-
 32 mencement of the session of the said council; but no session in
 33 any year shall exceed the term of sixty days, nor be held until
 34 an appropriation shall have been made to pay its expenses.

1 SEC. 6. *And be it further enacted*, That every free white
 2 male citizen of the United States, above the age of twenty-one
 3 years, who shall have been an inhabitant of said territory at the
 4 time of its organization, shall be entitled to vote at the first
 5 election, and shall be eligible to any office within the said terri-
 6 tory; but the qualifications of voters at all subsequent elections
 7 shall be such as shall be determined by the legislative council:
 8 *Provided*, That none but citizens of the United States shall be
 9 entitled to vote for county or territorial officers.

1 SEC. 7. *And be it further enacted*, That the legislative
 2 power of the territory shall extend to all rightful subjects of
 3 legislation; but no law shall be passed interfering with the pri-
 4 mary disposal of the soil; no tax shall be imposed upon the

5 property of the United States; nor shall the lands or prop-
6 erty of non-residents be taxed higher than the lands or other
7 property of residents; nor shall any law be passed incorporating
8 any bank, or any institution with banking powers or privileges.
9 All the laws of the governor and council shall, if disapproved
10 by the Congress of the United States, be null and of no effect.

1 SEC. 8. *And be it further enacted,* That all township and
2 county officers, except justices of the peace and clerks of courts,
3 shall be elected by the people, in such manner as may be pro-
4 vided by law. The governor of the territory shall nominate,
5 and, by and with the advice and consent of the council, shall ap-
6 point all justices of the peace, and all militia officers, except those
7 of the staff, and all civil officers not herein provided for.
8 Vacancies occurring in the recess of the council shall be filled
9 by appointments from the governor, which shall expire at the
10 end of the next session of the legislative council; but the gov-
11 ernor may, in the first instance, appoint the aforesaid officers,
12 who shall hold their offices until the end of the first session of
13 the council to be held thereafter.

1 SEC. 9. *And be it further enacted,* That no member of the
2 council shall hold or be appointed to any office created, or the
3 salary or emoluments of which shall have been increased, while
4 he was a member, during the term for which he shall have been
5 elected, and for one year after the expiration of such term; and
6 no person holding a commission or appointment from the Pres-

ident of the United States, or under any person commissioned by him, except as a militia officer, shall be a member of said council, or shall hold any office under the government of said territory.

SEC. 10. *And be it further enacted,* That the judicial power of said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate judges, any two of whom shall be a quorum, and who shall hold their offices during the term of four years, and reside in the said territory. One or more terms of the supreme court shall be held at the seat of government of said territory in each year, as the legislature may prescribe; a district court or courts shall be held by one or more of the judges of the supreme court, at such times and places as may be prescribed by law. The jurisdiction of the several courts, both appellate and original, and that of the probate courts and of justices of the peace, shall be as limited by law: *Provided, however,* That justices of the peace shall have no jurisdiction of any matter or controversy when the title or boundaries of land may be in dispute, or when the debt or sum claimed exceeds fifty dollars; and the said supreme and district courts, respectively, shall possess a chancery as well as a common-law jurisdiction. Each of said courts shall appoint its clerk, to continue during the pleasure of the court, who shall keep his office at the place where the court may be held; and

the said clerks shall also be registers in chancery. And any vacancy in the office of clerk happening in vacation of said courts, or either of them, may be filled by the judges of the respective courts, or a majority of them, which appointment shall continue until the next term. Writs of error, bills of exception, and appeals in chancery causes, shall be allowed in all cases from the final decisions of the district courts to the supreme court, under such regulations as may be prescribed by law; but in no case shall a trial by jury be allowed in the supreme court. Writs of error and appeals from the final decisions of the said supreme court shall be allowed to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, shall exceed one thousand dollars. Each district courts shall have and exercise the same jurisdiction in all cases arising under the constitution and laws of the United States as is vested in the circuit and district courts of the United States; and writs of error and appeals from the final decisions of said courts in all such cases shall be taken and made to the supreme court of said territory, in the same manner as in other cases. The first six days of every term of the district courts, or so much thereof as may be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and the clerks, in all such cases, shall receive

47 the same fees which the clerks of the district courts of Wis-
48 consin Territory now receive for similar services.

1 SEC. 11. *And be it further enacted*, That there shall be
2 an attorney for the said territory appointed, who shall continue
3 in office four years, unless sooner removed by the President,
4 and who shall receive the same fees and salary as the attorney
5 of the United States for the present Territory of Wisconsin.
6 There shall also be a marshal for the said territory appointed,
7 who shall hold his office for four years, unless sooner removed
8 by the President, who shall execute all process issuing from the
9 courts, when exercising the jurisdiction of circuit and dis-
10 trict courts of the United States; he shall perform the same
11 duties, be subject to the same regulations and penalties, and be
12 entitled to the same fees, as the marshal for the present Ter-
13 ritory of Wisconsin; and shall, in addition, be paid the sum of
14 two hundred dollars annually as a compensation for extra ser-
15 vices.

1 SEC. 12. *And be it further enacted*, That the governor,
2 secretary, chief justice and associate judges, attorney, and mar-
3 shal, shall be nominated, and by and with the advice and con-
4 sent of the Senate appointed, by the President of the United
5 States. The governor and secretary to be appointed as aforesaid
6 shall, before they act as such, respectively take an oath or affirm-
7 ation, before some judge or justice of the peace in the existing
8 Territory of Wisconsin duly commissioned and qualified to ad-

9 minister an oath or affirmation, or before one of the justices of
10 the Supreme Court of the United States, to support the consti-
11 tution of the United States, and for the faithful discharge of the
12 duties of their respective offices; which said oaths or affirma-
13 tions, when so taken, shall be certified by the person before
14 whom the same shall have been taken, and such certificates shall
15 be received and recorded by the said secretary among the execu-
16 tive proceedings. The chief justice and associate judges, and
17 all other civil officers in said territory, before they act as such,
18 shall take a like oath or affirmation before the said governor
19 or secretary, or before some judge or justice, who may be duly
20 commissioned and qualified, which said oath or affirmation shall be
21 certified and transmitted, by the persons taking the same, to the
22 secretary, to be by him recorded as aforesaid; and, afterwards,
23 the like oath or affirmation shall be taken, certified, and record-
24 ed, in such manner and form as may be prescribed by law. The
25 governor shall receive an annual salary of fifteen hundred dollars
26 as governor, and one thousand dollars as superintendent of In-
27 dian affairs. The chief justice and associate judges shall each
28 receive an annual salary of fifteen hundred dollars. The secre-
29 tary shall receive an annual salary of fifteen hundred dollars.
30 The said salaries shall be paid quarter-yearly, at the treasury of
31 the United States. The members of the legislative council shall
32 each be entitled to receive three dollars per day during their at-
33 tendance at the sessions thereof, and three dollars for every

34 twenty miles travel in going to and returning from the said ses-
 35 sions, estimated according to the nearest usually travelled route ;
 36 and no allowance shall be made for extra compensation to any
 37 member of the council, except to the presiding officer, nor for
 38 extra compensation to the secretary of said territory. The said
 39 council may appoint a secretary and assistant secretary, or clerk,
 40 one sergeant-at-arms, or door-keeper, a messenger, and fireman, to
 41 neither of whom shall a greater compensation than three dollars
 42 per day be paid. There shall be appropriated, annually, the
 43 sum of three hundred and fifty dollars, to be expended by the
 44 governor to defray the contingent expenses of the territory;
 45 and there shall also be appropriated, annually, a sufficient sum,
 46 to be expended by the secretary of the territory, and upon an
 47 estimate to be made by the Secretary of the Treasury of the
 48 United States, to defray the expenses of the council, the print-
 49 ing of the laws, and other incidental expenses ; and the secre-
 50 tary of the territory shall account to the Secretary of the Treas-
 51 ury of the United States, annually, or oftener if required, for
 52 the manner in which the aforesaid sum may have been ex-
 53 pended.

1 Sec. 13. *And be it further enacted,* That the inhabitants
 2 of said territory shall be entitled to and enjoy all and singular
 3 the rights, privileges, and advantages granted and secured to the
 4 people of the territory of the United States northwest of the
 5 river Ohio, by the articles of compact contained in the ordinance

6 for the government of said territory passed on the thirteenth day
 7 of July, seventeen hundred and eighty-seven; and shall be sub-
 8 ject to all the conditions, and restrictions, and prohibitions in
 9 said articles of compact imposed upon the people of said territory.
 10 The said inhabitants shall also be entitled to all the rights, privi-
 11 leges, and immunities heretofore granted and secured to the Ter-
 12 ritory of Wisconsin, and to its inhabitants; and the existing laws
 13 of the Territory of Wisconsin shall be extended over said ter-
 14 ritory, so far as the same are not locally inapplicable or incom-
 15 patible with the provisions of this act; subject, nevertheless, to
 16 be altered, modified, or repealed, by the governor and council of
 17 the said territory of Itaska. And further, the laws of the Uni-
 18 ted States are hereby extended over and shall be in force in said
 19 territory, so far as the same, or any provisions thereof, may be
 20 applicable.

1 SEC. 14. *And be it further enacted,* That the legislative
 2 council of the territory of Itaska shall hold its first session at
 3 such time and place in said territory as the governor thereof
 4 shall appoint and direct; and at said session, or as soon there-
 5 after as may by them be deemed expedient, the governor and
 6 legislative council shall proceed to locate and establish the seat
 7 of government of said territory at such place as they may deem
 8 eligible, at or near the mouth of the Itaska or St. Peter's river.
 9 And there hereby is appropriated and granted to the said terri-
 10 tory one section of land, to be selected under the authority of

11 the said governor and council, for the purpose of erecting
 12 thereon the public buildings for the use of the executive and
 13 legislative departments of the government of said territory. And
 14 notice of such selection shall be officially given by the governor
 15 of said territory to the surveyor general of Wisconsin and Iowa,
 16 who shall cause the same to be surveyed, and the survey thereof
 17 returned to the Commissioner of the General Land Office: *Pro-*
 18 *vided*, That if there shall be any buildings on the tract selected
 19 at the date of this act, the owners thereof shall be permitted to
 20 retain the same and the town lots on which they are situated:
 21 *And provided, further*, That nothing herein shall be construed
 22 to restrain the said territory, after appropriating a sufficient
 23 quantity of land within said selected section for the site and ac-
 24 commodation of the public buildings, from selling and dispo-
 25 sing of the residue of said section, in lots or otherwise, for the
 26 use of the territory in the erection and completion of said build-
 27 ings.

1 SEC. 15. *And be it further enacted*, That a delegate to the
 2 House of Representatives of the United States, to serve for a
 3 Congress, may be elected by the voters qualified to elect mem-
 4 bers of the legislative council, who shall be entitled to the same
 5 rights and privileges as have been granted to the delegates from
 6 the several Territories of the United States to the said House.
 7 The first election shall be held at such time and place or places,
 8 and conducted in such manner, as the governor shall appoint

9 and direct ; and the person having the greatest number of votes
10 shall be declared duly elected, and a certificate thereof given by
11 the governor to the person so elected.

1 SEC. 16. *And be it further enacted*, That all writs, process,
2 appeals, recognizances, or other proceedings which shall be pend-
3 ing and undetermined in any of the courts of Iowa or Wincon-
4 sin on the third day of July next, and which originated in courts
5 of justices of the peace held in the district of country embraced
6 in the territory hereby established, shall be transferred to be
7 heard and determined in the proper courts of the territory of
8 Itaska.

1 SEC. 17. *And be it further enacted*, That the sum of five
2 thousand dollars be, and the same is hereby appropriated, out
3 of any money in the treasury not otherwise appropriated, to be
4 expended, under the direction of the governor and legislative
5 council of said territory, in the purchase of a library for the ac-
6 commodation of the governor, council, judges, secretary, attor-
7 ney, and marshal of said territory, and such other persons as
8 the governor and council may direct.

1 SEC. 18. *And be it further enacted*, That, temporarily, and
2 until otherwise provided by law of said territory, the governor
3 may define the judicial districts of said territory, and assign the
4 judges who may be appointed for said territory to the several
5 districts, and also appoint the times for holding the courts in each

6 district, by proclamation to be issued by him ; but the council,
7 at their first or any subsequent session, may by law organize,
8 alter, or modify such districts, and assign the judges, and alter
9 the times of holding the courts, or any of them.