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41st CONGRESS, 3d Session.

H. R. 2991.

IN THE HOUSE OF REPRESENTATIVES.

February 6, 1871.

Read twice, referred to the Committee on the Territories, and ordered to be printed.

Mr. Spink, on leave, introduced the following bill:

A BILL

To provide a temporary government for the Territory of Chippewa.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the United States described as follows: Commencing at a point on the Red River of the North, where the forty-ninth degree of north latitude crosses the same; thence south along the western boundary line of the State of Minnesota to the forty-sixth degree of north latitude; thence west along said parallel to the eastern boundary line of the Territory of Montana; thence north along said boundary line to the forty-ninth degree of north latitude; thence eastwardly along said parallel to the place of beginning, be, and the same is hereby, organized into a temporary government by the name of the Territory of Chippewa: *Provided,* That nothing

14 in this act shall be construed to impair the rights of person or
15 property now pertaining to the Indians in said Territory, so
16 long as such rights shall remain unextinguished by treaty be-
17 tween the United States and such Indians, or to include any
18 territory which, by treaty with any Indian tribe, is not, with-
19 out the consent of said tribe, to be included within the territo-
20 rial limits or jurisdiction of any State or Territory; but all
21 such territory shall be excepted out of the boundaries and
22 constitute no part of the Territory of Chippewa, until said
23 tribe shall signify their assent to the President of the United
24 States to be included within the said Territory, or to affect
25 the authority of the Government of the United States to make
26 any regulations respecting said Indians, their lands, property,
27 or other rights, by treaty, law, or otherwise, which it would
28 have been competent for the Government to make if this act
29 had never passed: *Provided further*, That nothing in this
30 act contained shall be construed to inhibit the Government of
31 the United States from dividing said Territory into two or
32 more Territories, in such manner and at such times as Con-
33 gress shall deem convenient and proper, or from attaching
34 any portion thereof to any other Territory or State.

1 SEC. 2. *And be it further enacted*, That the executive
2 power and authority in and over said Territory of Chip-
3 pewa shall be vested in a governor, who shall hold his
4 office for four years, and until his successor shall be

appointed and qualified, unless sooner removed by the President of the United States, with the advice and consent of the Senate. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, and shall approve all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offenses against the laws of said Territory, and reprieves for offenses against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted,* That there shall be a secretary of said Territory, who shall reside therein and hold his office for four years, unless sooner removed by the President of the United States, with the consent of the Senate; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and one copy of the executive proceedings on or before the first day of December in each year to the President of the United States, and, at the same time, two copies of the laws to the Speaker of the House of Representatives and the President of the Senate for the use of Congress; and in case of the death,

14 removal, resignation, or other necessary absence of the gov-
15 ernor from the Territory, the secretary shall have, and he is
16 hereby authorized and required to execute and perform, all
17 the powers and duties of the governor during such vacancy
18 or absence, or until another governor shall be appointed to fill
19 such vacancy.

1 SEC. 4. *And be it further enacted,* That the legislative
2 power and authority of said Territory shall be vested in the
3 governor and legislative assembly. The legislative assembly
4 shall consist of a council and house of representatives. The
5 council shall consist of nine members, which may be increased
6 to thirteen, having the qualifications of voters as hereinafter
7 prescribed, whose term of service shall continue two years.
8 The house of representatives shall consist of thirteen mem-
9 bers, which may be increased to twenty-seven, possessing the
10 same qualifications as prescribed for members of the council,
11 and whose term of service shall continue two years.
12 An apportionment shall be made as nearly equal as practicable
13 among the several counties or districts for the election of the
14 council and house of representatives, giving to each section
15 of the Territory representation in the ratio of its population
16 (excepting Indians not taxed) as nearly as may be, and the
17 members of the council and house of representatives shall
18 reside in and be inhabitants of the districts for which they
19 may be elected, respectively. Previous to the first election

20 the governor shall cause a census or enumeration of the
21 inhabitants of the several counties or districts of the Terri-
22 tory to be taken, and the first election shall be held at such
23 times and places, and be conducted in such manner as the
24 governor shall appoint and direct, and he shall at the
25 same time declare the number of the members of the
26 council and house of representatives to which each of the
27 counties or districts shall be entitled under this act. The
28 number of persons authorized to be elected, having the
29 highest number of votes in each of said council districts
30 for members of the council, shall be declared by the governor
31 duly elected to the council; and the person or persons
32 authorized to be elected having the greatest number of votes
33 for the house of representatives equal to the number to
34 which each county or district shall be entitled, shall be
35 declared by the governor to be elected members of the
36 house of representatives: *Provided,* That in case of a tie
37 between two for more persons voted or, the governor shall
38 order a new election, to supply the vacancy made by such
39 tie vote. And the persons thus elected to the legislative
40 assembly shall meet at such place and on such day as the
41 governor shall appoint; but thereafter the time, place, and
42 manner of holding and conducting elections by the people,
43 and the apportioning the representation in the several coun-
44 ties or districts to the council and house of representatives,

45 according to the population, shall be prescribed by law, as
46 well as the day of the commencement of the regular sessions
47 of the legislative assembly: *Provided,* That no one session
48 shall exceed the term of forty days, except the first, which
49 may be extended to sixty days, but no longer.

1 SEC. 5. *And be it further enacted,* That every male
2 inhabitant of the United States above the age of twenty-
3 one years who shall have been a resident of the said Terri-
4 tory at the time of the passage of this act shall be
5 entitled to vote at the first and all subsequent elections
6 in the Territory, and shall be eligible to hold any office in
7 said Territory. And the legislative assembly shall not at any
8 time abridge the right of suffrage, or to hold office, on account
9 of race, color, or previous condition of servitude of any
10 resident of the Territory: *Provided,* That the right of suffrage
11 and of holding office shall be exercised only by citizens of the
12 United States, and those who shall have declared on oath
13 before a competent court of record their intention to become
14 such, and shall have taken an oath to support the Constitution
15 and Government of the United States.

1 SEC. 6. *And be it further enacted,* That the legislative
2 power of the Territory shall extend to all rightful subjects of
3 legislation consistent with the Constitution of the United
4 States and the provisions of this act; but no law shall be
5 passed interfering with the primary disposal of the soil; no

6 tax shall be imposed upon the property of the United States,
7 nor shall the lands or other property of non-residents be taxed
8 higher than the lands or other propesty of residents, nor shall
9 any law be passed impairing the rights of private property,
10 nor shall any unequal discrimination be made in taxing differ-
11 ent kinds of property, but all property subject to taxation
12 shall be taxed in proportion to its value. Every bill which
13 shall have passed the council and the house of representatives
14 of said Territory shall, before it becomes a law, be presented
15 to the governor of the Territory. If he approves, he shall
16 sign it; but if not, he shall return it with his objections to the
17 house in which it originated, who shall enter the objections at
18 large upon their journal and proceed to reconsider it. If,
19 after such reconsideration, two-thirds of that house shall agree
10 to pass the bill, it shall be sent, together with the objections, to
21 the other house, by which it shall likewise be reconsidered; and
22 if approved by two-thirds of that house it shall become a law.
23 But in all such cases the votes of both houses shall be deter-
24 mined by yeas and nays, to be entered on the journal of each
25 house, respectively. If any bill shall not be returned by the
26 governor within three days (Sunday excepted) after it shall
27 have been presented to him, the same shall be a law in like
28 manner as if he had signed it, unless the assembly, by ad-
29 journment, prevent its return, in which case it shall not be a
30 law.

SEC. 7. *And be it further enacted,* That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory. The governor shall nominate and, by and with the consent of the council, appoint all officers not herein otherwise provided for, and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and he shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

SEC. 8. *And be it further enacted,* That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted,* That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and justices of the peace. The

4 supreme court shall consist of a chief justice, and two associ-
5 ate justices, any two of whom shall constitute a quorum,
6 and who shall hold a term at the seat of government of said
7 Territory annually, and they shall hold their offices for four
8 years, unless sooner removed by the President, with the con-
9 sent of the Senate of the United States. The said Territory
10 shall be divided into three judicial districts, and a district
11 court shall be held in each of said districts by one of the
12 justices of the supreme court, at such time and place as may
13 be prescribed by law; and said judges shall, after their ap-
14 pointments, respectively, reside in the districts which shall
15 be assigned them. The jurisdiction of the several courts
16 herein provided for, both appellate and original, and that of
17 the probate courts, and of the justices of the peace, shall be
18 as limited by law: *Provided,* That justices of the peace
19 shall not have jurisdiction of any matter in controversy
20 when the title or boundaries of land may be in dispute, or
21 where the debt or sum claimed shall exceed one hundred
22 dollars; and the said supreme and district courts, re-
23 spectively, shall possess chancery as well as common-law
24 jurisdiction and authority for redress of all wrongs com-
25 mitted against the Constitution or laws of the United States
26 or of the Territory affecting persons or property. Each dis-
27 trict court, or the judge thereof, shall appoint its clerk, who
28 shall also be the register in chancery, and shall keep his

29 office where the court may be held. Writs of error, bills of
30 exception, and appeals shall be allowed in all cases from the
31 final decisions of said district courts to the supreme court
32 under such regulations as may be prescribed by law; but in no
33 case removed to the supreme court shall trial by jury be
34 allowed in said court. The supreme court, or the justices
35 thereof, shall appoint its own clerks, and every clerk shall hold
36 his office at the pleasure of the court for which he shall have
37 been appointed. Writs of error and appeal from the final
38 decision of said supreme court shall be allowed, and may be
39 taken to the Supreme Court of the United States, in the same
40 manner and under the same regulations as from the circuit
41 courts of the United States, where the value of the property
42 or the amount in controversy, to be ascertained by the oath or
43 affirmation of either party, or other competent witness, shall
44 exceed one thousand dollars; and each of the said district
45 courts shall have and exercise the same jurisdiction in all
46 cases arising under the Constitution and laws of the United
47 States as is vested in the circuit and district courts of the
48 United States; and the said supreme and district courts of
49 said Territory, and the respective judges thereof, shall and
50 may grant writs of habeas corpus in all cases in which the
51 same are grantable by the judges of the United States in the
52 District of Columbia; and the first six days of every term of
53 said courts, or so much thereof as shall be necessary, shall be

54 appropriated to the trial of causes arising under the said Con-
55 stitution and laws; and writs of error and appeals in all such
56 cases shall be made to the supreme court of said Territory, the
57 same as in other cases. The said clerk shall receive in all
58 such cases the same fees which the clerks of the district
59 courts of Dakota Territory now receive for similar services.

1 SEC. 10. *And be it further enacted,* That there shall be
2 appointed an attorney for said Territory, who shall continue
3 in office for four years, unless sooner removed by the President
4 with the consent of the Senate, and who shall receive the
5 same fees and salary as is now received by the attorney of
6 the United States for the Territory of Dakota. There shall
7 also be a marshal for the Territory appointed, who shall
8 hold his office for four years, unless sooner removed by the
9 President with the consent of the Senate, and who shall
10 execute all processes issuing from the said courts when exer-
11 cising their jurisdiction as circuit and district courts of the
12 United States; he shall perform the duties, be subject to the
13 same regulations and penalties, and be entitled to the same
14 fees as the marshal of the district court of the United States
15 for the present Territory of Dakota, and shall, in addition, be
16 paid two hundred dollars annually as a compensation for
17 extra services.

1 SEC. 11. *And be it further enacted,* That the governor,
2 secretary, chief justice and associate justices, attorney, and

3 marshal, shall be nominated and, by and with the consent of
4 the Senate, appointed by the President of the United States.
5 The governor and secretary, to be appointed as aforesaid, shall,
6 before they act as such, respectively, take an oath or affirma-
7 tion before the district judge, or some justice of the peace in
8 the limits of said Territory duly authorized to administer
9 oaths and affirmations by the laws now in force therein, or
10 before the Chief Justice, or some associate justice of the
11 Supreme Court of the United States, to support the Constitu-
12 tion of the United States, and faithfully to discharge the
13 duties of their respective offices, which said oaths when so
14 taken shall be certified by the person by whom the same
15 shall have been taken; and such certificates shall be received
16 and recorded by the secretary among the executive proceed-
17 ings, and the chief justice, and associate justices, and all other
18 civil officers in said Territory, before they act as such, shall
19 take a like oath or affirmation before the said governor or
20 secretary, or some judge or justice of the peace of the Terri-
21 tory, who may be duly commissioned and qualified, which
22 said oath or affirmation shall be certified, and transmitted by
23 the person taking the same to the secretary to be recorded by
24 him as aforesaid, and afterward the like oath or affirmation
25 shall be taken, certified, and recorded in such manner and
26 form as may be prescribed by law. The governor shall receive
27 an annual salary of three thousand dollars; the chief justice

28 and the associate justices and the secretary shall each receive
29 an annual salary of three thousand dollars. The said sala-
30 ries shall be payable quarter-yearly at the Treasury of the
31 United States. The members of the legislative assembly
32 shall be entitled to receive six dollars each per day
33 during their attendance at the session thereof, and three
34 dollars for every twenty miles' travel in going to and return-
35 ing from the said sessions, estimating the distance by the
36 nearest traveled route. There shall be appropriated annually
37 the sum of one thousand dollars, to be expended by the
38 governor, to defray the contingent expenses of the Territory.
39 There shall also be appropriated annually a sufficient sum, to
40 be expended by the secretary, and upon an estimate to be
41 made by the Secretary of the Treasury of the United States,
42 to defray the expenses of the legislative assembly, the print-
43 ing of the laws, and other incidental expenses; and the
44 secretary of the Territory shall annually account to the
45 Secretary of the Treasury of the United States for the man-
46 ner in which the aforesaid sum shall have been expended.

1 SEC. 12. *And be it further enacted,* That the legislative
2 assembly of the Territory of Chippewa shall hold its first
3 session at such time and place in said Territory as the gover-
4 nor thereof shall appoint and direct; and at said first session,
5 or as soon thereafter as they shall deem expedient, the gover-
6 nor and legislative assembly shall proceed to locate and estab-

7 lish the seat of government for said Territory at such place
8 as they may deem eligible; which place, however, shall
9 thereafter be subject to be changed by the said governor and
10 legislative assembly.

1 SEC. 13. *And be it further enacted,* That a Delegate
2 to the House of Representatives of the United States, to
3 serve during each Congress of the United States, may be
4 elected by the voters qualified to elect members of the legis-
5 lative assembly, who shall be entitled to the same rights and
6 privileges as are exercised and enjoyed by the Delegates from
7 the several other Territories of the United States in the said
8 House of Representatives. The first election shall be held at
9 such time and places, and be conducted in such manner, as
10 the governor shall appoint and direct; and at all subsequent
11 elections the time, place, and manner of holding elections
12 shall be prescribed by law. The person having the greatest
13 number of votes of the qualified electors, as hereinbefore pro-
14 vided, shall be declared by the governor elected, and a certi-
15 ficate thereof shall be accordingly given.

1 SEC. 14. *And be it further enacted,* That when the
2 land in said Territory shall be surveyed, under the direction of
3 the Government of the United States, preparatory to bringing
4 the same into market, sections numbered sixteen and thirty-
5 six in each township in said Territory shall be, and the same

6 are hereby, reserved for the purpose of being applied to schools
7 in the State or States hereafter to be erected out of the same.

1 SEC. 15. *And be it further enacted,* That temporarily
2 and until otherwise provided by law the governor of said
3 Territory may define the judicial districts of said Territory,
4 and assign the judges who may be appointed for the said
5 Territory to the several districts, and also appoint the times
6 and places for holding courts in the several counties or sub-
7 divisions in each of said judicial districts by proclamation to
8 be issued by him; but the legislative assembly, at their first
9 or any subsequent session, may organize, alter, or modify
10 such judicial districts and assign the judges and alter the
11 times and places of holding the courts as to them shall seem
12 proper and convenient.

1 SEC. 16. *And be it further enacted,* That the Con-
2 stitution and all laws of the United States which are not
3 locally applicable shall have the same force and effect within
4 the said Territory of Chippewa as elsewhere within the
5 United States.

1 SEC. 17. *And be it further enacted,* That the President
2 of the United States, by and with the consent of the Senate,
3 shall be, and he is hereby, authorized to appoint a surveyor
4 general for the said Territory, who shall locate his office at
5 such place as the Secretary of the Interior shall from time
6 to time direct, and whose duties, powers, obligations, re-

7 sponsibilities, compensation, and allowances for clerk hire,
8 office rent, fuel, and incidental expenses, shall be the same as
9 those of the Territory of Dakota, under the direction of the
10 Secretary of the Interior, and such instructions as he from
11 time to time may deem it advisable to give him.

1 SEC. 18. *And be it further enacted,* That the Territory
2 of Chippewa shall be formed into a land district at such
3 time as the President may direct, the land office for which
4 shall be located at such point as the President may direct,
5 and shall be removed from time to time to other points within
6 said district whenever in his opinion it may be expedient.

1 SEC. 19. *And be it further enacted,* That the President
2 be, and he is hereby, authorized to appoint, by and with the
3 consent of the Senate, a register and a receiver for said district,
4 who shall respectively be required to reside at the site of said
5 office, and who shall have the same powers, perform the same
6 duties, and receive the same compensation as are or may be
7 prescribed by law in relation to other land offices of the
8 United States.