

TERRITORY OF NEW MEXICO.

Act of September 9, 1850; 9 Stats., 446.

CHAP. XLIX.—*An Act proposing to the State of Texas the Establishment of her Northern and Western Boundaries, the Relinquishment by the said State of all Territory claimed by her exterior to said Boundaries, and of all her Claims upon the United States, and to establish a territorial Government for New Mexico.* Sept. 9, 1850.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following propositions shall be, and the same hereby are, offered to the State of Texas, which, when agreed to by the said State, in an act passed by the general assembly, shall be binding and obligatory upon the United States, and upon the said State of Texas: Provided, The said agreement by the said general assembly shall be given on or before the first day of December, eighteen hundred and fifty:

Propositions offered to Texas, when accepted, to be binding upon her and the United States.

Proviso.

FIRST. The State of Texas will agree that her boundary on the north shall commence at the point at which the meridian of one hundred degrees west from Greenwich is intersected by the parallel of thirty-six degrees thirty minutes north latitude, and shall run from said point due west to the meridian of one hundred and three degrees west from Greenwich; thence her boundary shall run due south to the thirty-second degree of north latitude; thence on the said parallel of thirty-two degrees of north latitude to the Rio Bravo del Norte, and thence with the channel of said river to the Gulf of Mexico.

Boundary of Texas defined.

SECOND. The State of Texas cedes to the United States all her claim to territory exterior to the limits and boundaries which she agrees to establish by the first article of this agreement.

Cession of territory to the United States.

THIRD. The State of Texas relinquishes all claim upon the United States for liability of the debts of Texas, and for compensation or indemnity for the surrender to the United States of her ships, forts, arsenals, custom-houses, custom-house revenue, arms and munitions of war, and public buildings with their sites, which became the property of the United States at the time of the annexation.

Texas relinquishes all claim upon the United States for liability of her debts or indemnity, &c.

FOURTH. The United States, in consideration of said establishment of boundaries, cession of claim to territory, and relinquishment of claims, will pay to the State of Texas the sum of ten millions of dollars in a stock bearing five per cent. interest, and redeemable at the end of four-

\$10,000,000 in stock bearing five per cent. interest to be paid to Texas therefor.

teen years, the interest payable half-yearly at the treasury of the United States.

Stock to be issued when Texas shall have accepted these propositions, and President of United States notified thereof.
Proviso.

FIFTH. Immediately after the President of the United States shall have been furnished with an authentic copy of the act of the general assembly of Texas accepting these propositions, he shall cause the stock to be issued in favor of the State of Texas, as provided for in the fourth article of this agreement: *Provided, also,* That no more than five millions of said stock shall be issued until the creditors of the State holding bonds and other certificates of stock of Texas for which duties on imports were specially pledged, shall first file at the treasury of the United States releases of all claim against the United States for or on account of said bonds or certificates in such form as shall be prescribed by the Secretary of the Treasury and approved by the President of the United States: *Provided,* That nothing herein contained shall be construed to impair or qualify any thing contained in the third article of the second section of the "joint resolution for annexing Texas to the United States," approved March first, eighteen hundred and forty-five, either as regards the number of States that may hereafter be formed out of the State of Texas, or otherwise.

Further proviso.
vol. v. p. 797.

Boundary defined, and temporary government created by the name of the Territory of New Mexico.

SEC. 2. *And be it further enacted,* That all that portion of the Territory of the United States bounded as follows: Beginning at a point in the Colorado River where the boundary line with the republic of Mexico crosses the same; thence eastwardly with the said boundary line to the Rio Grande; thence following the main channel of said river to the parallel of the thirty-second degree of north latitude; thence east with said degree to its intersection with the one hundred and third degree of longitude west of Greenwich; thence north with said degree of longitude to the parallel of thirty-eighth degree of north latitude; thence west with said parallel to the summit of the Sierra Madre; thence south with the crest of said mountains to the thirty-seventh parallel of north latitude; thence west with said parallel to its intersection with the boundary line of the State of California; thence with said boundary line to the place of beginning — be, and the same is hereby, erected into a temporary government, by the name of the Territory of New Mexico: *Provided,* That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion thereof to any other Territory or State: *And provided, further,* That, when admitted as a State, the said Territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission.

Proviso.

Further proviso.

Executive power vested in a governor, &c.

SEC. 3. *And be it further enacted,* That the executive power and authority in and over said Territory of New Mexico shall be vested in a governor, who shall hold his

office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offences against the laws of said Territory and reprieves for offences 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 the said Territory, and shall take care that the laws be faithfully executed.

His duties defined.

SEC. 4. *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; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the 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, removal, resignation, or other necessary absence of the governor from the Territory, the secretary shall have, and he is hereby authorized and required to execute and perform all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

Secretary.

His duties defined, &c.

To act as governor in certain contingencies.

SEC. 5. *And be it further enacted,* That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a Council and House of Representatives. The Council shall consist of thirteen members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The House of Representatives shall consist of twenty-six members, possessing the same qualifications as prescribed for members of the Council, and whose term of service shall continue one year. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the Council and House of Representatives, giving to each section of the Territory representation in the ratio of its population, (Indians excepted,) as nearly as may be. And the members of the Council and of the House of Representatives shall reside in, and be inhabitants of, the district for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of

Legislative power: how vested.

The legislative assembly to consist of a Council and House of Representatives.

Apportionment of representation.

A census to be taken previous to the first election.

the Territory to be taken, and the first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and he shall, at the same time, declare the number of the members of the Council and House of Representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be elected having the highest number of votes in each of said Council districts, for members of the Council, shall be declared by the governor to be duly elected to the Council; and the person or persons authorized to be elected having the greatest number of votes for the House of Representatives, equal to the number to which each county or district shall be entitled, shall be declared by the governor to be duly elected members of the House of Representatives: *Provided*, That in case of a tie between two or more persons voted for, the governor shall order a new election to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the Council and House of Representatives according to the population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no one session shall exceed the term of forty days.

Elections: how conducted.

Proviso.

Further proviso.

Qualifications of voters.

Proviso.

Legislative power of the Territory defined.

Laws to be submitted to Congress.

SEC. 6. *And be it further enacted*, That every free white male inhabitant, above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage, and of holding office, shall be exercised only by citizens of the United States, including those recognized as citizens by the treaty with the republic of Mexico, concluded February second, eighteen hundred and forty-eight.

SEC. 7. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws passed by the legislative assembly and governor shall be submitted to the Congress of the United States, and, if disapproved, shall be null and of no effect.

SEC. 8. *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 of New Mexico. The governor shall nominate, and, by and with the advice and consent of the legislative 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 shall lay off the necessary districts for members of the Council and House of Representatives, and all other officers.

How township, district, and county officers are to be appointed.

SEC. 9. *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.

No member of the legislature shall hold certain offices during his term of election, or for one year thereafter. Officers of the United States, except postmasters, not to be members of assembly.

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 justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years. The said Territory shall be divided into three judicial districts, and a District Court shall be held in each of said districts by one of the justices of the Supreme Court, at such time and place as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the Probate Courts and of justices of the peace, shall be as limited by law: *Provided,* That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said Supreme and District Courts, respectively, shall possess chancery as well as common law jurisdiction. Each District Court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said District Courts to the Supreme Court, under such regulations as may be prescribed by law, but in no case removed to the Supreme

The judicial power: in whom vested, and how to be exercised.

District Courts.

Jurisdiction of courts and of justices of the peace, &c.

Provido.

Clerk.

Writs of error, &c.

Clerk. Court shall trial by jury be allowed in said court. The Supreme Court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said Supreme Court shall be allowed, and may be taken 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, or other competent witness, shall exceed one thousand dollars; except only that in all cases involving title to slaves, the said writs of error or appeals shall be allowed and decided by the said Supreme Court without regard to the value of the matter, property, or title in controversy; and except also that a writ of error or appeal shall also be allowed to the Supreme Court of the United States, from the decision of the said Supreme Court created by this act, or of any judge thereof, or of the District Courts created by this act, or of any judge thereof, upon any writ of habeas corpus involving the question of personal freedom; and each of the said 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 the said Supreme and District Courts of the said Territory, and the respective judges thereof, shall and may grant writs of habeas corpus in all cases in which the same are grantable by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws; and writs of error and appeals in all such cases shall be made to the Supreme Court of said Territory, the same as in other cases. The said clerk shall receive in all such cases the same fees which the clerks of the District Courts of Oregon Territory now receive for similar services.

Writs of error and appeals shall be allowed, &c.

Exceptions.

Fees of clerk.

Attorney and marshal: their fees and duties. SEC. 11. *And be it further enacted,* That there shall be appointed an attorney for said Territory, who shall continue in office for four years, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Oregon. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as Circuit and District Courts of the United States: he shall perform the duties, be subject to the same regulation and penalties, and be entitled to the same fees as the marshal of the District Court of the United States for the present Territory of

Oregon, and shall, in addition, be paid two hundred [dollars] annually as a compensation for extra services.

SEC. 12. *And be it further enacted,* That the governor, secretary, chief justice and associate justices, attorney and marshal, shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary, to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation, before the district judge, or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation, before the said governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted, by the person taking the same, to the secretary, to be by him recorded as aforesaid; and afterwards, the like oath or affirmation shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs. The chief justice and associate justices shall each receive an annual salary of eighteen hundred dollars. The secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be paid quarter-yearly, at the treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route. There shall be appropriated annually the sum of one thousand dollars, to be expended by the governor, to defray the contingent expenses of the Territory; there shall also be appropriated annually a sufficient sum to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

The governor, secretary, chief justice, and associate justices, attorney and marshal, — how to be appointed

Salary of governor.

Salaries of chief justice and associate justices.

Secretary's salary.

Compensation of members of the legislative assembly.

Contingent expenses provided for.

Legislative assembly to hold its first sessions as directed by the governor.

SEC. 13. *And be it further enacted,* That the legislative assembly of the Territory of New Mexico shall hold its first session at such time and place in said Territory as the Governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly.

Seat of government.

A delegate to be elected to Congress of the U. S.

SEC. 14. *And be it further enacted,* That a delegate to the House of Representatives of the United States, to serve during each Congress of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other Territories of the United States to the said House of Representatives. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly: *Provided,* That such delegate shall receive no higher sum for mileage than is allowed by law to the delegate from Oregon.

Proviso.

Lands to be surveyed; how to be disposed of.

SEC. 15. *And be it further enacted,* That when the lands in said Territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

Reservation for schools.

Judicial districts; how defined.

SEC. 16. *And be it further enacted,* That temporarily and until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

The Constitution and applicable laws of the U. S. extended over New Mexico.

SEC. 17. *And be it further enacted,* That the Constitution, and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of New Mexico as elsewhere within the United States.