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THE

DONATION BILL

OF THE

TERRITORY OF OREGON.

[REVISED EDITION.]

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A730

OREGON CITY:

PRINTED AT THE SPECTATOR OFFICE.

1850.

J. C. Casson

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LAND LAWS.

Surveyor General of Public Lands.

AN ACT to create the office of Surveyor General of the Public Lands in Oregon, and to provide for the survey, and to make donations to settlers of the said public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a Surveyor General shall be appointed for the Territory of Oregon, who shall have the same authority, perform the same duties respecting the public lands and private land claims in the Territory of Oregon, as are vested in and required of the Surveyor of the lands of the United States northwest of the Ohio, except as hereinafter provided.

SEC. 2. *And be it further enacted, That the said Surveyor General shall establish his his office at such place within the said Territory as the President of the United States may from time to time direct; he*

shall be allowed an annual salary of two thousand five hundred dollars, to be paid quarter yearly, and to commence at such time as he shall enter into bond, with competent security, for the faithful discharge of the duties of his office. There shall be, and hereby is, appropriated the sum of four thousand dollars, or as much thereof as is necessary for clerk hire in his office; and the further sum of one thousand dollars per annum for office rent, fuel, books, stationery, and other incidental expenses of his office, to be paid out of the appropriation for surveying the public lands.

SEC. 3. *And be it further enacted,* That if, in the opinion of the Secretary of the Interior, it be preferable, the surveys in said Territory shall be made after what is known as the godetic method, under such regulations, and upon such terms, as may be provided by the Secretary of the Interior or other department having charge of the surveys of the public lands, and that said godetic surveys shall be followed by topographical surveys as Congress may from time to time authorize and direct; but if the present mode of survey be adhered to, it shall be the duty of said sur-

veyor to cause a base line and meridian to be surveyed, marked and established, in the usual manner, at or near the Willamette river; and he shall also cause to be surveyed in townships and sections in the usual manner, and in accordance with the laws of the United States which may be in force, the district of country lying between the summit of the Cascade mountains and the Pacific Ocean, and south and north of the Columbia river: *Provided, however,*— That none other than township lines shall be run where the land is deemed unfit for cultivation. That no deputy surveyor shall charge for any line except such as may be actually run and marked, nor for any line not necessary to be run; and that the whole cost of surveying shall not exceed the rate of eight dollars per mile and part of mile actually surveyed and marked.

SEC. 4. *And be it further enacted,* That there shall be, and hereby is, granted to every settler or occupant of the public lands, American half-breed Indians included, above the age of eighteen years, being a citizen of the United States, or having made a declaration according to law,

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of his intention to become a citizen, or who shall make such declaration on or before the first day of December, eighteen hundred and fifty, and who shall have resided upon and cultivated the same for four consecutive years, and shall otherwise conform to the provisions of this act, the quantity of one half section or three hundred and twenty acres of land, if a single man, and if a married man, or if he shall become married within one year from the first day of December, eighteen hundred fifty, the quantity of one section, or six hundred and forty acres, one half to himself, and the other half to his wife, to be held by her in her own right, and the Surveyor General shall designate the part inuring to the husband and that to the wife, and enter the same on the records of his office; and in all cases where such married persons have complied with the provisions of this act, so as to entitle them to the grant as above provided, whether under the late Provisional Government of Oregon, or since, and either shall have died before patent issues, the survivor and children, or heirs, of the deceased shall be entitled to the share or interests of the de-

ceased in equal proportions, except when the deceased shall otherwise dispose of it by testament duly and properly executed according to the laws of Oregon; *Provided*, That no alien shall be entitled to a patent to land, granted by this act, until he shall produce to the Surveyor General of Oregon, record evidence that his naturalization as a citizen of the United States has been completed; but if any alien having made his declaration of intention to become a citizen of the United States after the passage of this act, shall die before his naturalization shall be completed, the possessory right acquired by him under the provisions of this act shall descend to his heirs at law, or pass to his devisees to whom, as the case may be, the patent shall issue: *Provided, further*, That in all cases provided for in this section, the donation shall embrace the land actually occupied and cultivated by the settler thereon: *Provided further*, That all future contracts by any person or persons entitled to the benefit of this act, for the sale of the land to which he or they may be entitled under this act before he or they have received a patent therefor, shall

be void: *Provided further, however,* That this section shall not be so construed as to allow those claiming possessory rights under the treaty with Great Britain relative to the Oregon Territory, to claim both under this grant and treaty, but merely to secure them the election, and confine them to a single grant of land.

SEC. 5. *And be it further enacted,* That to all white male citizens of the United States, or persons who shall have made a declaration of intention to become such, above the age of 21 years, emigrating to and settling in said Territory, between the 1st day of December, 1850, and the first day of December, 1853, and to all white male American citizens, not hereinbefore provided for becoming 21 years of age in said Territory and settling there between the times last aforesaid, who shall in other respects comply with the foregoing section and the provisions of this law, there shall be, and hereby is, granted the quantity of one quarter section or 160 acres of land, if a single man; or if married, or if he shall become married within one year from the time of arriving in said Territory, or within one year after becoming

21 years of age as aforesaid, then the quantity of one-half section or 320 acres, one-half to the husband and the other half to the wife in her own right, to be designated by the Surveyor General as aforesaid: *Provided, always,* That no person shall ever receive a patent for more than one donation of land in said Territory in his or her own right: *Provided,* That no mineral lands shall be located or granted under the provisions of this act.

SEC. 6. *And be it further enacted,* That within three months after the survey has been made, or where the survey has been made before the settlement commenced, then within three months from the commencement of such settlement, each of said settlers shall notify the Surveyor General to be appointed under this act, of the precise tract or tracts claimed by them respectively under this law, and in all cases it shall be in a compact form; and where it is practicable so to do, the land so claimed shall be taken as nearly as practicable by legal sub-divisions, but where that cannot be done, it shall be the duty of the said Surveyor General to survey and mark each claim with the boun-

daries claimed, at the request and expense of the claimant; the charge for the same not to exceed the price paid for surveying the public lands. The Surveyor General shall enter a description of such claims in a book to be kept by him for that purpose, and note temporarily on the township plate the tract or tracts so designated, with the boundaries; and whenever a conflict of boundaries shall arise prior to issuing the patent, the same shall be determined by the Surveyor General: *Provided*, That after the first of December next, all claims shall be bounded by lines running East and West, and North and South: *And provided, further*, That after the survey is made, all claims shall be made in conformity to the same, and in compact form.

SEC. 7. *And be it further enacted*, That within twelve months after the surveys have been made, or where the survey has been made before the settlement, then within twelve months from the time the settlement was commenced, each person claiming a donation right under this act, shall prove to the satisfaction of the Surveyor General, or of such other officer as may be appointed by law for that purpose,

that the settlement and cultivation required by this act had been commenced, specifying the time of the commencement; and at any time after the expiration of four years from the date of such settlement, whether made under the laws of the late Provisional Government or not, shall prove, in like manner, by two disinterested witnesses, the fact of continued residence and cultivation required by the fourth section of this act; and upon such proof being made, the Surveyor General, or other officer appointed by law for that purpose, shall issue certificates, under such rules and regulations as may be prescribed by the Commissioner of the General Land Office, setting forth the facts in the case, and specifying the land to which the parties are entitled. And the said Surveyor General shall return the proof so taken to the office of the Commissioner of the General Land Office, and if the said Commissioner shall find no valid objection thereto, patents shall issue for the land, according to the certificates aforesaid, upon the surrender thereof.

SEC. 8. *And be it further enacted*, That, upon the death of any settler before the ex-

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piration of the four years' continued possession required by this act, all the rights of the deceased under this act shall descend to the heirs at law of such settler, including the widow, where one is left, in equal parts; and proof of compliance with the conditions of this act up to the time of the death of such settler shall be sufficient to entitle them to the patent.

SEC. 9. *And be it further enacted,* That no claim to a donation right under the provisions of this act, upon sections sixteen or thirty-six, shall be valid or allowed, if the residence and cultivation upon which the same is founded shall have commenced after the survey of the same; nor shall such claim attach to any tract or parcel of land selected for a military post, or within one mile thereof, or to any other land reserved for governmental purposes, unless the residence or cultivation thereof shall have commenced previous to the selection or reservation of the same for such purposes.

SEC. 10. *And be it further enacted,* That there be, and hereby is, granted to the Territory of Oregon, the quantity of two townships of land in said Territory, west of the Cascade mountains, and to be select-

ed in legal sub-divisions after the same has been surveyed, by the Legislative Assembly of said Territory, in such manner as it may deem proper, one to be located north and the other south of the Columbia river, to aid in the establishment of a University in the Territory of Oregon, in such manner as the said Legislative Assembly may direct, the selection to be approved by the Surveyor General.

SEC. 11. *And be it further enacted,* That what is known as the "Oregon City claim," excepting the Abernethy Island, which is hereby confirmed to the legal assigns of the Willamette milling and trading Company, shall be set apart and be at the disposal of the Legislative Assembly, to the establishment and endowment of a University, to be located at such place in the Territory as the Legislative Assembly may designate: *Provided, however,* That all the lots and parts of lots in said claim, sold or granted by Dr. John McLaughlin previous to the fourth day of March, eighteen hundred and forty-nine, shall be confirmed to the purchaser or donee, or their assigns, to be certified to the Commissioner of the General Land Office by the Sur-

veyor General, and patents to issue on said certificates as in other cases: *Provided, further,* That nothing in this act contained shall be so construed or executed as in any way to destroy or effect any right to land in said Territory, holden or claimed under the provisions of the treaty or treaties existing between this country and Great Britain.

SEC. 12. *And be it further enacted,* That all persons claiming land under any of the provisions of this act, by virtue of settlement and cultivation commenced subsequent to the first December, in the year eighteen hundred and fifty, shall first make affidavit before the Surveyor General, who is hereby authorized to administer all such oaths or affirmations, or before some other competent officer, that the land claimed by them is for their own use and cultivation; that they are not acting directly or indirectly as agent for or in the employment of others in making such claims; and that they have made no sale or transfer, or any arrangement or agreement for any sale, transfer, or alienation of the same, or by which the said land shall inure to the benefit of any other per-

son. And all affidavits required by this act shall be entered on record by the Surveyor General in a book to be kept by him for that purpose; and on proof before a Court of competent jurisdiction, that any of such oaths or affirmations are false or fraudulent, the persons making such false or fraudulent oaths or affirmations shall be subject to all the pains and penalties of perjury.

SEC. 13. *And be it further enacted,* That all questions arising under this act shall be adjudged by the Surveyor General, as a preliminary to a final decision according to law; and it shall be the duty of the Surveyor General, under the direction of the Commissioner of the General Land Office, to cause proper tract books to be opened for the lands in Oregon, and to do and perform all other acts and things necessary and proper to carry out the provisions of this act.

SEC. 14. *And be it further enacted,* That no mineral lands, nor lands reserved for salines, shall be liable to any claim under and by virtue of the provisions of this act; and that such portions of the public lands as may be designated under the au-

thority of the President of the United States for forts, magazines, arsenals, dock yards, and other, needful public uses, shall be reserved and excepted from the operation of this act: *Provided*, That if it shall be deemed necessary, in the judgment of the President, to include in any such reservation the improvements of any settler made previous to the passage of this act, it shall, in such case, be the duty of the Secretary of War to cause the value of such improvements to be ascertained, and the amount so ascertained shall be paid to the party entitled thereto, out of any money not otherwise appropriated.

