

AN ACT

TO ESTABLISH THE TERRITORIAL GOVERNMENT OF OREGON.

August 14th, 1848.

Temporary government for territory of Oregon established.

Proviso as to Indians in said territory.

Title to missionary stations confirmed.

Power to divide said territory reserved by congress.

The executive to vest in a governor; his tenure of office, powers, duties and emoluments.

Be it enacted by the senate and house of representatives, of the United States of America in congress assembled, That from and after the passage of this act, all that part of the territory of the United States which lies west of the summit of the Rocky Mountains, north of the forty-second degree of north latitude, known as the territory of Oregon, shall be organized into, and constitute a temporary government, by the name of the territory of Oregon: *Provided,* That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to affect the authority of the government of the United States, to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the government to make if this act had never passed: *And provided also,* That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said territory, together with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectively belong: *And provided further,* 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 of said territory to any other state or territory of the United States.

SECTION 2. *And be it further enacted,* That the executive power and authority, in and over said territory of Oregon, 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; he may grant pardons and respites for offences against the laws of said territory, and reprieves for offences against the laws of the United States, until the deci-

sion of the president mission all officers w of the said territory, quired, and shall tak

SEC. 3. *And be it y* of said territory, wh five years, unless soc States; he shall reco of the legislative asse and proceedings of t shall transmit one co assembly, within thir copy of the executi semi-annually, on the to the president of the the president of the s presentatives, for the removal, resignation, the secretary shall be to execute and perfor during such vacancy, duly appointed and q

SEC. 4. *And be it f* authority of said territ The legislative assem representatives. The ing the qualifications c of service shall contin be assembled, in con divided as equally as members of council o ration of the first year second year; and of t year: so that one thi cies happen by resign the next ensuing elec its first session, consi qualifications as presc term of service shall c tatives may be increas time, in proportion to That the whole numb ment shall be made, as eral counties or distric sentatives, giving to e the ratio of its qualif members of the counc reside in and be inhab for which they may be election, the governor the inhabitants and qu tricts of the territory, mode as the governor :

Time, manner, and place of holding elections.

so appointed, shall receive a reasonable compensation therefor; and the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election, and the returns thereof, as the governor shall appoint and direct; and he shall, at the same time, declare the number of members of the council and house of representatives, to which each of the counties or districts shall be entitled under this act; and the governor shall, by his proclamation, give at least sixty days' previous notice of such apportionment, and of the time, places, and manner of holding such election. The persons having the highest number of legal 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 persons having the highest number of legal votes for the house of representatives shall be declared by the governor to be duly elected members of said house: *Provided*, That, in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election; and the persons thus elected to the legislative assembly, shall meet at such place and on such day, within ninety days after such elections, 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 number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of sixty days, except the first session, which shall not be prolonged beyond one hundred days.

Proviso for new elections.

Time, &c., of elections

Term of sessions limited.

Qualification of voters.

Proviso; right of suffrage and of holding office, to be exercised only by citizens and those who have taken steps for naturalization.

No person in the army or navy to vote in the territory, unless it has been

SEC. 5. *And be it further enacted*, That every 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, and shall possess the qualifications hereinafter prescribed, 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 above the age of twenty-one years, and those above that age who shall have declared, on oath, their intention to become such, and shall have taken an oath to support the constitution of the United States, and the provisions of this act: *And provided further*, That no officer, soldier, seaman, or marine, or other person in the army or navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote in said territory, by reason of being on service therein, unless said territory is, and has been for the period of six months, his permanent domicile: *Provided further*, That no person belonging to the army or navy of the United States, shall ever be elected to, or hold any civil office or appointment in said territory.

SEC. 6. *And be it further enacted*, That the legislative power of the territory, shall extend to all rightful subjects of legislation not in

consistent with the cor no law shall be passed soil; no tax shall be States; nor shall the l taxed higher than the the laws passed by the the congress of the U and of no effect: *Pro* strued to give power t banking powers, or to or to pledge the faith ever, either directly or lege of making, issuin bills in the likeness of of exchange or obligat or privileges, shall be the establishment of a derived from other a shall said legislative a scrip, or evidence of d ner whatever, except c all such laws, or any l of this act, shall be ut equal and uniform, an ments between differ shall be according to t ences, which may resu such things as have n shall embrace but one title.

SEC. 7. *And be it fu* county officers, not he ed or elected in such r tive assembly of the te

SEC. 8. *And be it fu* tive assembly shall ho have been created, or been increased, while he was elected, and fo but this restriction sha legislative assembly; pointment under the U lative assembly, or she said territory.

SECTION 9. *And b* said territory shall be probate courts, and in shall consist of a chie of whom shall constiti the seat of governmer hold their offices durin successors shall be ap shall be divided into

shall be held in each of said districts, by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively reside in the districts which shall be assigned to 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 case in which the title to land shall in any wise come in question, or where the debt or damages 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 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 two thousand dollars, and in all cases where the constitution of the United States, or acts of congress, or a treaty of the United States, is brought in question; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the constitution of the United States, and the laws of said territory, as is vested in the circuit and district courts of the United States; writs of error and appeal in all such cases shall be made to the supreme court of said territory, the same as in other cases. Writs of error and appeals from the final decisions of said supreme courts shall be allowed, and may be taken to the supreme court of the United States, in the same manner as from the circuit courts of the United States, where the value of the property, or the amount in controversy, shall exceed two thousand dollars; and each of 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 also of all cases arising under the laws of the said territory, and otherwise. The said clerk shall receive, in all such cases, the same fees which the clerks of the district courts of the late Wisconsin territory received for similar services.

SECTION 10. *And be it further enacted*, That there shall be appointed an attorney for said territory, who shall continue in office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president, and who shall receive the same fees and salary as were provided by law for the at-

Justices of the Peace.

Each district court to appoint its clerk.

Writs of error, &c., from the district to the supreme court.

How clerk of supreme court appointed; his term of office, &c.

Writs of error, &c., from the supreme court, to the supreme court of U. S. Extent of district courts, jurisdiction.

How writs of error and appeals are to be taken District courts, jurisdiction.

Clerk's fees

Attorney, his term of office, &c.

His fees and salary.

torney of the United States There shall also be a man shall hold his office for four appointed and qualified, and who shall execute all when exercising their jurisdiction the United States; he shall same regulations and penalties were provided by law for the United States for the pro shall, in addition, be paid pension for extra services

SECTION 11. *And be it y tary, chief justice, and as shall be nominated, and, b senate, appointed by the governor and secretary, to they act as such, respecti the district judge, or some territory, duly authorized the laws now in force the associate justice of the sup port the constitution of t charge the duties of thei when so taken, shall be ce shall have been taken, an recorded by the said secre and the chief justice and officers in said territory, b oath or affirmation, before judge or justice of the pe commissioned and qualifie be certified and transmitte secretary, to be by him rec like oath or affirmation sh such manner and form as n shall receive an annual sal nor, and fifteen hundred de The chief justice and asso nual salary of two thousar an annual salary of fifteen be paid quarter-yearly, frc ments, at the treasury of tl shall be made until said off of their respective appointi assembly shall be entitled during their attendance at t for every twenty miles' tra sessions, estimated accordin And a chief clerk, one assis keeper, may be chosen for receive five dollars per d dollars per day, during the*

Proviso. tion: *Provided*, That the laws, penalties, and forfeitures, and punishments by this section required to be enforced by the courts provided for by this act, shall not be inconsistent with the constitution of the United States: *And further provided*, That no right of action whatever shall accrue against any person for any act done in pursuance of any law heretofore passed by the temporary government, and which may be declared contrary to the constitution of the United States.

Justices of the peace, constables, sheriffs, &c. in office when this act takes effect, are continued therein till others are chosen in their place. \$5,000 appropriated for a library.

SEC. 18. *And be it further enacted*, That all justices of the peace, constables, sheriffs, and all other judicial and ministerial officers, who shall be in office within the limits of said territory when this act shall take effect, shall be, and they are hereby, authorized and required to continue to exercise and perform the duties of their respective offices as officers of the territory of Oregon, until they or others shall be duly elected or appointed, and qualified to fill their places in the manner herein directed, or until their offices shall be abolished.

SEC. 19. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated out of any moneys in the treasury not otherwise appropriated, to be expended, by and under the direction of the said governor of the territory of Oregon, in the purchase of a library, to be kept at the seat of government for the use of the governor, legislative assembly, judges of the supreme court, secretary, marshal, and attorney of said territory, and such other persons, and under such regulations as shall be prescribed by law.

Sections 16 and 20 in each township appropriated to schools.

SEC. 20. *And be it further enacted*, That when the lands in the 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 is 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.

Until otherwise provided for by law, the governor may define the judicial districts, assign them judges, &c. Power of legislature to alter &c. such districts.

SEC. 21. *And be it further enacted*, That, until otherwise provided for 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 time and places of holding the courts, as to them shall seem proper and convenient.

SEC. 22. *And be it further enacted*, That all officers to be appointed by the president, by and with the advice and consent of the senate, for the territory of Oregon, who by virtue of the provisions of any law now existing, or which may be enacted during the present Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security at such time and place, and in such manner, as the secretary of the treasury may prescribe.

SEC. 23. *And be it further enacted*, That all the ports, harbors, shores, and waters of the main land of the territory aforesaid, shall

constitute a collection district and a port of entry shall be of the Columbia river, and be by the president, by a senate, to reside at such place.

SEC. 24. *And be it further enacted* that he is to be of delivery in the district of number (one of which shall be deemed expedient, and with the consent of the senate, surveyor shall be allowed a commission annuum, and the fees allowed the surveyor appointed in pursuance of any law; and the amount of fees in any one year, except shall be accounted for in the States.

SEC. 25. *And be it further enacted* that the sum of five hundred dollars be, and the same is hereby, appropriated out of any moneys in the treasury not otherwise appropriated, to be expended, by and under the direction of the said governor of the territory of Oregon, in the purchase of a library, to be kept at the seat of government for the use of the governor, legislative assembly, judges of the supreme court, secretary, marshal, and attorney of said territory, and such other persons, and under such regulations as shall be prescribed by law.

SEC. 26. *And be it further enacted*, That when the lands in the 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 is 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.

SEC. 27. *And be it further enacted*, That, until otherwise provided for 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 time and places of holding the courts, as to them shall seem proper and convenient.

APPROVED, August 14

Document:
The Donation Land Claim Act, 1850

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 lands in 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 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 quarterly, 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, stationary, 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 the said Territory shall be made after what is known as the geodetic method, under such regulations, and upon such terms, as may be provided by the Secretary of the Interior of other Department having charge of the surveys of the public lands, and that said geodetic 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, then it shall be the duty of said surveyor to cause a base line, and meridian to be surveyed, marked, and established, in the usual manner, at or near the mouth of 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, for every 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 white 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, 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 and fifty, the quantity of one section, or six hundred and forty acres, one half to himself and the other half to his 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 interest of the deceased in equal proportions, except where 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 of 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 benefits 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 rights under the treaty with Great Britain relative to the Oregon Territory, to claim both under this grant and the 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 twenty-one years, emigrating to and settling in said Territory between the first day of December, eighteen hundred and fifty, and the first day of December, eighteen hundred and fifty-three; and to all white male citizens, not hereinbefore provided for, becoming one and twenty 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 one hundred and sixty acres of land, if a single man; or if married, or if he shall become married within one year after becoming twenty-one years of age as aforesaid, the quantity of one half section, or three hundred and twenty 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 by legal subdivisions; but where that cannot be done, it shall be the duty of the said surveyor-general to survey and mark each claim with the boundaries as claimed, at the request and expense of the

claimant; the charge for the same in each case 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 plats, 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 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 has 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 of 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 objections 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 expiration 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 and cultivation thereof shall have commenced pervious 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 the said Territory, west of the Cascade Mountains, and to be selected in legal subdivisions after the same has been surveyed, by the legislative assembly of said Territory, in such a 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 the 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 Abernathy Island, which is hereby confirmed to the legal assigns of the Willamette Milling and Trading Companies, shall be set apart and be at the disposal of the legislative assembly, the proceeds thereof to be applied by said 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 lots and parts of lots in said claim, sold or granted by Doctor John McLaughlin, previous to the fourth 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 surveyor-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 affect any rights 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 of 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 ensure to the benefits of any other person. And all affidavits required by this act shall be entered of 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 such oaths or affirmations are false or fraudulent, the persons making such false or fraudulent oaths or affirmations are false or fraudulent, the 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 preliminary to a final decision accord 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 authority 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 judgement 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 hereto, out of any money not otherwise appropriated.

Approved, September 27, 1850.

Warning: date(): It is not safe to rely on the system's
timezone settings. You are *required* to use the
date.timezone setting or the date_default_timezone_set()
function. In case you used any of those methods and you are
still getting this warning, you most likely misspelled the
timezone identifier. We selected the timezone 'UTC' for now,
but please set date.timezone to select your timezone. in
[/local/content/www.ourdocuments.gov/print_friendly.php](http://local/content/www.ourdocuments.gov/print_friendly.php)

on line 101

December 18, 2014

Transcript of Dawes Act (1887)

Forty-Ninth Congress of the United States of America;
At the Second Session,

Begun and held at the City of Washington on Monday, the sixth day of December,
one thousand eight hundred and eight-six.

**An Act to provide for the allotment of lands in severalty to Indians on the
various reservations, and to extend the protection of the laws of the United
States and the Territories over the Indians, and for other purposes.**

*Be it enacted by the Senate and House of Representatives of the United States of
America in Congress assembled,* That in all cases where any tribe or band of Indians
has been, or shall hereafter be, located upon any reservation created for their use,
either by treaty stipulation or by virtue of an act of Congress or executive order setting
apart the same for their use, the President of the United States be, and he hereby is,
authorized, whenever in his opinion any reservation or any part thereof of such
Indians is advantageous for agricultural and grazing purposes, to cause said
reservation, or any part thereof, to be surveyed, or resurveyed if necessary, and to
allot the lands in said reservation in severalty to any Indian located thereon in
quantities as follows:

To each head of a family, one-quarter of a section;

To each single person over eighteen years of age, one-eighth of a section;

To each orphan child under eighteen years of age, one-eighth of a section; and

To each other single person under eighteen years now living, or who may be born
prior to the date of the order of the President directing an allotment of the lands
embraced in any reservation, one-sixteenth of a section:

Provided, That in case there is not sufficient land in any of said reservations to allot
lands to each individual of the classes above named in quantities as above provided,
the lands embraced in such reservation or reservations shall be allotted to each
individual of each of said classes pro rata in accordance with the provisions of this
act: And provided further, That where the treaty or act of Congress setting apart such
reservation provides the allotment of lands in severalty in quantities in excess of

those herein provided, the President, in making allotments upon such reservation, shall allot the lands to each individual Indian belonging thereon in quantity as specified in such treaty or act: And provided further, That when the lands allotted are only valuable for grazing purposes, an additional allotment of such grazing lands, in quantities as above provided, shall be made to each individual.

Sec. 2. That all allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agents shall select for each orphan child, and in such manner as to embrace the improvements of the Indians making the selection. where the improvements of two or more Indians have been made on the same legal subdivision of land, unless they shall otherwise agree, a provisional line may be run dividing said lands between them, and the amount to which each is entitled shall be equalized in the assignment of the remainder of the land to which they are entitled under his act: Provided, That if any one entitled to an allotment shall fail to make a selection within four years after the President shall direct that allotments may be made on a particular reservation, the Secretary of the Interior may direct the agent of such tribe or band, if such there be, and if there be no agent, then a special agent appointed for that purpose, to make a selection for such Indian, which selection shall be allotted as in cases where selections are made by the Indians, and patents shall issue in like manner.

Sec. 3. That the allotments provided for in this act shall be made by special agents appointed by the President for such purpose, and the agents in charge of the respective reservations on which the allotments are directed to be made, under such rules and regulations as the Secretary of the Interior may from time to time prescribe, and shall be certified by such agents to the Commissioner of Indian Affairs, in duplicate, one copy to be retained in the Indian Office and the other to be transmitted to the Secretary of the Interior for his action, and to be deposited in the General Land Office.

Sec. 4. That where any Indian not residing upon a reservation, or for whose tribe no reservation has been provided by treaty, act of Congress, or executive order, shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land-office for the district in which the lands are located, to have the same allotted to him or her, and to his or her children, in quantities and manner as provided in this act for Indians residing upon reservations; and when such settlement is made upon unsurveyed lands, the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto; and patents shall be issued to them for such lands in the manner and with the restrictions as herein provided. And the fees to which the officers of such local land-office would have been entitled had such lands been entered under the general laws for the disposition of the public lands shall be paid to them, from any moneys in the Treasury of the United States not otherwise appropriated, upon a statement of an account in their behalf for such fees by the Commissioner of the General Land Office, and a certification of such account to the Secretary of the Treasury by the Secretary of the Interior.

Sec. 5. That upon the approval of the allotments provided for in this act by the Secretary of the Interior, he shall cause patents to issue therefor in the name of the allottees, which patents shall be of the legal effect, and declare that the United States does and will hold the land thus allotted, for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in case of his decease, of his heirs according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his heirs as aforesaid, in fee,

discharged of said trust and free of all charge or incumbrance whatsoever: Provided, That the President of the United States may in any case in his discretion extend the period. And if any conveyance shall be made of the lands set apart and allotted as herein provided, or any contract made touching the same, before the expiration of the time above mentioned, such conveyance or contract shall be absolutely null and void: Provided, That the law of descent and partition in force in the State or Territory where such lands are situate shall apply thereto after patents therefor have been executed and delivered, except as herein otherwise provided; and the laws of the State of Kansas regulating the descent and partition of real estate shall, so far as practicable, apply to all lands in the Indian Territory which may be allotted in severalty under the provisions of this act: And provided further, That at any time after lands have been allotted to all the Indians of any tribe as herein provided, or sooner if in the opinion of the President it shall be for the best interests of said tribe, it shall be lawful for the Secretary of the Interior to negotiate with such Indian tribe for the purchase and release by said tribe, in conformity with the treaty or statute under which such reservation is held, of such portions of its reservation not allotted as such tribe shall, from time to time, consent to sell, on such terms and conditions as shall be considered just and equitable between the United States and said tribe of Indians, which purchase shall not be complete until ratified by Congress, and the form and manner of executing such release prescribed by Congress: Provided however, That all lands adapted to agriculture, with or without irrigation so sold or released to the United States by any Indian tribe shall be held by the United States for the sale purpose of securing homes to actual settlers and shall be disposed of by the United States to actual and bona fide settlers only tracts not exceeding one hundred and sixty acres to any one person, on such terms as Congress shall prescribe, subject to grants which Congress may make in aid of education: And provided further, That no patents shall issue therefor except to the person so taking the same as and homestead, or his heirs, and after the expiration of five years occupancy thereof as such homestead; and any conveyance of said lands taken as a homestead, or any contract touching the same, or lieu thereon, created prior to the date of such patent, shall be null and void. And the sums agreed to be paid by the United States as purchase money for any portion of any such reservation shall be held in the Treasury of the United States for the sole use of the tribe or tribes Indians; to whom such reservations belonged; and the same, with interest thereon at three per cent per annum, shall be at all times subject to appropriation by Congress for the education and civilization of such tribe or tribes of Indians or the members thereof. The patents aforesaid shall be recorded in the General Land Office, and afterward delivered, free of charge, to the allottee entitled thereto. And if any religious society or other organization is now occupying any of the public lands to which this act is applicable, for religious or educational work among the Indians, the Secretary of the Interior is hereby authorized to confirm such occupation to such society or organization, in quantity not exceeding one hundred and sixty acres in any one tract, so long as the same shall be so occupied, on such terms as he shall deem just; but nothing herein contained shall change or alter any claim of such society for religious or educational purposes heretofore granted by law. And hereafter in the employment of Indian police, or any other employes in the public service among any of the Indian tribes or bands affected by this act, and where Indians can perform the duties required, those Indians who have availed themselves of the provisions of this act and become citizens of the United States shall be preferred.

Sec. 6. That upon the completion of said allotments and the patenting of the lands to said allottees, each and every member of the respective bands or tribes of Indians to whom allotments have been made shall have the benefit of and be subject to the laws, both civil and criminal, of the State or Territory in which they may reside; and no

Territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law. And every Indian born within the territorial limits of the United States to whom allotments shall have been made under the provisions of this act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States without in any manner affecting the right of any such Indian to tribal or other property.

Sec. 7. That in cases where the use of water for irrigation is necessary to render the lands within any Indian reservation available for agricultural purposes, the Secretary of the Interior be, and he is hereby, authorized to prescribe such rules and regulations as he may deem necessary to secure a just and equal distribution thereof among the Indians residing upon any such reservation; and no oother appropriation or grant of water by any riparian proprietor shall permitted to the damage of any other riparian proprietor.

Sec. 8. That the provisions of this act shall not extend to the territory occupied by the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, and Osage, Miamies and Peorias, and Sacs and Foxes, in the Indian Territory, nor to any of the reservations of the Seneca Nation of New York Indians in the State of New York, nor to that strip of territory in the State of Nebraska adjoining the Sioux Nation on the south added by executive order.

Sec. 9. That for the purpose of making the surveys and resurveys mentioned in section two of this act, there be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of one hundred thousand dollars, to be repaid proportionately out of the proceeds of the sales of such land as may be acquired from the Indians under the provisions of this act.

Sec. 10. That nothing in this act contained shall be so canstrued to affect the right and power of Congress to grant the right of way through any lands granted to an Indian, or a tribe of Indians, for railroads or other highways, or telegraph lines, for the public use, or condemn such lands to public uses, upon making just compensation.

Sec. 11. That nothing in this act shall be so construed as to prevent the removal of the Southern Ute Indians from their present reservation in Southwestern Colorado to a new reservation by and with consent of a majority of the adult male members of said tribe.

Approved, February, 8, 1887.