

Oregon Donation Land Law (ODLL)

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By John Scott

The Oregon Donation Land Law (ODLL) of 1850 - which was used to secure over 7,300 land claims between December 1850 and April 1855 – allowed pioneer families, at the initial inception of the law, to claim up to one square mile of land for no fee.¹ While, there was no government fee, there was work to be done on your land, so, in that sense, the land did come with a cost, the cost of labor.

Here is how it worked. Section four, the empowering portion of the law, stipulated that an eighteen year old white male American citizen, or American Indian half-breed, who had arrived in Oregon before December 1, 1850, and worked a piece of land for four years could legally stake a claim up to 320 acres.² If you were the wife of a man who had staked such a claim you could also claim 320 acres.³ Single women who had never married could not stake claims. If you had not yet become an American citizen, but intended to be, you could also file a land claim while you were moving through the citizenship process.⁴

Furthermore, section five of the ODLL enabled twenty-one-year-old white males who arrived in Oregon between December 1, 1850, and December 1, 1853, to claim 160 acres, and a woman in a marriage partnership was entitled to 160 acres.⁵ If you were a young man who arrived in Oregon as an adolescent and attained the age of eighteen or twenty-one before December 1, 1850, or December 1, 1853, you also qualified for either the 320 or the 160 acres.

In 1853 provisions were added to the law to recognize a widow's right to a land claim.⁶ The law was further amended in 1854 to grant donations to orphans and allow settlers arriving before April 1, 1855, to stake a claim under the section five guidelines.⁷

For the sake of illustration, consider the William and Ann Rector family who arrived in Oregon in fall 1845. (See the related article about the Rectors.) The Rectors settled a claim along Mill Creek, a few miles southeast of Salem, in spring 1846. William and his several sons, removed trees, built a cabin, and successfully plowed, sowed, and harvested wheat on their land each year.⁸ The original boundaries of the Rector land claim (later officially surveyed) was determined by pacing off the claim based on natural land and water features and working in cooperation with neighboring settlers - the Bakers, Herrens, Clarks, Hoods, Stanleys, and Baums - who were also establishing farms in the Mill Creek area in the late 1840s.⁹ These early land claims were given their initial legal standing under the "organic act" of 1843, which set up Oregon's Provisional Government and allowed men to claim a full section of land.¹⁰

Two of the Rectors' sons, Ludwell and John, and their wives, also qualified for claims. Ludwell, born in 1828, married Jane Stanley in 1849; they settled a 640-acre claim near Halsey in Linn County.¹¹ Next to this claim was the 320-acre claim of John Perkins Rector and his wife Mary Jane (nee Washburn). John, born in 1833, eventually bought Ludwell's land. In the late 1870s he was farming 875 acres.¹²

The years 1848 to 1850 were tense ones for this first generation of Oregon farmers. The law which established Oregon as a United States Territory in August 1848 did not recognize the land holdings which had been claimed under the auspices of the provisional government.¹³ Fortunately, Congress accepted these early claims as valid through the efforts of Oregon's territorial delegate, Samuel Thurston, who relentlessly pressed the House and Senate toward final passage of the land law on September 27, 1850.¹⁴ (Despite these efforts, some aspects of Thurston's legacy have received just criticism.)¹⁵

Accurate surveying of Oregon properties began after the Willamette Meridian was established in the hills west of Portland in October 1851. This was the starting point for the range and township property divisions in what would become the states of Oregon and Washington. In early 1852, settlers in western Oregon began making the trip to either Oregon City or Roseburg where at the Surveyor's Office they completed the legal paper work, swore an oath that the land they claimed was for their own use, and further established their credibility as resident farmers upon the word of two witnesses who filed affidavits with the surveyor general.¹⁶ The surveyor general used this evidence to record their claim with the federal government. The William H. Rectors registered the 52nd claim with the Oregon City office, a claim which was later determined to be precisely 639.12 acres.¹⁷ Unfortunately, the surveyor's office wrestled with a huge backlog of work, and it often took months or years to get land patents.¹⁸ One reason for this tardiness was that payment had to be made to the surveyors, something not everyone was eager to do, and this mired down the timely measurement of the property lines.

Widows received patents for legal claims after the ODLL was amended in 1853 to specifically recognize the claims. Many of these women had been farming pieces of ground for years, but they did not have free and clear title to that ground. Also in that year the law was further changed to expedite the securing and selling of land by commuting the four-year residency requirement to two years, if the land holder agreed to a payment of \$ 1.25 an acre for his or her land.¹⁹ In 1854 this residency requirement was reduced to only one year, and the owner entitled to sell his land, even if he had not yet been awarded a patent, provided he had worked the ground for four years.²⁰

To understand the modifications which allowed widows to claim land, consider the lives of Mary Center [Centre], Mary Willard, and Mary Canada. Mary Center traveled to Oregon in 1845 (ten years after the death of her husband Ebenezer.)²¹ On December 30, 1845, she settled a 321.58-acre claim in Marion County on the East Fork of the Pudding River north of Sublimity.²² Persons who signed affidavits testifying to the legitimacy of her claim included William T. Vaughan and Jonathan E. Center.²³ Jonathan and Samuel Center held large donation claims next to Mary's, and the logical conjecture is that these were her sons who played a hand in the family's relocation to Oregon.²⁴ It would have been an uneasy wait to have farmed land for over a decade before finally receiving the patent of land ownership from the federal government.

Our next Mary had a very eventful 1851. She became the wife of Abner S. Willard on February 13 (In 1851 women were in short supply as men scrambled around the countryside looking to woo wives and double the size of their claims.)²⁵ The Willards settled a 640-acre claim on March 15 just east of Howell Prairie near Drift Creek alongside the Waldo Hills.²⁶ Sadly, Abner died in July. The claim was now Mary's, however, the records present the claim as belonging to "Willard J. Mary, widow of Abner S. and heirs of Abner Willard." Perhaps she was pregnant and the record is written to reflect that fact, because the heirs of parents who haddied were protected in their grant under the amendments to the ODLL in 1854.²⁷

Some widows residing in Oregon did not act to take land until after the ODLL was revised in 1853. Mary Canada arrived in Oregon in 1844 as a sixty-year-old widow.²⁸ Peter Canada, to whom she was married for only two years, had died in 1839 in Pike County, Illinois. Mary secured a claim on 160 acres of Linn County farmland in August 1853.²⁹ Samuel D. Pomeroy and Margaret J. Pomeroy signed affidavits as to the truth of her claim. Were these two her daughter and son-in-law who had encouraged sixty-nine-year-old Mary to secure a land claim? Or, perhaps, Mary was Mary Pomeroy before she married Peter Canada and Samuel was her son from that earlier marriage. These questions are fuel for further research. Mary's claim was on the north side of the Santiam River, opposite Sweet Home.³⁰

As noted, immigrants to the United States could work to obtain both citizenship and take a land claim in Oregon. Important in this regard is John Minto, the noted Marion County agriculturalist and community leader. Minto, who was born in Northumberland County, England, had settled in 1849 on land near today's

Jory Hill Park, which is a few miles south of Salem.³¹ Minto secured his citizenship on March 29, 1851, and thus he and his wife, Martha, qualified for a 640-acre claim.³² In 1867 he also purchased property in what is today's Minto-Brown Park. These 302 acres had been initially homesteaded under the ODLL by O. M. Pringle.³³

As noted earlier, in 1854, orphans were given grants of land under the ODLL. The children of the deceased Adam Nordyke and John Haverd are two examples of Marion County orphans who were beneficiaries of this provision. Their claims were, respectively, 155.61 and 183.76 acres in size, and were located just east of Brooks along, what was then, the much more extensive marshy area known as Lake Labish. In 1878 O. Nordyke, (presumably one of the orphans) was still farming his claim.³⁴

The Oregon Donation Land law did not pass through the Congress without controversy. There was heated debate in the House of Representatives over the provision in the law limiting those who could make claims to the white race or men of mixed Indian-white heritage. Abolitionists, such as William A. Sackett of New York and Ohio's Joshua R. Giddings, blasted the bigotry reflected in the bill.³⁵ They despised the fact that while Oregonians wanted to keep slavery out of the territory they also wanted to keep black Americans out of the territory by passing non-integration laws. Despite their efforts to expunge the word "white" from the bill, it was for naught. By a vote of 68 to 51 the racially restrictive language remained in the bill.³⁶

Also subject to this prejudice were the Kanakas, the Hawaiians who had worked as fur traders under the auspices of the Hudson's Bay and Northwest Fur Companies from the earliest years of Euroamerican settlement.³⁷ It was now made clear, that they were no longer welcome in Oregon, and many of them returned to the islands. Blacks, Hawaiians, and single women felt the sting of the restrictive culture of Oregon in 1850; and this to say nothing up to this juncture about the fact that the Indians of western Oregon were being rounded up in the 1850s and forced to move onto what was known as the Coast Reservation.³⁸ This was before the reservation was broken into smaller pieces which were then dissolved revived again in the 1980s.

Acknowledging the short comings of the bill, and recognizing that it is a good barometer by which to view the prejudices of those times, the Oregon Donation Land Law was unlike any other nineteenth-century land law as to the amount of land which it awarded to its recipients. The ODLL aided in the creation of a mindset known as Oregon Fever - the over-embellished notion of Oregon as a virtual paradise where hard working farmers could go and make real their dreams of a small Eden. No, it was not Eden, but it was fertile land with a temperate climate and generally speaking a region not beset with as many life threatening illnesses as were encountered in the Mississippi River Valley. Furthermore, the Oregon Donation Land law set the stage for the Homestead Act of 1862, a measure which also moved the adventurous to try their hand at farming and ranching in the American West.³⁹

Endnotes

1. James M. Bergquist, "The Oregon Donation Act and the National Land Policy" *Oregon Historical Quarterly*, Vol LVIII (March 1957): 18, 30.
2. Bergquist, "The Oregon Donation Act..." 20.
3. Bergquist, "The Oregon Donation Act..." 20.
4. *Index of Oregon Donation Land Claims*. 2nd ed. Mrs. William Irvine, compiler. Genealogical Forum of Oregon, Inc. 1987. Introduction.
5. Bergquist, "The Oregon Donation Act..." 20.
6. Bergquist, "The Oregon Donation Act..." 31.
7. Bergquist, "The Oregon Donation Act..." 32.

8. Fred Lockley, *History of the Columbia River Valley: From The Dalles to the Sea*. Vol I. Chicago: The S.J. Clarke Publishing Company, 1928) 1078.
9. Edgar Williams & Co. *Historical Atlas Map Marion & Linn Counties, Oregon 1878*, (Salem: Marion County Historical Society, 2004 reprint) 37, 46.
10. Bergquist, "The Oregon Donation Act..." 18.
11. Edgar Williams & Co. *Historical Atlas Map Marion & Linn Counties, Oregon 1878*, (Salem: Marion County Historical Society, 2004 reprint) p. 80, 95.
12. Edgar Williams & Co. *Historical Atlas Map Marion & Linn Counties, Oregon 1878*, (Salem: Marion County Historical Society, 2004 reprint) p. 80, 104.
13. Bergquist, "The Oregon Donation Act..." 18.
14. Bergquist, "The Oregon Donation Act..." 25, 28.
15. Samuel Thurston worked to divest Dr. John McLoughlin, the Chief Factor of the Hudson's Bay Company, of land he had long claimed at Willamette Falls in Oregon City. Section eleven of the land law voided McLoughlin's claim in favor of interests of men associated with the Methodist enterprise that was centered in Salem. For a treatment that explains McLoughlin's interests in this controversial matter see *Outpost: John McLoughlin and the Far Northwest* by Dorothy Nafus Morrison. For a treatment with a more sympathetic view to the actions of the Rev. Alvin Waller, and the leaders of Oregon's Methodists, see *Chronicles of Willamette: The Pioneer University of the West* by Robert Moulton Gatke.
16. Bergquist, "The Oregon Donation Act..." 28.
17. *Index of Oregon Donation Land Claims*. 2nd ed. Genealogical Forum of Oregon, Inc. 1987. 124.
18. Bergquist, "The Oregon Donation Act..." 30.
19. Bergquist, "The Oregon Donation Act..." 31.
20. Bergquist, "The Oregon Donation Act..." 31.
21. *Introduction to the Index to the Oregon Donation Land Claims Records*. Compiled by Mrs. William Irvine. Genealogical Forum of Oregon, Inc. 1957. 4.
22. *Introduction to the Index...4. Edgar Williams & Co...* 44.
23. *Introduction to the Index...4.*
24. *Edgar Williams & Co...* 47.
25. *Introduction to the Index...10.*
26. *Edgar Williams & Co...* 44, 47
27. *Introduction to the Index...10.* Bergquist, "The Oregon Donation Act..." 32.
28. *Introduction to the Index...15.*
29. *Introduction to the Index...22.*
30. *Edgar Williams & Co...* 85, 97.
31. *Edgar Williams & Co...* 44, 46. When Minto first arrived in Oregon he had briefly held the land where the original Methodist Mission station had been vacated. It was located about ten miles north of Salem.
32. *Introduction to the Index...106.*
33. *Edgar Williams & Co...* 36, 46.
34. *Edgar Williams & Co...* 32, 33, 46.
35. Bergquist, "The Oregon Donation Act..." 23.
36. Bergquist, "The Oregon Donation Act..." 24.
37. Bergquist, "The Oregon Donation Act..." 23.
38. E.A. Schwartz, *The Rogue River Indian War and Its Aftermath, 1850-1890* (Norman and London: University of Oklahoma Press, 1997), 161-184
39. Bergquist, "The Oregon Donation Act..." 23.

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