

THE BLACK LAWS OF OREGON, 1844-1857

Beginning with the Exclusion Law of 1844 enacted by the provisional government of the region, Oregon passed a series of measures designed to ban African American settlement in the territory. Historian Elizabeth McLagan describes those laws in the article below.

Oregon passed exclusion laws against African Americans twice during the 1840s, considered another law in the 1850s, and in 1857 approved an exclusion clause as part of its constitution. Exclusion laws were also passed in Indiana and Illinois and considered in Ohio, but Oregon was the only free state admitted to the Union with an exclusion clause in its constitution.

The first exclusion law was passed in 1844 by the Provisional Government of Oregon, the temporary governing political structure set up by the first American settlers to reach the region over the Oregon Trail. This first law included a ban on slavery and a requirement that slaveowners free their slaves. African Americans who remained in Oregon after their freedom was granted, however, would be whiplashed and expelled. If they were caught again in the Territory within six months, the punishment would be repeated. This law was amended to substitute hard labor for whiplashing, and was repealed in 1845, before it could take effect.

In 1849 another exclusion law was passed. This one allowed black residents already in Oregon to remain, but banned further African American in-migration. Ship owners were responsible for their black crew members and could be fined \$500 if the crew member jumped ship and remained in Oregon. In this second version, African Americans would be arrested and then ordered to leave. This law was in effect until 1854, when, in a general housekeeping act, it was repealed. Later attempts to reintroduce it suggest that this repeal was accidental.

In 1857, when a constitution was written in anticipation of statehood, a third exclusion clause was inserted, prohibiting new in-migration of African Americans, as well as making illegal their ownership of real estate and entering into contracts. They were also denied the right to sue in court. This clause, Article 1 Section 35, was subject to popular vote, as was the adoption of a ban on slavery and the entire constitution. The exclusion clause received more popular votes than the approval of the constitution or the ban on slavery. Although enabling legislation was never passed and the clause was voided by the 14th and 15th Amendments passed after the Civil War, the ban remained a part of Oregon's constitution until it was finally repealed in 1927.

Oregon was largely settled by white immigrants who emigrated with their values and prejudices. Passing exclusion laws in an area far removed from sectarian conflict, the majority argued for the freeing and removal of slaves brought to Oregon Territory and favored the avoidance of the race problem altogether through this means.

Jesse Applegate, who supported the repeal of the exclusion law in 1845 and opposed its inclusion in the state's constitution, believed that many immigrants to Oregon, especially those less well-off, had strong prejudices against African Americans, whether slave or free. Born in Kentucky, he later lived in Missouri and came to Oregon in 1843. In 1878 he recalled, "Being one of the 'Poor Whites' from a slave state I can speak with some authority for that class—Many of those people hated slavery, but a much larger number of them hated free negroes worse even than slaves."



Black Trailblazers

Peter Burnett, another influential immigrant, championed Oregon Territory as a place with many opportunities to start afresh and escape the problems of the eastern region. His letters from the territory were often published in newspapers, and in one he argued, “The object is to keep clear of this most troublesome class of population. We are in a new world, under most favorable circumstances, and we wish to avoid most of these great evils that have so much afflicted the United States and other countries.” He later attempted to justify this law, arguing that emigration was a privilege, not an inherent right, and not a violation of constitutional rights. Since African Americans could not vote, he reasoned, it was best to deny them residence as well.

A third contemporary reason offered for excluding African Americans from Oregon was the perceived fear that Native Americans and African Americans might make common cause against whites. Samuel Thurston, delegate to Congress in 1850, detailed a scenario in which African Americans would intermarry with, civilize, and educate Native Americans, creating a strong coalition against white power. “Long and bloody wars” would be the result, and therefore “the principle of self preservation...justifies the action of the Oregon Legislature.” Whether due to imported racism, a desire to avoid problems, or fears of an anti-white alliance, Oregonians elected to secure their state against racial issues by exclusion.

It is impossible to determine how many African Americans avoided Oregon because of the exclusion laws and the climate of prejudice they mirrored, but evidence suggests that, in at least three cases, African Americans of means were directly affected by these laws.

George Washington Bush, a wealthy man of color who had left Missouri because of prejudice, deliberately avoided the southern section of Oregon Territory and in 1844 settled in the wilderness north of the Columbia River where the exclusion law could not be enforced. Washington was organized as a separate territory in 1853, and Bush was free to stay. Among the tiny population of Oregon’s early African American settlers were two entrepreneurs who were specifically targeted for exclusion. Jacob Vanderpool, who owned three businesses in Salem, was expelled in 1851, and the same year a Portland merchant, O.B. Francis, was arrested. Although he was freed, he moved to British Columbia in 1860. Thus, African Americans of means, who might have made distinguished contributions to their own community and to Oregon, were forced or chose to go elsewhere because of the racist laws they encountered.

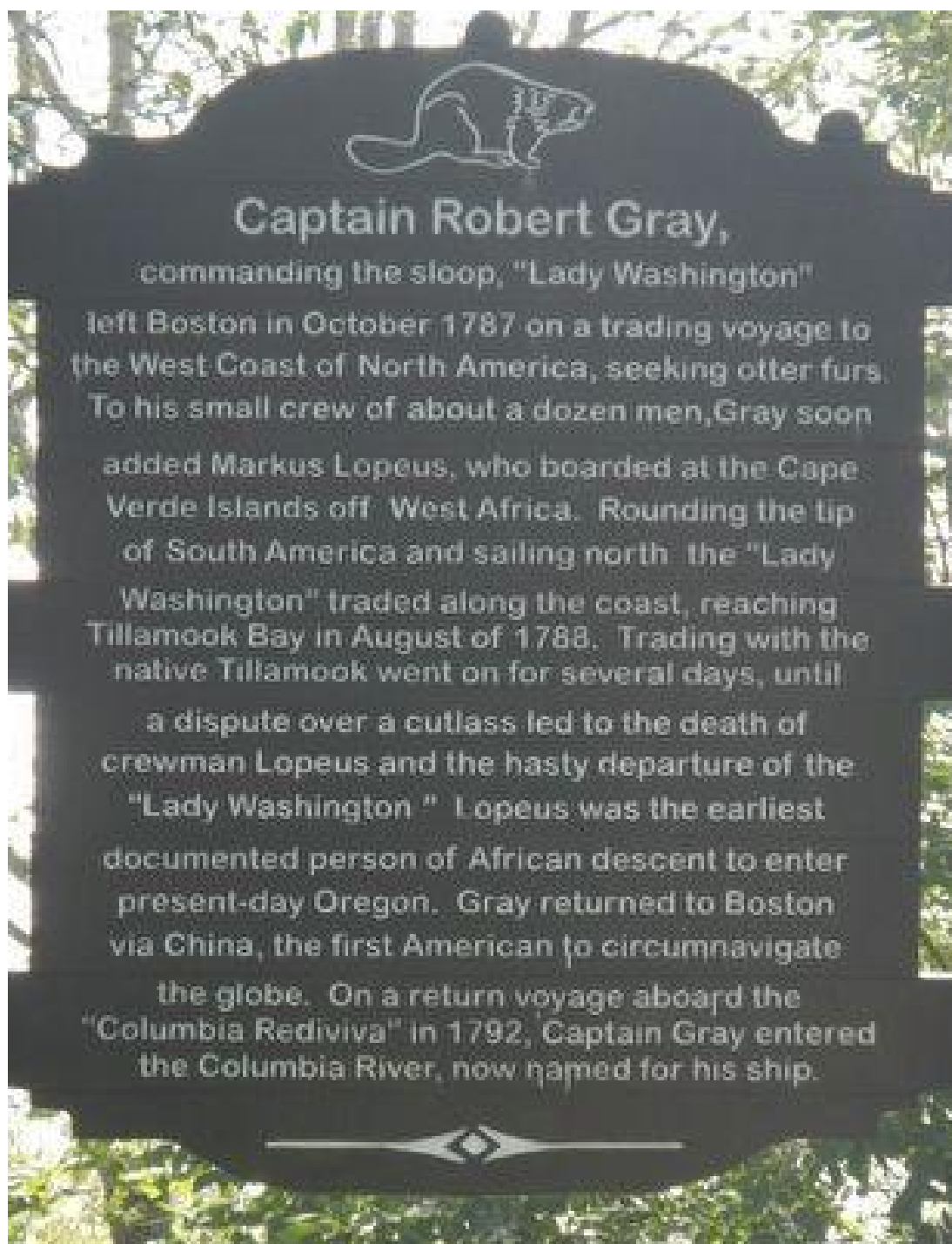
Oregon’s constitutional exclusion clause proved resistant to repeal efforts. Anecdotal evidence suggests that African Americans coming from the South, where state law trumped federal law, saw the exclusion clause as at least an implied threat to their liberty, and so Portland’s black community lobbied hard for its removal. Beginning in 1893, a repeal resolution was introduced in the state legislature. Stalled until 1900, the repeal clause was finally submitted to the voters, where it was defeated by a small margin. Repeal resolutions were passed in 1901, 1903, and 1915 and one was narrowly defeated in the election of 1916. The *Oregon Voter*, a non-partisan paper, had this post-election comment: “Ignorance there was, no doubt, but the race prejudice was reflected nevertheless, and to our knowledge many voted ‘NO’ in a spirit of protest, realizing full well that the vote could have no effect on the citizenship status of the negro.” After another eleven years, the amendment was approved and in 1927 the exclusion clause was finally removed from Oregon’s constitution.

McLagan, E. (2009, March 30). *The Black Laws of Oregon, 1844-1857*. BlackPast.org.
<https://www.blackpast.org/african-american-history/black-laws-oregon-1844-1857/>



Black Explorers and Trailblazers

Document A. Markus Lopeus



The earliest confirmed person of African descent was Markus Lopeus, a Black sailor who arrived at Tillamook Bay with merchant sea captain Robert Gray in 1788. It is documented that Lopeus died during a dispute with local Native Americans.

<https://www.opb.org/television/programs/oregonexperience/article/oregon-black-pioneers-documentary/>



Document B. York



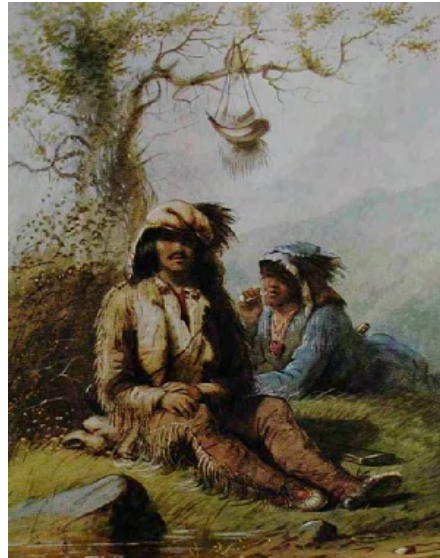
<https://www.oregonencyclopedia.org/articles/york/#.YbDxWtDMKUk>

York statue at Mount Tabor Park, Portland, April 2021

“Although still enslaved to Clark, York did enjoy certain privileges. There is little evidence that his work assignment differed from those of the white male members of the Expedition. York was designated one of the Expedition hunters and was permitted to carry a firearm. He was also given a vote when the decision was made to build Fort Clatsop, the structure where the Expedition spent the winter in 1805-1806.”

Momodu, S. (2007, January 26). York (1770-1832). BlackPast.org. [York \(1770-1832\)](#) •

Document C. Moses Harris



<http://www.mman.us/harrismoses.htm>

“We know a great deal about Harris’s accomplishments but very little about his personal life. He seems to have revealed almost nothing about his background to his friends—not untypical of fur trappers who often spent months at a time with little or no human companionship. As an adult, Harris may never have had a real home until he settled in the Willamette Valley, and once there he remained only a few years. Where did Harris come from? Union County, South Carolina, possibly. Or maybe Kentucky. No record of his birth has been located. He is not mentioned in any United States census. He may have had a Native American wife and children, but, if so, he kept them secret...

...It is possible that Harris may have been born to a slave mother and white father, the same as Beckwourth. If so, it might explain why he said little about his early life. Harris was literate—reflected in occasional letters to newspapers and others—at a time when slaves were generally denied an education, but his early life is a mystery. He first appears in records in 1822 as a fur trapper with the famed Rocky Mountain Fur Company, trapping beaver for their pelts, which were in high demand for a wide variety of hats in North America and Europe. He trapped both independently and for several other companies in a career spanning 20 years. An epitaph, written by a friend of Harris’s states..

*...The bones of old Black Harris
Who often traveled beyond the far west
And for the freedom of human rights
He was a free and easy kind of soul
Especially with a belly full.*

<http://gregnokes.com/2017/04/03/black-harris-northwest-mountain-man-of-mystery/>

Document D. George Washington Bush



<https://www.nps.gov/articles/000/george-washington-bush-the-oregon-trail.htm>

George Washington Bush was born c. 1790, the son of an African American servant and an Irish maid. While many pioneers earned reputations as rugged individualists, Bush epitomized compassion and selflessness, traits that helped him become one of the most important leaders of the first group of American citizens to settle on the north bank of the Columbia River, in what is now Washington State. A veteran of the War of 1812, Bush traveled to the Pacific Coast in 1820, found work as a freelance trapper, and eventually became employed with the Hudson's Bay Company. In 1830, he returned to Missouri, married Isabella James, a German-American and minister's daughter, raised five sons (their sixth was born in Washington Territory), and worked the family farm. Although quite successful as a farmer in Missouri, Bush's family was still the target of racial prejudice, a reality that inspired him to return to the West and start a new life in Oregon Territory.

In May 1844, Bush partnered with Michael Troutman Simmons, a man from the same hometown as Isabella James, and they led a thirty-two-person party over the perilous Oregon Trail. Although Bush and Simmons had the means to finance their journey, many of their fellow travelers did not. Demonstrating the compassion and charitable nature for which he would become known, Bush personally funded those of his party who could not afford to make it on their own. After four months, the wagon train arrived in Oregon. Unfortunately, the policies of racism had beat him to the West. In June 1844, Oregon's Provisional Government enacted the first of a series of exclusion laws, commonly known as the "Lash Law." Through such

legislation, citizens of Oregon Territory used community-sanctioned violence and intimidation to prohibit African Americans from owning land in the region.

Refusing to be separated by racist politics, Bush and Simmons temporarily settled on the north bank of the Columbia River, a region under the direction of the British-owned Hudson's Bay Company and so less subject to the Provisional Government's laws. During the summer of 1845, Bush moved his family to present-day Tumwater (the first permanent American settlement in what would become Washington State), staked out a 640-acre claim, and (with Simmons) opened the region's first gristmill and sawmill. On his farm, Bush grew vegetable crops, fruit trees, and grain, all of which he willingly shared with those in need. He is credited with saving his neighbors from a famine during the winter of 1852.

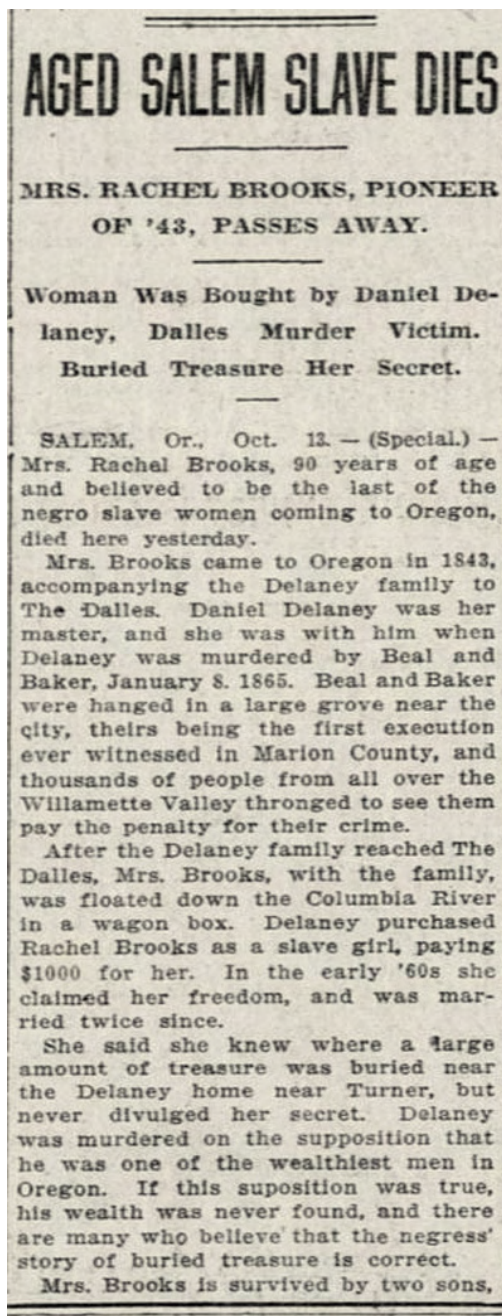
In 1846, with the extension of Oregon Territory to the 49th parallel and the formation of a formal territorial government with jurisdiction north of the Columbia River, Bush was once again confronted with the law that prevented him from owning land, and he faced losing everything he had worked for. However, Bush's friends and neighbors rallied to his aid and petitioned the United States Congress. It took years of effort, but on January 30, 1855, Congress passed a special act that allowed the Bush family to retain their property holdings.

George Washington Bush died on April 5, 1863, of a cerebral hemorrhage, but not before he left behind a legacy of decency and compassion that reverberated through his community for decades to come.

https://www.oregonencyclopedia.org/articles/bush_george_washington_1790_1863_1790_1863/#.Yg07lOjMKUk



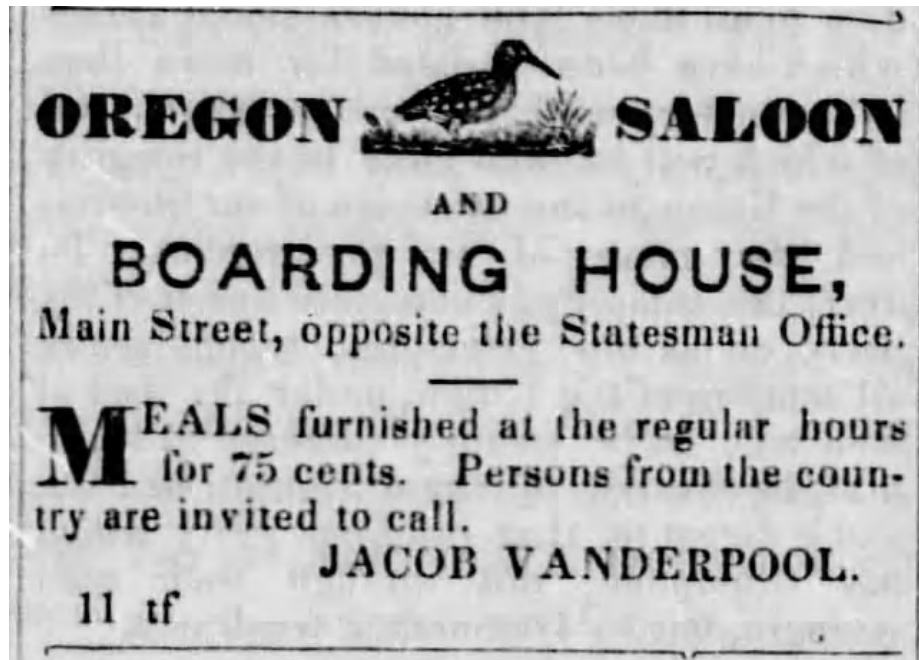
Document E. Rachel Beldon Brooks



“After the death of Daniel Delaney, Rachel sued the estate in civil court for the sum of \$10,333.30 for payment for services and work for her and her son Noah Newman, for a combined total of 27 years and 10 months. She was awarded \$1,000, with the argument that because she and her son were housed and fed at the Delaney’s, it negated any additional cost of payment for work.”

[Black in Oregon - Rachel Belden Brooks](#)

Document F. Jacob Vanderpool



Jacob Vanderpool was the only person known to have been legally expelled from Oregon on the basis of its anti-Black exclusion laws. Born in the West Indies in 1820, Vanderpool was classified in court documents as “mulatto,” likely the descendant of a Dutch plantation owner and an enslaved African woman. Vanderpool moved to New York as a young man, where he married and started a family. At the time of his expulsion from Oregon in 1851, Vanderpool had three children with his wife Eliza: four-year-old twins Amelia and Jane, and an infant son, Martin.

After working as a sailor, Vanderpool arrived in Oregon in 1850, and opened a boarding house in Oregon City, Oregon. Some later sources have placed Vanderpool in Salem, Oregon; the confusion seems to have arisen from the fact that Vanderpool advertised his establishment as being “opposite the *Statesman* office,” and the *Statesman* newspaper moved from Oregon City to Salem in 1853. But in 1851, when Vanderpool’s ad ran, and when the court case against him occurred, the *Statesman* office and Vanderpool’s business were located in Oregon City.

Vanderpool’s first ad ran in the paper on June 6, 1851. The following month, in July, Theophilus Magruder took ownership of the nearby Main Street Hotel. Among Magruder’s long-term guests was Thomas Nelson, the Chief Justice of the Oregon Territory Supreme Court. Nelson wrote home describing how much he appreciated the extra attention of his new landlord. One month after that, the Chief Justice would hear the case in which his attentive landlord, Theophilus Magruder, pressed charges against his business competitor Jacob Vanderpool.

Vanderpool's defense attorney, Amory Holbrook, made three central arguments. First, he argued, the exclusion law was "in all respects unconstitutional." Secondly, the prosecution had not proved that Vanderpool was, in fact, "not... one of the persons permitted to remain." Finally, Holbrook questioned whether the law had been "legally enacted."

The prosecution did not respond to Holbrook's arguments. Instead, they called witnesses to establish that Vanderpool had moved to Oregon after 1849, when the law had gone into effect. One witness claimed to have seen Jacob Vanderpool in Philadelphia in 1849. Another witness testified, "I heard him say that he came here last August." Chief Justice Nelson ruled the following day, on August 26, 1851, that he was "satisfied... that Jacob Vanderpool is a mulatto," and that his presence in the Oregon Territory was illegal. Vanderpool was given 30 days to "quit the Territory."

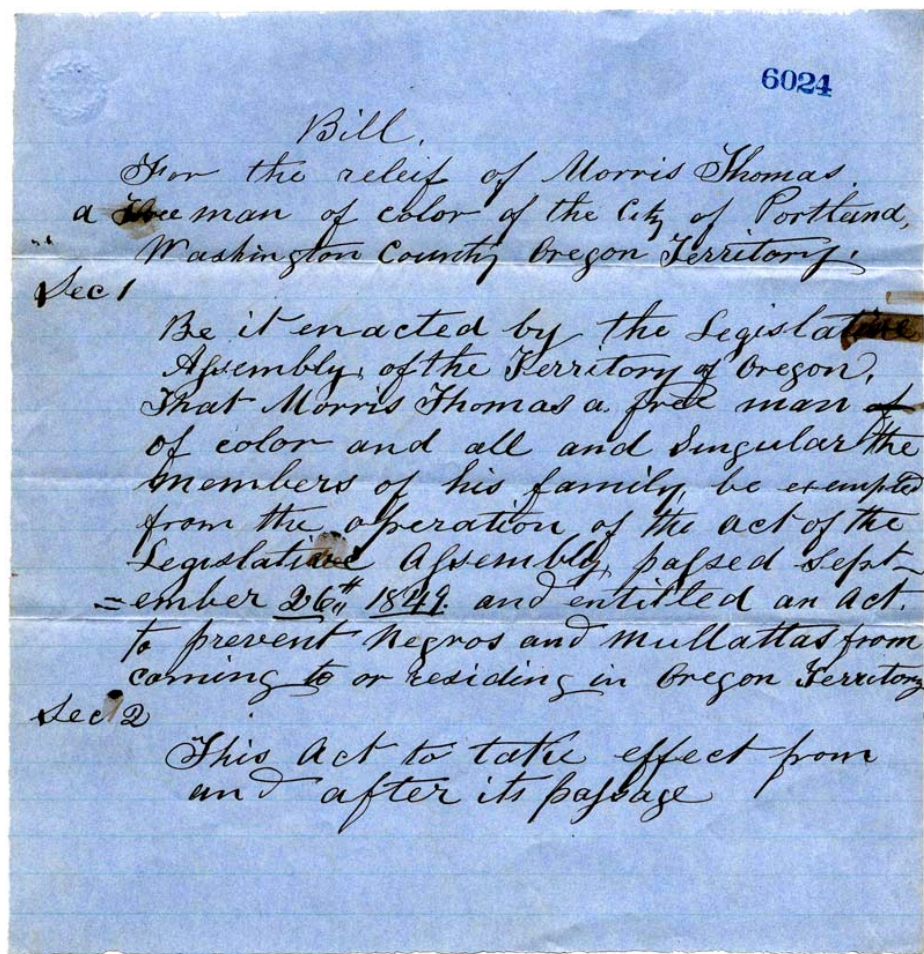
Tax records indicate that Vanderpool returned to New York, where he eventually worked with his teenage son, Martin, as a carriage driver. By 1870, Vanderpool returned West with a second wife, Mary. They settled in San Francisco, where Vanderpool worked as a "packer of hardware" and as a school janitor. He was active with the Young Men's Union Beneficial Society, a Black activist organization. The last record of Vanderpool's life is a voter registration taken in 1886, when he was 66 years old.

A handful of other African Americans were tried under Oregon's exclusion laws, but in each case, their white neighbors successfully petitioned for them to stay. In 1859, Oregon became the only state admitted to the Union with an anti-Black exclusion law on its books. The law was not repealed until 1926.

Sanderson, S. (2022, January 12). Jacob Vanderpool (1820-188?). BlackPast.org.
<https://www.blackpast.org/african-american-history/jacob-vanderpool-1820-188/>



Document G. Morris Thomas



Transcript of Original Document

To the Honorable Legislative Assembly of the Territory of Oregon: The undersigned citizens of the Territory of Oregon, do most respectfully pray for the passage of an Act of the proper character by your Honorable bodies to exempt Morris Thomas a free man of color, and all and singular the members of his family, from the operation of the Act of the Legislative Assembly passed September 26th, 1849, and Entitled "an Act to prevent Negroes and Mullattos from coming to or residing in Oregon."

The said Morris Thomas now is and for several years past has been, a resident in the city of Portland in the Territory of Oregon. He is an industrious, peaceable, well disposed mulatto man, and we do verily believe the passage of the Act prayed for will be of no detriment to the welfare of the Territory or the interests of any citizen (?) and as in duty bounden we will ever pray &C (128 signatures)

<https://sos.oregon.gov/archives/exhibits/echoes/Pages/allow-thomas-family-stay-oregon.aspx>

