

**§ 888. Selection by railroads of lands in lieu of lands entered subsequent to accrual of rights; title of settlers**

In the adjustment of all railroad land grants, whether made directly to any railroad company or to any State for railroad purposes, if any of the lands granted be found in the possession of an actual settler whose entry or filing has been allowed under the preemption or homestead laws of the United States subsequent to the time at which, by the decision of the land office, the right of said road was declared to have attached to such lands, the grantees, upon a proper relinquishment of the lands so entered or filed for, shall be entitled to select an equal quantity of other lands in lieu thereof from any of the public lands not mineral and within the limits of the grant not otherwise appropriated at the date of selection, to which they shall receive title the same as though originally granted. And any such entries or filings thus relieved from conflict may be perfected into complete title as if such lands had not been granted: *Provided*, That nothing herein contained shall in any manner be so construed as to enlarge or extend any grant to any such railroad or to extend to lands reserved in any land grant made for railroad purposes: *And provided further*, That this section shall not be construed so as in any manner to confirm or legalize any decision or ruling of the Interior Department under which lands have been certified to any railroad company when such lands have been entered by a preemption or homestead settler after the location of the line of the road and prior to the notice to the local land office of the withdrawal of such lands from market.

(June 22, 1874, ch. 400, 18 Stat. 194.)

**§ 889. Rights of entrymen whose entries had not been admitted to record**

The privileges granted by section 888 of this title are extended (subject to the provisos, limitations, and restrictions thereof) to all persons entitled to the right of homestead or preemption under the laws of the United States, who have resided upon and improved for five years lands granted to any railroad company, but whose entries or filings have not for any cause been admitted to record.

(Aug. 29, 1890, ch. 819, 26 Stat. 369.)

**§ 890. Homestead entries on railroad lands prior to withdrawal or after restoration to market confirmed**

All preemption and homestead entries, or entries in compliance with any law of the United States, of the public lands, made in good faith, by actual settlers, upon tracts of land of not more than one hundred and sixty acres each, within the limits of any land grant, prior to the time when notice of the withdrawal of the lands embraced in such grant was received at the local land office of the district in which such lands are situated, or after their restoration to market by order of the Bureau of Land Management, and where the preemption and homestead laws have been complied with, and proper proofs thereof have been made by the parties holding

such tracts or parcels, shall be confirmed, and patents for the same shall issue to the parties entitled thereto.

(Apr. 21, 1876, ch. 72, §1, 19 Stat. 35; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

“Bureau of Land Management” substituted for “General Land Office” on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

**§ 891. Abandoned railroad lands; reentry**

When at the time of such withdrawal as aforesaid, valid preemption or homestead claims existed upon any lands within the limits of any such grants which afterward were abandoned, and, under the decisions and rulings of the Land Department, were reentered by preemption or homestead claimants who have complied with the laws governing preemption or homestead entries, and shall make the proper proofs required under such laws, such entries shall be deemed valid, and patents shall issue therefor to the person entitled thereto.

(Apr. 21, 1876, ch. 72, §2, 19 Stat. 35.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

**§ 892. Entries after expiration of grant**

All such preemption and homestead entries which may have been made by permission of the Land Department, or in pursuance of the rules and instructions thereof, within the limits of any land grant at a time subsequent to expiration of such grant, shall be deemed valid, and a compliance with the laws and the making of the proof required shall entitle the holder of such claim to a patent therefor.

(Apr. 21, 1876, ch. 72, §3, 19 Stat. 36.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

**§ 893. Rights of permissive settlers on railroad lands restored to public domain**

All persons who shall have settled and made valuable and permanent improvements upon any odd-numbered section of land within any railroad withdrawal in good faith and with the permission or license of the railroad company for whose benefit the same shall have been made, and with the expectation of purchasing of such

company the land so settled upon, which land so settled upon and improved, may, for any cause, be restored to the public domain, and who, at the time of such restoration, may not be entitled to enter and acquire title to such land under the homestead laws of the United States, shall be permitted, at any time within three months after such restoration, and under such rules and regulations as the Secretary of the Interior, or such officer as he may designate, may prescribe, to purchase not to exceed one hundred and sixty acres in extent of the same by legal subdivisions, at the price of \$2.50 per acre, and to receive patents therefor.

(Jan. 13, 1881, ch. 19, 21 Stat. 315; Mar. 3, 1891, ch. 561, §§ 1, 4, 26 Stat. 1095, 1097; Mar. 3, 1893, ch. 208, 27 Stat. 593; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### TRANSFER OF FUNCTIONS

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"Secretary of the Interior, or such officer as he may designate," substituted for "Commissioner of the General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

#### § 894. Adjustment of land grants to railroads

The Secretary of the Interior is authorized and directed as of March 3, 1887, to adjust, in accordance with the decisions of the Supreme Court, each of the railroad land grants made by Congress to aid in the construction of railroads and theretofore unadjusted.

(Mar. 3, 1887, ch. 376, § 1, 24 Stat. 556.)

#### § 895. Cancellation of patents erroneously issued; reconveyance

If it shall appear, upon the completion of such adjustments, respectively, or sooner, that lands were, from any cause, prior to March 3, 1887, erroneously certified or patented, by the United States, to or for the use or benefit of any company claiming by, through, or under grant from the United States, to aid in the construction of a railroad, it shall be the duty of the Secretary of the Interior to thereupon demand from such company a relinquishment or reconveyance to the United States of all such lands, whether within granted or indemnity limits; and if such company shall neglect or fail to so reconvey such lands to the United States within ninety days after the aforesaid demand shall have been made, it shall thereupon be the duty of the Attorney General to commence and prosecute in the proper courts the necessary proceedings to cancel all patents, certification, or other evidence of title prior to March 3, 1887, issued for such lands, and to restore the title thereof to the United States.

(Mar. 3, 1887, ch. 376, § 2, 24 Stat. 556.)

#### § 896. Erroneous cancellation of bona fide entries corrected

If, in the adjustment of said grants, it shall appear that the homestead or preemption entry

of any bona fide settler has been erroneously canceled on account of any railroad grant or the withdrawal of public lands from market, such settler upon application shall be reinstated in all his rights and allowed to perfect his entry by complying with the public-land laws: *Provided*, That he has not located another claim or made an entry in lieu of the one so erroneously canceled: *And provided also*, That he did not voluntarily abandon said original entry: *And provided further*, That if any of said settlers do not renew their application to be reinstated within a reasonable time, to be fixed by the Secretary of the Interior, then all such unclaimed lands shall be disposed of under the public-land laws, with priority of right given to bona fide purchasers of said unclaimed lands, if any, and if there be no such purchasers, then to bona fide settlers residing thereon.

(Mar. 3, 1887, ch. 376, § 3, 24 Stat. 557.)

#### § 897. Patents to purchasers from railroads; purchase money

As to all lands, except those mentioned in section 896 of this title, which have been so erroneously certified or patented as aforesaid, and which have been sold by the grantee company to citizens of the United States, or to persons who have declared their intention to become such citizens, the person or persons so purchasing in good faith, his heirs or assigns, shall be entitled to the land so purchased, upon making proof of the fact of such purchase at the proper land office, within such time and under such rules as may be prescribed by the Secretary of the Interior, after the grants respectively shall have been adjusted; and patents of the United States shall issue therefor, and shall relate back to the date of the original certification or patenting, and the Secretary of the Interior, on behalf of the United States, shall demand payment from the company which has so disposed of such lands of an amount equal to the Government price of similar lands; and in case of neglect or refusal of such company to make payment as hereafter specified, within ninety days after the demand shall have been made, the Attorney General shall cause suit or suits to be brought against such company for the said amount: *Provided*, That nothing in sections 894 to 899 of this title shall prevent any purchaser of lands erroneously withdrawn, certified, or patented as aforesaid from recovering the purchase money therefor from the grantee company, less the amount paid to the United States by such company as by said sections required: *And provided*, That a mortgage or pledge of said lands by the company shall not be considered as a sale for the purpose of said sections, nor shall said sections be construed as a declaration of forfeiture of any portion of any land grant for conditions broken, or as authorizing an entry for the same, or as a waiver of any rights that the United States may have on account of any breach of said conditions. *Provided further*, That where such purchasers, their heirs or assigns, have paid only a portion of the purchase price to the company, which is less than the Government price of similar lands, they shall be required, before the delivery of patent for their lands, to pay to the