

**§ 860. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029**

Section, act Feb. 27, 1913, ch. 85, §§1-3, 37 Stat. 687, related to selection of phosphate or oil lands by State of Idaho under indemnity and other land grants. See sections 121 to 123 of Title 30, Mineral Lands and Mining.

**§ 861. Preference right of selection granted certain Western States; bona fide settlers**

The States of North Dakota, South Dakota, Montana, Idaho, and Washington shall have a preference right over any person or corporation to select lands subject to entry by said States by the Act of Congress approved February 22, 1889, for a period of sixty days after lands have been surveyed and duly declared to be subject to selection and entry under the general land laws of the United States.

Such preference right shall not accrue against bona fide homestead or preemption settlers on any of said lands at the date of filing of the plat of survey of any township in any local land office of said States.

(Mar. 3, 1893, ch. 208, 27 Stat. 592.)

REFERENCES IN TEXT

Act February 22, 1889, referred to in text, is act Feb. 22, 1889, ch. 180, 25 Stat. 676. Provisions relating to admission of the enumerated States into the Union are not classified to the Code.

**§ 862. Omitted**

CODIFICATION

Section, act June 18, 1874, ch. 305, 18 Stat. 80, provided for issuance of patents for lands granted State of Oregon prior to June 18, 1874, upon certificate of Governor that wagon roads had been built over those lands in accordance with terms of grants.

**§ 863. Survey of lands granted to certain Western States**

It shall be lawful for the Governors of the States of Washington, Idaho, Montana, North Dakota, South Dakota, Utah, and Wyoming to apply to the Secretary of the Interior or such officer as he may designate for the survey of any township or townships of public land then remaining unsurveyed in any of the several surveying districts, with a view to satisfy the public land grants made by the several Acts admitting the said States into the Union to the extent of the full quantity of land called for thereby; and upon the application of said governors the Secretary or such officer shall proceed to immediately notify such officer as may be designated by the Secretary of the application made by the governor of any of the said States of the application made for the withdrawal of said lands, and the officer so designated shall proceed to have the survey or surveys so applied for made, as in the cases of surveys of public lands; and the lands that may be found to fall within the limits of such township or townships, as ascertained by the survey, shall be reserved upon the filing of the application for survey from any adverse appropriation by settlement or otherwise except under rights that may be found to exist of prior inception, for a period to extend from such application for survey until the expiration of sixty days from the date of the filing of the township

plat of survey in the proper district land office, during which period of sixty days the State may select any of such lands not embraced in any valid adverse claim, for the satisfaction of such grants, with the condition, however, that the governor of the State, within thirty days from the date of such filing of the application for survey, shall cause a notice to be published, which publication shall be continued for thirty days from the first publication, in some newspaper of general circulation in the vicinity of the lands likely to be embraced in such township or townships, giving notice to all parties interested of the fact of such application for survey and the exclusive right of selection by the State for the aforesaid period of sixty days as herein provided for; and after the expiration of such period of sixty days any lands which may remain unselected by the State, and not otherwise appropriated according to law, shall be subject to disposal under general laws as other public lands: *And provided further*, That the Secretary of the Interior or such officer as he may designate shall give notice immediately of the reservation of any township or townships to the local land office in which the land is situate of the withdrawal of such township or townships, for the purpose hereinbefore provided.

(Aug. 18, 1894, ch. 301, 28 Stat. 394; Mar. 3, 1925, ch. 462, 43 Stat. 1144; June 26, 1934, ch. 756, §22, 48 Stat. 1236; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REPEALS

Act June 26, 1934, ch. 756, §22, 48 Stat. 1236, cited as a credit to this section, was repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1074.

AMENDMENTS

1934—Act June 26, 1934, repealed last proviso which authorized governors of States named to advance money for survey of certain townships.

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.

First and third references to "Commissioner of the General Land Office" changed to "Secretary of the Interior or such officer as he may designate"; second such reference changed to "Secretary or such officer"; and the two references to "Supervisor of Surveys" changed to "such officer as may be designated by the Secretary" and "the officer so designated," respectively, all on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

**§ 864. Survey of land grants to Florida**

It shall be lawful for the properly credited agent or official of the State of Florida having in charge the adjustment of its school grant to apply to the Secretary of the Interior, or such officer as he may designate, for the survey of any townships or parts of townships of public land unsurveyed in any of the surveying dis-

tricts of said State, with a view to satisfy the grant in aid of schools made to said State of Florida to the extent of the full quantity of land called for thereby; and upon the application of said agent or official, the Secretary or such officer as he may designate shall proceed to have the survey or surveys so applied for made, as in the case of surveys of other public lands; and the lands that may be found to fall within the limits of such townships or parts of townships as ascertained by the survey shall be reserved, upon the filing of the application for survey from any adverse appropriation by settlement or otherwise, except under rights that may be found to exist of prior inception, for a period to extend from such application for survey until the expiration of sixty days from date of filing of the township plat of survey in the proper district land office, which period of sixty days the State may select any of such lands not embraced in any valid adverse claim for the satisfaction of its school grant, as aforesaid, with the condition, however, that the agent or official of the State, within thirty days from the date of such filing of the application for survey, shall cause a notice to be published, which publication shall be continued for thirty days from date of first publication in some newspaper of general circulation in the vicinity of the lands likely to be embraced in such townships or parts of townships giving notice to all parties interested of the fact of such application for survey and the exclusive right of selection by the State for the aforesaid period of sixty days as herein provided for, and after the expiration of such sixty days any lands which may remain unselected by the State and not otherwise appropriated according to law shall be subject to disposal under general laws as other public lands: *Provided*, That the Secretary or such officer as he may designate shall give notice immediately of the reservation of any township or parts of townships to the officials of the local land office of the land district in which the land is situated of the withdrawal of such townships or parts of townships for the purpose hereinbefore provided: *Provided further*, That nothing herein shall be deemed to authorize the Secretary or such officer as he may designate to survey any lands within the exterior boundaries of the Everglades, as defined in Everglades patent numbered 137, issued to the State of Florida by the United States under the Swamp Land Act of 1850.

(Feb. 16, 1921, ch. 60, 41 Stat. 1103; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### REFERENCES IN TEXT

The Swamp Land Act of 1850, referred to in text, is act Sept. 28, 1850, ch. 84, 9 Stat. 519, which was incorporated into the Revised Statutes of 1878 as R.S. §§2479-2481, which are classified to sections 982 to 984 of this title.

#### 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.

First reference to "Commissioner of the General Land Office" changed to "Secretary of the Interior, or

such officer as he may designate," and remaining three such references changed to "Secretary or such officer as he may designate", on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

#### § 865. Confirmation of certain lands selected by California

All selections of any portion of the public domain, to which, prior to July 23, 1866, no home-*stead*, preemption, or other right had been acquired by any settler under the laws of the United States, and not being mineral land, nor reserved for naval, military, or Indian purposes nor held or claimed under any valid Mexican or Spanish grant, and not included within the limits of any city, town, or village or of the county of San Francisco, made prior to the 23d day of July 1866, and theretofore sold to bona fide purchasers by the State of California are confirmed to the State of California: *Provided, however*, That said State shall not receive any greater quantity of land for school or improvement purposes than she is entitled to by law.

When selections named in the above paragraph have been made upon lands already surveyed by authority of the United States, the authorities of said States, where the same has not been already done, shall notify the officer, as the Secretary of the Interior may designate, of the land office, for the district in which the land is situated, which notice shall be regarded as the date of the State selection; and the said officers, as the Secretary may designate, of the several land offices, after investigation and decision, shall, under the instruction of the Secretary of the Interior, or such officer as he may designate, forward all such selections to the Bureau of Land Management, and the Secretary or such officer shall certify the same over to the State in the usual manner.

When the State of California has made such selections from the lands not surveyed by the authority of the United States, but which selections have been surveyed by the authority of said State, and the land sold to purchasers in good faith, under the laws of the State, such selections, from said 23d of July, 1866, when marked off and designated in the field, shall have the same force and effect as the preemption rights of a settler upon unsurveyed public lands; and if upon a survey of such lands by the United States, the lines of the two surveys shall be found not to agree, the selection shall be so changed as to include those legal subdivisions which nearest conform to the identical land included in the State survey and selection. Upon filing with the officer as the Secretary of the Interior may designate of the proper United States land office of the township plat, in which any such selection of unsurveyed land is located, the holder of the State title shall be allowed the same time to present and prove up his purchase and claim as was allowed preemptors under existing laws, and if found in accordance with the law the land embraced therein shall be certified over to the State by the Secretary of the Interior or such officer as he may designate.

(R.S. §§2485-2487; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)