

**§ 881. Cost of survey of grants to railroads; payment**

Before any land granted to any railroad company by the United States shall be conveyed to such company, or any persons entitled thereto under any of the acts incorporating or relating to said company, unless such company is exempted by law from the payment of such cost, there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same by the said company or persons in interest.

(July 15, 1870, ch. 292, 16 Stat. 305; July 31, 1876, ch. 246, 19 Stat. 121.)

**§ 882. Surveyed lands taxable notwithstanding lien; provisos**

No lands granted to any railroad corporation by any Act of Congress shall be exempt from taxation by States, Territories, and municipal corporations on account of the lien of the United States upon the same for the costs of surveying, selecting, and conveying the same, or because no patent has been issued therefor; but this provision shall not apply to lands unsurveyed: *Provided*, That any such land sold for taxes shall be taken by the purchaser subject to the lien for costs of surveying, selecting, and conveying, to be paid in such manner by the purchaser as the Secretary of the Interior may by rule provide and to all liens of the United States, all mortgages of the United States, and all rights of the United States in respect of such lands: *Provided further*, That sections 882 to 885 of this title shall apply only to lands situated opposite to and coterminous with completed portions of said roads, and in organized counties: *Provided further*, That at any sale of lands under the provisions of sections 882 to 885 of this title the United States may become a preferred purchaser, and in such case the lands sold shall be restored to the public domain and disposed of as provided by the laws relating thereto.

(July 10, 1886, ch. 764, § 1, 24 Stat. 143.)

**§ 883. Collection of costs of surveying, etc.; reimbursement of purchaser**

If any railroad corporation required by law to pay the costs of surveying, selecting, or conveying any lands granted to such company or for its use and benefit by Act of Congress shall for thirty days neglect or refuse to pay any such costs after demand for payment thereof by the Secretary of the Interior, he shall notify the Attorney General, who shall at once commence proceedings to collect the same. But when any sum shall be collected of such railroad company as costs of surveying, selecting, and conveying any tract of land which shall have been purchased under the provisions of section 882 of this title, the Secretary of the Interior shall out of such collections reimburse said purchaser, his heirs or assigns, the amount of money paid by him as the costs of such surveying, selecting, and conveying.

(July 10, 1886, ch. 764, § 2, 24 Stat. 143.)

**§ 884. Right of forfeiture of railroad grants not affected**

Sections 882 to 885 of this title shall not affect the right of the Government to declare or enforce a forfeiture of any lands so granted; but all the rights of the United States to said lands or to any interest therein shall be and remain as if said sections had not passed, except as to the lien mentioned in section 882 of this title.

(July 10, 1886, ch. 764, § 3, 24 Stat. 143.)

**§ 885. Union Pacific Railroad lands**

The costs of surveying, selecting, and conveying lands granted to the Union Pacific Railroad Company shall become due and payable at and on the demand therefor made by the Secretary of the Interior as provided in section 883 of this title, and nothing in sections 882 to 885 of this title shall be construed or taken in any wise to affect or impair the right of Congress at any time further to alter, amend, or repeal the Act of July 2, 1864, chapter 216, as in the opinion of Congress, justice or the public welfare may require, or to impair or waive any right or remedy in the premises existing on July 10, 1886, in favor of the United States. Sections 882 to 885 of this title shall be subject to alteration, amendment, or repeal.

(July 10, 1886, ch. 764, § 4, 24 Stat. 143.)

## REFERENCES IN TEXT

Act of July 2, 1864, referred to in text, is act July 2, 1864, ch. 216, 13 Stat. 357, which enacted section 942-3 of this title and first paragraph of former section 83 of Title 45, Railroads. For complete classification of this Act to the Code, see Tables.

**§ 886. Survey of lands within limits of railroad grants**

For the survey of the public lands lying within the limits of land grants made by Congress to aid in the construction of railroads, and the selection therein of such lands as are granted therefor, to enable the Secretary of the Interior to carry out the provisions of section 894 of this title, the sum of \$100,000 heretofore appropriated is made a continuing appropriation for the survey of lands within the limits of railroad land grants, and any money which shall be expended of such appropriation and reimbursed and paid into the Treasury is reappropriated, and said sum shall remain a continuing appropriation, and so often as any part of the same shall, after being expended, be reimbursed by any railroad company as hereinafter provided, the same shall be again available for the purposes aforesaid: *Provided*, That any portion of said sum expended for surveying such lands shall be reimbursed by the respective companies or parties in interest for whose benefit the lands are granted, according to the provisions of section 881 of this title: *And provided further*, That whenever there shall have been reimbursed and paid into the Treasury of the United States, by the respective companies or parties in interest, any part of said appropriation expended for surveys within such grants, there shall be immediately available, out of any money in the Treasury not otherwise appropriated, an amount equal to the amount so

reimbursed, and the same shall be available for the survey of the public lands lying within the limits of the railroad land grants made by Congress, until all of said lands shall have been surveyed: *Provided*, That nothing herein contained shall be construed to prevent the use, within the limits of any railroad land grant made by Congress, of any part of any regular appropriation for surveying the public lands: *Provided*, That no part of the foregoing money shall be used for any land embraced in any grant to the State of Florida: *And provided further*, That the provisions of law requiring reimbursements to be made to the United States by railroad corporations claiming such grants shall apply equally to the successors of such railroad corporations acquiring title to their lands and other property, under decree of foreclosure of any mortgage authorized by Congress.

(Mar. 2, 1895, ch. 189, §1, 28 Stat. 937; Pub. L. 96-470, title I, §108(b), Oct. 19, 1980, 94 Stat. 2239.)

#### AMENDMENTS

1980—Pub. L. 96-470 struck out provision requiring Secretary of the Interior to report to each regular session of Congress what has been done under this section.

#### APPROPRIATIONS

Effective July 1, 1935, the continuing appropriation provided for in this section was repealed by act June 26, 1934, ch. 756, §1, 48 Stat. 1225.

### § 887. Deposits for surveys of lands granted to railroads

When any railroad company claiming a grant of land under any Act of Congress, desiring to secure the survey of any unsurveyed lands within the limits of its grant, shall file an application therefor in writing with such officer as the Secretary of the Interior may designate, and deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey and for the examination thereof pursuant to law and the rules and regulations of the Department of the Interior under the direction of the Secretary of the Interior or such officer as he may designate, it shall thereupon be the duty of the Secretary or such officer, or the Director of the United States Geological Survey, as the case may be, to cause said lands to be surveyed.

For any deposits made by any railroad company hereunder, certificates shall be issued, which may be used by such railroad company, its successors or assigns, to the same extent as cash is now allowed in payment of entries of public lands under existing law and regulations for any public lands of the United States in the States where the surveys were made, or for any survey or office fees due the United States from such railroad company on account of surveys of lands within its grant. The Secretary of the Interior shall provide such rules and regulations as may be necessary for carrying out the foregoing provisions.

(Feb. 27, 1899, ch. 205, 30 Stat. 892; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Pub. L. 102-154, title I, Nov. 13, 1991, 105 Stat. 1000.)

#### CHANGE OF NAME

“United States Geological Survey” substituted for “Geological Survey” in first undesignated paragraph pursuant to provision of title I of Pub. L. 102-154, set out as a note under section 31 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.

“Supervisor of Surveys,” changed to “such officer as the Secretary of the Interior may designate,” and two references to “Commissioner of the General Land Office,” changed to “Secretary of the Interior or such officer as he may designate,” and “Secretary or such officer,” respectively, 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.

### § 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