

**§ 859. Fee simple to pass in all grants**

Where lands have been or may hereafter be granted by any law of Congress to any one of the several States and Territories, and where such law does not convey the fee-simple title of the lands, or require patents to be issued therefor, the list of such lands which have been or may hereafter be certified by the Secretary of the Interior or such officer as he may designate, under the seal of his office, either as originals or copies of the originals or records shall be regarded as conveying the fee simple of all the lands embraced in such lists that are of the character contemplated by such Act of Congress, and intended to be granted thereby, but where lands embraced in such lists are not of the character embraced by such Acts of Congress, and are not intended to be granted thereby, the lists, so far as these lands are concerned, shall be perfectly null and void, and no right, title, claim, or interest shall be conveyed thereby.

(R.S. §2449; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

**Editorial Notes**

## CODIFICATION

R.S. §2449 derived from acts Aug. 3, 1854, ch. 201, 10 Stat. 346; Mar. 3, 1875, ch. 139, §8, 18 Stat. 475.

**Executive Documents**

## 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.

"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.

**§ 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 Repealed.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.)

**Editorial Notes**

## 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****Editorial Notes**

## 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