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.)

Editorial Notes

CODIFICATION

R.S. § 2485 derived from acts July 23, 1866, ch. 219, § 1, 14 Stat. 218; Mar. 3, 1875, ch. 139, § 7, 18 Stat. 475. R.S. §§ 2486, 2487 are from act July 23, 1866, ch. 219, § 23, 14 Stat. 219.

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.

In second par., ''register of the land office,'' changed to ''officer, as the Secretary of the Interior may designate, of the land office,''; ''registers of the several land offices,'' changed to ''officers, as the Secretary may designate, of the several land offices,''; first reference to ''Commissioner of the General Land Office'' changed to ''Secretary of the Interior, or such officer as he may designate,''; ''Bureau of Land Management'' substituted for ''General Land Office''; and second reference to ''Commissioner of the General Land Office'' changed to ''Secretary or such officer'', on authority of section 403 of Reorg. Plan No. 3 of 1946. In third par., ''register'' changed to ''officer as the Secretary of the Interior may designate'', and ''Commissioner of the General Land Office'' changed to ''Secretary of the Interior or such officer as he may designate'', on authority of that plan. See note set out under section 1 of this title.

§ 866. Exchange of cut over land in Montana

Tracts of timbered lands prior to February 14, 1923, granted to the State of Montana for educational purposes, from which the timber has been cut or removed pursuant to State laws, may, under such rules and regulations as the legislature of said State shall prescribe, be exchanged for other lands of like character and approximately of equal value, in private ownership, which exchanged land shall be subject to the same requirements and limitations to the end that the State may acquire holdings in reasonably compact form and reforesting be undertaken in an economic manner, anything in the enabling act of said State to the contrary notwithstanding.

(Feb. 14, 1923, ch. 74, 42 Stat. 1245.)

Editorial Notes

REFERENCES IN TEXT

The enabling act of Montana, referred to in text, is act Feb. 22, 1889, ch. 180, 25 Stat. 676. For complete classification of this Act to the Code, see Tables.

§ 867. Omitted

Editorial Notes

CODIFICATION

Section, R.S. § 2377; act June 20, 1874, ch. 330, 18 Stat. 111, related to extension of obsolete section 829 of this title to reissue of agricultural land scrip, canceled, or destroyed without the fault of the owner thereof.

§ 868. Representation of Indian claimants in suits to determine right to school lands

In any suit instituted in the Supreme Court of the United States to determine the right of a State to what are commonly known as school lands within any Indian Reservation or any Indian cession where an Indian tribe claims any right to or interest in the lands in controversy, or in the disposition thereof by the United States, the right of such State may be fully tested and determined without making the Indian

tribe, or any portion thereof, a party to the suit if the Secretary of the Interior is made a party thereto; and the duty of representing and defending the right or interest of the Indian tribe, or any portion thereof, in the matter shall devolve upon the Attorney General upon the request of such Secretary.

(Mar. 2, 1901, ch. 808, 31 Stat. 950.)

§ 869. Disposal of lands for public or recreational purposes

(a) Application; conditions; classification; restoration if not applied for

The Secretary of the Interior upon application filed by a duly qualified applicant under section 869–1 of this title may, in the manner prescribed by sections 869 to 869–4 of this title, dispose of any public lands to a State, Territory, county, municipality, or other State, Territorial, or Federal instrumentality or political subdivision for any public purposes, or to a nonprofit corporation or nonprofit association for any recreational or any public purpose consistent with its articles of incorporation or other creating authority. Before the land may be disposed of under sections 869 to 869–4 of this title it must be shown to the satisfaction of the Secretary that the land is to be used for an established or definitely proposed project, that the land involved is not of national significance nor more than is reasonably necessary for the proposed use, and that for proposals of over 640 acres comprehensive land use plans and zoning regulations applicable to the area in which the public lands to be disposed of are located have been adopted by the appropriate State or local authority. The Secretary shall provide an opportunity for participation by affected citizens in disposals under sections 869 to 869–4 of this title, including public hearings or meetings where he deems it appropriate to provide public comments, and shall hold at least one public meeting on any proposed disposal of more than six hundred forty acres under sections 869 to 869–4 of this title. The Secretary may classify public lands in Alaska for disposition under sections 869 to 869–4 of this title. Lands so classified may not be appropriated under any other public land law unless the Secretary revises such classification or authorizes the disposition of an interest in the lands under other applicable law. If, within eighteen months following such classification, no application has been filed for the purpose for which the lands have been so classified, then the Secretary shall restore such lands to appropriation under the applicable public land laws.

(b) Acreage limitations

Conveyances made in any one calendar year shall be limited as follows:

(i) For recreational purposes:

(A) To any State or the State park agency or any other agency having jurisdiction over the State park system of such State designated by the Governor of that State as its sole representative for acceptance of lands under this provision, hereinafter referred to as the State, or to any political subdivision of such State, six thousand four hundred acres, and such additional acreage as may be needed for small roadside parks and rest sites of not more than ten acres each.

(B) To any nonprofit corporation or nonprofit association, six hundred and forty acres.

(C) No more than twenty-five thousand six hundred acres may be conveyed for recreational purposes under sections 869 to 869–4 of this title in any one State per calendar year. Should any State or political subdivision, however, fail to secure, in any one year, six thousand four hundred acres, not counting lands for small roadside parks and rest sites, conveyances may be made thereafter if pursuant to an application on file with the Secretary of the Interior on or before the last day of said year and to the extent that the conveyance would not have exceeded the limitations of said year.

(ii) For public purposes other than recreation:

(A) To any State or agency or instrumentality thereof, for any one program, six hundred and forty acres.

(B) To any political subdivision of a State, six hundred and forty acres.

(C) To any nonprofit corporation or nonprofit association, six hundred and forty acres.

(c) Lands withdrawn in aid of functions of a department, agency, State, etc.; lands excepted from disposal

Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, Territory, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make disposals under sections 869 to 869–4 of this title only with the consent of such Federal department or agency, or of such State, Territory, or local governmental unit. Nothing in sections 869 to 869–4 of this title shall be construed to apply to lands in any national forest, national park, or national monument, or national wildlife refuge, or to any Indian lands or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians, or, except insofar as sections 869 to 869–4 of this title apply to leases of land to States and counties and to State and Federal instrumentalities and political subdivisions and to municipal corporations, to the revested Oregon and California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands in the State of Oregon. Nor shall any disposition be made under sections 869 to 869–4 of this title for any use authorized under any other law, except for a use authorized under sections 682a to 682e[1] of this title.

(June 14, 1926, ch. 578, §1, 44 Stat. 741; June 4, 1954, ch. 263, 68 Stat. 173; Pub. L. 86–66, §2, June 23, 1959, 73 Stat. 110; Pub. L. 86–292, §1, Sept. 21, 1959, 73 Stat. 571; Pub. L. 86–755, Sept. 13, 1960, 74 Stat. 899; Pub. L. 94–579, title II, §212(a), (b), Oct. 21, 1976, 90 Stat. 2759.)

[1] See References in Text note below.