

- Sec.
- 853. Selections in Utah to supply deficiencies of school lands.
- 854. Selections in New Mexico to supply deficiencies of school lands.
- 855. Omitted.
- 856. Selection of school lands on ceded Indian reservations.
- 857. Grant to new States.
- 858. Grants to counties for seats of justice.
- 859. Fee simple to pass in all grants.
- 860. Repealed.
- 861. Preference right of selection granted certain Western States; bona fide settlers.
- 862. Omitted.
- 863. Survey of lands granted to certain Western States.
- 864. Survey of land grants to Florida.
- 865. Confirmation of certain lands selected by California.
- 866. Exchange of cut over land in Montana.
- 867. Omitted.
- 868. Representation of Indian claimants in suits to determine right to school lands.
- 869. Disposal of lands for public or recreational purposes.
- 869-1. Sale or lease to State or nonprofit organization; reservation of mineral deposits; termination of lease for nonuse.
- 869-2. Conditions of transfer by grantee; solid waste disposal.
- 869-3. Authority for transfers; applicability of section 869-2 to prior patents; termination of restrictions.
- 869-4. Disposition of moneys received from or on account of revested Oregon and California Railroad grant lands or reconveyed Coos Bay Wagon Road grant lands.
- 869a. Repealed.
- 870. Grants of land in aid of common or public schools; extension to those mineral in character; effect of leases.
- 871. Certain grants and laws unaffected.
- 871a. Repealed.
- 872. Conveyances to United States in connection with applications for amendment of patented entries or for exchange of land, etc.; withdrawal or rejection of applications; reconveyances.
- 873. Lands granted for erecting public buildings; purpose of grant.

§ 851. Deficiencies in grants to State by reason of settlements, etc., on designated sections generally

Where settlements with a view to preemption or homestead have been, or shall hereafter be made, before the survey of the lands in the field, which are found to have been made on sections sixteen or thirty-six, those sections shall be subject to the claims of such settlers; and if such sections or either of them have been or shall be granted, reserved, or pledged for the use of schools or colleges in the State in which they lie, other lands of equal acreage are hereby appropriated and granted, and may be selected, in accordance with the provisions of section 852 of this title, by said State, in lieu of such as may be thus taken by preemption or homestead settlers. And other lands of equal acreage are also hereby appropriated and granted and may be selected, in accordance with the provisions of section 852 of this title, by said State where sections sixteen or thirty-six are, before title could pass to the State, included within any Indian, military, or other reservation, or are, before

title could pass to the State, otherwise disposed of by the United States: *Provided*, That the selection of any lands under this section in lieu of sections granted or reserved to a State shall be a waiver by the State of its right to the granted or reserved sections. And other lands of equal acreage are also appropriated and granted, and may be selected, in accordance with the provisions of section 852 of this title, by said State to compensate deficiencies for school purposes, where sections sixteen or thirty-six are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever. And it shall be the duty of the Secretary of the Interior, without awaiting the extension of the public surveys, to ascertain and determine, by protraction or otherwise, the number of townships that will be included within such Indian, military, or other reservations, and thereupon the State shall be entitled to select indemnity lands to the extent of section for section in lieu of sections therein which have been or shall be granted, reserved, or pledged; but such selections may not be made within the boundaries of said reservation: *Provided, however*, That nothing in this section contained shall prevent any State from awaiting the extinguishment of any such military, Indian, or other reservation and the restoration of the lands therein embraced to the public domain and then taking the sections sixteen and thirty-six in place therein.

(R.S. §2275; Feb. 28, 1891, ch. 384, 26 Stat. 796; Pub. L. 85-771, §1, Aug. 27, 1958, 72 Stat. 928; Pub. L. 89-470, §1, June 24, 1966, 80 Stat. 220.)

Editorial Notes

CODIFICATION

R.S. §2275 derived from acts Feb. 26, 1859, ch. 58, 11 Stat. 385; June 22, 1874, ch. 422, 18 Stat. 202.

AMENDMENTS

1966—Pub. L. 89-470 struck out “or Territory” after “State” in eight places and substituted “before title could pass to the State” for “prior to survey” in two places.

1958—Pub. L. 85-771 inserted “in accordance with the provisions of section 852 of this title” and “prior to survey”, wherever appearing; substituted “That the selection of any lands under this section in lieu of sections granted or reserved to a State or Territory shall be a waiver by the State or Territory of its right to the granted or reserved sections.” for “Where any State is entitled to said sections 16 and 36, or where said sections are reserved to any Territory, notwithstanding the same may be mineral land or embraced within a military, Indian, or other reservation, the selection of such lands in lieu thereof by said State or Territory shall be a waiver of its right to said sections.”; substituted “section for section in lieu of sections therein which have been or shall be granted, reserved, or pledged” for “two sections for each of said townships, in lieu of sections 16 and 36 therein”; struck out from last extinguishment proviso “but nothing in this proviso shall be construed as conferring any right not in this section existing prior to February 28, 1891”, and otherwise amended section generally.

§ 852. Selections to supply deficiencies of school lands

(a) Restrictions

The lands appropriated by section 851 of this title shall be selected from any unappropriated,