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Amendment of sections 2275 and 2276 of the Revised Statutes.

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AMENDMENT OF SECTIONS 2275 AND 2276 OF THE REVISED STATUTES.

JUNE 9, 1890.—Referred to the House Calendar and ordered to be printed.

Mr. PAYSON, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany S. 1395.]

The Committee on Public Lands, to whom was referred the bill (S. 1395) to amend sections 2275 and 2276 of the Revised Statutes of the United States, having fully considered the same, would respectfully report that the facts and reasons for the passage of this bill fully appear in the Senate report thereon, No. 502, of this Congress, which is appended hereto.

Your committee recommend the passage of the bill, amended, however, by inserting in line 34, after the word "thirty," the word "six."

[Senate Report No. 502, Fifty-first Congress, first session.]

The sections of the Revised Statutes proposed to be amended by this bill are those which embody the general law with respect to the selection of indemnity lands in lieu of the sixteenth and thirty-sixth sections of each township granted to the States, and reserved to the Territories, for school purposes.

In the administration of the law, it has been found by the Land Department that the statute does not meet a variety of conditions, whereby the States and Territories suffer loss of these sections without adequate provision for indemnity selection in lieu thereof. Special laws have been enacted in a few instances to cover in part these defects with respect to particular States or Territories, but, as the school grant is intended to have equal operation and equal benefit in all the public land States and Territories, it is obvious the general law should meet the situation, and partiality or favor be thereby excluded.

The bill, as amended by the committee, is strongly recommended for passage by the Commissioner of the General Land Office and Secretary of the Interior, as will appear by the letters of those officers, which are attached hereto.

The provision for indemnity for mineral lands is in no sense an *additional* grant to the States. The intent of Congress has always been to give every school section or its equivalent area. The United States Supreme Court has held (102 U. S. R., p. 167) that the policy of Congress was not to grant mineral lands to the States, and that such mineral sections did not pass under the grant. But the United States in retaining ownership of these mineral sections, and disposing of the same under the mineral law, receives a revenue therefrom, and the school grant is *pro tanto* diminished. Recognition of the right to indemnity for mineral school sections does not, therefore, add an acre to such grant, as the United States retain the mineral sections and dispose of same under the mineral law. The limitation of indemnity selection within the same land district is removed because now destructive of the school grant in those districts where, by large donations to railroads or rapid settlement of the country, the area of the public lands remaining is diminished in quantity and value.

The bill as now framed will cure all inequalities in legislation; place the States and Territories in a position where the school grant can be applied to good lands, and largest measure of benefit to the school funds be thereby secured.

The committee, therefore, recommend the passage of the bill.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., February 12, 1890.

SIR: I transmit herewith copy of report from the Commissioner of the General Land Office on Senate bill 1395, "To amend sections 2275 and 2276 of the Revised Statutes of the United States." I concur in the views of the Commissioner, and recommend passage of the bill.

Very respectfully,

JOHN W. NOBLE,
Secretary.

Hon. P. B. PLUMB,
Chairman Committee on Public Lands, United States Senate.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 7, 1890.

SIR: I have the honor to acknowledge receipt, under date of January 28, 1890, by reference from you for report thereon, of Senate bill No. 1395, "To amend sections 2275 and 2276 of the Revised Statutes of the United States."

This bill is substantially a re-enactment of sections 2275 and 2276, Revised Statutes, with additions thereto as follows:

Section 2275, Revised Statutes, provides that "where settlements, with a view to pre-emption, have been made before the survey of the lands in the field, which are found to have been made on sections 16 or 36, those sections shall be subject to the pre-emption claim of such settler," and the State may select indemnity therefor, etc.

The bill provides that "where settlements with a view to pre-emption or homestead have been, or shall hereafter be, made before survey of the lands in the field" (the words underscored being additions to the original), * * * "those sections shall be subject to the claim of such settlers," etc.

The original section further provides that, "if they, (the sixteenth and thirty-sixth sections) or either of them, have been or shall be reserved or pledged for the use of schools or colleges in the State or Territory in which the lands lie, other lands of like quantity are appropriated in lieu of such as may be patented by pre-emptors." * * *

The new bill provides (the words underscored being additions to the original) * * * "and if such sections, or either of them, have been or shall be granted, reserved or pledged for the use of schools or colleges, * * * other lands of equal acreage are hereby appropriated and granted, and may be selected by said State or Territory, in lieu of such as may be thus taken by pre-emption or homestead settlers."

The following are also additions to the original sections: * * * "and other lands of equal acreage are also hereby appropriated and granted, and may be selected by said State or Territory, where sections sixteen or thirty-six are mineral lands, or are included within any Indian, military, or other reservation, or otherwise disposed of by the United States, and other lands of equal acreage are hereby appropriated and granted, and may be selected by said State or Territory, to compensate deficiencies for school purposes, where sections sixteen or thirty-six are fractional," etc.

The only increase in the amount granted by this bill over the original, so far as I can see, is in making the right to select in lieu of mineral lands applicable to all the States and Territories, instead of confining it to a few, as heretofore; and the only change in the method of making selections in that which authorizes the selections to be made from any unappropriated, surveyed public lands, not mineral in character, within the State or Territory, instead of confining them to the same land district in which the losses or deficiencies occur, as heretofore.

I approve the amendments proposed as calculated to remove obscurities and incongruities in the laws with regard to the appropriation of public lands to support of schools in the States and Territories in which they lie, to make clearer and more specific the limits of selection of indemnity for lands lost in place, thereby simplifying and facilitating the examination and passing upon indemnity selections in this office,

and with regard to indemnity for school lands taken by homestead settlers and otherwise under general laws, to embody clearly in the statute by express provisions principles heretofore left to Departmental construction.

I therefore recommend the passage of the bill, which is herewith returned.

No former report thereon has been made by this office.

Very respectfully,

LEWIS A. GROFF,
Commissioner.

Hon. JOHN W. NOBLE,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
Washington, March 11, 1890.

SIR: I am in receipt of your letter of the 12th ultimo referring to me Senate bill 1395 entitled "A bill to amend sections 2275 and 2276, of the Revised Statutes of the United States," and requesting my views thereon, and also upon the further amendment proposed to the first section of said bill, to wit: "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 or Territory shall be entitled to select indemnity lands to the extent of two sections for each of said townships, in lieu of sections sixteen and thirty-six therein; but such selections may not be made within the boundaries of said reservations." I referred said bill to the Commissioner of the General Land Office, a copy of whose report thereon is herewith transmitted.

The ruling of the Department has been to the effect that where the specific sections could not be taken, by reason of being sold, reserved, or otherwise disposed of, an equivalent quantity of land, as contiguous as may be, should be taken in lieu thereof, and that where the fee to the school section is in the United States at the date of survey, and the land is so encumbered that full and complete title and right of possession can not then vest in the State, the State, if it so desire, may elect to take equivalent lands, or wait until the right and title of the specific sections unite in the Government.

The proposed bill contains two important amendments. First, by making it the duty of the Secretary of the Interior to ascertain and determine, by protraction or otherwise, the number of townships that may be included in any Indian, military, or other reservation, without waiting for survey; and, second, by allowing selections to be made in lieu thereof without regard to the question of contiguity.

I am of the opinion it will simplify and facilitate the adjustment of the school grant in accordance with its intent and purpose, and I therefore recommend the passage of the bill.

I also transmit herewith copy of report from the Commissioner of the General Land Office, dated February 7, 1890, on Senate bill 1395, in which I concurred by letter of February 12th ultimo, transmitting the same to the chairman of the Committee on Public Lands, United States Senate.

Very respectfully,

JOHN W. NOBLE,
Secretary.

Hon. H. M. TELLER,
United States Senate.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 26, 1890.

SIR: I am in receipt by reference from you of a letter from Hon. H. M. Teller, United States Senator, dated the 12th instant, inclosing a copy of Senate bill 1395, "To amend sections 2275 and 2276 of the Revised Statutes of the United States," and requesting the views of the Department upon a proposed amendment thereto by inserting at the end of line 27 the words:

"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 or Territory shall be entitled to select indemnity lands to the extent of two sections for each of said townships, in lieu of sections 16 and 36 therein; but such selections may not be made within the boundaries of said reservations."

Senate bill No. 423, "To enable the State of Colorado to select indemnity school lands," which passed both Houses of the Fiftieth Congress, but failed to receive the

signature of the President, contained a similar provision in section 4. That bill, however, applied to Colorado alone, while Senate bill No. 1395, which it is proposed to amend, is general in its terms.

Senate bill No. 1395, proposing certain amendments to sections 2275 and 2276 United States Revised Statutes, was the subject of my report of 7th February last, copy herewith. It is now proposed to make an additional amendment to said section 2275, not heretofore incorporated in the bill, and of course not considered in that report, by inserting words as above stated.

Under the law as construed by the Department, the State or Territory is entitled in such case to indemnity for lands granted for schools in sections 16 and 36, embraced in permanent reservations, and the purpose of the proposed legislation is to enable the proper selection of indemnity to be made at once, while good lands can be found for selection before the time, more or less distant, when actual surveys of the reservations will be made, and when it is a matter of course that the good lands will be generally appropriated for other purposes under existing laws.

I am of opinion that the amount due to the schools as indemnity under the general principles of the bill may be ascertained with sufficient accuracy in the way contemplated in the proposed amendment, and I see no good reason why it should not be adopted.

The letter from Senator Teller together with its inclosures are herewith returned.

Very respectfully,

LEWIS A. GROFF,
Commissioner.

Hon. JOHN W. NOBLE,
Secretary of the Interior.

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