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**CIRCULAR INSTRUCTIONS**  
RELATING TO THE  
**ACQUISITION OF TITLE TO PUBLIC LANDS**  
IN THE TERRITORY OF ALASKA.

[No. 491.]

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington, D. C., July 19, 1916.

The enactment of new laws relating to public lands in the Territory of Alaska, as well as the later decisions of the courts and the department, have made a revision of the earlier instructions a matter of necessity; the present publication brings such instructions up to date and includes therewith new circular regulations under recent legislation.

**DISTRICT LAND OFFICES.**

Section 8 of the act of May 17, 1884 (23 Stat., 24), created one land district including the whole of the Territory of Alaska. The act of May 14, 1898 (30 Stat., 409), authorized the President to establish land districts in the Territory at his discretion and discontinue them. Under this authority there have been created three land districts with offices at Juneau, Nome, and Fairbanks, respectively. At Juneau the duties of the office are discharged by a regularly appointed register and receiver of public moneys, while at the other places the marshal of the United States court is ex officio register and the clerk of said court is ex officio receiver of public moneys.

**INSTRUCTIONS RELATIVE TO DESCRIPTION OF LAND IN NOTICES OF APPLICATIONS FOR PATENT, ETC., IN ALASKA.**

The notices of applications for patent for lands in Alaska are, in many cases, not sufficient to apprise adverse claimants and the public generally of the location of the land applied for, and therefore do not serve the purpose for which such notices are required; nor can the location of the land be ascertained from the application papers themselves and without obtaining information from other sources. This is due principally to the large area of unsurveyed land in the District and remoteness from centers of population of much of the country. In order to give a more definite description of the land applied for, the following special instructions with reference to the

District of Alaska are issued, which are supplemental to but do not change or modify existing regulations:

1. The field notes of survey of all claims within the District of Alaska, where the survey is not tied to a corner of the public survey, shall contain a description of the location or mineral monument to which the survey is tied, by giving its latitude and longitude, and its position with reference to rivers, creeks, mountains or mountain peaks, towns, or other prominent topographical points or natural objects or monuments, giving the distances and directions as nearly accurate as possible, especially with reference to any well-known trail to a town or mining camp, or to a river or mountain appearing on the map of Alaska, which description shall appear in the field notes regardless of whether or not the survey be tied to an existing monument, or to a monument established by the surveyor when making the survey in accordance with existing regulations with reference to the establishment of such monuments. The description of such monument shall appear in a paragraph separate from the description of the courses and distances of the survey.

2. All notices of applications for patent for lands in the District of Alaska, where the survey on which the application is based is not tied to a corner of the public survey, shall, in addition to the description required to be given by existing regulations, describe the monument to which the claim is tied by giving its latitude and longitude and a reference by approximate course and distance to a town, mining camp, river, creek, mountain, mountain peak, or other natural object appearing on the map of Alaska, and any other facts shown by the field notes of survey which shall aid in determining the exact location of such claim without an examination of the record or a reference to other sources. The registers and receivers will exercise discretion in the matter of such descriptions in the published notices, bearing in mind the object to be attained, of so describing the land embraced in the claim as to enable its location to be ascertained from the notice of application.

#### HOMESTEAD CLAIMS.

Section 1 of the act of May 14, 1898 (30 Stat., 409), extending the homestead laws of the United States to Alaska, was amended by the act of March 3, 1903 (32 Stat., 1028); the general homestead laws are, therefore, in force in the Territory, except in so far as modified by said acts and by the act of July 8, 1916 (Public No. 146).

Section 1 of the act approved May 14, 1898, is as follows:

#### ACT OF MAY 14, 1898.

SECTION 1. That the homestead land laws of the United States and the rights incident thereto, including the right to enter surveyed or unsurveyed lands under provisions of law relating to the acquisition of title through soldiers' additional homestead rights are hereby extended to the district of Alaska, subject to such regulations as may be made by the Secretary of the Interior; and no indemnity, deficiency, or lieu lands pertaining to any land grant whatsoever originating outside of said district of Alaska shall be located within or taken from lands in said district: *Provided*, That no entry shall be allowed extending more than eighty rods along the shore of any navigable water, and along such shore a space of at least eighty rods shall be reserved from entry between all

such claims, and that nothing herein contained shall be so construed as to authorize entries to be made, or title to be acquired, to the shore of any navigable waters within said district: *And it is further provided*, That no homestead shall exceed eighty acres in extent.

#### AMENDATORY ACT OF 1903.

An act to amend section 1 of the act of Congress approved May 14, 1898, entitled "An act extending the homestead laws and providing for a right of way for railroads in the District of Alaska," is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all the provisions of the homestead laws of the United States not in conflict with the provisions of this act, and all rights incident thereto, are hereby extended to the district of Alaska, subject to such regulations as may be made by the Secretary of the Interior; and no indemnity, deficiency, or lieu-land selections pertaining to any land grant outside of the district of Alaska shall be made, and no land scrip or land warrant of any kind whatsoever shall be located within or exercised upon any lands in said district except as now provided by law: *And provided further*, That no more than one hundred and sixty acres shall be entered in any single body by such scrip, lieu selection, or soldier's additional homestead right: *And provided further*, That no location of scrip, selection, or right along any navigable or other waters shall be made within the distance of eighty rods of any lands, along such waters, theretofore located by means of any such scrip or otherwise: *And provided further*, That no commutation privileges shall be allowed in excess of one hundred and sixty acres included in any homestead entry under the provisions hereof: *Provided*, That no entry shall be allowed extending more than one hundred and sixty rods along the shore of any navigable water, and along such shore a space of at least eighty rods shall be reserved from entry between all such claims; and that nothing herein contained shall be so construed as to authorize entries to be made or title to be acquired to the shore of any navigable waters within said district; and no patent shall issue hereunder until all the requirements of sections twenty-two hundred and ninety-one, twenty-two hundred and ninety-two, and twenty-three hundred and five of the Revised Statutes of the United States have been fully complied with as to residence, improvements, cultivation, and proof, except as to commuted lands as herein provided: *And it is further provided*, That every person who is qualified under existing laws to make homestead entry of the public lands of the United States who has settled upon or who shall hereafter settle upon any of the public lands of the United States situated in the district of Alaska, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall, subject to the provisions and limitations hereof, be entitled to enter three hundred and twenty acres or a less quantity of unappropriated public land in said district of Alaska. If any of the land so settled upon, or to be settled upon, is unsurveyed, then the land settled upon, or to be settled upon, must be located in a rectangular form, not more than one mile in length, and located by north and south lines run according to the true meridian; that the location so made shall be marked upon the ground by permanent monuments at each of the four corners of the said location, so that the boundaries of the same may be readily and easily traced; that the record of said location shall, within ninety days from the date of settlement, be filed for record in the recording district in which the land is situated. Said record shall contain the name of the settler, the date of the settlement, and such a description of the land settled upon, by reference to some natural object or permanent monument, as will identify the same; and if, after the expiration of the said period of five years, or at such date as the settler may desire to commute, the public surveys of the United States have not been extended over the land located, a patent shall nevertheless issue for the land included within the boundaries of said location as thus recorded, upon proof to be submitted to the register and receiver of the proper land office, upon proof that he is a citizen of the United States, and upon the further proof required by section twenty-two hundred and ninety-one of the Revised Statutes of the United States as heretofore and herein

amended, and under the procedure in the obtaining of patents to the unsurveyed lands of the United States, as provided for by section ten of the act hereby amended, and under such rules and regulations as shall be prescribed by the Secretary of the Interior as hereinbefore provided, without the payment of any purchase price or other charges, except the ordinary office fees and commissions of the register and receiver, except one dollar and twenty-five cents per acre on land commuted: *And provided always*, That no title shall be obtained hereunder to any of the mineral or coal lands of the district of Alaska: *And it is further provided*, That the right of any homestead settler to transfer any portion of the land so settled upon, as provided by section twenty-two hundred and eighty-eight of the Revised Statutes of the United States, shall be restricted and limited within the district of Alaska as follows: For church, cemetery, or school purposes to five acres, and for the right of railroads across such homestead to one hundred feet in width on either side of the center line of said railroad; and all contracts by the settler made before his receipt of patent from the Government, for the conveyance of the land homesteaded by him or her, except as herein provided, shall be held null and void.

Approved, March 3, 1903 (32 Stat., 1028).

#### ACT OF JULY 8, 1916.

An act to amend the United States homestead law in its application to Alaska, and for other purposes, is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That every person who is qualified under existing laws to make homestead entry of the public lands of the United States who has settled upon or who shall hereafter settle upon any of the public lands of the United States situated in the District of Alaska, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall, subject to the provisions and limitations of the act approved March third, nineteen hundred and three, chapter one thousand and two, United States Statutes at Large, page one thousand and twenty-eight, be entitled to enter one hundred and sixty acres or a less quantity of unappropriated public land in said District of Alaska, and no more, and a former homestead entry in any other State or Territory shall not be a bar to a homestead entry in Alaska: *Provided*, That nothing herein contained shall be construed to limit or curtail the area of any homestead claim heretofore lawfully initiated.

Sec. 2. That there shall be excepted from homestead settlement and entry under this act the lands in Annette and Pribilof Islands, the islands leased or occupied for the propagation of foxes, and such other lands as have been or may be reserved or withdrawn from settlement or entry.

Approved, July 8, 1916.

#### REGULATIONS UNDER HOMESTEAD LAW.

The following regulations will govern the procedure under the homestead law as applicable to Alaska:

1. Except as to claims initiated before the passage of the three-year act of June 6, 1912 (37 Stat., 123), homestead entries in the Territory must be perfected under the terms of said act. For full instructions thereunder and information as to other general homestead laws, reference is made to the general homestead circular.

2. Where a claim was initiated before June 6, 1912, by application duly filed, or by settlement on a tract not covered by the public system of surveys, the homesteader may, at his option, perfect title under the three-year act or under the provisions of the old five-year law; the latter requires proof of residence and cultivation during the period indicated, but specifies no proportion of the area which must be cultivated.

## INITIATION OF CLAIMS—UNSURVEYED LANDS.

3. Where a settler desires to acquire as a homestead land, any or all of which is unsurveyed, he may initiate his claim by settlement thereon; in order to preserve his rights he must post on the land a notice of his location and within 90 days after the settlement file a copy thereof for record with the commissioner of the recording precinct in which the land is situated. The tract selected must be in rectangular form, not more than 1 mile in length, located by lines running north and south, according to the true meridian, the four corners being marked by permanent monuments. The location notice should contain the name of the settler, the date of the settlement, and such description of the land claimed, by reference to some natural object or permanent monument, as will serve to identify it.

## INITIATION OF CLAIMS—SURVEYED LANDS.

4. Where the public system of surveys has been extended over a tract, settlement rights may be established and maintained only in the same manner as is allowed in the United States, as explained in the general homestead circular; as to such claims, no posting or recording of a location notice is required, but an application for entry must be filed at the local United States land office within three months after the date of settlement, in order to preserve the preference right of entry.

5. The application for entry must be made according to the legal subdivisions as shown by the plat of survey; excepting that it must thus conform, there is no restriction as to the shape of the tract which may be entered. Where a settlement was made and a location notice posted and filed for record before the extension of the surveys, the application should make reference thereto; it should be stated also to what extent the land applied for is different from that covered by the notice; and the settler may not abandon all of the subdivisions covered by the location, unless a showing is made which would justify amendment of his claim.

## QUALIFICATIONS OF HOMESTEADERS.

6. (a) Any settler who is qualified, so far as personal status is concerned, to make a homestead entry, may enter not exceeding 160 acres in Alaska, unless he has already made a homestead entry or filed a location notice in that Territory, or unless he is disqualified by reason of the 320-acre limitation on the area of the agricultural public land to be acquired by one person, herein below explained. Said area of 160 acres may be entered whether the land be surveyed or unsurveyed. A person who has made homestead entry for less than 160 acres in Alaska, and submitted final proof thereon, may make an additional entry for sufficient land to make up that area, being required to show residence, cultivation, and improvements in connection therewith as though it were an original entry.

(b) Prior to July 8, 1916, a settler on the public lands in Alaska was entitled to enter 320 acres. By the provisions of the act of that date its enactment did not have the effect of limiting or curtailing

the area of any homestead claim lawfully initiated before its passage. Therefore, an entry for as much as 320 acres may be made in any case where a valid settlement on the land was made before July 8, 1916, provided notice thereof has been filed for record in the recording district in which the land involved is situated within 90 days after the settlement, and said settlement has been duly maintained until the filing of the application for entry. However, a person who has exhausted his right in the United States in whole, or in part, is not entitled to homestead more than 160 acres, notwithstanding that he may have made settlement antedating the act of July 8, 1916.

7. (a) Under the act last mentioned, a former homestead entry outside of Alaska does not bar the claimant's right to make homestead entry in that Territory for not exceeding 160 acres; in connection with an application for entry of that area, it is not material whether the homestead entry in the United States proper was perfected or not, and no statement on the subject of such an entry is required. However, if the applicant has made a homestead entry, or filed a location notice, in Alaska, and failed to perfect title to the land involved, he must, in connection with an application for homestead entry of another claim in Alaska, make the same showing required under the general homestead law.

(b) The act of August 30, 1890 (26 Stat., 391), limits to 320 acres the area one person may acquire after that date under the agricultural public land laws. In applying its provisions to a homestead claim for not more than 160 acres in Alaska, a homestead entry in the United States is not to be counted. As to a claim based on settlement before July 8, 1916, it may make up, with the applicant's former entry, a maximum aggregate area of 480 acres; in such cases a former homestead in the United States is counted even though the claimant paid the price of the land before June 5, 1900 (being entitled to restoration of his right); and no entry for more than 160 acres based on settlement before July 8, 1916, can be allowed where the applicant has already had 320 acres, including an entry under the homestead law.

#### RESERVATIONS AND LIMITATIONS.

8. No entry may extend more than 160 rods (one-half mile) along the shore of a navigable water, and along such shores a space of at least 80 rods must be reserved between claims. (See p. 276 as to reserved spaces.) The use of such space of 80 rods between claims abutting on any navigable stream, inlet, gulf, bay, or seashore may be granted by the Secretary of the Interior to citizens, associations of citizens, or corporations, for landings and wharves, the public being allowed access thereto.

9. A homestead entryman must show residence upon his claim for at least three years; however, he is entitled to absent himself during each year for not more than two periods making up an aggregate of five months, giving written notice to the local land office of the time of leaving the homestead and returning thereto. There must be shown also cultivation of one-sixteenth of the area of the claim during the second year of the entry and of one-eighth during the third year and until the submission of proof, unless the requirements

in this respect be reduced upon application duly filed. The law provides also that the entryman must have a habitable house upon the land at the time proof is submitted.

10. To the extent of not more than 160 acres an entry may be "commuted"; that is, the claimant may show 14 months' residence upon the land and cultivation of one-sixteenth of the area commuted and pay the price of the land (\$1.25 per acre), cash certificate thereupon issuing, followed by patent in the usual manner. In such cases the homesteader is entitled to a five months' absence in each year, but can not have credit for such period, actual presence on the land for 14 months being required. Where a part of a claim only is commuted, the entry may be allowed to remain intact, or the settlement right under a recorded location notice maintained, pending future submission of three-year proof as to the remainder of the land.

11. Residence must be established upon the claim within six months after the date of the entry or the recording of the location notice, as the case may be; but an extension of not more than six months may be allowed, upon application duly filed, in which the entryman shows by his own affidavit, and that of two witnesses, that residence could not be established within the first six months, for climatic reasons, or on account of sickness, or other unavoidable cause. A leave of absence for one year or less may be granted by the local officers to a homesteader who has established actual residence on the land, where failure or destruction of crops, sickness, or other unavoidable casualty has prevented him from supporting himself and those dependent upon him by cultivation of the land.

#### SUBMISSION OF PROOF—UNSURVEYED LANDS.

12. Where the public system of surveys has not been extended over a duly located homestead, and the settler is prepared to submit proof thereon, by way of commutation or otherwise, he may have a survey of the tract made at his own expense by a deputy surveyor, appointed by the United States surveyor general. After the survey has been completed and been approved by the surveyor general, certified copies of the field notes and plat must be filed at the local United States land office, together with the settler's notice of intention to submit proof upon his claim.

13. The register will thereupon issue notice of the homesteader's intention to submit proof, designating the newspaper of general circulation nearest the land in which publication thereof is to be made; and the claimant must arrange for publication of the notice therein for a period of 60 days. If the newspaper be published daily, there must be 60 insertions of the notice; if daily except Sunday, 52 insertions; if weekly, 9 insertions; and if semiweekly, 18 insertions. Moreover, the entryman must, during said 60 days, keep a copy of the plat and of his notice of intention to submit proof on the claim posted in a conspicuous place on the land. The proof may not be submitted until 30 days after the expiration of the period of publication and posting.

14. On or before the day set for the proof, the claimant must file his formal application for homestead entry of the land, according to the description shown by the plat of survey; on the day set the

claimant and two of the persons named as witnesses in the notice must give their testimony before the officer and at the place named therein. However, where the claimant and his witnesses, or some of them, fail to testify on the day set, the officer should continue the case until the next day, and so on from day to day until all the testimony has been taken; the law does not allow submission of proof beyond 10 days after the day set therefor, and if part or all of the testimony is submitted at a later day, the register and receiver are not authorized to issue final certificate pursuant thereto. When the case is continued in the manner indicated, the officer should, in the most effective way available, convey notice of the continuance to all interested parties, and this should always include a posting of such notice in his office.

15. If the application for entry be filed, the proof be received by the register and receiver and found satisfactory, no protest or adverse claim be filed, and the proper fee and commissions be paid, they will at once place the entry of record; and they will issue final certificate thereon, provided the price of the land be paid in case of commutation, or the final commissions be paid in other cases—the usual testimony fees being also paid.

16. If the proof does not show satisfactory compliance with the provisions of the homestead laws as to residence, cultivation, and improvements, but no adverse claim be filed, the register and receiver will place the homestead entry of record, on payment of the proper fee and commissions; they will, however, withhold final certificate and reject the proof, or call for supplemental evidence (allowing the usual right of appeal), or forward the papers for consideration by this office, as the circumstances of each case appear to require. They will thus forward the papers if there be filed a protest against the acceptance of the proof by the Chief of Field Division, or a sworn protest consisting of the affidavit of a private person, corroborated by that of at least one witness.

17. If during the period of posting and publication of notice, or within 30 days thereafter, any person, corporation, or association asserting an adverse interest in, or claim to, the tract involved or any part thereof files in the land office where the application for entry is pending an adverse claim under oath, setting forth the nature and extent thereof, action on the proof will be suspended and the adverse claimant allowed 60 days after such filing within which to begin action in a court of competent jurisdiction in Alaska to quiet title to such part of the land as is covered by said claim. In such cases no final certificate will be issued, nor the entry for the land placed of record, until a final adjudication of the rights of the parties has been made by the court, or until it shall have been shown that an action was not begun within the period indicated. If an adjudication by the court be had, entry will be made and patent issued in conformity with its final decree.

#### SUBMISSION OF PROOF--SURVEYED LANDS.

18. Where the public system of surveys has been extended over a tract and homestead entry made in accordance therewith, though the claim may have been initiated by a location, the procedure with regard to submission of proof is the same as in the United States.



(See instructions of January 12, 1915, 43 L. D., 494 ) Where proper compliance with the law is shown, no adverse claim appears on the records, and no protest against the proof is filed, it will be accepted and final certificate issued pursuant thereto. The proof may be taken before the register and receiver or before any officer within the land district authorized by law to administer oaths and having a seal of office.

#### TRANSFERS BEFORE PROOF.

19. In Alaska, as in the United States, a forfeiture of the claim results from a transfer of any part of the land or of any interest therein before the submission of the proof, with certain exceptions specified by law. These are somewhat different in the Territory, there being permitted transfers for church, cemetery, or school purposes to the extent of 5 acres, and for railroad rights of way across the land having an extreme width of 200 feet.

#### EXTENSION OF PUBLIC SURVEYS IN ALASKA—HOMESTEAD PROOFS.

Where the public surveys of the United States have been extended over a township in Alaska in which a homestead claim has theretofore been located under the act of March 3, 1903 (32 Stat., 1023), or where it is initiated after such extension, then the provision of the act that patent shall issue "under the procedure in the obtaining of patents to the unsurveyed lands of the United States, as provided for by section 10" of the act of May 14, 1898 (30 Stat., 409), has no application, for its effect is limited to cases in which the settler submits proof (by way of commutation or otherwise) before the inclusion of his claim in the public survey system.

2. Unless a special survey of his claim shall have been already approved, the settler must file an application for homestead entry thereof, as provided by section 2289, United States Revised Statutes, same being conformed to legal subdivisions, including his settlement so far as practicable. Publication and posting of notice of his intention to submit proof on the entry shall be made after its allowance by the local officers, in the manner prescribed by the act of March 3, 1879 (20 Stat., 472); and the proof will be submitted, as provided by the laws and regulations applicable to homestead entries in the public-land States, due regard being had to section 7 of the act of March 2, 1889 (25 Stat., 854), amendatory of the act last mentioned. Provided proper compliance with the law is shown, no adverse claim appears on the local records, and all sums due are paid, the register will issue final certificate on the entry.

3. Such an entry may be contested or protested and proceedings had thereunder in accordance with the rules and regulations applicable to similar entries in the public-land States. The questions involved will not be litigated in the courts, but in the Land Department under the general rules of practice.

4. Proof on a homestead entry must be submitted within the land district in which it is situated; but, subject to that condition, the extension of the system of surveys does not preclude the taking thereof, and the execution of all other papers in connection with the entry, before any of the officers indicated in section 10 of the act of May 14, 1898.

**SOLDIERS' ADDITIONAL HOMESTEAD ENTRIES.**

Section 1 of the act of May 14, 1898 (30 Stat., 409), and the amendatory act of March 3, 1903 (32 Stat., 1028), extended to Alaska not only the laws as to homestead entries but also those provisions of law relating to the acquisition of title through soldiers' additional homestead rights, they being made applicable to unsurveyed as well as to surveyed lands.

1. It is provided in the act of 1903 that no more than 160 acres shall be entered in any single body by scrip, lieu selection, or soldiers' additional homestead right, and the general restrictions as to the extent of claims along navigable waters and reserved spaces between the same apply to rights of this kind.

2. A person seeking to locate soldiers' additional homestead rights must file with the register and receiver of the proper local office an application in duplicate to enter the tract, describing it by approximate latitude and longitude, and otherwise identifying it with as much certainty as may be possible without actual survey. He must also furnish evidence of the prima facie validity of the additional right and of his ownership thereof. The nonmineral and nonsaline affidavit, the affidavit of the locator's citizenship and of his unimpaired ownership of the right, and the affidavit that the land is not occupied or improved by anyone claiming it adversely to the applicant are part of the printed form (4-008-a) of application.

3. The area of the land applied for may not exceed the area of the additional right or rights tendered in cases of unsurveyed lands, herein discussed, since the rule of approximation, which is applicable in connection with applications for regularly surveyed lands, does not apply to applications for unsurveyed lands in Alaska. If the right used is a certificate, or recertified certificate, which exceeds the area of the land entered, evidence of the unused portion may be obtained by procuring a certified copy or photostat of the certificate bearing proper notation as to the amount used.

4. The register and receiver will, upon receipt of the application and evidence, note its filing, designate the original by the current serial number, and transmit it, together with the proof of ownership of the right, to the General Land Office, forwarding the copy to the chief of field division, and furnishing the applicant with a certificate to the surveyor general that a satisfactory application has been filed and that no objection to the survey is known to them. The surveyor general will, if no objection is shown by his records, immediately deliver to the applicant an order for such survey, which will be sufficient authority for any United States deputy surveyor to make a survey of the claim.

5. The survey must be made at the expense of the applicant, and no right will be recognized as initiated by such application unless actual work on the survey is begun within 90 days after the receipt by the applicant of the order issued by the surveyor general as above directed. The rights thus secured will lapse unless the survey is continued to completion without unnecessary delay. The deputy surveyor will certify to the field notes and plat, which must be filed with the surveyor general, together with all proof required by the

laws and regulations. The surveyor general will examine the plat, field notes, and proofs to ascertain whether the regulations have been complied with, and if he finds the work regular he will forward the papers to the General Land Office for approval.

6. On approval of a survey by the Commissioner of the General Land Office the surveyor general will be advised thereof and directed to file the certified copy of the plat and field notes with the register and receiver. They will thereupon notify the applicant that within 60 days from a date fixed by them he must furnish evidence of posting and publication; that on default in this respect the application will be rejected and the survey canceled. The same posting and publication of notice and evidence thereof are required as in case of entries for trade and manufacture; the same rules apply also with reference to the filing and assertion of adverse claims. (See p. 241.)

7. The register and receiver will at once mail a copy of the notice to the Chief of Field Division also, and the application will be subject to contest for any cause affecting its validity, or on account of applicant's failure to comply with the regulations.

8. If an application is filed by an association, it must so appear, and the citizenship and age of each member thereof be shown. If it is made by a corporation, its creation must be established by the certificate of the officer having custody of the records of incorporation at the place of its formation, and it must be further shown that such corporation is authorized by law to hold land in Alaska. A certified copy of the articles of incorporation should be filed.

9. The applicant is required to file a corroborated affidavit, showing that the land contains no workable deposits of coal or petroleum, and that the land is not within an area surrounding a spring and withdrawn by the order of March 28, 1911.

10. The applicant must file corroborated affidavits fully describing all waters situated upon or crossing the land, whether creek, pond, lagoon, or lake, stating their source, depth, width, outlet, and current (whether swift or sluggish), whether or not the same or any of them are navigable for skiffs, canoes, motor boats, launches, or other small water craft, and whether or not the same or any of them constitute a passageway for salmon or other merchantable sea-going fish to spawning grounds. (See p. 276 as to reserved spaces.) He must also file corroborated affidavits, based upon personal knowledge, to the effect that the land is not within any withdrawal or reservation by the Government of the United States; that it is free from any claim by natives of Alaska; that it is not within a distance of 80 rods, along any navigable or other waters, from any land theretofore located by means of any such scrip, or otherwise under the act of May 14, 1898, as modified by the act of March 3, 1903, and that it does not adjoin any other like inland or water-front location, the area of which added to the tract would constitute a single body of land exceeding 160 acres.

11. After all the evidence above indicated, including evidence of posting and publication, shall have been filed, the register will hold the papers during the period allowed for the filing of an adverse claim, and will thereafter transmit them to the General Land Office. The local officers will not allow the entry and issue final certificate in

the absence of instructions so to do; and this rule will apply whether the right be certified or uncertified, the practice of issuing final certificates on certified rights before transmitted being hereby abolished.

#### SURVEYED LANDS.

It is to be understood that the above statements and instructions apply only to applications for unsurveyed lands. Where it is sought to locate a soldier's additional homestead right on a tract which is included in the public system of surveys, the procedure is not different in any respect from that prescribed in such cases as to surveyed lands in the United States.

#### NATIONAL FOREST HOMESTEADS.

The act of June 11, 1906 (34 Stat., 235), providing for homestead entries of agricultural lands within national forests, applies to such lands in Alaska. Entries made under said act are limited in area to 160 acres and are subject to the general homestead laws applicable to the United States, except that no commutation is allowed.

These entries may be made only after the lands desired have been listed by the Secretary of Agriculture as agricultural in character and after a declaration by the Secretary of the Interior that the listed lands are subject to settlement and entry.

Information as to the boundaries of the forests, the method of applying for listing, etc., may be obtained by addressing the Forester, Washington, D. C., or the United States District Forester at Portland, Oreg.

#### TRADE AND MANUFACTURING SITES.

By section 10, act of May 14, 1898 (30 Stat., 409), the following provisions are made:

That any citizen of the United States twenty-one years of age, or any association of such citizens, or any corporation incorporated under the laws of the United States or of any State or Territory now authorized by law to hold lands in the Territories, hereafter in the possession of and occupying public lands in the District of Alaska, in good faith, for the purposes of trade, manufacture, or other productive industry, may each purchase one claim only, not exceeding eighty acres of such land for any one person, association, or corporation, at two dollars and fifty cents per acre, upon submission of proof that said area embraces improvements of the claimant and is needed in the prosecution of such trade, manufacture, or other productive industry, such tract of land not to include mineral or coal lands, and ingress and egress shall be reserved to the public on the waters of all streams, whether navigable or otherwise: *Provided*, That no entry shall be allowed under this act on lands abutting on navigable water of more than eighty rods: *Provided further*, That there shall be reserved by the United States a space of eighty rods in width between tracts sold or entered under the provisions of this act on lands abutting on any navigable stream, inlet, gulf, bay, or seashore, and that the Secretary of the Interior may grant the use of such reserved lands abutting on the water front to any citizen or association of citizens, or to any corporation incorporated under the laws of the United States or under the laws of any State or Territory, for landings and wharves, with the provision that the public shall have access to and proper use of such wharves and landings, at reasonable rates of toll to be prescribed by said Secretary, and a roadway sixty feet in width, parallel to the shore line as near as may be practicable, shall be reserved for the use of the public as a highway: *Provided further*, That in case more than one person, association, or corporation shall claim the same tract of land, the person, association, or cor-

poration having the prior claim, by reason of actual possession and continued occupation in good faith, shall be entitled to purchase the same, but where several persons are or may be so possessed of parts of the tract applied for the same shall be awarded to them according to their respective interests: *Provided further*, That all claims substantially square in form and lawfully initiated, prior to January twenty-first, eighteen hundred and ninety-eight, by survey or otherwise, under sections twelve and thirteen of the act approved March third, eighteen hundred and ninety-one (twenty-sixth Statutes at Large, chapter five hundred and sixty-one), may be perfected and patented upon compliance with the provisions of said act, but subject to the requirements and provisions of this act, except as to area, but in no case shall such entry extend along the water front for more than one hundred and sixty rods: *And provided further*, That the Secretary of the Interior shall reserve for the use of the natives of Alaska suitable tracts of land along the water front of any stream, inlet, bay, or seashore for landing places for canoes and other craft used by such natives: *Provided*, That the Annette, Pribilof Islands, and the islands leased or occupied for the propagation of foxes be excepted from the operation of this act.

That all affidavits, testimony, proofs, and other papers provided for by this act and by said act of March third, eighteen hundred and ninety-one, or by any departmental or Executive regulation thereunder, by depositions or otherwise, under commission from the register and receiver of the land office, which may have been or may hereafter be taken and sworn to anywhere in the United States before any court, judge, or other officer authorized by law to administer an oath, shall be admitted in evidence as if taken before the register and receiver of the proper local land office. And thereafter such proof, together with a certified copy of the field notes and plat of the survey of the claim, shall be filed in the office of the surveyor general of the District of Alaska, and if such survey and plat shall be approved by him, certified copies thereof, together with the claimant's application to purchase, shall be filed in the United States land office in the land district in which the claim is situated, whereupon, at the expense of the claimant, the register of such land office shall cause notice of such application to be published for at least sixty days in a newspaper of general circulation published nearest the claim within the District of Alaska, and the applicant shall at the time of filing such field notes, plat, and application to purchase in the land office, as aforesaid, cause a copy of such plat, together with the application to purchase, to be posted upon the claim, and such plat and application shall be kept posted in a conspicuous place on such claim continuously for at least sixty days, and during such period of posting and publication or within thirty days thereafter any person, corporation, or association, having or asserting any adverse interest in or claim to the tract of land or any part thereof sought to be purchased, may file in the land office where such application is pending, under oath, an adverse claim setting forth the nature and extent thereof, and such adverse claimant shall, within sixty days after the filing of such adverse claim, begin action to quiet title in a court of competent jurisdiction within the District of Alaska, and thereafter no patent shall issue for such claim until the final adjudication of the rights of the parties, and such patent shall then be issued in conformity with the final decree of the court.

Procedure under this statute will be regulated in accordance with the instructions that follow:

1. If the land is surveyed after occupancy, and prior to application therefor, the claim may be presented in conformity with the public surveys, or the applicant, if he so elects, may apply for the tract occupied by him regardless of the survey, and proceed as herein prescribed. Claims initiated by occupancy after survey must conform thereto both in occupation and application. No tract taken may abut more than 80 rods of navigable waters, and the same restrictions as to reserved spaces on such waters apply as do in case of homestead entries.

2. Where the land is unsurveyed, or the applicant does not desire to conform to the survey, he must file at the proper local land office an application in duplicate for entry of the tract occupied by him, describing it by approximate latitude and longitude, and otherwise

identifying it with as much certainty as may be done without actual survey, as set forth in the instructions relative to special surveys in Alaska. (See p. 227.) The register and receiver will thereupon note the filing of the application and designate it by serial number, forwarding one copy to the General Land Office, and the other to the chief of field division. They will furnish the applicant with a certificate to the surveyor general that an application has been filed, and that no objection to the survey is known to them. The surveyor general will, if no objection is shown by his records, immediately deliver to the applicant an order for such survey, which will be sufficient authority for any United States deputy surveyor to make a survey of the claim.

3. The survey must be made at the expense of the applicant and no right will be recognized as initiated by the application unless actual work on the survey is begun within 90 days after the receipt by applicant of the order to be furnished him by the surveyor general as above mentioned; moreover, the rights secured thereby will lapse unless the survey is continued to completion without unnecessary delay. Upon completion of the survey the deputy should certify to the field notes and plat, which must then be filed with the surveyor general.

4. If the surveyor general finds the work of survey regular, and that the regulations have been complied with, he will forward the papers to the General Land Office for approval. If said office approves of the survey, the surveyor general will be advised of its action and directed to file in the local land office a certified copy of the plat and field notes. The register and receiver will fix a certain date, and notify the applicant that he must, within the time limited, furnish evidence of posting and publication of notice of his application, together with proof corroborated by two witnesses showing:

First. The actual use and occupancy of the land for which application is made for the purpose of trade, manufacture, or other productive industry; that it embraces the applicant's improvements and is needed in the prosecution of the enterprise.

Second. The date when the land was first so occupied.

Third. The character and value of improvements thereon, and the nature of the trade, business, or productive industry conducted thereon.

Fourth. That the tract applied for does not include mineral or coal lands, and is essentially nonmineral in character.

Fifth. That no portion of said land is occupied or reserved for any purpose by the United States, or occupied or claimed by any natives of Alaska, or occupied as a town site or missionary station, or reserved from sale, and that the tract does not include improvements made by or in possession of another person, association, or corporation.

Sixth. Whether or not the land abuts on any navigable stream, inlet, gulf, bay, or seashore, and if so that it is not within 80 rods of any other tract sold, entered, or claimed under the act of May 14, 1898, as modified by the act of March 3, 1903 (see p. 276).

Seventh. If the application is made for the benefit of an individual, he must prove his citizenship and age, and that he has not entered, or acquired title to any land entered, under the provisions of this act.

Eighth. If the application is made for the benefit of an association it must so appear, and the citizenship and age of each member thereof be shown.

Ninth. If the application is made for the benefit of a corporation, the proof of incorporation must be established by the certificate of the secretary of the State or Territory or other officer having custody of the record of incorporation, and it must be further shown that such corporation is authorized by the law under which it is incorporated and under laws of Alaska to hold lands in the Territory.

Tenth. In case the application is made for the benefit of an association or corporation, it must appear that each member thereof has not entered or acquired title to any land entered under the provisions of this act.

5. All affidavits may be executed before the register or receiver of the land office in the district in which the land is situated, or anywhere in the United States, before the judge of a court or other officer authorized by law to administer oaths. Unless the above evidence is furnished the application will be rejected and the survey canceled.

6. At the expense of the claimant, the register of the local land office will cause the above-mentioned notice of the application to be published for a period of at least 60 days in a paper of established character and general circulation, to be by him designated as being the newspaper published nearest the land, and will also transmit a copy thereof to the chief of field division. The applicant himself must, during the period of publication, cause a copy of the plat, duly authenticated, together with a copy of the application to purchase, to be posted in a conspicuous place upon the claim for at least 60 days. The register will cause a copy of the application to purchase to be posted in his office during the period of publication.

7. During that period, or within 30 days thereafter, any person, corporation, or association having or asserting an adverse interest in, or claim to, the tract of land sought to be purchased, or any part thereof, may file in the land office where such application is pending, under oath, an adverse claim, setting forth the nature and extent thereof; and such adverse claimant shall, within 60 days after said filing, begin action to quiet title in a court of competent jurisdiction within the District of Alaska; and in that event no further action will be taken in the local office upon the application to purchase until the final adjudication of the rights of the parties in the court.

8. If, at the expiration of the period prescribed therefor, no adverse claim has been filed, and no other sufficient objection appears to the proposed purchase, cash certificate will issue for the land in the name of the applicant upon his furnishing proof of publication and posting of the notice as required and making due payment for the land at the rate of \$2.50 per acre. The proof must consist of the affidavit of the publisher or foreman of the designated newspaper, or some other employee authorized to act for the publisher, that the notice (a copy of which must be attached to the affidavit) was published for the required period in the regular and entire issue of every number of the paper during the period of publication in the newspaper proper and not in a supplement. Proof of posting on the

claim must consist of the affidavits of the applicant and two witnesses, who of their own knowledge know that the plat of survey and application to purchase were posted as required and remained so posted during the required period. The register must certify to the posting of the notice in a conspicuous place in his office during the period of publication.

9. A failure to make payment for the land at the rate of \$2.50 per acre, for a period of three months after the final adjudication of the rights of the parties by the court, or after the period for filing an adverse claim shall have expired, without any such claim being filed, will be deemed an abandonment of the application to purchase.

#### SCRIP LOCATIONS.

Aside from the right of the Territory of Alaska to select lands in lieu of tracts to which it may be entitled, under its grant in aid of public schools made by the act of March 4, 1915 (38 Stat., 1214), and which have been lost, no scrip or lieu rights can be located in said Territory except soldiers' additional homestead rights.

#### TOWN SITES.

The establishment of town sites on public lands in Alaska—except along Government railroads—is governed by section 11 of the act of March 3, 1891 (26 Stat., 1095), which provides:

That until otherwise ordered by Congress lands in Alaska may be entered for town-site purposes, for the several use and benefit of the occupants of such town sites, by such trustee or trustees as may be named by the Secretary of the Interior for that purpose, such entries to be made under the provisions of section twenty-three hundred and eighty-seven of the Revised Statutes as near as may be; and when such entries shall have been made the Secretary of the Interior shall provide by regulation for the proper execution of the trust in favor of the inhabitants of the town site, including the survey of the land into lots, according to the spirit and intent of said section twenty-three hundred and eighty-seven of the Revised Statutes, whereby the same results would be reached as though the entry had been made by a county judge and the disposal of the lots in such town site and the proceeds of the sale thereof had been prescribed by the legislative authority of a State or Territory: *Provided*, That no more than six hundred and forty acres shall be embraced in one town-site entry.

The following regulations are prescribed in accordance with said act:

1. If the land is unsurveyed the occupants must, by application to the surveyor general, obtain a survey of the exterior lines of the town site, which will be made at Government expense. There must be excluded from the tract to be surveyed and entered for the town site any lands set aside by the district court under section 31 of the act of June 6, 1900 (31 Stat., 321, 332), for use as jail and courthouse sites, also all lands needed for Government purposes or use, together with any existing valid claim initiated under Russian rule.

2. When the survey of the exterior lines has been approved, or if the townsite is on surveyed land, a petition to the Secretary of the Interior, signed by a majority of the occupants of the land, will be filed in the local office for transmittal to the General Land Office requesting the appointment of a trustee and the survey of the town



site into lots, blocks, and municipal reservations for public use, the expense thereof to be paid from assessments upon the lots occupied and improved on the date of town-site entry. If found sufficient the Secretary of the Interior will designate an officer of the field service of the General Land Office as a trustee to make entry of the town site, payment for which must be made at rate of \$1.25 per acre. If there are less than 100 inhabitants the area of the town site is limited to 160 acres; if 100 and less than 200 to 320 acres; if more than 200 to 640 acres, this being the maximum area allowed by the statute.

3. The trustee will file his application and notice of intention to make proof, and thereupon the register will issue the usual notice of making proof, to be posted and published at the trustee's expense, for the time and in the manner as in other cases provided, and proof must be made showing occupancy of the tract, number of inhabitants thereon, character of the land, extent, value, and character of improvements, and that the town site does not contain any land occupied by the United States for school or other purposes or land occupied under any existing valid claim initiated under Russian rule.

4. The occupants will advance a sufficient amount of money to pay for the land and the expenses incident to the entry, to be refunded to them when realized from lot assessments. Applications for entry will be subject to contest or protest as in other cases.

5. After the entry is made the town site will be surveyed by a United States deputy surveyor into blocks, lots, streets, alleys, and municipal public reservations. Triplicate copies of the plat of this survey will be made: one copy will be retained by the trustee, one be filed in the local recording office, and one on tracing linen to be for the General Land Office. The expense of such survey will be paid from the appropriation for surveys in Alaska reimbursable from the lot assessments when collected.

6. Lands possessed by Indian or native Alaskan occupants shall not be assessed nor conveyed by the trustee. In making the subdivisional survey herein required the surveyor will set apart the Indian possessions and appropriately designate them as such upon the triplicate plats of his surveys, but he will not extend any street or alley upon or across such possessions.

7. The trustee will make a valuation of each occupied or improved lot in the town site, and thereupon assess upon such lots and blocks according to their value such rate and sum as will be necessary to pay all expenses incident to the execution of his trust which have accrued up to the time of such levy. More than one assessment may be made if necessary to effect the purpose of said act of Congress and these instructions.

8. On the approval of the plat by the General Land Office the trustee will publish a notice that he will, at the end of 30 days from the date thereof, proceed to award the lots applied for, and that all lots for which no applications are filed within 120 days from the date of said notice will be subject to disposition to the highest bidder at public sale. Only those who were occupants of lots or entitled to such occupancy at the date of town site entry, or their assigns thereafter, are entitled to the allotments herein provided. Minority and coverture are not disabilities.

9. Claimants should file their applications for deeds, setting forth the grounds of their claims for each lot applied for, which should be verified by their affidavits and corroborated by two witnesses. Such affidavits may be subscribed and sworn to before any officer authorized to administer oaths.

10. Upon receipt of the patent and payment of the assessments the trustee will issue deeds for the lots. The deeds will be acknowledged before an officer duly authorized to take acknowledgments of deeds at the cost of the grantee. In case of conflicting applications for lots the trustee, if he considers necessary, may order a hearing, to be conducted in accordance with the rules of practice. No deed will be issued for any lot involved in a contest until the case has been finally closed. Appeals from any decision of the trustee or from decisions of the General Land Office may be taken in the manner provided by the rules of practice.

11. After deeds have been issued to the parties entitled thereto the trustee will publish notice that he will sell, at a designated place in the town and at a time named, to be not less than 30 days from date, at public outcry, for cash, to the highest bidder, all lots and tracts remaining unoccupied and unclaimed at the date of the trustee's entry, and all lots and tracts claimed and awarded on which the assessments have not been paid at the date of such sale. The notice shall contain a description of the lots and tracts to be sold, made in two separate lists, one containing the lots and tracts unclaimed at the date of entry and the other the lots and tracts claimed and awarded on which the assessments have not been paid. Should any delinquent allottee, prior to the sale of the lot claimed by him, pay the assessments thereon, together with the pro rata cost of the publication and the cost of acknowledging deed, a deed will be issued to him for such lot, and the lot will not be offered at public sale. The notice of public sale will be published for 30 days prior to the date of sale, and copies thereof shall be posted in three conspicuous places within the town site. Each lot must be sold at a fair price to be determined by the trustee, and he is authorized to reject any and all bids. Lots remaining unsold at the close of the public sale in an unincorporated town may again be offered at a fair price if a sufficient demand appears therefor.

12. Immediately after the public sale the trustee will make and transmit to the General Land Office his final report of his trusteeship, showing all amounts received and paid out and the balance remaining on hand derived from assessments upon the lots and from the public sale. The proceeds derived from such sources, after deducting all expenses, may be used by the trustee on direction of the Secretary of the Interior, where the town is unincorporated, in making public improvements, or, if the town is incorporated such remaining proceeds may be turned over to the municipality for the use and benefit thereof. After the public sale and upon proof of the incorporation of the town, all lots then remaining unsold will be deeded to the municipality, and all municipal public reserves will, by a separate deed, be conveyed to the municipality in trust for the public purposes for which they were reserved.

13. The trustee shall keep a tract book of the lots and blocks, a record of the deeds issued, a contest docket, and a book of receipts and disbursements. The necessary stationary, blanks, and blank

books for his use as trustee will be furnished by the General Land Office upon his requisition therefor.

14. The trustee's duties having been completed, the books of accounts of all his receipts and expenditures, together with a record of his proceedings as hereinbefore provided, with all papers, other books, and everything pertaining to such town site in his possession and all evidence of his official acts shall be transmitted to the General Land Office to become a part of the records thereof, excepting from such papers, however, in case the town is incorporated, the subdivisional plat of the town site, which he will deliver to the municipal authorities of the town, together with a copy of the town-site tract book or books, taking a receipt therefor to be transmitted to the General Land Office.

Special instructions as to receipts and disbursements will be given the trustee on his appointment.

#### ALLOTMENTS TO INDIANS AND ESKIMOS.

The act of May 17, 1906 (34 Stat., 197), provides:

That the Secretary of the Interior is hereby authorized and empowered, in his discretion and under such rules as he may prescribe, to allot not to exceed one hundred and sixty acres of nonmineral land in the District of Alaska to any Indian or Eskimo of full or mixed blood who resides in and is a native of said District, and who is the head of a family or is twenty-one years of age; and the land so allotted shall be deemed the homestead of the allottee and his heirs in perpetuity and shall be inalienable and nontaxable until otherwise provided by Congress. Any person qualified for an allotment as aforesaid shall have the preference right to secure by allotment the nonmineral land occupied by him, not exceeding one hundred and sixty acres.

1. This proceeding will be initiated by a written application to the register and receiver, signed by the applicant and describing the location and extent of the tract applied for, and, if unsurveyed, by as accurate a description as possible by metes and bounds and natural objects. Notice of the application should be posted upon the land, describing the tract applied for in the terms employed in the application, and a copy of such notice should accompany the application. If the signature is by mark, the same must be witnessed by two persons.

2. The applicant must also file his or her affidavit of qualification under the statute, and if claiming under the preference-right clause, the date of the beginning of his occupancy must be given and its continuous nature stated.

3. This must be corroborated by an affidavit of two witnesses, who may be Indians or Eskimos. A nonmineral affidavit must also be filed by the applicant, sworn to only on personal knowledge and not on information and belief.

4. The affidavits may be sworn to before any officer authorized to administer oaths and having a seal. If the application is made by a woman, she must state in her affidavit whether she is single or married, and if married must show what constitutes her the head of a family, as it is only in exceptional cases that a married woman is entitled to an allotment under this act.

5. The register and receiver will number applications for allotments made under this act in accordance with the circular of June 10, 1908, and note the same on the schedules forwarded at the end

of the month, as required by said circular, giving in the "Remarks" column the date of transmittal to the district superintendent.

6. The register and receiver will assist applicants in the preparation of their papers so far as practicable, and, as the act makes no provision for any fees for filing, will make no charge in any of these cases.

7. Allotments shall be subject to the same requirements as to methods of survey, cardinal courses, and permanent marking of boundaries, except for the protection of preference rights acquired by actual occupancy, as lands surveyed under the United States laws in Alaska, in general accordance with the instructions found on page 1, and will not be made on tracts reserved by the United States as shore spaces under the act of March 3, 1903 (32 Stat. 1028), or within national forests, unless founded on actual occupancy prior to the establishment of the forest.

8. The application for allotment, and all papers filed in connection therewith, will, when in due form, be referred by the local office to the Superintendent of United States Public Schools, Bureau of Education, for the district in which the proposed allotment is situated, who will furnish a report with the transmittal of the record to the Commissioner of Education on the following points:

(a) The location of the land, if necessary, to furnish a more accurate description than given in the application.

(b) The special value of the tract, either for agricultural uses or fishing grounds.

(c) What, if any, residence has been maintained on the tract by the applicant.

(d) The value and character of all improvements thereon.

(e) The fitness of the land as a permanent home for the allottee.

(f) The competency of the applicant to manage his own affairs.

(g) The presence or absence of any adverse claims, and, if any such claims exist, a description thereof.

(h) Such other information as may serve to aid in determining whether the application should be allowed, either in whole or in part, together with his recommendation as to the proper action in the premises.

9. On the receipt of the report from the district superintendent, the Commissioner of Education will transmit the same to the General Land Office with his approval, or disapproval, of the recommendations therein made, with such suggestions as to the application as may seem to him appropriate.

10. If the Commissioner of the General Land Office, upon the entire record submitted, shall find the application meritorious, in whole or in part, he will submit the same to the Secretary of the Interior for his approval, and if so approved, special instructions for the survey thereof will then issue in accordance with the terms of the approval.

11. A schedule of all approved allotments will be kept of record in the General Land Office, and, as the act makes no provisions for a patent, a certificate will issue showing the approval of the allotment, and the survey thereof, for delivery to the allottee.

12. Hereafter the register and receiver will require each person applying to enter or in any manner acquire title to any lands,

under any law of the United States, to file a corroborated affidavit to the effect that none of the lands covered by his application are embraced in any pending application for an allotment under this act, or in any pending allotment, and that no part of such lands is in the bona fide legal possession of or is occupied by any Indian or native except the applicant. Persons applying for the right to cut timber under section 11, act of May 14, 1898 (30 Stat., 414), may, however, substitute for the corroborated affidavit a statement signed by the applicant and duly attested by two witnesses setting forth the above facts.

13. Appropriate forms for the use of applicants under this act have been prepared.

#### MISSION CLAIMS.

The act of June 6, 1900 (31 Stat., 330), section 27, provides:

The Indians or persons conducting schools or missions in the district shall not be disturbed in the possession of any lands now actually in their use and occupation, and the land at any station not exceeding six hundred and forty acres, occupied as mission stations among the Indian tribes in the section, with the improvements thereon erected by or for such societies, shall be continued in the occupancy of the several religious societies to which the missionary stations respectively belong, and the Secretary of the Interior is hereby directed to have such lands surveyed in compact form as nearly as practicable and patents issued for the same to the several societies to which they belong, but nothing contained in this act shall be construed to put in force in the district the general land laws of the United States.

Under the terms of said act any organized religious society that was maintaining a missionary station in the Territory of Alaska on June 6, 1900, may apply to the surveyor general of Alaska for the survey of the land so occupied.

The application should be made by the duly authorized representative of the society, whose authority to act should appear.

If the society is incorporated, evidence of the incorporation should be furnished, and application should be made in the corporate name of the society; if not incorporated, the nature of the association and its formation and purpose should be set out, and the application should be made in the name of three or more trustees, as such, all of whom must be members of the association or organization.

The application for survey must describe as specifically as possible the location of the claim, in connection with surrounding monuments or objects, so that it may be readily identified and must be accompanied with proof, which may consist of affidavits duly corroborated by two witnesses, showing:

1. The actual use of the land for missionary purposes and that it embraces the improvements of the applicant society or organization.
2. The date when the land was first so occupied and the extent and character of the occupation.
3. The character and value of the improvements.
4. That no portion of the land is held adversely to the society under rights of prior inception.

The survey will include only such lands, taken in a compact form, as were actually used and occupied for missionary purposes June 6, 1900, not to exceed in any instance 640 acres, and the area will not be extended to embrace lands taken after that date.

When the survey has been made and accepted, in accordance with existing practice governing the survey of sites for trade and manufacturing purposes, certified copies of the field notes and plat with the original proof must be filed in the local land office, and the register will thereupon issue the proper certificate. In the event applications for surveys have been filed with the surveyor general without the required proof, such proof must be furnished before the issuance of patent.

#### PARKS AND CEMETERIES FOR CITIES AND TOWNS.

The act of Congress approved September 30, 1890 (26 Stat., 502) made the following provisions for the purchase of parks and cemeteries:

That incorporated cities and towns shall have the right, under rules and regulations prescribed by the Secretary of the Interior, to purchase for cemetery and park purposes not exceeding one quarter section of public lands not reserved for public use, such lands to be within three miles of such cities or towns: *Provided*, That when such city or town is situated within a mining district no land proposed to be taken under this act shall be considered as mineral lands and patent to such land shall not authorize such city or town to extract minerals therefrom, but all such mineral shall be reserved to the United States, and such reservation shall be entered in such patent.

This act is held applicable to the Territory of Alaska (City of Juneau, 36 L. D., 264).

The right of entry under said act is restricted to incorporated cities and towns, and such cities and towns are allowed to make entries of tracts of unreserved and unappropriated public land, by Government subdivisions, not exceeding a quarter section in area, all of which must lie within 3 miles of the corporate limits of the city or town for which the entries are made.

*Where on unsurveyed land.*—If the public surveys have not been extended over the lands sought by any city or town under the provisions of said act, it will first be necessary for the proper corporate authority to apply to the surveyor general of the district in which the tract in question is located for a special survey of the exterior lines of such tract, the cost of which will be paid out of the current appropriation for "surveying the public lands."

*Application and proof.*—An application for the purposes indicated herein can only be made by the municipal authorities of an incorporated city or town; and in all cases the entries will be made and patents issued to the municipality in its corporate name, for the specific purpose or purposes mentioned in said act.

The land must be paid for at the Government price per acre, after proof has been furnished satisfactorily showing—

First. Thirty days' publication of notice of intention to make entry, in the same manner as in homestead and other cases.

Second. The official character and authority of the officer or officers making the entry.

Third. A certificate of the officer having custody of the record of incorporation, setting forth the fact and date of incorporation of the city or town by which entry is to be made, and the extent and location of its corporate limits.

Fourth. The testimony of the applicant and two published witnesses to the effect that the land applied for is vacant and unappro-

priated by any other party, and as to whether the same is either mineral in character or located within an organized mining district or within a mining region.

Fifth. In case the land applied for is described by metes and bounds, as established by a special survey of the same, that the applicant and two of the published witnesses have testified from personal knowledge obtained by observation and measurements that the land to be entered is wholly within 3 miles of the corporate limits of the city or town for which entry is to be made.

*Certificates.*—Where the proof shows that the land is mineral in character, located in a mining district, or is within a region known as mineral lands, the certificate of entry shall contain the following proviso:

*Provided.* That no title shall be hereby acquired to any mineral deposits within the limits of the above-described tract of land, all such deposits therein being reserved as the property of the United States.

#### CEMETERIES ACQUIRED BY ASSOCIATIONS OR PRIVATE CORPORATIONS.

The act of Congress approved March 1, 1907 (34 Stat., 1052), authorizes acquisition of title for cemetery purposes as follows:

That the Secretary of the Interior be, and he is hereby, authorized to sell and convey to any religious or fraternal association, or private corporation, empowered by the laws under which such corporation or association is organized or incorporated to hold real estate for cemetery purposes, not to exceed eighty acres of any unappropriated nonmineral public lands of the United States for cemetery purposes, upon the payment therefor by such corporation or association of the sum of not less than one dollar and twenty-five cents per acre: *Provided.* That title to any land disposed of under the provisions of this act shall revert to the United States, should the land or any part thereof be sold or cease to be used for the purpose herein provided.

This act is applicable to Alaska.

*Who may enter.*—The right to purchase public land for cemetery purposes is limited to religious, fraternal, and private corporations or associations, empowered to hold real estate for cemetery purposes by the laws under which they are organized. Such corporation or association shall be allowed to make but one entry of not more than 80 acres of contiguous tracts by Government subdivisions of nonmineral, unreserved, and unappropriated public land.

*Where on unsurveyed land.*—If the public surveys have not been extended over the land so sought to be entered, the corporation or association should apply to the proper surveyor general for a special survey of the exterior lines of the tract desired, the cost of which will be paid out of the current appropriation for "surveying the public lands."

The proof must satisfactorily show:

First. Thirty days' publication of notice of intention to make entry, in the same manner as in homestead and other cases.

Second. The official character of the officer or officers applying on behalf of the association or corporation to make the entry, and his or their express authority to do so conferred by action of the association.

Third. A copy of the record, certified by the officer having charge thereof, showing the due incorporation and organization and date

thereof of the association or corporation and its location and address. The law under which it is organized and by which it derives its authority to hold real estate for cemetery purposes must also be cited.

Fourth. That the land applied for is nonmineral, vacant, and unappropriated public land, which must be shown by the testimony of the applicant and two of the advertised witnesses.

*Price.*—The land must be paid for at such price per acre as shall be determined by the Commissioner of the General Land Office, provided that in no case shall the price be less than \$1.25 per acre.

Entries under this act must issue to the association or corporation in its corporate name, and the granting clause in the certificate should state that the patent to be issued for the tract described is "for cemetery purposes, subject to reversion 'to the United States should the land or any part thereof be sold or cease to be used for the purpose' in said act provided." Inasmuch, however, as the commissioner of this office determines the amount of the purchase price under the existing conditions in each particular case, the register and receiver will, when proof is made to their satisfaction, immediately forward such proof to this office with their recommendation thereon without issuing the final papers. If this office finds the proof satisfactory, the commissioner will fix the purchase price, and the local officers will, on being notified thereof and no objection appearing thereto in their office, notify the applicant of the amount required and allow him 30 days from service of such notice to pay such purchase price, and on receipt thereof the entry will be issued.

#### SALE AND USE OF TIMBER UPON PUBLIC LANDS.

Section 11, act of May 14, 1898 (30 Stat., 414), provides:

SEC. 11. That the Secretary of the Interior, under such rules and regulations as he may prescribe, may cause to be appraised the timber or any part thereof upon public lands in the District of Alaska, and may from time to time sell so much thereof as he may deem proper for not less than the appraisal value thereof, in such quantities to each purchaser as he shall prescribe, to be used in the District of Alaska, but not for export therefrom. And such sales shall at all times be limited to actual necessities for consumption in the District from year to year, and payment for such timber shall be made to the receiver of public moneys of the local land office of the land district in which said timber may be sold, under such rules and regulations as the Secretary of the Interior may prescribe, and the moneys arising therefrom shall be accounted for by the receiver of such land office to the Commissioner of the General Land Office in a separate account, and shall be covered into the Treasury. The Secretary of the Interior may permit, under regulations to be prescribed by him, the use of timber found upon the public lands in said District of Alaska by actual settlers, residents, individual miners, and prospectors for minerals, for firewood, fencing, buildings, mining, prospecting, and for domestic purposes, as may actually be needed by such persons for such purposes.

The act authorizes the Secretary of the Interior (*a*) to sell timber to individuals, associations, and corporations, and (*b*) to permit the free use of timber by actual settlers, residents, individual miners, and prospectors for minerals, for firewood, fencing, buildings, mining, prospecting, and for domestic purposes. The act has reference only to timber upon vacant, unreserved public lands, outside of the limits of national forests, and does not permit of the exporting of the timber out of the Territory of Alaska. The free-use privilege is not extended to associations and corporations.



Pursuant to the authority conferred upon him, the Secretary of the Interior has caused the following rules and regulations to be promulgated:

1. *Limited free use by settlers, etc.*—Persons designated in the last sentence of section 11, act of May 14, 1898, may go upon the vacant, unreserved public lands and take in amount not exceeding a total of 100,000 feet, board measure, or 200 cords, in any one calendar year, in saw logs, piling, cordwood, or other timber, the aggregate of either of which amount may be taken either in whole in any one of the above classes of timber, or in part of one kind and in part another kind or in other kinds, and where a cord is the unit of measure it shall be estimated, in relation with saw timber, in the ratio of 500 feet, board measure, per cord. Where such persons are unable to take such timber in person, they may employ a servant or agent to procure the timber for them. The uses of the timber must be confined to the uses specified in the act. The taking of timber free of charge for sale and speculation is not authorized. Persons who desire to exercise the privileges extended to them in this section are not required to file applications as provided hereinafter, but in order that future complications may be avoided, they must notify the Chief of the Alaskan Field Division, Juneau, Alaska, or the special agent in charge of timber investigations in the district in which the timber is to be cut, by registered letter, of their intention to procure timber under the free-use clause. Each applicant should set forth in his notice the kind and quantity of timber which is to be cut and the use for which it is to be cut and a description of the land on which said cutting is to be done by township and range and by section and sectional subdivision thereof, if it be surveyed, or by natural objects by which it may be identified if it be unsurveyed. A blank form of notice (Form 4-023 f) has been prepared and may be obtained free of charge upon request from the chief of field division or from the special agents stationed in Alaska.

2. *Sales of timber.*—Timber upon the vacant, unreserved public lands, outside of the limits of national forests, will be sold in such quantities as are actually needed and as will be used from year to year. Sales are not limited to residents of Alaska, but may be made to any individual, association, or corporation, provided that the timber is not to be exported from the Territory.

3. *Applications for purchase—Place to file—Contents.*—Applicants to purchase timber must file with the receiver of the United States land office for the district wherein the lands to be cut over are situated, applications in the form prescribed by the Commissioner of the General Land Office (Form 4-023). Blank forms may be obtained free of charge from the local United States land offices at Juneau, Fairbanks, and Nome, or from the special agents of the General Land Office or from the United States commissioners stationed in Alaska, or from the General Land Office, Washington, D. C. Every applicant should read carefully the printed statements and conditions in the application before attaching signature thereto, since he will be held responsible for subscribing to statements as true which he knows or ought to know to be untrue. Before executing an application, an applicant should, if in doubt, ascertain that the lands from which he desires to cut timber are subject to the provisions of

the act. The following information must be incorporated in every application in the blank spaces provided for the purpose:

(a) Name or names, post-office address, residence, and business occupation of the applicant or applicants who apply to purchase timber; (b) the amount in board feet, linear feet, or cord unit of measurement of timber it is desired to purchase; (c) the approximate area of the land on which the timber is located; (d) a description by legal subdivision, if surveyed, or by metes and bounds with reference to some permanent natural landmark, if unsurveyed, of the land from which the timber is desired to be cut; (e) the proposed use of the timber and the place where it is to be used; (f) the amount of money deposited with the application and the form; that is, whether in cash, certified check, or postal money order. Each application must be duly witnessed by two witnesses.

4. *Posting notice on the land.*—After transmitting his application to the receiver, the applicant shall, before commencing to cut the timber applied for, post a notice (Form 4-023c), which will be furnished with the application, in some conspicuous place on the land from which the timber is proposed to be cut, describing the land, and designating the amount and kind of timber that has been applied for and the date on or before which the cutting must be completed. The notice will become null and void unless the timber is cut and prepared for removal within one year from the date of the filing of the application. The application contains a statement to the effect that this requirement will be fulfilled, and neglect on the part of the applicant to fulfill it will be deemed a sufficient ground for revocation of the right to cut and remove any timber under the application. The description in the notice should be identical with the description in the application. This requirement has been adopted in order that others who may desire to file applications to purchase timber or to enter the lands may have notice that the timber has been sold.

5. *Minimum price for which timber will be sold—Payment.*—All timber will be sold hereunder at a reasonable stumpage value. The following rates have been fixed as the minimum rates for which the various kinds of timber will be sold: \$1 per 1,000 feet b. m. for Sitka spruce, hemlock, and red cedar; \$2.50 per 1,000 feet b. m. for yellow cedar; one-half cent per linear foot for piling 50 feet or less in length up to a top diameter of 7 inches; three-fourths cent per linear foot for piling between 50 and 80 feet in length up to a top diameter of 8 inches; 1 cent per linear foot for piling over 80 feet in length up to a top diameter of 8 inches; 50 cents per cord for shingle bolts and cooperage stock; 25 cents per cord for wood suitable only for fuel or mine lagging. A deposit in the sum of \$50, in cash, postal money order, or certified check, where the stumpage value, at the minimum rate, of the material applied for equals or exceeds that amount, or in a sum representing the full stumpage value, at the minimum rate, where such value is less than \$50, must be made as an evidence of good faith at the time that the application is filed. If a permit shall afterwards be issued, the deposit will be applied to the purchase price of the timber. If the issuance of a permit shall be denied and no timber shall have been cut under the application, the amount deposited by the applicant will be returned to him.

After an application is allowed the timber to be sold thereunder will be appraised by a special agent of the General Land Office, and after appraisal said special agent will collect the appraised amount in excess of the sum originally deposited in cash, postal money order, or certified check and give to the applicant a memorandum receipt for the payment, which receipt should be preserved by the applicant until he receives the receiver's official receipt therefor. The special agent will deposit all such moneys, postal money orders, or certified checks with the receiver of public moneys. Official receipts will be issued by the receiver for all payments made by applicants. All postal money orders must be made payable to the order of the receiver and must be drawn on the post office where the office of the receiver is located. Certified checks must be drawn in favor of the receiver on national or State banks or trust companies located in the same city as the depository with which the deposits are to be made, or upon such "out-of-town" banks, the certified checks of which can be cashed by the receiver without cost to the Government. Remittances tendered in any other form than the above-mentioned forms can not be accepted. Postal money orders and certified checks are not to be held as payment for timber until the same are converted into cash by the receiver.

6. *When cutting and removal may begin.*—As soon as the applicant has filed his application with the receiver, made the requisite initial deposit, and posted notice on the land, he may begin to cut and prepare for removal the timber applied for. As soon as practicable after the filing of an application, a field investigation and appraisal will be made by a special agent of the General Land Office. After such investigation and appraisal shall have been made, and after the applicant has paid to the special agent the excess stumpage value, over and above the sum originally deposited, where there is such excess, the special agent will issue a permit (Form 4-023 b), unless he finds that a permit ought not be issued, authorizing the applicant to remove the timber. If for any reason the special agent is unable to make the investigation and appraisal within 60 days after the filing of an application, he will, if he knows of no objection, issue a permit (Form 4-023 b), and the applicant may then remove the timber, provided that he shall first transmit to the receiver the excess stumpage value over and above the sum originally deposited, where there is such excess.

7. *Limitations upon rights acquired under permission to cut timber.*—The permission to cut shall not give the applicant the exclusive right to cut timber from the lands embraced in his application as against any person entitled to the free use of timber under the provisions of the act, unless the area described in the application is limited to 40 acres and, if the lands be unsurveyed, the boundaries thereof are blazed or otherwise marked by him sufficiently to be identified. The cutting of immature timber will not be permitted under these rules and regulations. The timber authorized to be cut under these rules and regulations must be cut and prepared for removal within one year from the date of the filing of the application. Sales of timber will not be authorized unless there is a necessity for the use of the timber within two years from the date of the authorization to cut.

8. *Limitations with reference to area.—Exceptions.*—Withdrawals have been made for various purposes from time to time within the Territory of Alaska, since its purchase by the United States. These rules and regulations are not applicable to the free use or purchase of timber upon such withdrawn areas, unless an exception be made in the order of withdrawal or it is evident from the spirit and intent of the withdrawal order that such exception was intended. By the act of March 4, 1915 (38 Stat., 1214), sections 16 and 36 in each township were granted to the Territory for school purposes and section 33 in each township in the Tanana Valley between parallels 64 and 65 north latitude, and between 145 and 152 degrees of west longitude, and sec. 6, T. 1 S., R. 1 W.; sec. 31, T. 1 N., R. 1 W.; sec. 1, T. 1 S., R. 2 W.; and sec. 36, T. 1 N., R. 2 W., Fairbanks meridian, were reserved in aid of the Territorial agricultural college and school of mines when established by the Territorial Legislature. The timber upon lands reserved for educational purposes will not be subject to disposition hereunder. Alaskan withdrawal No. 1, and Alaska town-sites withdrawals Nos. 1 to 9, inclusive, have been amended so as to permit of the use or purchase of timber within the area of those withdrawals and the executive orders establishing Alaskan timber reserve No. 1, pursuant to the act of March 12, 1914 (38 Stat., 305), expressly state that such timber as shall not be needed by the Alaskan engineering commission for the construction of Alaskan Government-owned railroads, may be disposed of by the Secretary of the Interior. Persons who desire to use or purchase timber on lands within Alaskan timber reserve No. 1, should first inquire of the Alaskan engineering commission, Seward, Alaska, as to whether or not the particular timber which they desire is needed by that commission, and in the event that said timber is not so needed, applications may be filed for the same in manner as hereinbefore provided. The information to be supplied by the applicant in the fulfillment of the requirement set forth in subdivision (d) section 3 of these rules and regulations should contain statements to the effect that the timber is upon lands within the timber reserve and that the engineering commission will consent to its removal. In such cases applications must be filed irrespective of whether the timber is to be procured under the free-use clause or under the purchase clause of the act.

9. *Indian and Eskimo claims and allotments.—Homestead and mining claims.*—All persons desiring to procure timber under these rules and regulations must ascertain whether or not the lands from which they desire to cut are embraced within any allotment approved to an Indian or Eskimo or within any pending application for such allotment, or are within the bona fide legal possession of or occupied by any Indian or Eskimo, and every timber application (Form 4-023) contains a statement to the effect that the lands described in the application are not within such areas, and said statement must be subscribed to by the applicant and be duly witnessed by two witnesses. The cutting of timber on existing homestead, mining, or other claims is not authorized by these rules and regulations, but when a homestead, mining, or other claim shall have been initiated subsequent to the date of the filing of an application hereunder and posting of notice, as required by paragraph 4, such homestead, mining, or other claimant must take the claim, subject to the right of the timber

applicant to cut and remove from the lands described in the application and notice the amount of timber purchased under the terms of the application.

10. *Free use of timber for Army posts and other governmental purposes.*—Persons contracting with Government officials to furnish firewood or timber for United States Army posts or for other authorized governmental purposes may procure such firewood or timber from the vacant unreserved public lands free of charge, provided that the contracts do not include any charge for the value of the firewood or timber. The filing of an application is not required, but it is advisable for contractors to file applications in order that future complications with reference to charge of trespass may be avoided; and when applications are filed, the terms of the contract agreement, the use to which the timber is to be put, and a statement to the effect that no charge is to be made for the stumpage value of the material should be incorporated therein.

11. *Pulp wood—Exportation authorized.*—The act of February 1, 1905 (33 Stat., 628), authorizes the exportation of pulp wood or wood pulp manufactured from timber in the District of Alaska. Sales of timber for manufacture into this kind of material will be made under these rules and regulations.

12. *Fire-killed and fire-damaged timber.*—The act of March 4, 1913 (37 Stat., 1015), provides for the sale of public timber which was killed or permanently or seriously damaged by forest fires which occurred prior to the date of passage of said act. This provision is applicable to the Territory of Alaska. Separate instructions have been promulgated and are contained in Circular No. 258 (42 L. D., 300). The disposition of this class of timber will also be made under these rules and regulations.

13. *Prevention against waste—Precaution against forest fires.*—The cutting of timber under these rules and regulations shall be done in such a manner as to prevent unnecessary waste. All trees shall be utilized to as low a diameter in the tops as possible, and stumps shall be cut as close to the ground as conditions will permit. All brush, tops, lops, and other forest débris made in felling and removing the timber shall be disposed of as best adapted to the protection of the remaining growth and in such manner as shall be prescribed by the special agent who has charge of the investigation. Every precaution shall be taken to prevent forest fires, and persons taking timber hereunder shall assist in suppressing such fires within the areas covered by their applications.

14. *Examination by special agents.*—At convenient times during cutting, or after any sale, the special agent will examine the lands cut over and submit a report or reports to the Commissioner of the General Land Office as to compliance with the terms of the sale, and if he finds that the cutting is being done in violation of the terms of sale he will immediately stop the cutting and report the matter for action. Special instructions have been issued for the guidance of the special agents who are to appraise timber and supervise its cutting and removal.

15. *Prior circular superseded.*—These rules and regulations supersede the rules and regulations of February 24, 1912, contained in Circular No. 85 (40 L. D., 477).

### GRANTS IN AID OF PUBLIC SCHOOLS.

By the act of March 4, 1915 (38 Stat., 1211), sections numbered 16 and 36 in every township, not known to be mineral in character at the date of acceptance of survey, on which no settlement has been made before the survey of the land in the field, and which have not been sold or otherwise appropriated by authority of Congress, are reserved for the support of the common schools in Alaska.

Section 33 in each township between parallels 61 and 65, north latitude, and between the one hundred and forty-fifth and one hundred and fifty-second degrees of west longitude, are reserved for the support of a territorial agricultural college and school of mines.

Where any of said sections are lost to the reservations mentioned, in whole or in part, because of prior settlement or sale, or other appropriation under an act of Congress, or where they are wanting or are fractional in quantity, indemnity lands may be designated and reserved in lieu thereof, as provided in the act of February 28, 1891 (26 Stat., 796). The regulations providing for such selections by the States will be followed in Alaska.

As soon as the survey of a township has been made and accepted, the chief of field division will cause investigation and report to be made as to the character of the land included in the reservation; and where a tract is reported by him as mineral, opportunity will be afforded the proper officers of the Territory to disprove such finding.

The Territory is authorized to provide by law for the leasing of said sections, it being stipulated, however, that no greater area than one section shall be leased to any person, association, or corporation, and that leases shall not be for longer periods than 10 years.

### MINING CLAIMS.

Instructions only relative to acts of Congress specially applicable to Alaska are included herein; for instructions under the general mining laws consult Circular No. 430, "United States Mining Laws and Regulations Thereunder," which may be had on application to the district land office or the General Land Office, Washington, D. C.

The laws of the United States relating to mining claims were extended to Alaska by section 8, act of May 17, 1884 (23 Stat., 24), providing a civil government for Alaska, in the following terms:

SEC. 8. That the said district of Alaska is hereby created a land district, and a United States land office for said district is hereby located at Sitka. The commissioner provided for by this act to reside at Sitka shall be ex officio register of said land office, and the clerk provided for by this act shall be ex officio receiver of public moneys, and the marshal provided for by this act shall be ex officio surveyor general of said district and the laws of the United States relating to mining claims, and the rights incident thereto shall, from and after the passage of this act, be in full force and effect in said district, under the administration thereof herein provided for, subject to such regulations as may be made by the Secretary of the Interior, approved by the President: *Provided*, That the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them, but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress: *And provided further*, That parties who have located mines or mineral privileges therein under the laws of the United States applicable to the public

domain, or who have occupied and improved or exercised acts of ownership over such claims, shall not be disturbed therein, but shall be allowed to perfect their title to such claims by payment as aforesaid: *And provided also*, That the land not exceeding six hundred and forty acres, at any station now occupied as missionary stations among the Indian tribes in said section, with the improvements thereon erected by or for such societies, shall be continued in the occupancy of the several religious societies to which said missionary stations respectively belong until action by Congress. But nothing contained in this act shall be construed to put in force in said district the general land laws of the United States.

Sections 15 and 26 in the act of June 6, 1900 (31 Stat., 321), making further provision for a civil government for Alaska, again, in specific terms, extended the mining laws of the United States, and all rights incident thereto to the Territory, with certain further provisions with respect to the acquisition of claims thereunder:

Sec. 15. The respective recorders shall, upon the payment of the fees for the same prescribed by the Attorney General, record separately, in large and well-bound separate books, in fair hand:

First. Deeds, grants, transfers, contracts to sell or convey real estate and mortgages of real estate, releases of mortgages, powers of attorney, leases which have been acknowledged or proved, mortgages upon personal property;

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Ninth. Affidavits of annual work done on mining claims;

Tenth. Notices of mining location and declaratory statements;

Eleventh. Such other writings as are required or permitted by law to be recorded, including the liens of mechanics, laborers, and others: *Provided*, Notices of location of mining claims shall be filed for record within ninety days from the date of the discovery of the claim described in the notice, and all instruments shall be recorded in the recording district in which the property or subject matter affected by the instrument is situated, and where the property or subject matter is not situated in any established recording district the instrument affecting the same shall be recorded in the office of the clerk of the division of the court having supervision over the recording division in which such property or subject matter is situated.

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\* \* \* *Provided*, Miners in any organized mining district may make rules and regulations governing the recording of notices of location of mining claims, water rights, flumes and ditches, mill sites, and affidavits of labor, not in conflict with this act or the general laws of the United States; and nothing in this act shall be construed so as to prevent the miners in any regularly organized mining district not within any recording district established by the court from electing their own mining recorder to act as such until a recorder therefor is appointed by the court: *Provided further*, All records heretofore regularly made by the United States commissioner at Dyea, Skagway, and the recorder at Douglas City, not in conflict with any records regularly made with the United States commissioner at Juneau, are hereby legalized. And all records heretofore made in good faith in any regularly organized mining district are hereby made public records, and the same shall be delivered to the recorder for the recording district, including such mining district within six months from the passage of this act.

\* \* \* \* \*

Sec. 26. The laws of the United States relating to mining claims, mineral locations, and rights incident thereto are hereby extended to the District of Alaska: *Provided*, That subject only to such general limitations as may be necessary to exempt navigation from artificial obstructions all land and shoal water between low and mean high tide on the shores, bays, and inlets of Bering Sea, within the jurisdiction of the United States, shall be subject to exploration and mining for gold and other precious metals by citizens of the United States, or persons who have legally declared their intentions to become such, under such reasonable rules and regulations as the miners in organized mining districts may have heretofore made or may hereafter make governing the temporary possession thereof for exploration and mining purposes until otherwise provided by law: *Provided further*, That the rules and regulations

established by the miners shall not be in conflict with the mining laws of the United States; and no exclusive permits shall be granted by the Secretary of War authorizing any person or persons, corporation, or company to excavate or mine under any of said waters below low tide, and if such exclusive permit has been granted it is hereby revoked and declared null and void; but citizens of the United States or persons who have legally declared their intention to become such shall have the right to dredge and mine for gold or other precious metals in said waters, below low tide, subject to such general rules and regulations as the Secretary of War may prescribe for the preservation of order and the protection of the interests of commerce; such rules and regulations shall not, however, deprive miners on the beach of the right hereby given to dump tailings into or pump from the sea opposite their claims, except where such dumping would actually obstruct navigation; and the reservation of a roadway sixty feet wide, under the tenth section of the act of May fourteenth, eighteen hundred and ninety-eight, entitled "An act extending the homestead laws and providing for right of way for railroads in the District of Alaska, and for other purposes," shall not apply to mineral lands or town sites.

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#### PLACER CLAIMS.

The act of August 1, 1912 (37 Stat., 242), modifies and amends the placer-mining law with respect to the location of such claims in the Territory as follows:

That no association placer-mining claim shall hereafter be located in Alaska in excess of forty acres, and on every placer-mining claim hereafter located in Alaska, and until a patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year, including the year of location, for each and every twenty acres or excess fraction thereof.

Sec. 2. That no person shall hereafter locate any placer-mining claim in Alaska as attorney for another unless he is duly authorized thereto by a power of attorney in writing, duly acknowledged and recorded in any recorder's office in the judicial division where the location is made. Any person so authorized may locate placer-mining claims for not more than two individuals or one association under such power of attorney, but no such agent or attorney shall be authorized or permitted to locate more than two placer-mining claims for any one principal or association during any calendar month, and no placer-mining claim shall hereafter be located in Alaska except under the limitations of this act.

Sec. 3. That no person shall hereafter locate, cause or procure to be located, for himself more than two placer-mining claims in any calendar month; *Provided*, That one or both of such locations may be included in an association claim.

Sec. 4. That no placer-mining claim hereafter located in Alaska shall be patented which shall contain a greater area than is fixed by law, nor which is longer than three times its greatest width.

Sec. 5. That any placer-mining claim attempted to be located in violation of this act shall be null and void, and the whole area thereof may be located by any qualified locator as if no such prior attempt had been made.

The provisions of this act will be administered in accordance with the following instructions:

It is important to note that this act applies exclusively to placer-mining claims located in Alaska on or after August 1, 1912. It does not in any manner relate to lode-mining claims, or placer-mining claims located prior to said date. The terms of the act lay strict limitations and conditions with respect to placer locations made upon or after said date.

Section 1 of the act provides that no association placer claim shall be located after August 1, 1912, in excess of 40 acres. This limitation is positive, whatever may be the number of persons associated



together or whatever the local district rules or regulations may permit.

Said section further provides that on every placer mining claim located in Alaska after the passage of the act, and until patent therefor has been issued, not less than \$100 worth of labor must be performed or improvements made during each year, including the year of location, for each and every 20 acres or excess fraction thereof included in the claim. This means that the *first* annual expenditure on such a placer-mining location must be accomplished for and during the calendar year in which the claim is located, instead of during the calendar year succeeding that in which the location is made. Moreover, the amount of annual expenditure is dependent upon the size of the claim, it being required that at least \$100 must be expended for each 20 acres or excess fraction thereof embraced in the location.

By section 2 it is provided that no person, as attorney or agent for another, may locate any placer-mining claim unless duly authorized by a power of attorney properly acknowledged and recorded in some recorder's office within the judicial division where the location is made. Furthermore, an authorized agent or attorney can act in making locations of placer-mining claims for only two individual principals or one associate principal during any calendar month, and during that period may not lawfully locate more than two claims for any one principal, either individual or association. No placer claim can lawfully be located except in compliance with and under the limitations of the act.

In order that the Land Department may be fully advised in the premises, the following requirements must be met with regard to applications for placer-mining claims located in Alaska on or after August 1, 1912:

(a) Where location is made by agent or attorney the power of attorney must be in writing and must be executed and acknowledged in accordance with the laws of the Territory of Alaska or of the State, Territory, or District in which it shall be executed. It must be recorded in the proper recorder's office as prescribed by the act. The application for patent must be accompanied by a certified copy of such power of attorney, which must show the recordation thereof, but it will be sufficient if such certified copy is attached to and made a part of the abstract of title.

(b) One of the principal purposes of the act is to limit the number of placer mining locations made in Alaska through agents or attorneys. An agent or attorney can not at one time represent more than *two individuals* or *one association* under powers of attorney. A duly authorized agent may make two locations for each of two individual principals, or for one association principal, during any calendar month, but he can make no further locations during that month for those or other principals.

The application for patent should accordingly be accompanied by the sworn statement of the agent or attorney setting forth specifically the names of all placer-mining claims, together with the date of location and names of the locators, which were located or attempted to be located by him under powers of attorney during the calendar month in which the placer claim applied for was located.

(c) By section 3 it is prescribed that no person shall directly locate, or through an agent or attorney cause or procure to be located, for himself more than two placer-mining claims in any calendar month, provided, however, that one or both of such locations may be included in an association claim.

Whenever a person or an association has participated in the locating of placer-mining claims in Alaska to the extent of two such claims in any calendar month, such person or such association thereby exhausts the right to make placer locations for that month. The application for patent, therefore, for a placer-mining claim located in Alaska on or after August 1, 1912, must contain or be accompanied by a specific statement, under oath, as to each locator who had an interest therein, showing specifically and in detail all placer locations made by him, or in which he was associated, either directly or through any agent or attorney, during the calendar month in which the claim applied for was located. If no locations in excess of those permitted by law were made during such calendar month, a specific statement, under oath, to that effect should be submitted. This showing must be made in addition to that hereinabove required of the agent himself.

Section 4 of the act prohibits the patenting of any placer mining claim located in Alaska after the passage of the act which contains a greater area than that fixed by law or which is longer than three times its greatest width. The surveyor general will be careful to observe the above requirements and will not approve any survey of a placer location which does not in area and dimensions conform to the provisions of law.

By section 5 of the act it is declared that any placer mining claim attempted to be located in violation of the provisions and limitations of the act shall be null and void and the whole area covered by such attempted location may be located by any qualified person the same as if no such prior attempted location had been made. Consequently, any attempted placer location not made in conformity with the act is a nullity, and the land covered thereby is open for and subject to proper location at any time.

It will be observed that the act does not affect the number of claims, lode or placer, and if placer whether located before or after the passage of the act, which may be included in a single application proceeding.

The law governing annual expenditures and improvements upon mining claims in Alaska is found in the act of March 2, 1907 (35 Stat., 1243), as follows:

That during each year and until patent has been issued therefor at least one hundred dollars' worth of labor shall be performed or improvements made on or for the benefit or development of, in accordance with existing law, each mining claim in the District of Alaska heretofore or hereafter located. And the locator or owner of such claim, or some other person having knowledge of the facts, may also make and file with the said recorder of the district in which the claims shall be situate an affidavit showing the performance of labor or making of improvements to the amount of one hundred dollars, as aforesaid, and specifying the character and extent of such work. Such affidavit shall set forth the following: First, the name or number of the mining claims and where situated; second, the number of days' work done and the character and value of the improvements placed thereon; third, the date of the performance of such labor and of making improvements; fourth, at whose instance the work was done or the improvements made; fifth, the actual amount paid

for work and improvement, and by whom paid when the same was not done by the owner. Such affidavit shall be prima facie evidence of the performance of such work or making of such improvements; but if such affidavits be not filed within the time fixed by this act the burden of proof shall be upon the claimant to establish the performance of such annual work and improvements. And upon failure of the locator or owner of any such claim to comply with the provisions of this act, as to performance of work and improvements, such claim shall become forfeited and open to location by others as if no location of the same had ever been made. The affidavits required hereby may be made before any officer authorized to administer oaths, and the provisions of sections fifty-three hundred and ninety-two and fifty-three hundred and ninety-three of the Revised Statutes are hereby extended to such affidavits. Said affidavits shall be filed not later than ninety days after the close of the year in which such work is performed.

SEC. 2. That the recorders for the several divisions or districts of Alaska shall collect the sum of one dollar and fifty cents as a fee for the filing, recording, and indexing said annual proofs of work and improvements for each claim so recorded.

#### NOTICE OF APPLICATION.

The notices of applications for patent for lands in Alaska are, in many cases, not sufficient to apprise adverse claimants and the public generally of the location of the land applied for, and therefore do not serve the purpose for which such notices are required; nor can the location of the land be ascertained from the application papers themselves and without obtaining information from other sources. This is due principally to the large area of unsurveyed land in the district and remoteness from centers of population of much of the country. In order to give a more definite description of the land applied for the following special instructions with reference to the Territory of Alaska are issued, which are supplemental to but do not change or modify existing regulations:

The field notes of survey of all claims within the Territory of Alaska, where the survey is not tied to a corner of the public survey, shall contain a description of the location or mineral monument to which the survey is tied, by giving its latitude and longitude, and its position with reference to rivers, creeks, mountains or mountain peaks, towns, or other prominent topographical points or natural objects or monuments, giving the distances and directions as nearly accurate as possible, especially with reference to any well-known trail to a town or mining camp, or to a river or mountain appearing on the map of Alaska, which description shall appear in the field notes regardless of whether or not the survey be tied to an existing monument, or to a monument established by the surveyor when making the survey in accordance with existing regulations with reference to the establishment of such monuments. The description of such monument shall appear in a paragraph separate from the description of the courses and distances of the survey.

All notices of applications for patent for lands in the Territory of Alaska, where the survey on which the application is based is not tied to a corner of the public survey, shall, in addition to the description required to be given by existing regulations, describe the monument to which the claim is tied by giving its latitude and longitude and a reference by approximate course and distance to a town, mining camp, river, creek, mountain, mountain peak, or other natural object appearing on the map of Alaska, and any other facts shown by the field notes of survey which shall aid in determining the

exact location of such claim without an examination of the record or a reference to other sources. The registers and receivers will exercise discretion in the matter of such descriptions in the published notices, bearing in mind the object to be attained, of so describing the land embraced in the claim as to enable its location to be ascertained from the notice of application.

#### PLATS OF SURVEY.

As to plats of survey of mining claims in the Territory of Alaska, the commissioner will have three photolithographic copies made upon drawing paper, two copies of which, with the original plat, will be forwarded to the surveyor general, the duplicate and triplicate to be signed by him, and the three plats to be filed and disposed of as follows: One plat and the original field notes to be retained in the office of the surveyor general; one plat and a copy of the field notes to be given the claimant, for filing with the proper register, to be finally transmitted by that officer, with other papers in the case, to this office, and one plat to be sent by the surveyor general to the register of the proper land district to be retained in his files for future reference. The commissioner will mail one photolithographic copy of the plat, made upon drawing paper, direct to the applicant for survey, or to his agent or attorney, when the application is made by agent or attorney, at his record address, to be used for posting on the land.

A certain number of photolithographic copies will be furnished the surveyor general for sale at a cost of 30 cents each, and a photolithographic copy printed on tracing paper will be furnished the surveyor general, from which blue prints may be made, to be sold at cost.

#### RATES FOR NEWSPAPER PUBLICATIONS.

Section 2334 provides for the appointment of surveyors to survey mining claims, and authorizes the Commissioner of the General Land Office to establish the rates to be charged for surveys and for newspaper publications in mining cases. Under this authority of law, the following rates have been established as the maximum charges for newspaper publications:

The charge for the publication of notice of application for patent in a mining case, in all districts, exclusive of Fairbanks, Alaska, shall not exceed the legal rates allowed by the laws of the State, wherein the notice is published, for the publication of legal notices, and in no case shall the charge exceed \$7 for each 10 lines of space occupied where publication is had in a daily newspaper, and where a weekly newspaper is used as a medium of publication \$5 shall be the maximum charge for the same space. Such charge shall be accepted as full payment for publication in each issue of the newspaper for the entire period required by law.

For such publications in the Fairbanks district the maximum rate is fixed at \$10 for each 10 lines of space in a daily newspaper for the required period, and at \$7 for the same space and time if publication be had in a weekly newspaper.

It is expected that these notices shall not be so abbreviated as to curtail the description essential to a perfect notice, and the said rates

are established upon the understanding that they are to be in the usual body type used for legal notices.

#### ABSTRACT.

In the Territory of Alaska the application for patent will be received and filed and the order for publication issued if the abstract showing full title in the applicant is brought down to a day reasonably near the date of the presentation of the application. A supplemental abstract of title brought down so as to include the date of the filing of the application must be furnished prior to the expiration of the 60-day period of publication.

#### SPECIAL AFFIDAVIT.

The register and receiver will require each person applying to enter or in any manner acquire title to any of the lands in Alaska, under any law of the United States, to file a corroborated affidavit to the effect that none of the lands covered by his application are embraced in any pending application for an allotment under the act of May 17, 1906 (34 Stat., 197), or in any pending allotment; that no part of said land was at the date of the location of the land claimed under the mining law occupied or claimed by any Indian, whose occupancy or claim existed on the date of the acts granting to natives of Alaska the right to hold land used, occupied, or claimed by them (acts of Congress of May 17, 1884, 23 Stat., 24, and June 6, 1900, 31 Stat., 330), and had been continued down to and including date of location; that such land is in the *bona fide* legal possession of the applicant; and that no part of such land is in the *bona fide* legal possession of or is occupied by any Indian or native.

#### ADVERSE CLAIMS.

The time within which adverse claims may be filed and suit instituted thereon is extended as to such claims in the Territory by the act of June 7, 1910 (36 Stat., 459), which provides:

That in the District of Alaska adverse claims authorized and provided for in sections twenty-three hundred and twenty-five and twenty-three hundred and twenty-six, United States Revised Statutes, may be filed at any time during the sixty days' period of publication or within eight months thereafter, and the adverse suits authorized and provided for in section twenty-three hundred and twenty-six, United States Revised Statutes, may be instituted at any time within sixty days after the filing of said claims in the local land office.

In the administration of this act the following instructions should be observed:

The act provides that adverse claims may be filed at any time during the 60-day period of publication or within 8 months thereafter. This provision applies to any application where the 60-day period of publication ended with or ends after June 7, 1910, and operates to enlarge by 8 months additional the time within which an adverse claim may be filed. This provision does not apply to any application under which the 60-day period of publication ended with or before June 6, 1910; for, if no adverse claim was seasonably filed in such case, the statutory assumption that none existed has

arisen, upon the expiration of the publication period, in favor of the applicant.

It is also provided by the act that adverse suits may be instituted at any time within 60 days after the filing of adverse claims in the local land office. This provision applies to any adverse claim under which the 30-day period fixed under the former law for commencing the adverse suit was running on or expired with June 7, 1910, and enlarges such time to a period of 60 days, and also to any adverse claim which is seasonably filed on or after June 7, 1910. Such provision has no operation in a case where, under the former law, the 30-day period within which to institute suit on an adverse claim expired with or ended before June 6, 1910, and the 60-day publication period also expired on or before June 6, 1910.

Registers and receivers of United States land offices in Alaska will exercise the greatest care in applying the provisions of the act, and will allow no mineral entry until after the expiration of the full period granted for the filing of adverse claims. For example, on any application under which the publication period ended with or after June 7, 1910, no entry will in any event be allowed until after the expiration of the eight-months' period following the publication period.

#### SURFACE ENTRIES OF MINERAL LANDS.

The act of June 22, 1910 (36 Stat., 583), providing for homestead entries of the surface of coal lands with a reservation of the coal to the United States, has not been extended to the Territory of Alaska; nor is the act of July 17, 1911 (38 Stat., 509), providing for agricultural entry of lands withdrawn, classified, or reported as containing phosphate, nitrate, potash, oil, gas, or asphaltic minerals, applicable to the public lands of Alaska.

#### OIL LANDS.

By order of the President dated November 3, 1910, all the public lands, and lands in national forests in the District (Territory) of Alaska, containing petroleum deposits were withdrawn from settlement, location, sale, or entry, and reserved for classification, and in aid of legislation affecting the use and disposal of petroleum lands belonging to the United States.

The order thus made remains in force and effect to the present time.

#### RIGHTS OF WAY FOR RAILROADS, WAGON ROADS, AND TRAMWAYS.

Sections 2 to 9, inclusive, of the act of May 14, 1898 (30 Stat., 409), relate to rights of way for railroads, wagon roads, and tramways in the District of Alaska. These sections provide:

Sec. 2. That the right of way through the lands of the United States in the district of Alaska is hereby granted to any railroad company, duly organized under the laws of any State or Territory or by the Congress of the United States, which may hereafter file for record with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the center line of said road; also the right to take from the lands of the United States adjacent

to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad; also the right to take for railroad uses, subject to the reservation of all minerals and coal therein, public lands adjacent to said right of way for station buildings, depots, machine shops, side tracks, turn-outs, water stations, and terminals, and other legitimate railroad purposes, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road, excepting at terminals and junction points, which may include additional forty acres, to be limited on navigable waters to eighty rods on the shore line, and with the right to use such additional ground as may in the opinion of the Secretary of the Interior be necessary where there are heavy cuts or fills: *Provided*, That nothing herein contained shall be so construed as to give to such railroad company, its lessees, grantees, or assigns the ownership or use of minerals, including coal, within the limits of its right of way, or of the lands hereby granted; *Provided further*, That all mining operations prosecuted or undertaken within the limits of such right of way or of the lands hereby granted shall, under rules and regulations to be prescribed by the Secretary of the Interior, be so conducted as not to injure or interfere with the property or operations of the road over its said lands or right of way. And when such railway shall connect with any navigable stream or tide water such company shall have power to construct and maintain necessary piers and wharves for connection with water transportation, subject to the supervision of the Secretary of the Treasury: *Provided*, That nothing in this act contained shall be construed as impairing in any degree the title of any State that may hereafter be erected out of said district, or any part thereof, to tide lands and beds of any of its navigable waters, or the right of such State to regulate the use thereof, nor the right of the United States to resume possession of such lands, it being declared that all such rights shall continue to be held by the United States in trust for the people of any State or States which may hereafter be erected out of said district. The term "navigable waters," as herein used, shall be held to include all tidal waters up to the line of ordinary high tide and all non-tidal waters navigable in fact up to the line of ordinary high-water mark. That all charges for the transportation of freight and passengers on railroads in the district of Alaska shall be printed and posted as required by section six of an act to regulate commerce as amended on March second, eighteen hundred and eighty-nine, and such rates shall be subject to revision and modification by the Secretary of the Interior.

Sec. 3. That any railroad company whose right of way, or whose track or roadbed upon such right of way, passes through any canyon, pass, or defile shall not prevent any other railroad company from the use and occupancy of said canyon, pass, or defile for the purposes of its road, in common with the road first located, or the crossing of other railroads at grade; and the location of such right of way through any canyon, pass, or defile shall not cause the disuse of any tramway, wagon road, or other public highway now located therein, nor prevent the location through the same of any such tramway, wagon road, or highway where such tramway, wagon road, or highway may be necessary for the public accommodation; and where any change in the location of such tramway, wagon road, or highway is necessary to permit the passage of such railroad through any canyon, pass, or defile, said railroad company shall, before entering upon the ground occupied by such tramway, wagon road, or highway, cause the same to be reconstructed at its own expense in the most favorable location, and in as perfect a manner as the original road or tramway: *Provided*, That such expenses shall be equitably divided between any number of railroad companies occupying and using the same canyon, pass, or defile, and that where the space is limited the United States district court shall require the road first constructed to allow any other railroad or tramway to pass over its track or tracks through such canyon, pass, or defile on such equitable basis as the said court may prescribe; and all shippers shall be entitled to equal accommodations as to the movement of their freight and without discrimination in favor of any person or corporation: *Provided*, That nothing herein shall be construed as depriving Congress of the right to regulate the charges for freight, passengers, and wharfage.

Sec. 4. That where any company, the right of way to which is hereby granted, shall in the course of construction find it necessary to pass over private lands or possessory claims on lands of the United States, condemnation of a right of way across the same may be made in accordance with section three of the act entitled "An act to amend an act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean,

and to secure to the Government the use of the same for postal, military, and other purposes, approved July first, eighteen hundred and sixty-two," approved July second, eighteen hundred and sixty-four: *Provided further*, That any such company, by filing with the Secretary of the Interior a preliminary actual survey and plat of its proposed route, shall have the right at any time within one year thereafter to file the map and profile of definite location provided for in this act, and such preliminary survey and plat shall, during the said period of one year from the time of filing the same, have the effect to render all the lands on which said preliminary survey and plat shall pass subject to such right of way.

Sec. 5. That any company desiring to secure the benefits of this act shall, within twelve months after filing the preliminary map of location of its road as hereinbefore prescribed, whether upon surveyed or unsurveyed lands, file with the register of the land office for the district where such land is located a map and profile of at least a twenty-mile section of its road or a profile of its entire road if less than twenty miles, as definitely fixed, and shall thereafter each year definitely locate and file a map of such location as aforesaid of not less than twenty miles additional of its line of road until the entire road has been thus definitely located, and upon approval thereof by the Secretary of the Interior the same shall be noted upon the records of said office and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way: *Provided*, That if any section of said road shall not be completed within one year after the definite location of said section so approved, or if the map of definite location be not filed within one year as herein required, or if the entire road shall not be completed within four years from the filing of the map of definite location, the rights herein granted shall be forfeited as to any such uncompleted section of said road, and thereupon shall revert to the United States without further action or declaration, the notation of such uncompleted section upon the records of the land office shall be canceled, and the reservations of such lands for the purposes of said right of way, stations, and terminals shall cease and become null and void without further action.

Sec. 6. That the Secretary of the Interior is hereby authorized to issue a permit, by instrument in writing, in conformity with and subject to the restrictions herein contained, unto any responsible person, company, or corporation, for a right of way over the public domain in said district, not to exceed one hundred feet in width, and ground for station and other necessary purposes, not to exceed five acres for each station for each five miles of road, to construct wagon roads and wire rope, aerial, or other tramways, and the privilege of taking all necessary material from the public domain in said district for the construction of said wagon roads or tramways, together with the right, subject to supervision and at rates to be approved by said Secretary, to levy and collect toll or freight and passenger charges on passengers, animals, freight, or vehicles passing over the same for a period not exceeding twenty years, and said Secretary is also authorized to sell to the owner or owners of any such wagon road or tramway, upon the completion thereof, not to exceed twenty acres of public land at each terminus at one dollar and twenty-five cents per acre, such lands when located at or near tide water not to extend more than forty rods in width along the shore line and the title thereto to be upon such expressed conditions as in his judgment may be necessary to protect the public interest, and all minerals, including coal, in such right of way or station grounds shall be reserved to the United States: *Provided*, That such lands may be located concurrently with the line of such road or tramway, and the plat of preliminary survey and the map of definite location shall be filed as in the case of railroads and subject to the same conditions and limitations: *Provided further*, That such rights of way and privileges shall only be enjoyed by or granted to citizens of the United States or companies or corporations organized under the laws of a State or Territory; and such rights and privileges shall be held subject to the right of Congress to alter, amend, repeal, or grant equal rights to others on contiguous or parallel routes. And no right to construct a wagon road on which toll may be collected shall be granted unless it shall first be made to appear to the satisfaction of the Secretary of the Interior that the public convenience requires the construction of such proposed road, and that the expense of making the same available and convenient for public travel will not be less on an average than five hundred dollars per mile: *Provided*, That if the proposed line of road in any case shall be located over any road or trail in common use for public travel, the Secretary of the Interior shall



decline to grant such right of way if, in his opinion, the interests of the public would be injuriously affected thereby. Nor shall any right to collect toll upon any wagon road in said district be granted or inure to any person, corporation, or company until it shall be made to appear to the satisfaction of said Secretary that at least an average of five hundred dollars per mile has been actually expended in constructing such road; and all persons are prohibited from collecting or attempting to collect toll over any wagon road in said district, unless such person or the company or person for whom he acts shall at the time and place the collection is made or attempted to be made possess written authority, signed by the Secretary of the Interior, authorizing the collection and specifying the rates of toll: *Provided*, That accurate printed copies of said written authority from the Secretary of the Interior, including toll, freight, and passenger charges thereby approved, shall be kept constantly and conspicuously posted at each station where toll is demanded or collected. And any person, corporation, or company collecting or attempting to collect toll without such written authority from the Secretary of the Interior, or failing to keep the same posted as herein required, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined for each offense not less than fifty dollars nor more than five hundred dollars, and in default of payment of such fine and costs of prosecution shall be imprisoned in jail not exceeding ninety days, or until such fine and costs of prosecution shall have been paid.

That any person, corporation, or company qualified to construct a wagon road or tramway under the provisions of this act that may heretofore have constructed not less than one mile of road, at a cost of not less than five hundred dollars per mile, or one-half mile of tramway at a cost of not less than five hundred dollars, shall have the prior right to apply for such right of way and for lands at stations and terminals and to obtain the same pursuant to the provisions of this act over and along the line hitherto constructed or actually being improved by the applicant, including wharves connected therewith. That if any party to whom license has been granted to construct such wagon road or tramway shall, for the period of one year, fail, neglect, or refuse to complete the same, the rights herein granted shall be forfeited as to any such uncompleted section of said wagon road or tramway, and thereupon shall revert to the United States without further action or declaration, the notation of such uncompleted section upon the records of the land office shall be canceled, and the reservations of such lands for the purposes of said right of way shall cease and become null and void without further action. And if such road or tramway shall not be kept in good condition for use, the Secretary of the Interior may prohibit the collection of toll thereon pending the making of necessary repairs.

That all mortgages executed by any company acquiring a right of way under this act, upon any portion of its road that may be constructed in said district of Alaska, shall be recorded with the Secretary of the Interior, and the record thereof shall be notice of their execution and shall be a lien upon all the rights and property of said company as therein expressed, and such mortgage shall also be recorded in the office of the secretary of the district of Alaska and in the office of the secretary of the State or Territory wherein such company is organized: *Provided*, That all lawful claims of laborers, contractors, subcontractors, or material men, for labor performed or material furnished in the construction of the railroad, tramway, or wagon road shall be a first lien thereon and take precedence of any mortgage or other lien.

SEC. 7. That this act shall not apply to any lands within the limits of any military, park, Indian, or other reservation unless such right of way shall be provided for by act of Congress.

SEC. 8. That Congress hereby reserves the right at any time to alter, amend, or repeal this act or any part thereof; and the right of way herein and hereby authorized shall not be assigned or transferred in any form whatever prior to the construction and completion of at least one-fourth of the proposed mileage of such railroad, wagon road, or tramway, as indicated by the map of definite location, except by mortgages or other liens that may be given or secured thereon to aid in the construction thereof: *Provided*, That where within ninety days after the approval of this act proof is made to the satisfaction of the Secretary of the Interior that actual surveys, evidenced by designated monuments, were made, and the line of a railroad, wagon road, or tramway located thereby, or that actual construction was commenced on the line of any railroad, wagon road, or tramway, prior to January twenty-first, eighteen hundred and ninety-eight, the rights to inure hereunder shall, if the terms of this act are

complied with as to such railroad, wagon road, or tramway, relate back to the date when such survey or construction was commenced; and in all conflicts relative to the right of way or other privilege of this act the person, company, or corporation having been first in time in actual survey or construction, as the case may be, shall be deemed first in right.

Sec. 9. That the map and profile of definite location of such railroad, wagon road, or tramway, to be filed as hereinbefore provided, shall, when the line passes over surveyed lands, indicate the location of the road by reference to section or other established survey corners, and where such line passes over unsurveyed lands the location thereon shall be indicated by courses and distances and by references to natural objects and permanent monuments in such manner that the location of the road may be readily determined by reference to descriptions given in connection with said profile map.

1. The grant made by these sections does not convey an estate in fee in the lands used for right of way or lands used for station and terminal facilities. The grant is merely of a right of use for the necessary and legitimate purposes of the roads, the fee remaining in the United States, except as to lands authorized to be sold under section 6 by the Secretary of the Interior, upon such expressed conditions as in his judgment may be necessary to protect the public interests. The nature of these conditions will depend upon the public necessities and will be governed by the particular circumstances of each case.

2. All persons entering public lands, to part of which a right of way has attached, take the same subject to such right of way, the latter being computed as a part of the area of the tract entered.

3. Whenever any right of way shall pass over private land or possessory claims on lands of the United States, condemnation of the right of way across the same may be made in accordance with the provisions of section 4.

#### INCORPORATED COMPANIES.

4. Any incorporated company desiring to obtain the benefits of these sections is required to file the following papers and maps:

*First.* A copy of its articles of incorporation duly certified to by the proper officer of the company under its corporate seal, or by the secretary of the State or Territory where organized.

*Second.* A copy of the State or Territorial law under which the company was organized, with the certificate of the governor or secretary of the State or Territory that the same is the existing law.

*Third.* When said law directs that the articles of association or other papers connected with the organization be filed with any State or Territorial officer, the certificate of such officer that the same have been filed according to law, with the date of the filing thereof.

*Fourth.* A certificate from the secretary of the District of Alaska showing that the company has complied with chapter 23, title 3, act of June 6, 1900 (31 Stat., 528), providing a civil code for the District of Alaska.

No forms are prescribed for the above portion of the proofs required, as each case must be governed to some extent by the laws of the State or Territory.

*Fifth.* The official statement, under seal of the proper officer, that the organization has been completed; that the company is fully authorized to proceed with the construction of the road according

to the existing law of the State or Territory where organized. (Form 1, Appendix.)

*Sixth.* A certificate by the president, under the seal of the company, showing the names and designations of its officers at the date of the filing of the proofs. (Form 2, p. 273.)

*Seventh.* If certified copies of the existing laws regarding such corporations, and of new laws as passed from time to time, be forwarded to this office by the governor or secretary of any State or Territory, a company organized in such State or Territory may file, in lieu of the requirements of the second subdivision of this paragraph, a certificate of the governor or secretary of the State or Territory that no change has been made since a given date, not later than that of the laws last forwarded.

*Eighth.* Maps, field notes, and other papers as hereinafter required.

#### INDIVIDUALS OR ASSOCIATIONS OF INDIVIDUALS.

5. Individuals or associations of individuals making applications for a permit, under section 6, for tramways or wagon roads, are required to file evidence of citizenship. In the case of associations an affidavit must be filed by the principal officer thereof, giving a list of the members, and stating that the list includes all the members. Evidence of citizenship must be furnished for each member of the association. Individuals and associations will also be required to file the maps, field notes, and other papers hereinafter required.

6. All maps and plats must be drawn on tracing linen, in duplicate, and must be strictly conformable to the field notes of the survey thereof, wherever such surveys have been made. The word profile as used in the act is understood to intend a map of alignment. No profile of grades will be required.

7. The maps should show any other road crossed or with which connection is made, and whenever possible the station number on the survey thereof at the point of intersection. All such intersecting roads must be represented in ink of a different color from that used for the line for which the applicant asks right of way. Field notes of the surveys should be written along the line on the map. If the map should be too much crowded to be easily read, then duplicate field notes should be filed separate from the map, and in such form that they may be folded for filing. In such case it will be necessary to place on the map only a sufficient number of station numbers to make it convenient to follow the field notes on the map. Station numbers should also be given on the map in all cases where changes of numbering occur and where known lines of survey, public or otherwise, are crossed, with distance to the nearest permanent monument or other mark on such line. The map must also show the lines of reference of initial, terminal, and intermediate points, with their courses and distances.

When the lines are located on surveyed land, the maps must show the 40-acre subdivisions; when on unsurveyed land, a meridian should be drawn on maps through initial and terminal points and at intervals of not more than 6 miles, intermediate points.

8. Typewritten field notes, with clear carbon copies, are preferred, as they expedite the examination of applications. All monuments

and other marks with which connections are made should be fully described, so that they may be easily found. The field notes must be so complete that the line may be retraced on the ground. On account of the conditions existing in Alaska, surveys based wholly on the magnetic needle will not be accepted. In that case a true meridian should be established, as accurately as possible, at the initial point. It should be permanently marked and fully described. The survey should be based thereon and checked by a meridian similarly fixed at the terminal point and, when the line is a long one, by intermediate meridians at proper intervals. On account of the rapid convergence of the meridians in these latitudes, such intermediate meridians should be established at such intervals as to avoid large discrepancies in bearings. It will probably be found preferable to run by transit deflections from a permanently established line, with frequent and readily recoverable reference lines permanently marked; and in such surveys occasional true bearings should be stated, at least approximately. On all lines of railroad the 10-mile sections should be indicated and numbered, and on maps of tramways and wagon roads the 5-mile sections shall likewise be indicated and numbered.

9. The maps, field notes, and accompanying papers should be filed in the local land office for the district where the proposed right of way is located.

10. Connections should be made with other surveys, public or private, whenever possible; also with mineral monuments and other known and established marks. When a sufficient number of such points are not available to make such connections at least every 6 miles, the surveyor must make connection with natural objects or permanent monuments.

11. Along the line of survey, at least once in every mile, permanent and easily recoverable monuments or marks must be set and connected therewith, in such positions that the construction of the road will not interfere with them. The locations thereof must be indicated on the maps. All reference points must be fully described in the field notes, so that they may be relocated, and the exact point used for reference indicated.

12. The termini of a line of road should be fixed by reference of course and distance to a permanent monument or other definite mark. The initial point of the survey and of station, terminal, and junction grounds should be similarly referred. The maps, field notes, engineer's affidavit, and applicant's certificate (Forms 3 and 4, p. 273) should each show these connections.

13. The engineer's affidavit and applicant's certificate must be written on the map, and must both designate by termini (as in the preceding paragraph) and length in miles and decimals the line of route for which right of way application is made. (See Forms 3 and 4.) Station, terminal, or junction grounds must be described by initial point (as in the preceding paragraph) and area in acres (see Forms 7 and 8, p. 274), when they are located on surveyed land, and the smallest legal subdivision in which they are located should be stated. No changes or additions are allowable in the substance of any forms, except when the essential facts differ from those assumed therein. When the applicant is an individual the word "applicant" should be used instead of "company," and such other changes made as are necessary on this account.

14. Where additional width is desired for railroad right of way on account of heavy cuts or fills, the additional right of way desired should be stated, the reason therefor fully shown, the limits of the additional right of way exactly designated, and any other information furnished that may be necessary to enable the Secretary of the Interior to consider the case before giving it his approval.

15. The preliminary map authorized by the proviso of section 4 will not be required to comply so strictly with the foregoing instructions as maps of definite location; but it is to be observed that they must be based upon an actual survey, and that the more fully they comply with these regulations the better they will serve their object, which is to indicate the lands to be crossed by the final line and to preserve the company's prior right until the approval of its maps of definite location. Unless the preliminary map and field notes are such that the line of survey can be retraced from them on the ground, they will be valueless for the purpose of preserving the company's rights. The preliminary map and field notes should be in duplicate, and should be filed in the local land office in order that proper notations may be made on the records as notice to intending settlers and subsequent applicants for the right of way.

16. The scale of maps showing the line of route should be 2,000 feet to an inch. The maps may, however, be drawn to a scale of 1,000 feet to an inch when necessary, or, in extreme cases, to 500 feet to an inch. No other scales must be used and should be so selected as to avoid making maps inconveniently large for handling. In most cases, by furnishing separate field notes, an increase of scale can be avoided. Plats of station, terminal, and junction grounds, etc., should be drawn on a scale of 500 feet to an inch, and must be filed separately from the line of route. Such plats should show enough of the line of route to indicate the position of the tract with reference thereto.

17. Plats of station, terminal, and junction grounds must be prepared in accordance with the directions for maps of lines of routes. Whenever they are located on or near navigable waters the shore line must be shown, and also the boundaries of any other railroad grounds or other claims located on or near navigable waters within a distance of 80 rods from any point of the tract applied for.

18. All applications for permits made under section 6 of this act should state whether it is proposed to collect toll on the proposed wagon road or tramway; and, in case of wagon roads, the application must be accompanied by satisfactory evidence, corroborated by an affidavit, tending to show that the public convenience requires the construction of the proposed road, and that the expense of making the same available and convenient for public travel will not be less, on an average, than \$500 per mile. In all cases, if the proposed line of road shall be located over any road or trail in common use for public travel, a satisfactory statement, corroborated by affidavit, must be submitted with the application, showing that the interests of the public will not be injuriously affected thereby.

19. When maps are filed the local officers will make such pencil notations on their records as will indicate the location of the proposed right of way as nearly as possible. They should note that the application is pending, giving the date of filing and name of applicant. They must also indorse on each map and other paper the date

of filing, over their written signature, transmitting them promptly to the General Land Office.

20. Upon the approval of a map of definite location or station plat by the Secretary of the Interior the duplicate copy will be sent to the local officers, who will make such notations of the approval on their records, in ink, as will indicate the location of the right of way as accurately as possible.

21. When the road is constructed, an affidavit of the engineer and certificate of the applicant (Forms 5 and 6, p. 271) should be filed in the local land office in duplicate for transmission to the General Land Office. In case of deviations from the map previously approved, whether before or after construction, there must be filed new maps and field notes in full, as herein provided, bearing proper forms, changed to agree with the facts in the case, and the location must be described in the forms as the *amended* survey and the *amended* definite location. In such cases the applicant must file a relinquishment, under seal, of all rights under the former approval as to the portions amended, said relinquishment to take effect when the map of amended definite location is approved by the Secretary of the Interior.

22. Unless the proper evidence of construction is filed within the time prescribed by the act for the construction of each section of the road, appropriate steps will be taken looking to the cancellation of the approval of the right of way and the notations thereof on the records.

#### CHARGES FOR TRANSPORTATION OF PASSENGERS AND FREIGHT.

23. In the case of a wagon road or tramway built under permit issued under section 6 of this act, upon which it is proposed to collect toll, a printed schedule of the rates for freight and passengers should also be filed with the Commissioner of the General Land Office for submission to the Secretary of the Interior for his consideration and approval at least 60 days before the road is to be opened to traffic, in order to allow a sufficient time for consideration, inasmuch as by section 6 it is made a misdemeanor to collect toll without written authority from the Secretary of the Interior. In the case of a wagon road satisfactory evidence, corroborated by affidavit, must be submitted with said schedule, showing that at least an average of \$500 per mile has been actually expended in constructing such road. These schedules must be submitted in duplicate, one copy of which, bearing the approval of the Secretary of the Interior, will be returned to the applicant if found satisfactory. Said schedules shall be plainly printed in large type.

#### FORMS FOR DUE PROOFS AND VERIFICATION OF MAPS OF RIGHT OF WAY FOR RAILROADS, TRAMWAYS, WAGON ROADS, ETC.

##### FORM 1.

I, \_\_\_\_\_, secretary (or president) of the \_\_\_\_\_ company, do hereby certify that the organization of said company has been completed; that the company is fully authorized to proceed with construction according to the existing laws of the State (or Territory) of \_\_\_\_\_; and that the copy of the articles of association (or incorporation) of the company filed in the Department







## FORM 8.

I, \_\_\_\_\_, do hereby certify that I am president of the \_\_\_\_\_ company; that \_\_\_\_\_, who subscribed the accompanying affidavit, is the chief engineer of (or was employed to make the survey by) the said company; that the survey of the tract described as follows: (here describe as in Form 7) an area of \_\_\_\_\_ acres, and no more, was made by him as chief engineer of (or as surveyor employed to make the survey by) the said company; that the said survey, as accurately represented on this map and by the accompanying field notes, was made under authority of the company; that the said survey, as represented on this map and by said field notes, was adopted by resolution of its board on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, as the definite location of said tract for (station, terminal, or junction grounds);<sup>a</sup> (that the company has occupied no other grounds for similar purposes upon public lands within the section of [5 or 10] miles, from the \_\_\_\_\_ mile to the \_\_\_\_\_ mile, for which this selection is made); that, in his belief, the said grounds are actually and to their entire extent required by the company for the necessary uses contemplated by the act of Congress approved May 14, 1898, entitled "An act extending the homestead laws and providing for right of way for railroads in the District of Alaska, and for other purposes"; that the said tract does not lie within 4 rods of the shore of any navigable waters except as shown on this map; and that, to the best of my knowledge and belief, there is no settlement or other claim along the shore of any navigable waters upon land within 80 rods of any point of this tract except as shown on this map.

\_\_\_\_\_  
President of the \_\_\_\_\_ Company.

Attest:  
[SEAL OF COMPANY.]

\_\_\_\_\_  
Secretary.

### RIGHTS OF WAY FOR RESERVOIRS, CANALS, POWER PLANTS, ETC.

There are no Federal statutes governing the appropriation of water or providing rights of way for reservoirs, canals, or power plants specifically applicable to Alaska.

The department has held that sections 2339 and 2340 of the Revised Statutes protecting priority of possession to the use of water for mining, agricultural, manufacturing, or other purposes, are not operative in Alaska except in so far as they relate to mining claims and the rights incident thereto.

If there had been any doubt as to the applicability of these sections to the Territory prior to the decision in the case of *United States v. Utah Power & Light Co.* (209 Fed. Rep., 554), all doubt seems to be now removed by that decision, which holds, in effect, that the provisions of the act of May 14, 1896 (29 Stat., 120), for right of way for electric power companies supersedes section 2339, so far, at least, as to cases arising since its passage. The reasoning in this case would seem to reach all other purposes of this section now covered by special acts requiring action on the part of the Secretary of the Interior in order to secure a right of way.

On the general applicability of right-of-way laws in the Territory, the Attorney General, responding to an inquiry whether it would be lawful to grant revocable licenses under the act of February 15, 1901 (31 Stat., 790), or easements under the act of March 4, 1911 (36 Stat., 1253), held, after a full review of all the statutes and departmental decisions thereon, and especially of the act of August 21, 1912 (37 Stat., 512), providing for the full organization of the Territory and the extension of all the laws of the United States to the Territory

<sup>a</sup> This clause to be omitted in applications for terminal or junction grounds.

not locally inapplicable, that such action was authorized, for the reason that said acts of Congress were now applicable to the public lands in Alaska.

By analogy it would appear that the provisions of sections 18 to 21, inclusive, of the act of March 3, 1891 (26 Stat., 1095), as amended by section 2 of the act of May 11, 1898 (30 Stat., 104), allowing rights of way to canal and ditch companies formed for purposes of irrigation, are also applicable to public lands in Alaska, and it has been so held since said opinion.

Section 4 of the act of February 1, 1905 (33 Stat., 628), granting rights of way for dams, reservoirs, water plants, ditches, flumes, pipes, tunnels, and canals within and across the forest reserves of the United States, applies to and is operative in forest reserves in the Territory.

The general instructions and regulations regarding various rights of way above referred to are found in departmental circulars relating to such rights in the United States.

#### SPECIAL RESERVATIONS.

##### 1. RESERVED SPACES ALONG NAVIGABLE WATERS.

In the act of March 3, 1903 (32 Stat., 1028), amending section 1, act of May 14, 1898 (30 Stat., 409), it is provided:

That no entry shall be allowed extending more than one hundred and sixty rods along the shore of any navigable water, and along such shore a space of at least eighty rods shall be reserved from entry between all such claims.

The reservation of spaces between claims along the shore of navigable waters, thus directed, is limited in operation to forms of entry for disposition made under said acts, to wit: Homestead entries, soldiers' additional entries or scrip locations, and entries for trade and business.

In administering said acts, in accordance with the instructions herein contained, no surveys will be approved, and no application, selection, filing, or location as above set out, will be allowed for such reserved areas, or to exceed the 160-rod restriction along the shore line as provided in the acts aforesaid.

To make effective the limitations of claims along the shore line and the reservation of 80 rods between all such claims, it is directed that where any claim is so located as to approach within 80 rods of the actual shore line, such claim will be considered as located on the shore for that purpose. Such constructive extension to the shore line of claims so located shall not work a reservation of the land in front of such claims and between them and the shore line, but such lands shall be open and subject to appropriation under and in accordance with any appropriate law, and between all such claims, or the constructive extension thereof, the reserve strip shall extend for a distance of 80 rods from the shore line.

The term "navigable waters" is defined by the act of May 14, 1898, supra--

\* \* \* to include all tidal waters up to the line of ordinary high tide and all nontidal waters navigable in fact up to the line of high-water mark.

This definition, however, is not taken as intending to include all nontidal waters that are in fact navigable, irrespective of their extent or suitability for transportation purposes, travel, etc., and such

factors will be considered in passing upon the question of the navigability of nontidal waters.

The limitations as to the 80-rod reserve strip along the shore line is, however, extended by the act of March 3, 1903, *supra*, to "along any navigable or *other waters*." It becomes necessary therefore to define what is included in the expression "other waters," and it is held that the phrase includes all waters of sufficient magnitude to require meandering under the manual of surveys, or which are used as a passageway or for spawning purposes by salmon or other sea-going fish.

Circular No. 247, approved July 7, 1913 (42 L. D., 213), is superseded hereby.

## 2. MEDICINAL SPRINGS RESERVE.

By Executive order of March 28, 1911, the following order of withdrawal was issued:

It is hereby ordered that the following lands be, and the same are hereby, withdrawn from settlement, location, sale, or entry and reserved for public purposes, to wit, to enable Congress to consider legislation providing for the use of medicinal springs in the public lands in the district of Alaska, subject to all the provisions, limitations, exceptions, and conditions contained in the act of Congress entitled "An act to authorize the President of the United States to make withdrawals of public lands in certain cases," approved June 25, 1910.

All tracts of public lands in the District of Alaska upon which hot springs or other springs the waters of which possess curative properties are located to the extent of 160 acres surrounding each spring in rectangular form, with side and end lines equidistant, as near as may be, from such spring or group of springs.

This order of withdrawal was modified January 24, 1914, by Executive order, as follows:

Under authority of the act of Congress entitled "An act to authorize the President of the United States to make withdrawals of public lands in certain cases," approved June 25, 1910 (36 Stat., 847), as amended by the act of August 24, 1912 (37 Stat., 497), it is hereby ordered that the Executive order dated March 28, 1911, withdrawing "all tracts of public lands in the District of Alaska upon which hot springs or other springs the waters of which possess curative medicinal properties are located to the extent of 160 acres surrounding each spring in rectangular form, with side and end lines equidistant, as near as may be, from such spring or group of springs," be revoked, so far as it applies to lands within national forests.

## 3. RIGHT OF WAY RESERVED FOR RAILROADS, TELEGRAPH, AND TELEPHONE LINES.

In the act of March 12, 1914 (38 Stat., 305), authorizing the President to locate, construct, and operate railroads in the Territory it was provided:

In all patents for lands hereafter taken up, entered, or located in the Territory of Alaska there shall be expressed that there is reserved to the United States a right of way for the construction of railroads, telegraph, and telephone lines to the extent of one hundred feet on either side of the center line of any such road and twenty-five feet on either side of the center line of any such telegraph or telephone lines.

## 4. ROADWAY ALONG SHORE LINE.

A provision is made in section 10 of the act of May 11, 1898 (30 Stat., 409), that—

A roadway 60 feet in width, parallel to the shore line as near as may be practicable, shall be reserved for the use of the public as a highway.

The phrase "shore line" as thus used means high-water line.

This reservation occurs in the proviso relating to the reservation between claims abutting on navigable waters; but since it is its purpose to reserve a roadway for public use as a highway along the shore line of navigable waters, it is held to relate to the lands entered or purchased under this act as well as to the reserved lands; otherwise, it would serve little or no purpose. This reservation will not, however, prevent the location and survey of a claim up to the shore line, for in such case the claim will be subject to this servitude and the area in the highway will be computed as a part of the area entered and purchased.

#### LANDING AND WHARF PERMITS ON RESERVED SHORE SPACES.

Section 10 of the act of May 14, 1898 (30 Stat., 409), reads in part as follows:

That there shall be reserved by the United States a space of 80 rods in width between tracts sold or entered under the provisions of this act on lands abutting on any navigable stream, inlet, gulf, bay, or seashore, and that the Secretary of the Interior may grant the use of such reserved lands abutting on the water front to any citizen or association of citizens, or to any corporation incorporated under the laws of the United States or under the laws of any State or Territory, for landings and wharves, with the provision that the public shall have access to and proper use of such wharves and landings, at reasonable rates of toll, to be prescribed by said Secretary, and a roadway 60 feet in width, parallel to the shore line as near as may be practicable, shall be reserved for the use of the public as a highway.

(1) Applications for landing and wharf privileges must be under oath, and should be addressed to the Secretary of the Interior and filed in the proper local land office for transmission to the General Land Office by special letter.

(2) Applications should describe the tracts desired by words and by a preliminary diagram showing their position in connection with adjoining surveys and water front and by courses and distances where not defined by prior surveys. There should be filed diagrams and specifications of the proposed wharves and landings, showing their position in connection with the roadway used by vessels, the width of the channel, and the various soundings. Maps and such other papers as may be necessary to fully show the situation must be furnished. All buildings proposed to be erected should be shown on the diagram accompanying the application, and there should be indicated their use and whether they are for public or private purposes.

In an application by an individual or association, the citizenship of the individual and of the members of the association must be shown.

In case of a corporation, a certified copy of the articles of incorporation, and evidence of organization must be furnished in the same manner as is required where corporations apply for rights of way for railroad purposes.

(3) The use of such land is limited to landings and wharves and all rates of toll to be paid by the public must be submitted for approval of the Secretary of the Interior. The application should be accompanied by a proposed schedule of public toll charges, and if such charges are found to be reasonable the schedule will be approved, subject, however, to revision as the public interests may thereafter require.

(4) If the application be allowed, the supervisor of surveys will instruct a United States surveyor to execute a survey and set permanent monuments to delineate the boundaries of the tract, and a permit will be issued granting the use of the land sought for landings and wharves, subject to the provisions and conditions prescribed by the statute, which permit will be revocable at the discretion of the Secretary of the Interior. The erection of wharves and piers in any port, roadstead, haven, harbor, canal, navigable river, or other water of the United States, outside of established harbor lines, or where no harbor lines have been established, must be in conformity with plans recommended by the Chief of Engineers and authorized by the Secretary of War; consequently such applications will be submitted to the War Department for approval, or such other action as that department may deem proper, before final action is taken in this department.

(5) Reserved spaces between claims upon navigable waters within existing national forests in Alaska are subject to the jurisdiction of the Secretary of Agriculture, pursuant to the act of February 1, 1905 (33 Stat., 628), and permits for the use of such spaces for landings and wharves must be obtained through that department.

#### CONTESTS.

Contests against entries of public lands in the Territory of Alaska may be initiated by private persons, or on the part of the Government, in the same manner as such proceedings are begun elsewhere in the United States.

The procedure in such cases will be governed by the Rules of Practice, copies of which may be obtained on application to the Commissioner of the General Land Office. The last revision of the Rules of Practice will be found in volume 44 of Land Decisions, beginning page 395.

Paragraph 4 of the instructions of May 21, 1908 (36 L. D. 433), relating to contests against homestead locations, provides as follows:

Homestead locations of lands in the District (Territory) of Alaska may be contested and canceled upon any ground which would warrant the cancellation of a homestead entry of land elsewhere, made under section 2289, R. S.; and contests of this character may be initiated at the proper United States land office by either the Government or any private person, and should be proceeded with in the same manner, and given the same effect as contests against homestead entries elsewhere.

Where a final decision has been rendered in a contest proceeding canceling a homestead location, the register will secure the notation of such judgment on the record of the location in the recording office.

#### ALASKAN RAILROAD TOWN-SITE REGULATIONS.

Under and pursuant to the provisions of the act of Congress approved March 12, 1914 (38 Stat., 305), entitled "An act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes," it is hereby ordered that the administration of that portion of said act relating to the withdrawal, location, and disposition of town sites shall be in accordance with the following regulations and provisions, to wit:

**REGULATIONS.****RESERVATIONS.**

The Alaskan Engineering Commission will file with the Secretary of the Interior, when deemed necessary, its recommendations for the reservation of such areas as in its opinion may be needed for town-site purposes. The Secretary of the Interior will thereupon transmit such recommendations to the President with his objections thereto or concurrence therewith. If approved by the President, the reservation will be made by Executive order.

**SURVEY.**

When in the opinion of the President the public interests require a survey of any such reservation, the Secretary of the Interior shall cause to be set aside such portions for railroad purposes as may be selected by the Alaskan Engineering Commission, and cause the remainder, or a part thereof, to be surveyed into urban or suburban blocks and lots of suitable size, and into reservations for parks, schools, and other public purposes and for Government use. Highways should be laid out, where practicable, along all shore lines, and sufficient land for docks and wharf purposes along such shore lines should be reserved in such places as there is any apparent necessity therefor. The plats of such survey will be prepared in triplicate, one for the General Land Office to be on tracing linen, one for the local land office, and one for the recorder of the proper recording district. The survey will be made under the supervision of the Commissioner of the General Land Office and the plats will be approved by him and by the chairman of the Alaskan Engineering Commission.

**PUBLIC SALE.**

The unreserved lots will be offered at public outcry to the highest bidder at such time and place, and after such publication of notice, if any, as the Secretary of the Interior may direct, and he may appoint or detail some suitable person as superintendent of sale to supervise the same and may fix his compensation and require him to give sufficient bond.

**SUPERINTENDENT'S AUTHORITY.**

Under the supervision of the Secretary of the Interior, the superintendent of the sale will be, and he is hereby, authorized to make all appraisements of lots and at any time to reappraise any lot which in his judgment is not appraised at the proper amount, or to fix a minimum price for any lot below which it may not be sold, and he may reject any and all bids for any lot and at any time suspend, adjourn, or postpone the sale of any lot or lots to such time and place as he may deem proper.

**MANNER.**

Bids may be made either in person or by agent, but not by mail nor at any time or place other than the time and place when the lots are offered for sale hereunder, and any person may purchase any

number of lots for which he is the highest bidder. Bidders will not be required to show any qualifications as to age, citizenship, or otherwise. If any successful bidder fails to make the payment and file the application and other papers at the time and in the manner hereinafter required, the lot awarded to him may be reoffered for sale, and his right thereto will be forfeited. Nothing herein will prevent the transfer by deed of the interests secured by the purchase and the partial payment for the lot, but the assignee will acquire no greater right than that of the original purchaser, and the final entry and patent will issue to the original purchaser when all payments are made.

#### TERMS.

No lot will be sold for less than \$25, and no bid exceeding that amount will be accepted unless made in multiples of \$5; the minimum of \$25 on each lot sold for less than \$75 must be paid in cash within the time hereinafter specified, and if the price bid is \$75 or more, one-third of the bid price must be paid in cash within said specified time; the remainder of the purchase price will be divided into five equal annual installments, payable in one, two, three, four, and five years, respectively, from the date of the register's certificate of sale, and no final certificate of entry will be issued until the expiration of said five years and until payment has been made in full for the lot, and no patent will be issued thereon during said period. The successful bidder will be given by the superintendent of sale a memorandum certificate for identification purposes, showing name and address of bidder, lot, and amount of bid, and the bidder must file it with the superintendent of sale before the close of the next succeeding sale day, or the next business day if bid is accepted on last sale day, together with his application to purchase the lot properly filled, signed, and acknowledged before any officer authorized to administer oaths and using an official seal, and accompanied by the cash payment required by these regulations, all on the forms attached hereto, respectively, and hereby approved and made a part of these regulations.

The superintendent of sale will issue a memorandum receipt to the bidder for the money paid, describing the lot purchased, and he will as soon thereafter as possible deposit with the receiver of the proper local land office the money received and file with its officers the papers deposited with him by said bidder, together with his certificate as to successful bidder. Thereupon, if no objection appears, the register will issue his certificate of sale in duplicate and transmit the duplicate copy to said bidder.

If it be deemed advisable, the Commissioner of the General Land Office may direct the receiver of public moneys of the proper district to attend sales herein provided for, in which event the cash payment required shall be paid to said receiver, who will issue his official receipt therefor in lieu of the memorandum receipt of the superintendent of sale.

#### CONDITIONS AND FORFEITURES.

If any lot or lots sold or any part thereof shall be used for the purpose of manufacturing, selling, or otherwise disposing of intoxicating liquors as a beverage, or for gambling, prostitution, or any unlawful purpose before final payment is made and during a period of

five years from the date of register's certificate of sale, or if the purchaser shall fail during said period to comply with any and all regulations and requirements which the Secretary of the Interior, in his discretion, may make or authorize to be made for the improvement of streets, sidewalks, and alleys, promotion of sanitation and fire protection in the town site, all rights of the applicant under his purchase of said lot or lots shall terminate and a forfeiture thereof and of the payments theretofore made thereon may be declared by the Secretary of the Interior, and his finding of fact thereon shall be final. If any person who has made partial payment on the lot purchased by him fails to make any succeeding payment required under these regulations at the date such payment becomes due, the money deposited by such person for such lot will be forfeited, and the lot, after forfeiture is declared, will be subject to disposition as provided herein. Lots remaining unsold at the close of sale, or thereafter declared forfeited for nonpayment of any part of the purchase price under the terms of the sale, will be subject to future disposition at public sale at such time and place as may thereafter be provided.

## WARNING.

All persons are warned against forming any combination or agreement which will prevent any lot from selling advantageously, or which will in any way hinder or embarrass the sale, and all persons so offending will be prosecuted under section 2373 of the Revised Statutes of the United States, which reads as follows:

Every person who, before or at the time of the public sale of any of the lands of the United States, bargains, contracts, or agrees, or attempts to bargain, contract, or agree, with any other person, that the last-named person shall not bid upon or purchase the land so offered for sale, or any parcel thereof, or who by intimidation or unfair management hinders or prevents, or attempts to hinder or prevent, any person from bidding upon or purchasing any tract of land so offered for sale, shall be fined not more than one thousand dollars or imprisoned not more than two years or both.

THE WHITE HOUSE,  
19 June, 1915.

WOODROW WILSON.

Serial No. \_\_\_\_\_

Receipt No. \_\_\_\_\_

Application to purchase town lot.

[To be executed in duplicate.]

DEPARTMENT OF THE INTERIOR,

UNITED STATES LAND OFFICE,

\_\_\_\_\_, Alaska.

I, \_\_\_\_\_, post-office address \_\_\_\_\_, having been declared the successful bidder for Lot No. \_\_\_\_\_ Block No. \_\_\_\_\_ in the town site of \_\_\_\_\_, Alaska, as delineated and designated on the approved plat thereof, containing \_\_\_\_\_ square feet, do hereby apply to purchase said lot, subject to all the regulations governing the sale thereof, and agree to pay therefor the amount bid by me, viz: \_\_\_\_\_ dollars (\$ \_\_\_\_\_), on the following terms, to wit: one-third cash, which is tendered herewith, and the balance in five equal annual installments, payable in one, two, three, four, and five years, respectively, from the date register's certificate of sale issues hereunder; upon failure to pay any installment on or before the day the same becomes due, all



rights under this application, together with the payments theretofore made, may be forfeited by the Secretary of the Interior.

I further agree that if the said lot, or any part thereof, shall be used for the purpose of manufacturing, selling, or otherwise disposing of intoxicating liquors as a beverage, or for gambling, prostitution, or any unlawful purpose, at any time during a period of five years from the date of register's certificate of sale, and prior to the issuance of certificate of final entry, or if, at any time during said period, I, or my successors in interest under this application, shall fail to comply with any regulation or requirement which the Secretary of the Interior, in his discretion, shall make or authorize to be made, for the improvement of streets, sidewalks, and alleys, promotion of sanitation, and fire protection within said town site, then all rights under this application shall terminate and a forfeiture thereof, together with the payments theretofore made, may be declared by the Secretary of the Interior, whose finding of fact shall be final.

-----  
(Sign here, full Christian name.)

I hereby certify that the foregoing application and agreement was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_.

-----  
(Official designation of officer.)

(NOTE.—No sum less than twenty-five dollars (\$25.00) will be received as the first cash payment, and if one-third the amount bid is less than that sum, proper modification should be made in the above terms of sale relating to payment.)

-----  
*Certificate as to successful bidder.*

-----, Alaska.

-----, 19\_\_\_\_.

This is to certify that \_\_\_\_\_, post-office address \_\_\_\_\_, has been declared the successful bidder for Lot No. \_\_\_\_\_, Block No. \_\_\_\_\_, in the town site of \_\_\_\_\_, Alaska, and is entitled to purchase said lot. The amount of his bid was \_\_\_\_\_ dollars (\$\_\_\_\_\_), on which there has been paid to the undersigned to apply as cash payment the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_).

-----  
*Superintendent of Sale.*

-----  
*Register's certificate of sale.*

U. S. Land Office, \_\_\_\_\_, Alaska.

-----, 19\_\_\_\_.

I hereby certify that the foregoing application has this day been allowed subject to the terms, conditions, and agreements therein set forth.

-----  
*Register.*

(NOTE.—After application has been allowed, the duplicate copy thereof should be transmitted to the applicant.)

-----  
*Memorandum certificate to successful bidder.*

-----, Alaska.

-----, 19\_\_\_\_.

This is to certify that \_\_\_\_\_, post-office address \_\_\_\_\_, has been declared the successful bidder for Lot No. \_\_\_\_\_, Block No. \_\_\_\_\_, in the town site of \_\_\_\_\_, Alaska, and is entitled to purchase said lot. The amount of his bid was \_\_\_\_\_ dollars (\$\_\_\_\_\_).

-----  
*Superintendent of Sale.*

NOTE TO BIDDER.—This memorandum certificate must be surrendered to the superintendent of sale before the close of the next succeeding sale day, or the next business day if bid accepted on the last sale day, together with application to purchase the lot described, accompanied by the cash payment required by the regulations governing the sale, or all rights under the bid will be forfeited.

**FORFEITURE OF LOTS UNDER ALASKAN RAILROAD TOWN-SITE REGULATIONS—PROCEDURE.**

INSTRUCTIONS OF FEBRUARY 16, 1916.

The following procedure for the forfeiture of lots under the Alaskan Railroad town-site regulations, Executive order approved June 19, 1915, is adopted, to become effective immediately:

1. The purpose hereof is to secure prompt action in cases where there has been any alleged violation of said regulations, or failure to comply with the terms thereof, or of any and all regulations or requirements which the Secretary of the Interior may make, or authorize to be made, pursuant to said Executive order, and to allow the lot purchaser or other party in interest an opportunity to file a denial of the charges against his claim and be heard thereon.

2. Whenever the Chief of the Alaskan Field Division is of the opinion that proceedings to forfeit any lot are warranted, he will prepare a notice of charges, which will be made over his signature as Chief of Field Division, but not under oath or corroborated, in which shall be plainly and briefly stated the grounds upon which the charges are based.

3. The notice must be written or printed and must contain the number of the lot and block and the name of the purchaser or other known party in interest, and shall be prepared in triplicate; the original shall be served as hereinafter directed; one copy shall be forwarded to the register and receiver, who will note the same upon their records and forward it to the Commissioner of the General Land Office, who will promptly cause proper notation to be made upon his records, and no patent or other evidence of title shall issue until and unless the case is closed in favor of the claimant; the third copy shall be retained by the Chief of Field Division for his records.

4. The notice must also state that the charges will be taken as confessed (a) unless the purchaser or claimant files with the Chief of Field Division, within 20 days from the receipt of notice, a written denial, under oath, of said charges, with an application for a hearing, (b) or if he fails to appear at any hearing that may be ordered in the case.

5. The original notice of the charges may in all cases be served personally upon the proper party by any person over the age of 18 years, or by registered letter mailed to the last address of the party to be notified, as shown by the record, and to the post office nearest to the land. Proof of personal service shall be the written acknowledgement of the person served, or the affidavit of the person who served the notice showing personal delivery thereof to the party served and stating the time and place of such delivery. Proof of service of notice by registered mail shall consist of the affidavit of the person who mailed the notice attached to the post-office registry return receipt or the returned unclaimed registered letter. Where service of notice is made by an employee of the Government under oath of office, his certificate will be sufficient in lieu of the affidavit otherwise required.

6. If the charges are denied and a hearing asked for, the register and receiver of the proper land district, upon request of the Chief of Field Division, will fix a date and place for a preliminary hear-

ing before any United States commissioner, notary public, judge, or clerk of a court of record, due notice of which must be given the party or parties in interest. Such notice must also designate a date for final hearing before the register and receiver, after which neither the Government nor the defendant may take any testimony except upon proper showing under the rules governing continuances, or upon written stipulation filed in the case. The notice may be served either by securing personal service upon the parties in interest or by registered mail. A copy of said notice shall be sent by ordinary mail to the Commissioner of the General Land Office.

7. The Chief of Field Division will duly submit to the Commissioner of the General Land Office, upon proper form provided therefor, an estimate of the probable expense required on behalf of the Government. He will also cause to be served subpoenas upon the Government witnesses, and take such other steps as are necessary to prepare the case for hearing.

8. The Chief of Field Division, or any special agent who may be designated by him, must appear with his witnesses on the date and at the place fixed for the hearing unless there is reason to believe that no appearance by or for the defendant will be made, in which event no appearance on behalf of the Government is required.

9. If the party or parties in interest fail to deny the charges under oath and apply for a hearing, or fail to appear at the hearing ordered without showing good cause therefor, such failure will be taken as an admission of the truth of the charges and will obviate any necessity for the Government to submit evidence in support thereof. In the event of default in denying the charges and applying for a hearing, the Chief of Field Division will forthwith report the case to the Commissioner of the General Land Office, with his recommendation thereon, and notify the parties in interest by registered mail of the action taken; if denial is made and hearing applied for, but defendant or defendants fail to appear at the hearing and fail to show good cause for such failure to appear, the register and receiver will forthwith report the case to the commissioner, with their recommendation thereon, and notify the parties of such action by registered mail.

10. Upon the day set for the hearing and the day to which it may be continued the testimony of the witnesses for either party may be submitted, and both parties, if present, may examine and cross-examine the witnesses, under the rules, the Government to assume the burden of proving the charges.

11. After the hearing, if one is had, but not sooner than the day succeeding that named for final hearing, the register and receiver will promptly forward the record to the Commissioner of the General Land Office, with their recommendation in the matter, and will notify all parties in interest of their action by ordinary mail.

12. Depositions may be taken on behalf of either party before any officer authorized to administer oaths, after first giving 10 days' written notice to the opposite party, or they may be taken by stipulation, as provided by Rule 27 of the Rules of Practice.

13. Decision will be rendered by the Secretary of the Interior in cases governed by these regulations, and will be final and close the case. Such decision may be rendered at any time after the expira-

tion of 30 days from the date the record in the case is received by the Commissioner of the General Land Office. Motions or briefs must be filed with the Commissioner of the General Land Office.

14. Where any lot purchaser or joint purchaser, or, in case he has parted with his rights or any interest therein, his successor in interest as transferee, assignee, lessee, permittee, tenant, agent, or under any form of authorization whatsoever, whether express or implied, or any such successor in interest while invested with such interest, has been or shall be duly convicted under the penal statutes of Alaska of an offense which constitutes a violation of the Alaskan Railroad town-site regulations, the Secretary of the Interior may, in his discretion, waive all the provisions of these regulations and, without notice, declare a forfeiture of the lot involved. In such cases the right of any person to be heard by virtue of any transfer or assignment of interest after information or indictment duly presented will not be recognized.

15. The Rules of Practice, where not in conflict herewith, will be applicable to proceedings under these regulations. Notices to which the lot purchaser is entitled will be served upon persons having an interest in the lot, provided a notice of such interest has been filed in the district land office as required by rule 98 of the Rules of Practice.

16. The Alaskan Engineering Commission will make all needful rules and regulations covering the period prescribed by the town-site regulations for the improvement of streets, sidewalks, and alleys, the promotion of sanitation and fire protection or other municipal improvements, and said commission is further authorized to levy and collect such assessments as may be necessary in the premises. If any claimant shall fail to comply with such regulations and requirements, or to pay any and all assessments when due, all the facts in each case shall be reported to the Chief of Field Division, who will then proceed in accordance with the instructions contained herein.

#### COAL-LAND LAWS.

By the act of October 20, 1914 (38 Stat., 741), "to provide for the leasing of coal lands in the Territory of Alaska," it was provided in section 15 thereof that after the approval of the act no lands in Alaska containing deposits of coal, withdrawn from entry or sale, should be disposed of or acquired in any manner, except as provided in the act, protecting, however, all claims pending before the department under existing law.

By Executive orders of November 12, 1906, and July 1, 1910, all lands in Alaska were withdrawn from entry, location, or filing under the coal-land laws, and from location, sale or entry, and reserved for classification and in aid of legislation affecting the use and disposal of coal deposits. This provision, therefore, in section 15 of the leasing act, operates to exclude all lands in the Territory from sale or entry under the coal-land laws, and said laws are in effect repealed as to coal lands in Alaska.

Under date of May 18, 1916, the Secretary of the Interior announced the opening of coal lands for leasing in the Bering River and Matanuska coal fields. The announcement is accompanied with full regulations as to the manner of securing a lease or permit for mining coal in Alaska, together with a copy of the law and the proposed form of the lease.