

nating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### TRANSFER OF FUNCTIONS

“Such officer as the Secretary of the Interior may designate” substituted in text for “register” on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land office to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

#### § 942-6. Rights of way for Alaskan wagon roads, wire rope, aerial, or other tramways; reservations; filing preliminary survey and map of location; alteration, amendment, repeal, or grant of equal rights; forfeiture of rights; reversion of grant; liens

The Secretary of the Interior is 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 Alaska, 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 such 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 \$1.25 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 \$500 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 Alaska 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 \$500 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 Alaska, 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 \$50 nor more than \$500, 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.

Any person, corporation, or company qualified to construct a wagon road or tramway under the provisions of this section that may prior to May 14, 1898, have constructed not less than one mile of road, at a cost of not less than \$500 per mile, or one-half mile of tramway at a cost of not less than \$500, 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 section over and along the line hitherto constructed or actually being improved by the applicant, including wharves connected therewith. 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 cancelled, 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.

All mortgages executed by any company acquiring a right of way under sections 687a, 687a-2 to 687a-5,<sup>1</sup> and 942-1 to 942-9 of this title and sec-

<sup>1</sup> See References in Text note below.

tions 607a and 615a of title 16, upon any portion of its road that may be constructed in 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 Territory of Alaska and in the office of the secretary of the State or Territory wherein such company is organized. All lawful claims of laborers, contractors, subcontractors, or materialmen, 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.

(May 14, 1898, ch. 299, § 6, 30 Stat. 411.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

#### REFERENCES IN TEXT

Sections 687a and 687a-2 to 687a-5 of this title, referred to in third par., were repealed by Pub. L. 94-579, title VII, §§ 703(a), 704(a), Oct. 21, 1976, 90 Stat. 2789, 2792.

#### CODIFICATION

Section was formerly classified to section 416 of Title 48, Territories and Insular Possessions.

#### SAVINGS PROVISION

Repeal by Pub. L. 94-579 insofar as applicable to the issuance of rights-of-way not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 399, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

#### § 942-7. Military park, Indian or other reservation

Sections 687a, 687a-2 to 687a-5,<sup>1</sup> and 942-1 to 942-9 of this title and sections 607a and 615a of title 16 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.

(May 14, 1898, ch. 299, § 7, 30 Stat. 412.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

#### REFERENCES IN TEXT

Sections 687a and 687a-2 to 687a-5 of this title, referred to in text, were repealed by Pub. L. 94-579, title VII, §§ 703(a), 704(a), Oct. 21, 1976, 90 Stat. 2789, 2792.

<sup>1</sup> See References in Text note below.

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#### § 942-8. Reservation of right of alteration, amendment, or repeal; assignment of right of way

Congress reserves the right at any time to alter, amend, or repeal sections 687a, 687a-2 to 687a-5,<sup>1</sup> and 942-1 to 942-9 of this title and sections 607a and 615a of title 16 or any part thereof; and the right of way herein 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 May 14, 1898, 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 21, 1898, the rights to inure hereunder shall, if the terms of said sections 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 said sections 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.

(May 14, 1898, ch. 299, § 8, 30 Stat. 412.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

#### REFERENCES IN TEXT

Sections 687a and 687a-2 to 687a-5 of this title, referred to in text, were repealed by Pub. L. 94-579, title VII, §§ 703(a), 704(a), Oct. 21, 1976, 90 Stat. 2789, 2792.

#### CODIFICATION

Section was formerly classified to section 418 of Title 48, Territories and Insular Possessions.

#### SAVINGS PROVISION

Repeal by Pub. L. 94-579 insofar as applicable to the issuance of rights-of-way not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

<sup>1</sup> See References in Text note below.