

1983 State v. Alaska Land Title

Footnote supporting 1963 Title 19 law establishing 100' width for highways.

"Notwithstanding that section 2477 of the Revised Statutes (43 U.S.C. 932) does not fix the width of the rights-of-way granted by it, the width when fixed by a positive act of the proper State or Territorial authorities has been held valid. *Costain v. Turner*, S.D. (1949) 72 S.D. 427, 36 N.W.2d 382; *Butte v. Mikosowitz* (1909) 39 Mont. 350, 102 P. 593. In both cases, the width fixed included an area in excess of the beaten path or track. The reasons which sustain the conclusion reached in those cases support the conclusion that in the case of public highways in Alaska constructed or maintained under the jurisdiction of the Secretary of the Interior, the width of the highways may be fixed by that official."

"Prior to the issuance of Public Land Order No. 601..., nearly all public roads in Alaska were protected only by easements. Right-of-way easements were acquired under section 2477 of the Revised Statutes (43 U.S.C. sec. 932) by the construction of roads. This section granted a right-of-way for the construction of highways over public lands not reserved for public uses."