

Crosby, Sup. Ct. Op. No. 322 (File No. 584), 410 P.2d 724 (1966).

**Improvements to right of way reserved in patent.** — While the original reservation of a right-of-way and election provided for in former § 41-1-4 ACLA 1949 was without limitation as to initial choice on the part of either the federal government or Alaska, once the right-of-way has been selected and defined, later improvements necessitating the utilization of land upon which the road is not already located can only be accomplished pursuant to the condemnation and compensation provisions of this article. *Hillstrand v. Alaska*, 181 F. Supp. 219 (D. Alas.), petition for interlocutory review denied, 352 P.2d 633 (1960).

**Sec. 09.55.265. Taking of property under reservation void.** After April 14, 1966, no agency of the state may take privately-owned property by the election or exercise of a reservation to the state acquired under the Act of June 30, 1932, ch. 320, sec. 5, as added July 24, 1947, ch. 313, 61 Stat. 418, and taking of property after April 14, 1966 by the election or exercise of a reservation to the state under that federal Act is void. (§ 2 ch 92 SLA 1966)

**Cross references.** — For legislative intent, see § 1, ch 92, SLA 1966, in the Temporary and Special Acts. ch. 320, § 5, formerly codified as 48 U.S.C. 321d, was repealed by P.L.86-70, § 21(d)(7).

**Editor's notes.** — Act of June 30, 1932,

#### NOTES TO DECISIONS

**When statute applies.** — The Right-of-Way Act of 1966 (AS 09.55.266 and this section) applies only to rights-of-way acquired under 48 U.S.C. § 321d reservations. State v. Alaska Land Title Ass'n, Sup. Ct. Op. No. 2681 (File Nos. 5407, 5408), P.2d (1983).

**When statute does not apply.** — The Right-of-Way Act of 1966 (AS 09.55.266 and this section) applies only to interests taken by the state under a blanket reservation created pursuant to 48 U.S.C. § 321d; it does not apply to easements established under the authority of § 321a. State v. Alaska Land Title Ass'n, Sup. Ct. Op. No. 2681 (File Nos. 5407, 5408), P.2d (1983).

48 U.S.C. § 321d does not apply to patents issued under the Small Tract Act of 1938, 43 U.S.C. §§ 682a-682(e) (now repealed). State v. Alaska Land Title Ass'n, Sup. Ct. Op. No. 2681 (File Nos. 5407, 5408), P.2d (1983).

The Right-of-Way Act of 1966 does not apply to rights-of-way created by a public land order issued pursuant to an executive order under which the President of the United States delegated his statutory authority to the Secretary of the Interior authorizing withdrawal of public lands in Alaska for specified public purposes. State v. Alaska Land Title Ass'n, Sup. Ct. Op. No. 2681 (File Nos. 5407, 5408), P.2d (1983).

**Sec. 09.55.266. Existing rights not affected.** AS 09.55.265 shall not be construed to divest the state of, or to require compensation by the state for, any right-of-way or other interest in real property which was taken by the state, before April 14, 1966, by the election or exercise of its right to take property through a reservation acquired under the Act of June 30, 1932, ch. 320, sec. 5, as added July 24, 1947, ch. 313, 61 Stat. 418. (§ 3 ch 92 SLA 1966)

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