

**LDIR#007**

**EMINENT**

**DOMAIN**

**PART VIII**



STATE OF ALASKA  
DEPARTMENT OF LAW  
Box 2170  
JUNEAU

June 10, 1960

MEMORANDUM

TO: Bill Foster, Deputy Director, Legislative Council  
FROM: Gary Thurlow, Deputy Attorney General  
RE: Senate Bill 195

It never rains but it pours! Here are six copies of a memo on Senate Bill 195.

When the Senate Judiciary Committee considered this bill they were interested in making certain changes. Before they were able to go through the bill, they concluded that it was too late in the session to formulate any major legislation in this area and accordingly a stopgap bill, Chapter 134, SLA 1960, was passed which (1) adopted Rule 71A, Federal Rules of Civil Procedure, as the Alaska condemnation rule insofar as it could be made applicable to our substantive law, and (2) provided for early possession of rights-of-way to be taken upon posting amount of estimated just compensation, and filing of a bond, and before award of damages.

The chief change that the committee was interested in making in Article II of S.B. 195 was to require the posting of estimated just compensation and possibly a bond before title or possession could be vested in the condemnor. In Art. II, S.B. 195, provision had been made for vesting of title before any requirements for depositing estimated just compensation, posting of a bond, or steps to determine just compensation.

My idea was that "vesting of title" would have no practical significance other than to represent a judicial determination that the taking was necessary for a public use. Many of the members of the committee considered "vesting of title" in quite a different light, and were of the opinion at the time that this cloud should ~~not~~ be placed on the property, the defendant should have some right to compensation and protection against any loss if the condemnation action should fall ~~through~~ through or if the condemnor

WILLIAM A. EGAN  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 18, 1960

Honorable Frank Peratrovich  
Chairman, Senate Rules Committee  
Alaska State Senate  
Juneau, Alaska

Dear Senator Peratrovich:

Enclosed for introduction is a bill relating to the power of the State, all political subdivisions, and private parties to condemn property for public purposes. In effect, this is a complete rewrite of our Condemnation Law. Since the bill is of a technical and legal nature, a section by section analysis has been prepared for the use of the Legislature. I should appreciate its printing in order that it be given legislative distribution.

The Department of Public Works endorses this proposed legislation as an essential means of meeting its enlarged responsibilities in the acquisition of Rights of Way.

Sincerely,

*William A. Egan*  
William A. Egan  
Governor

Enclosure

1 IN THE SENATE

BY THE RULES COMMITTEE  
AT THE REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 195

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the power of the State  
7 of Alaska, boroughs, cities, schools and  
8 other political subdivisions of the state,  
9 and of private persons to condemn property  
10 for public uses; prescribing the procedure  
11 to be followed; repealing certain laws  
12 relating to condemnation; and providing  
13 for an effective date."

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

15 ARTICLE I

16 POWERS TO CONDEMN: POWERS OF COURT

17 Section 1. USES FOR WHICH AUTHORIZED. Subject to the pro-  
18 visions of this Act, the right of eminent domain may be exercised  
19 as follows:

20 (a) In every case in which the State of Alaska or any  
21 of its departments, agencies or boards, or any officer thereof,  
22 has been, or hereafter shall be, authorized to procure real  
23 estate or any interest therein for the erection of a public  
24 building or for other public uses, it or he may acquire the same  
25 for the State of Alaska by condemnation, under judicial process,  
26 whenever in its or his opinion it is necessary or advantageous