

HB

865

# COMMITTEE REPORT

## HOUSE

2/18/80

FURTHER:

Date: \_\_\_\_\_

Mr. Speaker:

The Committee on JUDICIARY has had HB 865

"An Act relating to civil liability for personal injuries or death occurring on unimproved land."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

R. D. E. N. C. D. P.  
Terry Hunter  
[Signature]  
Richard H. Powell  
T. Buchholz  
W. A. Anderson J.  
[Signature]  
[Signature]

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

[Signature]  
 \_\_\_\_\_  
 CHAIRMAN

LAW OFFICES

BIRCH, HORTON, BITTNER, MONROE  
PESTINGER AND ANDERSON

A PROFESSIONAL CORPORATION

130 SEWARD STREET, SUITE 411

JUNEAU, ALASKA 99801

(907) 588-2890

March 26, 1980

**HAND-DELIVERED**

1127 WEST SEVENTH AVENUE  
ANCHORAGE, ALASKA 99501  
(907) 276-1550  
TELEX 25-356

711 GAFFNEY ROAD  
FAIRBANKS, ALASKA 99701  
(907) 452-1666

4400 JENIFER ST., N. W., SUITE 300  
WASHINGTON, D. C. 20015  
(202) 244-4250  
TELEX 9-89-2591

RONALD G. BIRCH  
HAL R. HORTON  
WILLIAM H. BITTNER  
SUZANNE C. PESTINGER  
LLOYD V. ANDERSON  
W. BRUCE MONROE  
GREGORY C. TAYLOR  
RODNEY B. CARMAN  
MICHAEL R. SPAAN  
JOSEPH M. CHOMSKI  
GORDON F. SCHMIDT  
CAROL A. JOHNSON  
GERALD D. STOLTZ  
RONALD E. NOEL  
JOSEPH W. EVANS  
WINSTON S. BURBANK  
E. BUDD SIMPSON  
J. SAMUEL OSTROVSKY  
CONSTANCE E. BROOKS  
DOUGLAS J. SERDAHELY  
NANCY J. SHAW  
JACK D. CLARK  
GARY J. FINNELL  
PAUL H. GRANT  
PATRICK H. OWEN  
PERCY R. LUNEY  
DANIEL W. WESTERBURG

\*NOT ADMITTED IN ALASKA

Mr. Clarence Antioquia  
Sealaska Corporation  
One Sealaska Plaza  
Juneau, Alaska 99801

Re: H. B. 865

Dear Clay:

Enclosed for your information is a copy of H. B. 865, entitled "An Act relating to civil liability for personal injuries or death occurring on unimproved land." The bill as introduced would amend AS 09.45 by adding the new section as set forth.

The bill, if enacted, would seem to be advantageous to Sealaska Corporation as a major owner of unimproved land. As I read it, the intention is to reduce the circumstances which, under common law, would give rise to liability on the part of a landowner for injuries occurring to trespassers, licensees or invitees on the land. For example, under common law the owner of land who is aware that individuals may be entering upon the land may have certain duties with regard to warning them of potential hazards, even of dangerous natural conditions, under certain circumstances. This bill would eliminate liability in those cases so long as the user had no responsibility to "compensate" Sealaska as a result of the entry.

I do see at least two areas which could easily give rise to litigation if the act were ever to be invoked. First, the question of what land would fall into the classification of "unimproved land." The problem here would be to what extent a nearby improvement might take the property out of that classification. We have analyzed this question for Sealaska before as it relates to the taxability of unimproved lands belonging to the Corporation. However, no analysis can be complete until the question, which is one of first impression in this context, is tested in the courts.

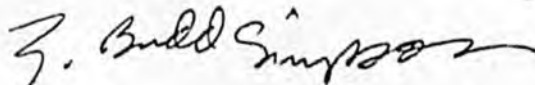
Mr. Clarence Antioquia  
March 26, 1980  
Page Two

The second potential area of question is the definition of "responsibility to compensate." The intent is certainly to exclude trespassers, but the applicability to parties on the land with Sealaska's consent, and for an economic purpose, is somewhat less clear. By economic purpose, I mean a situation where Sealaska may derive some indirect benefit from the party's presence on the land, such as a timber survey crew or geological exploration of some sort, but which has no direct obligation to provide monetary compensation to the Corporation. Again, this is a question which will probably have to be litigated before it is finally resolved, but at least the general intent is clear, if not the scope.

On the whole, this legislation would benefit Sealaska and should probably be supported by the Corporation. If possible, the concerns addressed above might be expressed prior to passage so as to provide definitions as applicable. If you would like us to do anything to follow up in this area, such as providing suggested language, please feel free to give me a call.

Very truly yours,

BIRCH, HORTON, BITTNER, MONROE,  
PESTINGER & ANDERSON



E. Budd Simpson

EBS:ac  
Enclosure

cc: Michael Chittick  
Byron Mallott  
Chris McNeil  
Robert Loescher