

MAINE STATE LEGISLATURE

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May 1, 1959

The Honorable Clarence Parker
State House
Augusta, Maine

Dear Senator Parker:

Re: L. B. 376

This is in reply to your oral request for an opinion regarding the constitutionality of L. B. 376.

Section 21 of Art. 1 of the Constitution of Maine prohibits the taking of private property for public use without just compensation. The common law rule and that followed in Maine with respect to such a taking is that damages cannot be recovered for loss of business or business interruption. Our statutes provide only for land damages.

It is my opinion that this resolve violates a well established principle of law that the legislature cannot grant a special privilege to one person that is denied to others under the general law. The legislature is attempting to exempt a particular corporation from the operation of the general law. The people have not conferred upon the legislature the power to exempt a particular person or corporation from the operation of the general law. (Sections 1 and 2, Art. 1, Constitution of the State of Maine.)

The equal protection of the laws clause of the 14th Amendment of the U. S. Constitution was designed to prevent a person or class of persons from favoring or discriminating legislation.

Based upon the foregoing reasons, it is my opinion that L. B. 376 is not proper legislation.

Very truly yours,

Frank E. Wenzel
Attorney General