

MAINE STATE LEGISLATURE

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March 19, 1963

Senator Dwight Brown
Senate Chambers
State House
Augusta, Maine

Dear Senator Brown:

We are in receipt of your request for an opinion as to the constitutionality of Section 10 of L. D. 1021, which states:

Sec. 10. R. S., c. 84, § 12-A, additional.
Chapter 84 of the Revised Statutes is amended by adding a new section 12-A, to read as follows:

'Sec. 12-A. Renewal contracts. Any contract made to buy and sell real estate shall contain no provisions for the removal of the contract and shall contain an expiration date at which time the contract shall be terminated. If the parties to the contract desire to continue the contract, a new contract must be executed.'

The Constitution of Maine, Article 1, § 11 provides:

"The legislature shall pass no bill of attainder, ex post facto law, nor law impairing the obligation of contracts, and no attendance shall work corruption of blood nor forfeiture of estate." (Emphasis added)

The above provision of the Constitution of Maine, as well as the provision in the Constitution of the United States prohibiting a state from passing a law impairing the obligation of contracts, does not imply a prohibition

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against legislation prohibiting, in certain types of contracts, an automatic renewal clause. It is well within the police power of the state to protect its inhabitants from inadvertently entering into a contract, the ramifications of which are, in many instances, not understood by the signers.

In Baxter v. Waterville Sewerage District, 146 Me. 211, (1951), the court emphasized the fact that where the public health, safety or morals are concerned, the power of the state to control under its police powers is supreme and cannot be bargained or granted away by the legislature. The exercise of the police power in such cases violates no constitutional guarantee against the impairment of vested rights or contracts.

In short, the above questioned section of L. D. 1021 does not relate to a law impairing the obligation of contracts, nor is it in violation of any other provision of the constitution.

Sincerely yours,

Wayne B. Hollingsworth
Assistant Attorney General

WBH/slf