

September 21, 1945

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Mr. Charles H. Abels
Member of the Legislature
House of Representatives
Phoenix, Arizona

Re: Constitutionality of
H.B. No. 8, Sp. Sess., 1945

Dear Mr. Abels:

This is in reply to your oral request as to whether or not House Bill No. 8 is constitutional.

We have perused this bill and find that, in its present form, it is unconstitutional for the following reasons:

1. That by the provisions of Sec. 4, the outstanding land leases would be immediately cancelled, if they exceed the limitations of Sec. 3. We believe this would be an impairment of the obligation of contract which is forbidden by our State as well as by the Federal Constitution.
2. Because the cancellation under Sec. 7 "shall (be made) upon the recommendation of the Advisory Committee of the area in which the land lies" (Lines 13 and 14). It is our opinion that this in effect constitutes a delegation of judicial power upon the Advisory Committee and in conflict with our State Constitution.

If the bill were amended so as to eliminate the objectionable features above mentioned, we believe the bill would then be constitutional.

Amendment could be made to Sec. 4, line 20, by eliminating the phrase "shall immediately" and substituting thereon "upon the expiration of the outstanding leases" or some similar phraseology. In other words, the State has the right to limit the amount of land to be leased, but the revision of the present leases could be made only upon the expiration of the present terms.

Mr. Charles H. Abels
September 21, 1945
Page 2

Likewise, in Lines 25 and 26, the present phraseology should be eliminated by substituting words "that the cancellation shall become effective at the expiration of the present leases".

Inasmuch as we have stated that the recommendation of the Advisory Committee to cancel the leases is unconstitutional, and there being no other functions imposed on the committee, it necessarily follows that Sec. 8 in its present form would be superfluous and should be eliminated in its entirety, unless you so reframe it as to give the Advisory Committee powers that meet the constitutional test.

Yours very truly,

JOHN L. SULLIVAN
Attorney General

HARRY O. JULIANI
Chief Assistant
Attorney General

HOJ:m