

# MAINE STATE LEGISLATURE

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*Unfair Competition*

May 28, 1937

Hon. Harvey A. Tompkins  
Bridgewater, Maine

Dear Senator Tompkins:

After a careful perusal of Chapter 204, P. L. 1937, which becomes effective July 24, 1937, I am somewhat in doubt as to its effect on the conduct of business by the stores you mention. All of the prohibitions of the act seem to be based on the meaning of the word "contract" which is not clearly defined. It is probable that the Legislature intended to prevent a retail store dealer from selling an article at a less price than that designated by the manufacturer or producer, unless by agreement with the manufacturer, producer or other retailers as to the sale or resale prices.

In case a general store purchases from a producer a large quantity of produce for sale, such as a cargo of potatoes or other produce where no price has been fixed by the producer, it would seem that such produce could be sold at whatever price the trader might fix as a fair price which would not be in violation of any contract.

It would appear that the act would prevent the Rexall people from putting on their One-cent sales, and it would also prevent the Cut-rate stores from selling articles below the price fixed by the producer or manufacturer.

Section 2 of the act defines "unfair competition" as follows: "Willfully and knowingly advertising, offering for sale, selling or disposing of any commodity at less than the price stipulated in any contract entered into pursuant to the provisions of section 1, whether the person so advertising, offering for sale, selling or disposing of is or is not a party to such contract is unfair competition and is actionable at the suit of any person injured thereby."

Section 3 of the act provides: "This act shall not apply to any contract or agreement between producers or between wholesalers, or between retailers as to sale or resale prices."

It is probable that, in order to finally determine just what the provisions of the act mean, a decision of the Court may be necessary.

Very truly yours,