

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

7/10

April 23, 1953

To Richard E. Reed, Executive Secretary, Maine Sardine Industry
Re: Limitation of Sardine Pack

This office is in receipt of your memo of April 17, 1953. You state that there is a discussion of the possibility of Maine's twenty-seven sardine packers' drawing up an agreement among themselves to limit the size of the 1953 pack to approximately 2,500,000 cases. This would involve a mutually satisfactory formula whereby each firm would automatically suspend packing for the season as soon as it had reached this quota. You state that the basic reason for such a plan is conservation and ask if such an agreement, if made, would be in violation of any State law.

There is no question but what such agreement is the very kind that is prohibited by section 37 et seq. of Chapter 124, R. S. 1944, it being the kind of agreement that courts unanimously hold to be a combination in restraint of trade. However, section 77 of Chapter 49 of the Revised Statutes reads as follows:

". . . No association or corporation organized for the sole purpose of marketing fish, shell-fish, or any of the fish products or agricultural products of this state, the members of, or stockholders in which are actually engaged in the production of such products, or in the selling, canning, or otherwise preserving of the same, shall be deemed to be a conspiracy or a combination or in restraint of trade or an attempt to lessen competition or to fix prices arbitrarily; nor shall the marketing contracts and agreements between such association or corporation and its members or stockholders be considered illegal as such or in unlawful restraint of trade or as part of a conspiracy or combination to accomplish an improper or illegal purpose.

It is our opinion, therefore, that such an agreement as you are considering is not a violation of any State law. This is by reason of the above quoted portion of Chapter 49, section 77.

We would draw your attention to the fact that the sardine industry is considered to be in interstate commerce and would therefore come within the prohibitions of any Federal regulation or law prohibiting combinations or monopolies in restraint of trade. We would advise that you also ascertain whether or not such agreement would be in violation of Federal laws.

James Glynn Frost
Deputy Attorney General

jgf/c