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Anti-Trust Laws Application
10 M.R.S.A. 1101

L.D. 347

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April 19, 1977

Representative James S. Henderson
House of Representatives
State House
Augusta, Maine

Dear Representative Henderson:

The question you pose in your letter of April 4 is whether L.D. 347, "An Act to Increase the Penalties for Violation of State Anti-Trust Laws", would prohibit price discussions among lobster dealers as to the amount they are paying lobster fishermen on a given day.

The answer to your inquiry is that L.D. 347 would not change the substantive provisions of the state anti-trust laws from those which already exist. L.D. 347 only changes the criminal and civil penalties for violating Title 10, M.R.S.A., § 1101, and the process by which the Attorney General may proceed to investigate anti-competitive business practices. It does not create or change any of the existing substantive provisions of the underlying statute.

Title 10, M.R.S.A. § 1101 prohibits conspiracies, combinations and contracts in restraint of trade. It is based upon Section 1 of the Sherman Act (15 U.S.C.A. § 1) which, enacted in 1890, is the cornerstone of federal anti-trust law. The purpose of both the state statute and its federal counterpart is to foster and maintain free and vigorous competition. The practice of price fixing or price maintenance among competing sellers or competing buyers is a serious violation of both of these statutes.

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The facts concerning the exchange of price information among lobster dealers which you have suggested are not in themselves sufficient for me to determine whether a violation of state and federal law might have occurred. However, a crucial element of any price fixing case is proof of the exchange of price information. The practice you describe may be such an exchange. Coupled with proof of price maintenance, it could evidence a breach of the described anti-trust laws.

If you should be interested, I would be happy to have a member of my staff discuss further with you the price exchange question you have posed, or the content and purpose of LD 347.

Yours very truly,

Joseph E. Brennan
JOSEPH E. BRENNAN
Attorney General

JEB:pm