

# MAINE STATE LEGISLATURE

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August 28, 1953

*No*

To Roland H. Cobb, Commissioner, Inland Fisheries and Game  
Re: Possession of Certain Kinds of Fish

Your memo with regard to a problem raised by David Berman, Esq., has been received.

Section 19 of Chapter 394, P. L. 1953, adds to Section 37 of Chapter 33, R. S. 1944 the following:

"No person shall have in his possession any salmon, trout, togue, white perch or black bass with the heads detached therefrom, unless such fish are being prepared for immediate cooking."

To my mind the amendment is clear and undoubtedly the Legislature had in mind the destruction of evidence relative to shorts or in regard to weight. To protect and preserve our wildlife is an important matter; the innocent may be inconvenienced by a law that is passed to enable us to seek out and punish the guilty.

The desire to put a legitimate catch into a deep freeze for future consumption is a natural one. Would it not be possible to clean the fish and freeze it with its head on? This is in the form of suggestion, as I am neither a fisherman nor conversant with the intricacies of the art of freezing. You can see how a person could avoid prosecution for having a short in his possession by removing the head immediately and filleting and freezing the fish.

We note further that the last sentence of Section 37, supra, which Chapter 394 amends in part, is as follows:

"The provisions of this section may be modified by the rules and regulations of this department."

In view of this provision, it would seem to us that if you feel that there is some basis for removing the restriction against detaching the heads of certain fish, you may do so. This matter is entirely within your discretion, subject to Section 5 of Chapter 33, R. S. 1944. I would suggest that if you deem it wise to exempt same, the rule or regulation provides that a warden must first see and approve each and every fish before detaching the head thereof, that there be an appropriate certificate given the party possessing the fish with the heads detached, with an identifying mark or number with each fish.

Roger A. Putnam  
Assistant Attorney General

RAP/f