

MAINE STATE LEGISLATURE

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Lyndon Bond, Chief, Fishery Div.

Inland Fisheries and Game

Leon V. Walker, Jr., Assistant

Attorney General

Atlantic Sea Run Salmon Commission; Extension of Open Season
by Regulation

SYLLABUS:

The Atlantic Sea Run Salmon Commission has no power to adopt regulations extending the open season on Atlantic salmon beyond that date provided in the general statutes and any such regulations are of no effect.

FACTS:

The Atlantic Sea Run Salmon Commission proposes, after public hearing, to issue rules and regulations establishing an open season on Atlantic salmon from April 1 to September 30 of each year on a section of the Sheepscot River, and from May 1 to September 30 of each year on a section of the Dennys River.

QUESTION:

In view of 12 M.R.S.A. § 3951, which provides for the open season on Atlantic salmon in tidal waters to end on September 15 of each year, and of 12 M.R.S.A. § 2552, subsection 3, which provides for an open season in rivers above tidewater to end on September 15 of each year, does the Commission have the authority under 12 M.R.S.A. § 3603, to adopt regulations extending these open seasons to September 30 of each year?

ANSWER:

No.

OPINION:

1. 12 M.R.S.A. § 3603 authorizes the Commission to make regulations to remedy the danger when any existing condition endangers the conservation of Atlantic salmon. The Commission's authority is expressly limited to that situation. The regulations extending the open salmon season are not designed to remedy an existing condition endangering conservation.

2. No administrative agency has the power to adopt regulations which are not in conformity with the general law. The proposed regulations are not in conformity with the general law, since they attempt to enlarge upon the statutory open season. It was held in Joyce v. Webber, 157 Me. 234, that insofar as rules promulgated by subordinate authority tend to contravene provisions of controlling law, such rules are of no effect.

Leon V. Walker, Jr.
Assistant Attorney General

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