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Ronald W. Green, Commissioner

Sea and Shore Fisheries

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Dragging for Shrimp in Penobscot and Sheepscot Bays

SYLLABUS:

A shrimp is a fish within the meaning of P. & S.L. 1959, Chapter 155, §§ 56-A and 73-A, which make it unlawful in certain areas during certain times of year to use a dragger or any dragging apparatus, except standard scallop drags, for the taking of fish or lobsters on the ocean bottom.

FACTS:

P. L. 1959, Chapter 363, § 66 amending P. & S.L. 1959, Chapter 155, § 56-A makes it unlawful, from October 1 to the following February 1, to use a dragger or any dragging apparatus, except standard scallop drags, for the taking of fish or lobsters on the ocean bottom in certain areas of Penobscot Bay. Section 67, amending P. & S.L. 1959, Chapter 155, § 73-A contains the same provisions for certain areas in Sheepscot Bay during the period from November 1 to the following March 1.

Fishermen, when charged with violating one of these sections, claim that they were not dragging for fish or lobsters, but for shrimp, which are not fish.

QUESTIONS:

1. Is a shrimp a fish?
2. If not, may a person dragging within the areas described above legally keep other fish incidentally caught in dragging for shrimp?

ANSWERS:

1. Yes.
2. See Opinion.

OPINION:

The New Standard Dictionary defines "fish" as follows:

"1. A vertebrate animal with gills retained through life, breathing and passing its life in the water, and with limbs, when present, modified as fins.

"2. An animal habitually living in the water, as a cetacean, crustacean, mollusk or eelmodern."

The New Standard Dictionary also defines crustacean as "a prime division of arthropods, containing lobsters, crabs, crawfish, shrimps, prawns, etc."

Whole fish and fresh headless shrimp packed in ice and frozen headless shrimp are "fish, including shellfish" within Interstate Commerce Act permitting motor vehicles used exclusively in transporting "fish, including shellfish" to operate in interstate commerce without permit from Interstate Commerce Commission. I.C.C. v. Iove (D.C. La.) 77 F. Supp. 63, 68. Sec. State v. Hardy (N.H.) 185 A. 2d 258.

A shrimp is a fish since it is a crustacean; but it is certainly not a vertebrate with gills and fins, and is not included in the first part of the definition above.

The definition of "shellfish" in 12 M.R.S.A. § 3401 is of no help. It simply restates the dictionary definition which indicates that a crustacean is not a mollusk. A shrimp being a crustacean cannot be a mollusk.

There is no great amount of law defining "fish" in relation to shrimp. However, we believe the foregoing definitions are sufficient to establish that "shrimp" are "fish."

Having answered question No. 1 in the affirmative, it is not necessary to answer question No. 2.

LWVJr:H

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