

Game and Fish Law, Right to Sell Fish from Private Pond.

Fish taken from a lake situated wholly within the boundaries of an individual's lands, the lake having been stocked with fish by the owner of such land, are within the exception to the right to sell fish contained in substitute for House Bill No. 138, Laws of 1905. The owner of such lake and premises has the right to catch fish from such pond and sell the same.

March 23, 1905.

Hon. T. J. Walker, Assistant County Attorney, Butte, Montana:

Dear Sir:—Your letter of the 21st instant to hand, asking opinion of this office as to the right of Mr. Michael Lavelle to take fish from a certain pond situated upon his premises for the purpose of shipping the same to market. It appears from the facts stated in your letter that the lake or pond known as "Brain's Lake" is situated wholly within the lands of Michael Lavelle and his partners and that they have stocked this lake with fish; also that the lake covers only about 100 acres of land.

From such facts it is clear that this is a private pond or lake coming within the exception found in Section 12, laws of 1897, p. 252, and also within the exception contained in Section 9 of Substitute for House Bill No. 138, laws of 1905. Therefore, Mr. Lavelle would have the right to sell fish taken by him from this lake.

Yours very truly,

ALBERT J. GALEN,

Attorney General.