

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1943--1944

December 15, 1943

## Bureau Taxation

Attention Mrs. L. E. Griffin

I have your latest enclosure, being a letter dated December 10, 1943, from the Colonial Beacon Oil Company, and a copy of your reply dated December 13th, the subject being "Maine State tax on Sales of Gasoline to the Canadian Government."

I have carefully refrained from acknowledging these communications heretofore save only the letter of December 16, 1942. It is very possible that a ruling from this office might have to be adverse to the claim of the Canadian Government. In view of the fact that we are engaged in a War and that Canada is one of our allies with whom we are in extremely close coöperation, I feel that we are justified in refraining from issuing such an opinion at the present time. In this thought the Governor concurs.

You may if you wish, inform the Canadian Government that the Attorney-General of Maine is not yet prepared to render an opinion but say nothing further.

FRANK I. COWAN  
Attorney-General

December 15, 1943

Harrison C. Greenleaf, Commissioner      Institutional Service

A review of the Soldiers' and Sailors' Dependency Act simply reveals the classes or relationships to be considered and the amounts that each shall receive. After this money is received, there is no string attached to it, as to how it shall be disbursed or used. Of course, creditors cannot attach it or trustee it, before it is received by the eligible person.

I do not know what the practice has been in the State in handling the affairs of the inmates of our institutions for the persons who are mentally ill; but it would seem to me that a guardian or conservator should be appointed, preferably someone in the institution, so that no fees, etc., would be charged against the estate of the ward and in that way you would have a legal disbursement of these funds and a proper accounting of the same. The guardian or conservator could apportion the income of the ward in such way at such times as would indicate a proper expenditure and apportionment of the same.

JOHN G. MARSHALL  
Deputy Attorney-General

December 15, 1943

Hon. Sumner Sewall, Governor

*Subject: Buying of Deerskins*

I have examined the latest revision of the Inland Fish and Game Laws and under the provisions of Sections 92, 93, 94 and 95 it is apparently unlawful to "sell or offer for sale or barter" any deer or any part of a deer save that the heads and hides may be sold to properly licensed taxidermists or dealers in deerskins and heads, as provided in Sections 92 and 93.

Mr. Stobie's question, addressed to me, was whether the owner of a deerskin may have it processed for use. I find nothing in our statutes to prohibit the owner from having this done. However, he is confronted with Section 66 if he wishes to transport the deer or any part thereof beyond the limits of the State, unless he purchases a special license, the fee for which is \$10.15. Moreover, the provisions of Section 67 make it exceedingly embarrassing to transport the deerskin and head within the State.

It is the opinion of this department that the owner of a deerskin and head may have it processed; that he can send it outside the State if he pays a fee of \$10.15 for that purpose; but that he is restricted on sale to taxidermists and dealers having a license. Whether or not this last is an unconstitutional restriction of the rights of an owner to deal with his own property as he sees fit (where the police and health laws are not involved) is not a matter for this office to consider. The legislature has spoken and it is the duty of the attorney-general to presume that the legislative enactments are constitutional till held otherwise by the courts.

FRANK I. COWAN

Attorney-General

December 16, 1943

Roscoe L. Mitchell, M.D., Director

Bureau of Health

Subject: Interpretation and Procedure under P. L. 1943, Chapters 358 and 330; tie-in of said statutes with 1933 statutes.

1. The procedure under Chapter 358, P. L. 1943, in regard to a person who, the Bureau of Health has cause to believe, is infected with venereal disease is not exclusive. The powers of quarantine of infectious and contagious diseases, as provided by the laws of 1933, Chapter 1, as amended, still exist.

2. You have asked the question whether the Department of Health of the State can define as infectious and contagious diseases which are already so declared by legislative enactment. The answer is clearly, "Yes." P. L. 1943, Chapter 358, declares that certain diseases are infectious and communicable and dangerous to the public health. Chapter 330 of the Laws of 1943 provides that persons suffering from certain named diseases and others which are defined as infectious and communicable under the rules and regulations of the State Bureau of Health, shall not mingle with the general public until such time as such persons have become "non-infectious" or have complied with certain regulations. Obviously, the legislature did not deliberately contradict itself in describing certain diseases as infectious and communicable and so dangerous, at the same time saying that a person should be excluded from mingling with his fellows until the disease becomes non-infectious or he has complied with certain regulations. The two chapters are complementary to one another. Chapter 358 is a broad enabling act. Chapter 330 gives the Bureau of Health a yardstick which it can use in determining how far it shall go in applying the broad powers which it necessarily has by reason of the wording of the first paragraph of Chapter 358.