

MAINE STATE LEGISLATURE

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December 15, 1943

To Hon. Sumner Sewall, Governor

~~From Frank I. Cowan, Attorney General~~

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.

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I am informed that the judge of one of our municipal courts has recently held that the head and hide of a deer are not part of the deer. That, I believe, was in Penobscot County, and Penobscot County is widely known as the home of the famous Bangor Plan - a part of the State of Maine that has its own interpretations in regard to the meaning and enforcement of the laws. I find myself compelled to disagree with the learned judge and hold that the head and hide are not only parts of the deer, but, from the point of view of the deer at least, very essential parts.

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

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