

ANIMALS:
DOGS: COONS:
COON ON A LOG:
BAITING OF ANIMALS:

"Coon on a Log" constitutes baiting in violation of Section 563.660 RSMo 1949.

June 12, 1956



Honorable D. W. Sherman, Jr.
Prosecuting Attorney
Lafayette County
Lexington, Missouri

Dear Sir:

In your recent request for an official opinion from this office, you ask:

"* * *I should like a written opinion as whether the following procedure is in violation of Section 563.660, and 563.670, Mo. R. S. for 1949.

"The procedure of these (Coon on the Log) trials are as follows:

"A live Coon with a collar and short length of chain is securely fastened to a large log which is anchored out in the water of a small pond or lake approximately 60 to 70 feet from shore line of the lake. The Raccoon is in plain sight of the dogs which are turned loose singly and each dog is given a set time to swim to the log and grab the Coon and pull him off the log into the water, this entails the dog grabbing the Coon with his teeth and the Coon also is fighting the dog to be kept from being pulled into the water. In the event the dog pulls the Coon into the water, they are then separated by the Judges who are standing close by in a boat. I believe it is possible for a Dog to possibly loose sight

Honorable D. W. Sherman, Jr.

of his eye or eyes, and it is also possible for the Raccoon to be permanently injured * * *."

Section 563.660 RSMo 1949 reads as follows:

"Any person who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock or other creature, and any person who shall encourage, aid or assist or be present thereat, or who shall permit or suffer any place belonging to him or under his control to be so kept or used, shall, on conviction thereof, be guilty of a misdemeanor."

It is to be noted that this statute defines a crime in connection with "fighting or baiting any bull, bear, dog, cock or other creature." We have been unable to find any case exactly determining what is included in the meaning of the word "baiting"; however, Webster's New International Dictionary, 2nd Edition, defines "bait" (used as a verb) as follows:

- "1. To set on (a dog) to bite or worry.
2. To worry (an animal) by setting on dogs; esp., to harass or torment with dogs for sport; as, to bait a bear.
3. To set upon and worry by biting and tearing.
As chained bear whom cruel dogs
do bait. Spencer.
4. To persecute, harass, or torment."

(As an intransitive verb):

- "1. To attack as in worrying; harass."

Bouvier's Law Dictionary defines "bait" as "to attack with violence; to provoke and harass; to harass by the help of others, e.g. to bait a bear with mastiffs," and defines "baiting" as "to attack with violence; to provoke and harass." Likewise, Black's Law Dictionary, 3rd Edition, defines "bait" as "to attack with

Honorable D. W. Sherman, Jr.

violence; to provoke and harass" and defines "baiting" animals as:

"In English law. Procuring them to be worried by dogs."

These definitions of the words "bait" and "baiting" would seem to apply directly to the word "baiting" as used in the above statute and, although we have been unable to find any case construing said statute, it would appear that the procedures outlined by you as used in "Coon on a Log" would come within the prohibition of said statute.

Section 563.670 RSMo 1949 reads as follows:

"Every person who shall willfully and maliciously or cruelly kill, maim, wound, beat or torture any dumb animal, whether belonging to himself or another, shall upon conviction be punished by imprisonment in the county jail for not more than three months, or by a fine of fifty dollars or by both such fine and imprisonment; provided, that nothing herein contained shall be construed to prohibit or interfere with any scientific experiments or investigations; provided further, that nothing in this section shall apply to the hunting or trapping of wild animals."

It will be noted that this statute makes it a crime to kill, maim, wound, beat or torture any dumb animal, and thus, whether the practice of "Coon on a Log" would be a violation of this statute would depend upon the given facts of any case and the injury which might result to either dog or coon. All of the facts and circumstances surrounding each individual happening would have to be considered before it could be determined whether or not there was a violation of Section 563.670. It is clear that all examples of this practice would not be a violation of such statute, especially where no injury was done to either dog or coon, but it would likewise be possible that in some instances there might occur a violation of Section 563.670.

Honorable D. W. Sherman, Jr.

CONCLUSION.

It is therefore, on the basis of the foregoing, the opinion of this office that the practice known as "Coon on a Log" would be in violation of Section 563.660 RSMo 1949, and that, depending upon all of the circumstances, there might likewise be a violation of Section 563.670 RSMo 1949.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Fred L. Howard.

Yours very truly,

John M. Dalton
Attorney General

FLH:sm