Fish and Game—Closed Season on Deer—What Portions of Fergus County.

Chapter 238 of the Laws of 1921 construed to close only the northeast portion of Fergus County, lying within the angle formed by the township and range lines, to the shooting of deer.

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State Game Warden,
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My dear Mr. Jakways:

You have inquired what portion of Fergus County is closed to the shooting of deer by the provisions of Chapter 238 of the Laws of 1921.

Section 16 of the foregoing chapter reads in part as follows:

"Provided, however, that it shall be unlawful for any person to hunt, shoot, kill, take, or capture, or cause to be shot, killed, taken or captured, any deer within the counties of Yel-

lowstone, Rosebud, Custer, Powder River, Carter, Richland, Roosevelt, McCone, Dawson, Stillwater, Gallatin, Teton, Phillips, Garfield and Valley, and within all that part of Fergus County lying north of the township line between Townships Eighteen and Nineteen and east of the range line between Ranges Twenty-four and Twenty-five in said County, before October first (1st) Nineteen Hundred and Twenty-four (1924)."

Your inquiry calls for a construction of the language "lying north of the township line * * * and east of the range line."

In using the conjunctive "and" it would seem that the Legislature intended that the territory described should be limited by both of the lines in question. Any other part of Fergus County than the northeast corner of the same enclosed by the two lines described does not lie north and east of these lines.

While it might be argued that all of the territory lying north of the first line is closed, and that all of the territory lying east of the second line is closed to the shooting of deer, this is not the usual method of describing territory, and if this interpretation of the language were adopted the result would be that the part in the northeast corner of the county would have been twice described by the Legislature. Furthermore, had it been intended to describe the larger territory, it would have been a simple matter for the Legislature to have so stated, it only being necessary to insert the phrase "also that part of said county" after the word "and" in order to make the meaning conclusive. Moreover, the part used in the phrase "that part of Fergus County" is singular in number and contradictory to the idea of two portions of the county being separately cut off, one by an east and west line, and the other by a north and south line.

It is therefore my opinion that by the above Act only the northeast portion of Fergus County lying within the angle formed by the township and range lines in question is closed to the shooting of deer.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.