

Opinion No. 271.

**Fish and Game Commission — Funds,
Use of—Livestock Commission.**

HELD: 1. The Fish and Game Commission has authority to set up a special fund for use in eradication and extermination of predatory animals.

2. The Fish and Game Commission may not turn over a sum of money to

the Livestock Commission for this purpose, but may cooperate with that commission by aiding in the payment of bounty claims as such claims are presented.

April 20, 1938.

Mr. J. A. Weaver
State Fish and Game Warden
Capitol Building
Helena, Montana

Dear Sir:

You have expressed the wish of the Fish and Game Commission to aid the Livestock Commission in exterminating predatory animals.

Authority to expend Fish and Game funds in this way is found in Section 3653, Revised Codes of Montana, 1935:

“ * * * The commission * * * shall have authority to appropriate moneys from the funds at its disposal for the extermination or eradication of predatory animals that destroy fish, game, or fur-bearing animals, or game or non-game birds.”

“To appropriate” means “set aside, set apart for particular use.” Hence the Fish and Game Commission has the power to set up a special fund wherein certain moneys are set aside for such eradication and extermination.

However, on January 19, 1938, this department issued an opinion holding that funds of the Fish and Game Commission could not be expended by any other agency (Vol. 17, Opinions of the Attorney General, No. 230). Therefore, the funds have to be in control of the Fish and Game Commission and can only be used for claims presented to them from time to time as funds are needed. The Fish and Game Commission has no authority to turn a sum of money over to the Livestock Commission, but may cooperate with the Livestock Commission by aiding in the bounty claims as such claims are presented.