

Fish and Game—Game Preserves—Game.

The fish and game commission has authority to create a game preserve for the protection of certain kinds of game birds or animals and to permit the trapping of fur-bearing animals on such preserves.

May 14, 1928.

Robert H. Hill, Esq.,
Secretary, State Fish and Game Commission,
Helena, Montana.

My dear Mr. Hill:

You have requested my opinion whether it is legal for the fish and game commission to establish a game preserve in Montana for the sole protection of ducks and chickens, and to allow trapping for fur-bearing animals on said preserve.

It is my understanding that the words "game refuges", "game preserves" and "game sanctuaries" as used in the fish and game laws of the state are practically synonymous and have reference to the setting aside of certain areas for the protection of fish, game and fur-bearing animals.

Section 3653 of the code authorizes the fish and game commission to establish game refuges for the purpose of providing safe sanctuaries in which game and fur-bearing animals or game or non-game birds may breed and replenish.

Section 3676 provides the method of creating game preserves, sanctuaries and rest grounds by the commission. The section further provides that the hunting or capturing of any fish or game or game birds or animals in violation of the rules or orders of the commission governing any fish and game district, refuge, sanctuary or preserve shall be subject to punishment.

It is my opinion that the statutes above quoted are sufficiently broad to give the fish and game commission authority to create a game preserve for the protection of certain kinds of game birds or animals and to authorize you to except certain other animals from the protection afforded by such game preserve.

It would, therefore, in my opinion, be legal for you to permit the trapping of fur-bearing animals on a preserve created by the commission.

Very truly yours,

L. A. FOOT,
Attorney General.