

Opinion No. 55-6155

May 6, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Homer C. Pickens, Director, State Game and Fish Department, Santa Fe, New Mexico

In your letter of April 26, 1955 you ask whether the words "upon any game refuge" as used in § 53-2-13 of the 1953 Compilation, refer to Federal Game Refuges. An examination of the original Act, of which this section, (Chapter 23, Laws of 1937) is a part, leads us to the conclusion that it was the intent of the Legislature to limit the application of this Act to State Game Refuges.

It appears also that any attempt on the part of the State to control the disposition of game on a Federal Game Refuge contrary to the wishes of the Federal Government might be beyond the power of the State. See **U.S. vs. Hunt**, 19 Fed. 2d 634, affirmed 278 U.S. 96, 49 Supreme Court 38, and 54 Am. Jur., U.S. Section 81.

You state that your immediate problem is with respect to the possibility of opening a part of a Federal Game Refuge to quail and pheasant hunting this year. It appears that under the authority of the **Hunt case**, supra, if this is done by the Federal Government the State statute to the extent which it might conflict is not applicable, and therefore no action need be taken by the State Game Commission.

By: W. R. Kegel

Assistant Attorney General