

AMENDMENT NUMBER FOUR:  
CONSERVATION COMMISSION:

All counties now having in force the provisions of Section 8246, relating to a closed season on quail will continue to have closed season until the expiration of the time as mentioned in said section

September 9, 1937

Honorable E. Sydney Stephens  
Chairman  
The Conservation Commission  
Columbia, Missouri



Dear Sir:

This Department is in receipt of your letter of September 7, wherein you request an opinion regarding the power of the Conservation Commission relative to closed seasons, as follows:

"May I have, for the information of the Conservation Commission, your opinion concerning the following matter:

"The statutes of Missouri provide that under certain conditions elections may be held in any county to consider whether the season for the shooting of quail shall be closed. There are several counties in the state which, under this law, now have closed seasons. The Commission will appreciate your opinion as to whether, under Amendment No. 4, the seasons in these counties are now open.

"Could the Commission declare that the statute providing for such county elections is a regulation of the Commission and therefore one of the laws of the state?

"There will be a meeting of the Conservation Commission on Monday, September 13, and it will be quite

helpful if we may have your opinion by that time."

Section 8246, Revised Statutes Missouri 1929, relates to the question of "closed season" on quail. The pertinent part is as follows:

\* \* \* \* \*  
Provided, that upon the filing of a petition signed by one hundred or more householders of any county and presented to the county court at any regular term or special term thereof more than thirty days before any general election to be had and held in said county, it shall be the duty of the county court to order the question as to whether or not there should be a closed season upon quail for the next two years in their said county submitted to the qualified voters, to be voted on by them at the next election. Upon the receiving of such petition it shall be the duty of the county court to make the order as herein recited, and the county clerk shall see that there is printed upon all the ballots to be voted at the next election the following:

For a closed season upon quail  
Yes.  
No.  
Erase the word you do not wish to vote.

"The returns of said election upon said subject shall be opened canvassed and certified, as the returns for general elections. If the majority of the votes cast upon such subject be in favor of the closed season upon quail, then it shall be unlawful to take, capture or kill any quail or

bobwhite within such county for the period of two years thereafter following the announcement of the result of said election, and the county court shall spread the result of such election upon its records and give notice thereof by publication in some newspaper printed and published in such county, and such law shall become operative and effective from the time such publication is made. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor."

Referring to certain portions of the Amendment, the full contents of which you are no doubt thoroughly familiar, we construe, as we have in an original opinion to you construing the entire effect of Amendment Number Four, that the Conservation Commission accepts the laws and the administration of the law

"now or hereafter pertaining thereto."

The one exception being as contained in the Amendment

"The general assembly may enact any laws in aid of but not inconsistent with the provisions of this Amendment, and all existing laws inconsistent therewith shall no longer remain in force or effect."

From a reading of Section 8246, we find no provision or no portion of the section which conflicts with the powers and duties of the Conservation Commission.

Therefore, we are of the opinion that it is not necessary that the Commission declare that the statute providing for county elections for determining the question of a closed season on quail to be a regulation of the Commission, but that the same will

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remain in force and be effective as a law of the State to be recognized by the Conservation Commission, and that all counties having exercised their rights under Section 8246 continue to have a closed season on quail until the expiration of two years from the time the returns of such election were made official.

Respectfully submitted,

OLLIVER W. NOLEN  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

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