CONSERVATION DEPARTMENT: Whether domesticated quail killed by dog constitutes valid claim against township dog fund.

September 26, 1933.

Hon. Kenneth M. Kunkel,
Director, Fish & Game Division,
Conservation Department,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of September 25, 1933, in which you ask whether or not a person holding a breeder's permit from your department is entitled to recover from the township dog fund the value of domesticated quail owned by him and killed by a dog, upon the filing of a proper claim.

The act formerly relating to this subject (Acts 1925, page 361) was specifically repealed by chapter 176, Acts of 1927. The former act specified that the dog fund created by the act should be used for the payment of damages sustained by the owners of “sheep, cattle, horses, swine or other livestock or fowls” killed, maimed or damaged by dogs. (Section 14093, Burns’ Annotated Indiana Statutes, Revision of 1926. My Italics.) Under the broader language used in such act, a claim such as your inquiry refers to, probably could have been allowed.

However, section 8 of the later act provides that the fund shall be used for payment of damages to owners of “sheep, cattle, horses, swine, goats, mules, chickens, geese, turkeys, ducks or guineas killed, maimed or damaged by dogs” etc. No general language is used which would cover domesticated quail, and the kinds of animals and fowls included are specifically set out. It is an accepted rule of statutory construction that the express mention of one or more things shall operate to exclude those things not expressly mentioned, in the absence of language clearly showing an intent to the contrary. Nowhere, in the later act, is there any mention of domesticated quail or the use of any general language which would show an intent to include any species of fowl except those expressly enumerated.

It is my opinion, that the party you mention is not entitled to recover from the dog fund the value of his quail.