

Spring Shooting: An Issue in the Mississippi Flyway, 1887-1913

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In 1937, Gifford Pinchot, America's eminent forest conservationist, alleged that "conservation grew out of forestry, as many of you know." Describing resource conservation as the "application of the forester's point of view," Pinchot sketched the origins of professional forestry on private lands, which began in 1892, and noted the beginnings of public forestry projects later in the 1890s.¹ Pinchot devoted his life to forestry, and his remarks were understandable but inaccurate. The origins of conservation practices, however inconsistently applied, occurred in the wildlife management field in the later colonial period of American history. But Pinchot was correct in observing that modern conservation represents the "application of the forester's point of view." Aldo Leopold, the pioneer ecologist, aptly described conservation as a process which required an attitudinal adjustment from "exploitation" to "cropping," from depletion to perpetuation.²

Between the late 1880s and 1913, years in which the forest and wilderness issues also became prominent in America, another issue of importance agitated conservationists, sportsmen and moralists in the upper middle-west. Emerging earlier than the forestry question, this was the controversy over the "spring shooting" of game animals, resident species and migratory wildfowl, but particularly the latter. The issue had a life-cycle of some twenty-five years, and it was *one*, and only *one*, element in a complex of wildlife-related issues, including the killing of birds for millinery and plumage purposes and the "market hunting" of game animals.³ On a basic level the issue was simple: should states compel hunters to forgo their customary privilege of killing wildlife in the spring months when the various hunted species mated and began to nurture

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their offspring? The issue involved sportsmanship, conservation, and morality. Spring shooting was widely practiced, little noticed in the case of resident species, but often publicized and criticized in the case of migratory waterfowl. During the annual flight to northern nesting sites one critic contended, "mating ducks fall over every mile of the journey from Louisiana to British America."⁴

While the issue was conceptually clear, it provoked widely varying responses and involved anti-hunting groups, game preservation organizations, sportsmen, market hunters, elite shooting clubs, local gun clubs, game merchants, restaurant interests, state wildlife officers and legislators in a confusing matrix of argument and supposition.⁵ The right of state governments to regulate hunting was not in question. Nearly all states subjected the hunting of "big game" to restrictions of time, technique and bag limit, and some states, even in the nation's early years, undertook to preserve species in danger of extinction. With the exception of deer-herd management, however, regulatory efforts normally failed because of local-option loopholes, disregard of the laws, and lax enforcement of regulations by the few, if any, officials which states provided for conservation efforts.⁶

In the 1880s game populations in the upper middle-west rapidly declined. Reductions in the numbers of the once ubiquitous passenger pigeon, if nothing else, established this fact.⁷ Americans, who customarily assumed that the supply of game animals had no limits, were naturally slow to accept the reality of altered conditions. Yet both the abundance and the harvest of game in late nineteenth century America seem incredible in contrast to later periods. Increasingly conscious of resource scarcity, it is easy to understand how game became threatened in an era of great resource exploitation.

Game harvests by middle-western market hunters increased considerably in the early 1880s. In 1881, for example, a single St. Louis game merchant sent to the London market 1,400 dozen quail, 1,400 dozen prairie chickens, and 500 dozen wild turkeys.⁸ Pot hunters, numerous among immigrants in cities like Chicago, killed bluejays, blackbirds and robins for the table when more desirable game was scarce or elusive.⁹ Albert Day, author of the classic study of North American waterfowl, recalled that in his youth he knew a hunter who shot 700 pounds of ducks between three o'clock and dusk in a single day.¹⁰ Verified "slaughter stories" such as Day's seem to be characteristic of the performance of Gilded Age hunters.

In the 1880s, however, game supplies in the middle west began to dimin-

ish. A hunting journal kept by a young Wisconsinite, Walter H. Chase, one of the few detailed records of the annual game harvest to survive from the period, attests to the decline in the game population. From 1873 to 1896 Chase hunted the environs of Lake Wingra in Dane County, an area now part of the University of Wisconsin Arboretum. He recorded his bag of ducks, shore birds, upland game birds and rabbits on an annual basis, and he tallied his successes monthly for years 1888-1896. Primarily a duck hunter, Chase increased his productivity steadily until 1884, but after that year declining yields characterized his performance. His duck kill declined from a record of 212 to sixteen, and his pigeon kill fell from a high of 105 in 1875 to four in 1888. Some species do not appear in the journal entries after 1888. Much of Chase's success, however, occurred in the spring. This was especially true of his duck bag, and in his most productive year forty-seven percent of his kill was in March, April and May.¹¹

Satisfactory explanations of the decline in game populations were difficult to establish. Some attributed the reduced numbers of waterfowl to the broadening range of the German carp, a prolific fish introduced into American waters earlier in the century, which allegedly depleted the aquatic food supply needed to sustain the duck population.¹² A more common explanation emphasized the prevalence of shooting waterfowl during the period of the spring migration to nesting grounds in the northern Great Plains and Canada, the areas in which brood production was greatest.¹³ States within the territory of the Mississippi Flyway, the principal waterfowl migration route, ordinarily permitted the hunting of waterfowl in seasons which extended into April or May. Shooting in these months, from March to May, comprised the essence of the problem, and the spring shooting issue, though it appeared elsewhere, centered in the Mississippi Flyway states of the upper middle west.¹⁴

The states of Mississippi Flyway accepted neither proprietary interest in nor responsibility for migratory birds. Yet the destructive effects of the spring shooting of waterfowl and upland game birds evoked criticism by the noted naturalist "Frank Forester" (William Henry Herbert) as early as the 1850s, and, beginning in 1880, George Bird Grinnell, editor of America's most widely circulated sporting journal, *Forest and Stream*, often condemned the practice.¹⁵ But state legislatures were not receptive to demands for hunting reforms.

By 1890, however, the spring shooting issue became politically visible and divisive. Opponents of the practice included some game wardens, who were few in numbers and usually political appointees, individual conservationists, local members of the American Ornithological Union,

spokesmen for elite shooting clubs, e.g., the Chicago Shooting Box, and sporting journals like *Outing*, *Forest and Stream*, *Recreation* and *American Field*. Only the last mentioned of these publications had a mid-continent orientation, while the others served a largely Eastern readership. Opposing the proposals to eliminate traditional hunting privileges were, apparently, the mass of "ordinary" hunters whose means confined them to their own localities, small gun clubs, game merchants, market hunters, and prominent restauranters who served the tastes of an affluent clientele in such cities as Chicago and St. Louis.¹⁶ Self-interest seemed to be the decisive element in establishing positions on the issue, although, admittedly, all of the above categories are nebulous.

Moreover, it is difficult to ascertain the motives of those who brought the issue to prominence. Surely it was as much a sporting issue as a conservation issue, but it had an ethical component independent of sportmanship or conservation. Opponents of spring shooting used public channels of communication more often than proponents of the practice. There was, at least by implication, a surreptitious quality to the activities of game merchants and market hunters, although local gun clubs often used the device of newspaper and legislative petitions to advance the pro-spring shooting position. In 1909, for example, the Speaker of the Wisconsin Assembly complained of petitions by "greedy and boisterous members of the so-called 'shooting clubs' and their paid attorneys,"¹⁷ On the whole, though the Milwaukee *Sentinel* editorialist who called the issue "far greater than the mere one of personal sportmanship"¹⁸ was probably correct, it is likely that the usual resolution of the problem was the achievement of professional lobbyists.

While the spring shooting issue was an indeterminate one which did not fit neatly into either the categories of conservation or sportmanship, it was equally indeterminate as a scientific matter. During most of the period in question, knowledge concerning the propagation habits of most species of hunted wildlife was inconclusive. This was particularly true of the migratory species, ducks and geese. Those who believed that waterfowl paired and bred in late winter or early spring usually opposed spring shooting, if only because of their concern for the quality of the autumn hunt. Others admitted that mating occurred before the birds commenced their northward flight, but they argued that ducks and geese flew in sexually segregated groups, that drakes migrated earlier than hens, and therefore, that a spring hunting period did not necessarily endanger brood production or reduce autumn hunting prospects. This was a minority viewpoint, and it bore the earmarks of the market hunters' self-interest.¹⁹

By 1913 a body of accurate data existed on both mating habits and migration characteristics. Summarizing these data, a Bureau of Biological Survey official stated that early pairing was the rule for most species of ducks and geese and rejected the theory of segregated flight patterns. Spring shooting, he observed, was “only a little less disastrous” than summer shooting.²⁰ Eventual confirmation of these observations resulted from a number of large-scale studies, such as one conducted in the 1942 in Manitoba’s Delta Marsh, a prime nesting area, which demonstrated that ducks arrived as early as March 20 and nested by mid-April.²¹ Obviously the states which allowed hunting of waterfowl in March and April permitted the killing of pregnant hens.

Another serious element of indeterminacy in the spring shooting issue was the problem of proprietorship. Who “owned” wildlife, especially migratory wildfowl? The creatures were not the property of the United States, and even if they were, there were “no Federal laws to protect birds, mammals and fish and no agency to enforce them if they had existed.”²² Legally, of course, wild animals were the property of the states in which they resided. This principle received confirmation in the 1896 Supreme Court case of *Geer v. Connecticut*. While the Geer case settled the question of ownership in a legal sense, the court obviously did not require states to conserve or protect wildlife.²³

Furthermore, a successful campaign against spring shooting necessitated uniformity in state hunting policies. Uniformity was hardly possible, though in periodic meetings of state game wardens, which began in 1898, the desirability of inter-state cooperation was a frequently discussed subject.²⁴ A presumably knowledgeable authority noted in 1896, moreover, that the principle of protecting game in the breeding season was a principle legally violated, for one or more species, by every state. “To go to the breeding haunts of the game and destroy its eggs would be almost as rational,” he alleged.²⁵

In 1887, however, the Wisconsin legislature enacted the first “relatively permanent” law to forbid the spring shooting of waterfowl in the upper middle-west by closing the duck and geese season from January 1 to September 1 of each year.²⁶ The legislature also provided for the establishment of a game warden system and appropriated funds for the salaries and expenses of four wardens,²⁷ hardly a significant contribution to the principle of enforcement. A subsequent legislature amended the law by the addition of a provision which suspended the law until surrounding states adopted similar prohibitions.²⁸ Two of the adjacent states, Illinois and Iowa, were strongholds of commercial game interests and unresponsive to demands for reform of the game laws.²⁹ In any event the

Wisconsin law was probably superfluous. In 1895 the State Game Warden, referring to all of the state's game laws, observed that "in many localities the sentiment is so manifestly against them that it is exceedingly difficult to secure a conviction on the strongest of evidence."³⁰

Nevertheless, the Wisconsin experience illustrated a common pattern of game law action and reaction. The 1893 legislature added the suspension provision, but the 1899 legislature reimposed the January 1-September 1 closed season on waterfowl without qualification, and the North Dakota and Minnesota legislatures enacted closed seasons in the same year. Yet, in the 1903 session, the Wisconsin legislature reestablished a spring season and North Dakota, an important nesting state, repealed its 1899 law. Wisconsin reimposed the closed season on ducks, but not geese, in 1905, and finally closed the spring season for all waterfowl in 1909.³¹ The last effort of the pro-spring shooting interests to work their will in Wisconsin occurred in 1909, but the Speaker of the Assembly, calling the measure to reopen the spring season "barbarous and inhuman," mustered sufficient support to defeat the bill by six votes.³²

It is tempting to try to ascribe the role of Wisconsin in preventing spring shooting to an early manifestation of the progressive posture for which the state later became renowned. Progressivism had Gilded Age origins in Wisconsin, as David Thelen has shown, but the Wisconsin efforts to eliminate spring shooting do not appear to be related to a broader reformism or to the managerial attitudes which characterized the progressive conservationists of the early twentieth century. Game, and especially waterfowl, had obvious visibility in Wisconsin, especially in the Horicon Marsh and the Mississippi bottomlands, and declining numbers of waterfowl elicited commentary. But the movement to terminate spring shooting was not the achievement of sophisticated urbanites concerned for the future of wildlife. Rural interests controlled the legislature of Wisconsin (and all states of the upper middle-west), and rural legislators eventually legislated against spring shooting.³³ They did so as a result of pressures which were perhaps more moral than sporting or conservationist. The Wisconsin organization most active in pressuring the state legislature to reject proposals to reopen the spring season after the 1905 legislation was a pro-hunting body called the Northwestern Game Protection Association. Its official position was that spring shooting was "unsportsmanlike, cruel and barbarous."³⁴ Only as a secondary consideration did the association emphasize the possible extermination of game animals.

The state of Michigan also experienced a long-term controversy over

spring hunting. As early as 1859 the Michigan legislature forbade the hunting of waterfowl and upland game birds in the spring and summer months. By the early 1870s, and largely as a result of successful lobbying by organizations of Detroit hunters, the legislature began to extend the hunting seasons, and in the 1881 session a waterfowl season extending to May 1 received legislative sanction. Except for two years, 1895-1897, the terminal date for hunting waterfowl remained May 1 until 1913. The Michigan Sportsmen's Association, a conservation-oriented hunting organization active in the years 1878 to 1883, undertook to secure repeal of the 1881 law and to close the spring season. Its effectiveness, owing to internal divisions, was negligible. One of its own officials stated the problem with succinctness: "So long as the shooting of ducks in the spring is allowed in the neighboring states and provinces it can hardly be expected that the sportsmen of Michigan will favor a law excluding them from like privileges."³⁵

Legislation in the important waterfowl states was only part of the issue. Enforcement was its inevitable corollary. Before 1915 the states of the Mississippi Flyway devoted little attention and few resources to the enforcement of their game laws. Wisconsin, Minnesota and Michigan established game warden systems in 1887. The Wisconsin law provided for four wardens, the Michigan law for one, and the Minnesota law for one. The Minnesota warden served without salary. Following an established pattern, the appointment of the first wardens was a political rather than professional procedure. The state wardens fulfilled their duties through the medium of local deputies appointed on a per diem basis. Untrained, and responsive to prevailing sentiment in their communities, it is unlikely that these temporary officers enforced the game laws with zeal.³⁶

The states of the upper middle-west often demonstrated a more protective attitude toward "resident" game than toward migratory wildfowl. Obviously it was easier to estimate the population decline of resident species, but it is also true that upland game birds and mammals were always less numerous than waterfowl. Therefore, upland game was of less interest to market hunters and the commercial interests which employed political pressure to preserve long seasons on behalf of market hunting. Commercial hunting of quail, turkey and prairie chicken was common enough during the late nineteenth century, but by 1900 populations of these species were such that the economic feasibility of hunting them was dubious. This improved the position of groups seeking an end to spring shooting and the adoption of other protective measures. By 1904 no state permitted the hunting of quail, prairie chicken and wild turkey in the spring, only Illinois allowed the hunting of plover, and only a few

states still approved the spring shooting of king rail and ruffed grouse. Nevertheless, it is curious that the more likely a state was to close the spring season on upland game, the less likely it was for that state to close the season on waterfowl—and vice versa. Wisconsin, for example, allowed the hunting of squirrel and rabbit until May 1; Nebraska, which permitted duck hunting until April 15, actually opened the dove season on that date; and Michigan, which repealed its ban on the spring shooting of waterfowl in 1881, continued in force its prohibition on the spring hunting of all resident species of game.³⁷

Hence, before 1913, the efforts of conservationists and conservation minded sportsmen in the Mississippi Flyway states to curb spring shooting were generally unavailing. Illinois and Iowa resisted successfully the movement to reform the hunting laws, and in other states the progress of reform was uneven at best. Spring shooting ended for the same reasons that market hunting passed into oblivion—declining populations of harvestable game and the intrusion of the Federal government into the game preservation process. Both in the Lacey Act of 1900, which supplemented state laws prohibiting game exports and severely circumscribed the commercial game business and the market hunters who provided the raw materials, and in the Weeks-McLean Law of 1913, which asserted Federal jurisdiction over migratory birds, the conservation conscious Federal government took the waterfowl question out of state jurisdiction. One by-product of the 1913 legislation was a Federal waterfowl regulation which limited the annual season on ducks and geese to a maximum of three and one-half months commencing in September.³⁸

Federal conservation efforts and laws are beyond the scope of this essay. It is important to note, however, that the eventual Federal involvement in wildlife problems *was not* the result of elevating the spring shooting (or market hunting) issues from the upper middle-west to the Federal level. The motive forces behind the Federal involvement were Eastern-dominated conservation groups such as the American Game Protective and Propagation Association, the American Ornithological Union, and the New York-based Boone and Crockett Club. Two of these groups were dominated by elite sportsmen with close ties to the Roosevelt and Taft administration leadership, especially the personnel in the increasingly influential Bureau of Biological Survey.³⁹ Thus, the end of legal spring shooting came as a result of national directive not regional stimulus.

Notes

1. Gifford Pinchot, "How Conservation Began in the United States," *Agricultural History*, 11 (October, 1937): 255, 261-265.
2. Aldo Leopold, "Wildlife in American Culture," *Journal of Wildlife Management*, 7 (January, 1943): 4.
3. For an extensive survey of wildlife problems and practices in this period see Jenks Cameron, *The Bureau of Biological Survey; Its History, Activities and Organization* (Baltimore: Johns Hopkins University Press, 1929).
4. Leonidas Hubbard, Jr., "Iowa's Lack of Sportsmanship," *Outing*, 38 (May 1901): 194.
5. Arresting examples of extremism on the issue may be found on nearly every page of William T. Hornaday, *Our Vanishing Wildlife; Its Extermination and Preservation* (New York: Scribners, 1913) and the same author's *Thirty Years War for Wildlife* (Stamford, Conn: Permanent Wild Life Protection Fund, 1931).
6. The most convenient survey of American hunting regulations appears in James B. Trefethen, *An American Crusade for Wildlife* (New York: Winchester Press, 1975), especially pp. 106-156.
7. See A. W. Schorger, *The Passenger Pigeon, its natural history and extinction* (Madison: University of Wisconsin Press, 1955), pp. 199-230.
8. Bob Hinman, *The Golden Age of Shotgunning* (New York: Winchester Press, 1971), p. 29.
9. *Ibid.*, p. 12.
10. Albert M. Day, *North American Waterfowl* (Harrisburg, Pa: Stackpole, 1949), p. 44.
11. Aldo Leopold, "The Chase Journal: An Early Record of Wisconsin Wild Life," *Transactions of the Wisconsin Academy of Sciences, Arts and Letters*, 30 (1937): 69-76.
12. Jackson Turner Main, "History of the Conservation of Wildlife in Wisconsin" (masters thesis, University of Wisconsin, 1940), 24-25.
13. Trefethen, *An American Crusade for Wildlife*, 144.
14. A convenient representation of the geographical extent of the Mississippi Flyway appears in Ira N. Gabrielson, *Wildlife Conservation* (New York: Macmillan, 1947), p. 142.
15. Trefethen, *An American Crusade for Wildlife*, p. 147.
16. See Main, "History of Wildlife Conservation in Wisconsin," 26-28, and Eugene T. Petersen, "The History of Wildlife Conservation in Michigan, 1859-1921," (Ph.D. diss., University of Michigan, 1953), 63-64, 270.
17. Wisconsin, *Assembly Journal, 1909* (Madison, 1909), 613. See also the commentary on 615-616, 705ff.
18. Milwaukee *Sentinel*, April 25, 1909.
19. See the discussion in Main, "History of the Conservation of Wildlife in Wisconsin," 27-28.
20. Wells W. Cooke, "Saving the Ducks and Geese," *National Geographic Magazine*, 24 (March, 1913): 360-380. Quoted material appears on p. 368.
21. Lyle K. Sows, *Prairie Ducks: A Study of Their Behavior, Ecology and Management* (Harrisburg, Pa: Stockpole, 1955), p. 12.
22. Trefethen *An American Crusade for Wildlife*, p. 113.
23. *Geer v Connecticut* (161 U.S. 519, 527-528) and subsequent refinements are reproduced in William F. Sigler, *Wildlife Law Enforcement* (Dubuque, Ia: William C. Brown Co., 1956), pp. 16-21.
24. Main, "History of the Conservation of Wildlife in Wisconsin," 31-32.
25. Stoddard Goodhue, "Game Laws and Game of America: Part II," *Harpers Weekly*, 40 (February 8, 1896): 141.
26. *Laws of Wisconsin*, 1887, chap. 374.
27. *Ibid.*, chap. 456.
28. *Ibid.*, 1893, chap. 106.
29. Hubbard, "Iowa's Lack of Sportsmanship," 192-196; Hinman, *Golden Age of Shotgunning*, 4ff.
30. Wisconsin, *Senate Journal*, 1895 (Madison, 1895), 27. Some spokesmen for Wisconsin interests were aware that the state had taken the lead in the prevention of spring shooting and warned against retreating from its "advanced position" on the issue. See Milwaukee *Sentinel*, February 24, 1901; April 9, 16, 1905; May 7, 1905.

31. Main, "History of the Conservation of Wildlife in Wisconsin," 30-41
32. Wisconsin, *Assembly Journal*, 1909, 613.
33. The late nineteenth century origins of Wisconsin Progressivism are the subject of David P. Thelen's excellent study, *The New Citizenship: Origins of Progressivism in Wisconsin, 1885-1900* (Columbia: University of Missouri Press, 1972). Unless Thelen thoroughly misplaces his emphasis, which is unlikely, conservation in general and wildlife in particular were marginal components of reform in Wisconsin in the period in question. His treatment of conservation matters (p. 35) is the subject of a single paragraph.
34. Wisconsin, *Assembly Petitions*, 1905, 408A.
35. The Michigan experience is the subject of Eugene T. Petersen's "The History of Wildlife Conservation in Michigan, 1859-1921" (Ph.D. diss., University of Michigan, 1953). See especially pp. 35, 63-64, 270. Material quoted from the *M.S.A. Transactions*, 1878 appears on p. 64.
36. *Ibid.*, 79, 83, 86; *Laws of Wisconsin*, 1887, chap. 456.
37. See especially T. D. Palmer *et al* (comps.), "Close Seasons for Game," *Outing*, 43 (October, 1904): 110.
38. The most extensive study of the Lacey Act is Theodore W. Cart, "The Struggle for Wildlife Protection in the United States, 1870-1900" (Ph.D. diss., University of North Carolina-Chapel Hill, 1971), especially 149-156. On the Weeks-McLean measure see Jenks Cameron, *The Bureau of Biological Survey* (Baltimore: Johns Hopkins University Press, 1929), 101ff. Cameron was the head of the Bureau. He pointed out (p. 185) that the number of Federal wardens appointed to enforce the Weeks-McLean law was fewer than the number of states in the Union. The text of the law appears on p. 274.
39. See William S. Haskell, *The American Game Protective and Propagation Association: A History* (New York: the author, 1937), pp. 21-57, 62-66; on the other organizations see John F. Reiger, *American Sportsmen and the Origins of Conservation* (New York: Winchester Press, 1975), pp. 65-69, 114-141.