

First Biennial Report

OF THE

State Fish and Game
Warden

OF THE

State of Idaho.

1900.

CHARLES H. ARBUCKLE,
State Fish and Game Warden.

CAPITAL PRINTING OFFICE

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THE GOVERNOR OF IDAHO
OFFICE OF THE GOVERNOR
BOISE, IDAHO

BOISE, IDAHO, Dec. 20, 1900.

To His Excellency,
FRANK STEUNENBERG,
Governor of Idaho:

Sir:

In accordance with the provisions of the statutes of Idaho, I have the honor to submit herewith the First Report of the Department of Fish and Game.

Respectfully submitted,
CHARLES H. ARBUCKLE,
State Fish and Game Warden.

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This office was created by an act of the fifth session of the State Legislature, and the present incumbent assumed the duties of such office in May, 1899. Prior to the creation of this department, various laws for the protection of game and fish have been upon our statute books. They were framed with the best intent, but all have been practically inoperative because no person felt fully authorized to enforce them. To secure a conviction of anyone guilty of an infringement of our game laws, one must become an informer, and this in itself is not a pleasant duty. Further, public sentiment seemed largely against the punishment of offenders, and convictions were almost impossible even for the most flagrant violations. Since assuming the duties of this office, it has been my earnest endeavor to suppress such violations of our laws wherever discovered, and I am glad to say that in many cases the State has been successful. In this I have been most ably assisted by Attorney General Hays, who has at all times entertained a keen interest in our existing game laws.

LACK OF FUNDS.

It is a fact, however, that the effective work of this department has been seriously handicapped and crippled by the inadequate appropriation for expenses. This appropriation is but three hundred dollars per annum, and must cover traveling expenses, office rent, printing, postage and all other legitimate expenditures. It is insufficient for the purposes. I would recommend that a larger appropriation be made in order to render the service of this department more effective. This seems to me to be of the utmost importance. The best results cannot be obtained unless the Warden has at his command a sufficient fund to pay the legitimate expenses of the office.

DEPUTY WARDENS.

As mentioned before, the game laws of this State, prior to the creation of this department, have been virtually a dead letter. Conviction for violations could be secured only upon information, and the reward of the persons informing was wholly contingent upon a successful conviction. No one felt a disposition to inform against his neighbor, and infringements were seldom, if ever, punished. This department has endeavored to make our laws effective, and to enforce them. I am glad to say that the results have been gratifying and that public sentiment, while heretofore seemingly against the rigid enforcement of the game laws is rapidly changing and efforts of the officers of this department meet with a more cordial support from the people. It augurs well for the future. The work of this office, since its creation, has been assisted materially by the sportsmen of the State, individually and by their club organizations. To them is due much credit in the education of a public sentiment for the protection of our game and fish. In this connection, I desire to state that the county warden system, while not entirely a failure, is far from satisfactory. It is almost impossible to secure persons fitted for the work who will accept appointments when the remuneration is contingent upon conviction and payment of fine. I cannot too strongly urge a change in the existing law which will authorize the State Game Warden to appoint five deputy wardens, one from each judicial district. They should be selected for their especial fitness for such position and paid a salary sufficient to enable them to devote their entire time and attention to their duties. They should also be allowed necessary traveling expenses and should, under direction of the State Warden, be authorized to go to any part of the State. They should also be allowed one-third of all fines where convictions are secured by them, and fines paid. All other officials should receive the same. At present no county official can receive any remuneration for prose-

cutions except the County Game Warden, and the person informing.

I also suggest that one-third go to a State Game Fund for the maintenance of this department, and the remainder to the county wherein the conviction is had. By this system, I feel confident that our laws for the protection and preservation of game will become thoroughly effective. The State Game Warden should also be authorized to appoint special wardens in the different counties who shall serve without other remuneration than the one-third of the fine obtained from convictions, as suggested above.

ADDITIONAL POWERS.

I recommend also, that the State Game Warden and his assistants be clothed with the same powers as sheriffs in summoning posses for the proper enforcement of the Game Laws. The passage of a law covering these grounds would give game wardens additional powers and add much to the effectiveness of this department.

HUNTERS' LICENSES.

The changes in the warden system will increase the expenses of this department, and to meet this I recommend the enactment of an equitable license law for sportsmen. In sixteen states, where game is most abundant, a license law for hunting is in effect. The fees for privileges vary greatly, but in all instances the law has been followed by most excellent results. The hunter's license laws of Maine, Michigan and Wisconsin are perhaps the most comprehensive. Under the game laws of these states, no person, resident or non-resident, is permitted to shoot game or take fish without first obtaining a license. I am earnestly in favor of the enactment of a similar law in Idaho, and suggest that bona-fide

residents of the State, who desire to shoot game or take fish, be required to pay an annual license fee of two dollars.

Non-resident hunters should in justice pay a larger license fee, as in no other way do they contribute to the expenses of those charged with the preservation of our game. Wyoming has a non-resident license law, and I understand surrounding states will soon enact similar legislation. Unless we act with prompt decision. This State will suffer severely from the invasion of outside hunters. In my judgment there should be two classes of licenses for non-resident hunters. A fee of \$25 should be demanded for the privilege of taking fish and small game during the open season. This license should not permit the killing of deer, elk, antelope, mountain sheep or mountain goats. Any non-resident desirous of hunting these animals should pay an annual license fee of \$40, which should entitle him to the privilege of taking any game and fish which may be lawfully taken during the open season of such game or fish for that year. This would conform to the laws of Wyoming, a state immediately adjacent, and where conditions are similar. A just law, requiring those who desire to hunt or to fish in this State, to pay for the privilege of so doing, will not only tend to protect our fast diminishing game, but will also, from the receipt of such license fees, place this office upon a practically self sustaining basis, when once in thorough operation. The various amounts received from this source should go into a State Game Fund, heretofore mentioned, and should be available for the expenses of this department. The enactment of a license law of this character would, in my opinion, create a perpetual source of revenue from sportsmen from abroad without working unnecessary hardships upon our own citizens, and would place this department in such a condition financially that the State would be put to little or no expense for its maintenance. I have made as careful an estimate as possible of the amount of revenue likely to be derived from this system of licenses.

It will not be less, in my judgment, than \$8500 per annum, and I think, a greater sum, which will be more than sufficient to defray the expenses of this department. Following this idea, I desire to make a further suggestion. Every non-resident desirous of hunting large game in this State should be required to do so under the direction of an experienced guide. Such guides should be required to register with the State Game Warden and to pay an annual fee of \$2.50 which should be paid into the State Game Fund, heretofore mentioned. Sportsmen from abroad would willingly pay for the services of such skilled and experienced guides. Maine and several other states have game laws similar in theory to these suggestions. They have been invariably successful in operation. These guides should be required to furnish the State Game Warden a report showing the number of parties he has been in charge of and the number of game animals killed by such parties and any other valuable information when requested. Each guide should be an ex-officio game warden. It should be made the duty of such guides and of all game wardens to protect our forests from fires and to see that outing parties extinguish their camp fires. Every possible safeguard should be exercised to prevent forest fires, for they not only destroy the forests, but also destroy our game. A heavy penalty should be imposed upon persons guilty of leaving camp fires unextinguished. Great damage has resulted in the past from this cause and the system of licensing guides would tend greatly to diminish such damage.

EFFECTIVE WORK.

The wardens have met with many difficulties and discouragements in the performance of their duties. Much, however, has been accomplished. We have practically succeeded in stopping the shipment of game and trout from Idaho to other states, and the sale of such in open market in his State is virtually suppressed. As a single instance, the

traffic in the catching and shipment of enormous quantities of trout from Henry's Lake, estimated by reliable citizens of that section at from 50,000 to 90,000 pounds, every winter, for years past to Butte, Salt Lake, and other points has been effectually stopped. In the suppression of this unlawful traffic, the Attorney General deserves great credit and the officials of the express and transportation companies have rendered great assistance, the latter refusing to accept shipments of our lake trout, ostensibly sent out as "white fish," to avoid the law. It is evident that the sentiment for the preservation of our game and fish is growing throughout the State and that it is a healthy one.

LAX PROSECUTIONS.

It is the duty under the Game Laws of Idaho, for the County Attorneys of the various counties to prosecute offenders against such laws, and to lend the game wardens every assistance possible. I regret, however, that in some instances, there has been an apparent apathy on the part of such officials. Despite adequate evidence, prosecution has been seemingly lax. This is especially true in instances where the law breakers have been prominent citizens. It has not been the desire of anyone connected with this department to persecute any persons, but when wilful violations occur, energetic measures for their suppression should receive the active assistance of the prosecutor. This, for various reasons, is not always obtainable, and I therefore recommend that when from any cause, the prosecuting attorney fails to lend active assistance in such cases, the State Game Warden be empowered to employ special counsel for the prosecution. The fees for such counsel should be chargeable to the State and payable from the Game Fund, if available; otherwise from the general fund. By this enactment, the game wardens would be able to enforce the laws, regardless of the absence, from any cause, of the public prosecutor.

DEPARTMENT WILL BECOME SELF-SUSTAINING.

It is imperative that the game of this State be protected from ruthless slaughter. This is so, as well from a business point of view as from a sentimental standpoint. The annual influx of sportsmen from other states to Idaho increases every year, and in many instances they become residents and tax-payers of the State. As time passes, this influx from abroad will be more marked, and under a proper license law for sportsmen, the revenue derived therefrom will be amply sufficient for the maintenance of this department, besides affording protection to our fish and game. According to the statement of Hon. L. T. Carlton of Maine, no less than \$4,000,000 is spent by sportsmen every year in that State. Mr. Carlton also states that no less than 10,000 outside sportsmen visit that state every season and that 1300 registered guides are employed. Under the license law in operation there, it can be readily understood that the revenues thus derived must be very great. While we cannot expect to receive such large sums from this source, as are enjoyed by older states like Maine, Michigan, Wisconsin and others, we can, by the enactment and proper enforcement of a license law, create a considerable fund for the preservation of our game. I have been informed from reliable sources that over 1000 non-resident sportsmen visit this State annually to fish and hunt.

I will add that Hon. Jas. T. Ellarson, State Game Warden of Wisconsin, states in a recent communication to this office that the license system in that state has been a success and that his department is now self-sustaining.

DEPUTIES APPOINTED.

Deputy game wardens have been appointed in every county in this State except Ada, Custer and Shoshone counties, where it has been impossible to secure persons to act. I

am glad to say that their work has been most efficient and energetic, considering the fact that their remuneration has been contingent only upon securing a conviction.

ARRESTS AND CONVICTIONS.

During the existence of this office, there have been about 60 arrests for violation of the Game Laws. Accurate information on this is unobtainable for the reason that several county wardens have failed to report. Taking into consideration the previous spirit of public sentiment, which has been adverse to the enforcement of the Game Laws, and the difficulties in obtaining evidence, convictions have been in numerous instances hard to obtain. A number of convictions have, however, been secured, and have had a most salutary effect. Several cases are still pending. Many other cases of alleged violations have been investigated, but are not matters of record because sufficient evidence could not be obtained to warrant arrests. Everything possible has been done to enforce the law with the limited fund at disposal for expenses. Considering the difficulties under which the county wardens have labored, and the fact that they were obliged to pay their own expenses while securing evidence and could receive no compensation unless a conviction was obtained, they have rendered most excellent service and are entitled to great credit. But I am thoroughly convinced that we can never effectually enforce the law under the present system. It will be even harder to secure competent wardens in the future than in the past.

Suggestions on Fish Laws.

SPEARING AND SEINING OF FISH.

Section 17 of our present laws permits the spearing of and seining for nearly every variety of fish except trout. Even the white fish of our streams, a splendid food variety, is unprotected. In my opinion, the law permitting spearing and seining should be abolished. While the intent of the section may have been good, its active operation has been vicious, because persons using such methods of taking fish do not always distinguish between the different varieties of fish, and many trout are killed. The section mentioned leaves an opening to evade the law. It benefits but few persons and is antagonistic to the preservation and protection of our fish.

TRANSPORTATION OF FISH AND GAME.

Under certain proper restrictions, residents of Idaho should be allowed the privilege of transporting a reasonable amount of fish or game, taken by themselves, from any portion of the State to their own place of residence, the shipment thereof to be in all cases accompanied by the person making it. This suggestion should not be construed as meaning the shipment of game or fish for marketing purposes, but simply for the use of the individual for his family.

GOVERNMENT HATCHERY.

In April of this year, I personally circulated a petition to our Representatives in Congress, which was freely signed by numerous leading citizens, for the establishment of a government fish hatchery in Idaho. Good assurances have been given that such an institution will be established in the near future. Henry's Lake, in Fremont county, has been sug-

gested as a proper location, as local conditions in that section are exceptionally good for the success of such an institution. A government fish hatchery would be of great value to Idaho, as we have at present no State hatcheries and but few private ones. I have received numerous requests from residents of the State for fish spawn, but, of course, have been unable to comply with them.

PRIVATE FISHERIES.

While on this subject, I desire to call special attention to the law permitting individuals or corporations to maintain private lakes or streams for fish. It should be amended. The privilege is abused to a great extent in some localities. I have been reliably informed that in Fremont county, alone, there are 37 so-called private fisheries, and in other counties where conditions are favorable the same thing is being done. In my judgment there are not half a dozen legitimate ones in the State. Springs and small streams are dammed up and stocked with fish taken from public waters, or permitted to enter the so-called private lakes or ponds. These fish are afterwards taken and marketed as private property. We have a law prohibiting the sale of trout taken from the public streams of our State, but the Act passed at the last session of the legislature, providing for the establishment of private lakes, furnishes ample opportunities for the evasion of this law, as is evident by the large increase in the number of these alleged private fisheries throughout the State since the passage of the Act. I urge stringent legislation to suppress this growing evil, as it is fast depopulating some of our choicest streams. No person should be allowed to market fish unless he can clearly show that they are his private property and have been propagated by him. The present practice of stocking these so-called private lakes with fish taken from public waters, and afterwards selling them as private property, is

simply an evasion of the law, and should be suppressed by vigorous legislation.

LIMITATION OF CATCH.

I am also strongly in favor of restricting the taking of fish by any individual to a reasonable number of pounds per day. Laws similar have been in active operation in other states and have proved generally satisfactory. Such restrictions would tend greatly to protect fish.

LOSS THROUGH IRRIGATION DITCHES.

Another subject which demands some legislation is the serious loss of fish through irrigating canals and ditches. Fish enter these canals and follow down the smaller laterals. When the water is turned off, they perish. Enormous quantities of fish are destroyed in this manner every year and some means should be taken to prevent such loss.

INDIAN QUESTION.

The question of hunting by Indians off of their reservations is a serious and a somewhat perplexing one. We have a law, passed at the last session of the legislature, which makes it unlawful for Indians to carry fire arms in counties other than that wherein their reservation is situated, during the closed season for game, but its provisions are practically inoperative. Every year these marauders organize into large hunting bands that are beyond the control of game wardens with the limited power at present bestowed upon these officials. They slaughter large game indiscriminately, does and fawns being killed ruthlessly and usually for the mere purpose of securing hides. Some law should be enacted prohibiting Indians from hunting anywhere in the State outside of the limits of their own reservation, and providing punishments that when inflicted

will give the violators a wholesome and lasting respect for the law. Arizona has a law in operation which provides that any Indian caught hunting off his reservation is guilty of a misdemeanor.

KILLING OF LARGE GAME.

The present law of this State regulating the killing of large game should, I think, be amended. The open season for deer and antelope should be from August 15th to November 1st and the number killed limited to two of any one species of these animals by any one person. These to be only those having horns. I am utterly opposed to the killing of females or fawns at any time, for the slaughter of these means the rapid extinction of such game. I also recommend that the hunting of elk, mountain sheep and mountain goats be permitted only in the month of October; that no cow elk or calves be killed at any time, and that hunters be allowed to kill but one of each species during the open season. The elk, one of the noblest of all our wild animals, has been mercilessly killed in the deep snows of winter in the past years and in utter disregard of any law for protection. It is a fact deeply lamentable that all our large game is becoming scarcer every year and only by reducing the number allowed to be killed and shortening the open season can the different species be saved from practical extinction. A rigid enforcement of the law must be made to save this class of game.

Game Birds and Water Fowl.

SHOULD PROHIBIT SPRING SHOOTING.

I suggest several material changes in the laws regulating the shooting of game birds and water fowl. The open season for sage hens, grouse, prairie chickens, fool hens, and doves (which latter bird is not at present protected by law) should be from August 1st to November 1st. Ducks, geese, and all water fowl should be killed only between September 1st and December 1st. This would abolish spring shooting, a practice which is destructive almost beyond belief, and is rapidly driving our wild fowl from the State. Not only are the old birds killed, but they are disturbed at nesting and breeding time and driven elsewhere. Many states are awakening to the fact that spring shooting is destroying water fowl and are enacting laws prohibiting it.

QUAIL LAW.

The present law providing that quail can only be hunted during the month of November is an excellent one and should not be changed.

LIMITED NUMBER TO BE KILLED.

A limit should be placed on the number of game birds or water fowl of any one kind that a sportsman be allowed to kill in a single day. Fifteen, or at the utmost, twenty, should be made the limit.

PROTECTION OF SONG BIRDS.

No law has ever been enacted in Idaho for the preservation of song and insectivorous birds, nor for the protection

of the nests and eggs of any variety of birds. Our feathered songsters should be given full protection by the law. In this I do not include the English sparrow. This imported pest has already made his appearance in Idaho. He is an inveterate fighter and quickly drives other birds out of the country. Efforts to exterminate the sparrow in other states have not met with great success, but he should be destroyed wherever possible.

IDAHO AS A GAME STATE.

I have elsewhere briefly referred to the sums expended in other states by sportsmen who are licensed to hunt therein. Idaho is naturally a home for all kinds of game, and if protective laws are passed and enforced, it will, in a few years, become recognized everywhere as among those celebrated for an abundance of game, and sportsmen from abroad will be attracted to our streams and forests. Our vast mountain area, portions of which have hardly been explored, will always be the home of large game if adequate protection is afforded. Those animals unprotected by law, but the chase of which is a joy to the hunter, also abide in our forests. Bear of every kind, from the common black to the fierce "bald-face" and the royal silver-tip grizzly, roam over our mountains, willing at any time to contest rights of priority with the daring sportsman. There, also, may be found the stealthy mountain lion, the lynx, the wild-cat, and other carnivorous animals. Our many streams and lakes abound in fish as gamey as any in the world, and have already attracted the attention of the ambitious angler of both Europe and America. In short, Idaho, by its topographical conditions, will ever remain one of the few states of the Union celebrated for its abundance of fish and wild game, if good and healthy laws for protection are enacted and afterwards con-

scientifically enforced. And as time passes, its reputation in this respect will constantly grow.

REASON FOR CHANGES.

This report contains various recommendations for changes in existing fish game and laws and for the enactment of new ones. The record of the actual accomplishments of this since its creation, is naturally brief. The office is a new one and experience teaches much. There has been no precedent nor data to refer to. Some provisions of the game laws of this State are excellent, while other have been proven, upon actual test to be faulty, and difficult to enforce. For this reason, changes in the existing law are suggested, that I believe will be of great benefit and will render the work of this department much more effective. Many of the changes suggested are not crude nor untried ideas. Laws covering the same principles are in successful operation in many other states. I have simply endeavored to make these recommendations conform to the changed conditions of localities. While agreeing in general purpose, the game laws of one state would not fulfil all requirements in another.

I have given the question of the preservation of our fish and game much careful thought, and the conclusions arrived at and embodied in the foregoing recommendations are not hasty ones, nor rendered without due consideration. Many coincide in a general way with the laws of older states, where experience has demonstrated them to be sound and practical.

In conclusion I desire to thank your excellency and all those state and county officials who have rendered encouragement and assistance to the work of this department since its creation.

CHARLES H. ARBUCKLE,
State Fish and Game Warden.