

Vermont State Game Wardens

1904 – 2004

A Brief History

By Warden Curtis Smiley

The earliest Fish and Game law in Vermont, passed in 1779, protected deer from January 10 to June 10. Since then, thousands of Fish and Game laws have been written, legislated, amended and repealed. Fish and Game laws are in a constant state of evolution to protect the fish and wild animals themselves, for public safety and to meet the changing views on what is socially acceptable. As society views the use of our natural resources from a changed demographics the laws must keep up with the changes in cultural and technological advances.

The enforcement of Fish and Game laws has also changed much since the days of the early settlers. Who are these enforcers? Where did they come from? What is a "Game Warden"?

In 1779, when game laws first arrived, "Deer Reeves" enforced these laws. A "reeve" is defined as "a local official charged with enforcement of specific regulations." These men were chosen by each town to enforce the law but were not selected in all cases and they had little power. Fish and game populations were at an all time low with deer nearly extinct and the native fish populations depleted. Early settlers had relied on these resources for food and had a great disdain for fish and game laws and the men who enforced them. Laws were not enforced in many instances. By the early 1800's most of the deer were gone and the office of "deer reeve" disappeared with them. Things would not change for nearly a century.

The man most responsible for the fish and game conservation movement in Vermont was George Perkins Marsh. Marsh was the first man to hold title of "Fish Commissioner" in Vermont. In his report to the Governor dated October 10, 1857 he had this to say:

The habits of our people are so adverse to the restraints of game laws, which have been found peculiarly obnoxious in all countries that have adopted them, that any general legislation of this character would probably be found an inadequate safeguard.

In many European countries, where restrictive and prohibitory laws of all sorts are much more rigidly enforced than with us, the preservation of land and aquatic game has been an object of legislation for centuries, but none of these systems

have ever been attended with general success, and the possessors of great forests and fisheries, whether royal or private, everywhere depend rather upon guards and enclosures than upon the terror of the law, for the protection of the objects of the chase or the fishery.

In 1871, Fish Commissioners Merritt Edmunds and Middleton Goldsmith made this recommendation to the legislature in their report to the Governor:

That Fish Wardens should be appointed, in proper number and situations, with authority to see to the enforcement of the laws with regard to fish and fisheries.

This recommendation was not acted upon and in 1873 Fish Commissioners Edmunds and Goldsmith made the following recommendations:

Sec. 20. Any town may, at a regular or duly warned town meeting, elect one or more Fish Wardens, and raise by tax a sufficient sum for paying the same.

Sec. 21. Fish Wardens shall, upon entering office, make oath that they will duly and diligently cause to be enforced the provisions of this act.

Sec. 22. Fish Wardens shall, in the performance of their duty, have the authority, immunities and protection of a constable.

Sec. 23. Fish Wardens may require of all persons fishing with nets to show under what license they are fishing; shall examine the nets and other devices; whenever necessary may arrest, by summary process, all offenders under this act, may seize all boats, seines, nets, guns or other means of unlawful use in the premises.

Sec. 24. The presence of a person in a boat with nets, seines, guns or other articles used in the unlawful capture of fish, shall be deemed presumptive evidence of an intent to infringe the law, and shall be held conclusive evidence, in the absence of explanatory evidence.

Sec. 25. All such boats, nets, seines or other devices, taken from persons in the act of breaking the law, shall be forfeited to the State; and, upon condemnation by the proper officer, may be destroyed or sold. Two-thirds of the price, in case of sale, shall be paid to the Fish Warden making the seizure. ►

Sec. 26. One half of the fines imposed, under this act, shall go to the officer making the arrest or seizure."

This recommendation was also not acted upon and in 1875 Fish Commissioner Goldsmith, in his report to the Governor, had this to say:

The unlawful capture of fish of nearly all kinds is still almost uninterruptedly pursued, both in method and in season.

Some of the reasons for this state of things it is easy to find, the chief of which is that, though the law is in many respects well enough, there is no one to see its execution.

So far as private waters are concerned, the great cost of Fish Wardens to guard the streams from trespass would be impracticable. Indeed, to protect the public fisheries to such a degree of efficiency as to subject them to strict police discipline, by officers specially appointed to the service, would hardly be warranted except at a few isolated points.

In view of all these considerations, I have respectfully to recommend that laws should be passed in addition to those on the statute book, as follows:

That the civil authority of any town, or the voters therein, may appoint Fish Wardens who shall be clothed with necessary police power; the said wardens to see to the execution of the State law, but to be paid by the towns appointing them. Such wardens to guard only public fisheries.

On November 22, 1876 "The Law for the Protection of Fish and Game" was passed. It included many of Commissioner Goldsmith's recommendations. The selectmen of any town were given the authority to appoint or remove a person to be known as a "Fish Warden", who would have the authority to arrest on view persons violating the laws for the protection of fish. The warden was paid through the "moiety" system, one half the fines being their reward. Before the passage of this law some attempt to force observance of the laws was made by offering half of the fine to persons reporting violators. The wardens appointed under this law were under the influence of local officials and their jobs could be no better than the attitude of local people and officials. They were not appointed in all towns and their power was very limited.

In 1882, the legislature gave Fish Wardens the same power held by a sheriff in demanding and receiving assistance in apprehending violators, and a penalty was provided for failure to cooperate.

On November 17, 1886 Fish Wardens were given the powers and fees of grand jurors in criminal prosecutions when inquiring into any violation of any law enacted for the protection of fish.

In 1888, the Fish Commissioner was given the power to appoint temporary fish wardens in addition to those appointed by the selectmen. These "Temporary Fish Wardens" would not be paid by the state, but would have the same powers as a regular Fish Warden. This would now provide some law enforce-

ment under the control of the Fish Commissioner.

The 1892 legislature gave the wardens the power to hold a violator at state expense until prosecution could be instituted and to file a complaint formally with the state's attorney or grand juror. By 1894 there were 156 "State" appointed Wardens.

By 1902 the Commissioners and the public had seen many problems with the integrity and reputation of many of the town appointed wardens and began seeking more changes. From the 1902 Commissioners Report:

Some wardens are appointed by the selectmen, but more by the commissioners, who are obliged to rely upon the recommendations of some town officer or reputable citizen for certificate as to the integrity and fitness for the position. It is inevitable that occasionally some man totally unfit for the office is appointed. Many towns where public sentiment is entirely opposed to the enforcement of the game laws have no wardens. All wardens are supplied with copies of the game laws, and instructed as to their duties. Blanks are forwarded to them twice a year with request that they report violations of the game laws which have occurred in their vicinity and how the cases stand, and also to make any remarks which may occur to them about the operations of the laws, etc. The commissioners find that one or two men well paid for their services accomplish much more in the State than the volunteer work of local wardens, who, if they render services other than because of their personal interest in the preservation of the fish and game, must take their chances of being remunerated by the very unsatisfactory and uncertain method of the moiety system.

The moiety system has been very generally discarded in other branches of legislation. It would not cost the State much, if any more, to obtain more efficient service if a special appropriation is made to provide for a State Warden, who should devote his entire time to an enforcement of the game laws. To secure a suitable person for such a responsible office the salary should not be less than \$1,200 per year, besides traveling expenses, requiring a total annual appropriation of \$2,000.

On December 7, 1904 the legislature passed Public Act No. 118. "An act to establish a Fish and Game Commissioner and Fish and Game Wardens and to appropriate a sum of money for the protection of fish and game." This act established the "State Game Warden" as we now know it and was the beginning of our current Warden service. This act authorized the commissioner to appoint, with the consent of the Senate, not less than one or more than two wardens per county. The wardens would receive \$2.00 per day and expenses paid by the State while officially employed. The commissioners had been attempting for many years to get a paid Warden Service and they felt that the local wardens had not done their job in many cases.

The first badges that we are aware of carried the title "County Warden" and were probably issued circa 1920.

From the 1928 Biennial Report of the Department of Fish and Game:

THE INFORMER

The General Assembly of 1927 made comparatively few changes in Fish and Game Laws. First in importance, perhaps, was a very drastic change in the law providing for the appointment, supervision, and scope of the Fish and Game Warden Service. The first step toward this end was taken in 1919 when the commissioner was given authority to appoint not to exceed six Special Wardens for patrol duty. This supplemented the old county and town system, but led to some jealousy and friction between county and state wardens resulting in the use of state wardens in other capacities than provided for by law. The change to the present system was in line with the policy of the most progressive states; is a real step in advance, and makes it possible to carry out the ideas gained from the experience and reports of former state commissioners. The new system authorizes the appointment by the commissioner of not to exceed fourteen state wardens, and one chief warden, with such deputy and volunteer wardens as he deems necessary, the latter to serve without pay. Under this law an average of fifteen state wardens and six deputy wardens on annual salaries, and four deputy wardens on a per diem basis have been appointed together with approximately five hundred volunteer wardens, appointed for the most part on recommendation of the sixty-five Fish and Game organizations of the state, and who serve without pay. In establishing the new force, county lines have not been recognized and the effort made to maintain a mobile force, fitted and available for state-wide patrol service, moving them from one section to another, singly or in groups of two or more, to any part of the state under the direct orders of the chief warden. E. L. Flanders of Orange, now with eighteen years actual experience as deputy and county warden was appointed Chief Warden and has developed an organization that while not perfect, has distributed the service more evenly over the state, succeeded in securing convictions for real violations, and which acts quickly on information from any locality. Some of the men who have served long and faithfully as county and town deputies have been retained; others whose conflicting business interest, or physical disability, made extended patrol service impossible have not been continued. The policy of the Department is to make the warden service much more than a prosecuting force, although, we must protect our wildlife or expect its extermination. Great emphasis has been laid on the educational features of the warden service. The Vermont warden is your friend; he is interested to help maintain and improve your sport, and give you reliable information on hunting and fishing conditions, and the State laws protecting fish and game. The warden force is making surveys of lakes, streams, and cover as the foundation for an intelligent stocking policy and as a basis for needed legislation. His work brings him closely in touch with the landowners on whose property you enjoy your recreation and your mutual interests are made a matter of satisfactory adjustment so far as the rights of both are concerned. Many of our wardens have developed real leadership with boys, and are instructed to be patient with them and in every

way possible, encourage them to find recreation out of doors on stream and lake, and in forest, and to use our wildlife resources as true sportsmen. The changed law provides a slight increase in compensation; this will help, but the wardens' pay is still too small to retain and attract to the service the type of men we want. Many of them, however, are with us because of their interest in the work and in the conservation of wildlife.

In the spring of 1930, the full time warden force adopted uniforms of military type. These were the first uniforms.

In 1947, the director was given authority, with the consent of the governor, to appoint as many State Wardens as may be required for law enforcement up to twenty four, and a Chief Warden. All wardens would be full time. Deputy wardens could be appointed for a limited time as needed under the supervision and direction of the director.

In 1953 the legislature gave the director the power to appoint as many wardens as needed with the need to be determined by the commission.

In 1958 the State began issuing patrol vehicles to Wardens. The first cruisers were cars. Prior to this the Warden used his own personal vehicle for patrol.

In 1965 the first modern two-way radio systems were installed in patrol vehicles greatly aiding communications for officer safety and for response times to violations.

On April 3, 1974 State Game Wardens were given full police power to enforce all criminal law.

On April 27, 1978 Warden Arnold Magoon was killed after he was struck on the head by a deer jacker. Arnold Magoon was the first Vermont State Game Warden killed in the line of duty.

The last decade has been good to the Warden force with substantial gains in equipment updates and salaries. In May of 1997 the Warden force switched duty sidearms from the Smith & Wesson .357 magnum revolver to the .40 caliber Glock semi-automatic which is currently used today. Other equipment updates included new compact portable radios, new vehicle mounted digital radios, global positioning units, cellular phones, roof mounted emergency light bars, modern aluminum framed snowshoes, search and rescue clothing and equipment, patrol rifles in .243 caliber and .22 caliber, bullet proof tactical vests, snowmobiles for the entire force, all terrain vehicles, new boats, four stroke boat motors, binoculars, 35mm cameras, video cameras and night vision devices.

Vermont State Game Wardens today are some of the most highly motivated, best-trained enforcement officers in the state. Job openings are scarce and applicants are many, allowing the Vermont Fish and Wildlife Department to hire only the most qualified individuals. Vermont State Game Wardens are proud of our heritage and strive to stay ahead of the violators using the most modern law enforcement techniques and practices available while maintaining our traditional image and values.

Our current roster consists of (1) Colonel, (1) Administrative Lt., (1) Chief Firearms Instructor, (4) Lieutenants, (4) Sergeants, and (28) Wardens. □