

Wisconsin Conservation Activities ^{received with note from him 2-4-74}

Biographical — by A. D. Sutherland
(Especially D.W.F.A.) 104 S. Main St. ^{Walter Scott}
Fond du Lac, Wis ^{DNR}

In 1954 I received a letter from the Nash Motor Company asking if I would come to Washington to receive an award for outstanding achievements in conservation. I replied that if the award was to be used in advertising I was not interested. In reply it was stated that a committee of national authorities on conservation had chosen me to receive the national non-professional conservation award, and no advertising was involved.

I went to Washington where the award was presented at a banquet in the Statler Hotel, attended by about five hundred people from all over the United States.

In 1957 I attended a convention of the Isaac Walton League of America in Washington, D. C. I had been national director, vice president, and member of the executive board for a number of years. At the convention my time was taken with various committees. I knew little about what went on on the floor. When I returned home I read in the local paper that I was elected honorary president of the League. I appreciated this because men as Herbert Hoover, Lawrence Rockefeller, Arthur Godfrey, and Preston Bradley had been so honored.

In 1951 I received the diamond pin Broughton Award of the State Division of the Isaac Walton League. In 1966 I received the La Budde Award. In 1971 I received an award from Ripon College for outstanding work in conservation.

In 1973 the University of Wyoming requested my clippings and other material on conservation to file in their library. I sent on most of what I had. They acknowledged receipt of 467 newspaper clippings and twenty-six talks I had given on conservation before various organizations and my book 'Sixty Years Afield and Observations on Conservation'. They made copies of the material. I have been requested to file my material in other libraries.

I humbly acknowledge these awards and recognition in behalf of many members of the Isaac Walton League who unselfishly gave their time and joined in getting results of lasting benefits for all our people.

My interest in conservation problems started in the 1920 period. A number of people employed me to stop the pollution of our river by a tannery that poured the scrapings of fat, meat, and hair into the Fond du Lac River. During hot spells in summer the odors from decomposed flesh were so strong that people could not open their windows at night.

I wrote the company that it would have to stop polluting the river, or I would force them to do so by a court order. They replied that if they could not use the river for their refuse, they would move out of the city. My reply was that I knew of just one thing they had to do, that was to stop polluting the river, and do so promptly.

The result was that the company connected their outlets with the city sewage plant which treated the waste, and the pollution by this company ended.

Several other industries since then were fearlessly arrested by our game warden Charles Schlumpf for pollution. Since then, during spring, hundreds of boys have caught white bass in the river which at one time was so polluted that no plant or fish could live in it.

It was during the 1920 period that I was a director, vice-president and then president, and national counselor of our local Chamber of Commerce. Its activities were of a local nature. I was convinced that the Isaac Walton League's goal was of state and national importance, and I then joined the League and concentrated on conservation problems.

It was then that our local chapter accomplished a project of lasting importance to thousands of people.

Calumet Harbor was maintained by the U.S. corps of Engineers. An individual purchased the land bordering the harbor and built a hotel and cottages for a profitable venture. As years passed, the project failed, the buildings deteriorated, and it was for sale at a low price.

A group of the local chapter raised the money among themselves to buy the property with the plan of selling it to the county at cost for a public recreation area. After it was purchased the problem was to convince county board members that this should be done.

I remember well of riding in a two cylinder car with acetylen lamps and no top, to visit these men at night. As a result the area became a public park enjoyed by thousands annually.

When I was president of our local chapter we had a barbeque steak outdoor picnic at Calumet Harbor at which our Governor spoke. All conservation clubs had stands that sold soft-drinks. The Governor boarded a yacht in Fond du Lac and was joined by many other yachts from all around the lake. With pennants flying they arrived at Calumet Harbor where they were greeted by the military band. So many people came that all cow pastures were filled with parked cars and the roads for more than a mile were lined with cars.

In 1941 when I was state president of the League we discussed the growing number of no-trespassing signs that appeared in the southern half of Wisconsin. It was evident that before long the public would have no place for recreation in this area. We proposed a public hunting ground program.

I drafted a simple bill that earmarked 50¢ of all hunting licenses for the purchase and maintenance of public hunting grounds. Our local senator introduced the bill. I corresponded with officers of other chapters of the League and four hundred conservation clubs urging support. As a result the bill was passed unanimously and ours became the first public hunting ground program in the United States.

When president of our local chapter, officers of the county conservation clubs were members of our chapter and attended our meetings. It was unanimously agreed that Eldorado Marsh, consisting of about one thousand acres, should be purchased and preserved with this money. The result was the establishment of the Eldorado Marsh public hunting grounds.

In the 1930 period the Horicon chapter with Curley Radtke as its leader proposed that Horicon marsh, consisting of thousands of acres, be restored and opened to the public.

The history of the marsh is well known. At one time the Bock River was dammed to form a lake and steamboats made regular trips to different landings.

A group of real estate promoters conceived the idea of draining the marsh and selling the land in small parcels for the purpose of raising vegetables. Thus, the conflict between private motives versus public benefits became the issue as in nearly all conservation problems.

They succeeded in draining the land and planted areas with onions and other produce to demonstrate how they would grow on peat land. I remember seeing some of these fields.

The result was the sale of these lands to many gullible people. Crops grew abundantly for several years when the peat nutrition was ended and vast areas became waste land.

Curley and the state division started a state-wide campaign to have the State purchase the lands and restore water levels for wild fowl and the public.

I took part in a small way with many other members of the League. The result was the State and Federal governments' creation of the present Horicon Marsh which is nationally known.

It was during this period that the Milwaukee Chapter believed that the area known as the Kettle Moraine should be preserved for the public. A group had purchased the area around Mauthe Lake and sold it to the state. Ray Zellmer was active in this chapter and was an avid geologist who spent vacations in the mountain areas of the West. He walked up and down through the glacial deposit area of Kettle moraines and led in a State Izaak Walton League project to have the State purchase all these lands. At different times I took part. The result was the passage of a law appropriating a small part of the forestry money for its purchase. Thousands of acres were acquired which have been enjoyed by millions of people.

In 1955 our state legislature by unprecedented action disrupted the program. In the morning of the last day of the session a bill was introduced in the Assembly to transfer one square mile of the northern section to the Department of Public Welfare. Under suspension of the rules and without public hearing the bill was passed and sent to the Senate.

That afternoon the Senate suspended the rules and passed the bill, and the Governor signed the bill.

Jerry Cutts of Stevens Point was then State President of the State Division of the Izaak Walton League which authorized him to take legal action. The case is known as Jerry Cutts and Raymon J. Zillmer vs. Department of Public Welfare. The circuit court held the act valid and an appeal was taken to the Supreme Court. Ray became ill and asked me to continue in the Supreme Court.

I argued that the money appropriated was for the sole purpose of buying and preserving the area, and it should not be used for reformatories and the like.

The Supreme Court in a landmark decision said that the statute and constitutional amendment were ambiguous because they said the money was to be used for forests and not specific areas, and hence the legislature had the power to dispose of it as it saw fit. The opinion concluded with a warning that only the public through their representatives in Madison can prevent further dispositions.

During 1948 and 1949 when I was president of the state division of the League we decided something should be done about the pollution of public waters.

A committee of five with James Spindler as chairman was appointed. Jim was vitally concerned because two of his boys had polio resulting from bathing in public waters.

We had meetings once a month on different phases of the pollution problem at which the public was invited, and we made certain that the Associated Press was represented.

The first meeting was devoted to finding out where there was pollution and what waters were affected. State agents spoke as did many members of the League. The astounding report was that nearly all public waters in Wisconsin were so polluted as to be unfit for public use.

The next meeting was devoted to the legal aspects. A representative of the attorney general and other attorneys spoke. It was pointed out that industries or cities had as much right to pay their refuse in

public waters as they did to dump it on highways or the court house lawn.

The next meeting was devoted to the health problem which was led by the State Health Officer. Other doctors spoke also.

Another meeting was devoted to possible remedies. Nationally known engineers and chemical experts spoke, representing their various companies. It was pointed out that from a scientific point of view there was no excuse for pollution.

At the conclusion of the meetings we found that in 1913, as part of the fish and game law, a law was passed making it a criminal offense to put into public waters any refuse deleterious to plant or fish life. Its enforcement was in the hands of the politically appointed conservation commission, and game wardens arrested men who caught more fish than the law allowed but did nothing about polluters who killed thousands of fish annually.

We found that by statute a pollution commission had been existing for years. Members of the commission were the heads of different departments of the government which took all their time and little was done to stop pollution.

We concluded there should be a paid full-time director with ample funds to hire experts who could locate the source of pollution and recommend ways to correct the problems. The director was to be employed by a commission composed of the heads of state agencies.

The director and the committee were to have full power to enter orders. If not obeyed, a penalty of up to \$1,000 per day was to be imposed.

With this in mind I drafted a bill. It provided that the director had the power to conduct hearings after notifying the polluter. These hearings were to be public.

This bill was introduced in the Senate. Because of the state-wide publicity given our hearings, the bill was to be heard by both conservation committees of the Assembly and Senate. A date was set for the hearing to be held in the assembly room.

The Manufacturers' Association sent a letter to all its members urging them to attend and so pin back the ears of the fanatical Isaac Walton League fishermen that they would never again attempt to change the law.

At the hearing the room was packed. Members of the League came from all parts of the State. The chairman announced that the opposition would be heard first. Representatives of the C.I.O. and A.F.L. unions told about how factories would have to close if the bill was passed and thousands would be unemployed.

One representative, a doctor of the Federated Women's Club said that the health danger of pollution was insignificant and the bill should not be passed.

A representative of the Department of Agriculture said farmers would lose millions because cheese factories would have to close.

A noted authority on water laws ridiculed the legal aspects of the bill and said whoever wrote the bill had no conception of the meaning of pollution.

All afternoon we listened to speakers against the bill. We were given but a few minutes to reply.

I said we have heard from an attorney who was chairman of the state pollution committee for years and he said whoever wrote this bill had no conception of the definition of pollution. I said "I wrote this bill and the definition of pollution is copied from the statute and you wrote this definition." I turned to him and I thought he would have a stroke.

As to the financial argument of the paper mills that they could not afford to put in abatement machinery, I quoted from their financial statements showing net earnings after taxes of millions, and I pointed out that the cost could be spread out over the years.

V. J. Muench of Green Bay effectively spoke on the problem and James Spindler dwelt on the health aspects from personal experience.

It seemed that every organization of the state was opposed to our bill.

Upon returning to the office I called the president of the Federated Women's Club and told her what was said. She was astounded and said their directors unanimously voted to support the bill and she would tell their lobbyist to so inform each member of the legislature.

I talked to the State president of the American Federation of Labor and told him that a speaker that represented his organization opposed

our bill. His reply was that his union had voted to support the bill and their lobbyist would contact each member of the legislature and state its position.

I then called the State President of the C.I.C. Union and told him what was said. His reply was that there was to be a meeting of all officers on a given date and I should come and explain the bill. This I did, after a full discussion it was unanimously recommended that the bill be adopted and their lobbyist so inform each member of the legislature.

I talked with the president and secretary of the State Chamber of Commerce, of which I was a charter member, and explained the bill. The reply was that at the next directors' meeting they would urge support of the bill.

I then sent letters to the officers of the four hundred conservation clubs and all Isaac Walton League chapters urging them to personally contact their assembly men and senators to support the bill.

I gave talks before different organizations about the state explaining the pollution problem which was reported statewide by the press.

About one month later I met our state senator who told me he had never known of such a change of sentiment in Madison. At first all were opposed to the bill and now they were all for it.

When a vote was taken our bill passed unanimously in the Senate and Assembly, and the governor whom I had talked to previously about the problem signed the bill.

It was gratifying to know that the Interior Department sent letters to all state agencies enclosing a copy of our bill and recommended similar action.

During the 1960 period Congress enacted a law creating a bureau to establish water quality standards. This meant the employment of thousands who were to test water throughout the U.S. and point to the sources of pollution. It was obvious that the public could see and smell all of these sources of pollution, and it appeared that the politicians gave the impression that Congress was doing something.

In 1965 the Supreme Court of the United States said that a law passed

by Congress in 1898 that made it a criminal offense for any industry to put any refuse in navigable waters was valid.

At the national convention of the Isaac Walton League held in Milwaukee in 1967 I spoke on this subject and pointed out that if this law had been enforced there would be no pollution by industries. I further pointed out that by the act of Congress any person could complain to a U.S. attorney that a certain industry was polluting navigable waters. If a fine was imposed that person could receive one half of the fine. I suggested that chapters that needed finances had a golden opportunity of not only accomplishing our conservation goal but also to replenish their finances.

Since then I have noted that fines of up to \$200,000 have been imposed by federal courts upon complaints by ardent conservationists.

Since then the President of the United States ordered the Corps of Engineers to require all known polluters to file statements as to the kind and quantity of refuse put in navigable waters. However, state agencies were to take steps to end the pollution and little has been accomplished. This again appears to give the public the impression that the President is doing something about the problem.

It is important to note, however, that the 1898 law still stands.

In 1950 my friend V. J. Muench was state president of the League. The building of dams that destroyed streams in their natural condition became an acute problem for the League. Both of us fished for trout and over the years saw what was being done. More than twelve hundred dams had destroyed these beautiful rivers.

My interest in dams dated back to the 1920 period. A client of mine was chairman of the Conservation Commission and we often discussed its different problems. At one time I told him about the construction of a dam at Calderon Falls on the Pestigo River which was my favorite stream. I suggested that if the State owned the lands bordering rapids, no dams could be built. I told him about the roaring rapids that still existed in their natural state. Shortly he invited me to a meeting of the commission and explain the problem, which I did. The result was that the Goddard Lumber Company gave to the state a large area on both sides of the Pestigo River and a park was established that was enjoyed by thousands.

The State Division repeatedly urged the commission to acquire these strategic sites to no avail. The influence of power companies and real estate developers that wanted to make lakes and sell the adjacent land was obvious.

About 1949 a power company proposed to build a dam on the beautiful Namekagon River. The La Budde chapter of the league rendered a most valuable service by taking pictures of the area and giving publicity to the damage that would be done to this natural resource.

In 1950 V. J. called me and said there was to be a hearing before the public service commission. A power company had applied for a permit and he wanted to know what the League should do. I told him the League had consistently opposed the destruction of our streams and he should attend the hearing. I told him that a law was passed that gave county boards the power to approve the construction of dams, and if they did, the public service commission must grant a permit. I dictated somewhat the following to him: Enter an appearance as State President of the Isaac Walton League, oppose the granting of the permit because the county board law was unconstitutional and that the public rights to these waters in their natural state was more important than the rights of a power company.

V. J. did this and the name of the case that became notorious throughout the United States was V. J. Huenoh, President of the State Division of the Isaac Walton League v. Public Service Commission of Wisconsin.

The examiner ruled that he could not pass on the constitutionality of a law and recommended to the full commission that the permit be granted.

It was then necessary to appeal to the full commission for a review. I submitted briefs and argued that the county board law was invalid. The commission ruled that it could not pass on the constitutionality of a law.

It was then necessary to apply to the circuit court in Dane County to reverse this ruling. I again argued the public right and unconstitutionality of the law. The circuit judge held the law valid and that the permit be granted.

The League appealed to the Supreme Court. In the meantime I urged the Governor to direct the Attorney General to intervene as a party and joint with the League. In the Supreme Court the State by the Attorney General moved to be a party and he filed a brief.

I again argued and submitted an extensive brief on the question of public rights and the constitutionality of the county board law.

Justice George Currie wrote a masterpiece concerning public rights as opposed to private rights and declared county board law void.

The Supreme Court then directed the Public Service Commission to make findings as to public rights, and if in its judgment they were more important than the private rights it should deny the permit.

This entailed another hearing in which the attorney general joined in opposing the granting of the permit.

The commission decided that the public rights as defined by the Supreme Court were more important and denied the permit.

Shortly V. J. called again and said he had received notice of a hearing before the Federal Power Commission on an application of the power company for a permit and wanted to know how to proceed. I told him to go to Washington at the League's expense and enter an appearance as he had done before. I also told him to object in writing to the granting of the permit because the state agency had ruled that the public rights outweighed private interests and that the federal power commission had no jurisdiction over waters wholly within Wisconsin. This he did.

The Attorney General also appeared and filed objections and examined witnesses over a period of several days. The hearing was before an examiner who recommended that the permit be granted.

This required an appeal to the full federal power commission. This was duly taken and extensive briefs were filed by both the League and the Attorney general. The full commission denied the permit.

The power company then appealed to the U. S. Court of Appeals. By extensive briefs prepared by the State and myself and the power company the issue was again re-argued.

This court affirmed the ruling of the Power Commission and thus the beautiful Nanekagon River was saved.

During these proceedings the power company was represented by two law firms. I gave these details to illustrate the importance of the League's part as in all other conservation issues and how it can effectively protect public rights. It was able to pay the travel expenses and printing bills which no other group would do.

Another problem on a national level concerned the misuse of soil.

Our government bought surplus farm products when the market price fell below a given parity. This surplus was stored in bins throughout the nation. Its cost to the government was about five billion dollars per year. But more than that was the effect on the soil. Landowners knew they would get a guaranteed price and proceeded to cultivate all available areas. During dry spells the wind swept the plain states and the top soil was blown away. I remember well driving across a field about a mile square in Montana to see a rancher on business. The ground was covered with pebbles. The banker with me said this had been one of the most productive fields. It was cultivated each year and the wind had left nothing but the stones. This was the fate of about one million acres in the plain states.

In the East, areas of timber and brush were cut to get more land for crops and the rain washed the top soil down the hills.

A chapter of the League in Illinois conceived of a remedy. It later became known as the 'soil bank program'. The general theme was that land should be planted with grass and trees that would hold the soil. Landowners were to be paid an average production price per acre if they agreed to the plan.

This proposal was approved by the Illinois state division and was the main topic for the national convention in Iowa. Representatives of the departments of agriculture, interior and large farm organizations gave their views. I happened to be chairman of the resolutions committee. We invited all concerned to express their views.

Our conclusion was that if about sixty million acres were taken out of production there would be no surplus. It was estimated that payments to landowners would save the taxpayers about three billion dollars per year. It would enrich the soil and prevent erosion. Our committee drafted a resolution recommending the program which was passed unanimously at the convention.

I was appointed chairman of a committee to put the plan into effect. Other members of the committee were authorities in different areas of the questions involved. To get results required an act of Congress. We had the support of the farm bureau and the Grange, our largest farm organization.

In the course of time we had assembled and agreed upon facts and figures and presented the proposal to the Secretary of Agriculture for approval. The secretary finally endorsed the proposal in general principles.

A bill was drafted to carry out the 'soil bank' program and was introduced. As expected it received the violent opposition of manufacturers of farm machinery and producers of fertilizers. With ample money lobbyists were employed who claimed that the bill would bankrupt many companies and cause wide-spread unemployment. Again members of the League throughout the United States did their part. By letters we urged all chapters to join in the fight. The response was most effective. The bill passed and was signed by the President. However, the law limited retirement to only about thirty million acres. At subsequent sessions the acreage was increased until it met our estimate of sixty million acres.

This feature of the soil bank program has proved advantageous. The government can decline to make payments at the end of any year and restore to production any amount of acreage necessary to meet our needs.

In 1942 when I was president of the State Division of the Izaak Walton League, Julius Heil was governor and sought re-election for a second term. He announced that he proposed to abolish the Conservation Commission and substitute his own commission.

The Conservation Commission was the result of a state-wide campaign of the League under the leadership of William Aberg in 1927. Wisconsin had a politically appointed director of conservation and the League believed that the administration of conservation should be non-political and for the interests of all the people.

The governor's proposal was in direct conflict with the principals of the League.

During the early part of 1942 the director H. W. MacKenzie was arbitrarily discharged by the commission without a hearing. The League by its directors, passed a resolution demanding that he be given a hearing and stated that such action destroyed confidence in the administration of conservation.

Orlando Loomis, formerly attorney general of Wisconsin, was opposing Governor Heil in the campaign for governor. He explained his support for a non-political commission and I invited him to speak at the annual state meeting of the League, which he did.

The controversy became the most important issue of the campaign, with the League on one side and the governor in opposition. Columns were printed in the press throughout the state.

When the governor publicly stated that the league would have to come to him with bended knees and a white flag, the press gave ever increasing space to what I did and said.

The governor had offered to publicly debate the issues with me. I replied that I would agree to do this at any time or place he named, and if he did not agree within ten days I would know he was bluffing.

This was carried in the press.

The governor replied through the press that he did not intent to engage in any public debate.

He then wrote me a letter saying, in substance, that he had no controversy with the Izaak Walton League.

I replied as follows:

Letter from A.D.S. to Governor Julius P. Heil, June 12, 1942

Dear Governor:

In your letter of June 10 you state that you have no controversy with the Isaac Walton League or its membership. When you take the stand that you have in regard to H. W. McKenzie and for the abolition of the Conservation Commission, your program clashes with that of the Isaac Walton League. You have made the controversy. The position of the Isaac Walton League is clear and has been well known for many years. We have reiterated our position in a resolution handed to you and to all members of the commission on May 25, 1942. The Isaac Walton League stands for:

1. Fair play in all matters pertaining to conservation in Wisconsin.
2. A non-partisan administration of conservation affairs in Wisconsin.

We have stated in no uncertain terms that the discharge of a faithful public servant without notice and without a hearing is not fair play and we have demanded that H. W. McKenzie as director be reinstated and that if there are any charges to make that such charges be presented and a hearing held in accordance with the American way of handling public affairs.

We have always insisted and still insist that the administration of conservation affairs in Wisconsin be removed from politics.

If you want no controversy with the Isaac Walton League, you should immediately cause H. W. McKenzie to be reinstated; and secondly, refrain from your repeated meddling and hindering tactics in regard to a department in which hundreds of thousands of our sportsmen have a direct interest. The resolution by our directors has now been approved by hundreds of sportsmen's groups and I am merely stating the position which all fair-minded conservationists are taking in regard to your acts in conservation matters in Wisconsin.

You publicly propose that the present commission be abolished and that the supreme court appoint new commissioners. Permit me to suggest as a member of the bar that by such a plan you would willfully involve our

supreme court in a political turmoil and that such would be contrary to all concepts of our American form of government. The judiciary must remain free from such acts as would cause them to become involved in political activities outside of their own sphere.

May we again repeat our demand that in the interest of fair play, you take immediate action along the foregoing lines?

Sincerely,

A. D. Sutherland

Editorials in newspapers supported the position of the League. Many other organizations joined in supporting our position. The result was that Orlando Loozis was elected by a plurality of 165,000 votes.

I refer to the above to point out that the issues of conservation for the best interests of all the people transcends party lines. This is so, even though the governor charged publicly in the press that the League was the most effective political group that walked in shoe leather.

January 31, 1974

A. D. Sutherland