

# WILDLIFE LAWS: BIOLOGICAL, STATUTORY, AND ETHICAL

by

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For a long time now, there has been a running debate over the relative importance of wildlife management and wildlife law enforcement. Too often, it has generated into a hassle between professional factions that each consider their role to be of paramount importance — and it's been a waste of time, effort and dedication.

Wildlife management today is based on two things: the knowledge of the lives and needs of various game species, and the continuing effort to meet those needs and enhance the environments in which wildlife lives. If this is accomplished to an acceptable degree, hunting of wildlife can be permitted — but only in terms of a biological balance in which an annual harvest of a species does not exceed the annual population surplus of that species.

Sporthunting substitutes for other mortality factors, but must not be allowed to surpass them. We know that only limited numbers of a wildlife population will be permitted to pass through the annual bottleneck that occurs during winter, and it is biologically acceptable for the hunter to harvest that population down to the level that ordinarily passes through the bottleneck.

We've learned through bitter experience that many species of wildlife can be hunted to excess — not only cropping annual surpluses, but cutting into the basic populations that might be expected to survive winter into the next breeding season. Hunting regulations, of course, are designed to avoid that. They are intended to limit annual harvests to the annual surpluses. Without such regulations, and their faithful enforcement, it is possible to dangerously reduce the basic breeding stock of certain game species.

Modern game management is based on knowledge of game and it needs — but it doesn't amount to much if that knowledge isn't supported by law. Without game management there might be no basic breeding stock to protect. Back in 1925, Aldo Leopold pointed out that “. . . we have learned that game, to be successfully conserved, must be positively produced rather than negatively protected.” But without game laws to support that positive production, there might not be any game to manage.

Law enforcement is an essential and basic part of wildlife management, and management is essential to sound, equitable hunting regulations. The two cannot be broken apart, for neither could effectively exist without the other. The old debate over which is more important to hunting and wildlife, law enforcement or game management, is like asking which is more important to the family — the father or mother.

Still, there are sportsmen who ask: “Why do we need game management at all? Why not just set some basic hunting regulations and enforce them to the hilt, and dispense with biology and management altogether?”

In the first place, this would short-change the hunter with no particular benefit to wildlife. Game biologists and managers are the men who plot population trends in wildlife, keeping a running inventory of the ups and downs of game populations. A blanket basic hunting regulation would have to be restrictive enough to cushion any lows in game numbers. Then, in bumper years, there would be a drastic underharvest of game that would be of no real benefit to wildlife and would unnecessarily curtail hunters. Large numbers of game animals that could have been safely taken would be left to fall by the wayside if they were unable to pass through that annual bottleneck. To say nothing of the damage that might be done to some big game ranges.

Furthermore, efforts to actually increase game populations would suffer. The wild turkey is thriving today partly because of enforced hunting regulations — and also because of the trapping and transplanting programs that have restored it to many parts of its original range.

Modern game law enforcement and biological game management have grown up together. They've come a long way since the old days of possum cops and political game farms. They're a close-knit and highly effective team; so effective, in fact, that some anti-hunters want to see them broken apart in an effort to break the back of American sporhunting. I strongly believe that these two elements, and the citizen hunters who support them, will cause North America to be the last bastion of the world's great

wildlife resources. The North American system of game management and game law enforcement, permitting an almost unbelievably intense and sustained hunting pressure, exists only because of the *commitment of the American hunter and the trained, dedicated men that he supports*. Take away any one of those three elements — the hunter, the officer or the manager — and the whole thing would collapse.

*So I have no patience with the biologist who scorns enforcement, the officer who knocks biology, or the hunter who opposes either one. It's a family squabble in which everyone loses — including wildlife itself. We've got enough enemies out there — the spoilers and the resource rapists. We sure don't have to pick fights among ourselves if we want exercise.*

Biological law is the basis of the statutory regulations that you are charged to enforce. And these regulations generally fall into two categories: restrictive and permissive. The restrictive regulation states: "Thou Shalt Not." The permissive regulation states: "Thou May, But Only In These Ways." And more and more, we're tending toward a third category: the regulation governing ethics.

Our anti-hunting critics have raised some uncomfortable points that we can no longer avoid. *Many of our old defenses of sport hunting are no longer acceptable to the non-hunting public. To defend hunting on the basis that managed game populations can afford to be hunted is like condoning burglary of a rich man's home simply because he can afford the loss. Such a defense of hunting will not satisfy a thoughtful non-hunting public. That public has the right to demand several things of us: that the wildlife population is able to support hunting pressure, that hunting does not affect the non-consumptive uses of wildlife, and that the hunter conducts himself in an ethical manner.*

*We hunters are no longer free to act without ethical restraint. The hunter is accountable to his sport, to the wildlife that sustains his hunting, and to the non-hunting public that is offended by the slob hunter. This sense of accountability must be drilled into hunters if the sport is to survive.*

*The most militant anti-hunters, of course, won't be satisfied until all hunting is outlawed. There is simply nothing we can ever do to please them — unless it's to hunt and shoot each other, which Cleveland Amory recommends. But there are many reasonable anti-hunters who are justifiably offended by the ethical outrages that occur in the hunting field. I'm convinced that much of the steam would go out of the anti-hunting effort if hunters adhered to certain ethical principles. That is, to hunt in such a way that neither game nor hunter is shamed by the act of hunting, to have far greater knowledge and respect for game than many hunters show, and to give advantage instead of taking.*

*Which are fine goals that we'll probably never reach. But there are things that we can do that would help.*

*The highlight of "The Guns of Autumn" — or the lowlight, depending on how you look at it — was the segment that was made on a big game shooting preserve in Michigan. We're told that the actual situation was distorted and was not as bad as it was made to look. Still, it emerged as a horrendous example of lousy sportsmanship. Several years ago, similar television features were made on a big game preserve on an island off western Washington, and at a flighted mallard operation in California.*

For years, we have felt that the basic responsibility for the quality of a shooting preserve operation should rest with the state conservation agency — but many agencies have failed to accept such responsibility. They may require licensing of a preserve, but that's usually as far as it goes. We feel strongly that the agency should not only license preserves, but also work to assure the public of quality preserve operations. There should be minimum quality standards for preserve management, and the agency should provide an experienced, full-time staff member to work with preserves and encourage quality operations through assistance and, if need be, by enforcement of the minimum standards. Some states beg out of this by saying that they have no authority to regulate the harvest of exotic species. If so, such authority should be granted by statute — for the state game and fish agency should be the final arbiter of hunting quality within its state, wherever that hunting occurs.

As another step, every state game and fish agency should have extensive, well-organized hunter safety programs that are mandatory for initial licensing of new hunters. And although "hunter safety" may be the name of the game, great emphasis should be given to training in ethical field conduct and in understanding the principles of game management and hunting regulations. Every effort should be made to instill in youngsters an intolerance for slob hunters in general.

At the same time, stiff trespass laws should be enacted and enforced — not just by conservation officers, but by all peace officers. My home state of Iowa has a new trespass law that's a beaut. The old hunting trespass law is still on the books, which defines entry on private land with dog and gun without permission as a civil violation punishable by fines up to \$100. But a new criminal trespass law provides that anyone refusing to leave private land at the order of the landowner is guilty of a criminal violation — which means that the landowner needn't file any charges next Monday morning, but can

appeal for immediate action from *any* peace officer, with resultant fines ranging up to \$500.

All across the board, penalties for game law violations should be stiffened — and the public should demand that such violations be taken seriously by the court. As all of you know too well, many courts are likely to minimize game law violations, or even be irritated that their prosecution uses the court's time. As commissioned peace officers, it may not be your role to level criticisms at penalties assessed by the court — but it must be *someone's* role! If a particular judge feels that game law cases are a waste of his time, perhaps organized sportsmen and some bitter publicity can persuade him to feel otherwise.

Beyond these specific points, the problem of legislating and regulating hunting ethics gets onto some very shaky ground. It gets into the realm of value judgements and blue laws that are designed to regulate conduct and morality. And even if we could decide what such ethical regulations should be, and get them into the game code, there's a good possibility that such regulations might violate civil rights as some of our more liberal courts interpret them.

Besides, it would be more effective if such ethical control existed as unwritten social codes that are enforced by the opinion of the hunting public. This is the most powerful form of regulation — the weight of public opinion. It can be started by training youngsters in ethics and hunting tradition — and by convincing older hunters that tomorrow's hunting will depend on today's conduct.

One late summer day, years ago, I went into a small-town Iowa cafe with my old friend "Three-Finger" George Kaufman, a salty little game warden with forty years in the field. As usual, there was a wise guy, and this one was saying:

"The other night I shined a fine little button buck up on the Mill Road. He sure is tender."

George fixed the guy with a hard look and said:

"Pete, I've seen you shoot and I don't think you could hit a deer — not even under a jacklight. But if you did, congratulations on killing the trophy buck that some boy would have been proud as hell of about five years from now."

This shut Pete up, and we thought no more about it. But as we were leaving, a man stepped up to George and said quietly: "You know, Kaufman, I just realized that it might be my boy that you were talking about."

The gap between the written game code and the unwritten code of hunting ethics must be bridged by ethical sportsmen in general, and by the professional conservation officer in particular. You can grin about it if you want to, but to the general public you guys are Mark Trail and Matt Dillon rolled into one. To the public as a whole, you *are* official conservation. As such, you are also professional authorities on hunting and all its aspects, right and wrong. You are the arbiters of the hunting ethic, or should be, and you must make every effort to understand the nuances of ethical hunting and promote them to the hunting and non-hunting publics alike.

In summary, the professional conservationist must operate under three major categories of law: natural law that controls resources, statutory law that regulates our use of those resources, and the unwritten ethical laws which may — in the long run — determine whether or not the great sport of hunting will endure.