

MARKET HUNTERS VS. SPORTSMEN ON THE PRAIRIE

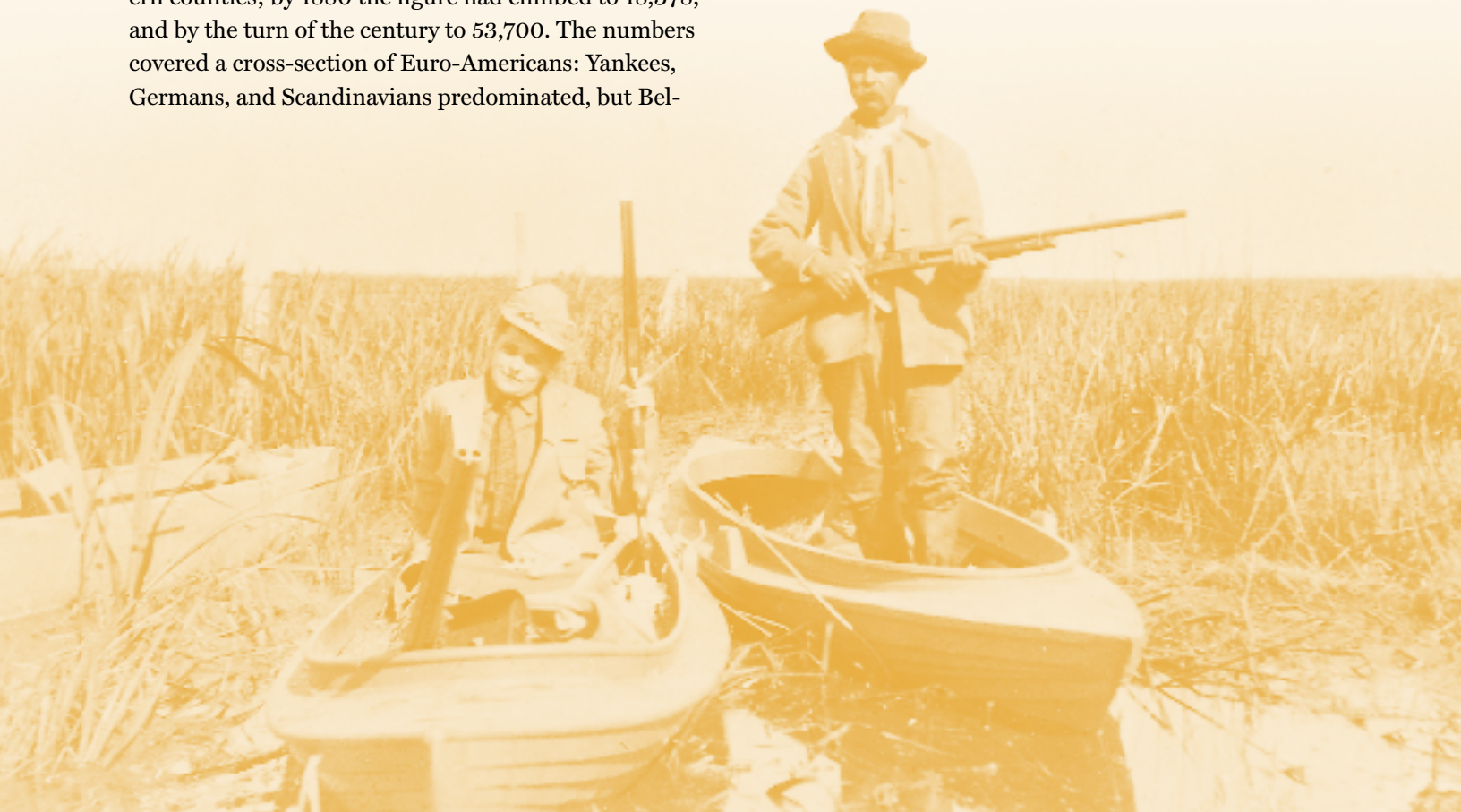
THE CASE OF WILLIAM KERR AND ROBERT POOLE

MARK H. DAVIS

Explorers crossing southwestern Minnesota in the nineteenth century marveled at the region's "high, grand, and beautiful prairie," its fertile soil, and its countless "bright lakes" and "swampy depressions." Their enthusiastic reports attracted white settlers, who forced the removal of the Dakota, staked out homesteads, and built tiny whistle-stop railroad towns. The 1870 census counted 2,685 residents in Minnesota's four southwestern counties; by 1880 the figure had climbed to 18,378, and by the turn of the century to 53,700. The numbers covered a cross-section of Euro-Americans: Yankees, Germans, and Scandinavians predominated, but Bel-

gians, Poles, Czechs, Russian Mennonites, and Irish Catholics all founded separate enclaves. Whatever their background, the newcomers launched into the arduous process of converting the seemingly empty prairie into productive wheat fields.¹

While the fertile soil proved a clear boon to the settlers, the explorers' "swampy depressions" and "bright



lakes” posed a knotty problem. Prairie wetlands were irritating obstacles, and most farmers set about draining and filling them. These same wet places, however, provided excellent habitat for a fabulous array of wild birds. The abundance of birdlife awed Thomas Miller, a homesteader on Heron Lake in Jackson County, who wrote in 1883 that during spring and fall migrations, the lake “teemed with vast numbers of ducks and geese, and on some nights sleep was impossible owing to their continual clamor. The honking of the Canada goose, the mewing call of the canvas-back, redhead, and bluebill, usually uttered while feeding, mingled with the whistling call of the pintail and widgeon, mixed with the coarse quacking of the mallard and the more feeble call of the gadwall made a strange medley of sounds.”²

This profusion of wildlife attracted Gilded Age hunters. While hunting never rivaled agriculture in southwestern Minnesota, it did become a fixture in the prairie culture and emerged as a seasonal cog in the local economy. Hunters were of two types: pothunters, who killed

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overhunting had decimated
eastern bird populations.***

for subsistence, the market, or both; and sportsmen, who shot for recreation. As long as game was plentiful, hunters of both stripes shot side by side with little problem. But toward the end of the nineteenth century, the bird population showed signs of decline. The state stepped in to salvage what was left and enacted a series of laws that favored hunting for sport.

As these laws began to be enforced, sportsmen and pothunters, especially those who shot for the market, came into conflict. The clash, recent historians have suggested, tended to reflect differing ethnic and cultural reactions to the new hunting laws. Wealthier, native-born, and urban sportsmen favored tougher laws in order to promote manliness and conservation, while poor immigrant and rural farmers resisted the laws to preserve their subsistence and cultural traditions.³

Such ethnic and regional divisions certainly existed in southwestern Minnesota and often bolstered arguments over hunting seasons, bag limits, and shooting on private property.⁴ More basic economic grounds motivated the

Guide and market hunter Charlie Hamilton (standing in duck boat) with a sportsman, Heron Lake, about 1900



Gadwalls, rendered in watercolor, colored pencil, and ink by Gilbert Boese, about 1940

conflict over market hunting, however. Simply put, no matter what their background, rural people reacted to state regulation of hunting according to their perception of the laws’ effects on their livelihoods and communities. In southwestern Minnesota the conflict centered on William Kerr, a local buyer for market hunters. Although his case has elements of comic opera, it is significant in several ways: Not only does it illustrate public response to the imposition of state authority over wildlife, but it also helped establish the legality of that authority and determined that the proper use of the state’s wildlife was for sport, not income.

Market hunting has a long history in the United States, beginning with the Pilgrims, who hired marksmen to shoot ducks for their struggling commonwealth. After independence, hunters swarmed up and down the Atlantic coast, killing waterfowl for growing urban markets. By the Civil War, overhunting had decimated eastern bird populations. Meanwhile, expansion and railroads opened up hunting sites in the Midwest. One of them was Heron Lake. Shaped like an elongated hourglass with a narrow channel in the middle, the lake’s shallow marshes, particularly in its northern half, attracted such huge flocks of birds that during the 1880s it became widely known

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as the “Chesapeake of the West.” Two small railroad towns—Heron Lake at the northern end, and Lakefield at the southern end—arose to serve the lake’s growing number of shooters.⁵

Market hunters on Heron Lake included roving gangs of commercial hunters from out of state. But more typically they were local people with a skill and yen for shooting. Coming from all ethnic and class backgrounds, they left their farms and jobs during the annual bird migrations and hunted for money. Reputedly among the best of them was Abe Nelson, a carpenter, brick maker, and handyman from Heron Lake. Nelson, like many market hunters, worked independently, selling his kill to local or out-of-town jobbers who shipped the carcasses to the Twin Cities, Chicago, or even New York. Others hired on with outfits like the Winter Brothers of Spirit Lake, Iowa, who sent a team each spring and fall to hunt on Heron Lake. At first, in the 1880s, the birds were hauled back to Iowa, but in the mid-1890s the company built

an icehouse at Lakefield and started shipping ducks—as many as 14,000 a season—directly to Chicago. The first hunters, few in number and relying on crude weapons, barely made a dent in Minnesota’s duck population. But growing numbers of shooters, armed with ever-deadlier weapons, took a mounting toll.⁶

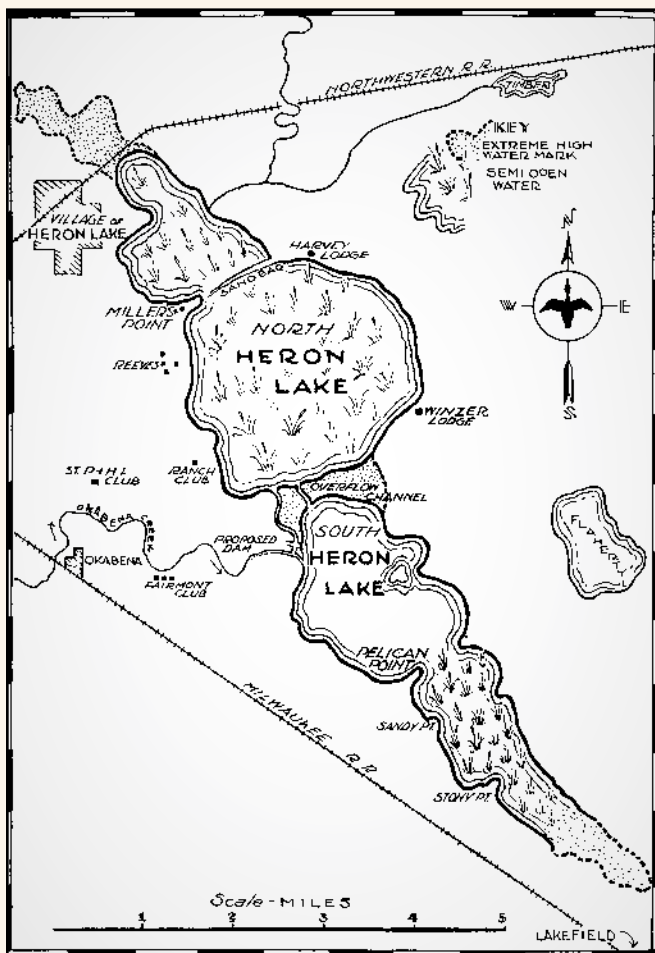
Sportsmen added to the slaughter. Between 1880 and 1900, as outdoor activities such as duck hunting became a national fad, developers put up hotels along Minnesota’s prairie lakes. In tiny Heron Lake, where accommodations were at a premium, sportsmen rented railroad cars and parked them at the town’s siding. To alleviate the problem, groups of wealthy business and professional men from Minneapolis, St. Paul, and Rochester began, in the 1880s, leasing lakefront property from local landowners and cordoning off private hunting lodges on North Heron Lake. Club buildings stood empty until members and their guests showed up for a weekend of sport. Then, as Thomas Sadler Roberts, a famed ornithologist and a club member, remembered, the northern end of the lake “resounded with salvo after salvo as the circling flocks of canvasbacks and redheads came in successively to the banks of decoys. The thousands upon thousands of ducks that thus fell to the clubs, added to the vast numbers taken . . . by the market hunters, inevitably resulted in a steady decline in the number of birds.”⁷



*Famed ornithologist
and gun club member
Thomas S. Roberts*

Hunters blamed each other for the decline. The weekend sportsmen resented the market hunters who, they claimed, were responsible for Minnesota’s falling duck population. Sportsmen recoiled from the marketers’ unsportsmanlike arsenal of live decoys, dynamite, and cannon-like guns. Local marketers answered that inexperienced sportsmen were poor shots who indiscriminately killed everything; besides, they added, without professional hunters, the birds would simply fly away to benefit profiteers in Louisiana or Mexico.⁸

The market shooters’ arguments had little effect. Sportsmen wielded their considerable political clout in St. Paul and, from the 1880s on, lobbied the state legislature to designate hunting seasons, establish bag limits, and clamp down on shipping game.⁹ The early laws failed to halt the killing, so lawmakers initiated gradually tougher measures that in 1901 included a ban on market hunting in Minnesota.



*Heron Lake, the “Chesapeake of the West,” from the
January 1941 Conservation Volunteer*

To enforce the laws, the legislature had created the Minnesota Game and Fish Commission, and by 1895 Samuel F. Fullerton had become its executive secretary. Targeting market hunters, Fullerton appointed local deputy game wardens to chase down and nab violators. The game wardens were a varied lot, and although generally ineffective and often in cahoots with the lawbreakers they were chasing, the best of them played a lively cat-and-mouse game with market hunters who continued their trade despite the 1901 ban.¹⁰

With the emergence of conservation, lawmakers were claiming state ownership of wildlife.

Minnesota's prohibition of market hunting was part of a turn-of-the-century nationwide effort to use state power to promote wildlife conservation. Congress, for example, passed the Lacey Act in 1900 that banned interstate shipping of illegal game as a way to reduce market hunting. Other states also began to issue a steady stream of game regulations. These laws reflected a changed attitude toward wildlife. Before their passage, wildlife was considered a freely available resource, and all uses of it were equally legitimate. With the emergence

of conservation, however, lawmakers were claiming state ownership of wildlife and dictating that the primary economic use of the resource would be sport instead of subsistence or profit.¹¹

At first, many hunters in southwestern Minnesota simply ignored the new laws. Charles Winzer, who ran a hunting lodge on Heron Lake, noted in 1902, "The same old party [that] used to kill all the game for market, are killing the game now. They are out day for day, the same as other years." William Kane, a merchant, complained that in August, before the season opened, "Six sports were out and came in loaded." He named a butcher, a railroad agent, a blacksmith, and two doctors. In their monthly reports to Fullerton, wardens noted repeated violations, commonly citing, for example, "sooners," local farmers who shot prairie chickens before the legal season began. Farmers, in turn, complained that they were "troubled considerable with . . . town boys [who] come sneaking around and shoot a whole bunch in one shot." Anecdotes like this prompted the editor of the *Lake Benton News* to warn, "With such a brazen disregard of law . . . many people are beginning to look upon the game laws as a burlesque written by idle legislators to amuse and entertain game wardens."¹²

Other factors contributed to the building local conflict. Ethnic tensions played a role: sportsmen who

Members of the St. Paul Rod and Gun Club, including several women, posed with their weapons, 1898–99



equated pothunters with immigrants were countered by farmers who wrote Samuel Fullerton, often in barely understandable English, asking what the law did and did not allow. Letter writers also tattled on their neighbors, begged for a game warden, and volunteered to be one.

More important, local people started to profit from sportsmen.

On the other hand, many local residents accepted the new laws. By 1900 the state had been managing southwestern resources for decades. Ever since the grasshopper plagues of the 1870s, state agencies had been touting windbreaks, encouraging agricultural diversification, and stocking prairie lakes with fish. To some, game laws were a part of this trend and represented little that was new. Other southwestern residents actively supported the new ethics of conservation. Shortly before he was killed in a wagon accident in 1899, Thomas Miller had proposed that the state regulate allowable weapons, abolish the use of live decoys, and end the spring hunting season. His suggestions were all eventually adopted.¹³

More important, local people—including pothunters—started to profit from sportsmen, leasing them land, selling them food and supplies, or working for them as contractors, cooks, and guides. Abe Nelson, for example, hired out as a guide for the gun clubs, building duck blinds, leading members through the marsh, and at the end of a day's hunt, using his own skill as a shooter to ensure that his clients reached their limit. Nelson even briefly served as a deputy game warden in 1902. His selection astounded L. F. Lammers, a Heron Lake attorney, who complained to Fullerton: "You have appointed one of the gang here as Deputy Game Warden, and you would do well to make an investigation." Lammers typified successful Main Street boosters who, no longer needing to shoot for subsistence, saw themselves as righteous sportsmen and confirmed their sportsmanship by organizing local rod and gun clubs. In 1901, while the new hunting laws were being enacted, Lammers and other businessmen in town organized the Heron Lake Gun Club. Members pledged to cooperate with the Game and Fish Commission to stop illegal hunting. No doubt, they also played a part in setting up the first lodge on North Heron Lake and encouraged other landowners to lease out their lakefront property.¹⁴

Faced with this mixed response to its hunting regulations, the state looked for ways to exert its authority. In the southwest it focused its efforts on William Kerr of

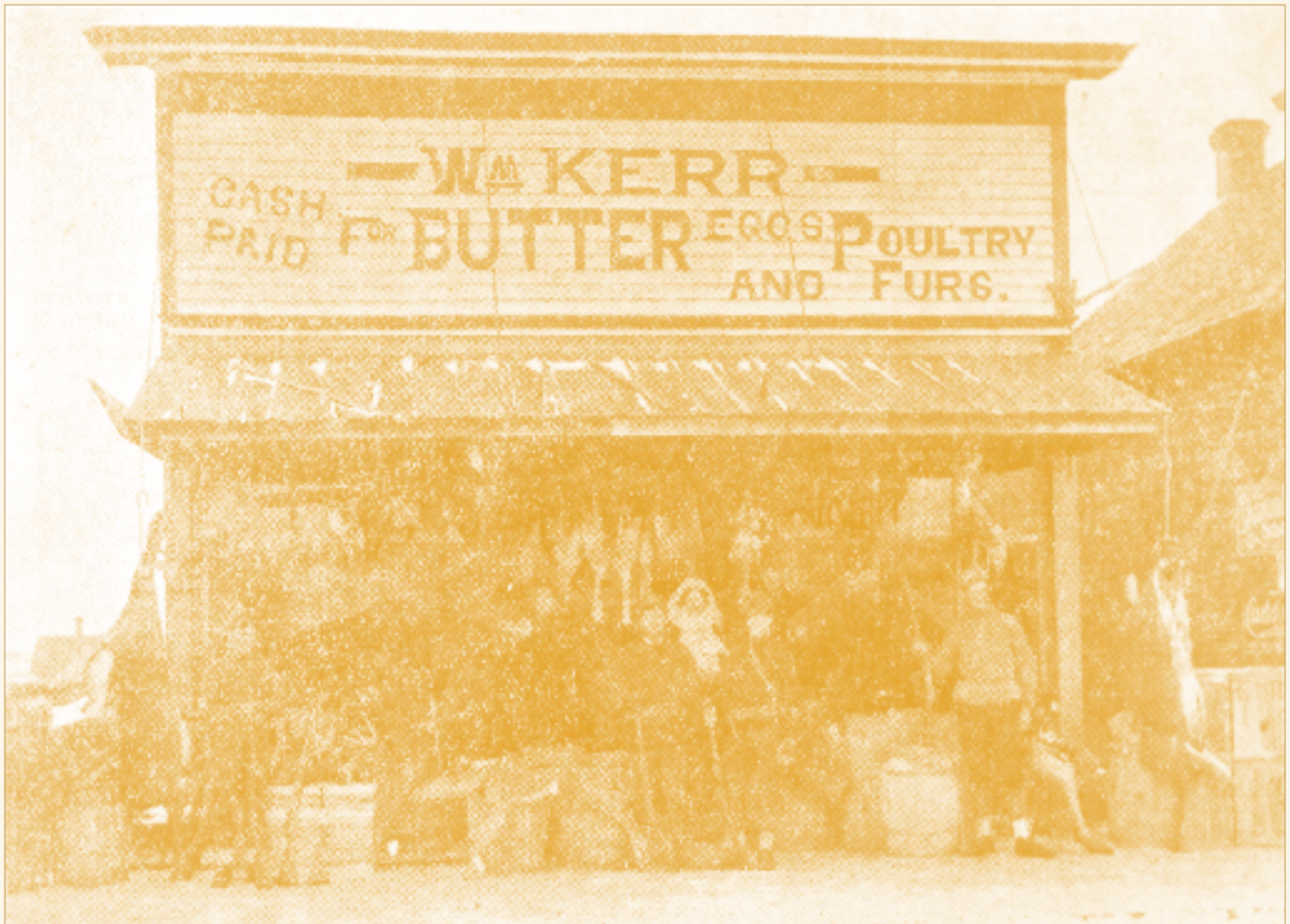
Lakefield, whom the state accused of illegally shipping wild birds. The case involved, first of all, gathering evidence and then bringing Kerr to trial. When it seemed that Kerr might escape prosecution, his opponents found a tawdry sex charge to use against him.

The story began in 1899, when the Winter Brothers of Iowa pulled out of Lakefield. They sold their icehouse to William Kerr, a 47-year-old fur buyer who, with his wife Mary, had recently moved to town. Kerr used the facility to dabble in furs, eggs and poultry, and wild birds. He bought the birds from local shooters and shipped them to the George W. Linn Company, a meat wholesaler in Chicago.¹⁵

In 1900 Kerr hired Robert Poole, who, within three years, became his right-hand man. Minnesota's 1901 market ban threatened the two men's livelihood, so they paid little attention to it and kept dealing in ducks. Enough local hunters were willing to keep them in good supply. But Kerr had enemies, especially in the town of Heron Lake, whose business leaders anticipated a more lucrative future attending to sportsmen and their nearby private gun clubs than to illegal market hunters. Kerr and his ilk in Lakefield seemed detrimental to their interests, and they wanted him stopped before all the birds disappeared from Heron Lake. Edward J. Grimes, for example, a bank cashier in Heron Lake and a founder of the local gun club, frequently wrote to Samuel Fullerton.



Wiley P. St. John at "The Ranch," his hunting lodge on Heron Lake, about 1905



William Kerr's front-page advertisement in the Lakefield Herald, January 20, 1903. The caption advised that he was paying high prices for mink, muskrat, and skunk pelts and needed "3000 pigeons at once for which I will pay 75¢ per dozen."

Grimes was sure that Kerr was the principal outlet for illegal birds killed around Heron Lake and that if the Game and Fish Commission closed him down, market hunting in the southwest would end.¹⁶

To patrol the Heron Lake area, Fullerton had appointed William Bird, a Civil War veteran and member of the commission, as the deputy warden. Bird lived in neighboring Martin County and had to rely on the cooperation of the Jackson County sheriff, Marshall B. Dunn, a former implement dealer in Jackson with the reputation of being a "terror to evildoers." By November 1902, Bird and Dunn were onto William Kerr. They searched his "chicken factory" in December, but nothing came of it. One observer reported that as the wardens came in the front door, Kerr scurried his contraband ducks out the back. Raids like this frightened Kerr, so he began using an icehouse two miles from town. The move was fortunate for Kerr; in May 1903 his Lakefield building burned down.¹⁷

Throughout 1903 Warden Bird and Sheriff Dunn kept after Kerr. They had little success until September, when, relying on the word of George Schurfenberg, an informant who worked for Kerr, they twice raided the icehouse and seized 1,700 ducks. Schurfenberg also reported that Kerr had hired Fred Winter, a Lakefield teamster, to haul "poultry" to the rail depot just over the state line in Montgomery, Iowa. Learning that Kerr planned an especially big shipment on the evening of September 28, Dunn and Bird decided to interdict it and close the business down.¹⁸

As the day approached, Kerr had his helper, Poole, hire Winter and four other men for a night's work hauling "chickens." After instructing the men to be at the icehouse with their wagons at 8 p.m., Poole rode to hunting camps around Heron Lake collecting birds from local shooters. On the morning of September 28, he showed up at the icehouse with between two and three thousand ducks, which he packed in ice and put into wooden

boxes. Each two-by-four-by-eight-foot box weighed about 200 pounds. That evening, the five teamsters arrived at the icehouse and loaded 30 boxes and two barrels onto their wagons. They left Lakefield at 9 P.M., accompanied by Poole. Only Poole, and perhaps Winter, who drove the lead wagon, knew that their destination was the Montgomery depot. They arrived at 3 A.M.

That same night, Bird and Dunn met at Jackson, the county seat, planning to take an evening freight to Lakefield. Dunn had already arranged for a wagon there, and the two lawmen intended to follow and intercept Kerr's shipment before it crossed into Iowa. The train, however, was an hour late. Undaunted, Dunn obtained a surrey in Jackson and hired Levi Parsons, a local telephone-company worker, to drive it. The three men left at about 10 P.M. They lost another hour when they took the wrong road. Unable to catch the shipment before it left Minnesota, they debated what to do, and, according to Bird, "decided to go on and make a bluff . . . and bring them back if possible." They finally caught up with the wagons on the outskirts of Montgomery. While the lawmen hid in the surrey's shadows, Parsons briefly chatted with Poole and then drove on ahead. When the five wagons arrived at the depot, Bird and Dunn were waiting for them. Then, Bird later recalled, "the circus commenced."¹⁹

The details of what exactly happened are unclear—Bird, Dunn, Parsons, and each of the five teamsters told slightly different stories. Nevertheless, the outline of events seems clear. The standoff between Bird and Dunn on one side and Poole and the five teamsters on the other took the better part of an hour. The sheriff asked what was in the boxes; Poole answered, poultry. Dunn knew otherwise and tried to arrest the men for violating the Lacey Act. Poole demanded to see a warrant. Dunn introduced Parsons, who was standing some distance away, as "Mr. Jones," an Iowa deputy who could quickly get one. What the sheriff really wanted, of course, was to return the shipment to his jurisdiction in Minnesota, so he proposed that the men, not wanting to be jailed in Iowa, drive the wagons back to Jackson. When Winter complained that it was too long a trip to make at that time of night, Dunn offered to pay them \$3.00 each for the journey. After further hassling, Bird also promised the men they could go free if they testified against William Kerr. The men agreed.

The party started back to Jackson at about 4 A.M. After crossing the state line, warden Bird opened one box to count the ducks and estimate the size of the entire shipment. The tired drivers demanded to be paid more

than \$3.00, but, back in Minnesota, Dunn refused. Two miles outside of Jackson, Dunn and Bird took the surrey and went ahead, leaving Parsons in charge of the wagons. Poole also left the caravan and walked to Lakefield. Alone in his wagon, Parsons stuffed a dozen ducks into a grain sack. He later testified, "Well, they were there in the box and it was broke open and they looked kind of tempting, and I thought I would take a mess." The wagons arrived in Jackson around noon. The boxes were unloaded at the depot and later shipped to the Minnesota Cold Storage Company in St. Paul.²⁰

As word of the confiscation spread, southwest Minnesotans lined up to condemn or defend William Kerr. On one side were town spokesmen who equated pothunting with illiterate foreigners and criminals. Nelson P. Wright, editor of the *Jackson Republic*, was pleased with the state's "hard jolt" against Kerr, who "boasted that he was too sharp for old Bird" and whose hunters "kept legitimate sportsmen off the lake. . . . Such business is a disgrace to Jackson County," Wright concluded. John Woolstencroft, editor of Heron Lake's *Jackson County Times*, quoted Fullerton, who likened Kerr's operation to "a gang of lawbreakers . . . worse than any organization of moonshiners that ever existed." The editor of the neighboring *Martin County Sentinel* concurred, telling readers that Kerr and his "gang of law breaking pot hunters . . . will fail to arouse any sympathy from honest and law respecting men." Local sportsmen also hailed Kerr's arrest. Edward Grimes, representing the Heron Lake Gun Club, congratulated Fullerton: "You are doing well 'Old Chap,'" Grimes wrote, "just let the good work continue. . . . Kind regard from our crowd."²¹

On the other side, many local people, especially those around Lakefield, defended Kerr. They claimed the birds were killed in Iowa, not in Minnesota, or, stressing that Kerr was not apprehended in the raid, blamed Poole for running an illegal operation behind his employer's back. Their defense of Kerr was based on their fears that the game laws threatened their livelihoods. George McMurtrey, a "prominent Lakefield businessman," would not deny that law breaking was "far and wide" around Lakefield, but pointed out that "the wild



Banker and Heron Lake
Gun Club member
Edward J. Grimes, 1902

game business is one of the leading industries in town. All have profited by [it] directly or indirectly.” For this reason, McMurtrey added, the “sympathies of the people . . . are all with the game law violators and . . . a determined effort is being made to bring about trouble for the officials who made the big seizure.”²²

To Crawford, the commission was unjustly targeting legitimate businessmen like Kerr while ignoring well-connected sportsmen whose reckless shooting was really behind the declining population of wild birds.

Thomas Crawford, editor of the *Lakefield Standard*, was the region’s most vocal and articulate defender of William Kerr. He did so by attacking the Minnesota Game and Fish Commission. While claiming to advocate the new hunting laws in order to reduce the slaughter of ducks on Heron Lake, Crawford denounced Samuel Fullerton as a corrupt lackey of statehouse politicians and debunked his game wardens as an ineffective bunch of political cronies “organized and paid by the state for the exclusive purpose of drawing salaries.” To Crawford, the commission was unjustly targeting legitimate businessmen like Kerr while ignoring well-connected sportsmen whose reckless shooting was really behind the declining

RIGHT: *Heron Lake’s wide, business-lined Selby Avenue hosting a patriotic demonstration, about 1905. BELOW:* *Wagons and walkers on Lakefield’s Main Street, looking north, about 1905.*

population of wild birds. Needy pothunters, he suggested, were making far better use of the waterfowl than were wealthy shooters who killed merely for a whim. He struck at the heart of the matter with an editorial he reprinted claiming that the state was denying small landowners the full use of their property so that big city “huntmen have game kept intact for their amusement. . . . It forms,” Crawford quoted, “a special and most unequal tax laid upon one class mainly for the benefit and gratification of another class.”²³

Another important angle in Crawford’s argument shows how tightly enmeshed the case was in the local political economy. Like most small-town newspaper editors, Crawford was a booster whose job was to defend Lakefield business interests against competitors in other towns. The evidence, although skimpy, suggests that the prospect of more hunters and fewer ducks led both sportsmen and the businessmen in the towns that catered to them to ally with local market hunters in order to drive Kerr out of business. Boosters in Heron Lake competed with those in Lakefield for the hunting trade,



but where Lakefield remained wedded to market hunters, Heron Lake was becoming a haven for sportsmen. Heron Lake boosters, no doubt, saw a more lucrative future catering to them than to illegal marketers, represented by William Kerr.

But the story is complicated by game wardens and citizens alike who branded the Heron Lake Gun Club as nothing more than a front for a ring of market hunters. Warden Charles Horky, for example, denounced Edward Grimes and other club members as “thoroughbred” and “infernally smooth” poachers. Warden F. L. Parso agreed, advising Fullerton that the Lakefield “market shooters as well as the Heron Lake crowd are all in together.” He added, “They are very careful this year. . . . It will take some fine work to catch them but it can be done . . . as the parties . . . are apt to have a good many [illegal birds] on hand.” Sheriff Dunn was already busy trying to gather evidence against club members. He would continue his efforts through the 1904 season, but apparently came up empty.²⁴ It is plausible—even likely—that sportsmen shot so many ducks that they sold some to Grimes and his cronies who, in cahoots with local officials of the St. Paul

and Omaha Railroad, illegally shipped them to market in the Twin Cities.

In any case, it is clear that the members of the Heron Lake Gun Club played a role in the state’s pursuit of William Kerr, although exactly what role remains elusive. Perhaps Grimes and his gun club acted to rid Heron Lake

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of market hunters in order to attract more sportsmen to their town, or perhaps they targeted Kerr in order to eliminate a major competitor of their market hunting—or perhaps both.

Heron Lake businessmen were not the only town boosters to line up against Kerr; so did their counterparts in Jackson. In 1903 Lakefield and Jackson were embroiled in what would be a five-year political battle over relocating the county seat. Jackson County needed a new courthouse, and boosters in both the current seat

Newly built Jackson County Courthouse in triumphant Jackson, 1910



(Jackson) and upstart Lakefield vied for the building. To Jackson supporters, the Kerr episode proved the folly of moving the county seat to a town of market-hunting law-breakers. Lakefield editor Crawford, of course, took the opposite tack, condemning Sheriff Dunn and his whole courthouse gang. His attack focused on what happened to the ducks that had been seized at the Montgomery depot. According to state law, they should have been distributed to charitable institutions, but it seems that not all of them were.

The issue arose shortly after the seizure, when a Chicago attorney, J. Marion Miller, arrived in St. Paul to look after “the interests of the shippers of the [confiscated] game.” He purported to represent consignees in Dubuque, who were expecting a shipment of 7,000 ducks but had not received them. His implication was that Bird and Dunn had taken 7,000 birds from Kerr and other Iowa shippers, brought them all to Minnesota, sent 2,000 to St. Paul, and kept the rest. Griping that there was “some dirty work being done,” Miller lambasted “sundry persons for highway robbery, perjury, impersonating an officer, false arrest and a few other things.” Crawford jumped on the story. Fuming that “Stealing ducks from the charitable institutions of the state is—or should be—a greater crime than shipping ducks out of state,” he demanded to know what happened to the 5,000 lost ducks.²⁵

The jury deliberated for “about an hour” and found both men guilty.

The Game and Fish Commission responded quickly. Dunn and Bird claimed that they had seized only 2,498 ducks and that all had been shipped. In St. Paul, John Farnham of the Minnesota Cold Storage Company denied ever receiving 7,000 ducks from Jackson, adding that it was impossible to fit that many into just 32 boxes and barrels. The story became more intricate when St. Paul game warden William Boyd reported that there were only 2,000 seized ducks still in cold storage. Where were the other 498 birds? Editor Crawford jumped on this new track and alleged that they had never left Jackson; the sheriff had given them to his political supporters. Dunn denied the accusation, suggesting that some ducks must have been stolen from the boxes while they sat on the depot platform or during the trip to St. Paul. In the end, nobody knew for sure exactly how many ducks were taken, shipped, and stored. If there was an answer, it may have been Fullerton’s confession that he gave some

of them to friendly professors at the University of Minnesota. Thomas Crawford was disgusted; this was more evidence of the corrupt cronyism of the state Game and Fish Commission.²⁶

On November 19, 1903, a Jackson County grand jury indicted William Kerr and Robert Poole for possessing 2,000 wild ducks “with the felonious intent to sell.” Sheriff

Dunn arrested Kerr and brought him to Jackson. Poole “executed the grand hike” but was quickly captured. The trial in district court began on November 27. Both men pled not guilty. Twenty-two witnesses appeared at the two-day trial. Sheriff Dunn and Warden Bird gave their versions of what had happened on September 28, adamantly denying that Parsons or anyone else had ever posed as an Iowa deputy. Fred Winter and the other drivers told their stories, reluctantly and only after being threatened with arrest. Railroad agents from Jackson to St. Paul testified to the particulars of the shipment. Levi Parsons admitted to pilfering 12 ducks. Katie Miller, Kerr’s bookkeeper, described the shipping bills she had sent to the George Linn Company in Chicago. When the testimony was over, Judge James H. Quinn told the jury that unless it believed Kerr and Poole “intended to sell their ducks,” it could not convict them. The jury deliberated for “about an hour” and found both men guilty.²⁷

On February 8, 1904, Kerr and Poole moved for a new trial, claiming that the verdicts were neither justified nor supported by the evidence. Meanwhile, Kerr had reopened his business to the point where Warden Bird contemplated another raid. In Lakefield, Bird and other officials prosecuting the two men suffered “gross abuse . . . on the streets, in barber shops, in railroad trains.” Nevertheless, on February 9 Judge Quinn denied the motion for a new trial and sentenced Kerr to 300 days in jail and Poole to 200 days—or they could each pay an astounding \$20,000 fine.²⁸

Both defendants quickly appealed to the Minnesota Supreme Court, Kerr arguing that there was no evidence against him, only against



*Samuel F. Fullerton,
head of the Minnesota
Game and Fish
Commission*



*Judge James H. Quinn,
about 1895*

Poole. The court accepted his argument; in August it affirmed Poole's conviction but granted Kerr a new trial. The *Jackson Republic* was appalled: "Kerr, the big criminal, is given a new trial while Poole, the poor devil who simply was an innocent tool . . . is elected to . . . go to jail for 200 days." Robert Poole sat in the Jackson County jail, no doubt fuming at his fate, for two months before he was pardoned and released for good behavior. Meanwhile, his former boss ran into other problems.²⁹

Fearing that Kerr might evade state charges, prosecutors searched for other means to close him down. To begin with, in April 1904 a federal grand jury in Mankato indicted him for violating the Lacey Act.³⁰ While that case was being investigated, Kerr's enemies—by now including, it seems, businessmen in Lakefield, upset that Heron Lake was attracting all the wealthy sportsmen and Jackson was winning the county seat fight—took action. Lakefield seemed to be falling behind, and boosters blamed Kerr for giving the town a bad name. They worked with a revengeful Poole to ensnare Kerr in a morals charge.

In August 1904, within days of Kerr winning his new trial, Sheriff Dunn arrested him for having a sexual relationship with Robert Poole's 15-year-old sister, Bertha. Sometime in 1900 Poole had brought Bertha to Lakefield. William and Mary Kerr agreed to take her in, and he gave her a job working with bookkeeper Katie Miller. Kerr was smitten with the young girl and in February 1904—the month Kerr and Poole were first sentenced to jail—had sexual intercourse with her. Bertha became pregnant. Although she told Kerr that he was not the father, in June he paid to take her to Minneapolis for an apparent abortion. Afterwards, she went to live with an aunt in Iowa. Kerr continued to send her money until August, when he wrote her, less than truthfully, "Am sorry to have to tell you that the Supreme Court desided against us and Roby is now at Jackson and I may have to go tomorrow. It and other expences that you know of has taken the last Doler that I have. You know that I have about \$600 standing out and as soon as I can Colect same I will send it to you. But for god sake Bertty stay away from Lakefield."³¹

She ignored his warning. Perhaps upset about losing her support and probably pressured by her brother, she accused Kerr of raping her and forcing her into an abortion. Kerr complained to Dunn that Bertha was being "coached and hired" by Poole who was being "dictated

The morals charge, trumped up or not, provided an alternative means to get a conviction and get rid of William Kerr.

to" by politicians trying to stave off charges of corruption raised by incidents such as the fiasco of the missing birds. There is little hard evidence but enough beguiling hints to suggest that Kerr may have been railroaded not only by politicians but by local interests who wanted his business closed down. As newspaperman Crawford suggested, the game wardens were not stopping illegal hunting, Fullerton's commission was being accused of corruption, and businesses in Lakefield as well as Heron Lake were becoming more anxious to preserve ducks for the lucrative sports market. If the Kerr case failed, the whole effort at saving wildlife for sportsmen was threatened. The morals charge, trumped up or not, provided an alternative means to get a conviction and get rid of William Kerr. Even Sheriff Dunn wondered about the case,



Kerr's letter warning "Bertty" to stay away from Lakefield, signed "Uncle Will." His letters to Bertha Poole through the summer of 1904 became evidence in his trial.

inferring that local sports boosters had used Robert and Bertha Poole. As a law officer, however, he was caught in a dilemma; his reputation and career would certainly suffer if Kerr went free.³²

Kerr was indicted for “having carnal knowledge of a female child under 16 years of age.” His trial began on January 31, 1905. Bertha Poole testified that Kerr had made her pregnant and taken her to Minneapolis to “get rid of my baby.” Kerr also testified and tried to deny the abortion charge. “While not exactly contradicting himself,” Crawford reported, “his appearance did not create a very favorable impression and was compelled twice” to plead the Fifth Amendment. The jury deliberated for several hours before finding Kerr guilty. He was sentenced to six years and eight months “hard labor at the state prison in Stillwater.” Following his imprisonment, both the state and federal duck cases against him were dismissed.³³

Two years into his sentence, petitions were circulating through Jackson and Lakefield to have Kerr paroled. Some residents “among the most and best of them” denounced the idea, calling Kerr’s crime an “especial loathsome and depraved affair . . . that deserved all the punishment he received.” Others were more generous, because, in the words of one of supporter referring to the duck trial, Kerr “was not nearly as guilty as many others implicated in the same case.” Even Dunn favored parole

with an allusion to “some matters” that had come up since the trial. Kerr was paroled in June 1908 and went to work as a fur buyer in Albert Lea. His wife Mary joined him, but she was very ill and died in December. Kerr served out the rest of his parole in Albert Lea and became a free man in October 1909. His name appears in that year’s city directory, but by 1914 it was gone. Robert and Bertha Poole also disappeared from Jackson County.³⁴

Despite the irony of the state never convicting William Kerr of illegally selling wild game, the case against him marked a turning point in Minnesota’s environmental history. First, the courts validated the state’s authority to regulate hunting, thereby upholding its right to designate the proper use of natural resources within its borders—in this case, shooting for sport. In addition, by upholding Poole’s conviction and not Kerr’s, the court showed that regulatory enforcement was not absolute and could only be exercised within the rules of evidence and the scope of state law. Finally, the case was part of the national movement toward an economy focused on middle-class consumers. No longer needing to hunt for subsistence, urban sportsmen opted for leisure-time, recreational shooting. Their rural counterparts, albeit not without conflict, stood ready to profit from them. □

Notes

1. Edmund C. Bray and Martha C. Bray, *Joseph Nicollet on the Plains and Prairies: The Expeditions of 1838–39* (St. Paul: Minnesota Historical Society, 1976), 54; George Catlin, “Account of a Journey to the Coteau des Prairies,” 1839, in *The Red Pipestone Quarry of Minnesota: Archaeological and Historical Reports*, comp. Alan R. Woolworth (St. Paul: Minnesota Archaeological Society, 1983), 1–9; survey notebook, vol. 1, 1857, Moses K. Armstrong Papers, microfilm ed., Minnesota Historical Society (MHS), St. Paul; University of Virginia Libraries, Geostat Center, Historical Census Browser, <http://fisher.lib.virginia.edu/census/>; John Radzilowski, “Ethnicity and Settlement in Southwestern Minnesota,” in *Southwest Minnesota: The Land and the People*, ed. David R. Pichaske and Joseph Amato (Marshall, MN: Crossings Press, 2000), 69–73. The counties are Murray, Cottonwood, Jackson, and Nobles.

2. Thomas S. Roberts, “Heron Lake Through the Years: Birdlife in the ‘Good Old Days,’” *Conservation Volunteer*, Jan. 1941, p. 6.

3. Richard W. Judd, *Common Lands,*

Common People: The Origins of Conservation in Northern New England (Cambridge: Harvard University Press, 1997), 6–7; Karl Jacoby, *Crimes Against Nature: Squatters, Poachers, Thieves and the Hidden History of American Conservation* (Berkeley: University of California Press, 2001), 3–4; Louis Warren, *The Hunter’s Game: Poachers and Conservationists in Twentieth-Century America* (New Haven: Yale University Press, 1997), 6–14; Bruce M. White, “Early Game and Fish Regulation and Enforcement in Minnesota, 1858–1920: A Report Prepared for the Mille Lacs Band of Ojibwe” (1995), ii, copy in MHS.

4. In northern Minnesota, sportsmen accused Ojibwe hunters of destroying wildlife for gain; White, “Early Game,” 13–17. I found no indication of objections to Native American market hunters at Heron Lake.

5. James B. Trefethen, *An American Crusade For Wildlife* (New York: Winchester Press, 1975), 55–65; David and Jim Kimball, *The Market Hunter* (Minneapolis: Dillon Press, 1969); Dave Sonnenburg, “Minnesota Market Hunting,” *Minnesota Sportsman*, Sept. 1980, p. 43–46; Gary Richter, ed.

Heron Lake, 100 Years Of Good Living (Marceline, MO: Walsworth Publishing, 1983), 29.

6. White, “Early Game,” 25, quoting Game and Fish Commission, *Annual Report, 1891*, 1536–39; Boyd Wood, taped interview by author, Heron Lake, Aug. 15, 2001, tape in author’s possession; Kimball, *Market Hunter*, 47; Jack Musgrave, ed., “Market Hunting in Northern Iowa,” *Annals of Iowa* 26 (Jan. 1945): 173–75. All interviews cited hereinafter have been taped by the author.

7. Jackson County Historical Society, *Jackson County History, Vol. II* (Lakefield, 1979), 145; Roberts, “Heron Lake,” 7.

8. Andrew Ramsborg, interview by author, Lakefield, Aug. 16, 2001.

9. Evadene Burris Swanson, “The Use and Conservation of Minnesota Game, 1850–1900” (Ph.D. diss., University of Minnesota, 1940), 192–99, 219.

10. White, “Early Game,” 37.

11. James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1998), 1–8.

12. Charles Winzer to Samuel F.

Fullerton, Oct. 14, 1902, William Kane to Fullerton, Aug. 25, 1902, and Anton Zirbes to Fullerton, Oct. 1, 1903—all in Minnesota Game and Fish Commission, Game Warden Reports, 1901–04, MHS (hereinafter, GFC Reports); *Lake Benton News*, Aug. 21, 1902.

13. Thomas Miller to T. S. Roberts, Nov. 16, 1898, University of Minnesota Museum of Natural History Papers, University of Minnesota Archives, Minneapolis; Roberts, “Heron Lake,” 8.

14. Herman Becker, interview by author, Okabena, Aug. 16, 2001; Ramsborg and Wood interviews; Richter, *Heron Lake*, 17; Abram Nelson to Fullerton, Sept. 15, 1902, L. F. Lammers to Fullerton, Oct. 1, 1902, and Heron Lake Gun Club to Fullerton, Mar. 29, 1901—all GFC Reports.

15. Minnesota State Prison, Stillwater, William Kerr prison record, case 1530, Minnesota State Archives, MHS; Frank B. Kalash to Morton W. Smith, Feb. 24, 1958, copy in MHS.

16. E. J. Grimes to Fullerton, Dec. 2, 1902, Jan. 29, 1903, GFC Reports.

17. *Lakefield Herald*, Aug. 26, 1898; E. O. Cook to Fullerton, Nov. 23, 1902, and George Thompson to Fullerton, Nov. 28, Dec. 26, 1902—all GFC Reports; *Lakefield Standard*, May 9, 1903.

18. This and the story of what happened on Sept. 28, 1903, are derived from: William Bird to Fullerton, Sept. 30, 1903, GFC Reports; Jackson Co. District Court, *State of Minnesota vs. William Kerr and Robert Poole*, criminal case 453, transcript, and Minnesota Supreme Court, *State of Minnesota vs. William Kerr and State of Minnesota vs. Robert Poole*, case 13992–13993, respondent’s brief, 1–9, both in State Archives; *Jackson Republic*, Oct. 2, 1903.

19. Bird to Fullerton, Sept. 30, 1903, GFC Reports.

20. Jackson Co. District Court, case 453, transcript, 97.

21. *Jackson Republic*, Oct. 2, 1903; *Jackson County Times*, Dec. 5, 1903; *Martin County Sentinel*, Oct. 9, 1903; E. J. Grimes to Fullerton, Oct. 1, 1903, GFC Reports.

22. George A. Lincoln to Fullerton, Oct. 17, 1903, GFC Reports; *Martin County Sentinel*, Oct. 9, 16, 1903.

23. *Lakefield Standard*, Oct. 1, 8 (quote), Dec. 31 (editorial quote)—all 1903.



Nattily dressed sportsmen with their ducks, Heron Lake, about 1915

24. Otto [Charles Horky] to Fullerton, Aug. 25, 1902; F. L. Parso to Fullerton, Oct. 24, 1902; Dunn to Fullerton, Apr. 8, 11, 18, 1904; J. J. Foster to Fullerton, Apr. 29, 1904—all GFC Reports.

25. *Jackson County Times*, Oct. 10, 1903; *Lakefield Standard*, Oct. 8, 15, 1903. The Miller story was attributed to the *St. Paul Globe* and reprinted in several local papers. Miller also argued that only 500 of the ducks came from Kerr. Numbers vary among these accounts and do not add up.

26. Jackson Co. District Court, case 453, transcript, 85, 112–13; *Lakefield Standard*, Oct. 8, 1903. Parsons’s confession did not come until later, during the trial.

27. Jackson Co. District Court, Indictment Book B, 30, and criminal case 453; *Jackson Republic*, Nov. 27, 1903. Trial summary derived from case 453 transcript; *Lakefield Standard*, Dec. 3, 1903.

28. William Bird to Fullerton, Oct. 17, 21, 1903, GFC Reports; *Lakefield Standard*, Feb. 11, 1904; Minnesota Supreme Court, *Minnesota vs. Kerr and Poole*, case 13992–13993, “Return to Supreme Court” book, 150–51.

29. Supreme Court, case 13992–13993,

appellant’s brief, 7, and judgment; *Jackson Republic*, Aug. 8, 1904; *Heron Lake News*, Oct. 20, 1904.

30. Chas. C. Houpt to Fullerton, Apr. 7, 1904, GFC Reports.

31. Jackson Co. District Court, criminal case 459, transcript of preliminary hearing, Aug. 16, 1904; William Kerr to “Dear Bertty,” Aug. 1, 1904, in Jackson Co. District Court, criminal case 460.

32. William Kerr to M. B. Dunn, undated, Jackson Co. District Court, case 460; M. B. Dunn to Fullerton, Jan. 7, 1905, Minnesota Game and Fish Department, Correspondence, 1902–1923, MHS; M. B. Dunn to Henry Wolfer, May 26, 1908, Stillwater State Prison, case 1530.

33. Jackson Co. District Court, Indictment Book B, 34, and case 460; *Lakefield Standard*, Feb. 9, 1905.

34. Unsigned letter to Warden [Henry Wolfer], Mar. 22, 1907; John Frederickson to Henry Wolfer, May 28, 1908; J. W. Daubney to Henry Wolfer, June 2, 1908; M. B. Dunn to Henry Wolfer, May 26, 1908; parole record for William Kerr—all in Stillwater State Prison, case 1530.

All images are in MHS collections, including the letter, p. 58, from Jackson County District Court criminal case files, State Archives.



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